

Mediation in International Disputes – Faster, cheaper, better?

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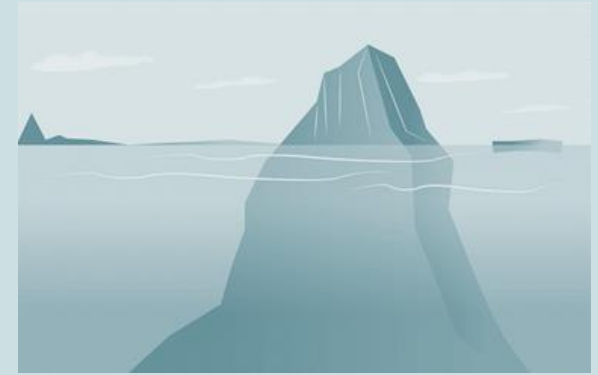
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“Mediation is a flexible process conducted confidentially in which a neutral person actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.” (CEDR)

There are a wide range of different ADR processes

- Is mediation the leading ADR process? Why and when?

- **Commonly listed benefits of mediation:**
 - Fast, cost-effective, flexible, user-friendly
 - Focus on the future
 - Provides a platform for the parties to express their views
 - Restores communication between the parties
 - Provides a process for negotiation
- **The important role of the mediator; the mediator helps the parties to**
 - clarify their interests, positions and needs
 - overcome barriers to effective negotiation
 - find an amicable solution by facilitating discussions, exchange of information, and negotiations between the parties
- **Mediation v. arbitration: When is mediation more efficient than arbitration?**
- **Mediation → arbitration: Can a prior mediation process benefit the arbitration proceeding?**
- **The role of the dispute resolution clause referring to mediation**
- **What is a good case for mediation?**



Mediation in Finland (1)

Types of mediation	Notes
Court Mediation in Civil Disputes	<ul style="list-style-type: none">• Mediation Act implemented the major harmonization measures of the EU's Mediation Directive• Court mediation is conducted by a judge in the court where the matter is pending• 2206 cases in 2018; the number of cases varies in different courts
Mediation in criminal and civil cases	<ul style="list-style-type: none">• Responsibility of the Ministry of Social Affairs and the National Institute for Health and Welfare; services are available in mediation offices• A non-chargeable service in which a crime suspect and the victim of that crime are provided the opportunity to meet confidentially through an independent mediator to discuss and, on their own initiative, to agree on measures to redress the harm; mediation may also be used in civil cases in which at least one of the parties is a natural person and the dispute is of minor nature• Typical cases: property crimes, criminal damage cases and assaults• Mediations are conducted by voluntary mediators• 15 526 cases in 2018
Mediation in labour disputes	<ul style="list-style-type: none">• The Act on Mediation in Labour Disputes• The National Conciliator acts as a mediator in labour disputes and promotes the relationship between the employers and wage earner; helps social partners to seek solutions in labour disputes that threaten industrial peace• 20 labour disputes in 2018

Mediation in Finland (2)

Types of mediation	Notes
Mediation Rules of the Finnish Bar Association	<ul style="list-style-type: none">• One of the first Bar Associations in the world to adopt mediation as part of its areas of concentration• Mediation Board of the FBA may propose mediators for a mediation if requested by the parties• No statistics available on the total number of mediations
Mediation Rules of the Finland Chamber of Commerce	<ul style="list-style-type: none">• Mediation Rules available as of June 2016• The Arbitration Institute of the Finland Chamber of Commerce (FAI) administers mediations under the Mediation Rules• The FAI has received only one request for mediation so far
Ad hoc mediation in commercial disputes	<ul style="list-style-type: none">• The parties normally agree on the appointment of a mediator without the assistance of the FBA's Mediator Board or the FAI• The use of mediation as a method for resolving commercial disputes is still limited• No comprehensive statistics available; our understanding is that there are only a relatively small number of commercial mediation cases annually
Peace Mediation	<ul style="list-style-type: none">• Peace mediation is an important part of Finland's foreign and security policy• Finland has been, for a long time, well known and recognized worldwide for conflict and peace settlement efforts.• Nobel Peace laureate, former President of Finland Martti Ahtisaari / The Crisis Management Initiative (CMI)
Singapore Convention	<ul style="list-style-type: none">• Finland has not signed the Singapore Convention

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