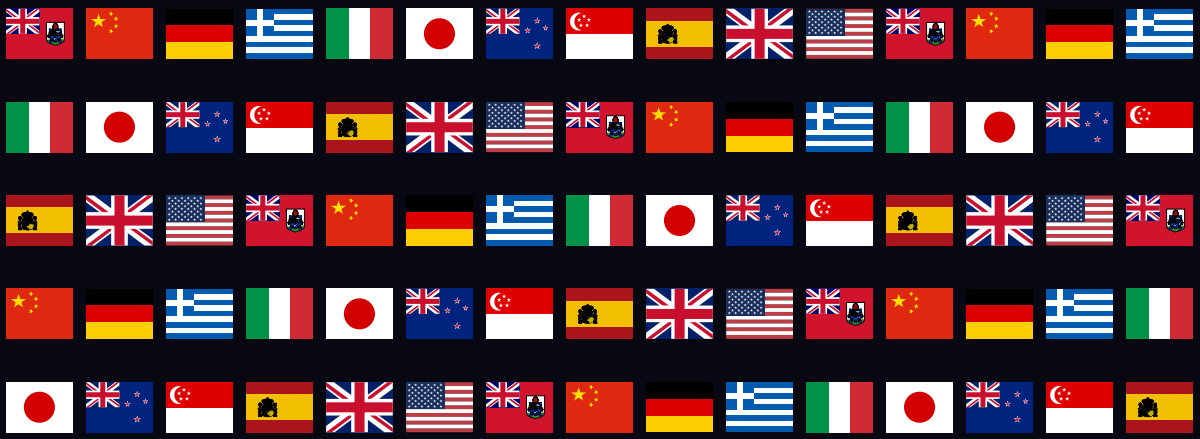
MEDIATION

Greece



LEXOLOGY
Getting The Deal Through

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Lux Mediation

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Consulting editors

Jonathan Lux

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Quick reference guide enabling side-by-side comparison of local insights, including law and policy (definitions, models, domestic mediation law, related incentives and sanctions); mediators (accreditation, liability, appointment, conflicts of interest, and fees); procedure; settlement agreements; courts' duty to stay proceedings in favour of mediation; other distinctive features; and recent trends.

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Greece

Dimitris Emvalomenos
d.emvalomenos@bahagram.com
Bahas Gramatidis & Partners

LAW AND POLICY

Definitions

Is there any legal definition in your jurisdiction of the terms 'ADR', 'conciliation' and 'mediation'?

There is no legal definition of ADR in Greek law; the term is used in Greece per the international standards to include any method of alternative dispute resolution other than by court or arbitration proceedings.

Conciliation is also not defined in Greek law but, again, the generally accepted notion of the term is followed, namely the increased role of a mediator in guiding the parties by offering opinions or proposing a solution. In that regard, Greek mediation law (Law 4640/2019, as in force – Law 4640) exceptionally allows a mediator to give parties a non-binding personal opinion; however, only if parties so wish, while the mediator remains neutral in any case (article 13, paragraph 2, Law 4640).

Mediation is defined by Law 4640, in the frame of Directive 2008/52/EC 'on certain aspects of mediation issues in civil and commercial matters' (the EU Mediation Directive), as a structured process with key elements of confidentiality and private autonomy, where two or more parties try voluntarily and in good faith to solve a dispute with the assistance of a mediator.

A mediator is the third party who undertakes to mediate in an appropriate, effective and neutral way, facilitating the parties to find a mutually acceptable solution to their dispute (article 2, paragraphs 2 and 3, Law 4640).

Law stated - 07 July 2022

Mediation models

What is the history of commercial mediation in your jurisdiction? And which mediation models are practised?

Law 4640 is the current Greek law on mediation that was enacted on 30 November 2019, as in force, and it is the third attempt to introduce the institution in Greece after Law 3898/2010, which initially transposed the Directive into domestic law but it remained of a rather limited application and Law 4512/2018, which also remained inactive due to unconstitutionality (Supreme Court Administrative Plenary Decision 34/2018).

