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Mediation as “Ariadne's Thread” and The Art of Convergence of Interests

Mediation and negotiation between the parties begin with speech, conversation, debate, asserting one's truth, and instinct for the best outcome of victory. Mediation is an alive phenomenon, and the mediator maintains the balance of this phenomenon, and in this vivid process, the mediator is the one who keeps balance. Two poles need a balance, which will be discussed from the perspective of the art of debate. Mediation, as an art of convergence of interests, should be considered from the point of view of debates and confrontation of ideas. There are markers in human consciousness and culture that influence mediation and negotiation processes. For example, dialectic in the debates can be similar to fencing of the mind, which aims to prove one's truth. Also, the Homo Ludens play marker adds new layers to the mediation process and these layers create new obstacles to removing the emotional background of the dispute. A clear manifestation of the philosophical-religious foundations of mediation is the famous treatise “The City of God” by Saint Augustine.

In the 21st century, mediation and negotiations returned in a modernized form as the best mechanism for resolving disputes and disagreements. In the process of finding a point of intersection of interests by the parties, the art of mediation of the mediator plays an important role. During the whole process, the parties should think about the best outcome, the acceptable outcome, and the absolutely unacceptable outcome. It is important to select the type of mediation opening meeting: general joint meeting or individual. A case-by-case review by the mediator before scheduling the opening mediation meeting may be a useful mechanism. As a result, the following process of negotiations will be adapted to the parties and become effective.

To the author's opinion, the mediator is the “Ariadne's thread” a pathfinder through the labyrinth of disputes that arise in mediation.

How the labyrinth of mediation will be twisted and what layers will be added to it depends on how much one simple truth will intensify in the minds of the parties:

“From birth, every man has the desire to be right” – Arthur Schopenhauer.

Keywords: *the art of negotiation, the influence of dialectics, and the characteristics of mediation*

1. Introduction

What can be the beginning and essential elements of mediation?

Mediation and negotiation between the parties begin with speech, conversation, debate, asserting one's truth, and instinct for the best outcome of victory. The mediation process includes a

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mediator (a neutral third party) and the parties. The process affects everything and influences it to the extent that the parties that compose the whole allow it to do so. The broad autonomy of mediation creates a free field for debate, and in this process of vibration (the confrontation of ideas), faith in one's personality and abilities becomes stronger. "A person is a human entity that makes his own choices in the plane of intersection with other Egos. This choice is born from the vital (alive) element of relationship, or unity with others, and this decision must determine one's fate".¹ Mediation is an alive phenomenon, and in this vivid process, the mediator is the one who keeps balance. Two poles need a balance: 1. A person's absolute belief in his power; and 2. devaluation of a person's beliefs, degradation (decrease) of self-action², sterilization of his/her visions concerning a specific issue and finally subordinating own view to the opinion that emerged in the mediation process. The aforementioned two poles are correlative concepts. Accordingly, the imbalance between them becomes part of a single process and a catalyst for the creation of a single governing pole. Based on this paradigm, it can be concluded that mediation, as an art of converging interests, should be examined in this article through the lens of debates and confrontations of ideas.

2. The Art of Negotiation and the Influence of Dialectic

In the fifth century AD, sophists³ (wise people, orators, clever people), such as Protagoras, Hippias, Thrasymachus, Euthymides, and Gorgias, made a man the axis and center of their philosophy and "measure of all things"⁴. Eristic was the art of debate developed by them, which can be equivalent concept to skill, talent, cleverness, and wisdom.⁵

In the 19th century, Schopenhauer (1788-1860) published a work whose relevance is not lost even in the 21st century.⁶ "Eristische Dialektik: Die Kunst, Recht zu behalten"⁷ - This is the name of his masterpiece. According to Schopenhauer's work, the main goal of a debate is victory. And, to achieve the goal, the author gives us specific recommendations.⁸ At the very beginning, Schopenhauer divides two concepts: He defines logic as a science that emerged from thinking and self-observation (discipline of thought) and calls it a means of thinking (thinking, judging, inferencing, etc.). Logic, as

¹ Batiashvili I. (*Irakli*), Totalitarianism and Individualism, book "Irakli Batiashvili", Ministry of Education and Science of Georgia, Ivane Javakhishvili Tbilisi State University, Tbilisi, 2021, 267 (in Georgian).

