



Glossary of Mediation terms

A small guide to key-words commonly used in
the field of mediation in cross-border civil and
succession matters

A

Alternative Dispute Resolution (ADR)

Commonly used to refer to a variety of alternatives to litigation, wherein a neutral party assists the disputing parties, includes a full range of dispute resolution processes between direct negotiation and litigation.

B

BATNA

In negotiation theory, the best alternative to a negotiated agreement or BATNA is the most advantageous alternative course of action a party can take if negotiations fail and an agreement cannot be reached.

C

Caucus

Also known as private meeting. A private session with any one party in which the mediator explores ways of resolving the dispute.

Cross-border mediation

Mediation between parties living or operating in two different countries, which changes the mediation process in terms of logistic, procedural and legal aspects. Cross-border mediation can have (or not) an intercultural element when the parties come from different cultures, which introduces an element of cultural and language differences.

Cultural differences

A set of differences between nations manifesting (mainly) in a language eg: a way of communication (directly or through context), expression of emotions, approach to time, group and hierarchy (power).

D

E

Early Neutral Evaluation

The use of a neutral to give his opinion on a matter often of the potential outcome of the dispute.

F

Facilitation

It is a process in which the parties with the assistance of a dispute resolution practitioner (the facilitator), identify problems to be solved, tasks to be accomplished or disputed issues to be resolved.

G

H

I

Impartiality

The mediator's attitude, which in mediation process takes care of the structure and supports the negotiation process - helps the parties name their needs or interests and supports the search for solutions based on them.

J

Judicial dispute resolution (Judicial ADR)

Used as a collective term for a range of dispute resolution processes, which are conducted by judges or magistrates

K

L

M

Med-Arb (Mediation-Arbitration)

A dispute resolution process whereby a neutral first attempts to mediate the dispute but, if mediation is unsuccessful in whole or in part, the remainder of the dispute is arbitrated upon by the same or a different person.

Mediation

A without prejudice non-binding dispute resolution process in which an independent third party (“neutral”) assists the parties to settle their differences but does not advise them of his own opinion as to the issues and merits of the dispute.

Mediation phases

- 1.Introduction: description of the situation, gathering the information, framing the process;
- 2.Issues identifications;
- 3.Needs and interests identification, building the mutual understanding;
- 4.Generating options;
- 5.Agreement.

N

Negotiation

The process of working out an agreement by direct communication.

Neutral

Independent third party who acts as mediator, conciliator or chairman in various ADR procedures

O

Online Dispute Resolution (ODR)

ODR stands for alternative dispute resolution procedures in which communication takes place primarily online - for example via e-mail, chat or Internet video conference. Often an ODR institution is called in, which organizes the procedure and in particular provides a neutral person - such as a mediator.

Ombudsman

Usually an independent person whose

role is to deal with complaints by the public against administrative (and, in some countries, corporate) injustice and maladministration, with the power to investigate, criticize and publish reports on his findings. He will normally have some power to recommend the payment of compensation.

P

Q

R

Reframing

Changing the conceptual and emotional viewpoint in relation to a former experience and placing it in a different skeleton for the participants to see the point more clearly, differently or more positively.

S

T

U

V

W

X

Y

Z