

VIAC – Questionnaire for Mediators

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2. Nationality: German

3. Contact information

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4. Education and professional experience (original profession; where did you study?):

Please add your CV!

2015 - Master of Arts (M.A.) Mediation, European University Viadrina Frankfurt Oder, Germany

1991 – Exam and admission to the Paris Bar, France

1988 to 2019 - Practicing as founding partner at [BMH AVOCATS – Breitenstein Hauser](#), Paris

1986 – Master of Comparative Jurisprudence (M.C.J) (Fellowship from the DAAD), New York University, USA,

1985 - Second State exam, Munich, and admission to the Munich Bar, Germany

1983 – Doctorate in law (Dr. iur.), University of Munich, Germany

1980 to 1983 - Research fellow with the Max-Planck-Institute for Innovation and Competition (Fellowship from the Max-Planck-Gesellschaft), Munich, Germany

1979 - First State exam, University of Freiburg i. Breisgau, Germany

1976 to 1977 – Law studies at the University of Geneva (Fellowship from the DAAD), Switzerland

1975 to 1979 – Law studies at the University of Freiburg im Breisgau, Germany

1974 – Law studies at the University of Frankfurt am Main, Germany

5. Core area of current professional activity:

Commercial Mediator, mainly in transnational and intercultural disputes, in English, French and/or German

6. Accreditation in the field of ADR (including relevant trainings and connected qualifications):

- Certified Mediator in **Germany** and **France** (Paris Court of Appeals; CNMA, Paris) and accredited by **major ADR Institutions** such as the
 - o CMAP, Paris
 - o ICC Centre for ADR, Paris
 - o WIPO Arbitration and Mediation Center, Geneva
 - o CAM, Milano
 - o EUCON, Munich, etc.
- Master of Arts (M.A.) Mediation, European University Viadrina Frankfurt Oder, Germany
- Distinguished Fellow of the IAM, Dallas
- Vice-Chair of the Mediation Committee of the IBA International Bar Association
- In 2019 and 2020, selected by WWL Who's Who Legal Mediation
- Since 2015 invited inter alia as a professional to the annual ICC International Commercial Mediation Competition in Paris, since 2018, as expert assessor to the annual IBA-VIAC CDRC Mediation and Negotiation Competition in Vienna
- Member of Mediation & Resolution, a group of European mediators sharing experience, internationality, certification and reactivity

7. Practical experience in mediation

- How many (international) mediations have you participated in
 - as single/co-mediator/in a team?
 - o More than 60 (2020) as sole mediator, and countless mock mediations
 - o Extensive experience as Counsel advising international companies in negotiations and mediations
 - administered by an institution; under which Rules?
 - o The majority was administered by an institution such as ICC, CMAP, WIPO, etc.
 - in which areas/fields?
 - o In all fields of national and international business law, mainly IP/IT, inventions, copyright, media, luxury goods, licenses, distribution, joint-ventures, oil and gas, energy, production lines, competition, complex industrial projects, construction
 - how complex (*please provide examples, participation of lawyers/experts*)?
 - In all my Mediations, the Parties are advised by their Lawyers (**Counsel**):
 - o European, American, and Arabian companies about alleged breach of a joint-venture agreement for the exploitation of oil and gas fields (English/French, **USD 1 billion**)
 - o Two European societies about the validity of international licensing agreements according to anti-trust laws (English/French, **USD 300 million**)

- An American machinery producer and a Swiss packaging manufacturer about express warranties under a supply agreement and its early termination for convenience or fault (English, **USD 74 million**)
 - 16 European TV broadcasters and collection societies about aspects of Time shifted TV viewing (Replay TV, Catch-up TV) and the collection and distribution of fees for copyrights and neighboring rights; with participation of a party-appointed **Expert** (German, **USD 40 million**)
 - An aircraft manufacturer and a manufacturer of aircraft cabin interiors about an alleged violation of contractual obligations (English, **€ 7 million**)
 - Indian and American parties about an alleged incomplete technology transfer under a licensing agreement (English, **USD 400,000**)
 - Several European competitors about an alleged trademark infringement with court cases in many parts of the world for more than 25 years (English, amount not specified)
 - Actress and agency about breach of contract (French, amount not specified), etc.
- How often have you acted in a different function (e.g. consultant, expert)?
 - Over 35 years, many times as Sole Arbitrator, Chairman of an Arbitral Tribunal and as Co-Arbitrator
 - What other ADR-experience do you have?
 - Interest based Negotiation and International Arbitration

8. Languages (including levels)

Mother tongue: German

Working languages (i.e. languages in which you have both a spoken and written command so that you may conduct mediation proceedings in this language): **English, French, German**

Basic knowledge: Spanish

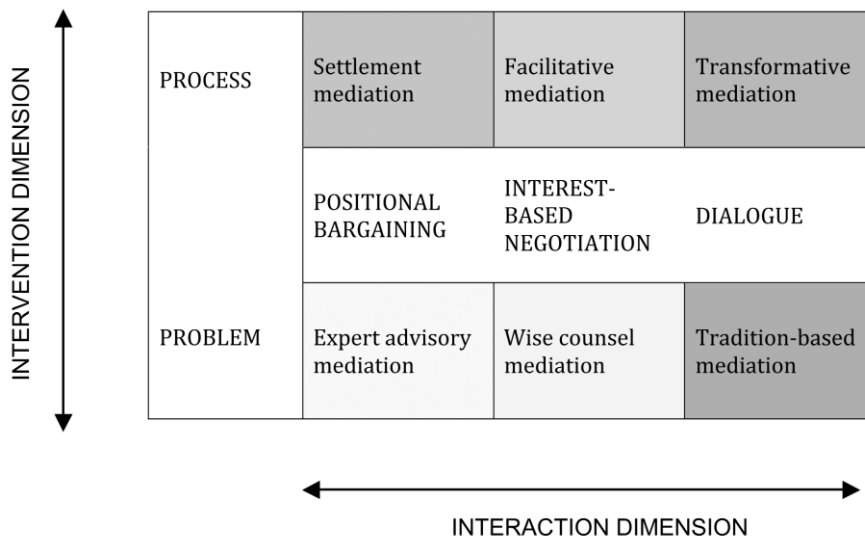
9. Style of mediation

Where do you see yourself? Please tick box as appropriate or indicate your preferred style.

