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Partners
Mediation in Europe
at the cross-road of different legal cultures

edited by
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Contents

7  Preface
   Antonello Miranda

9  The Origins of Mediation and the A.D.R. tools
   Antonello Miranda

Part I
Mediation in Patrimonial Matters

29  Mediation. An overview of the functionality of Alternative Dispute
    Resolution in the English legal system
    Cinzia Valente

53  Mediation in Greece: a new approach in the delivery of civil justice
    Cornelia Delouka-Inglessi

75  Mediation in Italy: the main changes to the framework
    Annalisa Alongi

87  Mediation in Italy: new discipline, old-style logic
    Gianfranco Amenta

97  The European Union policies on access to justice and ADRs: good
    intentions are not enough as “the way to hell is paved with...”
    Alessandra Pera

125 ODR as Growth Factor of Confidence in the Digital Dimension
    of the Internal Market: some questions
    Chiara Cirafici

145 Mediation in Taiwan: the ideology of harmony v. the ideology of
    justice
    Salvatore Casabona
Part II

Mediation in Family Affairs

165 Civil Justice in matrimonial matters and the matters of parental responsibility
Rosa Adamo, Annamaria Frosina, Giovanna Triolo

183 Family Mediation. A Comparative Survey
Marta Infantino

231 Research on family and civil mediation in Greece
Michalis Pazarzis, Eleni Nina–Pazarzi

243 Family Mediation in Greece: Development and Problems
Penelope Agallopoulou

Part III

Mediation as a Process

261 Mediation process: increasing language awareness and developing communication skills
Giulia Adriana Pennisi

289 Preserving identities in multiethnic cities: differences, integration, mediation
Lorenzo Ferrante

313 Social Mediation in Contexts of Cultural Pluralism. A Tool of Intercultural Dialogue
Liborio Furco

337 Intercultural Mediation and support centres for victims
Abdelkarim Hannachi, Annamaria Frosina, Giovanna Triolo

359 MIS (Mediation for Social Inclusion)
Michelangelo Russo

371 The Authors
Mediation has been increasingly recognized in a great number of Countries as an important technique to settle disputes arising between people coming from different cultures, traditions, religions and juridical systems and so, professionals, must be now be very well proficient.

In addiction, mediation system is strongly recommended by EU according to the Dir.IP/2008/52 that obliges Member States to encourage the training of mediators and gives every Judge in the Community, at any stage of the proceedings, the right to invite the parties to have recourse to mediation if the Judge deems it appropriate.

But mediation is usually “legally” defined as the attempt to settle a legal dispute through active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result. Mediation differs from arbitration in which the third party (arbitrator) acts much like a judge but in an out-of-court less formal setting but does not actively participate in the discussion. Mediation has become very common in trying to resolve domestic relations disputes (divorce, child custody, visitation), and is often ordered by the judge in such cases. Mediation also has become more frequent in contract and civil damage cases. There are professional mediators, or lawyers who do some mediation for substantial fees, but the financial cost is less than fighting the matter out in court and may achieve early settlement and an end to anxiety. However, mediation does not always result in a settlement.  

Furthermore if we look for a synonymous we find that “alternative words” for mediation are: adjustment, adjustment of difficulties, arbitration, conciliation, finding a middle course, interference, intervention, intervention to facilitate a compromise, negotiation, negotiation process, parley, settlement of difficulties, settlement of dispute.

As a consequence it is obvious that it is practically impossible to give an unambiguous definition of mediation and the institute in itself may be declined in different ways and shapes according to the different approaches of researcher, practitionners, lawyers, psycologists and so on; and of course of the different legal systems and legal traditions.