



Berner Fachhochschule

Kompetenzzentrum Mediation und Konfliktmanagement

World Summit on Elder Mediation Comparing Interventions



Compared Interventions

- **Counseling**
- **Mediation**
- **Case Management**
- **Legal Representation**



Criteria for comparison

- **Reason for intervention**
- **Objective**
- **Understanding of function/role**
- **Methodological principals**
- **Depth of intervention**
- **Duration**



Counseling - Reason

- **One or more persons have to deal with a (clearly defined) problem.**
- **Clients are able to act on their own.**
- **Familiar problem-solving processes are not successful.**



Counseling - Objectives

- **Clarification of emotions and motives.**
- **Regaining capacity to act on one 's own.**
- **Activating personal resources or within one 's environment.**
- **Gaining insight and enlarging competency for decision-making.**



Counseling – Function/Role

Depending on counseling approach:

- **Expert for advice seekers**
- **Expert for process helping clients to release blockades and encouraging the development of their personal resources**
- **Mixed procedure**



Counseling – Methodological Principals

- **Direct communication with clients**

Depending on counseling approach

- **Exploration of self, facilitating insight**
- **Clarification of objective**
- **Transfer of information, advice**
- **Activation of resources or referral**
- **Active support**
- **Encouraging and enabling new behavior and actions**



