OFFICE OF THE OMBUDSMAN
FOR UNITED NATIONS
FUNDS AND PROGRAMMES

WORKING TOGETHER TO FIND SOLUTIONS

Mediating Around the World

MediationNewsletter | **End of Year Edition** | **October-December 2021**

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End of Year Message

As we come to the end of our first year of publishing this newsletter, we would like, on behalf of the Mediation Unit of the Office of the Ombudsman and the entire Office, to take a few moments to thank the many people whose efforts have made this year a success. First, we would like to thank our visitors— all the personnel of UNICEF, UNDP, UNOPS, UNFPA, and UN Women—who have trusted their most difficult workplace conflicts to us and have given us the opportunity to support them with mediation services. We would also like to thank the funds and programmes that have continuously supported us in our mediation efforts, including by committing, in common, to a mediation pledge that requires them to consider the possibility of mediation in any dispute.

Second, we would like to thank the mediators of the Global Mediation Panel and the Board members of the International Advisory Board, all of whom have dedicated themselves to the hard work of making the UN funds and programmes a safe, healthy, successful, and fulfilling place to work.

We at the UN have all made our way through a second grueling year of pandemic. But we have accomplished a lot, ranging from maintaining our high mediation satisfaction rate, to developing exciting new projects. Importantly, we have met the continued steep rise of mediation requests with unflagging efforts.

Finally, we would like to thank those who have made the “Mediating Around the World” newsletter possible: our staff, interns, consultants, contributors, editorial team, and designer.



Mediation Highlights 2021

154
Mediation requests

Over **340%** increase compared to the last year

95
Registrations for intake calls with the Mediation Unit to assess suitability of mediation

45
Conducted mediation cases

92%
of users recommend mediation regardless of the outcome

level of satisfaction
4.4/5

94%
success rate

4.6/5
would use the same mediator again for a future dispute, if any

In 90% of cases

mediation takes less than **16 hours**, i.e., 1-4 mediation sessions are sufficient to find a resolution.

Breakdown of categories of cases



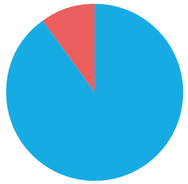
- Evaluative relationships (52%)
- Job and career (23%)
- Peer and colleagues' relationships (16%)
- Compensation and benefits (5%)
- Legal, regulatory, financial and compliance (5%)

Mediations by agency



- UNICEF (50%)
- UNDP (26%)
- UN Women (9%)
- UNOPS (9%)
- UNPA (4%)
- Other (2%)

Mediation by category of staff



- Staff members (90%)
- Non-staff members (10%)

★ ★ ★ ★ ★

Testimonials

Anonymous accolades or comments from those who have been a party to a mediation.

I thank the mediators involved in the process and praise them for their competency, specially [X]. I was patiently heard in a delicate moment when I was feeling extreme vulnerable. They were super respectful and conducted the process in the most diligent way possible. The session was conducted with a high level of professionalism.

This is the first experience I have with mediators and really grateful to have been guided through the process by them.

