

Common Ground in Conflict Mediation:  
An Argumentative Perspective

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## **Abstract**

Both in the field of argumentation and in studies on conflict mediation, sufficient common ground between parties in conflict is considered a prerequisite for reasonable and sustainable resolutions. Using a two-part structure, this doctoral dissertation focuses on how workplace mediators can broaden and strengthen the common ground between the parties through their communicative interventions. The first part of the dissertation presents an in-depth empirical study on the common starting point interventions used by workplace mediation professionals to understand how they design explicit opening stages in workplace mediations that support reasonable argumentative discussions on problems and solutions. By means of the empirically identified local functions for specific common starting point interventions, different types of common starting point interventions are presented and discussed in relation to how they broaden and strengthen the common ground of parties in conflict. The second part of the dissertation reconceptualizes functional context in pragma-dialectics, and conceptually explores the contextual differences between different communicative activity types of workplace mediation. The conceptual studies discuss how common starting point interventions can be expected to differ between different communicative activity types of workplace mediation, relative to the empirically studied formal mediations by workplace mediation professionals. To this end, four different prototypical communicative activity types of workplace mediation are introduced and conceptually analyzed in-depth. In doing so, the current conceptualization of conflict mediation as a genre of communicative activity in pragma-dialectics is updated, and the current descriptions of the communicative activity types belonging to this genre are elaborated on.

*Keywords.* Conflict mediation, argumentation as design, common ground, common starting points, communicative activity types.

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## Introduction

This is a dissertation in argumentation in context that starts from the assumption that sufficient common ground between parties at conflict is a precondition for the reasonable argumentative discussions necessary for the resolution of a disagreement (e.g. van Eemeren, 2010, p. 128; van Eemeren, Grootendorst, Jackson, & Jacobs, 1993, p. 27, 172; van Eemeren, 2015, p. 157). This assumption presupposes that the common ground is clear between the parties. However, this is not necessarily the case in disagreements that have escalated into conflicts at deadlock. If we have a disagreement that has escalated into a full-blown conflict, it may be difficult to remember that we had things in common with our now adversaries before the conflict erupted. Even if we have been working together at the same organization for years and we had a good relationship before the dispute emerged, we may find it difficult to accept or acknowledge prior benevolence and commonalities. We are now opponents, and even if we both agree to accept aid from a *conflict mediator* – i.e. an (ideally) neutral third party that acts as a procedural guide in the resolution process to win-win solutions – it may be difficult for us to acknowledge that we have enough *common ground* for the reasonable argumentative discussions necessary for us to come to satisfactory and sustainable solutions. This dissertation discusses how conflict mediators as third parties guiding the resolution process can broaden and strengthen the common ground between parties in a conflict at deadlock, by which they play an active part as *designers* of the dialogue spaces (e.g. Aakhus, 2003; Greco, 2018) in which parties are able to conduct reasonable argumentative discussions as co-arguers, using communication as their tool.

Following some key concepts from the argumentative perspective of *pragma-dialectics* by van Eemeren and colleagues – i.e. the common ground is comprised of ‘common starting points’ that are established as part of the ‘opening stage’ of the critical discussion (see e.g. van Eemeren, 2010; van Eemeren & Grootendorst, 1992; van Eemeren et al., 1993) – this dissertation starts from the empirical analysis of common ground in mediation conducted by mediation professionals. Specifically, we *zoom in* on the construction of the currently understudied *opening stage* of the critical discussion in conflict mediation. In the

opening stage, the common ground that is shared between the parties is set up in a way that it serves as a basis for subsequent argumentative discussions on problems and solutions (e.g. van Eemeren et al., 1993, p. 27, 172). Whilst argumentation in conflict mediation has been studied before (see e.g. Aakhus, 2003; Greco Morasso, 2011; Jacobs & Aakhus, 2002; Janier & Reed, 2017; van Eemeren, 1993; Vasilyeva, 2012, 2017), the opening stage, as a precondition for argumentative discussions, has not been studied in-depth before. In the late eighties, Jackson (1988) and Jacobs (1989) briefly addressed common ground in mediation in two separate conference papers; however, hitherto, a comprehensive in-depth analysis and exploration of *how* common ground is dealt with in conflict mediation from an argumentative perspective has not been presented. The empirical study presented in this dissertation tries to fill that gap and show how mediators construct the interventions by which the common ground is built or strengthened between parties in conflict that are often unable to acknowledge what they agree on and have in common. In pragma-dialectics, common ground is seen as a collection of *common starting points*, which are the shared premises between parties on, for example, values, facts, truths (*material starting points*); or agreements on how to conduct the interaction procedurally (*procedural starting points*) (see e.g. van Eemeren & Grootendorst, 1992, pp. 149-150). By means of an in-depth empirical analysis of the common starting point interventions used by mediators to design this opening stage with a solid common ground, this dissertation further develops the idea that mediators, when inserted into a conflict at deadlock, have the ability to construct an opening stage with sufficient explicit common starting points for reasonable argumentative discussions and the transformation of parties from unreasonable to reasonable discussants.

This dissertation looks at conflict mediation and the opening stage because, although new information implicitly updates the common ground throughout the interaction like most other forms of interaction, the procedural and material starting points are made *explicit* in conflict mediations guided by mediation professionals as part of their job to design an ‘agreement space’ in the opening stage that supports the resolution of the conflict. The fact that in conflict mediation the design of the opening stage is (at least partially) explicit, makes the study of interventions in which mediators explicitly elicit or address common

starting points as a way to design the agreement space in the resolution process interesting to study. The author of this dissertation deemed it better to focus on one domain in which mediation is used to help resolve conflicts, because it allows for a nuanced understanding of the data. The choice for *workplace mediation* was motivated by its functionality as a particularly structured and institutionalized form of mediation practice that allows for detailed comparisons (Kolb, 1989) and the exclusive access to data on workplace mediation collected for this dissertation as a result of the author's ongoing relationship with the ADR Instituut in Amsterdam (see chapter 2 on 'methodology'). Additionally, mediation of workplace conflicts is interesting to study because it is widespread (e.g. Bollen & Euwema, 2013, p. 331; Coleman, Kugler, & Mazzaro, 2016, p. 2; Elgoibar, Euwema, & Munduate, 2017) and it includes many different mediation types; from externally hired mediation professionals to managers who mediate internally (Römer, Rispens, Giebels, & Euwema, 2012).

Our general research aim is to shed light on how mediators who guide parties in a conflict at deadlock design dialogue spaces that set up the opening stage for reasonable argumentative discussions through common starting point interventions. In service of this research aim, this dissertation consists of two connected studies; an empirical study and a conceptual study, both guided by their own research questions. Specifically, the main research question that guides the empirical analyses of workplace conflict mediation interactions is (A) *how do workplace mediation professionals<sup>1</sup> construct common starting point interventions?* In other words, following this research question, the empirical chapters will answer the relevant question of how workplace mediation professionals construct common starting point interventions by which they help construct a dialogue space with the necessary common ground between parties for reasonable argumentative discussion.

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<sup>1</sup> The dissertation differentiates between *mediation professionals* (i.e. conflict mediators hired to mediate conflicts at deadlock, and for whom procedurally guiding mediation procedures is their vocation) and mediators who guide mediation processes but who are not mediation professionals. The former's common starting point interventions are analyzed in the empirical chapters of this dissertation. The latter mediators are conceptually studied in this dissertation as belonging to specific communicative activity types of conflict mediation (see research question B).

However, this dissertation does not limit itself to the study of common ground design by workplace mediation professionals alone. Micro analyzing the design of the opening stage through the mediators' explicit construction of common ground leads us to consider the contextual factors that directly affect the options mediators have for common starting point interventions. So far, studies of argumentation in conflict mediation have concentrated only on the formalized practices, generally guided by a mediation professional. After providing insight into the understudied opening stage in mediation interactions, we *zoom out* to shine light on mediation forms in workplace conflicts *other* than those conducted by workplace mediation professionals; these other forms of conflict mediation, such as the more *informal* forms, are understudied in argumentation studies but may be more widespread than we might initially think (Greco Morasso, 2011, pp. 18-19). When studying different mediation forms, it is the context and the contextual differences between them that we ought to take into consideration. Depending on the specific contextual differences between different mediation forms, which affect the contextual factors that determine a mediator's repertoire of options for common starting point interventions, we could expect the common starting point interventions to vary notably. For example, mediation procedures in more informal settings will differ from the highly formalized mediation practices by mediation professionals, whereby the procedural starting point interventions used to design the opening stage can be expected to differ. Furthermore, a mediator who is closer to the parties in conflict than the often externally hired mediation professional (e.g. because he or she works at the same organization), may have more or different knowledge when it comes to parties' material starting points, which he or she could use when constructing material starting point interventions.

In sum, studying procedural and material starting point interventions beyond those used by workplace mediation professionals requires a reconceptualization of how we define 'mediation' and 'context' from an argumentative perspective. For that reason, in the exploratory conceptual study included in this dissertation, the aim is to adjust the current conceptualization of mediation in argumentation as an overarching genre that includes various mediation types. Thus, by zooming out, this dissertation furthermore adds to the study of argumentation in context by offering more refined characterizations of

(workplace) mediation and the various contexts of mediation. The dissertation specifically uses and refines the concept of conflict mediation as a specific *genre of communicative activity* from the extended version of the pragma-dialectical perspective on argumentation (see van Eemeren, 2010) called *strategic maneuvering*. The concept of a *genre of communicative activity* is explained as having various *communicative activity types* belonging to that genre as “conventionalized practices whose conventionalization serves, through the implementation of certain ‘genres’ of communicative activity, the institutional needs prevailing in a certain domain of communicative activity” (van Eemeren, 2010, p. 139). In other words, in the current description of mediation as an overarching genre of communicative activity, it is said to implement the institutional need of ‘problem-solving’ in different communicative activity types (i.e. different mediation activity types; from divorce mediation to informal mediation) (van Eemeren, 2010, pp. 129-151). Based on the contextual differences that will be established as affecting the ways in which the opening stage can be explicitly designed in conflict mediation, different prototypical mediation activity types are constructed, for which the empirical analyses of opening stage construction by mediation professionals discussed in this dissertation are used as a point of departure. As it is assumed that conflict mediation is practiced by more than just the mediation professional in workplace conflicts, and that the differences in context between different communicative activity types would affect the options the mediators have for the construction of common starting point interventions, the conceptual chapters are guided by research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation, and if so, how?* The research aim of the conceptual study presented in the second half of the dissertation is to adjust the existing characterization of *mediation as a genre of communicative activity* in pragma-dialectics by providing detailed *prototypical communicative activity types* that will help us theorize how mediators in different communicative activity types of workplace mediation can deal with common ground during the resolution process. In doing so, the conceptual part of the dissertation tries to broaden the current focus of conflict mediation research in argumentation by including different communicative activity types of conflict mediation. In sum, to shed light on how mediators who guide parties in conflict design the opening

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stage for reasonable argumentative discussions through common starting point interventions, the dissertation includes two studies: the first study empirically analyzes (A) the common starting point interventions by workplace mediation professionals, and the second (exploratory) study conceptually analyzes (B) the possible common starting point interventions by mediators other than the empirically studied workplace mediation professionals.

This dissertation is broadly structured as follows. As a general theoretical basis for the empirical study on workplace mediation professionals' options for common ground interventions and the conceptual study on communicative activity types of workplace mediation and mediators' possible options for common ground interventions, the *general theoretical framework* in chapter 2 presents and explicates the relevant concepts as they are used in argumentation in context. More specifically, as this dissertation builds on, and aims to add to, the study of argumentation in context, the concepts of conflict mediation, context, and common ground in relation to the study of argumentation are brought together and explained. Firstly, it is important to delineate these concepts clearly, because many of them (e.g. common ground or context) are highly ambiguous and defined differently depending on the perspectives they are discussed in; by providing explications of the definitions and characterizations the dissertation as a whole is cohesively framed and possible conceptual confusion is minimized. Secondly, delineation is essential because conceptualizations of context in argumentation function as concrete points of departure for the conceptual chapters, in which the understanding of context in argumentation is updated and expanded. In chapter 3, the *methodology* for both the empirical and the conceptual study is presented. This chapter introduces and explicates the two-part research design specific to this dissertation and the specific steps taken to answer the two research questions – i.e. research question (A) on workplace mediation professionals' common starting point interventions, and research question (B) on the common starting point intervention differences between different communicative activity types of workplace mediation. In the *empirical chapters* (4 and 5), the empirical results of this dissertation are presented. Specifically, for these chapters the common ground interventions by workplace mediation professionals are studied in-depth using illustrative examples. As a result,

general overviews of common ground establishing and reestablishing communicative options are presented according to specific communicative functions identified in the corpus of transcribed mediation interactions. In the *conceptual chapters*, the possible common starting point interventions by mediators other than the workplace mediation professional are discussed. Chapter 6 constitutes the first part of the conceptual study to refine conflict mediation as a genre of communicative activity that consists of different communicative activity types. More specifically, chapter 6 reconceptualizes *context* and *common ground* in argumentation research in a way that is functional for the study of common starting point interventions by mediators belonging to different communicative activity types of conflict mediation. Chapter 7 builds on these new functional conceptualizations of context from an argumentative perspective and provides a detailed discussion on specific relevant contextual factors that influence the common ground interventions used by mediators of different mediation activity types. Based on the detailed studies, prototypical communicative activity types of workplace mediation are constructed for which we hypothesize the effect on the construction of explicit common ground in the opening stage. As such, this chapter presents the adjustments of mediation as a genre of communicative activity through the expansion of the list of the genre's communicative activity types using the prototypes constructed. Finally, the conclusion of the dissertation in chapter 8 will present a summary of the most important results of both the empirical study and the conceptual study on common ground in conflict mediation from an argumentative perspective, whilst accounting for the dissertation's limitations and possible practical application.

In sum, this dissertation offers two studies on the construction of common ground in conflict mediation from an argumentative perspective. *Empirically*, the dissertation provides analyses of the interventions by workplace mediation professionals when explicitly setting up the opening stage in conflict mediation. *Conceptually*, the dissertation presents prototypical mediation activity types relevant for the further understanding of common ground in the opening stage of understudied mediation forms, whereby the current communicative activity types for mediation as a genre of communicative activity can be broadened. On top of adding another detailed example to the study of

argumentation in context, the findings of the conceptual analyses can be used for future empirical research on common ground construction in different mediation activity types.

Additionally, some of the insights from this dissertation can be used as points of departure for the improvement of conflict mediation in practice, as it provides insights into the discursive and argumentative theoretical grounding of a practice that has largely developed autonomous from academic research on communicative strategies in dispute mediation. In doing so, this study also answers the call from conflict mediators to gain understanding on the communicative and argumentative principles that underlie their interventions for professional and didactical purposes.<sup>2</sup>

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<sup>2</sup> This call has been expressed to the author of this dissertation by the ADR Instituut in Amsterdam (NL); a leading vocational education institute on conflict resolution approaches such as mediation. In 2015-2016 the author did a research internship as part of the MA *Communication and Information Studies: Discourse and Argumentation Studies* at the *University of Amsterdam* (for more on the ADR Instituut see section 3.2). During the internship, per the institute's request, the author carried out interdisciplinary research into the linguistic, discursive, communicative, and argumentative background of the conflict resolution approaches employed in ADR Institute's vocational education program. The goal of these short studies was to provide insights that could be used to further improve the course contents. The results of these mini studies were shared with the institute and posted on their institute website (see <https://adrinstituut.nl/blog/>). The insights from this dissertation can be relevant for the ADR Instituut, as well as for various types of workplace mediators (e.g. in formal and informal mediation settings) to further understand and improve their communication design.

## **Chapter 2. General Theoretical Framework**

Chapter 2 concerns the general theoretical framework at the basis of the dissertation, both for the empirical studies in chapters 4 and 5 and the conceptual studies presented in chapters 6 and 7 (for more on the two-part structure of this dissertation see chapter 3). In section 2.1 a brief introduction to conflict mediation is provided focusing on the proper characterization and delineation of the terms and concepts used in this work, specifically centering on the definition of mediation as studied in this dissertation (section 2.1.1) and the differences between (A) disagreements, (B) disputes, and (C) conflicts (section 2.1.2). In section 2.2, the central concepts of common ground and context are discussed, and their relation from an argumentative perspective is briefly explained. Section 2.2.1 focuses on common ground as it is to be understood in this dissertation, whilst sections 2.2.2 and 2.2.3 discuss context in argumentation. More specifically, section 2.2.2 discusses how context can be shaped in conflict mediation interactions, and section 2.2.3 presents the various notions of context functional for the analyses of common ground in conflict mediation in this dissertation. In general, the concepts presented are functional for the empirical study of common ground in mediation. Additionally, they help us refine mediation as genre of communicative activity that includes different mediation activity types in the conceptual study, which can affect the options mediators have for constructing a dialogue space in the mediation with enough common ground for reasonable argumentative discussions. This section on common ground and context is followed by an explication of the relevant concepts from the pragma-dialectical approach to argumentation (section 2.3) that will be presented in light of the study on common ground in conflict mediation in this dissertation. As such, section 2.3.1 presents the critical discussion and relevant argumentative concepts such as argument structures; and section 2.3.2 concerns the opening stage of the critical discussion in pragma-dialectics where the parties' common ground as a collection of common starting points is made explicit. The two different types of common starting points – procedural starting points (section 2.3.3) and material starting points (section 2.3.4) – are further discussed in separate sections as the central argumentative concepts studied in the dissertation. Finally, a summary of the research aims is presented in section 2.4.

### 2.1 General Introduction to Conflict Mediation

There is no consensus on the precise history and evolution of mediation (Bush & Folger, 2010, p. 15); mediation as a way to resolve conflicts has existed in some form for centuries (Parkinson, 1997, p. 2), and globally (e.g. Doherty & Guyler, 2008, p. 16; Wall & Dunne, 2012, p. 218). In the last few decades, mediation has seen a surge in popularity as an *Alternative Dispute Resolution* (ADR) option (Bush & Folger, 1994, p. 15); i.e. an alternative conflict resolution process to adjudication (Kressel, 2014, p. 818) in which creative solutions are possible that the court system does accommodate or allow for (Adrian & Mykland, 2014, 2018, pp. 94-96). It is this form of mediation that emerged and evolved in the United States in the 1960s (e.g. Doherty & Guyler, 2008, p. 17) that is now ever more commonly used internationally as a conflict resolution practice, in a variety of disputes (e.g. Bush & Folger, 1994, p. 2; Deng, 2012, p. 418), including a variety of conflicts within organizations (e.g. Bollen, Euwema & Munduate, 2016, p. 2), in a relatively standardized manner when guided by hired mediation professionals (i.e. following a standardized sequential mediation process, see figure 1). Although there is some disagreement among scholars on the detailed characterization of mediation (e.g. Schonewille & Schonewille, 2014, pp. 22-23; Gewurz, 2001, p. 136), most studies on mediation take the definition of mediation for granted, accepting mediation as a more or less standardized object of professional training and practice (see e.g. Wall & Dunne, 2012, p. 2019). The conflict resolution practice is often described as an alternative to the traditional judicial forms for conflict resolution (i.e. court judgements and settlements) with a mutually beneficial resolution (or *win-win solution*) as its ultimate goal (see e.g. Adrian & Mykland, 2014, p. 422; Elgoibar et al., 2017, p. 16; Greco Morasso, 2011, p. 24; Kressel 2014, p. 817; Moore, 2003, p. 15). In mediation a third party guards the procedure and guides the resolution process by facilitating constructive communication between the parties without determining the outcome of their conflict (see e.g. Bollen et al., 2016, p. 2). Mediation is a practice wherein third parties enable parties in conflict to engage in constructive discourse, which includes safe exchanges of information, thoughts, feelings and interests; thus, from a communication perspective, the role of the mediator is to improve the communication between parties (e.g. Doherty & Guyler, 2008, p. 10; Hopt

& Steffek, 2013, p. 522), by which they may *design* (e.g. Aakhus, 2003) a discourse in which constructive argumentative discussions can take place. Mediators *enable* the parties to conduct argumentative discussions that may lead them to resolve issues and generate solutions; they are, however, not participants in these discussions. In the definitions of mediator, and the *mediator role*, that can be found in the literature on mediation in a variety of fields (e.g. law and Sociology), characterizations similar to the following can be found:

“the third party does not take position on the issues, give advice, or offer its own proposals, nor does it take sides, evaluate presented ideas [...] Within its facilitative role, however, it sets the found rules and monitors adherence to them; it helps to keep the discussion moving in constructive directions, tries to stimulate movement, and intervenes as relevant with questions, observations and even challenges” (Kelman, 2009, p. 76)

The mediator thus does not influence the content nor determine the outcome of the mediation, but instead guides the resolution process as a *procedural guide* by designing an interaction (i.e. process) that caters to reasonable argumentative discussions. In other words, the mediator can be said to have “high process control but low decision control” (Conlon & Meyer 2004, p. 260)<sup>3</sup>. The mediator is strictly prohibited from taking sides or take positions on *issues*, as doing so would jeopardize their perceived neutrality; an aspect of mediation which, although controversial (see e.g. Heisterkamp 2006, p. 2051; Monk & Winslade 2013, p. 18; Parkinson 1997, p. 13) is considered a central aspect of the mediation practice (e.g. Crawley & Graham 2002, p. 3). It is partly the mediator’s task to

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<sup>3</sup> Wall & Dunne (2012) have stated that mediators in practice do not always control the process, for example, when one of the parties walks out or brings up insensitive issues (p. 229). Although it is certainly true that there are instances in which the parties control the resolution process, for example when they negotiate a dispreferred power asymmetry (van Bijnen, 2019), the mediator *in principle* has the power to control the process and intervene in an attempt to prevent and/or resolve counterproductive discussion attitudes and test the commitment of the parties to the mediation procedure (see sections 4.2 and 4.3).

guide argumentative discussions without taking a stance as a protagonist or antagonist that makes their presumed *neutrality* position so complex and unique.

The empirical study in this dissertation, like most studies in argumentation (see e.g. Greco Morasso, 2011; Jacobs & Aakhus, 2002; Janier & Reed, 2017), analyzes the interventions in mediation interactions by what we may call *mediation professionals*<sup>4</sup>, for whom the mediation role is predetermined and highly conventionalized. Mediation professionals are conflict mediators for whom procedurally guiding a mediation procedure as an *Alternative Dispute Resolution* method is their profession. However, not all mediation processes are performed by the mediation professional who (often) is an externally hired third party with the implicit mandate to implement a formalized mediation procedure (e.g. Sheppard. Blumenfeld-Jones, & Roth, 1989, p. 166). As such, we can consider the mediation activity in which conflict resolutions are procedurally guided by mediation professionals but one communicative activity type of presumably many communicative activity types belonging to mediation as a *genre* of communicative activity. For the many different communicative activity types of mediation, we may expect many different resolution procedures, and many different mediator types. In terms of mediator types, Moore (2003) provides us with three broad types differentiated on the basis of the mediator's relationship with the parties: the *independent mediator*, the *social network mediator*, and the *authoritative mediator*. The *independent mediator* is generally an independent outsider with no personal stake in what comes out of the mediation (Moore, 2003, p. 52); the *social network mediator* generally has an ongoing and enmeshed relationship with the parties in conflict (Moore, 2003, p. 46); and, the *authoritative mediator* occupies a position of power in the community where the conflict between the parties takes place (Moore, 2003, p. 49). These broad categories by Moore (2003) are further discussed in chapter 7; the final chapter of the conceptual part of this dissertation aims to refine the *communicative activity types* of conflict mediation in a way that is functional for common ground research, and does so

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<sup>4</sup> For arriving at the label of *mediation professional*, I would like to thank the critical input of Lin Adrian, and the colleagues of the 14<sup>th</sup> colloquium of the Interdisciplinary Research Group on Mediation (ForMed) in Cracow (Poland) on 13-15 June 2019.

partly by building on the mediator types presented by Moore (2003), whereby we expand on his characterization.

The mediation procedure that mediators are tasked to guide the parties through is to be seen as a procedural template consisting of various different parts or stages (Donohue 1989, p. 335), each with a different main goal and corresponding mediator behaviors (Kressel 2014, p. 825). There are various multistage mediation procedures to be found in the literature depending on the country where the mediation takes place, e.g. in France three distinct parts are reported, in the Netherlands four, and in Germany five (Hopt & Steffek, 2013, p. 60). Although they differ in terms of how the mediation procedure is divided up into different parts, “in view of the corresponding sequences often followed in practice, the formal division into three, four, five or more phases often play no significant role” (Hopt & Steffek, 2013, p. 60). The general content of the sequential steps and the content of the mediation procedure as a whole remain largely the same across the board.<sup>5</sup> Although a formal division of phases varies, e.g. between countries, for the sake of this dissertation settling on a specific formal stage model of mediation is necessary, as we will refer to specific mediation procedural goals, and will dedicate an empirical chapter to the analysis of mediator interventions regarding procedural norms (chapter 4). As such, in this study an adapted version of the four part ‘*mediation circle*’ taken from the ADR Instituut in Amsterdam (the Netherlands) is used (see figure 1 of the *mediation circle*). This choice is motivated by the fact that the ADR Instituut is the collaborator for data collection for this dissertation and this four-part mediation procedure is the general structure used by the mediators whose communication is analyzed for the empirical studies in chapters 4 and 5 (see sections 3.1, 3.2 and 3.3 of the methodology chapter 3).

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<sup>5</sup> Nevertheless, as previously discussed in Greco Morasso (2011), the mediation procedure, although sequential in nature, is not synonymous with linearity because mediators have the ability to divert from the structure (p. 73). Therefore, it is to be considered a template that highlights important goals in the mediation procedure (Kovach, 2005, p. 306).

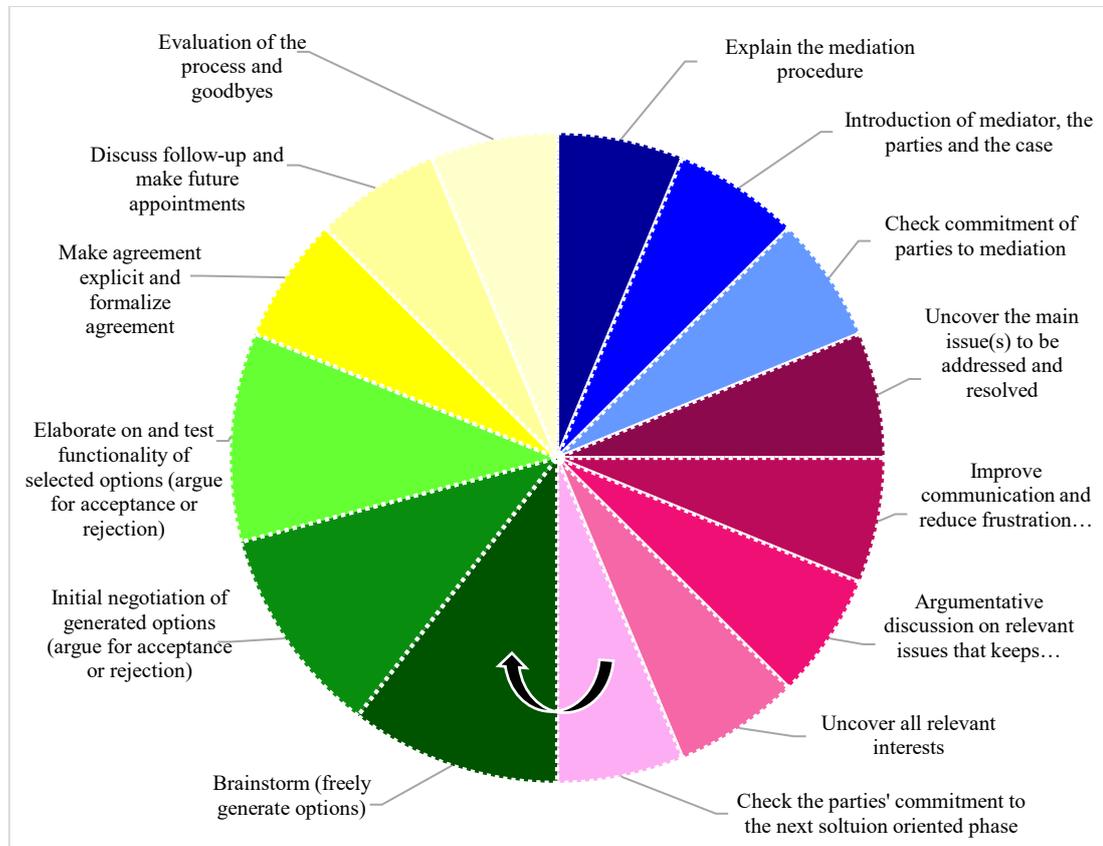
## COMMON GROUND IN CONFLICT MEDIATION



*Figure 1.* The mediation circle (taken from the ADR Instituut)

In the mediation circle, the different parts consist of the *intake part* (i.e. the welcome and introduction to the mediation process), the *negotiation part* (i.e. the part in which ideally, amongst other things, the problems at the center of the conflict are discussed and the interests of the parties are revealed), the *negotiation part* (i.e. the brainstorm and subsequent discussion on solutions to the conflict), and the *concluding part* (i.e. the formalization of the solution(s) and goodbyes). The four main parts of the mediation circle are sequentially standardized; mediations generally take place in this order (i.e. following the parts of the mediation circle clockwise from the intake part to the concluding part), although the mediator may for example briefly return to the exploration part when relevant unsolved issues or emotions emerge in the negotiation part. The four parts of the mediation can be divided into subparts related to the main aims of the parts. As this study is not concerned with the mediation procedure in general, but the communicative options mediators have at their disposal to procedurally guide the mediation process, the detailed mediation circle (figure 2) is adjusted focusing specifically on some common communicative aims of each subpart, which may be more or less prevalent depending on the case and the parties in the conflict the mediator tries to guide.

## COMMON GROUND IN CONFLICT MEDIATION



*Figure 2. Communicative elements of the mediation circle*

The parts within the circle can change place, for example, uncovering relevant issues can come right after uncovering the main issues. Additionally, the different sub parts do not necessarily have the same weight or importance; they are identified as separate parts based on the fact that they represent different communicative sub-aims to achieve the overall goal of the stage they belong to – i.e. the intake, exploration, negotiation, conclusion stage. Thus, whereas the four parts of the mediation circle are sequentially standardized and deemed necessary parts of the mediation procedure, the communicative goals may be more or less prominent in the mediation interaction depending on the case.

At this point, it is essential to briefly acknowledge that there are different mediation styles, i.e. different mediation ideologies guiding mediation approaches (Della Noce, 2009), which may also affect the way in which mediators give shape to the mediation procedure.

## COMMON GROUND IN CONFLICT MEDIATION

Thus, although all mediation procedures are largely organized sequentially in a similar manner, the ways in which mediators attempt to achieve the communicative aims of the mediation procedures may differ. Although there are various characterizations of mediation styles, with Wall and Dunne (2012) discussing twenty-five different mediation styles, and Wall and Kressel (2012) suggesting to condense everything into five basic mediation styles to make the study of styles manageable (p. 413), the most popular classification according to mediation style, remains Riskin's (1996) *mediation grid* (see figure 3) in which mediation styles are broadly characterized from *facilitative* to *evaluative*; at its basis lies the idea that the role of the mediator ranges from *facilitative* (i.e. focus on facilitation of the parties' negotiation) to *evaluative* (i.e. focus on the evaluation of problems important to the conflict) (Riskin, 1996, p. 17) and the problems at the center of the mediation from narrow to broad (Riskin, 1996, p. 18). In terms of the mediator's style, at one extreme end of Riskin's continuum we find mediator behavior that intends to direct (some or all) outcomes of the mediation process, whilst on the other extreme end of the continuum we find behaviors that simply attempt to allow communication and understanding between parties (Riskin, 1996, p. 24), with varieties of mediation styles falling somewhere between either of the extreme ends on the grid.

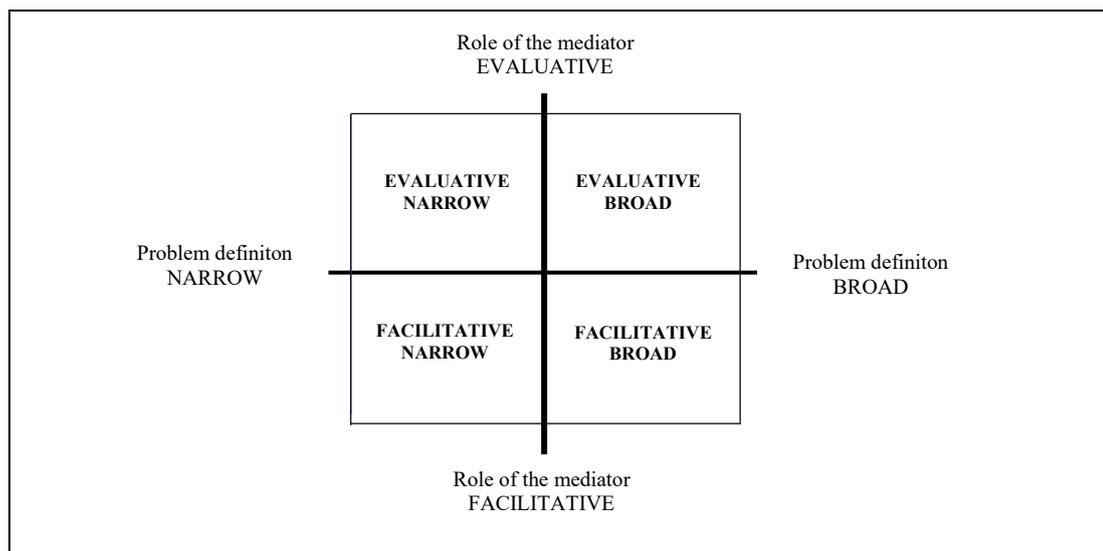


Figure 3. Mediator orientations (Riskin, 1996, p. 25)

Although Riskin's categorization of mediation styles has attracted much criticism (see e.g. the discussion in Stuhlberg (1997)); for example, emphasizing the need for party self-determination (facilitation) over a mediator's direction (evaluative) as a primary value making the concept of 'evaluative mediation' an oxymoron at best (Kovach & Love, 1996, 1998); the categorization is interesting as it points to the difficulty of identifying and categorizing something as complex as mediation styles, especially in practice, as most mediators are said to resist defining themselves according to Riskin's grid (Currie, 2004, p. 3). Generally, although mediators are quite adaptive when it comes to their style (Bercovitch & Gartner, 2009, p. 28), mediators have one style that is more dominant (Wall & Kresse, 2012, p. 407). The mediators studied for this dissertation are facilitative mediators. The facilitative broad mediation style is generally ascribed to the mediation style of the mediators at the courses by ADR Instituut, whose interactions make up the corpus of mediation interactions used for the empirical analyses in chapters 4 and 5 (see methodology sections 3.1, 3.2 and 3.3).<sup>6</sup> Facilitative with a broad notion of the conflict is also the mediation style that the mediators in the focus group and the interviews conducted for this study identify themselves with most (see methodology sections 3.4 and 3.7). The mediators studied for this dissertation can be placed on the facilitative and broad side of Riskin's grid because they generally aim to be minimally directive and attempt to resolve the broader conflict between the parties (Riskin, 2003, p. 23). As such, when this dissertation refers to the mediator or mediation professionals, what is referred to is the facilitative workplace mediator or workplace mediation professionals with a *facilitative* mediation style. While categorization along the lines of mediation style is of limited interest to the study of common ground in mediation (studied here from an argumentative perspective) because mediators adapt styles according to necessity (e.g. Gewurz, 2001, pp. 151-152), the self-ascribed mediation style should be acknowledged. More interesting for the current study than differentiation based on mediation style is mediation differentiation based on the domain in which the mediation takes place, as the domain is shared by the

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<sup>6</sup> Several times during the workplace mediation course by the ADR Instituut in Amsterdam in which the data was collected, the mediators recorded and transcribed for the empirical analyses stated their general aim to empower the parties and instead of steering them. In addition, the institute's director stated that the ADR Instituut generally takes a facilitative approach to mediation.

## COMMON GROUND IN CONFLICT MEDIATION

parties in conflict and thus help determine the common ground parties have. For example, although common ground is highly personal and will differ per conflict, the common ground shared between divorcing parents at conflict over the custody of their child will presumably show some commonalities (e.g. the welfare of the child and the convenience of the custody schedule) which would presumably not be shared by colleagues in a workplace conflict.

In the pragma-dialectical perspective of argumentation, conflict mediation is explained as a specific *genre of communicative activity*. The concept of mediation as a *genre of communicative activity* is described as including various *communicative activity types* that belong to its overarching genre. These different communicative activity types are different “conventionalized practices whose conventionalization serves, through the implementation of certain “genres” of communicative activity the institutional needs prevailing in a certain domain of communicative activity” (van Eemeren, 2010, p. 139). In the case of mediation this institutional need is identified as ‘problem solving’ (van Eemeren, 2010, pp. 129-151). Table 1 below is taken from van Eemeren (2010) and presents an overview of the *domain of communicative activity*, examples of *communicative activity types*, and a *concrete speech event* corresponding to one of the *communicative activity types*, for mediation as a *genre of communicative activity*.

## COMMON GROUND IN CONFLICT MEDIATION

Table 1

*Examples of a mediation speech event representing a communicative activity type that implements mediation as a genre of communicative activity instrumental in certain communicative domains*

Domains of communicative activity	Genres of communicative activity	Communicative activity types	Concrete speech event
Problem solving communication	Mediation	<ul style="list-style-type: none"> <li>▪ Custody mediation</li> <li>▪ Counseling</li> <li>▪ Informal intervention</li> </ul>	Mediated talks between Richard and Tammy about custody Vanessa

*Note.* This table was taken from figure 5.1 in van Eemeren, 2010, p. 143

The communicative activity types for mediation in table 1 are examples of different types of mediation without specific criteria that divides them into different categories. Besides the different communicative activity types of mediation based on informality (e.g. informal intervention), the type of problem to be solved (e.g. custody mediation), or the form in which the mediation takes place (e.g. counseling), sub types of mediation can be categorized according to the specific domains in which the conflict takes place, such as family mediation or workplace mediation. The latter is the domain of mediation at the center of this dissertation, as will be further elaborated on in section 2.1.1. The prototypical communicative activity types of mediation presented in chapter 7 are constructed to be functional for the sake of the study of common ground construction in conflict mediation. For the construction of these communicative activity types, table 1 will be used as a template to be adjusted and expanded on.

### ***2.1.1 Workplace mediation.***

As the general introduction in section 2.1 explains the variety of mediation styles according to the ideology of the mediator, mediation is also differentiated according to the type of issue or the domain in which the mediation takes place. From divorce mediation (see e.g. Emery, Sbarra, & Grover, 2005) and health care mediation (see e.g. Morreim, 2014) to *workplace mediation*, which we are concerned with in this dissertation. Workplace mediation<sup>7</sup>, sometimes called ‘labor mediation’ or ‘mediation in an organizational conflict’ (Bollen et al., 2016, pp. 2-3), as “one of the most structured and institutionalized forms of practice” (Kolb, 1989, p. 95), are particularly functional for the empirical study of common starting point interventions by mediation professionals. Additionally, workplace mediation makes for a functional conventionalized point of departure for the exploratory follow-up study on possible common starting point intervention options in different communicative activity types of conflict mediations. Moreover, the focus on interventions in one mediation context and the comparison between different communicative activity types of mediation in one domain helps us get a more nuanced understanding of the mediation context that benefits both the empirical and conceptual study. In addition, the ADR Instituut in Amsterdam provided the author of this dissertation with exclusive access to data on workplace mediations for the empirical analyses, which further motivates the dissertation’s functional singular focus on mediations in workplace conflicts.

Workplace mediation can be employed to help resolve conflicts in the workplace over work conditions, the reintegration of employees, the termination of employment, workplace bullying and sexual harassment or discrimination, employee quarrels, and so on (see Bollen & Euwema, 2013, p. 331). Over the last decades, workplace mediation has seen a surge in popularity in a variety of institutional settings including the United Nations and the World Bank (see e.g. Wall & Dunne, 2012; Coleman et al., 2016), with conflict

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<sup>7</sup> In this dissertation, we refer to *workplace mediation*, as the cases studied are limited to conflicts between participants with a working relationship. Additionally, as discussed in chapter 7, the *workplace* is considered an *institute* on which the context’s affordances for a mediators’ communicative options for common ground (re)establishment are based in this study (see section 7.2.1).

management as a core element in organizational practices (Bollen et al., 2016, p. 2), because of its ability to limit the possible negative effects that conflict has on disputants' ongoing relationships, organizational costs and revenue loss (Bollen & Euwema, 2013, p. 330). Its growing popularity is mainly due to the fact that it allows for a constructive resolution process, both for the parties and the organization they belong to. As a result, workplace mediation is becoming ever more popular around the world, especially in Europe, the United States, Australia, and Asia (Bollen & Euwema, 2013, p. 229). With the growth of workplace mediation's popularity, the study thereof has grown too (see e.g. Doherty & Guyler, 2008; Elgoibar et al., 2017). However, studies of mediation in organizational (i.e. workplace) settings from an argumentative perspective have hitherto not been conducted. This study aims to add to the field by including in-depth qualitative studies of the ever more popular workplace mediations as an example of argumentation in a specific context.

In general, mediation is more cost-efficient than the standard judicial paths to resolve a conflict (Greco Morasso, 2011, p. 24), which could be seen as one of the reasons behind the growth of Alternative Dispute Resolution options to conflict resolution as opposed to the more costly judicial route. Additionally, for many workplace disputes a mediated resolution is more preferable than a resolution in court, because mediation aims for a win-win solution and constructive communication between the parties, which is particularly beneficial if the parties have an ongoing relationship. Workplace mediation is said to generally need more than legal solutions in order for the conflict to be sufficiently resolved, which is mainly due to the relationship restorative element that mediation in general has (e.g. Bollen & Euwema, 2013, pp. 331-332); it looks for a mutually beneficial resolution in which the interests of all relevant parties are included, whereby the possible solution could be considered better for required ongoing relations than a win-lose solution more typical of legal solutions (e.g. Kals, Thiel, & Freund, 2016). In the workplace, the parties in conflict often require at a minimum a *functional working relationship* in order for them to operate properly within the organization. Moreover, "there is a direct ratio between the quality of relationships across the workplace and long-term business effectiveness and success" (Doherty & Guyler, 2008, p. 2), whereby mediation may

improve individual wellbeing and reduce productivity loss related to employees' turnover intentions (see Giebels & Janssen, 2005).

### ***2.1.2 Dispute mediation and conflict mediation.***

Now that mediation has broadly been defined and the type of mediation selected for this study on common ground has been explained, the concepts of *conflict* and *dispute* should be characterized. In this dissertation, a conceptual distinction is made between the two concepts, which affects the way in which this dissertation may be read, especially by argumentation scholars, as the terms *dispute* and *conflict* are often used interchangeably in argumentative studies of mediation. In section 2.1, I stated that *Alternative Dispute Resolution* is a form of *conflict resolution*. However, as will be shown in what follows, for the sake of this study, a difference between *dispute* and *conflict* is worth establishing<sup>8</sup>, motivated by the question: in this dissertation, do we study *disputes* or *conflicts*?

If we want to study *communicative activity types* of mediation as will be done in the conceptual chapters 6 and 7 of this dissertation, it is important to see if we can characterize what we mean by both dispute and conflict, so that we can more confidently judge if the concept(s) apply to problems between people across different mediation types. The importance of a distinction becomes clear when we consider the differentiation made by legal scholars studying conflict resolution approaches such as mediation. In legal studies, and practices, a *dispute* is often considered judicable, and involving disagreements that can be examined objectively (Brown & Marriot, 1999, p. 2). In short, 'disputes' have a legal connotation, whilst the concept of 'conflict' does not; 'conflicts' are to be considered more broad than the more narrow concept of 'disputes', as it, besides the disagreement that keeps parties divided, includes the general disruptive and often hostile relations

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<sup>8</sup> The discussion on *disputes* versus *conflicts* presented in section 2.1.2 is not exhaustive, neither does it aim for definitiveness; instead, we are concerned with the base difference between *conflict* and *dispute*, which proves important for the present study. For a more complete study on "the ontology of conflict" see Greco Morasso (2008; 2011, pp. 58-64), in which an extensive semantic analysis of *conflict* is provided.

between them.<sup>9</sup> Whilst adjudication mainly deals with ‘disputes’, mediation is, ideally, the business of solving the ‘conflict’ instead of merely the dispute (e.g. Parkinson, 1997, pp. 10-11), as solving the dispute alone is less likely to have relationship restorative effects. Additionally, the parties’ perception of the solution *as well as* the resolution process is more likely to be fair and satisfactory than when merely resolving the dispute, as is generally the case in traditional court-based resolutions (see Adrian 2016, pp. 225-226).

From an argumentative perspective, the following semantic analysis of conflict is essential to consider; Greco Morasso (2008, 2011) offers an extensive exposition on *conflict* in which the author differentiates between two different conceptualizations of conflict: (C1) *conflict as interpersonal hostility* and (C2) *conflict as a propositional incompatibility* (see table 2 below). Whilst C1 describes a situation of hostility between the parties, C2 shows a situation of disagreement on issues, in which a reasonable argumentative discussion can lead to a resolution.

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<sup>9</sup> I am thankful to the co-director of this dissertation, Lin Adrian who pointed out the difference between conflict and dispute from the perspective of legal studies on conflict resolution.

Table 2

*Predicates C1 and C2 semantic analyses*


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Predicate C1	<p>“<b>C1</b> (<math>X_1, X_2, X_3</math>): Presuppositions: <math>X_1</math> and <math>X_2</math> exist, <math>X_1</math> and <math>X_2</math> are human (single or collective) subjects, there exists some form of relationship between <math>X_1</math> and <math>X_2</math> which is in some degree a cooperative relationship, <math>X_3</math> is an issue (understood as an object of interest) in which some form of difference between <math>X_1</math> and <math>X_2</math> becomes questionable because of the divergence on <math>X_3</math>, each agent (<math>X_1</math> and <math>X_2</math>) is committed to hinder that the adversary obtains the desired good, because this is perceived as the condition to obtain his or her own good.” (Greco Morasso, 2008, p. 550; Greco Morasso, 2011, p. 93).</p>
Predicate C2	<p><b>C2</b> (<math>X_1, X_2</math>): Presuppositions: <math>X_1</math> and <math>X_2</math> are two possible states of affairs (propositions);   Implications: <math>X_1</math> and <math>X_2</math> are incompatible, i.e. mutually exclusive.” (Greco Morasso, 2008, p. 553; Greco Morasso, 2011, p. 97)</p>

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When we connect the distinction made in argumentation between (C1) *conflict as interpersonal hostility* and (C2) *conflict as a propositional incompatibility* to the distinction between ‘conflict’ and ‘dispute’ made in conflict resolution research in legal studies, the following becomes clear: although labelled differently, the differentiation is similar: (C1) = the conflict, which concerns the people; (C2) = the dispute, which concerns disagreement(s) on incompatible propositions. In short, (C1) concerns the *people*, whilst (C2) concerns the *problem*.<sup>10</sup>

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<sup>10</sup> When accepting that a *conflict* is between people (i.e. the parties) and *dispute* concerns specific problems, the following phrase, infamous in both mediation and negotiation, comes to mind: *separate the people/person from the problem* (e.g. Fisher, Ury, & Patton, 1991, pp. 17-38). This indicates and interesting incongruity: whilst it is important for the mediator to separate the people from the problem (and thus have them focus on the dispute rather than their personal vendetta), in the end, for the resolution to be sustainable and the relationship reparative effects of mediation to work, they have to (ideally) resolve the *conflict* between the *people* and not merely the *dispute* on a certain problem.

If we take these insights from argumentation and legal studies into consideration, a distinction between *dispute*, *conflict*, and *disagreement* (i.e. the specific and essential issue(s) to be addressed in the mediation session (see van Bijnen & Greco, 2018)) can be provided that is appropriate for this dissertation. Below, in table 3, the labels and the definitions are presented (from micro to macro), with *conflicts* defined as *disputes* consisting of one or more *disagreements* that have escalated to a point of hostility that negatively affects the relationship of the parties in conflict, which explains how the labels are used in *this* dissertation.

Disagreement	Dispute	Conflict
The <i>incompatibility of positions</i> (Greco Morasso, 2008, p. 542) vis-à-vis <i>issues</i> , “which can be the subject of an argumentative discussion” (van Bijnen & Greco, 2018, p. 2). This is in line with the notion of <i>difference of opinion</i> between parties in pragmatic dialectical terms (see e.g. van Eemeren & Houtlosser, 2009, p. 1; van Eemeren et al., 2014, p. 2)	A specific case that involves one or more <i>disagreements</i> (i.e. differences of opinions on an issue) that can be addressed/resolved by means of (third party) adjudication, negotiation, or mediation (see e.g. Brown & Marriot, 1999, p. 2).	The broader conflict (i.e. the hostilities between people) of which the <i>dispute</i> is a part. Conflict may have damaging effects to the relationships, which due to the divergence can exacerbate to a point of hostility that may involve violence (Greco Morasso, 2008, p. 550)

The dispute, thus, concerns one or more specific disagreements that need to be discussed in the mediation’s reasonable argumentative discussions in order for the broader conflict between the parties to be resolved. Although conflicts are not synonymous with disputes, in order to resolve the conflict, the relevant disagreement(s) that the dispute consists of need to be resolved. Yet, we can also hypothesize that treating the dispute alone and

excluding the treatment of the conflict, whereby the exacerbation is not necessarily dealt with, is less likely to lead to a mutually acceptable and sustainable resolution with possible relationship repair.

The relevance of the distinction between conflict and dispute in mediation is best related to Greco Morasso (2008) and Greco Morasso (2011); in order for the conflict (C1) to be resolved, the original incompatibilities (C2) should be identified that might have provoked the conflict and “that represent the issues originating the conflict” (Greco Morasso, 2011, p. 98). Thus, it is not the *dispute* that should be resolved but the *conflict*, in order for the resolution to be truly mutually beneficial and sustainable. If the resolution has, in fact, a win-lose outcome, it could be said that the specific *dispute* has been resolved, which is formalized by an agreement, but that the actual *conflict* – the tension tied to the problem between the parties – has not been resolved (at least for one party, i.e. the party whose interests are not sufficiently met). This idea is in line with Greco (2018) who states that “approaching disagreement through argumentation, i.e. in a critical way, is the only way to really *resolve* it. When a resolution is reached through other means [...] disagreement remains. Even if the parties settle the specific problem, if the disagreement has not been tackled through reasonable dialogue, it will persist” (Greco, 2018, p. 9). Therefore, at least in this study on common ground in conflict mediation from an argumentative perspective, I prefer to refer to mediation as ‘conflict mediation’ rather than ‘dispute mediation’.

### **2.2 Common Ground and Context**

All types of conflict resolution *happen in context* (Burrell & Vogl, 1990, p. 237; Hermann, Hollet, & Gale, 2006, p. 22) and conflict mediation is no exception; it is a context-driven process in which the scope of the activities is determined by the relevant contexts in which the mediation takes place (Bercovitch & Houston, 2000, p. 197). If we are to study the ways in which mediators can deal with common ground in conflict mediation, we need to understand what *context* is, what *common ground* is, and how the context is linked to the options that mediators in different communicative activity types of mediation have for the construction of interventions that help build the common ground for reasonable argumentative discussions.

### ***2.2.1 Common ground.***

As stated in the introduction to this dissertation, the pragma-dialectical perspective on argumentation sees a solid common ground between the parties as a precondition for reasonable argumentative discussions that can lead to the resolution of a conflict (e.g. van Eemeren, 2010, p. 128, 2015, p. 157; van Eemeren et al., 1993, p. 27, 172). In mediation, where the conflict between the parties is at deadlock, the need for broadening and strengthening common ground is great. A solid common ground accommodates a reasonable argumentative discussion, whether as material premises in the parties' argumentation or as a basis of agreement through which parties may transform their discussion attitudes from hostile (C1) to reasonable (C2) (see section 2.1.2). With conflict resolution studies further supporting the importance of common ground for reaching a sustainable agreement in conflict mediation (e.g. Coleman et al., 2016, p. 26), the study of how mediators can construct a dialogue space with enough common ground is worthy of further investigation.

Like many central concepts discussed in this dissertation, what *common ground* exactly is, is not as clear as one may think. As such, how it is understood here, especially in relation to argumentation theory and mediation, should be determined. In communication science and linguistics, common ground<sup>11</sup> is often understood as the shared background knowledge of interlocutors on the basis of which they are able to give sentences meaning to make sense of communications (e.g. Abbott 2008; Lee 2001; Stalnaker 2002), which is a technical concept first introduced in the late sixties by Lewis (1969). Common ground as common knowledge became a trending research topic in the field again in the late seventies led by Stalnaker (1978), to which Herbert Clark and colleagues later added the notion that common ground can include *more* than 'knowledge' and can concern values and beliefs as well (e.g. Clark & Marshall, 1981; Clark & Brennan, 1991; Clark 1996,

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<sup>11</sup> In this dissertation, I make a distinction between *middle ground* and *common ground*. Whilst I understand *middle ground* as meeting in the middle, which is a common goal of the resolution process in mediation, I consider *common ground* that what is needed (i.e. shared knowledge, values, and so on) to get to a middle ground solution through reasonable argumentative discussions on conflict resolution relevant problems and possible middle ground solutions.

2006). Although this is indeed a dissertation in the field of communication (i.e. argumentation) supplemented with insights from linguistics, the perspective taken on common ground here more closely follows Clark and colleagues' conceptualization of common ground as people's commonalities, which include, but are not limited to, shared knowledge, and may include, for example, shared values and feelings as well (see e.g. Clark & Marshall, 1981; Clark & Brennan, 1991; Clark, 1996; 2006). This conceptualization coincides with the more common use of common ground; according to the Oxford English Dictionary, *common ground* in general is considered "an area of shared interests or opinions held by two or more parties or groups" ("common ground", 2019). In other words, using the popular definition of common ground, it is an area, or collection, of concepts on which interlocutors *agree*, i.e. common ground is that which is not up for discussion because it is already shared between interlocutors or agreed on.<sup>12</sup> The choice for this definition of common ground is further motivated by the fact that the pragmatic-dialectical perspective on common ground considers more than shared knowledge for meaning making (see the discussion on the *opening stage* in section 2.3.2; and the discussion on *material starting points* in section 2.3.4).

Common ground is highly context driven; depending on the context in which the conflict arises and the context in which the conflict is resolved, the common ground shared by parties and the access mediators can have to the common ground shared by parties differs. To further understand this, we should look at the work by Clark (2006) on common ground. Clark (2006) distinguishes between *communal common ground* and *personal common ground* as bases for common ground shared by people. *Communal common ground* corresponds to knowledge and commonalities shared by common members of a specific community (Clark, 2006, p. 85). In other words, when parties belong to a specific *community*, the joint membership of this community forms a basis for communal common ground. In this dissertation on workplace mediation, the most relevant community is the

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<sup>12</sup> This notion was further underlined in the discussion by the focus group (see section 3.4) that was organized for the paper *Questions that set up the opening stage in conflict mediation*, which was presented at the 9<sup>th</sup> International Society for the Study of Argumentation (ISSA) conference (3-6 July 2018), and published in the conference's proceedings (see van Bijnen, Bakker, & Greco, 2018).

workplace, i.e. the organization that the parties are a part of. *Personal common ground*, on the other hand, is based on people's joint experiences, which are more personal in nature, such as previous conversations and other joint activities (Clark, 2006, p. 86). The personal common ground is not a common ground basis for every member of a community; rather, it is the common ground basis that results from the personal history shared between specific members of a community. Depending on the context of the conflict and the resolution process, including the relationship between the parties and the mediator, mediators in different communicative activity types of workplace mediation could have different access to the communal common ground and/or the personal common ground of the parties. As a result of the differences in access to communal and personal common ground bases, mediators of different communicative activity types of workplace mediation could have different options for dealing with the common ground between the parties (this assumption is conceptually analyzed and discussed in chapter 7 of this dissertation).

### ***2.2.2 Doubly contextual nature and argumentative design.***

As this dissertation is a study of specific preconditions to argumentation in context, it is important to first outline how *context* is conceptualized and used in argumentation research, specifically in the pragma-dialectical approach to argumentation and in relation to the creation of *reasonable argumentative discussions*.<sup>13</sup> With the introduction of the concept of 'context', a Pandora's box is opened that is filled with complex questions: what exactly does *context* mean?; what is meant by context *here*?; and how may context influence how mediators can deal with *common ground*? Duranti and Goodwin (1992) discussed the possibility of never finding a single, precise, and technical definition of context (p. 2), and years later, the concept of context remains "admittedly, hopelessly polysemic" (Lewiński & Mohammed, 2016, p. 11). However, the inability to pin down a singular definition of context poses less of a problem than one might think. Context in language use can, for example, be seen as the text that 'surrounds' the utterance being

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<sup>13</sup> For more on pragma-dialectics see e.g. van Eemeren, 2010, 2015; van Eemeren & Grootendorst, 1984, 2004; van Eemeren et al., 2014; for a summary see sections 2.2.3 and 2.3 of this dissertation.

studied (i.e. *co-text*; or the *micro-context* in pragma-dialectics (van Eemeren, 2015, pp. 647-648)); as that which influences text production (see e.g. Heritage, 1984); as a *frame* used for its interpretation (see e.g. Goffman, 1974); or a variation thereof, as something in which the *contextualized* is situated to give it meaning (see e.g. Rigotti & Rocci, 2006); as the social and cultural conventions (van Eemeren, 2015); and more specifically, the institutional affordances that affect the construction of a text (see e.g. van Eemeren, 2010). Although arriving at a singular conceptualization of context may prove to be an impossibility, because context may directly affect how mediation discourses are constructed (e.g. Kolb, 1989, p. 74), we should define how context is used in this dissertation. This is particularly important for the conceptual analyses in chapters 6 and 7 where the possible differences in common starting point interventions between different communicative activity types of workplace mediation are studied and explained based on contextual differences.

Although there are elements of context that are often considered (relatively) ‘static’, such as the social identification markers of ‘race’ and ‘sexuality’<sup>14</sup>, in this study the relevant contextual categories considered are to be seen as dynamic, i.e. as things that are constantly negotiated and adjusted by means of discourse in interactions (e.g. Duranti & Goodwin, 1992, p. 29), such as parties’ relationships or their agreements. This notion of dynamic contexts is embraced in this study and adjusted to fit the particular practice of conflict mediation. The discursive power to reshape contexts is in line with argumentation studies (see e.g. Aakhus, 2007; Jackson 2015, p. 246; van Eemeren, 2015, p. 649) and has

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<sup>14</sup> In this study, social identification markers ascribed to a person, such as race or sex, are considered social constructs in the form of predetermined identification categories used to group people under a specific label (see e.g. Alcoff, 2006 for more on race, gender and identity; Fishman & García, 2011, or Murji & Solomos, 2015 for more on race and ethnicity; and e.g. Talbot, 1998 or Eckert & McConnell-Ginet, 2003 for more on gender and sex). With this in mind, in this dissertation such contextual factors are not considered dynamic in the same way and to the same degree as the dissertation relevant contextual factors like people’s shared interests, feelings, relationships and so on. It is equally important to acknowledge that there is much debate on whether factors such as sex or gender, or indeed race or ethnicity, are static or dynamic. Because of this complexity, the author of this dissertation has consciously chosen not to focus on identification categories such as ‘sex’, ‘gender’, ‘race’, ‘ethnicity’, ‘class’, or ‘sexuality’; and to not include discussions on these contextual factors in this dissertation. Including these valuable and urgent discussions would both exceed the scope of this project and result in gross oversimplifications of these complex and important concepts.

been previously explained in relation to conflict mediation (see e.g. Aakhus, 2003; Greco, 2018; Greco Morasso, 2011; Jacobs & Aakhus, 2002; van Bijnen & Greco, 2018 and Vasilyeva, 2015).

The process of mediation is one that is considered highly context driven in conflict resolution studies as “it influences, and is, in turn, influenced and responsive to the context and environment of the conflict” (Bercovitch & Houston, 2000, p. 171). However, this idea of context driven discourse is indeed a notion that is more broadly accepted in fields such as communication and linguistics, in the form explained in Duranti and Goodwin (1992) following the concept of doubly contextual introduced by Heritage (1984):

“Indeed the production of talk is *doubly contextual* (Heritage, 1984, p. 242) in that a subsequent utterance not only relies upon *existing context* for its own production and interpretation, but that utterance is in its own right an event that shapes a new context for the action that follows it.” (Duranti & Goodwin, 1992, p. 29)

Most scholars of argumentation in context are, either implicitly or explicitly, in agreement on the notion of the *doubly contextual* (Heritage, 1984) relation of context and text. In general, context affects how texts are constructed in an interaction, and the resulting text in turn determines the updated context of the interaction and the choices we may make regarding text construction in an interaction; in other words, it is a chain that determines our communicative choices. Additionally, the effect is that text can influence how the context beyond the interaction is shaped, as text can have effects on the real world; e.g. *performatives* (e.g. Austin, 1975; Searle, 1989) such as ‘I pronounce you husband and wife’, and real world impositions on hearer and/or speaker such as *requests* and *promises* (e.g. Brown & Levinson, 1987), which can explicitly affect the world outside of the interaction and after the interaction has concluded. The principle of ‘double contextually’ coined by Heritage (1984), as a chain of ‘context influencing text influencing context’, is based on the fundamental notion that communicative actions are both, what Heritage (1984) calls ‘*context-shaped*’ and ‘*context-renewing*’, meaning that “the context of a next

action is repeatedly renewed with every current action.” (p. 242). In other words, mediators’ interventions are *context shaped* by the parties’ preceding utterances in the traditional ‘*doubly contextual sense*’ described by Heritage (1984). However, the part that refers to the *context* being shaped in an ‘*institutionally preferred way*’ does not refer to co-text<sup>15</sup> construction in the more traditional sense of text helping shape subsequent text, as the chain of shaping and renewing happens *automatically* and *naturally*. Instead, as designers of the interaction as a whole (Aakhus, 2003), a mediator’s utterance (i.e. intervention) is meant to *deliberately* shape *contexts* in an ‘institutionally preferred way’ (Vasilyeva, 2012, p. 211) with this context renewal (implicitly or explicitly) encouraging resolution favorable interactions by establishing affordances concerning the content and form of future text production to reach the goal of the overall interaction (i.e. conflict resolution).

In terms of the role that mediators can play in deliberately shaping context in an specific way, this dissertation will build on the concept of *communication* (or *argumentation*) *as design*, which will function as the underlying frame for both the empirical chapters 4 and 5 and the conceptual chapters 6 and 7. This concept of design has previously been used in relation with, and has been proven functional for, the study of argumentation in mediation, with mediators being described as the designers of dialogue spaces (see e.g. Aakhus, 2003, 2007; Greco, 2018; Vasilyeva, 2015). In addition, previous research on conflict mediation from the perspective of ‘communication as design’ has already shown how mediators can strategically “shape the disagreement space” (van Bijnen & Greco, 2018, p. 283) and a “dialogue space” in which reasonable resolutions can take place in mediation (Greco, 2018). Previous studies already revealed that mediators are able to design a space of agreement between parties in conflict (e.g. Aakhus, 2003); this dissertation sets out to

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<sup>15</sup> In linguistics the concept of *co-text* is sometimes used to refer to the text surrounding the utterance under consideration, i.e. the information preceding or following an utterance in analyses of dialogues (see e.g. Yule & Widdowson, 1996, p. 21). The *context-shaped utterance* could more accurately be called the *co-text shaped* utterance. It is the co-text shaped utterance that in turn constitutes the co-text that shapes the subsequent utterance, which then constitutes the co-text that shapes the utterance that follows it, and so on. Using the label *co-text* for ‘text surrounding an utterance’ helps prevent the possible confusion of this concept with the broader concept of *context* (see chapter 6 for the reconceptualization of the pertinent difference between co-text and context).

explore *how* mediators may design this space, and what interventions they use at certain moments in the mediation session to do so.

Aakhus (2007) explains the concept of *communication design* as a transformation that happens “when there is an intervention into some ongoing activity through the invention of techniques, devices, and procedures that aim to redesign interactivity and thus shape the possibility for communication” (p. 112). In other words, designers of communications actively transform existing situations into preferred ones (Aakhus & Jackson, 2005, p. 416). If we apply this concept of design to the conflict resolution approach of conflict mediation, we could state that it is a practice in which a *context is designed* that favors reasonable and constructive argumentation instead of dysfunctional and destructive argumentative interactions (Jacobs, 1998, p. 400). Thus, as those who study mediation from a design perspective would say: mediators are designers of the conflict resolution process; through interventions and inventions they have the ability to transform the context of the conflict at deadlock (“something given”) into a context in which reasonable resolutions may take place (“something preferred”).<sup>16</sup> Mediators as designers have a repertoire of possible interventions at their disposal by which they can transform an existing situation into a preferred one (Aakhus & Jackson, 2005, p. 416), i.e. a conflict resolution favorable interaction. In this study, we aim to identify and analyze this repertoire of possible interventions; specifically, we look at the invention of *techniques*, i.e. the possible mediator interventions that broaden or strengthen parties’ common ground (see section 5.1). *Conflict resolution* studies unknowingly supports the ‘mediators as designers’ outlook, as mediation is considered a dynamic process in which mediators “take cues from the environment” (Bercovitch & Houston, 2000, p. 197) to construct interventions with the ability to (positively) alter parties’ perspectives, decisions and behaviors (see e.g. Bercovitch & Houston, 2000, Fisher & Keashly, 1991). A certainty is that before parties enter into mediation, they are in a conflict at deadlock in which unreasonableness prevails. The parties are unable to conduct a constructive and reasonable

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<sup>16</sup> In Aakhus (2003) the mediator is explained as the *designer*, the context of the dispute as the *environment*, and the dialogue and disagreement space as the *objects*.

discussion for the resolution of their conflict by themselves, and consequently seek out a third party as their procedural guide, which underlines the idea that without *the design of communication by a third party*, the development of a constructive argumentative discussion between the parties is anything but a given (see e.g. Greco, 2018, p. 11).

We thus adopt an approach to context in which we assume interactions are both able to construct social entities themselves and constitute processes in which meaning is cooperatively created (Vasilyeva, 2015, p. 357). For the practice of mediation, the concept of the *doubly contextual* can be partly related to the concept of *double design* (Vasilyeva, 2015), as it points to the mediation interaction as being collaborative, and mediators as being able to design their interactions and the institutionally preferred context because of the input provided by the parties; this renewed (preferably more reasonable and functionally constructive context for argumentative discourse) will then cater to new contributions by the parties that (ideally) adhere more to the institutionally preferred way, which in turn affects the construction of subsequent interventions by the mediator and his or her design work, and so on and so forth. Thus, *double design* (Vasilyeva, 2015) *works on two levels*; on what we can call a ‘*text construction level*’, which is both *context-shaping* and *context-renewing*, and on the level of ‘*(deliberate) context design*’, in which text is constructed to deliberately affect the context of the mediation. Thus, the notion can be presented that a mediator’s utterances as interventions deliberately (i.e. in line with the institutional goal of conflict mediation) help (re)design a new context that updates the affordances of the context. Through this (re)design the options for interaction/communication are altered (in an institutionally preferred way), and a ‘dialogue space’ is designed in the mediation process that support resolution-oriented argumentative discussions (see e.g. Greco, 2018).

If we accept this, we ought to accept the idea that mediators’ design of contexts with more explicitly accepted common ground for the sake of reasonable resolutions, is *part of a mediator’s process*. By constructing interventions on common ground, a new context is designed with more explicitly accepted common ground, making resolution more likely.

### ***2.2.3 Context in pragma-dialectics.***

In this section, a concise discussion of the conceptualization of different contexts in pragma-dialectics will be presented. As one of the founders of pragma-dialectics (together with Grootendorst), van Eemeren touches on the importance of *context* in relation to fallaciousness in argumentation:

“[b]ecause the application of critical norms of reasonableness is partially dependent on the requirements that result from the exact circumstances in which the argumentation occurs, such that these norms can be implemented in slightly different ways, the content of these criteria can sometimes be context dependent. This means that the context in which the argumentative exchange takes place has to be in principle taken into account explicitly in determining fallaciousness” (van Eemeren, 2010, pp. 203-207, 2015, p. 236).

However, this does not only count for fallaciousness (i.e. moves that go against the normative mode of reasonableness, which is essential in the critical discussion in argumentative interactions) (e.g. van Eemeren & Grootendorst, 1992, pp. 93-212). In the case of design in conflict mediation it is important to broaden this principle; if we want to understand the critical norms of design to create reasonableness in the resolution process of escalated conflicts (in our case using a ‘neutral’ third party), it is important to not only take context into account (explicitly and in principle), but also to explicitly characterize and comprehend the context in which the design process takes place.

In this dissertation, we will mainly focus on the general conceptualization of functional context in pragma-dialectics: *macro-context*, *meso-context*, *micro-context*, and the *intertextual context* (e.g. van Eemeren, 2010).<sup>17</sup> These context types are explained in

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<sup>17</sup> Walton and Krabbe’s (1995) concept of *dialogue types* are an important contribution to the understanding of the relationship between arguments and the context in which they are used. Their concepts are specifically functional for the study of fallacies. However, these dialogue types are less ideal for the study of common starting point (re)establishment in conflict mediation than the conceptualization in pragma-dialectics.

pragma-dialectics as the context types to keep in mind when empirically analyzing argumentative texts (written as well as spoken). The *macro-context* corresponds to the concept of *communicative activity types*, meaning the conventionalized practice in which the interaction takes place. The *meso-context* refers specifically to the case context of the utterance that is empirically studied. The *micro-context* concerns the *text* preceding and following the utterance that is studied. Lastly, the *intertextual context* refers to the other texts that the argumentative text that is being studied is connected with.

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Table 4

*Context in pragma-dialectics*

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Type of context	Context description
Macro-context	Corresponds to the concept of <i>communicative activity type</i> (see e.g. van Eemeren, 2010), which pertains to “conventionalized practices whose conventionalization serves, through the implementation of certain “genres” of communicative activity the institutional needs prevailing in a certain domain of communicative activity” (p. 139).
Meso-context	Also called “situation” or “constitution” (van Eemeren, 2015, pp. 647-648), refers to the context pertaining to the specific <i>case context</i> of the extract analyzed (also called: the extra-linguistic context (van Eemeren, 2015, p. 648, footnote 6)).
Micro-context	The micro-context is the <i>linguistic</i> context (van Eemeren et al, 2014, p. 538) and pertains to the text of the text genre itself. It can be described as “the text immediately preceding or following the extract at issue” (van Eemeren, 2015, pp. 647-648), and is more commonly known as <i>co-text</i> in communication and linguistics (e.g. Brown & Yule, 1983).
Intertextual context	The context of other speech events to which the extract in question is linked (also called: <i>interdiscursive</i> context) (van Eemeren, 2015, pp. 647-648)

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Pragma-dialectics thus presents a differentiation between different contexts that can help us explain different contextual influence on mediation utterances in specific and the mediation text (i.e. the mediation dialogue in its entirety) in general. To some extent all the texts empirically studied in this dissertation (see chapters 4 and 5) can be related to any of the contexts presented in table 4; the studied utterances are put forward in a micro-context of other utterances that make up the sequence and mediation text as a whole; the studied utterances and texts are to be placed in the context pertaining to the specific case context, which constitutes the meso-context; the construction of utterances and the mediation text in general are affected by the institutional affordances of the domain in which the interaction takes place, i.e. the *macro context*; and finally, the mediation text often refers to the *intertextual context* of previous dialogues between the parties or previous mediation sessions in the mediation process (e.g. when reconstructing their *shared history* in section 5.4.2). Furthermore, this differentiation of context in pragma-dialectics is useful as a basis for contextual differentiations between communicative activity types of workplace mediation. As such, the four contexts will be reconceptualized in chapters 6 and 7 to serve as a basis for the conceptual analyses of common ground design by different communicative activity types.

### **2.3 Pragma-dialectics and Common Ground in Conflict Mediation**

Now that section 2.1 introduced the most essential concepts of conflict resolution for this dissertation, and section 2.2 defined how context and common ground are understood and used in this dissertation, section 2.3 concerns the most essential concepts of common ground from a pragma-dialectical perspective; starting with a short introduction of the pragma-dialectical perspective itself and its relevant concepts to common ground in conflict mediation.

In this dissertation, common ground is studied from an argumentative perspective, and specifically the *pragma-dialectical* approach to argumentation, because this perspective explains common ground as an essential prerequisite for the argumentative discussions that ultimately lead to the resolutions of conflicts (e.g. van Eemeren, 2010, p. 128, 2015, p. 157; van Eemeren et al., 1993, p. 27, 172). In argumentation, especially in conflict mediation, common ground is used as a basis for argumentative discussions, either as

arguments in support of standpoints that would be acceptable by the opposite party (e.g. Jacobs & Aakhus, 2002, p. 186) or as a necessity for the transformation of disputants from hostile to reasonable (see Greco Morasso, 2011, pp. 93-97). More specifically, in chapter 5 we will argue that a mediator's design of a dialogue space with sufficient common ground for reasonable argumentative discussions will help parties believe in the feasibility of reasonable argumentative discussions and help the transformation of parties from hostile disputants to co-arguers in reasonable argumentative discussions on problems and solutions.

Section 2.3 presents the most essential concepts of the *pragma-dialectical approach* to argumentation in the studies on common ground in conflict mediation, with a special focus on the *argumentation structures* and the approach's central normative model of the *critical discussion* and the place of common ground within this model (section 2.3.1); the explicit link between common ground in the *opening stage* in the critical discussion as a collection of *common starting points* (section 2.3.2); and the subcategories of common starting points, i.e. *procedural starting points* (section 2.3.3) and *material starting points* (section 2.3.4).

### ***2.3.1 Critical discussion and argumentation structure.***

When we speak of argumentation research, in this dissertation, what is usually referred to is the pragma-dialectical approach to argumentation, although this study does not limit itself to insights from this perspective on argumentation and at some points takes a broader perspective for the sake of putting conflict mediation at the center. The pragma-dialectical perspective on argumentation centers on the normative model of the critical discussion for a reasonable resolution of an argumentative discussion (e.g. van Eemeren & Grootendorst, 1984, 2004, 2015; Houtlosser, 2001, pp. 30-31). In this reasonable argumentative discussion, disputants may have diverging standpoints on issues by which they are in disagreement. When the antagonist (i.e. the disputant who casts doubt on or puts forward an opposing standpoint to the standpoint of the protagonist) calls one's standpoint into question; the protagonist (i.e. the person whose standpoint is being called into question) has the burden of proof to provide a sufficient argumentative line of support for the

acceptance of his or her standpoint (see e.g. van Eemeren & Grootendorst, 1992). Sufficient support of the standpoint, in the critical discussion, would lead the antagonist to change his or her standpoint or retract doubt, whereby the conflict is resolved (for more on pragma-dialectics see e.g. van Eemeren, 2010, 2015; van Eemeren & Grootendorst, 2004; van Eemeren, Grootendorst, & Kruijer, 1984; van Eemeren et al., 2014).

Although this dissertation focuses on common ground as a precondition for reasonable argumentative discussions that can lead to resolutions of conflicts in mediation instead of the argumentative discussions themselves, the common starting point interventions analyzed in the empirical chapters (4 and 5) may nevertheless contain arguments. If they do, the arguments and standpoint will be presented following the pragma-dialectical system of annotation. When we study the relation of more than one argument in support of a standpoint from a pragma-dialectical point of view, we may first look at the *argumentation structure* of this complex argumentation (e.g. Snoeck Henkemans, 1992, 2001, 2003). When arguments function independently of each other we are concerned with *multiple argumentation* (Snoeck Henkemans, 2003, p. 406); here, the argumentation put forward in support of a standpoint constitutes multiple lines of defense that to a certain degree support the standpoint independently of each other (Snoeck Henkemans, 2001, p. 101). Taking every argument as a separate attempt to defend the standpoint (Snoeck Henkemans, 2003, p. 407), when listing arguments in support of the standpoint that are multiple in nature they are numbered starting at 1, with each number representing a separate (or *convergent*) line of defense (Snoeck Henkemans, 2003, p. 406). See figure 4 for a visual representation of multiple argumentation.

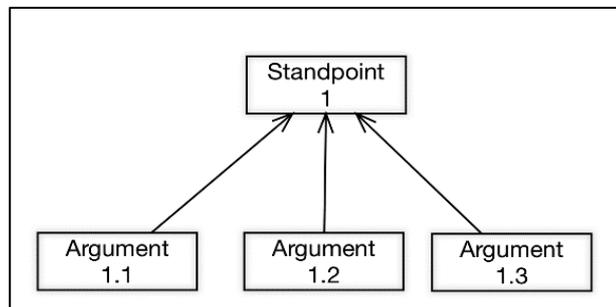


Figure 4. Visual representation of an argument structure for multiple argumentation

When arguments in support of a standpoint are interdependent, the relation between these arguments is *coordinative* in nature; the reasoning that is provided works together as a unit. In case of one line of defense that consists of multiple parts that work together as a unit, we refer to *coordinative argumentation* (Snoeck Henkemans, 2001, p. 101; Snoeck Henkemans, 2003, p. 406). Instead of separate arguments numbered starting at one, the arguments in *coordinative argumentation* that are labeled *a*, *b*, *c*, and so on, are part of the same attempt to support the standpoint, as shown in the visual representation of *coordinative argumentation* in figure 5.

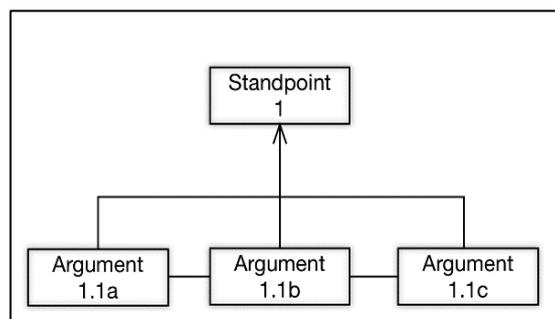


Figure 5. Visual representation of an argument structure for coordinative argumentation

The last type of complex argumentation concerns argumentation that works together differently from coordinative argumentation. Here we are concerned with arguments that are used as further justification for other arguments in support of a standpoint (van

Eemeren, 2010, p. 63). This type of argumentation usually takes place when an argument in support of the standpoint is not accepted at once and thus needs an argumentative line of defense itself (van Eemeren & Grootendorst, 1992, p. 82). In a visualization of this *subordinate argumentation*, the link between the arguments is vertical as only the chain as a whole can be considered sufficiently defensive, with the last subordinate argument closing the chain as acceptable to the listener (van Eemeren & Grootendorst, 1992, p. 82). As the visual representation in figure 6 shows, the arguments are numbered with an additional .1 for every subordinate argument in the chain.

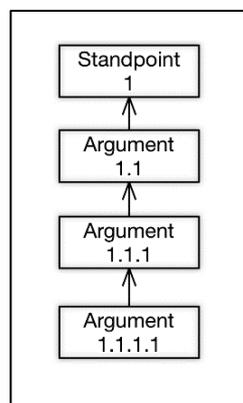


Figure 6. Visual representation of an argument structure for subordinate argumentation

As explained by Houtlosser (2001), in pragma-dialectics the notion of argumentation starts from the assumption that it “is part of a critical discussion aimed at resolving a difference of opinion” and for analyses of the difference of opinion “a model has been developed of the stages of the resolution process and the various types of speech acts that are instrumental in each of these stages” (pp. 30-31). This normative model of the *critical discussion*, which was mainly developed as a heuristic tool that can be “instrumental in characterizing the particular ways in which, depending on the specific institutional requirements that must be fulfilled to realize their institutional points, in the various communicative activity types the argumentative dimension is substantiated” (van Eemeren, 2015, p. 139). As typical of most argumentation theory, it does not aim to help us explain how argumentation *actually proceeds* but rather provides us with a model that stipulates how argumentation *should proceed* (Aakhus & Lewiński, 2011, p. 178).

Although more normative in nature, some fundamental principles such as ‘reasonableness’ and the institutional requirements at different stages of the critical discussion are functional for understanding argumentation in a specific context.

The critical discussion for reasonable argumentative discussions features four different stages: the *confrontation stage*, the *opening stage*, the *argumentation stage*, and the *concluding stage*. In the *confrontation stage*, one of the disputants puts forward a standpoint on an issue whilst another disputant expresses doubt or presents a contradicting standpoint on the same issue (e.g. van Eemeren, 2001, p. 15). In the *opening stage*, the initial commitments held by the parties, as things they agree on, are identified as the discussants’ *common starting points* (e.g. van Eemeren, 2015, p. 157). These *common starting points* (i.e. commitments) that are established in the opening stage function as a frame of reference (van Eemeren, 2015, p. 351; see section 2.2.2) and a precondition for reasonable argumentative discussions to take place. In the *argumentation stage*, the protagonist puts forth arguments in support of his or her standpoint and arguments to counter possible further critique or doubt from the antagonist (van Eemeren, 2001, p. 15). Finally, in the *concluding stage* the disputants decide whether the protagonist successfully defended his or her standpoint (van Eemeren, 2015, p. 215). In this dissertation, we are mainly concerned with the *opening stage* of the critical discussion, in which the *common ground* of the discussion (i.e. the common starting points) is established. The normative model of the critical discussion can be, and previously has been, applied to the genre of communicative activity of mediation. In fact, all four of the stages of the critical discussion are present in the mediation process (Janier & Reed, 2017, p. 48). When read in light of the critical discussion, the communicative activity of mediation can be characterized according to the four stages (see table 5 taken from van Eemeren, 2010, p. 151; van Eemeren & Garssen, 2008, p. 12). As will be further explained in section 2.2.2, in this dissertation we are mainly concerned with the *opening stage* of the critical discussion as the initial set of commitments as agreed on by the parties. As such, the opening stage is emphasized in table 5, which presents the four stages of the critical discussion in pragma-dialectics.

