

Law Over Borders Comparative Guides – Mediation Cyprus



ARTICLE BY

Stavros Pavlou

Executive Chairman

spavlou@pavlaw.com

Salomi Stavrou

Associate

[sstavrou@pavlaw.com](mailto:ssstavrou@pavlaw.com)

1 . Define mediation in your jurisdiction

The application and procedure of mediation in Cyprus is governed by the Certain Aspects of Mediation in Civil Matters Law of 2012 (159(I)/2012), which is the national law governing mediation in respect of civil disputes (hereinafter “Cyprus Mediation Law”).

Article 2 of the Cyprus Mediation Law provides a definition of mediation as a “structured procedure, by whatever name it may be called, in which two or more parties to a dispute voluntarily attempt to reach agreement on the settlement of their dispute with the assistance of a mediator”.

2 . What is the role of a mediator in your jurisdiction?

During the mediation process, the mediator assists the parties involved to better understand their wishes and needs while remaining impartial throughout. The mediator’s responsibility is the promotion, organisation and control of the mediation procedure and not the making of suggestions/solutions to the parties. The main role of the mediator is to assist the parties to reach a settlement on their own, which will be mutually acceptable and which will satisfy the needs and interests of all parties involved. Although the mediator does not have the power to take decisions, their role is nevertheless very important as they try to understand the causes of the dispute and create a climate of understanding and respect between the parties so that they can reach a solution/compromise that leaves them all satisfied.

Article 10 of the Cyprus Mediation Law lists several of the duties of the mediator, who shall ensure, inter alia, that the parties understand the nature of the process and the role of the mediator and the parties (prior to the commencement of mediation) and that the parties have an equal opportunity to participate in the process (throughout mediation).

3 . How does mediation differ from arbitration or litigation?

Mediation is a consensual method of resolving a dispute, like arbitration, since the consent of all involved parties is necessary in order to resort to mediation and the parties participate in the mediation process voluntarily. In contrast, litigation is not necessarily consensual, as one party may initiate judicial proceedings without the prior consent or notification of the other parties and the party against whom the proceedings are directed may not participate voluntarily but may be compelled to appear and participate in order to avoid the issuance of a judgment/orders/measures against them in their absence.

Unlike in arbitration and litigation, where the parties generally appear through their lawyers, in mediation the personal appearance of the parties (together with their lawyers if they so wish) is required. If a party cannot afford representation by a lawyer, it can appear by itself and in this manner it can limit its costs to those of the mediator, since in mediation each of the parties shall bear its own costs.

Moreover, the mediation process is confidential, as is the arbitration process, unlike the proceedings in courts which are usually open to the public, conducted in public sessions and only in exceptional cases conducted only in the presence of the parties and other specific people, such as witnesses, experts, stenographer, etc.

In mediation, private sessions between the mediator and each party may be held if the mediator deems that this will be more efficient under the circumstances of each case.

Furthermore, the mediator does not take binding decisions, unlike arbitration and litigation where the decisions of the arbitrator and the court are binding. However, the settlement agreement to which parties may have agreed, may, upon application of the parties, be registered and enforced as if it were a court judgment/order.

4 . Are there specific rules and regulations regarding mediation?

The Cyprus Mediation Law is the national law regulating the application and the procedure of mediation in Cyprus in respect of civil disputes. This law does not govern family disputes, as there is a separate law regulating issues that fall within the ambit of family law – the Law on Family Disputes Mediation of 2019 (N. 62(I)/2019) (hereinafter “Family Mediation Law”). More details on the scope of these laws are given below.

5 . Is your jurisdiction encouraging mediation instead of going to court to settle disputes?

Since 1 September 2023, the new Civil Procedure Rules (“CPR 2023”) have applied in Cyprus, which encourage and promote alternative dispute resolution (ADR) and specifically mediation. In particular, encouraging the parties to use an ADR method is included in the court’s task of active case management (CPR 1.5(2)(e)). In addition, a person wishing to commence legal proceedings must, before commencing such proceedings, send the potential defendant a pre-action letter stating (if applicable) their intention to engage in mediation or other ADR (Part II, Form III, point 2(f) of the CPR 2023). Similarly, the potential defendant should state in its response letter whether they intend to engage in mediation or another ADR method. The purpose of including and promoting mediation at the pre-action stage is precisely to prevent the parties from resorting to court by settling the claim between them before the commencement of legal proceedings. In general, the CPR 2023 promote ADR methods in order to reduce the workload of the courts, since due to the high caseload, court cases are heard with enormous delays and generate significant legal costs.

Moreover, Article 16 of the Family Mediation Law provides that the parties to a family dispute may settle it or resolve it entirely or partially through mediation without going to court. However, it is clear from the letter of this law that this is not a compulsory pre-trial mediation but simply a recommendation.