Law 4640 regards civil and commercial mediation in the frame of the EU Mediation Directive and applies the model of facilitative mediation as a rule. Exceptionally, evaluative mediation may apply under conditions (article 13, paragraph 2, Law 4640).

Law stated - 07 July 2022

Domestic mediation law

Are there any domestic laws specifically governing mediation and its practice?

Mediation is regulated by Law 4640, which follows the provisions of the EU Mediation Directive as a rule, subject to the following basic notes.

Enforceability of the mediation settlement agreement

The material deviation of Law 4640 from the EU Mediation Directive regards enforceability. In specific, Law 4640 (article 8, paragraph 2) allows each party, acting even unilaterally and irrespectively of the consent of the other parties,

to file the mediation settlement agreement with the secretariat of the court that is competent to hear the dispute, together with a state's duty required (currently €50), so that same becomes enforceable, provided the subject matter of the agreement reached may be enforced.

Under the EU Mediation Directive, such a filing by one of the parties requires the explicit consent of the others (article 6, paragraph 1).

Incentives and sanctions

Law 4640 provides for no incentives to mediate nor sanctions for a refusal to mediate (for those cases not falling within a mandatory initial mediation session). So, Greece did not choose to enact such an option allowed by the EU Mediation Directive (article 5, paragraph 2).

Compulsory mediation

For certain types of disputes specifically listed in Law 4640, a 'mandatory initial mediation session' is required, with applicable sanctions for the party that does not participate although having been properly summoned (articles 4, paragraph 1(d), 6 & 7, Law 4640). So, Greece chose to enact mandatory mediation provisions in the frame of such an option allowed by the EU Mediation Directive (article 5, paragraph 2).

Certain cadastral disputes have been added to those requiring a mandatory initial mediation session from 1 April 2022.

Mediation provided for by various laws

Mediation as a dispute resolution mechanism under Law 4640 is referred to by other laws and legislative pieces in general, such as by:

- the Code of Civil Procedure expressly mentions the duty of the courts and judges to refer cases to mediation if considered appropriate (articles 116A & 214C);
- the Civil Code especially regarding family mediation that may be ordered by the courts for the regulation of parental care, as a case may be (article 1514);
- the Lawyers' Code, including mediation within the lawyers' duties and work (article 36, paragraph 1, Law 4194/2013); and
- the laws on the collective management of IP rights (article 34 of Directive 2014/26/EU transposed by article 44 of Law 4481/2017); sociétés anonymes (article 3, paragraph 2, Law 4548/2018); corporate transformations (article 5, paragraph 2, Law 4601/2019); trademarks (article 31, Law 4679/2020); and heavily indebted individuals (article 4.e of Law 3869/2010 – the 'Katseli Law', as in force after the enactment of Law 4745/2020).

Specific types of mediation

In addition, special types of mediation have been introduced in recent years, namely:

- financial mediation as an out-of-court settlement stage between a debtor and financial institutions in the context of pre-insolvency proceedings (articles 5-30, and especially article 15 of Law 4378/2020 – the Bankruptcy Code);
- family mediation, with mediators appointed among those registered in a 'special register of family mediators' maintained electronically by the Central Mediation Committee (in Greek, KED) (article 1514 of the Civil Code, as in force after the enactment of Law 4800/2021, and secondary legislation on the register); and
- cadastral mediation, with mediators appointed among those registered in a 'special register of cadastral

mediators' also maintained electronically by the Central Mediation Committee (article 6, paragraph 2 of Law 2664/1998, as in force after the enactment of Law 4821/2021, and secondary legislation on the register).

