Title:

Table of Contents:
Article 6 - Admissibility of evidence in civil judicial proceedings

Content:

Article 6 - Admissibility of evidence in civil judicial proceedings

1" Mediators, as well as any person involved in the administration of mediation services, shall not in civil judicial proceedings give testimony or evidence regarding any of the following:

(a) An invitation by a party to engage in mediation or the fact that a party was willing to participate in mediation;
(b) Views expressed or suggestions made by a party in a mediation in respect of a possible settlement of the dispute;
(c) Statements or admissions made by a party in the course of the mediation;
(d) Proposals made by the mediator;
(e) The fact that a party had indicated its willingness to accept a proposal for a settlement made by the mediator;
(f) A document prepared solely for purposes of the mediation.

2" Paragraph 1 shall apply irrespective of the form of the information or evidence referred to therein.

3" The disclosure of the information referred to in paragraph 1 shall not be ordered by a court or other judicial authority in civil judicial proceedings and, if such information is offered as evidence in contravention of paragraph 1, that evidence shall be treated as inadmissible. Nevertheless, such information may be disclosed or admitted in evidence:

(a) to the extent required for the purposes of implementation or enforcement of a settlement agreement reached as a direct result of the mediation,
(b) for overriding considerations of public policy, in particular when required to ensure the protection of children or to prevent harm to the physical or psychological integrity of a person, or
(c) if the mediator and the parties agree thereto.

4" The provisions of paragraphs 1, 2 and 3 shall apply whether or not the judicial proceedings relate to the dispute that is or was the subject matter of the mediation.

5" Subject to paragraph 1, evidence that is otherwise admissible in judicial proceedings does not become inadmissible as a consequence of having been used in a mediation.

Referring Principles:

XII.5 - Settlement privilege