

# Conflict Negotiation and Mediation

## A Seminar with Angelo Monoriti, Leonardo D'Urso and Rachele Gabellini

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On the 20th of November Angelo Monoriti, Leonardo D'Urso and Rachele Gabellini held a seminar with the students of global governance, where they discussed how methods and strategies of negotiation can help solve problems before any conflict escalates.

**Angelo Monoriti** is a specialist in civil and commercial law, intellectual property, personal data protection and administrative responsibility of entities. Angelo Monoriti is an expert in negotiating and settling disputes in civil and commercial matters, and now he is a master professor at LUISS Guido Carli, also he is also a member of the Rome Bar Association.

**Leonardo D'Urso** is the Co-Founder and Single Administrator of ADR and him 15 years of experience as a full-time ADR. He has mediated more than a hundred domestic and international disputes between companies.

**Rachele Gabellini** is an experienced lawyer in civil, commercial and labour disputes resolution, as a certified Mediator, she was present in many mediations both in Italy at ADR Center and the United States at JAMS in New York.



As experienced mediators, the lecturers provided us with knowledge of what negotiation is, with strategies that can be used in negotiation and directives on how to prepare a negotiation.

In order to introduce us to the world of negotiation and mediation, Monoriti began with the definition of the word *conflict*. A conflict is the result of diverging interests and it comes

any time the choices of one meet those of others. Therefore, conflict is the natural and immediate product of our diversity. At the origin of daily conflicts, there is another fundamental and unavoidable element: communication. It is something intrinsic in human's nature, indeed, anytime we have divergent interests from another, communication comes in, diversity is revealed, and a conflict arises. Therefore, Monoriti got to the point that distance and communication are at the basis of conflict. Giving that we are diverse and we communicate all the time, we are always in situations of conflict. For cultural reasons, we tend to perceive the conflict as pathological, and we classify it as something wrong. We feel a sort of disorder when dealing with it and therefore we tend to escape from it. However, communication is a tool that can provide a compromise, an agreement, when there are different interests.

There are three main ways to solve conflicts: using force, enforcing the law, working on interests. The former is the most riskiest and costly way to solve conflicts. It involves spending many resources without the certainty that the conflict will be solved.

The second method is the enforcement of law. It is simpler than the first one because it implies not taking into account the emotions, since the unit of measurement of law is only individual rights, which, however, are just a part of human interests.

The latter, instead, leads us to the mediation and negotiation. These two methods are based on the idea that our interests always lie at the centre of conflicts, therefore the only way to solve a conflict is to work on interests through negotiation, and not to work on position as the law and the use of force do. Moreover, mediation is an informal method of solving disputes and therefore its costs are lower than those of law or of using force.

Rachele Gabbellini took the floor explaining the necessary steps to follow in order to get ready to negotiate. These steps involve dealing with substance, avoiding common negotiation mistakes and dealing with emotions since negotiation is a human being interaction.

Starting a negotiation involves: the preparation of a bargaining zone, which includes understanding the resistance zone, the goals, and evaluating the initial request; the assessment of the Batna, the alternative; the calculation of the resistant point; the identification of the counterpart's Batna; and the evaluation of the other party's resistant point.

The seminar ended with the speech of Leonardo D'Urso, who showed us a joint session of mediation. We saw how it requires the assistance of a neutral third party, which perform the role of the mediator. He has the duty to create trust and confidence with both parties involved in the negotiation. Mediation provides a completely different framework from a session of the court, from the environment in which the negotiation takes place, to the role of the mediator in respect to the clients, and the relationship that the clients can establish with the mediator. The mediator has the duty to find a point of agreement, where the different interests of the clients find a conciliation.

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