'Mediation-type' proceedings

Various 'mediation-type' proceedings apply over and beyond Law 4640 for a variety of disputes, such as those referred to:

- the Hellenic Consumers' Ombudsman, the key ADR authority for consumers in Greece (Law 3297/2004);
- the Greek Ombudsman (the Citizen Ombudsman; Law 2477/1997);
- the Hellenic Financial Ombudsman – Non-profit ADR Organization (HFO ADRO, formerly HOBIS), also a FIN-NET member regarding cross-border disputes;
- the Mediation and Arbitration Organisation (in Greek, OMED) for collective labour disputes (articles 14–15, Law 1876/1990);
- the Labour Inspectorate (SEPE) for individual labour disputes, including same related to violence and harassment at work, which was enacted recently (article 3, Law 3996/2011 and especially articles 17-18, Law 4808/2021);
- the Committee for solving disputes regarding infringements of IP and related rights on the internet ((EDPPI) article 66E, Law 2121/1993);
- the Committee for out-of-court settlement of tax disputes (Law 4714/2020 and secondary legislation); and
- the police and port ombudsmen with duties related to public open-air assemblies (Law 4703/2020).

EU legislative developments affecting Greek law

Mediation/ADR is increasingly the preferred choice of the EU legislator for dispute resolution and it, therefore, becomes part of Greek law. Notable examples of such EU legislative pieces transposed or to be transposed into Greek law are:

- the Regulation (EU) 2019/1150 (P2B – Platform to Business) with effect from 12 July 2020, which – among others – imposed on online platforms (apart from the small ones) a mandatory mediation mechanism for the resolution of disputes between them on the one hand and the business and corporate website users on the other (especially articles 12 and 13);
- the Directive (EU) 2019/790 (DSM – Digital Single Market) effective from 7 June 2021, introducing ADR / mediation for three general categories of disputes (articles 13, 17, 18-21 and 23); and
- the proposal for a Regulation on a Single Market for Digital Services (DSA – Digital Services Act), which provides for a mandatory ADR mechanism regarding disputes between the online platforms and the recipients of their services (articles 16-18).

Law stated - 07 July 2022

Singapore Convention

Is your state expected to sign and ratify the UN Convention on International Settlement Agreements Resulting from Mediation when it comes into force?

The Singapore Convention, which was signed on 7 August 2019 and came into force on 12 September 2020, is regarded as a significant instrument for the international promotion of mediation. Greece is expected to wait for any initiatives of the European Union before deciding on the topic.

The lack of uptake of the Singapore Convention in the EU, at least thus far, may be due to the EU Mediation Directive,

which aims to achieve a similar outcome to the same within the EU and it requires EU member states to 'ensure that it is possible for the parties, or for one of them with the explicit consent of the others, to request that the content of a written agreement resulting from mediation be made enforceable'. This requirement is subject to exceptions (restrictively applicable and regarding mainly public policy) and the general provisions on recognition and enforcement of enforceable agreements among the EU member states (article 6, especially paragraphs 1 and 4 and preamble, Nos. 19 – 22).

Law stated - 07 July 2022

Incentives to mediate

To what extent, and how, is mediation encouraged in your jurisdiction?

There are no financial incentives to mediate, such as tax allowances or relevant costs' deduction as taxable expenses, or sanctions for a refusal to mediate (for those cases not subject to a mandatory initial mediation session).

Courts (namely, judges) have a duty to encourage mediation by inviting litigants to consider it at any stage of the court proceedings considering all circumstances of each case, which should, of course, be appropriate for mediation. The legal background for this is included in articles 116A & 214C of the Code of Civil Procedure, as the latter was supplemented by article 4, paragraphs 1(b) & 2 of Law 4640.

Courts may even order family mediation (article 1514 of the Civil Code), especially regarding the allocation and exercise of parental care, when the parents cannot agree thereon.

Also, lawyers have a similar duty to show their clients the way towards mediation (article 36, paragraph 1 of the Lawyers Code – Law 4194/2013).

Additionally, before filing a lawsuit on a dispute appropriate for mediation, the plaintiff's lawyer must inform the plaintiff in writing of the possibility of mediation or the obligation for a mandatory initial mediation session (see below); the relevant informative document must be signed by both the lawyer and the plaintiff and it has to be filed with the court either together with the lawsuit or with the submissions; failing to do so results to the inadmissibility of the lawsuit's hearing (article 3, paragraph 2, Law 4640).

