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Mediation: Training and Society Transformation/
MEDIATS

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News from Ilia State University

1) **In April 2019 ISU had a meeting with the representatives of the United Nations Development Programme (UNDP).** I am informing you that UNDP and EU have a joint initiative aiming to promote national mediation and arbitration associations to serve the purpose of development of alternative dispute resolution mechanisms in Georgia, as well as the professional development of mediators and arbitrators and the improvement of the respective legislative environment. We have talked about our future cooperation in the development of the Mediation Institute and set the action plan. To precise, we will help each other in developing the Mediation Association, training mediators and etc.

2) **In May 2019, ISU attended the discussion of the draft law of Mediation at the Parliament of Georgia.**

3) **In June, Law school associated professor, Mr. Konstantine Chokoraia held the simulated parliamentary session with the second-year students.**

Students discussed the draft law of Mediation, which is also discussed at the Parliament of Georgia at the same time. Students have worked on the draft law for two weeks and prepared it in accordance with procedures established for the parliamentary activities. One of the main aims of this activity was to increase awareness about mediation.

Moreover the good news is that the Parliament of Georgia approved legislative amendments on Mediation on the third hearing. For detailed information you can follow the link:

<http://www.justice.gov.ge/News/Detail?newsId=7975>





News from Ukraine

UKRAINE SIGNED THE SINGAPORE CONVENTION SIMPLIFYING ENFORCEMENT OF INTERNATIONAL SETTLEMENT AGREEMENTS RESULTING FROM MEDIATION

On 7 August 2019, the United Nations Convention on International Settlement Agreements Resulting from Mediation was signed in Singapore. Ukraine is among the signatory states.

The Convention is intended to allow and facilitate enforcement of the solutions negotiated by the parties in mediating cross-border commercial disputes. It provides implementation of tools for recognizing and enforcing mediation arrangements, which are similar to those envisaged in the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The Convention will apply to international settlement agreements resulting from mediation in commercial disputes between two companies from different member states. It provides a harmonized framework for recognizing such agreements in the territory of the member state and allows recourse to court for the agreement recognition and enforcement in a foreign jurisdiction.

The Singapore Convention has been designed to facilitate international trade and promote mediation as an alternative and effective method of resolving trade disputes. It guarantees that a settlement reached by parties through mediation becomes binding and enforceable in a foreign jurisdiction in accordance with a simplified procedure.

What are the benefits for businesses?

From now on, if a Ukrainian company and a company from another Party to the Convention settle a dispute through mediation, the enforcement of the relevant settlement agreement in the territory of such other Party will only require legal recourse in accordance with a streamlined procedure for formal vetting and recognition of the settlement agreement and obtaining an enforcement order.

Essentially, the Convention has enhanced mediation with guarantees of enforcement and has become the previously missing piece of the "puzzle" of the uniform and efficient procedure for implementation of agreements resulting from mediation.



Ukraine's participation in signing the Convention signals to foreign investors that the country recognizes and is ready to promote and use alternative dispute resolution, in line with the entire civilized world – the 46 signatory states include the USA and China. In the long term, this will have the effect of creating a more favorable investment climate, cutting the business costs of dispute resolution, and reducing the workload of courts.

The signing of the Convention is a major step in endorsing the recognition of mediation by the global community. It is good to see that Ukraine keeps pace with the world in this process and has joined the Singapore Convention from the onset.

Asters' lawyers who joined the working group of the Ministry of Justice of Ukraine, which will be drafting the Singapore Convention ratification proposals, are Yuna Potomkina (member of the Ukrainian Bar Association and senior associate at Asters) and Natalia Bezkhlibna (member of the National Association of Mediators of Ukraine and associate at Asters). The working group will develop the necessary legislative changes for the ratification and efficient implementation of the Convention in Ukraine.

Information about MEDIATS from the National Erasmus+ Office in Ukraine & HERE team

May 30, 2019 – In the future – without aggression and conflict!

With this in mind, three Ukrainian universities – KROK University, V.N. Karazin Kharkiv National University, Yuriy Fedkovych Chernivtsi National University have joined MEDIATS, a project for implement a method of mediation that can turn any dispute into effective negotiation.

