

# INTERNATIONAL COMMERCIAL MEDIATION

Law and Regulation in  
Comparative Context



RONÁN FEEHILY

# International Commercial Mediation

**S.I. Strong**



## **International Commercial Mediation:**

**International Commercial Mediation** Ronán Feehily, 2022-09-08 In this comprehensive comparative study Ron n Feehily analyses the legal and regulatory issues surrounding international commercial mediation and discusses their implications in a range of settings While existing literature tends to cover mediation in general Feehily places the commercial mediation process in its legal and regulatory context offering an original contribution to the field The book identifies the controversies that arise from the mediation process across numerous jurisdictions and discusses them in detail Comparing the mediation process in Europe North America and Australia as well as other common civil and mixed jurisdictions Feehily demonstrates where systemic differences are transcended and where they are significant Organised systematically and written in an accessible style Feehily offers an international holistic guide to the commercial mediation process

**Mediation in International Commercial and Investment Disputes** Catharine Titi, Katia Fach Gómez, 2019 Until now the resolution of international commercial and investment disputes has been dominated almost exclusively by international arbitration But international mediation and conciliation are now coming to the fore This book brings together a line up of highly qualified experts to address this topical complex subject from a variety of angles

**International Commercial Mediation** Cyril Chern, 2020-11-26 International Commercial Mediation is a practical guidebook that explains how to handle and complete a mediation as well as how to personally market the skills developed as a mediator The book provides examples supplies forms and explains procedures of actual working mediations which can be used to adapt to individual needs It also deals with advanced practitioner issues and the emerging law on international mediation

International Commercial Mediation Training Role -plays Greg Bond, 2015

*International Commercial Arbitration and Mediation in UNCITRAL Model Law Jurisdictions* Peter Binder, 2019-05-14 International Commercial Arbitration and Mediation in UNCITRAL Model Law Jurisdictions Fourth Edition Dr Peter Binder This new edition of a classic text is so extensively revised and updated as to constitute a new book It does however retain the tried and tested article by article structure of the previous three editions it covers all the information needed when contemplating cross border arbitration or mediation and enables a practitioner to ascertain what to expect in each jurisdiction It remains the only book that provides a complete overview of all the adopting jurisdictions now 111 at one glance with a description of the legislation in these jurisdictions counterbalanced by court rulings to demonstrate how matters are dealt with in everyday practice The popular adoption chart matrix unique to this book has been further enhanced and updated Featuring the first full commentary on the newly released 2018 UNCITRAL Model Law on International Commercial Mediation including its revolutionary regime for the enforcement of settlement agreements reached by means of mediation and an update of all case law on UNCITRAL texts CLOUT to date the fourth edition provides explicit expert guidance on such matters as the following overview of each jurisdiction that has enacted the Model Laws provisions in a particular national Model Law enactment to be watched out for how a particular issue dealt with

in a Model Law enacting jurisdiction has been handled by local courts and which jurisdictions can be safely recommended in arbitration or mediation clauses in international commercial agreements Both of the Model Laws are reproduced in full in an appendix With an examination of each provision s legislative history as well as national and subnational adoptions of the Model Laws this work provides a complete picture of global practice in international arbitration and mediation as it exists today taking full account of emerging trends in the enactment process and in case law Business people who agree to arbitrate in one of the 111 recognized Model Law jurisdictions can rely on a secure minimum of rights in the arbitral proceedings and run less risk of being surprised by unwelcome peculiarities of local law International litigation lawyers arbitrators and in house lawyers who are considering arbitrating or mediating in one of the 111 jurisdictions analysed academics in international ADR and national government officials dealing with cross border trade will benefit enormously from this new edition