² I determine and decide how to act and it is not influenced by any circumstances.

³ "Wise man", clever, skilled, such were called Protagoras, Hippias, Thrasymachus, Euthymides, and Gorgias.

⁴ The words of Protagoras – Vaulker, Aashish, Markets and measurements in nineteenth-century Britain, Cambridge: Cambridge University Press, 2012, 218-228.

⁵ Schopenhauer A., The Art of Winning Arguments (collection), Translator: Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N., Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900), Chapter I. Eristics.

⁶ Schopenhauer A., The Art of Winning Arguments (collection), Translator: Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N., Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900),

⁷ The Art of Winning an Argument/ The Art of Being Right.

⁸ Schopenhauer A., The Art of Winning Arguments (collection), Translator: Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N., Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900), Chapter II.

a science, has theoretical and analytical value.⁹ Logic leads a person only to formal, not material, truth. The means of logic can be considered: perception, understanding, self-awareness, and the ability to conclude.¹⁰ The second concept is dialectic, which the philosopher equates¹¹ with the art of debate, which includes the art of negotiation, conversation, the art of verbal combat, and the art of persuasion.¹² In dialectics, the spiritual struggle takes place between exactly two persons.¹³

2.1. Dialectics and Variations of Thesis Refutation

Significantly, the characteristic of eristic dialectic is *per fas et nefas*. It means to use tactics and arguments in such a manner that the person always appears right and can win a debate. Dialectics should be driven by the desire to gain an advantage and remain right in the eyes of the other party and listeners, which does not include the determination of objective¹⁴ truth.¹⁵

The famous advice of Machiavelli, which Schopenhauer relies on in his work, is also important for defining the essence of the art of debates and established dogmas. According to the advice of the philosopher Machiavelli, it is better to take advantage of the other party's momentary weakness, because if the person does not do so, the other party may take advantage of his momentary weakness. Schopenhauer notes: that if sincerity and justice reigned¹⁶ in the world, the struggle by such methods would become unnecessary.¹⁷ In Schopenhauer's reasoning, it is important how the two factors are divided: The first is the aspiration to objective truth, which is linked to judgment, reasoning, perception, and experience; and the second, is related to dialectics and can be studied as an art. . In this case, a person tries to convince the public of the truth of his opinion and to create the impression that he generally has fair views. Both participants of the debates often believe that they are totally right, which may not correspond to reality at all. Dialectic in debates can also be equated with fencing of the mind, the purpose of which is to assert one's truth.

Also, for the art of convergence of interests, it is necessary to consider certain foundations of dialectics, which may appear during the debates of the parties in the mediation process. For example,

⁹ Ibid 11-12.

¹⁰ Ibid.

¹¹ regard as identical to.

¹² *Schopenhauer A.*, The Art of Winning Arguments (collection), Translator: *Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N.*, Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900), <<https://www.litres.ru/book/artur-shopengauer/iskusstvo-pobezhdad-v-sporah-8952636/chitat-onlayn/#idm140537390896208>> [02.12.2024].

¹³ *Schopenhauer A.*, The Art of Winning Arguments, (Translated from German by N. L. d'Andre 1900), Litera Nova, Kharkov, 2018, 11-12.

¹⁴ Objektive Gerechtigkeit.

¹⁵ *Schopenhauer A.*, The Art of Winning Arguments, (Translated from German by N. L. d'Andre 1900), Litera Nova, Kharkov, 2018, 42.

¹⁶ German: Herrschen.