Table 5

*Mediation and the four stages of the critical discussion*

Stage of the critical discussion	Conflict mediation per stage
Confrontation stage	Conflict at deadlock; 3 <sup>rd</sup> party intervening without jurisdiction to decide
<i>Opening stage</i>	<i>Implicitly enforced regulative rules; no explicitly recognized concessions</i>
Argumentation stage	Argumentation conveyed in would-be spontaneous conversational exchanges
Concluding stage	Mutually accepted conclusions by mediated arrangement between conflicting parties (or provisional return to initial situation).

*Note.* The stages in of the critical discussion are taken from van Eemeren, 2010, p. 151; van Eemeren & Garssen, 2008, p. 12)

For the opening stage, the regulative rules (i.e. the procedural norms) are implicitly enforced, whilst the concessions (i.e. the material agreements) are not explicitly recognized. As the critical discussion is a normative model, this table presents an interpretation of what the normative preconditions of the opening stage are in conflict mediation according to pragma-dialectics. The empirical analyses in chapters 4 and 5 of the regulative rules and concessions in mediation will ideally adjust this table, adding empirical information taken from ideal practice examples (see methodology section 3.2) to the normative characterization provided here.

### ***2.3.2 Common ground and the opening stage in pragma-dialectics.***

This dissertation focuses on mediators' options for the construction of the opening stage, i.e. how they construct the initial commitments in order to facilitate the parties' transformation from hostile to reasonable discussants. The main underlying assumption is that mediators facilitate the transformation by trying to create a *common ground* between the parties that is as broad and strong as possible. Establishing a solid common ground

shared by the parties in conflict as part of a well-constructed *opening stage* is considered important for reasonable argumentative discussions (e.g. van Eemeren & Grootendorst, 2004, p. 60) and the resolution of conflicts in mediation (Greco Morasso, 2011, p. 239; Janier & Reed, 2017, p. 49). As table 3 in section 2.2.1 showed, according to the pragma-dialectical perspective of argumentation in the opening stage, the regulative rules (i.e. the procedural norms) are implicitly enforced and the concessions (i.e. the material agreements) are not explicitly recognized. In setting up the opening stage, the mediator can modify “the perceived meaning of the concessions that are implicitly made” (van Eemeren & Houtlosser, 2009, p. 81) in a way that facilitates coming to an agreement. In doing so, the mediator as the procedural guide has the power to help design the opening stage in a way that maximally facilitates reasonable argumentative discussions that lead to the resolution of the conflict. In general, the opening stage is the ‘antecedent dialogue’ that sets up the parameters for that event’s ‘subsequent argumentation’ (Aakhus & Lewiński, 2011, p. 177). As such, we are not necessarily concerned with the arguments presented by either the parties or the mediator (as would be the case in the *argumentation stage*), but with the construction of specific *preconditions for argumentative discussions* – i.e. a strong *common ground* – which is designed by the mediator in the *opening stage*.

Mediators explicitly design the *common ground* in the *opening stage* of the critical discussion in terms of the material and procedural points of departure (e.g. Janier & Reed, 2017, p. 48). As previously stated (see section 2.2.1), in a difference of opinion in a conflict, the parties need to share a minimum amount of *common ground* for a reasonable argumentative discussion to be fruitful (van Eemeren & Grootendorst, 2004, p. 60; van Eemeren et al., p. 172). Without a solid common ground, a reasonable discussion leading to a resolution is most likely futile since parties do not have enough in common for argumentation in support of their standpoint to be acceptable for the other party. Furthermore, due to the hostility between parties, especially at the beginning of a mediation, the parties are often unable to recognize and/or acknowledge their common ground. This inability to see or acknowledge that there is sufficient common ground for a resolution to be reached is an indicator of unreasonable discussion attitudes, and a fragile common ground. In conflict mediation it is therefore important for mediators to fortify the

common ground by making the parties aware of their common ground, and have them explicitly accept their common ground as sufficient for resolution-oriented argumentative discourse.

As previously mentioned, the concept of common ground in pragma-dialectics can specifically be related to the perspective's notion of *common starting points*, which are the premises and rules all parties in the discourse (either implicitly or explicitly) agree on, whereby they serve as points of departure for the argumentative discussion (e.g. van Eemeren, 2001, p. 15, 2015, p. 113). Whenever a common starting point is established, it is added to the common ground of the parties. Thus, to understand common starting points as points of interest in the study of how mediators design a context with enough common ground for reasonable argumentative discussions to take place, we have to consider the place of common starting points in the normative model of the critical discussion. Because common starting points concern accepted premises and rules (as commitments) from the outset, they cannot later be called into question or dismissed as unacceptable by the participants in the discussion. From a design perspective, the ability and functionality of common starting points as agreements that cannot be challenged later on in the discussion, has been stated to be part of *built-up argumentation* (Jackson, 2015, p. 246). Built-up forms of argumentation 'simply' denote 'redesigned' forms of argumentation (Jackson, 2015, p. 246), such as mediation, as novel processes to resolve disagreements by redesigning parts of arguments as to accommodate achieving the specific goal of the interaction. As common starting points are premises that can be used as argumentative support and cannot become points of debate, a lack of explicitly accepted common starting points in a hostile conflict can be expected to have, at least, the following effects: (1) the implicit starting point may become an issue of debate later on in the argumentation stage, whereby the resolution process is (further) hindered; and (2) an inability to believe that there is a sufficient foundation for a reasonable argumentative discussions on problems and solutions may weaken the parties' commitments to the resolution process itself, as they may consider it a futile attempt.

Although common starting points in the opening stage of the critical discussion often remain *implicit* (e.g. van Eemeren, 2010, p. 26), in conflict resolution processes such as conflict mediation, it is important that there are enough *explicit* common starting points, because it is “only through explicit agreement that the discussants can be a hundred percent certain about what may be regarded as belonging to the common starting points” (van Eemeren & Grootendorst, 1992, p. 150). This makes the design of a dialogue space with explicitly accepted common ground between the parties at conflict an important task of the mediator in his or her quest to design a context in which there is enough common ground for a reasonable and resolution-oriented argumentative discussion. As mediators are expected to design interventions to *explicitly* establish the common starting points, the preconditions assigned to the opening stage in the genre of communicative activity of mediation (i.e. the “implicitly enforced regulative rules; no explicitly recognized concessions” (van Eemeren, 2010, p. 151; van Eemeren & Garssen, 2008, p. 12)) ought to be adjusted. The adjustment or further characterizations of the regulative rules and concessions (see section 5.8) may help further the understanding of how mediators can design a mediation with sufficient common ground for an argumentative discussion.

In pragma-dialectics, the common starting points that make up the common ground between disputants are divided into two categories: *procedural starting points*, i.e. the ‘regulative rules’; and *material starting points*, i.e. the ‘concessions’. Common ground can best be explained as “the *mutually recognized* shared information in a situation in which an act of trying to communicate takes place” (emphasis added, Stalknaker, 2002, p. 704). The mutually recognized shared information in pragma-dialectical terms includes the “background assumptions concerning facts and values” (i.e. material starting points; section 2.3.4), *as well* as the “argumentative obligations and procedural agreements as to the manner in which the discussion is to be conducted” (i.e. procedural starting points; section 2.3.3) (van Eemeren et al., 1993, p. 27). This division between the shared procedural starting points and shared material starting points in the opening stage of the critical discussion is functional for the explanation of their necessity in a reasonable argumentative discussion, as is further explained in sections 2.3.3 and 2.3.4.

### ***2.3.3 Procedural starting points.***

The procedural starting points refer to the *shared norms of conduct*, or the implicit and explicit agreements on the manner in which the discussion is to be conducted, making up the procedural basis of the argumentative interaction (e.g. van Eemeren, 2009, p. 18; van Eemeren et al., 1993, p. 31). It is said that in reality we often do not make the manner in which a discussion is to take place explicit, and therefore the necessity for the opening stage in all genres of communicative activity is often taken for granted. Although this dismissal of the opening stage could be considered valid in most cases, it is an overgeneralization when applied to all genres of communicative activity and all communicative activity types, whereby the essential function of making procedural starting points explicit in practices such as third party facilitated conflict resolution is excluded from further analysis. Let us not forget that in conflicts that end up in mediation we are often dealing with an inability to interact in a constructive manner, and considering “it is precisely the lack of “proper procedure” in a discussion – the lack of explicit rules – that cause many discussions to run into difficulty” (van Eemeren, 2010, p. 26), it could be argued that it is the *explicit* and clear mediation procedure, in which the mediation process is procedurally guided by a mediator, that makes mediation a viable opportunity to break the deadlock of a conflict. Furthermore, we can argue that it is the mediator’s acts of laying down a constructive interaction protocol for constructive interactions and a procedure with explicit rules for reasonable conduct that opens up channels for resolution-oriented communication.

Of course, shouting, talking over each other, refusing to communicate, and so on are unwelcome and counterproductive in the resolution process; however, it is important that these attitudinal requirements are made explicit in an escalated conflict. Moreover, the functionally restrictive mediation procedure accommodates mediators in designing a favorable context for a resolution-oriented discussion, which is important in argumentative terms because: “in essence, participants must agree that there is some hope of resolving the disagreement through discussion and must enter into a cooperative search within a set of shared expectations about the way the search will be conducted” (van Eemeren et al.,

1993, p. 27). Van Eemeren et al. (1993) points out the importance of shared expectations in the search for a resolution; in this dissertation we can go further and state that in the case of conflict mediation this could be considered a *detriment*. Arguably, the most important goal of designing a dialogue space with a procedural structure that includes explicitly accepted procedural starting points is that it may provide *hope* for parties who consider their road to a satisfying and sustainable resolution blocked after their conflict escalated and reasonable communication became seemingly impossible. The importance of having explicit procedural rules to ‘guarantee’ a proper resolution process and decrease the possibility of a discussion on solutions derailing may be one of the reasons why conflict mediation by mediation professionals follows a relatively formalized procedure. The procedural rules in this formalized procedure include the norms of conduct that are made explicit several times during the mediation process. Especially at the beginning of the mediation session (i.e. in the intake part of the mediation circle)<sup>18</sup> mediators take time to establish some general procedural starting points. As participants may go back to the *opening stage* throughout the entire dialogue, for example when “deviations from procedure are identified and repaired, or as participants otherwise find the need to discuss how to proceed” (van Eemeren et al., 1993, p. 27), the *opening stage* has a dual function: (1) to *repair* the interaction, and (2) to reflexively open the possibility of *meta discussions* (Greco Morasso, 2011, p. 221).<sup>19</sup> Procedural starting points can thus be reinforced (or reestablished) throughout the mediation sessions whenever parties flout them, and the basic procedural skeleton laid out by the mediator in the intake part can be added to throughout the mediation, provided that the procedural starting points proposed by the

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<sup>18</sup> Parties implicitly agree to adhere to the procedural rules when entering into mediation and explicitly agree to follow them upon signing the mediation agreement. The procedural norms and the necessity for an explicit agreement, by which all parties state to abide by these procedural norms, are presented multiple times, including: the *mediation intake* (often over the phone when the first appointment is made), the *plenary introduction* to mediation in the first session, and the *pre-mediation agreement* signed by all the participants before the mediation session commences.

<sup>19</sup> The concept of *meta discussions* as discussed in Greco Morasso (2011) could be related to the concept of subdiscussions in van Eemeren et al. (1993, p. 27). As the discussions referred to in the dissertation are specifically *meta* in nature (i.e. concerning the rules and norms of the mediation interaction itself), and Greco Morasso (2011) previously identified the existence and general function of these discussions in conflict mediation interactions, in this study, the concept and labeling of *meta discussions* is used.

parties remain within the formalized mediation procedure's border of affordances (see the discussion in section 4.5 on *discussing procedural starting points*).

As this section already alluded to, there are various different types of procedural starting points to be distinguished. As we build on the insights from pragma-dialectics, in table 6 the different procedural starting points identified in this perspective on argumentation are introduced (van Eemeren, 2015, p. 219):

Table 6	
<i>Orders of procedural starting points in pragma-dialectics</i>	
First order	The discussion rules
Second order	The internal characteristics for a reasonable discussion attitude
Third order	The external requirements of the discussion context.

In most argumentation studies in which procedural starting points are included, the focus is on the first order 'the discussion rules', as violating them constitutes a fallacy (e.g. van Eemeren, Garssen, & Meuffels, 2009, p. 220). However, considering that the mediator's role is that of the formal procedural guide of the mediation session it could be argued that mediators have at least the authority to establish and enforce resolution preferable procedural starting points at all three levels (see e.g. Conlon & Meyer, 2004, p. 260; Kelman, 2009, p. 76), as long as the procedural rules do not entail an (explicit) attempt to determine or actively influence the content of the mediated resolution or affect their perceived neutrality position (see chapter 4).

#### ***2.3.4 Material starting points.***

In order for a difference of opinion to be resolved the parties must have a minimum of premises in common (e.g. van Eemeren & Grootendorst, 2004, p. 60). The material starting points, although complex, are the most straightforward example of what we think of when we talk about shared premises. This is because they are the shared background assumptions (e.g. van Eemeren & Grootendorst, 1992, p. 149; van Eemeren et al., 1993, p. 27) that concern mutually accepted propositions that serve as material points of

departure (e.g. van Eemeren, 2015, p. 689). These points of departure can be used (implicitly or explicitly) in the argumentative defense as points that should not be contested in the argumentation stage (i.e. as points on which there is supposed mutual agreement by the parties) (e.g. van Eemeren, 2009, p. 17, 30). Unlike the types of procedural starting points in mediation sessions, which can more or less be expected to be specific to the mediation context, the material starting points are mainly specific to the parties, as they concern the shared premises between disputants. However, because material starting points can be used in the argumentative line of defense, it is important for mediators to explicitly establish these material commonalities in hostile conflicts. If there is no (at least implicit) agreement on the material starting points, the argumentation in which the starting point is included will not be successful in defending the standpoint or another argument (van Eemeren et al., 2014, p. 269). Moreover, by making material starting points between parties explicit, a mediator can help transform parties' hostile discussion attitudes to more reasonable discussion attitudes in which parties are able to acknowledge and accept shared material premises on, for example, facts or values to increase their belief in finding mutually acceptable solutions to their conflict.

As the material starting points may concern different types of material premises, there are many subordinate categories to be distinguished. Prior pragma-dialectical research provides us with the identification of the following different objects of agreement that belong to the material starting points:

Table 7

*Adjusted categorization of material premise types*

Label	Description
facts / truths	Both <i>facts</i> , such as “ <i>Yerevan is the capital of Armenia</i> ” (van Eemeren & Grootendorst, 1992, p. 149), and <i>truths</i> , such as “ <i>influenza is caused by a virus</i> ” (van Eemeren & Grootendorst, 1992, p. 149), concern premises about reality that are accepted by all rational beings, whereby they do not need any justification and are not subject to any discussion (van Eemeren et al., 2014, p. 267). <sup>20</sup>
suppositions <sup>21</sup>	A belief held without conclusive proof or certainty, for example: “ <i>Pjotr’s doubtless taken an early retirement now, for sure</i> ” (van Eemeren & Grootendorst, 1992, p. 149). It is a statement about normal of usual courses of events, where there is an implicit expectation that there will be confirmation of the supposition/presumption at some point (van Eemeren et al., 2014, p. 267).
values	Relates to beliefs held by people, for example “ <i>incest is sinful</i> ” (van Eemeren & Grootendorst, 1992, p. 149). They serve as “guidelines” according to which people make choices or on which they base their opinions (van Eemeren et al., 2014, p. 268).
value hierarchies	A person can <i>value</i> an action, thing, or condition over another, for example: “ <i>creativity is more important than knowledge</i> ” (van Eemeren & Grootendorst, 1992, p. 149).

<sup>20</sup> Although sometimes mentioned separately in pragma-dialectics, the only notable difference in the pragma-dialectical definitions of *truths* and *facts* is that truth is (usually) used as a label for “more complex connections between facts” (van Eemeren et al., 2014, p. 267). In order to avoid ambiguity and philosophical discussions on differences between facts versus truths, *truth* and *facts* will be taken together in the same category.

<sup>21</sup> In some works, *suppositions* are mentioned (e.g. van Eemeren & Grootendorst, 1992, p. 149), whilst other works do not mention suppositions but *presumptions* (e.g. van Eemeren et al., 2014, p. 267). Presenting no problematic ontological difference, for the purpose of this dissertation (i.e. the same example can be used to illustrate both), presumptions and suppositions are sorted together in the same category in this dissertation and labeled as *suppositions*.

Although there is great variance between the different categories, and there are undoubtedly more categories of material premises to be found that can belong to the material starting point, all of the categories named above can function as points on which parties in conflict can agree (van Eemeren et al., 2014, p. 269). The shared material premises can be either more universal or more local (e.g. specific to the culture, the institute, the community or the family). Depending on the proximity the parties have to each other (i.e. their closeness to one another), the more material starting points they can be expected to have in common, and consequently, the easier it would be for mediators to establish the existence of a material starting point, such as a shared value or supposition.

The opening stage of a discussion allows for *meta discussions* on the acceptance of a proposition as an acceptable material starting point to be added to the common ground. As the mediation procedure and the acceptable constructive norms and rules of conduct are relatively standardized, they do not allow for meta discussions in the same way as the material starting points. As the mediator is solely a procedural guide, he or she cannot determine whether a proposition is acceptable for the parties (and consequently can serve as a common starting point in the common ground of the parties). Therefore, the meta discussions on material starting points could and should be conducted solely by the parties. Knowing this, the following question surfaces: what role can mediators play in these meta discussions on the acceptance of a material starting point?

### **2.4 Summary of the Research Aims**

The dissertation has two general research aims. Firstly, the empirical chapters set out to study how workplace mediation professionals design dialogue spaces that set up the opening stage with explicitly accepted common starting points for reasonable argumentative discussions. As such, by achieving this aim, the dissertation adds the empirical analysis of common starting points for the design of explicit opening stages in conflict mediations as an example to the study of argumentation in context. Secondly, the conceptual chapters set out to explore how contextual differences between communicative activity types of workplace mediation can be hypothesized to affect mediators' options for common ground interventions, by which the current characterization of mediation as a

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genre of communicative activity can be elaborated on. By achieving this second research aim, this dissertation elaborates on the current characterization of conflict mediation as a genre of communicative activity in pragma-dialectics and the current descriptions of the communicative activity types belonging to the genre.

Chapter 3 further details how the design and methods used in this dissertation are set up to fulfill the general research aims and how the methodology helps us answer both research questions – i.e. (A) *how do workplace mediation professionals construct common starting point interventions?* and (B) *do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?*

### **Chapter 3. Methodology: A Two-Part Structure**

In Chapter 3 the methodology and methods will be discussed in-depth. This dissertation uses a two-part structure to answer research question (A) *how do workplace mediation professionals construct common starting point interventions?*, and the follow-up question (B) *Do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?* Research question (A) is studied empirically using transcripts of conflict mediation simulations (see sections 3.1-3.4), whilst research question (B) is explored conceptually through an extensive literature review, using the results of the empirical study for research question (A) (see sections 3.5-3.7). The explanation for choosing an additional conceptual study for research question (B) and how it adds to the study of argumentation in context is provided in section 3.5.

When answering the two research questions, the findings are occasionally refined by a focus group or interviews with different workplace mediators. Specifically, in case of research question (A), a focus group was organized after the initial round of empirical analyses, whilst semi-structured interviews were conducted for research question (B) after the conceptual analysis of different communicative activity types of workplace mediation. The focus group and the semi-structured interviews are solely used to give more depth to the inferences of the empirical and conceptual studies, and are only included in this dissertation when they revealed a relevant insight that allowed the author to add a layer of detail to the analyses. In short, the focus group and semi-structured interviews are not used as data for analysis, and as such, are not used to test any emerging hypotheses, demonstrate research results, or alter any of the findings from the empirical and conceptual studies; instead, they can have an informative or illustrative function by adding detail to the analyses when relevant. Although the studies for research question (A) and (B) are different, using supplementary sources of information is functional for both, as the possible inclusion of their information adds detail to the inferences that would otherwise be difficult to gain.

For each study (i.e. empirical and conceptual) the methodology and use of the focus group or interviews are explained in separate sections of this methodology chapter. In section

3.1 the methodology used to answer research question (A) on how mediation professionals construct common starting point interventions is discussed. In section 3.2, the corpus collected for the empirical study is explained, the reasoning for the type of data is provided, and the data collection and treatment of the primary corpus for research question (A) is presented. Section 3.3 consists of case context descriptions of the workplace mediation cases from which the excerpts included in the empirical study on workplace mediation professionals' common starting point interventions were extracted. Section 3.4 presents the data collection and treatment of the focus group organized for additional details on the empirical analyses. In section 3.5 and 3.6, the designs of the conceptual chapters 6 and 7 are explained, as well as how the empirical chapters are used as a point of departure for the conceptual explorations. In section 3.5, the approach to the conceptual chapters on mediation as a genre of communicative activity with different common starting point relevant mediation activity types is briefly introduced. Finally, in section 3.6 the methods of data collection and treatment of the semi-structured interviews are provided.

### **3.1 Methodology for Research Question (A)**

For the empirical analyses of common starting point interventions, corpora of mediation simulations are used (see section 3.1.1). Since mediators are expected to be largely unaware of their intervention construction choices, as they construct them 'online' and in the 'flow of the interaction' (Jacobs & Aakhus, 2002, p. 185), the corpus that is analyzed consists of mediation interactions instead of a focus group discussion or relayed information from interviews with mediators. Whilst carrying out empirical (qualitative) analyses of corpora of transcribed mediation interactions is standardized practice in the study of argumentation on mediation (see e.g. Aakhus, 2003; Greco Morasso, 2011; Jacobs & Aakhus, 2002; Janier & Reed, 2017), the addition of a focus group to provide additional insights on findings, is new (see section 3.4). The corpus of transcribed mediation interaction data is analyzed to understand the common starting point interventions, whilst the focus group may support inferences on why and when mediators use these interventions. Table 8 below provides a schematic overview of the

methodological (empirical) steps taken to answer research question (A) on how mediation professionals can construct common starting point interventions.

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Table 8

*Steps taken in this dissertation for the study of research question (A)*

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Step	Description
Step A	Label interventions and sequences mentioning or eliciting shared procedural starting points or shared material starting points.
Step B	Analyze the functions of the interventions concerning common starting points.
Step C	Add detail to the findings wherever the focus group provides extra insight on the inferences.

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In sum, interventions concerning procedural and material starting points are labeled, after which they are analyzed for patterns and their role in the design of the mediation interaction. Wherever relevant, inferences of the empirical analyses are complemented by insights from the focus group of workplace mediation professionals to provide extra information on the findings to add more depth to them. If details specifically come from the focus group, this is mentioned either in the main text or a footnote.

### **3.2 Mediation Simulations Studied for Research Question (A)**

Confidentiality is often mentioned as a key feature of mediation (see e.g. Burr, 2002; Deason, 2001; Freedman & Prigoff 1986; and Hopt & Steffek, 2013). In mediation sessions performed by mediation professionals confidentiality is often explicitly communicated and enforced by means of the mediation agreement that is signed before the session commences; upon entering the mediation session all parties, including the mediator, will sign a multilateral agreement that includes a confidentiality clause (Schmiedel, 2013, p. 721) and regulates the relations of all participants in the mediation (Schmiedel, 2013, p. 726). In every mediation case, before the first session starts as well as during the mediation process, parties are made aware and reminded of the fact that

‘everything that is said in the mediation session, stays in the mediation session’, unless explicit agreements on confidentiality are made to which all the parties involved agree (Schmiedel, 2013, p. 721), in which case the mediator will include this explicit agreement in the mediation report. The confidentiality allows parties to talk more freely (Brown, 1991, p. 310), which makes finding sustainable and mutually beneficial solutions more likely.

This strict confidentiality, although attractive and functional for the practice of mediation, is a serious hindrance to the study of mediation, especially in the case of empirical studies on the communication by the parties or mediator during the sessions, which requires the use of actual discourse uttered during the mediation interaction as data for analysis. Because ‘everything that is said in the mediation session, stays in the mediation session’, the communication uttered during the mediation session is not allowed to leave the room unless unanimously agreed on by parties, who understandably may not wish for others to see their mediation discourse printed. As a result, part of the natural mediation data that can be found in studies on the communication used by mediators was collected before the rules on confidentiality were formalized or tightened, and thus relatively old for a profession such as mediation that evolves in practice (see e.g. the examples in van Eemeren et al., 1993). To circumvent the problem that the strict rules of confidentiality in mediation poses, for the analyses of common starting point interventions in the empirical chapters in this dissertation, simulations of mediation interactions are used. This is a functional solution that has become standardized in studies on mediation discourse from a conflict resolution and argumentative perspective, and has proven to be representative of natural mediation discourse and the practice itself (see e.g. Greco Morasso, 2011; Janier & Reed, 2017; Jermini-Martinez-Soria in preparation; Putnam & Holmer, 1992, p. 136; Susskind 2010; van Bijnen, 2019; and van Bijnen & Greco, 2018).<sup>22</sup> The use of

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<sup>22</sup> The mediation simulations form a corpus of more normative (i.e. ideal) examples of mediation interactions to which real-life examples could be compared, to see if and how the interventions are more or less effective in a less than ideal mediation domain. Whilst parties in mediation simulations might not be involved in the conflict at an emotional level to the same extent as parties in natural mediation, the cases mediated and the parties involved are based on actual cases introduced by the

simulations is functional for our current study, as we are concerned with the identification and analysis of workplace mediation professionals' construction options for common starting point interventions. In this dissertation we thus focus on what Susskind (2010) would call "best practice" more so than "typical practice" (p. 166) because of the focus on what mediators *can* do when designing an explicit opening stage in mediation, rather than discussing what mediators generally do in practice. Because the community of mediation practitioners is more keen to take a stance that is prescriptive (Susskind 2010, p. 166), this approach does not only help catalogue and understand mediators' communicative options (with a specific goal in mind; i.e. broadening and strengthening common ground) but also help cater to the mediation community, which is mainly concerned with improving their practice. Thus, the corpus used for the empirical chapters 4 and 5, in which the procedural and material starting point interventions are analyzed to answer research question (A) on how workplace mediation professionals can construct common starting point interventions, consist of recorded and transcribed mediation simulation dialogues.

The corpus of mediation simulations collected for this dissertation is special. The mediation simulations take place during the *workplace dispute mediation* course organized by the *ADR Instituut* in Amsterdam (the Netherlands)<sup>23</sup>, which is a vocational education institute that organizes vocational education training for prospective mediators, and master classes and courses for practicing mediators (who need to attend these courses, by which they earn points, in order to remain accredited mediators in the Netherlands). For this dissertation, the *ADR Instituut's* director has granted the author *exclusive* access

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mediators; as such, strictly studied from a communicative perspective, parties and mediators aim to act as parties normally would.

<sup>23</sup> The Netherlands is a country in which conflict mediation is fairly widespread, with television programs in which mediation is used (het '*familie diner*'), and the variety fields in which mediation is included as a standard, such as (local) governments (NOS (Dutch National News): <https://nos.nl/artikel/2243949-steeds-vaker-mediation-tussen-gemeente-en-burger.html>, published 31 July 2018/last visited 31 July 2018). *Vrije Universiteit's* law faculty (since September 2017) installed a full professor in mediation to chair a department that will further mediation research in the Netherlands. This makes the Netherlands a particularly functional country for a collaboration on conflict mediation.

to the four-day courses on *Arbeidsmediation* (i.e. workplace mediation) that take place biannually.<sup>24</sup> This type of mediation simulation is special because it is not constructed as an experiment by the researcher or constructed by the ADR Instituut with the aim of being studied by researchers. As such, the mediation simulations acted out are truer to natural mediation practices than mediation simulations constructed by the researcher or with the aim of being studied. The paid course is organized by the ADR Instituut for practicing workplace mediators to refine their craft by demonstrating and learning from complications and best practices that the workplace mediation professionals encounter during their work. All the participants in the mediation session are professional, registered and certified mediators working in the Netherlands on workplace disputes with different levels of experience, from beginners to mediation veterans who have been practicing mediation, full-time, since the 1990s or early 2000s<sup>25</sup>. The workplace dispute mediation courses are led by different instructors from the ADR Instituut (who are veteran workplace mediators). The participating workplace mediation professionals discuss the practice of workplace mediation and perform these role play sessions to demonstrate real life cases introduced either by one of the participants or the instructor with the goal of sharing mediation techniques with the group on which they receive feedback from their peers. The sessions are thus not organized or influenced by the researcher, neither in form nor content but representative of state-of-the-art workplace mediation practice. The researcher sits in a far corner of the room (see figure 7) with an audio-recording device making notes and does not participate in the course.

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<sup>24</sup> The exclusive access granted is the result of the relationship the author of this dissertation established with the ADR Instituut and its director Maarten Bakker during the author's research internship at the institute from September 2015 until January 2016 as part of the dual MA 'Communication and Information Studies: Discourse and Argumentation Studies' at the University of Amsterdam.

<sup>25</sup> Both the mediators, as well as all the parties in conflict, are acted out by certified professional mediators. Since the ADR Instituut course was on 'workplace mediation', the participants in the mediation session often include the conflict parties as well as other third parties, such as legal counseling, who help judge the functionality and legal grounding for the possible solutions discussed by the parties.

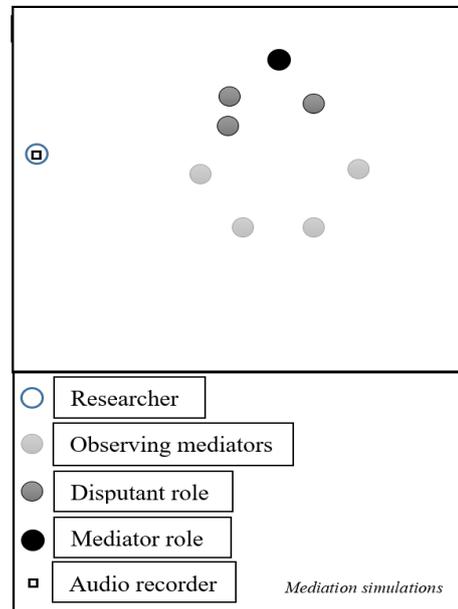


Figure 7. *spatial set up of the mediation simulations*

The workplace mediation courses analyzed for this dissertation took place in 2016 and 2017 and were attended by different mediators. The recorded mediation simulations involved between two to five participants. The excerpts selected as examples of common starting point interventions in chapters 4 and 5 include either one participant who mediates the simulated session, or more than one mediator, in which case we refer to the session as *co-mediation* (see e.g. Epstein & Epstein, 2006; Love & Stuhlberg, 1995; Mason & Kassam, 2011). In each excerpt the turns are numbered starting at 1 for the first turn in the excerpt. The audio-recordings made of the role-plays performed during the courses on *workplace dispute mediation* in 2016 and 2017<sup>26</sup> are transcribed using a simplified version of the Jefferson (2004) system for transcribing with one specific addition of the Traverso (1999) system, to incorporate some of the nonverbal information, such as raised voices and overlapping speech, that may be important for reconstruction of the meaning of the mediation text itself (see table 9). Jefferson's transcription system for audio recordings is

<sup>26</sup> The first round of data collection took place on 21 March, 22 March, 4 April, and 5 April 2016, in Amsterdam, the Netherlands. The second round of data collection took place on 13 November, 14 November, 11 December, and 12 December 2017 in Amsterdam, the Netherlands.

widely accepted as the “default transcription system” in conversation analysis (Ayaß, 2015, p. 506), and as such, it is suitable for the argumentation in mediation, in which this conversation analysis style of transcribing is the standard (see e.g. Greco Morasso, 2011; Jacobs & Aakhus, 2002; Janier & Reed, 2017). The symbols shown below are only those that can be found in the selected excerpts in chapters 4 and 5 of this dissertation.<sup>27</sup>

Symbol	Description
(.)	A micro pause that is a notable pause but of no significant length
(1.0)	The number in parentheses denotes the number of seconds paused
[	Start of overlapping speech
> <	Speech between arrows is faster paced than the surrounding speech
( )	Parentheses with blank space in the middle means the speech was too unclear for transcription
=	Latched speech; continuation of speech over different turns
:	Colon after a sound means the sound is prolonged (especially vowels)
CAPITAL	Use of capital letters means the speech was in raised voice or shouting
°soft°	Speech is softer than surrounding speech (e.g. Traverso 1999, p. 23)
↑	Rise in intonation (especially questions)
↓	Drop in intonation
hhh	Denotes laughter
((Context))	Necessary contextual information provided by the analyst

All the transcribed data is pseudonymized. Although all parts are performed by workplace mediation professionals, the cases are based on cases mediators have encountered or mediated before, making it essential that no information can lead to the identification of the parties involved in a real-world conflict. Therefore, names of persons, organizations,

<sup>27</sup> It is important to note that, although the recorded data is transcribed following a Conversation Analysis standard, the data will be analyzed from an argumentation perspective.

## COMMON GROUND IN CONFLICT MEDIATION

institutes, businesses, places, and addresses have been altered to guarantee anonymity. All names of persons are replaced by a random letter of the alphabet and the mediator is indicated as M. In case of co-mediation, mediators are named M followed by a number, starting at 1.

Information on when a specific excerpt takes place (relative to the mediation session) and relevant context elements on the case from which the excerpt was extracted will be provided before the excerpt in the main text. These introductions to the excerpts in the empirical chapters supplement the general information on the case contexts detailed in sections 3.3.1-3.3.7.

The transcript of the data from the 2016 workplace mediation course was used for the initial (or preliminary) analyses. Based on the findings (i.e. initial patterns and categories of common starting point interventions), the reanalysis of those sections could be conducted more effectively and in-depth. Additionally, now that the base characteristics of common starting point interventions had been identified, the immensely time consuming task of transcribing and translating hours of data could be cut down for the data collected from the 2017 workplace mediation course to excerpts in which the mediator presents an intervention that makes a common starting points explicit.

The common starting point interventions by workplace mediation professionals were identified and labelled by hand. Turns were tagged as containing a possible common starting point interventions when,

- 1) a mediator addresses explicit agreement between the parties;
- 2) a mediator elicits explicit agreement between the parties;
- 3) a mediator addresses (a) the mediation procedure in general, (b) parts of the mediation process, (c) meta communication, or (d) a procedural rule.

Finally, in order to pick up possible common starting point interventions that might be overlooked in the first three steps, the interventions before and after any common starting point in a contribution by one of the parties were tagged.

The empirical chapters 4 and 5 concern a selection of illustrative examples of the interventions tagged as following these four steps of identification. These excerpts are illustrative examples that show a pattern uncovered during and after the identification of the various common starting point interventions.

To conclude, in table 10 below, some general information is provided on the number of participants, and cases included in the corpus of mediation simulations for the empirical study in chapters 4 and 5:

Year	Participants	Mediators in simulation excerpts	Cases mediated
2016	8	6	4
2017	6	5	3

In total, seven different workplace mediation cases were simulated in the ADR Instituut courses, which includes two long mediation cases. These long cases are called ‘red threat cases’, which are usually co-mediated and are spread out over the entire course so that the case can be mediated in its entirety (i.e. following all the stages in the mediation circle). Because all data is recorded in Dutch, it has been translated into English for this study. The excerpts analyzed and included in this dissertation in English.<sup>28</sup>

### **3.3 Case Contexts of Excerpts Studied for Research Question (A)**

Sections 3.3.1-3.3.7 detail the case descriptions of the mediation simulations that are included in the empirical analyses presented in the empirical chapters 4 and 5. Besides a description of the conflict and the relevant case context, a table is included for each case with some of basic information on the course dates, the participants of the mediation, and which excerpts included in this dissertation concern that specific case.

<sup>28</sup> The translations of the excerpts in the empirical chapters have been double-checked for accuracy by a Dutch third party with a BA degree in English language, who is also proficient in conversation analysis style transcriptions. The excerpts in Dutch are included in the Appendix.

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The excerpts included in the empirical chapters are not selected on the basis of their representativeness; the common starting point interventions for which the included excerpts were selected are not per se exemplary of commonly found intervention types in the corpus, and even when they are, their frequency of occurrence in the corpus does not lend itself to any form of generalizability. Instead, the excerpts can either include interesting examples of prevalent common starting point intervention types found in the corpus, or common starting point interventions that are a rare occurrence in the corpus and interesting to discuss for that very reason. The excerpts chosen are to be considered unique, as are the conflicts, the relevant case contexts surrounding the conflicts, the parties involved, and the mediators guiding the resolution process. Despite the fact that the excerpts included are not per se exemplary, the qualitative analyses of the common starting point interventions give some valuable insight in how mediation professionals construct the interventions that help build and strengthen the common ground between parties.

The cases included feature a diversity of organizations, ranging from a church community (case no.1, section 3.3.1) to a big construction company (case no.7, section 3.3.7). Nevertheless, all cases presented in the course on workplace conflicts by the ADR Instituut include a workplace conflict and disputants who have a working relationship with an institutionalized power asymmetry (i.e. one party is the organizational subordinate of the other). In conceptual chapters 6 and 7, it is proven that the fact that the parties belong to the same organization in which they at least have a working relationship makes them illustrative of the workplace mediation type we are concerned with in this study (see section 7.4).

**3.3.1 Church board versus sexton case (case no. 1).**

Table 11	
<i>Church board versus sexton</i>	
Date recorded	21 March, 22 March, 4 April, and 5 April 2016
Participants	New chair of the church board (C) Sexton at the Church (B) Mediator
The numbers of the excerpts concerning this case (chapters 4 and 5)	1, 6, 7, 10, 15, 16, 18, 20, 27, 29, 30, 31

The ‘church board versus sexton’ case concerns a conflict between the newly assigned church board with the director (C) and the sexton (B) of a church community. The church is located in a small town in the Netherlands. (B) has been the sexton of the church for the last twenty years. As a sexton she is in charge of the maintenance of the cathedral and other church properties, such as the town’s community center. (B) does not receive a large salary, but the previous church board allowed her to earn some extra money by organizing events such as wedding and funeral receptions at the community center. In the Netherlands, church attendance and memberships have been dwindling for years, and the instatement of the new board is a result of the church’s ongoing financial problems. The new board has been tasked with financial restructuring. (C) says he needs to have insight in (B)’s expenses and earnings and thinks that the previous church board’s arrangement with the sexton is not transparent. (C) wants the proceeds of the events organized at the community center to go to the church’s funds, which can then be used to restore church buildings and so on. Instead of allowing (B) to supplement her small salary with the profits from event organization, (C) wants to pay (B) a higher fixed monthly salary. (B) is outraged by this proposal and refuses to provide access to her books and says that she needs the money to complement her meager salary. In addition, she says that she deserves to keep the little money she makes at the community center because she invests a lot of money and time in the organization of the events

**3.3.2 Charity manager versus employee case (case no. 2).**

Table 12	
<i>Charity manager versus employee</i>	
Date recorded	21 March, 22 March, 4 April, and 5 April 2016
Participants	Manager of the charity organization (D) Employee working under the manager (E) Mediator
The numbers of the excerpts concerning this case (chapters 4 and 5)	8, 9, 13, 19

The ‘charity manager versus employee’ case concerns a conflict between a manager (D) and one of the employees (E) who works in (D)’s department at a charity organization for the care of people with mental disabilities. For almost two decades, (E) has been working for the organization and in the same department, which organizes events for people with mental disabilities during which products are made that are subsequently sold. The proceeds of the sales of these products in turn benefit the organization. A few years ago (D) was transferred to the department after the organization decided to modernize. During this time new laws and regulations were introduced and implemented. (E), who is nearing the retirement age, is unable to adapt to the changes that were made. (D) has offered (E) several coaches, as well as trainings, to get (E) up to the required level of digital proficiency. (D), however, states that these attempts have been unsuccessful. She wants to terminate (E)’s contract, stating that it is impossible to continue work as long as (E) is employed at the organization. (E) refuses to go. He says that he will never be able to find another job at his age and that his colleagues are like family to him. (E) says he is putting in effort, but that (D) is not providing him with any realistic opportunities for improvement. Since (E) is already adamant about terminating (D)’s contract, from the

outset the resolution will most likely turn into an *exit mediation*<sup>29</sup> or otherwise include major changes to the current employment arrangement of (E).

### 3.3.3 School collective versus rector case (case no. 3).

Table 13	
<i>School board versus school collective</i>	
Date recorded	21 March, 22 March, 4 April, and 5 April 2016
Participants	Board of a school collective (A) Rector (B) Mediator X Mediator Y Mediator Z
The numbers of the excerpts concerning this case (chapters 4 and 5)	3, 24

The ‘school collective versus rector’ case concerns a conflict between the school board of a large school collective (A) and a rector of one of the schools (B). The school board appointed the rector only a few months ago after receiving some good recommendations and the rector’s prior success in education. The school board now says that the rector has not met the expectations and has not performed well at all. A representative of the school board is present in the mediation session acting as the school board’s spokesperson with mandate to make decisions and change the untenable situation. The representative proposes *exit mediation*, stating that terminating (B)’s contract is the only viable option because hiring (B) was clearly a bad deal with negative consequences for the school collective. (A) is stunned and says she did not get a real chance to prove herself because

<sup>29</sup> When in workplace mediation it becomes clear that a solution that includes a sustainable employment relation is not in the cards, mediators sometimes change the regular mediation session into *exit mediation*, in which the goal is to aid the parties in constructing a win-win termination agreement as the solution.

she has only been rector for a couple of months and has inherited pure chaos as result of the previous rector's mismanagement, which takes time resolve.

### 3.3.4 *Chef versus restaurateur (case no. 4).*

Table 14	
<i>Chef versus restaurateur</i>	
Date recorded	21 March, 22 March, 4 April, and 5 April 2016
Participants	Restaurateur (G) Former chef at the restaurant (H) Mediator
The numbers of the excerpts concerning this case (chapters 4 and 5)	23

The 'chef versus restaurateur' case concerns a conflict between a restaurateur (G) at restaurant X and her former head chef (H). During the time (H) worked at restaurant X, he often worked overtime. (H) says he is entitled to overtime payments according to the Collective Labor Agreement but claims that up until now he has never been paid for the overtime he put in at the restaurant. (G) agrees that (H) worked overtime but that before (H)'s employment they made a verbal agreement that (H) would not be paid overtime according to the Collective Labor Agreement and instead would get paid considerably more than the standard salary indication according to this agreement. This big paycheck would, however, cover any overtime at restaurant X.

**3.3.5 Museum foundation versus marketing manager (case no. 5).**

Table 15	
<i>Museum foundation versus marketing manager</i>	
Date recorded	13 November, 14 November, 11 December, and 12 December 2017
Participants	Director of the museum foundation (R) Former marketing manager (C) Mediator
The numbers of the excerpts concerning this case (chapters 4 and 5)	17

The ‘museum foundation versus marketing manager’ conflict concerns a museum foundation that maintains historic monuments such as cathedrals, windmills, old town and city halls and weigh houses. The foundation recently held an event for all the employees and investors. During the event, the foundation presented their plans for the reorganization of the foundation, including new job descriptions for the current employees. During this presentation (C) found out that the director of the foundation (R) took away her management position and the team she has been working with. (C) is very hurt by this, as she thinks the demotion is well below what she deserves. She feels betrayed by (R) because he had not told her about the change before the news broke so publicly. (R) disagrees that the demotion came out of blue and says (C) knows there were numerous complaints about her and her management style. Before the first mediation session, (R) proposed that (C) would keep her former salary but not her position; however, (C) has rejected this proposal. (C) is furious at (R) for publicly presenting her demotion as a strategy; by presenting the demotion so publicly he would have known it is more difficult for her to not accept any proposal made by (R).

**3.3.6 Craftsman versus case building company case (case no. 6).**


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Table 16

*Craftsman versus case building company*

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Date recorded	13 November, 14 November, 11 December, and 12 December 2017
Participants	General manager (P) Craftsman (V) Mediator
The numbers of the excerpts concerning this case (chapters 4 and 5)	21, 22, 28

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The ‘craftsman versus case building company’ conflict concerns the director (P) of company X that makes luxury custom cases and one of the leading craftsmen (V) at company X. (V) has been employed at the company for over two decades and has specialized himself in making the most beautiful handcrafted cases. However, the company feels that this manual craftsmanship is an outdated way of working; technology has evolved since (V) began working for the company decades ago and his manual work is preventing higher output and sales for company X. Over the past few years the company has employed younger employees at the company. The company director (P) says that besides his manual work being outdated, (V) is often distracted on the job where he seems all too busy with social media on which he displays everything (including his lively personal life). Recently, (V) was sick for a full month. According to (P) his absence created a quieter and more productive workplace. Upon (V)’s return, (P) told (V) that the company functioned better when he was absent. This statement resulted in a conflict between the two that escalated when (P) told (V) that “if he disagrees he should quit his job”. Because (V) has been employed at the company for so long, and he has not committed a big transgression, it is difficult for (P) to fire (V). (V) knows this and instead of either coming back to work or quitting his job, he went back home sick where he has now been for a week. (V) says that if he is to leave the company, he wants a four-month

period of notice at the minimum and a six-month transition fee. (P) wants to pay two months' notice only and no transition fee at all, claiming that (V) has already cost company X too much money.

### ***3.3.7 Construction company versus calculator case (case no. 7).***

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Table 17

*Construction company versus calculator*

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Date recorded	13 November, 14 November, 11 December, and 12 December 2017
Participants	General manager (S) Calculator (P) HR manager (Z) Confidant (R) First session: Mediator U Mediator V Mediator W Second session: Mediator S Mediator T
The numbers of the excerpts concerning this case (chapters 4 and 5)	2, 4, 5, 11, 12, 14, 25, 26

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This 'construction company versus calculator' case concerns the employment of calculator (P) at construction company Y that is led by (S). (P) is a very effective calculator<sup>30</sup>, but a very ineffective communicator due to her Asperger's syndrome. After the company was bought by another construction company (which has resulted in a

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<sup>30</sup> The calculator at a construction company calculates everything that is needed for a building to be constructed (e.g. the amount of concrete or the number of screws required), making the balance between costs and possible returns.

company merger) company Y changed, which has resulted in a need from higher up to have the calculator be more customer oriented. (P) is very uncomfortable with this; she says that she is unable to be social and that forcing her to have more contact with clients will negatively affect her work as a calculator. In addition, she says that agreements were made that allow her to go to her son who suffers from severe autism at a moment's notice; she says these essential agreements are under threat now. (S) says that because customer orientation and friendliness are at the very center of the renewed company's main policy it is nonnegotiable that (P) does not come into contact with clients and in fact is expected to do so. Besides (S) and (P) there are two third parties at the table from the beginning of the first mediation session: (P) has brought her confidant (R) who helps her voice her interests in the discussions, and (S) has brought the company's HR manager (Z), who the company expects is needed for the solution, as she has mandate to formalize (P)'s role in the company.

### **3.4 Focus Group for Research Question (A)**

The focus group used for reflection on the findings of the empirical analyses was organized in collaboration with the director of the ADR Instituut Maarten Bakker. The intention of the focus group was to get more insights into how mediators (think) they design an opening stage with sufficient common ground in workplace mediations. The focus group was organized with the goal of gaining possible additional relevant insights into mediators' intentions and their reasoning behind the kinds of common starting point interventions found in the corpus. As previously explained in the introduction to chapter 3 and section 3.1, the focus group was not created with the intention to test any hypotheses resulting from the empirical study of the mediation interactions. Instead, the focus group is included in the design for the researcher to be able to gain some contextual information that complements the inferences made in the empirical analyses; to, wherever possible, add further detail to the findings. Thus, rather than being demonstrative, the function of the focus group is illustrative and informative in nature. Having workplace mediation professionals reflect on the researcher's inferences adds some additional relevant insight into the possible reasoning behind the construction of common starting point interventions

in workplace conflict mediation, including when, where, and why mediators may use specific interventions, or when, where, and why they say they do not use them. Special focus lies on the *questions* asked by mediators as one of their main communicative tools to help design a dialogue space in conflict mediation with enough common ground. Wherever insights from the focus group are relevant to the findings presented in the empirical chapters they are added to the empirical analyses; either in the main text itself or as a footnote.

A *focus group* is commonly defined as an organized discussion between a group of (4-12) individuals selected by a researcher with the aim of gaining information about their specific views and personal or collective experiences on the subject or object of the researcher's study (see e.g. Gibbs, 1997; Kitzinger, 2004; Marková et al., 2007; Powell et al., 1996; Stewart & Shamdansi, 2015). In this dissertation, the organized discussion was between a group of workplace mediation professionals discussing common ground construction. The use of focus groups, although new in the study of argumentation in mediation, is not new in social science where it is often integrated in a multi-method design with other qualitative methods in a complementary manner (Barbour, 2007, p. xvii; Kitzinger, 2005, p. 56; Marková et al., 2007, p. 34). In general, it is an invaluable addition to the main study as a way of examining behavior questions (Stewart & Shamdasani, 2015, p. 12), such as thoughts, knowledge and ideas among people who share a relevant (cultural) context (e.g. Kitzinger 1995, p. 229, 2005, p. 59), in our case people who procedurally guide workplace mediations in the Netherlands as experienced by full-time mediation professionals. The focus group was organized using Ritchie and Lewis' (2003) "checklist of practicalities" in (p. 194). Whilst the venue and participating workplace mediators were selected by the ADR Instituut's director Maarten Bakker, the materials to be discussed, the recording of the data, the data treatment, and the data analysis was carried out by the author of this dissertation. In total five mediation professionals, who consider conflict mediation their primary vocation, participated in the focus group, all of whom either mediate workplace disputes exclusively or numerous times per year. The workplace mediation professionals that participated in the focus group are different from the mediators in the mediation simulations whose interventions are analyzed. The

discussion between the workplace mediation professionals in the focus group was recorded, and some preliminary findings regarding *questions to set up the opening stage* were presented at the 9<sup>th</sup> Conference of the International Society for the Study of Argumentation (ISSA) in Amsterdam (the Netherlands), held from 3-6 July 2018 (see van Bijnen et al., 2019). In table 18 below, some general information on the focus group is provided.

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Table 18

*General information about the focus group organized for the empirical chapters*

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Date recorded	13 May 2018
Number of participants	5 mediators
Specialty	All mediators mediate workplace conflicts. Some identify themselves as primarily workplace dispute mediators whilst others call themselves business mediators.
Duration	Approximately 2 hours.

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Table 18

*General information about the focus group organized for the empirical chapters*

---

Date recorded	13 May 2018
Number of participants	5 mediators
Specialty	All mediators mediate workplace conflicts. Some identify themselves as primarily workplace dispute mediators whilst others call themselves business mediators.
Duration	Approximately 2 hours.

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After conducting preliminary empirical analyses of the first half of the mediation simulation transcripts, the focus group was organized for the 13<sup>th</sup> of May 2018 in Amsterdam, the Netherlands. Thus, preliminary analyses were conducted for half of the data in the corpus, i.e. on the data from the 2016 ADR Instituut course. Based on these preliminary analyses, the materials for the focus group were prepared. The focus group

lasted approximately two hours and was recorded with two audio-recorders placed on opposite ends of the table (see figure 8).<sup>31</sup> In agreement with the informed consent signed by the participants, the recorded data is stored on an encrypted USB stick that is only accessible to the author of this dissertation.

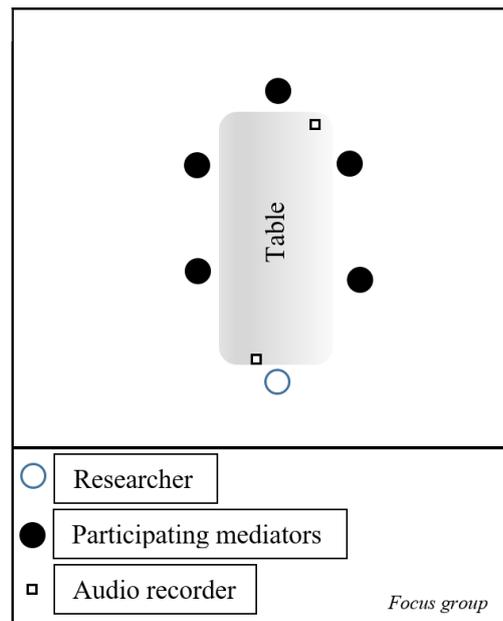


Figure 8. *spatial set up of the focus group*

The researcher sat on one side of the table and only intervened in the discussion to provide the participants with a new question or an example from the corpus to discuss when the discussion on the previous material was over or in case the discussion would stray too far from the topic of common ground. The participants were informed that the general study of which the focus group was a part concerns common ground in conflicts, but were not informed of the research goals and aims of the focus group or the research question (A): *how do workplace mediation professionals construct common starting point interventions?* Following the preliminary analyses of the corpus, in the first part of the

<sup>31</sup> The data from the focus group was not transcribed according to the conversation analysis standard (e.g. Jefferson, 2004; Traverso, 1999) because the discussion by the mediators was only to be used to inform the findings of the empirical study and not as an object of study itself.

focus group, mediators were given a selection of interesting excerpts to get their thoughts on the communicative techniques used. First, the mediators were asked to freely discuss the excerpts. When the discussion on an excerpt was concluded or the discussion required redirection, specific questions prepared by the researcher on the excerpt were presented to them, related to ‘when and why’ the participants would use such an intervention. In case mediators indicated that they did not consider the interventions by the mediator effective or appropriate, they were prompted to elaborate on their judgement and how they would handle the situation instead. In the second part of the focus group, some general questions were asked, such as: *do you think it is necessary to get explicit agreement on commitment? If not, why? If so, why and how do you achieve this?; or when and how do you ask parties questions about their (possible) common ground?* As such, the focus group is co-constructed by the researcher and the workplace mediation professionals, although the discussion of the focus group is led by the participating workplace mediation professionals themselves.

### **3.5 Methodology for Research Question (B)**

Research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation, and if so, how?* is posed to gain insight into how differences in context between communicative activity types belonging to the genre of conflict mediation affect the ways in which the mediators of these different communicative activity types are able to construct procedural and material starting point interventions by which they broaden and strengthen the explicit common ground. To explore this research question a conceptual approach is taken. The research question warrants a conceptual exploratory study because attempting to answer the research question empirically would grossly exceed the scope of the dissertation; moreover, the necessary conceptual foundation on which such a vast comparative empirical study would be built does not yet exist. In short, rather than testing theories or confirming hypotheses that are best suited to empirical research in argumentation, the conceptual approach supports the exploratory nature of the second half of the dissertation. The addition of a study with this approach is also appropriate for the general research aim to explore the

reconceptualization of conflict mediation as a genre of communicative activity with different communicative activity types, which expands the current conceptualization of conflict mediation in argumentation in context.

For an exploration that aims to reconceptualize conflict mediation in argumentation studies in a way that includes mediation types beyond the form that involves an (externally hired) mediation professional, a deep dive into the vast and varied literature on third party conflict resolution is required, especially from the field of conflict resolution studies. Currently, conflict mediation is still predominantly studied by conflict resolution scholars who study conflict mediation and other forms of third party facilitated conflict resolution in the field of *conflict resolution* in law (e.g. Adrian, 2016; Guy-Ecabert, 2002; Mirimanoff, 2009; Nyland, Ervasti, & Adrian, 2018). The concepts and findings from previous studies on conflict mediation in fields other than communication science, such as the law, are necessary to construct a well-defined contextual framework of communicative activity types of workplace mediation; rather than the more micro perspective taken on conflict mediation interactions, as is generally done in argumentation research, these studies provide invaluable macro and meso insights (in pragma-dialectical terms) into the process, the roles of mediators, the institutional constraints on the resolution process, and so on. To this end, the study for research question (B) on the differences in terms of common starting point interventions between different communicative activity types of workplace mediation is necessarily *multidisciplinary*. Funded by the Swiss National Science Foundation as a Doc.Mobility fellowship<sup>32</sup>, the explorative conceptual study in this dissertation was carried out from the 1<sup>st</sup> of September 2018 until the 31<sup>st</sup> of August 2019 at the Center for Interdisciplinary Studies of Law (University of Copenhagen) hosted by Associate Professor in Mediation Lin Adrian.

In general, the methodology for research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation, and if so, how?* can be explained as follows: based on the empirical studies of

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<sup>32</sup> The Doc.Mobility Fellowship was awarded to the author of this dissertation for the ‘Proximity and Formality Mediation Model’ (grant number: P1Tip1-181430).

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the workplace mediation professionals' common starting point interventions, the conceptual study is conducted using selected literature on *conflict mediation*, *common ground*, and *context*. The in-depth literature study helps us distil the relevant contextual differences between communicative activity types of workplace mediation that can be said to directly affect the construction options for common starting point interventions relative to the (empirical) findings for workplace mediation professionals discussed in chapters 4 and 5. Based on the established relevant contextual differences, *prototypical communicative activity types of workplace mediation* can be established for which the common starting point intervention options are discussed relative to the findings of the empirical chapters on common starting point interventions by workplace mediation professionals. The externally hired workplace mediation professionals empirically studied will constitute the first prototype against which the other prototypes are to be constructed and compared. The prototypical communicative activity types of workplace mediation reconceptualize the general definition of conflict mediation as a genre of communicative activity in argumentation by refining it; the detailed prototypes help us achieve the general research aim of adjusting the current characterization of the genre by including the different common starting point relevant communicative activity types of workplace mediation.

To summarize, research question (A) on how workplace mediation professionals construct common starting point interventions and research question (B) on the common starting point intervention differences between different communicative activity types of workplace mediation, are connected in terms of methodology. More specifically, the study for the follow-up question about the possible influence of contextual differences on common ground construction, although conceptual rather than empirical in nature, builds directly on the findings from the dissertation's empirical study on common starting point interventions by workplace mediation professionals. Conflict mediation conducted by externally hired workplace mediation professionals, as the most studied, the most formalized, and the thus the most well-defined communicative activity type of workplace mediation, is used as the point of departure against which the other prototypical mediation activity types are constructed. For that purpose, the findings from chapters 4 and 5 on

common ground construction by mediation professionals are used as a frame of reference and a foundation against which the other prototypical communicative activity types of mediation are built. In chapter 7, for each of the prototypes the expected direct influence of their contextual differences on the options mediators have for common starting point intervention construction will be discussed.

The prototypical communicative activity types of workplace mediation are refined by means of four semi-structured interviews with mediators who mediate workplace conflicts in different settings (i.e. who mediate workplace conflicts in formal and/or informal mediation procedural structures, and as third parties external and/or internal to the organization in which the workplace conflict takes place). The questions for the semi-structured interviews were based on the conceptual inferences made on the basis of the literature on conflicts mediation, common ground, and context. Wherever insights from the interviews are relevant to the prototypes and their effect on common starting point interventions they were added to the empirical analyses; either in the main text itself or as a footnote. In table 19, a simplified overview of the different steps taken in the conceptual half of this dissertation is presented.

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Table 19

*Steps taken in this dissertation for the study of research question B*

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Step A	Based on extensive literature reviews, the general characterization of mediation as a genre of communicative activity is adjusted (e.g. mediation's relevant contexts, contextual elements and the effect on text construction is established).
Step B	Based on extensive literature reviews, four prototypical communicative activity types of workplace mediation are created (i.e. based on relevant contextual factors that affect common starting points, with prototype 1 corresponding to the mediation form studied in the empirical chapters).
Step C	The prototypical communicative activity types of workplace mediation are refined and discussed in terms of the common starting point intervention options.

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The study of the relevant context for mediation as a genre of communicative activity, especially in relation to the construction of common ground, and the influence of specific contextual factors on specific communicative activity types of workplace mediation are explored in two chapters (chapter 6 and chapter 7). The conceptual chapters, more generally, are relevant for argumentative research on mediation in context, as they add detail to the current characterization of mediation as a genre of communicative activity. In terms of the study of common ground design in conflict mediation from an argumentative in specific, the conceptual chapters help us conceptualize how relevant contextual differences between different communicative activity types of workplace mediation can affect common starting point interventions, whereby research question (B) is answered.

### **3.6 Interviews for Research Question (B)**

Based on the literature review and conceptual analysis, four initial prototypical communicative activity types of workplace mediation were created. For each of the prototypes, the author of this dissertation conducted extensive interviews. The interviews with different mediators that mediate workplace conflicts were conducted between July 2019 and November 2019, either in person or over the telephone/Skype/FaceTime. Although the mediators that were interviewed mainly intervene as a mediator representative of one specific prototypical communicative activity type of workplace mediation introduced in chapter 7, the interviews may be used to refine any of the prototypes. The mediators that were interviewed for the conceptual chapters are different from those of the corpus of workplace mediation transcripts analyzed for the empirical chapters and the focus group organized for that empirical study.<sup>33</sup> Table 20 below presents some general information on the conducted interviews.

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<sup>33</sup> The mediators whose transcripts were analyzed in the empirical study and the focus group organized for the empirical study were from the Netherlands. As the conceptual part of this dissertation was mainly conducted and written during the author's doc.mobility research visit to the Law Faculty of the University of Copenhagen, and advised by Professor in Mediation Lin Adrian from the University of Copenhagen, the mediators interviewed for the conceptual study are stationed in Denmark. As formal forms of facilitative mediation are generally (sequentially) standardized (see section 2.1), this does not pose a problem. Furthermore, the interviews with Danish mediators are functional because the

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Table 20

*General information about the interviews conducted for the conceptual chapters*

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Date recorded	5 July 2019, 12 July 2019, 25 October 2019, 18 November 2019
Number of participants	4
Duration	Approximately 1.5 hours per interview

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During the interviews, notes were taken to further the development of the prototypes. The interviews were recorded with an external recording device and saved on an encrypted USB stick, to be consulted if the notes that were made required further clarification; the recordings are only accessible to the author of this dissertation with a password. As the answers given by the mediators will not directly be presented in the dissertation, mediators could talk freely under the explicit promise that no information (i.e. names of people, places, organizations and so on) would be made public.

The interviews were conducted in a semi-structured form, in which interviews are conducted in a relatively flexible form (Rabionet, 2011, p. 563) with a specific purpose (i.e. research aim) in mind and a (relatively) detailed interview guide (McIntosh & Morse, 2015, p. 1), whilst allowing the interaction to unfold “in a conversational manner, offering participants the chance to explore issues they feel are important” (Longhurst, 2003, p. 103). Below some of the standard questions that were posed to each of the representatives during the interviews are presented:

- *Can you describe the types of conflicts you mediate?*
- *Do you always know the parties before the conflict?*
- *Are you part of the same organization as the parties in conflict?*
- *Does the company’s conflict culture help or restrict the way you can organize the conflict process? If so, how?*

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interviews are conducted with the goal of possibly *refining prototypes* of communicative activity types of workplace mediation, rather than for data to be empirically analyzed.

## COMMON GROUND IN CONFLICT MEDIATION

- *Are there any specific restrictions to what you are able to do procedurally when you mediate inside an organization compared to when you are hired as a mediation professional?*
- *Do you think a mediator's role in the organization positively affects the options for bringing parties closer together during sessions? If so, how?*
- *Do you think the role of the mediator in the organization negatively affects the options for bringing parties closer together during sessions? If so, how?*
- *How does knowing more or less about the parties, conflict, or the organization work in your favor or against you as a mediator?*
- *How do you try to build common ground between the parties in the conflicts that you mediate? Do you have specific strategies?*

## Chapter 4. Empirical Results: (Re)Establishing Procedural Starting Points

As has been established in previous studies on argumentation in mediation, conflict mediation is considered largely argumentative because mediation sessions predominantly feature argumentative discussions on issues central to the parties' conflict and argumentative discussions on possible solutions at the center of a resolution (e.g. van Eemeren, 2010, p. 148). Chapter 4 on procedural starting point interventions and chapter 5 on material starting point interventions<sup>34</sup> present the results of the empirical study for research question (A) on *how workplace mediation professionals construct common starting point interventions* (see section 3.6). The goal of chapter 4 is to analyze and categorize the different procedural starting point interventions, which are presented by workplace mediation professionals in the mediation to design a mediation context that accommodates these argumentative discussions on issues and solutions.<sup>35</sup>

Before presenting the findings of the analyses of procedural starting point interventions found in the corpus, a quick summary is presented of the mediation procedure as introduced in the theoretical framework (see section 2.1); the different parts of the sequential mediation procedure will be used for the discussion of the results throughout chapter 4. As *procedural starting points* refer to shared norms of *procedure* (e.g. van Eemeren, 1993, p. 31, 2009, p. 18, 2010, p. 26; see section 2.2.3), this type of common starting points concerns the mediation procedure itself, i.e. the norms of conduct specific to the mediation procedure that are, or ideally should be, accepted by the parties in the mediation. In order to make the analyses of the procedural starting point more clear in

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<sup>34</sup> The order in which the common starting points are discussed in this dissertation (i.e. *procedural starting points* first in chapter 4 and *material starting points* second in chapter 5) is not significant; it does not indicate sequentiality, neither does it point to a relevant order of precedence or order of prevalence; the choice is based on the order in which the common starting points usually appear in the pragma-dialectical literature.

<sup>35</sup> Preliminary versions of parts of the analyses on *questions in conflict mediation* presented in this chapter were included in van Bijnen, Bakker and Greco (2019), which was presented at the 9<sup>th</sup> ISSA conference (3-6 July 2018, University of Amsterdam (NL)) as part of this dissertation and has been published in the ISSA 2018 conference proceedings.

terms of their place in the mediation procedure, the analyses of the interventions on procedural starting points are related to the *mediation circle*, as introduced in section 2.1 (developed by the ADR Instituut). The mediation circle (figure 9) functions as the visual representation of the fundamental sequential structure of a mediation procedure and how it is organized along different parts (e.g. Donohue, 1989, p. 335; Greco Morasso, 2011, p. 73; Kressel, 2014, p. 825), i.e. the *intake part*, *exploration part*, *negotiation part*, and *concluding part* (see section 2.1.3 for more on the mediation circle). The mediation circle consists of four sequential stages, which are included in this dissertation in an adapted form that focuses specifically on the communicative goals of each of the parts in the mediation procedure (see figure 10).



*Figure 9.* The mediation circle

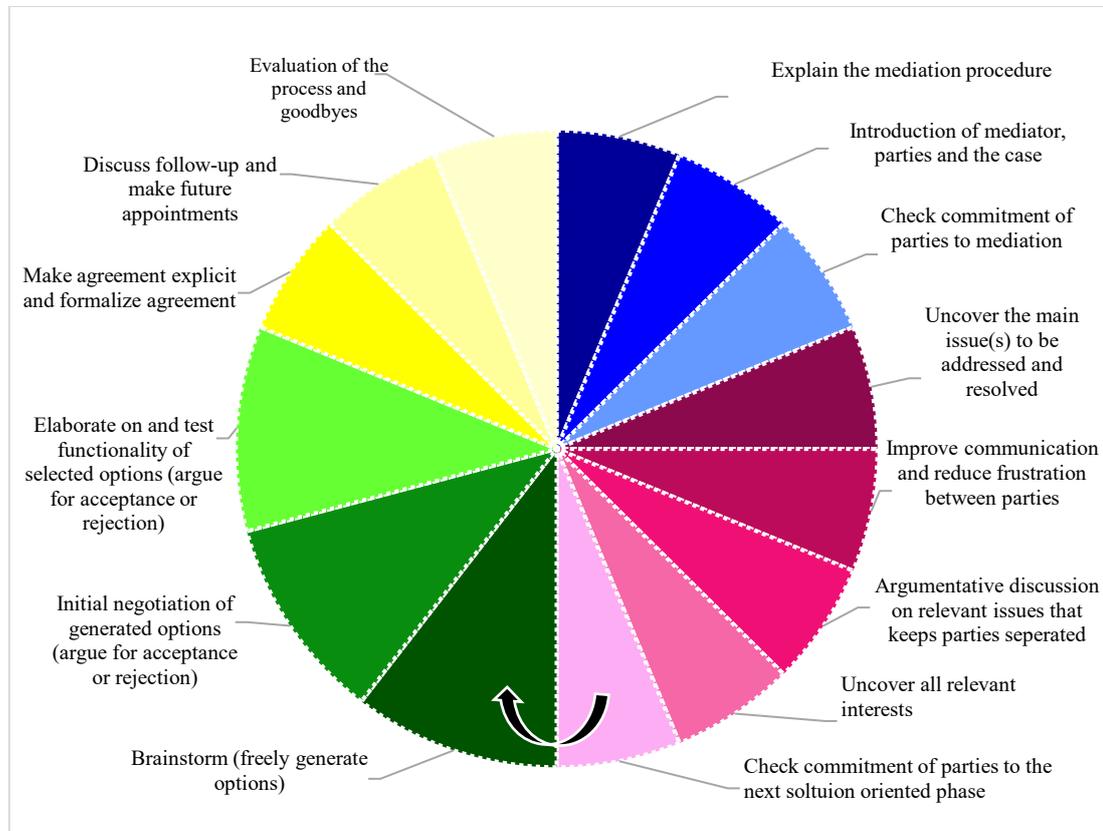


Figure 10. Communicative elements of the mediation circle

As the analyses in this chapter concern interventions on procedure and process, several interventions will be contextualized by emphasizing the parts of the mediation circle in which the excerpts under analysis are located. The procedural starting points will be shown to concern either the mediation procedure as a whole, or a specific moment or specific part of the mediation circle.

#### 4.1 Establishment and Reestablishment

A first general result of the analysis of common starting point interventions is that mediators either *establish* or *reestablish* common starting points. When a common starting point is *established*, this common starting point was not an explicit agreement part of the parties' common ground before the intervention by the mediator. Thus, when establishing a common starting point, the mediator adds an explicitly accepted common starting point to the common ground of the parties, whereby the common ground is *broadened*. When a

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mediator *reestablishes* a common starting point, the common starting point in question was previously established either by the parties or the mediator but has become a point of contention (later on) in the mediation session. When this common starting point is subsequently explicitly accepted by the parties, it is *reestablished*. Alternatively, a common starting point is *reestablished* when it was previously established and later repeated by the mediator to emphasize its existence. In case of *reestablishment* the common ground is not necessarily broadened but rather *strengthened*; after reestablishment the common ground does not contain more common starting points than before, but the common starting points reestablished are more prominent as a result of repeated expressions of agreements. It is important to present the distinction between *establishment* and *reestablishment* first, as this distinction will be made throughout the empirical chapters when discussing specific examples, as well as in the conceptualizations in chapters 6 and 7 to explain the options mediators may have in the different communicative activity types of workplace mediation.

In terms of procedural starting points, the mediators in the analyzed corpus were found to freely *establish* procedural starting points as part of their role as procedural guides in the resolution process. As discussed in the focus group, mediators are the procedural guides of the mediation procedure (see section 2.1) who the parties agree is to take charge of the procedure; the mediator's procedural role is implicitly agreed on by the parties upon entering the mediation and formalized explicitly at the beginning of the mediation session (verbally and/or by signing an agreement to mediate). As the procedural guides in the resolution process, mediators can present procedural norms that are to be accepted by the parties as procedural starting points. In other words, mediators have and do in fact use their procedural power to *establish* the procedural starting points by stating the procedural starting point to be added to the parties' common ground. This, however, does not mean that parties do not question or object to the procedural starting point establishing interventions by the mediators, in which case mediators are shown to argue for the acceptance of that procedural starting point (see section 4.6). When the mediator successfully defends the procedural starting point it is explicitly accepted by the parties whereby the previously established procedural starting point is *reestablished* by the

mediator. In the empirical analysis of procedural starting point (re)establishment, all mediators' moves that concern either the establishment or reestablishment of procedural starting points were identified. Sections 4.3-4.6 will show some examples of interventions for the establishment and reestablishment of procedural starting points in workplace mediations.

### **4.2 Procedural Starting Points: The Local Functions**

A second general result of the analysis of common starting points in conflict mediation is the empirical observation that although common starting point interventions all have the same general effect, namely (re)establishing common starting points, they can be classified according to their more "local" function, i.e. their communicative function in the mediation interaction. For the initial identification of the interventions in which mediators are either establishing or reestablishing a procedural starting point, the interventions were selected in which mediators presented a procedural norm (either on the mediation procedure as a whole, or a specific part of the mediation procedure), including instances in which mediators discuss a procedural norm or emphasize a prior procedural agreement. The interventions with the effect of (re)establishing a procedural starting point (i.e. procedural starting point intervention) have identifiable *communicative* local functions in the mediation interaction. In fact, we can make a distinction between the interventions' '*general effect*' of (re)establishing procedural starting points, and the various *local functions* they have in the mediation interaction. The *general effect* of the interventions is *argumentative in nature*, namely "common ground design" (van Bijnen et al., 2019, p. 84), as they help construct and define the *opening stage* of the critical discussion (see sections 2.2.1 and 2.2.2) in a way that either (A) procedurally accommodates reasonable argumentative discussions and reasonable discussion attitudes (see chapter 4), or (B) materially provides the disputants with explicitly shared premises as the basis for agreement and justification in their argumentation (chapter 5). The '*local function*' that the intervention has in the design of the mediation interaction is, in fact, a *communicative function* which "can be different for each intervention and specific to the context in which the intervention is used" (van Bijnen et al., 2019, pp. 84-86).

In this dissertation, the focus lies on the study of a mediator's repertoire of options to help broaden and strengthen the agreement space between parties for reasonable argumentative discussions. To this end, the *local functions* of common starting point interventions are of interest in the study on common ground in conflict mediation; to better understand how mediation professionals design an interaction with a sufficiently strong opening stage with enough explicit common ground, the various local functions of the interventions that can establish and reestablish procedural starting points should be identified. By identifying the various local functions of procedural starting points and analyzing patterns and possibilities for procedural starting point intervention construction and use, the (re)establishment of procedural starting points can be studied qualitatively in a systemized manner.

Before the presentation of some examples of procedural starting point interventions in sections 4.4-4.7, the local function classification of interventions with the general effect of (re)establishing procedural starting points (i.e. procedural starting point interventions) will be provided in section 4.3, because the different sections of the empirical chapters concern a specific identified local function with the general effect of (re)establishing a procedural starting point.

### **4.3 Overview of Local Functions for Procedural Starting Points**

Based on the empirical analyses of the selected procedural starting point interventions from the corpus, five local functions were identified based on their seemingly distinct local goals. The procedural starting point interventions with a specific local function were found to not always concern the same subject matter; in fact, interventions with a local function that (re)establishes a procedural starting point can concern more than one possible subject matter. For example, an intervention with the local function of 'establishing communication rules' can concern (A) the choice between informal or formal language

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use, (B) turn-taking, (C) active listening, or (D) the tone and delivery of the parties' contributions, by which hostile communication is condemned (see table 21).<sup>36 37</sup>

<i>Local Function</i>	<i>Subject matters of interventions with this local function</i>
(1) Establishing communication rules	(A) Formal or informal language use (B) Turn-taking (C) Active listening (D) Parties' tone and delivery
(2) Including all relevant parties	(A) Inclusion of parties relevant to the issues (B) Inclusion of parties relevant to the solutions
(3) Getting party commitment to the mediation essence	(A) Mediation essential elements (B) Discussion attitudes
(4) Discussing procedural starting points	(A) Introduction of procedural starting point discussions as an option (B) Procedural starting point discussions
(5) Setting the agenda	(A) Specific procedural steps in the mediation process (B) Items for discussion

This dissertation focuses on examples and results of the latter three categories: (3) *getting party commitment to the mediation essence*, (4) *discussing procedural starting points* and

<sup>36</sup> The list of local functions and their subcategories of possible subjects for procedural starting point interventions in table 21 is not a comprehensive list. The local functions (and subjects) with a possible general effect of (re)establishing a procedural starting point are specifically those local functions that were identified for the procedural starting point interventions found in the corpus of mediation simulation transcripts collected for this dissertation.

<sup>37</sup> Table 21 adjusts and adds to the local functions presented in van Bijnen et al. (2019).

(5) *setting the agenda*. The selection of local functions was made in order to not exceed the scope of this dissertation and create a cohesive written project. Although local functions (1) and (2) make interesting topics for studies separate from the dissertation, they are less interesting for the current study. Local function (1) is mainly interesting from a linguistic perspective rather than an argumentative perspective, as it concerns interventions on linguistic subjects such as delivery and turn taking. The (optional) local function (2) is aimed to include all the relevant parties to the conflict at the discussion table, in order for the conflict to be resolved in a sustainable and reasonable manner. In the corpus, local function (2) almost exclusively seems to occur when there is nobody at the table that has mandate to green-light solutions (e.g. someone from HR, a team leader, manager, or director). Besides the criteria of prevalence and relevance, based on which the local functions to be discussed in this dissertation were selected, these three local functions are loosely connected to one another; they can appear together to strengthen a local function's intended effect (i.e. the combination or overlap of local functions can be used by mediators as part of a communicative strategy).

The three selected local functions are discussed using fourteen different excerpts as illustrative examples in sections 4.3-4.5. In section 4.3 the local function of *getting party commitment to the mediation essence* is presented and the importance of the parties' *discussion attitudes* are discussed, with a focus on their commitment to the mediation essential *elements*. In section 4.4, the local function *discussing procedural starting points* is presented, specifically focusing on confidentiality limitations. Finally, in section 4.5 the local function of *setting the agenda* is analyzed and discussed based on the two very different subject matters for which mediators can set the agenda. Section 4.6 presents relevant results of the empirical study on procedural starting points that are not specific to one of the four identified local functions, such as the emphasis mediators place on *togetherness* and *sharedness* in the formulation of their interventions (section 4.6.1) and reflections on the procedural norm orders in pragma-dialectics (section 4.6.2). Section 4.7 concludes this empirical chapter with a final discussion on the results of procedural starting point intervention analyses.

#### **4.4 Local Function: Getting Party Commitment to the Mediation Essence**

It could be said that the local function of *getting party commitment to the mediation essence* is an important local function for the (re)establishment of procedural starting points, as it concerns some elements of conflict mediation that are considered preconditions of the mediation procedure. These mediation elements are considered essential based on their prevalence in the definitions of conflict mediation and the mediation process throughout the conflict resolution literature. Specifically, in the literature, elements such as ‘win-win, or mutually acceptable, agreements’ (see e.g. Kovach, 2000, p. 23; Elgoibar et al., 2017, p. 16), the ‘confidentiality’ of the mediation (see e.g. Brown, 1991, p. 310; Hopt & Steffek, 2013, p. 13), and mediators’ ‘lack of authoritative decision power’ (see e.g. Crawley & Graham, 2002, p. 3; Moore, 2003, p. 15), are generally incorporated as essential elements to the mediation procedure. The procedural starting points on these *mediation essential elements* indicate parties’ shared willingness to abide by the procedural norms and to adopt constructive and reasonable *discussion attitudes* (i.e. mediation commitment; see e.g. Greco Morasso, 2011, p. 116), which help determine the effectiveness of mediation in getting parties to mutually beneficial resolutions. In other words, it is those essential elements, and the parties’ adherence to and acceptance of those essential elements, that make the mediation procedure. Thus, for the mediation procedure to be functional, the procedural commitment of the parties to these mediation essential elements, preferably in the form of explicit agreements, is important.

The interventions with the general effect of establishing procedural starting points that have a local function of *getting party commitment to the mediation essential elements* concern either (A) the establishment or reestablishment of specific mediation essential elements, or (B) the parties’ discussion attitude (i.e. their commitment to a mediation essential element) (see table 22). In short, multiple interventions were found in the corpus with the local function of *getting party commitment to the mediation essence* and the general effect of *(re)establishing procedural starting points*, which had either (A) or (B) as subject matter. The connection between the mediation essential elements and the

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discussion attitudes in relation to the (re)establishment of procedural starting points is discussed at length in section 4.4.

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Table 22

*Identified subjects of interventions with the local function of getting party's commitment to mediation essence*

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(A) Mediation essential elements

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(B) Discussion attitudes

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The elements that are considered *mediation essential elements* are often established by the mediator in the 'intake part' of the mediation circle (see figure 11). In the intake part of the mediation procedure the mediator generally establishes some of the main elements essential to conflict mediation by explaining the rules at the center of the mediation procedure and the role of the mediator in the procedure.

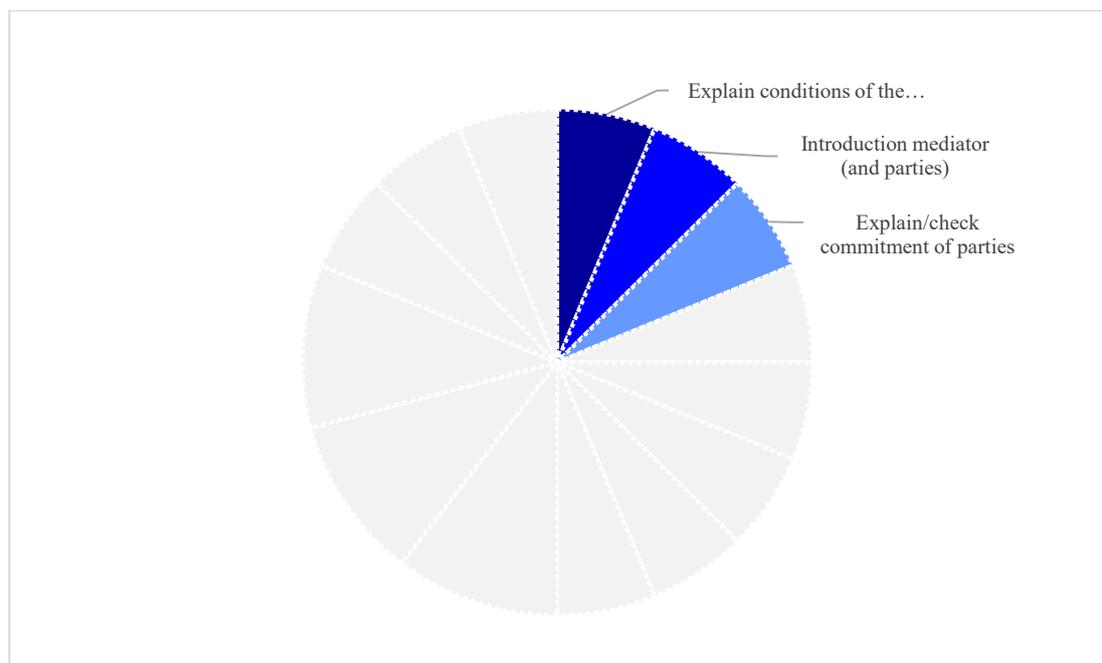


Figure 11. Communicative elements of the intake part

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Excerpt 1 below illustrates a specific use of interventions that establish *mediation essential elements* at the start of the mediation session (i.e. intake part), when the mediator tries to establish the resolution favorable procedural norms and rules. Excerpt 1 takes place at the beginning of the first mediation session of the ‘church board versus sexton’ case (case no. 1), which concerns a conflict between the new head of the church board (C) and the sexton (B) who helps people organize wedding and funeral receptions at the church’s community center (see section 3.3 for *case contexts*).

