

VIAC – Questionnaire for Mediators

1. **Name:** Birgit SAMBETH GLASNER

2. **Nationality:** Swiss (Switzerland)

3. **Contact information**

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

Please add your CV!

1984 - Lic. Iur. Université de Genève (CH)

1984-1985 - Jura Wintersemester in Innsbruck (Gerichtsmedizin & Forensische Psychiatrie)

1986 - LL.M. International Banking Law, Boston University (USA)

1990 - Bar exam, Geneva (CH)

5. **Core area of current professional activity:**

- Co-Head of the Dispute resolution team of Altenburger Geneva, Zurich and Lugano
- Dispute resolution: early case assessment, negotiation, mediation, litigation and arbitration & collaborative law. Dispute Boards.
- International Sworn and accredited Mediator (Mediator since 1997):

Participation in numerous mediations as Mediator and Co-mediator in various Countries (Switzerland, France, Italy, Ireland, Germany, Spain, Portugal, UK, Turkey, Canada and USA) notably in the following fields:

National and international commercial – corporate – financial matters: joint-ventures, shareholders' agreements, M&A, contracts, Intellectual property and Patents, trademark infringements, IP structures, distribution/agency agreements, liquidation of commercial enterprises, construction contracts (pharmaceutical factories, food industry, energy sector: biogas and other clean energy), financing of construction contracts, commodity trading and shipping, employment matters, unions, lease/tenant disputes, financial disputes and asset management, Insurances, but also in complex family disputes and inheritance matters.

Numerous mediations involved multiple languages and parties from multiple cultural environments.

Participation in various institutional ADR proceedings (Mediation and Conciliation as well as MEDALOA) notably with ICC, WIPO, CEDR, CPR, CMAP, CEPANI (Belgium), Swiss Chambers of Commerce (Swiss Rules), as well as Ad hoc ADR proceedings.

Party in an international commercial mediation in the USA (D&O liability issue) in capacity of liquidator of an insolvent Swiss finance company part of a huge international group.

- Attorney at law practicing in Switzerland

Special areas of practice: International and national company & commercial relations, contract law, distribution and franchises, organisation & governance, M&A, trade and finance, bankruptcies & reorganizations, labour and employment, construction, real estate and leaseholds, intellectual property, professional liability as well as complex family matters in inheritance matters and estates, as well as international matrimonial cases and divorces.

- Visiting professor teaching Commercial Mediation at : “Master Degree in International Dispute Resolution”, University of Fribourg (CH) and “Master in International Trade”, Torino (Italy) (both with Prof. Pierre Tercier) & “Diploma and Master of Arts in International Trading, Commodity Finance and Shipping” HEC Geneva, “MIDS Master in International Dispute Settlements” HEI Geneva (CH), CAS HEIG Yverdon & Mediation Advocacy at ECAV Ecole de l’Avocature, Geneva and BUCERIUS Law School, Hamburg (D).

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

° Certified / accredited Mediator by the following Organizations and Institutions:

- Swiss Bar Association FSA/SAV
- IMI International Mediation Institute
- SCCM Swiss Chamber for Commercial Mediation
- CEDR Centre for Effective Dispute Resolution, London
- CPR New York
- CMAP Centre de Médiation et d’Arbitrage de Paris
- SCIA Shenzhen Court of International Arbitration, China
- INSOL International Insolvency Mediation
- Listed as Neutral / Mediator at ICC Paris and Switzerland
- Listed as Neutral / Mediator at WIPO

° Distinguished member fellow :

- IAM International Academy of Mediators, Canada, www.iamed.site-ym.com/members/?id=33510544
- Center for Mediation and Law, Russia, www.mediacia.com/wp/314-mlaw_b-406.html

° Member of the European Advisory Board of CPR ADR - International Institute for Conflict Prevention & Resolution <https://www.cpradr.org/strategy/international-initiatives/europe>

° Listed in Who's Who since 2011 and especially Who's Who legal Switzerland 2017: “Highly experienced, with a truly international practice” and “commended for her strategic outlook when it comes to dispute resolution and her excellent record as a Mediator”.

