



This project
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Mediation meets judges – FINAL fact sheet – WS2

Toulouse 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*):** Toulouse Court of appeal (Commercial section)
 - **Name and contact person in the Court/Tribunal:** Mr Gilbert COUSTEAUX, President of the commercial section, referent mediation at the Toulouse Court of appeal
 - **Number of mediators involved in the or on call:** 32 mediators
 - **Name and contact details of concerned MmJ partner/Chamber:** CMAP
 - **Other (bar association, lawyer, mediation centres, mediators...):** The mediation Unit is composed by: the First President of the Court, the Chief clerk, the Toulouse Bar association representative, the mediation referent, 1 lawyer and 1 university representative
- **When did it start? Is there a date foreseen for review/evaluation?** It starts in January 2012
- **What is the process?**
 - **Where/when is info about mediation communicated:** when the Court receive the request and during specific informative sessions
 - **Who receives the info (lawyers, parties):** lawyers and parties
 - **How is the communication made (individual meeting, permanence, group meetings, written...)?** When a case is selected for mediation, a letter is sent to the lawyers and the parties, with an informative brochure and a questionnaire. Then parties and lawyers are invited to an informative session (around 20 cases per session). The judge gives information about mediation during this session. The fact that a few cases are invited at the same session allows the judge to have an individual approach, to address all the issues highlighted by the parties.
 - **Is it an invitation or an order by the judge? (discretionary)** it's only an invitation, the judge can't force them
 - **Is there a feedback given to the judge? (discretionary)** yes, acceptance or not, and reasons of this choice
 - **Are there statistics collected and how? (discretionary)** yes, only during the first phase of experimentation, a student was in charge of data collection
- **Where there any prerequisite? (such as trainings for the judges)**
 - selection of the mediators able to manage the cases referred to mediation (elaboration of a list of mediators, distributed to the judges and the clerks)
 - informative brochure distributed to all lawyers on the Court territory
 - conferences and trainings organized before launching the pilot scheme
- **Others**



Evaluation of the scheme

- **What works well/what is positive?**
 - Personal implication of the judges (showed pedagogy with the parties to convince them to go to mediation)
 - the questionnaire was very useful because you can analyse the reasons of agreements or refusals and you can contact again a hesitant party
 - the collaboration with the University was very useful because an intern (student of Toulouse University) helped creating a mediation Service in the Court and his mission was to send the letters to the parties, to analyse the questionnaires, to answer the hotline, to collect data, to collaborate with the mediators, to organize the informative sessions (etc.) which are tasks very time consuming (the judicial actors don't have time for that). We worked a lot with this intern to exchange about best practices
- **What are the difficulties**
 - financial issues (printing and mailing costs)
 - lack of human resources (understaffing)
 - difficult to match the agreements (very often only one party agrees to go to mediation, which is useless because we need both parties acceptance)
 - difficult to have both parties during the information sessions (in June 2015 for example, both parties were present only in 5 cases (over 151 invitations sent)...
- **How many cases were referred to mediation?** From March to July 2015, 166 cases were selected to be referred to mediation and 20% were actually referred to mediation
- **How many mediation were positively concluded (even partially):** data not available
- **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:**

Conclusion

- **What is the future of this pilot scheme like?** The internship of the student is over so the future of this pilot scheme is compromised. The mediation service created by the intern doesn't exist anymore. However, the 2 social chambers of the Court keep proposing mediation during the hearings (percentage of acceptance: around 10 to 15%)
- **Suggestion for improvement?**
 - the informative brochure could be improve
 - more detailed statistics should be collected, in order to know the exact evolution and impact of Court's actions and in order to analyse the weaknesses of the system
- **What are you planning/able/ready to do to improve the service?**

We will stay in touch with the mediation coordinator, in order to help the Court to improve the system