

International Court of Mediation and Arbitration



Cour Internationale de Médiation et d'Arbitrage

Sous l'Égide de l'Association Mondiale de Médiation
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International Court of Mediation and Arbitration

CIMEDA



Médiation Arbitrage[©]

Genève

What are the advantages of this justice?



This private justice structure allows business leaders and economic actors to settle national and international disputes through Mediarbitration.

Quick

The period of time within which the arbitral award shall be made be fixed



by the parties. This period may not exceed 6 months.

Confidential

It is protected from publicity, thus preserving the future of business relationships.



User-friendly and "adaptable"

The parties shall select the Mediator(s) in an odd number by depending on the nature of the dispute (legal and/or technical) and the place where



the Court will be held,

National and international

Regardless of the nationality of the companies, the parties are placed on an equal footing. They can bring their national or international disputes to the Court.



Economic justice

The fees of the Mediators and the administrative costs of the Court are proportional to the value of the dispute and are determined according to a scale

available on the website in the "Download" section.



Litigation has a very specific path:

- ✓ 1) The Dispute
- ✓ 2) The Conflict
- ✓ 3) The Litigation

How can we be reached?

In the absence of the arbitration clause :

It is possible to refer to the CIMEDA spontaneously, after the conflict/litigation has arisen, by going to the website of the Court under the heading "Referring to us" or by writing to the Secretariat of the Court (postal address and email address on the back of this leaflet). We will provide you with the full procedure to follow.

On the basis of the **arbitration clause or an agreement**, the party or parties shall refer the matter to the **International Court of Mediation and Arbitration**

After having constituted their respective files, the parties involved will receive a list of Mediator-Judges on which they must decide. As soon as the parties accept, the Mediation (first phase of the Mediation) can start. The final award will be made within a maximum of 6 months.

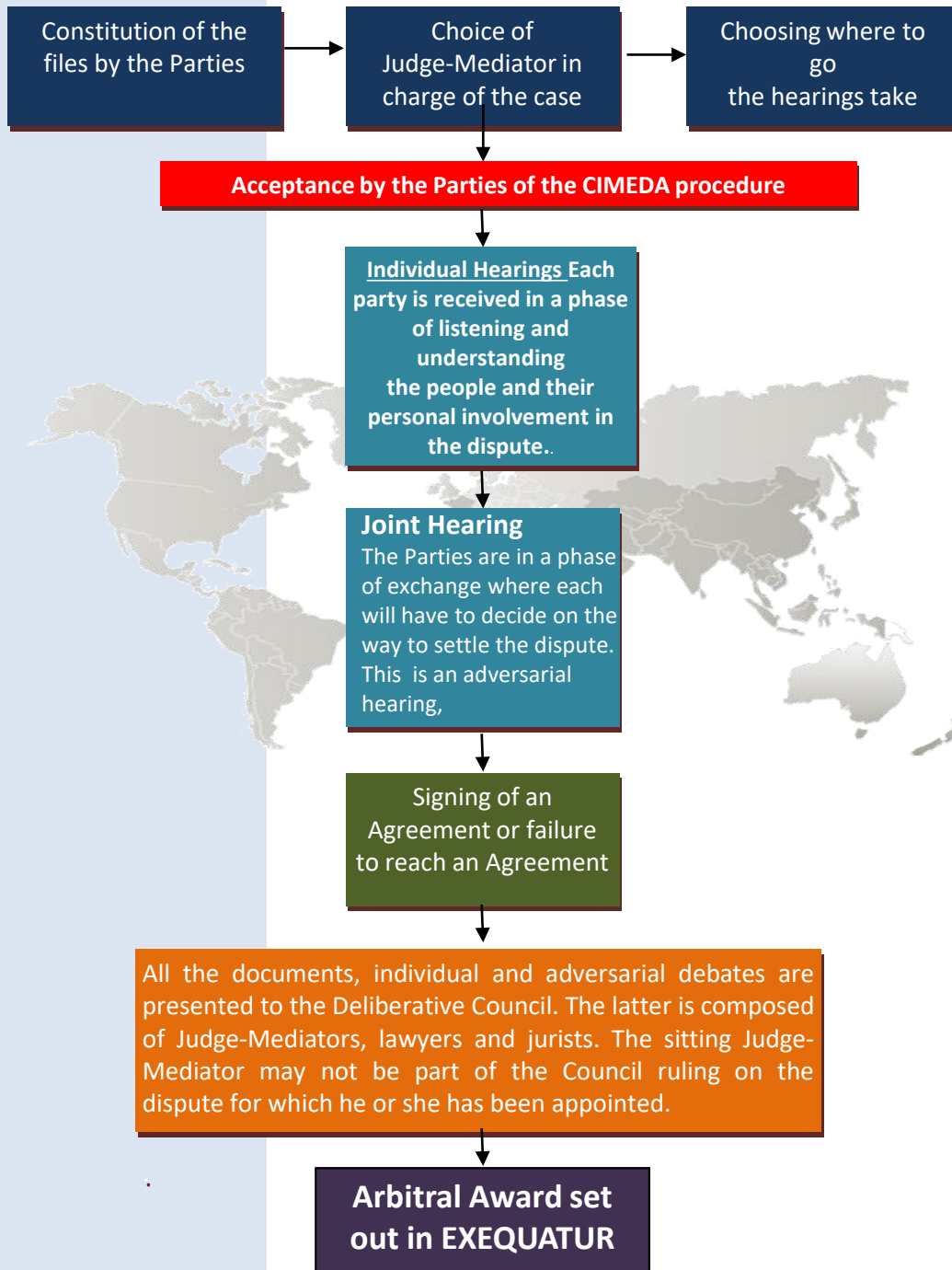
Emergency measure

If the parties so wish, this period can be shortened considerably by initiating an emergency procedure.
(Apply to the Secretariat)

"Justice must serve mankind and remain balanced. We do not want a blind and deaf justice, but a justice that is constantly looking for common sense and equity...."

