

FINAL DESCRIPTIVE REPORT

- You are kindly requested to draft the report using a computer (this form may be requested via email. Please see the email addresses at http://europa.eu.int/comm/justice_home/index_en.htm).
- The information provided in the form must correspond to the financial information shown on the final statement of expenses.
- If possible, you are requested to provide the Commission with an electronic copy of this report (via email or on floppy disk).
- If possible, you are requested to provide the Commission with an electronic copy of all pertinent documents (speeches, studies, etc.).

A) PROJECT

1. Project Reference Number

JLS/2006/FPC/27

2. Project Title:

Conciliation and Mediation Techniques: exchange of experiences in the European Union; prospects for judicial cooperation

3. Project Sponsor

High Council of the Judiciary

4. Date of Commencement and Termination of Project (if these dates differ from those on the application form, please explain the reasons for the discrepancy)

From 01/09/2006 to 31/12/2007 – Rome, 5th – 7th March 2008 (annex 1- 2 - 3)

5. Countries involved in the project (if these dates differ from those on the application form, please explain the reasons for the discrepancy)

Germany – Spain – France – Portugal – Belgium – Finland – Czech Republic -Hungary

6. Partner during the Project if these dates differ from those on the application form, please explain the reasons for the discrepancy)

Spain - “Escuela Judicial” di Barcellona e il “Centro de Estudios Juridicos” of Madrid

7. Indicate the number of participants in each project activity, giving their names, roles, the body they represent and the country of origin. Did the participant express opinions on the project activities? If so, please summarise these observations.

Number of Italian participants: 40 (Annex 4)

Number of foreign participants: 40 (Annex 5)

8. Which **target group** benefitted from the project, directly or indirectly?

All the judges who participated in the meeting acquired in-depth knowledge of the specific and complex issues connected with conciliation and mediation in the various judicial systems of the operators involved through a comparison of experiences and comparison of the regulations that govern such instruments in each Member State, and the organisational choices and procedures adopted.

It was thus possible to have an exchange of professional experiences with an aim to contributing to the creation of a common mediation culture.

9. If the European Commission established **specific conditions** in its selection letter, please indicate how these were achieved by the sponsor.

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10. Among the **activities foreseen** in the project financed by the European Commission, please indicate which **activities were carried out**.

The project was carried out according to the established programme.

11. Among the **activities foreseen** in the project financed by the European Commission, please indicate which **activities were not carried out** and why.

All the activities foreseen in the project were carried out with the only amendment being the postponement of the preparatory meeting which took place in January 2007 rather than December 2006.

12. Were any **activities** carried out that were **not foreseen** in the project financed by the European Commission?

No unforeseen activities were carried out.

13. What **results** were achieved for each of the activities described above? Please include a detailed description explaining how the final results allowed the project goals to be reached and if other unforeseen goals were achieved. How was this factor assessed (what **assessment criteria/methods** were used)? How would you describe the project **impact**?

The study meeting was divided into five sessions: 1), the first session comprised direct talks followed by debates to study the three fundamental profiles necessary for a general approach to the large, complex subject of mediation: the relationship between mediation instruments and the judicial system; the new and decisive role that the lawyer has in conciliation procedures, and the role played by the mediator and his/her professionalism; 2) the second session, at the end of the first day, comprised an exchange of experiences regarding actual operation of such instrument in the various national situations with the aim of highlighting the significance and potential of mediation and the advantages deriving wherefrom; 3) and 4) the second day was dedicated to the analysis, within the work group, of forms of conciliation and mediation in the various sectors of civil law most inclined towards such instrument: family, commercial relations and labour disputes, using simulation of a family mediation case to facilitate understanding of mediation techniques in their concrete application; 5) the last session was dedicated to the examination of common procedures of alternative dispute resolution adopted in individual countries, possible convergences and forms of cooperation and the possibility of harmonising these procedures at European level.

At the end of the course, the participants drafted the assessment forms with reference to the results of the meeting, the speakers and content of the talks, the organisation and coordination of the seminar, correspondence of the issues dealt with in respect of their expectations. The results of these assessments are posted on the CSM's web site www.cosmag.it and provide useful indications for organising meetings on similar issues.

Through an in-depth examination of the above matters and use of diverse study methods it has been possible to achieve the goals established by the organisers and, particularly: identification of points of contact and diversity in the use of mediation in the participating countries; search for solutions to applicative problems in order to encourage that best response to the expectations with respect to this instrument, and definition of conditions to facilitate its use; improvement of professional competency in this matter.

The project has had a positive impact with respect to involvement and active participation of participants who contributed in making the debates lively and interesting.