¹⁷ *Schopenhauer A.*, The Art of Winning Arguments (collection), Translator: *Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N.*, Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900), <<https://www.litres.ru/book/artur-shopengauer/iskusstvo-pobezhdad-v-sporah-8952636/chitat-onlayn/#idm140537390896208>> [02.12.2024].

Schopenhauer mentions in his work one of the ways of rejecting the thesis: *ad rem and ad hominem*. through the first, we deny the absolute or objective truth of the thesis, by proving discrepancies with the real features that distinguish the subject of dispute from the thesis. With the help of the second way, we compare the thesis with other views and judgments of the other party, thus proving that this thesis contradicts the views of the disputing party. Or, ultimately, the arguments of the disputing party in this way become unreasonable, and the objective truth of the matter remains undetermined.¹⁸ Schopenhauer distinguishes two method of achieving the goal: direct and indirect. Direct method – includes the assertion of the injustice of the thesis by a person.¹⁹ Indirect method – means an attempt by a person to reject the entire thesis by asserting the inaccuracy, incorrectness, and improbability of the consequences of the thesis.²⁰

2.2. The Subjective World and the New Marker

For modernism, as a cultural movement, the main matter is not the material world, but the subjective world of the individual (subjectivity) and irrational vision of human beings.²¹ Arthur Schopenhauer's (1788-1860) formula expresses this: "The world is my representation".²² Later, Schopenhauer's idea – "The world is my representation" – changes its face in postmodernism and is presented to society with a new marker. Instead of "representation" we see a new definition and a modernized key element – "play". "Man is caught up in the play with his representations, material events, time-space, and most importantly, language".²³ Johan Huizinga (1872 – 1945), the author of play theory and the main work in this direction, "Homo Ludens", says that the element of play represents an essential role in people's consciousness and culture. Play marker adds new layers to the mediation process. These layers create new obstacles that obstruct the removal of the emotional background of the dispute. According to Aristotle, debate can be honest and not merely an attempt to convert a person to one's own opinion.²⁴ Mediation, negotiation, and conciliation were developed in

¹⁸ Schopenhauer A., *The Art of Winning Arguments*, (Translated from German by N. L. d'Andre 1900), Litera Nova, Kharkov, 2018, 43-45.

¹⁹ nego maiorem, nego minorem, nego consequentiam.

²⁰ Schopenhauer A., *The Art of Winning Arguments*, (Translated from German by N. L. d'Andre 1900), Litera Nova, Kharkov, 2018, 46-48.

²¹ Modernism is usually described as a system of thought and behavior characterized by self-reference and self-awareness: <<https://www.britannica.com/art/Modernism-art>> [02.12.2024]; <https://en.wikipedia.org/wiki/Modernism#cite_note-Everdell-15_> [02.12.2024], (Everdell W., *The First Moderns: Profiles in the Origins of Twentieth Century Thought*, University of Chicago Press). <https://en.wikipedia.org/wiki/Modernism#cite_note-Everdell-17_> [02.12.2024].

Nowadays, the term "experience" is part of the description of modernity and the subjective world: <<https://www.upress.virginia.edu/title/2099/>> [02.12.2024].

²² Nemsadze A., *Philosophical-Aesthetic Trends and Theories of the Twentieth Century*, Ivane Javakhishvili Tbilisi State University, Course Syllabus, Appendix 3, Lecture 1, 8.

²³ Nemsadze A., *Philosophical-Aesthetic Trends and Theories of the Twentieth Century*, Ivane Javakhishvili Tbilisi State University, Course Syllabus, Appendix 3, Lecture 14, 4.

²⁴ <<https://www.litres.ru/book/artur-shopengauer/iskusstvo-pobezhdad-v-sporah-8952636/chitat-onlayn/#idm140537390896208>> [02.12.2024].