7. Practical experience in mediation

- How many (international) mediations have you participated in
 - as single/co-mediator/in a team?
 - I have participated in more than 280 mediations as of today, most of them as single mediator, some as co-mediator.
 - I am also often assisting one Party and its counsel to prepare and advocate in a specific mediation proceeding.
 - administered by an institution; under which Rules?
 - Approximately 50% administered: ICC, CEDR, SWISSRULES, WIPO, CPR, CEPANI, CMAP, TAS.
 - in which areas/fields?
 - National and international commercial – corporate – financial matters: joint-ventures, shareholders' agreements, M&A, contracts, Intellectual property and Patents, trademark infringements, IP structures, distribution/agency agreements, liquidation of commercial enterprises, construction contracts (pharmaceutical factories, food industry, energy sector: biogas and other clean energy), financing of construction contracts, commodity trading and shipping, employment matters, unions, lease/tenant disputes, financial disputes and asset management, Insurances, but also in complex family disputes and inheritance matters.
 - how complex (*please provide examples, participation of lawyers/experts*)?
 - EUR 1 billion case in international inheritance matter (lawyers + experts)
 - Complex IT (TM, copyrights, Design & Models, etc) matter (lawyers)
 - Merger & Acquisition case in the pharmaceutical industry (USD 59 mio) (lawyers)
 - Construction project in Dubai (lawyers + experts)
 - Cross border financial dispute (Hedge Funds) (lawyers)
 - International dispute over Windmills construction (lawyers)
 - Contract for pilot of space shuttle (lawyers)
 - Sectorial mediation between two Departments of an international Bank
 - Complex construction case in Brasil (lawyers)
 - Multy party Agency / Distribution matter in Turkey (Turkish, German, French Parties) (lawyers)
 - Service contract dispute during the Mundial 2014
 - International distribution contract in the watch industry
 - Contaminated blood issue (with a state) (Lawyers)
 - International telecom matter with n African State and an International telecom provider (lawyers)
 - International joint venture for the sale of medical devices (USA – Austria-Germany) Lawyers)
 - Sectorial dispute in a Hospital
 - Music industry, unfair competition matter (lawyers)

- Dispute over the new construction of a skilift / telecabin in a Ski resort (lawyers)
 - Numerous international divorces and other family matters (with or without lawyers + experts)

 - External Mediator of the WTO (employment issues – workplace mediation)
 - External Mediator of an Airport related industry (employment issues – workplace mediation)
 - External Mediator for a Swiss Bank (employment issues – workplace mediation)
- How often have you acted in a different function (e.g. consultant, expert)?
Very often (at least 25-30 times a year): Consultant, Dispute resolution specialist/Expert, ICC Expert, Mediation advocacy, President of Dispute Board, Arbitrator, ...
I also teach mediation.

 - What other ADR-experience do you have?
 - Arbitration (as Arbitrator and as Counsel in arbitrations)
 - Setting up Dispute Boards
 - MEDALOA
 - Former Deputy Judge for conciliations at the Geneva Courts (1994-2008)

8. Languages (including levels)

Mother tongue: French and 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): German, French, English, Spanish

Basic knowledge: Italian

9. Style of mediation

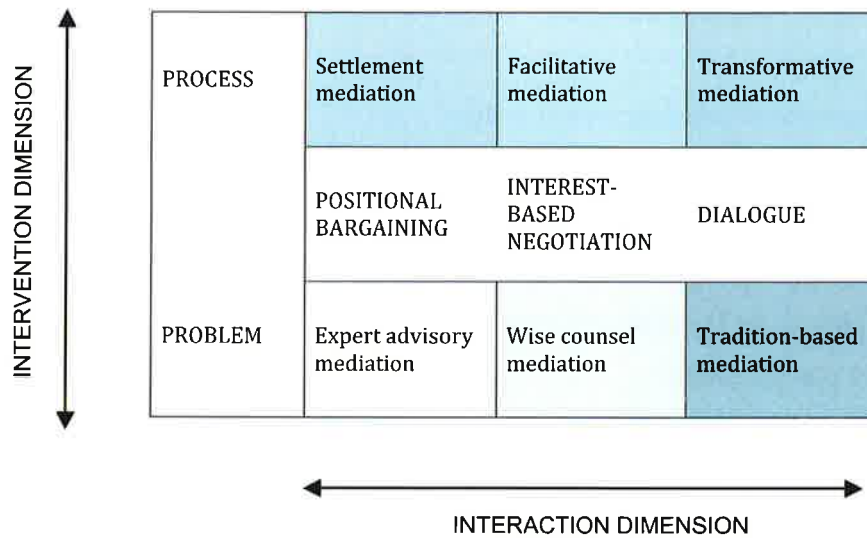
Where do you see yourself? Please tick box as appropriate or indicate your preferred style.

