

Mediating Around the World

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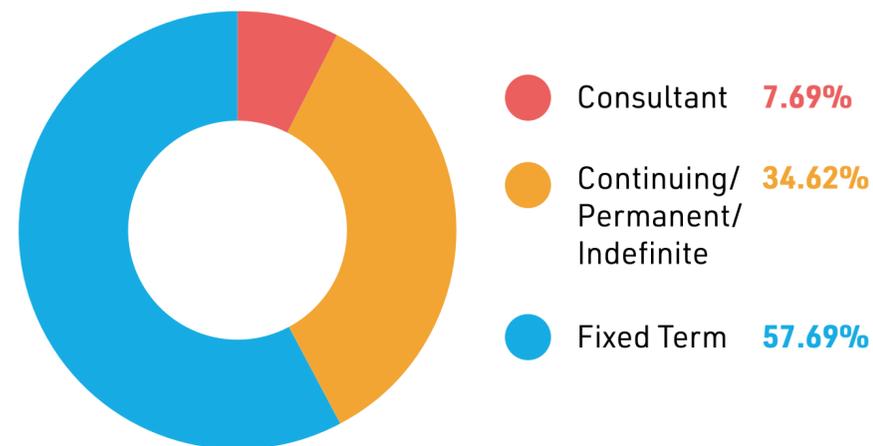
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Mediation Highlights

July - September 2021

Mediation by contract type

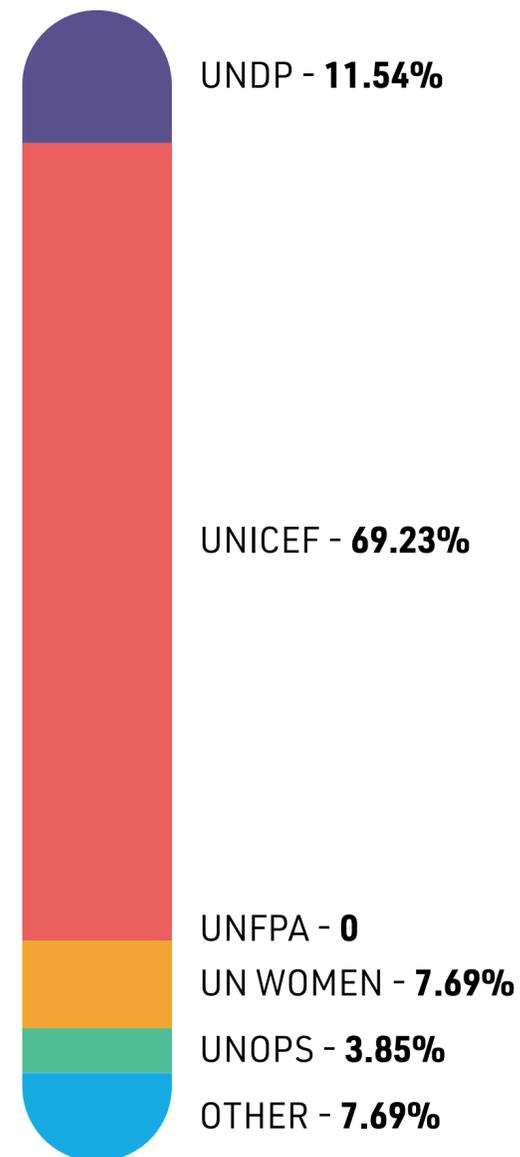


96% of users recommend mediation regardless of the outcome

4.73 out of 5

of users would use mediation again for future disputes

Mediation by UN agency



Overall satisfaction with the mediation process



4.5/5



Testimonials

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

Although I was not able to reach the result I was aiming for in my outstanding issue related to my entitlement ..., I think that the final result was fair enough for me to accept it knowing the multiple and serious efforts done by both mediators to make this actual outcome achievable. My total appreciation and thanks to both mediators.

Thanks for all the good work!

It was done in a clear structure & gave me a new perspective on how to get some explanation/transparency to get an answer to a question.

Mediators were very nice , helpful and supportive. Thanks.

Great experience, well facilitated.

The process was managed very well.

