

Mediation

*Principles and Regulation
in Comparative Perspective*

Edited by
KLAUS J. HOPT
and
FELIX STEFFEK

OXFORD
UNIVERSITY PRESS

OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford OX2 6DP
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide. Oxford is a registered trade mark of
Oxford University Press in the UK and in certain other countries

© The several contributors, 2013

The moral rights of the authors have been asserted

First Edition published in 2013

Impression: 1

All rights reserved. No part of this publication may be reproduced, stored in
a retrieval system, or transmitted, in any form or by any means, without the
prior permission in writing of Oxford University Press, or as expressly permitted
by law, by licence or under terms agreed with the appropriate reprographics
rights organization. Enquiries concerning reproduction outside the scope of the
above should be sent to the Rights Department, Oxford University Press, at the
address above

You must not circulate this work in any other form
and you must impose this same condition on any acquirer

Crown copyright material is reproduced under Class Licence
Number C01P0000148 with the permission of OPSI
and the Queen's Printer for Scotland

British Library Cataloguing in Publication Data

Data available

ISBN 978-0-19-965348-5

Printed in Great Britain by
CPI Group (UK) Ltd, Croydon, CR0 4YY

Links to third party websites are provided by Oxford in good faith and
for information only. Oxford disclaims any responsibility for the materials
contained in any third party website referenced in this work.

Contents Summary

Contents	xi
The Contributors	xxxiii
Abbreviations	xliii
Part I: Fundamental Issues	1
<i>Chapter 1 – Mediation: Comparison of Laws, Regulatory Models, Fundamental Issues</i>	
Klaus J. Hopt and Felix Steffek	3
<i>Chapter 2 – Harmonisation and Diversity in the Private International Law of Mediation: The Rhythms of Regulatory Reform</i>	
Nadja Alexander.....	131
<i>Chapter 3 – Privatising Civil Justice and the Day in Court</i>	
Rainer Kulms	205
Part II: Mediation in the European Union	245
<i>Chapter 4 – Mediation in Austria: The European Pioneer in Mediation Law and Practice</i>	
Markus Roth and David Gherdane.....	247
<i>Chapter 5 – Mediation in Bulgaria: Legal Regime, EU Harmonisation and Practical Experience</i>	
Evgeni Georgiev and Christa Jessel-Holst	333
<i>Chapter 6 – Mediation in England and Wales: Regulation and Practice</i>	
Jens M. Scherpe and Bevan Marten	365
<i>Chapter 7 – Mediation in France: Legal Framework and Practical Experiences</i>	
Katrin Deckert.....	455

<i>Chapter 8 – Mediation in Germany: The German Mediation Act— Alternative Dispute Resolution at the Crossroads</i> Peter Tochtermann	521
<i>Chapter 9 – Mediation in Greece: A Contemporary Procedural Approach to Resolving Disputes</i> Nikolaos K. Klamaris and Calliope G. Chronopoulou	585
<i>Chapter 10 – Mediation in Hungary: Legal Foundations, Recent Reforms, EU Convergence</i> Christa Jessel-Holst	605
<i>Chapter 11 – Mediation in Ireland: Growing Importance of ADR Driven by Budgetary Restraints and Docket Congestion— A Cheap and Easy Way Out?</i> Reinhard Ellger	629
<i>Chapter 12 – Mediation in Italy: Alternative Dispute Resolution for All</i> Giuseppe De Palo and Lauren Keller	667
<i>Chapter 13 – Mediation in the Netherlands: Between State Promotion and Private Regulation</i> Liane Schmiedel	697
<i>Chapter 14 – Mediation in Poland: Time for a Quiet Revolution?</i> Rafał Morek and Łukasz Rozdeiczer	775
<i>Chapter 15 – Mediation in Portugal: Growing Up in a Sheltered Home</i> Jan Peter Schmidt	809
<i>Chapter 16 – Mediation in Spain: Dealing with Its First National Regulation</i> María Luisa Villamarín López	839
Part III: Mediation in the Wider World	867
<i>Chapter 17 – Mediation in Australia: Development and Problems</i> Ulrich Magnus	869

<i>Chapter 18 – Mediation in Canada: One Goal—Different Approaches to Mediation in a State with Federal and Provincial Jurisdictions</i> Reinhard Ellger	909
<i>Chapter 19 – Mediation in China: Threat to the Rule of Law?</i> Knut B. Pissler	959
<i>Chapter 20 – Mediation in Japan: Development, Forms, Regulation and Practice of Out-of-Court Dispute Resolution</i> Harald Baum	1011
<i>Chapter 21 – Mediation in New Zealand: Widely Accepted and Successful</i> Heyo Berg	1095
<i>Chapter 22 – Mediation in Norway: ‘Faster, Cheaper and more Friendly’</i> Anneken Kari Sperr.....	1137
<i>Chapter 23 – Mediation in Russia: Regulation and Practice</i> Dmitry Davydenko.....	1165
<i>Chapter 24 – Mediation in Switzerland: A New Approach in a Conciliation-oriented Tradition</i> Christoph Kumpan and Cathrin Bauer-Bulst	1201
<i>Chapter 25 – Mediation in the USA: Alternative Dispute Resolution between Legalism and Self-Determination</i> Rainer Kulms	1245
Index.....	1329