

INSTITUTION / ORGANISATION	
NAME	Supreme Court Republic of Slovenia
ADDRESS	Tavčarjeva 9, SI-1000 Ljubljana

REPRESENTED BY	
FIRST NAME/ SURNAME	Janko MARINKO
POST HELD	General Secretary

SCHEME SUBMITTED	
TITLE	COURT-ANNEXED MEDIATION AND ACCELERATED CIVIL LITIGATION PROGRAM AT LJUBLJANA DISTRICT COURT
DATE OF INTRODUCTION	End of 2001

DESCRIPTION OF THE SCHEME

Pilot Programme launched in 2001 for the introduction of court-annexed mediation, launched by the District Court in Ljubljana¹, in order to reduce court backlogs.

Goals of the programme:

- . Additional possibilities for resolution of disputes,
- . Faster and cheaper resolution of disputes,
- . Greater influence by the parties on the procedure and the contents of the dispute resolution,
- . Decrease in court backlogs and increase confidence in the court work.

Parties participate in mediation on a voluntary basis. Parties are offered mediation on the basis of the judge order or automatically. Special training of mediators in the USA or in the UK. Most of them are lawyers.

EFFECTS ON THE WORKINGS OF THE COURT

Successful results in a considerable number of cases referred to mediation and expressly consented by both parties (from 2001 to May 2005, around 50%)². Around 50% of success through mediation. Around 30% of cases proposed for mediation received consent by both parties

District Court in Ljubljana has set up mediation as coexisted justice and extended service, established a department with special tasks (DADR) and adapted the work of court offices and judges.

Contribution to social transformation of disputing culture by empowerment of disputants to manage their own conflicts.

FUTURE ADDITIONS TO IMPROVE THE RESULTS

Constant monitoring of the programme.

On 1 January 2005, the District Court in Ljubljana started to implement a new experimental programme entitled: "Accelerated civil litigation" (= ACL) to upgrade the programme of mediation and to further integrate mediation into litigation.

Goals of the ACL programme: Increase the number of cases which are finished with settlement – three settlement stages (meet and confer, mediation, settlement conference); decrease the number of court hearings, shorten and accelerate civil procedures;

The ACC Programme is introducing : meaningful pre-trial events; fixing and predictability of time standards; agreement about the time with the parties and lawyers; restricted adjournment of hearings; compulsory preliminary meeting of the parties and submission of the joint statement; claims, replies and calls for evidence must be presented at the earliest possible stage.

PUBLIC AUTHORITY SUPPORT

YES

The programmes are supported by the Ministry of Justice, Supreme Court, Council of Judiciary, National Ombudsman and Slovenian Bar Association.

POSSIBLE APPLICATION IN EUROPEAN COURTS

YES

Other Slovenian Courts are already offering mediation, and the programme is about to start in some others. In 2003 USAID, announced the project as the "model mediation project" for SE Europe.

¹ Largest court in the Republic of Slovenia

² For further information : "Statistics for all cases (civil, family, commercial)" presented on page 6.

"THE CRYSTAL SCALES OF JUSTICE"
THE EUROPEAN PRIZE FOR GOOD PRACTICE
IN Civil JUSTICE ORGANISATION AND PROCEDURE

Entry form

1. Details of entrant (institution/organisation)

Name: SUPREME COURT REPUBLIC OF SLOVENIA

2. Represented by

First name/Surname: Janko Marinko, General Secretary

3. Scheme submitted

Title: **COURT-ANNEXED MEDIATION and ACCELERATED CIVIL LITIGATION PROGRAM AT LJUBLJANA DISTRICT COURT**

Date of introduction: **end of 2001**

4. Items to be attached

- a. A description of the scheme
- b. A description of the effects of the scheme on the workings of the court
- c. Any possible future additions which might improve the results of the scheme

5. Does the scheme have the support of the responsible public authorities in your country? If so, please give details.

Yes, the programs are supported by Ministry of justice, Supreme Court, Council of Judiciary, National Ombudsman and Slovenian Bar Association

6. Do you believe the scheme to be usable in other courts in European states? Give your reasons.

District Court in Ljubljana is a model and it also provides help to District Courts in Koper and Nova Gorica, which are already offering mediation, and the programme is about to start also at the District Court in Maribor (the second biggest town) and Regional Court in Ljubljana (the court with the highest workload in the country). The mediation programme of the District Court in Ljubljana has been presented at numerous International meetings, seminars and conferences. In 2003 USAID announced the project as the model mediation project for SE Europe. It is used as a model, with the Court experts participating, in setting up similar schemes in Bosnia and Herzegovina, Montenegro, Croatia, Serbia, Macedonia, Albania, etc. Upon the invitation of Council of Europe the president of the court provided his advice related to ADR program to state authorities in Malta, Switzerland, Slovakia, Serbia and Montenegro, as well as at the European judges conferences. The court with its know-how is helping also in setting up the programmes in private sector (Slovenian insurance association, chamber of health, chamber of commerce).