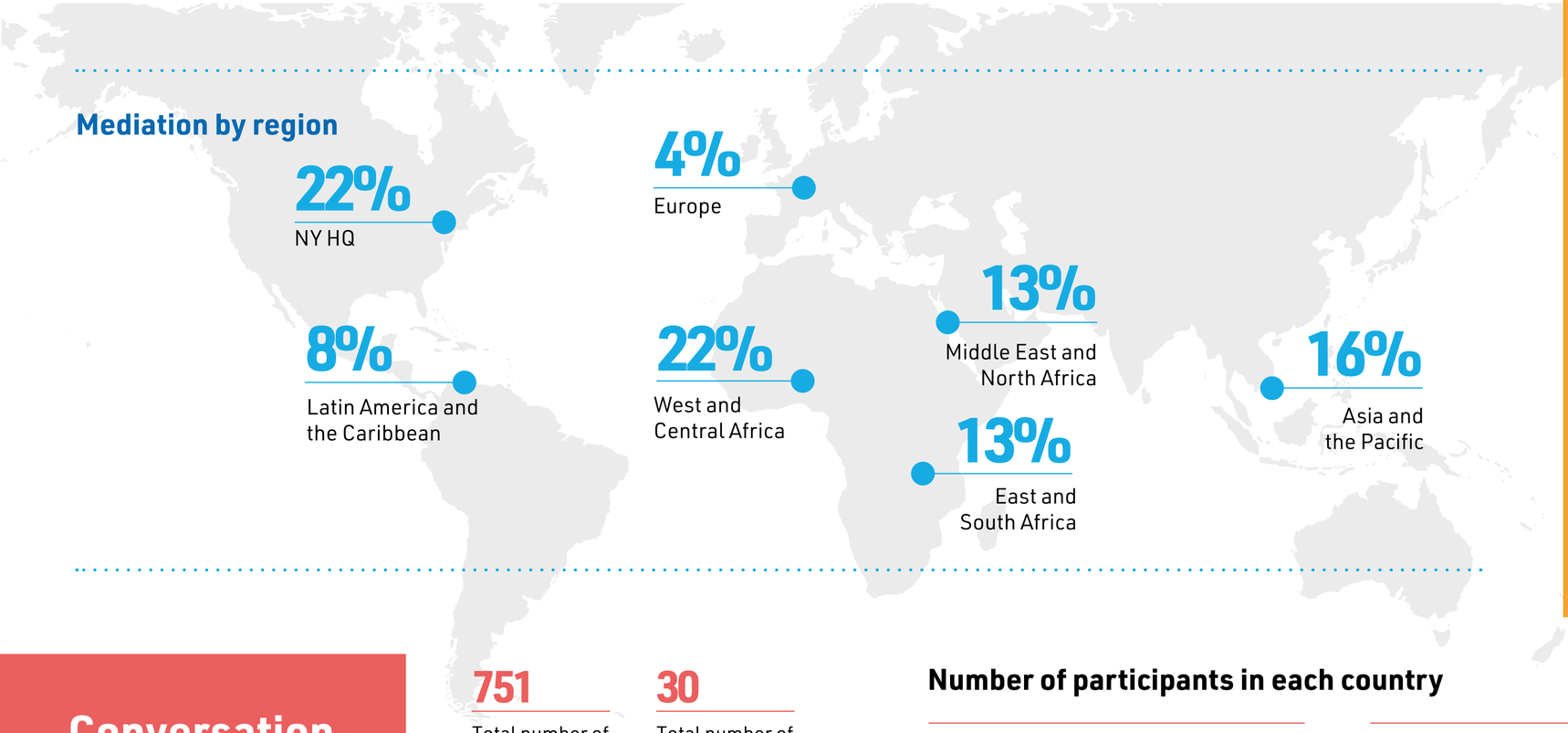
The process was managed very well.

Great experience, well facilitated.

Mediators were very nice , helpful and supportive.

The process help me with information and skills on how to relate to my supervisor which made to take charge of what I can control.

Mediation by region



Testimonials Continued

X was an excellent mediator as he listened to me and gave me a chance to talk about my distressing and humiliating experience. He did his best.

I thank the mediators involved in the process and praise them for their competency. I was patiently heard in a delicate moment when I was feeling extreme vulnerable. They were super respectful and conducted the process in the most diligent way possible. The session was conducted with a high level of professionalism.

Conversation with the mediator

751
Total number of participants

30
Total number of countries

85
Number of registrations for intake

31
Number of intakes done

Average of the usefulness of the programme

8.34/10

Average of colleagues that would attend future training sessions

8.53/10

Number of participants in each country

Argentina	64
Brazil	73
Croatia, Bosnia, Montenegro, North Macedonia and Serbia	40
Denmark	81
DRC	0
Ethiopia	24
Honduras	22
Hungary	17
India	23
Indonesia	50
Jordan	67
Kenya	3
Lebanon and Egypt	64
Madagascar	2
Mexico	55
Mozambique	0
Nigeria	91
Senegal	13
Switzerland	5
Syria	9
Thailand	14
Turkey	24
Uganda	3
Uzbekistan	7

Plans for next year

Next year, the Mediation Unit will continue offering the "Conversation with the Mediator" program, where participants will have an opportunity to participate in the mediation training, as well as to register for a one-on-one session with one of our mediators, should they wish to discuss their workplace concerns in a confidential setting. In 2022, the Mediation Unit will target over 32 countries, of which, circumstances permitted, some will be held in person. **Stay tuned!**

Global Mediation Panel

46
Total number of countries

67+
Mediators around the world

31
Number of mediators engaged in mediation activities



LATIN AMERICA AND THE CARIBBEAN
Chile
Jamaica
Argentina
Brazil
Peru
Brazil
Mexico
Ecuador