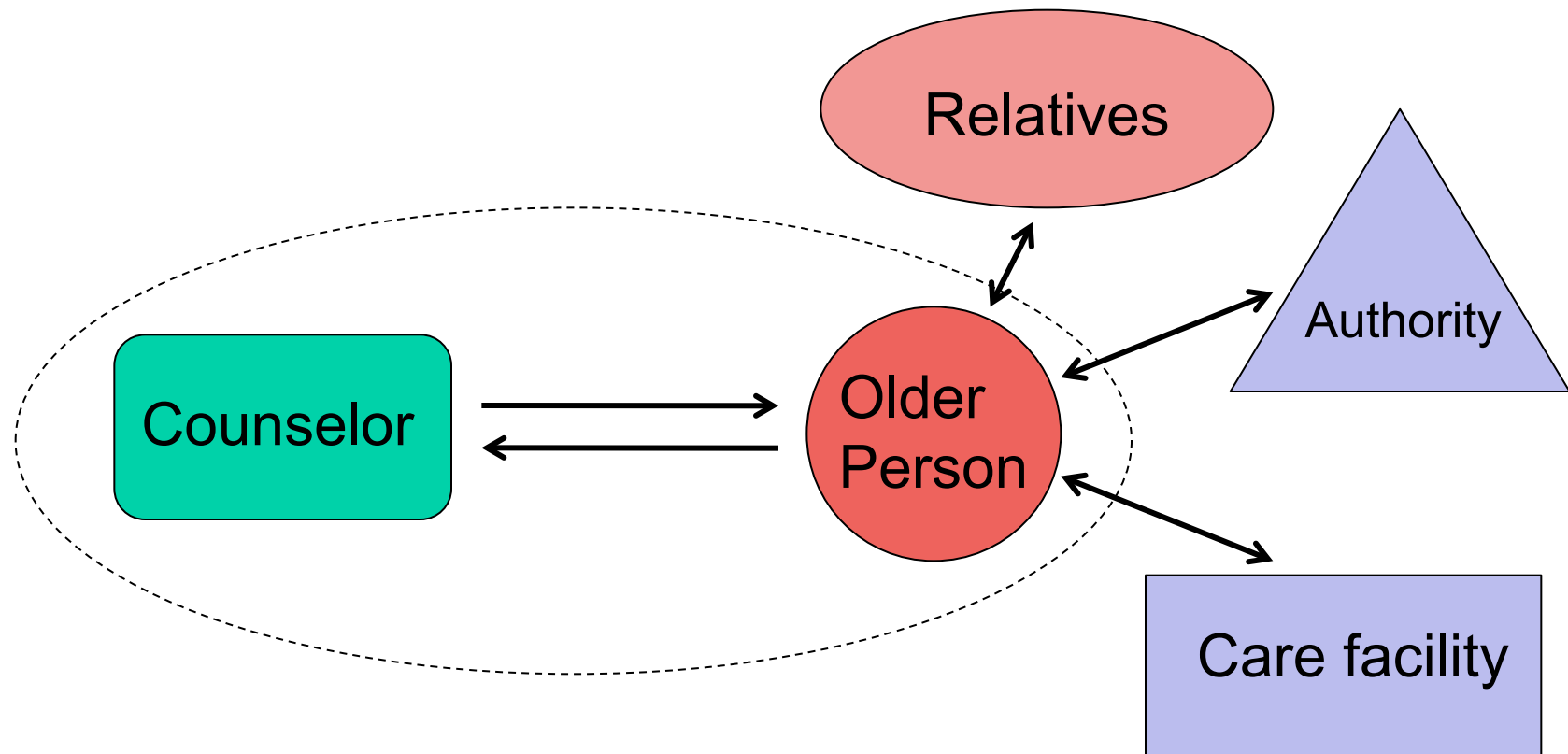
Counseling – Depth and Duration

Depending on approach

- **From laying out facts to exploring almost therapeutically emotions, motives, problem history and causes**
- **From few conversations to longer-lasting process**



Counseling System – Pattern of Interaction





Mediation - Reason

- **Several persons have a problem or a conflict.**
- **They are ready to find a solution based on mutual understanding.**
- **The problem is multi-dimensional.**
- **The parties are capable of negotiating.**
- **The interests of persons not present can be honored.**
- **No rigid power asymmetry.**



Mediation - Objectives

- **Self-determined, future-oriented problem/conflict resolution process**
- **Integration of needs, interests**
- **Protection of autonomy**
- **Mutual understanding, possibly reconciliation**
- **Experience of one 's own capacity to resolve conflicts and its reinforcement**
- **Binding agreement**
- **Fairness without a judge**
- **New understanding for dealing with conflicts**



Mediation – Function/Role

- **Mediator/leader of negotiation**
- **Mediator is responsible for process and creates space for constructive conversation**
- **Participants are responsible for determining contents, developing and evaluating resolution options and for decision**



Mediation – Methodological Principals

- **Mediation agreement to clarify mandate, roles and rules: Voluntary process, no obligation to agree, confidentiality, etc.**
- **Respektfull communication**
- **Change of perspective: Elaborating what is important to each participant and why**
- **Emotions as key to clarify expectations and needs**
- **Creative expansion of possibilities**
- **Integrative negotiation: win-win-strategy**