DESCRIPTION OF THE SCHEME

Court - annexed mediation and Accelerated Civil Litigation Programme of Ljubljana District Court

Situation overview:

Until 2001 there had been no supply or demand for resolving disputes by means of mediation neither in the public nor in the private sector in Slovenia. Mediation was not regulated, there was no such legal tradition and mediation was not carried out in practice. There were no providers of training for mediators either. Parties to the judicial proceedings were dissatisfied due to long-lasting judicial proceedings, high legal costs and unpredictable case-law. On average, in 2001 the waiting time in civil cases at the District Court in Ljubljana was eighteen months.

In such circumstances the District Court in Ljubljana, which is the biggest court in the Republic of Slovenia, decided to launch a pilot Programme for the reduction of court backlogs. The Programme introduced court-annexed mediation. Since 2001 the Court has been offering the parties a programme of mediation in civil cases, since 2002 the programme of family mediations and since 2003 the programme of commercial mediations.

Goals of the programme:

6. offer parties additional possibilities of dispute resolution by extending the access to justice;
7. offer the possibility of faster and cheaper dispute resolution, which is more friendly to the parties,
8. allow the parties a bigger influence on the procedure and the contents of the dispute resolution,
9. consequently decrease court backlogs and increase confidence in the court work.

Implementation:

In order to implement the programme in the most optimal way in 2001 a special Department for Alternative Dispute Resolution (hereinafter: DADR) was established at the District Court. At the beginning the programmes were implemented on a pilot basis, and now they are regular court programmes. The programmes are constantly monitored in quantity and quality terms, and adapted to the needs, reflected in practice.

Parties participate in mediation on voluntary basis. Parties are offered mediation on the basis of the judge order or automatically, immediately after the receipt of the answer to the suit. Referral is possible also in subsequent phases of the procedure. DADR sends the parties the court offer together with a brochure with information and proposal for consent. In case the parties submit consent to participate in mediation, DADR selects a mediator from the list of mediators, kept at the Court, and submits him/her the case. Then DADR summons the parties, and the Court guarantees that in civil disputes the first mediation session will be held within three months, in commercial disputes in two months, and in family cases in 14 days of the receipt of all consents. Mediation sessions are held in the court premises, and they usually finish in two 1.5-hour sessions (a little more in family programme). When mediation has finished successfully, the mediator and the parties prepare a draft of the settlement, which is immediately submitted to the judge for approval. Court settlement order is binding and enforceable.

Mediators:

As there were no qualified mediators in Slovenia, District Court in Ljubljana trained the first mediators (who were judges) independently, with its own resources, in the USA and UK. After one year of practice four best mediators participated in the programme Train the trainers (UK) and with their help the Court developed its own 40-hour basic training for mediators.

From the original 5 mediators – judges, who were carrying out mediations pro bono and in addition to their regular work duties, in three years the number of mediators and co-mediators on the Court list has increased to nearly 100. Most of them are advocates.

Programme inventiveness:

10. the holder of the programme is an individual court and it was not a national project;
11. the programme was started without special regulatory basis for mediations;
12. own programme of training the target public (mediators, judges, advocates, lawyers in insurance ...) and accreditation of mediators;

13. training programme, which was developed by the Court, is applied also in private sector - partnership of the public and private sector;
14. mediation is integrated, financed and staffed by the Court;
15. the Court carries out active promotion of mediation independently with the help of PR tools and at minimal costs;
16. self regulatory measures have been developed (system of referrals, code of conduct for mediators);
17. mediators are trained and supervised by the court;
18. court as the »quality gatekeeper« takes care about the quality of mediation services in public and in private sector;
19. holders of the project are judges who do their work pro bono.

A DESCRIPTION OF THE EFFECTS OF THE SCHEME ON THE WORK OF THE COURTS:

Results:

Mediation programme at the District Court in Ljubljana is constantly being monitored in both, quantity (detailed statistics, also by mediators) and quality (questionnaires, filled in by parties and advocates after mediation, occasional surveys) terms.

Table: STATISTICS FOR ALL CASES (civil, family, commercial

Year	CONSENTS		FINISHED MEDIATION	
	Number of cases referred to mediation	Consent expressed by both parties	Total	Successfully
2001	420	106 (25,2%)	105	52 (49,5%)
2002	1063	313 (29,5%)	206	118 (57,3%)
2003	1259	447 (35,5%)	416	225 (54,1%)
2004	1852	553 (29,9%)	496	257 (51,8%)
2005 to 31 May	754	305 (40,5%)	230	112 (48,7%)
TOTAL	5348	1724 (32,2%)	1453	756 (52%)

Of all the cases resolved in judicial proceedings the cases resolved in mediation account for 5 to 6 percent.