AFRICA
Cote d´Ivoire
Egypt
Kenya
Malawi
Nigeria
Rwanda
Senegal
South Africa
Tanzania
Uganda
Zambia

EUROPE
Albania
Azerbaijan
Belarus
Belgium
Denmark
Germany
Georgia
Greece
Hungary
Poland
Russia
Serbia
Spain
Switzerland
The Netherlands
Turkey
Ukraine

MIDDLE EAST
Egypt
Lebanon
Saudi Arabia
United Arab Emirates

ASIA
Bangladesh
Cambodia
China
India
Indonesia
Malaysia
Singapore
Thailand

OCEANIA
Australia

GMP quarterly meeting

Africa Regional Meeting online conference
23 June

Guest Speakers:
Kathryn Higgs (UNOPS Director Ethics and Compliance Office), Kong Leong Toh (UNOPS Senior Legal Advisor) and Elena Koltsaki and Joyce Alouch (International Advisory Board members)

Europe and Middle East Regional Meeting conference
22 September

Guest Speakers:
Patrick Voigt (UNICEF Chief Policy, Policy, Employee Relations, Compensation and Social Benefits), and Laila Ollapally and Nadja Alexander (International Advisory Board members)

Latin America and the Caribbean Regional Meeting conference
13 October

Guest Speakers:
Geoff Sharp and Jil Ahdab (International Advisory Board members)

Asia Regional Meeting conference
2 November

Guest Speakers:
Kate Harrington (UNDP General Counsel), and Simon Hannaford (UNDP Director Legal Office)

Training & Outreach

Mediation Training for UNDP HR Professionals

196
Number of registrations

118
Number of participants

Feedback

Very useful tips. Many thanks

Great session, thank you!

Very thankful for this excellent session.

This was really good session. I'm happy to join.

Thanks for a fantastic session!

This is excellent. Thank you for bringing us together and offering us this opportunity and all this knowledge.

This is being a fantastic session, I thank the organizers and for sure, everyone should know about the processes.

Global Webinars

Mediation as an Effective Way of Resolving Supervisee-Supervisor Conflicts

Date: November 11 and 17

Languages: Spanish (61 participants) and English (90 participants)

Arbitration:

Complexities of Formal Dispute Resolution Mechanism and Advantages of Informal Resolution: How Non Staff Personnel and Staff Supervisors Can Resolve Disputes Effectively

Date: 28 October

Language: English (38 participants)

Other webinars based on specific requests

"Mediation for HR Professionals" was facilitated to UNDP HR, to the UNDP HR team in Barbados Multi-Country Office and to the UNICEF South Asia Region.

We have also participated in the UNFPA Town Hall for Nigeria Country Office, explaining mediation and giving some techniques on how to have an effective communication.

"Conflict Management and Mediation for Supervisors" was facilitated to UNICEF Kenya Country Office.

Mediation training for UNFPA leadership team .

Speaking Opportunities

Conversation with the UNICEF DED-Management, Hannan Sulieman, on mediation and its benefits on May 4, with over 2,300 participants.

Presentation to UNDP Bolivia, in Spanish, together with the Investigations Office, as part of the awareness training session on Sexual Exploitation and Abuse and Sexual Harassment.

Presentation to the Young Women Peacebuilders program in the Arab States Region organized by UN Women.

In person meeting with the Austrian Ombudsman Office, which serves as the Secretariat of the International Ombudsman Institute to New York.

Presentation in Spanish to students at the University Abat Oliba CEU, from Barcelona, as part of the UN Model.

E-learning projects

Conversation with the UNICEF DED-Management, Hannan Sulieman, on mediation and its benefits on May 4, with over 2,300 participants.

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Newsletters - 4 editions



Inaugural Edition – January to March 2021



Second Edition – April to June 2021



Third Edition – July to September 2021



Fourth edition – October to December 2021

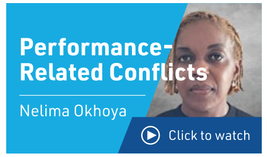
Interview project



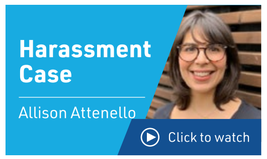
www.youtube.com/watch?v=EMxQMru8diQ



www.youtube.com/watch?v=C8Unwg1HAJw



www.youtube.com/watch?v=4gO2J_KUfFE



www.youtube.com/watch?v=j2ipOlLKxwY



The "Peace at work" project aims at producing series of short interviews with the Office of the Ombudsman's team, the Global Mediation Panel mediators and the Board Members, and other conflict resolution professionals with the goal to provide helpful insights regarding workplace mediation. The interviews are available to all personnel of the Funds and Programmes that the Office serves and can be viewed after the registration process on our website.

