



ევროკავშირი
საქართველოსთვის
The European Union for Georgia



WORKSHOP ON ALTERNATIVE DISPUTE RESOLUTION The duties of lawyers

Susy SCARDOCCHIA | Alicante | 2 July 2021

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OVERVIEW

- 1. Lawyers and mediation: common misconceptions**
- 2. To mediate or not to mediate?**
- 3. Preparing the mediation.**
- 4. Lawyers' duties during the mediation.**
- 5. Conclusion of the mediation.**

COMMON MISCONCEPTIONS



What is the normal approach of a lawyer to the job?

Adversarial; primarily law-focused; "win-lose" approach



Fight like a tiger! Show strength! Intimidate the other party! Do whatever it takes to win!

SHOULD THE CASE GO TO MEDIATION?

- **IN GENERAL: UNDERSTANDING MEDIATION AND EDUCATING THE CLIENT**
- **ASSESS ADVANTAGES OF MEDIATION: confidentiality, timing, maintaining business relations**
- **ADVANTAGES FOR THE LAWYER**



PREPARATION FOR THE MEDIATION

- **WHICH MEDIATOR?**
- **MAIN ISSUES? WEAK POINTS? EXPECTATIONS?**
- **INITIAL CASE SUMMARY, OPENING STATEMENT**



Confidential information!

DURING THE MEDIATION (1)



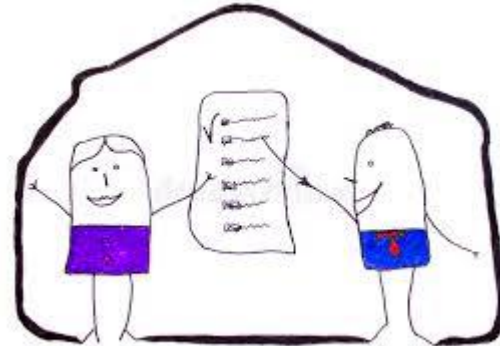
The lawyer knows the dispute best!

Not only legal advice, also commercial considerations

Common ground?

DURING THE MEDIATION (2)

**The lawyer as the mediator's ally
(ideally...)**



DURING THE MEDIATION (3) - NEGOTIATIONS

Help with negotiations? Not necessarily.

Explore solutions. Think outside the box.

REALITY CHECKS! What if...?



TERMINATION OF THE MEDIATION





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