Further, in recent years various laws that were enacted on a variety of topics provide especially for mediation as ADR, such as for disputes regarding the collective management of IP rights, limited liability companies, corporate transformations, trademarks, family-parental care, cadastral and other kinds of disputes.

Moreover, for certain kinds of disputes, a 'mandatory initial mediation session' applies. In specific:

- Law 4640 (articles 6, 7 and 44) requires mandatory initial mediation sessions for the following disputes, namely:
  - those with a mediation clause in a written agreement, in force from 30 November 2019;
  - certain family disputes, in force from 15 January 2020; and
  - disputes adjudicated under the ordinary proceedings and fall within the competence of either the multi-member first instance courts or the single-member ones, in the latter case provided that the value of the dispute exceeds €30,000, in force from 1 July 2020; and
- Law 2664/1998 (article 6, paragraph 2, as in force after the enactment of Law 4821/2021) imposes a mandatory initial mediation session on disputes arising out of the 'inaccurate first cadastral entries' and regarding the recognition of rights challenged thereby as well as the correction of the allegedly inaccurate entry, in force from 1 April 2022.

An exception applies for such disputes where the litigant is the Hellenic Republic, public law legal entities or local self-

government organisations.

The scope of the mandatory initial mediation session, which must take place before the case is heard by a court, is for the parties to be informed by the mediator on the mediation process and its basic principles as well as on the possibility of an out of court solution of their dispute based on the particularities and the nature of the same.

In the above cases, the failure to file with the court, together with the submissions, the minutes of the mandatory initial mediation session including the minimum contents of Law 4640 results in the inadmissibility of the hearing (articles 2, paragraph 5, 6, 7 and 44, as in force, Law 4640).

Law stated - 07 July 2022

Sanctions for failure to mediate

Are there any sanctions if a party to a dispute proposes mediation and the other ignores the proposal, refuses to mediate or frustrates the mediation process?

Yes, but only regarding the disputes falling within the mandatory initial mediation session (articles 6 and 7, Law 4640). The court may impose a fine of between €100 and €500, depending on the circumstances, to the party that does not attend the mandatory initial mediation although it had been properly summoned. No recourse against such a decision is allowed unless the case is also challenged on its merits (article 7, paragraph 6, Law 4640).

Law stated - 07 July 2022

Prevalence of mediation

How common is commercial mediation compared with litigation?

The application of Law 4640 is rather recent, so it is quite early to identify a cultural shift from the traditional litigation procedure to mediation. Thus, litigation remains today the primary preference of the parties and their lawyers for a commercial dispute and any change towards mediation will take time. However, empirical evidence shows the first indications of mediation culture owing to:

- the 'mandatory initial mediation session' for specific disputes as generally regulated by Law 4640 and especially for certain cadastral disputes by Law 2664/1998 (article 6, paragraph 2); and
- the pandemic lockdown meant that courts were closed down whereas mediations could still take place online.

Based on the most recent available statistical data of the Ministry of Justice and the Central Mediation Committee (in Greek, KED) for the last four-month period of 2021 (September-December), about 2,500 'mandatory initial mediation sessions' took place, in which 62 per cent of the mediators were appointed by the parties and 38 per cent by the Central Mediation Committee, most cases regarding family and commercial disputes. Regarding voluntary mediation during the same period of 2021, the cases reported were 436, about a 30 per cent increase from the respective period of 2020, mostly concerning family and real estate disputes.

Law stated - 07 July 2022

MEDIATORS

Accreditation

Is there a professional body for mediators, and is it necessary to be accredited to describe oneself as a 'mediator'? What are the key requirements to gain accreditation? Is continuing professional development compulsory, and what requirements are laid down?

There is no professional body for mediators.

Accreditation is required to describe oneself as a mediator, who, as a rule, must be:

- a third-level education graduate or a holder of an equivalent education title of a non-Greek recognised institution;
- trained by a special organisation certified by the Central Mediation Committee or holder of an equivalent accreditation title issued by another EU member state; and
- accredited by the Central Mediation Committee and registered with the Mediators' Registrar.