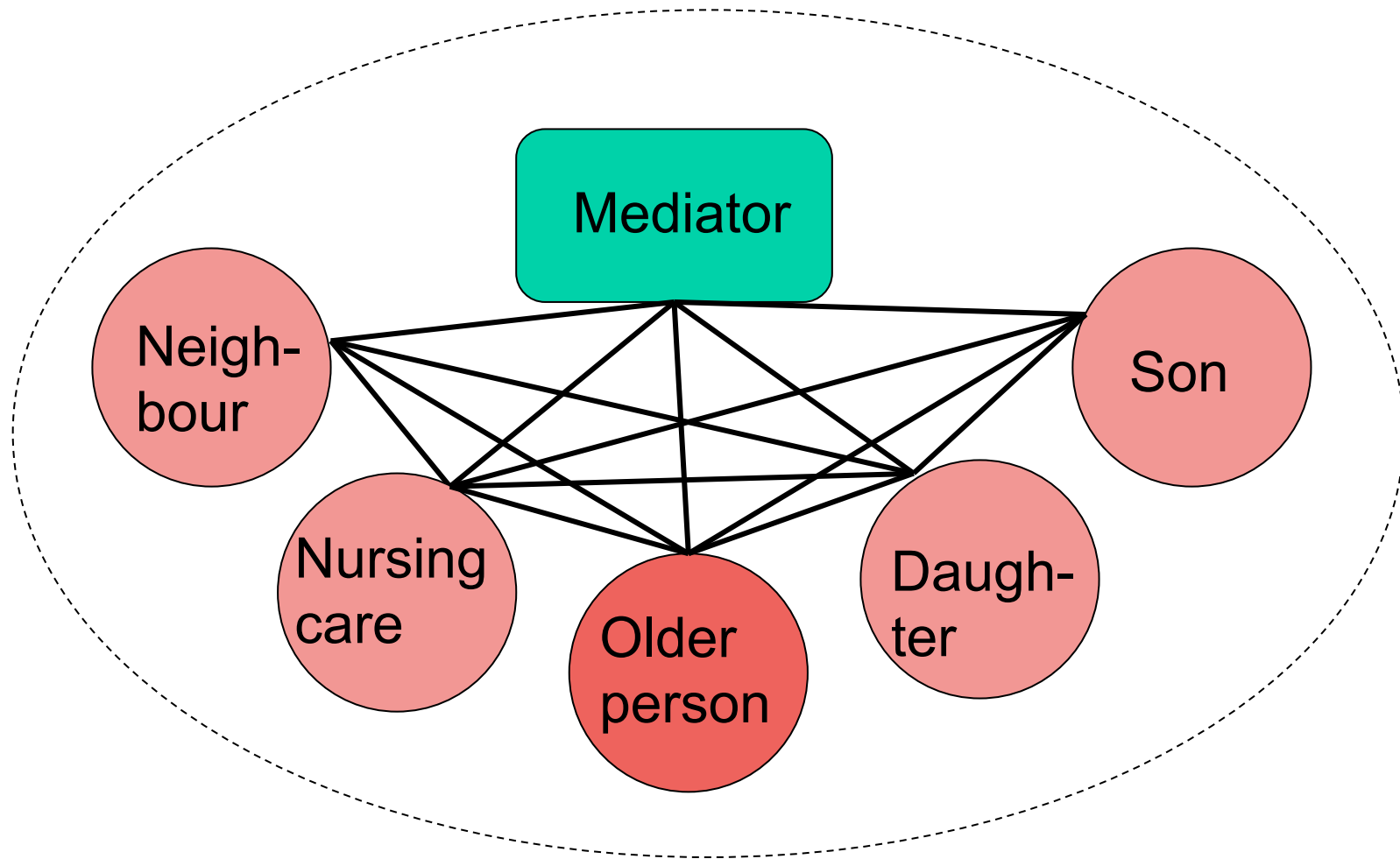


Mediation – Depth and Duration

- **What matters is the cause and the relationship.**
- **Depending on the approach and one's wishes regarding the clarification of the relationship and emotions, the intervention goes more or less deep.**
- **From short mediations (one conversation) to several conversations (more than six are rather rare).**



Mediation system – Pattern of Interactions





Case Management - Reason

- **Multiple problems, concerning multiple areas of life**
- **Many actors, needing cooperation**
- **Doubling of efforts, undesirable or lacking care**
- **Insufficient self-organization of client- and/or helper-system**
- **Insufficient use or over-use of resources**



Case Management - Objectives

- **Best possible care, based on life experience of clients**
- **Efficient (regarding costs) and effective (regarding objectives)**
- **Depending on needs coordinated coupling of professional services and informal support**
- **Empowerment of participants**
- **Sustainably functioning support network**



Case Management – Function/Role

- **One designated person for all concerns**
- **Continued case responsibility**
- **„Gatekeeper“: Clarifies needs and access to services**
- **„Broker“: Refers to appropriate services**
- **„Advocacy“: Safeguards client’s interests**
- **„Support“: Actively assists**



Case Management – Methodological Principals

- **Communication process to**
 - **assess situation and need**
 - **plan objective and course of action**
 - **refer and coordinate services**
 - **watch over process**
 - **evaluate**
- **Guided by life's circumstances and experience**
- **Economical criteria**

