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Welcome to Athens



Panel:
Landscape of Mediation in Greece



Speaker:
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***The increased importance of Mediation
as ESG practice in the era of EU deregulation***

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I. The debate

Why will ESG remain increasingly important in the coming years?

Why will ESG application remain significant for businesses?

Why is S at the centre of ESG?

Are there open and closed dispute resolution systems?

What differentiates Mediation among those systems?

Why is Mediation an ESG practice in dispute resolution?

What are the consequences of ESG deregulation in the EU?

Why may this become a business opportunity?

What is the added value of Mediation during ESG deregulation?



II. ESG - Sustainability

The discussion over ESG will remain increasingly important due to the **climate change**.

The **ESG standards** are important for the overall evaluation of companies, together with their financial data.

ESG **relates** to a broad range of issues.

ESG **standards** vary, especially depending on the scope of the business and the country in which it operates, and they are **set by international organisations** (MSCI, GRI, UNPRI, SASB, etc).



In the core of ESG is **sustainability**, which refers to concepts such as conservation - survival, adaptation - change, evolution - selection, creation.

A relevant concept is **resilience**, which includes resistance – durability in crisis, adaptation, recovery. Sustainability and resilience together are an ideal scenario, but not always feasible.



The **letter S** is placed in the middle of ESG and CSR not by a chance.

S influences and directs E and G.

Indicatively, the Sophist **Protagoras** (490-420 BC) introduced the concept of "anthropocentrism", famously quoting:

'Man is the measure of all things: of the things that are, that they are, of the things that are not, that they are not.'



The origins of sustainability of beings and disputes are old

- **Aristotle** (384-322 BC) formulated the concept of **entelechy** (εν + τέλος + έχω): the **natural process of creation and evolution** of beings transitioning from potentiality (potentially being – δυνάμει ον) to actuality (actively being – ενεργεία ον) to reach completion, thus achieving its self-realization.
- **Charles Robert Darwin** (1809-1882), the founder of the theory of **evolution**, where the main mechanism behind it is natural selection, and **evolution by natural selection leads to sustainability.**

* **The entelechy of resolving a dispute** is its voluntary resolution (or attempted resolution) by the parties themselves, as the natural choice of resolution, which alone can lead to **sustainable** solutions.



III. ESG – Overall importance

Key importance of ESG for business as shown by the increasing trend in:

- **ESG investments**
- **ESG legislation**
- **ESG corporate analysis - reports** in response to legislation
- **ESG liability / third party claims** for damages or omission, increased by Directive (EU) **2020/1828** on representative actions (RAD).



IV. ESG - Overview of the EU legal framework

The EU ESG legislation has grown rapidly over the **last 10-12 years** or so, including:

- a) Directives 2014/95/EU (NFRD) and (EU) 2022/2464 (CSRD) on the disclosure of non-financial information and corporate sustainability reporting
- b) Regulations (EU) 2019/2088 (SFDR) and 2019/2089 on sustainability indicators
- c) Regulation (EU) 2020/852 (Taxonomy Regulation) on classification
- d) Regulation (EU) 2023/2631 on European Green Bonds
- e) Regulation (EU) 2023/2772 on sustainability reporting standards (ESRS)



After 2024:

f) Directive (EU) 2024/1760 (CSDDD or CS3D) on corporate sustainability due diligence

g) Regulation (EU) 2024/1781 (eco design)

h) Directive (EU) 2024/1799 (right to repair)

i) Regulation (EU) 2024/3005 on ESG rating activities

k) The **Greenwashing** Directives: Directive (EU) 2024/825 (ECGT Directive / Green Transition) empowering consumers for the green transition; the proposed Directive on Green Claims is pending



Undertakings are categorised into:

"large" (entities of public and non-public interest)

"medium-sized"

"small" and

"micro",

based on three criteria: total assets, net turnover and average number of employees per financial year (Directive 2013/34/EU and Law 4308/2014).



V. ESG - Key business challenges

The key issues for undertakings related to the ESG rules are:

- The **compulsory nature**
- **Compliance monitoring**
- **Cost**
- **Competitiveness**
- **Competition law**

HCC: Technical Report on Sustainability & Competition 2021 [with Dutch Comp Auth] & Sandbox for Sustainable Development & Competition



- Funding

ATHEX (Euronext Athens) ESG Index

Greek Interbank Platform ESGr/ESG Questionnaire

- Liability

a) civil, against third parties (ESG /climate change litigation), which is increasing due to collective redress and third-party litigation funding (TPLF),

b) administrative, against the supervisor of the regulatory framework,

c) criminal, under more specific conditions.



