



Sergio Fontana

MEDIATORE PROFESSIONISTA

Guido i procedimenti di mediazione con la consapevolezza che il vero successo non è l'accordo in sé, ma il percorso che porta le parti a costruirlo.

CONTATTI



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Via Andrea Costa n. 25, Carpi (MO) - ITALIA

FORMAZIONE

Università di MODENA

Genn. 1996 - GIU. 2000/ MODENA

CERTIFICAZIONI

CEDR - LONDON (Center of effective Dispute Resolution) - Nov. 2022

IMI (International Mediation Institute) - Sept. 2021

SKILLS

Conoscenza della normativa ADR e del D.Lgs. 28/2010 e successive modifiche.

Tecniche di mediazione e negoziazione (win-win, facilitativa, trasformativa)

LINGUE

Italiano - Madrelingua
Inglese - Advanced

ESPERIENZA PROFESSIONALE

Mediatore Professionista a tempo pieno

Settembre 2023- ad oggi

- Responsabile della sede di MODENA di InMedio;
- Gestione, unitamente al Responsabile dell'Organsimo InMedio di tutta l'attività ad esso collegata compresa la gestione dei mediatori e l'apertura di nuove sedi.

Avvocato Civilista

2000-2023 Modena

- 4 anni di esperienza presso un importante Studio legale di Modena come collaboratore di Studio (comprensivo di pratica);
- 18 anni come Legale interno di un importante Studio di Commercialisti di Carpi (MO) prima come collaboratore e poi socio per più di 10 anni.

Mediatore Civile e Commerciale

Maggio 2010-2016

- Iscritto al Registro dei Mediatori Civili e Commerciali da Giugno 2010 presso l'Organismo Forense degli Avvocati di MODENA
- Settembre 2016 nominato Referente di sede per InMedio (Organismo di Mediazione privato)

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 Via Andrea Costa n. 25, Carpi (MO) - ITALIA

Esperienze come Formatore in Mediazione

Seminari formativi

Ente: Consiglio Ordine Avvocati Modena -  2025

- Titolo: "Mediazione 4.0: 15 Anni di Cambiamenti, un Futuro da Costruire con uno sguardo anche oltre i confini"
- Ruolo: Relatore
- Contenuti: Convegno dal taglio pratico sull'utilizzo della mediazione in Italia ed all'estero quale un'opportunità per gli avvocati.

Ente: Consiglio Ordine Avvocati Locri -  2025

- Titolo: "Mediazione civile: le principali novità introdotte dal Correttivo (D.lgs. 216/24)"
- Ruolo: Relatore
- Contenuti: confronto tra professionisti della mediazione con particolare riferimento alle modifiche apportate dalla Riforma Cartabia

Ente: accreditato CNF - InMedio -  2021

- Titolo: "Mediazione lungo la Via Emilia (e oltre)"
- Ruolo: Relatore - Moderatore
- Contenuti: Webinar sulla mediazione con particolare riferimento ai contest internazionali di Mediazione per Università.

Esperienza Professionale

Mediatore civile e commerciale

Organismo di mediazione: Organismo Forense Consiglio Avvocati

 Modena -  2010-Presente

Numero di procedure seguite: **185**

Tipologie trattate: contrattuale, locazione, diritti reali, successioni

Mediatore civile e commerciale

Organismo di mediazione: **InMedio**

 Reggio Emilia - Modena -  2017- Presente

Numero di procedure seguite: **circa 2000**

Tipologie trattate: Divisioni ereditarie, successioni, contratti d'opera, locazioni, codominio.

