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Assessment report on the strategic promotion of mediation in Latvia

*Identifying potential target groups and recommendations to promote mediation*

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1. **Background**

The project “Strengthening access to justice in Latvia through fostering mediation and legal aid services (2nd Phase),” was developed in the framework of a cooperation project funded by the Directorate-General for Structural Reform Support (DG REFORM) of the European Commission and the Council of Europe and implemented by the Council of Europe, more specifically the European Commission for the Efficiency of Justice (CEPEJ). It represents the second phase of DG REFORM and CEPEJ supported improvement and tailoring of both legal aid and mediation services in Latvia, and aims to build upon what was achieved before and explore new approaches. One of the project’s objectives is to increase the awareness of and recourse to mediation in Latvia as an alternative method to judicial dispute resolution.

Mediation as an alternative dispute resolution method has developed and strengthened in Europe in recent years. It is largely recognised as a way to deal with a wide variety of cases by saving time and resources for both judicial systems and court users. Also, it ultimately aims at reducing the workload in courts, thus making the whole judicial system more efficient.

* 1. **The CEPEJ and Mediation**

In 2007 the CEPEJ set up a working group on mediation (CEPEJ-GT-MED) to develop tools and Guidelines based on the existing Recommendations of the Committee of Ministers of the Council of Europe concerning mediation, namely: Recommendation Rec(98) 1 on family mediation, Recommendation Rec(99) 19 concerning mediation in penal matters, Recommendation Rec(2001) 9 on alternatives to litigation between administrative authorities and private parties, Recommendation Rec(2002) 10 on mediation in civil matters.

During its mandate, the CEPEJ-GT-MED therefore developed the Guidelines for a better implementation of the existing Recommendation concerning Penal mediation, Guidelines for a better implementation of the existing recommendation concerning family and civil mediation, and the Guidelines for a better implementation of the existing recommendation on alternatives to litigation between administrative authorities and private parties[[1]](#footnote-1).

These Guidelines and recommendations were then used through CEPEJ cooperation activities, but also directly by member states on their own. In order to improve the implementation as well as monitoring the implementation of the aforementioned Recommendations and Guidelines, the CEPEJ decided in December 2016 to reactivate the CEPEJ-GT-MED with two main objectives:

* to assess the impact of the Guidelines and Recommendations in the member states,
* to complete and support the Guidelines and Recommendations, potentially with new tools.

The CEPEJ-GT-MED developed from 2017 to 2019 the CEPEJ-GT-MED Mediation Development Toolkit[[2]](#footnote-2). It contains a wide array of concrete tools and documents for all key actors of mediation: member States, mediators and mediation providers, judges, lawyers and other justice professionals. Additionally, the CEPEJ-GT-MED developed the European Handbook for Mediation Lawmaking2, aiming at supporting member states to develop relevant mediation national legislation, based on the best practices drawn from other European member states.

**1.2. Increasing recourse to mediation in Latvia**

Mediation in Latvia has operated since 2014, when the Mediation Law was adopted and entered into force. The Ministry of Justice of Latvia has made a significant contribution to the development of mediation by funding the mediation service for several years and providing families with children the opportunity to receive five mediation sessions free of charge. According to the statistics available on the web page [www.mediacija.lv](http://www.mediacija.lv) mediation in family disputes is the most popular, largely thanks to the financial support of the Ministry of Justice of Latvia. Nonetheless, the number of persons actually attending mediation sessions remains low, and even small changes in habits could have a significant number on the recourse to mediation.

An in-depth assessment of the situation surrounding mediation in Latvia was conducted under the previous phase of the project which lasted from September 2019 until June 2021, and pilot project promoting mediation in two courts using mediation coordinators and offering free mediation sessions was conducted. Among the conclusions and recommendations made as a result of the research carried out by CEPEJ experts and the pilot project, one stood out in the development of this Project which would be of interest in addressing the matter of increasing the number of mediation session:

*Even if mediation is available and accessible to all, not everyone is aware of mediation. The data collected by the CEPEJ-GT-MED show that lack of awareness among the judiciary, legal professionals, users of justice systems and the general public is one of the main obstacles to the advancement of mediation. Latvian authorities and mediation stakeholders should keep in mind that it is hard to break society’s reliance on the traditional court process, as the principal way of resolving disputes.*

Which then led to the following recommendation being made in the “Assessment report and first recommendations CEPEJ-COOP(2020)4REV3” :

*Mediation development activities should be accompanied by targeted efficient information to various players of the mediation system (parties, judges, lawyers, notaries, bailiffs, social institutions, etc.), their education and training.*

*A wide range of CEPEJ tools on specialised mediation awareness raising and mediation education for judges and other judicial professionals such as lawyers, enforcement officers and notaries already exists[[3]](#footnote-3). CEPEJ experts strongly recommended translating them to Latvian, adjusting them to the condition and specific situation in Latvia and using them. These tools include:*

1. *Frequently Asked Questions (FAQ) on Mediation: A Guide for judges, non-judges, staff of courts, mediators, mediation services, legal and other professionals and mediation stakeholders and users of mediation;*
2. *Mediation awareness programme for judges;*
3. *Mediation training and awareness programme for notaries;*
4. *Mediation training and awareness programme for enforcement officers;*
5. *Guidelines on designing and monitoring mediation training schemes;*
6. *Standard mediation forms;*
7. *Guide to Mediation for Lawyers;*
8. *Training programme for lawyers to assist their clients in mediation.*

Following the first consultation between CEPEJ experts and the Ministry of Justice held in Riga in August 2022, the main project partners reached an agreement that various kinds of legal professionals would be targeted, who are often in contact with persons who could benefit from mediation, and could encourage them to try it as a solution to their case. This would be supported using selected CEPEJ tools from the list above. Giving these legal professionals an understanding of how mediation could be a benefit to both them and their clients would be a change from the current situation, where it is only rarely used, and then mostly in family matters.

1. **Past and Current Efforts to Promote Mediation in Latvia**

This section aims to look at the past and current efforts to promote mediation in Latvia.

## Education and training of justice professionals in Latvia

**2.1.1. Judges**

The foundation “Latvijas Tiesnešu mācību centrs” [the Latvian Judicial Training Centre] completed a four-year project (2017 – 2021) on alternative means of dispute resolution. During this project close to 70% of all Latvian judges participated in interactive training on mediation.