This Erasmus + Project started in the autumn of 2018 – and within a month and a half, on November 15, the participants managed to meet at a workshop in the Netherlands, to learn the basics of mediation and, under the guidance of experts, to create a master's plan to train Ukrainian specialists on conflict resolution.

The range of the project is striking: as many as 9 universities from Spain, Azerbaijan, Latvia, Germany, Georgia and Ukraine are already launching the graduation of mediators, and a total grant for implementation amounted 848 524 euro!

The project will be completed in 2021, and by that time the team has ambitious goals: to disseminate the principles of mediation in society and to establish a Mediation Federation in Ukraine, which will become the focus of this new and useful science.

Social, economic, scientific projects – each of them will enable to build an independent and educated society. Join these changes – and work with Erasmus +!





Joint activities of the Ukrainian HEIs

May 29, 2019 – Ivan Balykin, member of the Working Group MEDIATS project of “KROK” University made a working visit to Yuriy Fedkovych Chernivtsi National University. The purpose of the visit was the establishing of closer cooperation between the KROK University and Chernivtsi National University in the framework of implementation of the joint project Erasmus + KA2 MEDIATS (Mediation: Learning and Transformation of Society), which is funded by European Union.

Ruslana Havrylyuk, Petro Patsurkivskyy, Dmytro Kostya and Ivan Balykin outlined the areas of future cooperation regarding the development of the Master Degree Program in Mediation and preparation of professional mediators. The team of CHNU kindly agreed to provide methodological and organisational support regarding launch of the program at “KROK”.



On July 18, 2019 the National Conference «Legislative Regulation of Mediation in Ukraine» (MEDIATS) was held in Kyiv. «KROK» University was represented by Ivan Balykin, Deputy Head of the Department of Theory and History of State and Law, Associate Professor of the Department of Theory and History of State and Law, Yuriy Fedkovych Chernivtsi National University was represented by the Dean of the Faculty of Law, Professor Petro Patsurkivskyy.

A draft of law on activities in the field of mediation (reg. No. 10425), published on the official web portal of the Verkhovna Rada of Ukraine was presented at the conference. The participants — mediators, judges, lawyers, teachers, scientists, people's deputies discussed the draft of law and exchanged their opinions. The discussion about mediation is not finished, there is a need for advocacy of mediation and introduction of a framework law and many issues that must be addressed.





All 3 Ukrainian HEIs, partners of MEDIATS project participated working meeting on Mediation studies and trainings.

On August 28, 2019, a working meeting on Mediation studies and trainings was held in Kyiv city on the initiative of the National Association of Mediators of Ukraine (NAMU).



During the event, mediation experts and representatives of higher education institutions (HEIs) of Ukraine discussed the key problems and prospects of developing mediation training programs in Ukraine in the framework of the preparing of the draft document "Key Principles of Training in Basic Mediator Skills". The draft document was developed on the initiative of NAMU and with the support of representatives of the professional community of mediators and HEIs within the framework of the project "Ensuring the quality of mediation services through standardization of the requirements for basic training of mediators" implemented by the NAMU according to the New Justice Program (USAID). It includes key principles for training basic mediator skills, mediator competencies, as well as recommendations for educational providers, donors and other stakeholders in the education process in the field of mediation.



Representatives of “KROK” Business School, Karazin Business School, Yuriy Fedkovych Chernivtsi National University as participants of the project Erasmus + "Mediation: Training and Transformation of the Society", actively participated in the discussion of the quality of education in the field of mediation and support the initiative of NAMU to develop the "Key Principles of Training in Basic Mediator Skills".



News from “KROK” University

On May 16-18, 2019 Oleksandra Horbachenko, a fourth year student of the Faculty of Law, won the All-Ukrainian Research Contest «The Recent History of Ukraine: Analysis of the Stages of Establishment».

She presented her work "Implementation of Institute of Mediation in Ukraine" in the defense of the contest works during the All-Ukrainian scientific and practical conference "The Recent History of Ukraine: Analysis of the Stages of Establishment".

Scientific Supervisor- Ivan Balykin, Associate Professor of the Faculty of Theory and History of State and Law.