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

[Name of mediator] was an excellent mediator as he listened to me and gave me a chance to talk about my distressing and humiliating experience I had faced in the country office.



UNDP Ethics Office

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The importance of an internal UN culture committed to ethics and integrity

As United Nations personnel, we are all responsible for upholding the ideals of the Organization, and supporting the realization of its goals and objectives. A strong organizational culture of ethics and integrity is an essential condition for the UN's effective promotion of peace, respect for human rights, economic and social progress, and international cooperation. The visible adherence by UN personnel to the highest standards of ethics and integrity further serves to protect the reputation of the UN with government partners, donors, civil society stakeholders, and the wider public that the UN serves.

The role of the UNDP Ethics Office

Operating on the principles of independence, impartiality and confidentiality, the UNDP Ethics Office promotes ethical conduct and decision-making by all UNDP personnel. Adhering to the highest standards of ethical conduct means that, in the course of our daily work, we represent the international community, rather than individual governments or other personal or political interests. With a fundamental obligation of loyalty to the UN, we must all be independent and objective in the performance of our duties. We must not use our official positions for personal gain or the benefit of external parties, we must safeguard the information and assets of the UN, and we must treat all persons with dignity and respect.

Committed to embedding ethics in decision-making across UNDP, the UNDP Ethics Office serves as an essential advocate of the UN's ethical values and principles. The office's core responsibilities are:

- Providing confidential ethics advice and guidance to UNDP personnel on multiple issues, including avoiding conflicts of interest, engaging in outside activities and employment, participating in political activities, and receiving gifts, honours, and awards.
- Protecting UNDP personnel against retaliation for reporting misconduct or cooperating with a UN audit or investigation, and promoting whistleblowing.

- Conducting ethics training, awareness-raising, and outreach, including the production of ethics education materials.
- Administering UNDP's Financial Disclosure Programme.
- Supporting ethics standard-setting and policy development, and advising UNDP management of ethics-related risks.

The UNDP Ethics Office and the Office of the Ombudsman for United Nations Funds and Programmes

In support of its ethical culture and effective programming, UNDP is committed to maintaining harmonious work environments where personnel are treated with fairness and respect, and provided the opportunity to perform their duties to the best of their abilities. While the UNDP Ethics Office does not resolve interpersonal problems or other workplace grievances, we will refer UNDP personnel who raise such concerns with us to the Office of the Ombudsman for guidance on informal resolution options and mediation support, as well as work collaboratively with the Office of the Ombudsman where required to support effective organizational performance. The Ethics Office is deeply appreciative of the Office of the Ombudsman's record of successful mediation work in resolving interpersonal concerns, and protecting the best interests of UNDP.

For more information on the work of the UNDP Ethics Office, UNDP personnel can visit our intranet page, or contact the office directly at ethicsoffice@undp.org

Personnel at other Funds and Programmes may contact their respective ethics offices as follows:

UNFPA: ethics.office@unfpa.org

UNICEF: ethics@unicef.org

UNOPS: ethicsofficer@unops.org

UN-Women: ethicsoffice@un.org

Reprisal in the United Nations Workplace



Lady Justice Joyce Aluoch
Member, International Advisory Board,
Office of the Ombudsman for Funds and
Programmes

Reprisal can take many forms, but it typically occurs at the workplace when an employer or manager “penalizes” or threatens to “penalize” an employee for a legitimate action that the employee took to comply with the rules of the organization.

In the United Nations, the objective of the services of the Ombudsman for Funds and Programmes is to facilitate mutually acceptable solutions through informal means. That may include providing an impartial, independent and informal conflict-resolution mechanism for the settlement of workplace issues affecting any personnel of the Funds and Programmes. Sometimes people worry about whether using the ombudsman services might result in reprisal from an employer or manager. This note explains why people do not need to worry.

Paragraph 1.4 of the Terms of Reference of the UN Ombudsman and Mediation Services provides:

“... efforts for the informal resolution of conflict should be supported, encouraged and accommodated by the organization. No staff member who brings a matter to the attention of the Office, provides information, uses its services or pursues an informal resolution of conflict shall be subject to any reprisal, whether threatened to be taken or actually taken, because he or she sought the assistance of an ombudsman. Any staff member who engages in such reprisal may be subject to disciplinary measures, in accordance with chapter X of the Staff Rules, if such misconduct is established.”

