Abstract. Mediation is a relatively new procedure in Romania, and because of that, as well as of the mediator’s lack of experience, the clients encounter several problems regarding this procedure, most of them because they lack trust in the procedure and the mediator. The relationship of trust between mediators and parties is a key element of the mediation process. Psychologists have found that trust is vital to people’s willingness to contribute their time and attention to reach common goals and to reveal useful information in order to do that. How we can build this trust will be the subject of the following article.

Key words: mediation, trust, Transylvanian Institute of Mediation, agreement, confidentiality, Romanian Mediation Law.

Being a young mediator, and having as mentors two very experienced mediators, I’m like a sponge, trying to gain as much information and experience from them. One piece of information caught my attention straight from the beginning: if you are professional, the parties will trust you throughout the mediation process, and at the end of the day, that trust will bring you more clients.

Virtually all authors on mediation agree that trust is an essential factor in the successful outcome of the process (Lewicki and Tomlinson, 2003; Moore, 2003); some of them went a little bit further and defined mediation in terms of trust. According to Michael Leates, mediation is consensus facilitated by a trusted neutral party. I think nobody can argue that trust is the defining

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element of mediation, setting it apart from judicial dispute resolution, in which trust between the parties, personal willingness to cooperate, or even faith in the fairness of the process need not exist at all, as long as there is sufficient confidence in the power of enforcement. Speaking in general terms, the role of the mediator is to assist the parties to find a mutually acceptable solution to their dispute. The practical implications of such a task vary from one situation to another. Sometimes the parties expect the mediator to play an active role; sometimes they prefer a more discreet way that does not put them in a position of having to determine a formal proposal (Poitras, 2009). One of the biggest challenges faced by a person responsible for mediation is to gain and maintain the confidence and trust of the parties. So what do we mean by this word – trust? The English word “trust” is a widely encompassing term. The Oxford English Dictionary gives us this definition: the “firm belief in the reliability, truth, ability, or strength of someone or something.” Its essence is the expectation that promises will be fulfilled. What I’ve learned during these years as an apprentice is that if you behave in a professional and ethical manner, even if the mediation failed, the parties involved will thank you for your efforts and will recommend your services to others because you will not have had lost their trust.

In Moore’s description of the mediation process, the trust problem is centered on the mutual perception of the unreliable behavior of the disputing parties - as is the truthfulness or accuracy of the statements that are the object of their dispute. The mediator, as an unbiased third party, exists outside of this distrust circle, thus safely positioned to help mitigate mistrust by creating “perceptions, if not actual behavior, that induce trust between disputants,” such as encouraging a climate of openness and honesty (Moore, 2003). Moore’s definition takes as a given that the disputants do not question the actual mediation process itself, accepting it to be transparent and fair to all. In this fair and neutral environment, the role of the mediator is to facilitate non-judgmental interaction between the disputants so that they can safely communicate and act collaboratively to rebuild trust in each other, paving the way for the resolution of the dispute (Poitras, 2009).

When two parties come together for mediation, it is generally after some sort of dispute, disagreement or dissatisfaction damaged the relationship. In most cases, a level of distrust has already been established. Each of these factors causes stress, confusion, anger, and resentment- hardly the best conditions in which to make sound decisions that can lead to a resolution. Throughout the process of mediation, however, negotiations can take place in an atmosphere of fairness, and both sides can eventually feel satisfied with the outcome (Poitras, 2009). But first, trust must be established. The essential role of trust has been a popular topic in the mediation literature; all authors continuously identified different techniques in order to gain the parties’ trust. For me, at this stage of my professional life, the following are the most important ones:
Chemistry

Trust may be based on such things as attraction to the mediator. Because of chemistry, parties instinctively trust the mediator from the initial contact, or the mediator’s tone of voice or other less noticeable factors can incite the parties’ trust (such as publishing your résumé on your web page in order for the parties to find some common values with the mediator. At one point one of my mentors was chosen for the fact that he is a professor at the Political Sciences Faculty, the phrase being "I trust you because you're a teacher at one of the most important institutions in Cluj-Napoca". Also, chemistry can be based on the tone of our voice: sometimes a warm tone can favor us, mostly in the case of family disputes, while sometimes a more direct approach can help the parties to choose that specific mediator for a commercial or institutional dispute. The emphasis here is primarily on a feeling, intuition, or instinct.