You can check out our three interviews with Nelima Okhoya, Ombudsman Specialist for Asia and the Pacific, on a COVID case, performance-related conflicts and Performance Improvement Plan, as well as those with the members of the Global Mediation Panel, such as with Gabriela Asmar on Mediation Techniques; Anna Doyle on the Overall Supervisor´s Role in Workplace Conflicts; Thomas Samso Bloch on the Best Interest of a Child in Mediation; Allison Attenelo on a Harassment Case; and Thomas and Allison on Mediation Techniques. More will be coming soon!

Arbitration project

As part of its efforts to improve ways of responding to grievances, the Office of the Ombudsman has established two lists – the Global Arbitration Counsel List and the Global Arbitrators List – that include highly experienced professionals who are available to work on disputes involving non-staff personnel on a pro-bono or reduced-fee basis. These lists are recommended for use by non-staff personnel and their UN organizations to assist them in finding qualified counsel and arbitrators in case of disputes between them. However, the Office of the Ombudsman will have no role in administering the arbitrations and has supported this project as part of its mandate to provide options to address workplace conflicts and encourage informal resolution mechanisms. Namely, all professionals who have joined the Global Arbitration Counsel List and the Global Arbitrators List have committed to a pro-mediation arbitration pledge requiring them to seriously consider mediation prior to proceeding with arbitration.

22

Number of arbitrators

34

Number of arbitration counsel

Countries covered

Arbitrators:	**Counsel:**
Barbados	Argentina
Belgium	Belgium
China	China
France	France
Germany	Korea
Indonesia	Luxemburg
Italy	Romania
Korea	Singapore
Mexico	Spain
Romania	The Netherlands
Singapore	UK
Switzerland	United Arab Emirates
UK	Uruguay
USA	USA

The Mediation Unit is preparing an arbitration brochure, which will be provided to disputing parties upon request.

Change is the only constant in today's world!



Sajid Ali
Officer in Charge,
Division of Human Resources,
UNICEF

We live in uncertain times, facing a pandemic that refuses to go away. No one has been spared from its effects. We may soon run out of Greek letters given how regularly new variants are popping up. The pandemic's impact has been felt in the economy, in the health system, in our homes and in our second home ... our workplaces.

The pandemic's social, financial and practical demands have forced organizations into a state of flux, be it from re-prioritizing, right sizing, changing ways of working or redefining the workplace. The need for taking care of our personnel has never been greater than it is today. The time and resources required for staff wellbeing have made it to the front row.

As an employee, you may sometimes be confused about where to go for information, clarification, help and support. Your need for such resources may now be particularly important in light of the transition that UNICEF is going through. Employees may feel anxious about the ongoing changes that are taking place. The new initiatives, re-branding of existing ones or potential changes in responsibilities may be of concern to you.

Of course, you have been told that "everything is available online". That's not what you want to hear. Your physical, mental and financial health may be affected by the stress; your ability to function may be diminished. Further, conflicts and disagreements tend to occur whenever there is lack of clarity, difference of opinions, or lack of a constructive and open dialogue.

In our current context, it is easy to lose track of the different avenues available to you to address your workplace concerns. Here are a few suggestions. Try as much as possible to share any concerns with, and seek clarification from, your direct manager. Or you might prefer to speak to a colleague, someone you trust and who will listen and empathize, without the expectation of necessarily giving you any professional advice. If such options are not possible, or you need specific guidance, you are encouraged to seek help from your Human Resources colleagues. When one's personal circumstances are about to change, reaching out to a counselor for psychosocial support can help ensure that anxiety does not escalate and cause distress. In UNICEF, counseling services are readily available to everyone. Other offices like the Ethics Office may also be able to clarify what constitutes ethical or unethical behavior, or to help if you feel you need to be protected against retaliation.

If you are not sure what type of guidance you require, you can reach out to the Ombuds team, who can support you and, if needed, mediate disputes in specific situations. Nothing tops being able to discuss, understand and communicate with the party you disagree with. Mediation can help make all that happen.

