



*The Project MediMARE: Mediation in Maritime Disputes developed mostly internal activities during the month of November. An internal meeting was held with the participation of the Project Group, and planning for the online course was made.*

## PROJECT'S RESEARCH REPORT

The Project MediMARE research report is being completed. It will be the input for the Maritime Mediation Curricula. The findings are very interesting and will be very helpful in defining how the course will be structured and its content.

## NOVEMBER MEETING WORKSHOP



The MediMARE's November Workshop happened on November 4th with an internal meeting held with some of the Project Participants. There was a discussion and an agreement regarding the online course. Silvia Nolan participated in the meeting and explained to all the involved participants what are the requirements for the online course, which will have 24 hours of diverse content.



## DECEMBER WORKSHOP

The December workshop will be held on December 15th, at 9 am WET time and 10 am CET. The Workshop will have a communication from Joaquim Simplicio, the Executive Manager of Mutua dos Pescadores, entitled “Mediation in Maritime Disputes as a Safety Tool in a Changing World”. Please save the date if you wish to participate, and enroll through the link: <https://medimare.eu/application-form/>

## NOVEMBER PORTUGAL AREA MEETING

On November 25th the Portugal Project Group held an area meeting to set internal affairs regarding budget changes and to start organizing the Online Workshop for the beginning of 2023.



### SOCIAL MEDIA

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[medimare.eu](https://medimare.eu)

or email us via email [medimare@uc.pt](mailto:medimare@uc.pt)

# WIKImediMARE

The MediMARE Project Team starts, this month, to publish glossary content related to the project.

**Alternative Dispute Resolutions** · The alternative dispute resolution is the term most commonly used by the American doctrine to refer to non-judicial means of solving disputes<sup>1</sup>. The term is criticized as it highlights litigation as the “normal” procedure and the other forms of solving conflicts as alternative. Thus, new terms to address this group of non-judicial forms of litigating conflicts emerged, such as Appropriate Dispute Resolutions and Adequate Dispute Resolutions (both also ADR).

**Appropriate Dispute Resolutions** · a more adequate term to refer to Alternate dispute resolutions, in the sense that they are more appropriate means of solving disputes, rather than to solve disputes, having advantages and disadvantages, and, the parties may choose among the different means available according to what is more appropriate to them<sup>2</sup>. (ref. Alternative Dispute Resolutions).

**Adequate Dispute Resolutions** · a term that is used to refer to the extrajudicial means of resolution of conflicts, given the fact that they are not judicial<sup>3</sup>. They are, indeed, a more adequate means of solving disputes, instead of always referring conflict to litigation.

**Arbitration** · “A method of dispute resolution involving one or more neutral third parties who are usually agreed to by the disputing parties and whose decision is binding. Also termed (redundantly) binding arbitration<sup>4</sup>”. Arbitration may be used to decide on patrimonial conflicts, for capable parties who can consent on the arbitration agreement. Arbitration is a confidential procedure and it may be an ad hoc administration (ref.) or an administered arbitration (ref.).

<sup>1</sup> LOPES, Dulce. PATRÃO, Afonso. *Lei da Mediação Comentada*. Coimbra: Edições Almedina, 2016.

<sup>2</sup> CEBOLA, Cátia Marques. *La Mediación: um nuevo instrumento de la administración de la justicia para la solución de conflictoss*. Tesis Doctoral. Facultad de Derecho, Universidad de Salamanca, 2011. Available at [https://iconline.ipleiria.pt/bitstream/10400.8/761/1/DDAFP\\_Marques\\_Cebola\\_C\\_LaMediacion.pdf](https://iconline.ipleiria.pt/bitstream/10400.8/761/1/DDAFP_Marques_Cebola_C_LaMediacion.pdf). Access on November 28th, 2022.

<sup>3</sup> LOPES, Dulce. PATRÃO, Afonso. *Lei da Mediação Comentada*. Coimbra: Edições Almedina, 2016.

<sup>4</sup> GARNER, Bryan (editor). *Black’s Law Dictionary*. 9th edition. St.Paul: West, 2009, pág. 119.

**Arbitrator** · “A Neutral person who resolves disputes between parties, especially by means of formal arbitration”<sup>5</sup>. Arbitrator is a person appointed by the parties in an arbitration conflict, to decide their demand in an arbitration tribunal. A conflict decided with litigation will usually be decided by one, three or five arbitrators. In case the parties decide to move with an administered arbitration, there are arbitration chambers which may refer to the parties a list of arbitrators specialized in a specific subject. The parties may choose an arbitrator who is not a jurist in some situations that refer to technical non-legal matters, which is a added value, since the decision will then be decided with more technical knowledge.

**Extrajudicial Dispute Resolutions** · Extrajudicial dispute resolutions are the means of solving disputes without referring them to litigation. Among extrajudicial dispute resolutions are negotiation, conciliation and arbitration.

**International Contracts** · International contracts are agreements between private or public parties, that can be made orally or in writing. They are, though, usually made in writing due to the complexity of issues surrounding international enforcement of obligations, for example: foreign parties, obligations to be fulfilled in different States, agreement on the choice of law and choice of venue. The international contracts are

used for the international sales of goods and for the international rendering of services.

**International Treaties** · International treaties are formal agreements between the subjects of International Public Law, e.g. States, International Organizations and the Holy See. These agreements have to be made in writing and may be made between two or several international subjects.

**Litigation** · Litigation is “the process of carrying on a lawsuit”<sup>6</sup>. Litigation occur in State courts, and are judged by Judges with jurisdictional authority attributed by the State. Judicial Decisions are enforceable in State Courts, as well.

**Mediation** · “Mediation is a process of assisted negotiation in which a neutral person helps people reach agreement. The process varies depending on the style of the mediator and the wishes of the participants”<sup>7</sup>. It is not a negotiation since it necessarily involves a neutral third party. It is a consensual and confidential process, led by the mediator, but with the whole decision-making process is controlled by the parties.

In case you have suggestions or doubts, do not hesitate on contacting us through our social media.

<sup>5</sup> GARNER, Bryan (editor). **Black’s Law Dictionary**. 9th editionn. St.Paul: West, 2009, pág. 120.

<sup>6</sup> GARNER, Bryan (editor). **Black’s Law Dictionary**. 9th editionn. St.Paul: West, 2009, pág. 1017.

<sup>7</sup> GOLANN, Dwight. FOLBERG, Jay. **Mediation: the roles of advocate and neutral**. New York: Aspen Publishers, 2006.