**2.1.2. Advocates**

So far there have been a wide spectrum of seminars provided to advocates about mediation, organized by the higher education institutions, the Council of Advocates and NGOs. However rather small percentage of advocates have attended these seminars, and mostly one and the same persons. According to Article 59.-1 of the Advocacy Law of the Republic of Latvia sworn advocates, including those whose activity has been suspended or who have been suspended, have an obligation to raise their qualification. Each sworn advocate must dedicate not less than 16 academic hours for raising of qualification during one calendar year. The law does not specify, on which legal topics the qualification should be raised and advocates are free to choose them. However in recent years other laws start to define mandatory topics to be studied by advocates. For instance, for advocates practicing in child-related matters, regular children’s rights protection courses shall be attended (Law on the Protection of Children’s Rights, Article 5.1, part 2). For all advocates mandatory courses on international sanctions and money loundering shall be attended (Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13, part 4.-4). Therefore there is a precedent and legal mechanisms how to motivate advocates to participate in particular trainings and seminars.

**2.1.3. Notaries**

It is mandatory for notaries in Latvia to continue their education and training, where mediation can be one of the topics. Although the notaries practice in non-dispute cases, awareness of mediation and timely referral to mediation of disputants is a part of professional ethics.

**2.1.4. Court bailiffs**

It is mandatory for court bailiffs in Latvia to continue their education and training, where mediation can be one of the topics. Although the court bailiffs work mostly as enforcers of court decisions, awareness of mediation and timely referral to mediation of disputants is a part of professional ethics.

## State support to mediators

**2.2.1. State financed mediation sessions**

Since 2017 the Ministry of Justice has allocated finances that grant 5 mediation sessions free of charge for family disputes where a minor is involved. This incentive is very visible in statistical data, where the number of mediated cases significantly increased during a time when the state finance was provided, and decreased when state finances were stopped for almost one year.

**2.2.2. Mediation tables**

In cooperation between the Council of Certified Mediators and the Court Administration so called “court tables” were organized in previous years. During this project several courts in Latvia allocated a separate cabinet in the court where on-duty mediators were present, ready to provide more information about mediation. However this project struggled to achieve results, because not all judges sent disputants to the mediator, many court cases are reviewed in a written procedure, and mediators were not available in cabinets all days. With better time planning the court tables’ model could work better, but then the mediator should arrive to the court only when there is a case for mediation (in comparison to the Dutch model of mediation in criminal cases, where there are mediation cabinets in the courts, where mediators arrive on pre-planned mediation sessions).

**2.2.3. CEPEJ Pilot Project on promoting mediation through mediation coordinators in courts, and providing free mediation sessions**

Under the previous phase of the project, a three-month pilot project took place in two pilot courts, where mediation coordinators were available to assist in making the understanding of, and the path towards, mediation easier for all stakeholders. Training sessions were held with judicial and non-judicial court staff as well as judges, social workers, and the general public. The two main objectives of the pilot project were:

* To test the efficiency of services provided by mediation coordinators in Pilot courts;
* To assess the impact of mediation co-financing on the increase of interest in the use of mediation in categories of civil cases where state funding has not been granted so far.

Results were encouraging, with an increase in interest in areas of law other than families, in particular labor disputes. Conclusions and recommendations elaborated under the Phase I were published.

1. **Challenges and Opportunities when Promoting Mediation in Latvia**

In November 2023, there are 53 certified mediators in Latvia. Though the community is larger when considering uncertified mediators. Nonetheless, should there be a steep increase in referrals to mediation, it would be necessary to increase the number of available certified mediators.

There are four major factors when considering whether will attempt to find a solution to a conflict through mediation. These were discussed during the Mediation workshop held by CEPEJ experts with Latvian stakeholders:

1. The parties themselves
2. Their lawyers
3. The judge of the case
4. Applicable legislation

Recent empirical data from Türkiye, which has massively increased its mediation infrastructure, shows that directly informing parties about mediation using leaflets or other media without support is the least likely to affect their decision on whether or not they would proceed with mediation. It was highlighted by participants that mediation does not enjoy a very positive reputation in Latvia when compared to a traditional trail, if parties are even aware that it is an option in the first place.

When laypersons have a legal problem, they are usually not aware of how the case will proceed and initially rely on their lawyer, who will describe and explain the process to them. Lawyers in Latvia often do not see the benefits of mediation however, fearing a loss in revenue, and possibly believing that it is not in the best interest of their client to pursue the option. In some cases, they may also believe that referral to mediation means losing the client, either because the mediator takes over or because they are offended, and therefore counter to their own business interests. These issues need to be addressed if mediation is going to develop in a sustainable manner in Latvia.

70% of judges have attended a mediation training course, but any growth in the number of mediation cases has been very slow. Accordingly, it would be helpful to encourage them to actually implement the practice so that they gain experience, rather than merely theoretical knowledge.

There is no legislation in Latvia mandating mediation as a necessary step for most cases, nor is there state financial support for mediation outside of family cases. Parties in a case may be unhappy to experiment with their own finances, in cases which they are important to their lives. However, they might be tempted by the prospect of faster resolution and financial incentives. Additional legislative support would be required to motivate parties to participate in mediation.

There is currently no established Latvian Mediation Council which includes the main stakeholders in mediation with monitoring and advisory functions to the Ministry of Justice. This means that there is little contact between the various stakeholders who could have an interest in increasing recourse to mediation.

1. **Recommendations for a Strategic Promotion of Mediation**

## Recommendations

Several recommendations are formulated in the following points, which Latvia could consider when working on the promotion of mediation with a particular focus on awareness raising of legal professionals.

In order to promote mediation awareness in a country in the most efficient way, legal professionals such as judges and lawyers should be targeted first. They meet with clients frequently, and provide them with advice that they believe is in their best interest. If mediation can be seen by more judges and lawyers as being in the best interest of clients, recourse to it will grow organically.

* **Developing tools for the promotion and raising awareness of lawyers on mediation adapted to the Latvian context and using them in cooperation with institutions responsible for training of respective legal professions.**

The CEPEJ has adopted the Mediation Development Toolkit CEPEJ (2018)7REV. One of the chapters of this document entitled “Guide to mediation for Lawyers” is specially designed to increase the knowledge of mediation among lawyers. The document was elaborated jointly with the Council of Bars and Law Societies of Europe (CCBE). This guide, which has been approved by CEPEJ and CCBE for use in all member states of the Council of Europe, can also be promoted for use in Latvia, explaining the importance and applicability of mediation to lawyers. The main purpose of this guide is to raise awareness amongst lawyers with respect to mediation and demonstrate various professional challenges, opportunities and incentives for lawyers that stem from the use of mediation, as well as benefits for clients. Although this guide does provide some practical suggestions, materials or tools for lawyers representing clients in mediation and for lawyers acting as mediators, it does not seek to replace the great abundance of training material that exists on mediation as well as training courses. Rather, the objective of this guide is to demonstrate why mediation could be an important and useful process for lawyers and their clients, and how mediation could be used to remedy certain problems occurring in lawyers’ everyday practice, for example, those connected with identifying and understanding the client’s interest.