Overall, if there is something important to say, say it. Do not expect others to read between the lines.

We all may need help from those around us to cope with the challenges we face and with the uncertainties in our professional and personal lives. Most importantly, we need to take care of ourselves, both mentally and physically, so we can cope with our issues, promote our wellbeing and maintain our sanity.

UNICEF welcomes all personnel to use all available resources and is prepared to listen and provide avenues for dialogue, advice, and solutions. Using this support and working with our colleagues to find a way forward are the keys to a happy workforce and a functional workplace!

Workplace mediation – is it right for me?



Nadja Alexander
Member, International Advisory Board,
Office of the Ombudsman for Funds and Programmes

Mediation is a people-centred process. It gives people their voice in ways no other dispute resolution process does. You can shape outcomes that will directly affect you in your workplace situation. Remember, if you don't agree, you can walk away. At the same time, mediation's not a walk in the park. It can be hard work. But it's worth it.

Mediation of workplace disputes is a well-established practice. Many workplaces, including within the United Nations Funds and Programmes, have introduced conflict management systems that feature mediation as an informal process people can turn to.

But is mediation right for workplace disputes? For example, are there certain types of disputes, such as discrimination or sexual harassment claims, that should not go to mediation? Certainly, some dynamics that affect a dispute or its disputants have been shown to make mediation less than suitable, such as where one party lacks the capacity – perhaps due to health reasons – to articulate their interests and work through the disputed issues in the mediation.[1] But I would not go so far as to say that there are substantive categories of disputes that are not suitable to be mediated. In fact, mediation seeks to move away from substantive legal categories in order to help people in conflict talk through their differences, concerns and grievances in a constructive and non-legalistic way.

Many parties feel uncomfortable attending a mediation, especially if they are not familiar with the process. Where that level of discomfort is high or reflects a power imbalance between the parties, a skilled mediator can tailor the mediation process and thus maximise opportunities for the parties to make informed choices about how to deal with the issues that have brought them to the mediating table. For example, where one or both parties are uncomfortable being in the same room, mediators can design alternative procedures, at least for the start of the mediation – such as the parties beginning in separate spaces (virtual or physical). Alternatively, the parties may wish to have a support person present or close by, and this may achieve a better mediation dynamic. In yet other situations, a mediator may form the view, after preliminary meetings with each of the parties, that the time for mediation is not yet ripe.

People come to mediation when they can't sort things out themselves. Mediators use a range of techniques and interventions to ensure that parties are in a position to engage in good thinking and make informed decisions about their future. In short, the mediator's skills and the flexibility of the process allow mediation to be shaped to suit the unique features and challenges of each and every dispute.

In terms of outcomes, mediated settlement agreements are diverse and can include provisions such as apologies (written, verbal, personal or public), actions to prevent the conduct from occurring again, counselling, alternative working arrangements and adjusted reporting structures.

So if you have a dispute and you are thinking about mediation, remember you can ask questions. Every mediator mediates somewhat differently. Talk to the mediator about any concerns you have.

- Here are just some of the things you might ask the mediator to explain:
- how she plans to conduct the mediation;
- how he ensures confidentiality;
- how she makes sure parties are treated fairly and no one is take advantage of;
- what you can do to best prepare for the mediation process;
- what will happen if you can't reach an agreement.

1 Even here, a carefully designed mediation process might be suitable.

"We just cannot work together; I do not know how mediation can help"



Geoff Sharp
Member, International Advisory Board,
Office of the Ombudsman for Funds and Programmes

Conflict in the workplace is a reality and, as with many areas of human activity, to some extent unavoidable. But it is not necessarily bad unless left unaddressed. Indeed, it is easy say – and more difficult to see when you are involved – but to some extent conflict can be seen as an opportunity, especially if you are in a leadership role. Where there is disagreement, there is usually potential for growth. Differing views addressed properly can stimulate innovation and learning.

The real question, then, concerns how conflict in the workplace is handled – does the organisation use good conflict resolution skills, either formally or informally, to optimise the potential for resolution? In the past, you might have simply lived with a problem or left, but now there are many more creative and skillful ways to address workplace problems.

Sometimes employees are able to resolve workplace conflict by talking to friends or trusted colleagues. But if those self-help avenues do not, in fact, help, there is a more structured, but still informal, forum available. In particular, if you think that you cannot work with a colleague or that your workplace is becoming unhealthy, mediation may help.

