

Original Article

A Comparative Study of the Enforcement of Final Documents in Online Alternative Dispute Resolution Methods

Seyed Alireza Rezaee¹, Reza Maboudi Neishabouri^{*2} , Azam Ansari³, Abdollah khodabakhshi shalamzari⁴

¹ Ph.D. Student in Private Law, Faculty of Law and Political Sciences, Ferdowsi University of Mashhad, Mashhad, Iran.

² Assistant Professor of Private Law, Faculty of Law and Political Sciences, Ferdowsi University of Mashhad, Mashhad, Iran.

³ Assistant Professor of Private Law, Faculty of Law and Political Sciences, Ferdowsi University of Mashhad, Mashhad, Iran.

⁴ Assistant Professor of Private Law, Faculty of Law and Political Sciences, Ferdowsi University of Mashhad, Mashhad, Iran.



[20.1001.1.24237566.1402.7.1.6.0](https://doi.org/10.22080/LPS.2022.23779.1351)



[10.22080/LPS.2022.23779.1351](https://doi.org/10.22080/LPS.2022.23779.1351)

Received:

June 20, 2022

Accepted:

October 19, 2022

Available online:

December 7, 2022

Keywords:

Conciliation,
Confidentiality,
Fairness, Online
dispute resolution,
Electronic
communication

Abstract

Mediation is one of the well-known dispute resolution methods, and due to the increase in the use of the Internet by individuals, the transfer of most businesses to cyberspace and the conclusion of many transactions by electronic means, in many lawsuits, parties tend to use online mediation to resolve their dispute. The present study examines the challenges of online mediation and the approach of international regulations and Iranian law towards them in the following topics, so that individuals and business actors can figure out the suitability of online mediation to resolve their disputes by taking into account the above considerations: "Lack of face-to-face communication in online mediation", "challenge of confidentiality in online mediation", "general reluctance of using online mediation in some cases", "weak control of mediator over online mediation", and "the difficulty of enforcement of online mediation". Finally, this article concludes that in case of insistence of parties on face-to-face communication, due to the lack of trust in the mediator, lack of access to the required communication technologies or inability to use them, as well as the lack of confidence in the confidentiality preservation of the other party and the mediator, the parties will face serious challenges to use online mediation. According to existing international regulations. Because of the need to a specific law on mediation in Iranian law, the present article suggests the Iranian legislature to enact a comprehensive law on mediation, including the special requirements of online mediation, so that individuals can benefit from the advantages of this dispute resolution method.

***Corresponding Author:** Reza Maboudi Neishabouri

Address: Assistant Professor of Private Law, Faculty of Law and Political Sciences, Ferdowsi University of Mashhad, Mashhad, Iran.

Email: Maboudi@um.ac.ir



Extended Abstract

1. Introduction

Mediation is one of the well-known dispute resolution methods, and due to the increase in the use of the Internet by individuals, the transfer of most businesses to cyberspace and the conclusion of many transactions by electronic means, in many lawsuits, parties tend to use online mediation to resolve their dispute. The present study examines the challenges of online mediation and the approach of international regulations and Iranian law towards them in the following topics, so that individuals and business actors can figure out the suitability of online mediation to resolve their disputes by taking into account the above considerations can figure out the suitability of online mediation to resolve their disputes: "Lack of face-to-face communication in online mediation", "challenge of confidentiality in online mediation", "general reluctance of using online mediation in some cases", "weak control of mediator over online mediation", and "the difficulty of enforcement of online mediation".

2. Methods

In the current study, fundamental, descriptive, and analytical research methods have been used.

3. Results

Each dispute resolution method has advantages and disadvantages, and online mediation also faces challenges. Some of these drawbacks seem to be accepted because the communication features in cyberspace have caused these drawbacks. Therefore, if the parties insist on face-to-face negotiation, cannot trust the mediator, do not have access to the required communication technologies or are unable to use them, and cannot trust the

other party and the mediator, the litigants should not use online mediation. Online Mediation is not as flawless as other methods of dispute resolution, and the parties to the dispute, depending on their situation and the requirements of the dispute, can use this dispute resolution method.

4. Conclusion

In case of insistence of parties on face-to-face communication, due to the lack of trust in the mediator, lack of access to the required communication technologies or inability to use them, and as well as the lack of confidence in the confidentiality preservation of the other party and the mediator, the parties will face serious challenges to use online mediation. According to existing international regulations. Due to the lack of need to a specific law on mediation in Iranian law, the present article suggests to the Iranian legislature to enact a comprehensive law on mediation, including the special requirements of online mediation, so that individuals can benefit from the advantages of this dispute resolution method.

Funding

There is no funding support.

Authors' contribution

Authors contributed equally to the conceptualization and writing of the article. All of the authors approved the content of the manuscript and agreed on all aspects of the work

Conflict of interest

Authors declared no conflict of interest.

Acknowledgments

We are grateful to all the persons for scientific consulting in this paper.