Organisational and cultural changes:

District Court in Ljubljana has set up mediation as coexisted justice and extended service, established a department with special tasks (DADR) and adapted the work of court offices and judges. This is the Court's contribution to social transformation of disputing culture by empowerment of disputants to manage their own conflicts. The court set an example of qualitative justice.

By this programme the Court, in close cooperation with advocates, is introducing the so-called model of therapeutical justice.

**ANY POSSIBLE FUTURE ADDITIONS WHICH MIGHT IMPROVE
THE RESULTS OF THE SCHEME**

On 1 January 2005 the District Court in Ljubljana started to implement a new experimental programme entitled: Accelerated civil litigation (= ACL) to upgrade the programme of mediations and to further integrate mediations into litigation.

Situation overview:

Slovenian law on litigation does not provide for a preliminary hearing, but only main hearing. Parties and advocates are not obliged to meet before the trial, nor are they obliged to submit a joint statement to the court. No time standards are laid down for judicial proceedings (with the exception of the period of time to file an answer to the suit). Courts are not obliged to fix the dates of hearings in agreement with the parties.

Duration of litigation prior 1 January 2005

	Bringing a suit	First hearing	Last hearing	Judgement
Day	↑	↑	↑	↑
	0	280	720	

Goals of the programme:

- increase the number of cases which are finished with settlement – three settlement stations (meet and confer, mediation, settlement conference);
- settlement should become a dominant litigation value and the objective of litigation;
- decrease the number of court hearings, shorten and accelerate civil procedures;
- decrease the burden for judges (less judge's time spent on preparation for trial, carrying out the trials, repeated study of the case, writing judgements, decrease the number of complaints);
- additionally increase the number of cases which are resolved in mediation;
- increase participation of the parties and their satisfaction, and consequently decrease court backlogs.

Implementation:

Duration of accelerated civil litigation after 1 January 2005

	Complete suit	Introductory hearing	Submission of the joint statement	Trial
Day	↑	↑	↑	↑
	0	60	173	270
	↓	↓	↓	↓
	30	150	180	300
	Answer to the suit	Mediation	Settlement hearing	Judgement

The underlying principles of the programme comply with the Recommendation of the Council of Europe 84(5) on principles of civil procedures designed to improve the functioning of justice in accordance with the Opinion No. 6 (of 24 November 2004) of the Consultative Council of European Judges (CCJE) on fair trial within a reasonable time and judge's role in trials taking into account alternative means of dispute settlement) and in accordance with the recommendations of the Council of Europe in the field of mediations (in particular Recommendation R (98)1 and R (1)2002, as well as CEPEJ Framework Programme (2004).

7. meaningful pre-trial events

ACL is introducing preliminary hearing as a form of preparatory hearing. On the basis of the draft of the ES Directive³ the court presents the advantages of mediation and litigation risks.

8. court intervention should be as early as possible in order to direct and accelerate the resolution of the case,

Earlier intervention allows the court a better control of the progress and speed of the proceedings, and also to examine the possibility of settlement. ACL provides for automatic fixing of the date of the preliminary hearing, which is to be held within 60 days of bringing the suit and fixing of the dates for all the subsequent procedural steps.

9. fixing and predictability of time standards

The Programme lays down predictable time standards in advance. When the parties in ACL opt for mediation during the preliminary hearing (if they have not opted for it before), the date of mediation session is fixed on that same day. Mediation must be finished within 3 months. The date of settlement hearing, fixed during the preliminary hearing, must be carried out within four months, regardless of mediation. When agreement is

³ Proposal for a Directive of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters

not reached during the settlement hearing, the trial must be carried out within three months of the last hearing.

10. agreement about the time with the parties and advocates

In accordance with the principle of customer oriented approach of the court to the parties the court within ACL fixes the time of procedural steps in agreement with the parties and advocates.

11. restricted adjournment of hearings

In accordance with the above principle the court introduced the policy of restricted possibilities of granting requests for adjournment of hearings. When the requests are granted, hearings are always fixed for a definite time. Also the reasons for adjournment are monitored.

12. compulsory preliminary meeting of the parties and submission of the joint statement

ACL introduces compulsory preliminary meeting of the parties and advocates outside the court and submission of a joint statement on contested and non - contested questions of law and questions of fact and calls for evidence. In this way the court encourages direct negotiations among parties.

13. claims, replies and calls for evidence must be presented at the earliest possible stage;

ACL provides for submission of joint statement by the parties not later than 7 days prior to the settlement hearing.

Programme inventiveness:

- the court laid down new procedural events (preliminary hearing, out of court meet & confer and joint statement by the parties);
- the court laid down time standards, binding for the parties and the court;
- the court is introducing the best court management practice in ensuring dates of trials which may not be changed.

After three months of the implementation of ACL it happened for the first time after some years that the number of resolved civil cases is higher than the number of received civil cases.