In my 25 or so years of mediation, including the handling of employment disputes, organisations possessing good conflict resolution skills, which include listening, resilience, adaptability and patience, were uniformly better placed to deal constructively with workplace conflicts.

Of these skills, listening can be the most effective dispute resolution tool – both for an organisation as a whole and, when workplace-based efforts fail, for the mediators and participants involved in a particular workplace-related mediation. In either situation, sometimes all it takes is to stop talking over others in a battle of words or to stop planning a response while others are speaking.

Good listeners notice repetition, which is invariably a clue to the importance of what is being said. They also listen for what is not said, often a sign that the speaker is uncomfortable with addressing an issue that may nevertheless need to be faced if the matter is to be genuinely resolved.

Most of all, however, listening can reveal interests – those invaluable motivations behind why someone is saying, acting and responding in the way they are. If you can learn to identify your own and others' interests, you can get often see past seemingly irreconcilable positions and find a way to match another's interests with your own for mutual gain.

When efforts at the workplace fail to resolve a problem, mediators are particularly skilled at guiding conflict resolution efforts and, especially, listening efforts. Mediators can make sure conversations about conflict are safe and that everyone is heard.

"Why should I trust a mediator?"



Elena Koltsaki
Member, International Advisory Board,
Office of the Ombudsman for Funds and Programmes

This is a very common question, but one very rarely asked openly! It is a simple, instinctive and silent thought – unlike its results, which might be pretty obvious in human behavior.

Trust must never be underestimated. It is the lubricant that makes all relationships work and a long-discussed issue. The renowned ancient Greek poet Aeschylus wisely said, "it is not the oaths that make us believe in people but rather the people that make us believe in oaths". So, trust gives value to the content and not the opposite. Mediation calls for a unique interaction between the parties and the mediator. Parties are invited to trust someone they have never seen before and share their deepest thoughts and concerns with that person. This is indeed a very demanding mental and emotional exercise. The earlier trust is established in the process, the better. In my experience as a mediator, trust can cover half the distance to the mediation goal.

A typical opinion is that a trusted mediator has certain attributes and approaches: lack of bias, equal time allocation, warmth and consideration, confidentiality, neutrality, and active listening. These features certainly comprise the technical aspects of creating trust, and the mediator must exercise very delicate management to establish them. But are they enough? If all mediators possess these features, why does the question of trust persist? Because there is much more to trust than the manuals teach. It requires a unique chemistry, genuine respect, friendliness, and spontaneity, all of which can be influenced by an open facial expression, all our sensory impressions, the first impression, a kind gesture, and the like. Creating trust involves what I frequently like to call individual human signs and virtues that create trust "at first sight".

On the other side of the table, parties need to fully appreciate the value of trust, even if their initial attitude is a calculus-based one. Trust is of the essence. It is the key that unlocks areas of agreement; allows the flow of information; boosts creative thinking; reveals causes of tension; enables parties to let off steam; and opens paths of communication. Parties are concerned about choosing the right dispute resolution process or the right mediator. With mediation and mediators, confidentiality is guaranteed. Neutrality is always there. Decisions are respected, even decisions not to reach a resolution.

Mediation is the ideal environment for workplace disputes. It can relieve everyday tensions with colleagues and management, repair and reconstruct staff inter-relationships, and assist the parties' professional development. Trust is the risk-free element that makes workplace mediation actually work.

Our life is full of things and people in which we place trust. Lack of trust is a kind of loneliness, even in mediation. But with workplace mediation returning such remarkable results, we can trust mediators. In fact, I think that it would only be fair not just to advocate for the process but also to declare, "In workplace mediators we trust"!

Arbitration and Mediation in Employment Disputes: Efficient Settlement Mechanisms?



Jalal El Ahdab
Member, International Advisory Board, Office of the Ombudsman for Funds and Programmes

Partner, Bird & Bird AAPRI,
Paris, France

The author wishes to thank Melissa Mourad and Thierry Tiendrebeogo, trainees with B&B, for their help and contributions to this article.

Workplace and employment disputes have become very common in the social context of corporations, organizations and other institutions. Mediation, an informal approach, often offers an effective way of settling them; arbitration, a more formal approach, can as well, despite some disadvantages and possible limits on arbitrability imposed by applicable law.