The competition is dedicated to the 28th anniversary of the Independence of Ukraine, held at Alfred Nobel University in Dnipro. Oleksandra took the 3rd place, received a prize of 5,000 UAH and the opportunity to be published in a special scientific publication. We are proud of you!





The team of students of “KROK” University will participate in Student Effective Dispute Resolution Competition - 2020

The OSCE Project Co-ordinator in Ukraine in co-operation with the National Association of Mediators of Ukraine conducts a Student Effective Dispute Resolution Competition among students who are enrolled in Ukrainian higher education institutions of the third and fourth accreditation level. During the Competition, 12 student teams will practise and improve their skills in finding common ground, dealing with conflicting interests and holding negotiations, as well as will gain a better understanding of effective mediation through practical examples. Participants will be awarded certificates. The language of the Competition is Ukrainian, and it will take place in Kyiv.

The Competition is part of the Project "Dialogue for Reform and Social Cohesion in Ukraine", implemented with financial support from the Government of Bulgaria, Global Affairs Canada, Government of Japan, Lithuania, Liechtenstein, the Netherlands, Germany, Norway, the United States of America.

News from Chernivtsi National University

May 18-19, 2019 – Working Group of Erasmus + KA2 CBHE Project No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transformation of Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University: *Ruslana Havrylyuk*, head of the Working Group, *Petro Patsurkivskyy*, *Dmytro Kostya*, *Oksana Melenko*, *Pavlo Bartusiak*, *Illia Yuriichuk*, *Heorhii Moisei*, *Lyudmyla Kostya* together with the Chernivtsi branch of the Students League of the Ukrainian Bar Association within the framework of celebrating the Year of Mediation in Ukraine held the **First Regional School of Mediation**. The school was attended by all the above-mentioned members of the Working Group of the Erasmus + KA2 MEDIATS Project (Mediation: Education and Society Transformation) from Chernivtsi National University, graduates of the Certification Program “Professional Mediator” – practicing mediators from Chernivtsi *Olena Zimnitska*, *Natalia Volkova* and *Olena Kutsak*, also leading Ukrainian trainers-mediators from Kyiv *Olha Tyutyun*, *Natalia Kovalko*, *Svitlana Heda*, mediators from Lviv *Anna Lysko* and *Svitlana Ilnytska*.

Students from seven different higher education institutions of Ukraine actively participated in the work of the school.



May 21-22, 2019 – At the invitation of the head of the Working Group of the Erasmus + KA2 CBHE Project No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transformation of Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University *Ruslana Havrylyuk* and the member of the group *Dmytro Kostya* at the Yuriy Fedkovych Chernivtsi National University was conducted a **two-day training**



on family mediation and negotiations by *Frank Laney*, Certified Mediator of the US Federal Circuit Court of Appeals, Chairman of the Committee on Alternative Dispute Resolution (North Carolina), Member of the Academy of Family Mediators. It was attended by students, faculty members, lawyers, notaries and judges of Chernivtsi and the region. This training found a positive resonance outside Chernivtsi.



May 28, 2019 – *Lidia Nesterenko*, Assistant Professor at the Department of Public Law, member of the Laboratory for Mediation, Negotiation and Arbitration, according to the implementation plan of the Working Group of Erasmus + KA2 CBHE Project No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transformation of Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University, participated in the Seminar: “Features of mediation in sphere of intellectual property and technology disputes: foreign experience and prospects of application in Ukraine”.



June 6, 2019 – *Lidia Nesterenko*, Assistant Professor at the Department of Public Law, member of the Laboratory for Mediation, Negotiation and Arbitration, according to the implementation plan of the Working Group of Erasmus + KA2 CBHE Project No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transformation of Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University,



participated in a practical seminar with the representatives of the communities of Vyzhnytsia, surrounding villages and towns “Realizing the rights of citizens in the territorial communities of the region”, where she revealed the main benefits of mediation as an alternative way of resolving disputes. Special attention was also given to such issues: where to seek legal advice, who can assist with mediation to resolve the conflict, what is mediation, what are its benefits, or will it really work, where to find a mediator?