It would not be enough to encourage practicing lawyers to use this CEPEJ material. In order to understand the benefits of mediation and really feel the spirit of this alternative dispute resolution tool, the material could be used as one of the reading materials for mediation training course participants. We suggest to translate it into Latvian and make it available in digital and paper formats for the respective target audience.

Other CEPEJ tools that could be adapted to the Latvian context :

1. [Frequently Asked Questions on mediation: A Guide for judges, non-judge staff of courts, mediators, mediation services, legal and other professionals](https://rm.coe.int/mediation-development-toolkit-ensuring-implementation-of-the-cepej-gui/16808c3f52);
2. [Mediation awareness programme for judges](https://rm.coe.int/cepej-2019-18-en-mediation-awareness-programme-for-judges/168099330b);
3. [Mediation awareness and training programme for notaries](https://rm.coe.int/cepej-2019-20-en-mediation-awareness-and-training-programme-for-notari/1680993346);
4. [Mediation awareness and training programme for enforcement agents.](https://rm.coe.int/cepej-2021-7-mediation-training-programmes-enforcement-agents-en/1680a2c2f8)

* **Mediation as a mandatory subject of initial and continuous training for legal professionals and inclusion of questions about mediation in the bar entrance exam and exam for paralegals**

Sworn attorneys at law should take a 3 – 5 hour awareness training on mediation theory and practice once every 3 – 5 years. The concept of mandatory continuous training for lawyers is not a novelty in Latvia. For instance, lawyers who work in children's rights must attend a mandatory 40 hours course every five years, and all sworn attorneys at law are obligated to attend two hours of studies on international sanctions and legal regulation of prevention of money laundering annually. Therefore, a topic on mediation would be one more aspect to be included in mandatory studies. Indeed, by including mediation as topic in the professional training programs of legal professionals, the national authorities are sending the message that mediation has a role to play in the dispute resolution in Latvia. Those preparing to become legal professionals should also study and be evaluated on the topic.

Training legal professionals on instrumentalizing mediation in their daily professional activities and building new patterns of mediation-friendly professional practices may improve the chances of mediation taking place both inside and outside of the traditional family disputes, making it more accepted and widespread. At least two main target audiences should be educated in parallel: lawyers (on using mediation for the benefit of their clients and referrals to mediation) and judges (on efficient mediation referrals).

In keeping with the Project’s Outputs and Activities, the *CEPEJ Training programme for lawyers to assist clients in mediation* was adapted by the experts in Annex I: The Mediation Awareness Training Program for Lawyers in Latvia. This serves as an example which could easily be adapted to other legal professions. In addition, it is proposed to pilot the training in coordination with stakeholders within the framework of the Project.

* **Piloting the mediation awareness for legal professionals : Disseminating broadly a brochure for lawyers about mediation**

It is recommended that judges in Latvia, when initiating a civil case and sending information to the litigants about their rights and obligations, add a concise description of mediation and its possibilities. Likewise, Latvian lawyers should also have access to an electronic brochure on the concept, possibilities and application of mediation. Several materials on mediation are currently available in Latvia, however, the particular material intended for lawyers would cover the essence on mediation and what is important for lawyers. The brochure should be available in the Latvian language to facilitate easy access and comprehensiveness of this material. The material should be short, to attract the attention of the lawyers to the most significant aspects of mediation and leaving more profound descriptions to other sources.

*The Frequently Asked Questions on mediation* were adapted to the Latvian context in Annex 2 to this report as the Model text of brochure on mediation for lawyers, and will subsequently be translated into Latvian. After this, it will be shared with the Latvian Council of Advocates for dissemination. Such brochures can be distributed online and/or paper formats for legal professionals. The text can be also integrated into web pages of the Ministry of Justice, courts, legal aid institutions, other Bar Associations or other institutions dealing with resolution of disputes.

## Action Plan to promote the awareness of mediation among specifically targeted legal professionals in Latvia, thus increasing the recourse to mediation

The simplified and **generalised** Action Plan when promoting mediation among any legal professional would be the following:

|  |  |  |
| --- | --- | --- |
| Action | Results | Responsible stakeholder |
| Identify the type of legal professional whose awareness of mediation needs to be raised. | Legal professionals are identified who are not referring their clients to mediation. | Ministry of Justice |
| Research available training modules for this profession first in Latvian, then abroad if none are available. | Awareness of what is available allows for a more targeted approach and filling knowledge gaps where they exist. | Ministry of Justice  Relevant legal Professional Association  Experts |
| Begin dialogue with the relevant professional association on offering training on mediation. | Involvement of vital stakeholders, support in raising awareness of the training. | Ministry of Justice  Professional Association  Experts |
| Develop the training modules that are missing or adapt them from other existing ones, and develop supporting information materials. | The legal professionals have sufficient materials to not only learn about mediation, but explain it, and its advantages, to their clients. | Experts |
| Carry out the mediation training and encourage attendees to refer one client to mediation. | Legal professionals are made more aware of the advantages of mediation, and experience the process, therefore making up their own opinions and seeing the advantages it can give to their clients. | Experts  Professional Association |

In this Project, lawyers have been chosen as the targeted group of legal professionals, as they are one of the key stakeholders when increasing recourse to mediation. The Action Plan can thus be adapted to lawyers in the following way:

|  |  |  |
| --- | --- | --- |
| Action | Result | Responsible Stakeholder |
| Identify the type of legal professional whose awareness of mediation needs to be raised. | **Lawyers** are identified as the type of legal professional whose awareness of mediation needs to be raised. | Ministry of Justice |
| CEPEJ experts researched available trainings both in Latvia, and identified relevant CEPEJ tools that have been developed to train lawyers on mediation. | The need for a specific training on mediation, to be used in the context of continued training of lawyers is identified following a review of available materials. | Ministry of Justice  Experts |
| The Council of Sworn Advocates (Latvian Bar Association) already participated in a workshop on mediation with CEPEJ experts. They expressed a willingness to work on the promotion of mediation and see the advantages it offers. | The Council of Sworn Advocates manages the list of possible trainings lawyers can attend to fulfil their mandatory yearly quota and could add this training. In addition, it could encourage participation in the training itself. | Ministry of Justice  Council of Sworn Advocates  Experts |
| The CEPEJ training programme for lawyers to assist clients in mediation was adapted to the Latvian context and will be translated. A standardized information brochure for lawyers has been adapted and will be translated into Latvian. | Lawyers have sufficient materials to not only learn about mediation, but explain it, and its advantages, to their clients. | Experts |
| The training programme could be piloted with lawyers, with lawyers being encouraged to try mediation with just one of their clients which they have identified as potentially benefiting from it. | Lawyers are made more aware of the advantages of mediation, and experience the process, therefore making up their own opinions and seeing the advantages it can give to their clients. | Council of Sworn Advocates  Experts |

