

Resource C Indicators predicting likelihood of settlement by mediation

The tables below are intended to help you if you are seeking a quick indication whether a settlement (through mediation or any other form of facilitated negotiation) is likely to be successful. Practice suggests that **all disputed issues** can be suitable for mediation **but not all parties / participants** who are involved in the process.

Please put a check in each column where this applies and count and insert the total number of checks in the spaces indicated at the bottom of the last two columns in each table below.

Characteristics of a participant/party:		My party/me	Other party/ies'
1. Suitability of PEOPLE	1. Willing or seeing the need to solve the conflict and issue(s)		
	2. Willing and able to also look at own contribution to the arising and continuation of the conflict		
	3. Willing and able to also look at/discuss things from the others side perspective		
	4. A positive contribution and support of the lawyers is to be expected (or at least not to hinder the process)		
	5. Commitment to willing to try to solve the issues and not only 'feeling forced or obliged' to mediate		
	6. Willing and able to negotiate about the conflict or are at least willing to talk to each other about it		
	7. The conflict/relationship is not escalated beyond repair (Glasl 8-9) ⁶⁹		
	8. Parties trust the neutral (mediator the person leading the negotiations)		
	9. During the process trust between the parties is likely to / may probably be (re)established		
Total number of checks in each column			

⁶⁹ See the Glasl escalation scale.

Characteristics of the case / conflict:		My party/me	Other party/ies'
2. Suitability of PROBLEM	1. A solution on the short term is needed/preferred		
	2. It is important to control cost		
	3. Need for risk control e.g., as to publicity and timing		
	4. Parties will need and/or encounter each other in the future or prefer to carefully end their relationship		
	5. Confidentiality/privacy are/is essential		
	6. Control/influence on the process and process steps is preferred		
	7. Control/influence on the outcome or finding a business solution is preferred		
	8. A decision on the legal issue(s) will not end the conflict		
	9. Multiple parties or several participants/representatives per party		
	10. Multiple conflicts (legally unrelated) between the parties		
	11. A cross border case, jurisdictional issues		
	12. Intercultural aspects		
Total number of checks in each column			

Assessment: The more questions that are answered in the affirmative for both parties, the greater the likelihood of a settlement being reached through mediation.