Credibility and reputation

In this regard, the mediator’s professional and intellectual credibility can be a significant source of trust. More and more mediators with a webpage publish their résumés in order for the clients to choose a mediator with expertise, life experience, or background education in the field of their conflict. Lastly, according to Sheppard and Sherman, trust may also derive from the mediator’s reputation for settling cases. In a simple case of mediation, there are at least two parties involved. If the mediation was a success, we now have two parties who will talk about their success to some other people – family, work mates, or simply friends who can be potential clients (Sheppard and Sherman, 1998). For example, my colleagues and I have mediation cases not from the Mediators Table, not from the Phone Book, but from former clients or former students from our mediation training courses, based on our reputation as mediators and trainers. Also, in our field there are some mediators, like my mentors, who became even national evaluators, the highest rank in Romania for a mediator. From this perspective, the mediator’s credibility and reputation can be major assets in inspiring the parties’ trust. Also, here we can discuss a bit about life experience and age. As a young mediator, there were some cases where my young age was my biggest enemy. For example, at one point, a couple needed to mediate some aspects regarding their divorce. At the beginning of the meeting I didn't have their trust because I was too young and I'm not married. For the parties it was very difficult to understand how a young boy, with no life experience in a marriage can mediate their dispute regarding aspects of a divorce, so I had to compensate my lack of experience with my knowledge.

Neutrality and impartiality

Individuals are more likely to trust someone if they believe that person has nothing to gain from untrustworthy behavior. It is therefore important for the mediator to show
the parties that he or she has no interest in favoring one party over another (Poitras, 2009). Simply put, the parties will only trust the mediator if they believe the mediator will act impartially. In the context of mediation, the mediator’s impartiality signifies that he or she is giving both parties an equal chance to express themselves without favoring one party at the other’s expense and without making judgment calls. Which is the risk of not being impartial? When the mediator seems to favor one party, either by paying closer attention to that person, placing more value on that party’s point of view, or favoring that party procedurally, he or she loses the trust of the other party, who starts to see two enemies – the other party and the mediator. Impartiality and neutrality are basic principles of mediation accepted all over the world for ethical reasons but also as a way to gain the trust of the parties.

**Goodwill and empathy**

Pruitt has noted that, to feel at ease, parties must have the impression that the mediator has a positive image of them and must feel that the mediator cares about their concerns. From this point of view, the parties will trust their mediator based on his or her “benevolence”. The mediator inspires trust by being warm and showing consideration toward the parties. The mediator inspires confidence through her/his capacity to thoroughly grasp the facts and the parties’ perspective and also by demonstrating the ability to fully understand the parties in mediation (Pruitt, 1983). Usually, this is shown through active listening, asking pertinent questions to ensure that he or she completely understands the facts and the parties’ points of view, verifying that they have said everything they needed to say, framing and re-framing in order for the parties to realize that the mediator is there with them not only physically. At one point one of my mentors and I participated at a mediation process where an old lady from a rural area and a powerful manager, with political connections, had an environmental problem generated by the manager’s organization. In the area, due to the manager’s political connections, there were a lot of rumors about the way he treated the others in the village (like slaves) and about him conducting some illegal activities. Showing goodwill and empathy for both parties, at the end of the meeting, the parties thanked us because we had done everything in our power to make everyone feel as comfortable as possible and because we had showed respect for both of them.

**Management of the mediation process**

This topic implies the way in which the mediator manages the mediation process. The first discussion here will be about welcoming. Welcoming is our term for the mediator’s ability to quickly create a climate that puts the parties at ease (Poitras, 2009). The mediator must be able to be perceived closer to the parties than a judge or an arbitrator; and the climate is the first thing to set, from the small off-topic discussion full of joy and optimism, to the protocol served to the parties and continuing to the manipulation
(in a constructive sense) of the space, in order for both the parties and the mediator to be perceived as equals. Some scholars have divided mediators’ styles into two broad categories: dealmaker and orchestrator (Kolb, 1983). The first type, the dealmaker, seeks largely to achieve settlement and will intervene strongly if necessary to “help” parties move toward an agreement. The second type, the orchestrator, focuses more on building a relationship and developing understanding as a first step toward reaching consensus. If the orchestrator style seems to be more conducive to building a reliable relationship, it may be because the parties need the mediator to compensate for their own poor relationship with each other (Kolb, 1983; Poitras, 2009).

