



CEDR Accreditation:	2013
CEDR Panel:	2015
Languages:	English Romanian Russian
Location:	Republic of Moldova

Victor Durluşteanu

“... after years of successful applying mediation he is glad to find that it became a part of his life...”

Confessedly

Overview

He started to apply mediation in commercial disputes since the beginning of his career in 1996 as a legal advisor in an international enterprise. Even becoming a licensed barrister in 2001 he continued to mediate disputes as an alternative to the judicial trials in the local courts that started to lose credibility among the businessmen.

A member of the Moldova Bar Association as well as a member of the European Attorneys' Association he believes that the true spirit of consensual dispute resolution lies in mediation.

Professional Background

Being specialized in commercial litigations where the participants often reside in countries with different jurisdictions, Victor has successfully handled dozens of high value disputes. The complexity of the new case ignites his professional curiosity and his experience allows him to mobilize himself quickly in order to find proper solutions for the dispute resolution.

The diversity of mediated cases successfully handled by Victor belong to such categories as international shipment of goods, customs, machinery design and installation, construction of high technology factories, roads construction, production of wines, processing of agricultural products, water extract and processing, corporate disputes, IP, banking, insurance, taxation, labour conflicts, real estate disputes, etc. These disputes include participants from the private sector along with the public authority bodies.

Recently Victor has successfully handled a dispute regarding the franchising agreement, involving an internationally famous retail company, a bank (member of an international group of banks) and a local retail company. Apart from the IP and franchising dispute between the commercial entities Victor had to convince to come to an agreement the bank that released a high value promissory letter to one of the parties. In addition to his commercial mediation practice Victor is member of the Bid Arbitration Court under the “Millennium Challenge Fund Moldova” (established by the US and Moldova Governments).

Expertise

- Banking & Finance
- Employment & Workplace
- Licensing
- Taxation
- Commercial Contracts
- Partnership & Shareholder
- Insurance
- Customs
- IP & TM protection
- Public sector

Dispute Experience

Banking & Finance

In order to guarantee the loan reimbursement the borrower had pledged the specific technological equipment – walnut processing plant. The term of the loan expired and the lender (bank) started to look the option whom to sell the equipment. The lender tried to get the pledge by enforcement and the borrower claimed this fact in the court. Lender’s intend to sell the equipment to a potential buyer was locked by a court ordinance. After that both sides accepted the mediation. As a result, the lender restructured the loan agreement that allowed the borrower to reimburse the loan by instalments.

Commercial Contracts

Nowadays the commercial disputes became frequent. When performing the commercial contracts as a legal adviser Victor is highlighting the mandatory condition of the commercial mediation as an alternative way of the disputes resolution between the parties. This makes parties to better understand the role of the commercial mediation and to self-discipline the participants while collaborating. The mostly spread disputes within commercial contracts are regarded to the

delay or on contract price payment. This often happens not just because of the corporate culture or the inaccuracy of the entrepreneur, but often it happens because the chain of delays caused by the crisis. For example, actually Victor handles a case when the producer of wine products delivered the wine abroad and the buyer, being affected both by the crisis that diminished the consumers' ability and the bad financial management, generated a big gap in the payment schedule. As far as the parties are residents of different countries, Victor is creating the background to propose the commercial mediation to the parties even an arbitration court has to examine the dispute under the contract. The last experience on mediating the commercial disputes provides different options as solutions, the payment following the sharp instalment under the liquid assets' guarantee being mostly spread.

Customs

The Custom service perform a post-import audit and obeyed a commercial entity to pay the 20% VAT from the assets imported and brought as an in-put to the company's share-capital. The mediation started before the trial procedure and it turned to be unsuccessful. Then the dispute was litigated in the 1st level court and the commercial entity won the trial. The Custom authority appealed and the Court of appeal kept valid the 1st court verdict. Then the dispute was resolved by a mediation handled by Victor.

Employment & Workplace

Victor has cases when employees consider they have been fired illegally and they decide to submit a suit case and as a result of mediation both sides find the dispute resolution as being pragmatic. Claim of a former employee who considered she was fired unfair; the case became complex after the employer was announced that at the moment of being fired the employee was pregnant. The employee required to be reinstated in her previous job position. The employer was not happy to keep the young lady continue working on him making illusion to the low qualification. After Victor's involvement the trial in the court was finished by concluding a peaceful agreement; even the employee didn't get back her job position the bargained compensation made both sides remain satisfied.

