

# Kluwer Arbitration Blog

## Kluwer Mediation Blog: December 2019 and January 2020 digest

Anna Howard (Centre for Commercial Law Studies, Queen Mary University of London) ·  
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*“the money’s not about the money...The key to settlement lay not in the realm of calculation and rationality but in the more opaque social world of face, punishment, justice and emotion.”* Charlie Irvine in [Not about the money?](#)

The end of 2019 and the start of 2020 offered a rich variety of posts on the Kluwer Mediation Blog. Topics addressed include: ICSID’s draft rules for investor-state mediation; the Global Pound Conference’s recently released Miami report; the path, and those who have shaped the path, of the Global Pound Conference; Greece’s recent law on mandatory initial mediation sessions; challenges in the transplantation of mediation in Ukraine; pre-school leadership in conflict resolution; and the design of a sustainable mediation public policy in Romania. Below is a short summary of, and link to, each post published on the Kluwer Mediation Blog in December 2019 and January 2020 . We hope you find this helpful.

In [Singapore case note: enforceability of settlement agreements](#), Nadja Alexander and Shou Yu Chong draw on the Singapore High Court case of *Law Chau Loon v Alphire Group Pte Ld [2019] [2019] SGHC 275* to identify general legal principles to consider when a settlement agreement is drafted. Nadja and Shou Yu share key learning points for mediators and lawyers representing clients in mediations in which Singapore law may be applicable to enforcement.

In [Tracking the path through the GPC and acknowledging the footsteps along the way](#), Alan Limbury reflects on the path, and those who have shaped the path, leading to the Global Pound Conference Series conducted in 2016-2017 in 28 cities around the world. Alan notes that the results already reported from the GPC Series identify education as key to facilitating change, shifting the focus of education from increasing awareness of the various dispute resolution processes to providing practical and skill-

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based training. Alan also identifies challenges which he has encountered in efforts to increase such education.

In [How can you make the pie bigger in a finite world?](#) Charlie Woods explores the meaning of productivity, including the recent attention on resource productivity, and whether increased prosperity means having more or better things. Charlie then identifies the contribution which mediators can make in the search for positive sum games in a world with restricted resources.

In [Not about the money?](#) Charlie Irvine draws on recent mediation cases to examine the meaning of money in disputes. Charlie concludes that “sometimes the money is not about the money”, noting that the key to settlement was not found in the realm of calculation and rationality but rather in the social world of face, punishment, justice and emotion.

In [Mediation, strategic trust and the seven elements](#), Joel Lee explores the interconnection between the Seven Element Framework and the Strategic Trust Framework. Joel explains that the Seven Element Framework stems from the Harvard Negotiation Programme and provides a way to prepare for, navigate through, analyse and measure progress in resolving a conflict. The Strategic Trust is a framework which distinguishes strategic trust from emotional trust. Joel identifies ways in which the interconnection between these two frameworks can assist mediators to assist parties in their dispute negotiations.

In [Designing sustainable mediation public policies](#), Constantin-Adi Gavrilă and Christian Radu Chereji provide an overview of the development of mediation in Romania and then explain the purpose and design of the “Mediation - effective public policy in the civic dialogue” project. Constantin-Adi and Christian explain the analysis which resulted in a public policy paper containing clear recommendations for the steps to be taken in order to improve the current system and to make mediation one of the mainstream methods of dispute resolution in Romania.

In [Questions of perspective, some thoughts on the year ending](#), Greg Bond reflects on the benefits of a resource and solutions focused approach to issues, both in mediation and more broadly in larger social and political issues. Greg identifies what we can do in order to focus on ways forward to address these issues, including asking ourselves what unites us and not what divides us.

In [We can each make a difference in 2020](#), John Sturrock draws on two contrasting literary works, *Manual for Spectrum Agents* (Haynes Publishing) and *The Boy, the Mole, the Fox and the Horse* (Penguin books) to identify how we might address future global threats and challenges. Drawing on *Manual for Spectrum Agents*, John questions what we could do to move towards an idea of common purpose at world government level. Drawing on *The Boy, the Mole, and the Fox and the Horse*, John argues that the aspiration of mediators must continue to be to each make a difference, in big or small ways.