- 1 M Is that okay↑ °Because° we can also keep it formal. I am ((first name mediator)) >what do you say↑<
- 2 B °Eh (.) yeah° it is not customary in our [church but
- 3 C [( )]
- 4 M No↑ well then we just keep it as it feels most comfortable for you.
- 5 C ( ) normally (.) we do not address each other with the informal T-form either [so that ( )
- 6 M [No (.) fine (.) Then that is (.) eh (3.0) a better way to communicate with each other
- 7 B Mmm
- 8 M Otherwise, it would only become uncomfortable (.) and that is exactly what should not happen (2.0) e::h Ms. B, I see that you immediately moved your chair to the side a bit is it okay for you to move closer to me again↑ That way we all (2.0) sit to(hhh:)gether, a bit. **E::h together (2.0) you have been willing to e:h come together in mediation↑ a:nd we’ve already briefly talked about it over the phone (.) about the conditions. And eh both of you know that it is voluntary and everything we discuss is confidential↑ a::nd this voluntary aspect may be good to briefly discuss (.) because eh may I assume that you are both here with the intention (.) of solving an issue together↑**

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Excerpt 1. *Getting party commitment to the mediation essence*

The first part of the intervention in turn 8 (“otherwise, it would [...] E::h together (2.0)”) could be seen as an attempt by the mediator to establish a nonverbal interactional norm<sup>38</sup>, whilst the latter part of the intervention (“you have been [...] an issue together”) is of special interest in terms of its local function of *getting party commitment to the mediation essence*. In the intervention in turn 8, the mediator establishes mediation confidentiality and the “voluntary aspect” of this mediation as *mediation essential elements* and reestablishes the reasonable collaboration between the parties in which they must be willing to solve “an issue together”. In that sense, the procedural starting point agreements made here serve as *procedural bases* on which the argumentative discussions on problems and solutions will be held. At the end of the intervention (“you have been [...] an issue together”) the mediator asks a question<sup>39</sup> that is related to, arguably, one of the most important elements of mediation: the parties’ commitment to this constructive *discussion attitude* in which they are willing to abide by mediation essential elements. Interventions concerning *mediation essential elements* are often linked to the parties’ *discussion attitudes*. In other words, a party’s favorable discussion attitude is highly dependent on a party’s *commitment* to specific mediation essential elements, which can help bring about constructive changes to benefit a mutually beneficial resolution (Marcus, 2014, pp. 526-527). If a party is, for example, unwilling to commit to finding solutions that are mutually beneficial or unwilling to commit to the norms of confidentiality, he or she is unable to adopt the reasonable discussion attitude necessary for reasonable argumentative discussions that may lead to a resolution of the conflict. The rules of the procedure provided by the mediator in the intake part of the mediation session are part of the agreements mediators make in the opening stage. As part of the mediator’s task to ensure they set up well constructed opening stage (Janier & Reed, 2017, p. 49), the intake part is important as the moment of the mediation session where the general procedural starting points concerning the essence of the mediation, applicable to the whole of the mediation procedure are established. Additionally, conflict mediation by mediation professionals, at

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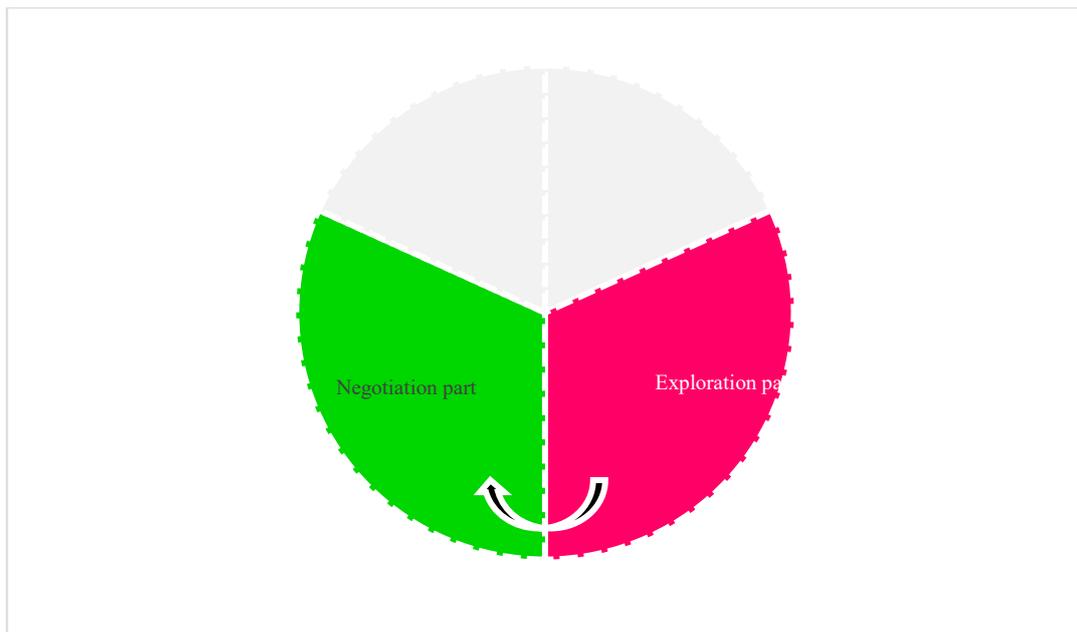
<sup>38</sup> This part of the intervention has the local function of *establishing* a communication rule as it concerns the attempt to establish an accepted standard (or rule) for nonverbal communication.

<sup>39</sup> Questions are marked with ↑ to indicate the rise of intonation typical of questions.

least how it is considered in this study, is in principle voluntary (see e.g. Bercovitch & Gartner, 2006, p. 337; Gewurz, 2001, p. 144), confidential (see e.g. Kovach, 2000, pp. 180-229; Kulms, 2013, p. 228), and win-win solution oriented (see e.g. Bush & Folger, 1994, p. 2; Elgoibar et al., 2017, p. 16). As such, the conflict mediation discussed here is a *communicative activity type of (workplace) mediation* (see e.g. van Eemeren, 2010, p. 143; van Eemeren & Houtlosser, 2009, p. 10) in which these mediation essential elements – voluntariness, confidentiality, and mutual acceptability – are essential parts of the mediation type’s conventionalization (see section 2.1 and chapter 7 for more on *communicative activity types of mediation*). The notion of these elements as essential to the mediation procedure makes the (re)establishment of procedural starting points on mediation essential elements and the parties’ favorable discussion attitude important for the resolution process and design of a dialogue space in which parties can have reasonable argumentative discussions.

Although it can be considered typical of the first part of the mediation session, at specific stages of the mediation procedure mediators can explicitly ask parties for commitment, for example when they are about to embark on the next phase in the resolution process, specifically when this stage forms a clear departure from the previous stage. During the mediation, when the resolution process is well on its way and the parties have been able to discuss and resolve the major issues that keep them divided, a transition takes place. The *transitional moment* in the mediation session (see figure 12) takes place when the parties explicitly go from the first half of the mediation circle (i.e. the intake part and the exploration part) in which the focus generally lies on the problems that keeps parties’ divided to the second half of the mediation circle (i.e. the negotiation part and the concluding part) in which the focus generally lies on the solutions that will help resolve their conflict. The *transitional moment* in the resolution process signifies the moment that the parties redefine the problem (van Riemsdijk, 2014, p. 103) and confirm their willingness to go from hostile adversaries to reasonable argumentative discussants; as such, this is the moment in which what Greco Morasso (2011) calls the “transformation” (p. 2) is made *explicit*. Generally, the argumentative discussions in the exploration part concern problems that are at the center of the parties’ conflicts whilst the argumentative

discussions in the negotiation part concern possible solutions to the conflict; as such, the issues discussed in the negotiation part center on the merits of the solutions rather than the problems at the center of the conflict (e.g. unfair payments or demotion) as is the case in the exploration part. As the solutions that are discussed are ideally mutually acceptable for the parties, an explicit expression of mutual commitment to becoming reasonable discussants should be added to the common ground. This explicit agreement is elicited in the mediation during the *transitional moment*. Procedurally, it should be seen as an explicit expression of the “true turning point towards the resolution of the conflict” (Greco Morasso, 2011, p. 2) (i.e. the change in parties’ attitudes from adversarial and hostile), which is explicitly checked by the mediator with questions such as ‘is there anything you still want to discuss or are you willing to start thinking about solutions?’.



*Figure 12. Transitional moment*

An example of a general check of parties’ commitment to the mediation essential elements at the *transitional moment* before the commencement of the negotiation part and the switch to discussions on solutions can be seen in excerpt 2 below, which is taken from the ‘construction company versus calculator’ case (see case no. 7; section 3.3.7). This case

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concerns a conflict between the artisan case builder (P) and the case company (represented by its CEO (S)) that builds custom cases for musical and mechanical instruments looking to move away from handmade cases such as the ones made by (P) to improve the company's product turnover. At this point in the mediation, the head of the company and the lead case builder have discussed and resolved the main relevant problems that divide(d) them.

- 1 M.V Okay (1.0) e:hm then I also actually want to ask you **both** (.) e:h **are you prepared to think of solutions** ↑ (.) **eh where you take into account** (.) **eh your own interests but also the interest of the other** ↓ (2.0) so the interests as we eh we have put them on the [flip
- 2 P [mhm
- 3 M.V over↑ (1.0) **in a bit we are also going to have a brainstorm on solutions**
- 4 S >yes that is also what I indicated with< when I say soft landing then that is (.) that I take into account the interssts of ms.P=
- 5 M.V =you want to take into account
- 6 S °yes°
- 7 M.V O↑kay↓
- 8 S Of course also with the interests of the co:mpany
- 9 M.V **How is that for you**↑ ((addressing Ms. P))
- 10 P °yes°

---

### Excerpt 2. *Getting party commitment to the mediation essence*

In excerpt 2, one of the co-mediators (M.V) establishes 'preparedness to think of solutions together' and 'these solutions to be 'win-win' in nature' (turn 1), in which the interests of both parties are included, as essential elements of the mediation. At this point, the importance of the inclusion of interests should already be known to the parties, either through the parties' acquired general knowledge of conflict mediation or the introduction of the mediator given in the intake part in which the importance of win-win resolutions is emphasized. Nevertheless, the mediator *reestablishes* these norms as procedural starting points before commencing the next part, presumably due to their importance in the next

part, which is introduced in turn 3 “in a bit we are also going to have a brainstorm on solutions”. When one of the parties (S) explicitly expresses commitment to the mediation essence in turn 4, the mediator reestablishes this commitment by asking the party for an explicit confirmation of his commitment (turn 5), after which the mediator elicits explicit agreement from the other party involved (P) in turn 9. By means of eliciting explicitly agreed on procedural starting points, the parties are invited to display an attitude that may be perceived as reasonable and cooperative. This reasonable and cooperative discussion attitude is relevant to argumentative discussions as “it is explained that the reasonableness of an argumentative discussion depends not only on the degree to which the procedural rules for a critical discussion are observed, but also on the satisfaction of certain preconditions regarding the participants’ state of mind” (van Eemeren & Grootendorst, 2004, p. 8). Approaching characteristics of a reasonable discussion attitude from this perspective, the importance of *discussion attitudes* in conflict mediation goes beyond getting explicit confirmation of a shared commitment that helps mediation professionals broaden the agreement space between the parties; it helps parties (re)gain trust in one another and the resolution process as whole. The characteristics of a reasonable discussion attitude concerning *commitment to the mediation essential elements* could be regarded as important preconditions concerning parties’ states of mind to reasonable argumentative discussions on the problems that divides them and the solutions that may solve their conflict.

The importance of having (explicit) agreement on the discussion attitude, or more generally the mediation procedure, becomes most apparent when the commitment of (at least) one of the parties seems to be wavering, whereby procedural starting points concerning discussion attitude are called into question. When such a challenge presents itself, mediators can try to *reestablish* procedural starting points, as one of the co-mediators does in excerpt 3, taken from the ‘school collective versus rector’ case (case no. 3; section 3.3.3), at a moment of impasse<sup>40</sup> in the exploration part.

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<sup>40</sup> For more on how divorce mediation professionals handle impasses from an argumentative perspective, see Aakhus (2003).

- 1 M.X I hear very apodeictic positions right↑ th- this is how it is how I see it ehm  
and **at the same time it is it is the idea of mediation of course to look  
for for a solution that f- that is fitting for both, acceptable for both.  
Do you have the feeling that we (.) have worked towards something  
already↑**

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Excerpt 3. *Looking for acceptable solution for both parties/ having worked towards something*

In excerpt 3, the mediator attempts to reestablish the parties' commitment to a *mediation essential element* with the utterance "it is the idea of mediation of course to look for a solution that is fitting for both, acceptable for both". With this intervention the mediator tries to point out that the parties' currently held *discussion attitudes* go directly against the *mediation essential element* of finding 'mutually acceptable solutions'. The mediator follows this up by asking if their deviation from a favorable discussion attitude is constructive "do you have the feeling that we have worked towards something already?", by which the mediator implies that *the parties have not worked towards something yet*, which she supports with the argument that the parties have not adopted a constructive discussion attitude that aims to find solutions fitting for both ('I hear very apodeictic positions'). By means of the question in turn 1, the mediator sets out to construct a shared commitment of the parties to conduct themselves in a way that leads to a solution fitting for both parties. As this communicative activity type is in principle voluntary in nature (see the discussion for excerpt 1), both parties have to agree to adopt a more favorable discussion attitude by which they can work towards something (constructive); without the explicit agreement on commitment as a procedural starting point shared by both parties, the communicative activity type of conflict mediation by mediation professionals, as exemplified here, does not work. The implication that the parties 'have *not* yet worked towards something' due to the unfavorable discussion attitudes is problematic because commitment to constructive conduct is a prerequisite for the *genre of community activity* of conflict mediation (e.g. van Eemeren, 2010); as a lack of commitment to adopting this

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constructive attitude implies a lack of commitment to achieving the institutional goal of *problem solving communication* (e.g. van Eemeren & Houtlosser, 2009, p. 10).

The intervention in excerpt 3 and its local function of *getting party commitment to the mediation essence* is procedural in nature, as it refers to the progression of the resolution process, and, as explained, concerns the reestablishment of commitment to an element essential to the mediation procedure. However, there is something worth noting here: the general effect of this intervention is not the establishment or reestablishment of a procedural starting point, but of a material starting point instead. This specific intervention can be stated to have the general effect of establishing a *material starting point* concerning the known material premise of a shared *supposition*, which is a belief without conclusive proof or certainty (e.g. van Eemeren, 1992, p. 149; van Eemeren et al., 2014, p. 267; see section 2.3.4 for *material premises* of material starting points).<sup>41</sup> The question “do you have the feeling we have worked towards something already”?, in the context of the intervention elicits a preferred response ‘no’ from the parties. If the parties are in agreement and indeed say ‘no’, the supposition that could be reconstructed as ‘we have not worked towards something already’ or ‘we have not acted according to the essence of the mediation’ is added to the parties’ common ground as an explicitly accepted material starting point. The reason for using this tactic could be that the mediator aims to redirect the mediation process from unproductive to constructive by helping parties realize the corrosiveness of their current discussion attitude, which is explained by mediators as a possible tactic that “‘brings it back to the need to work towards something together’, which is at the core, or *essence*, of mediation” (van Bijnen et al., 2019, p. 87).<sup>42</sup> This tells us that procedural starting points and material starting points are in fact not strictly separated; whilst the *communicative* function in the mediation process may concern procedural norms, the *argumentative* effect of the intervention can be the (re)establishment of a material starting point. The local function of *getting party commitment to the mediation*

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<sup>41</sup> For the in-depth empirical study of interventions with the possible general effect of establishing or reestablishing a material starting point, see chapter 5.

<sup>42</sup> This tactic was brought up and discussed by the focus group.

*essential* is of vital importance to the mediation session because conflict mediation's procedural norms on *mediation essence* are thought to aid the resolution process; the general effect of (re)establishing more procedural starting points helps solidify the common ground, which helps mediators design a mediation interaction with sufficient procedural starting points for reasonable argumentative discussions to take place.

### **4.5 Local Function: Discussing Procedural Starting Points**

In section 4.4 we discussed how mediation professionals may construct interventions with the local function of *getting party commitment to the mediation essence* as a prerequisite for reasonable argumentative discussions on problems and solutions that help move the resolution process forward. In section 4.5, we discuss the local function of *discussing procedural starting points*, which is assigned to interventions in which mediation professionals present or discuss the possibility of argumentative discussions on the mediation essential element of *confidentiality*, and those interventions in which they guide the negotiation between the parties on the issue of confidentiality to help get them to an agreement.

It could be said that the ability to establish and reestablish procedural starting points is part of a mediation professional's *power*; their formal role as a procedural guide grants them the power to design a resolution favorable process in which they are able to implement the mediation procedure and guide the parties through the mediation process without determining the outcome of the resolution process itself (see the discussion on the role of the mediator in section 2.1). As presented in section 4.4, procedural starting points can be established by the mediator throughout a mediation session. However, they are most prominently (re)established (A) in the *intake part*, (B) at the point that marks a clear departure from the previous part (e.g. the *transitional moment* see section 4.4 and figure 10), or (C) at moments of impasse (i.e. a deadlock in the resolution process; see e.g. Aakhus, 2003) when previously accepted procedural starting points are called into question or flouted by the parties.

The *discussions on procedural starting points* can be related to the mediation essence. In fact, discussions on procedural starting points concerning *mediation essential elements* (e.g. confidentiality) are important as they remain unchanged during the entirety of the mediation procedure; after all, it is these elements that make up the essence of mediation, by which they help define it. Nevertheless, there is some flexibility in terms of the way in which these elements may take shape in a particular resolution process. As each conflict and the participants in conflict vary greatly, a rigid and entirely predetermined mediation procedure that cannot at all be adjusted in ways favorable for the overall goal of resolving the conflict, seems counterproductive. As a result, some degree of *discussion on procedural starting points* is permitted as long as the proposed procedural starting points are agreed on by all parties, and remain within the borders of what is legally possible and cater to the design of a reasonable (largely) argumentative and win-win solution oriented mediation interaction (e.g. Deckert, 2013, p. 497; Mordehai Mironi, 2008, p. 11). Not all parts of the mediation procedure are negotiable, and most of the interventions with the local function of discussing procedural starting points concern the mediation essential element of *confidentiality*. In conflict mediations guided by mediation professionals, some degree of explicit confidentiality is often required by law or formalized in the mediation regulations (see e.g. de Palo & Trevor, 2012). The affordance to allow for discussions on the boundaries of confidentiality in the mediation of a specific case is supported by the notion that what is most important is that the procedural starting point is explicitly agreed on by all parties involved. Although there are limitations, this agreement could be considered more important than the ‘script’ procedure and the prescribed protocols regarding the mediation essential element of confidentiality.

The interventions that were identified with the possible general effect of establishing procedural starting points, and the local function of *discussing procedural starting points* either (A) concern the introduction of procedural starting point discussions as an option, or (B) concern mediator interventions in the procedural starting point discussions themselves. As such, (A) *introduction of procedural starting point discussions as an option* and (B) *procedural starting point discussions* are the labels given to the interventions found in the corpus with the local function of *discussing procedural starting*

*points* (see table 23). The two intervention types with this local function often appear in the mediation sequentially (i.e. an introduction of such discussions as an option, followed by the discussions themselves).

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Table 23

*Identified subjects of interventions with the local function of discussing procedural starting points*

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(A) Introduction of procedural starting point discussions as an option

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(B) Procedural starting point discussions

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Excerpt 4, discussed below, is taken from the beginning of the first session of the 'Construction company versus calculator' case (case no. 7; section 3.3.7), which features a conflict between the main calculator of a big construction company who suffers from a disability that makes socialization difficult (P) and the general manager of the construction company who wants the calculator to engage more with their clients (S). From the passage preceding excerpt 4 the mediator infers that there are interested third parties who are not present at the mediation table, but who may ask or require the parties in mediation to divulge the content of the session. Recognizing that strict confidentiality may pose a problem, the mediator proposes the option of a tailored confidentiality agreements between the parties.

- 1 M.U What is on the table here is it has to be clear that it **cannot be shared with others UNless you make different agreements regarding that (.) that is possible (.)** look you may have a partner at home (.) of course you will  
[your partner yes
- 2 P [I had one yes
- 3 M.U well (.) eh but if you right↑ **so you have to make agreements about that then**
- 4 P °yes that is not necessary °

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Excerpt 4. *Procedural starting point discussions*

## COMMON GROUND IN CONFLICT MEDIATION

In excerpt 4 the mediator introduces the idea of a negotiation on procedural starting points as an option (turn 1). The negotiation entails a possibility to diverge from the stricter standardized rules concerning confidentiality, if, and only if, the parties come to a different agreement regarding confidentiality, which will then be formalized as explicitly agreed on procedural starting points (turn 3). The *introduction of procedural starting point discussions* functions as a way to invite parties to state their preference concerning confidentiality, whether in line with the standard expectation of full nondisclosure or a proposed adjustment to this standard. This notion can be seen more clearly in excerpt 5 below, which is an excerpt from the same ‘construction company versus calculator’ case as excerpt 4. The passage takes place a little bit later on in the mediation session and is mediated by a different co-mediator.

- 1 M.V make (.) yes well then we will also eh we will continue (.) e::hm (1.0)  
e:h **confidentiality is an important aspect of mediation so it means  
that everything that we discuss here e:h (.) stays between these four  
walls (.) unless we make different agreements about it=**
- 2 S =yes and we do have the need to discuss it also briefly within the company  
here eh to discuss (.) about this
- 3 M.V **You have the need to discuss**↑
- 4 S Yes
- 5 M.V **and with whom**↑
- 6 S (1.0) ye:s eventually our general director
- 7 M.V **with the general director**
- 8 S Yes
- 9 M.V Okay e::hm
- 10 S Maybe also the financial director °I don't know yet°
- 11 M.V **Okay so you have the need to discuss with the general director and  
maybe also with the financial director ↑(.) I don't know I am also  
looking at the other party °how how° is that for you**↑

- 12 P Yes eh I don't know what is going to ha:ppen (.) I mean I want I (.) we are going to sign something here and then everyone should abide by it↑ (1.0) that I DO think if we sign something then then its in writing
- 13 M.V **Yes you find it important to to eh make clear agreements↑**
- 14 P Yes
- 15 M.V E:hm (1.0) we right↑ **we can al- we can divert from what it says literally then we add to that eh (.) confidentiality (.) e:hm which e:hm sha- which can be shared with them with the director for example=**
- 16 P =yes but no but I just think what is confidential is confidential
- 17 M.V E:hm what is also an **option** is that e:h other parties who may get involved can **sign a e:h non disclosure↑**

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Excerpt 5. *Procedural starting point discussions*

In turn 1 in excerpt 5, the mediator *introduces* the possibility of *procedural starting point discussions*: “confidentiality is an important aspect of mediation so it means that everything that we discuss here stays between these four walls unless we make different agreements about it”. After one of the parties (S) shows interest in adjusted agreements on confidentiality rules (turn 2), the *discussion* concerning procedural norms on confidentiality commences. Throughout excerpt 5, the mediator requests information to establish the parties’ wishes (e.g. turn 3 “you have the need to discuss?” and turn 5 “and with whom?”). The mediator makes specific requests for explication, for example when she asks who (S) wants to discuss the content of the mediation session with in turn 5. After (S) suggests ‘the general director and maybe the financial director’ as possible relevant parties to share the content of the mediation with, the mediator repeats this information (turn 7) by which a request for explicit confirmation is made, which she receives from (S) in turn 8: “yes”. After establishing the wishes of party (S) in more detail, the mediator tries to elicit agreement from the other party (P) “I don’t know I am also looking at the other party, how is that for you?” in turn 11. As such, the intervention in turn 11 has the possible general effect of establishing procedural starting points concerning confidentiality through the elicitation of explicit agreement. The mediator helps guide the discussion between the parties on confidentiality by requesting information and providing information on options

## COMMON GROUND IN CONFLICT MEDIATION

to guide them towards a procedural starting point agreement that would remain within the limits of what is possible (e.g. turn 17 “what is also an option is that other parties who may get involved can sign a non-disclosure”). Moreover, by means of the intervention in turn 17 the mediator tests the parties’ willingness to formalize the negotiated procedural starting point in the form of an agreement to be signed by the third parties, whereby all parties with knowledge of the contents of the mediation session are held to the agreed on wishes of non-disclosure.

As shown, mediation professionals can propose a tailored confidentiality agreement on what parties can share with third parties who are not at the mediation table, for example when they sense that there are third parties with resolution favorable authority, as may be the case in workplace conflicts like the one presented in excerpt 5. The strategy to propose procedural starting point discussions on confidentiality does not appear in every mediation session in our corpus, whereby we may infer that it is not standard practice per se.<sup>43</sup> Most excerpts that were found in the corpus show that procedural starting point discussions on confidentiality mainly take part in the intake part of the mediation procedure where the mediator establishes the main procedural rules that apply to the entire mediation procedure. However, if (at least) one of the parties indicates a desire for limitations in advance (i.e. before a mediator has informed parties of the ability to discuss procedural norms and restrictions), mediators (can) elicit agreement by which they may establish an explicitly accepted procedural starting point. Excerpt 6 below is an example of this. The excerpt is taken from the beginning of the first session of the ‘church board versus sexton’ case (case no. 1; section 3.3.1), after the introductions and the establishment of confidentiality as a mediation essential element. The case concerns a conflict between a sexton of a church community (B) who is supported by volunteers when organizing receptions in the church’s community center, and the newly appointed head of the church board (C), responsible for the church communities’ finances and the allocation of funding.

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<sup>43</sup> The focus group briefly touched on the importance of explicit agreements concerning deviating confidentiality in case of relevant third parties with the authority to formalize agreements made in the mediation or who are able to define the limits of possible solutions (e.g. company owners or HR).

## COMMON GROUND IN CONFLICT MEDIATION

- 1 M So I want to propose to you
- 2 B Well I do not want it to be discussed with the volunteers ((B is aided in her duties by volunteers))
- 3 M **No (.) that is certainly not the intention.**
- 4 B With [people in the church
- 5 M **[Was it your intention, with the volunteers**↑ ((Turning to, and addressing C))
- 6 C E:h: no no [no

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Excerpt 6. *Desire for confidentiality limitations*

In turn 3, after (B) proclaims in turn 2 that she does not want the content of the mediation to be discussed with the volunteers at the church, the mediator first aligns himself with (B) by stating “no that is certainly not the intention”. In doing so, a common starting point between B and the mediator is created, which is interesting, especially considering the fact that the mediator tries to elicit agreement from the other party (C) by asking “was that your intention with the volunteers?” in turn 5. Because the mediator previously sided with party (B), by which the common starting point between him and the sexton was established, the intervention “was that your intention with the volunteers?” in turn 5 implicitly says ‘do you agree with *us*, or not?’. By aligning himself with one of the parties, the mediator temporarily steps out of the role of the neutral third party (see e.g. Jacobs, 2002; Heisterkamp, 2006, p. 2057) and makes himself an active participant in the discussion on confidentiality with a standpoint on the issue of sharing information with the volunteers. As mediators are not supposed to become active discussants in the argumentative discussions belonging to the parties, this intervention could be considered problematic in terms of a mediator’s perceived neutrality. The question asked in turn 5 elicits a thinly veiled preferred response, which is consequently provided by (C) in turn 6. (C)’s explicit response in turn 6 results in the establishment of the procedural starting point ‘*the content will not be discussed with the volunteers*’, which is added to the common ground of the parties.

#### 4.6 Local Function: Setting the Agenda

Thus far we discussed how mediators are able to establish and reestablish procedural starting points concerning mediation essential elements such as the need for a collaborative win-win resolution (i.e. *mediation essential element*; section 4.4), the parties' commitment to this need (*discussion attitude*; section 4.4), as well as the parties' discussions on tailored procedural starting points concerning confidentiality (*procedural starting point discussions*; section 4.5). In this section (section 4.6), we focus on procedural starting point interventions with the local function of *setting the agenda*.

Although here we are partly referring to the selection of discussion items to be put on the agenda for the mediation session (i.e. section 4.6.2 on the local function's subject of *items for discussion*), the local function of *setting the agenda* cannot strictly be related with *agenda-setting theory* in social sciences and media studies (e.g. McCombs & Shaw, 1972) as a means of measuring and understanding the importance of topics based on media exposure. More accurately, interventions concerning *items for discussion* could be related with the concept of selecting topics for discussion from the *topical potential* (see van Eemeren, 2010) in the *confrontation stage* of the critical discussion (i.e. the stage in which the issues emerge on which the parties take a stance) (van Eemeren, 2001, p. 15). The selection from the topical potential refers to "the range of topical options available at a certain point in the discourse" (van Eemeren, 2010, p. 96) as explained in the extended theory of pragma-dialectics, which we have adopted as a basis for this dissertation (see van Eemeren, 2010; section 2.3). Here, the choices (and order) of items to be discussed are to be seen as points of departure that will help parties move through their resolution process in a constructive manner (see e.g. Kovach, 2000, p. 142; Moore, 2003, pp. 233-234; van Bijnen & Greco, 2018, p. 298). Guided by what the mediator perceives to be the best order of the items to be discussed, the mediator may propose for specific items to take precedence in the discussion (Greco Morasso, 2011, p. 74).<sup>44</sup>

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<sup>44</sup> This may sometimes mean that the most important issues are discussed first, and that sometimes the less heavy loaded issues are discussed first, for strategic reasons (van Bijnen & Greco, 2018, p. 298).

In this dissertation, *agenda setting* refers to mediator interventions concerning specific agenda items and the organization of specific moments or steps in the mediation circle; the general aim of agenda setting is to establish a *shared approach* to the mediation agenda in terms of items to be discussed and procedural steps to be taken (e.g. Vindeløv, 2012, p. 283). In short, in the analyzed corpus mediation professionals are shown to set the agenda in terms of the important discussion items concerning the problems or solutions to be discussed in the mediation, the predetermined procedural steps of the mediation procedure (see the mediation circle; section 2.1), and emergent procedural steps such as *caucuses*<sup>45</sup>, when the mediator deems this appropriate.<sup>46</sup> As a result of the empirical studies for chapter 4, the interventions with the local function of *setting the agenda* seem to concern one of the following two general subject matters: (A) a specific procedural step in the mediation process or (B) specific items for discussion (see table 24).

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Table 24

*Identified subjects of interventions with the local function of setting the agenda*

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(A) Specific procedural steps in the mediation process

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(B) Items for discussion

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Thus, in general, the shared method of procedural approach concerns the structure of the mediation in terms of the order of ‘what is coming up in the mediation session’, which includes both discussion items and certain procedural options in specific moments of the mediation (e.g. brainstorm or caucus); that which is put on the agenda by the mediator will serve as a basis for the upcoming part in the resolution process. In sum, in conflict mediation it could be said that *agenda setting* refers to mediator interventions related to the mediation process or its procedure, concerning general future-oriented proposals or discussions related to the process or procedural steps. With ‘general future’ we mean

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<sup>45</sup> A *caucus* is a meeting in which the conflict mediator talks to the parties in conflict separately. A caucus can be initiated during a mediation session when the mediation professional identifies a need to talk to the parties separately. Mediations that are set up in a way that the mediator talks to the parties separately from the beginning of the resolution process are called *shuttle mediations*.

<sup>46</sup> The importance of setting the mediation agenda on the specific procedural steps and items for discussion was underlined by the mediation professionals in the focus group.

*temporal* future, which is contained to the resolution-oriented interaction or mediation procedure (i.e. either a future point or phase in the current mediation session or a future mediation session). Interventions regarding (A) *specific moments in the mediation*, especially in terms of when and how to proceed with the next stage in the mediation procedure, are discussed in section 4.6.1. The procedural starting point interventions with the local function of *setting the agenda* on (B) *items for discussion*, i.e. problems and solutions that should and/or will be at the center of argumentative discussions in the mediation sessions, are discussed in section 4.6.2.

### ***4.6.1 Specific procedural steps in the mediation process.***

In terms of procedure, the mediator may set the agenda for the entire mediation circle, one of the parts of the mediation circle, or a specific moment in the resolution process. Interventions on *specific procedural steps in the mediation process* concern specific parts of the mediation circle (e.g. the intake part, the exploration part, the negotiation part, or the concluding part) or smaller parts (i.e. communicative elements) of the mediation circle such as the brainstorm session on solutions as part of the negotiation stage. Interventions that set the agenda on *specific procedural steps in the mediation process* may also be more emergent and concern procedural steps that are more specific and tailored to the needs of that particular case (e.g. a caucus when tensions between parties run too high in the plenary session or the mediator senses that the commitment of one or more of the parties has weakened).

As an example of how mediators may construct interventions in which they set the agenda for a procedural step that can be considered part of mediation's standard procedure, excerpt 7 shows an intervention in which the workplace mediation professional provides a brief overview of the mediation procedure and/or the important protocols that become relevant at specific points during the resolution process.

1 M I will e:h at the end of the meeting (.) e:h after I will send you a report that again is confidential but really it is part of the mediation (.) and in it I will provide what for me were the most important points [of

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Excerpt 7. *Specific procedural steps in the mediation process*

By means of interventions such as turn 1 from excerpt 7, mediators can set the agenda, by which they make specific future procedural steps in the mediation explicit. As mediators are the chosen procedural guides of the resolution process tasked with controlling the structuring of this process (e.g. Hopt & Steffek, 2013, p. 11; Vasilyeva, 2010, p. 178), they have the ‘power’ to establish procedural starting points without the need for explicit agreement from the parties. Besides procedural starting point interventions with the local function of *getting party commitment to the mediation essence*, as discussed in section 4.4, mediators can establish procedural starting points related to mediation procedure specific rules or protocol without needing explicit party agreement. Even when individual mediators (both facilitative or evaluative) have relative freedom in relation to how they attempt to achieve the goals of the different parts of the mediation circle, the general mediation procedure (i.e. the mediation circle) follows relatively standardized procedural stages. As such, by entering into mediation parties implicitly accept the mediation professional as the procedural power; accepting their options and suggestions (e.g. Hughes, 1995, p. 567) and power to determine the procedural direction of the resolution process, which is often formally accepted by the parties upon signing a pre-mediation agreement (e.g. van Bijnen, 2019, p. 91). For that reason, turn 1 in excerpt 7 alone is enough to establish the procedural starting point on ‘the mediation report’ (excerpt 7) as an explicit procedural starting point to be added to the parties’ common ground without needing explicit expressions of agreement from the parties.

Although a mediator’s role as procedural guide means that they have the authority to set the agenda for specific procedural steps in the mediation process, it does not always mean that mediators are able to establish and reestablish procedural starting points without any questions or resistance from the parties. As we discussed in section 4.5, as long as parties remain within the limits of what is legally possible and what is constructive to the overall

of goal of mediation (i.e. to find a mutually beneficial resolution) mediators allow for some degree of flexibility when it comes to procedural starting points, especially when it comes to the mediation essential element of ‘confidentiality’. This flexibility in mediation allows for parties to challenge the standard procedural starting point on confidentiality that the mediator is attempting to establish. There are cases in which the mediator sets the agenda by presenting a procedural option as a standpoint to which the parties then express doubt or which the parties reject. As a procedural concept, in the pragma-dialectical approach to argumentation, when one is called on by another to defend his or her standpoint, he or she is obliged to do so, whereby the burden of proof is adopted (e.g. van Eemeren, 2010, p. 213). In such cases, mediators can argue for the acceptance of their proposed procedural starting point, which thus turns into a standpoint that needs to be sufficiently defended were it be added to the parties’ common ground as a point of agreement, without mediators becoming active discussants in the conflict of the parties he or she is mediating. Mediators have the presumption of neutrality, and as such should not become active discussants in the discussions on the issues central to the parties’ conflict or in the discussions on solutions central to the parties’ resolution (e.g. Greco Morasso, 2011, p. 27; Heisterkamp, 2006, p. 2057; Jacobs, 2002, pp. 1405-1407). As previously noted in Greco Morasso (2011), “*the mediator can in general profess some standpoints if they refer to the meta-level of management of the discussion rather than to specific solutions*” (pp. 175-176); whilst some forms of argumentation might be problematic, as it turns the mediator into a protagonist or antagonist in the conflict of the parties, mediators are able to argue freely for the acceptance of procedural starting points in what become *meta discussions* (Greco Morasso, 2011, p. 221), because this does not jeopardize their mediator neutrality.<sup>47</sup> As these meta discussions concern the mediation procedure and mediation protocols, rather than the parties’ conflict on personal issues and possible solutions, these discussions are

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<sup>47</sup> As previously stated in section 2.3.3, the idea of discussions on common starting points in meta discussions is not new in argumentation research (see e.g. Greco Morasso, 2011). However generally we are concerned with material starting points which can be used as propositions in argumentation and nonnegotiable previously agreed on points of agreement (van Eemeren & Grootendorst, 2006, p. 389) rather than procedural norms which can be used as arguments for the constructive progression of the resolution process and nonnegotiable points of agreement.

part of the opening stage with the aim of clarifying a procedural starting point based on which argumentative discussions in the resolution process are to be developed (Greco Morasso, 2011, 253). In order to set up a solid opening stage for the future argumentative discussions on problems and solutions, a sound opening stage is constructed by, amongst other things, these meta-reflections on procedure (Greco Morasso, 2011, p. 248). This section (4.6.1) aims to show how mediators may argue for the acceptance of procedural starting points for the benefit of a reasonable resolution process in meta discussions.

Such discussions on procedure may more obviously take place when a mediator presents a procedural step in the mediation that is not a part of the standard procedure, but a procedural step that should be put on the mediation agenda for the improvement of the resolution process (e.g. the proposal to include caucuses in cases of impasse). When mediators suggest to put a caucus on the agenda, which is not necessarily part of the more standard plenary mediation procedure, they can anticipate questions or doubt by arguing for its acceptance in the same interventions as the suggestion, as can be seen in excerpt 8, taken from the ‘charity manager versus employee’ case (case no. 2; see section 3.3.2) at a moment of impasse (see Aakhus, 2003 for more on *impasse* in mediation)<sup>48</sup> in the exploration stage. The conflict concerns a manager at a charity organization (D) and the employee at her department (E) who is unable to keep up with the organization’s recent modernization. Because (D) has hired several coaches to get (E) to the required level of digital proficiency without any success, she now wants to let (E) go.

1 M °e:hm° (4.0) but okay eh eh the **you are not really coming together now, would it be useful if I briefly (.) talk to you separately**↑ First with you and then with you ((mediator points at the parties; first at the employee and then at the employer)) **to see (.) where you stand exactly and how**

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<sup>48</sup> Aakhus (2003) presents three mediator communicative strategy types – *relativizing, redirecting, and temporizing* – to overcome three types of identified *impasse* – *irreconcilable facts, negative collateral implications, and unwillingness to be reasonable* – in mediation dialogues (p. 271). The example presented in this section (4.6.1) in which the mediator tries to break the impasse, concerns a specific procedural option that can be used by mediators when the discussion is in deadlock (i.e. caucus in excerpt 8).

- you can come closer together. Because like this it doesn't seem to work↑**
- 2     F     I would really like that actually.
- 3     M     **Is that a good↑ approach↑=**
- 4     E     =I just don't know why you would like to talk with her first per se, but you know I don't care.

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Excerpt 8. *Arguing for specific procedural steps in the mediation process*

In turn 1 of excerpt 8 the mediator suggests a caucus as a functional next step in the parties' resolution process. The mediator presents the caucus as a suggestion "would it be useful if I briefly talk to you separately?" (turn 1), whereby the mediator gives parties the option to explicitly agree or disagree, instead of establishing the caucus in a statement that simply informs the parties of this *specific procedural step in the mediation process*. Rather than waiting for the parties' acceptance or rejection of the suggestion, however, the mediator continues by providing arguments for its acceptance, which could be seen as an anticipatory strategy to steer the parties' responses towards acceptance. As the mediator provides arguments for the acceptance of the caucus (and its usefulness), we could rewrite the suggestion as a standpoint for which the mediator provides argumentation (see argument structure 1 in figure 13). As we can identify more than one argument in the intervention, we are dealing with complex argumentation (see section 2.3.1), in which the relation between the arguments and the standpoint may be *multiple* (i.e. when the arguments form independent lines of support), *coordinative* (i.e. when arguments work together to form a line of support), and *subordinate* (i.e. when arguments are provided in support of other arguments to form a chain of support) (see Snoeck Henkemans, 2001, 2003; see section 2.3.1 for more on the argument structures).

Standpoint: 1 It would be useful to talk to you separately Arguments: Because ... 1.1 ... like this it doesn't seem to work 1.1.1a ... you are not really coming together 1.1.1b ... we need to see where you stand exactly 1.1.1c ... and how can you come closer together
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Figure 13. Argument structure 1: arguing for a caucus

After one of the parties (F) states “I would really like that actually” (turn 2), the mediator attempts to elicit the caucus as a procedural step on the mediation agenda that is explicitly accepted by both parties in turn 3 “Is that a good approach?”. In support of the standpoint, the mediator uses argumentation to denote the necessity of caucuses for a favorable progression of the resolution process. The arguments provided in support of acceptance of the standpoint are 1.1 “like this it doesn’t seem to work”, because 1.1.1a “you are not really coming closer together”, and 1.1.1b “we need to see where you stand exactly”, 1.1.1c “and how you can come closer together”. The mediator seems to make an attempt at constructing subordinate argumentation (i.e. arguments in support of arguments) that work coordinatively (i.e. linked reasoning), arguing both why the plenary interaction does not work and why one on one interactions would work better instead. In short, the standpoint is supported by the main argument 1.1 “like this it doesn’t seem to work”. This main argument is in turn supported by a coordinative line of argumentative support, namely arguments 1.1.1a, 1.1.1b, and 1.1.1c. The coordinative argumentation contains a *negatively* formulated argument on why a continuation of plenary discussions would not work 1.1.1a “you are not really coming together”. This negatively formulated argument works together with two *positively* formulated arguments on why a caucus would be preferable, i.e. 1.1.1b “we need to see where you stand exactly” and 1.1.1c “how you can come closer together”, to form a coordinative line of argumentative defense.

## COMMON GROUND IN CONFLICT MEDIATION

Although mediators can use argumentation for the acceptance of a procedural starting point in an anticipatory fashion as is done in excerpt 8, one of the most common moments for mediators to argue for the acceptance of a procedural starting point in meta discussions (see Greco Morasso, 2011) is when one of the parties actively challenges a procedural starting point. In these cases, mediators can attempt to establish a procedural starting point that is consequently questioned by one or more of the parties in terms of its relevance, as can be seen in excerpt 9 taken from the same ‘charity manager versus employee’ case (case no. 2; see section 3.3.2) as excerpt 8. The dialogue presented in the excerpt takes place in the *intake part* of the mediation procedure.

- 1 M [I would like to both invite both  
of you to e:h e:h legal counsel
- 2 D Do you have to to bring him here as well↑
- 3 M Yes that that (.) is possible. Not a problem. **I do think it is important that  
they cosign the confidentiality agreement then**
- 4 E **Why is that necessary**↑
- 5 M Yes, **the three of us have of course also [agreed**
- 6 E [yes
- 7 M **on secrecy and confidentiality**↑
- 8 E Yes
- 9 M And it is supposed to be that third parties as well who eh really are going  
to (.) I wanted to say meddle with the content eh of the mediation, but in  
any case will be informed eh eh of what is being discussed. If they don't  
have a duty of confidentiality (.) then (.) yes you could later on, right↑ it is  
not supposed to but if you ever land in court (.) there **they could start  
playing with the content again and that (.) then then we are missing  
the whole point a bit. Mediation is precisely eh the chance to  
brainstorm in confidence, to discuss options, without immediately  
boom being held to it. And it also gives you the chance to explore**

**further possibilities (.) so I think it is very important that the confidentiality remains warranted in your process**

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Excerpt 9. *Arguing for specific procedural steps in the mediation process*

Turn 1 from excerpt 9 features a procedural starting point intervention with the local function of *including all relevant parties* for the resolution of the conflict; with the intervention “I would like to both invite both of you to legal counsel” the mediator attempts to get all the parties relate to the conflict and/or resolution process at the mediation table.<sup>49</sup> More interesting, however, is the manner in which the mediator argues for the procedural starting point with the local function of *setting the agenda on a specific procedural step in the mediation process* (i.e. the signing of a confidentiality agreement), which is established in turn 3 “I do think it is important that they cosign the confidentiality agreement then”. In an attempt to guarantee that all parties relevant to the conflict or resolution process abide by the confidentiality agreements, including the legal counsel to be invited to the next session, the mediator establishes the need for these third parties to sign the confidentiality agreement as a necessary procedural step on the agenda (turn 3). In the following turn, one of the parties casts doubt on the necessity of signing the confidentiality agreement “why is that necessary?” (turn 4). In response, the mediator attempts to reestablish this procedural starting point in turns 5, 7 and 9 by providing arguments in support of the procedural starting point’s acceptance. In other words, in turns 5, 7 and 9 the mediator provides argumentation for her standpoint presented in turn 3, which can be presented in argumentative terms as follows:

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<sup>49</sup> The focus group revealed that mediators can be rather directive when suggesting the inclusion of advisors who are not present in the mediation at the moment of the intervention, as it is important for the progress of the resolution process and the sustainability of the solutions that the parties are well informed.

<p>Standpoint: 1 I do think it is important that [they] co-sign the confidentiality agreement</p> <p>Arguments: Because ...</p> <p>1.1 ... the three of us have also agreed on secrecy and confidentiality</p> <p>1.2a ... they could start playing with the content again</p> <p>1.2b ... and then we are missing the whole point a bit</p> <p>1.2b.1a ... mediation is precisely the chance to brainstorm in confidence</p> <p>1.2b.1b ... and discuss options without immediately boom being held to it</p> <p>1.2b.1c ... and it also gives you the chance to explore further options</p> <p>1.2c ... it is very important that the confidentiality remains warranted in your process.</p>
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Figure 14. Argument structure 2: arguing for a signature

Interestingly, in the argumentation for the acceptance of the standpoint we see that most arguments explicitly refer to *mediation essential elements*, such as secrecy and confidentiality (1.1 and 1.2c), and the chance to freely brainstorm and explore further options without immediately committing to one (1.2b.1a, 1.2.1b, and 1.12.1c). Moreover, the mediator directly refers to the link between signing the confidentiality agreement and the *mediation essence* in 1.2b (“then we are missing the whole point a bit”), by which the mediator argues that not signing the confidentiality agreement would be going *against* the essence of the mediation itself, as the result would be that “we are missing the whole point” of mediation. The use of *mediation essential elements* in the argumentation for the acceptance of a standpoint, as is done in excerpt 9, is a strategic line of defense; the rejection of the standpoint would implicitly entail a rejection of mediation, as it would indicate an unfavorable *discussion attitude* (i.e. a lack of commitment to the essence of conflict mediation).

The support for the acceptance of a *specific procedural step in the mediation process* with the possible general effect of establishing a procedural starting point may also be more implicitly present than in excerpt 9, as shown in excerpt 10. Excerpt 10 shows a mediator’s attempt to establish the signing of a pre-mediation agreement (which includes a

confidentiality agreement) as an important next procedural step on the mediation agenda. Excerpt 10 is taken from the *intake part* at the beginning of the first session of the ‘church board versus sexton’ case (case no. 1; see section 3.3.1), which concerns a conflict between the sexton of a church community (B) and the newly appointed head of the board of the church community (C). In the excerpt provided below, the mediator emphasizes the *mediation essence* in support of the acceptance of the established procedural step to be put on the mediation agenda.

- 1 M And the intention should e:h be **that you are both also willing (.) to resolve it together.** (4.0) So yes the question is e:h (.) if you indeed want to revert to **that↑ because basically therefore therefore have we come together** (1.5) and **then I would like to sign a pre-mediation agreement** (.) that I have send heh↑ so (.) I’m just assuming that you have received it °heh°↑. (3.0) Yes I now see you nodding so that already looks somewhat more positive (hhh) (1.0) yes=
- 2 B =Yes
- 3 M °Yes° **shall we give it a go↑**
- 4 B Yes=

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Excerpt 10. *Arguing for specific procedural steps in the mediation process*

Excerpt 10 shows us multiple interesting things. Firstly, the mediator establishes the *mediation essential element* of commitment to the resolution process in “you are both also willing to resolve it together” (turn 1). Secondly, in terms of agenda setting the mediator states “then I would like to sign a pre-mediation agreement”. Although distinctly different from excerpt 9, here too, commitment to mediation essence is used in support of the agenda setting aim of getting parties to “sign a pre-mediation agreement”. Briefly put, “you are both also willing to resolve it together” and “because basically therefore have we come together” (turn 1) are used as a subordinate argumentative line of support for the standpoint present in “to sign a pre-mediation agreement”, which could be rephrased as ‘the pre-mediation agreement should be signed’:

<p>Standpoint: 1 the pre-mediation agreement should be signed</p> <p>Arguments: Because ...</p> <p>1.1 ... you are both willing to resolve it together</p> <p>1.1.1a ... we have come together to resolve it together</p> <p>(1.1.1b ... and signing the mediation agreement confirms willingness to resolve it together)<sup>50</sup></p>
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Figure 15. Argument structure 3: arguing for a signature on the confidentiality agreement

Here, the mediator sets the agenda by putting the signing of the pre-mediation agreement at the top of the mediation's to-do list. This is interesting as the pre-mediation agreement includes several mediation essential elements. By signing the pre-mediation agreement the parties explicitly (and formally) agree to commit to the *mediation essential elements*, such as the commitment to finding a mutually beneficial resolution together (see e.g. Schmiedel, 2013). In sum, mediators can, and often do, argue for the acceptance of different procedural steps to be taken in the mediation process, such as a caucus (see excerpt 8) or important formalities such as the signing of pre-mediation and/or confidentiality agreements (see excerpts 9 and 10), and do so without it explicitly threatening their presumption of neutrality. Mediation professionals generally argue for acceptance when they anticipate doubt or when one or more of the parties express direct doubt, by which mediators adopt the burden of proof for the acceptance in a meta discussion. In these meta discussions, the procedural starting point interventions with the local function of explicitly *setting the agenda* become the standpoint that can be argumentatively supported by mediators through pointing out the link between this standpoint and specific *mediation essential elements*. In doing so, mediation professionals are able to underpin the importance of the standpoint being accepted by all parties in the mediation. If accepted, the intervention with the local function of *setting the agenda* on

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<sup>50</sup> The argument is put in parentheses, as it is the premise that remains implicit in the argumentation presented by the mediator.

*specific procedural steps in the mediation* has the general effect of establishing a procedural starting point to be added to the parties' common ground as an explicit common starting point.

**4.6.2 Items for discussion.**

The local function of *setting the agenda* can also concern proposals on what will be discussed in upcoming argumentative discussions in the mediation. In other words, whereas the *specific procedural steps in the mediation process* (section 4.6.1) concern agenda setting interventions related to the procedure or resolution process, the *items for discussion* concern agenda setting interventions related to the content of the resolution process. As previously discussed, the argumentative discussions in mediation are generally on the problems that keep the parties divided, especially in the first half of the mediation circle (the exploration part), or on the *solutions* that will resolve the conflict in the second half of the mediation circle (the negotiation part) (see figure 16).

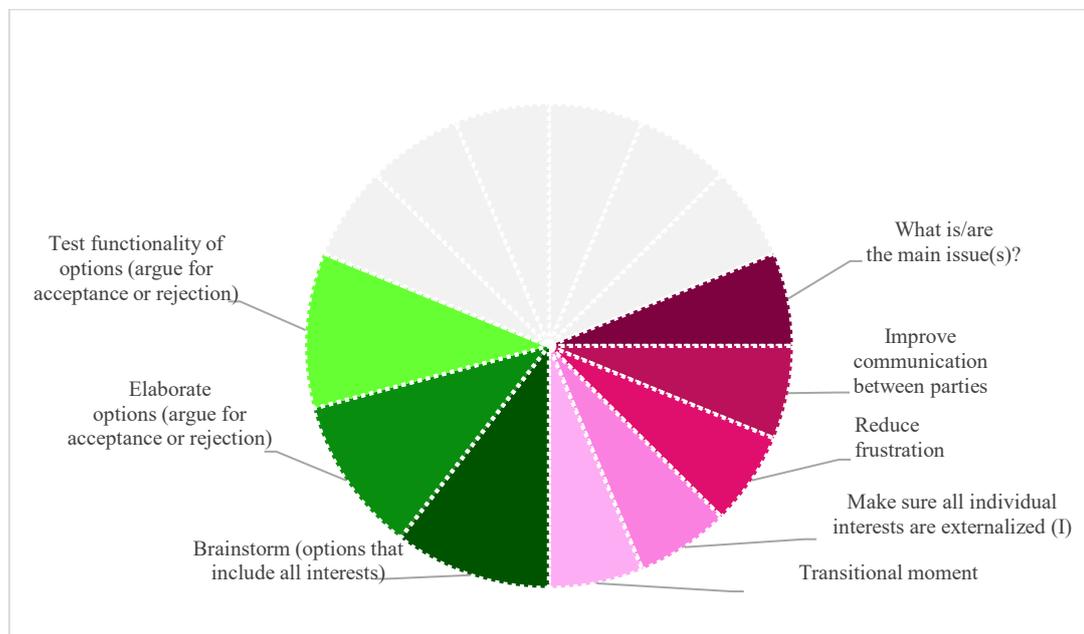


Figure 16. Communicative elements of the exploration and negotiation part

## COMMON GROUND IN CONFLICT MEDIATION

Interventions on *items for discussion* with the local function of *setting the agenda* are essential in the resolution process, with studies on conflict mediation often defining the act of *agenda setting* as determining the most relevant issues and the order in which they are discussed (see e.g. Moore, 2003, p. 232; Kelman, 2009, p. 76; see section 4.6) By determining the *items for discussion* mediation professionals are able to make explicit the specific affordances in terms of what can be discussed in the mediation and the order in which they are to be discussed, by which they can design space for discussions that are favorable for the resolution of the conflict. Through explicit agreements on discussion items, some of the most important rules on argumentative discussions in conflict mediation are specified. In conflicts, the selection of discussion items by the parties (guided by the mediator) is crucial, as these items are placed at the center of future differences of opinion that will be argumentatively tested in the mediation session. The agenda setting of discussion items on problems and solutions in particular is to be treated as important for the resolution of the conflict; it is the argumentative discussions on vital problems and the discussions of relevant solutions that can make a mediation successful in facilitating sustainable win-win resolutions.

Taken from the beginning of the second mediation session in the previously discussed ‘construction company versus calculator’ case (case no. 7; section 3.3.7) excerpt 11 shows the moment when the mediator attempts to set the agenda in terms of the issues to be discussed in the upcoming session based on the discussions in the previous session.<sup>51</sup>

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<sup>51</sup> The pre-mediation agreement and the general mediation rules have been established in the intake part in the first mediation session.

- 1 M.U Great that you are back (.) last time we made great leaps e:h really very good (.) **I would like to continue with you if you also think that right↑ to to to solve the issue further and it would be great if we can make (.) our agreements even more concrete than we that we can come to a deal (1.0) do you feel the same way about this↑**
- 2 P Mhm ((in agreement))
- 3 S Absolutely

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Excerpt 11. *Items for discussion*

Here, the mediator tries to set the agenda by stating the wish to continue where they left off in the previous mediation session in which “we made great leaps” (turn 1). The mediator continues on his wish for procedural continuation in terms of the *items for discussion* by elaborating that he would like “to solve the issue further and it would be great if we can make our agreements even more concrete than we that we can come to a deal” (turn 1). After establishing the continuation of the previous session as preferable for the resolution process, the mediator attempts to establish this wish as a *procedural starting points on the agenda setting* by eliciting explicit agreement with “do you feel the same way about it?” at the end of turn 1. This explicit agreement is important and related to the notion that there needs to be agreement amongst parties about their disagreement. In order for the disagreements to be addressed properly in the mediation session, the issues at the center of the disagreements that keep the parties divided need to be identified and established as issues for argumentative discussion; this search for “agreement on disagreement” is aided by the mediation professional (van Bijnen & Greco, 2018, p. 290). As can be seen in excerpt 11, mediators not only need to uncover the real issues in the conflict<sup>52</sup>, they need to establish the parties’ explicit agreement on the issues and set the agenda for them to be argumentatively discussed in current or future mediation sessions.

Although identifying the issues in a difference of opinion is central to the *confrontation stage* of the critical discussion in pragma-dialectics (see section 2.2.1 of chapter 2 for more

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<sup>52</sup> For more on the strategic function of *uncovering the real issues* in the mediation session see van Bijnen & Greco (2018).

on the critical discussion; e.g. van Eemeren, 2001, pp. 15-16), it is the *agreement* on the relevant issues in the resolution process to be discussed that we are concerned with in this dissertation. The interventions in which a mediator tries to elicit explicit *agreement on issues*, introduced as topics for upcoming discussions, could be seen as having the general effect of establishing procedural starting points on agenda setting. Although the interventions concern possible discussion items, which generally indicates the *confrontation stage* of the critical discussion (i.e. the definition of the parties' disagreement space (e.g. van Bijnen & Greco, 2018); see section 2.3.1), this intervention does not establish the disagreement space but rather the *agreement space* (see section 2.3.2). The interventions on *items for discussion* add procedural norm agreements to the common ground concerning affordances on what is to be discussed and in what order. As such, in this dissertation we consider these interventions part of the *opening stage* rather than the *confrontation stage*. The strategic link between common ground and disagreement can be further explained by examining excerpt 12 from the same 'construction company versus calculator' case as excerpt 11, however, excerpt 12 is taken from the first mediation session.

- 1 M.U (3.0) but I see that you **both** ehm (1.0) yes (.) are **willing** to think (.) about  
how we can find eh **common ground** here
- 2 S °mhm° ((approval))
- 3 M.U ehm (1.0) °eh° maybe it is good that you (.) ehm (.) th-that you take that  
home (.) eh **to think about that or (.) continue with that next time**↑(1.0)  
ehm (1.0) **it is important (1.0) very important element eh (.) of why  
you are here**↑ (.) °eh° **but there are also other (.) points that you  
introduced maybe we can choice one or two important ones from that  
°to continue with**°↑

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Excerpt 12. *Items for discussion*

Disagreement can be established against a backdrop of common ground in order to not solely emphasize that which keeps the parties apart (e.g. Greco Morasso, 2011, p. 168; van Bijnen & Greco, 2018, p. 288). In turn 1 from excerpt 12, the mediator establishes the

disagreement against a backdrop of common ground by referring to the parties' commitment to finding common ground. However, the mediator goes one step further by setting the agenda; by giving them 'homework' to "think about that" (turn 3) the mediator encourages parties to further explore their common ground in the next session. The mediator uses the parties' shared interest that "it is important (1.0) very important element eh (.) of why you are here" (turn 3) and their perceived shared willingness "to think about how we can find common ground" (turn 1) as argumentation in support of accepting their 'homework' regarding ways to find common ground as a necessary activity for the resolution process and the 'finding of common ground' as a central topic in the next mediation session on mutual solution (see argument structure 4 in figure 17).

<p>Standpoint:</p> <p>1 (As homework and topic for the next session) you should think about how we can find common ground ...</p> <p>Arguments:</p> <p>Because ...</p> <p>1.1a ... I see you are willing to think about how to find common ground</p> <p>1.1b ... It is a very important element of why you are here</p>
--

Figure 17. *Argument structure 4: arguing for homework*

After the mediator has duly emphasized the existence of common ground, their shared commitment to finding common ground, and the supposition that they are able to find more common ground by giving them 'homework', the mediator moves on to the business of *issues* ("there are also other points that you introduced") and sets the agenda for the discussions in the current mediation session (turn 3). The mediator invites the parties to pick "one or two" points raised during the mediation that they want to continue discussing. In other words, the mediator invites the parties to agree explicitly on the important issues that will serve as important items for discussion. When the parties agree on the topics to be addressed in (ideally) reasonable argumentative discussions, procedural starting points on *setting the agenda* (concerning *items for discussion*) are established, which are added to the common ground of the parties in conflict.

## COMMON GROUND IN CONFLICT MEDIATION

However, mediators do not merely set the agenda when it comes to the *problems*. In fact, mediators are able to more explicitly design interventions with the local function of *setting the agenda* concerning *solutions* as items for discussion (e.g. the details of a mutually favored proposed solution to be discussed), as can be seen in excerpt 13. Excerpt 13 is taken from the ‘charity manager versus employee’ case (case no. 2; section 3.3.2), at the end of the first mediation session (still in the *exploration part* of the mediation circle), which concerns a conflict between a manager at a charity organization (D) and an older employee who is unable to cope with the modernization changes the organization has made over the last couple of years (E).

- 1 D (1.0) Go go seek counsel (.) but I would very much like to with the mediator and with you if you need it (.) I I mean don't know anything about it either so I also have to bring someone. So, if you want to bring someone or how we do this I don't know precisely but I I really want to talk to you about (.) how and when and why and so on. Well not why (hh). How and when and under which conditions↑ eh eh are we going to end our collaboration↑
- 2 M (1.0) Okay=
- 3 E =Okay, yes, well
- 4 M **Is that↑ will that be the new topic of the mediation↑**
- 5 D Yes
- 6 E Without shutting the door on the other thing completely I am willing to look at it↓
- 7 M **Is something you could explore now↑**
- 8 E Yes I would like to explore (.) Yes that °I can agree with°

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Excerpt 13. *items for discussion*

In turn 4 from excerpt 13, the mediator tries to establish an item for discussion in the next mediation session, which is based on the contribution by (D) in turn 1. More specifically, the mediator directly tries to elicit explicit agreement on the central issues related to the

solution proposed in the intervention by (D) ‘the end of the collaboration’, in turn 1. In the response in turn 4, the mediator explicitly asks confirmation of the “new topic of the mediation”. After receiving confirmation from (D) in turn 5, and an indication of willingness to comply from (E) in turn 6 “Without shutting the door on the other thing completely I am willing to look at it”, the mediator moves to elicits agreement from (E) in turn 7 “Is something you could explore now?”. The procedural starting point on *setting the agenda* (concerning the subject *items for discussion*) is established by (E) in turn 8 “Yes I would like to explore. Yes that I can agree with”, through explicit party agreement.

The final example of section 4.6 shows both of the subjects that are common for interventions with the local function of agenda setting, namely “*items for discussion*” and “*specific procedural step in the mediation process*”. Excerpt 14 is taken from the ‘construction company versus calculator’ case and concerns a clear-cut transition into a new part of the mediation circle at the *transitional moment* (see section 4.4), moving from the *exploration part* to the *negotiation part*. In the *transitional moment*, which marks the explicit confirmation of the transformation of the parties (Greco Morasso, 2011) from (unreasonable) adversarial in the exploration part to reasonable discussants on solutions to the conflict in the negotiation part, it is the mediator’s duty to set the agenda for this next part in the mediation procedure.

- 1 M.V Okay (1.0) e:hm then I also actually want to ask you **both** (.) e:h **are you prepared to think of solutions** ↑ (.) eh **where you take into account** (.) **eh your own interests but also the interest of the other** ↓ (2.0) so the interests as we eh we have put them on the [flip
- 2 P  
[mhm
- 3 M.V over↑ (1.0) **in a bit we are also going to have a brainstorm on solutions**
- 4 S >yes that is also what I indicated with< when I say soft landing then that is (.) that I take into account the interests of ms.P=
- 5 M.V =you want to take into account
- 6 S °yes°

- 7 M.V O↑kay↓  
 8 S Of course also with the interests of the co:mpany  
 9 M.V **How is that for you**↑ ((addressing Ms. P))  
 10 P °yes°

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Excerpt 14. *Transitional moment*

In excerpt 14, the mediator introduces the first stage of the negotiation part (i.e. brainstorming solutions) by explicitly checking the commitment of the parties to elements important to the upcoming part in “then I also actually wanted to ask you both are you prepared to think of solutions where you take into account your interests but also the interests of the other, so the interests as we have put them on the flip over?” (turn 1). By introducing “in a bit we are also going to have a brainstorm on solutions” in turn 3 with a question on *commitment to what is at the essence* of mediation in turn 1 (i.e. commitment to finding mutually beneficial solutions), the mediator emphasizes the importance of the *discussion attitude to the setting of the agenda* for the negotiation part. When party (S) explicitly states his commitment by expressing willingness to take (P)’s interests into account (turn 4), the mediator immediately intervenes by repeating the commitment expressed “you want to take into account” (turn 5), which is confirmed by (S) in turn 6. After (S) explains he also wants the company’s interests to be taken into account (turn 8), the mediator elicits explicit agreement on the commitment by asking (P) “how is that for you?” in turn 9, in order to establish it as an explicitly accepted procedural starting point.

Excerpt 14 is another example of the notion that procedural starting points and material starting points, although distinct, are not strictly separated. In the analysis of excerpt 3 in section 4.4 we discussed how that what is added to the common ground is either a material starting point or a procedural starting point. However, what is shown in excerpt 14 is that an intervention can have the establishment of a material starting point as its *argumentative effect*, whilst the intervention in the mediation interaction may specifically concern something related to the mediation procedure. In other words, the local communicative function of the intervention is *procedural*, whilst the argumentative general effect of the intervention is the (re)establishment of a *material* starting point. In excerpt 14, the parties’

mutual commitment to including the interests of all parties relevant to the conflict means that these interests will serve not as issues at the center of the discussion on solutions but as *material starting points* on *shared interests* in the future discussions on solutions (see section 2.2.4 for the discussion *material starting points* on *shared interests*), whilst the agreement on the favorable *discussion attitude* itself serves as a *procedural starting point* that allows the mediator to set the agenda on brainstorming for solutions (turn 3). As such, mediation professionals' interventions could be inferred as having the explicit aim of solidifying the common ground between the parties by establishing an agreement on a material as well as a procedural level, i.e. on the *material starting point* concerning their *shared interests* and procedural starting points concerning their (reasonable) *discussion attitudes* and shared willingness to proceed to the next *procedural step in the mediation process* (i.e. brainstorming).

Finally, when analyzing the excerpts with the local function of *setting the agenda* in the corpus, a pattern became apparent. Namely, the procedural interventions with the local function of *setting the agenda* by mediation professionals show a typical structuring of 'establishing the procedural starting point' followed by an 'elicitation for explicit agreement on the procedural starting point' by the parties. When studying the elicited (preferred) responses by the parties to the *establish-elicite* interventions by mediators<sup>53</sup>, what is called an *adjacency pair* in the *conversation analysis* approach to social interactions (see e.g. Schegloff 1978, 2007; Schegloff & Sacks, 1973) was found to reoccur throughout the data. The sequence can be considered an adjacency pair as it is a typical conversational pair of utterances composed of at least two turns, spoken by different participants in the dialogue, with the turns being relatively ordered (see e.g.

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<sup>53</sup> Although the establishment of a procedural starting point preceding the elicit-agreement pair type could in some ways be seen as a standard '*pres*' in Schegloff's terms as they are "recurrent types of turns that are heard as prefiguring a particular possible type of turn next" (Schegloff, 1980, p. 114), the *procedural starting point establishing utterances* have, as established in this chapter (4), local functions of their own, and do not have the main goal of strategically setting up the next sequence of utterances, as for example 'may I ask you a question', which is a strategic primer for the 'question-answer' pair type (e.g. Beach & Dunning, 1982, pp. 170-172).

Schegloff, 2007, p. 13), i.e. sequentially they are different parts (Donohue, Sherry and Idzik, 2016, p. 377)). Adjacency pairs are categorized as *pair types* such as ‘greeting-greeting’, ‘question-answer’, and so on (Schegloff, 2007, pp. 13-14). As such, the combination of the intervention by the mediator and the agreement by the parties can be referred to as the ‘*establish-elicite-agreement*’ sequences with an argumentative function of getting explicit acceptance of a procedural starting point. Although mediation professionals do not use the sequence all the time, the reoccurrence in the data shows that mediators may choose to use an *establish-elicite-agreement* sequence for the local function of *setting the agenda* (for both *specific procedural steps in the mediation* and *items for discussion*). Especially in the case of *specific procedural steps in the mediation process*, the local function of *setting the agenda* is structured starting with an introduction of this local function by the mediator, after which the parties establish the ‘item on the agenda’ proposed by the mediator as a ‘to be accepted procedural starting point’. In all the interventions with the local function of *setting the agenda* that revealed the pattern, the mediator elicited explicit agreement from the parties in order to continue with the mediation process. In the sequences, the parties reciprocated with explicit agreement, whereby the *establish-elicite-agreement* sequence with the argumentative function of establishing a procedural starting point is formed. In the previously discussed excerpts in this dissertation, various examples of this sequence may be found. In excerpt 8, the mediator *establishes* the procedural starting point on initiating caucuses in turn 1, and then *elicits agreement* in turn 3 “is that a good approach?”. In excerpt 10 the mediator *establishes* the procedural starting point on the signing of a pre-mediation agreement in turn 1, and then *elicits agreement* with the question “yes shall we give it a go?” in turn 3. In turn 1 from excerpt 11 the mediator *establishes* the procedural starting point on issues for the discussion, and then *elicits agreement* by asking “do you feel the same way about it?”. In excerpt 13 the mediator *establishes* the termination of the collaboration and the conditions under which this will happen as the new subject to be discussed in the mediation, for which the mediator *elicits agreement* in turn 4 with “will that be the new topic of the mediation?”. Lastly, in excerpt 14 the mediator *establishes* a procedural starting point on the need for a favorable discussion attitude before continuing to the next

mediation part, and then *elicits agreement* with “how is that for you?” in turn 3. Table 25 below presents an overview of the *elicit-agreement* sequences found in the excerpts included section 4.6.

Excerpt number	Establishment (by the mediator)	Elicitation (by the mediator)	Agreement (by the parties)
Excerpt 8	The initiation of caucuses (turn 1)	Turn 1: ‘would it be useful if I briefly talk to you separately?’ Turn 3: ‘Is that a good approach?’	Turn 2: ‘I would really like that actually’ Turn 4: ‘I just don’t know why you would like to talk to her first per se, but you know I don’t care’
Excerpt 10	Signing the pre-mediation agreement (turn 1)	Turn 1: ‘the question is if you indeed want to revert to that?’ Turn 3: ‘Yes shall we give it a go?’	Turn 2: ‘yes’ Turn 4: ‘yes’
Excerpt 11	The items for discussion (turn 1)	Turn 1: ‘do you feel the same way about it?’	Turn 2: ‘mhm ((in agreement))’ Turn 3: ‘absolutely’
Excerpt 13	The items for discussion (turn 1)	Turn 4: ‘will that be the new topic of the mediation?’	Turn 5: ‘yes’ Turn 6: ‘without shutting the door on the other thing completely I am willing to look at it’
Excerpt 14	The need for a favorable discussion attitude before continuing to the next mediation part (turn 1)	Turn 1: ‘are you prepared to think of solution where you take into account your own interests but also the interests of the other?’ Turn 5: ‘you want to take into account?’	Turn 6: ‘yes’ Turn 7: ‘okay’

Specifically, the corpus of transcribed mediation interactions showed that the *establish-elicitation-agreement* sequence is an adjacency pair with an argumentative function, as it

requires a preferred response: *explicit acceptance of a procedural starting point on setting the agenda*. When the question posed in the intervention with the elicitation is met with a favorable answer from the parties the pair type of *elicit-agreement* is completed and the procedural starting point established by the mediator is added to common ground of the parties as a mutually accepted norm that was explicitly accepted by the disputants.

### **4.7 Further Discussion on Procedural Starting Point (Re)Establishment**

After concluding the empirical study on procedural starting points interventions that broaden and strengthen the common ground between the parties for reasonable argumentative discussions on problems and solutions to take place, some further findings on procedural starting point (re)establishment are presented in section 4.7. These results are not specific to one local function; rather they concern more general findings on procedural starting point (re)establishment that were found in the corpus and in the reflections offered by the participants of the focus group. Specifically, section 4.7.1 presents the linguistic strategy of emphasizing *togetherness* and *sharedness* when (re)establishing procedural starting points, and section 4.7.2 discusses some notes on the order of procedural norms in pragma-dialectics (see section 2.3.3; table 6).

#### ***4.7.1 Emphasizing togetherness and sharedness.***

Throughout chapter 4, excerpts were included that illustrate different empirically found local functions in the corpus with the general effect of (re)establishing procedural starting points, by which the mediator is able to design mediation interactions with sufficient common ground for argumentative discussions on relevant issues and possible solutions. Besides the many differences between the various local functions, as discussed in chapter 4, we are also able to discern a linguistic pattern in the procedural starting point interventions. Namely, the included excerpts show that mediators emphasize '*togetherness*' or '*agreement*' in their formulation of the interventions. The reason for this may be to encourage reasonable *discussion attitudes to mediation essential* elements, which gives strength to the general effect of (re)establishing a common starting point between parties. In the formulations of interventions that emphasize this sense of

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*togetherness*, mediators seem to favor the inclusion of words such as *both* (excerpts 1, 2, 3, 9, 10, 12, and 14), *we* (excerpts 1, 2, 3, 4, 5), or *together* (excerpts 1, 8, 10). To illustrate how these formulations may serve a strategic function in supporting the general effect of (re)establishing procedural starting points, we must take another look at excerpts 1 (previously included in section 4.4) and 10 (previously included in section 4.6.1) taken from the ‘church board versus sexton’ case (case no. 1; section 3.3.1).

- 1 M Is that okay↑ °Because° we can also keep it formal. I am ((first name mediator)) >what do you say↑<
- 2 B °Eh (.) yeah° it is not customary in our [church but
- 3 C [( )]
- 4 M No↑ well then we just keep it as it feels most comfortable for you.
- 5 C (.) normally (.) we do not address each other with the informal T-form either [so that (.)
- 6 M [No (.) fine (.) Then that is (.) eh (3.0) a better way to communicate with each other
- 7 B Mmm
- 8 M Otherwise, it would only become uncomfortable (.) and that is exactly what should not happen (2.0) e::h Ms. B, I see that you immediately moved your chair to the side a bit is it okay for you to move closer to me again↑ That way **we** all (2.0) sit **to(hhh:)gether**, a bit. E::h **together** (2.0) you have been willing to e:h come **together** in mediation↑ a:nd **we**’ve already briefly talked about it over the phone (.) about the conditions. And eh **both of** you know that it is voluntary and everything **we** discuss is confidential↑ a:nd this voluntary aspect may be good to briefly discuss (.) because eh may I assume that **you are both** here with the intention (.) of solving an issue **together**↑

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Excerpt 1. *Getting party commitment to the mediation essence*

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The repetition of *together* and *both* in excerpt 1 indicates that the inclusion of these words has a strategic function; the words call to mind the notion of *togetherness*, which is connected to the *mediation essential element* ‘to resolve their conflict together’ (i.e. a favorable discussion attitude) (see section 4.4). In terms of the use of *we*, the following should be noted; since all parties, including mediators, are participants in the mediation procedures, mediators may explicitly present themselves as participants in certain circumstances. Although parties and mediators have different roles in conflict mediation, with parties as argumentative discussants on problems and solutions, and mediators as procedural guides responsible for the design of the mediation interactions, in some interventions on procedure mediators are able to use the pronoun *we* strategically in support of the general effect of (re)establishing a common starting point. It is, however, important that the conflict and the solution(s) remain exclusively the domain of the parties. In short, the mediator is a participant in the mediation process, but cannot become an active participant in the argumentative discussions for the resolution of the conflict between the parties. The line between when mediators can use *we* to strategically emphasize *togetherness* and when this may become problematic is illustrated by means of excerpt 10.

- 1 M And the intention should e:h be that **you are both** also willing (.) to resolve it **together** (4.0) So yes the question is e:h (.) if you indeed want to revert to that↑ because basically therefore **therefore have we come together** (1.5) and then I would like to sign a pre-mediation agreement (.) that I have send heh↑ so (.) I’m just assuming that you have received it °heh°↑. (3.0) Yes I now see you nodding so that already looks somewhat more positive (hhh) (1.0) yes=  
2 B =Yes  
3 M °Yes° shall we give it a go↑  
4 B Yes=

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Excerpt 10. *Arguing for process specific procedural steps in the mediation process*

In excerpt 10, the mediator uses *both* and *together* to emphasize togetherness in support of the intervention’s possible general effect of establishing a procedural starting point.

Interestingly, in the mediator's formulation of the intervention he states, "therefore have *we* come together". By stating *we* rather than *you* the mediator includes himself as a *participating party* in the resolution process (including the argumentative discussions on problems and solutions) instead of the parties' procedural guide (see van Bijnen et al., 2019). Although *we* indeed underlines *the mediation essential element of resolving the conflict together*, the utterance "therefore we have come together" seems to refer to the parties' willingness to resolve it together, as presented earlier in the intervention. As the resolution of the conflict is the domain of the parties alone, the possible ambiguity created by using *we* seemingly goes against the importance of emphasizing it is the parties' conflict and a mediator's aim to maintain perceived neutrality in a conflict where he/she cannot be an active participant (see van Bijnen & Greco, 2018, pp. 300-304). As the intervention in turn 1 takes place at the beginning of the first mediation session in the *intake part* when the mediation procedure is explained and the mediator's role is introduced (see section 4.4), the use of *we* may lead the parties to believe that the mediator is or can become an active participant in their argumentative discussions on problems and solutions, which may turn into a (serious) neutrality issue.

### ***4.7.2 Notes on the orders of procedural norms in pragma-dialectics.***

Rather than being related to the ten rules of critical discussion in pragma-dialectics (see section 2.2.1 for more on the rules of the *critical discussion*), the examples of procedural starting points shown here generally concern shared norms and agreements specifically related to the mediation procedure as a whole (e.g. *discussing procedural starting points* in section 4.5), specific relevant elements of the mediation procedure or process (e.g. *specific procedural steps in the mediation process* in section 4.6.1), or both (e.g. *getting party commitment to the mediation essence* in section 4.4). The procedural starting points are constructed by mediators to facilitate the necessary reasonable argumentative discussions on relevant problems (in the *exploration part*) and the necessary reasonable argumentative discussions on relevant solutions (in the *negotiation part*) that will make sustainable win-win resolutions more feasible. If we relate this chapter to the three orders of procedural starting points identified in pragma-dialectics (see table 6 in section 2.2.3),

this chapter has presented various observations which show that most of the procedural starting points discussed in this dissertation concern *all* three of the orders. More specifically, besides the more commonly studied *first order* concerning “*the discussion rules*” (van Eemeren, 2015, p. 219), chapter 4 illustrates the ways in which mediators may construct complex procedural starting point interventions that can be related to the *second order* “the internal characteristics for a reasonable discussion attitude”, and *third order* procedural starting points concerning “the external requirements of the discussion context” (van Eemeren, 2015, p. 219). Although the orders of procedural starting points are not the same as the local functions that can be identified for interventions with the possible effect of (re)establishing a procedural starting point, they can be related. For example, the discussed local function of *getting party commitment to the mediation essence*, and specifically the *discussion attitude on mediation essential elements* (section 4.4), could be considered as belonging to the *second order* (internal characteristics for a reasonable discussion attitude), whilst the local function of *procedural starting point discussions* can be seen as an example of *third order* procedural starting points, as it concerns external requirements of the discussion context.<sup>54</sup>

### **4.8 Conclusions on Procedural Starting Point (Re)Establishment**

The procedural starting points concern procedure; as such, the analyses presented in chapter 4 were elucidated using the *mediation circle*, which represents the sequential structuring of the mediation resolution procedure and the procedural norm orders (see the introduction to chapter 4). Below the general findings of chapter 4 are briefly summarized (for the final remarks on the empirical studies of common starting points see section 5.8). Chapter 4 discussed some interesting findings of the empirically identified local functions (3) *getting party commitment to the mediation essence* (section 4.4), (4) *discussing procedural starting points* (section 4.5), and (5) *setting the agenda* (section 4.6).

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<sup>54</sup> Although not discussed in this dissertation, the local function of *establishing communication rules* could most clearly be sorted under the *first order* of procedural starting points (the discussion rules).

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For the local function *getting party commitment to the mediation essence* the importance of the *transitional moment* became apparent when mediators made the shared commitment to the mediation essence as a resolution favorable *discussion attitude* for the (re)establishment of procedural starting points explicit. Interestingly, as discussed in section 4.4, the procedural local function could have the general effect of establishing a material starting point instead of a procedural starting point. This underlines the idea that although distinct, procedural starting points and material starting points are not strictly separated. Section 4.4 showed that mediation essence is related to a shared belief on an essential mediation element whereby the procedural local function of *getting to the mediation essence* could have the general effect of establishing a material starting point. Although the mediator is shown to have the freedom to establish and reestablish resolution preferable procedural starting points with relative ease as part of their procedural power, parties are able to make adjustments to specific procedural standards (i.e. concerning *confidentiality*) as long as the adjustments remain within the limits of what the mediation procedure formally allows and they are agreed on by both parties as an explicitly shared procedural starting point (see section 4.5). These interventions with the local function of *discussing procedural starting points* and the general effect of (re)establishing a procedural starting point are generally introduced in two steps (1) *introduction of procedural starting point discussions as an option*, and (2) *procedural starting point discussions*. The last local function discussed is *setting the agenda*, which was shown to either concern *specific procedural steps in the mediation process* or *items for discussion*. The mediator can set the agenda on specific procedural steps in the mediation process that are more standardized in the mediation circle, such as the brainstorm session, before the commencement of the part in which it takes place. The agenda for an emergent procedural step such as *caucuses* can be set when deemed necessary by the mediator, for example in cases of impasses. Due to their power as procedural guides, mediation professionals are able to argue for the acceptance of items on the agenda without jeopardizing their ideally neutral position (see section 4.6.1). The agenda setting concerning *items for discussion* (see section 4.6.2) can be presented in an intervention by the mediator at any moment in the mediation process, revealing a sequential pattern: the *establish-elicite-confirm sequence*

as a typical structuring of interventions with this local function. The structure goes as follows: (1) a mediator presents the agenda item to be established as a procedural starting point, (2) the mediator then asks for explicit agreement, and (3) parties confirm the procedural starting point by which it is explicitly reestablished.