The President

Stephan Delekian



What are the different Alternative Dispute Resolution methods (M.A.R.C.)?

- Mediation
- Conciliation
- Negotiation

What are the different Alternative Dispute Resolution Procedures (ADR)?

- Arbitration
- Mediarbitration

The M.A.R.C.:

Mediation

Mediation is a procedure for seeking a solution to conflicts by which entities that have

a dispute/conflict between them, in the pre-litigation phase, try to reach a solution through the intervention of a third party, called the Mediator. The Mediator's mission

is to accompany the parties and help them find a common solution. The mediator does not make proposals. The parties in conflict decide for themselves how to resolve their dispute/conflict. The Mediator is responsible for uncovering the willingness of the parties to find a solution. He/she is considered as a witness

The Mediation process is "silent" on the part of the discovery of the consensual solution. The time taken for the Mediation is in addition to the time taken for proceedings before the state courts or arbitration.

It is considered to be the most successful alternative dispute resolution process in terms of confidentiality, impartiality and based on the principle of common sense and fairness. Like all ADR processes, it is voluntary and the parties can leave at any time.

Mediation agreements/protocols are non-binding and have the legal value of a commercial contract.

Since January 2012, in France*, mediation protocols/agreements benefit from the possibility of exequatur. It should be noted that the mediation procedure cannot provide for sanctions and therefore does not have a definitive objective of dispute resolution but an intermediate solution of conflict resolution. (* Implementation of the 2008 European Directive)

Conciliation

This is also the intervention of a third party, the conciliator, in a dispute between two or more parties. The conciliator's task is to propose one or more solutions to the dispute by getting the parties to accept an approach in which concessions will have to be made. The parties are not obliged to reach a settlement agreement. The conciliator's task is to untie the dispute by making proposals. The time limit for conciliation is in addition to the time limits for state court proceedings.

Negotiation

In this procedure, too, the intervention of third parties is agreed between the parties. The negotiator's task is to represent the interests of the party that has appointed him or her. Thus, in a negotiation, there may be as many negotiators as there are parties involved. The time taken for mediation is added to the time taken for proceedings before the state courts.

P.A.R.L. :

Arbitration

Originally intended to relieve the pressure on state courts and to offer a more efficient approach to companies at international level, arbitration is governed by the New York agreements (1958) and is binding on certain states, whose number has continued to grow. Thus, many countries (149) have already incorporated the concept of arbitration into their Code of Civil Procedure, practised mainly by legal professionals (barristers, lawyers, notaries, bailiffs, etc.). This is a legal approach to the dispute and the award is given according to the law, in the same way as the state courts, but with a remarkably rapid and definitive procedure.

It should be noted, however, that the arbitral award may be made in equity, a concept provided for by the legislator and the New York agreements (1958) but rarely mastered by the arbitrators. It offers the particularity of an award that has the force of *res judicata* in accordance with the law of the parties. The arbitral award may be recognised by the State through *exequatur*,

MEDIARBITRATION©

An extraordinary idea that the International Court of Mediation and Arbitration is putting into practice. Reflected by businessmen and international lawyers, *Mediation and Arbitration* was born without ever losing sight of the desire of companies to be "judged" by their peers and not by state authorities, most of whom are unaware of economic, industrial and/or international realities.

In the Court's stated desire to put the human being at the centre of the world, a common sense, fair and humane procedure has been put in place. Practised by seasoned businessmen, *Mediation* leaves the choice of the Judge-Mediator and the place where the procedure will take place to the parties. We want to humanise our approach and leave the choice of solution to the parties.

If our conviction and our procedure respond almost exclusively to Mediation, we understand its limits. In order to make the parties' approach efficient, Arbitration "reinforces" Mediation by validating this approach through an arbitration award which makes the agreements binding and enforceable (through *exequatur*).

Mediarbitratio© guarantees a definitive outcome to the dispute within a maximum of 6 months (excluding any delays for expertise and audit). A human justice left to the control of the parties. Under the 1958 New York©Agreements, the arbitration award practised in *Mediarbitratio*© is recognised by all the signatory countries.

Mediation is the only Alternative Dispute Resolution Procedure (ADR) in which the parties participate fully in the drafting of the arbitration award concerning them.

* *Definition:*

Mediation: (n.m.) *A fair and common sense procedure practised by a Mediator-Judge or Mediators which allows the mediation process to be reinforced by an arbitral award granting it a final and unappealable resolution of the dispute (exequaturée arbitral award).*