

**ASSOCIATION INTERNATIONALE DES HAUTES JURIDICTIONS
ADMINISTRATIVES**

**INTERNATIONAL ASSOCIATION OF SUPREME ADMINISTRATIVE
JURISDICTIONS**

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"Alternative dispute resolution in administrative matters"

The Israeli legal system encourages Alternative Dispute Resolution in administrative matters through a variety of legal instruments, although not through primary legislation. These instruments will be briefly described in the following paragraphs, with respect to the Association's questionnaire.

Israeli case law introduced a common law rule mandating preliminary administrative recourse, i.e. that litigants exhaust available remedies prior to referring administrative issues to courts ("Exhaustion of Remedies"). This rule, as with much case law based administrative law, has not been generally adopted by primary legislation. However, a version of the rule was included in the Administrative Affairs Courts Regulations (Procedure) 2000. A litigant's failure to exhaust available

remedies before submitting a petition to the Administrative Affairs Court is cause for the dismissal of the petition *in limen*, or, in other cases, may justify ordering the petitioner to reimburse the respondent's legal fees. Inter alia, one purpose of this rule is to encourage dialogue between the potential petitioner and the administrative authority, with the hope of thereby obviating the need to petition the court.

Certain specific ADR's received attention in general Israeli legislation, without specific reference to administrative matters. For example, the Courts Act [Consolidated Version]1984 §79c, grants the court a general authority to transfer proceedings to mediation subject to the parties agreement. Parties – including the State – may also initiate mediation by their own volition. However, the Israeli Attorney General has issued Directive regulating the administrative authority's discretion in this regard. *Mediated Dispute Resolution of Cases in which the State is a Party* (Directive no. 6.1203) lists criteria for identifying if a case is suitable for mediation, however it does not mandate mediation in those cases.

A similar Directive, dealing with arbitration, is *Arbitrated Dispute Resolution of Cases in which the State is a Party* (Directive no. 6.1205). This Directive lists criteria for identifying if a case is suitable for arbitration, and explains the relevant procedures and required

approvals from the Attorney General regarding involvement in such arbitration.

These Directives mention a few of ADR's objectives, including easing the burden on courts, promoting efficient and effective conflict resolution, as well as preserving long-term relationships between the parties.