Furthermore, chapter 4 confirmed the assumption presented in chapter 2 that the mediator establishes and reestablishes procedural starting points that could be linked to all three of the *orders of procedural norms* – the procedural rules, the discussion attitude needed for reasonable argumentative discussions, and the external requirements of the argumentative discussion context such as procedural starting point discussions – presented in pragma-dialectics (see table 6 in section 2.2.3). Additionally, when constructing interventions with any local function that has the general effect of (re)establishing a procedural starting point, mediators may emphasize the *sharedness* or *togetherness* to make explicit that the procedural norm is indeed *shared* by the disputants as a procedural starting point in the common ground of the parties.

Chapter 4 adds to the study of mediators as the *designers* of mediation interactions that accommodate reasonable argumentative discussions (see e.g. Aakhus, 2003, 2007; Greco, 2018; Vasilyeva, 2015) on the problems that keep the parties divided (in the exploration part) and the solutions that solve their conflict (in the negotiation part). This chapter specifically showed the importance and the options available for mediator professionals to broaden and strengthen *agreement space* (e.g. van Eemeren et al., 2014, p. 556). Previous studies on argumentation in mediation have stated the importance of a well-defined opening stage (see e.g. Greco Morasso, 2011, p. 239, 248); through extensive discussions of various excerpts with the general effect of (re)establishing procedural starting points, chapter 4 aimed to show *how* mediation professionals design an interaction that may support a fruitful argumentation stage by designing a solid opening stage with explicit agreements on procedural starting points. The interventions with the procedural local functions discussed in this chapter show how mediators' options (A) clearly define the procedural norms for the mediation interaction in general and the argumentative discussions in the resolution process, and (B) (re)establish explicit agreement on how the

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resolution process is to be conducted by both parties, which strengthens the parties' common ground as well as aiding their *transformation* into reasonable argumentative discussants.

## **Chapter 5. Empirical Results: (Re)establishing Material Starting Points**

As argumentative discussions require both sufficient procedural starting points and material starting points, chapter 5 will be concerned with interventions with the general effect of (re)establishing a material starting point, whereby it constitutes the other half of the empirical endeavor in this dissertation. Together with chapter 4 on interventions with the general effect of (re)establishing procedural starting points, this chapter will form the empirical study on common starting points in conflict mediation. At the end of chapter 5 (section 5.8) the final remarks on chapter 4 and 5 will be presented.

As the first half of the study on *how workplace mediation professionals construct common starting point interventions*, chapter 4 presented discussion on interventions with the general effect of (re)establishing procedural starting points according to the empirically identified local functions that these interventions may have in the mediation interaction. Similar to the empirical study of procedural starting points in chapter 4, in chapter 5 the analyses of interventions with the general effect of (re)establishing material starting points are presented according to their local communicative functions, as inferred from our corpus. In this chapter, the material starting points are understood following the *material premises* of material starting points in pragma-dialectics, which may be summarized as the following categories: *facts or truths, suppositions, values, and value hierarchies* (e.g. van Eemeren, 1992; van Eemeren et al., 2014; see section 2.3.5). Table 26 presents the material premise types discussed in pragma-dialectics, as previously presented in table 7 in section 2.3.5. The labels and the descriptions of the material premise types are used in the analyses for the study of material starting point (re)establishment.

Table 26

*Adjusted categorization of material premise types*

Label	Description
facts / truths	Both <i>facts</i> , such as “ <i>Yerevan is the capital of Armenia</i> ” (van Eemeren & Grootendorst, 1992, p. 149), and <i>truths</i> , such as “ <i>influenza is caused by a virus</i> ” (van Eemeren & Grootendorst, 1992, p. 149), concern premises about reality that are accepted by all rational beings, whereby they do not need any justification and are not subject to any discussion (van Eemeren et al., 2014, p. 267).
suppositions	A belief held without conclusive proof or certainty, for example: “ <i>Pjotr’s doubtless taken an early retirement now, for sure</i> ” (van Eemeren & Grootendorst, 1992, p. 149). It is a statement about normal of usual courses of events, where there is an implicit expectation that there will be confirmation of the supposition/presumption at some point (van Eemeren et al., 2014, p. 267).
values	Relates to beliefs held by people, for example “ <i>incest is sinful</i> ” (van Eemeren & Grootendorst, 1992, p. 149). They serve as “guidelines” according to which people make choices or on base their opinions (van Eemeren et al., 2014, p. 268).
value hierarchies	A person can <i>value</i> an action, thing, or condition over another, for example: “ <i>creativity is more important than knowledge</i> ” (van Eemeren & Grootendorst, 1992, p. 149).

The results presented in this chapter show how mediators construct interventions on these material premises, and how the findings add to the list of material premises previously identified in pragma-dialectics. The final discussion on the material premise types in conflict mediation in section 5.6.2 includes the final list of material premises found in the mediation interactions studied for this dissertation (see table 32).

## 5.1 Establishing Material Starting Points: Local Functions

Similar to the study on procedural starting points conducted for chapter 4, in chapter 5 the corpus of transcribed conflict mediation interactions was analyzed for interventions with the general effect of (re)establishing a material starting point. Of the material starting point interventions that were found the communicative *local functions* were identified and analyzed for a better understanding of how mediators design mediation interactions with sufficient explicit material starting points for reasonable argumentative discussions to take place. In short, in chapter 5 we will analyze the material starting point interventions in conflict mediation by workplace mediation professionals based on the various local functions empirically identified in the corpus. In addition, this chapter discusses how the various local functions may help fulfill one of the two essential reasons for material starting point (re)establishment in conflict mediation: (1) parties' needs to be heard and seen, and (2) parties' beliefs in the feasibility of a reasonable and sustainable win-win resolution. Lastly, the chapter underlines the categories of material premises that the material starting point interventions in the included excerpts present.

In general, mediators can construct interventions with the general effect of explicitly establishing or reestablishing material starting points concerning shared facts or truths, suppositions or presumptions, values, and value hierarchies, for two main essential reasons: (1) *the parties' need to be heard* (e.g. Kaufman & Raphael, 1983, p.ix), and (2) *the parties' need to know that a resolution is feasible* (van Bijnen & Greco, 2018, p. 24). The former can be said to be linked to the parties' emotional need to feel heard and understood, for which explicit expressions of a shared emotional state or the shared acceptance of a party's emotional state is required. In terms of the latter, parties need to know that they have enough in common for reasonable argumentative discussions on problems and win-win solutions to be feasible.

As explained in section 4.2, the local functions concern interventions with a specific *communicative goal*, which have a general effect that is *argumentative* in nature; i.e. the design of conflict mediation with a well-designed *opening stage* that accommodates reasonable argumentative discussions (see section 2.3.1 and 2.3.2). In chapter 5,

specifically, we are concerned with the material starting points that are established or reestablished by mediation professionals as an effect of their interventions, which perform a specific communicative function (i.e. local functions) in the design of conflict mediation interactions. The study of the local functions is interesting for the study of argumentation in conflict mediation because it helps us empirically analyze the interventions that provide the disputants with the explicitly shared material premises that serve as a basis for solutions and the argumentative justification during the exploration and negotiation part. Additionally, it helps us explain how hostile disputants can transform into reasonable discussants, which is a necessity for sustainable and mutually acceptable resolutions of conflicts (see Greco Morasso, 2008, pp. 550-553, 2011, pp. 93-97; section 2.1.2).

For the interventions in the corpus with the argumentative *general effect* of establishing or reestablishing material starting points, the following four main *local functions* were identified. When analyzing the interventions that (re)establish material starting points, interventions with local functions 3 and 4 were found to concern one of two local function specific subjects. Specifically, interventions with local function 3) concern either (A) sufficient information or (B) a shared history, and interventions with local function 4 concern either (A) shared feelings or (B) shared interests (see table 27).<sup>55</sup>

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<sup>55</sup> As is the case with the local functions identified for the procedural starting points, the list presented below is not a complete list. Rather, it should be treated as an indication of possible local that can establish or reestablish material starting points, based on the corpus used for the empirical analyses in this doctoral dissertation.

Table 27

*Local functions of material starting point interventions*

Local Function	Subject matters of interventions with this local function
(1) Getting understanding	
(2) Emphasizing good intentions	
(3) Requesting case and context information	(A) Sufficient information (B) Shared history
(4) Fortifying the common ground	(A) Shared feelings (B) Shared interests

Sections 5.2-5.5 present the results of the analyses of the four local functions with the general effect of material starting point (re)establishment, using fourteen excerpts as illustrative examples. Specifically, in section 5.2 the local function of *getting understanding* of one party for another party will be presented; in section 5.3 the importance of interventions with the local function of *emphasizing good intentions* is discussed; section 5.4 presents a detailed discussion regarding the local function of *requesting case and context information*; and finally in section 5.5 the local function of explicitly *fortifying common ground* is discussed. In addition, section 5.6 presents relevant results of the empirical study on material starting points that are not specific to one of the four identified local functions, such as the role of presuppositions in the (re)establishment of material starting points (section 5.6.1) and proposed adjustments to the list of material premise types in pragma-dialectics (section 5.6.2). Finally, in section 5.7 some further remarks on the (re)establishment of material starting points will be presented, before section 5.8 presents the final discussion and conclusions of the empirical study of common starting point (re)establishment in conflict mediation.

## **5.2 Local Function: Getting Understanding**

The first local function found in the corpus with the possible general effect of establishing or reestablishing a material starting point is labeled as *getting understanding*; with these

interventions mediators set out to elicit ‘understanding of one party for another party in the conflict’. In other words, in this section we refer to the understanding that one party expresses for the feelings or situation of another party in the conflict. Note that in section 5.2 we are not referring to *shared feelings*, which is a common subject of interventions with the local function of *fortifying the common ground* discussed in section 5.5.1. Thus, what is in fact established by interventions with the local function of *getting understanding* is not a shared feeling but the notion that *party (X)’s feeling(s) (Y) is/are understandable/legitimate*. Due to the emphasis on *legitimation*, in some sense the local function label description ‘*get understanding of one party for another*’ could be reformulated as ‘*have one party legitimize the concerns of another*’. The mediation professionals in the focus group noted that in workplace conflicts with an institutionalized power asymmetry between the parties (e.g. conflicts between managers and employees), as is true for most cases in our corpus, the subordinates need acknowledgement and recognition from their superior. In general, the (re)establishment of understanding of one party for another can be mainly expected as a subordinate’s need for understanding from the more organizationally powerful party in the conflict. In fact, this perceived lack of understanding can be an important problem that needs to be addressed for the reasonable resolution of a conflict and the transformation of the parties to reasonable discussants to take place.

*Empathy*, or the ability to put yourself in the internal frame of reference of another and experience something as if they were that person (Rogers, 1961, pp. 140-141) is especially important in facilitative mediation (see section 2.1) where empathy is pushed to the foreground as a value (e.g. Vindeløv, 2012, p. 95) in the need for ‘recognition’ (i.e. the need to be seen or heard by relevant others through expressions of *understanding*). Even when the superior is unable to *empathize*, sincere expressions of sympathy, i.e. the capacity to feel concern for the experiences of another, such as pity or compassion (Maibom, 2009, p. 483), can still make subordinates feel seen and heard. Interventions with the local function of *getting understanding* can thus encourage parties to experience the other’s feelings, thoughts etc. and “see the world through their experiences” (Cloke, 2001, p.26), which helps parties transform their *discussion attitudes* (see section 4.4).

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Understanding helps parties separate the people from the problem (Cloke, 2001, p.26; for more on ‘separating people from the problem’ see Patton, Ury, & Fisher, 2011), whereby the parties and the mediation interaction are more easily transformed from hostile to reasonable.

Mutual understanding, especially in terms of emotions, is important in conflicts at deadlock because it allows the parties to feel heard and seen, which, as stated in the introduction to chapter 5, is one of the main reasons for mediators to try to (re)establish material starting points. This need to be seen and heard can be found in excerpt 15 below, which is taken from the ‘church board versus sexton’ case (case no. 1; section 3.3.1), which features a conflict between a sexton in a small church community in the Netherlands (B) and the newly installed church board (C) over salary payments and expenditure insight. The excerpt presents a section from the *exploration part* where the problems at the center of the conflict are revealed and mutual frustration between the parties is reduced (see the *mediation circle* in section 2.1).

- 1 M **However what I did want to ask you, this morning B explained what she does right↑ for the church and for how long, and in what manner and e::h what is your view on this↑ On her eh effort↑**
- 2 C Well eh from what I have heard positive, and from what I experienced myself as well. She ( ). E::h (2.0) with regard to her functioning as as sexton/verger↑, I never hear any complaints about that. Everything is going the way it should (.) e:h the problem is mainly the community center. That th- th- th- e::h we are not out to e:h (2.0) get RID of ms. B or something. It it it just e::h want things to be done more like we want them to be done.

---

Excerpt 15. *Getting understanding*

As can be seen from turn 1 in excerpt 15, the mediator sensed the need for (B) to get understanding from (C) for her situation. In this intervention, the mediator closes by asking (C) an open question “what is your view on this, on her effort?” that could be seen as a circular question, which is a known intervention technique that “invites respondents to put

themselves momentarily in the position of the other party” (Whatling, 2012, p. 88). As a communicative strategy, posing an open circular question such as the one presented in this intervention could be seen as possibly problematic because the question gives (C) a lot of room to provide a dispreferred response (e.g. ‘my view is that she doesn’t work hard enough’ or simply ‘I think she is bad at her job’) that might heighten hostilities. Simply put, were (C) to give a dispreferred response, not only will an important need of one of the parties not be met (i.e. to be understood), the disagreement space will be broadened as (C) would explicitly establish an important division between the parties rather than agreement. Arguably to reduce this risk, the mediator hedges the question by restating (B)’s presentation of her job description and job history. In doing so, the question related to (B)’s effort is set up in a way that, although formulated as an open question, through its framing calls for a specific response in which (C) takes a favorable and accommodating attitude regarding (B)’s effort. In other words, the mediator’s intervention gives (C) more room to respond in his own words and yet the introduction on (B)’s efforts implicitly restricts the contribution of (C) by hinting at a preferred response that would have the general effect of establishing a material starting point on understanding (‘due to her efforts, (B)’s feelings are understandable’). In the corpus we can find various examples of subordinates expressing a seemingly inherent need for their feelings to be legitimated by the superiors they are in conflict with. In the interventions by mediation professionals the legitimation of feelings can be supported by the effort the subordinate party puts in at work, whereby the following pattern becomes apparent (see argument structure 5 in figure 18).

<p>Implicit standpoint:                  (1 party (X)’s feelings (Y) are understandable/legitimate)                  Argument:                  Because...                  1.1 ...because party (X) has put in hard work and dedication</p>
--

*Figure 18.* Argument structure 5: pattern formulae for acknowledging feelings as legitimate

Thus, the implicit standpoint that fits the formula *party (X)'s feelings (Y) are understandable/legitimate* is added to the parties common ground as a material starting point if it is successfully supported by the argument *because party (X) has put in hard work and dedication* (or effort as is presented in excerpt 15). A clearer example that further illustrates this notion is taken from the same ‘church board versus sexton’ case (case no. 1; section 3.3.1). Excerpt 16 shows an interaction between the head of the church board (C) and the mediator that occurred a few moments after excerpt 15.

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1	M	<b>[The church is responsible, the board is responsible, but B may feel responsible as well considering (.) the effort she has put in all those long years↑.</b>
2	C	Yes but then she has to (.) take responsibility as well, and also hold herself responsible.

---

Excerpt 16. *Getting understanding*

In excerpt 16, the mediator does not ask (C) an open question in which a preferred response is hinted at, as is done in excerpt 15. Instead the mediator explicitly specifies the nature of the preferred agreement: the notion that (B)’s feelings of *responsibility* are valid. This agreement on *responsibility* is emphasized as the concept is repeated three times in the same intervention. The specific local function of the intervention can be inferred to be ‘*getting understanding* from one party for another’, specifically the understanding that (B) may feel responsible too because of the effort she has put in over the years. Thus, for the legitimation of (B)’s feelings of responsibility, the understanding of (C) for these feelings is required; to get an explicit expression of understanding from (C) the mediator provides ‘B may feel responsible as well considering the effort she has put in all those years’ as support. In other words, the mediator’s intervention in turn 2 presents *party B’s feelings of responsibility are legitimate/understandable* (standpoint) *because party B has put in hard work and dedication* (argument). When (C) provides understanding in turn 2, the standpoint is accepted, by which it becomes a material starting point that is added to the common ground of the parties. Interestingly, although the mediator’s intervention is

presented as a question<sup>56</sup> the intervention itself is a statement rather than a question to which (C) is invited to express agreement. Rather than at (B), the intervention is directed at (C), by which (C)'s acceptance in turn 2 could be seen as the explicit reestablishment of a material starting point the mediator sensed to be implicitly present.

As shown in chapter 4, we can refer to *reestablishment* of a common starting point when a previously established starting point is challenged or questioned (see section 4.1). However, in case of material starting points it becomes clear that we may more accurately refer to reestablishment when a mediator *reformulates* a party's contribution with a material starting point – i.e. restates the content (substantive) of party contributions back to them in different words (e.g. Moore, 2014, p. 257) – in a manner that makes the material starting point explicit or emphasizes its existence. In other words, the reestablishing intervention constructed by the mediation professional either makes an implicitly introduced material starting point explicit as a common starting point or emphasizes an already explicit material starting point. How mediators may construct interventions that *reestablish* a material starting point on understanding is further discussed using excerpt 17. Excerpt 17 is taken from the 'Museum foundation versus marketing manager' case (case no. 5; section 3.3.5) in which the former marketing manager (C) needs *understanding* from the director of the museum foundation (R). This conflict escalated from a dispute into a conflict because (R) very publicly demoted (C) during a foundation event, which left the former marketing manager at the museum foundation (C) feeling undervalued and unappreciated by her boss (R).

- 1 R =yes eh yes I am sorry about that then. Especially when I see everything that is happening now
- 2 M **mhm. So you are really saying (1.0) e:hm (.) hindsight (.) right↑ if I could have done these things eh planned it differently then you may would have done it differently↓**

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<sup>56</sup> The rising intonation at the end of the utterance indicates this is a question.

- 3 R (.) Yes. Yes. Yes. (1.0) ( ). We are where we are and I I hope that C  
also with (.) e::h with yes with a focus on the future
- 4 M °good° (.) e:hm (2.0) **I see that now you are at a point really that you eh  
(.) have expressed some sort of understanding to each other. E:hm=**
- 5 C =°( ). When R. something like that then I think yes° (.) you know I  
don't want to be a cry baby I surely want to be brave I also just w[ant
- 6 R [yes you  
also always been very brave and=
- 7 C = I I for a second broke

---

Excerpt 17. *Getting understanding*

In excerpt 17 the main issue has emerged as the loss of face suffered by (C) as a result of the public demotion. Her loss of face is not just due to her drop in rank but also due to the fact that the announcement of her demotion was made public at an event to celebrate the reorganization of the museum, where all her colleagues, including the employees who worked under her, were present. Using turn 1, in which (R) apologizes for what has transpired between him and (C), the mediator takes the opportunity to elicit explicit understanding from (R) for (C) in turn 2 with ‘in hindsight, if you could have done it differently then you may would have done it differently’. With this intervention in turn 2 the mediator invites (R) to explicitly agree or disagree with this statement. By agreeing, as (R) does in turn 3 with “Yes. Yes. Yes.”, a material starting point is established. After the establishment of the material starting point in turn 3, the mediator moves to *reestablish* the mutual expressions of understanding by the parties as an explicit common starting point in turn 4 “good, I see that now you are at a point really that you have expressed some sort of understanding to each other”. By means of this reestablishment the mediator reaffirms the material starting point on understanding explicitly and helps fulfill parties’ needs to be seen and heard by their supposed adversary.

Now that we have discussed the illustrative examples of interventions with the local function of *getting understanding* (excerpts 15, 16 and 17) in-depth, a first main inference on conflict mediation specific material premises can be made that updates the existing list

of material premises (see section 2.3.5 and the introduction to chapter 5). As has been discussed so far, the corpus showed that the establishment or reestablishment of a common starting point is often the general effect and not the local function of the intervention. As starting point (re)establishment is usually the general effect of an intervention, the specific common starting point that is (re)established as a result of the intervention is largely implicitly presented. For material starting points this means that the form of the interventions by which mediators can (re)establish a material starting point was often found to differ from the standard formulations pragma-dialectics provides for each material premise type. In other words, the analyses of the corpus showed that the form of the interventions by which mediation professionals can (re)establish a material starting point can differ from the standard formulations pragma-dialectics has provided for each material premise type (see section 2.3.5 and the introduction to chapter 5 for the discussion on material premise types). As the formulations provided for the various material premise types differ from the phrasing of the interventions that have the general effect of (re)establishing a material starting point, it can often be unclear what type of material premise we are concerned with – i.e. 1) *facts/truths*, 2) *suppositions*, 3) *values*, or 4) *value hierarchies*. To identify the material premise type of the material starting point added to the common ground, we often need to reformulate the utterances in an excerpt into a ‘statement’ that represents that specific material starting point. For example, as shown in the analyses of in excerpts 15 and 16, the material starting points in these excerpts can be (re)formulated according to an identified standard formula: ‘*party (X) ’s feelings (Y) are understandable/legitimate*’. When we take another look at excerpt 17, it becomes apparent that the established material starting point ‘*it should have been done differently*’ implies the following shared notion: ‘*the way it was done is wrong*’. It is this implied shared notion that is particularly important; the notion that ‘*the way it was done is wrong*’ better fits one of the standard formulations for material premises, namely *values*, as the intervention is related to beliefs held by the parties, which serve as guidelines on the basis of which choices can be based (e.g. van Eemeren et al., 2014, p. 268). However, as is the case with most material starting points that can be related to *values* in mediation, a lot of the values are different from the standard conceptualization of values, which seem to be more

generally held moral beliefs (van Eemeren, 1992, p. 149). In comparison, rather than general moral beliefs, the material starting points that can be considered values in conflict mediation (i.e. concerning value judgements) are generally *personal beliefs*; although the notion ‘the way it was done is wrong’ contains a *value* judgement, it is clear that that which is given a value judgement is more personal than the material premises on ‘values’ in pragma-dialectics, such as ‘incest is sinful’ (van Eemeren et al., 2014, p. 268; see section 2.3.4). In other words, as found in the corpus, the beliefs on which the mediator (re)establishes agreement are generally related to the personal legitimation of the beliefs and concerns of one of the parties.<sup>57</sup> It could be suggested that next to the material premise types (see section 2.2.4) on *facts* and *truths*, *suppositions*, *values*, and *value hierarchies*, we could add the category of *personal beliefs*, which relates to the personal beliefs held by people that contain a value judgement, which cannot be checked or generalized such as ‘John’s feelings are understandable/legitimate’.

### 5.3 Local Function: Emphasizing Good Intentions

As the local function of *getting understanding* could be linked to the first identified main motivator to (re)establish material starting points, namely 1) *the parties’ need to be heard* (see e.g. Kauffman & Raphael, 1983, p.ix), the local function of *emphasizing good intentions* could be said to be more closely connected to the second identified main motivator, namely 2) *the parties’ need to know that a resolution is feasible*. The believe that resolutions are feasible is crucial in mediation because the parties have ended up at the mediation table because the conflict has escalated to a point where they are unable to resolve the conflict by themselves and need a third party to help them. In order for the parties to adopt the reasonable discussion attitude necessary for reasonable argumentative discussions on problems and solutions they need to believe that a resolution is at all possible. In fact, giving up their hardened positions with the possibility of losing face

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<sup>57</sup> In some sense, these material starting points seemingly concern *suppositions* as they concern beliefs held without conclusive proof (van Eemeren, 1992, p. 149). However, these material starting points do not seem to include the implicit *expectation* of confirmation or rejection of the supposition, which is needed in order for utterances to qualify as *suppositions* in pragma-dialectics (van Eemeren et al., 2014, p. 267).



**shared concern about the future of the church** because there are financial problems. (.) that is not completely unknown↑ (.) e:hm and that there is a concern about the eh eh yes the influence of the the old and new community, **how they can collaborate °in the church°**. **The church is important to you all and [that is**

- 3 C [yes
- 4 M that is clear
- 5 C Yes
- 6 M (1.0) and every[one
- 7 C [yes
- 8 M has put in effort and is willing to put in effort. [But
- 9 B [They have been here for  
three months↑
- 10 M **Yes but there is some sort of friction about eh right eh the intentions  
of the other which are not completely recognized °it [seems.°**
- 11 C [No of course we  
did see all the things that are going well and maybe we should have paid  
more (.) attention to that. Of course we just concentrated on the things of  
which we thought we have to do something with that and and e:h that you  
do your work as verger well and and and that the community center runs  
well, that there are a lot of volunteers active, that the number of church  
member even seems. to increase a bit e:h of course these are very positive  
developments and e:h yes there and no and and positive things we may  
have said too little about that. Maybe we should have said that a bit louder  
and a bit clearer (.) we of course do think that. We want (.) to (.) keep it as  
it is now, it just has to be a bit more businesslike.
- 12 M And how does it feel when you hear this↑
- 13 B (4.0) Well that is new because the last couple of months I got the  
impression that there are only skeletons that come crashing out of the  
closet.

- 14 M May I ask something, because it seems. as if you have started looking at each other through dark glasses. Anyway that is the feeling I get from you ((addressing B)). That is befitting to when you have the feeling something is not going well then there is conflict, than that is a (.).na:: a mechanism you cannot escape that you, right↑ (.) the other (.) that the glasses will keep getting darker. That the deeds of the other will be seen ever more (.) yes negatively. **And I would very much wish for you both that the glasses can become lighter in color again. That you can also see the good sides of each other.** Now that is what, °eh (.) yeah° you are still searching for.

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Excerpt 18. *Emphasizing good intentions*

The first intervention that is part of the local function of *emphasizing good intentions* studied here includes a problem statement; in turn 10 the mediator states ‘yes but there is some sort of friction about the intentions of the other not being completely recognized’. With this intervention in turn 10 the mediator points out a problem concerning the lack of good intentions acknowledged by both parties in this conflict. Although the intervention points out a problem and not a positive shared notion, the fact that good intentions are stated to be unrecognized by the parties presupposes the existence of good intentions (presuppositions and material starting points are discussed in section 5.6.1). Moreover, the intervention in turn 10 is used by the mediator as a set-up for “and I would very much wish for you both that the glasses can become lighter in color again. That you can also see the good sides of each other” in turn 14. What is most interesting is the way in which the mediator formulates the latter intervention. The mediator phrases the current state as a negative current state quite distinct from the ‘lighter colored’ state of their relationship before the conflict escalated. For instance, in the following phrases: “as if you have *started* looking at each other through dark glasses”, “that the glasses *will keep getting* darker”, “the deeds of the other *will be seen ever more, yes, negatively*” (italics added for emphasis), the tense used by the mediator emphasizes that the process started in the past. The negative spiral of this process is suggested to continue if the parties are unable to acknowledge each other’s good sides, which includes their good intentions in the current mediation session. This emphasis on parties losing sight of their good intentions is made

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more tangible because of the *visualization* that is used; the mediator presents the idea (or image) that the conflict situation resembles glasses that are getting darker; the ability of the lenses to adjust their darkness accommodates the mediator's statement that their glasses could also 'become lighter again'. By means of this visualization, the mediator introduces the idea that there is also the possibility of the situation improving, which accommodates the parties' *need to know that a resolution is feasible*. Thus, the mediator tries to establish, or rather *reestablish*, a shared belief that there are good intentions on both sides by explicitly pointing out the existence of acknowledged positive past intentions. In short, besides mediators pointing to *existing* good intentions, mediators can be found pointing to the existence of good intentions *past* throughout the data.

As explained at the beginning of section 5.3, the material local function of *emphasizing good intentions* is linked to the subject of *discussion attitudes* common for interventions with the local function of *getting commitment to the mediation essence*. The acknowledgement of mutual good intentions improves the parties' commitment to reasonable discussion attitudes because the idea that there are enough good intentions to commit to the mediation (and the mediation essential elements) can reinforce the parties' belief of a win-win resolution as being realistic. Although excerpt 18 references past good intentions it suggests the existence of good intentions that have never changed; it is the perception of the parties vis-à-vis the intentions of the other that have become dark, whereby the good intentions, although existing, are no longer recognized. Another example of an intervention with the local function of emphasizing good intentions can be seen in excerpt 19, taken from the 'charity manager versus employee' case (case no. 2; section 3.3.2), where the manager (D) wants to terminate the employee's (E) contract because he does not meet the organization's required levels of digital proficiency, which hinders the effectivity of the charity.

- 1 M You would like to have more chances to [yet (1.0) prove↑  
2 D [How many chances do I have to give↑ How many chances do I have to give↑ I mean (.) the organization for who we work is (.) a really good employer and we do, I say we that is

- nonsense because I am also just an employee, right↓ but our organization really does a lot for for our staff and there are so: many opportunities to education to coaching to guidance to (.) well you name and it is there and you have had it all as well. You know (.) and
- 3 M **I see you nodding ((referring to E)). Do you indeed think that an effort was made↑**
- 4 E [Well an effort was made. That I also always appreciate about this employer that is why I had so much fun working. It always very much felt like a warm bath. [Yes. Very pleasant and very safe as well.
- 5 M [Yes

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Excerpt 19. *Emphasizing good intentions*

In this case it is the good intentions of the employer that are to be made explicit in order for (E) to believe that there is sufficient good intent on the side of (D). The mediator is able to confidently construct this intervention in turn 3, as she saw (E) nodding in response to the intervention by (D) in turn 2 in which (D) lists the things that have been done for (E). Although the communication in this moment is nonverbal, the intervention by the mediator in turn 3 could be regarded as a *reestablishment* of a material starting point, which was initially established by means of (E)'s nonverbal response to (D) (i.e. nodding). The material starting point that is reestablished here – *an effort was made* – is a *supposition* as it is a belief held on a (normal) course of events for which there is no conclusive proof but for which confirmation is (implicitly) expected (e.g. van Eemeren, 1992, p. 149; van Eemeren et al., 2014, p. 267). The confirmation is provided by (E) in turn 4 with “Well an effort was made. That I also always appreciate about this employer that is why I had so much fun working. It always very much felt like a warm bath. Yes. Very pleasant and very safe as well”. It is *the shared presumption that an effort was made* that broadens the common ground between the parties. Moreover, as the attitude of the parties has now been explicitly confirmed to have been benevolent in the past, parties' beliefs concerning resolution feasibility are reinforced based on the idea that through a mutually favorable discussion attitude a resolution of their conflict is not impossible.

#### 5.4 Local Function: Requesting Case and Context Information

In the first half of the mediation procedure when the main problems relevant to the conflict are to be revealed and resolved, the *facts* and *truths* of the case are shared and discussed. The importance of reconstructing the relevant information of the conflict case and its context is twofold. Firstly, for mediators, gaining sufficient information is essential as it aids them in constructing interventions, and thus helps them procedurally guide the resolution process more effectively (van Bijnen et al., 2019)<sup>58</sup>. Secondly, as the focus group noted, discussing case and context information is beneficial for the parties in conflict as well because interventions concerning their shared history could implicitly help them search for ‘the truths and facts of the case context’ together, by means of which a moment is designed that explicitly accommodates the collaboration between parties at conflict (van Bijnen et al., 2019). These benefits for the mediator and for the parties are reflected in the two different common subjects of interventions with the local function of *requesting case and context information* (see table 28 below); the interventions with this local function, generally speaking, either concern (A) the need of the mediator to gain sufficient information about the conflict case and its context (see section 5.4.1) or (B) the need for the parties to reconstruct a shared history (see section 5.4.2).

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Table 28

*Identified subjects of interventions with the local function of requesting case and context information*

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(A) Sufficient information

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(B) Shared history

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<sup>58</sup> It is important to note that the conflict belongs to the parties; the mediation is indeed not a ‘fact finding tribunal’, meaning that the mediator only aims to get a sufficient amount of information for him or her to design the mediation process instead of unearthing all the facts and truths concerning the conflict.

### 5.4.1 *Sufficient information.*

Although parties may not know the entire history of their conflict themselves, especially in terms of the context surrounding the conflict (i.e. each party has his or her own (perceived) truth regarding the case), interventions on the need for *sufficient information* are mainly for the benefit of the mediation professionals. The mediation professionals often have minimal or no prior knowledge regarding the parties, the conflict or the context (see chapter 7 for the discussion on the influence of prior knowledge on the local function of *requesting case and context information*). Even after their introductory talk before the mediation commences, the mediation professional as an often externally hired facilitator does not have sufficient information to guide the resolution process at the beginning of the first mediation session without the exploration of truths and facts in the *intake part* and the *exploration part* of the mediation circle. Material starting point interventions concerning (general) information on the conflict, the context, and indeed the parties generally take place at the end of the intake part or at the start of the exploration part, before any of the issues essential for the resolution of the conflict are discussed and interests are revealed. Excerpt 20 is taken from the beginning of the exploration part of the ‘church board versus sexton’ case (case no. 1; section 3.3.1) in the moments directly following the mediator and party introductions, the explanation of the mediation procedure, and the formalization of the parties’ commitment to conflict mediation.

- 1 M **How long have you known each other**↑
- 2 C Yes short eh because eh (.) just three months ago I I have become (.) part of the church board↑. And I have also not that long ago moved to this village so I was not that familiar here. Ehm but ehm others did know me and they asked me to become president and that is what I have done. I have met everyone, with the Pastor, with other member of the church board (.) some of which are also new.
- 3 M **How did you make B’s acquaintance**↑
- 4 C E:hm (1.0) well she was one of the first I encountered when I eh (.) yes came by came by the church for the first time and eh (2.0) one ne of the

member of the church board introduceded us to each other (.) but that was right after the beginning (.) Then then we were not yet really (.) busy shaking things up which we did do after. And after that ehm had not that much contact because it it

- 5 M **How did you experience the beginning of the [contact ↑**  
 6 B [who who who do you  
 THINK (2.0) shake up (2.0) comes from the outside and you (1.0) you pff.  
 7 M **B how did you experience the start of the ( )↑**  
 8 B Yes comes from the outside. (1.0) And eh people from the city are eh (.)  
 >in a rush<  
 9 M **That is how you experienced that↑ Rush↑**  
 10 B Yes he shook my hand and said his name and eh  
 11 M **Did you altogether afterwards talk about the state of affairs (.) about that then [( )**  
 12 B [No immediately there was a policy proposal with that all the money has to go to the church board and eh

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Excerpt 20. *Sufficient information*

In excerpt 20 the mediator starts by asking a question in which a general request for information is made: “how long have you known each other?” (turn 1). Such questions may have the possible general effect of reestablishing a material starting point on *truth or facts*, as the questions are premises on reality that can be accepted by all rational human beings without requiring specific justifications for their acceptance (van Eemeren et al., 2014, p. 267). More importantly, the rest of the excerpt presents the idea that questions such as “how long have you known each other?” (turn 1), or similar hypothetical interventions such as ‘how did you two meet?’ or ‘what company do you both work for?’ may do more than simply elicit information on the material premises of facts and truths alone. Specifically, these general interventions on basic facts and truths may provide the mediator with a natural segue to follow-up interventions on elucidations of the context surrounding the fact or truth. As the focus group explained, these follow-up interventions on context subsequently “opens the door to *feelings* that need to be addressed and the

*interests* that need to be incorporated in the mutually beneficial resolution” (van Bijnen et al., 2019, p. 88)<sup>59</sup>. The underlying issues and interests may be particularly difficult for mediators to get to; in fact, some mediators state that this is their most important yet difficult task in transforming the discussants from hostile to reasonable, as the interests and issues are often highly personal and emotionally charged (e.g. Gabel, 2003; Schoenfield, 1996). In turn 5 from excerpt 20 (repeated in turn 7 to party (B)), the mediator poses the follow-up question to the question asked in turn 3 “How did you make B’s acquaintance”. Specifically, in turn 5 the mediator requests an elaboration of the context surrounding the truth presented by (C) with a follow-up question “How did you experience the beginning of the contact?”. In doing so, the mediator can get one step closer to the underlying interests and issues that need to surface in order for the conflict to be resolved.<sup>60</sup> When the mediator notices that (B) takes the floor with an insult and a raised voice, the mediator strategically decides to redirect the follow-up question to (B) instead. In short, in turns 9 and 11 the mediator asks follow-up questions to gain more case and context information, by which the mediator gains more relevant knowledge whilst at the same time opening up the possibility of getting to relevant problems that are hidden under the surface of *truths* and *facts*. Thus, by asking follow-up questions in which parties are requested to detail the context of facts and truths, mediators are able to peel the metaphorical onion that represents the conflict layer by layer, in order to reveal some underlying problems, interests and needs that are relevant to the resolution process.

#### **5.4.2 Shared history.**

Besides the intervention subject of *sufficient information* discussed in section 5.4.1, interventions with the local function of *requesting case and context information* may also

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<sup>59</sup> This concept could be related to the *analogy of the onion*, known in conflict mediation as a way to get to the deeper emotions by getting parties from *positions* to *interests* to their *core needs*, through questioning and follow-up questioning (see e.g. Fisher et al., 2000, pp. 27-28)

<sup>60</sup> Later on in the mediation session of case no. 1 (section 3.3.1) it becomes clear that the main source of (B)’s discontent comes from her problem with the fact that the new board of the church is comprised of *outsiders* from the big city, who have come to take over control of the small church community made up of neighboring villages, seemingly without any consultation from the established locals. This main issue is first revealed by (B) in turn 6 as a response to (C)’s contribution on case and context information facts and truths in turn 4.

concern parties' *shared history*. When mediators ask parties to provide them with the necessary case and context information for them to build on, they are aware that the facts and truths provided by the parties may not be entirely truthful, and that parties in a conflict may package the information they present in such a way that it helps them save face, and possibly threaten the face of their perceived adversaries by framing the facts and truths in ways that make them look bad (van Bijnen et al., 2019). Yet, the colored presentations of relevant information may serve yet another important function: *interventions on case and context information allow parties to go search for their shared history together*. This shared history is comprised of facts and truths (i.e. premises on reality that do not need any justification for their acceptance); as these facts and truths requested by the mediator have been experienced by both parties, they are already part of the parties' common ground, although these facts and truths may not be acknowledged as shared at that point in the resolution process. Although (A) *sufficient information* and (B) *shared history* are closely related and beneficial for both mediators and parties, interventions on the parties' shared history serve a specific function for the parties, especially in relation to the strengthening of the parties' common ground as previously noted in Greco Morasso (2011): "in asking for information, the mediator highlights precise portions of the parties' common ground, bringing to the fore and thus evidencing some of the common features that are relevant to resolving the conflict" (p. 244). As such, the starting points on *case and context information* are special because they concern events that are already explicitly established common starting points before the mediation starts. As they concern facts and truths, they do not need any justification because the experiences are assumed to be mutual. Mediator's interventions concerning this shared history thus *reestablish* these material starting points on truths and facts by *activating the common ground*, rather than add to it.

Excerpt 21 is taken from the 'craftsman versus case building company' case (case no. 6; section 3.3.6) between the lead artisan case builder (V) and the case building company (P) over (V)'s (supposedly) outdated methods and improper social media presence. The excerpt concerns an example in which the mediator constructs interventions by which the

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craftsman whose employment has been suspended (V) gets to reflect on the history shared between him and (P) his former boss before the conflict escalated.

- 1 M °yes° but yes so you feel offended by your colleagues but especially (.) by  
P=  
2 V =P yes he lets himself by (.) he doesn't see through that at all=  
3 M °nj° (.) **but with P you go back more than twenty years (.) you were**=  
4 V =yes=  
5 M =right↑ **he is owner but you were really just colleagues**=  
6 V =yes that was the case yes well now its a bit different yes=  
7 M =**but how long did you have it good with P**↑  
8 V (1.0) yhe:s about fifteen yea:rs=  
9 M =°yes°=  
10 V =and after that ye:s it's then P became general director more employees (.)  
distance is created of course we build the whole business toget:her ((audible  
deep breath)) but with that he has never hey↑ not even a bo:nus. Just a salary  
(.) ye:s workshop manager just a little more than the rest (1.0) but all those  
cases right↑ with which he is on the internet e:h who designed those↑ (.) that  
was me right↑

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Excerpt 21. *Shared history*

In turns 3 and 5 from excerpt 21, the mediator presents interventions with the possible general effect of reestablishing a material starting point in which references are made to the shared history between the parties. These interventions concern the intervention in turn 3 on *facts and truths* “but with P you go back more than twenty years”, and the intervention in turn 5 on a *supposition* “he is the owner but you were really just colleagues”. The latter intervention is to be considered a *supposition* as it is a belief held by the mediator that is expected to be confirmed as truthful by the party (see van Eemeren, 1992, p. 149; van Eemeren et al., 2014, p. 267); as soon as the supposition is confirmed, the material starting point on a *truth* will be reestablished. By means of these interventions the mediator is able to guide (V) to the shared history with (P) before the conflict. The mediator goes on to

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formulate an intervention in which the positive nature of the relationship between (V) and (P) is presupposed (for the analysis of the presupposition in excerpt 21 see section 5.6). Not only does the intervention in turn 7 emphasize that the prior relationship was a *good* one, it prompts party (V) to elaborate on the nature of the relationship, as well as to provide additional *case and context information*, including the revelation of a seemingly important interest, which can be formulated as *the need to be acknowledged for past involvement in building the company and praised for the products created*. It is important to note that the disputants in workplace mediation usually share a history prior to the conflict that was at the minimum functional and at its best includes a close personal relationship. The conflict either caused or signaled a disruption in the parties' prior relationship to which most of their shared history is tied. As previously discussed in section 5.2, in workplace conflicts, when a conflict arises it can often (at least to some degree) be linked to other underlying problems such as 'a lack of recognition of hard work and dedication' by the parties' superiors. The interventions on facts and truths can help open a door that could more easily lead mediation professionals to the context of the case, the related problems, and the hidden interests and core needs to be revealed.<sup>61</sup> The initial interventions 'but with P you go back more than twenty years, you were' and 'he is the owner but you were really just colleagues' (turns 3 and 5) are particularly important in getting to the underlying interests and the core needs of the parties. How this could help along the resolution process becomes even more apparent when we include a subsequent example (excerpt 22) of the same 'craftsman versus case building company' case (case no. 6; section 3.3.6) where the mediator refers back to the initial intervention in excerpt 21 to peel back another layer of the conflict to get to the interests and core needs.

1 V HE should have with these guys (1.0) HE should have called these guys to  
fall in line↑

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<sup>61</sup> As mentioned in section 5.4, the importance of this strategy of making parties reconstruct their history together was discussed by the mediation professionals in the focus group. As the inclusion of all relevant interests and the argumentative discussion of all relevant problems is essential for truly mutually beneficial and sustainable solutions, the value of this strategy is not underestimated by workplace mediation professionals.

- 2 M **(1.0) But now I briefly want to zoom in on your relation with P which which lasted over twenty years and who has actually been a good FRIEnd of ↑(.) yours↓**
- 3 V yes was °yes°
- 4 M **(.) and e:h (3.0) and in that time that you were still good friends↑ (1.0) has there never been words that that he said something (.) that maybe didn't sound that nice but wasn't meant like that↑=**
- 5 V =we have cussed each other out but that wat was posible because we were friends↓
- 6 M =°nyu°=
- 7 V we'd drink a beer in the evening (1.0) well it jas been a long time since P and I drank a beer (1.0) P wears a suit and tie now eh↑ you did see that right↑

---

Excerpt 22. *Shared history*

In excerpt 22 the mediator reestablishes the notion that the relationship between (V) and (P) lasted over twenty years and even goes so far as to establish (P) as a ‘good friend’ of (V) in turn 2, which is confirmed by (P) in turn 3. The mediator then continues with a further follow-up intervention in turn 4, pointing to the parties’ shared history: “in that time that you were still good friends has there never been words that he said something that maybe didn’t sound that nice but wasn’t meant like that”. Not only does this intervention further reestablish the pre-conflict relationship in which the parties ‘were still good friends’ as a material starting point, the intervention may have the positive effect of making the resolution process seem more *feasible* to the parties; if they were able to resolve differences of opinion in the past without these disagreements wrecking their twenty year relationship completely, they may be able to resolve their conflict this time as well. The perception of resolution feasibility is further strengthened by the intervention in turn 4 “that maybe didn’t sound that nice but wasn’t meant like that” because it implies that (P) has *good intentions* (section 5.3), which, as previously discussed in section 5.3, reinforces the perception of resolution feasibility. Lastly, the intervention has the effect of revealing an interest of (P) that is essential to the resolution, namely ‘the need to restore

their friendship', which is a wish that can be inferred from (P)'s response in turn 7. As such, excerpt 22 illustrates the idea that material starting point interventions with the local function of *requesting case and context information* concern or elicit *facts and truths*, which may lead to interventions on the explications of relevant context, which in turn may lead to the revelation of hidden problems, interests and core needs.

In sum, as seen in excerpts 21 and 22, when a mediator leads with an intervention with the local function of *requesting case and context information* in which parties are asked questions on facts and truths related to their shared history, they design a space for dialogue in which parties are invited to reconstruct a shared history through the restatement of some existing commitments whereby "a sort of 'refreshing' and re-commitment from the parties" (Greco Morasso, 2011, p. 244) takes place that strengthens the parties' common ground. As shown, this can be further supported by the follow-up interventions of mediation professionals. Interventions with the local function of *requesting case and context information* are particularly useful because (A) they help mediators gain insight into the workings of the conflict and the relevant context, which is necessary for the design of the resolution process in mediation sessions; (B) they help mediators more easily get to the underlying problems, interests and needs; and (C) they have the ability to explicitly reestablish important material starting points on the shared history that strengthen the common ground. Similar to the interventions with the local function of emphasizing *good intentions* (section 5.3), the interventions that invite parties to reconstruct their *shared history* help emphasize the existence of a functional or good relationship between the parties before the escalation of the conflict. As the attitude of the parties is confirmed to have been benevolent in the past, beliefs concerning current benevolence are reinforced whereby the perception of the resolution of the conflict by the parties in mediation is made more feasible.

### **5.5 Local Function: Fortifying the Common Ground**

Thus far (sections 5.2-5.4), interventions have been shown that have a local function different from explicitly (re)establishing a procedural or material starting point. However, as emerged from the analysis of material starting point interventions and the discussion by

the focus group, mediators sometimes construct interventions with the *explicit goal of creating or emphasizing common ground* between the parties as well.<sup>62</sup> In the data we can find interventions that can be labeled as having the local function of *fortifying the common ground* through the explicit establishment or reestablishment of a material starting point. In these cases, the intervention does not only have the *argumentative* effect of (re)establishing a material starting point but also the *communicative* function of (re)establishing an explicit material starting point to broaden and strengthen the common ground. The interventions with the local function of *fortifying the common ground* were identified in the corpus as the interventions in which mediators explicitly state a material starting point they inferred to be shared between the parties (e.g. ‘you have a shared interest’ or ‘you both love the company you work for’), or explicitly elicit a material starting point for the sake of fortifying the common ground (e.g. ‘so you both find respect important?’ or ‘are you both upset it has come to this?’).<sup>63</sup>

Excerpt 23 below is taken from the ‘chef versus restaurateur’ case (case no. 4; section 3.3.4) between the (H), who is the former head chef of restaurant X, and (G), who is the owner of restaurant X. The conflict concerns outstanding overtime payments for the overtime made during the time (H) worked at restaurant X. (G) however says that before (H) was hired a special agreement was made with (H), which stated that he would not get any overtime payments but a higher standard salary instead. Excerpt 23 is taken from the

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<sup>62</sup> The concept of explicitly establishing or reestablishing common ground was also one of the main subjects of the focus group discussion, in which mediators revealed that they explicitly try to reveal or point out the common ground between the parties through such statements and questions (some excerpts with the identified local function of *fortifying the common ground* from the corpus were provided for the focus group discussion).

<sup>63</sup> What is referred to in section 5.5 as the local function of *fortifying the common ground* are those interventions in which mediation professionals construct an intervention with the intention of explicitly (re)establishing a material starting point on *facts and truth, suppositions, values and value hierarchies*, i.e. that which is commonly considered *common ground* in the literature on common ground (e.g. Clark 1996, 2006; Clark & Marshall, 1981; Clark & Brennan, 1991) and by mediation professionals themselves, as is evident from the discussion in the focus group. Especially the latter justifies the categorization of these intervention types as ‘explicitly (re)establishing common ground’ as a communicative function in the mediation interaction because we are concerned with interventions that are constructed by mediation professionals with the communicative intention to fortify the parties’ common ground.

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latter half of the exploration part and includes an intervention with the local function of explicitly *fortifying the common ground*.

- 1 H The tr [they  
2 M [okay  
3 H have good food right↑ have good food right↑  
4 M **Yes (.) so (.) exactly (.) so that are (.) oh right that is of course (.) what connects you two that it was a good restaurant↑ where you [ba**  
5 H [Yes  
6 M **Sically**  
7 H and we both like good food right↑  
8 G Ye::s  
9 M And and and  
10 G That was the starting point.  
11 M Yes yes yes.

---

Excerpt 23. *Common ground*

In turn 4 from excerpt 23 the mediator explicitly points out something that “connects” the parties. As such, we can infer that the local function of this intervention is to *fortify the common ground* between the parties by explicitly reestablishing an existing material starting point between the parties – i.e. the mutual appreciation of “good food” (turn 3) and that restaurant X is a “good restaurant” (turn 4). Interestingly, the reestablishment by the mediator is further emphasized by the parties and explicitly confirmed by the parties in the subsequent turns (turns 5, 7, 8, 10), with (G) explicitly stating that the supposition reestablished by the mediator was indeed “the starting point” (turn 10) that connected the two disputants. In sum, mediation professionals may explicitly *reestablish* a material starting point on a *supposition* in interventions that aim to highlight a material starting point that is implicit in the contribution by one of the parties, as is the case in turn 4 from excerpt 23. It could be empirically inferred from the data that, generally speaking, the interventions with the local function of fortifying the common ground in mediation interactions have two specific subjects that seem to be typical for mediation interactions;

in the corpus the interventions with this local function either concern *shared feelings* (section 5.5.1) or *shared interests* (section 5.5.2) (see table 29). For the interventions with the local function of fortifying the common ground the subjects of shared feelings and shared interests were found to be particularly prominent in the corpus and identified as important by the focus group.

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Table 29

*Identified subjects of interventions with the local function of fortifying the common ground*

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(A) Shared feelings

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(B) Shared interests

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### **5.5.1 Shared feelings.**

In section 5.2, the local function of *getting understanding* was discussed. The local function is labeled as such because it concerns interventions in which the mediator attempts to elicit understanding from one party for the feelings of another party (i.e. have one party legitimize the feelings of another), as a material starting point to be added to the common ground. Whilst the local function of *getting understanding* can explicitly (re)establish a *shared belief* concerning the legitimacy of one or more feelings by eliciting understanding from one party for these emotions of the other, the subject of *shared feelings* common for interventions with the local function *fortifying the common ground* explicitly refers to parties' feelings as shared feelings. As stated in section 5.2, the material starting point (re)established in the common ground as a result of an intervention with the local function of *getting understanding* can be formulated as 'party (X)'s feelings (Y) are understandable/legitimate'; for *shared feelings* the material starting point that is (re)established can be formulated as 'feelings (Y) are shared by all parties'. In other words, rather than establishing the shared understanding of one party for the feelings of another, with interventions that have the local function of *fortifying the common ground on shared feelings* mediation professionals can (re)establish 'feelings (Y) are shared by all parties' as an *explicitly* accepted material starting point.

Excerpt 24 is taken from the ‘school collective versus rector’ case (case no. 3; section 3.3.3) at a moment of impasse in a mediation session full of expressions of frustration (i.e. raised voices, blaming, and interruptions).<sup>64</sup> The conflict between a large school collective (A) and the rector at one of its schools (B) concerns the disappointment of the school collective regarding the rector’s performance over the last half year after (B) was hired by (A) based on high recommendations. Here, the mediator intervenes with an intervention with the local function of *fortifying the common ground* to redirect the parties’ focus from disagreement to agreement.

- 1 M.X<sup>65</sup> **I hear you both say that you are very disappointed with the the way it’s been the last half year (1.0) and °that there° were very different expectations (1.0) that you [could achieve and each other with each other**
- 2 A [what, the functioning (.) of ( ) yes
- 3 M.X (.) and in this function (2.0) °and eh° we’re sitting here now (2.0) in mediation (5.0) pretty angry°

---

Excerpt 24. *Shared feelings*

Although the mediation is stuck at an impasse, the mediator does not shy away from explicitly naming the negative emotions of ‘disappointment’ (turn 1) and ‘anger’ (turn 3), whereby the mediator reestablishes these negative emotions. The emphasis on negative emotions such as disappointment and anger could lead to an intensification of hostilities between the parties as it emphasizes their disagreement space instead of their agreement space. Nevertheless, these interventions have the positive possible general effect of (re)establishing a material starting point because of the wording chosen by the mediator; in fact, in excerpt 24 the mediator constructs these interventions with the local function of *fortifying the common ground* by including terms of *togetherness* (see section 4.7)

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<sup>64</sup> For more on mediator interventions at impasses – i.e. moments of deadlock in the mediation interaction – see Aakhus (2003).

<sup>65</sup> This case is *co-mediated* (i.e. the case is mediated by more than one mediator) (see sections 3.2 and 3.3.3). As such, the different mediators are indicated with an M for mediator, followed by a random letter of the alphabet.

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whereby the mediator emphasizes shared feelings; i.e. “I hear you *both* say that you are very disappointed” (turn 1), and “*we*’re sitting here now, in mediation, pretty angry” (turn 3) (italics added for emphasis). Thus, even though the shared feelings here are not positive, the mediator takes the opportunity to emphasize that the feelings are in fact *shared* in order to explicitly broaden and emphasize the common ground of the parties. This is important because the vital process of ‘emotional healing’ (e.g. Putnam, 2004, p. 288) through expressions of frustration can be considered cathartic and functional as catalysts of transformation, especially when those emotions are shared.

In order to maximize the possible effect of these interventions with the local function of *fortifying the common ground*, the mediator reestablishes the feelings of the parties as being shared. Interestingly, the mediator seemingly tries to reestablish this idea that the feelings of disappointment are shared as a material starting point by presenting this notion as a standpoint for which the reason is provided in the same intervention ‘there were very different expectations that you could achieve with each other’ (see argument structure 6 in figure 19 below).

Standpoint: 1 You are very disappointed with the way it’s been the last half year Arguments: Because... 1.1 There were very different expectations that you could achieve with each other
---

*Figure 19.* Argument structure 6: arguing for a material starting point

By introducing the line of reasoning in argument structure 6 with ‘I hear you both say’, the mediator makes it clear that the presented reasoning is based on inferences made from the contributions of the parties to the mediation, rather than it being *his* feelings. As a result, the mediator safeguards his perceived neutrality position by not presenting himself as an active party in the discussion with a stance on the contents of the parties’ conflict and/or solution(s). The argument concerning the expectation that the parties could achieve something together, which led to disappointment when it turned out they could not,

actually suggests that the argument has another local function, which may also (re)establish a material starting point; namely, *emphasizing good intentions* (see section 5.3). We can consider the emphasis on “disappointment” and “each other” as calling forth the notion of past good intentions with a disappointing result for both parties. This idea can be better understood by looking at the nature of the feeling of ‘disappointment’. *Disappointment* can only be felt when something or someone breaks with prior (positive) “expectations” (turn 1). In general, the link between *expectations* and *disappointment* is essential, as only (high) expectations can result in (deep) disappointments (e.g. Pfaff-Czarnecka, 2004) and lowering expectations is the way to minimize or even avoid disappointment (e.g. van Dijk, Zeelenberg, & van Der Pligt, 2003). The existence of past “expectations” to achieve something with each other points to the existence of prior good intentions. Thus, the intervention in turn 1 may in fact reestablish two material starting points: (1) the material starting point ‘you were both disappointed with the way it’s been the last half year’ that is reestablished through the local function of *fortifying the common ground* on *shared feelings*; and (2) a material starting point on *good intentions* indicated by the fact that ‘there were different expectations that you could achieve together’, which supports material starting point (1) (see argument structure 6 in figure 19). A possible result of the emphasis placed on past good intentions is that the existence of mutual trust in their relationship before the conflict escalated suggests a relationship in which trust, and the rebuilding of that trust, is seemingly possible (e.g. Elgoibar et al., 2017, p. 12). As a result, the parties may now be able to perceive the resolution of their conflict as (more) *feasible* than before the explicit reestablishments.

### **5.5.2 Shared interests.**

From the analysis of the interventions from the corpus with the local function of *fortifying the common ground* it seems that the subject of *shared interests* is the more prominent than *shared feelings*, which does not come as a surprise since helping parties focus on their underlying interests is widely considered among conflict resolution scholars as an essential element of conflict mediation (e.g. Fisher, Ury, & Patton, 2011; Relis, 2009, p. 213; Gewurz, 2001, p. 139). The *interests* are particularly important for the argumentative

discussions after the *transitional moment* (see section 4.4) when the transformation from hostile to reasonable is made explicit and the argumentative discussions switch from problems to solutions. The reason for their importance is that the parties are expected to argue for the proper inclusion of their own interests in the argumentative discussion on solutions whilst also taking into account the interests of the other (Greco Morasso, 2011, p. 54).<sup>66</sup> Excerpt 25 below will further illustrate this notion. The excerpt is taken from the ‘Construction company versus calculator’ case (case no. 7; section 3.3.7) at the end of the *exploration part* when most of the general interests relevant to the argumentative discussions on solution central in the *negotiation part* of both the calculator (P) and the general manager of the construction company (S) have already been revealed.

- 1 S and yes you know (.) I also do want P to go back to work  
 2 M.T yes (.) so you [are saying everyone should  
 3 S [( )]  
 4 M.T yes↑  
 5 S She of course also has already been sitting at home for (.) five↑ six↑  
 months↑ (2.0) °well (.) it’s eh°  
 6 P Well I want nothing more than to work  
 7 M.T **Yes so yes there you really have a [shared interest↑**  
 8 S [Yes well th-( ) then concerning  
 that we at least have a shared eh thing↑  
 9 P But but not in ((name of town))  
 10 M.T **(1.0) no so I hear you both say the interest is eh present for you both  
 for P to go back to work↑**  
 11 P °yes°

---

Excerpt 25. *Shared interests*

In excerpt 25, the mediator presents an intervention with the local function of *fortifying* the parties’ *common ground* by reestablishing a material starting point on *shared interests*.

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<sup>66</sup> Ideally, essential party interests are formalized into negotiated solutions included into the mediation agreement signed by all present parties in the *concluding part*.

The starting point was first established in turn 6 when (P) stated the same interest that (S) presented in turn 1, namely ‘P has to go back to work’. The mediator uses these contributions from turns 1 and 6 to reestablish the material starting point with the local function of *fortifying common ground* by explicitly stating “there you really have a shared interest” (turn 7). When (S) in turn 8 explicitly confirms this notion of shared interests the mediator reestablishes the material starting point on shared interests by repeating the material starting point in full; “no so I hear you both say the interest is eh present for your both for P to go back to work?” (turn 10). The common starting point is emphasized through the repetition of the material starting point on shared interests whereby the parties’ perception of *sharedness* is strengthened. In fact, the mediator tries to reestablish the material starting point on the shared interest whilst changing the way in which parties initially negatively frame (Kaufman & Smith, 1999, p.165) their situation in turns 5 and 6. Specifically, the mediator positively reframes their negative contributions in turns 5 and 6 in the intervention to affect the parties’ interpretation of their situation as a shared interest in a positive way (see e.g. Kaufman & Smith, 1999; Kaufman, Elliot, & Shmueli, 2003; Gerardi, 2004; Jermini-Martinez Soria, forthcoming).<sup>67</sup> By formulating the reestablishments of the material starting point as questions in turns 7 and 10 the mediator elicits explicit agreement from the parties, which the mediator gets from (P) in turns 8 and 11. As can be seen in excerpt 26 below, taken from the same ‘Construction company versus calculator’ case as excerpt 25 (case no. 7; section 3.3.7), mediators may use the reestablishment of the important material starting points on *shared interest* that were previously established at the *transitional moment* (see section 4.4) in the mediation process.<sup>68</sup>

1 M.V th- right ↑ **so you are really saying that both↑ if we can just get back to work fast↑ (1.0) e:hm (2.0) e:hm talked about eh↑ about your**

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<sup>67</sup> For a similar example of an intervention with positive reframing, see Greco (2016).

<sup>68</sup> Mediation professionals may write down the important interests on a board or flip over. At the ADR Instituut parties will reflect on and add to the interests collected in the first half of the mediation at the transitional moment.

- interests↑ °and ehm° you have also written them down↑ (1.0) e:hm do  
 you recognize °eh° (.) this↓ ((points to interests on the flip over))
- 2 P Absolutely that really what is about for me
- 3 M.V °that is what it is about for you°↑
- 4 P °yes°
- 5 M.V (1.0) and how is that for you↑
- 6 S (1.0) ye:s well absolutely (.) these are the things really (2.0) yes

---

Excerpt 26. *Shared interests*

In excerpt 26 the reestablishment of the material starting points on *shared interests* is set up as a fairly standard procedure because they are supposed to form a solid base for the parties to work with on their journey towards a mutually beneficial solution. Similar to excerpt 25, the mediator repeats the, now slightly adjusted, material starting point ‘we should get back to work soon’ in excerpt 26 as a final check before incorporating it in the solution-oriented negotiation part. In turn 1 ‘do you recognize this’, turn 3 ‘that is what it is about got you’ and turn 5 ‘and how is that for you’ the mediator explicitly asks if the parties recognize themselves in the interests they have expressed and collected during the *exploration part*. Additionally, by eliciting explicit agreement on the importance of these interests in the sequence of turns 1, 3 and 5 the mediator tests if anything needs to be added to or adjusted on the list, which could lay the basis for the local function of *setting the agenda on issues for discussion* in the negotiation part (see section 4.6.2).

Besides being used during the *transitional moment* in the mediation process (see section 4.4), interventions on *shared interests* are also used as a strategy when the conflict is at impasse (i.e. a deadlock in the mediation discussion, see Aakhus, 2003), for example when the resolution process is not progressing and parties’ commitment seems to be wavering. An example of this is shown in excerpt 27, which is an extract from excerpt 18 previously discussed in section 5.3. This excerpt is an example of an intervention by the mediator at a moment in the mediation session when tensions between the sexton of the church community (B) and the new chair of the church board (C) in the ‘church board versus

saxon' case (case no.1; section 3.3.1) seem to be reaching fever pitch and the parties resolution process is not progressing in a way that benefits the resolution of the conflict.

1 M [may I (.) may I may I  
**intervene because right because there are of course a lot of topics that  
we can discuss (.) but in my opinion it is not fair here, that here there  
really is a (.) a e:h shared concern about the future of the church  
because there are financial problems. (.) that is not completely unknown↑  
(.) e:hm and that there is a concern about the eh eh yes the influence of the  
the old and new community, how they can collaborate °in the church°.  
The church is important to you all and [that is**

---

Excerpt 27. *Shared interests*

In excerpt 27 the mediator tries to get past the impasse by redirecting the discussion from *problems* “there are of course a lot of topics that we can discuss” to inferred material starting points on shared interests: “shared concern about the future of the church” and “the church is important to you all”. In other words, in order to break up the continued bickering by the parties, which seems to have been fueled by the focus on problems and hostile attitudes, the mediator introduces items for the mediation discourse on which the parties seemingly already agree, whereby the mediation interaction is redirected in a way that does not invite any further aggravated discussions. By means of the material starting point intervention on *shared interests* related to the welfare of the church, the focus has now shifted from the disagreement space to the agreement space. The material starting points on *shared interests* are the easiest to build win-win solutions on because the proposed solutions that incorporate shared interests will most likely be met with the least amount of rejection or doubt in the negotiation part. Moreover, the ability of the intervention to move the parties past their impasse is linked to the second essential reason for the establishment of material starting points: the redirection on shared interests can help increase the parties’ belief in the *feasibility* of a reasonable resolution.

## **5.6 Further Discussion on Material Starting Point (Re)establishment**

After concluding the local function oriented portion of the empirical study on how mediation professionals can (re)establish material starting points to design a conflict mediation that can accommodate reasonable argumentative discussions on problems and solutions, certain parts of the analyses presented in chapter 5 are further discussed in this section (5.6). These results are not specific to one local function; rather they concern more general findings on material starting point (re)establishment found in the data, such as notes on the *explicit* establishment of material starting points (5.6.1), the use of presuppositions in material starting point interventions (section 5.6.2), and the final discussion on the proposed adjustments to the list of material premise types (section 5.6.3).

### ***5.6.1 Notes on explicit material starting point establishment.***

As can be derived from the discussions in chapter 5, we are not per se concerned with the addition of *knowledge* to the common ground for sense making or meaning making; instead, we are interested in the need for *explicit* establishment and reestablishment of material starting points (i.e. the explicit expression of having shared commitments). For that reason, what has been presented in chapter 5 is often not just the establishment or reestablishment of ‘*material starting point (X)*’ to be added to the parties’ common ground but also the notion that a ‘*material starting point (X) is explicitly shared by the parties*’. Thus, when a mediation professional establishes an explicit material starting point, what is added to the common ground is in fact two material starting points: (1) an intervention specific material starting point (as analyzed throughout chapter 5), and (2) the fact that there is explicit agreement on the intervention specific material starting point. In other words, what we are concerned with when a mediator explicitly establishes a material starting point is both the material starting point itself and the knowledge that the explicitly shared material starting point exists as well (see figure 20).

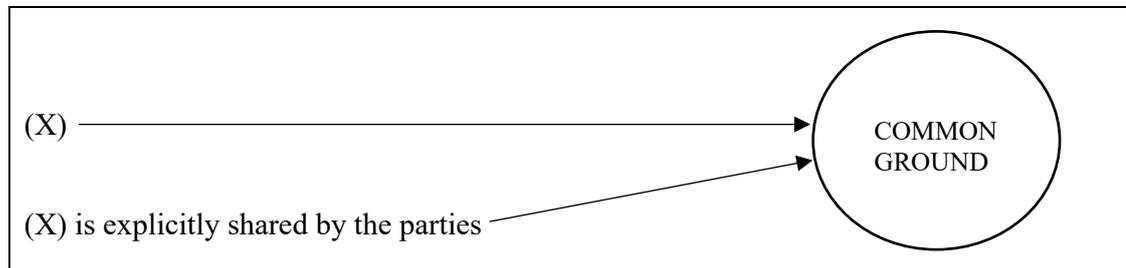


Figure 20. The two material starting points added to the common ground through explicit establishment

This focus on the addition of the *knowledge that there are material starting points* specifically helps the parties feel heard and seen by their adversaries. In addition, it strengthens the belief that indeed a resolution is feasible, the importance of which was first discussed in the introduction to chapter 5. Thus, by means of the explicit establishment of a material starting point a mediator can aim to fulfil both of the essential reasons for material starting point establishment.

### 5.6.2 Presupposing material starting points.

In section 5.3 (excerpt 18) and section 5.4.2 (excerpt 21) the existence of presuppositions in the interventions with the general effect of (re)establishing material starting points was briefly mentioned. Excerpts 18 and 21 showed that mediation professionals may use the indirect communicative strategy of including *presuppositions* on material starting points in their interventions when (re)establishing material starting points. In this section (5.6.2), the use of presuppositions will be discussed not as elements or subjects of interventions with a specific local function but as a linguistic tactic that can be used to fulfill various local functions with the general effect of (re)establishing material starting points.<sup>69</sup>

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<sup>69</sup> Preliminary versions of some of the findings on presuppositions included in section 5.6.1 were presented by the author of this dissertation at the 2<sup>nd</sup> edition for the (ARGAGE) *Argumentation & Language conference* held from the 7<sup>th</sup> until the 9<sup>th</sup> of February 2018 at USI - Università della Svizzera italiana in Lugano, Switzerland. The author would like to thank the participants of the ARGAGE conference for their valuable feedback and suggestions on presupposing common starting points in conflict mediation.

Below a concise overview is provided of the views on presuppositions in linguistics that are relevant to the current study. In general there are two traditional perspectives on presuppositions in linguistics; the concept of *semantic presuppositions* in which presuppositions are explained in terms of meaning or the content of a sentence (e.g. Karttunen, 1973), and the theory on *pragmatic presuppositions* in which presuppositions are partly explained in terms of the beliefs, intentions and expectations of the producers of the utterances in which the presuppositions are included (Stalnaker, 1973, p. 451). In this dissertation the perspective of *pragmatic presuppositions* is taken because of its focus on shared beliefs, which are seemingly compatible with the conceptualization of material starting points used here. In this study we look at presuppositions by a speaker (i.e. the mediator) at a certain point in the conversation. Presuppositions are essential in the design of any communication as they help move the conversation along in a smooth and productive way; the flow of the conversation is aided by means of *presupposition accommodation* which updates the context of the conversation in a subtle manner (e.g. von Stechow, 2008, p. 137). *Presupposition accommodation* entails the inclusion of a presupposition in the common ground upon its acceptance. More specifically, unless an introduced presupposition is contested by one of the other participants in the interaction, that which is presupposed gets added to the common ground (Lewis, 1979, p. 339). Thus, there seems to be a clear link between presupposing and updating the interlocutors' common ground. More specifically, presupposition accommodation can be used as a device by mediators "to let the conversation proceed when the presupposed material can be accepted without being discussed, even if it is not already part of the speaker's common ground" (Greco, 2003, p. 221). This link between common ground and presuppositions makes the presence of presuppositions in the corpora for the study of common ground (re)establishment interesting to study.

The discussion of presuppositions in argumentation is not new (see e.g. Greco, 2003; Greco Morasso, 2011; Macagno, 2012, 2015; Rocci, 2005). However, rather than the positive and functional tactic of presupposition accommodation that keeps the conversation flowing and updates the common ground, the most prominent discussion on presuppositions concerns the *fallacy of many questions* in (reasonable) argumentative

discussions (e.g. Walton, 1981, 1991, 1993, 1999; Hintikka, 1987; Jacquette, 1994; Pilgram & Polcar, 2007; Botting, 2010). The fallacy of many questions concerns unacceptable inclusions of presuppositions in questions to which discussants are unable to provide direct answers without inadvertently accommodating the unacceptable presupposition as well. The most popular example of this fallacy is the accusatory question “has John stopped beating your wife/grandmother?” (e.g. Belnap, 1966, p. 610), which includes an ‘unacceptable’ presupposition on the idea that the addressee ‘beats his or her wife/grandmother’. In the case of mediation however, acceptable presuppositions on material starting points can be a functional way to strengthen the common ground between the parties. Mediators should be careful and be confident that their presuppositions on material starting points are *acceptable* for the parties, otherwise they may be accused of actively attempting to affect the discussions in the resolution process instead of procedurally guiding them (e.g. Kelman, 2009, p. 72; Hopt & Steffek, 2013, p. 11). A second analysis of excerpt 21 (section 5.4.2) taken from the ‘craftsman versus case building company’ case (case no. 6; section 3.3.6) will be provided below with a focus on the presupposition (excerpt 28). Excerpt 28 is included in order to illustrate the possible role of presuppositions in interventions with the general effect of (re)establishing a material starting point and what it means in relation to the *fallacy of many questions*.

- 1 M °yes° but yes so you feel offended by your colleagues but especially (.) by  
P=  
2 V =P yes he lets himself by (.) he doesn't see through that at all=  
3 M °nj° (.) **but with P you go back more than twenty years (.) you were**=  
4 V =yes=  
5 M =right↑ he is owner but you were really just colleagues=  
6 V =yes that was the case yes well now it's a bit different yes=  
7 M =**but how long did you have it good with P**↑  
8 V (1.0) yhe:s about fifteen years=

---

Excerpt 28. *Presupposing material starting points*

The fallacy of many questions is often a negative and unacceptable presupposition. Instead the intervention in turn 7 includes a presupposition that is positive in nature: ‘you have had it good with P’. In the example there is a continuous presumption that there was at least an amicable relationship between the parties who have been working together for ‘more than twenty years’ (for the analysis of this intervention and the *local function* of reestablishing *shared history*, see section 5.4.2). This acceptability of the presupposition is confirmed by (V) in turn 5 with an affirmative response “yes that was the case yes well now it’s a bit different” to the mediator’s intervention “he is owner, but you were really just colleagues”. As such, the presupposition that there were times that their relationship was ‘good’ is *not* an unacceptable presupposition in the same way as an accusatory example of the *fallacy of many questions*. Although the mediator may not be certain that the presuppositions will be accommodated, because the presupposition is a reestablishment based on at least one (implicit) previous intervention by at least one party, the mediator is not guilty of including unwarranted content such as accusations that may incriminate the addressee, as would be the case for the fallacy of many questions.

As previously stated, examples of presuppositions in the corpus do not reveal new types of local functions for (re)establishing material starting points, instead the presuppositions seem to be tactical options for mediation professionals to present the local functions previously discussed (sections 5.2 – 5.5). When the mediator’s intention of presupposing is to get a material starting point added to the common ground, presupposing can be considered a communicative tactic with the local function of *fortifying the common ground* by purposefully adding a material starting point to the parties’ *common ground*. To illustrate the ways in which mediators may use presuppositions as a strategy to (re)establish material starting points in interventions with various local functions, section 5.6.1 includes three examples to be further discussed. Excerpt 29 is taken from the exploration part of the ‘church board versus sexton’ case (case no. 1; section 3.3.1) and includes a presupposition closely related to a *shared interest*, which was discussed as a common subject of interventions with the local function of *fortifying common ground* in section 5.5.

- 1 B [Well I think it is rather pretentious (.) to just act as if they just come here  
and save and straighten out everything we have done in the last decades and  
that we were all [botchers
- 2 M [so what
- 3 B we[re
- 4 M [You you would want (.) justice to be done to the traditions of the old  
and at the same time you say, yes, the new and the old need to cooperate  
because we need each other. Without each other we may not be able to  
save the church °is that the situation°↑
- 5 B Things are allowed to change but the newbies should not just impose
- 6 M [It is important] that you both choose to do so

---

Excerpt 29. *Presupposing material starting points*

Excerpt 29 takes place shortly before the passage presented in excerpt 27 where the tensions between the sexton of the church (B) and the new head of the church board (C) seems to reach fever pitch and the mediator attempts to establish a material starting point on *shared interests* (section 5.5.2). What is presupposed in the phrase “without each other we may not be able to save the church” is that ‘the church needs saving’, which is closely linked to the shared interests concerning ‘the future of the church’ (see section 5.5.2 and section 5.5.3) of both (B) and (C). It could thus be hypothesized that the mediator used the presupposition accommodation to add the notion that *the church needs saving* to the common ground, and do so “quietly and without fuss” (von Fintel, 2008, p. 137), in order to establish a *shared interest* concerning the ‘future of the church’, as analyzed in section 5.5.2. It is the shared interests that later on in the argumentative discussions on solutions play an important role as arguments for the acceptance of solutions that are mutually beneficial. The presupposition thus adds an important material starting point to the common ground of the parties on ‘cooperation’ for the sake of fulfilling and important shared interest which is ‘the ability to save the church’. The idea that interventions with different local functions can include presuppositions on sharedness between parties that seem to function as a way to strategically broaden the parties’ common ground is shown

using excerpt 30 and excerpt 31, taken from the ‘church board versus sexton’ case (case no 1; section 3.3.1) between a sexton (B) and the new head of the church board (C).

1 M Whilst, when you look closely at what is actually being asked and and maybe we can try to ge- get there, (.) then maybe everything is not so complicated and not so incompatible↑. **But, the question is how can we start seeing each other like that again, how can you see good intentions**↑ And (.) see (.) if we together for the sake of the church can take [a step

2 B [Yes look and if it has to be different in terms of financing (.) then we are also going to talk about my salary

---

Excerpt 30. *Presupposing material starting points*

1 M **Has there been a previous moment in the last six months that you were able to talk about the mutual expectations °and eh**↑

2 B You kno:w, when people fire you it all stops going anywhere and even now we are talking about nothing, except my discharge↑ and that is not eh, I cannot be blamed for that I think

---

Excerpt 31. *Presupposing material starting points*

In excerpt 30, the question “how can we start seeing each other like that again, how can you see good intentions?” (turn 1) presupposes the existence of mutual “good intentions”, whilst the question “Has there been a previous moment in the last six months that you were able to talk about the mutual expectations?” (turn 1) in excerpt 31 presupposes the existence of “mutual expectations”. The excerpts (30 and 31) presented here include interventions that presuppose (or in any case imply) the existence of material starting points, which are added to the common ground when accommodated. The intervention in excerpt 30 features an open question to generate options (i.e. “how can we start seeing each other like that again?”), whilst the presupposition itself included in the question functions to broaden the agreement space by adding a material starting point on *good intentions* (see section 5.3) to the common ground of the parties. The intervention in

excerpt 31 has the local function of requesting *case and context information* (see section 5.4) because the question “has there been a previous moment in the last six months that you were able to talk about the mutual expectations” elicits an answer on the material premise of *facts and truths*. However, the presupposition in excerpt 31 included in the intervention functions to broaden the common ground by updating it with a material starting point on the existence of *mutual expectations*. In short, when analyzing excerpts 30 and 31, it is clear that mediation professionals may construct an intervention that *presupposes* something that the parties have in common (i.e. shared ‘good intentions’ in excerpt 30 and ‘mutual expectations’ in excerpt 31); the interventions themselves can have any of the identified local functions, whilst the included presuppositions seem to function as a way to broaden the common ground between the parties.

As shown in section 5.6.2, presuppositions can be used for the strategic purpose of adding the notion that *parties have (X) in common* to the common ground. On the basis of this finding, the functional list of four instances in which people accommodate presuppositions by Greco (2003) can be updated with a fifth reason for presupposition accommodation, which may or may not be exclusive to conflict mediation interactions, see table 30.

---

Table 30

*Reasons for presupposition accommodation*

---

Reason 1 People accommodate in cases where the truth of it is deemed unimportant

---

Reason 2 People accommodate in cases where the purpose of speech is synthetically updating the listener’s ‘database of knowledge’

---

Reason 3 People accommodate in cases where they consider the speaker an expert

---

Reason 4 People accommodate in cases where the speaker deliberately exploits a presupposition as a stylistic device

---

*Reason 5 People accommodate in cases where the speaker exploits a presupposition as a strategic device*

---

*Note.* Adjustments to the table by Greco (2003, p. 5-6)

---

Based on the analyses presented in chapter 5 in general and in section 5.6.3 in specific, a fifth reason is added to the list proposed by Greco (2003): *people accommodate in cases where the speaker exploits a presupposition as a strategic device*, as is the case when mediators attempt to (re)establish a material starting point by presupposing it. The added category (5) differs from the similar sounding category (4) ‘people accommodate in cases where the speaker deliberately exploits a presupposition as a *stylistic* device’ because in (5) the presupposition accommodation is used *strategically*. Category (4) is used in literary works to elegantly introduce elements into the story without disrupting the narrative flow and/or peaks the reader’s interest of the introduced element in the continuation of the story (see Greco, 2003, p. 224). Whilst presuppositions may be used for such stylistic purposes, in the examples discussed in chapter 5 stylistics is not the main reason for presupposition accommodation. Rather, the main purpose is achieving the communicative goal of the local function and the argumentative aim of (re)establishing a material starting point. As such when a mediator constructs an intervention, for example with the local function of establishing a *shared interest*, as is the case in excerpt 29, the exploitation of the presupposition can be said to not be stylistic but *strategic* in nature.

### ***5.6.2 Additions to the list of material premises from pragma-dialectics.***

In this section, the list of material premise types in pragma-dialectics (see section 2.3.4 and the introduction to chapter 5) will be adjusted by adding the material premise types found in the analyses of material starting point (re)establishments by mediation professionals in chapter 5. In terms of the types of material premises added to the common ground, not all interventions discussed in chapter 5 could be categorized according to the material premises presented in pragma-dialectics – i.e. *facts* and *truths*, *suppositions*, *values* and *value hierarchies* (see table 5). In section 5.2 the material premise of *personal beliefs* was presented for the local function of *getting understanding*. This material premise type was explained to be different from those on the list because it concerns someone’s personal beliefs rather than a general moral value. As such, *personal beliefs* is a necessary category to be added to the existing list of material premise types. Furthermore, in the corpus multiple examples were found of interventions on shared

*feelings* (section 5.5.1) and shared *interests* (section 5.5.2) with the local function of *fortifying common ground* (section 5.5), for example in excerpts 24, 26 and 27 (see table 31).