In fact, in the context of a conflict, parties often denigrate each other’s needs. It is possible that parties respond to a mediator who can improve their relationship. However, there may be some cases in which the relationship matters less to the parties, and cases in which the settlement is more important than the ongoing relationship. In such cases, parties may simply be more likely to trust someone who is nice to them. From both perspectives, when a mediator shows warmth and consideration, he or she is meeting this need and inspires trust. The second discussion here, in my opinion, should be about the explanation process, which includes the degree to which the parties understand the process, as presented by the mediator, the role of confidentiality rules in building trust, and the establishment of the perception that the mediator is shielding parties from abuse during the process. Parties develop trust in the mediator when they trust his or her ability to manage the process. When the mediator effectively explains the mediation process to the parties, he inspires confidence. Such explanations help parties get orientation, particularly if they are unfamiliar with the procedure. Today we have in our legislation the “informative meeting” – a mandatory session before the parties turn to the traditional justice, during which the mediator explains the parties what mediation is and its principles, both the parties’ and the mediator's rights and obligations, advantages and disadvantages of the mediation, the structure of the mediation, and the legal status of their agreement, if reached. This “informative meeting” used to be held, before this year’s modification of the Mediation Law, firstly for ethical reasons, and secondly in order to gain the parties’ trust in the process and the mediator; this is why this explanation of the process should be done in every case, not just the mandatory one. Let’s imagine that in front of the mediator will stand an old lady from a rural area and a medium-age man, with medium education, knowing about the mediation just the fact that it is mandatory (unfortunately more and more persons tend to misunderstand this aspect – that just the informative meeting is mandatory, not the process itself). In order for those parties to have trust in “this new method of conflict resolution” we need to explain the process to them, explaining here the importance of the informal and mutual way used to deal with the conflict in mediation. Continuing, we must explain the three principles of mediation – neutrality, impartiality, and confidentiality, adding here also the volunteering and self-determination of the parties.
in order to attend the mediation process or reach an agreement. After that, we must explain the advantages and disadvantages of mediation (in all of my cases, I saw that the parties were more satisfied when I told them the disadvantages, rather than the advantages, because clearly we don't work with utopia and all good things also have a negative side, but most importantly, the parties felt that I didn’t lie to them, selling them a service only with advantages).

The next discussion must be about the two way relationship – the one between the parties, and the one between the parties and the mediator – again, not only the right but also the obligations. Here, from my experience, the parties gained trust in me, as mediator, and the process, when I told them they would have to reach a solution by themselves, they had the right to be assisted or represented by a lawyer or even a friend or a member of their family as a moral support, to name just a few of their most important rights.

As for obligations, the parties are always pleased to see that they have the same obligations, so they trust the mediator to be impartial to them, but also they trust the mediator because he/she also has obligations regarding the process and his/her relation with the parties during and after the process. It is no secret that transparency creates trust. Just as mediators seek to create an atmosphere of honesty and transparency within the mediation process, they should be open about their own backgrounds. The goal is to create a possible sense of identification and thus to create a connection with the disputants. Lewicki has defined three types of trust: calculus-based (based on a sense of control over the other party), knowledge-based trust (based on having sufficient information about and so a sense of understanding of the other party), and identification-based - a true sense of connectedness (Lewicki. and Tomlinson, 2003).

Mastering the process

According to the parties, the mediator can inspire trust through his or her mediation experience, mastery of the case, and level of confidence (Poitras, 2009). The mediator can reassure the parties of his/her professionalism by carefully reviewing the case prior to the mediation session and by demonstrating their familiarity with it. Referring to past mediations, the mediator can also demonstrate their experience. The mediator inspires confidence due to his experience with the mediation process and grasp of the case. The mediator’s mastery can be expressed in a variety of forms, from their life experience, to their way of responding to questions in a joint or separate meeting.

It is sometimes argued that trust is not a prerequisite for negotiations, and in fact a healthy dose of skepticism toward one’s adversary is advisable. Fisher and Brown advise negotiators to be trustworthy, but not blindly trusting. However, they also acknowledge that a lack of trust keeps many from negotiating at all. Moreover, mediators who do not deal with the distrust between the parties will feel increasingly pulled into a world of
conflict, where there are no neutrals, only allies and enemies. There is no guarantee that the parties in mediation will ever truly trust each other. In many cases, there are good reasons not to. But even individuals entrenched in mutual suspicion can come to trust a third party: the mediator (Fisher and Brown, 1988). It is vital that mediators work to earn the trust and confidence of each party. Without the participants’ trust in both the mediator and the process of mediation, the outcome will be less than ideal - if an outcome is even reached. Parties who trust in their mediators and in the process of mediation are:

- More likely to share important information;
- Less defensive in relation to the mediator and the other party;
- Able to state their interests and needs, not only their positions;
- More willing to offer and receive compensations in negotiations;
- More willing to accept the mediator’s actions;
- Better able to close the gaps between them.