Current Issues in International Commercial Mediation Veronika Vanisova,2019 This paper deals with the present debate in the context of the current mediation scene within the scope of international commerce Recently we have witnessed a number of initiatives aimed at improving and increasing the use of mediation Various prominent organizations traditionally providing the background for international arbitration adopted mediation rules reflecting the growing demand for mediation services In EU the Directive on certain aspects of mediation in civil and commercial matters was adopted and various subsequent steps to increase the use of cross border mediation were taken International commercial disputes often tend to be high value cases with a considerable level of complexity and therefore more time and cost consuming compared with domestic commercial disputes Despite the fact that arbitration remains indisputably the most preferred mean of international commercial dispute resolution it also faces a strong criticism It s said that international commercial arbitration became too costly slow and too formalized Parties to the complex commercial disputes therefore look for new dispute resolution mechanisms that would be easier faster and less expensive It would seem that nothing prevents mediation from taking the place of the most popular method of resolving international commercial disputes and therefore becoming a successor of arbitration However serious doubts exist whether mediation can serve as an adequate substitute for arbitration in particular within the scope of international commerce One of the most common complaints is that mediation lacks the international legislative framework such as international arbitration may benefit from This view is based on the claim that parties to the cross border commercial conflicts would find mediation more appealing if the settlements resulting from mediation were subject to legal regime providing for direct enforceability This paper further discusses this issue with particular focus on the nature of agreement resulting from mediation in the light of the proposal of the new international legal instrument prepared by UNCITRAL Working Group II i e the Singapore Convention It is argued that by granting the settlement agreements that fall within the scope of this new legal instrument a specific legal status behavioral pattern of the parties involved in the international commercial disputes may change dramatically

Beyond International Commercial

Arbitration? The Promise of International Commercial Mediation S.I. Strong, 2014 Although international commercial arbitration has long been the preferred means of resolving cross border business disputes the international corporate community has become increasingly concerned about increasing costs delays and procedural formalities As a result parties are looking for other means of resolving cross border business disputes One of the more popular alternatives is mediation Advocates of mediation extol its many benefits including its ability to resolve disputes more quickly and with fewer costs and formalities than other alternatives However very little research exists on how mediation operates in the international commercial context This Essay therefore considers whether and to what extent international commercial mediation can be said to be superior to international commercial arbitration That question is answered in a three step analysis First this Essay outlines the unique characteristics of international commercial disputes to determine whether such matters are amenable to mediation The discussion then considers what might motivate parties to use international commercial mediation if savings of time cost and procedural formality are taken out of the equation Finally the Essay describes how public international law might be used to improve certain deficiencies in international commercial mediation In so doing the discussion aims to help parties conduct a realistic evaluation of the prospects of international commercial mediation and find a way to ensure the procedure's long term success

Applying the Lessons of International Commercial Arbitration to International Commercial Mediation S.I. Strong, 2018 Traditional analyses of international commercial mediation focus primarily on either the step by step process associated with resolution of particular disputes or the relative merits of mediation over alternatives such as transnational litigation or international commercial arbitration However there is a significant shortage of comprehensive scholarly examinations of the international mediation regime as a whole such as those that are recommended by experts in dispute system design DSD DSD is a unique area of study since it does not seek to promote or analyze a particular methodology or process but instead focuses on larger structural issues so as to improve dispute resolution at a systemic level Only by adopting this type of larger analytical framework can parties policymakers and scholars truly appreciate the forces influencing decisions relating to the resolution of cross border business disputes Although a full DSD analysis would be beyond the scope of the current discussion this chapter considers a number of critical design issues relating to international commercial mediation building off a recent large scale empirical study conducted by the author in this area of law Among other things the chapter applies a default theoretic analysis to the field of international dispute resolution to consider how various visible and invisible nudges affect individual and institutional decisions regarding international commercial mediation In so doing the discussion not only provides an innovative structural perspective on the interplay between litigation arbitration and mediation in the international commercial context but also suggests how the existing system might be redesigned to create a more effective means of resolving cross border business conflicts

**Combining Mediation and Arbitration in International Commercial Dispute Resolution** Dilyara Nigmatullina, 2018-06-28 Securing fast inexpensive

and enforceable redress is vital for the development of international commerce In a changing international commercial dispute resolution landscape the combined use of mediation and arbitration has emerged as a dispute resolution approach which offers these benefits However to date there has been little agreement on several aspects of the combined use of processes which the literature often explains by reference to the practitioner s legal culture and there is debate as to how appropriate it is for the same neutral to conduct both mediation and arbitration Identifying the main ways of addressing concerns associated with the same neutral conducting both mediation and arbitration same neutral arb med arb this book examines how effectively these methods achieve the goal of fast inexpensive and enforceable dispute resolution evaluating to what extent the perception and use of the same neutral arb med arb depends on the practitioner s legal culture arguing that this is not a one size fits all process Presenting an empirical study of the combined use of mediation and arbitration in international commercial dispute resolution this book synthesises existing ways of addressing concerns associated with the same neutral arb med arb to provide recommendations on how to enhance the use of combinations in the future