June 12, 2019 – Head of the Working Group of the Erasmus + KA2 Project MEDIATS “Mediation: Learning and Transformation of Society”, which is funded by European Union, LLD, Head of the Department of Public Law at Yuriy Fedkovych Chernivtsi National University *Ruslana Havrylyuk*, the member of Working Group, PhD, Head of the Laboratory for Mediation, Negotiation and Arbitration of the Department of Public Law at Yuriy Fedkovych Chernivtsi National University *Dmytro Kostya* and involved mediator and lawyer *Olena Zimnitska* on the basis and with the assistance of the Regional Center for Free Legal Aid in Chernivtsi Oblast held an introductory seminar on the topic “**Mediation: briefly on the main thing**”.

Workers of the free legal aid system from all over Chernivtsi region took part in the seminar. They had the opportunity to learn more about the nature and principles of mediation as an alternative (extrajudicial) way of dispute settlement, its advantages and disadvantages, peculiarities of finding out the interests and needs of the parties of the conflict, dealing with their emotions, mediator's communication skills, practical aspects of mediation negotiations and specifics for involvement lawyers to it. During the seminar, special attention was paid to the inclusion of legal aid recipients in the mediation negotiation process.

On the next day, a tripartite Memorandum of Cooperation was signed between the Yuriy Fedkovych Chernivtsi National University on behalf of the Laboratory for Mediation, Negotiation and Arbitration of the Department of Public Law, NGO “Bukovynian Mediation Center” and the Regional Center for Free Legal Aid in Chernivtsi Oblast. The ceremony of signing the agreement was attended by the Director of the Regional Center for Free Legal Aid in Chernivtsi Oblast *Arkadii Muntianu*, Acting Rector of the Yuriy Fedkovych Chernivtsi National University *Oleg Angelsky* and the head of the Working Group of the Erasmus + KA2 Project CBHE No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP Mediation: Learning and Transforming Society / MEDIATS” *Ruslana Havrylyuk*.



The parties agreed to continue the initiated practice of conducting information-training activities on the procedures, principles and process for involving the parties in mediation, as well as a number of other introductory presentations on certain aspects of mediation for the employees of the centers for free legal aid in the region. In addition, the parties agreed the principles of cooperation to ensure the provision of *pro bono* mediation services to persons entitled to free legal aid.



June 24, 2019 – Head of the Working Group of the Erasmus + KA2 CBHE Project No. 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transformation of Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University *Ruslana Havrylyuk* and the chief of the Department of Communication and Access to Public Information at the Regional Center for Free Legal Aid in Chernivtsi Oblast *Olha Andritska* during a television interview for local media discussed the main benefits of mediation as a means of conflict resolution.

During July 2019 - members of the Erasmus + KA2 Project Working Group CBHE № 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transforming Society / MEDIATS” from Yuriy Fedkovych Chernivtsi National University *Ruslana Havrylyuk* and *Petro Patsurkivskyy* recruited fourteen masters degree based on education program “Bachelor of Laws”, who will begin professional training in the 1,5-year Master's educational and professional program "Lawyer-mediator" from 01.09.2019.

During July-August 2019 - all members of the Working Group of the project Erasmus + KA2 CBHE № 599010-EPP-1-2018-1-NL-EPPKA2-CBHE-JP “Mediation: Learning and Transforming Society / MEDIATS” worked on improvement of training programs of mandatory training courses for masters of educational and professional program “Lawyer-mediator” and in-depth development of free choice courses of students under this program.



August 13, 2019 - Assistant Professor at the Department of Public Law, an employee of the Mediation, Negotiation and Arbitration Laboratory *Lydia Nesterenko*, as a part of the implementation of the Erasmus+ KA2 Project MEDIATS (Mediation: Learning and Transforming Society), conducted training for remote mountain community Selyatin "How can we realize and protect our rights and what is the paralawyers' role in it!" Particular attention was paid to the benefits of mediation and how it could be used to resolve conflict. Those in attendance were interested in the mediation process itself, who could be the mediator, where he could be found and how to prove his professionalism.