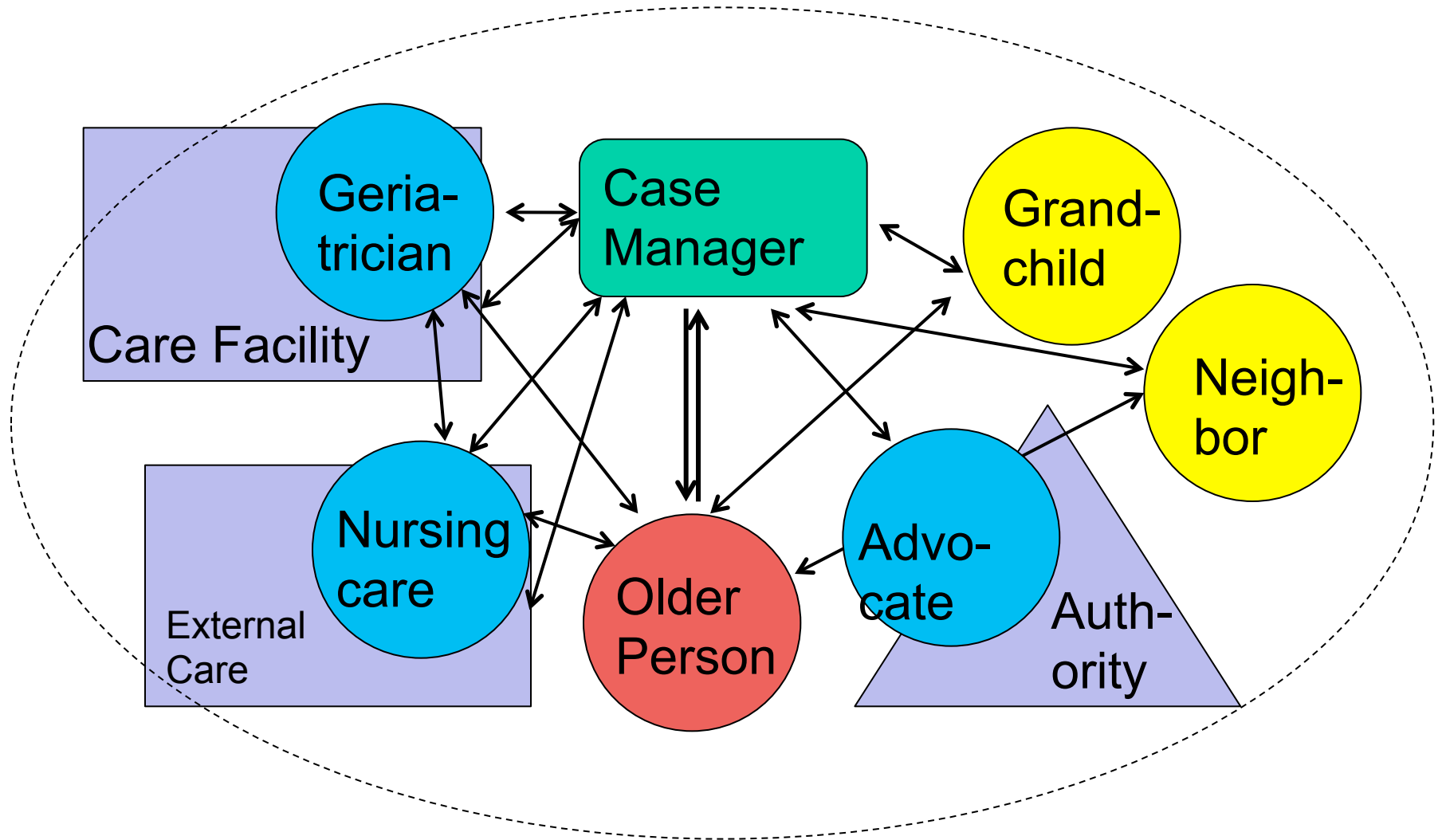


Case Management – Depth and Duration

- Depending on approach primarily oriented on
 - Functioning of the service system
 - Clients ‘ needs
- Depending on service provider ‘s scope
 - comprehensive (all of life ‘s aspects)
 - restricted
- Duration limited, in the frame of 6 months to 2 years



Case Management-System – Pattern of Interactions





Legal Representation - Reason

- **One or more persons have an actionable demand (to be decided through the law/ courts)**
- **They cannot or do not want to follow up with their demand through direct communication or via mediation.**



Legal Representation - Objective

- **Clarification of the matter and of the demands**
- **Succeed in having demands met**
- **Decision regarding the dispute**



Legal Representation – Function/ Role

- **Legal expert**
- **Support regarding legal questions**
- **Representative of client**
- **Representing client 's interests**



Legal Representation – Methodological Principals

- **Direct communication with clients**
- **Systematic clarification of legal facts, demands, chances for winning, of adequate means**
- **Confrontation or mediative process in regards to defendant**
- **Most of the times win-loose strategy**
- **Complaint before the courts and representation of clients during court proceedings**