China, Japan, Georgia, and the United States many years ago and have gained importance in the 21st century as effective mechanisms for resolving disputes, debates, and disagreements.²⁵

3. The Importance of the Agreement

3.1. About the Issue of the Possibility of a Fair Settlement Between the “Parties” in the European Court of Human Rights

In civil disputes, it is common for the disputing parties to settle the case in the presence of a judge. The judge himself also helps the disputing parties reach an agreement during the court process (in a civil dispute). In the case of the European Court of Human Rights, parties are allowed to reach a friendly settlement. In this process, the state acknowledges (through a confession statement) its violation of the European Convention on Human Rights. The court then confirms this acknowledgment with its decision. Examples of this are: the case of Sulkhan Molashvili against Georgia,²⁶ The case of Mariam and Irina Batiashvili against Georgia and the case of David Mirtskhulava against Georgia.²⁷ In the Sulkhan Molashvili case, the government of Georgia acknowledged that torture had occurred (they admitted violations in Sulkhan Molashvili’s case), the applicant accepted the amount of compensation offered and did not request more. Most importantly, the European Court of Human Rights recognized the government's statement as valid and agreed to this settlement.

Justice is the best way to maintain the balance of interests since mediation allows the parties to make a joint voluntary and desirable decision in terms of fairness seen from their perspective.²⁸ The differing perceptions of justice among the parties can negatively impact the party that is acting in good faith. For example, one party may perceive justice as achieving victory by any means necessary. As a result, the party acting in good faith won't be able to use the information shared during the mediation process to prove its assumption. “There is a correlative²⁹ relationship between the mediation process and the outcome”.³⁰ “A fair agreement is one that: a) is at least acceptable or fair to the parties performing the agreement; b) restores harmony or a balance of interests between the participants in the mediation; c) Increases the possibility of mutual understanding and better relations; d) approaches the limit that the parties considered to be adequate compensation for their damages; e) It saves money and time at both the individual and institutional levels; f) It reduces stress and irritation; g) Improves communication between members of society (in the neighborhood, in the business world, in the

²⁵ *Tsuladze A.*, Comparative Analysis of Georgian Judicial Mediation, Publishing world of lawyers, Tbilisi, 2017, 176-177 (in Georgian).

²⁶ Human Rights Center of the Supreme Court of Georgia, Sulkhan Molashvili v. Georgia, Application No. 39726/04, removed from the list of cases, 30/09/2014. <<https://catalog.supremecourt.ge/blog/index.php/2014-05-22-16-39-43/508-2015-05-27-13-54-29>> [08.09.2025].

²⁷ Resolution CM/ResDH (2016)1, Execution of the decisions of the European Court of Human Rights in Two cases against Georgia.

²⁸ Chitashvili N., Fair Settlement as Basis for Ethical Integrity of Mediation, “Alternative Dispute Resolution-Yearbook“, special edition, 2016, 9.

²⁹ Reciprocal.

³⁰ Chitashvili N., Fundamentals of Mediation Ethics, Meridian, Tbilisi, 2024, 351.

workplace, etc.); h) creates social precedents for better regulation of relations".³¹ Confidentiality is also a kind of hybrid in the legal-philosophical sense. Under national law, protection of information for an indefinite period reminds us of the category of absolute rights, however, the specifics of the relationship of the mediation and the accompanying process (allows individuals to demand from each other to protect information under the principle of confidentiality) are clearly relativistic.³²

3.2. The Philosophical-Religious Significance of the Mediator

A prominent example of the philosophical and religious foundations of mediation is Blessed Augustine's renowned treatise "The City of God".³³ For Saint Augustine, the mediator has both a rhetorical and a theological function. This is the way in which Platonic thought and Christianity are divided and become the embodiment of the world in which Jesus Christ appears to the world as a mediator. According to Platonic demonology, demons appear as mediators between gods and humans, albeit with a completely different demonic body, devoid of spirit and far removed from human nature.³⁴ In the view of Saint Augustine, the existence of good demons is ultimately denied. According to Blessed Augustine, the mediator is the uncreated Word of God, through Whom all things were made, and by participating in Whom we are blessed. And still who is this Mediator? It is the "Lord" who is not only the Word, but also the bearer of human nature, a God Who has become a sharer in our humanity, and so has furnished us with all that we need to share in His divinity. For in redeeming us from our morality and misery, He does not lead us to the immortal and blessed angels so, that, by participating in them, we may ourselves also become immortal and blessed. Rather, he leads us to the trinity by participating in whom the angels themselves are blessed.³⁵

