

MEDIATION IN UKRAINE: GENDER ASPECTS

BY **SVITLANA KHEDA**
> ICC UKRAINE

When it comes to analysing obstacles for mediation developing in Ukraine, few people, even mediators themselves, consider the gender issue. This can probably be explained by the existence of de facto gender inequality in Ukraine, which is so obvious that no one really pays attention.

For thousands of years of Ukrainian history, the vast majority of Ukrainian society has considered the role of a woman as the ideal assistant and

subordinate. Her place in public has been limited to meekly following the instructions of the male mastermind. Ukrainian men believe it is sufficient for a woman to lead at home. Indeed, Ukrainian women are the top managers in their families while men rule at work, perhaps compensating for this celebrated domestic discrimination. The result is that the majority of decision makers in Ukraine are men who only take male professionals seriously; most believe

that listening to a woman is a waste of their precious time.

That said, there is a female majority among Ukrainian mediators, legal counsel who represent clients during mediation and, in general, champions of the mediation movement, which can be partially attributed to the soft skills that play an important role in the mediation process.

As a result, the common practice in Ukraine is that, when a woman (either external counsel or in-house) offers mediation services to a potential male client, his view is clouded by social prejudices and, consequently, he loses sight of mediation and the obvious benefits it offers, purely because a woman is marketing the concept.

A similar situation exists in Ukrainian law firms, where male partners (who are the vast majority) refuse to listen to the persuasive arguments of their female colleagues in favour of offering mediation to the clients. At best, they do not intervene, leaving their female associates to muster the time and resources on their own, with little or no support from the law firm. However, even this rare 'positive' result is possible only if a woman has managed to create a pipeline of successful innovations by the time she gathers the courage to raise her voice in favour of this questionable and practically untested dispute resolution mechanism.

As can be seen, mediation in Ukraine is predestined to be appreciated, promoted and consumed by female professionals. This explains why

family and employment mediation has developed more rapidly than, for instance, commercial mediation.

The gender factor impacts the development of mediation in Ukraine, to the extent that even if a miracle occurs and the chief executive of a Ukrainian company chooses mediation to resolve a dispute, he will not be comfortable revealing his problem and background to a woman whose title sounds similar to 'meditation'.

In a broad sense, men have an evolutionary tendency to 'fight' their rivals instead of trying to identify their interests and work with them. In the other words, the nature of mediation is somewhat at odds with male nature. Thus, to make mediation attractive to Ukrainian men, they must be educated about this method of dispute resolution in their own terms. Potential male consumers of mediation services should not be given the full details and specifics of the mediation process, its principles and other theoretical information. Rather, they should be given a concise presentation focusing on: (i) the pros of mediation compared to traditional means of settling disputes; (ii) key proven benefits of mediation; and (iii) impressive mediation success stories. In view of the confidentiality of the mediation process, it might be difficult (but nevertheless possible) to cover the latter point.


The major challenge a mediation promoter faces during a tête-à-tête meeting with a potential male customer is getting him interested. This can

be primarily achieved by demonstrating where the money is. In addition, one of the key residual messages that potential male consumers of mediation services should be left with is that mediation is not a hobby but a serious profession, and that not only training but special skills are required to become a mediator. In the other words, the male driven market must realise that mediators, when it comes to knowledge, skills, responsibility and other professional attributes, are on par with lawyers, arbitrators, etc. On the other hand, it should be clear that a mediator is not a lawyer, arbitrator, business consultant, psychologist, judge or friend. Mediators exist as a separate, self-sufficient profession.

To facilitate the message, it is preferable for male mediators or legal counsel who favours mediation to be present at the initial meeting with a potential Ukrainian male client. At this first meeting, it is worth mentioning that mediation is one profession where a woman's natural soft skills give them an advantage and, to provide them with some worldwide statistics on the successful male/female mediator ratio.

Before mediation becomes a trusted and widely used dispute settling mechanism in Ukraine, a male client should be offered a mediation panel where at

least one man will serve as mediator. The challenge here is that currently there are only a handful of Ukrainian male mediators and legal counsel familiar with the mediation process and qualified to represent clients in a mediation procedure. However, this situation should be changing gradually and we should see more male mediators and attorneys specialising in mediation when the market demand for mediation increases.

In the meantime, one interim solution to the gender obstacle holding back the development of mediation in Ukraine is the creation of an organisation or a club tasked with promoting mediation to Ukrainian businesses. This does not need to be a formal entity, but rather a platform uniting some well-known Ukrainian lawyers and mediators of any gender with an established reputation, whose names alone would provide evidence in favour of mediation. 



Svitlana Kheda

Head of Mediation Centre

ICC Ukraine

T: +38 (050) 469 7200

E: svitlana.khyeda@gmail.com