## Sustainability of the action plan

By inserting the training on mediation into the list of available courses for the regular training required by legal professionals in Latvia, and encouraging them to attend said training in partnership with the various professional associations, mediation would become normalised and no longer a niche solution. In addition, in the future the various trainings can easily be adapted to other legal professionals such as notaries or enforcement officers. If attendees can also be convinced to accompany just one of their clients through mediation, these legal professionals will now have mediation experience, which hitherto they lacked, thus becoming part of a professional community that has not only received training on mediation but has actively resorted to it.

# Annex I The Mediation Awareness Training Program for Lawyers in Latvia

This Mediation Training Program is elaborated for lawyers in Latvia to raise the awareness of this alternative dispute resolution instrument and to encourage lawyers to use mediation and recommend it to their clients.

The European Commission for the Efficiency of Justice (CEPEJ) – a judicial body, composed of experts from all the 47 member States of the Council of Europe – preparing tools to improve the efficiency and functioning of justice in Europe, has elaborated several instruments to help member state countries to activate application of mediation. One of such instruments is the Mediation Development Toolkit Ensuring implementation of the CEPEJ Guidelines on mediation (CEPEJ(2019)21), adopted by CEPEJ on 6 December 2019. In this document the Guide to Mediation for Lawyers is included, which was developed jointly by the Council of Bars and Law Societies of Europe (CCBE) and the Commission for the Efficiency of Justice of the Council of Europe (CEPEJ)[[4]](#footnote-4). The Guide to Mediation for Lawyers provide useful guidance and insights that may help lawyers to instrumentalize mediation in their professional practices assisting clients. We recommend to include the respective paper as one of the mandatory reading items for lawyers undergoing this training course.

**Objective**

The objective of the following training programme is to offer Latvian Bar Association and other organisations of lawyers in Latvia which provide training services for lawyers a ready to use basic training programme on mediation which they may further and freely develop and use in their training schemes for lawyers. The training programme has been developed in order to provide lawyers with the tools and techniques required to successfully assist clients throughout the process of mediation. If lawyers wish to act as mediators themselves, they should undergo the mediators training programme to this end.

This particular programme was designed on the basis of the CEPEJ’s and the CCBE’s adopted Training programme for lawyers to assist clients in mediation[[5]](#footnote-5). It goes as a practical training extension of the Guide to Mediation for Lawyers and was adapted to the Latvian context.

As noted in this document, lawyers play an important role in conflict management processes and have the potential to have a major impact on how conflict situations are being dealt with for their clients. It is therefore important that lawyers can demonstrate both a deep awareness and the appropriate technical skill that is necessary in order to support clients effectively in all types of dispute resolution processes, both adjudicative and amicable, including mediation. Taking into account lawyers’ duty to act in the best interests of the client, lawyers must always review all options when it comes to advising their clients on the choice of the most appropriate dispute resolution process.

**Programme implementation**

The suggested training programme consists of three parts which can be freely adjusted or adapted according to needs and circumstances of organisations of lawyers. Therefore, the duration of the training, as well as the programme itself, can also be variably implemented. It is important that adequate time is dedicated to training activities – practical exercises and discussions. It is recommended that at least 50 percent of the training time should be allocated to such types of exercises.

It is recommended to include questions about mediation in admission exam for sworn advocates and exam for assistants of sworn advocates. For practicing advocates it is recommended to introduce **mediation training** as mandatory to increase knowledge about mediation and to significantly raise ability to determine which type of dispute and at what stage is suitable for mediation. Currently advocates in Latvia are required to study a 40-hour program in the field of child rights protection, if they practice in children's rights issues. Likewise advocates in Latvia have a duty to participate annually in training on the prevention of money laundering and sanctions issues. Mediation training could also be announced mandatory for all advocates, or at least to those who consult clients in disputes or provide legal assistance in courts or arbitrations.

The training is organised in three parts. Presentation of each part is taking not less than three hours, however for more efficient process five hours is recommended, which include practical activities. Training may be implemented in sessions organised on three different days or it might be offered to be accomplished in one and a half or two consecutive days.

Each part shall be presented by a lecturer/trainer specialising in law and mediation, using visual informative materials (for instance, Power Point presentations, video examples, etc.) and encouraging discussion during all process of studies.

**Part 1: Principles, ethics and conflict management**

All parts include theory and practice. The course can be undertaken online (e-learning), however, participants should be aware that taking this course with others is likely to be a more satisfactory experience.

**Introduction**

Familiarisation with mediation as one of the possible amicable methods of conflict resolution based on the principles of ethical and humane principles; openness to the diversity of nonconfrontational practices and approaches; understanding the lawyer’s role in mediation; and involvement in a pragmatic personal project requiring an active interest in the development of nontechnical skills such as empathy.

**Learning objectives**

Participants will acquire the necessary knowledge of national, international and European law, the European Code of Conduct for Mediators, the Latvian Code of Ethics of Mediators, Latvian Mediation Law and Latvian Cabinet of Minister Regulations No. 433 as of August 5, 2014 on Certification and Attestation of Mediators, and an overview of the different types and styles of mediation; gain an understanding of the ethical and deontological aspects of mediation and the role of lawyers in it and improve their skills in conflict and crisis prevention and management.

**Programme of the part 1:**

1. Mediation legislation and ethics:

1.1. Philosophy, professional ethics and goals of Alternative Dispute Resolution (ADR), including mediation in the current legal and judicial context. Concept of mediation.

1.2. Latvian, international and European mediation legal framework, the legislation applicable to mediation and more generally to ADR and its practical implications for lawyers:

1.2.1. Mediation Law

1.2.2. Cabinet of Minister Regulations No. 433 as of August 5, 2014 on Certification and Attestation of Mediators

1.2.3. Mediation rules in the Civil Procedure Law

1.2.4. Mediation rules in the Law of Intellectual Property

1.2.5. Mediation rules in the Criminal Procedure Law

1.2.6. Mediation rules in the Administrative Procedure Law

1.3. The European Code of Conduct for Mediators and the Latvian Code of Ethics of Certified Mediators

2. Types of mediators in Latvia: their rights and duties

3. Differences, similarities and complementarities of dispute resolution mechanisms. Benefits, weaknesses and peculiarities of use of litigation and ADR.4. Principles of mediation: voluntariness, confidentiality, neutrality, objectivity, cooperation. Rules and exceptions

5. Phases of mediation. Significance of each phase.

6. Different types and styles of mediation (conventional and judicial types mediation; facilitative, evaluative and transformative styles of mediation; mandatory, opt-out, and court referred mediation).