From the philosophical-emotional worldview of Saint Augustine it can be seen what skills of the mediator were developed in the collective unconscious of people:

1. Mediator – a sharer of the problems of the parties and their life at that moment;
2. Mediator – the so-called "mediation sharer" for the parties;
3. Mediator – pointer³⁶ of only the best and most favorable path for the parties in the mediation process.³⁷

³¹ Hyman J.M., Love L.P., If Portia Were a Mediator: An Inquiry into Justice in Mediation, Clinical L.Rev., Vol. 9, 2002, 186, mentioned in: Chitashvili N., Fundamentals of Mediation Ethics, Meridian, Tbilisi, 2024, 350 (in Georgian).

³² Batiashvili I., Confidentiality in Mediation in Resolving Property Disputes: Reality and Challenges, Law and World, #8, 2022, 76-116 (in Georgian).

³³ Аврелий А., О граде Божьем, Электронная библиотека Гражданская Общество в России, Кн. VI-XI, ст. 122-125, <http://www.civisbook.ru/files/File/Avgustin_6-11.pdf> [02.12.2024].

³⁴ Аврелий А., О граде Божьем, Электронная библиотека Гражданская Общество в России, Кн. VI-XI, ст. Глава XIII, Глава XV, 120-122, <http://www.civisbook.ru/files/File/Avgustin_6-11.pdf> [02.12.2024].

³⁵ Guretzki D., The Function of "Mediator" in St. Augustine's De civitate Dei, Book IX, Hirundo: "The McGill Journal of Classical Studies", Vol. I, 2001, 66-67, <<https://www.mcgill.ca/classics/files/classics/2001-07.PDF>> [02.12.2024].

³⁶ person who shows way favorable for both parties.

When we mention the introduction and establishment of a culture of mediation in Georgia, the role of Ilia Chavchavadze is essential in creating a modern concept of a mediator – a conciliator.³⁸ First of all, Ilia Chavchavadze connects the need for conciliation judges in modern language with the development of life, globalization and capitalization (the relationship between people, which is related to giving and receiving), the alternative of unloading the justice system, economic existence, and, finally, it is related to resolving the disputed issue quickly and easily.³⁹

4. A Key Aspect of Successful Interest-Based Mediation

Of course, the modernist and eclectic world adds to mediation new functionalities, renews, and prepares for new challenges.⁴⁰ The parties become the main participants in the process, trying to find out what their main interests are, so mediation is based on the interests of the parties and not on their rights.⁴¹ One of the key functions of a mediator to successfully mediate business disputes is to focus on the interests of the parties and be able to separate them from the positions of the parties.⁴²

The goal of mediation is to reach a compromise, not establish victory. To create a space for interest-based debate and discussion, the mediator should start a realistic evaluation of the case and design a flexible environment; for example, parties should sit in each other's chairs (metaphorically, not in a direct sense). They should try to view the picture from a different angle (different perspective). The mediator can use the mirror effect. Throughout the entire process, the parties should think about the best outcome, the acceptable outcome, and the absolutely unacceptable outcome. Finally, progress can occur when the parties understand that an intersection point exists.⁴³

The initiation and conduct of the mediation process depend on the voluntariness of the disputing parties.⁴⁴ The voluntary involvement of the parties in the process increases the chances of reaching an agreement, while the forced participation of the parties in the process does the opposite.

As for confidentiality, negotiations are a free space, and if there is no written agreement on the rules of the game, then both duties and responsibilities arising from it are less. To some extent,

³⁷ Batiashvili I., The Mediation Process, its Principles and Challenges in Georgia, Alternative Dispute Resolution Yearbook, 11(1), 2022, 25-38, (in Georgian), <<https://doi.org/10.60131/adr.1.2022.6162>> [02.12.2024].

