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Can the employee and employer settle a dispute amicably?

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In case of **conflict** between an employer and an employee, the labor council of men (CPH) can be consulted to settle the dispute. In order to avoid recourse to the CPH, the parties may decide to resolve the dispute at **amicable**. They can choose the **conventional mediation**, the **participatory procedure** or a **transaction**. The procedures differ depending on the choice of the parties. We're doing an update on the regulations.

Conventional Mediation

What is conventional mediation?

Initiated by the parties, treaty mediation enables a dispute to be settled at **amicable**. This process avoids the need for the employee and his employer to appeal to the labor council (CPH) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) .

In order to settle this dispute, the assistance of a mediator is **obligatory**. The choice of this mediator must be made **by mutual agreement** between the employer and the employee.

This mediator must **justify** the qualification required to deal with the conflict or to justify, as the case may be, a **training** or experience appropriate to the practice of mediation. It must be **independent, neutral and impartial**.

Mediation shall take place in the **compliance with conditions fixed** directly by the **parts** and the **mediator**.

FYI

During mediation, the employee and the employer **may** to be made **assist** of a lawyer (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2153?lang=en>) . The latter advises them and accompanies them towards an amicable resolution of the dispute.

Where to find a mediator in a conventional mediation?

Mediators are included in a list which is drawn up every three years.

This list is **searchable** in the **single reception services for litigants** of appeal course (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2224?lang=en>) , courts of law, labor boards and commercial courts (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2289?lang=en>) .

It can also be found in the **Houses of justice and law** and in the **access points or relays to the right**.

Please note

The conciliator of justice (<https://www.service-public.gouv.fr/particuliers/vosdroits/F1736?lang=en>) may also be called upon to resolve the conflict.

How does the conventional mediation process work?

The procedure for conventional mediation (<https://entreprendre.service-public.gouv.fr/vosdroits/F34631?lang=en>) takes place in **4 steps** :

1. **Presentation** the facts of each party so that the mediator knows the origin of the conflict
2. Search for **interest** and **needs** parties, through separate interviews as required
3. Enumeration by the Ombudsman **solutions** envisaged by the parties
4. **Production** of the **memorandum of understanding** (or transactional agreement) signed by the parties.

The length of the mediation depends on the **will** of the parties. They have to set a **calendar**.

One or more mediation sessions may be required to reach an agreement.

What is the cost of conventional mediation? ^

The cost of conventional mediation, set by **freely** by the Ombudsman, is **distributed** in equal parts by the parties.

Where recourse is had to **lawyers**, the fees are also shared.

What are the outcomes of conventional mediation? ^

Conventional mediation can have two outcomes: agreement and no agreement.

The parties shall reach an agreement

If the employee and the employer **reach** to settle their dispute, a written agreement is **concluded** between the parties.

The agreement **can** be **approved** by the labor council (CPH)

(<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) with the agreement of the employee and the employer.

In order to obtain approval, the employee and the employer must apply to the labor council.

However, the CPH **may refuse to approve the agreement**. However, it cannot change its content.

The approval of the agreement gives it enforceability. This means that if one party fails to comply with its commitments, the other party may seek the application of the agreement.

Please note

The **refusal** of approval by the CPH deprives the agreement of the **enforceability**, but he **don't cancel** the agreement.

There is no agreement between the parties

If mediation does not **does not allow** to resolve the dispute, the employee or employer can then seize the labor council (CPH)

(<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) .

The prud'homale procedure (<https://www.service-public.gouv.fr/particuliers/vosdroits/F1052?lang=en>) shall apply in **usual conditions** (conciliation and guidance phase and, if necessary, judgment of the case).

Participatory procedure

What is the participatory procedure? ^

The **participatory procedure** allows you to adjust to **amicable** a dispute between an employer and his employee to avoid recourse to the labor council (CPH) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) .

Each part is **obligatorily assisted** by a **lawyer** (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2153?lang=en>) .

How is the participatory process going? ^

The employer and the employee, **assisted by their lawyers**

(<https://www.service-public.gouv.fr/particuliers/vosdroits/F2153?lang=en>) , conclude a **convention** of participatory procedure

(<https://entreprendre.service-public.gouv.fr/vosdroits/F34633?lang=en>) .

This Convention **written** set the **duration** during which the parties undertake to find a solution **friendly** to the dispute.

She clarifies **the subject matter of the dispute**, the documents and information necessary for its resolution and the rules for their exchange.

What is the cost of the participatory procedure? ^

The cost varies depending on the fees of **lawyers**.

Fees are **shared** between the parties.

How does the participatory process end? ^

The participatory procedure may succeed or fail.