7. Integration of mediation and alternative dispute resolution methods into legal strategy.

8. Role of lawyers in mediation.

9. Conflict management: Definition, main principles and mechanics of conflict processes. Phases of conflict (by Fridrich Glasl). Types of conflicts. Escalation and de-escalation of conflicts.

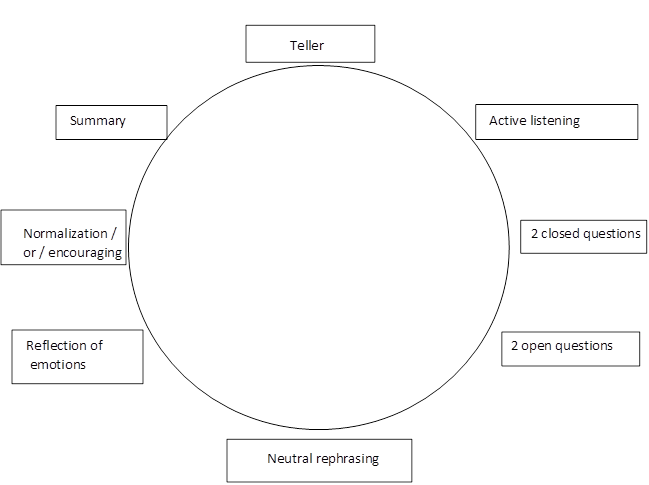
10. Differences between positions and interests. Discovering interests.

11. The deontological aspects for lawyers providing information, advise and assistance to clients in choice of appropriate dispute resolution methods and their implementation.

12. Mediation techniques: Active listening, reflection, rephrasing, looping, encouragement, bracketing, normalizing, recognition, hypothetical question, broad and narrow questions, confrontation, complimenting, ignoring, silence, joint and individual sessions, creative visual techniques, etc.

**Example of practical activity 1 for the part 1 : Group work – pirouette**

Divide in groups of 8 persons. One of the group (a teller) tells a story to others about real / artificial situation from life (~3 – 4 minutes long). The others one by one clockwise practise mediation techniques, while the circle reaches the teller again. Then the next person tells the story and the other practices other mediation techniques.



**Part 2: The mediation process and the role of the accompanying lawyer**

**Introduction**

Bringing lawyers to the substance of the mediation process so that they are able to take on their full role and support their clients as best they can.

**Learning objectives**

Participants will gain an understanding of the different steps of the mediation process and the role of the lawyer in each of them; improve their negotiation and transaction skills; be introduced to listening and participatory communication techniques; and participate in practical exercises to gain practical experience.

**Programme of the part 2:**

1. Referral to mediation: advocate, judge, social institution, etc. Ways of referral.

2. Preparation for mediation:

2.1. The practice of mediation: mediation clause, venue, ensuring correct participants attend (counsels, lawyers, legal representatives), preliminary issues, third party approvals, plenary, caucuses

2.2. Mediator selection and appointment. Approximation of mediator with the opponent

2.3. Agreement with a mediator: mandatory and optional clauses

2.4. Mediation fees and timing

2.5. Choosing a strategy: negotiation, mediation, trial.

3. The lawyer-client relationship in mediation:

3.1. meeting with the client, communicating with the client, informing the client about mediation,

3.2. risk analysis and client preparation (analysis of the strengths and weaknesses of a case, its costs in relation to probable outcomes, the value of the certainty of a settlement available now in relation to the prospect of obtaining a better settlement later on, etc.), BATNA/WATNA, Rene Descartes technique;

3.3. providing assistance to the client in mediation:

3.4. The role of the mediator (assistance and advice to the client)

3.5. The role of the lawyer in the different phases of mediation. How lawyers and help or hurt the mediator. 3.6. The lawyer's duties in mediation (duty of competence, obligation to provide accurate information, etc.). Efficiency and fair techniques of lawyers in mediation

4. Third parties in mediation

5. Children in mediation.

6. Importance of communication: Technical bases for effective communication in mediation. Conflict and communication. Non-violent communication mechanisms. Communication and emotion management

7. Negotiations: General theory of negotiation (preparation and steps). Technical basis for negotiation. Negotiation strategies; and distributive or collaborative (interest-based) negotiation

8. Emotions in negotiation: Types of emotions. Emotional recognition. Empathy. Balance between rationality and emotions

9. Insight to theories applicable in mediation: stages of grief (by Elizabeth Kubler-Ross) and five freedoms (by Virginia Satir)

**Alternative practical exercises for part 2:**

It is recommended that participants of the training programme undertake practical exercises, such as:

- taking part in role-play mediation, experiencing all roles (parties, assisting lawyers, mediators[[6]](#footnote-6)) to experience the differences between mediation and other methods of conflict management;

- case studies.

**Example of practical activity 2 – mock mediation session in labour law case**

Anna (45 years old) works as a quality standard specialist at the dairy company "Milk". On 15 June, she had to attend a mandatory seminar in order to obtain the international certificate required by her company. On the morning of June 15, Anna's dog gets sick and she leaves everything and rushes to the veterinary clinic. The dog is her pet. Anna's children love the dog, and its life is very important to Anna – the dog is her family member.

Anna misses the seminar and does not get the international certificate. Anna's boss is very angry. This international certificate was necessary for the company to be able to conclude a significant contract with a Polish partner. The next seminar will be in a year.

Anna's boss Alexander tells Anna in front of her other colleagues that she has been fired. Alexander loudly calls Anna “a stupid woman”, “reckless and irresponsible creature”. Alexander calls the security guards and escorts Anna out of the office in a matter of minutes, not allowing Anna to take her personal belongings (children’s photos, books, laptop bag) from her desk. Alexander suspects that Anna was not loyal to the company because Anna's cousin works for a competing company. Alexander finds Facebook photos of Anna with her cousin smiling together in mutual family event. This clearly shows that Anna cannot be trusted. Alexander does not know where to find an employee equal to Anna, because no one else has the same knowledge and work experience as Anna.