³⁸ Ibid.

³⁹ Tsuladze A., Comparative Analysis of Georgian Judicial Mediation, Tb., Publishing world of lawyers, 2017, 176-177 (in Georgian).

⁴⁰ Batiashvili I., The Mediation Process, its Principles and Challenges in Georgia, Alternative Dispute Resolution Yearbook, 11(1), 2022, 25-38, <<https://doi.org/10.60131/adr.1.2022.6162>> > [02.12.2024].

⁴¹ Bichia M., The Importance of Using Mediation in Business Disputes During a Pandemic, Herald of Law, #3, 2021, 12 (in Georgian).

⁴² Batiashvili I., Mediation – The Often-missed Opportunity!, Law and World, 10(30), 2024, 184–192 (in Georgian).

⁴³ Batiashvili I., International Mediation – the oftenmissed opportunity – World Factoring Yearbook (WFY) Edition, BCR Publishing, 2024 (in Georgian).

⁴⁴ Batiashvili I., The Mediation Process, its Principles and Challenges in Georgia, Alternative Dispute Resolution Yearbook, 11(1), 2022, 25-38, (in Georgian), <<https://doi.org/10.60131/adr.1.2022.6162>> [02.12.2024].

mediation is also subject to a legal framework, unless, of course, the parties agree on a different procedure. One of the cornerstones of mediation is the principle of confidentiality. Although mediation is advertised as protecting the privacy of the parties, it does not give absolute immunity.⁴⁵ If the majority of the parties prefer that everything that is revealed in the mediation process be kept secret, then the mediator should inform them about the exceptional cases that the law requires the mediator to disclose information.⁴⁶

During the negotiation process, it is essential for both parties to feel a sense of equality. Even in the negotiation process, the parties must see their real positions and separate them from desires or anger. In a negotiation, both sides can argue for a long time. They may have an intense discussion, but if they don't let go of their emotions and focus on their underlying interests, they won't find a point of intersection. During negotiations, both sides must recognize what potential compromise can be made and what is of principle to them (non-negotiable issue). Let them decide (separate) what they want: the core of the apple, the peel, or both. This is part of the self-determination of the parties. In general, mediation provides a free space for parties where they enter and operate voluntarily; where they get rid of fears, where they analyze their own priorities; where they identify real problems; where they get free from anger and bad feelings (resentments).⁴⁷

In this regard, it is worth noting the first ten psychological traps given in the book “Negotiation: Theory, Practice and Law”.⁴⁸ From the first ten psychological traps, in the context of the art of convergence of interests, we can group several interconnected psychological aspects and biases (whether conscious or subconscious).⁴⁹

1. Overconfidence bias – Overestimation of one's abilities. Hope for luck and chance. Expecting to achieve what is desired through oratory and profitable analysis, rather than perceiving reality. Excessive illusion, not a real analysis of what the equivalent useful outcome of this case could be.
2. Selective perception – The belief in our truth and positions acts as a filter that submits any different actions or suggestions from the other side to your personal vision and negative attitude. This creates a hostile environment, and all positive attempts to bring the interests of the parties closer are viewed as treachery and manipulation. This trap is related to the hope of prediction and false stigmas.
3. Self-serving bias – This specific psychological aspect is related to the constant self-justification, even though the reason for justification is not considered normal in our value system. A simple

⁴⁵ Batiashvili I., Confidentiality in Mediation in Resolving Property Disputes: Reality and Challenges, Law and World, #8, 2022, 76-116 (in Georgian).

⁴⁶ Oberman S., Confidentiality in Mediation: an application of the right to privacy, Ohio state journal on dispute resolution, Vol 27:3, 2012, 550-551.

⁴⁷ Batiashvili I., The Mediation Process, its Principles and Challenges in Georgia, Alternative Dispute Resolution Yearbook, 11(1), 2022, 25-38, (in Georgian), <<https://doi.org/10.60131/adr.1.2022.6162>> [02.12.2024].