14. What **problems or difficulties** were encountered during the activities foreseen in the project? What solution was adopted?

No particular difficulties were encountered.

15. How was **visibility** of the European Union's financial contribution to the project guaranteed?

The course programme that was distributed to everyone portrayed the logo of the European Commission and each distributed report indicated, above the title, that the course was co-financed by the European Commission. The course coordinators repeatedly underlined this aspect of the project, calling to mind previous courses and the continuity of the projects on the topic of mediation.

16. Will the project **continue** once the financial contribution from the European Commission is finished? If so, how?

The results of the project will be used by the CSM within the various training activities that will be organised for judges at both central and decentralised levels.

The most interesting topics that emerged from the debate will be repropounded and studied further during future training courses such as that foreseen in Rome, 13-15 June 2007 on "Civil and Criminal Mediation in Juvenile Procedure".

17. What **work instruments and concrete results** have been created thanks to the project (for example, CD-ROMS, videos, manuals, web sites, etc.)?

A CD containing study materials was distributed to all participants.

Speakers were invited to contribute to the acquisition of such material by attaching the current legislation of their countries of origin in matters of mediation and conciliation.

18. How will the project results be **disseminated** within new and/or existing networks?

Can the project be potentially transferred to other sectors or other users? What agreements were reached within the partnership in relation to **intellectual property**? Will the results be marketed, either wholly or partially? If so, please provide details.

The CD is a collection of study material (sources, case law, articles on doctrine) for internal distribution only, whilst the reports, which constitute the original contribution specifically prepared for the semina, the rights to which the CSM acquired from the authors, may be freely consulted on the web site: www.csm.it.

B) OBSERVATIONS

1. Do the final results (described under item A.13 above) correspond to the initial goals? Please comment.

The results obtained corresponded to the expectations from several points of view: the issues discussed, as seen in the lectures and in the participants' interventions during plenary sessions and within the work groups will be a stimulus for further study and a highly specialised approach in exercising the profession.

The exchange of experiences with judges from the participating countries was also very profitable in that it highlighted the fact that the core issue to be resolved is deciding whether mediation may be part of the judicial system, and if so, in what way, or if it should be defined as an external resource.

The participants had no doubts, however, that mediation should be encouraged and they all agreed that more information concerning access to mediation must be made available: if one does not know what mediation is, it is unlikely that one would be willing to follow such a procedure.

Another problematic issue is the need to provide quick and efficient replies to the increasing number of cross-border queries. For this to happen, it is necessary to look beyond criteria connected to national laws (jurisdiction, courts, applicable laws) to international mediation which, more than providing rigid rules, must impose minimum guarantees with the objective of respecting agreements.

Obviously, for all this to be achieved, there must be properly trained, professional mediators and this is the main problem that has not been sufficiently resolved within individual countries.

2. In light of the experience acquired, please describe the positive aspects of the preparation and implementation of the project, such as analysis of problems to be solved, organisation, methodology and administrative, technical and financial management.

The traditional lectures provided an overall vision of the institute, but it was the debates which followed that aroused most interest. Thanks to the debates, it was possible to have a profitable exchange of information on the principles that govern the respective systems and the different operative approaches.

This exchange occurred most freely during the work groups under the supervision of coordinators, whilst simulation of a case provided an immediate perception of the characteristics of this instrument and all the positive and negative aspects connected with it (technical methods, choice, professionalism, ethics, goals, advantages).

3. In light of the experience acquired, please describe any negative aspects of the preparation and implementation of the project (as in item 2).

No negative aspects were observed.

The main difficulties involved the timely identification of speakers from Member States and in defining the contents of their intervention in order to harmonise and integrate each person's contribution.

Difficulties were encountered in the administrative management of the external speakers'

reimbursement of expenses.

4. Please provide any further information that may assist the European Commission in carrying out a balanced assessment of the project and/or improving the management and functioning of the programme.

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5. Name, telephone, fax and, if possible, e-mail address of the person to contact should the Commission receive requests for further information by third parties interested in the project.

International Relations Department – tel. 0039 6 44491273 – 588 – fax: 0039 6 490543
e-mail address: urelint@cosmag.it

6. The information provided under items A2, A3, A4, A5, A6, A8, A9, A10, A12, A13, A16, A17 and A18, and all other pertinent documents attached to this report, may be used by the Commission under its Information and Dissemination Strategy. Please specify your consent or observations in this regard.

Date: 8th July 2008 Location: Rome

Name of the person responsible for the project: Mr Carlo Visconti

Signature:

Name of the legal representative of the contracting party: Mr Carlo Visconti

Signature: