



The recognition of collaborative negotiation as a form of alternative dispute resolution in Belgium.

This Law inserts an eight, entirely new part in the Belgian Judicial code exclusively dedicated to collaborative negotiation.

Collaborative negotiation is a voluntary and confidential form of dispute resolution by negotiation in which only the opposing parties and their respective collaborative counsels are involved. The process is thus not guided by a neutral third-party, like e.g. a mediator.

A judge can only order collaborative negotiation following a joint request of the parties and after having heard the parties about the envisaged process. He can do so in any stage of the proceedings.

A collaborative counsel represents his clients in the framework of an exclusive and limited mandate of assistance and consultancy for the purpose of a negotiated agreement. In this process he is to be considered as a professional negotiator who wishes to settle the dispute outside the Court. As a collaborative counsel takes on such an active role, he is expected to sign the collaborative negotiation protocol as well. This protocol can be seen as a framework agreement in which the parties make arrangements regarding the negotiation process.

Due to the fact that a collaborative counsel signs the negotiation protocol as well, he can no longer represent his client if ultimately the dispute would remain the subject of adversarial proceedings.

A counsel needs to follow a special training to become a collaborative counsel and needs to be accredited and listed as such before being able to enter into a

collaborative negotiation.

The provisions of 'part eight' of the Belgian Judicial Code regarding collaborative negotiation enter into force on 1 January 2019.

The Law of 18 June 2018 regarding various provisions in the field of civil law and provisions aimed to promote alternative forms of dispute resolution introduces a new form of alternative dispute resolution in Belgium: collaborative negotiation.



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