Insurance

The insurance company refused to pay the damage caused to client's property (car) under the CASCO agreement, making reference to some provisions of the insurance agreement. The dispute has the chance to be examined by the court. After mediating the case Victor brought the parties to the following compromise: the insurance company paid the damage partly in cash, the rest of the damage price has been calculated as the client's insurance input under the new insurance agreement.

IP & TM protection

The local retail company decided to enlarge the capacity of its sales by establishing new points of sales – markets in the conditions of the difficult competition in the retail. The entrepreneur decided to attract a foreign TM licensor – the owner of the internationally spread net of retail markets. After some months since the License Agreement entered into force, the local retail company didn't realized its target and considered that the License agreement would not sustain him to achieve the commercial scope. Additionally, the high value license fee has to be paid soon and the local entrepreneur was close to lose his interest about the TM usage and the agreement. He decided to cancel the agreement even losing a part of his money as legal charges and expenses. The mediation was initiated and Victor convinced the licensor to take care about the image of the TM and dedicate more time and energy on efficient implementing and promoting of the TM and relevant marketing tools in order to achieve considerable result on the local market. At the same time, the local retailer was under the risk to lose the guarantee provided under the bank promissory letter in case of the unilateral cancelling of the agreement. So, both sides used to be in a risky situation even if the dispute might be passed to the court. After mediation was handled by Victor the dispute was put on hold. Even the dispute seems to be finished the parties are still working hard and collaborating effectively within the agreement in order to achieve the target sought.

Licensing

Licensing is one of business conditions that determines the entrepreneurs to undertake specific businesses. When getting the license the time is mostly valuable. The classic case regarding the license release has been mediated some time ago before the mediation became regulated by the organic law. The Licensing Chamber created barriers to a newly incorporated foreign capital entity. The argument of the public officers used to be the lack of experience on the local market. Small premises and the long list of the foreign migrant employees served as the additional argument. The complex case has been finally resolved amiably, the entrepreneur accepting the Licensing Chamber's condition to create more work places to the local employees.

Partnership & Shareholder

Once attracting into a specific business a foreign partner who had to bring his investment input, the partners seemed to have the same view on developing the common project. After some months a dispute appeared regarding the efficiency of the funds distribution. It seemed that a mistrust between the partners appeared. Victor's analyse demonstrated the big initial mistake the both committed – they looked and argued about the company's presiding chair making reference to different provisions of the Company's Articles. After the mediation started Victor proposed to both parties to perform an audit and to select a managing company who will become responsible for the management. After a couple of months the efficient work re-established and the trust between partners seemed to be recovered.

Public sector

The public local administration didn't release the authorization to a landlord to build a residential complex within the city. They didn't approve also the design project. The mayoralty's arguments seemed to be formal as far as the former owner of the land used the premises as the kinder-garden. The dispute seemed to become endless until Victor initiated the mediation. The solution he proposed was to make the landlord to accept designing and building of the new kinder-garden within the residential complex. In a couple of weeks the city-hall approved the design and released the authorization in construction.

Taxation

After the Tax authority's control the commercial entity was obliged to pay the taxes and penalty from the price of services provided abroad to non-resident clients. The Tax authority's position was based on the local law 'On repatriation of the funds as a result of shipments and/or services provided abroad'. Formally the commercial entity broke the term to repatriate the funds by the deadline foreseen by the Law. At the same time, the non-resident clients were late with the service' payments. In case the Tax authority realized by the end its formal order then the risk was about bringing the commercial entity close to insolvency. Handling the mediation Victor succeeded to convince the Tax authority to accept a schedule of tax payments by instalments allowing the commercial entity to continue its business.

Personal Style

An individual with a team spirit, social, sincere, loyal and faithful in relations. Working with people from the business medium since he started his career as a legal advisor in 1996 he learnt a lot about entrepreneurial particularities. Being good at psychology of the commercial relationship Victor's client often underline his ability to highlight the ground of the problem/ dispute faster than the persons involved can do it fairly and open. Victor also is appreciated because of his confidence and loyalty.

