

Kluwer Mediation Blog

Dispute Resolution of a New Generation*

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As the world of business develops at an unprecedented pace, we all are constantly facing new challenging situations which we must rapidly understand, find new solutions to and, in some cases, adapt ourselves to. A global net of co-operations, business opportunities, market resources and novel technologies has inevitable spanned across our world of business.

Along with any innovation and development comes a new challenge and with that a new method to deal with it. Unsurprisingly, the segment of dispute resolution is no different from the others and also needs to rapidly adapt to the fast paced developments in the world of international commerce. Globalized, multicultural and highly complex trade marks the 21st century and the world-wide cooperations of businesses, governments and individuals connects us like never before – in good times and in bad times. Because with the benefits of a global economy, our global family, comes the challenge of times when this global family does not work together in harmony.

Alternative Dispute Resolution (ADR) mechanisms such as Arbitration have long been the main source of relief for international commercial “family affairs”. In reaction to the ever increasing challenge of international interconnectedness, a new trend has developed along with the success story of ADR over the past years, proving its effectiveness to facilitate the navigation of our new interconnected world: Consensual Dispute Resolution (CDR).

CDR is the field that covers the scope of party-autonomous methods of dispute resolution, such as collaborative law, mediation and negotiation. The increased demand for these highly independent and self-directed ways to resolve a dispute introduces a new era of dispute management and with it new challenges and demands to counsel and managers. Consensual Dispute Resolution allows parties to take full action, full control and full responsibility for their case, leaving aside law and contracts. No third person can force parties into any kind of solution. Put pointedly: law does not (need to) control the outcome in CDR processes.

Research already shows that parties who chose CDR processes and autonomously enter into a settlement are far more likely to abide by this agreement, and far more likely to move forward with their post-dispute “global family live” in a productive way, compared to those individuals whose solution is imposed on them by a judge’s decision.

After years of litigation reigning the world of dispute resolution, mediation and negotiation are becoming ever more demanded and this, no doubt, affects the requirement for specialized training and practice in numerous ways. In order to follow this new “legal” trend, training (“re-training”) is inevitable to those wishing to keep up with the emerging tendencies and to satisfy current or future

client's needs. Traditional layering skills do little good in CDR processes and a sound education in mediation and negotiation skills is crucial for the successful use of these methods. Education in many US-Universities already shows: A new generation of professionals is ready to face the challenges of our new business environments and starts to prepare for a new generation of dispute resolution.

This year's launch of a [Consensual Dispute Resolution Competition Vienna](#) is a clear sign of the long-term significance of this new trend. The CDRC Vienna is a new educational competition especially focusing on the fields of mediation and negotiation. With such renowned institutions as the International Bar Association (IBA), the Vienna International Arbitral Centre (VIAC) and the European Law Students' Association Austria (ELSA) joining forces to support this innovative and forward-looking initiative, which allows students and young professionals to engage in challenging trainings and competitions to help them hone and train their mediation and negotiation skills, we see a clear indication that the field of Consensual Dispute Resolution may be constituting more than "just another trend" for the challenges and changes of our global family.

(*) Article written in cooperation with Claudia Winkler, CDRC Director and an expert in Consensual Dispute Resolution

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