- I usually adapt a **facilitative** style and aim to explore their **needs and interests**, by giving the Parties autonomy; only when expressly requested by both Parties, I could exceptionally add aspects of **evaluative** mediation, but I am clearly in favor of a facilitative style through questioning the Parties and their Counsel;
- This being said, in very **emotional** situations, which I frequently encounter in commercial mediations, and according to the dispute and the relationship between the Parties, I may also adapt a more **transformative** mediation style;
- Finally, purely **financial** aspects (amount of damages etc), because of their distributive character, often require more a “positional bargaining coach” (**settlement** mediation) since the Parties’ basis of interaction is namely positional bargaining; in these situations, I work intensively with the Parties and their Counsel in **caucuses** and **cross-caucuses** and encourage the Parties to constantly

reassess their **BATNAs** and, if possible, to share them; within the then appearing **ZOPA**, generally a settlement can be found.

My mediation experience is on my website: <https://martinhausermediation.com/experience/>



© Alexander, Nadja (2011) "The Mediation Meta-Model - the realities of mediation practice," *ADR Bulletin*: Vol. 12: No. 6, Article 5. Available at: <http://epublications.bond.edu.au/adr/vol12/iss6/5>; see also here for a detailed description of the 6 mediation styles.

10. Please describe aspects of your personality which could be interesting to clients you are going to mediate; what would former clients emphasize in your work?

I hear from Institutions, the Parties and their Counsel:

- Efforts, diligence, patience, persistence, passion, convincing, instructive, constructive in listening and respect of all

11. Publications and other activities in ADR related matters (e.g. training sessions, seminars, conferences, articles and others):

Please find all updated publications regarding negotiation and mediation, as well as my interventions in webinars, on my website: <https://martinhausermediation.com/publications/>

Main mediation publications (freely accessible ebooks and paperback editions):

- Martin Hauser, *Wirtschaftsmediation in Frankreich und Deutschland im Vergleich: Konzepte, Ziele, Grundlagen, Interkulturelles, Unterschiede*, Wolfgang Metzner Verlag, Frankfurt am Main 2016, 127 pages
- Martin Hauser, *La médiation commerciale en France et en Allemagne – une comparaison : Concepts, finalités, fondamentaux, aspects interculturels, divergences*, Wolfgang Metzner Verlag, Frankfurt am Main 2016, 129 pages

12. Memberships in mediation institutions / functions in mediation institutions/organizations:

Please find updated memberships on my website: <https://martinhausermediation.com/memberships/>

- Distinguished Fellow of IAM International Academy of Mediators, Dallas, USA
- Vice-Chair of the IBA Mediation Committee, London, GB

- Member of WPM Verein zur Förderung von Wissenschaft und Praxis der Mediation, Berlin, Germany
- Member of GRUR Deutsche Vereinigung für gewerblichen Rechtsschutz und Urheberrecht, Cologne, Germany
- Member of DIS Deutsche Institution für Schiedsgerichtsbarkeit, Berlin, Germany
- Member of Mediation & Resolution, Paris, France

13. Special expertise or specializations (*please list a maximum of three*) in your ADR-practice:

- Transnational, intercultural and multilingual commercial mediations

14. Soft Skills (e.g. intercultural competences):

I was always interested in foreign cultures and languages. At 21 I studied law and French civilization in Switzerland at the Geneva University. My doctoral theses in Munich was a comparison of French and German patent license law. At the age of 27 years I did my first internship in Paris. At 29 I studied at the New York University in a Master program comparative law. Back in Paris, I cofounded at the age of 32 the Parisian law firm BMH AVOCATS-Breitenstein Hauser. For 35 years I have worked in Paris in international arbitration. Part of my family is Spanish from Bilbao. For 50 years I am coming regularly to Austria where I have a residency.

15. How do you ensure your professional quality (e.g. coaching, practice supervision, etc)?

- Supervision, also required by German mediation law
- Feedback from assistant mediators
- Attending conferences, webinars, seminars, additional university trainings (non violent communication, psychologie, etc.)
- Invited to give lectures at in-person and online conferences, webinars
- Publication on mediation, etc.

16. Date of birth: 14 October 1955

VIAC offers mediation practitioners the possibility to present themselves on its website. VIAC reserves the right to publish any presentations submitted and to remove it as the case may be. Parties are free to nominate a mediator of their choice and so is the VIAC Board when appointing a mediator. These presentations do not constitute recommendations but may assist the parties in choosing a mediator willing to conduct proceedings according to the Vienna Mediation Rules. The fact that a mediation practitioner appears on this list, does not authorize this person to use the title "VIAC-mediator".

X I have completed this questionnaire to the above to the best of my knowledge and believe they are accurate.

X I hereby consent that the data provided in this questionnaire may be processed for the appointment of mediators and published by VIAC. This includes in particular publication on the website of VIAC as well as use in any presentations, etc. This consent may be withdrawn at any time by contacting VIAC at our general contacts, in particular by email addressed to office@viac.eu. The consequence of any such withdrawal will be that my data will no longer be processed by VIAC. For further information see our privacy statement at www.viac.eu.

Munich, November 19, 2020
Date and