VI. Mediation: "Open"- sustainable dispute resolution system

An “**open**” system:

- preserves opportunities, **options**, alternatives and the possibility of adaptation, balancing of interests and needs, and can **evolve** according to the circumstances
- its process may be **shaped** and subject to the interaction of the parties themselves
- the **parties** retain control and private autonomy



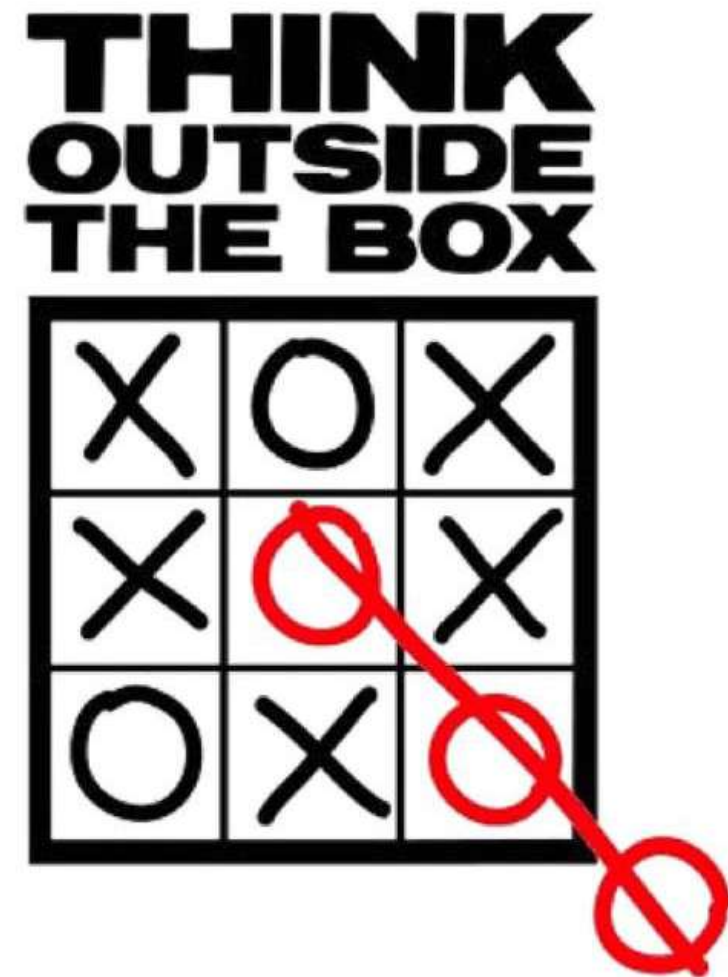
Mediation is an “**open**” dispute resolution system.

Only an “**open**” system may be **sustainable**, since it is based on:

- the parties’ autonomy and self-determination
- the search for alternatives and the formulation of solutions by the parties
- in a non-binding, legal way but out of specific laws and inflexible procedures
- subject to the ultimate boundaries of morality and public order



So, Mediation is a "Think Outside the Box" approach



This is why Mediation is viewed as a **win-win - sustainable** concept of dispute resolution.



VII. Litigation (Code of Civil Procedure; CCP) and Arbitration: "Closed" - unsustainable dispute resolution systems

A “closed” system:

- does **not** have opportunities, choices and the possibility of development
- concludes or reaches a **predetermined state** and fails to adapt to changing circumstances
- **cannot** be shaped and therefore it is not subject to the interaction of the parties
- does **not** allow control and private autonomy of the parties



CCP Litigation and Arbitration are “**closed**” dispute resolution systems

“**Closed**” systems may **not be sustainable**, since:

- **CCP Litigation:** adversarial system of defined content and outcome, of distinct rules of evidence and grounds for appeal.
- **Arbitration:** same in both its domestic (art. 867 et seq. of CCP) and international commercial forms (Law 5016/2023), albeit with procedural flexibility.

Also, **no provisions** requiring the court to urge the parties to resolve their dispute out of court through Mediation (art. 116A & 214C of CCP).



CCP Litigation & Arbitration

- the litigants/parties seek the **decision of a third party(-ies)**
- that is binding and necessarily enforceable
- get, when and if they get it, only what they asked for, "**as law requires**"
- thus, excluding any other possible options and alternatives.