Material starting point (re)established	Material premise type	Excerpt
We are both disappointed	feelings	24
We are both sitting here angry	feelings	24
(We both agree that) P has to go back to work	interests	25
We should go back to work soon	interest	26
We both agree on the expressed interests	interest	26
The church is important (for us both)	interests	27
We are both concerned about the future of the church	interests	27

The importance of pointing out shared feelings and interests was underlined by the mediation professionals from the focus group. Interestingly, feelings and interests, although considered particularly relevant in conflict mediation, are not on the list of material premise types. Even though these material starting points on *shared feelings* and *shared interests* most resemble the material premise type of *suppositions*, this label is not entirely fitting because we are not dealing with material starting points on normal states or usual courses of event (van Eemeren et al., 2014, p. 267), such as the standard example for suppositions: “Pjotr’s undoubtedly taken an early retirement now, for sure” (van Eemeren, 1992, p. 149). Instead, the interventions with the local function of *fortifying the common ground* rather include a material starting point that is more ‘internal’ in nature, as they concern shared *feelings* and shared *interests*. Yet, these material starting point on feelings and interests cannot be grouped under the more internal material premise type of

*values* either because they do not concern general beliefs that generally include a moral component such as “incest is bad”, which people use as guidelines to form opinions (van Eemeren, 1992, p. 149; van Eemeren et al., 2014, p. 267); nor do they present *value hierarchies* such as “creativity is more important than knowledge” (van Eemeren, 1992, p. 149). Feelings and interests also do not belong to the new material premise type category of *personal beliefs*, which include nongeneralizable value judgements. Finally, they also cannot be considered *facts* or *truths*, which concern material starting points on which any rational being would agree without requiring an explanation or justification for its acceptance (van Eemeren et al., 2014, p. 267). Thus, the material starting points on shared *feelings* and shared *interests* seem to form categories of their own to be added to the list of *material premises* that could be found in the communicative strategies used by mediators to broaden and strengthen the common ground between the parties. Thus, next to *facts* or *truths*, *suppositions*, *values*, *value hierarchies*, or *personal beliefs* (see section 5.2) we should add the categories of *interests* and *feelings* to the list of material premise types on which mediation professionals can (re)establish material starting points.

In sum, throughout chapter 5, we analyzed various excerpts that showed different local functions with the general effect of (re)establishing a material starting point. Based on the analyses of the excerpts in section 5.5.1 on feelings and section 5.5.2 in this chapter, *feelings* can be defined as concerning a person’s feelings concerning a situation, person or thing; whilst *interests* can be defined as concerning the highly personal and ungeneralizable interests people may have, which could motivate their actions and choices. As a result, the list of material premises for the (re)establishment of material starting points in conflict mediation can be adjusted as follows (see table 32):

Table 32

*Material premise types for conflict mediation*

Label	Description
facts / truths	Both <i>facts</i> , such as “ <i>Yerevan is the capital of Armenia</i> ”, and <i>truths</i> , such as “ <i>influenza is caused by a virus</i> ”, concern premises about reality that are accepted by all rational beings, whereby they do not need any justification and are not subject to any discussion (van Eemeren et al., 2014, p. 267).
suppositions	A belief held without conclusive proof or certainty, for example: “ <i>Peter has taken an early retirement now, for sure</i> ” (van Eemeren, 1992, p. 149). It is a statement about normal or usual courses of events, where there is an implicit expectation that there will be confirmation of the supposition/presumption at some point (van Eemeren et al., 2014, p. 267).
values	Relates to beliefs held by people, for example “ <i>incest is sinful</i> ” (van Eemeren, 1992, p. 149). They serve as “guidelines” according to which people make choices or on base their opinions (van Eemeren et al., 2014, p. 268).
value hierarchies	A person can <i>value</i> an action, thing, or condition over another, for example: “ <i>creativity is more important than knowledge</i> ” (van Eemeren, 1992, p. 149).
personal beliefs	A personal belief that contains a value judgement that cannot be checked or generalized, for example ‘ <i>John’s feelings are understandable/legitimate</i> ’.
feelings	A feeling concerning a situation, person or thing, for example ‘ <i>I am disappointed with the situation</i> ’.

Label	Description
Interests	Relates to peoples' interests, which are highly personal and cannot be generalized per se, for example ' <i>My wife needs a raise</i> '. The personal interests can motivate people's actions and choices.

In sum, based on the empirical analyses for chapter 5, besides the material premises for material starting points presented in pragma-dialectics (e.g. van Eemeren, 1992; van Eemeren et al., 2014), the following three conflict mediation specific material premises should be added to the existing list as separate categories of material premise types to fully cover the range of material starting point types that can be (re)established in conflict mediation: *personal beliefs, feelings, and interests*.

### 5.7 Conclusions on Material Starting Point (Re)Establishment

As a general finding on material starting point *establishment*, chapter 5 showed that when designing a context with enough common ground for a reasonable argumentative discussion what is added to the common ground besides (1) material starting point (X) itself, is (2) the mutually recognized shared information that there is agreement on material starting point (X). In general, mediation professionals are not able to simply *establish* material starting points in statements as they are able to do with procedural starting points (section 4.1) Instead, mediators more often elicit the material starting point through questioning to get the parties to make a material starting point explicit. The reason for this difference could be explained by the fact that mediation professionals have procedural power that allows them to *state* the procedural starting point to be established as part of their roles as procedural guides, however, they do not have the power to state what parties may share in terms of facts, suppositions, values, value hierarchies, personal beliefs, feelings and interests. Mediators were shown to use the prior contributions of parties in which a material starting point is included or alluded to for their material starting point eliciting questions. Only when the parties make a material starting point explicit it is added to the common ground as such. The corpus suggests that mediation professionals will more often reestablish material starting points than procedural starting points because many

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procedural starting points, unless challenged by the parties, can simply be set by means of a statement by the mediator (section 4.4). Because mediation professionals must base material starting point interventions on contributions made by the parties in which the material starting points are (implicitly) present, the corpus shows them more often *reestablishing* than *establishing* material starting points, as was shown in the analyses of excerpt 17 (section 5.2), excerpts 18 and 19 (section 5.3), excerpt 20 (section 5.4.1), excerpt 21 (section 5.4.2), excerpt 23 (section 5.5), excerpt 24 (section 5.5.1), and excerpt 25 and 26 (section 5.5.2).

As a result of the empirical analysis and the reflections from the focus group, for the interventions with the general effect of (re)establishing material starting points the following four local functions were identified: (1) *getting understanding*, (2) *emphasizing good intentions*, (3) *requesting case and context information*, (4) *fortifying the common ground*. The local functions were shown to be closely related to the parties' need to (A) be heard, and (B) believe that a resolution of their conflict is feasible.

For the local function of *getting understanding* (section 5.2) it became apparent that this local function is closely related to the need of the subordinate party to have important feelings legitimated by their superior. The material starting point that is added to the common ground with interventions that have the local function of *getting understanding* is: *party (X)'s feeling(s) (Y) is/are legitimate*. As such, interventions with the local function of *getting understanding* can be distinguished from interventions with the local function of *shared feelings*. Although both local functions concern parties' feelings, the material starting points added to the parties' common ground following interventions with the local function of *shared feelings* could be said to fit the standard formula *parties (X) and (Z) share feeling (Y)* instead. Through the study of the local function of *getting understanding*, the first conflict mediation specific material premise type was inferred: *personal belief*. This material premise type was added to the existing list of material premises (see table 32).

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In order for reasonable argumentative discussions that could lead to a mutually beneficial resolutions to take place, parties need to believe in the benevolent resolution attitude of the other party. Mediators can try to strengthen this belief using the local function of *emphasizing good intentions* (section 5.3). By pointing to the existence of past good intentions the mediator emphasizes the possibility of such intentions existing between the parties in conflict, which makes it more likely that parties are able to believe in benevolent attitudes in the future.

Interventions with the local function of *requesting case and context information* (section 5.4) were shown to commonly concern two distinct subjects. First, interventions with the local function of *requesting case and context information* may concern the retrieval of *sufficient information*. Interventions on *sufficient information* serve the function of getting the relevant information concerning the conflict on the table so that mediation professionals have the relevant contextual information to perform his or her duties as procedural guide and for the parties to get the other's perspective on the case. Secondly, interventions with the local function of *requesting case and context information* may concern the parties' distinct *shared history*, which helps parties activate their common ground on *facts* and *truths* regarding their relationship, especially before they found themselves in a conflict at deadlock.

The final local function discussed in chapter 5 is to *fortify the common ground* (section 5.5), which concerns the specific interventions that not only have (re)establishing a common starting point as the possible general effect but the intended communicative goal as well. In other words, it is the mediation professionals' intention to explicitly (re)establish a material starting point. Interventions with this local function commonly concern either *shared feelings* (section 5.5.1) or *shared interests* (section 5.5.2). This is particularly relevant for further research because the material starting points that are explicitly (re)established can be used to create a strong and well-defined opening stage that supports the parties' transformation of hostile to reasonable. Moreover, the explicit material starting points on *feelings* can serve as important premises in the argumentative

discussions on problems and the starting points on *interests* can serve as important premises in the argumentative discussions on solutions.

### **5.8 Final Remarks on the Empirical Studies of Common Starting Points**

In conclusion, chapter 4 on procedural starting points and chapter 5 on material starting points in conflict mediation interactions make up the empirical study of how mediation professionals as the *designers* of dialogue spaces for reasonable argumentative discussions (e.g. Aakhus, 2003; Greco, 2018) use common starting point interventions to broaden and strengthen the common ground between parties. The empirical chapters help us understand how mediators design dialogue spaces that make the mediation interaction go from (C1) a *conflict as interpersonal hostility* to (C2) a reasonable *conflict as a propositional incapability* (see section 2.1.2). The main findings of the empirical chapters 4 and 5 are briefly summarized below.

As a general achievement of the empirical chapters 4 and 5, various local functions were identified for the interventions with the general effect of establishing and reestablishing common starting points. The procedural starting points and material starting points, although different, share some similarities. Both types of common starting points can be *established* and *reestablished* by mediation professionals, whereby the common ground between the parties is both *broadened* and *strengthened*. The *establishment* of common starting points is related to the *quantity* of common starting points added to the common ground; the more common starting points are established by mediators, the broader the agreement space is that serves as a basis for reasonable argumentative discussions and accommodates discussion attitude transformations. *Reestablishment*, instead, is related to *quality*; emphasizing and making existing starting points explicit in a plenary fashion strengthens the common ground (Greco Morasso, 2011, p. 244) and equally aids discussion attitude transformations. Procedural starting points can broaden (in case of *establishment*) and strengthen (in case of *reestablishment*) the agreement space for a well-sized and well-defined common ground that supports the transformation of parties from hostile to reasonable, which accommodates mediation interactions with reasonable argumentative discussions on problems (especially in the *exploration part* of the mediation

circle) and solutions (especially in the *negotiation part* of the mediation circle). Material starting points, as agreed on material premises, are not up for discussion and can be used as arguments in support of a standpoint in the argumentative discussions on problems and solutions during the mediation process. The use of material premises in argumentation is particularly interesting in case of material starting points on '*shared interest*', which can be used in support of a standpoint (see e.g. Jacobs & Aakhus, 2002, p. 186) on a proposed solution in the *negotiation part*. This is relevant because truly mutually beneficial solutions ideally include the interests of all the parties in the conflict.

The corpus revealed that for common starting point interventions we can identify a separate local function from the interventions' general effect of (re)establishing common starting points (except for the local function of *fortifying the common ground*; see section 5.5). By looking at the different local functions, we are able to analyze different communicative options available to mediation professionals for the establishment and reestablishment of common starting points during the mediation session. The principle link between the more communicative local functions of interventions and their *argumentative* general effect of (re)establishing common starting points can be used as a tool for future research as well. Although procedural starting points and material starting points are distinct, the common starting points were shown to not be strictly separate either. An intervention can have the establishment of a material starting point as its *argumentative effect*, whilst the *communicative function* of the intervention in the mediation interaction may specifically concern the mediation procedure (see e.g. excerpt 3 in section 4.4). Alternatively, interventions with the procedural local function of *setting the agenda* (section 4.6) can concern the inclusion of *shared interests* (section 5.5.2) in the discussions on solutions in a future part of the mediation procedure (i.e. the negotiation part), which is a common subject of interventions with the material local function of *fortifying common ground* (see section 4.6.2; excerpt 14).

Finally, going back to the preconditions of conflict mediation in the opening stage of the *critical discussion* in pragma-dialectics – i.e. *implicitly enforced regulative rules* and *no explicitly recognized concessions* (van Eemeren, 2010, p. 151; van Eemeren & Garssen

2008, p. 12; section 2.3.1), slight adjustments may be proposed as a result of the analyses in chapters 4 and 5. Although almost all regulative rules are indeed implicitly enforced, after discussing the ‘regulative rules’ in the analyses of procedural starting point (re)establishment in chapter 4, mediation professionals can be said to have the option of explicitly enforcing specific regulative rules as well *if* they are considered essential to conflict mediation and doing so is within the formalized power they have as explicitly accepted procedural guides. This does not mean that mediators have legal power to make parties abide by any procedural rules, however, in principle, they can declare the conflict mediation as non-viable if parties are not committed to elements at the essence of conflict mediation. For example, in theory, mediation professionals may consider and declare the mediation impossible if they conclude a lack of commitment to finding a win-win resolution, find the parties unwilling to abide by necessary confidentiality agreements, or when parties are unable to come to a mutually acceptable agreement in the discussion on procedural starting points (i.e. *mediation essential elements*; section 4.4). The mediator can explicitly check the commitment of the parties throughout the mediation process (e.g. the *transitional moment*) and when necessary underline the necessity of commitment by reestablishing previously established procedural starting points as essential for the resolution of the parties. In terms of the material ‘concessions’ made in the opening stage, although most material starting points between the parties are indeed not explicitly recognized, both the excerpts included in chapter 5 from the corpus and the discussion by the mediation professionals in the focus group revealed that mediators can make concessions explicit. Mediation professionals can infer the implicit concessions in the parties’ contributions and make them explicit by eliciting agreement in questions. Moreover, in the case of interventions with the local function of *fortifying the common ground* making the concessions explicit is both the general effect of the intervention as well as its local function (i.e. the direct communicative aim of the intervention in the mediation interaction). The characterizations of the common starting points in the opening stage for mediation according to pragma-dialectics and the proposed adjustments are presented in table 33 below.

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Table 33

*Adjustments of the pragma-dialectical characterization of common starting points in conflict mediation*

Stage in the critical discussion	Common starting points	Characterizations of common starting point in the opening stage	Proposed adjustment
Opening stage	Procedural	Implicitly enforced regulative rules	Often implicitly enforced regulative rules; can be explicitly enforced when essential to the mediation procedure
Opening stage	Material	No explicitly recognized concessions	Mainly implicit/unacknowledged concessions; can be established as explicitly recognized concessions

In sum, the adjustments presented in table 33 state that the regulative rules are not necessarily implicitly enforced, as the flouting of certain essential procedural rules could mean a necessary termination of the mediation session. The concessions are indeed mainly implicit and unrecognized; *however*, they can be established as explicitly recognized concessions when mediation professionals attempt to explicitly establish material starting points in the mediation session.

The findings of the empirical chapters help refine the existing characterization of conflict mediation as an *argumentative activity type*, which we will build on in the conceptual chapters 6 and 7. More specifically, the empirical studies in chapters 4 and 5 are used to construct a basis to redefine the characterization of conflict mediation as a *genre of communicative activity* and its *communicative activity types*. As such, chapter 6 redefines the link between context, common ground, and mediation as a genre of communicative activity in light of the findings in chapters 4 and 5

## **Chapter 6. Conceptual Results: Reconceptualizing Context and Double Design with Common Starting Points**

Hitherto (in chapters 4 and 5), we analyzed the common starting point interventions constructed by workplace mediation professionals to design a mediation context that accommodates reasonable argumentative discussions. In their efforts of *double design*, mediation professionals are both the designers of the conflict mediation, and in a collaborative manner, are co-constructors of the mediation dialogue together with the parties (Vasilyeva, 2015). As the first chapter of our conceptual study to answer research question (B): *do common starting point interventions differ between different communicative activity types of workplace mediator*, chapter 4 conceptualizes how *context* affects the co-construction of mediation interactions and mediators' design of mediation interactions with enough common starting points for reasonable argumentative discussions.

Although this chapter will build on the previous understanding of context relevant for the analysis of argumentation in context in pragma-dialectics (see section 2.2.3; e.g. van Eemeren, 2010, 2015), the characterization of the context relevant for the analysis of common starting points in conflict mediation will be adjusted and refined using inferences that can be made from the empirical analyses of procedural starting points and material starting points (see chapters 4 and 5). The main reason for the reconceptualization of context in conflict mediation is that the current conceptualization of context for the analysis of argumentative discourse and the conceptualization of conflict mediation as a genre of communicative activity type in pragma-dialectics is too unrefined to further the understanding of how *context* affects the co-construction of mediation interactions and mediators' design of mediation interactions with enough common starting points for reasonable argumentative discussions.

In fact, in order to understand how the options for common starting point (re)establishments may differ depending on the communicative activity types of mediation it is essential to identify and explain the different 'levels of context' important for the analysis of argumentation in conflict mediation in general, and more specifically, the

relevant elements of those contexts for the (re)establishment of common starting points by mediators in the activity of double design. As such, this chapter will introduce and conceptualize *three necessary levels of context* relevant for the analysis of common starting points in different communicative activity types of workplace mediation based on the empirical findings from chapters 4 and 5 and the literature on context in argumentation and conflict resolution research. The importance of the three levels of context lies in the fact that they form the foundation based on which we can later conceptually differentiate common starting point intervention relevant variances between communicative activity types of workplace mediation. The *1<sup>st</sup> level of context*, which is conceptualized and conceptually studied in chapter 6, concerns the *main domains of context* relevant to the study of common ground in conflict mediation from an argumentative perspective, which is either the contextual domain of the mediation session itself or the contextual domain outside the mediation session. The *2<sup>nd</sup> level of context* that is conceptualized and discussed consist of the different *relevant context types* of the two main contextual domains. These *context types* will be explained as the overarching categories that contain the different contextual elements that can change depending on the communicative activity type of workplace mediation. The *3<sup>rd</sup> level of context* conceptualized and analyzed are the relevant contextual elements of the context types. Figure 21 below visually summarizes how the three levels of context that are conceptualized and defined in chapter 6 relate to each other.

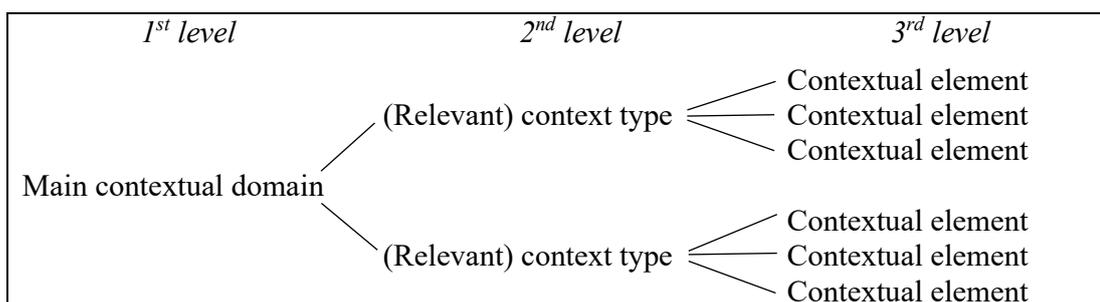


Figure 21. General overview of the relation between the three levels of context to be conceptually defined in chapter 6

In sum, the two *main domains of context* for argumentation in conflict mediation are defined, including the relevant *contextual elements* for the study of common starting point

interventions. The specific relevant *context types* categorized under the main context domains functionally reconceptualize the differentiation of context in pragma-dialectics (section 2.2.3) to suit the study of common ground in conflict mediation. As a result of the reconceptualization of context relevant to conflict mediation for argumentation in context in chapter 6, we are able to reconceptualize mediation as a genre of communicative activity in a way that supports argumentative research on conflict mediation guided by mediators other than mediation professionals. To that end, the reconceptualization helps us characterize different communicative activity types of conflict mediation that will vary depending on differences between different relevant *contextual elements* of the *context types* belonging to the *main domains of context*, whereby the definition of conflict mediation in van Eemeren (2010) can be broadened and refined. The introduction and discussion of the *three levels of context* in chapter 6 is ordered as follows: section 6.1 introduces the first level conceptualization of the *main domains of context*; sections 6.1.1 and 6.1.2 will provide in-depth discussions on the third level *contextual elements* that can be derived from the empirical studies in chapters 4 and 5, which will further refine the characterizations of the *main domains of context*; lastly, in section 6.2 the relevant *contextual elements* will be organized into the reinterpreted context categories from pragma-dialectics as the level 2 *context types*.

The effects that *domains of context*, *context types*, and *contextual elements* have on the co-construction of the mediation text and the design of the mediation interaction are explained using the concept of *double design* in section 6.5. In order to do so, the interplay between the context and text in relation to the concept of *double design* is explained in section 6.4; the specific differentiation between *context* and *text* functional in this dissertation for the understanding of the interplay between context and text is explained in section 6.3. The differentiations between context and text (section 6.3) and the general interplay between context and text (section 6.4) are important to define before discussing the conceptualizations of double design with common starting points (section 6.5). Finally, the different options for double design with common starting points are discussed using examples of *ideal sequences* of procedural starting point and material starting point (re)establishments in sections 6.5.1-6.5.4. Section 6.6 summarizes the most relevant

reconceptualizations of context as the conclusion to chapter 6. Besides presenting relevant and functional reconceptualizations of context for the study of conflict mediation from an argumentative perspective that can be used in future argumentative research on common ground in conflict mediation, the three levels of context discussed in chapter 6 will be used as a basis for the prototypical communicative activity types of workplace mediation presented and discussed in chapter 7. As such, the first general step in refining mediation as a genre of communicative activity is made in chapter 6.

### **6.1 Temporary and Suspended Context**

In section 6.1, some important notions of the *1<sup>st</sup> level of context* are introduced and discussed. The 1<sup>st</sup> level of context, as explained in the introduction to chapter 6, concerns the *main domains of context*, which can be explained as (1) the contextual domain *of* the mediation session (i.e. the context of the mediation session; from the procedural rules to the participants, and the spatial and temporal settings of the mediation), and (2) the contextual domain *outside* the mediation session (i.e. the relevant context to the resolution of the conflict excluding the contextual elements specifically belonging to (1) the contextual domain of the mediation session; from the parties' relations, status and behaviors to their beliefs and values). In this chapter, the main domains are defined according to the empirically analyzed communicative activity type of workplace mediations guided by mediation professionals; against these well-studied and well-defined domains future domain descriptions of other communicative activity types of workplace mediation can be constructed and compared (see chapter 7). Section 6.1 briefly explains how the two *main domains of context* should be understood relative to each other, after which sections 6.1.1 and 6.1.2 further refine the domains' respective characterizations using the *3<sup>rd</sup> level contextual elements* that can be found in these main domains of context.

In terms of the contextual domain *of* the mediation session, mediation professionals try to design mediation sessions for reasonable discussions on problems and solutions (see e.g. Aakhus, 2003, 2007; Greco, 2018; Vasilyeva, 2015) and thereby have the power to intentionally affect and create the *mediation domain*. It is important to note that the mediation domain is specific in terms of the procedural rules that govern it. In the

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mediation domain, the mediation professional is the participant with the most procedural power (e.g. Gerami, 2009; Rifkin, Millen, & Cobb, 1991), which is used to create a specific interaction that allows for attitude transformations and solution-oriented argumentative discussions (negotiations). In other words, in terms of procedure, the way parties are to conduct themselves in the mediation and the way in which the interaction is sequentially organized is specific to the mediation domain (see section 2.1 and chapter 4) and different from a communicative situation the parties may find themselves in outside the mediation. As the mediation domain is very particular, there are mediation procedural norms and rules that apply specifically during the mediation session. The rules and norms of mediation domain are implemented and managed by the mediation professional as the mediation domain's procedural guide. The mediator's aim as a procedural guide is to design a dialogue space in the mediation domain that maximally supports reasonable argumentative discussions and resolutions (see chapters 4 and 5).

As the procedural norms and rules in the mediation domain designed by mediation professionals only apply during the mediation process, we can suggest that *the mediation domain is a temporary context*. The temporary context is called temporary, because it only refers to the mediation domain and merely lasts as long as the mediation session lasts. The temporary context ideally suspends those contextual factors of the context outside the mediation domain that do not accommodate the resolution process. For that reason, we call the parts of the general domain outside the mediation domain that are suspended by the temporary context, the *suspended context*. The *suspended context* refers specifically to the parts of the general contextual domain outside the mediation that should not be part of the mediation domain. For example, formalized power asymmetries between superiors and subordinates that dictate the affordances of the communication by the subordinate in workplace conflicts are ideally suspended, meaning that the conventionalized power asymmetries should temporarily be put to one side because it could limit the communicative contributions of the subordinate party in the presence of his or her superior. A mediation professional does not have inherent power to affect aspects of the *general domain* outside the mediation session such as formalized workplace power asymmetries between disputants (e.g. van Bijnen, 2019), i.e. mediators do not have the

power to easily dissolve or alter power asymmetries in a way that has consequences after the conclusion of the mediation. Nevertheless, the mediation professional ideally affects the negative effects of formalized workplace power asymmetries for the sake of finding a mutually beneficial solution in a reasonable argumentative discussion in which *all* parties are able to put forward a standpoint and their line of support for that standpoint on solutions, and do so without the fear of possible negative repercussions (see van Bijnen, 2019). In terms of the pragma-dialectical normative model of the *critical discussion* (see section 2.2) power asymmetries that limit the contributions of (at least) the subordinate party could lead to the *violation of the freedom rule* (i.e. the ability of all parties in the argumentative discussion to put forward any standpoint and cast doubt or reject any standpoint or argument) (see e.g. van Eemeren & Grootendorst, 1992, pp. 107-115). The violation of the freedom rule would negatively affect the parties' ability to conduct truly reasonable argumentative discussions that lead to sustainable and fair resolutions that are mutually acceptable. As such, the importance of the ideal of the *freedom rule* in reasonable argumentative discussions coincides with the ideal of suspending parts of the general domain in the mediation domain in favor of mediation interactions that reinforce the freedom rule. In sum, the *temporary context* refers specifically to the contextual domain of the mediation session (i.e. the *mediation domain*) and the *suspended context* refers to the unfavorable parts of the general contextual domain outside the mediation (i.e. the *general domain*), which should not be part of the mediation domain. Ideally, the temporary context (i.e. the *mediation domain*) replaces the suspended context (i.e. the general domain outside the mediation domain not beneficial to the resolution process in conflict mediation) for the duration of the mediation.

As the suspended context specifically refers to the parts of the context outside the mediation that should be suspended, the label *general domain* will be used in this study when referring to *all the context outside the mediation domain*, including the elements to be suspended by the temporary context, such as the hierarchical power asymmetries in workplace conflicts (section 6.1.2). In addition, for the sake of consistency and clarity, the

label *mediation domain* will be used when referring to the specific context of the mediation session (section 6.1.1).<sup>70</sup>

### **6.1.1 Contextual elements of the mediation domain.**

As analyzed in the empirical chapters, mediation professionals are able to design mediation sessions with resolution favorable procedural norms and rules that support constructive and reasonable argumentative discourse through the (re)establishment of procedural starting points. As such, the *mediation domain* has been explicitly, but more often implicitly, referred to in all previous chapters of this dissertation as a context with its own procedures and rules. Moreover, the design process of the interactions in the mediation domain has been analyzed in-depth through the study of procedural starting point (re)establishment in chapter 4. Although the mediation domain has been introduced in section 6.1 and has been discussed (implicitly) throughout the dissertation, a further conceptualization of what the mediation domain consist of (i.e. what relevant *contextual elements* it contains) is in order for it to be used as a detailed framework against which the descriptions of other mediation domains (belonging to other communicative activity types workplace mediation) can be compared.

The specific contextual domain of the mediation session is related to the (procedural) world of conflict mediation and the sequential structure of the mediation event and the mediation interaction is generally governed by a formalized mediation procedure with specific institutional affordances (e.g. Donohue, 1989, p. 335; Kressel, 2014, p. 285; see section 2.1). The fact that the procedure of the conflict mediation guided by mediation professionals is specific to that communicative activity type of workplace mediation (section 2.1) heightens the need for further characterization, because it implies that different communicative activity types of workplace mediation will have differently defined mediation domains, e.g. in terms of the procedural norms and rules governing it.

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<sup>70</sup> As will be shown in the following sections (6.1.1 and 6.1.2), the existence of the concept of a *suspended context* does not mean that the *material* factors of the *general domain* cannot and should not affect the *mediation domain*; instead it means that the *procedural norms* that are incompatible with the *mediation domain* are suspended in favor of a procedurally guided temporary context that may increase the possibility of a favorable resolution of the conflict.

The differences in affordances for the construction of procedural starting point interventions help design the mediation domains of different communicative activity types of workplace mediation in different ways; it is these differences that will be studied in chapter 7, and for which chapter 6 constructs the general conceptual framework by defining the three levels of context relevant to common ground in conflict mediation.

By looking into the *3<sup>rd</sup> level of context*, the mediation domain can be further defined by focusing specifically on the contextual elements of the mediation domain relevant for the study on common starting point interventions in general, and procedural starting point interventions in specific. Since conflict mediation by mediation professionals is generally a highly formalized procedure, most of the relevant *contextual elements* of the mediation domain are related to the interventions with *local functions that (re)establish the procedural starting points* (inferred from the data and analyses of the empirical study in chapter 4). Were we to look at a workplace mediation following a more informal mediation procedure guided by a mediator other than a mediation professional, it is in these contextual elements that we may expect differences that would directly affect the construction of procedural starting point interventions.

Based on the three different local functions with the general effect of (re)establishing procedural starting points analyzed in chapter 4 – *getting party commitment to the mediation essence* (section 4.3), *discussing procedural starting points* (section 4.4), and *setting the agenda* (section 4.5) – the contextual elements of the mediation domain can be inferred and divided into two broad categories: the *essential elements* and the *meta elements*. The *essential elements* refer to the concepts of conflict mediation that were identified as essential in the analyses of the corpus of mediation transcripts in section 4.3, such as confidentiality and finding win-win solutions for a conflict.<sup>71</sup> The category of *meta elements* refers to the sequential parts of the mediation procedure and specific parts of the mediation process such as the brainstorm for solutions, which are defined by interventions with the local functions of *discussing procedural starting points* (section 4.4) and

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<sup>71</sup> These elements were also discussed as being ‘essential elements’ in the discussions of the focus group.

organized by interventions with the local function of *setting the agenda* (section 4.5). Changes in the categories of contextual elements could be expected to directly affect the construction of procedural starting point interventions. Table 34 presents the different categories of contextual elements and the procedural local functions that could be directly affected were the contextual elements to differ depending on the communicative activity type of workplace mediation.

Category of contextual elements	Contextual elements	Local functions directly affected by changes in contextual elements
Essential elements	e.g. necessity of confidentiality and win-win solutions	<ul style="list-style-type: none"> <li>▪ Getting party commitment to the mediation essence</li> </ul>
Meta elements	e.g. procedural rules concerning the entire mediation process or a specific portion	<ul style="list-style-type: none"> <li>▪ Discussing procedural starting points</li> <li>▪ Setting the agenda</li> </ul>

The *essential elements* are more abstract in nature than the *meta* elements; they relate to concepts identified as essential to conflict mediation and are often included in the definition of conflict mediation itself (e.g. confidentiality and win-win solutions) (see e.g. the introduction, chapter 2 and the discussion in section 4.3). A change in the mediation domain in terms of the *essential elements* would directly affect the options mediators have for the construction of interventions with the local function of *getting party commitment to the mediation essence*. The *meta elements* could be said to either concern *the entire mediation circle* (e.g. the role of the mediator as a procedural guide) or a procedural agreement for *a specific portion of the mediation circle* (e.g. the brainstorm session during the negotiation stage). A change in the mediation domain concerning the *meta elements*

could directly affect the options mediators have to the construction of procedural starting point interventions with the local functions of *discussing procedural starting points* and *setting the agenda*.

In chapter 7, it will be hypothesized that depending on the differences between the mediation domains of different communicative activity types of workplace mediation, there will be differences in the essential elements and the meta elements, which will directly affect mediators' abilities to construct procedural starting point interventions with specific local functions. As such, the identification of the relevant contextual elements that are part of the different domains of context is a functional conceptual preparatory step for the construction of the prototypical communicative activity types of workplace mediation that will help answer research question (B) *do common starting point interventions differ between communicative activity* in chapter 7.

### **6.1.2 Contextual elements of the general domain.**

In general, the *general domain* may affect the construction of the common starting point interventions because the *common ground* between the parties generally 'exists' in the general domain and not in the mediation domain, which as a temporary context does not and cannot account for most of the parties' shared material starting points (i.e. the shared material premise types such as values or personal beliefs). The parties' main shared material premises (see section 5.7) therefore do not belong to the mediation domain but the general domain, although they may be made explicit in the mediation domain as was shown in the empirical analyses for this study. By looking into the *3<sup>rd</sup> level of context* the *general domain* can be further defined in a way that is relevant for the study on common starting point interventions in general, and material starting point interventions in specific. It is in the contextual elements of the general domain that we may expect differences that would directly affect the construction of material starting point interventions.

In short, the general domain describes the relevant contextual elements that belong to the world *outside* the mediation domain. From the perspective of the common starting point (re)establishment in mediation interactions, the relevant *contextual elements* from the

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*general domain* could be seen as the contextual elements that the mediation participants ‘bring with them’ to the mediation session, rather than the contextual elements provided by the mediation. Whilst the mediation domain provides mediators with the options for procedural starting point (re)establishment, the parties bring the relevant material premises (see table 32; section 5.6.2) with them to the mediation session from the general domain. Based on the material premises of the material starting points (re)established by mediation professionals that were found in the material starting point interventions analyzed in chapter 5, two relevant categories of contextual elements for the general domain can be constructed: *informational elements* and *personal elements*.

The category of *informational elements* consists of the ‘knowledge-based’ material premises about generally accepted realities for which conclusive proof is expected or for which no justification is required: *facts*, *truths*, and *suppositions*. As such, these material premise types could be said to be directly linked to the interventions with the local functions that concern (verifiable) states and sequences of events: *requesting case and context information* (section 5.4) concerning *sufficient information* (section 5.4.1) and *shared history* (section 5.4.2); or proof of the existence of *good intentions* (section 5.3) between the parties in the past, e.g. before the conflict escalated. The category of *personal elements* concerns the material premise types *values*, *personal beliefs*, *feelings* and *interests*. Using these personal elements mediators would be able to construct interventions with the local function of e.g. *getting understanding*, as it has the general effect of establishing a material starting point on a *personal belief* that the feelings of *party (X)’s feeling(s) (Y) are understandable/legitimate* (see section 5.2); or interventions with the local function *fortifying the common ground* (section 5.5) on *shared feelings* (section 5.5.1) or *shared interests* (section 5.5.2). Table 35 below shows the link between *contextual elements* of the *general domain* and the specific local functions with the general effect of (re)establishing material starting points.

Table 35

*The categories of contextual elements that make up the general domain and the local functions affected by them*

Category of contextual elements	Contextual elements (based on the material premise types)	Local functions directly affected by changes in contextual elements
Informational elements	Fact, truths and suppositions	<ul style="list-style-type: none"> <li>▪ Emphasizing good intentions</li> <li>▪ Requesting case and context information</li> </ul>
Personal elements	Values, personal beliefs, feelings and interests	<ul style="list-style-type: none"> <li>▪ Getting understanding</li> <li>▪ Fortifying common ground</li> </ul>

As will be discussed in chapter 7, mediators in different communicative activity types of workplace mediation may have different degrees of access to the material premises shared by the parties. For now, it is important to know that the different degrees of access to these contextual elements directly affects the options mediators can have for material starting point interventions with the local functions that can be related to the abovementioned categories (table 36). For example, mediation professionals, as hired third parties in the resolution process, usually have limited access to the *informational elements* and the *personal elements* before the beginning of the mediation process, which are per definition personal in nature.

## 6.2 Context Types Relevant for Conflict Mediation

In our quest to understand the relevant contextual information to take into account when analyzing interventions in which common starting points are (re)established, inspiration is taken from the context differentiation used in argumentation studies. In this section we will use the concepts of the different context types used in pragma-dialectics that were discussed in section 2.2.3 and further refine them with the conceptual insights from the previous sections on the context relevant to common ground in conflict mediation, namely

the conceptual findings on the *mediation domain*, the *general domain* and the corresponding *contextual elements*. However, before moving on to the characterization of *context types* (2<sup>nd</sup> level of context) it may be helpful to reiterate how the three levels of context conceptualized for this chapter are related as a functional framework of context for the study of common ground in conflict mediation (see table 36).

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Table 36

*The three levels of context conceptualized and defined in chapter 6*

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Level	Description
1 <sup>st</sup> level	(relevant) <i>main domains of context</i>
2 <sup>nd</sup> level	(relevant) <i>context types</i> belonging to the main contextual domains
3 <sup>rd</sup> level	(relevant) <i>contextual elements</i> belonging to the context types

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The 1<sup>st</sup> level was discussed in section 6.1, after which the *mediation domain* and *general domain* were further defined by means of the 3<sup>rd</sup> level of context in sections 6.1.1 and 6.1.2. Section 6.2 will discuss how the two main domains of context can be understood in light of the conceptualization of contexts in pragma-dialectics – i.e. *macro-context*, *meso-context*, and *intertextual context* – previously presented in section 2.2.3 of this dissertation. By reinterpreting these contexts from pragma-dialectics as *context types* relevant for common ground (re)establishment in conflict mediation, we are able to define the *2<sup>nd</sup> level of context* as the *relevant context types* belonging to the two main domains of context under which the relevant *contextual elements* discussed in sections 6.1.1 and 6.1.2 can be grouped (3<sup>rd</sup> level).

The *intertextual context* described in pragma-dialectics concerns the contextual information that connects the current mediation interaction to other speech events (see e.g. van Eemeren, 2015, pp. 647-648). More specifically, it refers to the different texts (either spoken or written) to which the current text (i.e. the current mediation discourse) is implicitly or explicitly contextually related (see e.g. Allen, 2011). The *intertextual context type* can belong to the mediation domain when it includes relevant written documents referred to in the mediation discourse, such as the *agreements to mediate* (see e.g. Deckert,

2013, p. 484). However, more commonly the intertextuality concerns previous dialogues between the parties, email exchanges, and other communications and/or documents from outside the mediation. Therefore, we could more accurately say that the *intertextual context type* belongs to the *general domain*. Any analyses of argumentative discussions are to be understood in relation to these other texts.

Two of the three conceptualizations of context taken from pragma-dialectics are relabeled in this dissertation to better reflect the contextual information referred to in this conceptual study.<sup>72</sup> For example, the *meso-context* is relabeled as the *conflict context type*. In pragma-dialectics the meso-context pertains to the situational context (see van Eemeren, 2015, pp. 647-648); it details the contextual information of the conflict (and disagreement) itself. As the *conflict context type* concerns the conflict case itself (e.g. the disagreement(s) at the center of the dispute(s)) and the context of the conflict (e.g. the events that caused the escalation of the dispute(s) into a conflict) (see section 7.1.3), which we will conceptually study further in relation to common ground (re)establishment in chapters 6 and 7, the label of *conflict context type* proves to be more functional. Since the disagreement, the dispute, and the conflict arose *outside* the mediation session, we can say that the *conflict context type* concerns the *general domain*.

The macro-context is relabeled as the *institutional context type*. The *institutional context type* includes the specific institutional context of a mediation, including its institutional point (van Eemeren, 2010, p. 129) and the different institutional constraints the context specific to the mediation case studied has on text production by mediators (e.g. Bercovitch & Houston, 2000, p. 191). In short, the institutional context of a mediation determines the *register* of the discourse (i.e. language use variety typical of and suited to the purposes of a specific communication situational context (Biber & Conrad, 2012, p. 6)). The *institutional context type* prescribes the conventions of the discourse in a specific communicative activity type of mediation. As it concerns mediation procedure and

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<sup>72</sup> The relabeling does not mean that the labels provided in pragma-dialectics are faulty; it merely means that the relabeling is more functional for the further conceptualization of the 2<sup>nd</sup> level *context types* and the 3<sup>rd</sup> level *contextual elements* in this study.

procedural affordances that are not (necessarily) applicable outside the mediation, the *institutional context type* is specific to the *mediation domain*. The institutional context type can be related to procedural starting point interventions because it is specific to the *mediation domain*. As such, the institutional context type of a specific communicative activity type delineates the formal affordances of the mediation procedure. For example, if the description of the *institutional context type* of two communicative activity types of workplace mediation compared in a study differ on relevant points (i.e. relevant affordances for design of the mediation domain), the options mediators have for the construction of procedural starting point interventions will differ.

However, in this dissertation we are not solely concerned with procedural starting points; the material starting points too can be said to have macro contextual information relevant for their analysis. Thus, in this study of common starting point (re)establishment in various communicative activity types of workplace mediation, we look at a plethora of contextual elements at the macro level besides the institutional constraints of a communicative activity type. As such, *macro-context* as it is conceptualized in pragma-dialectics is too narrow for what we are trying to study in this dissertation. Were the label of *macro-context* to be used in this dissertation concerning both procedural and material starting points, the term *macro* would implicitly denote more than the specific institutional context and cause confusion with how *macro-context* is traditionally used in pragma-dialectics. As such, using *institutional context type* when referring to the institutional affordances of communicative activity types of workplace mediation is more functional in this dissertation.

From the analyses in chapter 5 we can infer that it would be particularly important to include macro-contextual information that determines the content of parties' material premises. However, this contextual information, which would belong to the *general domain*, is not included in the context categories discussed in pragma-dialectics. For this reason, the *identity context type* is added to the list as the fourth relevant context type for the analysis of common starting points in various communicative activity types of workplace mediation (as will be further explained and discussed in section 7.2). We refer

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to the *identity context type* when discussing a party's values, beliefs, relationships, and so on. This context type is labeled the *identity context type* because rather than being concerned with the case context, the conflict or the conventionalization of the communicative activity type of workplace mediation, it concerns the *personal contexts of each participant in the mediation*. More specifically, the *identity context type* includes those relevant *contextual elements* that help with the (self)identification of a person and the construction of specific interventions on material starting points (see sections 6.1.2 and 7.2), which is particularly important for analyses of material premises such as personal beliefs, interests, or feelings.

In the definitions provided here, the list of *context types* that should be taken into account when analyzing common starting point interventions in different communicative activity types of mediation are directly linked to the two main domains of context – i.e. the *general domain* and the *mediation domain*. Explaining the two main domains along the lines of the different context types will help us further explain how the different domains affect each other and the construction of the mediation text. Figure 22 below summarizes the relation between the 1<sup>st</sup> level of context and the 2<sup>nd</sup> level of context conceptualized in this chapter.

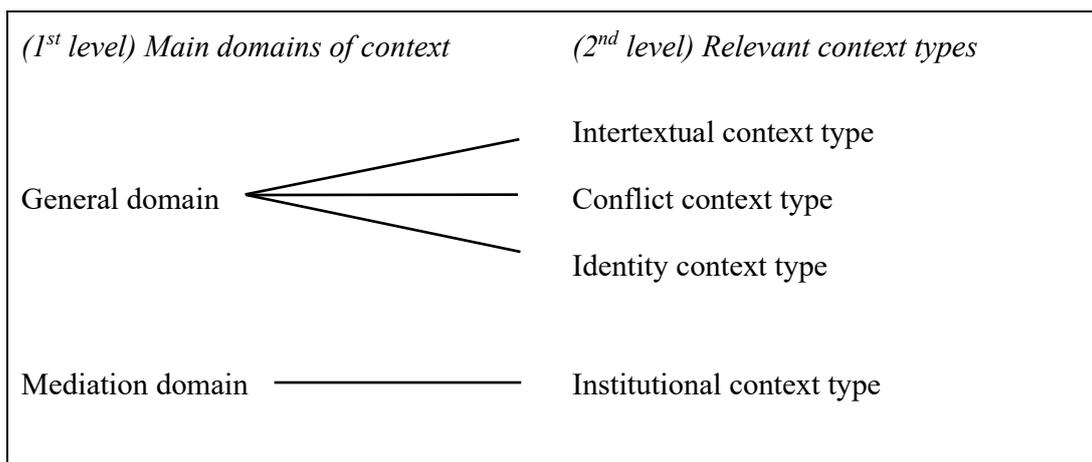


Figure 22. Main domains and context types

In sum, the functional framework of context presented in this chapter at the 1<sup>st</sup> level presents the *general domain* and the *mediation domain*, which can be subdivided into

different *context types* at the 2<sup>nd</sup> level. Finally, at the 3<sup>rd</sup> level, the relevant context types of the two domains include specific *contextual elements* that we can theorize to directly affect common starting point interventions.<sup>73</sup>

The *intertextual* context type was rightfully included in the literature on contexts and argumentation (van Eemeren, 2015, pp. 647-648). However, in our conceptual study of the contextual influence of different communicative activity types on material starting points in chapter 7, we will mainly focus on the latter two context types belonging to the general domain, i.e. the *identity context type* and the *conflict context type* because they were most prominent in the material starting point analyses for chapter 4. In terms of the mediation domain we are concerned with the *institutional context type* for the (re)establishment of procedural starting points in different communicative activity types of workplace mediation conceptually studied in chapter 7. As such, in light of the findings of the empirical chapters, there are two important context types for the (re)establishment of common starting points in the *general domain* that will be further studied in our conceptual study: the *identity context type*, which concerns *personal elements* that make up a person's identity, such as values or beliefs; and the *conflict context type*, which concerns *informational elements* regarding the situational context of the parties, the conflict case, and the case context, such as the parties' relationship. When it comes to the *mediation domain*, there is one specific context type inferred as relevant based on the pragma-dialectical concept of macro context (van Eemeren, 2010, p. 139) and the empirical analyses in chapter 4: the *institutional context type*. When it comes to the *institutional context type* of mediation the contextual elements concern either *essential elements*, such as the general goal of finding a win-win resolution to the conflict, or *meta elements*, which can concern either on the mediation procedure in its entirety or a specific moment in the resolution process.

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<sup>73</sup> This is not to say that the list of context types presented in this dissertation is exhaustive, rather that these are the dissertation-relevant context types that can be established based on the contexts established in pragma-dialectics (e.g. van Eemeren, 2010, 2015) and the empirical studies in chapters 4 and 5.

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Based on the empirical studies in chapters 4 and 5, several contextual elements were identified in sections 6.1.1 and 6.1.2 that can be directly linked to the *identity context type*, *conflict context type*, and the *institutional context type*. These *three context type categories* are particularly relevant for the analysis of common starting points in different communicative activity types of workplace mediation; the contextual elements that belong to these context types may differ depending on the communicative activity type of workplace mediation, which would directly result in different options for the construction of common starting point interventions. Figure 23 below presents a visual representation of the connection between the two main contexts (1<sup>st</sup> level of context), the relevant context types (2<sup>nd</sup> level of context) and the contextual elements (3<sup>rd</sup> level of context) that can be expected to differ between various communicative activity types of mediation.

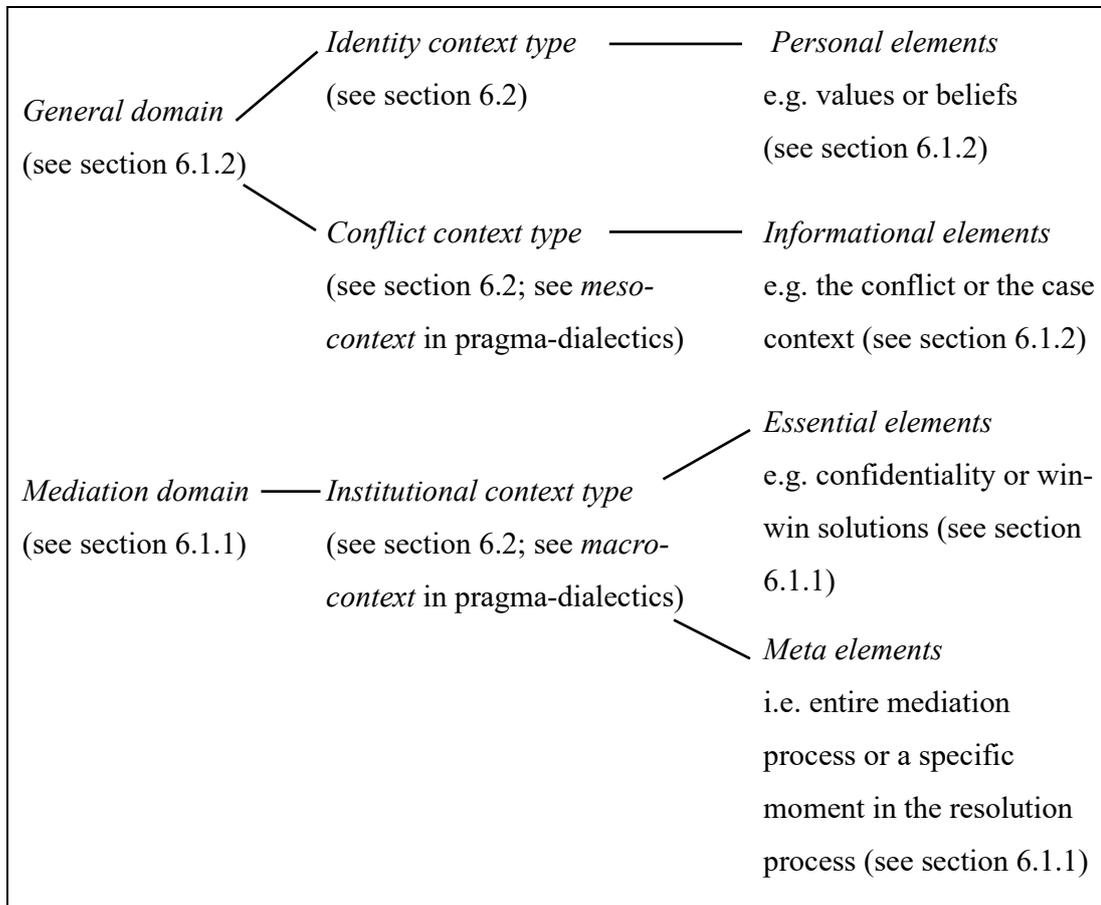


Figure 23. The relation between domains of context, the relevant context types and contextual elements

### 6.3 The Realms of Text and Context

Analyzing discourse from an argumentative perspective, we generally presuppose that the text we study is surrounded by context and that the text and surrounding context affect each other, by which we implicitly assume the idea that argumentation in context is *doubly contextual* (e.g. Duranti & Goodwin, 1992, p. 29; Heritage, 1984; see section 2.2.2). Up until now, we discussed the two different domains of context, their various context types and contextual elements relevant to the present study of common ground in conflict mediation in detail. Before we can further discuss the relation between the context and text production concerning common starting points, we should conceptualize what the *mediation text* is in this dissertation. Although the approaches taken on context in this

study are in line with the perspectives discussed in the sections above, the way in which the labels *context* and *text* itself are used here, slightly diverges from previous studies in argumentation. In other words, although its foundation is deeply rooted in prior research, this conceptual study makes one small yet important adjustment to the labeling of both concepts.

Thus far, text has been conceptualized and used both implicitly and explicitly as the discourse itself produced by the participants, including the mediation professional in the mediation session. Table 37 below presents a working definition of *mediation text* that makes the conceptualization of text in this study explicit and emphasizes the particular distinction between contexts and text made in this dissertation.

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Table 37

*Definition of 'mediation text'*

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Label	Definition
<i>Mediation text</i>	The either spoken or written language of the mediation; text is that through which participants communicate when they use language (e.g. Georgakopoulou and Goutsos 2004). The <i>mediation text</i> is communicated <i>in</i> the mediation session and is the main object of study in the empirical analyses of dialogues in mediation between the mediator and the participants. <sup>74</sup>

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The mediation text is where we as analysts find the parties' solutions and from which we infer the parties' reasoning and justifications in favor of these solutions. Whilst the mediation domain facilitates the resolution process; the concrete solution can be found in the *mediation text*. When referring to *mediation text* we could either refer to (A) *a single text unit* in the mediation (e.g. a specific utterance in the mediation) or (B) the *mediation text as a whole* (i.e. the whole mediation interaction).

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<sup>74</sup> The written documents such as the pre-mediation agreement are considered part of the *intertextual context type* (see section 6.2).

In order to explain the relation between mediation texts and the three levels of context conceptualized in this chapter, we should look at some relevant perspectives on context and text relations. Here, we will focus on how these perspectives relate to the view on ‘context’ and ‘text’ taken in the conceptual chapters 6 and 7.

Context and text can be approached from a ‘sense-making’ perspective when trying to understand how participants make sense of text and how an analyst can reasonably reconstruct conversations. This means that whilst it may become necessary for us analysts to know the context in order to make sense of text, context does not determine what a text is about (Cooren 2010, p. 32). Although the role of context from a ‘sense-making’ perspective is rightly considered important for the understanding of text production in different approaches of communication research, such as conversation analysis, in the conceptual chapters of this dissertation we are taking a ‘production’ perspective. The ‘production’ perspective on the relation between context and text is specifically functional for an argumentation study of common starting point (re)establishment in which the focus lies on mediators as designers of opening stages with explicit common ground. In short, in the conceptual chapters, the focus lies on context and its relation to the *how* and *why* of text *production* in terms of common starting point (re)establishment rather than *reconstruction* in terms of sense-making and/or textual understanding.

In the interpretive perspective on context in argumentation, the relation between the *text* and the *context* is usually described as a relationship of *part* to *whole*. In this perspective the studied utterance is a contextualized or ‘contexted’ *part* (see e.g. Rigotti & Rocci, 2006, p. 167) of the context (i.e. the *whole*) that gives the utterance its meaning. Following Huen (2009), although the part-whole manner of explaining the relationship between text and context is indeed valid, specifically when analyzing *specific utterances* in relation to their *co-text* (as is done in the empirical chapters), in the conceptual part of this study in particular, the contextualized (i.e. the *mediation text*) and the context (i.e. the *general domain* and the *mediation domain*) cannot be considered to have a *part-whole* relationship because they are not made of the same ‘material’ (i.e. they belong to different ontological realms) (e.g. Huen, 2009, p. 152). In other words, the part-whole relationship is a

functional description for the text-context relation in *the realm of text*, whilst the relationship between context and text in *the realm of context* can be considered more similar to that of an “organism” and its “environment” (Duranti & Goodwin, 1992, p. 5). In this relationship the *environment* (i.e. the *general domain* and the *mediation domain*) affects, and in a sense molds, the *organism* (i.e. the *mediation text*), and the *organism* in turn affects the *environment* in general or a certain aspect of its environment to some degree.

In the empirical analyses of the common starting point interventions by mediation professionals in support of reasonable argumentative discussions on problems and solutions, the approach that was taken on the text-context relation was both *part-whole* and *organism-environment*. In the conceptual study we specifically discuss the *organism-environment* relation when we analyze different contextual elements of the *setting* “i.e. the social and spatial framework within which encounters are situated” (Duranti & Goodwin, 1992, p. 6) specific to the *mediation domain* and/or the *general domain*. The *mediation domain* and *general domain* as the *main domains of context* can be considered part of a broader ‘realm of context’, whilst the *mediation text* (and the *intertextual context* and *co-text*) can be considered belonging to the broader ‘realm of text’. Whilst pragma-dialectics considers *micro-context*, which corresponds to the concept of *co-text*, as the *textual* context that surrounds the intervention and the *intertextual context* as a type of context, in this study they are both considered *text*. This idea is particularly important in the case of *co-text*, because co-text is referred to explicitly in empirical analyses of argumentation in context, and the presented analyses of the excerpts in empirical chapters 4 and 5 are no exception. The *main domains* and the *context types* discussed in previous sections concern specific *contextual elements* external to the mediation text that can affect text construction; co-text, however, is part of the mediation text and ontologically belongs to the same category as the utterances studied in empirical studies.

Although discourse and argumentation always take place within context, it could be said that, although somewhat oversimplified, the type of research conducted in the empirical chapters concerns *the realm of text*, as it is a study of text (i.e. common starting point

interventions). The conceptual research on the other hand concerns *the realm of context*, as it is a study of contextual differences between communicative activity types of mediation, in which we hypothesize the influence of specific contextual changes on specific procedural and material local functions that (re)establish common starting points. As the *micro-context* in pragma-dialectics (see e.g. van Eemeren, 2015, pp. 647-648; van Eemeren et al., 2014, p. 538) concerns co-text that is part of the *mediation text* rather than the *mediation domain*, it is considered part of the *realm of text* in this study. When we apply this concept of ‘realms’ and the *micro-context* in pragma-dialectics to the conceptualization of context in chapter 6, the following becomes clear: although the text preceding and following an utterance indeed concerns contextual information *that contextualizes the contextualized utterance*, micro-context does not belong to the framework of the three levels of context introduced in chapter 6. *Co-text* is, thus, not classified as part of the *realm of context* but belonging to *the realm of text*; as part of the ‘cooperative text construction’ of the *mediation text* through a part-whole relation between utterance and co-text. Because *co-text* (i.e. *micro-context*) is considered part of the *realm of text*, it is not included in further figures on domains, context types, and contextual elements. Similarly, although ‘context’ indeed includes other texts (e.g. Cooren 2010, p. 34), from contracts to work e-mails, in this dissertation any relevant text to the (re)establishment of common starting points is considered part of the *realm of text* and is treated as such.

The conceptualization of *context* and *text* in chapter 6 – i.e. the categorization of the *main domains of context*, relevant *context types* and *contextual elements*, and the difference between the different *realms* – has a specific function in the current dissertation. Namely, the focus lies on two things (A) *mediation domain design* and (B) *mediation text construction*. The task of designing the mediation domain lies with the mediator as the procedural guide; whilst the mediation text is constructed cooperatively by the parties and the mediator through dialogue. This double focus corresponds to the two levels on which Vasilyeva’s (2015) concept of *double design* works (see section 2.2.2). The focus on the mediation domain design corresponds to the level of *double design* on a ‘(deliberate) context design level’ in which text is constructed to deliberately affect the context; the

focus on mediation text construction corresponds to the ‘text construction level’, which concerns doubly contextual and double design as both context-shaping and context-renewing (see Vasilyeva, 2015). In the last two sections of chapter 6 (sections 6.4 and 6.5), we will take a closer look at the double design of common starting points in conflict mediation.

### **6.4 Context and Mediation Text Interplay**

Thus far, we have discussed the dynamic nature of context, identified the main domains of context, the relevant context types and contextual elements, and discussed the functional difference between context and mediation text in this dissertation. In section 6.4, we will focus on the interplay between context and the mediation text. Specifically, we will focus on the interplay between the two main domains of context and the construction of mediation text in terms of the (re)establishment of common starting points in conflict mediation.

“Context is something that is, in many respects, co-generated or co-constructed by the participants’ turns of talk” (Cooren 2010, p. 35). For the purpose of our conceptual study we can rephrase this as ‘the mediation text is co-generated or co-constructed by the participants’ turns of talk’, with the mediator as the designated designer of the mediation context. To briefly summarize, the *mediation text* is ideally co-constructed by all participants of the mediation discourse (see e.g. Wall & Dunne, 2012, p. 229) in a process of *double design* (Vasilyeva, 2015; section 2.2.2); the common starting points (as analyzed in chapters 4 and 5) are thus co-constructed in the *realm of text*. The *mediation domain* that accommodates reasonable argumentative discussions is, however, designed by the mediator (see e.g. Aakhus, 2007) through the production of mediation text, which in turn is expected to be influenced by the *general domain* and *mediation domain*, in an interplay between text and context specific to conflict mediation interactions like the ones discussed in the empirical chapters.

Now that we have established the difference between context and text, the expected interplay between context and text can be hypothesized. In figure 24 the interplay between

the two main domains of context– the *general domain* (indicated by symbol ○), and the *mediation domain* (indicated by symbol ●) – and the *mediation text* (indicated by symbol □) is provided to show how different domains may affect each other and the mediation text, and how the mediation text affects the different domains in the general process of double design. It should be noted that the interplay is *ideal*; it does not necessarily mean that a specific interplay presented in figure 24 takes place in all mediation interaction but that ideally these are the ways in which context and text affect each other in conflict mediations guided by mediation professionals, as studied in the empirical chapters of this dissertation.

In general, the *mediation domain* concerns the mediation process, the effect of the *general domain* on the *mediation domain* is limited to existing resolution favorable procedural norms. The *general domain* may directly affect the content of the *mediation text*, as a result of which the *mediation domain* is *indirectly* affected as well (indicated with a dotted arrow). Secondly, the *mediation domain* does not generally affect the *general domain*. Although parties may take, for example, communicative tactics and strategies from the *mediation domain* to apply them in their *general domain*, the *mediation domain* concerns a highly specific contextual setting (i.e. the *temporary context*) with a specific institutional goal, its own highly specific procedural sequential structure, procedural rules, and norms. As such, the *mediation domain* generally does not affect the general domain; that which affects the *general domain* from the mediation session generally belongs to *the realm of text* (e.g. the solutions, agreements for further communication, and so on).<sup>75</sup> As such, the *mediation text* can be said to directly affect the *general domain* (e.g. the solutions to be implemented in the *general context*); whilst the general domain affects the construction of the *mediation text* in a *double design* relationship (e.g. values and interests in the general

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<sup>75</sup> It could be said, for example, that the communication rules established for the mediation domain can (indirectly) help resolve, manage, or prevent the escalated conflicts between the parties in the future. However, it will most likely be the explicit agreement on norms that are part of the *mediation text* that will affect future communication and not the mediation domain. Additionally, we generally ascribe the prevention, management and resolution of future conflicts to the fact that conflict mediation not only helps resolve the dispute but the conflict as a whole (see section 2.1.2 for the discussion on disputes versus conflicts).

domain affect the (re)establishment of material starting points). The *mediation text* can also be said to directly affect the *mediation domain* as the procedural norms specific to the mediation are established and reestablished through communication in the mediation session (i.e. agreements on procedure made during the mediation help determine the affordances of the *mediation domain*), whilst the *mediation domain* (i.e. the specific mediation procedure) also determines the ways in which the *mediation text* takes shape (e.g. the affordances of the interaction).

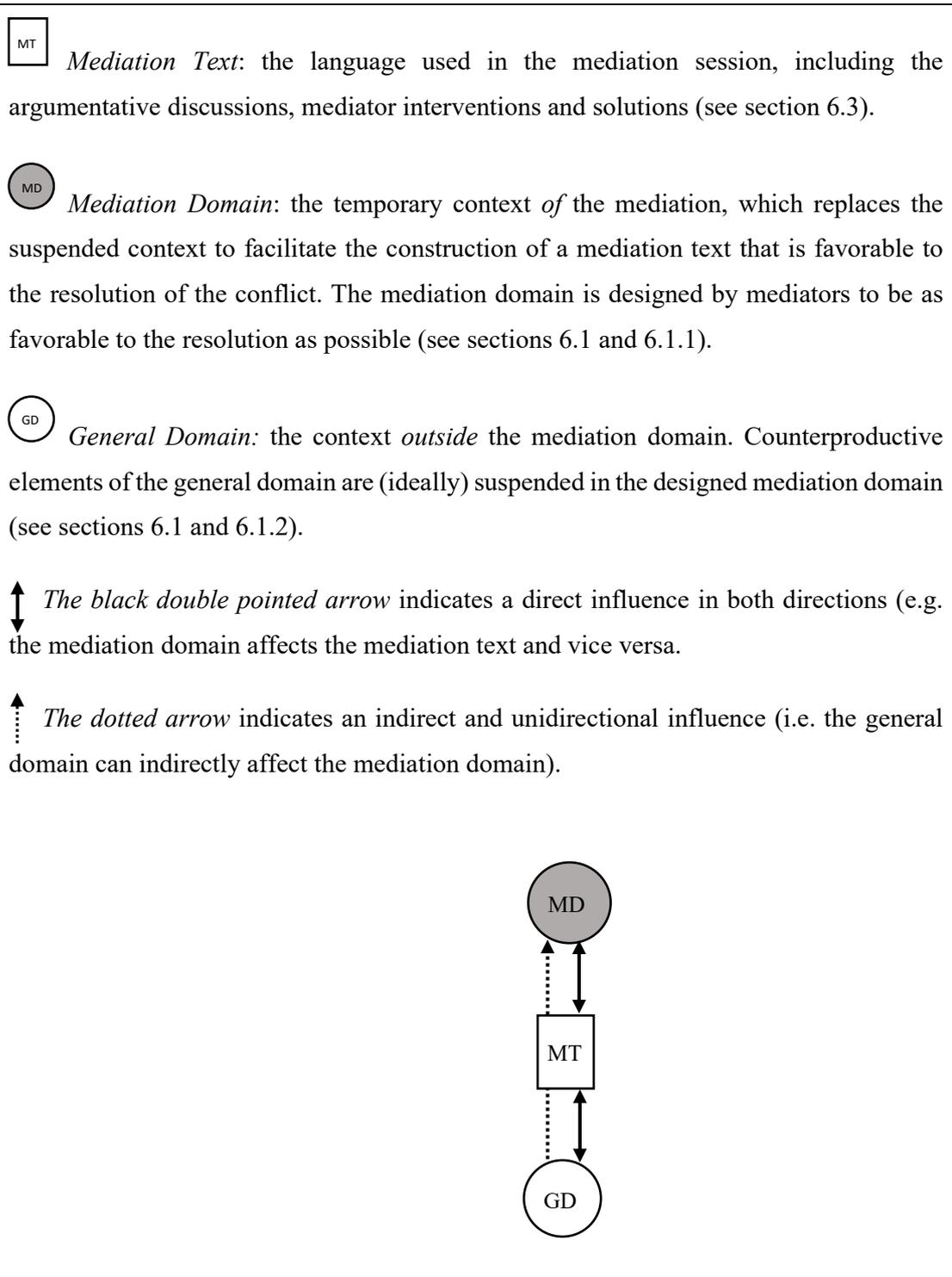


Figure 24. Domain and text interplay in conflict mediation by mediation professionals

In sum, both *domains of context* are able to inform the way in which the mediation text is constructed and what the mediation text contains. Both *domains of context* give meaning to an utterance and their affordances help form the *mediation text* as a whole. The *mediation text* also has the power to affect both *domains of context*. In terms of the influence that the *mediation text* may have on the *general domain*, it is clear that the resolution of a conflict, which is part of the *mediation text*, has real world effects; the mediation text may affect for example, the personal relationships between the parties. Additionally, the *mediation text* can become part of the *intertextual context* to which other relevant future texts relate. In section 6.5, we will further conceptualize how the context-text interplay in conflict mediation can be translated to the idea of double design with common starting points.

### **6.5 Double Design with Common Starting Points**

As we have discussed thus far, the *mediation text* is co-constructed by all participants; whilst the mediator is in charge of designing the *mediation domain*, as the appointed designer of the mediation (e.g. Aakhus, 2003, 2007). The goal is to design a mediation domain with *dialogue spaces* (e.g. Greco, 2018) that support resolution-oriented discourse and favorable contributions to the *mediation text*. In the effort to design this mediation domain, mediation professionals have been empirically shown to construct interventions with specific local functions that have the general effect of establishing and reestablishing procedural starting points (chapter 4) and material starting points (chapter 5). In terms of *co-text*, for the construction of these interventions mediation professionals were shown to actively use previous contributions of the parties and elicit resolution favorable contributions from the parties by means of their interventions. This coincides with the notion of text construction's *doubly contextual* nature (e.g. Heritage, 1984), and the process of *double design* (Vasilyeva, 2015) in conflict mediation (see section 6.1).

We can now try to translate the *double design* nature of conflict mediation to more specifically fit the study on common ground (i.e. common starting points) and the possible effects of context on text construction, as conducted in the current study. In figure 25 a simplified ideal sequence of 'double design with common starting points' is presented,

based on the simple *co-textual* pattern of reestablishment found in the empirical chapters, in which the implicitly mentioned or questioned common starting point is used by the mediation professional for his or her common starting point intervention that adds an *explicitly shared common starting* to the common ground. Based on the empirical chapters, this simplified ideal pattern of reestablishment can be found (A) when the mediator spots an implicit common starting point between the lines or in one or more party contributions, and (B) when a previously established common starting point between the parties is being called into question by either or all parties in conflict. Thus, based on the party's/parties' contribution(s), mediation professionals construct their interventions in a way that the common starting points are explicitly accepted by all parties and added to their common ground as such. Through the parties' explicit acceptance of the common starting points, the mediator designs a mediation domain that is *updated*, i.e. one in which the common starting point is explicit and shared.

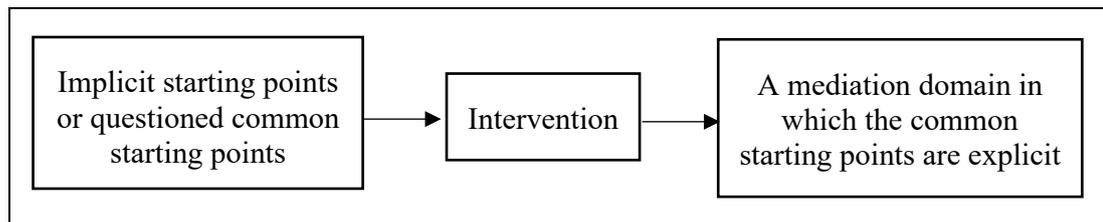


Figure 25. *Double design with common starting points in conflict mediation*

If we want to understand the context and text interplay in relation to common starting point (re)establishment, it is important that we construct ideal sequences of procedural starting point and material starting point establishment and reestablishment that specifically includes the interplay between the *domains of context* and the *mediation text*. These ideal sequences, although normative and not explicitly functional, conceptualize the co-construction of text and the design of conflict mediation specifically in terms of the common starting point (re)establishment. More specifically, the ideal sequences conceptually tie together some underlying patterns of double design with common starting points derived from the empirical chapters and the functional conceptualizations of the main domains of context established in chapter 6. As such, the ideal sequences allow us to discuss some differences between *procedural starting points establishment* (section

6.5.1), *procedural starting point reestablishment* (section 6.5.1), *material starting point establishment* (section 6.5.1), and *material starting point reestablishment* (section 6.5.1) in terms of intervention construction and domain design.

**6.5.1 Ideal sequence: procedural starting point establishment.**

Figure 26 below shows an ideal sequence of procedural starting point establishment in terms of mediation text construction and domain design. In the ideal sequence there are two options for mediation text concerning *co-text* text construction, with the less prominent option in grey; the optional steps in the sequence are dependent on whether the parties make their agreement on the procedural starting point introduced by the mediator explicit or not.

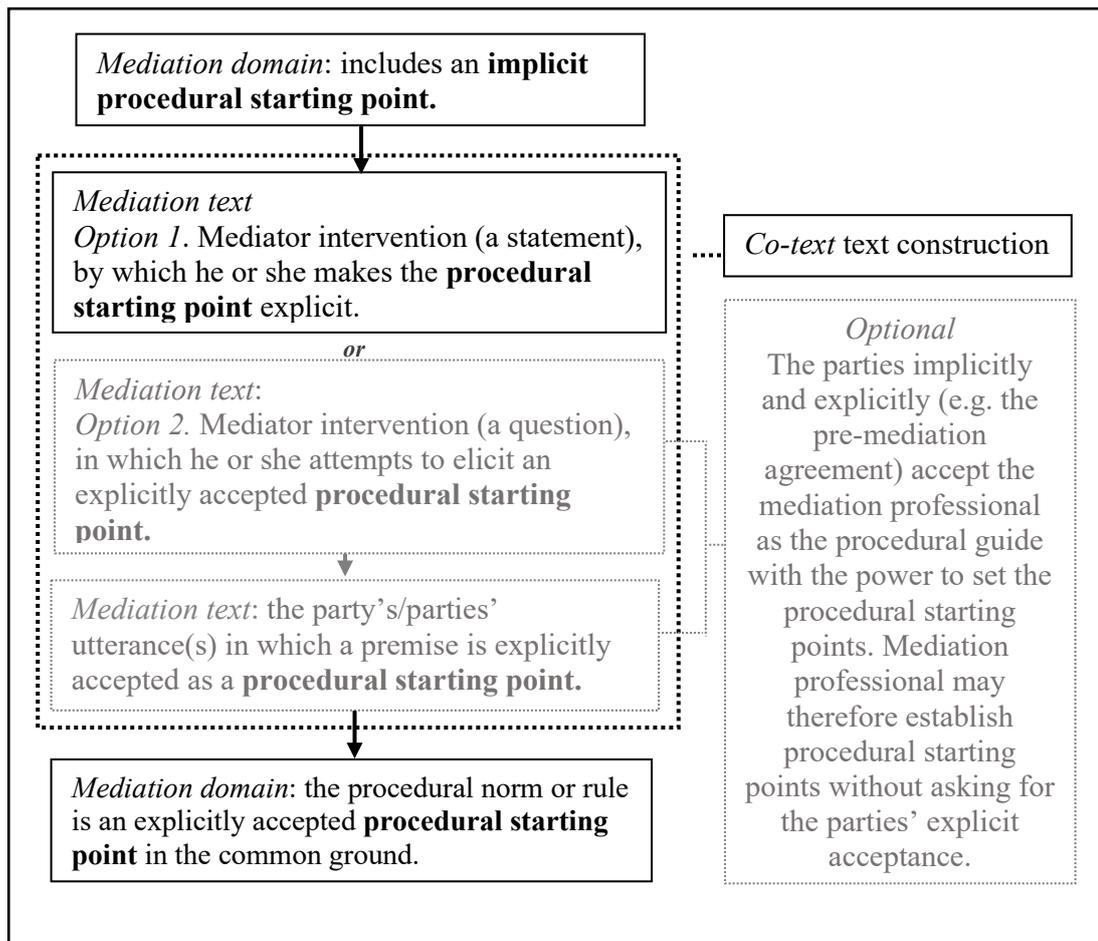


Figure 26. Ideal sequence of procedural starting point establishment

In the initial situation, the *mediation domain* contains an implicit procedural starting point that is present as soon as the mediation commences but is yet to be made explicit (i.e. to be established) in the mediation text. The mediation professional can attempt to establish a procedural starting point in two ways, with *option 1* being the most prominent in the corpus. In *option 1* the mediation professional, who holds the procedural power in the mediation domain, presents the procedural norm in the form of a statement, for example, in interventions with the local function of *getting party commitment to the mediation essential elements* in the ‘intake part’ of the mediation procedure (section 4.4). In *option 2* the mediator does not establish the procedural starting point in a statement but constructs an intervention in the form of a question that elicits an explicitly shared procedural starting point, which is done, for example, in interventions with the local function of *discussing procedural starting points* (section 4.5). In the latter option, the procedural starting point is established when the parties explicitly accept the procedural norm or rule as a procedural starting point, following the mediator’s elicitation. At the end of the establishment of the procedural starting point, both in the case of option 1 and option 2, the mediation domain is adjusted when the explicitly accepted procedural starting point is added to the common ground as a procedural starting point to which all parties in the resolution process must adhere. In certain cases, mediation professionals were shown to combine option 1 and 2 in a *establish-elicite-confirm sequence* (section 4.6), as a typical sequential structuring for procedural starting point interventions with the local function of *setting the agenda*.

### **6.5.2 Ideal sequence: procedural starting point reestablishment.**

Although the beginning of the ideal sequence resembles the ideal sequence for the establishment of procedural starting points, the reestablishment of procedural starting points shows an entirely different sequential pattern in terms of mediation text construction and domain design. Figure 27 below presents the ideal sequence of procedural starting point reestablishments that were most prominent in the excerpts discussed in chapter 4 of this dissertation. As was the case for the ideal sequence for the establishment of procedural starting points, here too there is an optional step in the *co-text*

text construction. The optional step depends on whether or not the parties make their agreement on the procedural starting point introduced by the mediator explicit or not (the optional step is indicated in grey).

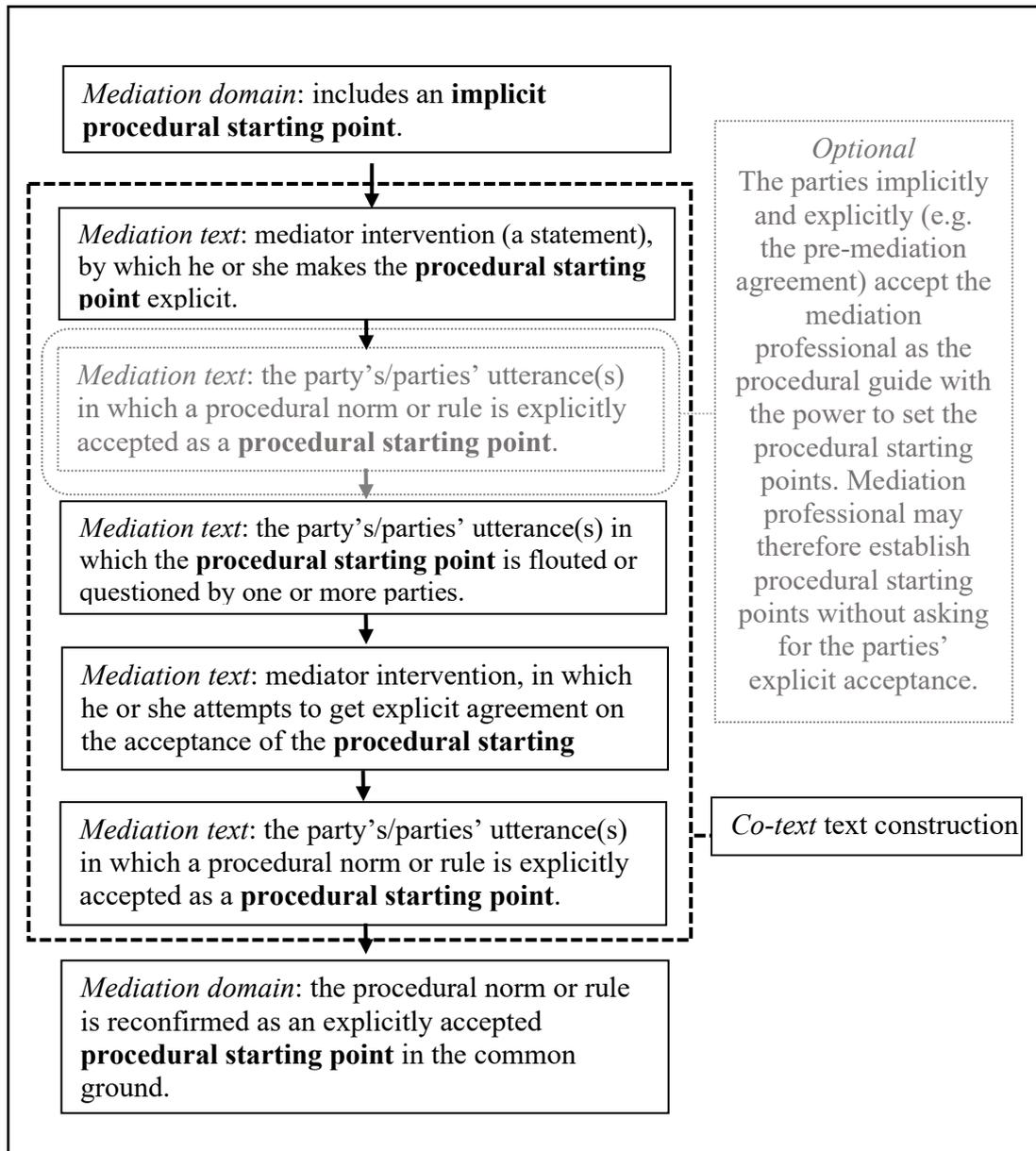


Figure 27. Ideal sequence of procedural starting point reestablishment

In the initial situation, the *mediation domain* contains an implicit procedural starting point that is present as soon as the mediation commences but is yet to be made explicit (i.e. to be established) in the mediation text. The mediator establishes the procedural starting point in the first step of the *co-text* text construction, the acceptance of this procedural starting point may be made explicit by the parties in an optional step (i.e. separate contribution by the parties in which the acceptance is made explicit) or remain implicit, because the procedural power held by the mediators does not require explicit expressions of acceptance. The mediation professional will *reestablish* this established procedural starting point after the parties either flout the set procedural starting point or call it into question later on in the mediation process. In the last step of the *co-text* text construction the premise concerning the procedural starting point is explicitly accepted. As a result, the procedural starting point is reestablished and (re)confirmed as an explicitly shared procedural norm or rule that all parties must abide by.

### ***6.5.3 Ideal sequence: material starting point establishment.***

Figure 28 below shows an ideal sequence of material starting point establishment. The ideal sequence includes two optional steps in case the first utterance in the *co-text* text construction is a contribution by one or more of the parties that includes an implicit material starting point from the general domain (the optional step is indicated in grey). Mediation professionals may then use this contribution to construct their material starting point intervention. Alternatively, when the mediation text does not include a preceding contribution that (implicitly) includes the material starting point, mediation professionals may start by attempting to elicit an explicitly accepted material starting point.

