

“TECHNIQUES OF CONCILIATION AND MEDIATION: EXCHANGE OF EXPERIENCES IN THE E.U. AMBIT; PERSPECTIVES OF JUDICIAL CO-OPERATION

2.1.8 Summary of the project (max. 2000 characters)

- 1) Divulgence of ADRs in the EU: comparative examination of:
 - a) types of conflicts, rights and interests resolved by ADRs in the EU countries: differences and similarities
 - b) effective parity of the parties and the composition (professional or representative) of the decision-making body: examination of the features and powers of the agencies in the EU countries
 - c) individual and collective bodies: ADRs and class actions: development of the phenomenon and Community legislation
 - d) comparative study of the various training methods for persons empowered to resolve conflicts by ADRs.

- 2) Settlement techniques
 - a) conciliation for the sentence and conciliation out-of court
 - b) judicial settlement: persons empowered to settle conflicts during the trial: comparative review of techniques, the interests involved and results obtained, by contrasting experiences and practices
 - c) out-of-court settlement: review of the most effective techniques
 - d) the role of the consultant in the trial in seeking conciliative solutions
 - e) training of the judge and other persons empowered in the context of the EU: legal professionals (judges, lawyers) and those from other fields (psychology, medical science, economics, specific commercial and economic sectors)
 - f) critical assessment of positive and negative experiences

- 3) Mediation
 - a) current development and innovation in mediation;
 - b) traditional fields of application: family disputes and those regarding children; new areas: company and commercial disputes; mediation in judgements of second instance
 - c) selective or common training of mediation specialists

PROJECT OBJECTIVE foster the use of more effective settlement and mediation techniques and examine favourable possibilities of aligning the various systems also through the exam of the last proposal of the directives n. 1314/2004.

2.2.1 What specific problem/question does your project address?

The project intends to address the following matters:

- 1) uneven levels of development of settlement and mediation techniques in the EU
- 2) relationships with extra-judicial cultures and qualifications and common training procedures
- 3) reduction of the time needed to settle disputes in relation to the quality of the replies
- 4) guarantee of legal confrontation and equal conditions for the parties
- 5) composition of decision-making bodies;
- 6) training for dialogue in mediation
- 7) role of mediation in lawsuits
- 8) role of mediation in out-of-court settlements and in post-sentence cases;

2.2.2 Objectives of the project (your answer to the problem/question mentioned above):

Improve knowledge of the various EU systems for alternative resolution of disputes. Increase awareness of the core problem of relationships with non-judicial qualifications and cultures. Examine different experiences utilizing contributions from all the specialists involved so as to assess the degree of adaptability of the most successful techniques, also to different juridical-environmental contexts, with the aim of shortening dispute times and fostering judicial cooperation.

2.2.4 Description of targeted beneficiaries:

Public Prosecutors, professional and honorary judges, attorneys from different EU countries; specialists with different cultural backgrounds involved in settlement and mediation inside and outside the trial as well as afterwards, to assess the sustainability and permanence of the agreements. The associations of such persons contacted, whether as invitees to the course or as beneficiaries of bibliographic and statistical material as well as the reports of the meeting.

2.2.5 Please ...

Seminars based on empirical analysis, dedicated to the techniques of settlement and mediation. Consideration of the theme of listening correctly to the parties, with didactic and scientific support from non-judicial experts (methodologists and psychologists) who are expert in techniques of communication between parties in conflict. Collection of materials and bibliography on CD Rom, consultable on the CSM internet site.

2.2.6 How is your project ...

Improving the knowledge of techniques for alternative solution of disputes so as to verify the adaptation of one's own establishment, starting from the study of methods of communication and dialogues regarding individual types of person, and from examination of the field of operation of certain techniques in new sectors (commercial company law; appeal judges).

2.2.7 Is your project ...

The innovations concern:

- a) CONTENT: Attention focussed on contrasting experiences particularly in the new sectors affected by adoption of these techniques (company structure, commercial); selection of techniques according to types of dispute and subjects (individuals, groups, consumers, professionals, etc.) by examination of the successes and failures as assessed by the specialists;
- b) METHODS: mainly using working groups of mixed composition, with experimentation of appropriate communication techniques.

2.2.8 Approach ...

1) Reports limited to illustration of the various techniques and to old and new sectors of action. Debate on actual experiences in different countries. Working groups on individual techniques and their use inside and outside the lawsuit. Report on the most effective practices and techniques; plenary debate on the degree of adaptability and alignment. Final documentation from the working groups on the best techniques for various types of dispute and methods of communication.

2.2.9 Activities ...

- 1) Distribution to participants of CD Rom with regulatory and scientific information concerning the theme, available to all on the CSM internet and the European Training Network. Collection of reports, summaries by working groups and descriptions of the most effective techniques and methods.
- 2) Request that moderators and group coordinators provide bibliographies, particularly for extra-judicial matters. Maximum divulgation through the network. Access to those utilizing the techniques in question.

2.2.10 Organization ...

The programme will be decided after a preparatory meeting with experts selected by the partners in each of the techniques studied and for each of the qualifications involved, coordinated by the programme leaders. The CD Rom will also contain material provided by the experts in the preparatory meeting and it

will be circulated by the European Network for Judicial Training. Each working group will prepare its report, selecting critical points and possibilities of alignment.

2.2.11 Timetable ...

Two meetings:

- 1) a preparatory meeting of a day and a half between national and foreign experts;
- 2) a final meeting lasting two and a half days comprising five sessions, two dedicated to the general illustration of settlement techniques and the extent of their use, the others to the examination within the working groups of the results obtained with the coordination of specialists in such techniques.

2.3.1 Results expected

In the short term, increased knowledge gained from experiences in Europe, and of methods of dialogue and communication in the resolution of disputes. Critical assessment of the ratio time used / time saved in settling the dispute. In the medium term, closer contact and reciprocal collaboration between professionals and those taking part in the various EU countries with the prospect of adaptation and extension of the application of the best techniques, also to fields hitherto unexplored.

2.3.2 Describe how ...

Circulation via Internet of bibliographic material and the results obtained from the reports of the course, to all the European specialists in this field, by informing them of the CSM website and by ensuring their availability within the European Juridical Training Network (EJTN). Creation of an electronic link between the participants and associations invited to the course, so as to maintain stable contacts in the future by exchanges of viewpoints, techniques and best practice.

2.3.3 External ...

Distribution of forms judging appreciation of the course and the individual sessions, the reports of the working groups, the quality of the debate and the mutual results. Continuation of the discussion via internet using the links between participants established prior to the end of the course.

2.3.4 Visibility ...

The presentation of the course will include a clear indication of the EU origin of the project and its financing. The same statement will be included in the index of the CD Rom and in the headings of the written reports and the minutes distributed. All the material circulated and the description of the programme will contain such an indication.