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## **EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)**

### **Mediation Development Toolkit Ensuring implementation of the CEPEJ Guidelines on mediation**

### **Basic Mediator Training Curriculum**

*Document elaborated jointly with the International Mediation Institute*



It has been acknowledged that there are a wide range of different mediation teaching and mediation practices within the Council of Europe Member States. A basic training curriculum for mediators has been identified as a key mediation tool, because:

- It allows identifying the topics for mediator training as a baseline standard,
- It could be used as a common teaching guideline in different jurisdictions creating a common standard for mediators' knowledge and professional skills and therefore facilitates co-mediation practices, namely in cross-border conflicts where two or more mediators are involved in different jurisdictions,
- It will encourage the writing of handbooks and the research in the field.

Given its expertise in developing global, professional standards for mediators, advocates and others involved in collaborative dispute resolution and negotiation processes, this tool has been elaborated jointly with the International Mediation Institute (IMI). IMI also convenes stakeholders, promotes understanding and disseminates skills, all in a non-service provider capacity<sup>1</sup>.

This tool has been developed in reference to point 1. Availability of the CEPEJ Guidelines on mediation.

## 1. Mediator training curriculum principles

The training curriculum should be outlined in the training plan and should be organised in such a way to allow for development of the knowledge and mediation skills and techniques required by an effective mediator.

The content of the training and training methodology shall take into consideration background, initial level of knowledge and practical expertise of the trainees.

The Mediator training curriculum should address, reveal and encourage good practice in the field.

Quality control and independent monitoring measures should be in place to ensure sufficient contents and provision of the training. It is strongly recommended that provision of the practical parts of the training should be led by active mediators, with experience as trainers.

## 2. Knowledge development

The training curricula should cover at least these main domains of knowledge development:

### 2.1 Conflict theory

### 2.2 Traditional settlement of disputes and mediation

### 2.3 Basics of mediation:

#### 2.3.1 Basic principles of mediation:

- a. Voluntariness
- b. Confidentiality
- c. Independence, impartiality and neutrality of the mediator
- d. Parties self-determination and control over the process
- e. Equality of the parties
- f. Creativity and sustainability
- g. Flexibility
- h. Cost-effectiveness

#### 2.3.2 Aims of mediation

#### 2.3.3 Indications and counter-indications of mediation in assessment for suitability of cases

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<sup>1</sup> <http://www.imimediation.org/>

#### 2.4 The main attributes of a mediator:

- a. Attitude and role of the mediator
- b. Credibility
- c. Basic skills and techniques
- d. Attributes related to professional ethics
- e. Professional requisites and practice

#### 2.5 Roles of the parties, their counsel and the other participants in mediation

#### 2.6 Styles of mediation

#### 2.7 Stages of mediation<sup>2</sup>:

- a. Preparation
- b. Opening
- c. Exploration
- d. Negotiation
- e. Agreement

#### 2.8 Legal framework of mediation and legislation related to mediation, including review of legal framework for mandatory and opt-out mediation if available

#### 2.9 Interaction between mediators, judges, lawyers, mediation users and other mediation stakeholders

#### 2.10 Main characteristics and differences of mediation in civil, family, penal and administrative matters

### 3. Practical skills training

In terms of skills development, the essential skills topics that should be covered, demonstrated and practiced in any training programme are:

- a. Forms of listening skills and communication strategies
- b. Mediation process management skills and techniques including but not limited to the use of joint and private meetings
- c. Negotiation strategies and skills to manage the content of the dispute
- d. Ways of responding to the diverse behaviours of the parties
- e. Problem solving and decision making skills
- f. Conflict analysis and management skills, including reasonable selection of dispute resolution strategy and methods
- g. Co-mediation skills

Trainers may include other skills-based topics including but not limited to management of emotions, dealing with difficult people, responding to impasse, neuro-linguistic programming, etc.

Mediator Skills training courses should be participatory, interactive and learner focused. To ensure this, a variety of teaching methodologies should be used, including lecturing, videos, interactive exercises, individual work, group discussion, talking in pairs, and role-playing. As a guideline, for the practical part of any course, that is designed to teach the process and skills to be an effective mediator, a substantial part should be devoted to role-playing, coaching and feedback, as well as discussions and exercises.

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<sup>2</sup> There are many different phase models for the mediation process and the model below is provided for illustrative purposes only.

#### 4. Peculiarities of specialised mediation training

Additional topics and skills development exercises should be covered in the specialised mediation training programs.

For mediation training in family matters:

- a. Core principles of family mediation
- b. Sufficient knowledge of family law
- c. Models of family mediation
- d. Skills of the family mediator
- e. Limits of the principle of confidentiality
- f. Child focused mediation and the best interest of the child
- g. Participation of children
- h. Assessment meetings (pre-mediation stage)
- i. Domestic abuse
- j. Power imbalances
- k. International legal framework

For mediation training in civil matters:

- a. Sufficient knowledge of provisions of public order and social protection law in the areas in which they practice in particular:
  - i. in leases and rents disputes
  - ii. in the field of labour law
  - iii. in consumer law
- b. Power imbalances
- c. Models of civil mediation
- d. International legal framework

For mediation training in penal matters:

- a. Sufficient knowledge of criminal justice system
- b. Various methods of restorative justice
- c. The relationship between criminal justice and mediation
- d. Skills and techniques of communication and of work with victims, offenders and others engaged in the mediation process, including basic knowledge on reactions of victims and offenders
- e. Specialist skills for mediation in cases of serious offences and offences involving minors

For mediation training in administrative matters:

- a. Core principles of mediation in administrative matters
- b. Sufficient knowledge of constitutional and administrative law
- c. Balance of principles of the confidentiality of mediation and of the transparency of administrative activity
- d. The boundaries of the public interest
- e. The role of the mediator – particularities of the principles of independence and impartiality
- f. Assessment/evaluation meetings (pre-mediation stage)
- g. Code of Ethics of the mediator in the administrative field

## 5. Duration

For a course to cover adequately the necessary content using appropriate methodologies, courses should have a substantial number of training hours being not less than 40 hours<sup>3</sup> personal attendance in class.

## 6. Group size

Quality mediation training shall apply interactive and participatory training methodology, therefore size of group shall be limited to maximum 30 trainees with ideally a trainer-trainees ratio of 1 trainer to 10 trainees/15 trainees maximum.

## 7. Assessment

Training assessment shall include evaluation of knowledge (theoretical part) and skills (practical part) of the trainees corresponding to the training curricula and training plan. Role plays evaluated by practicing mediators shall be employed for assessment of mediator's performance in using of professional skills.

## 8. Follow-up

It is strongly recommended that the mediation training should be followed by supervision, mentoring and continuing professional development, affixing, improving and refreshing the mediator's knowledge and professional skills, and educating on new developments in the field.

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<sup>3</sup> This does not include pre-course preparation, lunch and breaks.