Pubblicazioni:

"Mediation Scenario in the UIA World Forum, London 2024 - **Filodiritto** - 2024;

"The Italian Mediation Reform: Elements and Perspectives - **Mediate.com** - March 2023 -

"Clausola di mediazione nei patti sociali e consulenza tecnica in mediazione" - **Mediaries** - Luglio 2025

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📍 Via Andrea Costa n. 25, Carpi (MO) - ITALIA

Titoli di Studio e Formazione Specialistica

🎓 Laurea in Giurisprudenza
Università: Modena - 📍 MODENA- 📅 2000

⚖️ Abilitazione all'esercizio della Professione Forense -
Iscrizione Consiglio dell'Ordine Avvocati di MODENA
📍 MODENA- 📅 2004

📖 Corso di formazione per mediatori civili e commerciali
Ente accreditato: RESOLUTIA - 📅 17 2010 - Durata: 54 ore

📖 Corsi di aggiornamento mediatori
40-Hour Mediation and Conflict Resolution Skills Training
- Center for Understanding in Conflict- Gary Friedman,
San Francisco - 2020 - 40 ore - (online)

📖 Corsi di aggiornamento mediatori
Corso Aggiornamento - RESOLUTIA - 2021 - 9 ore

📖 Corsi di accreditamento Mediatori Internazionali
Mediation Skills - CEDR (London) - 2022- 10 ore

📖 Corsi di aggiornamento mediatori internazionali
"MLC Global - Switzerland Negotiation
and Mediation Training" - Straus Institute for
Dispute Resolution - Pepperdine University - Malibu (CA)
- 2023- 40 ore

📖 Corsi di aggiornamento mediatori
Corso post Cartabia - RESOLUTIA - 2024- 10 ore

📖 Corsi di aggiornamento mediatori internazionali
"Tuscany Retreat on Humanistic Mediation" -
Greg Rooney and Margaret Ross (Australia)
- 2024- 40 ore

📖 Corsi di aggiornamento mediatori-
Corso post Cartabia - RESOLUTIA - 2024- 10 ore

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Competenze Tecniche e Trasversali

- Tecniche di mediazione e negoziazione integrativa
- Conduzione di role-play e simulazioni
- Comunicazione efficace e gestione delle dinamiche di gruppo
- Normativa ADR nazionale ed europea

Partecipazione Competizioni Internazionali Universitarie di Mediazione in qualità di Giudice e Mediatore

- **Bucerius Law School (Amburgo)** "Mediation Competition 2024"
- **ICC Parigi** "International Commercial Mediation Competition 2025"

Competenze tecniche (hard skills)

- Conoscenza della normativa ADR e del D.Lgs. 28/2010
- Tecniche di mediazione e negoziazione (win-win, facilitativa, trasformativa)
- Progettazione di percorsi formativi per adulti
- Conduzione di simulazioni e role-play in aula
- Analisi e gestione del conflitto
- Redazione di verbali e documentazione di mediazione
- Deontologia e responsabilità del mediatore
- Gestione dell'aula e dinamiche nei gruppi di formazione
- Utilizzo di piattaforme di formazione online (Zoom, Teams, ecc.)

Competenze relazionali (soft skills)

- Comunicazione assertiva ed empatica
- Leadership formativa e gestione del gruppo
- Ascolto attivo e riformulazione
- Problem solving e pensiero critico
- Capacità di sintesi e chiarezza espositiva
- Adattabilità a diversi contesti formativi (giuridici, aziendali, universitari)

Competenze digitali

- PowerPoint e strumenti di presentazione interattiva (es. Canva, Prezi)
- Pacchetto Office (Word, Excel, Outlook)
- Competenze base di e-learning e blended learning
- Strumenti per la creazione di contenuti didattici digitali (es. Quiz, test, video tutorial)

PUBBLICAZIONI

Mediation Scenario in the UIA World Forum, London 2024 – Filodiritto – 2024;
www.filodiritto.com/mediation-scenario-uia-world-forum-london-2024

Mediation scenario in the UIA World Forum, London 2024

Sharing experiences and insights in the World Forum of Mediation Centres

Attending the UIA (*Union Internationale des Avocats*) World Forum of Mediation Centres is always something to look forward to and this year was no exception. Speakers from five continents – mediation practitioners and officers from mediation centres such as CEDR, IRDC, IMI, AMIFID, as well as lawyers, business managers, academics – bring different perspectives and experiences on mediation in their countries.

One remarkable point was made in describing the ideal scenario where mediation can be practised and bring the best possible outcome to the community.

In this scenario, all the following parties must act in synch:

- the judges, by ordering the parties to a claim to attempt resolving their dispute through mediation;
- the lawyers, by advising their client that mediation can provide the best solution to their dispute;
- the government, by funding and integrating mediation not only in the justice system but also as a public service offered to the community.