Special requirements and conflicts apply on specific conditions (articles 12, paragraph 1; 28 & 29, Law 4046).

Central Mediation Committee and the certified training organisations are specifically regulated (articles 10–11 and 22–27, Law 4640 respectively).

Continuing professional development is compulsory and consists of a minimum of 20 hours of training every three years provided by Greek or non-Greek certified training organisations (article 27.B, Law 4640).

Law stated - 07 July 2022

Liability

What immunities or potential liabilities does a mediator have? Is professional liability insurance available or required?

Mediators are liable for fraud only (article 5, paragraph 7, Law 4640).

Professional liability insurance is not mandatory, and it may be available if any individual mediator so wishes. However, it is not common in practice.

Law stated - 07 July 2022

Mediation agreements

Is it required, or customary, for a written mediation agreement to be entered into by the parties and the mediator? What would be the main terms?

A written mediation agreement is required; same is entered into by the parties and the mediator and its main terms are such parties' basic personal details, same of any other participating party (eg, a technical expert), mediator's fee and the subject matter of the mediation. The agreement may further include any other terms, such as procedural ones, that the parties may consider appropriate (articles 5, paragraphs 1 and 3; 7, paragraph 7; and 18, paragraph 1, Law 4640).

Law stated - 07 July 2022

Appointment

How are mediators appointed?

Mediators are appointed by the parties or by a third party chosen by the parties. Unless agreed otherwise, one mediator is appointed (article 5, paragraph 2, Law 4640).

For those cases for which a mandatory initial mediation session is required, in the absence of the parties' consent on the mediator, the same is appointed by the Central Mediation Committee following a request to it by any party. Detailed regulation applies to how the above committee makes the appointment and what happens if the one initially appointed refuses to accept the nomination (article 7, paragraph 1, Law 4640).

Law stated - 07 July 2022

Conflicts of interest

Must mediators disclose possible conflicts of interest? What would be considered a conflict of interest? What are the consequences of failure to disclose a conflict?

Any conflict of interest prohibits a mediator from accepting a mediation duty and enforces him or her to stop acting if already accepted, notifying the parties accordingly. Conflict of interest cases are indicatively mentioned in Law 4640, such as any personal or professional relationship with the parties or their lawyers, collection of fees in the past for services provided to any of the parties, any economic or other kinds of interest, direct or indirect, related to the mediation at issue. The conflict is provided rather broadly and covers any involvement in the future by the mediator, by any means, to the case he or she handled, between the same parties (article 14, Law 4640).

Failure by the mediator to disclose a conflict would result in disciplinary sanctions imposed by the Central Mediation Committee within a range provided for by Law 4640, depending on the circumstances, but it would not affect a possibly successful mediation outcome.

Also, the mediator could be exposed to civil and criminal liability subject to the particular requirements of each case (articles 17 and 5, paragraph 7, Law 4640).

Law stated - 07 July 2022

Fees

Are mediators' fees regulated, or are they negotiable? What is the usual range of fees?

The mediator's fees may be freely agreed upon by a written agreement with the parties.

In the absence of a written agreement, Law 4640 fixes mediator's fees exceptionally for the cases for which a mandatory initial mediation session is required as follows: €50 for the initial mandatory mediation session irrespectively of its duration and €80 per hour for a subsequent mediation procedure (if the parties so choose). The above amounts may be adjusted by a ministerial decision and the cost is borne equally by the parties. The mediator's duty is to have parties fully informed on his or her fees (article 18, Law 4640).

In practice and regarding non-mandatory mediation performed through mediation organisations, mediator's fees are a lump sum based on the amount of the dispute and the expected duration of the process.

Law stated - 07 July 2022

PROCEDURE

Counsel and witnesses

Are the parties typically represented by lawyers in commercial mediation? Are fact- and expert witnesses commonly used?

The parties must participate in a mediation together with their lawyers except for consumer and small-amount disputes where a lawyer's presence is not mandatory.