Anna feels very humiliated. She has regularly worked overtime and dedicated 15 years to the company. Anna speaks four languages - Latvian, English, Russian and Polish. She knows all the contacts of business partners and has a very good relationship with all her partners. Regarding cousin – Anna has met him a few times in her life - he is an arrogant person and Anna does not contact him. Anna does not regret that she took the dog to the doctor on the morning of June 15, because only doctors could save its life. Anna is sorry that she has not received an international certificate, but sometimes it happens.

Anna's employer Aleksandrs plans to sue Anna in court and claim losses and lost profit because Anna has caused damage to the company.

Anna plans to sue her employer in court for wrongful dismissal, demanding reinstatement back to work and moral damages for humiliation in front of colleagues.

Task:

1. Mediator – leads mediation process

2. Anna – plays Anna’s role

3. Alexander – plays Alexander’s role

4. Lawyer of Anna – plays Anna’s lawyer

5. Lawyer of Alexander - – plays Alexander’s lawyer

6. Observer – writes down: 1) What mediation techniques the mediator used? 2) What interests had Anna? 3) What interests had Alexander?

**Part 3. The proper use of mediation**

**Introduction**

Present the professional, strategic, financial benefits of mediation for lawyers and their firms; the importance of lawyers in the crucial phase of the agreement enabling them to help their clients obtain the best possible result from mediation; present the professional, strategic, and financial advantages of mediation for lawyers and their law firms; study the development of mediation through the practices of the courts but also the case law decided at national level.

**Learning objectives**

Participants will be able to integrate mediation into their professional practice; putting mediation into practice in their daily work; drafting a mediation clause/agreement, agreement with the mediator and a mediated settlement agreement; comprehending and understanding the phases of the agreement and the consequences of the agreement; invoicing mediation support; and understanding the development of national practice and case law on mediation and ADR.

**Programme of the part 3**

1. The mediation and settlement agreements: steps, drafting, implementation:

1.2. Who drafts the agreement: the lawyer, mediator or both? Formulation of a hypothesis of agreement to mediate, agreement between the parties and the mediator, and mediated settlement agreement

1.3. Drafting of agreement to mediate, agreement between the parties and the mediator, and mediated settlement agreement

1.4. Implementation of the agreement. Possibilities of enforcement

1.5. Compliance or non-compliance with the agreement

1.6. Confidentiality of information and statements made during the mediation.

2. Advantages for law firms: National case law and court practices in mediation and ADR matters: case law and practices of the courts (put mediation in context as an accepted element of dispute resolution).

3. Mediation as an opportunity for law firms:

3.1. Benefits of mediation (and ADRs) for law firms: mediation as an additional practice tool

3.2. Benefits of mediation (and ADRs) in judicial strategy

3.3. Tariff and financial aspects of mediation (benefits for the client, incentives, tariffs, invoicing)

3.4. Interdisciplinary skills and competences, importance of life skills;

3.5. Model mandates for mediation assistance, professional mandate, power of attorney.

**Alternative practical exercises for part 3** may include:

- Drafting of agreement to mediate, agreement between the parties and the mediator, and mediated settlement agreement exercises;

- Discussions and brainstorming on fair and efficient use of mediation by lawyers for benefit of their clients in respective jurisdiction;

- Mock mediation.

**Example of practical activity 3: mock mediation session in rental case**

Role in a mediation session: Frank (this information shall be also available to this lawyer)

Frank Smith is 25 years old. He has moved to live to Latvia 3 months ago. He is multi-artist from England. In Latvia he earns his money by playing music in clubs, participating in various art projects, as well as getting financial support from grants to artists. Also Frank is quite skilled designer and he can make repair works of apartments during reconstruction process. Frank is open to the world and takes his life easy.

Frank rents a small apartment in the suburbs of Riga. The owner of the apartment and the whole house is Mrs. Antonija Daugaviete, 72 years old lady. There are 5 more apartments in this building. Renting apartments is Antonija’s business. Mrs. Antonija lives in one of these apartments. In other 4 apartments live people of the same age as Mrs. Antonija – all of them are already retired pensioners.

When Frank started to live in the apartment, it was in a terrible technical condition. Heating of the apartment is done by firewood heating. Frank fixed the stove, otherwise it didn’t kept any warmth in it. Also all windows and their frames were extremely loose, so Frank fixed them as well and painted in a nice purple colour.

Mostly Frank spends his time out of house, and returns home late. Sometimes friends come over, and then they listen to music, paint and compose. Frank rarely meets Mrs. Antonija. Financially Frank is very accurate and pays all the bills and rent of the apartment, which is quite high taking into account technical condition of the apartment. However Frank likes the district and wishes to stay in the apartment, because it is located in a quiet place where it’s nice to relax after loud daily work.

Mrs. Antonija has warned Frank several times that she will terminate his rent agreement and evict him, because Frank does not respect her and other renters of the house. Once Mrs. Antonija discovered that Frank has put in the garbage the beautiful small metallic doors of the stove. Mrs. Antonija remembers that in her childhood – 65 years ago – when her grandfather built this house – she assisted her grandfather at making this particular stove and choosing these beautiful metallic doors. However Frank said that these doors were already completely wore out, and therefore without consulting to Mrs. Antonija he changed these doors and installed new ones.

Now Mrs. Antonija has prepared a legal claim to the court about prior termination of the rent agreement and eviction of Frank from the apartment.

Role for the participant of the mock mediation session: Antonija (this information shall be also available to her lawyer)

Antonija Daugaviete is a 72-year-old woman who owns a rental house in the suburbs of Riga. Renting apartments is her business. She lives in one apartment, and the other apartments are rented out. Four apartments are inhabited by people of her age, with whom Ms. Daugaviete is acquainted most of her life. Home dwellers are like a large family grown up at the same time, with similar views and equal financial opportunities.

Mrs Daugaviete's husband has died some time ago. Her retirement pension is low. Her income is from renting out apartments. She rented out one apartment to a young Englishman Frank Smith. Unfortunately, Mrs Daugaviete soon regretted renting the apartment to Frank. He is dressed terribly indecent – in worn pants, obscene shirts, and he regularly takes different guys to visit him at home. The house has a bad sound insulation, so Mrs. Antonija is listening suspiciously to noises coming from apartment of Frank. She wants to get rid of this man as soon as possible. In addition, Frank has painted the windows of his apartment in purple and rebuilt an oven, which her grandfather built 65 years ago when she was a little girl. For the oven, Frank replaced the doors that was old and sweet as a memory from her grandfather's times.

Mrs. Antonija has warned Frank several times that she will terminate his rent agreement and evict him from the apartment, because Frank does not respect her and other renters of the house. To the opinion of Mrs. Antonija Frank’s clothes are provocative, also his lifestyle is unacceptable, the type of music he listens is weird and scary. In other words – to Mrs. Antonija Frank looks like from a different planet. Moreover he is foreigner and she does not trust foreigners, because all her life she has lived just in one country, even one city, without meeting much people outside.

