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Dissertation

HYBRID PROCEDURES: THE COMBINATION OF MEDIATION AND ARBITRATION IN RESOLVING COMMERCIAL DISPUTES FROM ARBITRATOR, MEDIATOR, LEGAL REPRESENTATIVE, AND CLIENT PERSPECTIVE

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I. The Choice of Subject Matter and Research Goal

While an extensive amount of studies which deal with commercial arbitration and commercial mediation as subject matter tends to attract more attention, relatively few comprehensive studies are available on the relation and combination of these dispute resolution methods. A regularly discussed aspect of commercial, especially international commercial, arbitration is the question of applicable law, recognition and enforcement of arbitral awards and the particularities of the arbitration procedure compared to litigation.

Much of the scholarship of mediation still focuses on different mediation schools and approaches, the role of the mediator and his/her style and the possible institutionalisation of mediation both inside and outside the court system.

The idea of combining arbitration and mediation as parallel, sequential and integrated processes (together: "hybrid procedures") is unknown, neither to legal theory nor in practice.

Articles available in this subject matter primarily focus on the advantages and disadvantages attributed to hybrid procedures compared to mediation or arbitration.

The purpose of this dissertation is to describe in detail – without aiming to give an exhaustive list – certain hybrid procedures, as well as to point to advantages and disadvantages – emerging either in theory or practice – associated with each hybrid procedure with the involvement of the concerned individuals (arbitrator, mediator, legal representative, client).

My aim was to discuss the hybrid procedures as a per se alternative dispute resolution method, as well as to compare different variations of hybrid procedures with reference to certain theoretical and practical concerns, with special regards to those cases in which among the same parties to the dispute, the same individual will serve as mediator and arbitrator. Among the range of problems associated with hybrid procedures, I chose to particularly focus on issues related to the requirement of confidentiality and execution of waiver of right.

The main questions that I seek to answer in this contribution, therefore, are:

- What are the assumed and previously discussed advantages and disadvantages of combining mediation and arbitration as parallel, sequential and integrated processes and how do ADR professionals, legal representatives, and clients experience and understand the hybrid procedures?
- Based on the findings of the underlying research, what kind of solutions can be identified to address the problematic issues arising out of the combination of mediation and arbitration, in particular as regards the same-neutral hybrid procedures?
- Whether the hybrid procedures because of combination of arbitration with mediation can be considered as a distinct alternative dispute resolution procedure.
- How the arbitrator as settlement facilitator role can be interpreted in the context of the hybrid procedures.
- Whether there is any correlation between the legal-cultural background of the interview Participants and their preferences regarding hybrid procedures.

II. The Structure of the Dissertation

The Introduction part includes a detailed description of the subject matter, the goal of the dissertation and the applied research methodology with a special emphasis on the requirements, validity of data and limits of the research associated with the interview research.

The dissertation is divided into seven numbered chapters. In the first part of the dissertation, I give some terminological clarification that serves as a reference point when I discuss the hybrid procedures. This part also includes a short exploration into the cultural/historical and research-scholarly background of combining arbitration with mediation in order to introduce their roots and the current state of alternative dispute resolution research in this field. From part two to part six, I will examine each combination (*Med-Arb, Arb-Med-Arb, Arb-Med*).

The viewpoints of the analysis are the following: what the possibilities and circumstances are to end up in such combined procedures, the Participants' opinions on the advantages and disadvantages of the combination, taking into consideration legal, practical, and ethical concerns.

In the second part, I describe *Med-Arb* and its variations (*Classic Med-Arb, Ad hoc Med-Arb*).

In addition, I discuss in this part those type of questions (such as legal and ethical issues associated with private sessions, mediator's proposal and method for handling confidential information), which are relevant with respect to the other type of hybrid procedures.

In the third part, I introduce that variation of process - *mediation followed by shortcut arbitration* – in which a settlement agreement is reached in the course of the mediation and the parties request the transformation of the settlement agreement into an arbitral award. The description of this variation of the process gives the opportunity to address the issue of enforcement of mediated settlement agreements as a possible advantage of hybrid procedures.

In the next parts, I introduce the idea of fostering amicable dispute resolution during arbitration on two levels (*Arb-Med-Arb, Arbitrator acting as settlement facilitator*).

In the fourth part, I explore the possibility of integrating mediation into an ongoing arbitration procedure (*Arb-Med-Arb*) in which the arbitrator or a separate mediator takes the role of the mediator. In the fifth part, I elaborately discuss methods and measures to be taken by the arbitrator in the role of settlement facilitator. The primary goal of the sixth part discussing *Arb-Med* procedure is to investigate how realistic this procedure might be in practice, and if so, under which circumstances.