With this provision in place, the staff should have no fear of reprisal and should feel free to raise their issues with the Office of the Ombudsman. Personnel can speak up without fear of potential backlash from the colleague they are having issues with, be it a supervisor, manager or subordinate.

The mediation services offered by the Office of the Ombudsman are voluntary and the decision to approach the Office rests with the member of personnel concerned. Besides, the information shared during the mediation session is strictly confidential and no record of it is kept. This should make it easy for the members of personnel who approach the Office to speak freely. In rare situations where the staff may be concerned about reprisal, he or she should bring up the matter and discuss it freely with the Office as they will be in a position to consider the matter from various perspectives and explore options to reduce the risk.

"We can work it out"

- Mediation as a Tool towards a more Values-Based Workplace Culture



Geeta Narayan

Principal Adviser, Organizational Culture,
UNICEF

As part of the follow-up to UNICEF's most recent Global Staff Survey (GSS) in summer 2020, conversations were held with 55 Country Offices to understand and unpack their GSS data, to provide advice and suggestions for issues the offices were dealing with, and to document good practices around organizational culture. One of the most important themes that emerged from this process was about the need to take fast action to address inter-personal issues that arise in the workplace, i.e., to 'work it out,' as the Beatles song goes:

Think of what you're saying,
You can get it wrong and still you think that it's alright.
Think of what I'm saying

We can work it out...

In these many conversations, staff told us that when inter-personal issues are not addressed quickly and effectively, they simmer, and they grow. They become issues not just between two individuals – they come to affect the entire team. They affect overall performance, morale, and the workplace culture. Staff asked for tools, approaches, skills, and even the vocabulary to address these issues in a more timely way, before they escalate to team-wide issues.

One of the most under-utilized yet promising tools we can use is mediation. UNICEF actively promotes mediation for all our employees. We have invested in the Office of the Ombudsman for UN Funds and Programmes to increase the mediation capacity. More recently, UNICEF signed the Global Mediation Pledge as an indication of our organizational commitment to encourage greater uptake of mediation. We held a Global Conversation with the DED-Management in which we promoted mediation as one useful recourse when members of personnel face inter-personal conflict or disagreements. Yet mediation remains largely untapped, with just 18 cases involving UNICEF employees received by the Ombudsman's Office in 2020.

Mediation is not a silver bullet. As we promote mediation, we also recognize and support the other avenues available to our employees to resolve issues, address inappropriate behaviour, and improve our workplace culture, such as raising issues with office management, Human Resources, or the Ethics Office, and reporting potential misconduct to the Office of Internal Audit and Investigations. In other words, mediation is one of a menu of options available to personnel when faced with difficult workplace situations.

UNICEF's organizational culture is grounded in our core values: care, respect, integrity, accountability and trust. Mediation also relies on these values to be successful. By coming voluntarily to the mediation table, colleagues express their trust in the mediation process. They demonstrate care and respect for each other by sitting down together to talk through issues. Accountability is essential in a mediation process because each person is asked to see their role in creating or maintaining the situation, and to acknowledge it. Lastly, the integrity of the process is essential to its success – participants must be assured of its confidentiality and fairness/ neutrality, without any reprisal or retaliation.

In this way, mediation can contribute to UNICEF's culture-change journey. It can help all of us resolve inter-personal issues and disagreements faster and more effectively, and it can help make our offices a place where conflict/disagreement is not avoided or shunned, but instead, addressed constructively and respectfully. In short, with mediation, "we can work it out."

Reprisal for Seeking the Assistance of an Ombudsman



Clara Gross
Mediation Intern,
Office of the Ombudsman for UN Funds and
Programmes

Introduction

It takes courage to approach the Office of the Ombudsman. When doing so and entrusting a workplace concern to an Ombudsman, no one should have fears of negative treatment from anyone, let alone from a supervisor. In regard to potential reprisals for approaching the Office of the Ombudsman, paragraph 1.4 of the Terms of Reference for the Office of the United Nations Ombudsman and Mediation Services, as established by the Secretary-General, (“Ombudsman ToR”) provides the following:

No staff member who brings a matter to the attention of the Office, provides information to the Office, uses its services or pursues an informal resolution of conflict shall be subject to any reprisal, whether threatened to be taken or actually taken, because he or she sought the assistance of an ombudsman.¹

In cases where a visitor² to the Office of the Ombudsman is concerned about reprisal,³ the Ombudsman can explore options to reduce risks.⁴

Reprisal as a form of misconduct

Reprisal constitutes a potential abuse of authority. Any alleged reprisals suffered as a consequence of approaching the Office of the Ombudsman may be reported directly to the relevant investigative authority of the individual’s UN agency. As a form of potential misconduct, paragraph 1.4 of the Ombudsman ToR additionally states that: “[a]ny staff member who engages in such reprisal [for approaching the Ombudsman] may be subject to disciplinary measures, in accordance with chapter X of the Staff Rules, if such misconduct is established.”⁵

The author would like to thank UNDP Ethics Office colleagues Aurelie Roche-Mair, Kevin Waite, and Peter Liria for their valuable guidance and advice.

¹ ToR, section 1.4, <https://hr.un.org/content/office-ombudsman-appointment-and-terms-reference-ombudsman>.

² Any staff member, non-staff member, intern, or volunteer of UNDP, UN Women, UNOPS, UNICEF, and UNFPA who approaches the Office of the Ombudsman.

³ An act of damage or injury against someone as a punishment for approaching the Office of the Ombudsman.

⁴ Q&A UN Ombudsman and Mediation Services, p. 9, <https://www.un.org/en/ombudsman/assets/pdf/faq.pdf>.

⁵ ToR, supra note 4, section 1.4.

The difference between “Reprisal” and “Retaliation”

The terms “Reprisal” and “Retaliation” have different meanings under the UN’s legal framework. Pursuant to the UN Protection Against Retaliation (the “PaR”) policies, “Retaliation” specifically refers to any harmful action taken against any UN personnel because they (i) reported misconduct to an appropriate investigative authority, or (ii) cooperated with an official UN audit or investigation (referred to under the PaR policies as “protected activities”). Although approaching the Office of the Ombudsman is not considered a “protected activity” under the UN PaR policies, reprisal for approaching the Ombudsman may constitute misconduct/abuse of authority, as noted earlier. However, if any UN personnel believe they have been retaliated against because they had engaged in either of the two noted protected activities, they should approach the Ethics Office of their respective UN agency.

Similarly, if any UN personnel believe they have been subjected to reprisal for approaching the Office of the Ombudsman (or for any activities other than reporting misconduct or cooperating with a UN audit/investigation, as explained above), this would again constitute potential misconduct/abuse of authority and can be reported directly to their respective agency’s investigative authority.

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Mediation Practice and the UNDT



Francis Belle
UNDT Half-Time Judge, United Nations Dispute Tribunal (UNDT)

The United Nations Dispute Tribunal is a formal, first instance dispute resolution process within the United Nations. It has a long history, but its present form finds its genesis in GA Res 61/261 of 4 April 20, which was followed by resolutions 62/228 and 63/253 and the implementation of the policy established in those resolutions in 2009. (See <https://www.un.org/en/internaljustice/oaj/> for additional background information.)

Resolution 61/261 sought to establish a transparent, impartial, independent and effective system of administration of justice by applying relevant rules of international law and principles of the rule of law and due process. It further sought to ensure fair and just treatment for all, respect for the rights and obligations of staff members, and accountability of managers and staff members, as well as to improve the performance of all. The system as envisioned and implemented includes both formal processes such as the UNDT and informal processes offered by Ombudsman offices and a Mediation Division.

By establishing a Mediation Division within this context, the new system attempted to make mediation available to any party to a conflict at any time before a matter proceeds to final judgment. Having entered the new system as a judge about 10 years after it started, I have observed that mediation is used to settle disputes, which have become part of the formal UNDT adjudication process. Some of the referrals by the UNDT or the parties themselves have borne fruit, to the benefit of the UN system as a whole.