We can see now how this multi-parties setting works in practice by making reference to some mediation frameworks around the world.

Landscape of mediation in UK

In UK mediation is one important tool among the alternative dispute resolution methods (ADR) – some of them are court-annexed, i.e. they are offered within the courts before or during litigation as an alternative to trial in order to settle the parties' claim. Alternative dispute resolution has been a well-established and integrated practice in the UK civil justice system for the last 30 years. Many thousands of cases are mediated every year, mainly family, community (e.g. neighbour conflict and social issues) and commercial disputes.

The UK judges are now allowed to order the parties to pursue mediation, as a recent development brought by a new precedent established in November 2023 in the case *Churchill vs Merthyr Tydfil County Borough Council*, overturning the 2004 *Halsey* ruling. The latter provided that compelling parties to mediate would breach their right to a fair trial under Article 6 of the *European Convention on Human Rights*, where in *Churchill* it was established that there is no such violation and that mediation could in fact be made compulsory by the courts in certain circumstances.

Traditionally, the role of the government in the justice system was to be present through the court system. Track records and figures – £17.5 billion/year is the value of disputes resolved through mediation – triggered a government investigation about how to integrate mediation into the system. Funding by the government changed everything and opened to a wider range of free services to the community which include mediation.

In 2023 the UK government announced integration of commercial mediation claims under £10,000 in the court of first instance trials in England and Wales, meaning that the parties to such claims will have to go through mediation mandatorily before starting litigation. Next steps will consist in bringing the above threshold to £100,000 and in experimenting pilot procedures to offer free mediation for small claims through trained mediators recruited by the state councils.

Finally, in UK 997 over 1000 successful mediations – i.e. ending with a settlement agreement – did NOT need enforcement through courts. This is something to consider for those who believe that mediation “weakness” consists in not having a binding outcome, as arbitration or court trials.

Mediation in US and other countries

Speakers from US, India, China, South Africa, Greece, Belgium, Australia, Luxembourg, Switzerland, Poland shared their respective countries' approach and experience in mediation at the London Forum. Notwithstanding their differences, all of them highlighted the advantages of the mediation process and the positive outcomes that mediation brought along through the years, while it was becoming more and more an integral part of the justice systems.

Techniques, tools and structures used in mediation and presented by the speakers were also different. For instance, in some countries such as Poland, private meetings (sometimes called “caucuses”) between the mediator and the parties are rarely used. In Switzerland mediation is mainly facilitative and they generally appoint panels of three mediators. In France co-mediation with two or more mediators – mediating simultaneously – is quite common. In Australia family and community disputes were the “forces” that triggered the set up and rising of mediation.

In US some law faculty literally make their students available for work at the *clinics*, which are pro bono organisations offering free advice on small claims. This is a great opportunity for the students to be learning by doing and also safe for the clients/parties in dispute since there is always supervision by the professors of the law faculty. This pattern is also socially commendable as legal representation is provided free of charge.

Mediation is an extremely flexible process and allows to adapt to the circumstances of the case. No such thing as one-fits-all attitude, because countries and justice systems are all different and the various techniques and processes should be taught and learned.

Mediation in Italy: how to move forward

Mediation in Italy is in a moment of great evolution also due to the *Cartabia Reform* (end of 2023), which introduced a series of incentives and rules that make the procedure not only alternative to ordinary justice but even complementary to it.

However, a major obstacle to the use of mediation in Italy remains the lack of culture which has been spreading into Universities’ classrooms (and not even all of them) only for a few years now.

What would be required of Italian lawyers today is a real paradigm shift which, however, does not yet seem realistic. However, it must be confirmed that, from 2010 to date, many Italian lawyers changed their approach towards mediation, realizing the great potential that this tool brings to their clients with a very high rate of client satisfaction (if used well).

What is certain is that the successful outcome of mediation depends on various factors, first and foremost the right approach by the Parties and their lawyers and, last but not least, the preparation and training of the mediator.