In part seven, I analyse the institution of waiver of right in the context of hybrid procedures. Part seven is followed by collection of some best practices in order to provide disputants and legal representatives with some guidelines in relation to participating in hybrid procedures. Finally, the dissertation is concluded with a separate conclusion.

The questionnaire applied in the course of the interviews and actual interview fragments to which I will refer continuously are included in Appendices 1 and 2.

III. Research Methodology of the Dissertation

In order to ensure that the dissertation contributes to the understanding of hybrid procedures in a multifaceted, detailed way, I combined the classic method of analysing written sources (legal authorities, articles not achieving a scholarly level but still professional, analyses of rules and laws) with gathering oral sources and shadowing as a type of data collection method.

In the course of the preparation of the present dissertation, gathering oral sources meant conducting semi-structured interviews. While in research on social sciences, preparation of interviews is a consistently applied data collection method, in jurisprudence research it is rarely applied. A reason for that might be that the jurisprudence research is primarily seeking a response to questions to be answered through analysis of laws, mapping respective legal authorities and comparative law related methods.

The interviews are valuable sources of the present dissertation since they helped me to provide a comprehensive view of the hybrid procedures. As a result of the interviews, we can get an insight into what happens in the course of an arbitration or mediation procedure. It has great importance especially since in arbitration and mediation the principle of openness is not applicable, hence little data is available on how the arbitrator and mediator conduct the arbitration and mediation procedure, how the legal representative assists the parties and why the parties decide on participating in one or other dispute resolution procedure. The value of interviews conducted with the participation of arbitrators, mediators, legal representatives, and clients, considering their amount, is significant.

Therefore, discussion conducted with the concerned individuals might serve as a gap filler, even if we take into consideration the subjective nature of the interviews and the effect of this data gained from it.

IV. Main Conclusion of the Dissertation – Summarising the Outcome of the Research

What are the assumed and previously discussed advantages and disadvantages of combining mediation and arbitration as parallel, sequential, and integrated processes and how do ADR professionals, legal representatives, and clients experience and understand the hybrid procedures?

- The alternative dispute resolution community was already troubled about the idea of combining arbitration and mediation with the involvement of either the same or separate neutrals. The discussion of the disadvantages and advantages of these dispute resolution methods has been part of ADR literature for many years. For these reasons, the point of departure of the current dissertation was the introduction, analysis, and assessment of the

already noted benefits and drawbacks associated with the hybrid procedures. This analysis illustrated that the main advantages are saving time and cost as well as assisting the client in reaching the most favourable solution, while the most problematic aspects are violation of due process principles.

- Arbitration does not have and should not have the mission of resolving the conflict since it is more formal and the dispute as a main rule should be decided based on the applicable law. The expected outcome of a successful arbitration procedure is to obtain an enforceable arbitral award. Mediation is capable of working not only with disputes but conflicts as well. In a narrow sense, success means reaching a settlement agreement that resolves the entire dispute. In a broader sense, success can be achieved even if the parties are not able to resolve the entire dispute but still manage to reach an agreement on certain issues. It can also be considered as a success if the parties, due to the mediation, are able to move from an adversarial position towards an agreement on a cooperative concept to resolve the dispute. Therefore, they are not only different procedures but different approaches to handling disputes. Moreover, the logic of the stages and the integrity of each procedure are based on different criteria.

- However, the different goals of the procedures, - establishing objective findings of facts (arbitration), and exploring the interests of the parties (mediation) - can be reconciled. The creativity aspect of mediation and the formal and structured arbitration procedure are compatible and could create value for the parties.

- Based on the analysis and the comparison of the main features of arbitration and mediation, it can be concluded that similarities (as an example: confidentiality requirement and duty of independence and impartiality of neutral) between the procedures also encourage their effective combination.

- The interview research has proved that practitioners approach hybrid procedures in many different ways. Interview participants who refuse to recognise mediation as a possible dispute resolution method for commercial disputes question the need for hybrid procedures. The main argument mentioned was as follows: Should the parties wish to

reach an agreement, then they will conclude a settlement agreement directly, without the involvement of a third-party neutral. Due to this view, mediation could not have any added value at all. Therefore, a substantial group of Participants does not consider the advantages and disadvantages associated with hybrid procedures since they do not agree with the entire concept of hybrid procedures.