In *C. Roushas Trading and Developments Ltd v. Michali Mosaikou* (2016) 1 JSC 2178 there was a dispute for a very small amount of money. The Supreme Court allowed the appeal and ordered re-trial of the case by a first-instance court. At the end of the appeal procedure the legal fees far exceeded the amount of the original dispute. The Supreme Court highlighted the responsibility of both the parties and their lawyers for not taking care to reach an amicable settlement or to refer the dispute to ADR methods.

6 . Can courts mandate parties to mediate?

A court before which judicial proceedings are being conducted in a case, the subject matter of which falls within the scope of the Cyprus Mediation Law, may, at any stage of the proceedings before delivering a judgment: (a) request the parties to inform it of how the mediation procedure is to be conducted and the possibility of resolving their dispute by mediation; and (b) at the joint request of all the parties, or at the request of one of the parties and with the express consent of the others, as the case may be, and taking into account all the circumstances of the case, decide to adjourn the judicial proceedings in order to allow mediation to take place. In the event that any of the parties does not agree to resort to mediation, the court shall proceed with the judicial proceedings. The court's adjournment order shall include, inter alia, the duration of mediation, which shall not exceed three months. Upon completion of the specified period of time, the parties shall inform the court of the procedure followed and the outcome of the mediation. An extension of time not exceeding three months may be requested by the parties. The court may, on its own initiative or at the request of any party, discontinue the mediation proceedings before the expiry of the fixed period of time and this decision is not subject to appeal.

In January 2025, the Cyprus Council of Ministers approved a bill (proposed legislation) to make mediation mandatory before resorting to courts for civil disputes up to EUR 10,000.

7 . Can courts penalise a party for refusing to mediate or failing to properly engage?

According to the CPR 2023, the court may consider the extent to which the parties have substantially complied with the pre-action protocols, the purpose of which is, inter alia, to prevent the parties from resorting to the courts by settling the claim before the commencement of court proceedings (CPR 3.9(2)(d) and 3.10(1)). Where a party fails to comply, the court may take that failure into account in awarding costs at the end of the proceedings or in imposing sanctions at any stage of the proceedings, which usually takes the form of awarding costs against the person who has failed to comply with the prescribed pre-trial conduct.

8 . Can mediation happen at any time before or during court proceedings? When does it tend to happen and who are the drivers of this?

Mediation may take place either before, during, or even after the conclusion of court proceedings. In respect of civil claims, mediation may take place either before or during court proceedings. As mentioned above, Article 15 of the Cyprus Mediation Law provides the courts with power at any stage of the proceedings but before the delivery of a judgment to adjourn the judicial proceedings in order to allow mediation to take place. The Family Mediation Law contains similar provisions (Articles 17 and 18), which additionally provide that the court shall consider, inter alia, whether mediation is in the best interests of any child involved.

The Family Mediation Law provides in Article 19 that mediation may take place even after the delivery of a judgment. In particular, if, after the conclusion of court proceedings a dispute arises concerning the execution of an order issued in the course of the particular court proceedings and the need arises either to modify that order or to determine the manner of its execution, the parties may proceed to mediation.

Usually, mediation takes place before the parties resort to court in an attempt to exhaust the possibility of out-of-court settlement. If it appears that the parties are unable or unwilling to agree on a settlement, then going to court is a one-way option.

.9 . In what situations is mediation considered most effective?

In Cyprus, mediation is considered more effective in relation to family disputes. The Family Mediation Law, which is relatively recent, specifically deals with the conduct of mediation in the case of family disputes. There is no widespread use of mediation in Cyprus so more specific conclusions cannot be drawn at the present stage.

10 . Can all disputes, including commercial fraud disputes, be subject to mediation?

The Cyprus Mediation Law applies to civil disputes, including cross-border disputes. This law does not apply to any civil disputes (whether cross-border or not) involving certain rights and obligations which the parties are not free to decide under the applicable law; labour disputes not included in cross-border disputes regardless of whether they do not raise rights and obligations in respect of which the parties are not free to decide under the applicable law; any tax, customs or administrative disputes; or disputes concerning the liability of the state for acts or omissions in the exercise of state authority.

The Family Mediation Law applies, inter alia, to disputes relating to child custody, child alimony, spousal or cohabiting alimony and property relations between spouses or cohabiting partners. However, this law does not apply to disputes relating to the removal or award of child custody, which fall under the exclusive jurisdiction of the family courts.

11 . Are dispute resolution clauses mandating mediation common in contracts? If so, are such provisions enforceable in the courts?

Mediation clauses are not particularly common in Cyprus, unlike arbitration clauses, which have become more popular and are more commonly found in various types of contracts, such as construction contracts. In general, a mediation clause is an agreement between two or more parties and, like any agreement, it has legal force and is binding on the parties. However, the laws governing mediation in Cyprus are silent on what may happen if there is a mediation clause and one party, in disregard of that clause, proceeds to court proceedings, unlike arbitration where the power of the court to stay pending court proceedings in favour of an arbitration clause is expressly provided. We can only hypothesise that in the event a party resorts to court without undergoing an agreed mediation process then the court can penalise that party when considering an award of costs.

12 . How do mediations become legally binding and what are the common agreed terms between the parties to a mediation?

If the mediation results in the conclusion of a settlement agreement, then that agreement shall have the same legal force as any other agreement. This agreement may be declared by the court wholly or partially enforceable in the same manner and with the same effect as a judgment/order of the court upon application by the parties. In this event, the court issues an order with the same content as the settlement agreement. The court may reject the application for enforcement of the settlement agreement if it considers that the contents of the agreement are contrary to law or unenforceable, or if the dispute cannot be resolved by mediation. Such decision is subject to appeal.

A mediation agreement usually contains a confidentiality clause, as the parties do not wish the opposing party or any third party to be informed of any statements they make in confidence to the mediator, when private meetings are held. Furthermore, a mediation agreement shall normally contain terms relating to the manner and duration of the mediation proceedings, but also the method of determining the mediator's appointment, remuneration and terms of payment.

13 . How can I become a mediator in your jurisdiction?

In Cyprus, there are two Registers of Mediators: one provided by the Cyprus Mediation Law and one provided by the Family Mediation Law.

Persons who wish to act as mediators shall be registered at the Registers of Mediators kept by the Minister of Justice and Public Order at their request and on payment of a fixed fee, provided that they fulfil several conditions that are stated in Article 7 of the Cyprus Mediation Law and Article 8 of the Family Mediation Law respectively, and concern, inter alia, education, professional training, experience, legal capacity, permanent residency and clean criminal record. In relation to the Register of Family Dispute Mediators, there is an additional requirement to have received special training in mediation in family disputes.

Top14 . Is there a single governing body for mediators?

All the registries of mediators in Cyprus are governed by the Ministry of Justice and Public Order, which is responsible for informing the public in relation to the mediators. In particular, Article 13(1) of the Cyprus Mediation Law provides that the said Ministry shall ensure by all appropriate means, in particular through the internet, that information is provided to the general public on how to access mediators. In addition, lawyers have the responsibility to inform their clients about the possibility of resorting to mediation.

15 . What ethical codes of conduct are mediators subject to?

Mediators shall perform their duties diligently, independently and impartially, in a proper and effective manner and shall not be subject to the control or follow the instructions of any person or authority. Mediators who are proposed to undertake, or who have already undertaken, to conduct a mediation shall in good time and before accepting their appointment or as soon as a conflict of interest or other interest becomes apparent, declare in writing any conflict of interest or any circumstance or financial or other interest that may affect or give the appearance of affecting their independence and refuse their appointment or resign as mediators, as the case may be, unless the parties expressly agree otherwise. In addition, mediators shall be guided by the European Code of Conduct for Mediators (Article 10(7) of the Cyprus Mediation Law).

The same duties are imposed on Family Dispute Mediators. Family Dispute Mediators are also bound by the Code of Conduct for Family Mediators, which is published on the website of the Ministry of Justice and Public Order. The said Code deals with the qualifications/training of mediators and the promotion of their services, the basic principles of mediation, the acceptance of the role of mediators, the mediation procedure and its conclusion.

16 . What are the stages of the mediation process?

Mediation starts with the conclusion of the mediation agreement. The first step of the mediation is preparation. At this stage the mediator assesses whether there is a conflict of interest between themselves and the parties or their lawyers. If the mediator deems that no conflict exists, then they may accept their appointment and the mediation agreement may be signed. The parties then inform the mediator separately of the dispute by its viewpoint. The mediator in consultation with the parties will decide how the meetings are to be conducted. The mediator may, if deemed appropriate, communicate and hold separate meetings with the parties and any information received at such a meeting shall be confidential and shall not be disclosed to the other party or to any third person without the consent of the party from whom the information was obtained. Otherwise, if the circumstances of the case so permit and if the mediator considers it appropriate, meetings may be held with all parties present.

The next step of the mediation procedure is the making of opening statements. The first to make a statement is the mediator who explains the procedure and presents to the parties the signed, executed mediation agreement. Then, each party makes its opening statement.

The third step of the mediation process is investigation and negotiation. These stages take place during the individual meetings with the parties. During the first sessions with each of the parties individually, the mediator's emphasis is on the factual background of the case and the feelings/views of the parties. Once the mediator is informed of the facts of the case and the emotions of the parties, the negotiation stage begins. At this stage, the parties are invited to consider potential solutions/settlement.