Fact and expert witnesses may participate only if it is considered necessary and based on the parties' consent, in agreement with the mediator. Such third parties must co-sign the relevant agreements (articles 5, paragraph 1; and 8, paragraph 1, Law 4640).

Consumer disputes are those involving a 'consumer' as the term is defined in the basic law on the 'protection of consumers' being EU originated, namely 'any natural person acting for reasons not falling within its commercial, business, handicraft or professional services activity' (article 1a, paragraph 1, Law 2251/1994, as in force).

Small-amount disputes are those valued up to €5,000 and falling within the competence of the 'justice of the peace courts' (low first-instance courts) (articles 466-471, Code of Civil Procedure).

Law stated - 07 July 2022

Procedural rules

Are there rules governing the mediation procedure? If not, what is the typical procedure before and during the hearing?

The mediation process is flexible and may be freely determined by the mediator and the parties. A mediator's duty is to secure that the parties understand the mediation process and consent thereto, being free to walk away at any time and without any consequences (articles 5, paragraph 3; and 15, paragraphs 1 and 5, Law 4640).

As a rule, pre-hearing separate contacts between the mediator and the parties as well as their lawyers take place and short submissions with basic documentation are sent to the mediator. Then, on the day of the mediation, a joint opening session and as many private sessions as needed take place, with a final joint session for the conclusion of an agreement or the confirmation of the non-agreement, as the case may be.

Law stated - 07 July 2022

Tolling effect on limitation periods

Does commencement of mediation interrupt the limitation period for a court or arbitration claim?

The agreement to mediate or the mediator's notification to the parties for a mandatory initial mediation session (where applicable) suspend the prescription and the statute of limitation as well as any procedural deadlines that have started running, throughout the duration of the mediation; such periods and deadlines continue after the end of the mediation process by any means (article 9, Law 4640).

Law stated - 07 July 2022

Enforceability of mediation clauses

Is a dispute resolution clause providing for mediation enforceable? What is the legal basis for enforceability?

A valid (written) mediation clause is enforceable and requires a mandatory initial mediation session to take place, by law. The minutes of such mandatory initial mediation session must be filed with the court together with the submissions so that the hearing of the case is considered admissible (articles 2, paragraph 7; 4, paragraph 1(e); and 6, paragraph 1(c)).

Law stated - 07 July 2022

Confidentiality of proceedings

Are mediation proceedings strictly private and confidential?

Mediation proceedings are in principle private and confidential depending on the parties' choice, subject to exceptions. In particular, prior to the commencement of the mediation process, all participants (namely the mediator, the parties and their legal representatives as well as any third participating party) have to agree in writing that they will keep the confidentiality of the same.

Regarding the contents of the mediation agreement, the parties may agree to keep them confidential (this being the rule), subject to formality requirements related to its implementation and the public order.

The confidentiality obligation prohibits all participants to a mediation from testifying before a court or an arbitral tribunal on the case or submit or refer to data related to the mediation process, subject to public order issues mainly regarding the protection of minors or the avoidance of any harm caused to a person.

A mediator's duty is to stress to the parties their confidentiality obligation before mediation commences.

Safeguarding confidentiality is a key duty of the mediator, subject to the legal requirement for the contrary, a public order issue or parties' agreement to the contrary. Breach by a mediator such duty is considered a serious disciplinary offence (articles 2, paragraph 2; 5, paragraphs 5 and 6; 7, paragraph 3; 15, paragraph 2; 16 and 17.B.4, Law 4640).

Law stated - 07 July 2022

Success rate

What is the likelihood of a commercial mediation being successful?

Mediation Law 4640 is rather recent and the cultural shift from litigation to mediation will take time. Thus, mediation in general, including commercial mediation, remains currently of a limited application and it basically regards cases falling within the 'mandatory initial mediation session' for the specific disputes regulated by Law 4640 and especially for certain cadastral disputes by Law 2664/1998 (article 6, paragraph 2).