- However, another group of Participants argue that it is worth attempting mediation either before the commencement of arbitration procedure (Med-Arb) or in the course of an arbitration procedure (Arb-Med-Arb). From this group of Participants, many pointed out that even with sophisticated, well-prepared clients with legal representatives, it regularly happens that they initiate the arbitration procedure without even attempting to resolve the dispute directly, among themselves. Therefore, while direct negotiation would be the reasonable path to take before the commencement of arbitration, in practice, in many cases this does not take place. According to many of these Participants, parties can be surprised in arbitration procedure as well – considering party submissions, disclosure of evidence, questions raised by the arbitrator – which might lead to the involvement of a mediator. This mediation might take place in parallel with the arbitration procedure or upon suspending it.

- Regarding Arb-Med-Arb, in relation to when mediation would be the most beneficial during a pending arbitration procedure, the Participants revealed multiple options. a) at the beginning, since this would ensure that the parties save the most time and cost, provided that the mediation is successful; b) immediately following the evidentiary procedure, considering that by that time the likelihood of winning and losing is visible; c) right before rendering an arbitral award since by that time the parties will have an impression of how the arbitrators approach their written and oral submissions. Consequently, a perfect moment cannot be determined. Therefore, most of the Participants were not able to stipulate the "best moment".

- Arb-Med was not necessarily known even to those Participants who otherwise have prior knowledge and opinions on hybrid procedures. Not even those who otherwise recognise

and emphasise the usefulness of Med-Arb and Arb-Med-Arb acknowledge the benefits and practical applicability of Arb-Med. Why would the parties reach an amicable solution at this late stage of the dispute resolution procedure? While the practical applicability of Arb-Med seems to be unlikely, many Participants pointed to the psychological effect this hybrid procedure might cause, namely that in the shadow of the arbitral award, the parties tend to reach a settlement.

- With respect to disadvantages, many Participants mentioned (something also raised in multiple articles on this subject matter) that applying hybrid procedures might also delay the dispute resolution. This is especially applicable for Arb-Med-Arb and Arb-Med, provided that the mediation fails produce a settlement agreement. With respect to Med-Arb, some Participants argued that this process leads directly to a longer-lasting dispute resolution since should the parties initiate the arbitration procedure without prior mediation, they would certainly obtain the arbitral award faster. This group of Participants does not acknowledge that mediation prior to arbitration can be beneficial for the parties even if no settlement agreement is reached.

- Concerning advantages, hybrid procedures might lead to a consent award. The arbitral tribunal based on the joint request of the parties is entitled to transform the settlement agreement into a consent award which is final and binding and enforceable and has the same effect as a judgement.

- Due to the combination of mediation and arbitration, both procedures will inevitably suffer from losing some of the advantages of stand-alone mediation or arbitration. On the mediation level, even if the mediation produces a settlement, there is a possibility that the settlement is the result of the evaluation of the mediator rather than the outcome of brainstorming and creativity of the parties. In addition, the parties will be more reluctant to talk freely with the mediator if they fear that he will become the arbitrator. On the arbitration level, there is a danger that the arbitrator will be biased due to handling both roles and learning more about the parties and the dispute than he/she would otherwise learn in a regular arbitration.

- I examined, based on respective legal authorities and interview research, whether it is possible to determine the range of those types of conflicts-disputes with respect to the hybrid procedures inevitably being the best dispute resolution method. While it is not possible to lay down applicable conditions and rules at all times, there are situations when the application of hybrid procedures is inevitably more beneficial, particularly with respect to those disputes (multiple Participants and written sources pointed to this scenario) in which the issues to be decided in arbitration (liability for damages) can be distinguished from those (at least partially) to be handled in mediation (determining the exact amount, settling a business relationship). A further set of issues where mediation would be more beneficial for the parties is when their intention – for the purpose of preserving the business relationship – is to arrange for issues associated with the existing conflict among the parties rather than with those closely related to the dispute. Therefore, there are circumstances when the combination can significantly improve the efficiency of dispute resolution in resolving commercial disputes and can be a satisfactory process both for neutrals and disputants (including their legal representatives) because mediation and arbitration can complement each other.

- Depending on the conflict and the expectations of the parties, both mediation and arbitration can serve as a best method for dispute resolution for the parties; however, as was also confirmed by the interview research, the needs and expectations of the parties may change during the process. It can turn out in mediation that the parties need the application of law and more regulation, while it may also happen that the parties to arbitration realise that negotiating certain issues would be better than waiting for a decision imposed on them. The benefit of the hybrid procedures is that they can handle the change in expectations and circumstances of the parties during a dispute resolution process.