Not surprisingly, the latest reform also insisted on the training of mediators, bringing the “qualification course” from 50 hours to 80 hours and eliminating the concept “lawyer = mediator by operation of law” which we believe did not really make sense!

Going back to what said above, if Italian lawyers never studied mediation at university, this also applies to mediators who, even more than the former, must not only train adequately but must take an active part in spreading the word of mediation.

Again, the Italian mediation training is rather "basic" and those who really want to delve deeper into the topic can only go abroad to get high-level in-depth studies from those who have actually been practising mediation for decades.

These courses, however, are quite expensive and since today making a living from mediation is almost impossible, only those who truly believe in this sector invest their money and time in this field.

However, it is very likely that in 5 years from now there will be a real revolution and, also thanks to the advent of young lawyers who are more oriented towards a negotiating approach rather than an adjudicative one, they will bring their clients into mediation with greater awareness and level of professionalism in mediation. Although there is no reason not to be optimistic about the evolution of mediation in Italy, it will nonetheless take time and people believing in and promoting the mediation process.

Conclusions

Mediation must be supported, fostered, encouraged.

Sadly, Italy was not present at the London World Forum on mediation through any speakers. This is something that hopefully will change in the future, as long as mediation is not considered a tick-box exercise but rather a smart tool to make the Italian justice system more efficient and effective for everyone.

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**"The Italian Mediation Reform: Elements and Perspectives
— Mediate.com — March 2023 —**

<https://mediate.com/the-italian-mediation-reform-elements-and-perspectives/>

Speaking about mediation in Italy can be harder than it seems.

Because – with the development, the regulations, and the peculiar

implementation of the legislation – the risk is providing an inaccurate scenario of trends and data in the country.

On the other hand, it is also worth noticing that – since 2010, with the introduction of the legislative decree 28/2010, the Italian experience has provided mediators and lawyers all over the world an interesting and thought-provoking view of what could be the effects of mandatory mediation procedures. At least at surface level, the combination of mandatory sessions, enforceable agreements, and tax incentives seemed to offer an ideal scenario to mediation aficionados worldwide. Unfortunately, the situation has become more complicated. And to understand it requires a quick retrospective.

Before 2010, the mediation in Italy was on an entirely voluntary basis. The scenario radically changed with the legislative decree 28/2010, when it became mandatory for specific matters. The introduction of mandatory mediation represented a Copernican revolution for the Italian civil Justice system, and caused a lot of turmoil, mainly from lawyers and bar associations. After a declaration of unconstitutionality for a defect of form[\[1\]](#), it was newly introduced in 2012, with three significant amendments[\[2\]](#). The change of the mandatory mediation in a mandatory first meeting[\[3\]](#) (most of the times just a brief meeting regarding pros and cons of mediation), the reduction of the areas of application (including the exclusion of most civil and commercial disputes), and the possibility for lawyers of becoming civil and commercial mediators with a short, 18-hour, course. Moreover, the direct enforceability regarded only agreements signed by both parties and respective lawyers. The legislator, indeed, had to balance several elements, including the lack of awareness regarding the

procedure, a highly litigating country, a considerable number of litigation lawyers not very interested in adr, the willingness of most of legal professionals to obstacle mediation (delaying time for litigation was considered as a limitation of access to justice), cost-cutting pressures regarding the Court system, and – at the same time – the willingness to spread the seeds of adr. It is also worth mentioning that the aforementioned regulation did not take into account mediations/conciliations in criminal, labor, and family procedures – all of which were (and are) regulated by specific rules.

In all these years most of the delicate issues have been smoothed, mainly because of two factors: judges who started deferring parties of mediation and boost of online procedures due to the pandemic. We would also argue that a mandatory first meeting allowed parties and lawyers a better view regarding the pros and cons of the procedure.

The recovery fund, and the willingness to provide Italy and European union a strong restart after the pandemic crisis, forced the government to introduce a long-awaited reform of the entire justice system. The idea is not only related to administrative reasons, but also to cost-saving measures, and better spending/management of resources. It is not – in this article – our intent to analyze in detail all the elements of the reform, but to provide a full rounded comprehensive view of the main elements regarding mediation.