An important aspect of the UNDT proceeding includes the ability of a UNDT judge to introduce the possibility of mediation when the parties may be amenable to a settlement and time is of the essence. (See the Practice Direction on Mediation of 27 April 2012). However, in more difficult cases, aiming to settle the entire dispute in a short period of time may be counterproductive. Sometimes it is necessary to step back and ask: “Was this fair and just treatment?”, “Was the treatment consistent with the rule of law and due process?”, “Was respect for the rights and obligations of the staff member or former staff member evident in the process?” In my view, if these questions are asked consistently, issues may arise that can, as a preliminary step, be addressed and possibly resolved in the mediation process.

There is no doubt that when people join the UN, they do so with pride, and the appointment may be the fulfilment of a long-standing aspiration. When such aspirations are disappointed, feelings are hurt, and economic

achievements are interrupted, it is always important to address the procedural steps and assumptions that guided the decision-making process. If this is done in mediation, a number of fairness concerns may emerge for discussion. For example, the aggrieved party's assertions about unfairness may reveal allegations of procedural errors and errors of business decisions. On the other hand, mediation may reveal perceptions that the staff member acted negligently or herself was not taking the rights of others into account. The aim of mediation would not be to prove anything but to address concerns of this nature.

If there is good reason to doubt the application of the rule of law and due process in the decision-making process, the trial judge must scrutinize closely enough to expose the possible flaws. The mediator's role in such cases is to facilitate earlier reflection that might lead to revelations or changed perceptions. For instance, concerns may be exacerbated by strained relations between staff members, hasty actions by managers, assumptions based on faulty information, doubts arising due to bad community/UN staff relations or tensions in such relations. Where any of these issues may have led to managers or investigators focusing on a management goal rather than the rule of law or the rights of staff members, a matter ripe for mediation may arise.

Statistically, the numbers of successful informal settlements may appear low. The most recent performance dashboard of the UNDT for the months of April and May 2021 show only two cases settled by informal means after case management. This does not mean that mediation is not making an impact. Indeed some “cases” would have been settled before an application was filed. However, perhaps a greater impact can be made if the issues identified above are seen as opportunities to encourage informal discussions or mediation aimed at ensuring that the rule of law is followed, that the rights and obligations of staff members are observed, that managers' decisions are transparent, and that decision-makers are accountable.

Mediation should be utilized in circumstances where a speedy settlement may not be expected even though desired. In other words, a fair balance of concerns about speedy resolution and improved management/staff relations along with enhanced performance may be achieved but without sacrificing the rule of law.

Mediation and the Judiciary: Perspectives from Zambia and Rwanda



J. Abha Patel, S.C.,
Judge in Charge, Commercial Division at Kitwe High Court, Zambia, Mediator of the Global Mediation Panel, Zambia



Kadigwa Gashongore,
Judge, High Court of Rwanda, Mediator of the Global Mediation Panel, Rwanda

An enabling statute introduced court-annexed mediation to Zambia in 1997. The judiciary recognizes the importance of mediation and encourages disputing parties to try it. Its benefits include reducing court backlog, which is even more critical now since the pandemic severely affected court sittings, and backlog has increased.

Mediation practice and procedure vary among Zambian High Court divisions. But all judges are empowered to refer parties to mediation in matters they believe amenable to it. The obvious exclusions are matters of civil liberties, injunctions, and other matters the judge considers unsuitable for mediation.

Because a judge's authority when sitting as a mediator may inhibit mediation's voluntary and party-driven nature, a judge may only refer matters to mediation. Thus, in Zambia, currently, the Hon. Judges do not serve as mediators for matters that come before them.

There is much debate about when to refer a matter to mediation. Referral can occur at different stages of the litigation process, depending on the court division. However, for counsel to buy in to the process and increase its chances of success, referral should be made at an early stage, before heavy legal costs are incurred.

Factors in the success of mediation include training advocates, who play a significant role in the process and, with training, can more fully embrace its benefits. Support staff training is also important, so they can complement the court and mediator roles. More attention, though, needs to be given to the convening stage, as well as to sensitizing the parties to how party autonomy can achieve a win-win outcome.

Recently, the Zambian judiciary, through several co-operating partners, has started training practising mediators and judges on the skills and benefits of mediation. The purpose is two-fold: to assist the judges in selecting appropriate matters for referral to mediation and tracking cases to prevent them getting "lost" whilst in mediation.

In Rwanda, various statutes since 1988 have allowed or sought to promote court-annexed mediation. But a statute in 2018 relating to civil, commercial, social and administrative proceedings has really brought mediation into play. It allows either the court registrar, during the pre-trial phase of the case, to suggest mediation to the parties under his/her facilitation, or the judge to whom a case has been assigned to offer to mediate the dispute or suggest that the parties seek a mediator of their choice. If the parties agree, the case is adjourned until the mediation process ends.

According to statistics produced by the General Inspectorate of courts in Rwanda for the period from 2012-2019, more than 2,239 court-annexed cases have been conducted. According to the statistics of the Commercial High Court registry, judges have successfully mediated 5% of the court's backlog, and settlements have totaled more than 10 million USD.

The general perception in Rwanda, especially in commercial and civil matters, is that with mediation, business relations can be saved, couples can save marriages on the verge of divorce, and costly and lengthy legal proceedings can be avoided. Courts and tribunals see benefits, too: case numbers and operating costs will progressively decrease as parties realize they can resolve their differences with the assistance of a professional mediator of their choice.

Judges in Rwanda increasingly feel comfortable educating litigants about the benefits of mediation and detecting cases that may be more successfully resolved through mediation than through legal process. The parties tend to trust the judges' explanations of the possible dangers of continuing legal proceedings and the advantages resulting from mediation. Therefore, in my opinion, judges should be well trained in mediation and its effectiveness in restoring order to society, so they can promote mediation and its ability to reduce disagreements between litigants while providing a much more natural justice.

The European Perspective on Workplace Mediation



Prof. Dr. Renate Dendorfer-Ditges LL.M. MBA,
Mediator of the Global Mediation Panel, Germany



Dr. Borbala Fellegi, PhD,
Mediator of the Global Mediation Panel, Hungary

Principles of Mediation in Europe that Can Affect Workplace Mediation

In Europe, understanding of workplace mediation has become greater in recent years, in part due to Mediation Directive 2008/52/EC, which requires the Member States to consider mediation in their national legal systems. It covers many aspects of mediation that EU Member States either must or might include in their mediation processes.

A particularly important “must” for both workplace and other mediation is confidentiality. The parties must have the opportunity to discuss their conflict in a “protected space”, i.e., in an atmosphere of trust and secrecy.

The Mediation Directive leaves it to the Member States, however, to decide many other things, including whether the mediation process can be initiated by just the parties, ordered by a court or prescribed by law. Giuseppe De Palo, the Ombudsman for United Nations Funds and Programmes, has pointed out that an Opt-Out-Model—a model that makes mediation a default conflict resolution method for many disputes, with an option for the parties to opt out—can be especially beneficial in workplace mediation scenarios (published in *KonfliktDynamik* 2021, p. 47, 51).

Three quick examples here will show that mediation use and processes vary in the EU. But there is a common understanding that workplace mediations should focus on party interests and empowerment.

Legal and Cultural Differences in Europe Regarding Workplace Mediation

To use Germany as one example, internal mediation systems are established only in larger companies. Either external mediators (often specialists in labor law) or internal mediators (e.g., the mediator pools of Bahn AG or of Siemens AG) are used.

In cases of termination of employment, workplace mediation is less prominent, because proceedings in German labor courts include an obligatory settlement hearing. For disputes between the works council and the employer, a codified settlement mechanism is in place.

In general, workplace mediation seems to be accepted in the United Kingdom. For example, the Advisory, Conciliation and Arbitration Service (ACAS, www.acas.org.uk) is a public body responsible for improving employment relations. The ACAS Code of Practice on Discipline and Grievance specifically references mediation as a method of resolving disputes. In a report on compulsory ADR of June 2021, the Civil Justice Council also discussed the ACAS system and referred to a pilot ADR scheme for employment cases in the West Midlands. The report concluded that mandatory (alternative) dispute resolution is compatible with Article 6 of the European Human Rights Convention and is, therefore, lawful.