Although it is clear that establishing trust is vital in mediation, in stressful situations, there may not be enough time to do so before negotiations fall apart. Fortunately, there are effective ways to create trust in a relatively short time. This process-based approach coincides with the “principled negotiation method,” developed at Harvard University, in which trust is not a prerequisite to negotiation or even to agreement. Principled negotiators, write Profs. Roger Fisher and William Ury in their work, Getting to Yes, “proceed independent of trust,” as trust is developed through the negotiation process itself. “If you have established a basis for mutual trust, so much the better. But, however precarious your relationship may be, try to structure the negotiation as a side-by-side activity in which the two of you—with your different interests and perceptions, and your emotional involvement - jointly face a common task.” According to them, although an important goal of the negotiation is to create a strong working relationship, an agreement does not require personal trust, as mistrust can be alleviated.

Thus, both in fact and in the perception of the disputants, “the mediator can no longer be considered simply as a detached observer, but is a party to the process of the mediation (Shah-Kazemi and Nourin, 2000). This broader conception of trust puts the mediator at the heart of the equation. In contrast with the Western style of mediation, in which the mediator fulfills the impersonal role of an objective part of the facilitative process, within the Asian cultural perspective, for example, once the mediator gets involved into the disagreement, he or she is no longer viewed merely as a process facilitator, but rather becomes an active participant in the effort to seek a solution (Billings-Yun, 2009). The mediator personally enters into an interdependent relationship with the disputing parties, who rely on the mediator’s goodwill and expertise to help them obtain, or at least not hinder, a positive outcome.
As an active and influential participant in mediation, the mediator becomes yet another source of risk and vulnerability for the disputants, raising core value concerns about the mediator’s own motives, beliefs, and general fairness (for example, we always hear at our mediation training courses about success fees for the mediator, like in the case of a lawyer. If in the case of lawyers this fee can be perceived like a motivational element, in the case of mediation this is about misleading the trust of the parties in you, promising them something that is entirely dependent upon them – reaching a solution in a certain amount of time – just for the mediator’s financial reasons). Therefore, before the mediator can facilitate and induce trust between the disputants, he or she must first reduce the disputants’ sense of vulnerability by giving them the confident expectation that the mediator’s own motives are pure and benevolent (Billings-Yun, 2009). Without personal trust in the fairness and goodwill of the mediator, the parties of the dispute would be less likely to share information, move from positional to problem-solving thinking, respond positively to cooperative messages, or engage honestly in the sorts of side-by-side activities recommended by the process-oriented school. Indeed, they would be less likely to participate at all.

Equally important, the mediator must help the parties establish at least a minimal level of trust between each other, if any sort of collaborative problem solving is to take place. But how to do that as a mediator? Being impartial, or transparent regarding the mediation process is entirely dependent on the mediator, but what can he/she do in order for the parties to build and maintain a certain level of trust during the mediation process?

In his book *The Mediation Process: Practical Strategies for Resolving Conflict*, Moore says trust is based on the experiences of the negotiators with past negotiations, the similarity of current issues to those in past negotiations, past experience with a particular opponent, rumors about a current adversary’s trustworthiness, and the opponent’s current statements or actions. Mediators must often respond to all these variables in the process of building minimal trust between the parties. The past experience of negotiators, their personality, and their needs, beliefs, values, and predispositions toward other parties will strongly affect their ability and willingness to trust another party.