The condition of admissibility. Widening of subjects

The matters for which decree 28/2010 had already provided the condition of admissibility were: condominiums, real estate, property divisions, hereditary successions, family agreements,

leases, loans, company rentals, damages arising from medical and health liability, defamation via press or other means of advertising, insurance, banking, and financial contracts. The reform added the following matters: joint venture agreements, syndicates, franchising contracts, contracts for services, partnership companies, and subcontracting.

This broadening of the spectrum highlights a greater confidence from the legislator regarding the effectiveness of the procedure. Moreover, it is possible to notice a slight shift towards corporate law.

Standardization of videoconference mediation

An important novelty of the reform is certainly the standardization of videoconference mediation, which in the previous regulation was foreseen only in exceptional cases. Strengthened by the experience gained during the pandemic period (which had considerably accelerated the process of digitalization and adaptation to new telematic tools), the legislator decided to boost a tool which allows, every day, to carry out hundreds of procedures without moving parties, lawyers, and mediators.

Regarding digitization, the legislator also obligated mediation centers to comply with the digital administration code, which requires a specific form of conservation of all the documents (on dedicated servers with certain technical characteristics) and provided detailed technical requests for electronic signatures. Mandated mediation (by the Judge) at any time of the judicial procedure

The reform strengthened this possibility and, in a certain sense, boosts it. At any time up to the entire appeal procedure, the Judge,

if she believes it is a good option, can send the parties to mediation.

It is worth to stress that the requested mediation must be understood, to all intents and purposes, as a mandatory mediation, and not as a mandatory first meeting.

To better specify the extent of the rule, when the Judge orders the parties to go back to mediation, she schedules a verification hearing after 6 months (in theory, the maximum length for the mediation procedure) and – if at the aforementioned hearing, the mediation is not completed – she declares the inadmissibility of the judicial request[\[4\]](#).

Personal presence of the parties, consequences of non-participation, and mediator's proposal

One of the key elements of the reform is the mandatory presence of the parties during the procedure.

As explained before, many lawyers/parties were practically forced to participate in the first mediation meeting because of the condition of admissibility. This meeting was – in practice – not a real mediation but a purely informative meeting in which the parties decided whether to enter into the merits. Often these first meetings were seen merely as an obligatory step to be able to access the Court without any interest in the actual development of the procedure and lawyers were used to participate without parties (with a proxy), thus completely distorting the essence of the procedure.

Already in the previous text, pre-reform, the presence of the parties was emphasized with the provision of specific consequences (non-fulfillment of the condition of admissibility, declaration of inadmissibility of the case, pecuniary sanctions,

chargeability of Court costs). The reform has further penalized the parties who do not want to actively participate in mediation[\[5\]](#). Moreover, the legislator has not only emphasized personal participation in the mediation but has condemned the absence of the parties if not for justified (documentable) reasons. Another very interesting topic is the proposal of the mediator that, before the reform, was foreseen only if both parties expressly requested it. The legislator has now determined that: *“When the agreement is not reached, the mediator acknowledges it in the report and can formulate a proposal for conciliation to be attached to the report”*. With this passage, the mediator earned wider discretionary power.

Mediation duration. Timeline expansion

With respect to the duration of the procedure, it was specifically determined that it cannot be more than 6 months. Now the duration is 3 months, which can be extended, once and with the written consent of the parties, for further 3 months.

Elimination of the first informal meeting

A truly groundbreaking change for Italian mediation is the elimination of the first purely “informative” meeting. The reform provides that the first meeting becomes, to all intents and purposes, a mediation meeting for which it is recognized, regardless of the outcome, a fee (to date it is not yet known if the amount of the compensation that will be indicated with an implementing decree or a ministerial circular).

This modification will change, once and for all, the management of mediation and its costs. Hopefully, the work, preparation, and professionalism of the mediators will be rewarded with an economic contribution[\[6\]](#).