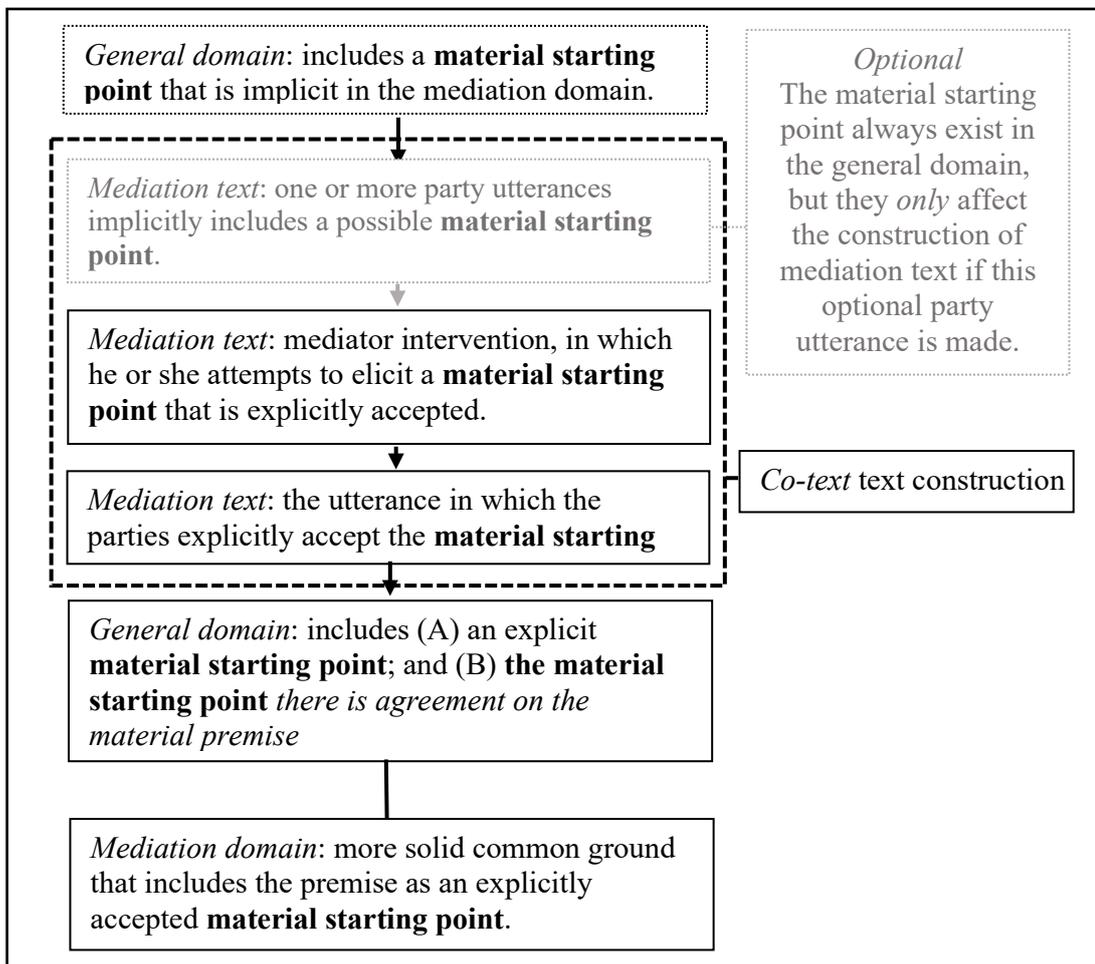


Figure 28. Ideal sequence of material starting point establishment

The material starting point is already existing in the general domain, yet the material premise is not yet explicitly established as a shared material starting point by the parties; in this optional step, the general domain *only* directly affects the construction of the mediation text if the optional party utterance is made in which a material premise is included. When it comes to the establishment of material starting points mediation professionals do not have the power to establish them directly, thus, in the ideal sequence, they *elicit* an explicitly accepted material starting point through questioning. The material premise is established as an explicitly shared material starting point when parties accept the material premise in the last step of the *co-text* text construction. As a result, two types

of material starting points are added to the common ground: (A) *material starting point (X)*; i.e. the explicitly accepted material premise, and (B) *material starting point (X) is explicitly shared by the parties* (see sections 5.6 and 5.7). As a result, the functional agreement space in the *mediation domain* is now a broader and stronger agreement space, which increases the possibility of discussion attitude changes and reasonable argumentative discussions on problems and solutions.

### **6.5.4 Ideal sequence: material starting point reestablishment.**

In both the establishment and reestablishment of material starting points, the *informational elements* and the *personal elements* are the relevant *contextual elements* of the general domain that affect the material starting point interventions (section 6.1.1). The informational elements in the general domain, which are largely implicit, are established or reestablished as explicit by the mediation professional in interventions with the local function of *requesting case and context information* (section 5.4) and *emphasizing good intentions* (section 5.3); whilst the dynamic identity elements are established and reestablished in mediator interventions with the local function of *getting understanding* (section 5.2) and *fortifying the common ground* (section 5.5). The difference between the establishment and the reestablishment of material starting points is that in the case of reestablishment, as found in chapter 5, a material starting point was generally explicitly part of the common ground between the parties, but due to the deterioration of the conflict assumed to be unacceptable by one of the parties (either implicitly or explicitly).

Figure 29 below shows the ideal sequence of material starting point reestablishment. Of the four ideal sequences, this sequence is the most straightforward (i.e. it does not include different options or optional steps in the *co-text* text construction).

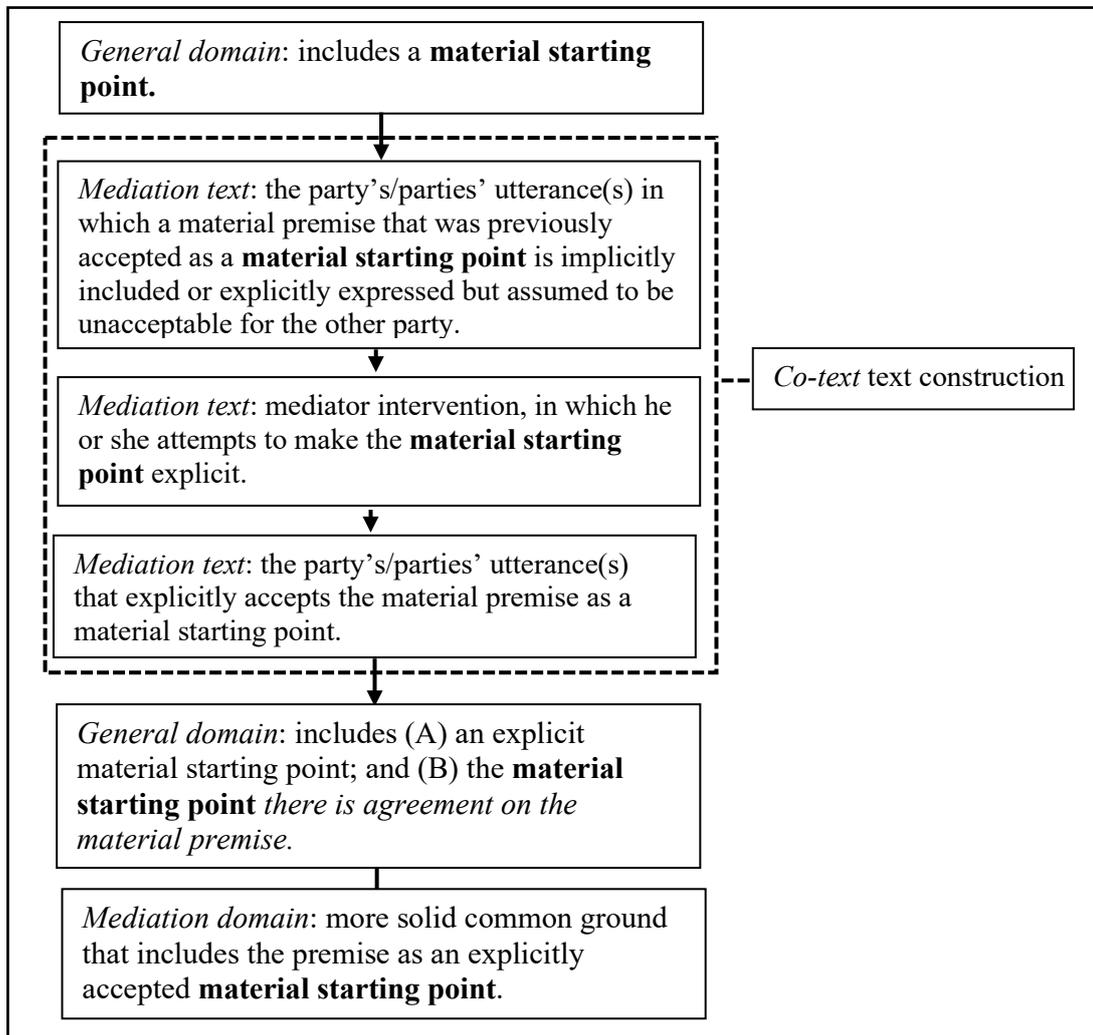


Figure 29. Ideal sequence of material starting point reestablishment

The general domain includes a previously accepted material starting point as part of the parties' common ground which in the first step of the *co-text* text construction is, either implicitly or explicitly, seen by one or more parties as currently not part of their common ground (e.g. due to distrust). When inferred by the mediation professional as an *existing* material starting point, he or she can construct an intervention in which the material starting point is explicitly established as existing through an elicitation of explicit acceptance. When the parties explicitly accept the shared material premise, the following is (reconfirmed) as part of the common ground: (A) *material starting point (X)* is explicitly confirmed as (still) part of the parties' common ground. Moreover, by emphasizing the

existence of the previously accepted material starting point, the mediator highlights (B) that *material starting point (X) is explicitly shared by the parties* (see sections 5.6 and 5.7), by which their common ground is not broadened but strengthened. Besides the updated common ground in the general domain, the mediation domain now has a stronger common ground, by which the resolution favorable reasonable argumentative discussions on problems and solutions are more likely to take place in the mediation domain.

The ideal sequences presented in section 6.5 form a brief insight into the interplay between context and text construction for the establishment and reestablishment of common starting points. As such, they constitute the (often implicit) underlying conceptual framework on which the final study in chapter 7 will be based. In other words, section 6.5 marks the end of our first conceptual step in the quest to provide answers for research question B: *do common starting point interventions differ between different communicative activity types of workplace mediation*. As chapter 6 provided some new, and possibly confusing concepts, section 6.6 will present a brief summary of the most important functional conceptual findings that will be used in chapter 7.

### **6.6 Conclusions on Context and Conflict Mediation**

In the conceptual chapters of this dissertation we explore if common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how? Chapter 6 was the first step in answering this research question by conceptually exploring how to define and categorize the context relevant for mediators' double design with common starting points, based on the empirical results of chapters 4 and 5. By distilling the three relevant levels of context for conflict mediation, we were able to discuss the interplay between context and text in terms of double design with common starting points.

As a general result, we were able to define *two main domains of context* relevant for the study of conflict mediation as a genre of communicative activity in argumentation research. The *mediation domain* concerns the context *of* the mediation itself, and its relevant contextual elements are related to the procedural starting point interventions

(section 6.1.1). The *general domain* concerns the context *outside* the mediation session. For the general domain, we discussed the material premises that are explicitly (re)established by mediation professionals as material starting points as the most relevant contextual elements for the (re)establishment of material starting points in conflict mediation (section 6.1.2). Moreover, we were able to redefine the pragma-dialectical concepts of contexts relevant for the argumentative analysis of utterances as functional *context types* for the study of common starting points in conflict mediation (section 6.2). Based on the findings in the empirical chapters, the specific categories of *contextual elements* that the *context types* consist of were characterized. The *institutional context type* was identified as the relevant context type belonging to the *mediation domain*. This context type concerns the *essential elements*, such as finding a win-win solution to the conflict, and the *meta elements*, which can either concern the entire mediation process or a specific moment in the mediation process. In terms of the general domain, two context types were identified as relevant for common starting point (re)establishment: the *identity context type* and the *conflict context type*. The former context type consists of *personal elements*, such as values and beliefs; the latter context type consists of *informational elements* on the workplace conflict or the specific case context of the conflict being studied. This dissertation proposes that these contextual elements belonging to the relevant context types directly affect common starting point interventions with certain local functions that were identified in the empirical chapters. The differences between communicative activity types of workplace mediation in terms of these specific contextual elements would result in different possibilities for common starting point interventions.

Section 6.3 detailed the specific stance taken on the characterization of *context* versus *text* in this dissertation; *co-text* is considered part of the *realm of text* rather than the *realm of context*. This distinction between the *realm of context* and the *realm of text* is important, because we are concerned with the interplay between context and text. More specifically, we are particularly interested in the *double design* of common starting points by which mediators aim to design mediation interactions with more common starting points for reasonable discussion attitudes and reasonable argumentative discussions. The *double design* with common starting points is double in the sense that mediation professionals

both co-construct the *mediation text* and design the *mediation domain*, which is important to note if we want to further examine the differences between different communicative activity types of workplace mediation in chapter 7. In section 6.4, we discussed the possible ways in which context and text can interact, and therefore the ways in which context could affect the construction of procedural starting point interventions and material starting point interventions. Finally, section 6.5 took everything discussed in chapter 6 up until that point to hypothesize how mediation professionals can double design with common starting points. To that end, section 6.5 concludes with the presentation of ideal sequences for the establishment and reestablishment of procedural and material starting points. These ideal sequences, inferred from the analyses in chapters 4 and 5, are the final conceptualizations of context and text interplay in chapter 6, which may be used for future empirical studies on common starting point (re)establishment. More importantly, they are ideal frameworks of intervention co-construction and domain design in light of which the conceptual findings in chapter 7 are to be understood.

In sum, chapter 6 is to be considered the first step in our conceptual quest to answer research question (B). Chapter 7 will build on the conceptual findings and context categorizations from chapter 6 to find out *if, and if so how, common starting point interventions differ between different communicative activity types of workplace mediation*. Specifically, this chapter provides us with the macro conceptual framework in terms of how changes in certain contextual elements of the general domain and the mediation domain can influence the mediation text, which serve as the basis for the more micro study in chapter 7. On top of functioning as a conceptual foundation for the study of procedural starting point and material starting point intervention options for different communicative activity types of workplace mediation, chapter 6 constitutes a general conceptual study in its own right that helps achieve the conceptual chapters' general research aim; the *three levels of context* conceptualized in chapter 6 help us expand the current description of mediation as a genre of communicative activity in pragma-dialectics.

## **Chapter 7. Conceptual Results: Prototypical Communicative Activity Types of Workplace Mediation**

Chapter 7 is the final step of our conceptual study of common starting point interventions in different communicative activity types of workplace mediation. The chapter builds on the *three levels of context* (i.e. main domains of context, context types, and contextual elements) conceptualized in chapter 6 to answer research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation?* This chapter tries to answer research question (B) by studying if the common starting point interventions with the specific *local functions* found in chapters 4 and 5 can be assumed to be constructed differently, similarly, or not at all, depending on the communicative activity type of workplace mediation. In the empirical chapters we studied common starting point interventions in mediation interactions that were procedurally guided by externally hired mediation professionals; we can label this commonly studied type of conflict mediation as one specific communicative activity type of workplace mediation, which will serve as our *prototypical communicative activity type of workplace mediation no.1* (i.e. prototype 1). It is relative to the *three levels of context* (see chapter 6) and the empirical findings for prototype 1 (see chapters 4 and 5) that we are able to construct other prototypical communicative activity types of workplace mediation in chapter 7 (see section 3.5). When answering the second research question we are also able to expand the current list and characterization of communicative activity types of mediation in argumentation by introducing several prototypical communicative activity types of workplace mediation. As such, by answering the research question we achieve the research aim of furthering our understanding of common starting point (re)establishment in different communicative activity types, whilst the prototypical communicative activity types of mediations constructed to this end make for functional expansions of the current characterization of the communicative activity types of conflict mediation in argumentation.

Contextual differences could be theorized to affect the construction of material starting point interventions and procedural starting point interventions when the conflict mediation

is not guided by an externally hired mediation professional. Conflicts within organizations can take on many different forms – i.e. “with suppliers, clients, government and other stakeholders” (Bollen et al., 2016, p. 2) – and at different levels or interfaces – i.e. at the level of “(1) the individual in the organization, (2) individuals with one another, (3) organizational units with other units, and (4) inter organizational relationships” (Burke, 2006, p. 782). Due to the variety of workplace conflict forms and levels, organizations can have a variety of ways to resolve a variety of conflicts (e.g. Bollen et al., 2016, p. 2); especially large corporations have entire multifaceted dispute resolution systems in place (Kovach, 2000, p. 344). As such, even within one organization workplace mediations could be conducted by a variety of third-party facilitators designing a variety of different mediation domains. For instance, besides hiring a workplace mediation professional from outside the organization in which the workplace conflict takes place (as in the cases analyzed for the empirical chapters 4 and 5), in modern organizational conflict culture, workplace mediation could also be practiced by internal intermediaries for whom ‘wearing the hat of the emergent mediator’ is but one of the hats they wear as part of their job description (e.g. Bollen & Euwema, 2013).

In terms of its structure, chapter 7 implicitly has two parts: first sections 7.1-7.3 present and discuss specific contextual influences on common starting points, which can differ between communicative activity types of workplace mediation; after which, sections 7.4-7.5 present and discuss prototypical communicative activity types of workplace mediation based on the findings of sections 7.1-7.3.

Building directly on the empirical findings and the study of context for conflict mediation as a genre of communicative activity from the perspective of common starting point (re)establishment in argumentation in context in chapter 6, sections 7.1-7.3 study the possible effect of two specific contextual influences on common starting point interventions. The empirical chapter 4 showed the importance of the *procedural formality* (e.g. the procedural power of the mediator, the prescribed and sequential organization of the resolution process, or the affordances of the mediation domain) on the *(re)establishment of the procedural starting points*. It is, for example, due to the formal

procedural power of the mediator that he or she is able to establish procedural starting points on mediation essential elements without requiring explicit acceptance from the parties (see e.g. section 4.4), or the affordances of the mediation domain that enables the parties to make tailored agreements on confidentiality (see section 4.5). In terms of *material starting point (re)establishment*, section 6.1.2 already briefly mentioned the importance of a mediator's access to the common ground of the parties. Because workplace mediation professionals generally do not have a prior relationship with the parties and have very limited to no prior knowledge of the conflict, they generally have limited access to the *informational elements* and the *personal elements* before the beginning of the mediation process, which are per definition personal in nature (section 6.1.2).<sup>76</sup> The closer the relationship between the mediator and the parties prior to the mediation (i.e. in the *general domain*), the more access the mediator has to the material starting points of the parties (e.g. shared beliefs, feelings, interests) that exist in the parties' *general domain*. In short, depending on the *mediator's proximity* to the parties and the conflict outside the mediation domain, he or she will be expected to have different options for the construction of material starting point interventions.<sup>77</sup>

Sections 7.1-7.3 specifically study the possible effect of differences in *mediation procedure informality* on procedural starting points, and the differences in a *mediator's*

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<sup>76</sup> It can be argued that mediators who informally guide mediation processes when conflicts emerge probably know more about the parties in conflict than mediation professionals in formal mediation procedures. This variety in knowledge about the parties would affect the construction of material starting point interventions. However, in this dissertation such mediators will be considered 'internal mediators' rather than 'informal mediators', and the proximity of the mediator to the parties rather than the informality of the mediation procedure is seen as most directly affecting material starting point (re)establishment (see section 7.1.4 on this ambiguity and how this dissertation aims to solve it in a functional manner).

<sup>77</sup> It should also be acknowledged that there may be factors other than *degrees of mediator proximity* that may influence the construction of material starting point interventions. For example, there is a variety of culturally dependent factors (see e.g. Wall & Dunne, 2012) that affect mediators' communicative options. Although these factors are interesting to study from an argumentative perspective as well, in this dissertation *mediator proximity* was chosen because of its presumed direct effect on material starting point (re)establishment, as derived from the analyses in chapter 5.

*proximity to the organization where the parties work, the parties, and the conflict between the parties* on material starting points.

Sections 7.1.1-7.1.3 discuss the direct effect of differences in *mediation procedure formality* between communicative activity types of workplace mediation, and how the differences in procedural formality can affect the possibilities mediators have for procedural starting point interventions in communicative activity types other than the highly formalized procedures guided by workplace mediation professionals. Before moving on to material starting point intervention construction by mediators in different communicative activity types of workplace mediation, section 7.1.4 solves an important ambiguity in the literature on informal types of mediation by clarifying a functional distinction between ‘informal’ and ‘internal’ mediation. Sections 7.2.1 and 7.2.2 explore the effect that *mediator proximity* has on material starting point interventions using the local functions found in chapter 5 for the material starting point interventions by externally hired third parties with no prior relation to the parties, the conflict, or the organization where the parties work, as a point of departure. Section 7.3 finalizes the first part of chapter 7 by presenting some conclusions from the studies of *(in)formality* and *proximity*, including their effect on common starting point interventions.

Building on the categorization of mediator types by Moore (2003) – *independent, social network, and authoritative* (see section 2.1) – sections 7.4-7.6 present and discuss four prototypical communicative activity types of workplace mediation with *different degrees of procedural informality and mediator proximity*. For the different prototypes, the different common starting point intervention options are explored in light of the interventions with different local functions discussed in the empirical chapters. Section 7.4 discusses the four prototypical communicative activity types of workplace mediation – *formal external* (section 7.4.1), *informal internal* (section 7.4.2), *formal internal* (section 7.4.3), and *informal external* (section 7.4.4). The conclusions of the discussion on the four prototypes are presented in section 7.5; some informed assumptions concerning the contextual differences between communicative activity types of workplace mediation and the (re)establishment of common starting points are presented, whilst the prototypes

themselves expand the characterization of conflict mediation as a genre of communicative activity in pragma-dialectics. As this chapter presents conceptual results in the form of assumed relations between context and text construction rather than empirically studied results, the contextual effects on the construction of common starting points presented in this chapter are conceptual inferences that can be used as hypotheses for further discussion and further research (see section 8.4.2). As such, none of the presumptions presented in chapter 7 are to be considered *definitive* conclusions on how mediators construct common starting point interventions in different communicative activity types of workplace mediation; rather they should be considered informed assumptions of our explorative conceptual study that may lay the foundation for future empirical endeavors, which are discussed in section 8.4.2.

### 7.1 Informality and Procedural Starting Points in Conflict Mediation

As has previously been noted, “nowadays, informal mediation is practiced in multiple social contexts and realities. In this sense, mediators are much more widespread in our society than one may think” (Greco Morasso, 2011, pp. 18-19). Nevertheless, in the study of argumentation in conflict mediation, the informal mediation forms of mediation are very much understudied, with a “relative lack of information about informal practices of mediation” (Greco Morasso, 2011, p. 36) compared to formal mediations guided by mediation professionals. Greco Morasso (2011) further states that it is this lack of information that makes *informal mediation* particularly difficult to approach scientifically (p. 36); the feasibility of studying informal mediation is presumably lowered further due to its less standardized form and more emergent nature.<sup>78</sup> Its widespread prominence but lack of research in argumentation research is a relevant argument in favor of further

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<sup>78</sup> Chapter 7 presupposes that the presented and discussed informal communicative activity types of workplace mediation are examples of *conflict mediation*. However, it should be acknowledged that there is an ongoing discussion in mediation research on the question of how informal the practice of conflict mediation can get before it stops being conflict mediation. In this dissertation, as a minimum, we consider any mediation process that fits the dissertation’s working definition of conflict mediation: *a communicative activity in which a (ideally neutral) third party tries to procedurally guide parties to a win-win resolution of their conflict, without deciding the outcome of the resolution process* (see section 2.1 for *conflict mediation* as defined in this work).

research on more informal communicative activity types of workplace mediation, for which this chapter may provide an exploratory theoretical and conceptual basis. This last step in the conceptual study on how common starting point interventions may differ between communicative activity types of workplace mediation, thus, contributes to the study of contextualized argumentation; it sheds light on common ground in the previously understudied context of *informal communicative activity types of workplace mediation*.

However, in order to understand the influence of informality, in multiple social contexts and realities, on the construction of procedural starting point interventions, we must first answer the following question: *how exactly do we define informal mediation?*

### ***7.1.1 Defining informality.***

If we are to look at communicative activity types of workplace mediation with more informal mediation procedures than those guided by the workplace mediation professionals studied in chapters 4 and 5, it is important to understand what *informality* means, and what it means in relation to communicative activity types of workplace mediation. *Formality* and *informality* are used as concepts in many academic fields, whereby the concepts of formality and informality can be approached from a legal perspective (e.g. Toope, 2007), urban perspective (e.g. Waibel, 2012), political perspective (e.g. McFarlane, 2012), and so on. However, because we are conducting research on the influence of context on text construction, in this study we are mainly concerned with the concept of formality from the sociolinguistic and socio-anthropological perspective, following Irvine (1979). Conventionally, the concept of formality is characterized as conduct in accordance with set customs and rules that govern form and conventionality of, for example, a practice. *Informality* is defined relative to the characterization of formality; or rather, informality is defined by the lack of aspects that define formality, such as established form, custom or rules, whereby *informality* can be seen as the opposite of *formality* (e.g. Guba-Khasnobis, Kanbur, & Ostrom, 2006, p. 3). The dichotomy between *formality* and *informality* is used to describe social occasions and the behavior associated with them in *sociolinguistics*, the *ethnography of language*, and *social anthropology* (Irvine, 1979, p. 773). As formality is “as an aspect of code” (Irvine,

1979, p. 774), it places (extra) rules and constraints on the ways in which discourse is to be conducted.

If we were to translate this to the conflict mediation procedure; the more formal, and thus rule governed the specific mediation procedure is, the more restricted the mediator's freedom is in terms of his or her options for communicative design. Thus, based on this specific interpretation of formality and informality, we can say that a mediation is formal when the procedure of the mediation is conventionalized in terms of its rules, form or customs; and that a mediation is informal if the procedure is not conventionalized in terms of rules, form and customs. We may formulate the following working definition of *formality*: *formality pertains to customary form or conventionality; the degree to which something follows established form, customs, rules, or suitable official methods*; and *informality* as the absence of *formality*.

However, there is no clear dichotomy between *formality* and *informality*, as it is rather difficult to draw the line between what is strictly formal and what is informal (i.e. when does something stop being formal and start being informal). Instead, some nuance needs to be applied for the sake of this study; 'formality' and 'informality' are not used as a strict dichotomy in this study, but rather as a continuum of varying degrees of informality (see e.g. Altrock, 2012, p. 172). Thus, as *informality* is to be normatively defined as the absence of *formality*, in the continuum perspective of formality, starting from the most formalized communicative activity type of workplace mediation (i.e. workplace mediation conducted by mediation professionals) as one extreme of the continuum, *the higher the absence of rules and regulation, the higher the degree of informality of that communicative activity type of mediation*.

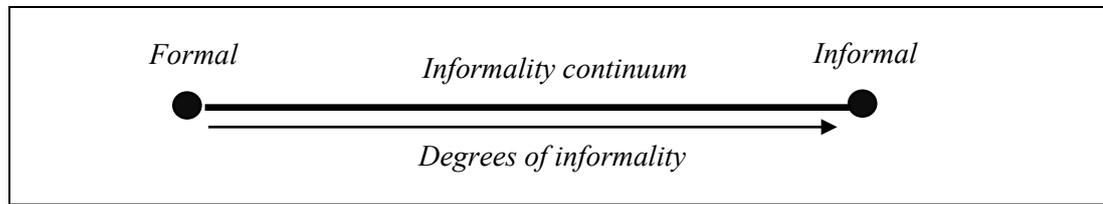


Figure 30. The informality spectrum

The ends of the spectrum represent the most formal and most informal forms of mediation; at one end, we find complete formality – i.e. mediation practiced by mediation professionals (see examples in chapters 4 and 5) – and at the other end of the spectrum, we find complete informality – i.e. mediation with a complete lack of formal convention, such as an employee intervening as an emergent mediator between two of his or her coworkers (see section 7.4.3). Communicative activity types of mediation and examples of mediation speech events can be placed all along the spectrum; the higher the *degree of informality*, the further down the spectrum an example of mediation can be placed. As the concept of *informality* concerns the lack of prescribed procedural normativity, changes in terms of a mediation procedure’s informality could be said to affect *procedural starting points* specifically. The lack of informality could mean that the role of mediators in more informal communicative activity types of workplace mediation are less formalized. The less formalized a mediator’s role the more freedom they may have to design the mediation procedure. On the other hand, it would mean that they have less formalized backing when trying to establish resolution favorable procedural starting points in statements, which was shown to be within the procedural power of mediation professionals in section 4.4.<sup>79</sup> With this in mind, the basic general assumption that underlies informality in relation to common starting point (re)establishment is as follows (see table 38):

<sup>79</sup> During the interviews conducted for the conceptual study, mediators stated that less formalized procedures provide them with more freedom to design the mediation domain, despite the lack of formal backing in terms of formalized procedural power.

Table 38

*General assumption of informality influence*


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General assumption	Depending on the degree of <i>informality</i> we may expect different procedural starting point intervention options.
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Informal forms of mediation are mentioned in the literature to describe cases with relatively fewer contextually (pre)determined affordances than the more formal communicative activity type of mediation as analyzed in chapters 4 and 5 of this dissertation. As all other communicative activity types of mediation will be characterized and defined relative to the mediation guided by externally hired mediation professionals, we will from here on out refer to this mediation type as *prototype 1*, as an abbreviation of ‘prototypical communicative activity type of workplace mediation no. 1’.

In conflicts that arise in the workplace, “once the choice has been made to opt for mediation, the specific mediation styles, strategies and tactics will be impacted by rules and regulations” (Bollen et al., 2016, p. 6). In general, mediators’ actions in the mediation session are affected by rules and regulations specific to the *mediation domain* of the communicative activity types of workplace mediation, which may be more or less informal in nature. The degree of rules and regulations depending on the degree of procedural informality can at the least affect and at most determine the affordances of a mediator’s communicative options (i.e. tactics) (see e.g. Sheppard, Blumenfeld-Jones, & Roth, 1989, p. 171). Since we are concerned with the influence of rules and regulations on mediation domain design and mediation text construction, what we focus on when comparing degrees of informality is not the differences in rules and regulations from organization to organization, but how the differences in degrees of the conventionality of rules and regulations may affect procedural starting point (re)establishment.

**7.1.2 Mediation as institutional discourse.**

Conventionality and the restrictions that contexts can put on language use is not new to communication and linguistics in general, and argumentation in context in specific, as will be discussed in section 7.1.2. At the basis of these studies lies the notion that discourse

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may be *institutional* (or *institutionalized*), which results in specific affordances that the context can put on the discourse.

There is a clear link between the degree of procedural (in)formality and the institutionalization of a discourse type. Depending on the institutionalization of a communicative activity type of workplace mediation the mediator will have different affordances concerning the construction of common starting point interventions. Different communicative activity types of workplace mediation have different sets of rules, some stricter, some looser, all of which may affect the ways in which people are able to interact with one another and communicate. More generally, this set of rules helps determine the options someone has in terms of communication; specifically, it helps determine the affordances a mediator has for the (re)establishment of procedural starting points in that specific communicative activity type of workplace mediation. Thus, the way in which the mediation domain is controlled has a direct effect on the mediation efforts of the mediator in this context (i.e. it enhances or hinders the efforts) (Bercovitch & Houston, 2000, p. 191). In fact, the conditions of the mediation domain, which are dependent on the *institutionalization* governing the mediation environment, can be considered some of the most significant influences on mediator strategies (Bercovitch & Houston, 2000, p. 170).

In their seminal work *Talk at Work* (1992), Drew and Heritage tried to characterize the nature of institutionalized (or *institutional*) discourse. While they make it clear that they do not intend to offer a set characterization of institutional discourse, they list *goal orientation of a relatively restricted form by at least one of the participants*, and the inferential frameworks particular to the institutional context, as part of the main features of institutional discourse (Drew & Heritage, 1992, p. 22). This conceptualization is in line with the way in which *institution*, *institutional*, and *institutionalized* have previously been used in argumentation. Specifically, the idea that mediation is an interaction with a specific goal orientation combined with the notion that relevant contextual differences in institutional discourse alter the affordances for text construction is commonly accepted in the field of argumentation, especially amongst those who focus on argumentation in context. For example, van Eemeren (2010) states that he uses these concepts in a broad

sense, including all established *macro-contexts* – i.e. practices conventionalized to the achievement of their institutional needs (van Eemeren, 2010, p. 139). In other words, the conventionalized communicative practices have developed in accordance with the requirements of realizing the ‘institutional point’, or main aim, of that ‘institution’ (van Eemeren, 2010, p. 139).<sup>80</sup>

Conflict mediation as a largely argumentative genre of communicative activity is to be considered *institutional* because of its specific goal orientation (van Bijnen, 2019), which is one of the key elements of institutional talk (Drew & Heritage, 1992, p. 21). When we look at the *prototype 1* mediations that were analyzed in chapters 4 and 5, we can infer that this communicative activity type of mediation is designed by the mediator in accordance with a goal orientation of a relatively restricted form (i.e. conflict resolution). The institutional nature of *prototype 1* mediations has been (implicitly) mentioned before by communication scholars when providing a characterization of what we labeled the *mediation domain* in section 6.3.2. These scholars described conflict mediation as a practice with an institutional goal of getting parties to a mutually acceptable resolution of a conflict, which is geared towards helping the parties’ “manage their conflict through deliberation” (Vasilyeva, 2015, p. 359). The mediator’s interventions and the communication affordances of this specific genre of communicative activity are geared to this institutional goal. Further examples of institutional discourse and goal orientation can be found in the concept of *interaction fields*. In Rigotti and Rocci (2006) the *interaction fields* are defined by “shared goals” of that “piece of social reality” where the interaction takes place, which puts constraints on the possibilities of the communicative interactions (p. 172). They state that mediation is an *interaction scheme* and that “the same interaction scheme can be found in different interaction fields” (Rigotti & Rocci, 2006, p. 173). Thus,

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<sup>80</sup> The concepts of *institutional* and *institutionalized* are employed as they are used in argumentation and linguistics. As such, the terms are interpreted differently from most studies in conflict resolution and law, where the institutional context of mediation is described in terms of factors such as the voluntariness of a mediation program, parties’ access to mediation, mediation efficiency, and the clarity of the mediation process (see e.g. Bollen & Euwema, 2013, p. 344).

mediation could be practiced in different interaction fields, in which different constraints are put on the interaction.

Although this concept is indeed interesting, as has been stated in the previous sections, in this dissertation, we will mainly use and build on the idea of argumentation in context taken in the pragma-dialectical approach. Actually, and more accurately, in the conceptual part of this dissertation we mainly use the *extended* version of pragma-dialectics named *strategic maneuvering* (see van Eemeren, 2010; section 2.3), in which different forms of conflict resolution types are seen as different “communicative activity types”, and in which mediation is labeled as a “genre of communicative activity” (van Eemeren, 2010, p. 143). These concepts established in the extended version of pragma-dialectics are explained as a way to contextualize argumentative discourses in ways that are relevant for argumentation research. The “*communicative activity types* are conventionalized practices whose conventionalization serves, through the implementation of certain ‘*genres*’ of *communicative activity* the institutional needs prevailing in a certain *domain of communicative activity*” (emphasis added, van Eemeren, 2010, p. 139).<sup>81</sup> The main institutional need of mediation is to get to a sustainable and mutually beneficial resolution of a conflict at deadlock. Van Eemeren (2010) provides specific information on the “domain of communicative activity”, “genre of communicative activity”, and “communicative activity type” of *mediation* itself, for which the differentiation is presented in table 39 (see also section 21; table 1).

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<sup>81</sup> Different *communicative activity types* can have their own specific goals that are to be reached in order to realize the institutional point of the *domain of communicative activity*. Van Eemeren (2010) explains that according to this theory if different *communicative activity types*, which are grouped under a specific *domain of communicative activity*, make use of the same *genre of communicative activity*, they will have the same *common institutional point* (van Eemeren, 2010, p. 140).

Table 39

*Examples of a mediation speech event representing a communicative activity type that implements mediation as a genre of communicative activity instrumental in a specific domain of communicative activity*

Domain of communicative activity	Genres of communicative activity	Communicative activity types	Concrete speech events
Problem-solving communication	Mediation	Custody mediation Counseling Informal intervention	Mediated talks between Richard and Tammy about custody Vanessa

*Note.* The examples in this table were taken from figure 5.1 in van Eemeren (2010, p. 143).

This characterization of mediation shows the institutional context of the *genre of communicative activity*, *communicative activity type*, and the specific *speech events* studied, presupposing all different constraints put on the discourse at the different levels. If we are to relate this to the study of design in mediation as presented so far, the following becomes clear (from macro to micro): whereas the general practice of mediation guided by mediation professionals (macro) puts specific standardized constraints on the type of contributions by parties and facilitators as a result of its overall standardized mediation procedure (the mediation circle), the different (more informal) communicative activity types may include different (or less) constraints as the types vary in degrees of informality. Finally, as each mediated case is unique, a specific speech event may introduce case specific constraints, for example in terms of specific agreements made between parties and mediators (micro), as is the case in the local function of *discussing procedural starting points* (see section 4.5).

In sum, the focus on conflict mediation as institutionalized discourse is important because the communicative activity types' *institutionalization* may affect how the mediators are able to achieve the *goal orientation of a relatively restricted form*. Depending on the

degree of procedural informality that the institutionalization of a communicative activity type of workplace mediation prescribes, the ways in which mediators of the different communicative activity types are able to design a mediation domain will differ in terms of procedural starting point intervention constructions. However, how can we begin to understand how the institutionalized context of different communicative activity types of workplace mediation can put constraints on the construction of procedural starting point interventions? The degrees of informality will be further studied as a way of identifying and characterizing relevant contextual influence on the (re)establishment of procedural starting points in section 7.1.3.

### ***7.1.3 Influence of informality degrees on procedural starting points.***

Now that the concept of informality has been defined and has been explained in relation to conflict mediation as a genre of communicative activity that concerns institutionalized discourse, we can start conceptualizing how differences in informality degrees could influence the construction of interventions with the possible general effect of (re)establishing procedural starting points.

Using the three-leveled functional categorizations of context from chapter 6 as a basis to further understand the effect of different degrees of informality on common starting point interventions, we can link the concept of *procedural informality* to the *institutional context type* belonging to the *mediation domain* (see section 6.2). The *institutional context type* contains the relevant *contextual elements* of the *mediation domain*, i.e. the essential elements and the meta elements, which will be further discussed in this section. Any variances in the degrees of procedural informality between different communicative activity types of workplace mediation would result in differences in the contextual elements, and thus a different characterization of that communicative activity type's *institutional context type*. As a result, if there is a variance in the *degree of informality*, depending on the mediation case studied, the variance in the *contextual elements* belonging to the *institutional context* (section 6.3.2) will directly affect mediators' procedural starting point (re)establishment options.

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Based on the analyses in chapter 4, in sections 6.1.1 and 6.1.2 we identified the relevant *contextual elements* of the *institutional context type*. The *meta elements* derived from the empirical analysis of procedural starting point interventions could either concern (A) the mediation circle in its entirety (e.g. the role of the mediator), or (B) a specific step in the mediation circle (e.g. the brainstorm as part of the negotiation stage). Besides the meta elements, the *essential elements* were presented as relevant *contextual elements* of the *institutional context* that are more abstract in nature than meta elements. The *essential elements* concern aspects that are often identified as *essential* to conflict mediation in the literature on the genre of communicative activity (e.g. confidentiality (Kovach, 2000, pp. 180-229); or win-win solutions (Moore, 2003, p. 15)). The differences in degrees of informality between communicative activity types of workplace mediation are assumed to be directly reflected in the different descriptions of the *essential elements* and *meta elements* of the communicative activity types of workplace mediations' *institutional context types*. Thus, as we aim to establish how mediators in different communicative activity types of workplace mediation will construct procedural starting point interventions, the contextual elements (1) *meta elements*, and (2) *essential elements* will be considered in relation to the *local functions with the general effect of (re)establishing a procedural starting point*. Table 39 provides an overview of the *contextual elements* of the *institutional context* that could affect the construction of procedural starting point interventions with specific *local functions* when the degree of procedural *informality* increases. There are undoubtedly more contextual elements that may influence the construction of the interventions with the local functions that have the general effect of (re)establishing procedural starting points than the ones identified in figure 31; those presented here were inferred from the prevalent excerpts selected for chapter 4. Additionally, it should be reiterated that the assumed links and effects of contextual differences on the construction of common starting points presented in this chapter are conceptual inferences that can be used as hypotheses for further research, which do not present definitive conclusions themselves.

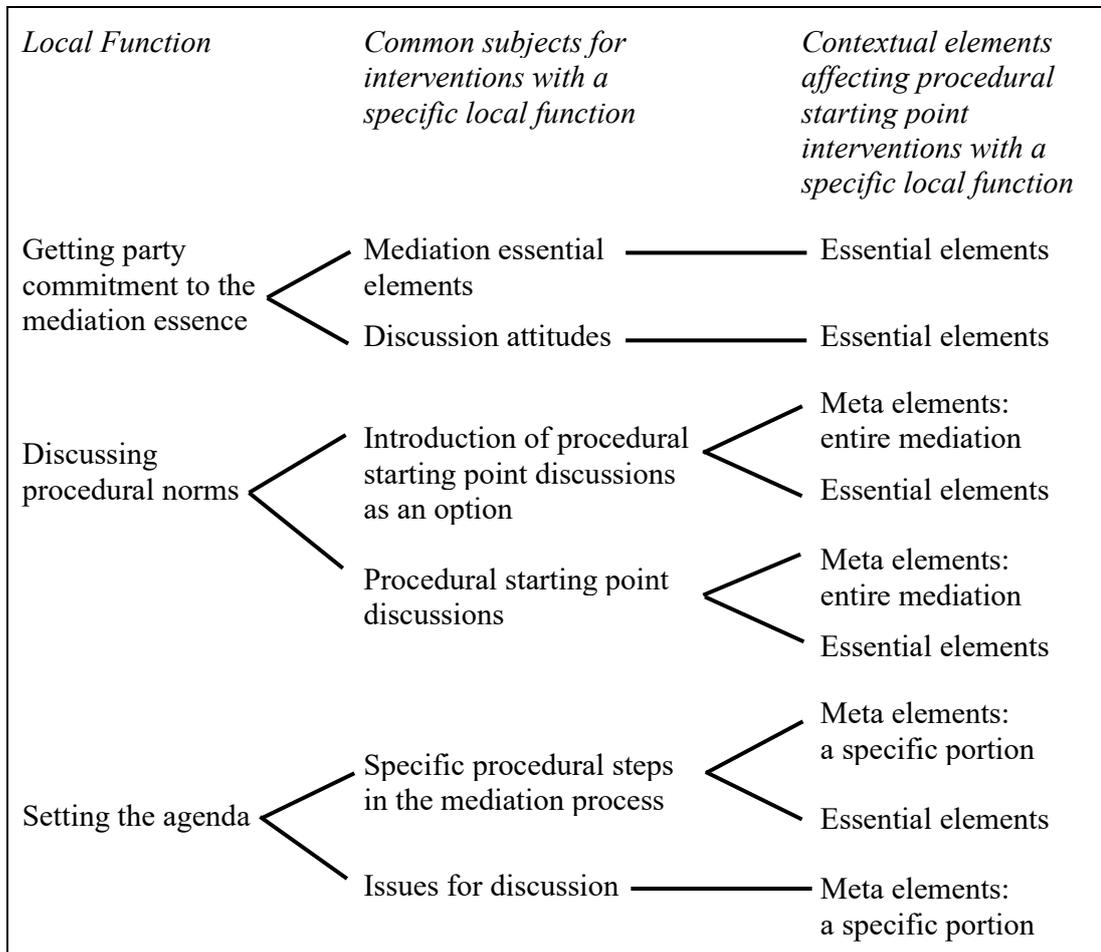


Figure 31. The direct link between the local functions of procedural starting point interventions and the contextual elements that affect them

For procedural starting point interventions with the local function of *getting party commitment to the mediation essence* (section 4.4) both commonly found intervention subjects would be affected by changes to the *essential elements* of the communicative activity type under consideration. The *essential elements* concern elements that are considered *essential* elements in *prototype 1* mediations. Depending on the degree of informality the elements that are considered essential to a communicative activity type of workplace mediation are expected to change. For example, in communicative activity types of workplace mediation that are more informal than *prototype 1*, confidentiality may not be expected to be a prerequisite per se, whilst the importance of finding win-win

solutions in an ongoing work relationship may remain at the center of the resolution procedure. The importance of commitment to the *mediation essential elements* (section 4.4) of a specific procedure should be expected in all cases, as commitment to the mediation's essence is to be considered a prerequisite of the *communicative activity type*; however, differences in the degree of informality of a mediation procedure may alter *what* is considered *essential*. In sum, relative to *prototype 1* mediation cases with a higher degree of informality will show differences in *essential elements*, which will affect the types of affordances mediators have for the construction of interventions with the local function of *getting party commitment to the mediation essence* and the general effect of (re)establishing procedural starting points.

The local function of *discussing procedural starting points* (section 4.5) is affected by both the *meta elements* affecting the entire mediation circle (e.g. the role of the mediator) and the *essential elements*. The *meta discussions* (see e.g. Greco Morasso, 2011, p. 221) held by participants regarding the establishment of custom procedural starting points on mediation essential elements, such as confidentiality, will most likely affect the mediation procedure as a whole. As stated previously, in case the degree of informality is higher relative to that of *prototype 1*, *confidentiality* may not be an essential element of the mediation because the affordances concerning the mediation procedure are less formalized. In short, a higher the degree of informality implies a lower degree of procedure formalization. Consequently, the higher the degree of informality, the less predetermined the procedural norms and rules of the mediation domain are; one could argue that the higher the degree of informality, the more liberty parties will have to discuss and to establish procedural starting points that suit them and their resolution process best.

Moving to the local function of *setting the agenda* (section 4.6), the prescribed 'mediation agenda' of communicative activity types of workplace mediation with a higher degree of *informality* is assumed to be more open. With the (sequential) procedural steps less set in stone, mediators will presumably have more freedom to set the agenda on the one hand, whilst on the other hand they may less likely to do so, for example, due to the lack of a formalized procedural role that normalizes the *setting of the agenda* by mediators.

Additionally, the less formalized the mediation procedure is, the less likely it is that there is a need for procedural starting point establishment at specific moments in the mediation procedure (e.g. before the next part of the mediation circle commences or at the *transitional moment*; see section 4.4), because the mediation domain in communicative activity types with a higher degree of informality than *prototype 1* does not formally require the same predetermined procedural steps as in *prototype 1*. As a result, mediators in the more informal communicative activity types do not necessarily have the procedural power to freely argue for the acceptance of procedural steps they could deem necessary for the reasonable resolution of the conflict. For example, as the degree of informality increases and the essential elements alter, mediators are probably less likely to be able to *argue for specific procedural steps in the mediation process* compared to the *prototype 1* mediators in chapter 4; in section 4.6.1 workplace mediation professionals were shown to argue for procedural agreements on entering into a caucus, the signing of a confidentiality agreement, and the signing of a pre-mediation agreement. In short, this lack of procedural power would make *setting the agenda on a specific procedural step* and *arguing* for the acceptance of a procedural starting point with this local function in case of resistance very difficult. On the other hand, a mediator's lack of formal procedural power could also mean parties are freer to set the agenda on specific procedural steps themselves. It is difficult to say if, and if so how, this could make a difference in the conflict resolution; however, it does mean that we can expect differences in procedural starting point interventions with the local function of *setting the agenda* when there are differences in degrees of procedural informality. *Items for discussion* (section 4.6.2), whether on problems or solutions, can be proposed throughout the mediation session in all conceivable prototypical communicative activity types no matter the degree of procedural informality. However, in section 4.6.2 the mediation professionals were shown to explicitly set the agenda on items for discussion (A) when the mediation professional guides the interaction from one sequential part of the mediation circle to another; and (B) as an important part of the *transitional moment*, when the mediator draws up an inventory of surfaced and discussed interests in the *exploratory part* that are to be incorporated in the brainstorm session and argumentative discussions on solutions in the *negotiation part*. In communicative activity

types of workplace mediation with a higher degree of *informality* there will be a lower degree (or lack of) standardized ‘item inventory’ moments, which would affect mediators’ ability to establish procedural starting point interventions with the local function of *setting the agenda on items for discussion*. However, as the mediators in communicative activity types with a higher degree of *informality* are presumably less often strictly bound by a formal requirement of perceived neutrality, their freedom to comment on items for discussion (i.e. construct interventions that either contribute to or evaluate the *content* of the discussion) may be higher, because it will not threaten their neutrality position.

To briefly summarize, we have conceptualized degrees of *procedural informality* as essential to the definition of *informal mediation*. Based on this we have discussed some initial basic assumptions on the possible effect differences in procedural informality degrees may have on the construction of procedural starting point interventions (relative to the findings for *prototype 1* in chapter 4). Before moving on to the effect of *mediator proximity* on material starting point (re)establishment, an important ambiguity existing in the literature on *informal mediation* should be clarified in section 7.1.4.

### ***7.1.4 Informal and internal mediation: solving an ambiguity.***

When browsing the literature on mediation it quickly becomes clear that different degrees of *informality*, from formal to informal, are not defined in detail and often rather taken for granted when discussing *informal mediation*. Some studies refer to *informal mediation*, especially in relation to mediation practices outside ‘the West’, without explaining what informal (or formal for that matter) means (e.g. Kim, Wall, Sohn, & Kim, 1993; Parkinson, 1997; Deng, 2012; Faure, 2011). In short, comprehension of *formality* and *informality* is generally presupposed in the literature. As a result, the concept of *informal mediation* has been used for practices where the mediation procedure is more loose in nature, and as such not formalized (see e.g. Wall, Beriker, & Wu, 2010), but also for cases where the author describes mediation practices in which the mediator is not an externally hired mediation professional who acts as a neutral third party but a member from the same community as the parties (see e.g. Hualing & Chuoy, 2004; Wall et al., 2010), such as clergy, community elders, panels of community representatives and so on (see e.g. Sheppard, Blumenfeld-

Jones, & Roth, 1989; Parkinson, 1997; Tabucanon, Wall Jr., & Yan, 2008; Wall & Dunne, 2012). Thus, whilst some studies implicitly refer to *procedural informality* when referring to informal mediation, mentions of informal mediation can be found that specifically refer to mediators that either have their mediation role included in their denominated job description, i.e. as a role to take on in case of emerging conflicts (e.g. managers or school directors), or mediators without an assigned mediation role at all (e.g. relatives or friends) (Greco Morasso, 2011, p. 18). Although these mediators may indeed operate in mediation domains that are less formal in nature than the mediation domain of *prototype 1*, what is in fact commented on here is *something different from procedural informality*.

The different mediators mentioned in the literature may indeed more likely use a more informal mediation procedure than a *prototype 1* mediator; for example managers, supported by organizational conflict culture, presumably have more institutionally defined procedural conventions and resources for resolution processes in place than co-workers who informally try to mediate between their colleagues (e.g. Kressel, 2011). Still, we can argue that there is a difference between *procedural informality* and the examples of informal mediation often presented in the literature, which seem to refer more to the *proximity of the mediator to the parties, the conflict, and the community in which the mediation takes place*. In short, in these studies, *informal mediation* is not defined based on the degree of *conventionality of the mediation procedure* but rather refers to *the role of the mediator*; these studies describe the mediator as someone more *internal* to a specific community instead of an *external* third party. As such, for this study, it is important to distinguish between mentions of *informal mediation* and what we may label as *internal mediation*. The contextual implications of the former (i.e. concerning procedural informality) are relevant for the (re)establishment of *procedural starting points*, whilst the latter (i.e. concerning the proximity of the mediator) will prove to be primarily important for the (re)establishment of material starting points. In sum, although one may influence the other, it is *degrees of informality* that are assumed to influence, directly and specifically, *procedural starting point (re)establishment*; whilst *degrees of proximity* will be shown to influence *material starting (re)establishment*. In section 7.2, it is the possible

direct influence of the *mediator proximity* on material starting point interventions that will be discussed in-depth.

## **7.2 Proximity and Material Starting Points in Conflict Mediation**

Elaborating on the distinction made in section 7.1.4, the link between a mediator's *proximity* to the community, the parties, or even the conflict itself and the (re)establishment of material starting points can be quite direct as "a mediator may use his or her relationship with the parties to extend his or her level of influence in the process by emphasizing common bonds, history, and experiences" (Bercovitch & Houston, 2000, p. 191).<sup>82</sup> Although it may not always be that direct or explicit, the *proximity* a mediator has vis-à-vis the parties' common bonds, history, and experiences, may indeed influence the arsenal of communicative options he or she has in terms of material starting point interventions, for example, concerning the parties' shared values, facts or beliefs.

Section 7.2.1 will specifically focus on *proximity*; *why* and *how* does a *mediator's proximity* to a specific community, the parties, and the conflict itself, affect the broadening and strengthening of common ground in workplace conflicts. Section 7.2.2 discusses the direct effects of differences in *degrees of mediator proximity* between different communicative activity types of workplace mediation on the construction of material starting point interventions.

### **7.2.1 Defining proximity.**

Although generally not labeled as such, when the concept of *internal mediation* in workplace settings is mentioned, it is defined as "a process in which an employee of the

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<sup>82</sup> Mediators may use this relationship with the parties in a way that positively affects the resolution process when (re)establishing common starting points between parties. Although it is this use of *proximity* that we are concerned with here, it is important to note that mediators could also use the relationship, common bonds, history and experiences in a way to "manipulate the substantive nature of negotiations by introducing a new perspective, ideas, and suggestions" (Bercovitch & Houston, 2000, p. 191), by which mediators give up their neutrality position and actively contribute to the argumentative discussions aiming to directly influence the outcome of the mediation.

organization mediates a dispute between co-workers” (Nabatchi, Blomgren Bingham and Good 2007, p. 153). Although, this is indeed the basis of what is considered internal mediation in workplace mediation in this dissertation, a proper characterization is required in order for us to understand how the material starting point intervention options of a more *informal mediator* may differ from the externally hired mediation professional studied in empirical chapter 5.

Conventionally, something is considered external when it exists (or comes from) the outside of that which is under consideration; whereas something is considered internal when it exists (or comes from) inside something, as can be inferred from the conventional English dictionary definitions presented in table 40.

Table 40		
<i>English dictionary definitions of ‘external’ and ‘internal’</i>		
Word	Definition	Dictionary
Internal	Situated, existing, or occurring within the interior of something: of or relating to the inside, inward; <i>spec.</i> of or affecting the inside of the body.	Oxford English Dictionary
	Existing or located on the inside of something. Coming from the inside	Merriam-Webster
External	Coming from the outside	Oxford English Dictionary
	Situated outside, not included within the limits of, the object under consideration	Merriam-Webster

*Note.* The definitions in this table were taken from <https://www.oed.com> and <https://www.merriam-webster.com>

As with *informality* (section 7.1), what we are concerned with is *degrees* of proximity; an important question is to what *degree* a mediator is to be considered an *external* or *internal*

mediator? In answering this question, a problem arises: the term *internality* (and *externality*) is more conventionally understood as an established concept within behavioral economics (see e.g. Dahlman, 1979; Ellingsen, 1998; Alcott, Mullainathan, & Talibinsky, 2014) that marks whether something is inside or outside something else.

Although we can determine whether or not a mediator is *internal* to the organization to which the parties belong, or *external* to this organization, based on whether or not the mediator has a work contract with the organization, different *internal mediators* can, for example, still have wildly varying degrees of proximity to the parties and the conflict itself. Moreover, it is mainly a mediator's *proximity* to the parties (and possibly the relevant context of the conflict) that affects their ability to tap into the parties' 'common bonds, history, and experiences' for the (re)establishment of material starting points. For example, one of the in-house mediators at a large health insurance company that employs over two thousand people will most likely have limited to no knowledge of the 'common bonds, history, and experiences' shared by two squabbling service desk employees; whilst the owner of a small local candy shop who works directly with her two squabbling employees on a daily basis does have such knowledge, due her high proximity to the parties. Thus, as we are in fact concerned with the mediator's relation with the organization the parties work at (i.e. they can be external or internal), *as well as* their proximity vis-à-vis the parties and the conflict, the dissertation uses the label *proximity* instead of internality or externality.

There are numerous examples of mediation from around the world in which conflicts are facilitated by third party members, or panels of members, from the same community as the parties in conflict (e.g. Sheppard et al., 1989; Parkinson 1997; Tabucanon et al., 2008; Wall & Dunne, 2012). Speaking on the authority of informal mediators, Greco Morasso (2011) stated that "informal mediators normally "work" for a specific community, such as an office or other working place, a family, a small town, or a cultural community" (Greco Morasso, 2011, p.19), by which it can be inferred that the mediators referred to are *internal* to the community they work for. However, as *internal mediation* in organizations is sometimes characterized by having staff trained as mediators who will

undertake mediation as part of their duties (Saundry & Wibberley, 2012, p. 4), it could be argued that the *informal* mediators referred to as “working’ for a specific community” (Greco Morasso, 2011, p.19) can also be labeled *internal mediators* in our current study (see the disambiguation of informal and internal in section 7.1.4). In terms of the characterization of a mediator’s relation to the parties, the *communities* (Greco Morasso, 2011, p. 19) to which the parties as well as the mediator belong are particularly important. In some sense, as explained in our explications of *externality* and *internality*, when it comes to determining whether a mediator has a high or low degree of proximity, it could be said that it is this *community* that we are concerned with. The mediator can be said to be internal if he or she is part of the community, by which he or she has a relatively high degree of *proximity* to the community to which the parties belong. For workplace mediators with a high degree of proximity, the presumed minimum in terms of shared communities is the *workplace* (i.e. the organization).<sup>83</sup> What could be classified as relatively *internal* mediators can be found in many organizations who require employees such as managers or direct supervisors to act as third parties in the resolution process when conflict arises in the workplace (Bollen et al., 2016, p. 7; see also Römer et al., 2012).

In terms of degrees of proximity, mediators who are *completely external*, i.e. the externally hired workplace mediation professionals, are thus mediators who have the *lowest degree of proximity* to the organization, the parties, and the conflict (see *prototype 1* in section 7.4.1). On the other end of the *proximity spectrum* we find mediators of communicative activity types of workplace mediation that are *completely internal*, such as employees who mediate between their direct coworkers stuck in a workplace conflict. These internal mediators, thus, have the *highest degree of proximity* to the organization, the parties, and the conflict (see *prototype 2* in section 7.4.2). When studying mediators in different communicative activity types of workplace mediation, their degree of

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<sup>83</sup> As this dissertation focuses specifically on workplace mediation, it is the elements specific to the institutionalized community of *the organization* that we are concerned with, instead of complex normative categories such as ‘gender’ or ‘ethnicity’. In addition, as explained in footnote 14 in section 2.2.2, the inclusion of the complex discussions on identification categories such as ‘gender’, ‘race’, ‘ethnicity’, ‘sexuality’, and so on, would both exceed the scope of the current study and oversimplify these important concepts.

proximity is determined relative to the most extreme ends of the *proximity spectrum* (i.e. from maximally external to maximally internal). Similar to the *informality spectrum* (figure 30), we can place examples of mediators with different degrees of mediator proximity along the *proximity spectrum*. However, although we could not determine a border between what is formal and what is informal, we can indeed determine a border between when a mediator is external to the organization and when a mediator is internal to the organization. As such, the *proximity spectrum* features one relevant difference from the *informality spectrum*: the *proximity spectrum* in fact consists of *two continuums*, namely the *externality continuum* and the *internality continuum*. This is important, because, for example, managers who mediate between co-workers (see *prototype 3* in section 7.4.3) can be placed on the *internality continuum* of the *proximity spectrum* as they are *internal* to the organization; however, they can be expected to have a *lower degree of proximity* compared to direct coworkers who are friends (see *prototype 2* in section 7.4.2). Additionally, a mediator can go from being an external mediator on the externality continuum to internal mediator on the internality continuum. For example, when a mediator is initially hired as an external third party but joins the organization as part of the HR department. When a mediator becomes internal, he or she will now also be expected to have a *higher degree of proximity* than before, as an external mediator. Figure 32 below shows the *proximity spectrum*, which consists of two continuums; examples of mediators in different communicative activity types of workplace mediation can be placed along the entire *proximity spectrum* based on their degree of *mediator proximity*.

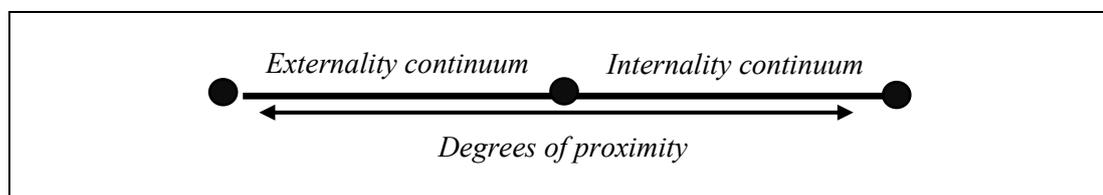


Figure 32. The proximity spectrum

In sum, the difference in the degree of proximity influences the communicative options mediators of different communicative activity types of workplace mediation have for the (re)establishment of material starting points. Section 7.1.1 argued that it is the mediator's

proximity to the organization, the parties and the conflict that determines if, and if so how, they can use the parties' 'common bonds, history, and experiences' in the construction of their material starting point interventions. Table 41 summarizes the general assumption that underlies the focus on proximity for the study of the possible influences of context on the construction of interventions that (re)establish material starting points.

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Table 41

*General assumption of proximity influence*

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General assumption	Depending on the degree of <i>proximity</i> we may expect different material starting point intervention options.
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### ***7.2.2 Influence of proximity degrees on material starting points.***

Based on the insights presented in section 7.2.1, we can now conceptualize how variance in the degrees of proximity could influence the construction of interventions with the possible general effect of (re)establishing material starting points relative to *prototype 1* analyzed in chapters 4 and 5. Specifically, in section 7.2.2 we will discuss how mediators in communicative activity types of workplace mediation with different *degrees of proximity* have varying degrees of *access to the parties' common ground*, which can affect the options they have for material starting point interventions.

The knowledge of an internal mediator is based on their shared history or personal bond with the parties; or the presence of relevant knowledge based on the fact that mediators share at least one community with the parties in conflict (i.e. the workplace). As, Polletta and Jasper (2001) explain, communities help people define "an individual's cognitive, moral and emotional connection with a broader community, category, practice or institution" (p. 285). Thus, by being part of the same community, internal mediators could find it easier to define the parties' cognitive, moral connection to the community as they are a part of it as well. To understand this further, we should look at the work by Herbert Clark (2006) on common ground. Clark (2006) distinguishes between *communal common ground* and *personal common ground* as bases for common ground shared by people.

*Communal common ground* corresponds to knowledge shared by common members of a specific community (p. 85), i.e. the *community* to which the parties are said to belong. Mediators with a high degree of proximity to the community, the parties, and the conflict can be expected to belong to at least one relevant community that the parties in conflict also belong to; mediators can then (re)establish the common ground they have with the parties based on this shared community. More specifically, the community is extremely relevant for the (re)establishment of material starting points because the mediator belonging to the same community can more easily tap into the *communal common ground* specific to their shared community membership. For example, *communal common ground* concerning knowledge of the communal interests in terms of the organization where the parties and the mediator work may be relevant, as this knowledge may affect interventions with a local function of *fortifying the common ground* with the theme *shared interests*, such as ‘a shared concern about the future of the institute’ in the ‘church board versus sexton’ case (see section 5.5.2; excerpt 27). Mediators with a higher degree of proximity would find it easier to construct material starting point interventions with the local function of *fortifying the common ground* with the theme of *shared interests* than *prototype 1* mediators, because they are able to tap into the *communal common ground* they share with the parties.

In comparison, *personal common ground* is based on people’s joint experiences, such as previous conversations and other joint activities (Clark, 2006, p. 86). This common ground is not a common ground basis for everybody who is part of a workplace community but specific to the personal history shared between specific members of the community (e.g. direct coworkers in a department). When constructing an intervention with, for example, the local function of *requesting case and context information on shared history* (section 5.4.1), parties tap into the *personal common ground*. As such, rather than as a result of belonging to the same community, in order for a mediator to tap into the *personal common ground* for the construction of interventions on *shared history*, they require a higher degree of proximity to the parties’ *joint experience*. Besides a higher possibility of a collective identity on a cognitive, moral and emotional level; the higher

## COMMON GROUND IN CONFLICT MEDIATION

the proximity, the more knowledge the mediator will have on shared *feelings, personal beliefs* and *values* (i.e. material premise types part of the *personal common ground*).

The more knowledge on the *communal common ground* and the *personal common ground*, the more options and freedom a mediator should have to broaden and reinforce the common ground between the parties on material starting points. In specific, based on the empirical findings of material starting point (re)establishment and the theory of *common ground bases* by Clark (2006) we can state that the proximity of the mediator to the *community* specifically affects the access to the *communal common ground* and the mediator's proximity to *parties* affects access to parties' *personal common ground*. The *communal common ground* and *personal common ground* as different categories (or bases) of common ground benefit the construction of interventions with different local functions (see table 42).

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Table 42

*Common ground bases for local functions that (re)establish material starting points.*

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Common ground basis	Local functions
Communal common ground	<ul style="list-style-type: none"><li>▪ Getting understanding</li><li>▪ Fortifying the common ground: shared interests</li></ul>
Personal common ground	<ul style="list-style-type: none"><li>▪ Emphasizing good intentions</li><li>▪ Requesting case and context information: sufficient information</li><li>▪ Requesting case and context information: shared history</li><li>▪ Fortifying common ground: shared feelings</li></ul>

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For the interventions with the local function of *getting understanding* and *fortifying the common ground on shared interests*, the mediator taps into the *communal common ground* for the material starting point (re)establishment. Regarding the local function of *getting understanding*, the mediator mainly taps into the parties' *communal common ground* instead of the *personal common ground* because the intervention does not refer to any

prior experiences but, for example, parties' positions in and contributions to the community – i.e. “what is your view on her effort?” (excerpt 15), or “B may feel responsible as well considering the effort she has put in all those long years.” (excerpt 16). As previously discussed, in the excerpts that illustrated the construction of interventions with the local function of *fortifying common ground on shared interests* (section 5.5.2), the shared interests (re)established were in fact *communal shared interests* – i.e. “the interest is for you both for P to go back to work” (excerpt 25), “both, if we can just get back to work fast?” (excerpt 26), and “a shared concern about the future of the church” (excerpt 27).

For the local functions of *emphasizing good intentions*, *fortifying common ground on shared feelings*, and *requesting case and context information*, mediators with a high degree of proximity can tap into the parties' *personal common ground*. Specifically, the interventions with these local functions concern parties' *joint experiences* – e.g. “I wish for you both [...] that you can also see the good sides” (excerpt 18; *emphasizing good intentions*), “how did you experience the beginning of the contact” (excerpt 20; *requesting case and context information: sufficient information: sufficient information*), “how long did you have it good with P?” (excerpt 21; *requesting case and context information: shared history*), and “we're sitting here now in mediation pretty angry” (excerpt 24; *fortifying common ground: shared feelings*). Especially in the case of questions that elicit information on the case (e.g. interventions with the local function *requesting case and context information*), we could suggest that mediators with a higher degree of proximity to the parties will more easily tap into the parties' *personal common ground*. The access to the personal common ground could lead these internal mediators to establish context information through statements rather than through questions that elicit this type of information. Previously we mentioned mediators' proximity vis-à-vis the *community*, the *parties*, and the *conflict*. The proximity of a mediator to the *conflict*, different from proximity to the *community* or proximity to the *parties*, is not specifically linked to a mediator's access to either the *communal common ground* or the *personal common ground*; the conflict is usually *personal* in nature but the workplace conflict often take place in, and concerns, the *community* (i.e. the workplace) itself. As such, interventions

that concern the *conflict itself* could be derived from the parties' *communal common ground* (e.g. the date of the meeting in which the dispute escalated into a conflict) or the parties' *personal common ground* (e.g. frustrations over the insults made during the conflict). In sum, the specific *knowledge* a mediator has of the material starting points that are part of the parties' personal and communal common ground depends on their degree of proximity to the *community*, the *parties*, and/or the *conflict* itself.

To further understand the role of *knowledge* on the (re)establishment of material starting points in different communicative activity types of workplace mediation we must turn to the relation between the *contextual elements* (section 6.1.2) of *the context types* (section 6.2) belonging to the *general domain* (section 6.1.2), and mediators' possible knowledge of *material premise types* in parties' common ground (as found in chapter 5; section 5.6.3). More specifically, we will discuss the relevant *material premise types* affected by specific *contextual elements* belonging to a specific *context type* of the *general domain* (see table 43).

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Table 43

*Material premise types per conflict type*

Context type	Contextual elements	Material premise types
Identity	Personal elements	<ul style="list-style-type: none"> <li>▪ Values</li> <li>▪ Personal beliefs</li> <li>▪ Feelings</li> <li>▪ Interests</li> </ul>
Conflict	Informational elements	<ul style="list-style-type: none"> <li>▪ Facts and truths</li> <li>▪ Suppositions</li> </ul>

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As discussed in section 6.2, the *identity context type*, largely dependent on the *personal elements*, is not directly represented in the pragma-dialectical list of contexts (section 2.2.3; table 4). Depending on the degree of proximity, the *personal elements* may affect the *mediation text* directly or indirectly. Specifically, depending on the degree of proximity a mediator can tap into the *communal common ground* and *personal common ground* for

the construction of interventions on material premises that are either personal in nature, communal in nature, or both; i.e. parties' shared *values, personal beliefs, feelings, and interests*. Indirectly, one could imagine that a mediator's proximity can influence his or her own *values, beliefs, feelings and interests*, and as a result shape how he or she approaches interventions concerning these material premise types. In sum, the proximity of a mediator vis-à-vis the *community* and the *parties* determines the relevant *personal elements* that affect to the (re)establishment of material starting points concerning the *material premise types* of *values, value hierarchies, personal beliefs, feelings and interests* (see section 5.6.3).

The *conflict context type* is of interest as well, as it relates specifically to the conflict (i.e. the disagreement(s) at the center of the dispute) and the context of the conflict (e.g. the events that caused the escalation of the dispute into a conflict). Depending on the degrees of proximity mediators in different communicative activity types of workplace mediation have vis-à-vis the *conflicts* they are mediating, they will presumably show differences in their knowledge of the facts, truths, and (reasonably confirmable) suppositions of the conflicts. In many ways, the *conflict context type* is the most straightforward context type as it concerns the conflict case itself, i.e. its *facts and truths, or suppositions* (see section 5.7). The relevant knowledge of the conflict includes, for example, the sequence of events that caused the dispute, the surfacing or burying of the issue at the center of the disagreement, the chronology of the escalation to an impasse, and other resolution relevant conflict details. In sum, depending on the degree of *proximity*, there may be variances in mediators' options for the (re)establishment of material starting points with these material premise types of *facts and truths*. In addition, it could be argued that material starting points with the material premise of *suppositions* may be affected by the *conflict context type*, because suppositions concerning the conflict include the implicit expectation that they will at some point be confirmed, by which it becomes a truth (van Eemeren et al., 2014, p. 267; see sections 5.2 and 5.7).

### 7.3 Conclusions on Procedural Informality and Mediator Proximity

Before presenting the descriptions of the prototypical communicative activity types of workplace mediation in section 7.4, the most important points of the study on *informality* (section 7.1) and the study on *proximity* (section 7.2) should be briefly summarized. As institutionalized discourse, conflict mediation has a specific goal that determines the type of discourse the mediator wants to design; the communicative activity type's *degree of informality* largely determines the affordances that affect the design of the *mediation domain*. It seems that *informality* specifically pertains to the conventions of the *procedure*. For example, the mediation *procedure* can be characterized as *informal* when the mediation domain of a specific case lacks aspects of formality, such as standardized forms of procedure, and customary norms and prescribed procedural rules. Depending on the differences in *degrees of procedural informality* between various communicative activity types of workplace mediation, we may expect differences in the *meta elements* and *essential elements* of each communicative activity type's *institutional context type*. As result of these changes, mediators in these different communicative activity types of workplace mediation will have different construction options for *procedural starting point interventions*.

In terms of material *proximity*, the *workplace* is the specific *community* that contextually binds all participants in a workplace mediation: the case generally concerns a *workplace* related conflict and the *workplace* hierarchy affects the relation between the parties (and possibly the mediator). *Proximity*, thus, pertains to the proximity of a workplace mediator to the community of the workplace, the parties, and the conflict. Additionally, depending on the degree of *proximity*, the workplace is where the disputants (and the mediator) share a history, interests and so on. A *mediator* can be characterized as *internal* when the mediator (at least to some degree) belongs to the same community as the parties (i.e. the organization) and *external* when the mediator does not. The degree of *mediator proximity* vis-à-vis the community, the parties and the conflict can be expected to directly affect *material starting point (re)establishment*. Depending on the differences in *degrees of mediator proximity* between mediators from various communicative activity types of workplace mediation, we may expect differences in the *personal elements* of each

communicative activity type's *identity context type* and differences in the *informational elements* of each communicative activity type's *conflict context type*. As a result of these changes in relevant contextual elements, mediators in these different communicative activity type of workplace mediation will have different construction options for *material starting point interventions*.

At this point we should briefly comment on the notion that *informality* does not exclusively affect procedural starting point (re)establishment and *proximity* does not exclusively affect material starting point (re)establishment. For example, whether a mediator is an external mediation professional, an HR manager, team leader or a co-worker, may also determine the *degree of procedural informality* of the resolution processes they are able to guide, and thus the options these mediators have to design their *mediation domain* using *procedural starting point interventions*. However, based on the literature and inferred from the analyses of the local functions in the empirical chapters (as discussed in section 7.1), it is the degree of *informality of the procedure* we expect to directly affect *procedural starting points*. As such, the prototypical communicative activity types of workplace mediation created and discussed in sections 7.4 will further discuss this principle link between degrees of procedural *informality* and *procedural starting point* intervention construction, and degrees of mediator *proximity* and *material starting point* intervention construction.

Whether the mediation procedure is to be considered formal or informal, or whether a mediator has a high degree of proximity to the parties, the community and the conflict or not, is *relative*. As such, we are dealing with *degrees of informality* and *degrees of proximity*. Especially for future empirical research in argumentation on common ground in conflict mediations, the procedure of the mediation case that is studied is to be considered *more or less* formal or informal and the third-party facilitator *more or less* internal or external, relative to the *prototypes* established in this chapter (sections 7.4.1-7.4.4). Therefore, although *informality* and *proximity* have been explained as a *continuum*, for the sake of refining the list of communicative activity types for the expansion of mediation as a genre of communicative activity in pragma-dialectics, the final four sections (sections 7.4-7.7) of this conceptual study introduce *four prototypical communicative activity types of workplace mediation*. Based on these four prototypes, we

will be able to discuss differences between common starting point interventions by the three new prototypical communicative activity types of workplace mediation compared to the empirical findings of common starting point (re)establishment for the sake of reasonable argumentative discussions by *prototype 1* (chapters 4 and 5).

### **7.4 Prototypical Communicative Activity Types: Results**

There are several aspects that could make a procedure more informal or less informal, which affects differences in affordances between various communicative activity types of workplace mediation. Additionally, there are several material premises that could be shared between the parties and the mediator, which would not only determine if a mediator can be considered internal but also how internal he or she is (i.e. *how high his or her degree of proximity is*). It has become clear that it is difficult to state with certainty how high the degrees of *informality* or *proximity* are for a specific case, unless we are dealing with extreme ends of the informality and proximity spectrums (figures 30 and 32). In other words, either completely with or completely without procedural formality, in the case of completely formal or informal mediation; and either complete access to parties' communal and personal common ground or no access at all, in the case of maximal mediator proximity or minimal mediator proximity. However, based on four combinations of the extreme ends of the spectrum, *four prototypical communicative activity types of workplace mediation* can be constructed: the *formal external* communicative activity type (*prototype 1*; section 7.4.1), the *informal internal* communicative activity type (*prototype 2* section 7.4.2), the *formal internal* communicative activity type (*prototype 3*; section 7.4.3), and the *informal external* communicative activity type (*prototype 4*; section 7.4.4). These four prototypes help us answer research question (B) on *how common starting point interventions differ between communicative activity types of workplace mediation*, and help us achieve our research aim *to adjust the list of communicative activity types currently existing for the genre of mediation in pragma-dialectics*. It is important to keep in mind that these prototypes (or ideal types) are normative in nature, as they do not cover all examples of workplace mediation, and that they are not meant to have generalizability; instead, they form ideal parameters to which specific cases in future argumentative studies can be compared, and in reference to which empirical argumentative analyses of common

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ground (re)establishment by mediators from different communicative activity types of workplace mediation can be contextualized (see sections 8.2 and 8.4.2 for conclusions on the functionality of the prototypes beyond the dissertation).

*Formal external mediation (prototype 1*: see section 7.4.1) was previously identified as *prototype 1* – i.e. the mediations guided by the externally hired workplace mediation professional whose interventions were analyzed for the empirical chapters. *Prototype 1* is taken as the starting point for the construction of the other prototypes. *Informal internal mediation (prototype 2*; see section 7.4.2) is to be placed at the opposite end of the spectrum from *formal external mediation*, both in terms of *informality* and *proximity*. From the four prototypes that can be constructed, it is these two ideal types that can be expected to differ most drastically; the two ideal types, as contraries, have opposite implications when it comes to their effect on the establishment and reestablishment of common starting points, as will be discussed in their respective sub sections (7.4.1 and 7.4.2). The common starting point (re)establishment expectations presented for the two main parameters are qualitative and not quantitative (i.e. they do not have weighed values that can be measured); instead, the expectations of the two prototypes are relative to each other (e.g. informal internal mediation has fewer options for procedural starting points *relative to* formal external mediation).

The more formal the mediation procedure is, the more formalized procedural conventions and rules mediators can rely on and utilize for the establishing and reestablishing of procedural starting points. Conversely, the more informal the mediation procedure becomes, the fewer implicit and explicit procedural power and formalized conventions and rules are in place that may help mediators establish and reestablish procedural starting points for constructive argumentative discussions on problems and solutions. In terms of proximity, the higher the degree of mediator proximity, the easier it is for mediators to (re)establish material starting points based on their knowledge of the community, the parties, and the conflict. The lower the degree of mediator proximity, the less knowledge this external mediator has compared to the internal mediator with a higher degree of

proximity, which would result in less available communicative options for the establishment and reestablishment of material starting points.

To summarize, we may expect *formal external mediation* and *informal internal mediation* to differ most in terms of the communicative options mediators have a toolbox for common starting point (re)establishment. As they represent the opposite sides of both spectrums, they comprise the outer parameters of the functional contextual grid against which all other examples of mediation are compared. Because of their role as the main parameters, *prototype 1* and *prototype 2* take precedence over other ideal types. In fact, the other two combinations *formal internal (prototype 3)* and *informal external (prototype 4)* are constructed relative to the first two prototypes and established as extra parameters for the *informality and proximity mediation model* (i.e. the functional contextual grid), see figure 33.

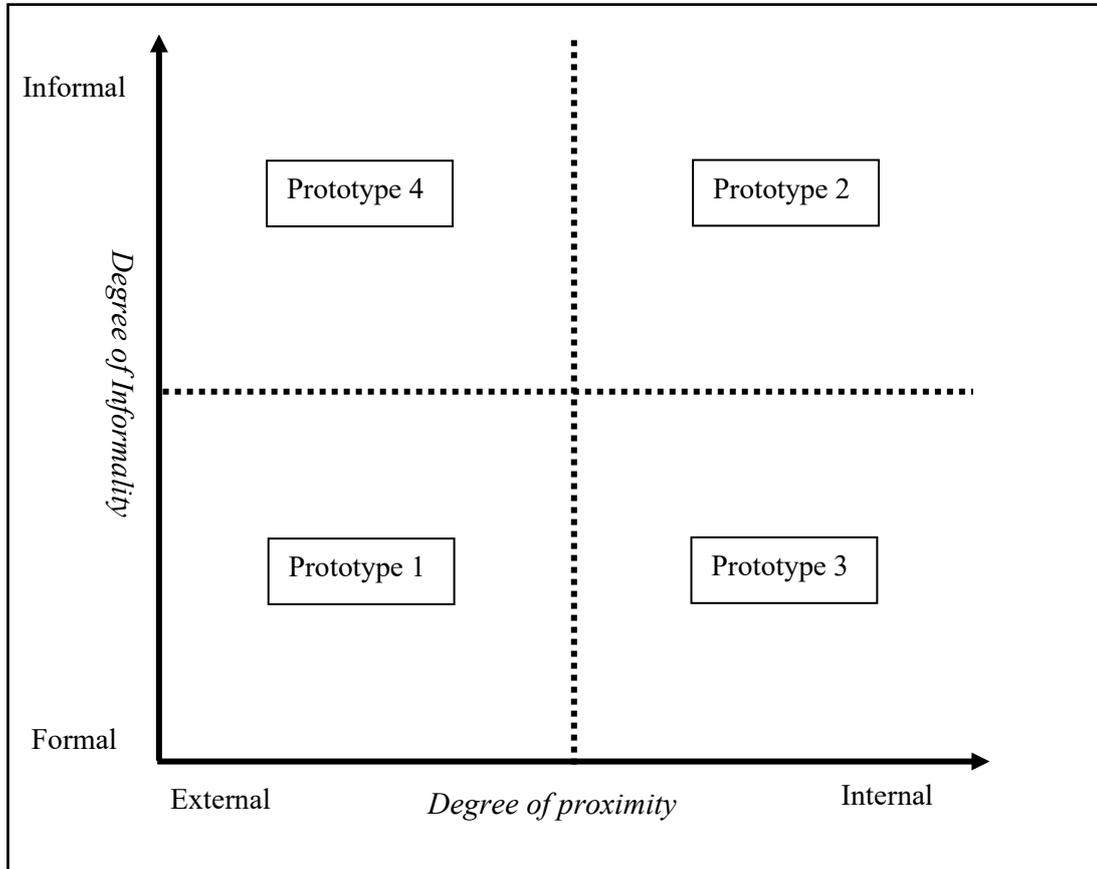


Figure 33. Functional contextual mediation grid

In the following sections, the four prototypes will be further defined using the literature on conflict resolution. As they are the most important prototypes (i.e. main prototypes), we will start with *prototype 1: formal external* in section 7.4.1 and *prototype 2: informal internal* in section 7.4.2. After having defined the main prototypes, we will then introduce the two extra parameters *prototype 3: formal internal* in section 7.4.3 and *prototype 4: informal external* in section 7.4.4.

#### 7.4.1 Prototype 1: Formal external mediation.

The prototypical communicative activity type of *formal external workplace mediation* has been defined and delineated in detail throughout the dissertation; the common starting

point interventions of *prototype 1* were at the center of the empirical chapters 4 and 5, and the prototype's *domains of context*, *context types* and the relevant *contextual elements* make up the three-leveled framework of context conceptualized in chapter 6. In this section (7.4.1), we will merely underline some of the important aspects to be included in the short definition of *prototype 1* (see table 44).

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Table 44

*Formal external prototype for workplace mediation*

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Prototype 1	Definition	Representative
Formal External	Involves an <i>externally</i> hired (and ideally neutral) third party who procedurally guides the parties in conflict through a <i>formalized</i> resolution procedure.	The mediation professional

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The ideal type of *formal external mediation in workplace mediation* relevant to this study can be characterized as involving an (ideally neutral) third party who is hired as an external party to procedurally guide parties in a workplace conflict through a formalized resolution procedure (i.e. the largely standardized sequential mediation procedure represented by the mediation circle in this dissertation). As the *mediation domain* has the most extreme level of procedural formality of all the prototypes discussed in this dissertation, *prototype 1* is to be placed on the outer left edge of the *informality spectrum*. Because prototype 1 has been thoroughly analyzed empirically as well as conceptually, it is relative to this prototype that the other three are to be constructed.