Based on the most recent available statistical data of the Ministry of Justice and the Central Mediation Committee (in Greek, KED) for the last four-month period of 2021 (September-December), out of all the cases that proceeded further after the 'mandatory initial mediation session' stage, about 240 resulted in a full or a partial agreement – 88 per cent and 12 per cent respectively of the total – concerning mostly family and real estate disputes. Regarding voluntary mediations during the same period of 2021, about 340 resulted in a full or a partial agreement – 96 per cent and 4 per cent respectively of the total – concerning mostly family and banking disputes.

Law stated - 07 July 2022

SETTLEMENT AGREEMENTS

Formalities

Must a settlement agreement be in writing to be enforceable? Are there other formalities?

A settlement agreement must be in writing and takes the form of minutes, including minimum contents provided for by law, namely:

- the name and tax registration number of the mediator;
- the date and place of mediation;
- the names of the parties, their legal representatives and any third parties who may have participated;
- a reference to the way the parties resorted to mediation; and
- the settlement agreement or parties' non-agreement.

The settlement agreement is signed by the parties, their legal representatives and the mediator. If no settlement is reached, the minutes may be signed by the mediator alone.

Any party may file the mediation settlement agreement with the secretariat of the court that is competent to hear the dispute, together with a state's duty required (currently €50). Following such filing:

- the mediation settlement agreement becomes enforceable, provided the subject matter of the agreement reached may be enforced;
- the filing of any subsequent lawsuit regarding the subject matter of the agreement reached is inadmissible and any pending litigation is terminated; and
- the mediation settlement agreement may be used for the registration or the waiver of a mortgage.

If the mediation settlement agreement concerns transactions being subject to a notarial formality, the same must be further met per the general rules.

It is also a mediator's duty to properly inform the parties on the way their mediation settlement agreement may become enforceable, as a case may be (articles 8 and 15, paragraph 6, Law 4640; articles 904, paragraph 2(h) and 293, paragraph 1(c), Code of Civil Procedure).

Law stated - 07 July 2022

Challenging settlements

In what circumstances can the mediation settlement agreement be challenged in court? Can the mediator be called to give evidence regarding the mediation or the alleged settlement?

Like the agreement for the submission to mediation, the mediation settlement agreement, which is made in writing and signed by the parties, their lawyers and the mediator, is a contract (articles 4, paragraphs 5 and 8, paragraphs 1 and 2, Law 4640). Thus, it may be challenged in court under the general rules, such as for lack of a legal capacity to contract, deception, threat, error, breach of the good morals principle and breach of public order (especially articles 127–200, Civil Code).

Especially regarding good morals (bonos mores) and public order, a mediator may terminate the mediation process if

the dispute is being settled in a way contrary to the same, following reasoned information to the parties thereon (article 15, paragraph 4(a), Law 4640).

Confidentiality requirement prohibits the mediator (as well as all other participants in a mediation) from testifying before a court or an arbitral tribunal on the mediated case or submit or refer to data related to the mediation process, subject to public order issues mainly regarding the protection of minors or the avoidance of any harm caused to a person (article 5, paragraph 6, Law 4640).

Law stated - 07 July 2022

Enforceability of settlements

Are there rules regarding enforcement of mediation settlement agreements? And on what basis is the mediation settlement agreement enforceable?

Mediation settlement agreements must be in writing, including minimum contents and signed by the parties, their legal representatives and the mediator. Any party may file the mediation settlement agreement with the secretariat of the court being competent to hear the dispute, together with a state's duty required (currently €50), so that it becomes enforceable, provided the subject matter of the agreement reached may be enforced. If the mediation settlement agreement concerns transactions being subject to a notarial formality, the same must be further met per the general rules. It is also a mediator's duty to properly inform the parties on the way their mediation settlement agreement may become enforceable, as the case may be (articles 8 and 15, paragraph 6, Law 4640 and 904, paragraph 2(h), Code of Civil Procedure).

Law stated - 07 July 2022

STAYS IN FAVOUR OF MEDIATION

Duty to stay proceedings

Must courts stay their proceedings in favour of mediation?