Tax credits (incentives)

In order to strengthen the adoption of mediation, the legislator has provided a series of tax incentives (partly already present, but little used due to lack of funds expressly allocated for this purpose). More precisely, the reform indicates that: *“When (..) an agreement is reached, the parties are granted a tax credit commensurate with the indemnity paid (..). up to the amount of six hundred euros. In cases in which the condition of admissibility is foreseen and when the mediation is demanded by the judge, the parties are also recognized a tax credit commensurate with the fee paid to their lawyer for assistance in the mediation procedure, within the limits set by the forensics tables and up to the amount of six hundred euros. The expected tax credits (...) may be used by the party within the overall limit of six hundred euros per procedure and up to a maximum annual amount of two thousand four hundred euros for natural persons and twenty-four thousand euros for legal persons. If the mediation fails, the tax credits are reduced by half. It is provided a further tax credit commensurate with the Court fee paid by the party in the judgment following the conclusion of a conciliation agreement, within the limit of the amount paid, and up to the amount of five hundred and eighteen euros”*.

Conclusions

Someone says that the devil is in the details, and this may be true in this case as well. While we look positively the idea of expanding the list of subject matters, strengthening tax incentives, widening mediation proposals, and providing a stronger role of the parties, it is undeniable that a good amount of the success of this reform will be related to the implementation procedures.

It is also worth stressing that we lost a good possibility to provide mandatory mediation in matters which – in other countries – have

been managed with mediation procedures since many years, namely labour and commercial disputes (in the broader sense). If there is one element that still lacks in Italy is a profound mediation culture, and this reform could and should have done more in terms of mediation awareness. On the other hand, it is worth noticing the positive trend and the willingness to invest in a strong and effective tool.

Our Italian background suggest us to look at a half-full glass. More parties and lawyers are starting mediating and seeing the benefits of the procedure. Let's hope for a strong and effective adoption.

[1] The mediation was introduced with a legislative decree (a government act), and the Italian Constitutional Court indicated that the reform needed a parliament approval. The main reason was that the matter was so relevant for the life of citizens that it needed to pass through the approval of the parliament and being emanated as a law.

[2] At this moment, if the potential dispute concerns certain specific matters, the parties must go through mediation before filing a civil case. This provision has been named “condition of admissibility” in the sense that if the parties do not provide for this fulfillment, the Judge, in the first hearing, sends them back to mediation.

[3] As we will indicate later, the mandatory first meeting does not have to be intended as a mediation per se. It is a short (20, 30 minutes session) that is provided for free by the mediator. During the first meeting, the mediator explains how the mediation works and what the benefits for the parties are. If the parties agree to start the procedure, they will enter into the merits.

[4] This passage of the reform shows how, in Italy, the mediation procedure is not seen exclusively as an alternative to litigation, but as a complementary procedure at the service of litigation.

[5] “From the failure to participate without justified reason in the first meeting of the mediation procedure, the judge can infer proof arguments in the subsequent judgment”. In the second paragraph: “When mediation constitutes a condition of admissibility, the judge condemns the constituted party who did not participate in the first meeting without justified reason to pay a sum corresponding to double the court fee due to the state budget for judgment”. And finally: “... the judge, if requested, may also order the losing party who did not participate in the mediation to pay the counterparty a sum equitably determined in an amount not exceeding the maximum costs of the proceedings accrued after the conclusion of the mediation process”.

[6] One thing worth to be stressed is that this meeting was provided for free. Actual payment of the fees only started with the formal opening of the mediation.

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Clausola di mediazione nei patti sociali e consulenza tecnica in mediazione. - Mediores - Luglio 2025.

Abstract: Il presente elaborato si propone di esaminare le opportunità di applicazione della mediazione considerando l'evolversi delle esigenze delle piccole realtà economico-sociali in un contesto di deglobalizzazione mondiale. La mediazione rappresenta, infatti, un importante strumento che gli operatori del diritto dovrebbero tenere in considerazione non solo nella fase patologica della relazione tra le parti, ma anche e soprattutto nel momento costitutivo del rapporto medesimo, grazie alla consulenza di professionisti altamente

qualificati. Nel corso della procedura, inoltre, assumono particolare rilievo le decisioni prese di comune accordo delle parti, soprattutto con riferimento alla producibilità o meno nell'eventuale e successivo giudizio della consulenza tecnica svoltasi in mediazione.