⁴⁸ Folberg J., Golan D., Tsuladze A., Negotiation: Theory, Practice and Law, Tbilisi Open University, UNDP, 2018, 29-32 <https://issuu.com/aleksandretsuladze/docs/molaparakeba__4_/1> [02.12.2024].

⁴⁹ Folberg J., Golan D., Tsuladze A., Negotiation: Theory, Practice and Law, Tbilisi Open University, UNDP, 2018, 29-32.

example: behavior that, if committed by me, could be subject to some excusing circumstance, but if committed by another person, there would be no objective reason for justification.

4. Confirmation bias – Expressing trust in information that confirms only one's views and opinions. All other questionable information is rejected.
5. Anchoring⁵⁰ – This aspect is related to the collective visions and established standards that have been established within society. My assessments, expectations, and predictions are based on results from similar cases in society. In this case, the party often fails to identify similarities of the dispute, causing its demand and reality to remain on different planes (remain misaligned).

In the negotiation process initiated during mediation, the mentioned aspects (traps) obstruct a party from seeing to what extent it is better to back down or what modified counter-demand to make.

5. Conclusion

The mediator should individually analyze every case before a mediation meeting is planned. This includes: case information, the emotional background, predicted sensitive issues, the roots of the problem, and the main aspects of the dispute. Afterwards, the mediator should decide whether to start with a general joint meeting or conduct individual meetings.⁵¹ Obtaining information about the factual and psychological circumstances related to the dispute serves only the purpose of properly opening the mediation meeting. Psychological factors and established beliefs of parties have a powerful impact on the initiation process of mediation. In addition, these psychological beliefs have a great impact on future processes and results of mediation. Accordingly, such planning by the mediator for the opening of mediation may be considered a useful and effective mechanism in the subsequent negotiation process on the path to agreement.

Ultimately, if mediation ends with consensus, the principle of parties' self-determination has a positive effect on their future relationship.⁵² The parties then develop a relationship tailored to each other's interests and obtain skills to avoid or defuse conflict situations.⁵³ It is also worth noting that the mediation process and the outcome depend on the goal you want to reach: winning at any cost or reaching an agreement. The mediator is the “Ariadne's thread” a pathfinder through the labyrinth of disputes that arise in mediation. How the labyrinth of mediation will be twisted and what layers will be added to it depends on how much one simple truth will intensify in the minds of the parties: “From birth, every man has the desire to be right” – Arthur Schopenhauer.⁵⁴

⁵⁰ Folberg J., Golan D., Tsuladze A., *Negotiation: Theory, Practice and Law*, Tbilisi Open University, UNDP, 2018, 29-32.

⁵¹ Batiashvili I., *International mediation – the often missed opportunity* – World Factoring Yearbook (WFY), BCR Publishing, 2024 Edition, (in Georgian).

⁵² Kandashvili I., *Judicial and non-judicial forms of alternative dispute resolutions in Georgia on the example of mediation*, Tbilisi, 2019, 94-95 (in Georgian).

⁵³ Batiashvili I., *The Mediation Process, its Principles and Challenges in Georgia*, *Alternative Dispute Resolution Yearbook*, 11(1), 2022, 25-38, (in Georgian) <<https://doi.org/10.60131/adr.1.2022.6162>> [24.12.2024].

⁵⁴ Schopenhauer A., *The Art of Winning Arguments* (collection), Translator: Aikhenvald Y.I., Chernigovets F., Kresin R., L. d'Andre N., Copyright Holder: Eksmo, February 20, 2015, (Date of writing: 1900).

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3. *Batiashvili I. (Irina)*, Confidentiality in Mediation in Resolving Property Disputes: Reality and Challenges, Law and World, #8, 2022, 76-116.
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7. *Bichia M.*, The Importance of Using Mediation in Business Disputes During a Pandemic, Herald of Law, N3, 2021,12 (In Georgian).
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