The parties shall reach an agreement

Where the participatory procedure allows the employee and the employer to **to settle the dispute**, they shall conclude a **agreement** with the assistance of their lawyers (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2153?lang=en>) respectively.

This agreement **summary** the matters resolved in the course of that procedure.

In order to be valid, the agreement must determine the points of law on which the parties wish to limit the debate (remuneration, overtime, for example)

The agreement may be **approved** by the labor council (CPH)

(<https://www.service-public.gouv.fr/particuliers/vosdroits/F23603?lang=en>) with the agreement of the employee and the employer. In order to obtain approval, the CPH must be entered. However, the CPH **may refuse to approve** the agreement. However, it cannot change its content.

The approval of the agreement gives it enforceability. This means that if one of the parties fails to comply with its commitments, the other party may ask for their enforcement.

Please note

The **refusal** of approval by the CPH deprives the agreement of the **enforceability**, but he **don't cancel** the agreement.

There is no agreement between the parties

If the participatory procedure does not **does not allow** to resolve the dispute, the employee or employer can then seize the Labor Council (CPH) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) .

The prud'homale procedure (<https://www.service-public.gouv.fr/particuliers/vosdroits/F1052?lang=en>) shall apply in **usual conditions** (conciliation and guidance phase and, if necessary, judgment of the case).

Transaction

What is the transaction? ^

Transaction is a **agreement** between an employee and his employer who **fine-minded** to a dispute **without waiting for a judgment**. It involves **reciprocal concessions**.

It shall be established in the form of a **contract**, often called **transactional protocol**, drafted **in writing** and **signed** by the employer and the employee.

The assistance of the parties (by a lawyer (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2153?lang=en>) , in particular) during the negotiation **optional**, but it is preferable to ensure the validity of the signed transaction.

What are the terms of the transaction? ^

The contents of the transaction are **freely negotiated** by the employee and the employer. However, it must nevertheless meet the following conditions:

- Respect the **general terms and conditions for the validity of contracts** (lawful cause, free and informed consent of the parties, capacity to contract)

- Show a **conflict** between the parties
- Plan and mention the **concessions reciprocal** (e.g. payment of compensation for the employee's undertaking not to refer the matter to the labor board).

If the parties are represented by counsel, counsel shall intervene during the **negotiation**, then on the occasion of the **writing** transaction protocol.

The transaction can be completed **before a procedure** judicial (labor or appeal) or **during** this procedure.

If one of the parties considers that the transaction concluded is **not valid**, it may apply to the court for its decision **cancellation**.

Warning

If the conflict concerns the breach of contract of employment (<https://www.service-public.gouv.fr/particuliers/vosdroits/F10033?lang=en>), the transaction cannot be completed **only after** the date of termination of the contract.

What is the cost of a transaction? ^

The cost varies depending on the fees of **lawyers**, if the parties decide to use it.

Fees are **shared** between the parties.

What happens at the end of the transaction? ^

The transaction may succeed or fail.

The parties shall reach an agreement

When the transaction is **validly** in conclusion, the employer and the employee cannot **no more challenging** the conditions of performance of the contract or the conditions under which it is terminated.

After signing the transaction, it **it's no longer possible to contest** its contents in court.

However, a recourse to the Labor Council (CPH) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>) remains possible if the conditions that created the transaction can cause it to be canceled. It is also possible if the employee and/or employer do not comply with the obligations laid down in the transaction.

The employer and the employee may apply to the CPH **d' the transaction.**

The CPH **cannot modify** the contents of the transaction. He can **refuse** to approve the transaction if he considers that the agreement signed between the employer and the employee **disadvantage** one of the 2 parts.

Example :

The CPH may cancel the transaction if the transaction provides that a dismissed employee will receive less than the amount of severance pay to which he or she may be entitled.

The approval of the transaction gives it enforceability. Thus, if one of the parties fails to comply with its commitments, the other party may request its enforcement.

There is no agreement between the parties

If the transaction **does not allow** to resolve the dispute, the employer or the employee may then refer the matter to the labor council (CPH) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2360?lang=en>).

The prud'homale procedure (<https://www.service-public.gouv.fr/particuliers/vosdroits/F1052?lang=en>) shall apply under the usual conditions (conciliation and guidance phase and, if necessary, judgment of the case).

Who can help me?

Find who can answer your questions in your region

Statute and miscellaneous references



Labor Code: Article R1471 (https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000034742183?lang=en)

Conventional mediation and participatory procedure (general principles), transaction (certification)

Civil Code: Articles 1101 to 1111-1 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000032040792?lang=en>)

Transaction (validity conditions)

Civil Code: Articles 2044 to 2052 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000006118164?lang=en>)

Transaction (consequences)