
Kluwer Mediation Blog

Confusions between good mediation skills and legal knowledge

Constantin-Adi Gavrilă (ADR Center Romania) · Friday, May 12th, 2017

Speaking recently with a lawyer friend about the way that mediation is impacting the traditional justice mechanisms, I was happy to observe more openness towards ADR than the usual “allergy to it”, yet the honest reply included “[...] *unfortunately, not only lawyers can provide mediation services, and this will hurt the quality*”. Of course, this has prompted a discussion about good mediation skills and what a good mediator is really supposed to do.

I observed that my friend’s perception about the role of the mediator is fundamentally related to legal knowledge and advice. According to this perception, a mediation can only be good if the mediator knows the law, and is experienced with the practice of legal profession. This would allow an honest legal opinion and ideas that may help the parties to move forward. It is without doubt that otherwise, a good mediator wouldn’t have much to offer, according to my lawyer friend.

We had a nice chat about the fact that mediation and the mediators have so much more to offer, and that the mediator’s ability to weigh the facts according to the law is not what good mediators are bringing in the mediation room to support the parties and their conversations. If the mediators do have this kind of legal expertise, it is difficult to provide advice on the law, even when asked, and to remain impartial, moreover if the parties are assisted by their legal advisors who are specifically mandated to provide legal advice.

Therefore, we have discussed and agreed that a good mediator needs a different set of skills to create a safe space for a conversation where parties can understand and explore issues and options in a way that is beneficial to everyone. This understanding doesn’t come natural, at least in some cultures, and needs to be supported through education and practice.

This post is not about the knowledge and skills necessary for a competent mediator, it is rather about the dimension to the confusion between good mediation skills and legal knowledge in different places around the world, and about how can it be addressed more effectively. A sustainable implementation of mediation in different cultures depends on the basic understanding of what mediation really is, and before raising the level too much, the DR field may want to keep it simple and clarify the basic assumptions about our field.


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The graphic features a black background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The background is accented with horizontal lines in blue and green.

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