September 25, 2019 - members of the Working Group of the *Project Erasmus + KA2 MEDIATS* (Mediation: Learning and Transforming Society) *Ruslana Havrylyuk* and *Lydia Nesterenko* within the framework of the III Kharkiv International Legal Forum participated in the international round table "Mediation as a Global Trend in Legal Practice", where they had the opportunity to engage in discussions with leading European experts (*Ahne Tvaronavichene*, Director of the Institute of Public Law of School of Law of Nicholas Romeris University, Doctor of Laws, Mediator (CEDR), Chairman of the Commission for the Qualification Examination of Mediators appointed by the Ministry of Justice of Lithuania; *Anna Kalish*, Doctor of Laws, Qualified Specialist in various fields of European Law in the Supreme Administrative Court of Poland; *Fozilzhon Otakhonov*, Chairman of the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Republic of Uzbekistan, Doctor of Laws; *Ales Zalar*, Head of the European Dispute Resolution Center (Slovenia)) and representatives of the judiciary community (*Larisa Shvetsova*, Member of the High Council of Justice; *Natalia Sakara*, judge of Cassation Civil Court of Supreme Court) to the most pressing problems of establishing and implementing a mediation institute.





September 25, 2019 - in addition, members of the Working Group of the *Project Erasmus + KA2 MEDIATS* (Mediation: Learning and Transforming Society) *Ruslana Havrylyuk* and *Lydia Nesterenko* within the framework of the III Kharkiv International Legal Forum attended a lecture on "Mediation Trends in Selected EU Countries", presented by Ales Zalar, Head of the European Dispute Resolution Center (Slovenia), Graduate lawyer. From 1989 to 2008 he was a judge. From 1991 to 2007 he held the position of chairman of the court of first instance in Ljubljana, and later of chairman of the district court of Ljubljana. He then worked as a legal advisor to the European Union on EU law in the Supreme Court of Romania and as a mediation consultant to the Croatian Ministry of Justice. From 2008 to 2012 he held the position of Minister of Justice of the Slovenian Republic. Today he works as chairman (2012) and expert at the European Dispute Resolution Center. <https://legalforum.nlu.edu.ua/events/trendy-mediatsii-u-vybranykh-krainakh-ies/>

How to make mediation work in North-Macedonia?

Dr. Gordana Bogeska (North Macedonia)

Prof. Jan van Zwieten RI,RA,RO (Netherlands)

Introduction

This year the “Chamber of Mediation” was introduced in North Macedonia. Also the new law on mediation will probably be introduced this year. So it looks as if all ingredients for a success story of mediation are there. But what can we learn from the same developments in other countries in the region and the countries in Eastern Europe where the same developments have taken place?

So this article is to discuss the possible pitfalls and to learn from other experiences. Does it mean that it is negative? No, not at all, but there is only once a first opportunity. It just wants to make sure that this unique possibility should be taken very serious. If we don't make the choices it will take a long time before it will work (if ever)!



In Europe the Netherlands is most successful in implementing mediation. It is generally accepted in society, by lawyers and the courts. So what can we learn from it? From this comparison we developed 10 golden rules to a successful implementation.

Development of mediation

Already in the beginning of the eighties of last century, mediation began to have an official status in some countries (for example the USA and South-Africa). But in the nineties it came up in almost all countries in Western-Europe. So Holland founded the “Netherlands Mediation Institute” in 1996. It was a private structure. Legislation was not even considered at that time. The discussion in Europe started around 1998 and resulted in an official directive on mediation in 2009. Holland adopted it’s first law in 2009. This law is quite general and for sure doesn’t have any obligations to go to mediation whatsoever. Now a new and much more elaborated law is drafted.

So what was the process? For almost 25 years the initiative came from the mediators. The first ten years there were just some enthusiastic pioneers. Of course there were many different opinions and they had their fights. But they had time to experiment and it was not in the spotlights. It was as a child that had time to grow-up. And like children they made mistakes and learned from it in the process to maturity. Now there are almost 3,000 registered mediators active, about 200,000 official mediations and many more unofficial. Also there are about 30,000 people that followed the course on mediation and use the skills in their daily work. Among them judges, mayors, HR-managers, financial specialists etc..

So what is the difference in the process to all countries that have no tradition in mediation and started recently because of the European-guideline? In these countries mediation is introduced immediately on a grown-up level. Mostly a law is adopted and a formal structure is implemented. Training programs are started and publicity is made. So what is the problem?

- No tradition in mediation, people don’t know what it is
- The whole juridical system sees it as a threat (lawyers) or don’t take it serious (judges, politicians)
- No experienced mediators
- No ambassadors and success stories
- No infrastructure or money to build it

So we expect the child to act as a grown up without any support or guidance.