In terms of the degree of *informality*, the ideal type of *formal external mediation in workplace mediation*, has the most formal mediation procedure of the four prototypes, whereby it has the lowest degree of *informality*. Due to its low degree of informality, the *mediation domain* includes some well-defined and predetermined *mediation essential elements* and *discussion attitude* requirements (e.g. commitment to confidentiality and win-win resolutions) (see section 4.4). Due to their formal procedural power, *prototype 1* mediators may establish, reestablish, and argue for these mediation essential elements and

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the parties' commitment to mediation essence, directly and overtly. Additionally, mediators may introduce and lead the *discussion on procedural starting points* that will be formalized (through verbal agreement by the parties and/or in the form of a (confidentiality) agreement) when the parties establish them as explicit procedural starting points (see section 4.5). Finally, mediators have the ability to *set the agenda* (section 4.6) on *specific procedural steps in the mediation process* (section 4.6.1) and *issues for discussion* (section 4.6.2) as inferred from the mediation text in chapter 4. As the mediation procedure is standardized and the mediator's role is formalized, mediators are able to *set the agenda* at specific points in the mediation circle as well as throughout the mediation process as a whole. In general, the formalized mediation procedure poses some constraints on how mediators are able to construct interventions on common starting points, as they have to fit within the boundaries of the conventionalized mediation procedure's goal orientation. As a result, the mediation domain requires mediators to present specific interventions at specific points in the mediation, such as interventions at the *transitional moment* in the resolution process that check party commitment to reasonable discussion attitudes (see section 4.4), or interventions that determine the *items for discussion* for the next part of the mediation (see section 4.6.2). The formalized mediation procedure also provides the hired mediation professional with specific affordances in the form of communicative options enforced by the formality of the procedure, which could aid the resolution process. For example, the role of the mediator as the overtly accepted procedural guide of the mediation process allows him/her to establish procedural starting points in statements without requiring explicit acceptance from the parties in the mediation (e.g. on the importance of win-win solutions, the role of the mediator, or the sequential ordering of the procedure). Additionally, due to their formal role as procedural guides, the mediators are able to argue for the acceptance of procedural starting points deemed necessary for the resolution of the conflict, without it directly jeopardizing their perceived neutrality position (see section 4.6.1).

Moving to the *proximity* of the mediator representative of the *formal external* prototype 1, we will have to look at what the role is of the mediator in relation to the organization of which the parties are a part, the parties themselves, and the workplace conflict. For this

purpose, we can use the categorization of mediator types by Moore (2003) as a basis to build on; Moore (2003) established three broad types of mediators based on the relationship a mediator has with the parties (i.e. proximity of the mediator vis-à-vis the parties). In fact, three out of four prototypical communicative activity types of workplace mediation in this dissertation can be related to Moore's (2003) *independent*, *social network*, and *authoritative* mediator types (see section 2.1). Throughout the characterizations of the different prototypes in sections 7.4.1-7.4.4, the corresponding category by Moore (2003) will be introduced for each mediator that is defined as representative of that specific prototypical communicative activity type of workplace mediation. The *formal external mediator* corresponds to Moore's (2003) mediator category of the *independent mediator*; mediators in this category can be seen as "independent "outsiders" who are perceived to have no personal vested interest in the intervention or its outcome" (Moore, 2003, p. 52), or, who at least, because of their low proximity to the parties in conflict, do not have a relationship with the parties from which they could benefit in a direct or significant way (Moore, 2003, p. 53). Because the mediators in this prototype are hired externals that help guide the conflict in the organization, the mediator is placed on the left outer edge of the proximity spectrum.

The analyses of the material starting point (re)establishment by mediators (i.e. mediation professionals) belonging to this prototype on the outer left side of the proximity spectrum, showed interventions with the local function of *getting understand* from one party for the feelings of the other (section 5.2). Mediation professionals were shown to elicit *understanding* through open questioning on the legitimacy of a party's feelings, for example on their efforts in the workplace. As mediators and parties do not belong to the same organization and do not have a relationship prior to the mediation, the mediators do not have access to the *communal common ground* or *personal common ground*. This lack of common ground access means that mediation professionals are not able to establish a material starting point on a *personal belief* (i.e. (X)'s feelings (Y) are understandable/legitimate) based on prior knowledge. As a result, mediators of *prototype 1* need to *elicit explicit agreement* on the legitimacy of a party's feelings from the other party. In terms of material starting point interventions with the local function of

*emphasizing good intentions* (section 5.3), a similar effect can be noted; as mediators have no relevant prior relations to the parties, they do not have access to the *communal common ground* and the *personal common ground* in the *general domain*. For that reason, they *elicit* a material starting point on existing and prior good intentions through questioning. Alternatively, mediation professionals *emphasize good intentions* based on the prior contributions of the parties that can be found in the *mediation text* (i.e. the *co-text*). As mediators base these material starting point interventions on the contributions of the parties, they can more easily construct material starting point interventions with the local function of *emphasizing good intentions* later on in the mediation process. Specifically, because the *mediation text* grows during the mediation process, the mediator is more likely to infer shared (prior) good intentions as the mediation process progresses. The local function of *requesting case and context information* (section 5.4) concerns (A) the need to acquire *sufficient information* on the conflict and the relevant conflict context (section 5.4.1), and (B) the need to reconstruct the parties' *shared history* in a collaborative way (section 5.4.2). Although both (A) and (B) are beneficial for the parties, as they are invited to provide contributions on their shared *facts* and *truths*, the former could be said to be mainly beneficial for the mediator who needs to get a clear picture of the conflict, whilst the latter could be said to be mainly beneficial for the parties. As *prototype 1* has the lowest degree of proximity to the community, parties, and indeed the conflict case context, of the four prototypes presented in this dissertation, theme (A) is presumably more present in *prototype 1* compared to prototypes involving mediators that have a higher degree of proximity. As the mediator in *prototype 1* is external in nature, constructing interventions with the local function of *fortifying the common ground* (section 5.5) can be a difficult task. Mediation professionals have no prior communal or personal relations to the parties, as a result of which they have to explicitly elicit agreements on the existence of material starting points on *shared feelings* (section 5.5.1) and *shared interests* (section 5.5.2). Mediation professionals may do so by directly referring to one or more previous contributions to the *mediation text* from which the existence of such a material starting point can be inferred.

#### **7.4.2 Prototype 2: Informal internal mediation.**

In *prototype 2*, the *informal internal* mediator has the highest degree of *proximity*, as it is positioned on the opposite side of the *informality spectrum* (figure 30) relative to the most formal form i.e. *formal external mediator* (prototype 1; section 7.4.1). In communicative activity types of workplace mediation with a high degree of proximity, such as *prototype 2*, mediators often have a continuing relationship with the parties (e.g. Sheppard, Blumenfeld-Jones & Roth, 1989). In terms of Moore's (2003) broad categories of mediator types based on a mediator's proximity to the parties, *prototype 2* corresponds to the *social network mediator*, who generally has a relationship with the parties that is "ongoing and enmeshed" (Moore, 2003, p. 46). Examples of *social network mediators* could be personal friends mediating in conflicts between friends, or coworkers in conflicts between colleagues. It is the latter mediator example that will be used as representative of our *prototype 2* in section 7.4.2.

In the literature on conflict mediation, Kim et al. (1993) provides us with an illustrative characterization of what we would label *informal internal mediation* in our conceptual study. It should be noted that this example of *prototype 2* also exemplifies the ambiguity between *informality* and *internality* clarified in section 7.1.4; Kim and colleagues simply refer to the cases mediated outside the court system in the Korea, which are based on Confusion Chinese style mediation, as *informal mediations*, whilst we would label them as *informal internal* mediations:

"Given that travel to courts was difficult and that the disputants were unwelcome and mistreated there [...] it seems reasonable to conclude that the rural Koreans like their Chinese counterparts developed and used informal conflict resolution in their villages" (Kim et al., 1993, p. 365)

Although the authors mention informal resolution processes, what is revealed here is that the mediation is *internal* in nature, as the parties and the mediator belong to the same community, i.e. *the village*; whereby the mediator type involved in these resolution

processes can be said to have a high degree of *proximity*. With regard to the degree of informality of this historical resolution practice in Korea, the authors list the following (lack of) procedural norms and rules:

“Informal mediation also takes into consideration all aspects of the case (e.g. a person’s standing in the village) and keeps the village power structure intact (Starr, 1978). Further, the rules in informal mediation tend to be more flexible (Ruffini, 1978); the disputants are more likely to understand its language and process (Canter, 1978); and mediation enables the disputants to involve their friends and relatives in the process (Witty, 1978)” (Kim et al., 1993, pp. 365-366)

The communicative activity type of mediation discussed by the authors is, thus, not just informal mediation, but what we call *informal internal mediation*. Specifically, relative to *prototype 1*, the mediation procedure is explained as more loose and flexible in terms of its design, which equals a relatively *high degree of informality*; the mediators in the example also have a *high degree of proximity*, as they are members of the same community as the parties. When we translate the notion of high degrees of procedural informality and high degrees of mediator proximity to *workplace mediations*, we can imagine *direct colleagues* acting as mediators when conflicts between co-workers emerge as suitable representatives of *prototype 2* in workplace conflicts.<sup>84</sup> Table 45 below presents the definition of the prototypical communicative activity type of *informal internal* workplace mediation.

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<sup>84</sup> It is important to note that hierarchy may play a role in who can effectively act as a mediator. For *prototype 2* the *direct colleague* is proposed as a representative mediator of this prototypical communicative activity type of workplace mediation; however, ideally, the direct colleague who intervenes has some form of authority by which parties can easily accept his or her procedural guidance of their resolution process.

Table 45

*Informal internal prototype for workplace mediation*

Prototype 2	Definition	Representative
Informal Internal	(An ideally neutral) third party, who <i>belongs to at least one relevant community</i> of which the parties in conflict are members, procedurally guides the parties in an <i>informal</i> conflict resolution process.	The direct colleague

The ideal type of *informal internal* workplace mediation can be characterized as involving (an ideally neutral) third party who can be identified as a direct coworker of the parties in conflict; the direct colleague acts as an *emergent mediator* when a workplace conflict emerges between his or her colleagues (Kolb, 1989, p. 96). These emergent mediators may, for example, feel the need to take on the role of mediator because they have a personal relationship with one or more of the parties in conflict. The representative mediator of *prototype 2* tries to procedurally guide the parties in an informal conflict resolution process to the resolution of their conflict. As the mediation procedure in *prototype 2* has no formalized procedure (i.e. no conventionalized or rule governed *mediation domain*) it is to be placed on the right outer edge of the *informality spectrum*.

With the highest degree of *informality* (i.e. as the least formal mediation procedure of the four prototypes), the mediation procedure lacks overt *mediation essential elements* (section 4.4) that are predetermined, compared to the formalized mediation domain in *prototype 1*. For the prototype of *informal internal* mediation, most mediation essential elements are and remain implicit, as there is no formalized mediation domain in place that requires the mediation essential elements to be made explicit. Additionally, the *informal internal* mediator does *not* have formalized procedural power that allows them to establish mediation essential elements through statements. Although the informal internal mediator will not have formalized procedural power and may also not be trained as a mediator, he or she can still intervene as a mediator to help guide coworkers through the resolution

process of their workplace conflict. Implicitly, the essential goal in this prototypical communicative activity type of workplace mediation remains finding a mutually acceptable resolution, and the *mediation essential element* of *confidentiality* is presumably present in the form of *trust* (see e.g. Brown, 1991, p. 310; Greco Morasso, 2011, p. 19 for *trust* in conflict mediation). We may expect that for a favorable resolution process parties are (implicitly) expected to adopt a *reasonable discussion attitude* (section 4.4) to the mediation essential elements of this *communicative activity type of workplace mediation* (e.g. finding a win-win resolution or restoring the working relationship of the colleagues). Additionally, as the mediation essential elements and parties' discussion attitudes are not formalized or overt from the outset, using mediation essential elements as arguments for the acceptance of a procedural starting point is expected to be more difficult (section 4.6.1). As there is no conventionalized sequentially organized mediation procedure (e.g. the mediation circle) and the mediator does not have formalized procedural power, *discussions on procedural starting points* (section 4.5) are expected to be the standard in the mediation domain for all procedural starting point establishment and reestablishment. Although mediators of *prototype 2* may establish and reestablish some *items for discussion* (section 4.6.2) inferred from the parties' contributions to the argumentative discussions in the mediation domain, the mediation procedure is not standardized and the mediator's role is not formalized. As such, the *setting of the agenda* (section 4.6) is less likely to happen at predetermined moments in the mediation procedure (e.g. the *transitional moment*). In addition, mediators of *prototype 2* are not able to freely set the agenda for a *specific procedural step* in the mediation procedure (section 4.6.1), which mediation professionals of *prototype 1* are able to do, following the standardized *mediation circle*.

In general, the lack of a procedural formalization releases mediators from some constraints on their common starting point intervention construction. Mediators of the *informal internal* prototype do not have to abide by any predetermined rules or a sequentially standardized mediation procedure that requires them to construct specific interventions at specific points in the mediation (e.g. discussion attitude commitment checks at the *transitional moment*; see section 4.4). On the other hand, the lack of preset procedural conventions, norms and rules takes away a mediator's formalized procedural backing,

which allows them to (more freely) (re)establish procedural starting points through statements. As such, in *prototype 2* parties can be expected to take more charge of their procedure in terms of the establishment of procedural starting points relative to *prototype 1*, where procedural starting point (re)establishment is a formalized requirement of the mediation role.

The fact that *prototype 2* has the *highest degree of proximity* affects the ways in which mediators of this prototypical communicative activity type of workplace mediation are able to construct material starting point interventions with the local functions we have identified for *prototype 1* in chapter 5. In terms of material starting point interventions with the local function of *getting understanding* from one party for another (section 5.2), the high degree of proximity likely adds the ability to establish a material starting point on a *personal belief* (i.e. (X)'s feelings (Y) are understandable/legitimate) through *statements*. Rather than being limited to eliciting agreement through questioning, as is the case in *prototype 1*, mediators of *prototype 2* can simply state 'you know she puts in a lot of effort' (see excerpt 15; section 5.2), assuming they have access to the parties' *communal common ground* and *personal common ground*. Since the representative of *prototype 2* is the direct colleague of the parties at conflict, he or she has a personal relationship with the parties in conflict. The personal relationship allows the mediator to tap into their shared *communal common ground* as well as their *personal common ground* in the *general domain*, whereby they do not have to rely on parties' contributions to the *mediation text* in the *mediation domain*. Using the knowledge from the *communal* and *personal common ground* (e.g. of the parties' relationship prior to the conflict escalated), mediators have more options in terms of known shared material premises on *good intentions* (section 5.3), which they can reestablish as explicit material starting points. Similarly, the mediator's knowledge of the parties' relationship before the conflict, allows them to more easily construct content for material starting points interventions with the local function of *requesting case and context information* on *shared history* (section 5.4.2). Although interventions on *sufficient information* (section 5.4.1) with the local function of *requesting case and context information* (section 5.4) more prominent in *prototype 1*, interventions on *shared history* can be a viable tactic for mediators of *prototype 2*. *Prototype 2* mediators can construct

interventions on *shared history* with more detail on the parties' shared facts and truths, and do so more confidently, as a strategic way of reconfirming the existence of a (benevolent) past working relationship. As with the other local functions that have the general effect of (re)establishing a material starting point, the mediator's high degree of proximity to the community, the parties and the conflict, means that the mediator has more knowledge of the parties' existing material premises, which makes the explicit (re)establishment of these material premises as explicit material starting points easier. Specifically, mediators may have knowledge of previously established material starting points on *shared feelings* (section 5.5.1) and *shared interests* (section 5.5.2), which can be either shared communal interests or personal interests. Additionally, we may even expect that the representative mediator of *prototype 2* (e.g. direct colleague) will more often *presuppose* material starting points to strengthen the common ground. More specifically, due to the mediator's access to the parties' shared communal and personal common ground, mediators may simply presuppose (presumably acceptable) material starting points to move the conversation along in a preferable way (e.g. von Fintel, 2008, p. 317); *prototype 2* mediators may be better at gaging the acceptability of presuppositions than *prototype 1* mediators due to their relationship with the community and the parties. Additionally, because the *prototype 2* mediators have a relationship in the *general domain*, they may more confidently presuppose a previously accepted material starting point, even if the material starting point was established explicitly in the *general domain* instead of the *mediation domain*. Thus, besides using *presuppositions* as a tactic to introduce possible material starting points in an indirect manner to possibly limit damage that direct establishments of material starting points may do (see section 5.6), *prototype 2* mediators may presuppose material starting points to *strengthen the common ground*. Mediators may do so (A) through the reestablishment of material starting points that they can (confidently) presume to be acceptable for the parties or (B) through the reestablishment of material starting points that have previously been established in the mediation domain *or* the general domain.

Now that the two most important parameters – i.e. *formal external* (prototype 1) and *informal internal* (prototype 2) – have been established, sections 7.4.3 and 7.4.4 will

present two additional prototypes to be used as extra parameters that help add extra (secondary) parameters to the functional grid of *prototypical communicative activity types of workplace mediation* (see figure 33).

### **7.4.3 Prototype 3: Formal internal mediation.**

As the first of the *secondary parameters* the prototypical communicative activity type of *formal internal* workplace mediation is labeled as formal, because, although arguably less formal than *formal external mediation*, the mediation procedure has procedural conventions and rules in place to be followed during the resolution process. The mediator in this prototype is internal to the relevant community to which the parties in conflict belong (e.g. the workplace in case of a workplace conflict or a neighborhood in case of neighborhood conflicts). The *independent mediators* (i.e. formal external) discussed in section 7.4.1 are often found in “cultures that have developed traditions of independent and objective professional advice or assistance” (Moore, 2003, p. 52), which are most commonly present in North America, Europe, and Australia; whereas the *formal internal* mediator is most prevalent in the literature on conflict mediation in cultures outside these three continents (see e.g. Sheppard et al., 1989; Parkinson, 1997; Tabucanon et al., 2008; Wall & Dunne, 2012; Hualing & Chuoy, 2004; Wall, Beriker, & Wu, 2010). To define *prototype 3* in terms of these types of mediation practices, we first should consider a statement by Deng (2012); commenting on contemporary mediation in China, the author explains the following:

“Contemporary mediation follows one of two paths. On the one hand, it may be informal, taking place outside the courtroom, with the mediator being a respected member of the community. *On the other hand. If the mediator is a community official the mediation takes on more formal characteristics*” (Deng, 2012, p. 418; emphasis added).

The author presents the idea of mediation having formal characteristics in cases that may be mediated by a community official that belongs to the same institute that the parties

belong to, namely the *community*. As such, the mediation described in the example by Deng (2012) seemingly refers to what could be called a form of *formal internal* (community) mediation.

Since we are concerned with workplace conflict mediation in specific, *prototype 3* is best further illustrated using an example of *workplace mediation*. In terms of ‘formal’ conflict resolution options within organizations, several options are available; for example, appointed *in-house mediators* can be found in increasing numbers in organizations (see e.g. Bingham, Chesmore, Moon, & Napoli, 2000; Simon & Sochynsky, 1995; Morreim, 2014). Moreover, besides the *external mediation* option, when workplace conflicts arise the organizational conflict culture may provide the option of having an *internal* third-party act as a mediator (Bollen et al., 2016, p. 6). In the context of *workplace mediation*, the *formal internal mediator* that is discussed most is the *manager as mediator* (see e.g. Kolb, 1989; de Dreu, Evers, Beersma, Kluwer, & Nauta, 2001; Gelfand, Leslie, Keller, & de Dreu, 2012).<sup>85</sup> Crawley and Graham (2002) describe a situation we could classify as a clear illustrative example of *formal internal mediation* with managers as the mediators:

“...managers act as mediators as part an internal mediators’ network, as a company’s in-house mediator, or a complaint handler. Their role will have been clearly defined before they start and the parties will know they are in dispute resolution, for example as part of a grievance or complaints procedure, and will probably have received written information about the process before they start.” (Crawley & Graham, 2002, p. 9)

In this example, the mediation domain is governed by a clearly defined mediator role and a formalized procedure; as such, the example here has a *low degree of informality*. Managers are expected to act as *emergent mediators* (Kolb, 1989, p. 96) when conflict arises amongst their employees (Römer et al., 2012). As they are part of the organization, and in some ways represent the community, there are often procedural rules and norms in

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place that managers have to abide by when taking on the role of mediator. Thus, additionally, the managers as mediators are clearly *internal* (i.e. *have a relatively high degree of proximity*) because they are part of the organization to which the parties belong as well. Table 46 below presents the definition of the prototypical communicative activity type of workplace mediation 3.

Table 46		
<i>Formal internal prototype for workplace mediation</i>		
Prototype 3	Definition	Representative
Formal Internal	(An ideally neutral) third party, who <i>belongs to at least one relevant community</i> of which the parties in conflict are members, procedurally guides the parties in a <i>formal</i> conflict resolution process.	manager

The *formal internal mediation* in workplace mediation relevant to this study can be characterized as involving (an ideally neutral) third party who belongs to at least one of the same relevant communities (i.e. the workplace) as the parties in conflict. This internal mediator tries to procedurally guide the parties in a mediation process that is governed by conventions and rules. Although the resolution procedure is highly formalized, the *mediation domain* of this prototype itself is less formalized than that of *prototype 3* yet it has a much *lower degree of informality* than *prototype 2* (i.e. informal internal; section 7.4.2).

Using Moore's (2003) broad categories of mediator types based on their relationship with the parties as a point of departure, the *formal internal* prototype corresponds to the *administrative/managerial mediator*, which is a subtype of Moore's *authoritative mediator*. The *authoritative mediator* of the *administrative/managerial type* is a mediator who occupies a position in a community (i.e. the organization) by which he or she has a relationship with the parties in conflict that includes some form of possible power over them, although they do not make decisions for the party in their mediator role (Moore,

2003, p. 49). Thus, the *formal internal* mediator can generally be expected to be a “*high-power-emergent third party*”, meaning that the person taking on the role of the mediator, in case a conflict arises within the community, is a clear hierarchical superior of the parties in conflict (Conlon & Meyer, 2004, p. 269). This *high-power-emergent* workplace mediator generally has some form of *substantive power* – i.e. parties are to some degree dependent on the manager, who also has some access to tangible resources (Gewurz, 2001, p. 149). This substantive power could have some effects on the ways in which mediators are able to construct their common starting point interventions. For example, in *formal internal mediation* it should not be neglected that several *mediation essential elements* are in jeopardy; not only could a close proximity of the mediator lead to problems of neutrality, the mediator in this prototype could have stakes in the outcome as well. In addition, depending on the mandate prescribed by the organization to which the mediator belongs, the prototypical formal internal mediator presented here may have the ability (or feel invited) to impose a predetermined preferred outcome. In fact, in workplace mediations, formal internal mediators may have the unique procedural option to reject settlements altogether (Conlon & Meyer, 2004, p. 270), as they often have both knowledge and resources that can be exploited for creative problem solving in mediation (Kressel, 2011, p. 837).

With a relatively *low degree of informality*, the mediation procedure includes some defined *mediation essential elements* and *discussion attitude* requirements (section 4.4). Although not necessarily similar to the mediation circle (i.e. a sequentially standardized mediation procedure), the *prototype 3* mediation procedure includes rules and conventions predetermined by the organization and its conflict culture. As in all the other mediation types, the mediation essential element of a finding a ‘win-win resolution’ as the main goal of the mediation can be expected to remain important, however, if and how other mediation essential elements, such as *confidentiality*, are formalized in this prototypical communicative activity type of workplace mediation presumably depends on the organization. In *prototype 3*, the mediator has substantive and, although not as delineated and standardized as with *prototype 1*, has some degree of predetermined procedural power granted by the community to procedurally guide the parties in conflict. Although

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mediators should not determine the outcome of the resolution process or participate in the argumentative discussion between parties, mediators may establish, reestablish and argue explicitly for the acceptance of specific procedural starting points. Similar to *prototype 1*, we may assume that mediators can to some extent introduce and lead *discussions on procedural starting points* (section 4.5). Whether these procedural starting points established through discussions remain verbal agreements or will be formalized in some written agreement presumably depends on the standard set by the organization for conflict resolution practices. Finally, *authoritative/managerial mediators* as the chosen representatives of *prototype 3*, are expected to have the ability to *set the agenda* (section 4.6) on *items for discussion* (section 4.6.2), for example when inferring a shared interest, feeling or problem. Additionally, *prototype 3* mediators may (re)establish explicit acceptance of *specific procedural steps in the mediation process* (section 4.6.1); although the form of the mediation procedure, and thus the specific procedural steps that make up the mediation procedure, will most likely deviate from the *mediation circle* type of mediation procedure followed in *prototype 1*.

In general, the formalized mediation procedure provides *prototype 3* mediators with some constraints on how they are able to construct interventions on common starting points, as their interventions have to fit in the boundaries of the conventionalized mediation procedure's goal orientation set by the organization that determines the conflict culture in which the mediation procedure is situated. As such, although there is not necessarily a specific *transitional moment* in the resolution process in which the mediator checks party commitment to *mediation essential elements* (see section 4.4); the formal mediation procedure of *prototype 3* could require other specific interventions on procedure at specific points in the resolution process. As a prototype with a relatively *low degree of informality*, the organization may also provide mediating managers with formal backing in the form of specific affordances through substantive power or organizational mandate, which could (possibly) aid the resolution process by allowing the mediators to establish procedural starting points (e.g. on the importance of win-win solutions or the role of the mediator in the resolution process) with more ease than mediators without this formalized procedural backing, such as *prototype 2* (informal internal) mediators. Finally, it could be suggested

that due to their procedural power, mediating managers are able to argue for the acceptance of procedural starting points deemed necessary for the resolution of the conflict (see section 4.6.1).<sup>86</sup>

Since *prototype 3* mediators belong to the same community as the parties, and possibly directly supervise the parties in the workplace, they have access to the *communal common ground* of the parties and a high degree of access to the parties' *personal common ground* relative to *prototype 1*. As the personal relationship between direct colleagues is presumably closer than the personal relationship between a manager and his or her employees, *prototype 3* has a high degree of proximity; although, arguably, not as high as *prototype 2* (i.e. informal internal communicative activity type of workplace mediation).

In general, and similar to *prototype 2*, the mediator's *high degree of proximity* to the community, the parties (and possibly the conflict) allows them to directly establish and reestablish material premises taken from their shared *communal common ground* and *personal common ground*. As a result, and similar to *informal internal mediation* (*prototype 2*; section 7.4.2), because the repetition of information known by all the participants in the mediation would unnecessarily stall the discourse, *prototype 3* mediators may use presuppositions more for the sake of the flow of information in the interaction, more so than as a tactic employed to (re)establish risky material starting points (see section 5.6.2). Additionally, the access to the two bases of common ground provides mediators of *prototype 3* with the ability to include more details in their interventions on the parties shared *material premises* than mediators with a low degree of proximity. In terms of the local function of *getting understanding*, section 5.2 discussed excerpts that displayed subordinates' need to get acknowledgement from their superior. This need for the legitimization of feelings directly affects *prototype 3* mediators' construction of material starting point interventions with the local function of *getting understanding* of

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<sup>86</sup> As discussed in section 6.1, the *mediation domain* as the *contemporary context* ideally temporarily suspends the parts of the *general domain* that are not beneficial to the mediation resolution process. In the case of a manager taking on the role of the emergent mediator, the mediation domain of *prototype 3* ideally suspends the mediator's vested interests and his or her substantive power once they enter the *mediation domain*.

one party for another. For example, we could hypothesize that because the party from who understanding is required is the mediator him- or herself (or rather the mediator in his or her role in the *general domain*), the interventions that *establish understanding* from the party's/parties' superior will take on a different form compared to the *prototype 1* (formal external) and *prototype 2* (informal internal). Specifically, rather than *eliciting* understanding, mediators of *prototype 3* can establish the *personal belief* that *(X)'s feelings (Y) are understandable/legitimate* directly in statements, such as 'I know you both put in a lot of effort'.<sup>87</sup> However, one implication should not be neglected: the need for acknowledgement by the manager for the resolution of the conflict and the mediator's offering of legitimization could imply that instead of being a neutral third party in the conflict resolution, the mediator is in fact (to some extent) a third party in the conflict itself. As we are concerned with ideal types here, the construction of interventions with the local function of *getting understanding* should appear less frequent in the transcripts of the *mediation text* of *prototype 3* than the other prototypes, and when they do appear they should take a form that emphasizes the parties' common ground, e.g. 'I know you both put in a lot of effort'. As the mediator of the *formal internal communicative activity type of workplace mediation* has at least a communal relation with the parties in the *general domain*, he or she has the ability to reestablish material starting points on mutual *good intentions* (section 5.3) without necessarily having to rely on parties' contributions to the *mediation text* in the *mediation domain*. Additionally, mediators are able to present the parties with examples from their *shared history* (section 5.4.2) in a way a mediator with a low(er) degree of proximity would not be able to. This knowledge of the parties' relationship before the conflict, allows *prototype 3 mediators* to use theme (B) *shared history*, as a tactic to make parties look for the shared *facts* and *truths* of their past (benevolent) relationship. In doing so, the existence of, for example, current or past *good intentions* are reconfirmed, whereby the parties' need for the resolution to seem more

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<sup>87</sup> The construction of an intervention with the local function of *getting understanding* becomes more problematic in terms of a mediator's neutrality when the acknowledgement is unevenly distributed amongst the parties. In this ideal type (*prototype 3*), the mediator should state 'I know *you both* put in a lot of effort' (plural) instead of 'I know *you* put in a lot of effort' (singular), which could be directed at one specific party.

feasible is supported (van Bijnen & Greco, 2018, p. 24). Mediators of *prototype 3* may not have complete access to the parties' *personal common ground*, however, they may have knowledge of previously established material starting points on *shared feelings* (section 5.5.1) in the *general domain*. As shown in chapter 5, mediation professionals (*prototype 1*) often try to establish material starting points on *shared interests* (section 5.5.2) that concern communal interests. The mediator representative of *prototype 3* not only has access to the communal common ground, he or she presumably shares the *communal interest* as part of the same community as the parties. Because all community members may share these interests, such as 'the welfare of the company' or 'harmonious work environments', managers who mediate may find it easier to (re)establish material starting points on interests. On the other hand, they may have to be more cautious when formulating these interventions to avoid giving the impression that they are merely at the mediation table as advocates for the organization's interest for whom helping the parties get to a reasonable resolution is a secondary concern.

#### **7.4.4 Prototype 4: Informal external mediation.**

*Informal external mediation* as the fourth prototypical communicative activity type of workplace mediation, and the second *secondary parameter*, is in many ways the most difficult to define. It is also discussed (and presumably practiced) considerably less often than the other three prototypes in the literature on conflict resolution. The main reason for this lack of attention is that this communicative activity type of mediation only takes place when an outsider to a community gets invited in for one purpose and somehow ends up mediating between people that are part of this community. This ideal type becomes even more difficult to establish when we have to limit ourselves to the community of the workplace. Two possible examples that can be extrapolated from the literature are the *organizational consultant* and the *conflict resolution trainer*.<sup>88</sup> These consultants and trainers are usually knowledge-based experts hired to help design organizations and

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<sup>88</sup> The representative of *prototype 4* was discussed in-depth with one of the workplace mediators interviewed, who works as a *conflict resolution trainer* and has worked as a mediator in a *prototype 4* mediation.

improve their general functioning (e.g. Baligh, Burton, & Obel, 1996, p. 1648), during which they may encounter conflicts that exist in the organizations that they are hired by. Moreover, “many organizational consultants have seen conflict resolution as part of their general remit in helping organizations move forward” (Liebmann, 2000, p. 32). Consultants and trainers even undertake mediation skill trainings as a way to improve their conflict resolution skills for when conflicts surface or emerge (Liebmann, 2000, p. 32). Although they have often had some form of conflict resolution training prior to their hiring, the mediation processes take place *during* the job they were hired for, and as such do not take on the form of formal mediation procedures (i.e. a standardized sequentially organized mediation procedure). Instead, they are mediation interactions incorporated into the consultancy or training, during which the (now) mediators can try to accomplish some of the communicative goals of what we would call the *exploration part* (e.g. uncovering issues, improving communication, reduce frustrations) (see figure 2; section 2.1). Table 47 below provides the working definition of *prototype 4*.

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Table 47

*Informal external prototype for workplace mediation*

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Prototype 4	Definition	Representative
Informal External	(An ideally neutral) <i>external</i> third party hired for reasons other than mediation, procedurally guides the parties in conflict in an <i>informal</i> conflict resolution process.	Conflict resolution trainer

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The second secondary ideal type of informal external mediation (*prototype 4*) in workplace mediation relevant to this study can be characterized as involving a third party who is hired as an external by an organization (e.g. as a hired conflict resolution trainer) for a specific task other than conflict mediation. Whilst executing the task the trainer was hired for, it becomes clear that there is a conflict present between community members that negatively affects the fulfillment of his/her task; as such, the hired trainer puts on the hat of the (ideally neutral) mediator and tries to procedurally guide parties in an informal mediation

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process. As the mediation interaction takes place during the activity for which the mediator was initially hired, the *mediation domain* of *prototype 4* could be considered as an embedded *communicative activity type* (see van Eemeren, 2010) in a communicative activity type belonging to a different *genre of communicative activity* (i.e. *consultancy* or *training*).

Because conflict resolution trainers and organizational consultants increasingly complete mediation training (Liebmann, 2000, p. 32), the resolution process does not follow a formalized mediation procedure that is sequentially organized as is the case in *prototype 1* (formal external; section 7.4.1). However, the *prototype 4* mediators who are trained in conflict mediation can apply some *mediation tactics* (e.g. reformulations, reflexive questions) to establish parts of what we would identify as the *exploration part*. Therefore, *prototype 4* has a *high degree of procedural informality*, although less high than the most informal prototypical communicative activity type of workplace mediation on the mediation grid (figure 33), namely *informal internal mediation* (prototype 2; section 7.4.2).

With a *high degree of informality*, the mediation procedure in general is expected to lack overt *mediation essential elements* (section 4.3) that are predetermined. The interactional goal of *prototype 4* is most likely to map the conflict in order for the goal of the activity that the mediator was initially hired for to be achieved. In that sense the surfaced or emerged conflict to be mediated should be considered an important hurdle that the conflict resolution trainer needs to overcome to complete the task he or she was hired for. This would mean that the *mediation essential elements* (section 4.3) of *win-win solutions* as well as *confidentiality*, which are seen as essential in *prototype 1*, are not (explicitly) present in *prototype 4*. However, we may expect that for a favorable resolution process parties are implicitly expected to adopt a *reasonable discussion attitude* favorable for the reasonable argumentative discussions in the *exploration part*. Additionally, similar to the primary *informal* mediation prototype 2 (informal internal; section 7.4.2), due to the *high degree of informality*, the *mediation essential elements* and parties' *discussion attitude* on these elements are not formalized or overt from the outset. As there is no conventionalized

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sequentially organized mediation procedure and the mediator does not have formalized procedural power, *discussions on procedural starting points* (section 4.4) between the parties in conflict are expected to be the standard. Based on these discussions, which will be informally guided by the mediator of *prototype 4*, the procedural starting points for the embedded mediation interaction are (re)established. As the mediation procedure is not standardized in this prototype and the mediator's role as third party facilitator is not formalized, they may be able to (re)establish some inferred *items for discussion* (section 4.6.2) but will not be able to freely *set the agenda* (section 4.6) on a *specific procedural step* in the mediation circle (section 4.6.1).

In general, a conflict resolution trainer turned mediator has more freedom to construct interventions, as he or she is not limited by predetermined rules of a specific conventionalized mediation procedure. Additionally, due to the lack of sequential organization there are no prescribed and overt *transitional moments* (see section 4.6.2) or other preset procedural requirements (e.g. the signing of confidentiality agreements or brainstorm sessions on solutions). On the other hand, the procedural informality eliminates the mediator's affordance to use the formalized procedure as argumentative backing for procedural starting points to be accepted by the parties in favor of the reasonable resolution process.

As with *prototype 1* (formal external; section 7.4.1), the externally hired mediator of *prototype 4* will not belong to the same organization as the parties in conflict, nor does he or she have a prior relationship with them. Therefore, *prototype 4* is to be placed on the left outer edge of the spectrum. Because the mediators have the same *low degree of proximity* as *prototype 1* mediators, if conflict resolution trainers are to construct material starting point interventions with the local function of *getting understanding* (section 5.2) they will need to elicit an overt agreement from the parties on the *personal belief* that *(X)'s feelings (Y) are understandable/legitimate*. Unlike prototypes with a high degree of proximity (i.e. prototype 2 and prototype 3), mediators do not have the luxury to simply (re)establish material starting point based on any prior knowledge of the parties' shared material premises. As mediators of *prototype 4* have no relevant prior relations to the

parties in the *general domain* they do not have access to the parties' *communal common ground* and *personal common ground*. As such, they would have more difficulty in reestablishing existing or prior *good intentions* (section 5.3) amongst the disputants, and if they do, they will not be able to do so with any details beyond that which the parties have contributed to the *mediation text* up until that point. The parties' relevant contributions to the *mediation text* based on which the *prototype 4* mediator can construct his or her material starting point interventions can directly be offered by the parties to the *mediation text*, or directly be elicited by the mediator through targeted questioning on the parties' prior relationship, e.g. with material starting point interventions with the local function of *requesting case and context information* (section 5.4) on the parties *shared history* (section 5.4.1). Because mediators of *prototype 4* have such a *low degree of proximity* to the community, the parties, and the conflict, the other theme of the local function of *requesting case and context information*, namely *sufficient information* (section 5.4.2) is presumably prominent in the *mediation text* of this mediation prototype. By having no access to parties' *communal common ground* and *personal common ground*, beyond the parties' contributions to the *mediation text*, *prototype 4* mediators will mainly rely on eliciting material starting points on *shared feelings* (section 5.5.1) and *shared interests* (section 5.5.2) through questions. In other words, different from communicative activity types of workplace mediation with high(er) degrees of proximity (i.e. prototype 2 and prototype 3), mediators of *prototype 4* are not able to simply reestablish shared material premise types that mediators and parties may share outside those shared with the mediator in the *mediation domain*.

### **7.5 Prototypical Communicative Activity Types: Conclusions**

For the expansion of the mediator type categories by Moore (2003) we used the empirical results from chapters 4 and 5 and the conceptual findings from chapter 6 to construct four different prototypical communicative activity types of workplace mediation with different combinations of *informality* and *proximity*: (1) *formal external*, (2) *informal internal*, (3) *formal internal*, and (4) *informal external*. These four prototypes are functional for the discussion on *if, and if so how, common starting point interventions differ between*

*communicative activity types of workplace mediation.* Table 48 shows the prototypical communicative activity types of workplace mediation conceptualized in this chapter and the mediator types by Moore (2003) on which the prototypes are built in a way that is functional for the current study.

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Table 48

*Moore (2003) mediator types and corresponding prototypes*

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Mediator type	Prototypical communicative activity types of workplace mediation
Independent mediator	Formal External (prototype 1)
Social network mediator	Internal Informal (prototype 2)
Authoritative mediator (i.e. administrative/managerial subtype)	Formal Internal (prototype 3)

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The first prototypical communicative activity type of workplace mediation – *formal external* (prototype 1) – corresponds to the externally hired workplace mediation professionals studied in chapters 4 and 5. This empirically studied communicative activity type of workplace mediation was used as the initial point of departure. Together with the prototype on the other sides of the *informality* and *proximity* spectra, prototype 1 (formal external) and prototype 2 (informal internal) form the main parameters against which the other two (secondary) prototypical communicative activity types of workplace mediation were built. The third prototypical communicative activity type of workplace mediation (i.e. formal internal), as the first *secondary parameter*, corresponds to the *authoritative mediator*. In Moore’s (2003) categorization, the secondary parameter *prototype 4* (i.e. informal external) is not represented. This prototype was the most difficult to delineate as the communicative activity type of workplace mediation is not discussed in the literature and is assumed to occur rather infrequently. Although this makes the prototype considerably weaker than the other three prototypes, this type could still operate as a

functional parameter in our *mediation grid* (figure 33) against which future cases can be characterized, because it was constructed relative to the other three well-defined prototypes. For the three novel prototypical communicative activity types of workplace mediation the mediators' predicted course of action for the construction of common starting point interventions with the local functions found for prototype 1 (see chapters 4 and 5) were discussed in sections 7.4.1-7.4.4. In general, the discussions on the different options for common starting point interventions with different local functions show that common starting point interventions differ between communicative activity types of workplace mediation, and that they do so depending on the degree of *procedural informality* and *mediator proximity* of a communicative activity type of workplace mediation.

Chapter 7 was our final step in answering research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?* We were able to answer this research question by means of the prototypical communicative activity types of workplace mediation that were created based on the empirical chapters 4 and 5, the conceptualization of relevant levels of contexts in chapter 6, and the studies on *procedural informality* and *mediator proximity* in chapter 7. In conclusion, not all common starting point interventions can reasonably be assumed to differ between the four prototypical communicative activity types of workplace mediation. Rather, the common starting point interventions are assumed to differ between the communicative activity types of workplace mediation *if* they vary in degrees of mediation *procedural informality* and/or *mediator proximity*. Chapter 7 showed that variances in degrees of *procedural informality* between different communicative activity types of workplace mediation can affect how mediators presumably construct procedural starting point interventions, and that differences between different communicative activity types of workplace mediation in terms of the mediators' degree of *proximity* to the community, the parties, and the conflict can affect their options for material starting point intervention construction. In terms of assumed differences in common starting point interventions between different communicative activity types, below a summary of some of the interesting general findings in chapter 7 are presented.

Generally, in terms of procedural *informality* degrees, the higher the degree of informality the less often procedural starting points can be expected to be established by mediators and the more likely procedural starting points are established through *procedural starting point discussions* (section 4.5) between parties. In spite of the fact that mediators may be less likely to establish procedural starting points due to the lack of formalized mediation roles and mediation procedures, mediators that guide mediation procedures with a high degree of *informality* may have a larger arsenal of procedural starting points that they can establish because they are less limited by the constraints of formalized procedures. Relative to the most formal communicative activity type of workplace mediation (prototype 1; formal external; section 7.4.1), we could expect that most *mediation essential elements* (section 4.4) for *informal internal mediation* (prototype 2; section 7.4.2) remain implicit when *prototype 2* mediators construct procedural starting point interventions with the local function of *getting party commitment to the mediation essence* (section 4.4). In addition, we would expect that *mediation essential elements* are not used in the argumentation for the acceptance of procedural starting points in *prototype 2*, because *prototype 2* mediators do not have the procedural power to enforce procedural norms and rules and argue for their acceptance in the mediation domain. Despite the low degree of informality, the prototypical communicative activity type of *formal internal* workplace mediation's (prototype 3) lack of a standardized and sequentially organized mediation procedure could mean that the procedural starting point interventions differ greatly from our main prototype with a low degree of informality: *prototype 1*. For example, in *prototype 3* mediations the (re)establishment of procedural starting points is said not to take place at a predetermined moment in the resolution process because the procedure is less sequentially predetermined than in *prototype 1* mediations. Finally, for the prototypical communicative activity type of *informal external* workplace mediation (prototype 4), mediators are expected to use some mediation tools used by the *prototype 1* mediators studied in chapters 4 and 5, however, they are unlikely to establish many procedural starting points for an entire mediation procedure because the mediation process is an informal (and partial) resolution process embedded a communicative activity type belonging to a different genre of communicative activity than conflict mediation.

Regarding the effect of mediators' varying degrees of *proximity* to the community, parties, and conflict on their ability to construct material starting point interventions, we discussed some interesting conceptual findings that are worth reiterating. For example, mediators in mediation activity types of workplace mediation with a high degree of proximity can be assumed to presuppose shared material premises more than the workplace mediation professionals studied in the empirical chapters. However, mediators with a higher degree of proximity can be expected to use *presupposition accommodation* less as a tactic to add material starting points to the common ground indirectly than the *prototype 1* mediators discussed in chapters 4 and 5. As a general finding, the mediators of prototypical communicative activity types of workplace mediation with a high degree of proximity are assumed to more easily establish material starting points (i.e. with statements) relative to *prototype 1* (section 7.4.1), because they are not limited to the material starting points introduced by the parties in the *mediation text*. Instead of eliciting explicitly accepted material starting points with targeted questions, like the mediation professionals were shown to do in chapters 4 and 5, mediators with a high degree of proximity may use shared knowledge from the *general domain* to (re)establish material starting points. As a result, *informal internal mediation (prototype 2)* could more easily invite parties reconstruct specific parts of their *shared history* (e.g. on *good intentions*) compared to workplace mediation professionals in *prototype 1*, because they have (some) prior knowledge of the parties' shared experiences themselves. *Prototype 2* mediators may, for example, try to increase the parties' expectations of resolution feasibility by reestablishing the existence of a positive shared history, for instance through confirmation questioning or direct statements of previously established material starting points in the *general domain*. *Prototype 3* mediators (i.e. mediators in the prototypical communicative activity type of formal internal workplace mediation) have full access to parties' communal common ground but limited access to the parties' personal common ground, which would result in different material starting point interventions compared to both main *prototypes 1* and *2* (section 7.4.3). Because the *prototype 3* mediator has some form of *substantive power* over the parties in the *general domain*, ideally the parts of the general domain that are unfavorable to the resolution process (e.g. the power to determine outcomes) are

*suspended*. Finally, for the prototypical communicative activity type of *informal external* workplace mediation (prototype 4) we can assume that *prototype 4* mediators, like *prototype 1* mediators, have no access to the parties' *communal common ground* and *personal common ground*. Specifically, although mediators of *prototype 4* were initially hired by the organization for tasks other than conflict mediation, because they are externally hired, the same options for material starting point interventions are available to them as the mediation professionals of *prototype 1*; they can either (re)establish material starting points through elicitation (i.e. questions) or through statements based on parties' contributions to the *mediation text*.

In conclusion, the *reconceptualization* of conflict mediation as a genre of communicative activity that consists of (at least) four communicative activity types of workplace mediation with various degrees of procedural informality and mediator proximity is important, as it may open the door for future empirical research on conflict mediation from an argumentative perspective. Specifically, the conceptual study in chapter 7 helps refine the characterization of *mediation as a genre of communicative activity* by adding detailed descriptions of four communicative activity types to the current list of communicative activity types belonging to the genre of conflict mediation in pragma-dialectics. As such, chapter 7 expands the understanding of *communicative activity types of conflict mediation*, whilst adding three new conceptually studied examples of conflict mediation to the general study of argumentation in context. Whilst the first prototype (formal external) has been analyzed and discussed in argumentation research before (e.g. Aakhus, 2003; Greco, 2018; Greco Morasso, 2011; Jacobs & Aakhus, 2002; Janier & Reed, 2017; van Eemeren et al., 1993; Vasilyeva, 2012, 2017), the other three prototypical communicative activity types of workplace mediation have thus far been neglected in the study of argumentation in context. Together the conceptual studies in chapters 6 and 7 form an elaborate exploratory conceptual basis that can be used for future empirical argumentative studies on communicative activity types of mediation with a higher degree of informality and/or higher degree of proximity (see section 8.4.2 for the implications and functionality of the conceptual results).

## Chapter 8. Conclusions

In the first part of this two-part dissertation we set out to study how workplace mediation professionals design the *opening stage* in a mediation domain with sufficient *explicitly accepted common starting points* for reasonable argumentative discussions to take place. We were able to achieve this goal through the empirical analyses of a corpus of transcribed workplace mediation simulations, which were guided by our main research question (A) *how do workplace mediation professionals construct common starting point interventions?* To understand the construction of the understudied pragma-dialectical *opening stage* in workplace mediation, we zoomed in on the common starting point interventions constructed by workplace mediation professionals to broaden and strengthen the parties' common ground in the opening stage. The empirical chapter 4 focused specifically on the *procedural starting point interventions*, whilst chapter 5 presented some in-depth analyses of material starting point interventions.

The second part of the two-part design for this dissertation zoomed out to include communicative activity types other than those guided by workplace mediation professionals as studied in the empirical chapters, which are widespread (Greco Morasso, 2011, pp.18-19) but currently understudied in argumentative research. In fact, no previous studies in argumentation have focused on possible communicative activity types of conflict mediation outside the communicative activity type in which the mediation process is formally guided by a hired mediation professional. The two conceptual chapters (chapter 6 and chapter 7) were included in this dissertation to explore how contextual differences between the workplace mediation professionals studied for the empirical chapters and other, thus far neglected, communicative activity types of conflict mediation, can be assumed to affect how mediators of the different communicative activity types of workplace mediation are able to construct *common starting point interventions*.

As such, the conceptual chapters 6 and 7 were guided by the follow-up research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?* To answer this question, chapter 6 conceptualized the *different levels of context* relevant for the construction of common

starting point interventions in different communicative activity types of workplace mediation, whilst chapter 7 presented *prototypical communicative activity types of workplace mediation* with different degrees of *procedural informality* and *mediator proximity*; for these different communicative activity types of workplace mediation the supposed differences in the construction of common starting point interventions were discussed.

The concluding chapter of this dissertation on argumentation in context summarizes the most important conclusions of the dissertation (section 8.1), some short further discussions on the findings of the empirical and conceptual studies (section 8.2), limitations (section 8.3), and the dissertation's implications and functionality (section 8.4).

### **8.1 Summary of the Conclusions**

In section 8.1 the most important conclusions of both the empirical studies (section 8.1.1) and the conceptual studies (section 8.1.2) are discussed in terms of how they answered the dissertation's research questions and how they achieved the studies' research aims.

#### ***8.1.1 Summary of the conclusions: empirical chapters.***

The empirical chapters showed how workplace mediation professionals design overt opening stages in the mediation domain by means of common starting point interventions with specific *local functions*. Mediators were shown to *establish* a common starting point when the common starting point had not previously been added as an explicit common starting point to the parties' common ground, by which the common ground between the parties is *broadened*. When a common starting point was previously established as an explicit common starting point, but during the mediation interaction is flouted (i.e. the explicit procedural starting point is not adhered to, or the explicitly accepted material starting point becomes an issue in an argumentative discussion) or questioned, mediation professionals were shown to *reestablish* the common starting point as an explicitly accepted common starting points. In addition, mediation professionals would reestablish common starting points with the goal of underlining the existence of

that common starting point. By reestablishing common starting points, the mediator does not broaden the common ground but *strengthens* it.

When analyzing common starting interventions by workplace mediation professionals, it became apparent that common starting point interventions may have local functions in the mediation interaction that are different from their general effect of (re)establishing a procedural or material starting point. Thus, when answering the question *how do workplace mediation professionals construct common starting points?* the general answer is: *through interventions with specific local functions*. By analyzing how mediation professionals construct common starting point interventions with specific local functions, we were able to discuss some in-depth analyses of the common starting point interventions constructed by workplace mediation professionals for the design of reasonable argumentative dialogue spaces in the mediation domain.

Chapter 4 discussed *procedural starting point interventions* based on the different local functions identified in the corpus. The following local functions with the general effect of (re)establishing a procedural starting point were found: *getting party commitment to the mediation essence* (section 4.4), *discussing procedural starting points* (section 4.5), and *setting the agenda* (section 4.6). The procedural starting point interventions were shown to concern one or more subjects typical for interventions with a specific local function. In the case of interventions with the local function of *getting commitment to the mediation essence*, the interventions generally concerned *mediation essential elements* and the parties' *discussion attitudes* towards these mediation essential elements (see section 4.4). The mediation essential elements are considered essential because they are preconditions of conflict mediation and fundamental elements to the practice of mediation as defined in the literature (for 'win-win solutions' as essential to the mediation procedure see e.g. Elgoibar et al., 2017, p. 16; Kovach, 2000, p. 23; for 'confidentiality' as an essential aspect of conflict mediation see e.g. Brown, 1991, p. 310; Hopt & Steffek, 2013, p. 13; and for the mediator's 'lack of decision power' see e.g. Moore, 2003, p. 15; Crawley & Graham, 2002, p. 3). Adherence to and acceptance of the mediation essential elements are vital for the mediation procedure as a whole. The analyses showed that mediation professionals

often establish procedural starting points on mediation essential elements by simply stating the procedural starting point to be added to the parties' common ground. Mediation professionals' ability to do so can be explained by the fact that they have procedural power as the formal procedural guides of the mediation process. However, parties were also shown to be able to discuss procedural starting points and make adjustments to specific procedural standards (i.e. specifically concerning confidentiality) as long as the adjustments are agreed on explicitly by all disputants, and the procedural starting point remains within the limits of what the mediation procedure formally allows. The procedural starting point interventions in which workplace mediation professionals (A) *introduce procedural starting point discussions as an option* and (B) procedurally guide the *procedural starting point discussions*, have the local function of *discussing procedural starting points* (see section 4.5). The last intervention type with the general effect of (re)establishing a procedural starting point that was discussed has the local function of *setting the agenda* (see section 4.6), which was shown to either concern *specific procedural steps in the mediation process* (section 4.6.1) or *items for discussion* (section 4.6.2). Most interestingly, the analysis of interventions with the local function of *setting the agenda* revealed a (linguistic) sequential pattern; the *establish-elicite-confirm* sequence was discussed as a typical conversational structure of interventions on *items for discussion* in specific. In the *establish-elicite-confirm* sequence, the mediator presents how he or she wants to set the agenda by which the procedural starting point is established, the mediator then asks for explicit agreement on the agenda setting from the parties; when the parties confirm their acceptance of the procedural starting point, the item on the agenda is reestablished as an *explicit procedural starting point*.

Chapter 5 discussed the *material starting point interventions* based on the different local functions identified in the corpus. The following local functions with the general effect of (re)establishing a material starting point were found: *getting understanding* (section 5.2), *emphasizing good intentions* (section 5.3), *requesting case and context information* (section 5.4), and *fortifying the common ground* (section 5.5). The interventions with the local function of *requesting case and context information* (section 5.4) were shown to concern either the need for *sufficient information* (section 5.4.1) or the *shared history*

(section 5.4.2) between the parties in conflict. The interventions with the local function of *fortifying common ground* (section 5.5) were shown to concern either *shared feelings* (5.5.1) between the parties or their *shared interests* (section 5.5.2). Mediation professionals construct interventions with the local function of *getting understanding* of one party for another in workplace mediation because of the subordinate parties' general need to get important feelings legitimized by their superiors. The material starting points (re)established by means of the interventions with this local function can be formulated as '*party (X)'s feeling(s) (Y) is/are legitimate*', which concerns the material premise of a *personal belief*. By getting understanding from superiors for the feelings of their subordinates, the parties' need to be seen and heard can be fulfilled. Furthermore, what is important is the parties need to believe that reasonable argumentative discussions can actually take place. The belief that the resolution of the conflict is feasible makes the material starting point interventions with the local function of *emphasizing good intentions* important; these interventions have the general effect of (re)establishing material starting points on past good intentions. By pointing to existing or past good intentions, the mediator can emphasize the possibility of benevolent intentions existing currently and in the future. The material starting point interventions with the local function of *requesting case and context information* were shown to concern either the mediator's need for *sufficient information* (section 4.5.1) concerning the conflict, the case, and the parties to constructively guide the resolution process; or the parties *shared history* (section 4.5.2), which helps parties activate their common ground on facts and truths regarding shared experiences and their relationship before the dispute escalated into a conflict. Lastly, the material starting point interventions with the local function of *fortifying the common ground* have the (re)establishment of material starting points as both their general argumentative effect and local function in mediation interactions.

Most notably, in empirical chapter 5, the material starting points were analyzed using the *material premises* of material starting points listed in pragma-dialectics: *facts or truths*, *suppositions*, *values*, and *value hierarchies* (e.g. van Eemeren & Grootendorst, 1992, p. 149; van Eemeren et al., 2014, pp. 267-268). The findings of the empirical study of material interventions with different local functions and the general effect of

(re)establishing a material starting point have expanded the list by adding the material premises *personal beliefs, feelings, and interests* to it. Specifically, besides the material premises previously discussed in pragma-dialectics, when constructing material starting point interventions with the local function of *getting understanding* mediation professionals include material premises concerning *personal beliefs*, and when constructing material starting point interventions with the local function of *fortifying the common ground* mediation professionals include material premises concerning *feelings and interests*.

By answering research question (A) on how workplace mediation professionals construct common starting point interventions, this dissertation fills the gap in the research on conflict mediation in argumentation studies. The empirical chapters guided by research question (A) shed light on the ways workplace mediation professionals can explicitly (re)establish common starting points in a conflict at deadlock as an essential precondition to the reasonable argumentative discussions more commonly studied in argumentation research. As such, this dissertation achieves its research aim of adding the study of common starting point interventions for the design of an explicit opening stage in workplace conflict mediation to the collection of examples in argumentation in context.

### ***8.1.3 Summary of the conclusions: conceptual chapters.***

The conceptual chapters showed how workplace mediators other than the workplace mediation professional studied in the empirical chapters can be expected to construct common starting point interventions that benefit reasonable argumentative discussions on problems and solutions.

Chapter 6 was constructed to adjust the current conceptualization of context in argumentation to best suit the study of common starting point interventions in different communicative activity types of workplace mediation. The *three levels of context* reconceptualize the concepts of context in pragma-dialectics using inferences from the empirical studies (chapters 4 and 5) in a way that is optimally functional for studying common starting point interventions in different communicative activity types of

workplace mediation. The most important conceptual results of chapter 6 are the contextual categories (i.e. *the three levels of context*) that are functional for the study of common starting point interventions by mediators from different communicative activity types of workplace mediation: the *main domains of context* (1<sup>st</sup> level), the *context types* (2<sup>nd</sup> level), and the *contextual elements* (3<sup>rd</sup> level). The first general domain of context what was discussed was the *mediation domain* (section 6.1.1), which was defined as concerning the conflict mediation process itself, of which the *contextual elements* are related to the interventions with local functions that (re)establish procedural starting points. Redefining the pragma-dialectical conceptualizations of context to suit our study on common starting points in workplace mediation, the *institutional context type* (section 6.2) was identified as the relevant context type belonging to the *mediation domain*. The *institutional context type* includes the *essential elements*, such as finding win-win solutions to the conflict, and the *meta elements* that concern either the mediation process in its entirety or a specific moment in the mediation process. As the contextual elements belonging to the *institutional context type* concern the mediation procedure, it is assumed that differences between communicative activity types of workplace mediation in terms of the *essential elements* or the *meta elements* would result in different possibilities for *procedural starting point intervention* construction. Whilst the *mediation domain* concerns the context of the mediation session, the *general domain* (section 6.1.2) concerns the context *outside* the mediation session, of which certain contextual elements are relevant for the construction of material starting point interventions. For the *general domain* the *material premises* previously discussed in chapter 5 were identified as the most important *contextual elements* (section 5.6.2). The *identity context type* and the *conflict context type* were identified as the relevant context types (section 6.2) belonging to the *general domain*. The *identity context type* consists of the *personal elements* such as values and beliefs, whilst the *informational elements* belonging to the *conflict context type* concern information on the specific case context of the conflict studied, such as the nature of the parties' relationship. As the contextual elements belonging to the *identity context type* and the *conflict context type* concern material premise types, the differences between different communicative activity types of workplace mediation in terms of the *personal*

*elements* or the *informational elements* would result in different possibilities for material starting point intervention construction.

Chapter 6 further provided conceptual analyses of the possible interplay between context and text (section 6.4). Through the delineation of context and text (section 6.3) and the conceptualization of double design with common starting points (section 6.5) we were able to further the understanding of how changes in contextual elements can influence the construction of *mediation text* and the *design of the mediation domain* (see the *ideal sequences* of common starting point (re)establishment in sections 6.5.1-6.5.4). In short, chapter 6 presented some interesting conceptual findings on context, double design, and context construction for the study of argumentation in context general. Moreover, chapter 6 discusses findings on the interplay between context and text that form an important underlying framework that was used for the final step in our conceptual exploration of common starting point (re)establishment in different communicative activity types of workplace mediation.

Chapter 7 is the final step in our quest to answer research question (B) on *how common starting point interventions differ between communicative activity types of workplace mediation*. The chapter does so by means of detailed characterizations of *workplace mediation prototypes of communicative activity types* for which the differences in common starting point interventions (relative to chapters 4 and 5) could be conceptualized.

The first half of chapter 7 presents and discusses the influence of mediation procedural *informality* and mediator *proximity* on common starting point intervention constructions as the most relevant contextual values to the current study for research question (B). In short, differences in *procedural informality* and *mediator proximity* could alter the *contextual elements* that would affect *the construction of common starting point interventions*. Specifically, the first half of our final conceptual chapter explores how the differences in procedural informality can affect the construction of procedural starting point interventions by mediators in communicative activity types other than the highly formalized mediations guided by workplace mediation professionals; and the effect that

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mediator proximity to the community, the parties, and the conflict has on the construction of material starting point interventions.

The second half of chapter 7 introduces four *prototypical communicative activity types of workplace mediation* with different combinations of *informality* and *proximity* (section 7.4): *formal external* (section 7.4.1), *informal internal* (section 7.4.2), *formal internal* (section 7.4.3), and *informal external* (section 7.4.4). *Prototype 1* (i.e. formal external) concerns formal workplace mediations guided by externally hired workplace mediation professionals as studied in chapters 4 and 5. *Prototype 2* (i.e. informal internal) concerns an informal emergent mediation by a direct colleague of coworkers in a workplace conflict. *Prototype 3* (i.e. formal internal) concerns (somewhat) formalized workplace mediation guided by mediators who have some form of substantive power over parties in conflict in the general domain. Finally, *prototype 4* (i.e. informal external) concerns informal emergent mediations guided by conflict resolution trainers who are hired by an organization for a task other than conflict mediation (i.e. vocational reasons).

The three novel prototypical communicative activity types of workplace mediation (i.e. prototypes 2-4) were constructed relative to the empirically studied *prototype 1* (see chapters 4 and 5). For these new prototypes the mediators' predicted construction of common starting point interventions was discussed in light of the *local functions* found for prototype 1. The common starting point interventions with different local functions and the general effect of (re)establishing a common starting point are shown to differ between the four prototypical communicative activity types of workplace mediation depending on their degrees of informality and proximity. In general terms, the higher the degree of *informality* (relative to prototype 1) the less often mediators are expected to establish procedural starting points (especially by means of establishing statements). However, the mediators of communicative activity types with a higher degree of informality are also expected to have a larger arsenal of procedural starting points to establish, as they are not restricted by the limits of a formalized mediation procedure. As for the construction of material starting point interventions, as a general finding, mediators with a high degree of proximity (relative to prototype 1) are assumed have more options

for the construction of material starting point interventions. The higher the degree of proximity a mediator has, the more access he or she has to the *communal common ground* and the *personal common ground* bases, whereby these mediators may more easily establish and reestablish material starting points using (re)establishing statements instead of having to elicit explicit agreement on material starting points with questions.

In sum, chapter 7 provides detailed prototypical communicative activity types of workplace mediation. As such, by answering the research question on how common starting point interventions differ between communicative activity types of workplace mediation, this dissertation achieved its research aim of adjusting the existing characterization of *mediation as a genre of communicative activity* in pragma-dialectics. By expanding and deepening the current list of communicative activity types of conflict mediation, the conceptual chapters open up the current research stream on conflict mediation in argumentation to include more empirical studies on different communicative activity types of conflict mediation.

### **8.2 Final Remarks on the Empirical and Conceptual Studies**

The final remarks on both the empirical studies and the conceptual studies of this dissertation, which are discussed in section 8.2, are the result of further reflections after the completion of the studies presented in chapters 4-7.<sup>89</sup> Although the empirical chapters and the conceptual chapters comprehensively discuss the analyses, there are some further notes on the findings and the choices made that ought to be discussed in this part of the dissertation. As these reflections directly influence or inspire future research, incorporating them as final remarks in this dissertation is essential. Since including them in the analyses in chapter 4-7 would disrupt the flow of the main text, they are discussed in this dedicated section.

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<sup>89</sup> The author of the dissertation would like to thank Mark Aakhus, François Cooren, Lin Adrian and Sara Greco for their valuable input, critical reflections and fruitful discussions. It is these contributions that form the bases of the final remarks included in section 8.2.

In terms of the empirical studies, some final remarks should be made on the *material premise types*. As discussed, chapter 5 introduced three different *material premise types* found in the corpus of workplace conflict mediation transcripts, which can be added to the existing list of material premise types in conflict mediation (see sections 5.2, 5.5 and 5.6.2). However, the notion that there are three material premise types that can be added to the list suggests that the characterizations of material premise types in pragma-dialectics may need to be revisited. This not to say that the material premise types in pragma-dialectics are of no value, nor to say that they are not indeed at the basis of reasonable argumentation, but that examples of argumentation in context show the existing categories to be too narrow to accurately reflect argumentative realities. Thus, an alternative to the addition of new categories to the existing list by pragma-dialectics would entail a reconceptualization of material premise types starting from an empirical perspective that is more descriptive rather than normative, which could prove necessary for the growing study of argumentation in context.

Concerning the conceptual studies presented, it is necessary to present some additional thoughts on the use and conceptualization of *formality* and *informality* in this dissertation. The definitions of the concepts were chosen for functional reasons and the direct link that can be found between procedural informality and the procedural starting points as a result of the empirical studies and the literature study in *step 1* for the conceptual chapter (see section 3.5). As stated in section 7.1.1, formality, and indeed informality, is discussed, used and conceptualized differently in many academic fields. As such, the concepts and how they are used for the understanding of contextual influence on common ground establishment and reestablishment are varied.<sup>90</sup> Here, we used the understanding of formality and informality following the sociolinguistic and socio-anthropological research by Irvine (1979), with additions in the same vein within these fields of research. The

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<sup>90</sup> This dissertation does not include a literary review of the various ways in which formality and informality can be conceptualized in different academic disciplines and different approaches to discourse. Including such a discussion would disrupt the structure of the dissertation and prove unnecessary for the aim of the conceptual study in chapter 7, as our focus is on the link between the external 'pre-allocated' affordances that are dependent on the informality degree and the construction of procedural starting points, for which the socio-anthropological and sociolinguistic conceptualization is the most functional.

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understanding of externally determined restrictions and allowances that shape the procedural context of the social and communicative occasions in which the interaction takes place, and the affordances that the predetermined procedure places on context specific discourse is both clear cut and functional for our conceptual aim (i.e. following the research question: *do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?*).

These conceptualizations of formality and informality are functional for our current conceptual analyses, however, in further explorations of the importance of *informality* and *formality* on the design of mediation interactions, we may switch focus and zoom in on the design process that happens within the mediation interaction itself, and the role of the different mediators in this process. In other words, in future studies, beyond the focus on common ground, we may move away from the direct link between procedural informality and procedural starting points, and study the influence of formality and informality on the design of conflict mediation as a whole. As a predetermined mediation context involves pre-allocated affordances for design options, the room mediators have to maneuver and construct a favorable mediation interaction is inevitably affected by said affordances. Thus, future research may focus specifically on pre-allocation and the problems mediators face when designing the mediation context in different communicative activity types of conflict mediation. In doing so, we may move to a place that is more pragmatic and constructive for the practice of mediation itself, as this will provide insight into the options mediators have in general for designing mediation interactions. For example, comparative explorations of the design process in meta-discussions between different communicative activity types of conflict mediation can provide further insight into how affordances affect mediators' choices for the construction and management of reasonable interactions, as well as an inventory of the different options mediators have in a specific communicative activity type for the design of meta-discussions.

In terms of the *degrees of proximity*, it should be noted that the categories of (a) the organization, (b) the parties, and (c) the conflict, are not categories that are to be grouped under an umbrella category of proximity. Proximity is a continuum rather than an umbrella

category, meaning that mediators can have varying degrees of proximity to the categories of organization, parties and conflict. In fact, the categories presumably do not have the same value in terms of their effects on common ground in conflict mediation. For instance, it could be that when empirically studied, a mediator's proximity to the parties turns out to be much more important than his or her proximity to the organization for the construction of material starting point interventions. As such, in future case studies, degrees of proximity and material starting points could be studied empirically, in which we compare the effects of the various proximity degrees on the different categories (i.e. organization, parties and conflict) between different speech events of conflict mediation.

Lastly, the importance of *power* should be reiterated. For conflict mediation in general, and for the study of workplace mediation with parties that have an institutionalized power asymmetry in the general context (i.e. the context outside the mediation context) specifically, the importance and influence of power should not be denied. The exclusion of 'power' in this dissertation was not motivated by a lack of interest, but rather the opposite. If we are to properly study the influence of power on the design of mediation contexts, the co-construction of mediation texts, the common ground shared between the parties, and the options mediators have for dealing with power asymmetries with the constraints of procedural informality and mediator proximity, a separate comprehensive study should be conducted. This study should, for example, include the complex question on whether or not power is static or dynamic; including discussions on the extent to which power can be suspended, altered or negotiated. Chapter 6 introduced the ideal concept of *temporary context* (i.e. the mediation context) and the *suspended context* (i.e. dispreferred elements of the general context), in terms of the favorable suspension of the power asymmetries between the parties during the temporary context of the mediation interaction (section 6.1). However, if we are to truly study power in conflict mediation from an argumentative, or broader discursive perspective, we must conduct extensive empirical studies to reveal the ways in which mediators may deal with the ideally suspended context in practice. In addition, one should identify and analyze the different sources of power (e.g. gender, ethnicity or class), beyond the institutionalized workplace power hierarchies, which should be taken into consideration when conducting research on the effects of

power on the communicative options mediators have for design and construction, and duly discuss the differences between those sources and their effects.

### **8.3 Study Limitations**

In the sections below, some of the main limitations of the empirical study (section 8.3.1) and the conceptual study (section 8.3.2) are presented. The limitations discussed in these sections are not exhaustive, and include the limitations discussed at the colloquia and academic conferences where sections of the dissertation were presented between 2017 and 2019.<sup>91</sup>

#### ***8.3.1 Limitations of the empirical analyses.***

Firstly, what needs to be discussed is the fact that the empirical studies of common starting point interventions by workplace mediation professionals could be analyzed in ways different from the empirical analyses in chapters 4 and 5. In fact, both the empirical and the conceptual analyses on common ground in conflict mediation could have been tackled using different approaches within argumentation and broader discursive studies. The choice for using pragma-dialectics as the main theoretical framework was motivated by the need for a solid framework for argumentative research that is functional for both the empirical and conceptual studies. The established concepts of procedural starting points and material starting points, whilst different in nature and in the roles they perform within argumentative interactions, are both important in conflict mediation. Moreover, these two

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<sup>91</sup> The author of this dissertation would like to thank the contributors and attendees at the following conferences and colloquia for offering valuable feedback and reflections on the applicability and limitations of the studies: 2<sup>nd</sup> European Conference on Argumentation (20-23 June 2017 in Fribourg, CH); the ARGA Research Colloquium of the Department of Speech Communication, Argumentation and Rhetoric at the University of Amsterdam (24 November 2017 in Amsterdam, NL); the 2<sup>nd</sup> Edition of the Argumentation & Language Conference (7-9 February in Lugano, CH); 9<sup>th</sup> Conference of the International Society for the Study of Argumentation (3-6 July 2018 in Amsterdam, NL); the Center for Interdisciplinary Studies of Law Seminar (6 February 2019 in Copenhagen, DK); the Nordic Mediation Network Colloquium (26-27 March 2019 in Bergen, NO); the 10<sup>th</sup> Discourse, Communication and the Enterprise Conference (3-5 June 2019 in Leuven, BE); 14<sup>th</sup> Colloquium of the Research Group on Mediation (13-15 June 2019 in Cracow, PL); the 3<sup>rd</sup> European Conference on Argumentation (24-27 June 2019 in Groningen, NL); and the 32<sup>nd</sup> Annual Conference of the International Association for Conflict Management (7-10 July 2019 in Dublin, IE).

categories that make up common ground in pragma-dialectics allow us to identify and analyze the common ground interventions by mediation professionals in detail (i.e. empirical qualitative micro analyses). In addition, the theory provides us with a basic conceptualization of conflict mediation as a genre of communicative activity that can be used as a basis for further elaboration and refinement, as this dissertation aims to do.

Still, whilst the analyses conducted in chapters 4 and 5 are functional for answering research question (A) on *how workplace mediation professionals construct common starting point interventions*, it is not the only possible approach to the argumentative understanding of common ground in conflict mediation. It would be possible, for example, to approach the data from a *strategic maneuvering* perspective by studying the *three devices* that reveal how mediators *strategically* construct their interventions, whereby the focus would be on the *topical potential* of the common starting interventions, how the mediators adjust interventions to *audience demands*, and what specific *presentational devices* they use in common starting point interventions to achieve the communicative goal of the genre of communicative activity (van Eemeren, 2010) (see section 8.4.1 for future research suggestions).

Furthermore, one could opt for an approach that centers more on the *design* of mediation context, rather than the detailed analyses of common starting point interventions and their local functions. This concept of *argumentation as design* was adopted in this dissertation because of the underlying idea that through interventions one can intentionally and strategically create or alter context in a design process. However, the focus of the dissertation and the general underlying perspective taken throughout the dissertation is one that follows pragma-dialectics more closely than it does the more ‘meso approach’ to argumentative analyses that the design perspective caters to. As a result, whilst the dissertation provides both detailed micro analyses of common starting point interventions in the empirical studies, as well as macro conceptualizations in the conceptual chapters, the dissertation only provides preliminary results in terms of ‘design’, which should be further explored in a design centered study (see sections 8.4.1 and 8.4.2 for future research suggestions).

The second point to be discussed is the fact that the empirical analyses deal with a specific style of mediator (see section 2.1). This may not be a limitation of the dissertation per se, but it should be accounted for in the concluding chapter of this dissertation. All the mediation professionals analyzed in this dissertation identify themselves as facilitative mediators<sup>92</sup>, meaning that they aim to facilitate the parties' argumentative discussions on problems and solutions rather than evaluate the problems in the conflict themselves (see section 2.1; figure 3). The fact that the workplace mediation professionals analyzed here are generally more *facilitative* than *evaluative* in their approach affects how they approach the cases they mediate, and consequently how they approach the construction of common starting point interventions. Although this notion does not affect the results of the dissertation, it is important to note that this dissertation specifically refers to *facilitative* workplace mediation professionals.

Finally, we should reiterate and further discuss some points concerning the use of a corpus of mediation simulations. We can, for example, ask ourselves the question whether the corpus includes enough common starting point (re)establishing interventions for any generalizable conclusions, as the common starting point interventions are fundamental but not necessarily frequently occurring. It is, however, important to note that as a purely qualitative dissertation in argumentation, the empirical chapters do not per se aim to present broadly generalizable findings. Rather, it aims to study specific argumentation relevant communicative interventions in-depth and discover some relevant underlying patterns. Furthermore, the corpus itself is comprised of mediation simulations. The corpus of mediation simulations recorded during the workplace mediation courses organized by the ADR Instituut in Amsterdam is special because it is not constructed for academic research; instead the workplace mediation simulations were performed for and by workplace mediation professionals to illustrate difficulties and best practices encountered during their work. This was the first time a researcher was granted access to the course in

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<sup>92</sup> The mediators referred to are the workplace mediators whose interventions were analyzed in the empirical chapters (see section 3.2), the mediation professionals that participated in the focus group (see section 3.4), and the different workplace mediators interviewed for the conceptual chapters (see section 3.6). All mediators, except for the representative for the third communicative activity type of *informal internal* workplace mediation are trained as mediation professionals.

order to record the simulations. The mediation simulations are functional for answering our research question; the findings on how workplace mediation professionals construct common starting point interventions are highly indicative of how workplace mediation professionals construct such interventions in natural mediation interactions. In addition, the use of mediation simulations as a means to circumvent the confidentiality issue in conflict mediation (section 3.2) is a proven standard in the analysis of conflict mediation from an argumentative perspective (see e.g. Greco Morasso, 2011; Janier & Reed, 2017; Jermini-Martinez-Soria, in preparation; Putnam & Holmer, 1992, p. 136; Susskind, 2010; van Bijnen, 2019; van Bijnen & Greco, 2018). Although mediation simulations are functional for our empirical study and standardized in argumentation in context, there are some limitations to what one can do with a corpus of mediation simulations. It should be noted that this dissertation is not able to provide any definite conclusions; if we would aim to do so, we would need a comprehensive corpus of natural workplace mediation interactions, which, as explained, is highly impractical and improbable. Instead, this dissertation succeeds in offering some valuable insights into how workplace mediation professionals are able to construct common starting point interventions, whereby they broaden and strengthen the common ground for reasonable argumentative discussions to take place.

### ***8.3.2 Limitations of the conceptual study.***

With the aim of adding something new to the study of argumentation in context<sup>93</sup>, the conceptual chapters 6 and 7 have a structure that provides new insights, functional concepts, and the reconceptualization of existing concepts in argumentation in context. However, this conceptual approach to argumentation comes with some limitations that are worth mentioning as well.

Firstly, as previously mentioned in section 7.1, there is an ongoing discussion in mediation research at large on the question of how informal the practice of conflict mediation may

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<sup>93</sup> As far as the author of this dissertation is aware, the addition of conceptual studies to the empirical analyses is a novel approach in the study of argumentation in context.

be before we should stop considering it conflict mediation. It should be reiterated that this study presupposes that the presented and discussed communicative activity types of workplace mediation with a high degree of procedural informality are indeed examples of conflict mediation. In this dissertation, as a minimum, we consider any mediation process that fits the dissertation's working definition of conflict mediation as a communicative activity type belonging to the genre of conflict mediation: *a communicative activity in which a (ideally neutral) third party tries to procedurally guide parties to a win-win resolution of their conflict, without deciding the outcome of the resolution process*. This working definition is based on the mediation literature and the definitions provided by the focus group and semi-structured interviews (see chapter 3 on 'methodology'), and is functional for the conceptual studies presented in chapters 6 and 7. Nevertheless, it should be acknowledged that these conceptual chapters of the dissertation may be subject to this broad and complex discussion within mediation studies on the essence and parameters of conflict mediation.

An important limitation of conceptual chapter 7 is our exclusive focus on *informality* and *proximity*, as direct contextual influences on procedural starting point intervention construction (in the case of procedural *informality*) and material starting point intervention construction (in the case of mediator *proximity*). The choice for informality and proximity comes from the direct theoretical links between *informality* and *procedure* and *proximity* and *material common ground* found in the literature, and the inferences made from the empirical chapters 4 and 5. However, more contextual factors can be said to affect the construction of common starting point interventions besides *procedural informality* and *mediator proximity*. For example, one could imagine the influence of commonalities between a mediators and the parties outside those derived from the community to which the parties belong, such as culture, gender, or age that could affect their access to bases of common ground, and subsequently the material starting point intervention construction. However, the conscious decision was made not to include discussions on these highly complex contextual factors in this dissertation. The inclusion of complex identification categories such as gender or culture would exceed the scope of this project and result in gross oversimplifications of important thoughts and valuable discussions.

## COMMON GROUND IN CONFLICT MEDIATION

When reading this dissertation, one should keep in mind that the prototypical communicative activity types of workplace mediation created in chapter 7 are ideal types, and thus more normative and conceptual in nature than empirical. In other words, the prototypical communicative activity types of workplace mediation neither test existing theories nor are they descriptive of empirical findings. The fact that the prototypes are ideal types rather than empirical descriptions could be seen as an inherent flaw in terms of what the prototypical referential framework is able to tell us. Although it certainly is a limitation, it is important to emphasize that the construction of the prototypes is not intended to provide definite categories of mediation types, nor does it intend to present frequently occurring communicative activity types of workplace mediation. Nevertheless, this conceptual model of four prototypical communicative activity types of workplace mediation fills an existing gap: so far argumentation research has not included the study of more informal forms of mediation or mediation forms that include internal mediators. It was important for us to construct the relevant contextual profiles of these unexplored communicative activity types of workplace mediation before any detailed empirical studies into the argumentative discourse of these unexplored communicative activity types can reasonably be conducted.

Furthermore, the prototypical communicative activity types of workplace mediation, as ideal types, do not cover all the possible communicative activity types of workplace mediation in existence. Nor do all workplace mediation case examples that may be found fit neatly into the prototype descriptions provided. For example, *prototype 3* mediators – i.e. managers mediating between coworkers – in large enterprises with over five thousand employees could have limited access to personal common ground bases compared to mediators in small organizations with less than fifty employees. Additionally, in terms of the mediation procedure informality, the mediation procedures described in the prototypes should also be seen as universally ideal, as conflict cultures within organizations, and in different countries and at different times in history, could vary significantly. These variances would result in differences regarding affordances for mediation procedure design.

Finally, it should be noted that conceptual chapters 6 and 7 were created specifically with the (re)establishment of the common starting points *material starting points* and *procedural starting points* in mind; and with a specific focus on workplace mediation. The conceptual findings in chapter 6, although concerning the broader subjects of ‘context’ and ‘common ground’, were constructed specifically to best suit the understanding of common ground in workplace mediation and to support the reconceptualization of communicative activity types of workplace mediation in chapter 7. Although the conceptual characterizations of the *three levels of context* (i.e. the main *domains of context*, *context types*, and *contextual elements*) in chapter 6 may be used as contextual frameworks for future studies on conflict mediation other than those focusing on common ground in workplace mediation, its initial aim of construction should be kept in mind. Were the *three levels of context* (i.e. *domains of context*, *context types*, and *contextual elements*) to be used in further research, either following this dissertation or separate from this dissertation, further explorations of the categories, for example empirically, could be advisable. In a similar vein, the prototypical communicative activity types of workplace mediation in chapter 7 were created with the study of common starting points in different communicative activity types of workplace mediation in mind. Although chapter 7 actively invites further empirical research, when applying the conceptualization of different communicative activity types with varying degrees of procedural informality or mediator proximity, the prototypes’ initial focus on common starting point (re)establishment should be kept in mind (see section 8.4.3 for the research implications and functionality of the conceptual study).