All the abilities described above distinguish Victor between other colleagues and created him a nice reputation of a sincere and loyal professional.

Work Experience

- Recently returned from an East African country where the commercial mediation started on a bank issue.
- Since 2013 practicing commercial mediation based on the license as the result of adopting the relevant Law.
- AAB „Durlesteanu & Partners” Law Firm. - 2001 – present
Managing Partner, Associated Advocacy Bureau
Legal services, business advice, corporate affairs, commercial mediation, litigation and

arbitration. Consulting and support of clients in business affairs, advising clients in different branches such as, agriculture, tobacco, gas & oil, banking, insurance, commercial contracts, international shipments, construction, manufacturing, intellectual property. Consulting and assistance on mediation and litigations on local and international level. Start-up, Due Diligence, Purchasing & Negotiating.

- Joint Venture Holding ACOREX, profiling in production and export of goods on CIS, European and USA markets. - February 1996 – May 2001
Head Legal Department - Manufacturing, export & import operations. Management of the Legal Department activity, participate commercial negotiation, corporate affairs, contracting, dispute solutions, litigation and arbitration.

Feedback

- *“He is optimistic even everybody consider there is no chance to move deadlocked process further on.”*
- *“He needs little time to understand the ground of the dispute and sometimes we have the feeling he knows us better than we know ourselves as partners and our problem seemed to be fast digested by him like he knew it for a long time.”*
- *“He understands his role but he is taking the initiative to handle the process when the parties are loosing the control about the items of the agenda.”*
- *“Victor is brave enough to assume risks and responsibility in the situation when the participants prefer to remain in the shadow.”*
- *“His intelligence and fluent speech make everybody respect him.”*
- *“Victor seems to be inventive when, after a short period of time, he starts providing ideas that often turn into solutions.”*
- *“He is very careful when using expressions and addressing questions. Even we knew him as a lawyer his explanations used to be clear and didn’t bored us at all.”*
- *“He dedicates enough time to listen to each one who wants to share the problem, but he is good in time-management and handles the process accurately.”*

Qualifications

- 2014– 2015
 - A pro-bono mediator in promoting the commercial mediation at the 2 courts of appeal (phase of the Project II on Commercial Mediation, organised by CEDR);
- 2014
 - A pro-bono mediator within the implementation of the commercial mediation at the 2 designated district courts in Moldova (phase of the Project I on Commercial Mediation, organised and sustained by CEDR);
- September 2013 – November 2013
 - Commercial mediation course. Trainings and practice on commercial disputes solution. CEDR (Centre on Effective Disputes Solution www.cedr.com) supported by the EBRD. Accreditation Certificate issued by CEDR (UK);
- January 2002 – October 2013
 - Course on performing of initial mediator's skills. Mediation of civil conflicts, mediation in criminal cases, mediation in commercial relations. Public University Ion Creangă;
- 2001 – present
 - Certificates and qualification upgrade on Civil Procedure/ Criminal Cases/ Corporate Law/ Disputes Mediation/ International Arbitration/ Corporate Affairs etc. Promoters – university professors and business trainers;
- April 2000 – May 2001
 - Civil Law/ Criminal Law/ Civil & Criminal Procedure/ Commercial Law/ Arbitration/ Insolvency/ Banking/ Insurance/ Corporate Affairs. Mentor
– Gheorghe Amihalachioaie, President of the Moldova Bar/Law Association;
- 1992 – 1997
 - High legal education – specialization in Economic Law (average mark 8,9 out of 10);
- 1990 – 1992
 - 5 semesters Foreign Languages Faculty, after – shifting to Law Department;
- 1980 – 1990
 - Lyceum education - Lyceum Ion Creanga, Chisinau. Profile – English language

Memberships

- November 2014 – present
 - Member of the CEDR Panel;
- January 2013 – present
 - Member of the Bid Arbitration Court under the “Millennium Challenge Fund Moldova” (established by the US and Moldova Governments) 2011 – present Local Partner of the Roedl & Partners (Germany) ;
- 2009 – present
 - Associate Member of the European Lawyers Association (AEA);
- 2007 – present
 - Local counsellor of the Baker & McKenzie (USA);
- 2005 – present
 - Local counsellor of the Freshfields Bruckhaus Deringer (UK), law firm established in 1743.

