

Kluwer Mediation Blog

The European Company Law Special Issue On Mediation And Company Disputes

Valentina Allotti (Assonime, the Association of Italian Joint Stock Companies) · Friday, March 31st, 2017

The European Company Law Special Issue on mediation and corporate disputes focuses on the law and practice of mediation for corporate disputes in different European countries (Austria, Belgium, France, Germany, Italy, The Netherlands, Spain and the UK).

Contributors are both academics and experienced practitioners active in the field of mediation. They are:

- for Austria: Christian Aschauer (Professor of Austrian arbitration law and international arbitration at the University of Graz and Independent Arbitrator based in Vienna) and Alice Fremuth-Wolf (Deputy Secretary General of the Vienna International Arbitral Centre – VIAC- and qualified mediator);
- for Belgium: Guy Horsmans (Emeritus Professor UCL; Lawyer at the Brussels Bar – DCH Association; Chairman of the Belgian Centre of Company Law);
- for France: Priscille Pedone (Castaldi & Partners) and Thierry Thierry Bonnet (ANCEO Cabinet d'avocet);
- for Germany: Prof. Dr. Ulla Gläßer, LL.M. UC Berkeley (Academic Director of the Master's Program in Mediation and Conflict Management, European University Viadrina Frankfurt (Oder), practicing business mediator);
- for Italy: Monica De Rita (General Director of the Chamber of Arbitration of the Chamber of Commerce of Rome);
- for The Netherlands: Martin Brink (attorney at law and mediator with Van Benthem & Keulen, Utrecht, the Netherlands);
- for Spain: Javier Fernández-Samaniego (CEDR Accredited Mediator / CPR Panel's Neutral); Elena Gutiérrez García de Cortázar (Abogada, Árbitro Ex Secretaria General Corte de Arbitraje de Madrid); Lorenzo Prats Albentosa (Catedrático Private Law Department. AUTONOMOUS University of Barcelona); Nazareth Romero (Professor ADR Univ. UDIMA. ADR Italy: International Mediator. Insolvency Mediator and CEMED); Tomás Vilatoro (Mediator, Insolvency Mediator and CEMED); and
- for the UK: Jane Player (International Mediator, Former Partner and head of disputes at King & Spalding LLP, Bird & Bird and DLA).

Each contribution firstly outlines the national legal framework on mediation describing its main characteristics (the model adopted, if facilitative or evaluative; differences between institutional

and ad hoc mediation; if mediation is mandatory for certain disputes; if courts may refer parties to mediation; the main characteristics of the mediation process; and so on), and providing information on the practice and effective use of the instrument. A common element is the influence of the EU Mediation Directive adopted in 2008 and aimed at facilitating access to alternative dispute resolution.

Secondly, the authors address the specific issue of mediation in corporate disputes. They describe what are considered to be corporate disputes (internal disputes and external disputes), if mediation is actually used, what kind of companies use mediation, if bankruptcy issues may be referred to mediation, and so on). As suggested by national experiences, companies are more and more aware of the importance of dispute settlement measures and of the potential of mediation and other ADR tools, with reference both to external disputes (with other companies and with consumers as well), and to internal corporate disputes, like those involving shareholders, directors, officers, and also workers. However, there is still room for improvement and for increasing the use of mediation, and ADR in general, for the solution of corporate disputes.

The ECL Special Issue on mediation and corporate disputes will be published in April 2017 and will be presented at a conference on mediation due to be held in Rome next autumn.

More information about European Company Law (ECL) can be found [here](#).

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