A workplace conflict can be defined, for any type of organization, as *"an actual or perceived disagreement, dispute or difference, usually leading to an increased level of tension between affected parties*[1]*"*. It may result from a breach in the relationship between an employer and employee or from other circumstances. In strictly legal terms, an employment dispute is one where the parties seek a legal remedy through a court or tribunal, with the intent to make the outcome legally enforceable.

Are those disputes arbitrable, i.e., can they be legally resolved through arbitration? Where the conflict is having its roots in France, for example, the answer has two parts: domestic employment disputes are not arbitrable so long as an employment contract exists[2]. But when the contract is terminated, the parties can validly agree to go to arbitration[3]. In international arbitration, as another example, an arbitration agreement is only enforceable when the employee expressly accepts it[4].

By contrast, employment disputes are arbitrable under the U.S. law[5] and are commonly settled by arbitration because of the perception – mainly by organizations – that it may be cheaper, more flexible, and less time-consuming than the judicial/trial process, while still allowing for an enforceable award[6]. Class actions or collective disputes, in particular, may benefit from arbitration if it is permitted under the applicable employment contracts. However, although arbitration might seem cheaper, employees may find it challenging to pay the arbitrators and lawyers working on the matter, and they may be unfamiliar with the legal complexities of the process.

1 Definition from CEDR's 2021 Guide: CEDR's Complete Guide to Workplace Mediation - CEDR
2 Article L.1411-4 of the French Labor Code.
3 French Cass. Soc. 5 nov. 1984, n° 82-10.511.
4 French Cass. Soc. 30 nov. 2011.
5 Circuit City Stores Inc. v. Adams, 532 US 105 (2001).
6 Chapter 2, Sections 201-208 of the U.S. Federal Arbitration Act.

Under the UN's internal justice system, when informal means (including mediation) fail, the UN Dispute Tribunal (UNDT) hears employment disputes. Arbitration is only available to non-staff who do not have access to the UNDT and whose only formal remedy is arbitration. Consequently, it can be of little practical benefit either to employees who cannot use it, or even to those who can, due to costs considerations and the special character of the dispute, despite its being quicker and ensuring independence and impartiality[7].

Mediation remains probably the best dispute resolution option in the broader employment context as it allows the parties to avoid legal proceedings and the entailed financial burden. Moreover, mediation is quicker, informal, confidential and, when successful, helps the parties maintain a relationship. But in the right circumstances, arbitration can be useful due to its finality, principle of confidentiality[8] and the efficiency[9] of its proceedings.

A question then arises rather naturally: can litigants have the best of the worlds and combine the two mechanisms? "Arb-Med" is a process that can capture the strengths of both mediation and arbitration while limiting their weaknesses and making the combined procedure more effective. Its most appealing attribute is the faster settlement of the dispute: even if mediation fails, an arbitrator already familiar with the case may proceed with the process and render an award even more rapidly.

7 The independence and impartiality of the arbitrator are principles that are consubstantial to the arbitral function. They are enshrined in case law, but also in all arbitration rules and could rightly be considered as core and public policy rules of arbitration.
8 Since the 2011 reform, domestic commercial arbitration has become confidential by default, although the parties may change this aspect by mutual agreement.
9 Under the terms of article 1464 of the French Code of Civil Procedure, for example, "the parties and the arbitrators must act with fairness and efficiency in the conduct of the proceedings."

Mediation and Coaching: Different Approaches for Different Issues





Sharon Wakeford (South Africa),
Member, Global Mediation Panel, Office of the Ombudsman for Funds and Programmes

Superior Oronje (Kenya),
Member, Global Mediation Panel, Office of the Ombudsman for Funds and Programmes

Sharon Wakeford (South Africa) and Superior Oronje (Kenya), Mediators of the Global Mediation Panel

Mediation is a structured and interactive process where a neutral third party helps disputing parties find a mutually agreeable outcome, while coaching is a process in which the coach partners with a client to maximise their personal and professional potential.

Similarities and differences

Both processes focus on moving from a current situation to a different future state. In mediation, the current state might be one of conflict where some remediation is required, whereas coaching is more developmental in nature, and focuses on moving to an enhanced future state. Both mediator and coach apply key competencies like building rapport and trust, using active listening, asking powerful questions, and looking beyond the issues presented to deeper needs, concerns and interests. Mediation might involve two or more parties in a process whose duration cannot be pre-determined, whereas coaching is typically conducted over a defined number of sessions agreed to up front between the coach and client.

