

Amicable Settlement of Conflicts: For a More Efficient Justice

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More efficient, quicker and cheaper than litigation and arbitration, and often value generating, amicable resolutions mechanisms are in favour to solve conflicts. Winston & Strawn Paris Partner discusses the advantages of these mechanisms with *Le Figaro Partners*.

What are the advantages of amicable resolution of conflicts?

Partner: They allow opposing parties, which are best positioned to know the best possible outcome for their business, to collaborate toward finding a solution to their conflict. It can happen through mediation, or with the help of lawyers, guiding parties through a collaborative process.

These resolution mechanisms allow parties to speak the universal language of business, when the law is by essence national and binary.

Amicable resolutions are also very attractive in terms of time and costs.

What is the collaborative process?

Partner: The collaborative process was invented by lawyers and comes from family law. It allows parties to come up with an amicable solution to a conflict in order to restore the contractual relationship.

For that purpose, those processes use different communication tools (active listening, reformulation) and reasonable negotiation, for which specialised lawyers are trained.

You are the co-founder of the Diplôme Universitaire Modes Amiables de Résolution des Différends at the University of Paris-Nanterre. Why is this an important engagement to you?

Partner: I indeed created a degree on Amicable resolutions alongside Soraya Amrani-Mekki, Professor of Faculties and Claude Duvernoy, former president of the Hauts-de-Seine, and upstream, with the help of a very large training pole focusing on communication tools and negotiation.

The specificity of this degree is to encompass all modes of amicable settlements and train the professionals who will then be able to use when appropriate.

What is the role of a lawyer in an amicable settlement?

Partner: The role of the lawyer is essential. It is to ensure their client is fully aware of the needs and concerns of the

opposing party, as this will be the basis on which they will be able to restart dialogue, whilst helping them figure the best outcome for their own interest.

The lawyer will also facilitate communication. They help parties overcome deadlocks and find a win-win solution that parties may not have thought of on their own. This is why it is important for lawyers to be trained. It is the future of our profession. At Winston & Strawn, we emphasise this and two of my associates, of which one focuses on corporate M&A, are getting trained.

What sort of conflicts can be settled amicably?

Partner: There are no limits to the type of matter but there can be some in terms of conflict. Amicable settlements assume good will and transparency. Clients also appreciate the solutions brought by amicable settlements will be tailored to each specific case.

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