Based on the findings of the underlying research, what kind of solutions can be identified to address the problematic issues arising out of the combination of mediation and arbitration, in particular as regards the same-neutral hybrid procedures?

- The main principles of arbitration procedure which should be ensured by the arbitrators at all times are the equal treatment of the parties and giving opportunity for the parties to present their case. In addition, the arbitrators should enable each party to the dispute to get acquainted with the submissions of each other, furnished evidence and procedural acts of the arbitral tribunal.

- As a main rule, the person previously serving as mediator in the mediation process regarding the dispute is not entitled to serve as an arbitrator and vice versa. However, provided that it is not contrary to applicable law and the mediator-arbitrator undertakes the dual role, the parties by their express agreement are entitled to derogate from it. Add to that, there are examples for institutional mediation and arbitration rules and mediation-arbitration laws for the institutionalisation of same-natural hybrid procedures.

- The main argument against the same-neutral hybrid procedure, addressed by Participants as well, is the fear of not benefiting from the mediation phase compared to a stand-alone mediation process. On the one hand, the mediator would be reluctant to apply otherwise applicable mediation techniques (as an example: private session). On the other hand, provided that the mediator-arbitrator elects for a private session, then the requirement of providing equal opportunity for the parties to present their case and the problem of dealing with confidential information arises. In a private session, only the mediator and one of the parties are present. Therefore, the other party does not have the opportunity to react to any accusation which might be mentioned during the private session. Based on written sources and the interview research, the following approaches to deal with confidential information were identified. First, the mediator turned arbitrator should be required to reveal all the material information – from the perspective of deciding on the dispute at hand – to be obtained in the private session. As an alternative to this option, all information gained in the private session should be revealed in the arbitration. This type of full disclosure is needed because in this case evaluation of mediator turned arbitrator on what qualifies as material information is avoided and the parties would have the opportunity to react to any accusation which might occur during the private session. With

respect to this approach, many Participants (mostly legal representatives and mediators) noted that this otherwise well-established approach in practice could likely result in the parties not talking to the mediator frankly in the private session fearing that what is said would be disclosed in the arbitration procedure. Finally, the third solution approaches the requirement of due process from a different point of view. Mediation and arbitration are distinct procedures, and the duty of confidentiality should be applicable in each procedure. Consequently, what was said in the private session should not be disclosed during the arbitration procedure. Many Participants pointed out that hybrid procedures, besides the mutual agreement of the parties and contract to be concluded with the mediator-arbitrator, are based on trust enhanced in the mediator-arbitrator. As a result, the parties, neither in the course of or following the mediation question the competence of the mediator-arbitrator considering his prior involvement as mediator. This situation should be distinguished from one in which the arbitrator in a pending arbitration reaches the conclusion that he should disclose certain facts or circumstances which would raise justified doubts with respect to his impartiality in the parties. Add to that, as an opposite approach from those above, upon the express consent of the parties the arbitration award may be influenced by information received during the private session.

- With reference to the above, one of the most critical issues, also raised by the Participants, is to how to avoid any doubt as to the impartiality of the arbitrator and/or mediator. A solution for that might be a contract to be concluded with the mediator-arbitrator governing the tasks to be pursued by the mediator-arbitrator and including the advantages and risks associated with participation in a hybrid procedure. The hybrid procedure should be based on the informed and mutual consent of the parties.

- In the case of same-neutral hybrid procedures, it is essential for the mediator-arbitrator to have the theoretical and practical background regarding both procedures required to be capable of handling both roles. Here, it is especially important to note that the arbitrator acting as facilitator, even if applying certain mediation techniques, is not similar to conducting a mediation procedure, which demands a particular qualification.

- Although there have been concerns regarding the use and productiveness of same-neutral combined procedures, in reality, it seems there are indeed neutrals who have served both as a mediator and arbitrator in the same dispute whereas originally they were appointed to be one or the other. Therefore, parties might decide to participate in a same-neutral hybrid procedure following the commencement of the arbitration or mediation. The main benefit for the parties are the following factors: saving time otherwise required for arranging for an appointment, having a neutral with particular knowledge about the dispute and parties is useful in the subsequent procedure, building trust in the neutral, therefore having no concerns regarding their capacity to handle both roles.

Whether the hybrid procedures because of combination of arbitration with mediation can be considered as a distinct alternative dispute resolution procedure.