*Mediation and Commercial Contract Law* Maryam Salehijam,2020-12-10 There is an urgent need to better understand the legal issues pertaining to alternative dispute resolution ADR particularly in relation to mediation clauses Despite the promotion of mediation by dispute resolution providers policy makers and judges use of mediation remains low In particular problems arise when parties lack certainty regarding the legal effect of a mediation clause and the potential uncertainty regarding the binding nature of agreements to pursue mediation is problematic and threatens the growth of ADR This book closely examines the importance and complexity of mediation clauses in commercial contracts to remedy this persistent uncertainty Using comparative law methods and detailed empirical research it explores the creation of a comprehensive framework for the mediation clause Providing valuable insight into the process of ADR and mediation this book will be of interest to academics law makers law students in house council lawyers as well as parties interesting in drafting enforceable mediation clauses

**The Singapore Convention on Mediation** Guillermo Palao,2022-12-13 This Commentary offers an article by article examination of the United Nations Convention on International Settlement Agreements Resulting from Mediation the Singapore Convention as well as insights into the negotiation process through which the Convention was developed It provides deep theoretical and practical analysis of the Convention and its consequences for the promotion of mediation as a mechanism to solve commercial conflicts with a cross border character , *Uniform [International] Commercial Mediation Act [consultation Document].* ,2005 *The Arbitrator's Role as a Settlement Facilitator in International Commercial Arbitration* Carmel Wahby,2025-12-09 In light of concerns about the increasing judicialization of international arbitration alongside broader shifts in the transnational dispute resolution landscape a recalibration of traditional adjudicative methods is underway This evolution favors approaches that combine adjudicative and non adjudicative techniques to enhance flexibility party autonomy efficiency the preservation of business relationships and the

promotion of early settlements with the assistance of an adjudicator This groundbreaking book presents the first comprehensive analysis of one of the most innovative developments in this context the role of the arbitrator as settlement facilitator a dual function that challenges conventional boundaries by enabling arbitrators in appropriate circumstances to foster amicable resolution alongside their adjudicative duties The author maps and categorizes a wide spectrum of settlement facilitation methods both established and innovative and compares diverse approaches that acknowledge and promote this practice Key areas of discussion include the range of arbitrator initiatives in setting the stage for settlement relevant principles divergences and emerging transnational trends across legal systems institutional rules domestic legislation and normative instruments that support or limit implementation safeguards for impartiality party autonomy and due process and mechanisms to ensure the finality and enforceability of settlements To support safe and effective implementation the book provides practical solutions for parties seeking to empower arbitrators as settlement facilitators offering concrete safeguards that can be integrated into arbitration agreements It also advances broader recommendations to foster international recognition and harmonization ensuring sustainable integration of this practice across legal systems The settlement facilitation methods and safeguards presented will enable practitioners to enhance efficiency reduce costs and streamline dispute resolution in both commercial and investment arbitration In addition the book s comparative analysis will equip arbitrators arbitral institutions and policymakers with a global perspective on regulatory frameworks enabling them to make informed choices regarding settlement facilitation across different jurisdictions

*Mediation as a Mandatory Pre-condition to Arbitration* Ana Ubilava, 2022-11-21 Mandatory investor state mediation ISM as a pre condition to arbitration is the way forward for rebalancing the investor state dispute settlement ISDS regime and tackling its widely criticised shortcomings Presenting a comprehensive doctrinal analysis of ISDS clauses of dozens of treaties this book reveals that simply offering ISM in a voluntary format will not increase its utilisation In this volume Ana Ubilava further debunks four common arguments and misconceptions against mandatory ISM through an innovative empirical analysis of over 600 investor state arbitration cases She also offers recommendations for incorporating mandatory ISM in ISDS as a precondition to arbitration aimed at international policymakers

**Civil and Commercial Mediation in Europe (set - Vols. 1&2)** Carlos Esplugues Mota, José Luis Iglesias Buhigues, José Luis Iglesias, Guillermo Palao Moreno, 2014-03-27 Originally available as two separate volumes Intersentia s Civil and Commercial Mediation in Europe is now available as a two volume set About Volume I on National Mediation Rules and Procedures Mediation is becoming an increasingly important tool for resolving civil and commercial disputes Although it has been long since recognized in many legal systems in recent years it has received an important boost and is currently one of the most topical issues in the field of dispute resolution The European Directive 2008/52/EC of the European Parliament and of the Council of 21/5/2008 on certain aspects of mediation in civil and commercial matters prescribes a set of minimum common rules on mediation for all EU Member States with the exception of Denmark