CCP Litigation & Arbitration

Win-lose - unsustainable concepts of dispute resolution.

They should be solutions only of ***last resort*** since they **bring to the end:**

- voluntary relationship and communication between the parties,
- "natural" choice and balance in the relationship between the parties,
- possibilities of options and alternatives,
- eventually, **evolution, thus sustainability.**



VIII. Mediation: time and emotion / humor factors

Two additional **ESG elements** of Mediation.

Time

To paraphrase **Horace's** (Roman poet, 65-8 BC) "*Carpe diem*" (seize the day), we can say "*Carpe momentum*" as speed is central to our times.

Only Mediation has the time immediacy that any dispute resolution requires.



Emotion and Humor

Emotions often have a decisive influence on the positions of the parties.

Is there a dispute without any emotion?

Humor may be derived from the Greek word "humor" (bodily fluid) and it is certainly connected with human health.

Considering that **65% - 93% of our communication is non-verbal** and words are often inadequate, incomplete, misleading or unnecessary to convey the full picture, emotion and humor can make a difference.



IX. ESG and Mediation - Common culture of sustainability - The perfect matching

Mediation only can offer a quick, flexible, consensual and win-win solution based on the mutually accepted interests of the parties, thus **a viable** solution.

The **use** of Mediation is a practical demonstration of a **sustainability-oriented** business **culture**.

This is why Mediation is promoted as a practice for disputes resolution, incl. ESG disputes, by recognised **international organisations**, such as the:

- Centre for Effective Dispute Resolution (CEDR) ("**ESG Resolve - Independent Accountability Mechanism**").



Also:

- International Mediation Institute (**IMI**)
- International Institute for Sustainable Development (**IISD**)
- International Centre for Settlement of Investment Disputes (**ICSID**) /Mediation Rules 2022
- International Chamber of Commerce (**ICC**) /Mediation Rules 2014
- **Harvard** Business School /Mediation & ADR Resolution
- **World Bank** /The Mediator Handbook



The **EU legislator** values Mediation and refers to it as the preferred method of dispute resolution, especially in the **digital market** of goods and services, such as

- Regulation (EU) 2019/1150 (P2B)
- Directive (EU) 2019/790 (DSM)
- Regulation (EU) 2022/2065 (DSA)
- Also, Directive (EU) **2020/1828** on representative actions (RAD)

Mediation is an ESG tool and its use adds ESG value to businesses.



X. ESG deregulation

Until 2024, EU ESG legislation had become gradually **more demanding** and expanding, including:

- more undertakings based on their size
- increased reporting requirements
- increased relevant obligations and liability



After 2024-2025, the new geopolitical environment esp. with Donald Trump's US presidency caused a change of the EU strategy.

On **26.2.2025** the European Commission presented a package of proposals for **the Omnibus ESG Regulation**, considering the **2024 "Draghi Report"** on EU competitiveness.

This resulted to:

- **Directive (EU) 2025/794** of 14.4.2025: 2-year extension to CSRD & CS3D and
- **Omnibus I Directive (EU) 2026/470** of 24.2.2026 re CSRD, Taxonomy & CS3D:
 - a) Fewer subjects - companies obliged, b) Less obligations /contents and c) Time extension.



XI. ESG deregulation - Time for Mediation

ESG: Stop of the clock, a time freeze, a business “relaxing” time, a “**bear market**”!

What do we do? Do we also relax and wait?

*** ESG adjournment, not a waiver!**

Is now the momentum, the opportunity to:

- exploit the others’ sleeping time
- differentiate
- buy, increase our position
- move one step ahead
- invest in our brand and goodwill ?



YES! It is now the time to:

- apply ADR/Mediation
- promote the S of ESG
- adopt a voluntary ADR/Mediation culture
- so, enforce a commitment to **ESG practices**



XII. Key takeaways

ESG will remain a top business challenge

- guided by **sustainability** &
- accelerated by **climate change and AI** [Data Centers/Big Data]

Mediation is an “**open**”, sustainable disputes resolution method

Mediation is a “**renewable**” means and must be the “**Green Deal**” for disputes resolution



ESG and Mediation **match** essentially
Mediation is an **ESG *practice*** in dispute resolution
Mediation must become an **ESG *standard***

In the current era of **EU ESG deregulation**,
the application of **Mediation** may give to businesses:

- a unique competitive advantage
- a stronger brand
- an increased goodwill





Thank you for your attention!