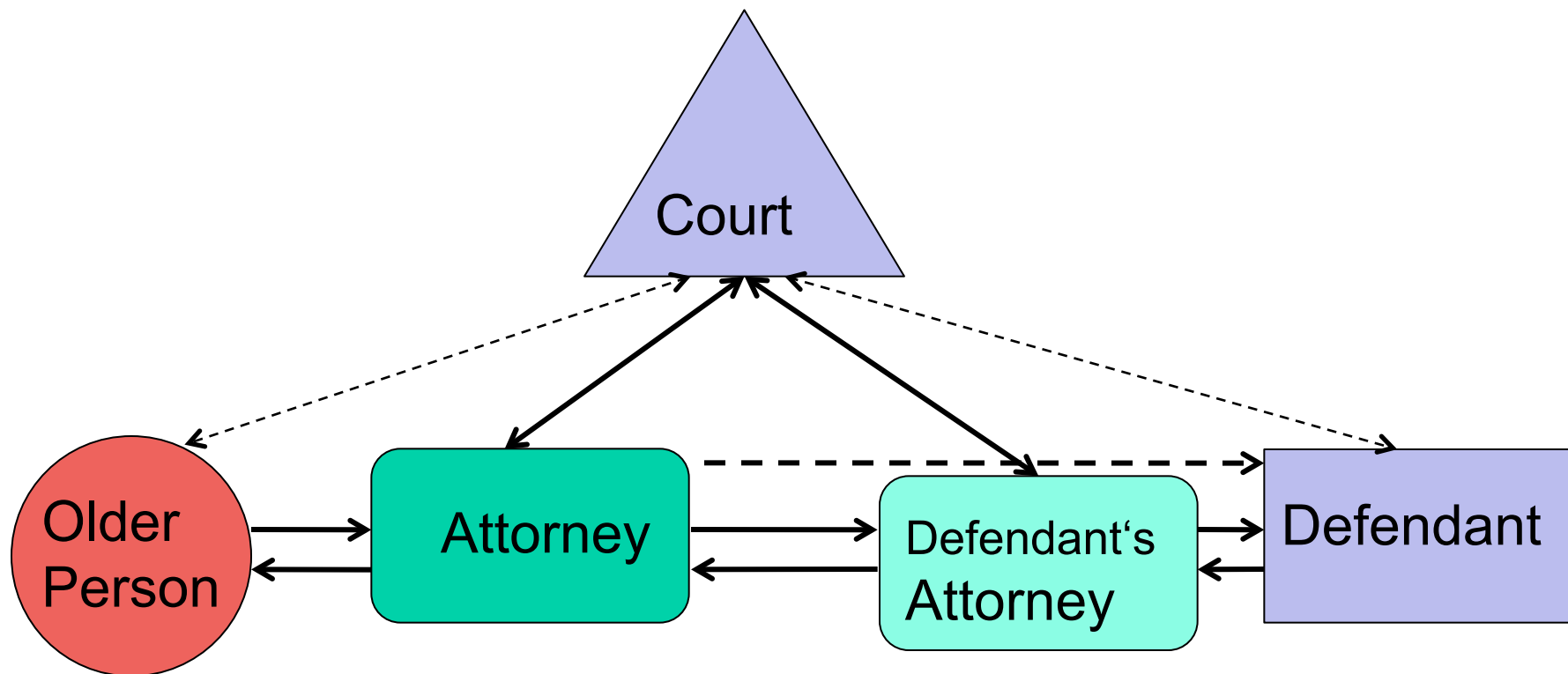


Legal Representation – Depth and Duration

- **Narrowing the problem down to legal relevance**
- **Time: Very varied duration depending on issue, available means, defendant's reaction and given time frames**



Legal Representation – Pattern of Interaction





Questions Guiding the Decision-making Process

- **Are the persons in a position to act and negotiate on their own behalf?**
- **Which intervention allows for the highest amount of personal autonomy?**
- **How much protection and assistance is necessary?**
- **What importance do legal questions have?**
- **Which intervention allows for reinforcing important personal relations?**