I am a Facilitative Mediator using a holistic and creative approach to dispute apprehension and resolution.

Interest based mediation focused on future interests and business needs, which can be either very facilitative or selectively evaluative, depending on the context, the necessities of the case, the requests of the parties and the options at stake.

Practicing hybrids, MEDALOA or combined ADR processes, upon request and with the informed consent of the parties

Use of cross cultural skills and tools.



© 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?

According to the feedbacks I received, the parties especially liked my pragmatic and creative approach

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

11.1 Publications :

- La Médiation Commerciale a une carte à jouer dans la résolution des conflits en affaires
Entreprise romande, n° 2911, 17.11.2006
- Mediation in Switzerland or the « Swiss Army Knife Tool”
IBA (International Bar Association), Legal practice Division, Mediation Committee Newsletter
December 2006
- UNCITRAL Model Law on International Commercial Conciliation (MLICC): Questionnaire & Survey
2007-2008 : IBA Co-Chair of the Sub-Committee on the “UNCITRAL Model Law on International
Commercial Conciliation” (MLICC). Article présenté au congrès annuel IBA à Singapore 15-19 octobre
2007 et publié: www.ibanet.org/legalpractice/Mediation_and_Conciliation.cfm
- La Gestion des Conflits : Manuel pour le praticien : La Médiation.
CEDIDAC n° 78, 2008 (avec Anne-Catherine Salberg, co-auteur)
Centre du Droit de l'Entreprise de l'Université de Lausanne (www.cedidac.ch)
- MEDALOA : A recent positive and creative experience in Switzerland or Using Baseball Arbitration to
Break a Mediation Impasse.
- IBA E-Book on mediation techniques , 2010, Ed. P. Barcklays - www.ibanet.org
- La médiation en matière pénale pour les adultes à l'ère du nouveau code de procédure pénale unifié
AJP Aktuelle Juristische Praxis, 6.2010, Zurich (avec Me Florence Pastore, co-auteur)
- La confidentialité en médiation : mythes et réalités

In « **Transparence et secret dans l'ordre juridique** »

Slatkine 2010

- La médiation civile dans le code de procédure civile unifié

In Revue de l'Avocat, 8/2010 (avec Me Florence Pastore, co-auteur)

- Mediation and Insolvency, In www.cedr.com October 2010

- Réflexions sur la médiabilité

In Revue de l'Avocat, 10/2010 (avec Me Florence Pastore, co-auteur)

- La Médiation : un luxe ou une nécessité ?

Repères n° 129, décembre 2010 (Mensuel de la Chambre neuchâteloise du commerce et de l'industrie).

- Ways to settle a conflict amicably – Mediation in Geneva

High Class Magazine (Russian Edition), May 2012

- Le droit collaborative: une opportunité pour les avocats ... à quel risque ?

