Mediazione internazionale: come gestire le dispute commerciali in Marocco

MEDIATION IN MOROCCO

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Agenda

1. Presentation of Morocco Key figures

2. The legal organization of Morocco

3. ADR in Morocco
   1. The mediation Process

4. Mediation through a mediation center
Morocco Key Figures 2019

Population: 35 Million

2.5% GDP Growth

62 Billion dollars of Foreign investment

Top 3 business partners:
- Spain: 23.6%
- France: 21.8%
- Italy: 4.7%

GDP structure:
- Services: 51.4%
- Industry: 32.2%
- Agriculture: 16.5%
The legal organisation of Morocco

**Court of Cassation**
(6 chambers)

- Court of appeal (6)
- Resident judge centers (178)
- Courts of 1st instance (70)

**Administrative Appeal Courts**
(2)

**Commercial Courts of Appeal**
(3)

**Administrative Courts**
(7)

**Commercial Courts**
(8)

**High Court**

**Military Court of the Royal Armed Forces**

**Common Law Jurisdictions**

**Specialized Jurisdictions**

**Exceptional Courts**
ADR IN MOROCCO: Presentation of the Mediation in Morocco.
Presentation of the Mediation in Morocco

- Morocco presents itself as the country of North Africa in the forefront for the establishment of mediation.

- Morocco is making a race of image and interests. After examining the compatibility of the texts with royal interests, the strategists of the royal finance engaged the Alawite State in this "modernity"... the monarchical economy of Morocco takes the lead ...

- In the Shereefian kingdom, the setting up of the mediation system aims more at depriving persons of access to a justice whose burden falls on the State than to open a truly more flexible and rapid way to them.

- French and especially Anglo-Saxon organizations are on the lookout for some economic cases and a part of the civil mediation cake, both in the conventional field and in the judicial field.

- The idea is to accompany the progressive establishment of the privatization of the judicial system.

- The aim is to make structural economies and find "alternatives" to justice, following the European model

- It is to be feared that whatever is said in a mediation may be repeated to those who demand it.
Presentation of the Mediation in Morocco:

1) For mediation to work, there must be:

A social organization that upholds human rights, the equal rights of persons and their freedom of decision.

2) For the mediator to exercise, he must be able to:

a) exercise independently in relation to any tutelary authority, be neutral with respect to the solutions adopted by the protagonists, and be impartial.

a) Guaranteeing the strict confidentiality of the exchanges, knowing that it cannot be the auxiliary of what authority. It must not be possible to ask for documents in the context of an investigation nor to give evidence.
The mediation process in Morocco
The four steps of mediation process in Morocco

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<th>1) The 1st information interview</th>
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<th>3) Negotiation and review of possible options</th>
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<td>• Explaining the rules to the parties</td>
<td>• Clarifying the points of view of the parties</td>
<td>• Inventory of questions to be settled</td>
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<td>• Signing the mediation protocole</td>
<td>• Summarizing the points of agreement and disagreement (the mediator - as a neutral third party)</td>
<td>• Seeking the possible solutions and choosing the best one</td>
<td>• Writing the transaction documents</td>
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<td>• Creating a climate of trust.</td>
<td>• If needed, perform or have an expertise performed</td>
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Mediation through a Mediation centre
1. **Why mediation?**
   - Because it is a process of finding amicable solutions;
   - Because it’s the quickest and cheapest way to resolve a conflict, as litigation can be long, expensive and stressful *(2/3 of mediations have a favorable outcome)*
   - Because nothing can be imposed on you by the mediator: only retained the solutions decided by the Parties.

2. **Why mediation rather than arbitration?**
   - Mediation aims to reach an amicable, free and consented agreement between the Parties.
   - The arbitration settles a dispute by an award, which is binding on the Parties, that they like it or not.

3. **When can you use mediation?**
   - It is possible to resort to mediation at the first manifestations of a dispute.
   - But the Code of Civil Procedure also allows for recourse to mediation during the proceedings. In such a case, it is brought to the attention of the jurisdiction as soon as possible and interrupts the procedure.
4. **How to work with a mediation center?**

The mediation process can be implemented:

- As part of a mediation clause contained in the object contract litigation;
- At the joint request of the Parties;
- At the request of one of the Parties. We will then contact the other Party in order to induce it to accept the principle of mediation.

6. **How to establish your request for mediation?**

By a letter stating:

- The company name, the registered office, the registration number a commercial register and address of the Parties;
- The civil status of the legal representative of the Parties;
- The summary subject of the dispute;
- Copy of the contract in which, if applicable, the clause was inserted Mediation.
- The request for mediation must be accompanied by the payment of costs of opening, as fixed by the scale in force.
7. **What are the risks?** No.

Unlike an arbitration procedure, **no decision can be imposed to you.**

In addition, **you can end the mediation at any time**, on your only decision.

8. **What are the deadlines?**

In the presence of a mediation clause:

○ As soon as the mediation request is registered, we inform the other Party and send them our terms.

○ Invite the latter to inform them in writing of any observations within a period of fifteen (15) days from receipt of mail, then seizes the Commission Approval.
Questions are welcome 😊

Many thanks!

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