In the event that the parties reach an agreement, then there is a final stage which concerns the preparation of the final/settlement agreement which will then be signed by all parties and the mediator.

17 . How easy is the process of mediating in your jurisdiction? What are the obstacles to mediation?

Since mediation provides flexibility and requires the agreement/consent of the parties, in consultation with the mediator at all times, the process is relatively easy – there are no predetermined and strict steps, as in judicial procedures, but the parties are free to agree on procedures that correspond to their wishes, needs and specific characteristics of their case. However, there is a lack of information and knowledge about both the process of mediation and its benefits, which hinders its development in Cyprus to a greater extent. There are various bodies in Cyprus that provide training in the field of mediation and attempt to spread awareness so that mediation becomes more common and parties prefer it over costly and timely litigation. This lack of knowledge about mediation and its advantages constitutes a significant obstacle to the development of mediation in Cyprus.

18 . Is there a lack of awareness and understanding about mediation and its benefits? If so, what are some common misconceptions?

There is quite a lack of awareness and understanding about mediation and its benefits in Cyprus. Parties tend to think that the mediator is biased, that they will act in favour of the opposing party, and this feeling of injustice acts as a deterrent to try to resolve the dispute in mediation. Moreover, mediation is confused with negotiation and the potential parties are not aware of the special aspects of mediation and how their dispute may be better resolved.

Moreover, the parties are under the impression that their dispute will be resolved more drastically through the court because a judgment/order will be issued. However, the parties seem to be unaware of the fact that they can reach an agreement through mediation which, upon application to the court, can have the same effect as a court judgment.

19 . What are perceived to be the advantages and disadvantages of mediation in your jurisdiction?

Mediation involves many advantages and positive aspects of dispute resolution. In mediation the parties participate voluntarily, which increases the chances of success, since the parties are there of their own free will and are willing to try to find solutions to their differences. Through mediation, the parties can express their feelings to the mediator, which causes relief from stress and tension caused by the existence of a dispute. In addition, mediation can lead to the resolution of a dispute more quickly (and consequently with lower costs) than a dispute would be resolved in the courts, which are overburdened and experience huge delays in the resolution of cases. Additionally, the confidentiality surrounding the mediation process enhances the parties' confidence and contributes to the preservation of the relations between the parties. In mediation there is a more intimate relationship between the mediator and the parties, without compromising the independence and impartiality of the mediator, as opposed to the distance between the judge and the parties in litigation. This "intimacy" allows the mediator to better understand the needs and interests of the parties involved and help them reach an amicable solution that satisfies everyone. Moreover, mediation provides flexibility, as mediators in

consultation with the parties have a variety of options in relation to the date and place of the meetings, the manner in which the sessions will be conducted, the mediation procedure, the use of electronic tools, etc.

However, mediation may entail several disadvantages. As stated above, the mediator has no decision-making power, as they are not entitled to provide their opinion or make any decisions. Mediation relies significantly on the co-operation of all parties involved. If the parties are not able or are not willing to compromise, then mediation may end in failure. Moreover, mediation may not be suitable for all disputes. For instance, mediation may not be effective for large complex issues where there are several issues to be resolved. In the event that no settlement agreement is reached, the parties, who have already spent a significant amount of money, effort and time, may resort to court after all and may find themselves at a disadvantage because they have already disclosed their positions, views and evidence, meaning that the other party will know what to expect during the hearing.

20 . Can mediations take place remotely?

Article 18(3) of the Cyprus Mediation Law explicitly provides that mediation may be carried out using modern communication technologies. Consequently, it may be considered that this article allows the parties to conduct mediation remotely, if agreed. In general, the mediator shall determine the place where the mediation shall take place, after considering all the circumstances of the dispute being mediated, as well as the views of the parties with regard to their accessibility (Article 19(1) of the Cyprus Mediation Law).

21 . Have you seen an increase in the use of mediation in disputes since 2020?

In recent years there has been a positive trend towards mediation, mainly in family disputes. However, this is only a small percentage, as there is still a preference for resorting to court rather than mediation or other alternative means of resolving disputes, such as arbitration or adjudication.

22 . Is Artificial Intelligence (AI) being used in mediation?

Unfortunately, artificial intelligence has not yet penetrated to a noticeable degree into the conduct of mediation in Cyprus, where there is a tendency to use more traditional methods.



Patrician Chambers
332 Agiou Andreou str., 3035 Limassol, Cyprus

P.O Box 54543, 3725 Limassol, Cyprus

T +357 25871599 | F +357 25344548
info@pavlaw.com

— — — — —
www.pavlaw.com

Follow Us: 