- With reference to the differences and similarities between mediation and arbitration, the combination of the procedures results in a new type of procedure.
- The hybrid procedures as a separate type of dispute resolution method exist alongside arbitration and mediation without the pretension and promise of replacing any of them. With reference to the research underlying the present dissertation, the hybrid procedure as a distinct procedure is not an inevitably more efficient and/or appropriate dispute resolution method than traditional mediation or arbitration. Consequently, it is not the purpose of the hybrid procedures to replace these procedures but to extend the scope of alternative dispute resolution methods.

- There is no such thing as a perfect dispute resolution method. There are disputes with particular parties and the task is to find the appropriate dispute resolution method for each. The hybrid procedures are not a panacea, but it is a method that may serve the interests of the parties under given circumstances and with appropriate neutrals. A dispute resolution method should be configured to fit the substance of an issue and all the parties engaged in it and never the other way round. Finding the right dispute resolution method helps to obtain the appropriate outcome.

How the arbitrator as settlement facilitator role can be interpreted in the context of the hybrid procedures.

- In the intersection of hybrid procedures and "pure" mediator and arbitrator involvement lies the role and task of the arbitrator as settlement facilitator.

- The arbitrator's intervention or rather participation as a settlement facilitator during the arbitration operates on a huge scale, from raising the issue of settlement to applying (mediation) techniques promoting amicable dispute resolution among the parties. Consequently, both facilitative/conciliatory and adjudicative approaches mirrored in different laws and legislation on a certain level entitle the arbitrator to take part in settlement facilitation, and differences might occur in relation to the intensity and actual practical application.

- Based on previous research findings and corresponding literature, it seems that there is a general consensus that the arbitrator has some role in promoting settlement during the arbitration, although how this role is approached and exercised in practice largely depends on the legal and cultural background of the arbitrator.

- The interview research provided useful lessons for understanding what the main concerns of arbitrators are in undertaking an active role in settlement facilitation. First, many interview Participants pointed out that such a behaviour might create the impression in the legal representatives that they are not willing to and/or can decide upon the dispute at hand. Second, it was also revealed that an active involvement in encouraging amicable dispute resolution between the parties might raise doubts in one of the parties (who thinks that would win the case) in connection with the impartiality of the arbitrator.

- With reference to the above, the main concern of the arbitrators is what legal representatives in the case concerned think about the role of the arbitrator in settlement facilitation. The related opinions and experience of legal representatives can be arranged around three main issues. Firstly, the main role of the arbitrator is

decision-making. Parties to arbitration with legal representatives, even without the "warning" of the arbitrator, are aware of the fact that they are entitled to reach an agreement during the arbitration. As a consequence, routinely – primarily as it is prescribed by the corresponding arbitration rule – mentioning it would not assist the parties in the dispute resolution. Secondly, even if we accept that the arbitrator has a supplemental role as a settlement facilitator, it is important that respective measures should be applied only if, in the view of the arbitrator – based on delivered facts and evidence – the conclusion of a settlement agreement would be more favourable for the parties than the arbitral award. Many of the legal representatives pointed at the paradoxical situation where they generally do not favour an arbitrator who does not focus on his decision-making duty, but there are indeed situations when raising the issue of settlement helps them in the communication with their client such as those cases in which the client rigidly insists on his/her position and is not willing to accept the possibility of losing the case. Finally, with respect to the method for the involvement of the arbitrator as settlement facilitator, the legal representatives consider those situations the most useful in which the arbitrator stipulated – based on furnished evidence and applicable law – where the parties should deliver more evidence and explanation in connection with the case. According to the legal representatives, on the one hand it helps them to decide how to proceed further with the case (written and oral submissions), while on the other hand, in certain cases it assists them in understanding how arbitrators approach the dispute at hand at a given stage. With respect to that, many arbitrators noted that such an evaluative-summarising type of communication from the arbitrator might also result in reaching a settlement by the parties before an arbitral award is rendered. At the same time, most of the legal representatives argue that there is no need for the involvement of a mediator to reach a settlement at this stage of the arbitration.

- Most of the arbitration rules govern the role of the arbitrator as settlement facilitator on two levels. First, in the broad sense, recording the settlement agreement in the form of an arbitral award. Second, provisions governing the involvement (drawing the attention of the parties to the opportunity of reaching a settlement in the course of the

arbitration, informing them about the possibility of appointing a mediator, encouraging the parties to consider settlement, etc.) of the arbitrator in encouraging amicable dispute resolution among the parties. While provisions governing consent award can be found in each and every arbitration rule to be analysed, provisions on directly or indirectly assisting the parties by the arbitrator in reaching a settlement are included only in some of the arbitration rules to be analysed.