Mediators usually do not make any efforts to change or modify a negotiator’s psychological makeup on the basis of experience with previous and different negotiating opponents. However, the mediator may attempt, through careful questioning, to modify and clarify a negotiator’s perceptions of the current negotiation, and another party may assist him or her in identifying similarities and differences between the present situation and the past. A negotiator’s past interaction with an opponent can constitute a base for either trust or distrust. Mediators negotiating with parties who have a history of negotiations between them may begin the trust-building process by asking questions that assess whether a positive or negative relationship has been built over time. If the parties have a positive trust relationship, and have been able to depend on the other
party's veracity and count on the other party to follow through on agreed commitments, the mediator’s task becomes simpler. In this case, the mediator may merely remind the parties of their positive and productive history. Should the mediator discover that parties have a highly negative relationship and that there are few instances where past trust has been reciprocated, he or she can assist the parties in determining if the breach of trust arose from a joint misinterpretation of the situation or an unintentional misunderstanding. If either of these is the cause, accurate communication may remove the perceptual barriers to a new trusting relationship.

Trust in relationships is usually built incrementally over time. Through a succession of promises and consistent actions that reinforce the belief that commitments will be carried out, negotiators gradually build a relationship of trust. Mediators may assist negotiators in building a trusting relationship by encouraging them to make a variety of moves designed to increase credibility. Some moves that encourage negotiators to increase their trust in each other can be making consistently congruent statements that are clear and that do not contradict previous statements or perform symbolic actions that demonstrate good faith in bargaining, for example, providing for an adversary's physical comfort, negotiating at a time or place that is convenient for another party, making a minor concession that indicates a willingness to negotiate, paying the cab for the other party in order for him to reach the place of the mediation. Mediators can also make specific interventions that will build trust between parties and change their perceptions. Among these moves is creating situations in which the parties must perform a joint task, translating one party's perceptions to another, verbally identifying commonalities, verbally rewarding parties for cooperation and trust, and facilitating a discussion of their perceptions of each other (Moore, 2003).

If, however, the trust of one party was misplaced and intentional exploitation rather than reciprocity resulted, the mediator must pursue another strategy and start from a point of no or little trust to build a positive relationship between the parties. But what could this strategy be? We hear more and more about CBM (Confidence-Based Measures), especially within the field of international conflict resolution, where mediators employ CBMs to de-escalate conflicts between states, but it can also be usefully applied in other spheres of mediation. In any situation where trust is lacking, mediators can use these measures to repair some of the relationship problems at the beginning of the process, and place the parties in a cooperative mindset. Mediators who effectively build goodwill at the beginning of the process will be more likely to see the process reach completion, and more likely to see the parties fulfill their agreements afterward. Confidence-building measures are gestures of goodwill made by one party to another, usually prior to engaging in substantive negotiations, for the purpose of gaining the trust of that party. The discussion and application of CBMs originated in the sphere of nuclear disarmament negotiations in the 1970s as efforts to achieve comprehensive
agreements failed (Landau & Landau, 1997). The concept of CBMs most likely evolved from the negotiating model of Charles Osgood who recommended that the two superpowers adopt a strategy of de-escalation that he termed G.R.I.T., or Graduated and Reciprocated Initiatives in Tension reduction. Essentially, the G.R.I.T. strategy advises each party to make a unilateral gesture of goodwill and wait for the other to respond (Landau & Landau, 1997). Once several exchanges have been made, substantive negotiations can commence. These exchanges are now known as CBMs, and they have become increasingly important tools in resolving international disputes. In the literature to date, much of the discussion of goodwill gestures assumes the context of a traditional negotiation with no third party. In this context, the parties themselves control the exchange of gestures. Experimental evidence suggests that these gestures should be offered unilaterally and unconditionally by one party at a time, that they should involve risk on the part of the giver (to prove sincerity) and that they should be unanticipated by the receiver (Landau & Landau, 1997). However, the risks are very high with unilateral gestures of this kind. An untrusting adversary would be just as likely to interpret the gesture as a ruse, a sign of weakness, or dismiss it as meaningless. Some gestures may be inappropriate and cause offense to the other party. For these reasons, a neutral third party could be quite useful in overseeing the exchange of gestures. The mediator would help to ensure that the offers are appropriate and are interpreted positively by the other party.

