



Mediation meets judges – FINAL fact sheet – WS2

Poitiers COURT OF APPEAL

The Court annexed mediation pilot scheme fact sheet aims to provide information about the experiences of mediation projects in Courts that have been developed during the project.

Description

- Who is involved:
 - Which court (or judge/clerk)? Number of judges? (*initials will do in case privacy issues are raised*): the Commercial section of the Pau Court of appeal
 - Name and contact person in the Court/Tribunal: Mr Philippe BERTRAND, President of the Commercial Section
 - Number of mediators involved in the or on call: all CMAP's mediators
 - Name and contact details of concerned MmJ partner/Chamber: CMAP
 - Other (bar association, lawyer, mediation centres, mediators...): local bar associations, chambre départementale des notaires, Chamber of the judicial officers, university and mediation associations
- When did it start? Is there a date foreseen for review/evaluation? On May 2015
- What is the process?
 - Where/when is info about mediation communicated: when the request is received by the Court, the President of the Commercial section selects the cases to refer to mediation. For these cases, a letter is sent to the parties and the lawyers. The letter contains a convocation for an informative collective session
 - Who receives the info (lawyers, parties): both lawyers and parties
 - How is the communication made (individual meeting, permanence, group meetings, written...)? First a letter and then a collective information meeting
 - Is it an invitation or an order by the judge? (discretionary) written invitation
 - Is there a feedback given to the judge? (discretionary) the parties have 8 days after the group meeting to inform the judge about their decision to proceed with mediation or not
 - Are there statistics collected and how? (discretionary) some statistics are collected by the Court (but the Court keep them confidential)
- Where there any prerequisite? (such as trainings for the judges)
- Others

Evaluation of the scheme

- What works well/what is positive?
 - The collective information session is definitely a success (parties seem to be more comfortable to ask any question because of anonymity).
 - The personal implication of the President of the Commercial section is very important as well.



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- The information session was at the Court, but not in a hearings room, in order to make the parties comfortable
- at the beginning, only the lawyers were invited to the information sessions; it turns to be more efficient to invite also the parties themselves
- the creation of the mediation unit was a real added value because all professionals gave good advices to improve the pilot scheme (and CMAP took advantage of MMJ to give an European prospective to the discussions)

- **What are the difficulties**

- how to convince the parties to come to the information session?
 - difficult to ask the clerks to work more and with a different system

- **How many cases were referred to mediation?**

- since 2011, 150 mediations were ordered (over 450 mediation proposals)

- **How many mediation were positively concluded (even partially):** 75% of success

- **Number of cases that were concluded through negotiation (other than mediation) with or without lawyers' assistance:** data non collected

- **Number of summons before the court (to mediate)**

- **Average number of parties:** 2

- **Number of informative sessions organized by the mediation service:** an informative sessions is organized by the Court every 2 months

Conclusion

- **What is the future of this pilot scheme like?** The system will proceed in the future. The mediation unit working group will meet again in the next weeks and try to improve more and more the system, in order to refer a larger number of cases to mediation. CMAP will always be included in the project, even if MMJ is over.
- **Suggestion for improvement?** We could work on the sanctions in case of absence during the informative sessions; we could improve the contact with the parties and lawyers; we could train the judges in order for them to explain better the mediation process and select better the cases to refer.
- **What are you planning/able/ready to do to improve the service?** We could work on the sanctions in case of absence during the informative sessions; we could improve the contact with the parties and lawyers; we could train the judges in order for them to explain better the mediation process and select better the cases to refer.