In Hungary, mediation is regulated by law and can be used for individual and collective issues. The number of referrals has been growing. In practice, the likelihood of mediation is higher in workplaces where the ‘cost’ of losing a valuable employee is high or the conflict might have significant implications. Preventative mediation can be used in innovative, mostly start-up companies, where leaders have recognized the importance of communicational-culture. They look at these processes also as a ‘skill-building’ resource that may help employees to better recognize and articulate their needs.

Summary

Given the diverse culture of resolving workplace disputes in Europe, there is neither a unified understanding of workplace mediation nor a unified system of labor law. Nevertheless, mediation often serves as a helpful method to resolve workplace disputes. In fact, workplace mediation finds greater acceptance than business-to-business mediation because the workplace is more about relationships than about being right or wrong.

Mediation of Workplace Disputes in CIS countries



Galina Yeromenko,
Mediator of the Global Mediation
Panel, Ukraine



Tatsiana Bialiayeva,
Mediator of the Global Mediation
Panel, Belarus

The Commonwealth of Independent States (CIS) was created in 1991 by eleven member states of the former Soviet Union. During the years since then, however, due to political, economic, and other factors, the status of the countries in the CIS has changed significantly. Now, despite their common organizational basis, there are substantial cultural differences among the CIS nations. Given these differences, it can be quite challenging for international experts, managers, and consultants who work in these countries, as well as mediators who deal with conflicts involving personnel with differing CIS nationalities, to achieve harmony and satisfaction in the workplace.

Even within states, cultural differences can impact workplace conflict. For example, in western Ukraine, people often prefer to establish a relationship over a cup of coffee before having difficult conversations. They do not always fully say what they think but want to know what others think; they can be emotionally restrained even in emotional situations; and they are individualists who at the same time recognize and obey community traditions and religious guidance. Ukrainians from the east, in contrast, often say what they think; are often quick and decisive; and can be overly emotional and express themselves harshly and simply (although this often hides the beauty of the soul).

One can also observe contrasts in Belarus, where the eastern part borders the Russian Federation and approximately 10% of the population identifies with the Russian nation. Eastern Belarusians often are collectivists: they generally have high expectations and great respect for the opinion of leaders and are inclined to follow them. In the west, historically part of the Great Polish–Lithuanian Commonwealth, the population includes approximately 20% ethnic Poles, and people tend to value individualistic culture: they often use individual initiative to solve everyday issues, and they tend to be entrepreneurs, critical thinkers and pragmatists.

Despite the differences, post-Soviet countries have a common, over 70-year heritage of state paternalistic policies and the state taking responsibility for people's lives and well-being. Most people allowed the state to make decisions that were important for their lives; now, they may be comfortable giving this responsibility to a mediator. Still, overall, workplace mediators must be mindful of not falling into the trap of regional stereotypes, especially since the situation in CIS countries continues to evolve as recent events have led to numerous people migrating to new parts of the region.

Therefore, preparation for the process, preliminary acquaintance with the parties, deep knowledge of their cultural and historical contexts, and gaining an understanding of possible prejudices towards the other party constitute the main recipe for success for a mediator working in post-Soviet countries.

For example, in a recent workplace mediation between a top manager (a representative of Central Ukrainian culture) and the chief accountant of one of the largest international banks in Western Ukraine (an elderly woman who had lived in Western Ukraine her entire life), the parties argued over two main issues. The first issue was whether it would be possible to secure a job for the son of the head of the state tax inspection agency. The manager believed that to do so would constitute corruption, while the chief accountant believed that it was simply a matter of maintaining important relationships. The second issue was related to displaying religious icons in the workplace, as well as to religious rituals that the chief accountant wished to practice during work hours. The manager believed that supporting these religious activities might negatively affect the reputation of the business, while the chief accountant explained that the practices contributed to the diversity of the workplace, and thus showed the business in a positive light.