Courts (judges) have a rather broad duty to encourage mediation by inviting litigants to consider it at any stage of the court proceedings, considering all circumstances of each case, which should, of course, be appropriate for mediation, although they are not specifically required to stay proceedings in favour of mediation. Specifically:

- 'The court encourages, at any stage of the trial and in any proceedings, the compromised solution of the dispute, the choice of mediation as means of out-of-court dispute solution, supports relevant initiatives of the litigants and it may formulate settlement proposals evaluating the actual and legal conditions'; and
- 'The court recommends to the litigants' recourse to mediation proceedings, if this is appropriate based on the conditions of the case, as law requires. In case the recommendation is accepted, the hearing of the case is adjourned for a time period of three (3) to six (6) months.' (articles 116A & 214C, respectively, of the Code of Civil Procedure).

The latter provision was supplemented and expanded by article 4, paragraphs 1(b) & 2 of Law 4640, which indicates the important role that the courts may, and should, play by guiding the litigants (and their legal representatives as a result) to mediation and fully advancing its application.

Law stated - 07 July 2022

MISCELLANEOUS

Other distinctive features

Are there any distinctive features of commercial mediation in your jurisdiction not covered above?

Online mediation is specifically provided for by Law 4640 as an alternative to a mediation with the physical presence of the parties, allowing the latter flexibility on the way it may be performed (article 5, paragraph 3, Law 4640).

The pandemic lockdowns expedited the use of online mediation because, while the courts were closed or suspended, several parties considered mediation as the only realistic alternative for the settlement of their disputes. In practice, online mediation proved that it may work without problems, assisted by technology resolving any technical issues that occasionally arose. It is believed that such a shift will continue.

The platforms of trustworthy mediation organisations providing the safeguards needed for a safe and secure online environment will boost the continued development of online mediation.

Law stated - 07 July 2022

UPDATE AND TRENDS

Opportunities and challenges

What are the key opportunities, challenges and developments which you anticipate relating to mediation in your jurisdiction?

The necessity of mediation as an out-of-court dispute settlement process, either under Law 4640 or by using similar types of proceedings available, will increase progressively in the coming years, providing for the required speedy, cost-effective and realistic solutions, which are otherwise not available. The main reasons for this are the litigation deadlocks in terms of length, cost, the uncertainty of proceedings, lack of trust and inadequate technological infrastructure and court facilities in the 'clicks' age calling for speedy, immediate, clear and trustworthy dispute solutions.

Further, within an increasingly online environment, what interested parties may check for in advance is trustworthy online mediation platforms operated by several mediation organisations or other generally known platforms in the case of ad hoc online mediations, in each case, of course, after checking on the mediator. Mediation was less affected by the lockdown restrictions and was particularly promoted when the restrictions imposed affected the operations of the courts. Mediation has been minimally affected because of an online process specifically allowed by Law 4640 (article 5, paragraph 3, Law 4640). Hopefully, such a boost will continue in the future. It is in the hands of the appropriate mediators and mediation institutions to enhance the trustworthiness and value of mediation assisting a cultural shift towards it.

Lastly, at the EU level, mediation/ADR is becoming increasingly the preferred choice of the EU legislator for dispute resolution; therefore, affecting Greek domestic law. This trend may be especially seen in the digitally operating markets, which progressively dominate the day-to-day transactions. Notable examples are the Platform to Business (P2B) Regulation, the Digital Single Market (DSM) Directive and the proposed Regulation on Digital Services (Digital Services Act – DSA). So, mediation will keep developing.

Law stated - 07 July 2022

Jurisdictions

Bermuda	Trott & Duncan
China	Zhong Lun Law Firm
Germany	Ditges
Greece	Bahas Gramatidis & Partners
Italy	Concilia LLC
Japan	Momo-o, Matsuo & Namba
New Zealand	Paul Sills
Singapore	Rajah & Tann Asia
Spain	Dispute Management
United Kingdom	Lux Mediation
USA	Polsinelli PC