Using coaching before, during or after mediation

Coaching can be very helpful before mediation by providing a safe space for a person to explore a conflict situation as part of a broader developmental discussion, and by helping to develop understanding about the conflict in terms of the person's own background, interpretations, competencies, and general way of interacting with the world around them. Coaching can also support someone coming out of a mediation process where, although an agreement has been reached on the substantive issue in dispute, one or both parties could benefit from being able to do some individual work with a coach. Consider Melisa, who was in a contractual dispute with her organisation. A contract renewal was granted, but there was still much anxiety and uncertainty of a personal nature related to her approaching retirement age. The mediation agreement included the provision of six coaching sessions to support Melisa.

Because coaching takes place during a series of coaching conversations, it is not well suited to taking place during a mediation process. Coaching would likely require the mediation to be suspended, which could disrupt the momentum achieved in the mediation process and also create uncertainty about the finalisation of the mediation.

Importantly, could a mediator who is also a qualified coach play a dual role? We strongly believe that there should be clear boundaries between these two roles. So if there is to be coaching, this should be conducted by a different coach. Confidentiality and neutrality are key principles of mediation and where the mediator steps into a coaching role, these aspects may be, or perceived to be, compromised.

Let us think about these three scenarios and assess whether mediation or coaching is more appropriate?

- Yazid is facing a situation in which a matter urgently needs addressing. It could escalate, or have immediate employment consequences for him, if it is not immediately addressed.
- Thandeka needs some clarity concerning a workplace issue, and conversations to help clarify it may be useful to her.
- Nadia is experiencing some difficulties with her supervisor. She is not sure if she is misinterpreting the supervisor's behaviours, and actions. Nadine is hesitant to do anything that could negatively impact on the relationship, especially since she is relatively new to the team. She is however unhappy about the situation and would like to do something to improve it.

As regards to Yazid's matter, mediation would be appropriate. With Thandeka's and Nadine's issues, coaching or other ombuds interventions may be more appropriate.

Interrelation between Staff Counselor's and Mediation Services



Edward Boshoff
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UNICEF staff members operate in emergency and non-emergency contexts where exposure to increased environmental, work-related, and personal stressors exist. In UNICEF there are currently 16 staff counsellors globally who support the mental health and wellbeing of our staff and their dependents. These staff counsellors work in accordance with the UN Workplace Mental Health and Wellbeing strategy. Counsellors can help prevent mental illness by providing psychosocial support and psychoeducational learning. They can also provide curative support in a variety of ways when staff are faced with a mental health issue, such as through individual and group counselling, referrals to external mental health professionals, and follow up. Staff counsellors may also remind colleagues of, and link them to, UN services and potential support avenues such as those of the Office of the Ombudsman, PSV, SA, HR and others.

As a specific example, staff counsellors may play an important role in support of the mediation process, where they can work in close collaboration with the Office of the Ombudsman. When staff members are faced with a workplace interpersonal conflict or dispute, and they have expressed willingness to address the matter through the mediation services offered by the Office of the Ombudsman, they may also be advised to reach out to staff counsellors as a confidential source of psychosocial support. This support includes processing emotional and cognitive stress that the staff member might suffer. It also helps staff members see the conflict or dispute from alternative perspectives and understand their own perceptual filters.

Although confidentiality in mediation is more broadly recognized stemming from the UN Dispute Tribunal Rules of Procedure and the Ombudsman's terms of reference established by the Secretary General, the discussions with a staff counsellor also enjoy confidentiality, and the parties should feel free to share their concerns with a counsellor honestly and without fear. The staff counsellor offers a "listening ear" to help make sense of, and process, the emotions involved, which facilitates clearer thinking and may enable colleagues to take more measured and grounded actions in the mediation process. In this context, mediation and a counsellor's services often complement each other, and all personnel are encouraged to use those opportunities in appropriate cases.

We would greatly appreciate your feedback to our mediation services.

PROVIDE FEEDBACK

OFFICE OF THE OMBUDSMAN FOR UNITED NATIONS FUNDS AND PROGRAMMES

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The Mediation Unit would like to thank all contributors to this newsletter, as well as our team who worked on this issue: Abel Belachew (Design and Layout), Maria Migoya Fernandez (Mediation and Conflict Resolution Officer), Mary B. Trevor (Mediation Editor), and Mushegh Manukyan (General Editor, Manager of the Mediation Unit).