The manner in which CBMs would be exchanged in a mediated process would differ from a traditional negotiation process. In Charles Osgood’s G.R.I.T. strategy, one party would begin the process with a small gesture, and then wait for the other side to reciprocate. In a facilitated process, however, the emphasis should be on the symmetrical exchange of CBMs for two reasons: symmetry, asking both sides to make roughly equivalent gestures at the same time, helps maintain the mediator’s neutral image; second, parallel and coordinated CBMs give parties the assurance that their gestures will be reciprocated, and therefore embolden them to make more significant moves. Measures taken by one party should lead to similar gestures being made by the other one in a balanced way. Both of them must feel that they are deriving equal advantages from the implemented CBM’s effect. Reciprocity is needed for two reasons: it is a signal for the first party that the other is seriously engaged in the process, and secondly, the continuation of unilateral gestures, without reciprocity, will become at one point useless (Landau & Landau, 1997). Reciprocity cannot be expected instantly. At one point we had a mediation process between an 18-year old boy and an old man, in a car accident case. The driver, being the initiator of CBM must be prepared to make several unilateral steps without receiving anything in return. Even if, in short term, the other party will gain more, this asymmetry must be contained and balanced by long-term perspectives, like the possibility to reach a mutually acceptable agreement without a penal charge. He started by paying a taxi driver to bring the old man to the mediation,
he helped him to move around our mediation space, he offered to cover the mediator fee entirely, all of them being CBMs which, in long term, helped the young boy to reach an agreement with the old man, without legal repercussions. Some other examples of CBM in mediation could be:

*Demonstrate a willingness to talk*

A good place to start is by asking both parties to make a clear statement to each other about why they would like a peaceful and collaborative settlement of the conflict. In particular, they should emphasize the costs (in terms of emotions, money and time) of continuing the conflict. The mediator could ask both parties about the stress they have suffered from the dispute, and about their inability to resolve the dispute through more adversarial means. Without an admission of the destructiveness of the conflict, each side is free to impute less noble motives to the other’s participation in the negotiations (Landau & Landau, 1997).

*Demonstrate a willingness to listen*

Showing a willingness to listen is a confidence-building measure of considerable importance. The parties should be encouraged to demonstrate a willingness to hear all of the other party’s grievances, and not to react defensively (Landau & Landau, 1997). For example, in a recent case involving a dispute between a company and an old lady from a rural area, the lady was very skeptical of the manager’s ability to change his aggressive managerial style in terms of destruction of the environment. However, the manager demonstrated a genuine interest in hearing the personal grievances of the lady. With my mentor, we coached the manager to listen without comment, and to thank each person after she/he had spoken. The result? The manager’s willingness to listen was seen as a very positive step by the lady, who started to trust the other party a little bit more than at the beginning of the mediation session.

*Demonstrate a willingness to meet the other needs*

There are often immediate issues of conflict that exacerbate the conflict between two parties. These issues do not go to the core of the dispute, but so long as they exist, they will continue to fuel the conflict. The mediator should try to obtain some short-term agreement to remove some of these irritants. If progress is quickly made on small issues, that builds the confidence of the parties for resolving larger issues (Landau & Landau, 1997). In the case involving the conflict between the manager and the old lady, the latter quickly raised a concern about the manager’s intent to continue his activity which damaged the environment and the property of the lady. When the manager agreed to suspend the performance reviews until the issue could be dealt with in mediation, it marked the first step toward breaking down the staff’s distrust.
Demonstrate a willingness to improve the relationship

The most basic confidence-building measure for healing conflicts is the apology. Most everyday conflicts are resolved with apologies, yet mediators have not made sufficient use of them. Our training school at the Transylvanian Institute of Mediation has some role-plays for the participants where the parties just want to receive apologies at the end of the sessions and the mediator must facilitate the parties to reach this stage. Of course, there are difficulties. First, apologies might bring the connotation of blame. Second, they could be insincere. Third, exchanges of “I’m sorry” might seem like a trivialization of the conflict. All of these concerns can be addressed with the appropriate techniques.

Rather than expressing culpability, apologies must express recognition of, and regret, for harm suffered by the other in the past and a willingness to try to avoid causing such harm in the future. From the information provided about the history of the dispute, the mediator should select small incidents that were particularly hurtful to one side or the other so that he can ask them if there was anything they might have done to handle the situation better, building so the moment when the parties can make apologies in a trustworthy way (Landau & Landau, 1997).

In conclusion, a key function of the trust relationship is to enable the mediator to gain access to parties’ confidential information, which can help the mediator identify zones of possible agreement and other options for resolution. But before they will provide this information to the mediator, the parties must first believe that the mediator will use the information effectively (procedural expertise), accept the information nonjudgmentally (warmth, consideration and empathy) and not use the information against them (impartiality). The factors that encourage the development of trust thus also imply open discussion and the development of solutions. Trust is generally demonstrated by a willingness of parties to place themselves in some position of risk in a negotiation, such as by being open by information sharing.

References


