

# Kluwer Mediation Blog

## A closer look into separate sessions

Constantin-Adi Gavrilă (ADR Center Romania) · Sunday, May 20th, 2012

One of the advantages of using mediation to achieve negotiated solutions is Parties' possibility to separately communicate with the mediator within what it is called separate sessions or caucus.

The differences of perception, the emotions and feelings determined by the ego, the stubbornness or the personality of Parties involved in a conflict are examples of factors that can cause the failure of a negotiation. These factors are many of them and very different as well, but what they do have in common is the capacity of blocking/stopping communication between Parties which is this kind of situations can be safely taken over by a mediator, who is the third neutral party.

Separate sessions represent a controversial concept in the mediation field because if some of the mediators accredit the idea that they represent a procedural stage of the mediation process, some others reject even the idea of using them as technique. The confidentiality rules, the conveyance or non conveyance of information from one Party to the other, the risks of using separate sessions but also their advantages have an unequal application among mediators.

Personally, I am a mediator who tries to approach a unique style both regarding the involvement in the process organization and the achievement of the mediation agreement. In other words, my philosophy connected with mediation is subordinated at the same time to basic principles of mediation, to my own values and to Parties' self-determination.

As result, I cannot say I strictly approach one style or the other or that I usually use or do not use separate sessions. What I can say instead is that for me separate sessions are an open option, a handy technique for the mediator who sometimes, under certain circumstances, if righteously used, can be extremely efficient in achieving an agreement.

Further on, I have chosen to itemize a few important questions connected to the subject. Each answer we provide can influence our own perspective on this subject.

1. Why do we use separate sessions in the first place?
2. When do we use them?
3. Who can have the initiative?
4. Are separate sessions a procedural stage or a mediation technique?
5. What are the advantages of using separate sessions?
6. What are the risks?
7. What are the applicable rules within separate sessions?
8. Do we just deliver offers and requests from one Party to the other?

9. When do we take Parties back into joint session?

10. So, what are the most important lessons we have learned from our practice?

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The graphic features a dark background with white text and a circular icon. The icon depicts a group of stylized human figures, with one figure in the center being magnified by a magnifying glass. The background is accented with horizontal lines in blue and green.

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