Financially Mrs. Antonija does not have easy times. The house is old and the other renters are old, almost family friends. Therefore she does not have courage to increase the rent. Repairs of the house are inevitable, but she does not have any savings to start it. Therefore from one side she needs to keep Frank as a renter in house, but from the other side she is frustrated about his very modern life style. It would not be easy for Mrs. Antonija to find a new renter, because the house is in overall in bad technical condition.

Role: The mediator

The 72-year-old Mrs Antonija Daugaviete and the 25-year-old Frank Smith will come to mediation process. Frank rents an apartment in Mrs Daugaviete's house, but Mrs Daugaviete wants to put an end to the rental contract for residential spaces.

Role: The observer

Write down: 1) What mediation techniques the mediator used? 2) What interests had Frank? 3) What interests had Antonija?

# Annex II Model text of brochure on mediation for lawyers

**Model text of brochure ON MEDIATION FOR LAWEYRS**

**1. What is mediation?**

Mediation is a way of thinking and behaving differently, with a humanistic regard towards a dispute. Mediation is a way of resolving disputes, where the third party – or mediator – has two main objectives: on the one hand to restore, maintain and improve the dialogue between the parties, and on the other hand to help the parties find their own solution, based on their own interests. As defined in the Mediation Law mediation is a structured process, where two or more parties attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator.

**2. What are the advantages of mediation?**

Persons involved in a dispute can save relations, finances and time, and find a solution otherwise not possible in the court. For lawyers:

• The high rate of success of the mediation process enhances the credibility and the fame of the law firm;

• The quickness of the process gives to the law firm more time for other business;

• The rate of success obtained by the law firm contributes to enhance customer loyalty;

• This all helps the profitability of the law firm, taking into account the quickness for getting the settlement, the client’s satisfaction with the settlement result, and the client’s spare time.

**3. Which situations are most appropriate for mediation?**

• Where the parties have a legal relationship (such as in family disputes, lease conflicts, co-ownership problems, partnerships, shareholders, exclusive representation, franchising and other commercial contracts, etc.), or some other sort of a longstanding relationship (for example, family, employment, neighbours, colleagues, members of an association, etc.).

• A lawsuit would only settle part of the dispute, because it may be hiding a more significant underlying dispute or problem.

• The dispute contains strong emotional issues.

• Where there are converging or complementary economic interests, enabling the parties to redefine their relationship and activities, or establish a new cooperation between them.

• A quick settlement rather than protracted jurisdictional or arbitral proceedings are in the interest of both parties; the cost and the duration of the lawsuit are out of proportion with the interests at issue.

• The problems are of an extremely complex nature. They concern several claims or several persons or entities (several persons are liable, insurance, other company of a group, partner, licensee, etc.).

• The dispute touches on several countries.

• The parties wish confidentiality.

**4. When mediation may be inappropriate?**

• When the parties are already negotiating in a satisfactory way, and the presence of a third person is not necessary;

• When a legal precedent is needed for the jurisprudence;

• When a judicial conciliation is feasible, at reasonable cost and quickly, and when the value is minimal;

• When the facts are not contested and thus it is possible to obtaining a court decision or an arbitral sentence quickly or at a reasonable cost;

• When all the parties want to fight through litigation;

• In case of individual need for any specific party to obtain statutory protection;

• In certain cases where there is a serious imbalance of power between the parties;

• In case of denial of violence or reiterated violence;

• In case of abusive procedures by one of the parties (established bad faith) or domestic violence, in some circumstances;

• In case of legal incapacity of one party (except if he/she has a legal guardian who represents him/her in the process).

• In family disputes, for children’s protection purposes when appropriate.

**5. What guarantee does mediation offer?**

Mediation offers to the parties, to their counsels and to the judge guarantees on several levels:

Concerning the person of the mediator: the officially registered, sworn-in mediator or the accredited mediator (certified by an umbrella organization) or other well-trained professional persons allowed by law to act as mediators, has been selected on the basis of their professional qualifications, experiences, specialization, education in conflict management and compliance with the rules on ethics.

Concerning the process, mediation is regulated by fundamental principles, which are usually reflected in national legislation, statutes of the associations, or in codes of conduct. They are often mentioned in the initial mediation agreement:

• **Humanity:** the human being is at the heart of mediation, which has a goal to reinstate dialogue and an effect to diminish or alleviate all sorts of suffering and all sorts of waste caused by the dispute;

• **Multipartiality and empathy of the mediator:** the latter undertakes to serve the parties in an equitable manner, without making any unfavourable distinctions between them; he or she is responsible for the smooth guidance of the process;

• **Freedom and autonomy:** the parties are free to accept or refuse to join the process, which they can leave at any time; the mediator is free to start, to continue, to suspend the process or to terminate it, where necessary;

• **Responsibility:** the parties have a duty to enter the process in good faith, to behave respectfully and in a transparent manner as well as to respect confidentiality. The mediator is responsible for the good conduct of the process; he or she has a duty to verify that the parties have understood the characteristics of the process as well as their part and his own; the mediator must ensure that the parties come to their final agreement with a free and fully informed consent. If necessary, the mediator can invite them to consult a lawyer; he or she is under a duty to terminate the process if the proposed solution cannot be fulfilled or if it is against the law;

• **Independence:** the mediator is independent. He or she must tell the parties about any circumstances which, objectively or subjectively, could compromise his or her independence;

• **Neutrality:** the mediator refrains from participating in the controversy and from making statements regarding the substance of the dispute;

• **Humility or absence of power:** the mediator has no decision-making authority whatsoever;

• **Confidentiality:** the parties and the mediator shall refrain from informing third parties about any statements, opinions or proposals made during the process, and from producing documents in later proceedings referring to the above. The parties shall refrain from having the mediator cited as a witness. The mediator shall furthermore keep the existence of the process and the names of the parties confidential. However, there are exceptions in some situations (school mediation, or discovery of a criminal wrongdoing during the mediation process). In family cases, confidentiality can only be waived with the consent of both parties or where there is an over-riding obligation in law. This will be the case when a statement made in mediation indicates a safeguarding risk or discloses a criminal offence.

**6. What is the role of the mediator?**

The mediator, an independent, neutral and impartial third party, is responsible for conducting the process from its preparatory stage until its termination. During the preparatory meetings, he or she starts by ensuring that the parties come of their own will and after having been fully informed, completing this information if needed. He or she then prepares a draft initial agreement which the law or the statutes of his or her association provides, or when the parties require it. Confidentiality is mentioned in this document. He or she facilitates the communication between the parties in creating an atmosphere of respect. He or she helps them to find their own solutions in order to resolve their dispute by themselves.