Whether there is any correlation between the legal-cultural background of the interview participants and their preferences regarding hybrid procedures.

- The interviews shed light on the underlying cultural attitudes and approaches to combined procedures and, in general, to the role of the mediator and arbitrator in commercial dispute resolution, as practised in different regions. Comparing the attitudes, experience, and perceptions of Participants with different legal and cultural backgrounds, I observed some differences. There are jurisdictions in Asia where hybrid procedures are accepted and popular since it is culturally accepted to combine roles and procedures in order to resolve a dispute. On the other hand, it is also important to recognise the fact that there are jurisdictions (Australia) where Arb-Med-Arb as a hybrid procedure is institutionalised and applied in practice without being able to identify any cultural reasons behind its popularity. Consequently, the general and traditional view that the hybrid procedures are popular only in those jurisdictions where combined procedures and roles have a cultural basis is not held any more.

- While the interview research also confirmed that the legal and cultural background of clients, arbitrators, mediators and legal representatives are indeed an important factor with respect to approaching hybrid procedures, the previous professional experience, personal opinions and expectations, even if only on a theoretical level (lacking direct experience with hybrid procedures), are at least as critical. As a result, while legal and cultural background has a practical implication, these factors on their own (especially in the case of international commercial arbitration where participants in most cases are qualified in both legal cultures as well as having experience) are not defining.

V. Benefits of the Dissertation and Research

Taking into consideration all the above, the benefits of the dissertation and conducted research are the following:

- The dissertation contributes to the exploration of how and to what extent the combination of arbitration and mediation can be a fair and efficient dispute resolution method. Nevertheless, the present dissertation is not capable of and should not replace the individual case-by-case assessment that takes into consideration the particularities of each dispute and dispute resolution situation, as well as the characteristics and expectations of disputants and neutrals; instead, it provides a detailed analysis and possible solutions in connection with the most critical legal problems associated with hybrid procedures.

- Considering that the dissertation is partially based on an empirical analysis, it provides opportunity both for practitioners and academics interested in alternative dispute resolution to get an insight into the practice, as well as advantages and pitfalls of participating in hybrid procedures. Gaining information from Participants and learning about their perceptions and experience in connection with hybrid procedures is especially valuable, taking into consideration the fact that both arbitration and mediation are confidential procedures and, contrary to court proceedings, the hearings and sessions are not public. As a consequence, the illustrations, even if limited, of actual practices are useful to develop some good practices and guidance for arbitrators/mediators. In relation to that, the considerations of the dissertation might assist arbitration and mediation institutions in formulating institutional rules on hybrid procedures.

- Therefore, the combination of legal and empirical data can serve as basis for further theoretical and empirical research in this area of alternative dispute resolution, with special regards to commercial disputes.

- The dissertation in addition might be beneficial for legal practitioners and ADR professionals. The identified practical advantages and disadvantages and possible solutions might assist the community of ADR professionals. In particular regarding what

to pay attention to in the course of the hybrid procedures and how to support the parties in efficient dispute resolution while also observing laws and rules and preserving their impartiality.

- The dissertation might also assist ADR users (disputants) to get acquainted with – besides the already known traditional or alternative dispute resolution methods – further dispute resolution methods. By making available better information about the conduct of hybrid procedures and providing more evidence relating to its effectiveness, it might support parties in informed decision-making regarding which dispute resolution method, including hybrid procedures, to choose.

- The benefits of this research also assists in providing further knowledge on combining mediation with arbitration in resolving commercial disputes by discussing how hybrid procedures are addressed and considered in civil law and common law jurisdictions, and whether the approach to hybrid procedures is indeed a matter of cultural attitude or only a practical consideration.

- Finally, alternative dispute resolution education, especially legal education, can benefit from the dissertation and the conclusions of the underlying research of the dissertation. The current dissertation has already formed the basis and starting-point of a course at Eötvös Loránd University, School of Law, with the learning outcome of developing the ability to understand the fundamental differences between mediation and arbitration (including the role and duties of a mediator and arbitrator) and the potential advantages and disadvantages of combining these dispute resolution methods as well as identifying those situations in which a combination may be favourable and useful. Knowledge and understanding of certain arbitration rules and their relation to arbitration laws and ability to recognise the possible problematic – both technical and legal – issues that might arise in different phases of combining these procedures assists the students in developing not only their knowledge but also their critical thinking.