Does it mean that it is not possible? No, on the contrary. A famous saying in Holland is “Every disadvantage has an advantage”. If we learn from the experience of others we can bring mediation to maturity very fast. Don’t re-invent, but listen, learn, adapt and bring even a better version of all existing. So what we want to do in this article is to show the ten steps, the ten golden rules to a successful implementation. Based on all experiences and as a guideline for a mature implementation.

The ten golden rules for a successful implementation



Unite, act as 1!

It is very difficult to implement a new concept in the market. Especially in such a delicate area as conflicts and law. There are two big challenges. First you must make the concept known, so how to reach the people? The second is make them buy it. For this they need trust and believe. In this all mediators have the same interest. If we are not able to present ourselves as one, the people will not understand it. So we have to put our differences



aside and speak as one group of professionals. This also gives us more strength as the numbers count in all exposure and discussions (for example to the government and courts). Therefore:

- Transparency in the market
- The strength of numbers
- Common values as mediator are more important than our differences in background or vision



Only 1% of mediations come from courts!

All new countries focus on the law as the holy Grail. Everyone believes that the law must push people to mediation. The Italian system is the best example in this. But even in Italy we see that it is not the solution. The reason is simple. Only a very low percentage of cases at the courts will go to mediation or is even fit for mediation. The strength of mediation is to solve a lot of conflicts before they have the escalation of court. And even more mediations will be on conflicts that never go to court. But there is a big advantage if the courts use mediation. It brings visibility and credibility. So it is not about the numbers, but serves another purpose. If it is not forced, judges will also be more willing to cooperate. Therefore:

- The law is of little importance
- Court mediations are only for visibility and credibility



Create a clear structure!

We see that there is a width variety of structures in the countries. Unfortunately this is not because all countries have their own specific strategy in it. The problem is that they just start a structure without really thinking about the consequences of it. They just want a juridical entity to unite people. But as we will see if we move on in the aspects of the golden rules there are a lot of aspects to be taken into account. This means that we need a structure that is clear in roles and procedures. In Holland we therefore have three separate juridical entities with each of them a different role and task. Within these organisations there is enough power to execute. This means that both publicity and regulations are taken care of. Only a group of volunteers is not an organisation. It is great that they will do this, but it is not sustainable and not nearly enough. You need a lot of personnel to take care of all making of legislation/regulation/procedures and especially maintaining this. If you only work with volunteers they have their attention mostly on their normal work, and do it as a kind of hobby. You need enough people with dedicated attention:

- Energy flows where attention goes



Quality!

Mediators must operate and present themselves at the same level as lawyers, psychologists, accountants and many others. From the beginning mediation however has been a side business to other professions. So we have lawyer-mediators, psychologist-mediators etc.. The level was actually represented by the basic education and basic profession. But this is no guarantee at all that the person is a good mediator. Mediation is a profession by itself. You need to take it serious and spend enough time doing it and preparing yourself for it. So also the whole quality system around it must be professional. In the Netherlands we changed the quality system in 2012. The demands went up enormously. The result has been that now we lost 2000 mediators as they could not meet the demands. But the number of mediations went up significantly. The remaining mediators are more focussed on



mediations and the people perceive more quality, so are more willing to go to mediation. So now we have more strict demands on exams/assessments, there is an official audit on Permanent Education every three years and an obligation on peer-groups. So we have less mediators but more mediations.

- Show the same level as lawyers, psychologists and accountants
- We are mediators, not a side business, take it serious



Take it serious!

In almost all countries the course to being a mediator is quite short. We base ourselves on our basic education (bachelor or master level) and only focus on skills. One of the reasons for the success of mediation is that the course is great and the skills are really helpful to everyone. But that is not the issue. What will be the interpretation of the outside world? People train themselves in a course with a limited number of hours (mostly 12 to 20 days) and then pretend to have acquired the competences of a completely new profession. For sure politicians will not see it this way. Therefore they see it as lawyers that did something extra. In all the laws we see the tendency to keep it restricted to people with a master study in law. Therefore the education to mediator should also be upgraded. Therefore now we see the development of bachelor and master education to mediation.