The mediator applies several specific tools: active listening and principled negotiation. The parties or the mediator can also choose to proceed with another co-mediator when the number of participants is high, when it is appropriate to have as third party a man and a woman, or when it may be necessary to have mediators of different educations or experiences (a lawyer, an engineer, etc.) who would be more efficient.

The mediator is: neither a judge nor an arbitrator, as they do not render a legal decision; nor a conciliator as they do not give a legal opinion or advice; nor an ombudsman as they do not make investigations, take depositions or make recommendations; nor an expert as they do not give a technical opinion or advice; nor a social assistant as they do not help people in their demands.

**7. What is the role of the lawyer in mediation?**

When the client consults him or her, the lawyer now has a duty to consider if the dispute is appropriate for being mediated, and to inform the client in such a manner that they should be able to choose freely on the appropriate manner to solve his problem without being pushed unduly in any particular direction. It is a lawyer’s professional duty to provide a client with complete and accurate information on mediation and assist her/him in taking an informed decision.

If the parties choose mediation, it is then for the parties to decide whether and to what extent they want the presence of their lawyer at the mediation, and if needed, in which meetings and steps of the mediation process.

The role of the lawyer differs from the usual adversarial and litigious approach and is defined by mutual consent. In mediation, the general approach is that the client expresses him/herself, advised by his/her lawyer, who participates with him/her in looking towards a mutually beneficial solution.

His/her presence is important, inter alia when the parties elaborate options. He or she helps the client to consider the options available, by giving a comparison with how the legal issue might be resolved through adjudicative processes, particularly taking into account the client’s best interests.

The final agreement is then drafted by the lawyer, or under his control. After the settlement the lawyer examines and assists in its implementation.

**8. What process? Which steps? What duration?**

All these points will be examined during the preparatory sessions and decided upon by the parties and the mediator, and will be mentioned in the initial mediation session. The parties, assisted or not by their lawyers, can influence respectively the choice of the approach of the mediator, the number and the type of meetings (joint sessions, with or without caucus, shuttle, etc.) and the process duration, with - if it is required – deadlines, if these are not already expressed in procedural laws. Depending on the situation, the mediation process can be completed in a few hours, or might exceptionally last several months.

**9. How much does mediation cost? What are the economic advantages? Can legal aid be granted?**

**Cost of mediation**

The costs of a mediation process may include the fees of the mediator and of his possible expenses, such as costs of translation, hiring of rooms, case management costs, etc. In the preparatory phase, the parties and the mediator begin by agreeing on the financial terms. The fees of the mediator are usually split evenly between the parties, but they may also be differentiated, in order to take into account, for instance, differences of financial status between the parties.

The setting of the fees shall, inter alia, take into account the financial situation of the parties, the value of the case, the number of parties to be present, the nature and the complexity of the dispute, etc. Most frequently, the rates are freely agreed between the mediator and the parties. The fees aren’t regulated in the rules of the mediation institutions. Parties can agree about a fixed rate, hourly rate or any other arrangement of remuneration with the mediator.

**Financial advantages**

Frequently, and especially in commercial matters, mediation is oriented towards maintaining or transforming the relationship between the parties. By contrast, civil or arbitral proceedings often cause a break in relationships through a legal battle, which, in turn, will increase hidden costs that are not included in the costs of the proceedings per se. Indeed, each party may have to invest time, money and energy in order to find a new commercial partner, a new commercial product, new services, new patents, trademarks or industrial designs, new associates, new financing, new office space, new markets, etc. All these important costs can be avoided or drastically reduced, when mediation is chosen as the method of dispute resolution.

If amicable agreement is reached in mediation and the judge approves such amicable agreement, 50% of state fee paid in the particular instance court is paid back. If the claim is recalled because the parties have participated in mediation and this is confirmed by the mediation, 50% of state fee paid in the particular instance court is paid back.

**Legal aid and public funding**

The Ministry of Justice of Latvia several years provide five hours state paid mediation in family disputes for families with minor children, and recently provides seven hours state paid mediation for low income / poor persons.

**10. How to Start Mediation? When? Who? With Whom?**

**When?**

Mediation may be undertaken at any time. Before a dispute even arises, the parties can – as a preventive measure – insert a mediation clause in a contract. Parties can have recourse to mediation at the stage of provisional measures, or following an attempt at conciliation. Also, when judicial (or arbitration) proceedings begin, it is still possible to refer to mediation at any stage, in first or second instance.

**Who?**

The mediation process is basically put in motion by the judge, by the parties, or by their lawyers. Also the custody courts (*bāriņtiesa*) – municipal social institutions engaged in child custody matters are actively referring persons to mediation. However, even during the preparation of the hearing, the judge will be looking to see if there are particular elements in the file that could lead him or her to propose mediation.

**With whom?**

An update lists of certified mediators in Latvia, with their qualifications, experiences, specialisations, regions of practice, language fluency, etc. is available at [www.sertificetimediatori.lv](http://www.sertificetimediatori.lv) This register is public and parties can thus choose a mediator, with the advice of their lawyers and, in case of need, of the judge. If the parties cannot agree on a mutually acceptable mediator, the Council of Certified mediators recommends one.

1. The documents can be found following this link: https://www.coe.int/en/web/cepej/cepej-work/mediation. [↑](#footnote-ref-1)
2. All documents, being part of the Mediation Development Toolkit or not, can be found in English and French following this link: https://www.coe.int/en/web/cepej/cepej-work/mediation [↑](#footnote-ref-2)
3. The CEPEJ developed from 2017 to 2019 the Mediation Development Toolkit. It contains a wide array of concrete tools and documents for all key actors of mediation: member States, mediators and mediation providers, judges, lawyers and other justice professionals, available at: https://www.coe.int/en/web/cepej/cepej-work/mediation [↑](#footnote-ref-3)
4. Available at: <https://rm.coe.int/mediation-development-toolkit-ensuring-implementation-of-the-cepej-gui/16808c3f52>, pages 58-73. [↑](#footnote-ref-4)
5. Available at: <https://rm.coe.int/cepej-2019-21-en-training-programme-for-lawyers-to-assist-clients-in-m/1680993304> [↑](#footnote-ref-5)
6. Mediators’ role should be performed first by lawyers having more knowledge and experience in mediations and with a preference that lawyers trained as mediators would be acting as mediators in the first instance. [↑](#footnote-ref-6)