Juriste International 3.2013 (UIA)

- La LSFIn introduit les modes de résolution alternative des conflits

Invest'News, n° 20 – décembre 2014

- Das FIDLEG führt alternative Streitbeilegungsverfahren ein

Invest'News, n° 20 – décembre 2014

- Le Rôle de l'avocat en médiation, FSA 2015

- Are Legal Disputes Just About Money? Answers from Mediators on the Front Line

Birgit Sambeth Glasner, Hal Abramson, Bill Marsh, Bennett G. Picker, Jerry Weiss, Alternatives to the high cost of litigation, Alternatives to the high cost of litigation, Vol. 35 No. 9 October 2017

11.2. Seminars-Conferences etc (since 2014)

- 20.10.2014: **ICC Argentina - Camara de comercio de Buenos Aires: Nuevas Tendencias de la Mediacion y del Arbitraje CCI**

- 23.10.2014 **ABA International Mediation Committee** Fall Meeting in Buenos Aires: Convincing Reluctant Counterparties to Mediate International B2B Disputes Across Borders

- 4.12.2014 **Otherwise 9**, Genève: Droit du travail et médiation : Mise en pratique de l'ATF du 9.5.2012

- 5.03.2015 **YAFF - ASA Below 40** ; Striving for efficiency in complex dispute management, Geneva

- 23.03.2015 : **GEM Groupement des Entreprises Multinationales**, Genève : La médiation dans l'entreprise (conférence et exemples pratiques)

- 18.05.2015 **HR Geneva**: Work mediation within companies: conference at the FER Fédération des Entreprises Romandes
- 04.05.2015: FSA/SAV Congrès annuel 2015: Rôle et contribution de l'avocat en médiation / Mediation in der anwaltlichen Praxis (avec Me Roman Manser)
- 26.05.2016 **Helsinki Arbitration Day**: Mediation as an Alternative to Resolve International Commercial Disputes – When, How and Why?
- 04.06.2015 Cours de Conciliation/Médiation pour les Présidents des Prud'hommes de Genève
- 21.09.2015 : **DAV Deutscher Anwaltsverband** : International ADR Conference 2015: Arbitration and Mediation - Both a Blessing and a Curse? Due Process and Use of ADR. Arbitration and Mediation in Switzerland - Due Process Discussion or Best Practice of Dispute Resolution?
- 02.09.2016 **Vienna UNCITRAL**: Panel re mediation for the UNCITRAL Delegates discussing New York Convention II on enforcement of Mediated agreements
- 19.10.2016 “Dispute Resolution Processes: Mix and Match for the Best Results”
7th ICC International Mediation Conference, Paris.
- 10.02.2017 Audition par la Commission juridique du Grand Conseil du Canton de Genève : Médiation administrative et Préposé aux données et à la transparence.
- 28.03.2017 **CPR European Congress on Dispute Resolution / European Advisory Board** - Using ADR and mediation to gain competitive advantages, London
- 11-12.01.2018 **Mediating Sports Disputes**, UIA Lisbon

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

Membership of professional organisations:

- Vice-President of the Swiss Bar Association
- President of the Swiss Committee of UIA Union Internationale des Avocats
- Member of AIBL Association of Business Lawyers
- Member of INSOL Insolvency Practitioners and Insolvency Mediator
- Chair of the ADR Committee of the Geneva Bar
- Former Vice-Chair of the IBA Mediation Committee and National representative for Switzerland

- Vice President for Geneva of the Swiss Chamber for Commercial Mediation (Founding member 1997)
- Vice-Chair of the Mediation Committee of the ABA International Section
- Member of the Advisory Committee for the ICC International Mediation Competition 2010 and 2011
- Member of ICC Switzerland
- Member of ASA Swiss Arbitration Association
- Member of ArbitralWomen <http://www.arbitralwomen.org>
- Member of AGDA Association of Geneva Business Law

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

- International complex multiparty commercial disputes
- International complex inheritance matters
- Multi cultural and multi language mediations

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

I am a former German national who lived parts of her life in Switzerland (Geneva : French speaking and Basel German speaking,). I also studied in Boston USA and worked in Chicago USA.
My husband is from Argentina and we travel a lot for leisure.
My work is almost exclusively international and I mediated in more than 10 countries as of today.

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

Feedback of clients (IMI)

I am part of a group who is getting supervision and we also do InterVision not only between mediators/peers but also with some Judges in Geneva.

16. Date of birth: 13 February 1962

I have completed this questionnaire to the above to the best of my knowledge and believe it is accurate. I understand that the above information will be used for VIAC's internal use and may be given to interested persons or may be published on VIAC's website.

Date and signature: 5 February 2018