This book examines the current legal framework in every EU Member State regarding mediation in civil and commercial matters as well as the way in which the Directive has been or is expected to be implemented in the near future. It is written by renowned specialists on mediation in Europe and provides an exhaustive account for both scholars and practitioners in Europe and beyond the continent. Every chapter on national law analyzes both out of court and court annexed mediation in the existing legal framework: the areas of law covered by mediation; the value and formal requirements of the agreement to submit any dispute to mediation; personal features and requirements for mediators; procedural requirements in the mediation procedure; the relationship between the mediator and public authorities; the outcome of the mediation procedure in the scenario in which a mediation settlement is reached; its requirements and effects.

About Volume II on Cross Border Mediation: Mediation plays a leading role within the movement of Alternative Dispute Resolution after centuries in which for several reasons the State and State courts were regarded as the only available instrument to ensure access to justice to citizens. In the European Union the institution of mediation has received much support in the form of Directive 2008/52/EC which sets forth a minimum common legal framework for mediation in the Member States. The 2008 Directive has finally been implemented in the Member States and this book provides the much needed in depth analysis of the status of the mediation regimes in the European Union. The analysis covers the legal regimes of the Member States set up for cross border and national mediation. This volume includes national reports on cross border mediation including in depth information on all the relevant aspects of cross border mediation: the notion of cross border mediation; the law applicable to the mediation clause; the mediation proceedings; and the content of the settlement reached by the parties. Special attention is of course given to the recognition and enforcement in the European Union of settlements reached in other Member States and outside Europe. In addition the role of mediators and requirements to become a mediator are examined. This book provides a unique picture of the legal situation in the European Union for cross border mediation. It is an invaluable instrument for those who want to know more about this complex topic or want to become a mediator in Europe themselves.

**International Arbitration and EU Law** José R. Mata Dona, Nikos Lavranos, 2021-03-26

This book examines the intersection of EU law and international arbitration based on the experience of leading practitioners in both commercial and investment treaty arbitration law. It expertly illustrates the depth and breadth of EU law's impact on party autonomy and on the margin of appreciation available to arbitral tribunals.

*Ultima Thule* Lucy Reed, 2019

In this paper I will first consider the reasons for the low rates of successful international commercial mediations and then begin to explore what it might take to encourage the international legal and business communities to embrace mediation for international commercial disputes. Lastly I will introduce and examine the new United Nations Convention on International Settlement Agreements Resulting from Mediation. The Singapore Convention on Mediation in particular its role in promoting the use of international commercial mediation globally. This paper was presented as the keynote address at the inaugural Schiefelbein Global Dispute Resolution Conference on 18

January 2019 at the Sandra Day O Connor School of Law of Arizona State University      **Comparative and Transnational  
Dispute Resolution** Shahla Ali,2023-02-10 This edited volume presents research and policy insights into the theory and practice of dispute systems reform in diverse jurisdictions It highlights how important extra judicial mechanisms are for resolving cross border disputes as evidenced both by the breadth of scholarship dedicated to the issue and the proliferation of parties resorting to non litigious dispute resolution mechanisms in recent years Drawing on selected case studies the book examines the impact of comparative research and policy analysis in advancing reform of dispute resolution institutions at both the regional and global levels It explores the challenges and opportunities of understanding and assessing developments in systems of dispute resolution in diverse social and political contexts through comparative research With a growing number of disputes which have come to involve cross border issues anyone interested in transnational and comparative dispute resolution will find this book a useful reference      *Forming Transnational Dispute Settlement Norms* Shahla F. Ali,2021-05-28 This thought provoking book examines whether regional centres associated with global legal institutions facilitate expanded citizen engagement in global soft law making Through an analysis of empirical research into the role of decentralized soft law making in the East Asian region it investigates the influence of such regional centres in overcoming representational deficits in the design of cross border dispute settlement norms

Embark on a breathtaking journey through nature and adventure with is mesmerizing ebook, Witness the Wonders in **International Commercial Mediation** . This immersive experience, available for download in a PDF format ( PDF Size: \*), transports you to the heart of natural marvels and thrilling escapades. Download now and let the adventure begin!

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