### **8.4 Research Implications and Functionality**

Now that we have discussed the main findings in section 8.1, some final remarks on the findings in section 8.2, and some relevant limitations of the studies in section 8.3, some important implications of the dissertation and the functionality of the empirical findings (section 8.4.1) and conceptual findings (section 8.4.2) are discussed; both in terms of further academic research and practical application.

### ***8.4.1 The implications and functionality of the empirical results.***

As stated in the conclusions on the empirical studies in section 8.1.1, this dissertation achieves its empirical research aim of adding the study of common starting point interventions for the design of an explicit opening stage in workplace conflict mediation to the collection of examples in argumentation in context. As such, it directly adds new insights, specifically on the broadening and strengthening of common ground as an important precondition for reasonable argumentative discussions that could lead to a resolution of conflicts at deadlock, to the field of argumentation.

As mentioned in section 8.3.1 on the limitations of the empirical analyses, there are other ways in which the study of common starting points in conflict mediation can be approached from an argumentative perspective. The empirical study conducted in this dissertation, however, allows for further explorations of the common starting points (re)establishments by mediation professionals. As such, besides the fact that the empirical findings presented in this dissertation add to the field of argumentation, the empirical studies can be used as a point of departure for future studies of argumentation in context. For example, an additional study on how mediators *maneuver strategically* (van Eemeren, 2010) to construct interventions with specific local functions can be conducted as a follow-up study to the empirical part of this dissertation. In this follow-up study, we could analyze what mediators select from the *topical potential*, how they adjust the interventions to *audience demands*, and what *presentational devices* they use when constructing common starting point interventions with different local functions in the mediation interaction (e.g. van Eemeren, 2010).

In addition, the results presented in the empirical study can be of value beyond the field of argumentation. As shown in the empirical chapters, whilst the *general effect* of the mediators' interventions that were studied are *argumentative in nature* – i.e. they were shown to help construct and solidify the common ground necessary for reasonable argumentative discussions to take place and reasonable discussion attitudes to exist – the *local functions* that were identified have a *communicative* function, which makes these findings interesting for discourse and communication studies in a broader sense. In fact,

on top of forming a solid empirical basis for further research in the field of argumentation, one can imagine several future studies in communication science and linguistics for which the empirical part of the dissertation can function as a concrete point of departure. These future studies could be continuations of the empirical analyses presented in this dissertation, for example by using tools from different approaches in order to add to the results laid out in this dissertation; or spin-off studies that further zoom in on one of the results presented in the empirical part of this dissertation, for example one of the identified local functions. To name but a few examples, suggestions for future research could include studies on the identified local functions that were *not* discussed in this dissertation, such as the local function of *establishing communication norms*, which includes interventions on the use of formal or informal language, active listening, tonality and delivery, and turn-taking organization. As this local function concerns meta communication it could be interesting to approach this, for example, from a more conversation analytical perspective (e.g. focusing on turn-taking organization). It could also be worthwhile to look at the different speech acts used in the mediation text for the (re)establishment of common starting points; or how the organizations in which the conflicts takes place (i.e. the community shared by (at least) the parties in conflict) are represented by the participants. Furthermore, the insights provided by the empirical study for this dissertation are valuable for practicing workplace mediation professionals and vocational education institutes such as the ADR Instituut in Amsterdam. Although the dissertation itself does not evaluate the common starting point interventions by workplace mediation professionals, by providing insight into the different ways in which mediators construct common starting point interventions, the communicative interventions can be better understood by the workplace mediation professionals who use them as communicative tools from their mediation toolbox. Mediation is a profession that has largely developed itself autonomously from academic research, especially from communication and argumentation research, which makes explaining underlying communicative and argumentative structures of mediation strategies to prospective and practicing mediators difficult. By providing empirical insight into the underlying communicative and argumentative structures, this dissertation also answers the call initially made by the ADR instituut in Amsterdam; the insight into the

common starting points interventions used by mediators can be used to improve the ADR Instituut's course contents. The findings of the empirical chapters can prove useful for mediation institutions and mediation practitioners beyond the ADR Instituut as well; the practical value of the empirical chapters is based on the belief that deepening one's understanding of one's own practice can help with the improvement of practice itself.

### ***8.4.2 The implications and functionality of the conceptual results.***

The concepts presented in chapter 7 were constructed with functionality in mind. Although the four prototypes are ideal types, they can be used for the empirical analysis of different cases. Examples of workplace mediation (even those that will not neatly fit the descriptions of the prototypes 7.4.1-7.4.4) can be placed in a functional mediation grid.

When using the prototypes comparatively in empirical analyses of two or more mediation cases, the cases discussed can all concern the same prototypical communicative activity type of workplace mediation, and yet they can have varying degrees of procedural *informality* or mediator *proximity*. The fact is that the degrees of informality and proximity are difficult to measure, which makes the construction of the prototypes difficult and relating and comparing new cases of workplace mediation to the prototypes even more so. As a conceptual solution, we can place the four prototypes in a grid or diagram that serves as a normative framework against which future examples of workplace mediation can be compared. In figure 34 below, the prototypes have been placed in a diagram. The positions given to the prototypes in the diagram are provisional as they are to be used as an aid and not as evidence; in the future, new cases of workplace mediation can be placed in the diagram whereby the diagram itself will be adjusted and the positions of the prototypes will ideally become more exact over time. In fact, the expectation is that by becoming more refined over time, through the addition of empirical case studies, many fringe cases and counter examples will demand the necessary adjustments of the prototypes, the representatives, and the diagram. Each case of conflict mediation is unique, which makes the proper adjustment of the ideal concepts presented in chapter 7, according to empirical case studies, highly likely and welcome. One can, for instance, imagine cases in which managers are very close to the parties in conflict, whereby they

may end up mediating between them in an informal manner. This case would present the manager as an example representative of prototype 2 instead of prototype 3. In sum, the diagram, and indeed the prototypes themselves are to be fine-tuned by future empirical studies on communicative activity types of workplace mediation with varying degrees of *procedural informality* and *mediator proximity*.

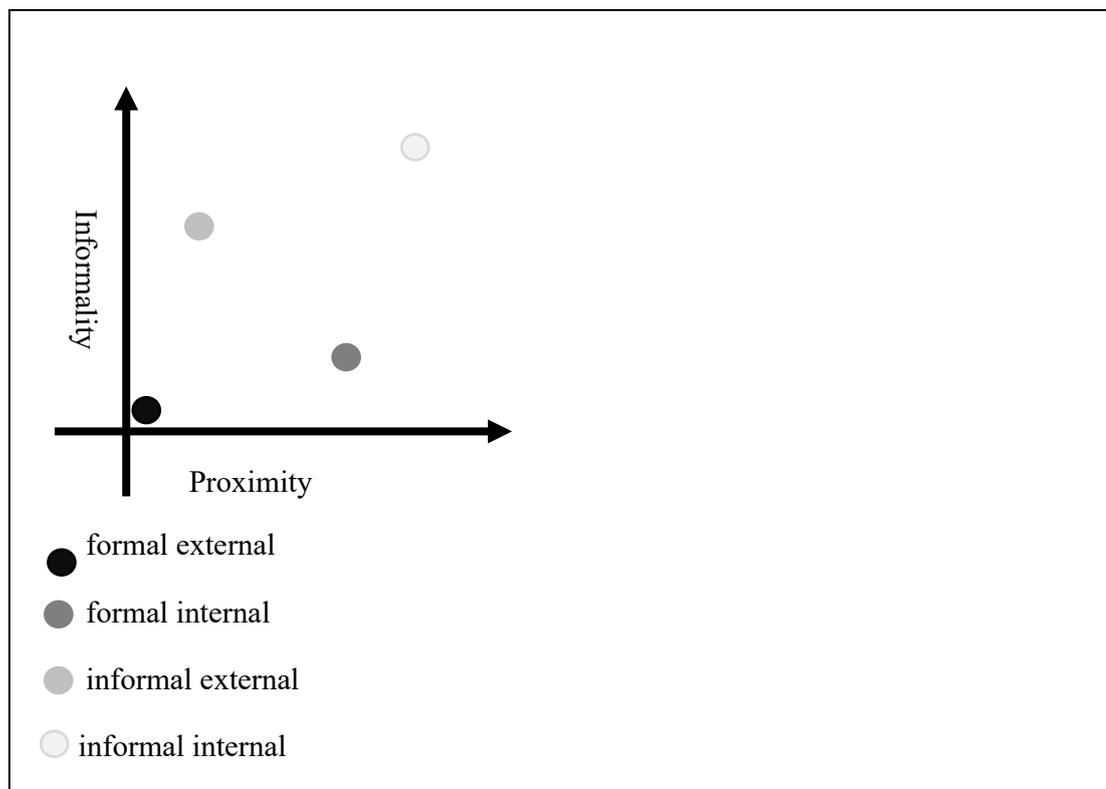


Figure 34. The informality and proximity mediation diagram

There are many further research suggestions that follow from chapter 7. Most interesting, yet most ambitious, would be a large-scale comparative study in which empirical studies are conducted for the three novel prototypical communicative activity types of workplace mediation, by which we can empirically compare the common starting point interventions of all four of the prototypes. The assumed common starting point interventions discussed for the different prototypes in sections 7.4 and 7.5 would aid such empirical follow-up studies. In fact, the conceptual discussions on the different common starting point

interventions for the different prototypical communicative activity types of workplace mediation relative to *prototype 1*, almost inherently lead us to propose informed hypotheses for future empirical research. In other words, as a functional result of the conceptual studies in chapters 6 and 7, and based on the empirical chapters 4 and 5, the findings of the prototypes constructed for research question (B) *do common starting point interventions differ between different communicative activity types of workplace mediation; and if so, how?* can be used as informed hypotheses for further empirical studies. For example, further empirical research on the manager as an emergent mediator (prototype 3; section 7.4.3) could center on the notion that managers have full access to parties' *communal common ground* but limited access to the parties' *personal common ground*. The underlying research assumption would be that the material starting point interventions by prototype 3 mediators (in terms of their local functions) differ from both main prototype 1, whose mediators have access to *none* of the common ground bases, and main prototype 2, whose mediators have access to *both* common ground bases.

By showing how workplace mediators other than workplace mediation professionals can be expected to construct common starting point interventions that benefit reasonable argumentative discussions on problems and solutions, the conceptual chapters add something new to the study of conflict mediation in argumentation. Through the refinement of conflict mediation as a genre of communicative activity by means of the conceptual characterizations of prototypical communicative activity types of workplace mediation, we are able to better understand how common ground as a precondition for reasonable argumentative discussions is constructed, even when relevant conceptual elements between communicative activity types differ. In addition, the refinement enables us to better analyze argumentative discourse in different communicative activity types of workplace mediation in the future. In short, the conceptual chapters open the door and actively invite future argumentation research on a variety of communicative activity types of mediation in, for which the conceptual chapters in general, and the prototypical communicative activity types in particular, form a solid conceptual basis.

As suggested in section 8.3.1, in future research we could take a more *design-centered* approach. If we want to further explore the *design* process in relation to common ground, a follow-up study is recommended in which, for example, the *ideal sequences* (see sections 6.5.1-6.5.4) are further developed. The conceptualization of the effects of context on the co-construction of the mediation text and design of a mediation context have resulted in four ideal sequences for the establishment and reestablishment of procedural and material starting points. Although they are normative and not explicitly functional, the ideal sequences, and further developments of the ideal sequences, would result in a more nuanced understanding of the steps available to mediators when designing the mediation discourse, from a meso-perspective.

Furthermore, the conceptual chapters are useful for communication research at large, for example from a broader discourse analytical perspective. The concepts discussed in the chapters, such as ‘common ground’ and even more so ‘context’, are frequently discussed in communication and linguistic research, as is evident from the collection of communication and linguistic scholars referenced throughout the chapters. The conceptual chapters add a specific and functional (re)conceptualization of *context*, *common ground*, and the strategic relation between context and text to the academic conversations on such concepts. Thus, although the original reason for the conceptualizations in chapters 6 and 7 should be kept in mind (see section 8.3.2), the concepts presented and discussed in this dissertation, such as the *domains of context*, *context types*, and *contextual elements* in chapter 6 and the *prototypical communicative activity types of workplace mediation* in chapter 7, may prove functional beyond this dissertation and in research fields beyond argumentation studies. In fact, the applicability of the concepts that are introduced and redefined in the conceptual chapters give the dissertation additional value. The concepts discussed can be further explored from communication and linguistic perspectives other than argumentation studies and/or used as contextual frameworks for future studies on conflict mediation, even those (empirical) studies that do not focus on common starting point (re)establishment in different communicative activity types of workplace mediation.

## Bibliography

- Aakhus, M. (2003). Neither naïve nor critical reconstruction: Dispute mediators, impasse, and the design of argumentation. *Argumentation*, 17(3), 265-290.
- Aakhus, M. (2007). Communication as design. *Communication Monographs*, 74(1), 112-117.
- Aakhus, M., & Jackson, S. (2005). Technology, interaction, and design. In Fitch, K. L., & Sanders, R. E. (Eds.), *Handbook of language and social interaction* (411-436). New York: Psychology Press.
- Aakhus, M., & Lewiński, M. (2011). Argument analysis in large-scale deliberation. *Keeping in touch with pragma-dialectics*, 165-184.
- Abbott, B. (2008). Presuppositions and common ground. *Linguistics and Philosophy*, 31(5), 523-538. <https://doi.org/10.1007/s10988-008-9048-8>
- Abbott, H. P. (2008). *The Cambridge introduction to narrative*. Cambridge: Cambridge University Press.
- Adrian, L. (2016). The role of court-connected mediation and judicial settlement efforts in the preparatory stage. In *Current Trends in Preparatory Proceedings* (pp. 209-231). Cham: Springer.
- Adrian, L., & Mykland, S. (2014). Creativity in Court-Connected Mediation: Myth or Reality?. *Negotiation Journal*, 30(4), 421-439.
- Adrian, L., & Mykland S. (2018). Unwrapping court connected mediation agreements. In A. Nylund, K. Ervasti, & L. Adrian (Eds.), *Nordic Mediation Research* (pp. 83-104). Cham: Springer.
- Allcott, H., Mullainathan, S., & Taubinsky, D. (2014). Energy policy with externalities and internalities. *Journal of Public Economics*, 112, 72-88.
- Allen, G. (2011). *Intertextuality*. New York: Routledge.
- Altrock, U. (2012). Conceptualising informality: Some thoughts on the way towards generalisation. In C. McFarlane (Ed.), *Urban informalities: Reflections on the formal and informal* (171-194). New York: Routledge

- Austin, J. L. (1975). *How to do things with words*. Oxford: Oxford University Press.
- Ayaß, R. (2015). Doing data: The status of transcripts in conversation analysis. *Discourse Studies*, 17(5), 505-528.
- Baligh, H. H., Burton, R. M., & Obel, B. (1996). Organizational consultant: Creating a useable theory for organizational design. *Management science*, 42(12), 1648-1662.
- Barbour, R. (2007). *Doing Focus Groups*. London: SAGE publications.
- Basudeb, G. K., Kanbur, R., & Ostrom, E. (2007). *Linking the formal and informal economy: Concepts and policies*. Oxford: Oxford University Press.
- Belnap, N. D. (1966). Questions, answers, and presuppositions. *The Journal of Philosophy*, 63(20), 609-611.
- Bercovitch, J., & Gartner, S. (2006). Is there method in the madness of mediation? Some lessons for mediators from quantitative studies of mediation. *International Interactions*, 32(4), 329-354.
- Bercovitch, J., & Gartner, S. (Eds.). (2009). *International conflict mediation: new approaches and findings*. New York: Routledge.
- Bercovitch, J., & Houston, A. (2000). Why do they do it like this? An analysis of the factors influencing mediation behavior in international conflicts. *Journal of Conflict Resolution*, 44(2), 170-202.
- Biber, D., & Conrad, S. (2012). *Register, genre, and style*. New York: Cambridge University Press.
- Bingham, L. B., Chesmore, G., Moon, Y., & Napoli, L. M. (2000). Mediating employment disputes at the United States Postal Service: A comparison of in-house and outside neutral mediator models. *Review of Public Personnel Administration*, 20(1), 5-19.
- Bollen, K., & Euwema, M. (2013). Workplace mediation: An underdeveloped research area. *Negotiation Journal*, 29(3), 329-353.
- Bollen, K., Euwema, M., & Munduate, L. (Eds.). (2016). *Advancing workplace mediation through integration of theory and practice*. London: Springer International Publishing.
- Botting, D. (2010). The question of truth. *Informal Logic*, 30(4), 413-434.

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- Brown, G.R., & Yule, G. (1983). *Discourse analysis*. Cambridge: Cambridge University Press.
- Brown, H., & Marriott, A. (1999). *ADR principles and practice*. London: Sweet & Maxwell.
- Brown, K. L. (1991). Confidentiality in mediation: Status and implications. *Journal of Dispute Resolution*, 2., 307-334.
- Brown, P., & Levinson, S. C. (1987). *Politeness: Some universals in language usage*. New York: Cambridge University Press.
- Burke, W. W. (2006). Conflict in organizations. In M. Deutsch, P.T. Coleman, & E.C. Marcus (Eds.), *Handbook of conflict resolution: Theory and practice* (pp. 781–804). San Francisco: Jossey-Bass.
- Burr, A. M. (2002). Confidentiality in mediation communications: A privilege worth protecting. *Dispute Resolution Journal*, 57(1), 64-70.
- Burrell, N. A., & Vogl, S. M. (1990). Turf-side conflict mediation for students. *Mediation Quarterly*, 7(3), 237-250.
- Bush, J. P., & Baruch Bush, R. A. (1994). *The promise of mediation: Responding to conflict through empowerment and recognition*. San Francisco: Jossey-Bass.
- Bush, J. P., & Baruch Bush, R. A. (2010). Transformative mediation: Core practices. In J. P. Folger, R. A. Baruch Bush, & D. J. Della Noce (Eds.), *Transformative mediation: A sourcebook: Resources for conflict intervention practitioners and programs* (pp. 31-50). Dordrecht: Springer.
- Canter, R. S. (1978). Dispute settlement and dispute processing in Zambia: Individual choice versus societal constraints. In L. Nader & H.D. Todd (Eds.), *The disputing process: Law in ten societies* (pp. 247-80). New York: Columbia University Press
- Clark, H. H. (1996). *Using language*. New York: Cambridge University Press.
- Clark, H. H. (2006). Context and common ground. In A. Barber & R. J. Stainton (Eds.), *Concise encyclopedia of philosophy of language and linguistics* (pp. 85-87). Oxford: Elsevier.
- Clark, H. H., & Brennan, S. E. (1991). Grounding in communication. In L. B. Resnick, J.M. Levine, & S. D. Teasley (Eds.), *Perspectives in socially shared cognition* (pp. 127-150). Washington: American Psychological Association.

- Clark, H. H., & Marshall, C. R. (1981). Definite reference and mutual knowledge. In A.K. Joshi, B.L. Webber, & I.A. Sag (Eds.), *Elements of discourse understanding* (pp. 10-36). Cambridge: Cambridge University Press.
- Cloke, K. (2001). *Mediating dangerously: The frontiers of conflict resolution*. San Francisco: Jossey-Bass Publishers.
- Coleman, P. T., Kugler, K. G., & Mazzaro, K. (2016). Getting beyond win-lose and win-win: a situated model of adaptive mediation. In K. Bollen, M. Euwema, & L. Munduate (Eds.), *Advancing Workplace Mediation through Integration of Theory and Practice* (pp. 21-38). Dordrecht: Springer.
- Conlon, D. E., & Meyer, C. J. (2004). Contractual and emergent third-party intervention. In M. J. Gelfand & J. M. Brett (Eds.), *The handbook of negotiation and culture* (pp. 258–279). Stanford: Stanford University Press.
- Cooren, F. (2010). *Action and agency in dialogue: Passion, incarnation and ventriloquism*. Amsterdam: John Benjamins Publishing.
- Crawley J., & Graham, K. (2002). *Mediation for managers: Getting beyond conflict to performance (people skills for professionals)*. London: Nicholas Brealey Publishing.
- Crawley, J., & Graham, K. (2011). *Mediation for managers: Resolving conflict and rebuilding relationships at work*. London: Nicholas Brealey Publishing.
- Currie, C. M. (2004). Mediating off the grid. *Dispute Resolution Journal*, 59(2), 9–15.
- Currie, J. (2004). The take up of social benefits. *National Bureau of Economic Research*. Retrieved from <https://www.nber.org/papers/w10488.pdf>
- Dahlman, C. J. (1979). The problem of externality. *The Journal of Law and Economics*, 22(1), 141-162.
- De Dreu, C. K., Evers, A., Beersma, B., Kluwer, E. S., & Nauta, A. (2001). A theory-based measure of conflict management strategies in the workplace. *Journal of Organizational Behavior*, 22(6), 645-668.
- De Palo, G., & Trevor, M. B. (Eds.). (2012). *EU mediation law and practice*. Oxford: Oxford University Press.

- Deason, E. E. (2001). *Enforcing mediated settlement agreements: Contract law collides with confidentiality*. Retrieved from [https://lawreview.law.ucdavis.edu/issues/35/1/articles/DavisVol35No1\\_Deason.pdf](https://lawreview.law.ucdavis.edu/issues/35/1/articles/DavisVol35No1_Deason.pdf)
- Deckert, K. (2013). Mediation in France: Legal framework and practical experiences. In Hopt, K. J., & Steffek, F. (Eds.), *Mediation: Principles and regulation in comparative perspective* (pp. 455-519). Oxford: Oxford University Press.
- Della Noce, D. J. (2009). Evaluative mediation: In search of practice competencies. *Conflict Resolution Quarterly*, 27(2), 193-214.
- Deng, Y. (2012). Strategy to alleviate adversity in Chinese mediation: A discourse analysis on real Chinese mediation sessions. *Chinese Journal of Communication*, 5(4), 417-436.
- Doherty, N., & Guyler, M. (2008). *The essential guide to workplace mediation & conflict resolution: rebuilding working relationships*. London: Kogan Page Publishers.
- Donohue, W. A. (1989). Communicative competence in mediators. In K. Kressel, D. G. Pruitt (Eds.), *Mediation Research* (pp. 322-343). San Francisco: Jossey-Bass.
- Donohue, W. A., Sherry, J. L., & Idzik, P. (2016). Interaction dynamics predict successful negotiation in divorce mediation. *Journal of Language and Social Psychology*, 35(4), 374-393.
- Duranti, A., & Goodwin, C. (Eds.). (1992). *Rethinking context: Language as an interactive phenomenon*. Cambridge: Cambridge University Press.
- Elgoibar, P., Euwema, M., & Munduate, L. (2017). Conflict management. In *Oxford research encyclopedia of psychology* (pp. 1-28). Oxford: Oxford University Press.
- Ellingsen, T. (1998). Externalities vs internalities: a model of political integration. *Journal of Public Economics*, 68(2), 251-268.
- Emery, R. E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43(1), 22-37.
- Epstein, J., & Epstein, S. (2006). Co-Mediation. *Colorado Lawyer*, 35(6), 21-23.
- Faure, G. O. (2011). Practice note: Informal mediation in China. *Conflict Resolution Quarterly*, 29(1), 85-99.

- Fisher, R. J., & Keashly, L. (1991). The potential complementarity of mediation and consultation within a contingency model of third party intervention. *Journal of Peace Research*, 28(1), 29-42.
- Fisher, R., Ury, W. L., & Patton, B. (2011). *Getting to yes: Negotiating agreement without giving in*. New York: Penguin Books.
- Folger, J., & Bush, R. B. (1994). *The promise of mediation: Responding to conflict through empowerment and recognition*. San Francisco: Jossey-Bass Publishers.
- Folger, J. P., Bush, R. A. B., & Della Noce, D. J. (Eds.). (2010). *Transformative mediation: A Sourcebook: Resources for conflict intervention practitioners and programs*. New York: Association for Conflict Resolution.
- Freedman, L. R., & Prigoff, M. L. (1986). Confidentiality in mediation: The need for protection. *Journal on Dispute Resolution*, 2(1), 37-46.
- Gabel, S. (2003). Mediation and Psychotherapy: Two sides of the same coin?. *Negotiation Journal*, 19(4), 315-328.
- Gelfand, M. J., Leslie, L. M., Keller, K., & de Dreu, C. (2012). Conflict cultures in organizations: How leaders shape conflict cultures and their organizational-level consequences. *Journal of Applied Psychology*, 97(6), 1131.
- Georgakopoulou, A., & Goutsos, D. (1998). Conjunctions versus discourse markers in Greek: the interaction of frequency, position, and functions in context. *Linguistics*, 36(5), 887-918.
- Gerami, A. (2009). Bridging the theory-and-practice gap: Mediator power in practice. *Conflict Resolution Quarterly*, 26(4), 433-451.
- Gerardi, D. (2004). Using mediation techniques to manage conflict and create healthy work environments. *AACN Advanced Critical Care*, 15(2), 182-195.
- Gewurz, I. G. (2001). (Re)designing mediation to address the nuances of power imbalance. *Conflict Resolution Quarterly*, 19(2), 135-162.
- Gibbs, A. (1997). Focus groups. *Social Research Update*, 19(8), 1-8.

- Giebels, E., & Janssen, O. (2005). Conflict stress and reduced well-being at work: The buffering effect of third-party help. *European journal of work and organizational psychology*, 14(2), 137-155.
- Goffman, E. (1974). *Frame analysis: An essay on the organization of experience*. Cambridge: Harvard University Press.
- Greco, S. (2003). When presupposing becomes dangerous. *Studies in communication Sciences*, 3(2), 217-234.
- Greco, S. (2018). Designing dialogue: Argumentation as conflict management in social interaction. *Revue Tranel (Travaux Neuchâtelois de Linguistique)*, 68, 7-15.
- Greco Morasso, S. (2008). The ontology of conflict. *Pragmatics & Cognition*, 16(3), 540-567.
- Greco Morasso, S. (2011). *Argumentation in dispute mediation: A reasonable way to handle conflict*. Amsterdam: John Benjamins Publishing.
- Guy-Ecabert, C. (2002). De la médiation des conflits à la culture de la médiation: L'école face à la violence et aux incivilités. In *Médiation en Europe: Echanges sur les pratiques/Master Européen en Médiation* (171-189). Sion : Institut Universitaire Kurt Bösch.
- Heisterkamp, B. L. (2006). Conversational displays of mediator neutrality in a court-based program. *Journal of Pragmatics*, 38(12), 2051-2064.
- Heritage, J. (1984). *Garfinkel and ethnomethodology*. Cambridge: John Wiley and Sons.
- Herrman, M. S., Hollett, N., & Gale, J. (2006). Mediation from beginning to end: A testable model. In M.S. Herrman (Ed.), *The Blackwell handbook of mediation: bridging theory, research, and practice* (pp. 19-78). Oxford: Blackwell Publishing.
- Hintikka, J. (1987). The fallacy of fallacies. *Argumentation*, 1(3), 211-238.
- Hopt, K. J., & Steffek, F. (Eds.). (2013). *Mediation: Principles and regulation in comparative perspective*. Oxford: Oxford University Press.
- Houtlosser, P. (2001). Points of view. In F. H. van Eemeren (Ed.), *Crucial Concepts in Argumentation Theory* (pp. 27-50). Amsterdam: University of Amsterdam Press.

- Hualing Fu & D. W. Choy (2004) From Mediation to Adjudication: Settling Labour Disputes. *China Rights Forum*, 3, 17-22. Retrieved from [https://www.hrichina.org/sites/default/files/PDFs/CRF.3.2004/From\\_Mediation\\_to\\_Adjudication\\_-\\_Settling\\_Labor\\_Disputes\\_in\\_China.pdf](https://www.hrichina.org/sites/default/files/PDFs/CRF.3.2004/From_Mediation_to_Adjudication_-_Settling_Labor_Disputes_in_China.pdf)
- Huen, C. W. (2009). What is context? An ethnophilosophical account. *Anthropological Theory*, 9(2), 149-169.
- Hughes, B. D. (1995). Random walks and random environments: random walks. Oxford: Oxford University Press.
- Irvine, J. T. (1979). Formality and informality in communicative events. *American Anthropologist*, 81(4), 773-790.
- Jackson, S. (1988). What can argumentative practice tell us about argumentation norms. In R. Maiser (Ed.), *Norms in argumentation: Proceedings on the conference on norms 1988* (pp. 113-122). Dordrecht: Foris Publications.
- Jackson, S. (2015). Design thinking in argumentation theory and practice. *Argumentation*, 29(3), 243-263.
- Jacobs, S. (1989). Finding common ground and zones of agreement: Two models of rationality for conflict resolution. In *Spheres of Argument: Proceedings of the Sixth SCA/AFA Conference on Argumentation, Speech Communication Association, Annandale, VA*, 511-516.
- Jacobs, S. (1998). Argumentation as normative pragmatics. In F. H. van Eemeren, A. Blair & R. Grootendorst (Ed.), *Proceedings for the International Society for the Study of Argumentation* (pp. 387-403). Retrieved from: <http://rozenbergquarterly.com/issaproceedings-1998-argumentation-as-normative-pragmatics/>.
- Jacobs, S. (2002). Maintaining neutrality in dispute mediation: Managing disagreement while managing not to disagree. *Journal of pragmatics*, 34, 1403-1426.
- Jacobs, S., & Aakhus, M. (2002). What mediators do with words: Implementing three models of rational discussion in dispute mediation. *Conflict resolution quarterly*, 20(2), 177-203.

- Jacquette, D. (1994). *Philosophy of mind*. Englewood Cliffs: Prentice Hall.
- Janier, M., & Reed, C. (2017). Towards a theory of close analysis for dispute mediation discourse. *Argumentation*, 31(1), 45-82.
- Jefferson, G. (2004). Glossary of transcript symbols with an introduction. *Pragmatics and Beyond New Series*, 125, 13-34.
- Jermini Martinez-Soria (2020/forthcoming). *Reframing as an argumentative competence in dispute mediation*. Unpublished doctoral dissertation. USI.
- Kals, E., Thiel, K., & Freund, S. (2016). Workplace mediation: Searching for underlying motives and interests. In K. Bollen, M. Euwema, & L. Munduate (Eds.), *Advancing workplace mediation through integration of theory and practice* (pp. 39-53). Dordrecht: Springer.
- Karttunen, L. (1973). Presuppositions of compound sentences. *Linguistic inquiry*, 4(2), 169-193.
- Kaufman, G., & Raphael, L. (1983). *Dynamics of power: Building a competent self*. Cambridge: Schenkman Publishing Company.
- Kaufman, S., & Smith, J. (1999). Framing and reframing in land use change conflicts. *Journal of Architectural and Planning Research*, 16(2), 164-180.
- Kaufman, S., Elliott, M., & Shmueli, D. (2003). Frames, framing and reframing. *Beyond intractability*. Retrieved from <http://www.beyondintractability.org/essay/framing>.
- Kelman, H. C. (2009). Interactive problem solving: Informal mediation by the scholar-practitioner. *Zeitschrift für Konfliktmanagement*, 12(3), 74-79.
- Kim, N. H., Wall Jr, J. A., Sohn, D. W., & Kim, J. S. (1993). Community and industrial mediation in South Korea. *Journal of Conflict Resolution*, 37(2), 361-381.
- Kitzinger, J. (1995). Qualitative research: introducing focus groups. *British Medical Journal*, 311, 299-302.
- Kitzinger, J. (2004). *Framing abuse: Media influence and public understanding of sexual violence against children*. London: Pluto Press.
- Kitzinger, J. (2005). Focus group research: using group dynamics. In I. Holloway (Ed.), *Qualitative research in health care* (pp. 56- 70). New York: Open University Press.

## COMMON GROUND IN CONFLICT MEDIATION

- Kolb, D. M. (1989). How existing procedures shape alternatives: The case of grievance mediation. *Journal of Dispute Resolution*, 59, 59-87.
- Kovach, K. K. (2005). Mediation. In M. L. Moffit & R. C. Bordone (Eds.), *The handbook of dispute resolution* (pp. 304-317). San Francisco: Jossey-Bass.
- Kovach, K. K., & Love, L. P. (1996). "Evaluative" mediation is an oxymoron. *Alternatives*, 14(8), 31-32.
- Kovach, K. K., & Love, L. P. (1998). Mapping mediation: The risks of Riskin's grid. *Harvard Negotiation Law Review*, 3, 71-110.
- Kressel, K. (2014). The mediation of conflict: Context, cognition, and practice. In P.T. Coleman, M. Deutsch, & E.C. Marcus (Eds.), *The handbook of conflict resolution: Theory and practice* (pp. 817-844). New Jersey: John Wiley & Sons.
- Kressel, K., & Pruitt, D. G. (1989). *Mediation research: The process and effectiveness of third-party intervention*. San Francisco: Jossey-Bass
- Kulms, R. (2013). Mediation in the USA: Alternative dispute resolution between legalism and self-determination. In K.J. Hopt & F. Steffek (Eds.), *Mediation: Principles and regulation in comparative perspective* (pp. 1245-1328). Oxford: Oxford University Press.
- Lee, B. P. (2001). Mutual knowledge, background knowledge and shared beliefs: Their roles in establishing common ground. *Journal of Pragmatics*, 33(1), 21-44.
- Lewiński, M., & Mohammed, D. (2016). Argumentation theory. In R.T. Craig & K. Bruhn Jensen (Eds.), *The International Encyclopedia of Communication Theory and Philosophy* (pp. 1-15). New York: John Wiley & Sons.
- Lewis, D. (1969). *Convention*. Cambridge: Harvard University Press
- Lewis, J., & Ritchie, J. (2003). Generalising from qualitative research. In J. Lewis & J. Ritchie (Eds.), *Qualitative research practice: A guide for social science students and researchers* (pp. 347-362). London: Sage Publications.
- Liebmann, M. (Ed.) (2000). *Mediation in context*. London: Jessica Kingsley Publishers.

- Longhurst, R. (2003). Semi-structured interviews and focus groups. In N. Clifford & S. French (Eds.), *Key methods in geography* (pp. 143-156). London: SAGE Publications.
- Love, L. P., & Stulberg, J. B. (1995). Practice guidelines for co-mediation: Making certain that two heads are better than one. *Mediation Quarterly*, 13, 2-4.
- Macagno, F. (2012). Reconstructing and assessing the conditions of meaningfulness: An argumentative approach to presupposition. In H.J. Ribeiro (Ed.), *Inside arguments: Logic and the study of argumentation* (pp. 247-268). Newcastle: Cambridge Scholars Publishing.
- Macagno, F. (2015). Presupposition as argumentative reasoning. In A. Capone & J.L. Mey (Eds.), *Interdisciplinary studies in pragmatics, culture and society* (pp. 465-487). Amsterdam: Springer.
- Maibom, H. L. (2009). Feeling for others: Empathy, sympathy, and morality. *Inquiry*, 52(5), 483-499.
- Marcus, E. C. (2014). Change and Conflict: Motivation, Resistance, and Commitment, In P.T. Coleman, M. Deutsch & E.C. Marcus (Eds.), *The handbook of conflict resolution: Theory and practice* (pp. 513-532). San Francisco: Jossey-Bass.
- Marková, I., Linell, P., Grossen, M., & Salazar Orvig, A. (2007). *Dialogue in focus groups: Exploring socially shared knowledge*. London: Equinox Publishing.
- Mason, S. J. A., & Kassam, S. (2011). Bridging worlds: Culturally balanced co-mediation. *Politorbis*, 52(2), 69-74.
- McCombs, M. E., & Shaw, D. L. (1972). The agenda-setting function of mass media. *Public Opinion Quarterly*, 36(2), 176-187.
- McFarlane, C. (2012). Rethinking informality: Politics, crisis, and the city. *Planning Theory & Practice*, 13(1), 89-108.
- McIntosh, M. J., & Morse, J. M. (2015). Situating and constructing diversity in semi-structured interviews. *Global Qualitative Nursing Research*, 2, 1-12.
- Mirimanoff, J. (2009). Feasibility of mediation systems in Switzerland. *ASA Bulletin*, 27(3), 466-487.
- Mironi, M. (2008). *Mediation and strategic change: Lessons from mediating a nationwide doctors' strike*. Lanham: Hamilton Books.

## COMMON GROUND IN CONFLICT MEDIATION

- Monk, G., & Winslade J. (2013). *When stories clash: Addressing conflict with narrative mediation*. Ohio: Taos Institute Publications.
- Moore, C.W. (2003). *The mediation process: Practical strategies for resolving conflict*. San Francisco: Jossey Bass.
- Moore, C. W. (2014). *The mediation process: Practical strategies for resolving conflict*. San Francisco: Jossey Bass
- Morasso, S. G. (2008). The ontology of conflict. *Pragmatics & Cognition*, 16(3), 540-567.
- Morasso, S. G. (2011). *Argumentation in dispute mediation: A reasonable way to handle conflict*. Amsterdam: John Benjamins Publishing.
- Morreim, H. (2014, January). Conflict Mediation in Healthcare. Retrieved from [https://www.researchgate.net/profile/Haavi\\_Morreim/publication/259869751\\_Conflict\\_Resolution\\_in\\_Health\\_Care/links/0046352e4612590eec000000/Conflict-Resolution-in-Health-Care.pdf](https://www.researchgate.net/profile/Haavi_Morreim/publication/259869751_Conflict_Resolution_in_Health_Care/links/0046352e4612590eec000000/Conflict-Resolution-in-Health-Care.pdf)
- Nylund, A., Ervasti, K., & Adrian, L. (Eds.). (2018). *Nordic Mediation Research*. Cham: Springer.
- Parkinson, L. (1997). *Family mediation*. London: Sweet & Maxwell.
- Pfaff-Czarnecka, J. (2004). High expectations, deep disappointment: politics, state and society in Nepal after 1990. In H. Michael (Ed.), *Himalayan 'People's War': Nepal's Maoist Rebellion* (pp. 166-191). London: Hurst.
- Pilgram, R., & Polcar, L. E. (2007). Questioning the fallacy of many questions. In F. H. van Eemeren, J. A. Blair, C. A. Willard, & B. Garssen (Eds.), *Proceedings of the Sixth Conference of the International Society for the Study of Argumentation* (pp. 1059-1064). Amsterdam: Sic Sat.
- Polletta, F., & Jasper, J. M. (2001). Collective identity and social movements. *Annual review of Sociology*, 27(1), 283-305.
- Posthuma, R. A., Nabatchi, T., Bingham, L. B., & Good, D. H. (2007). Organizational justice and workplace mediation: A six-factor model. *International Journal of Conflict Management*, 18(2), 148-174.

- Powell, R. A., Single, H. M., & Lloyd, K. R. (1996). Focus groups in mental health research: enhancing the validity of user and provider questionnaires. *International Journal of Social Psychiatry*, 42(3), 193-206.
- Putnam, L. L. (2004). Transformations and critical moments in negotiations. *Negotiation Journal*, 20(2), 275-295.
- Putnam, L. L., & Holmer, M. (1992). Framing, reframing, and issue development. In L.L. Putnam & M.E. Roloff (Eds.), *Communication and Negotiation* (Vol. 20) (p. 128–155). London: Sage Publications
- Rabionet, S. E. (2011). How I learned to design and conduct semi-structured interviews: An ongoing and continuous journey. *Qualitative Report*, 16(2), 563-566.
- Relis, T. (2009). *Perceptions in litigation and mediation: lawyers, defendants, plaintiffs, and gendered parties*. New York: Cambridge University Press.
- Rifkin, J., Millen, J., & Cobb, S. (1991). Toward a new discourse for mediation: A critique of neutrality. *Mediation Quarterly*, 9(2), 151-164.
- Rigotti, E., & Rocci, A. (2006). Towards a definition of communication context. *Studies in Communication Sciences*, 6(2), 155-180.
- Riskin, L. L. (1996). Understanding mediators' orientations, strategies, and techniques: A grid for the perplexed. *Harvard Negotiation Law Review*, 7, 7-51.
- Riskin, L. L. (2003). Decision making in mediation: the new old grid and the new new grid system. *Notre Dame Law Review*, 79(1), 1-54.
- Rocci, A. (2005). Are manipulative texts coherent? Manipulation, presuppositions, and (in-) congruity. In L. de Saussure & P. Schultz (Eds.), *Manipulation and Ideologies in the Twentieth Century: Discourse, Language, Mind*. (Discourse Approaches to Politics, Society and Culture 17) (pp. 85-112). Amsterdam: John Benjamins.
- Rogers, C. R. (1961). *On becoming a person: A therapist's view of psychotherapy*. New York: Houghton Mifflin.
- Römer, M., Rispens, S., Giebels, E., & Euwema, M. C. (2012). A helping hand? The moderating role of leaders' conflict management behavior on the conflict–stress relationship of employees. *Negotiation Journal*, 28(3), 253-277.

- Ruffini, J. L. (1978). Disputing over livestock in Sardinia. In L. Nader & H.D. Todd (Eds.), *The disputing process: Law in ten societies* (pp. 209-246). New York: Columbia University Press
- Saundry, R. and G. Wibberley. (2012). Managing individual conflict in the private sector: A case study. Retrieved from [http://clock.uclan.ac.uk/7100/1/0512\\_Managing\\_individual\\_conflict\\_in\\_the\\_private\\_sector-accessible-version-Mar-12.pdf](http://clock.uclan.ac.uk/7100/1/0512_Managing_individual_conflict_in_the_private_sector-accessible-version-Mar-12.pdf).
- Schegloff, E. A. (1978). On some questions and ambiguities in conversation. In W.U. Dressler (Ed.), *On some current trends in text linguistics* (pp. 81-102). Berlin: De Gruyter.
- Schegloff, E. A. (1980). Preliminaries to preliminaries: "Can I ask you a question?". *Sociological Inquiry*, 50(3-4), 104-152.
- Schegloff, E. A. (2007). *Sequence organization in interaction: A primer in conversation analysis I*. Cambridge: Cambridge University Press.
- Schegloff, E. A., & Sacks, H. (1973). Opening up closings. *Semiotica*, 8(4), 289-327.
- Schmiedel (2013). Mediation in the Netherlands: Between state promotion and private regulation. In K. Hopt & F. Steffek (Eds.), *Mediation: Principles and Regulation in Comparative Perspective* (pp. 697-773). Oxford: Oxford University Press.
- Schoenfield, M. L. (1996). *The professional wordsworth: Law, labor & the poet's contract*. Athens: University of Georgia Press.
- Schonewille, M. A., & Schonewille, F. (2014). *Variegated Landscape of Mediation*. The Hague: Eleven International Publishing.
- Searle, J. R. (1989). How performatives work. *Linguistics and philosophy*, 12(5), 535-558.
- Sheppard, B. H., Blumenfeld-Jones, K., & Roth, J. (1989). Informal thirdpartyship: Studies of everyday conflict intervention. In K. Kressel & D.G. Pruitt, *Mediation research: The process and effectiveness of third-party intervention* (pp. 61-94). San Francisco: Jossey-Bass.
- Simon, H. A., & Sochynsky, Y. (1995). In-house mediation of employment disputes: ADR for the 1990s. *Employee Relations Law Journal*, 21(1), 29-51.

## COMMON GROUND IN CONFLICT MEDIATION

- Snoeck Henkemans, A. F. (1992). *Analysing complex argumentation: The reconstruction of multiple and coordinatively compound argumentation in a critical discussion*. Amsterdam: SicSat.
- Snoeck Henkemans, A. F. (2001). Argumentation structures. In F. H. van Eemeren (Ed.), *Crucial concepts in argumentation theory* (pp. 101-134). Amsterdam: Amsterdam University Press.
- Snoeck Henkemans, A. F. (2003). Complex argumentation in a critical discussion. *Argumentation*, 17(4), 405-419.
- Stalnaker, R. (1978) Assertion. In P. Cole (Ed.), *Pragmatics* (pp. 315–332). New York: Academic Press.
- Stalnaker, R. C. (1978). Assertion. In P. Cole (Ed.), *Syntax and semantics, volume 9: Pragmatics*. (pp. 315–322). New York: Academic Press.
- Stalnaker, R. (2002). Common ground. *Linguistics and philosophy*, 25(5), 701-721.
- Starr, H. (1978). “Opportunity” and “willingness’ as ordering concepts in the study of war. *International Interactions*, 4(4), 363-387.
- Stewart, D. W., & Shamdasani, P. N. (2015). *Focus groups: Theory and practice*. London: SAGE Publications.
- Stewart, D. W., Shamdasani, P. N., & Rook, D. W. (2015). Group dynamics and focus group research. In D.W. Stewart & P.N. Shamdasani (Eds.), *Focus groups: Theory and practice* (17-38). London: SAGE Publications.
- Stulberg, J. B. (1996). Facilitative versus evaluative mediator orientations: piercing the gridlock. *Florida State University Law Review*, 24, 985-1005.
- Stulberg, J. B. (1997). Fairness and mediation. Retrieved from [https://kb.osu.edu/bitstream/handle/1811/79887/OSJDR\\_V13N3\\_0909.pdf?sequence=1](https://kb.osu.edu/bitstream/handle/1811/79887/OSJDR_V13N3_0909.pdf?sequence=1)
- Susskind, L. (2010). Looking at negotiation and dispute resolution through a CA/DA lens. *Negotiation Journal*, 26(2), 163-166.
- Tabucanon, Wall Jr., & Yan. (2008). Philippine community mediation. *Journal of Dispute Mediation*, 2008(2), 1-14.

- Toope, S. J. (2007). Formality and informality. In D. Bodansky, J. Brunnée & E. Hey (Eds), *The Oxford handbook of international environmental law*. Oxford: Oxford University Press.
- Traverso, V. (1999). *L'analyse des conversations*. Paris: Nathan.
- van Bijnen, E. (2019). Dialogical power negotiations in conflict mediation. *Language and Dialogue*, 9(1), 84-105.
- van Bijnen, E., & Greco, S. (2018). Divide to unite: Making disagreement explicit in dispute mediation. *Journal of Argumentation in Context*, 7(3), 285-315.
- van Bijnen, E., Bakker, M., & Greco, S. (2019). The questions that set up the opening stage in conflict mediation. In B. Garssen, D. Godden, G. Mitchell, & J. Wagemans (Eds.), *Proceedings of the Ninth Conference of the International Society for the Study of Argumentation* (pp. 80-91). Amsterdam: Sciential International Centre for Scholarship in Argumentation Theory. Retrieved from: [http://cf.hum.uva.nl/issa/ISSA\\_2018\\_proceedings.pdf](http://cf.hum.uva.nl/issa/ISSA_2018_proceedings.pdf).
- van Dijk, W. W., Zeelenberg, M., & Van der Pligt, J. (2003). Blessed are those who expect nothing: Lowering expectations as a way of avoiding disappointment. *Journal of Economic Psychology*, 24(4), 505-516.
- van Eemeren, F. H. (2010). *Strategic maneuvering in argumentative discourse: Extending the pragma-dialectical theory of argumentation*. Amsterdam: John Benjamins Publishing.
- van Eemeren, F. H. (2015). *Reasonableness and effectiveness in argumentative discourse: Fifty contributions to the Development of Pragma-Dialectics*. Dordrecht: Springer.
- van Eemeren, F. H. (Ed.) (2009). *Examining argumentation in context: Fifteen studies on strategic maneuvering*. Amsterdam: John Benjamins Publishing.
- van Eemeren, F. H. (Ed.). (2001). *Crucial concepts in argumentation theory*. Amsterdam: Amsterdam University Press.
- van Eemeren, F. H., & Garssen, B. (Eds.). (2008). *Controversy and confrontation: Relating controversy analysis with argumentation theory* (Vol. 6). Amsterdam: John Benjamins Publishing.

- van Eemeren, F. H., & Grootendorst, R. (1992). *Argumentation, communication, and fallacies. A pragma-dialectical perspective*. Hillsdale: Lawrence Erlbaum Associates.
- van Eemeren, F. H., & Grootendorst, R. (1992). Relevance reviewed: The case of argumentum ad hominem. *Argumentation*, 6(2), 141-159.
- van Eemeren, F. H., & Grootendorst, R. (2004). *A systematic theory of argumentation: The pragma-dialectical approach*. Cambridge: Cambridge University Press.
- van Eemeren, F. H., & Houtlosser, P. (2009). How should one respond to fallacious moves? *Argumentation and Advocacy*, 45(4), 198-206.
- van Eemeren, F. H., Garssen, B., & Meuffels, B. (2009). *Fallacies and judgments of reasonableness: Empirical research concerning the pragma-dialectical discussion rules*. Dordrecht: Springer.
- van Eemeren, F. H., Garssen, B., Krabbe, E. C., Henkemans, A. F. S., Verheij, B., & Wagemans, J. H. (2014). *Handbook of Argumentation Theory*. Dordrecht: Springer.
- van Eemeren, F. H., Grootendorst, R., & Kruiger, T. (1984). *The study of argumentation*. New York: Irvington.
- van Eemeren, F. H., Grootendorst, R., Jackson, S., & Jacobs, S. (1993). *Reconstructing argumentative discourse*. Alabama: Tuscaloosa.
- van Riemsdijk, A. M. (2014). *Voortleven: het hoe en waarom van nalatenschapsmediation*. Antwerp: MAKLU.
- Vasilyeva, A. L. (2010). The treatment of fallacies in argumentative situations during mediation sessions. *Argumentation and Advocacy*, 46(4), 173-192.
- Vasilyeva, A. L. (2012). Argumentation in the context of mediation activity. *Journal of Argumentation in context*, 1(2), 209-233.
- Vasilyeva, A. L. (2015). Identity as a resource to shape mediation in dialogic interaction. *Language and Dialogue*, 5(3), 355-380.
- Vasilyeva, A. L. (2017). Practices of topic and dialogue activity management in dispute mediation. *Discourse Studies*, 19(3), 341-358.

- Vindeløv, V. (2012). *Reflexive mediation: with a sustainable perspective*. Copenhagen: Djøf Forlag.
- Von Fintel, K. (2008). What is presupposition accommodation, again? *Philosophical perspectives*, 22(1), 137-170.
- Waibel, M. (2012). *Urban informalities: reflections on the formal and informal*. New York: Routledge.
- Wall, J. A., & Dunne, T. C. (2012). Mediation research: A current review. *Negotiation Journal*, 28(2), 217-244.
- Wall, J. A., & Kressel, K. (2012). Research on mediator style: A summary and some research suggestions. *Negotiation and Conflict Management Research*, 5(4), 403-421.
- Wall, J. A., Beriker, N., & Wu, S. (2010). Turkish community mediation. *Journal of Applied Social Psychology*, 40(8), 2019-2042.
- Walton, D. N. (1981). The fallacy of many questions. *Logique et Analyse*, 24(95/96), 291-313.
- Whatling, T. (2012). *Mediation skills and strategies: A practical guide*. London: Jessica Kingsley Publishers.
- Witty, C. J. (1978). Disputing Issues in Shehaam: A Multireligious Village in Lebanon. In L. Nader & H. F. Todd Jr (Eds.), *The Disputing Process – Law in Ten societies* (pp. 281-314). New York: Columbia UP
- Yule, G. (1996) *Pragmatics*. H. G. Widdowson (Ed.). New York: Oxford University Press.

## Appendix

In this appendix, the original Dutch transcripts of all the excerpts included in the empirical chapters 4 and 5 are presented.

- 1 M Is dat oké↑ °Want° we kunnen het ook formeel houden. Ik ben ((first name  
mediator)) >wat zegt u ervan↑<
- 2 B °uh (.) ja° het is niet gebruikelijk bij ons in de [kerk maar
- 3 C [( )]
- 4 M Nee↑ nou dan houden we het gewoon zoals het voor jullie prettig voelt.
- 5 C ( ) normaal (.) tutoyeren we elkaar ook niet [dus dat ( )
- 6 M [nee (.) prima]. Dan dan is dat  
juist ook (.) uh: (2.0) een betere manier om met elkaar te communiceren.
- 7 B Mmm
- 8 M Anders wordt het alleen maar ongemakkelijk (.) en dat is juist niet de  
bedoeling (2.0) U::h mB, ik zie dat u meteen uw stoeltje een beetje opzij  
heeft geschoven vindt u het goed om weer een beetje mijn kant op te  
komen? Zodat we allemaal (2.0) een beetje bij elk(hhh:)aar blijven zitten.  
Uh:: jullie zijn (2.0) samen bereid geweest om uh: in deze mediation bij  
elkaar te komen↑ e:n we hebben het over de telefoon al even gehad (.) over  
de condities. En uh jullie weten allebei het is een vrijwillig en alles wat we  
bespreken is vertrouwelijk↑ e::n die vrijwilligheid dat is misschien goed  
om daar nog hee:l even over te hebben (.) want uh mag ik ervan uitgaan  
dat jullie hier allebei zitten met de intentie om samen een kwestie (.) op te  
lossen↑

---

1. *Original Dutch transcript of excerpt 1: getting party commitment to  
the mediation essence*

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- 1 M.V Oke (1.0) e:hm dan wil ik eigenlijk ook aan jullie allebei vragen (.) e:h  
zijn jullie bereid om te denken aan oplossingen↑ (.) eh waarbij je  
rekening houdt met (.) eh je eigen belangen maar ook het belang van de  
ander↓ (2.0) dus de belangen zoals we die eh die we op de flap [hebben  
2 P [mhm  
3 M.V neergezet↑ (1.0) we gaan zometeen ook brainstorm houden qua  
oplossingen  
4 S >ja dat heb ik ook aangegeven met< als ik zeg zachte landing dan is dat  
(.) dat ik rekening hou met de belangen van ms.P=  
5 M.V =jij wilt rekening met  
6 S °ja°  
7 M.V O↑ke↓  
8 S Natuurlijk ook met de belangen van het bedrijf  
9 M.V Hoe is dat voor jou↑  
10 P °ja°

---

*2. Original Dutch transcript of excerpt 2: getting party commitment to the mediation  
essence*

- 1 M.X Ik hoor aan beide kanten hele stellige posities he↑ d- dit is hoe het is, dit is  
hoe ik het zie uhm en tegelijkertijd is het is het idee van mediation  
natuurlijk om te zoeken naar naar een oplossing die p- die voor beiden  
passend is, voor beiden aanvaardbaar is. Hebben jullie het gevoel dat we  
(.) al ergens naartoe aan het werken zijn↑

---

*3. Original Dutch transcript of excerpt 3: Looking for acceptable solution for both  
parties/ having worked towards something*

- 1 MU wat hier over tafel gaat dat moet duidelijk zijn dat kan niet met anderen worden besproken TENzij jullie daar andere afspraken over maken (.) dat kan wel (.) kijk jij hebt thuis misschien een partner (.) natuurlijk ga je [je partner ja
- 2 P [die had ik ja
- 3 M.U nou (.) eh maar als je he↑ dus daar moeten dan afspraken over gemaakt worden
- 4 P °ja dat hoeft niet°

---

4. *Original Dutch transcript of excerpt 4: procedrual starting point discussions*

- 1 M.V maken (.) ja nou dan gaan we ook eh we gaan verder (.) e::hm (1.0) e::h vertrouwelijkheid is een belangrijk aspect van de mediation dus dat betekent dat alles wat wij hier bespreken e:h (.) binnen deze vier muren blijft (.) tenzij we d'r andere afspraken over maken=
- 2 S =ja en we hebben er dus wel behoefte aan om het binnen het bedrijf nog even hier eh te kunnen overleggen (.) hierover
- 3 M.V U heeft behoefte om te overleggen↑
- 4 S ja
- 5 M.V en met wie↑
- 6 S (1.0) ja: uiteindelijk ons algemeen directeur
- 7 M.V met de algemeen directeur
- 8 S ja
- 9 M.V Oké e::hm
- 10 S Misschien ook nog de financieel directeur °dat weet ik nog niet°
- 11 M.V Oké dus u heeft behoefte om met de algemeen directeur te overleggen wellicht ook met de financieel directeur↑(.) ik weet niet ik kijk ook even naar de andere partij °hoe hoe° is dat voor u↑

- 12 P Ja eh ik weet niet wat wat er dan gaat gebeu:ren (.) ik bedoel ik wil ik (.)  
we gaan hier iets tekenen dan moet iedereen zich toch aan houden↑ (1.0)  
dat vind ik wEl als we iets tekenen dan dan is dat dat staat op papier
- 13 M.V Ja u vindt belangrijk om om eh duidelijke afspraken te maken↑
- 14 P ja
- 15 M.V E:hm (1.0) we he↑ we kunnen al- afwijken van wat hier zo letterlijk staat  
dan zetten we erbij af eh (.) vertrouwelijkheid (.) e:hm die e:hm ge- die  
kan wel gedeeld worden met die en die met de directeur bijvoorbeeld=
- 16 P =ja maar nee maar dat ik vind gewoon vertrouwelijk is vertrouwelijk
- 17 M.V E:hm een optie is ook dat e:h andere partijen die d'r wellicht wel bij  
betrokken worden die kunnen een geheimhouding e:h tekenen↑

---

*5. Original Dutch transcript of excerpt 5: procedural starting point discussions*

- 1 M Dus ik wil nog even aan jullie voorleggen
- 2 B Nou ik wil niet dat het met de vrijwilligers wordt besproken ((B wordt  
geholpen door vrijwilligers))
- 3 M Nee (.) dat is ook echt eigenlijk niet de bedoeling
- 4 B Met [mensen in de kerk
- 5 M [was u dat van plan met de vrijwilligers? ((draait zich naar C to om  
hem te adresseren))
- 6 C u:h: nee nee [nee

---

*6. Original Dutch transcript of excerpt 6: procedural starting point discussions*

- 1 M Ik zal u:h aan het einde van deze bijeenkomst (.) u:h daarna zal ik jullie  
een verslag sturen dat is ook weer vertrouwelijk maar maakt eigenlijk  
onderdeel uit van de mediation (.) en daarin geef ik voor de mij  
belangrijkste punten [van

---

*7. Original Dutch transcript of excerpt 7: specific procedural steps in the mediation  
process*

- 1 M °u:hm° (4.0) maar goed uh uh de jullie komen nu niet echt tot elkaar. Zou het zin kunnen hebben als ik even (.) jullie apart praat? Eerst met jou en dan met jou ((mediator wijst naar de partijen, eerst naar de werknemer dan naar de werkgever)) om te kijken (.) waar jullie nou precies staan en hoe jullie tot mekaar zouden kunnen komen. Want op deze manier lijkt het nog niet te werken↑
- 2 F Dat zou ik eigenlijk wel heel fijn vinden.
- 3 M Is dat een goeie↑ insteek?=  
 4 E =Ik weet alleen niet waarom je per sé eerst met haar wilt praten, maar maakt mij niet uit hoor

---

8. *Original Dutch transcript of excerpt 8: arguing for procedural steps in the mediation process*

- 1 M [Ik zou jullie alle]bei willen uitnodigen om u:h u:h juridisch advies te gaan
- 2 D Moet je die dan ook meenemen hier naartoe↑
- 3 M Ja dat dat (.) kan. Is geen enkel probleem. Ik vind het wel belangrijk dat ze dan geheimhoudingsverklaring meetekenen.
- 4 E Waarom is dat nodig↑
- 5 M Ja, wij hebben natuurlijk met z'n drieën ook geheimhouding [afgesproken
- 6 E [ja
- 7 M en vertrouwelijkheid↑
- 8 E Ja
- 9 M En het is de bedoeling dat ook derden die uh echt met de inhoud uh van de mediation (.) ik wou zeggen mee gaan bemoeien, maar in ieder geval op de hoogte uh uh komen van wat er besproken wordt. Als zij die geheimhoudingsplicht niet hebben (.) dan (.) ja zou je later he↑ het is niet de bedoeling maar als je ooit in een procedure terecht komt (.) zouden zij daar weer met die inhoud kunnen gaan spelen en dat (.) dan dan missen we een beetje het hele punt. Mediation is nou juist uh de kans om in
-

vertrouwen ook te kunnen brainstormen, opties te kunnen bespreken, zonder dat je daar meteen boem aan gehouden wordt. En het geeft jullie ook de kans om meer mogelijkheden te verkennen (.) dus ik vind het heel belangrijk dat de geheimhouding gewaarborgd blijft in jullie proces

---

9. *Original Dutch transcript of excerpt 9: arguing for procedural steps in the mediation process*

- 1 M En de intentie zou u:h moeten zijn dat jullie ook bereid zijn (.) om het ook samen op te lossen. (4.0) Dus ja de vraag is u:h (.) of u inderdaad daartoe over wilt gaan↑ want daarom daarom zijn we zijn we in principe bij elkaar gekomen (1.5) en dan zou ik graag een mediation overeenkomst willen tekenen (.) die heb ik opgestuurd he↑ dus (.) ik ga er even vanuit dat jullie die hebben ontvangen °he°↑. (3.0) Ja ik zie u nu knikken dus dat ziet er alweer wat positiever uit (hhh) (1.0) Ja=
- 2 B =Ja
- 3 M °ja° zullen we een poging wagen↑
- 4 B Ja=

---

10. *Original Dutch transcript of excerpt 10: arguing for procedural steps in the mediation process*

- 1 M.U Goed dat jullie terug zijn (.) vorige keer hebben we grote stappen gemaakt u:h heel erg goed (.) ik zou graag verder willen gaan met jullie als jullie ook denken dat he↑ om om om het probleem veder op te lossen en het zou goed zijn als we onze (.) afspraken nog wat concreter maken dan dat we tot een afspraak kunnen komen (1.0) denken jullie daar hetzelfde over↑
- 2 P Mhm ((overeenstemming))
- 3 S Absoluut

---

11. *Original Dutch transcript of excerpt 11: items for discussion*

## COMMON GROUND IN CONFLICT MEDIATION

- 1 M.U (3.0) maar ik zie dat jullie allebei ehm (1.0) ja (.) bezig zijn bereid zijn om na te denken (.) over hoe we hier eh gemeenschappelijke grond zouden kunnen vinden
- 2 S °mhm° ((goedkeuring))
- 3 M.U ehm (1.0) °eh° misschien is het goed dat jullie (.) ehm (.) d-dat meenemen naar huis (.) e:h (.) om daar ‘ns over na te denken of daar (.) volgende keer eh mee verder gaan↑ (1.0) ehm (1.0) het is belangrijk (1.0) heel belangrijk element eh (.) in waarom jullie hier zitten↑ (.) °eh° maar zijn ook nog andere (.) punten die jullie hebben opgebracht misschien kunnen we daar nog een of twee belangrijke uit pikken↑ °om mee door te gaan°↑

---

### 12. *Original Dutch transcript of excerpt 12: items for discussion*

- 1 D (1.0) ga ga advies inwinnen (.) maar ik zou heel graag met de mediator samen en met jou en als je het nodig hebt (.) i ik bedoel ik weet er ook niks van dus ik moet ook iemand meenemen. Dus als jij iemand wilt meenemen of hoe we dat doen dat weet ik niet precies maar ik wil echt heel graag met jou praten over (.) hoe en wanneer en waarom enzovoort. Nou waarom niet (hh). Hoe en wanneer en onder welke condities↑ uh uh gaan wij onze samenwerking beëindigen↑
- 2 M (1.0) Oké=
- 3 E =Oké, ja, nouja.
- 4 M Is dat↑ wordt dat nu een nieuw onderwerp van de mediation↑
- 5 D Ja
- 6 E Zonder nog de deur op het ander helemaal dicht te gooien wil ik daar best wel naar kijken↓
- 7 M Is iets wat je nu wel zou kunnen verkennen↑
- 8 E Ja zou ik willen verkennen. Ja daar °kan ik wel mee akkoord gaan°

---

### 13. *Original Dutch transcript of excerpt 13: items for discussion*

## COMMON GROUND IN CONFLICT MEDIATION

- 1 M.V Oke (1.0) e:hm dan wil ik eigenlijk ook aan jullie allebei vragen (.) e:h zijn jullie bereid om te denken aan oplossingen↑ (.) eh waarbij je rekening houdt met (.) eh je eigen belangen maar ook het belang van de ander↓ (2.0) dus de belangen zoals we die eh die we op de flap [hebben
- 2 P [mhm
- 3 M.V neergezet↑ (1.0) we gaan zometeen ook brainstorm houden qua oplossingen
- 4 S >ja dat heb ik ook aangegeven met< als ik zeg zachte landing dan is dat (.) dat ik rekening hou met de belangen van ms.P=
- 5 M.V =jij wilt rekening met
- 6 S °ja°
- 7 M.V O↑ke↓
- 8 S Natuurlijk ook met de belangen van het bedrijf
- 9 M.V Hoe is dat voor jou↑
- 10 P °ja°

---

### 14. Original Dutch transcript of excerpt 14: transitional moment

- 1 M Maar wat ik nog even aan u wilde vragen, ms B die heeft uh nog in de ochtend uitgelegd uh wat zij zoal doet he↑ voor de kerk en hoe lang al en op wat voor manier en u::h hoe kijkt u er eigenlijk tegenaan? Tegen haar uh haar inzet↑
- 2 C Nou uh wat ik gehoord heb positief en wat ik zelf me heb gemaakt ook. Ze ( ). U::h (2.0) Op op haar functioneren als als koster↑ daar daar daar hoor ik geen klachten over. Alles loopt zoals het moet lopen (.) u:h het probleem zit vooral in het buurthuis. Dat d d d u::h we zijn ook helemaal niet op uit om u:h (2.0) ms B te LOzen ofzo. Et et et alleen u:h we willen wel dat het wat meer gebeurt zoals wij het willen.

---

### 15. Original Dutch transcript of excerpt 15: getting understanding

- 1 M [De de kerk is verantwoordelijk, het bestuur is verantwoordelijk, maar ms  
voelt zich misschien ook verantwoordelijk gezien (.) haar jarenlange inzet↑.
- 2 C Ja maar dan moet ze ook verantwoordelijkheid (.) nemen en en  
verantwoording willen afleggen=

---

16. *Original Dutch transcript of excerpt 16: getting understanding*

- 1 R =ja eh ja dat spijt me dan wel. Zeker als ik zie wat er nu allemaal gebeurt
- 2 M mhm. Dus je zegt eigenlijk (1.0) e:hm (.) achteraf (.) he↑ als ik de dingen  
had kunnen eh ander kunnen plannen dan had je dat misschien anders  
gedaan↓
- 3 R (.) Ja. Ja. Ja (1.0) ( ). We zijn waar we zijn en ik ik hoop dat ms. C ook  
met (.) e::h met ja met vizier op de toekomst
- 4 M °Mooi° (.) e:hm (2.0) ik zie jullie nu op een punt dat jullie eigenlijk eh (.)  
soort begrip naar elkaar hebben uitgesproken. E:hm=
- 5 C =°( ). Als Robert zo iets dan denk ik ja° (.) Weetje ik wil geen huilebalk  
zijn ik wil heus wel flink zijn ik wil ook gew[oon
- 6 R [ja je bent ook wel altijd heel  
flink geweest en=
- 7 C =ik ik brak heel even

---

17. *Original Dutch transcript of excerpt 17: getting understanding*

- 1 B Heeft u dat weleens gevraagd aan aan aan al die mensen die zich al  
tientallen jaren voor de kerk inzetten? (.) Hoe hoe wat voor ideeën wij  
hebben over over over ah en wat we al gedaan hebben. Om om die  
VOEGEN vijf jaar geleden van die van die KERK hebben wij  
[ECHT WEL WAT VOOR GEDAAN.
- 2 M [mag ik (.) mag ik even mag ik even ingrijpen want he want er zijn  
natuurlijk heel veel onderwerpen waar we het over kunnen hebben (.) maar  
wat voor mijn gevoel niet eerlijk is hier is dat er een (.) een u:h eigenlijk  
een gedeelde zorg is over hoe het verder moet met de kerk omdat er

financiële problemen zijn (.) dat is niet helemaal onbekend↑ (.) u:hm en dat er een zorg is over de uh uh ja de invloed van de de oude en de nieuwe gemeenschap, hoe dat met elkaar kan samenwerken °in de kerk°. De kerk gaat u allen ter harte [dat is dat is duidelijk

- 3 C [ja
- 4 M Dat is duidelijk
- 5 C Ja
- 6 M (1.0) en iede[reen
- 7 C [ja
- 8 M heeft z'n inzet gepleegd en is bereid z'n inzet te plegen.[Maar
- 9 B [Ze zitten er al drie maanden he↑
- 10 M Ja maar er zit een soort frictie in over uh he uh in de de bedoelingen van de ander worden niet helemaal herkend °lijkt [het°
- 11 C [nee wij hebben natuurlijk wel gezien alle dingen die er wel goedgaan en misschien hadden we daar meer (.) aandacht aan moeten besteden. We hebben ons natuurlijk gewoon geconcentreerd op dingen waarvan we dachten daar moeten we iets mee en en u:h dat u uw werk als koster goed doet en en dat dat buurthuis goed draait, dat er heel veel vrijwilligers actief zijn, dat het aantal kerkleden nu zelfs een beetje lijkt te stijgen u:h dat zijn natuurlijk allemaal hele positieve ontwikkelingen en u:h ja daar en nee en en positieve dingen en daar hebben we dan misschien iets te weinig over gezegd. Misschien hadden we dat wat harder en wat duidelijker moeten zeggen (.) dat vinden we natuurlijk wel. We willen het (.) zo (.) houden als het nu is, alleen het moet toch iets zakelijker.
- 12 M En hoe is dat als u dat hoort↑
- 13 B (4.0) Nou dat is wel nieuw want de afgelopen maanden heb ik de indruk gehad dat er alleen maar lijken uit de kast komen donderen. Waarvan dat zijn dan lijken die zij zien want

- 14 M Kan ik eens vragen, want lijkt erop alsof je door een donkere bril naar elkaar bent gaan kijken. In ieder geval dat gevoel heb ik bij u. Dat hoort ook als je het gevoel hebt er gaat iets niet goed dan is er conflict, dan is dat een (.) na:: een mechanisme waar je niet meer onder uitkomt dat je, he↑ (.) de ander (.) dat die bril steeds donkerder gaat verkleuren. Dat de daden van de ander steeds meer (.) ja negatief worden beleefd. En wat ik heel graag voor u beiden zou wensen is dat je dat de brillen weer lichter konden verkleuren. Dat je ook de goeie dingen van elkaar kan zien. Nu is daar eigenlijk °uh (.) ja° bent u daar nog wat in aan het zoeken.

---

18. *Original Dutch transcript of excerpt 18: emphasizing good intentions*

- 1 M Jij zou graag meer kansen willen hebben om als[nog (1.0) te bewijzen]?
- 2 D [Hoeveel kansen moet ik nog geven?] Hoeveel kansen moet ik nog geven? Ik bedoel (.) de organisatie waar wij voor werken is echt (.) een hele goeie werkgever en we doen, ik zeg we dat is onzin want ik ben ook gewoon medewerker, he↓ maar onze organisatie doet echt zo:veel voor voor onze medewerkers en er is zo:veel mogelijkheid tot scholing tot coaching tot begeleiding tot (.) nou je kunt het zo gek niet verzinnen of het is er en je hebt het ook allemaal al gekregen. Weetje (.) en
- 3 M Ik zie je knikken ((refereert naar E)). Vind je dat er inderdaad moe [ite is gedaan?
- 4 E [Nou er is wel moeite gedaan. Dat waardeer ik ook altijd aan deze werkgever en daarom heb ik ook met zoveel plezier gewerkt. Het voelde altijd heel erg als een warm bad. [Ja heel prettig en heel veilig ook.
- 5 M [Ja

---

19. *Original Dutch transcript of excerpt 19: emphasizing good intentions*

- 1 M Hoe lang kent u elkaar al↑
- 2 C Ja kort uh want uh (.) ik ik ben pas drie maanden gelede:n (.) tot het kerkbestuur toegetreden↑. En ik ben ook niet zo lang geleden naar dit dorp

verhuisd dus ik was hier niet zo bekend. Uhm maar uhm anderen kende mij wel en die hebben mij gevraagd voorzitter te worden en dat heb ik gedaan. Ik heb met iedereen kennis gemaakt, met de dominee, met andere kerkbestuursleden (.) waarvan ook een paar nieuw zijn.

- 3 M Hoe heeft u kennismemaakt met ms B↑
- 4 C U:hm (1.0) nouja zij was een van de eersten die ik tegenkwam toen ik uh (.) ja voor het eerst bij die bij de kerk kwam en uh (2.0) één één van de leden van het kerkbestuur heeft ons ook aan elkaar voorgesteld (.) maar dat was vlak in het begin (.) toen toen waren we nog niet echt (.) bezig om met de boel op te schudden wat we daarna wel zijn gaan doen. En daarna uhm niet zoveel contact meer gehad want et et
- 5 M Hoe heeft u het begin van het contact [ervaren↑
- 6 B [wat wat wat DENKT u wel niet (2.0) opschudden (2.0) komt van buiten en u (1.0) u pff.
- 7 M Ms B hoe heeft u het eerste contact ervaren ( )↑
- 8 B Ja komt van buiten. (1.0) En uh mensen in de stad zijn uh (.) >hebben haast<.
- 9 M Zo heeft u dat ervaren↑ Haast↑
- 10 B ja hij heeft een hand gegeven en z'n naam gezegd ennuh
- 11 M Heeft u überhaupt daarna nog met elkaar gepraat over de gang van zaken (.) over datgeen dan [( )
- 12 B [Nee er kwam meteen een beleidsvoorstel met dat al het geld naar het kerkbestuur moest ennuh

---

20. *Original transcript of excerpt 20: sufficient information*

- 1 M °ja° maar ja dus je voelt je beledigd door je collega's maar met name (.) door P=
- 2 V =P ja hij laat zichzelf bij (.) hij doorziet dat helemaal niet=
- 3 M °nj° (.) maar met P ga je al meer dan twintg jaar terug (.) jullie wAren=
- 4 V =ja=

## COMMON GROUND IN CONFLICT MEDIATION

- 5 M =tocj↑ hij is eigenaar maar jullie waren eigenlijk gewoon collega's=  
6 V =ja dat was het geval ja nou: nu is dat wel wat anders ja=  
7 M =maar hoe lang heb je het goed gehad met P↑  
8 V (1.0) jha: ongeveer vijftien jaa:r=  
9 M =°ja°=  
10 V =en daarna ja: is het toen werd P algemeen directeur meer medewerkers (.)  
afstand ontstaan natuurlijk we bouwde de hele zaak sa:men op ((diepe  
zucht)) maar met dat heeft hij nooit he↑ niet eens een bo:nus. Gewoon een  
salaris (.) ja en werkplek manager net een beetje meer dan de rest (1.0) maar  
al die koffers toch↑ waarmee hij op het internet e:h wie heeft die ontworpen↑  
(.) dat was ik toch↑

---

### 21. Original Dutch transcript of excerpt 21: shared history

- 1 V HIJ had die jongens (1.0) HIJ had die jongens tot de orde moeten roepen↑  
2 M (1.0) Maar ik wil nou even inzoomen op jouw relatie met mr.P die die meer  
dan twintig jaar geduurd en dat is eigenlijk een goede VRIEnd van je↑(.)  
geweest↓  
3 V Ja geweest °ja°  
4 M (.) en e:h (3.0) en in die tijd dat jullie nog goede vrienden waren↑ (1.0) is  
er toen zijn toen nooit woorden dat dat ie iets heeft gezegd (.) wat misschien  
niet zo aardig klonk maar ook niet zo bedoeld was↑=  
5 V =We hebben elkaar stijf gescholden maar dat kon want we waren vrienden↓  
6 M =°nju°=  
7 V dronken we 's-Avonds een biertje (1.0) nou dat is echt wel lang geleden dat  
ik met mr.P een biertje heb gedronken (1.0) Mr.P draagt tegenwoordig een  
pak en das he↑ dat heb je toch wel gezien↑

---

### 22. Original Dutch transcript of excerpt 22: shared history

## COMMON GROUND IN CONFLICT MEDIATION

- 1 H Ze pr [ze  
2 M [okay  
3 H hebben goed eten he↑ hebben goed eten he↑  
4 M ja (.) dus (.) precies (.) dus dat zijn (.) oja dat is natuurlijk het (.) wat jullie  
verbindt is dat het een goed restaurant was↑ waar jullie [in prin  
5 H [ja  
6 M cipe  
7 H en we houden van lekker eten allebei toch↑  
8 G Ja; ; ; ;  
9 M En en en  
10 G Dat was het uitgangspunt.  
11 M Ja ja ja

---

### *23. Original Dutch transcript of excerpt 23: common ground*

- 1 M.X Ik hoor jullie allebei zeggen dat jullie eigenlijk ontzettend teleurgesteld zijn  
in hoe het het afgelopen half jaar gegaan is (1.0) en °dat er° hele andere  
verwachtingen waren (1.0) dat jullie [konden bereiken en elkaar met elkaar  
2 A [wat het functioneren (.) van ( ) wel ja  
3 M.X (.) en in die functie (2.0)°En uh° we zitten nu hier (2.0) in mediation (5.0)  
behoorlijk boos.

---

### *24. Original Dutch transcript of excerpt 24: shared feelings*

- 1 S en ja weetje (.) Ik wil ook wel weer dat ms.P aan het werk komt  
2 M.T ja (.) dus u [zegt iedereen moet  
3 S [( )  
4 M.T ja↑  
5 S Zij zit natuurlijk nu ook alweer (.) vijf↑ zes↑ maanden thuis↑ (2.0) °nou  
(.) tis eh°  
6 P Nou ik wil niks liever dan aan het werk  
7 M.T Ja dus ja daar heeft u eigenlijk [gedeeld belang↑

## COMMON GROUND IN CONFLICT MEDIATION

- 8 S [Ja nou d- ( ) dan hebben we daar in  
ieder geval een een gemeenschappelijke eh dingetje↑
- 9 P Maar maar niet in (dorpsnaam)
- 10 M.T (1.0) nee dus ik hoor u alle twee zeggen het belang is eh voor alle twee  
aanwezig dat ms.P weer aan het werk gaat↑
- 11 P °ja°

---

*25. Original Dutch transcript of excerpt 25: shared interests*

- 1 M.V d- he↑ dus dat zeggen jullie eigenlijk allebei↑ als we gewoon snel weer aan  
het werk kunnen↑ (1.0) e:hm (2.0) e:hm hebben het gehad he↑ over jullie  
belangen↑ °en ehm° jullie hebben ook opgeschreven↑ (1.0) e:hm  
herkennen jullie °eh° (.) dat↓ ((wijst naar belangen op flipover))
- 2 P Jazeker dat is echt wel waar het mij om gaat
- 3 M.V °Dat is waar het jou om gaat°↑
- 4 P °ja°
- 5 M.V (1.0) en hoe is dat bij jou↑
- 6 S (1.0) ja: nouja absoluut (.) dit zijn wel de dingen (2.0) ja

---

*26. Original Dutch transcript of excerpt 26: shared interests*

- 1 M [mag ik (.) mag ik even  
mag ik even ingrijpen want he want er zijn natuurlijk heel veel  
onderwerpen waar we het over kunnen hebben (.) maar wat voor mijn  
gevoel niet eerlijk is hier is dat er een (.) een u:h eigenlijk een gedeelde  
zorg is over hoe het verder moet met de kerk omdat er financiële  
problemen zijn (.) dat is niet helemaal onbekend↑ (.) u:hm en dat er een  
zorg is over de uh uh ja de invloed van de de oude en de nieuwe  
gemeenschap, hoe dat met elkaar kan samenwerken °in de kerk°. De kerk  
gaat u allen ter harte [dat is dat is duidelijk

---

*27. Original Dutch transcript of excerpt 27: shared interests*

## COMMON GROUND IN CONFLICT MEDIATION

- 1 M °ja° maar ja dus je voelt je beledigd door je collega's maar met name (.)  
door P=  
2 V =P ja hij laat zichzelf bij (.) hij doorziet dat helemaal niet=  
3 M °nj° (.) maar met P ga je al meer dan twintg jaar terug (.) jullie wAren=  
4 V =ja=  
5 M =tocj↑ hij is eigenaar maar jullie waren eigenlijk gewoon collega's=  
6 V =ja dat was het geval ja nou: nu is dat wel wat anders ja=  
7 M =maar hoe lang heb je het goed gehad met P↑  
8 V (1.0) jha: ongeveer vijftien jaa:r=

---

### 28. *Original Dutch transcript of excerpt 28: presupposing material starting points*

- 1 B =Nou ik vind het nogal pretentius. Om nu te doen alsof zij nu eventjes onze  
alles wat wij hebben de afgelopen decennia gedaan hebben even komen  
redden en rechtzetten en dat allemaal [prutsers  
2 M [dus wat  
3 B wa[ren  
4 M [u u zou eigenlijk willen dat er (.) recht wordt gedaan aan aan wat er aan  
traditie van het oude is en tegelijkertijd uh zegt u ook van ja en het nieuwe  
en het oude moeten in elkaar grijpen want we hebben elkaar nodig. Zonder  
mekaar kunnen we misschien de kerk niet redden is °is dat de situatie°°↑  
5 B Dingen mogen best veranderen maar de nieuwelingen moeten niet een  
beetje gaat opleggen  
6 M [Het is belangrijk dat je er beiden voor kiest=

---

### 29. *Original Dutch transcript of excerpt 29: presupposing material starting points*

1 M Terwijl als je goed gaat kijken wat er eigenlijk gevraagd wordt en en misschien kunnen we daarnaar proberen te ge komen (.) dan is het misschien allemaal niet zo ingewikkeld en niet zo tegengesteld<sup>↑</sup>. Maar de vraag is even hoe kun je dat weer van elkaar zien, hoe kun je goede intenties zien? En (.) kijk (.) of je samen in het belang van de kerk een stap [kan maken

2 B [ja kijk en als het anders moet qua financiën (.) dan gaan we het ook hebben over mijn salaris.

---

30. *Original Dutch transcript of excerpt 30: presupposing material starting points*

1 M Is er een eerder moment geweest de afgelopen zes maanden dat jullie het hebben kunnen hebben over die wederzijdse verwachtingen °en uh°

2 B Wee:tje, als men je ontslaat dan uh dan gaat het nergens meer over en zelfs nu hebben we het nergens over, behalve over mijn ontslag<sup>↑</sup> en dat is niet uh, dat is niet mij te verwijten volgens mij

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31. *Original Dutch transcript of excerpt 31: presupposing material starting points*