In another mediation, a manager of a Belarusian branch of a large multinational corporation had constant interpersonal conflicts with his colleagues of Slavic origin. The manager, who had individualistic German culture origins, reported behaviour of his colleagues, which he considered to be in violation of company policies and best practices, to an overall supervisor. His colleagues considered this act a collective betrayal and nicknamed him "Judas". They eventually ceased all communication with him.

When disagreements based on cultural and values differences emerge, working with interests and alternatives often helps to break the deadlock. By doing so in both mediations described above, the mediators were able to help the parties appreciate the importance of cultural differences and achieve an outcome that benefited both parties.

Mediation Champion



Patrick Voigt

Chief, Policy, Employee Relations and Solutions, Compensation and Social Benefits, UNICEF

In each edition of the Mediation Newsletter, we'll announce a mediation champion – a colleague in the five UN organizations who actively supports mediation services by referring cases to the Office of the Ombudsman, engages with the Office in various activities (such as training, webinars, etc.), and encourages staff to use mediation in appropriate cases.

- **How does mediation help in your work?**

I work on a team that handles a range of individual HR cases that require more focused support. Using mediation (and otherwise collaborating with the Office of the Ombudsman) means we can use an informal - but nevertheless quite structured - approach to resolving issues at the workplace, with a joint goal of finding an agreeable solution. Challenging circumstances and, in particular, conflicts do not have simple 'right' and 'wrong' positions or answers, but can instead be intricate and complex situations involving different perceptions and assumptions. Mediation helps us provide a neutral 'bridge' that allows looking into these perceptions and assumptions, and then jointly addressing them. Sometimes we have ideas that directly contribute to solutions, and often we work with our ideas, and the ideas of colleagues, and the input and nudging of the mediation colleagues to create the means to move forward.

- **When do you consider referring a potential conflict to the Office of the Ombudsman for mediation?**

I actually do that quite regularly: I might refer a case directly by - literally - asking for Ombudsman/mediation support, or by suggesting it as an option to the colleague who might benefit from this third-party, neutral and confidential support. At a minimum, Ombudsman assistance usually helps to clarify the situation or, for instance, suggest policy parameters that we can work with to explore solutions, all in a confidential space where colleagues feel comfortable sharing their concerns and thoughts. With its best outcomes, we find co-created, well-framed agreements that address the issues.

I sometimes reach out to the Ombuds or mediation team when we need to have a dialogue with a colleague but we have no established rapport with them - basically, to establish contact for a conversation. Because

the engagement with the Ombudsman is based on consent, such a conversation tends to be more fruitful than an unanticipated call by HQ.

- **How can staff benefit from mediation services?**

There are only potential gains and no downsides when engaging in mediation. Informal approaches do not impact or limit staff rights under the formal mechanisms. A mediated solution is based on mutual consensus. And, most importantly, mediation provides space to share ideas about what an agreeable solution could look like - that is an option not available with the formal mechanisms. It is usually better to participate in the journey and be able to guide the direction or destination.

- **As far as mediation is concerned, do you have any advice for colleagues?**

Fundamentally, colleagues should ask themselves: Why am I hesitating to reach out to the Ombudsman's office? Often, that hesitation stems from misconceptions or assumptions. I hear that some colleagues believe there is a stigma involved in reaching out to the Ombudsman's office: Not true. I hear that some colleagues are concerned about having a record showing mediation efforts: Also not true. Colleagues may think mediation takes a long time: Well, to be honest, sometimes it does - because the flexibility of the process allows reflection and exploration of options that might work. But if the process does take time, it is because both parties see the value of an extended discussion. Most of the time, however, we find quick solutions.

The reality is that a call with a mediator: (i) is quickly arranged and scheduled to happen within the appropriate time zone, (ii) is confidential, (iii) clarifies the process and questions, (iv) possibly leads to a solution that resolves the issues and that all parties agreed to, and (v) is completely free for all personnel.

**OFFICE OF THE OMBUDSMAN
FOR UNITED NATIONS
FUNDS AND PROGRAMMES**

If you'd like to reach out to the Mediation Unit, you can contact us at:

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