- You cannot just go on the basic education; Mediation is a separate profession



If you cannot beat them, join them!

In all countries where mediation starts they find themselves in a fight with the lawyers. Lawyers see it as competition. Also the whole court system, especially the judges, don't take it serious. Of course there are always exceptions, but basically this is what happens. Mediators try to fight for their position in trying to prove that what they do is equally good, or even better than what the others are doing. This ends up in a fight, a fight you can never win. In the USA and the Netherlands this was not the case because when it started it was unknown and not seen as a threat. The child had time to grow up. But even in those countries the moment came that the fight was there. The only solution was to get out of the fight and be part of the system. Make sure that you have as much as possible ambassadors under these groups and make them clear that you're not going to take their work. We want them to be part in the mediations, sit at the table, spend their hours. They must start liking mediation, recommend it to their clients. Find the win-win. A client will appreciate a lawyer that takes care of a good solution, so give them the opportunity to shine, to show that they care about their clients.

- Judges and lawyers are our friends, find ambassadors
- Win the crowd, they are our clients



Courts can help in credibility!

Although the court mediations are only a very small percentage of the mediations it still is important in terms of visibility and credibility. People will think that if the courts trust mediators in their jobs, it must have quality. Also it is good publicity, the numbers are not relevant but you can go to the media with it. Actually the low number will help you in winning the lawyers for mediation. They see it less as a threat. Their work is mostly



court related, we bring them extra work for new cases that otherwise might not even have got there. So don't push for too much, it will only have a negative effect, but make sure that you're in!

- Only 1% of mediations, but credibility to the clients
- Win the judges, train the judges



Find the entry doors to the market!

So if the court mediations are only 1%, then where do the mediations come from? To us it is quite surprising that there is not much attention for this. We are introducing a new profession, we have to do our marketing. To do this you have to know your potential market. Where are a lot of conflicts? Who doesn't want conflicts to be solved in a fighting spirit in court? Thinking like this the answers are not difficult. The area of possibilities surprisingly wide. The first to pick it up were all civil services like ministries (tax department, defence), town halls, public transport etc.. They are there to serve the people, not to fight them. They are mostly under the responsibility of politicians that benefit from popularity with people. Second are big companies that are afraid of reputation damage (first of all insurance companies, but also banks, accountants), all big companies with a lot of labour conflicts. It costs money if it escalates and people are less willing to work there. Advisory companies and services are also interested. They see conflicts within their clients, solving it will help to keep the client. And there are many more. Targeting on those resulted in large numbers of mediators within these organisations. As there might be a conflict of interest it also helps mediators outside these organizations to work. And more and more there is a culture of conflict resolution. So ask yourself:

- Where do we find conflicts?
- Who has something to lose in a conflict?
- Where is the win-win?



Train them all!

Training people helps in several ways. First of all to make them aware of the advantages of mediation, they see that it works. Second that it is not easy, it is a profession and very different from what they always do and consider to be conflict resolution. Third that it doesn't take away their job. On the whole it brings more work. So they want to be part of it. So find ambassadors in each group and penetrate the group with the purpose of committing themselves by doing a training. Here you can easily make use of the same groups in more established countries where they will definitely give positive recommendations. So go to:

- Judges and lawyers
- Mayors, politicians
- HR-managers, CEO's
- Accountants, advisors
- Insurance companies



Culture is not an excuse!

*Don't say; this will not work in our country,
not in our culture*

This is what we hear in all new countries. But this is nonsense. The culture in Western Europe and the United States is the most individualistic culture in the world. In all other cultures people are more used to collective ways of problem solving. Also the legal system in Western Europe is perceived by the people to be objective and fair. In many other countries this is not the case. So why would people go to court if they don't trust the system? Why not take the safe route and have some kind of control on the solution. People in Western Europe have no financial blockade to go to court, in other countries this might be an issue (mediation is cheaper). So there actually is a lot in favour of mediation for North Macedonia. For sure every culture, every society has its own rules, its own way of doing. So you have to adapt the way how to make it work, how to reach and convince people. But it can be done!!

- People do not have more faith in your court system
- Conflicts are similar
- It is cheaper
- People want to have some control and don't want to lose