In [Global Pound Conference Miami report released](#), Rick Weiler provides a summary of the recently released GPC Miami report. Rick explains that the report looks at the needs, wants and expectations of parties using commercial dispute resolution in Miami and divides those users into three groups by level of experience or sophistication. Rick identifies the report's section on obstacles and challenges as perhaps the most interesting, with these obstacles and challenges being categorised as "easy", "difficult" and "impossible" to overcome.

In [A preview of ICSID's new investor-state mediation rules](#), Frauke Nitschke summarises the latest draft of ICSID's rules for investor-state mediation, which were published in August 2019. Frauke outlines the scope of these rules and their key features, including initiation of the mediation, appointment of the mediator/s, conduct of the mediation, and the confidentiality of the mediation. ICSID aims to submit the rules for approval in 2020, and Frauke sets out the next steps in the process.

In [Kindergarten and conflict - Pre-school leadership in conflict resolution](#), Rosemary Howell identifies a number of specialised conflict resolution programmes which are revolutionising how children engage with and resolve conflict. These include child-centric programmes across Europe, the US and Australia. Rosemary identifies the key elements of these programmes which include reflecting on how others see things, encouraging collaborative problem solving, sharing positive narratives and scrutinising the positive value of kindness.

In [A neuro-linguist's toolbox - self-care and improvement: working with physiology](#), Joel Lee continues his series of posts on "A neuro-linguist's toolbox". In this latest post in the series, Joel starts to explore the topic of self-care and personal improvement for mediators. In particular, Joel considers how to work with physiology to further self-care and improvement, including the way in which we hold our bodies, how we can use our breath and the activation of the peripheral vision response.

In [Conciliation with a mediation touch - 10 years of consumer conciliation for public](#)

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[transportation in Germany](#), Greg Bond outlines the recent achievements of Germany's ten-year old Conciliation Body for Public Transportation and explains the key characteristics and innovations of the Conciliation Body. Greg also shares with readers the wish identified by the director of the Conciliation Body, Dr Christof Berlin, at its recent birthday event.

In [Greece: Institutionalizing mediation through mandatory initial mediation session \(Law 4640/2019\)](#), Vassiliki Koumpli examines Greece's recent Law 4640/2019 which now constitutes the sole legal instrument regulating mediation in Greece. Vassiliki explains that Law 4640/2019 essentially repeats and enhances the pre-existing legal framework concerning the requirement of a mandatory initial mediation session for a broad category of cases, which was suspended until the enactment of this new law. Vassiliki considers the key aspects of Greece's new mandatory mediation scheme.

In [It's the putting it right that counts](#), Ian Macduff draws on a recent event in New Zealand politics and Maori-Crown restorative relations to reflect on the possibility of a long-term, multi-generational process of recognition, reconciliation and repair. Ian explains that on 19th December 2019 the Rua Kenana Pardon Bill was signed into law and identifies the key significance of this event, including that it was the first time a Bill has been signed into law on a marae, or Maori meeting ground, and the event brought some closure to an injustice committed by British soldiers 103 years earlier.

In [Citizens Assembly- and kindness](#), John Sturrock shares his recent experience of facilitating a session at Scotland's Citizens Assembly, describing the Assembly's own "conversation guidelines" which include the call to be kind and supportive to each other. John identifies that the courageous thing to do is to be rigorous about issues and robust on problems, while remaining respectful and courteous towards the individuals involved, whoever they may be and however they might act.

In [Mediation capture](#) Tatiana Kyselova draws on recent experience in Ukraine to illustrate how the transplantation of mediation to contexts which are institutionally and culturally different from the West may bring some unexpected surprises. Tatiana explains the recent attempted capture of mediation in Ukraine and the Ukrainian mediation community's efforts to prevent its capture.

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