

THE BEST PRACTICE MANUAL

for organization of mock mediation
sessions and mediation tournaments

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INTRODUCTION

The aim of this best practice manual is to assist academics in organization of new mock-mediation sessions and tournaments. Universities in which the mediation subject is directly or indirectly included in their curricula at times organize mock mediation sessions among their students. Although each university might have their own standards and style in the organization of mock mediation sessions, this Best Practice Manual presents a helpful material for any university interested in the organization of mock mediation session.

This Best Practice Manual includes suggestions for organization of three types of mock mediation processes:

- A)** for organization of mock mediation sessions in direct presence of students
- B)** for organization of mock mediation sessions on the Internet, using Online Mediation Platform elaborated in this Strategic Partnership project
- C)** organization of international mock mediation tournaments

All three types of mock mediation processes can be organized by any university, and this Best Practice Manual, especially the Chapters 1, 2 and 3, is a helpful tool for preparation for the event, students and participating teachers.

For better preparation of the students, the Chapter 4 of the Best Practice Manual contains a description of the preparatory process before mock mediation sessions and tournaments. Teachers are advised to present reading materials, and video materials to students, as well as actively practice mediation techniques in practical activities under the guidance and supervision of the teacher.

The authors of this Best Practice Manual in the Chapter 5 have collected a list of typical challenges for students while preparing for mock mediation sessions. In this list the most frequently raised questions and doubts of the students are answers in an explanatory manner, thus clarifying also for the next year students the same issues in mediation. Contentual, structural and behavioural issues are analyzed in the question – answer format, thus maintaining the utmost practical and useful approach of this Best Practice Manual.

What would be mediation without a narrative technique? Admitting this, the Chapter 6 includes a beautiful collection of inspiring examples of success and failure stories of mediation. Although pure theoretics might think that the best examples are only the ones which help the mediators to grow professionally, the practice shows experts are equally learning from failures. Therefore a collection of true stories will help the next mediators to improve their personal performance.

In the final Chapter 7 a collection of web sites is included for further reading purposes, as well as to enlarge European wide perspective of great opportunities of mediation.

1

Organization of mock mediation sessions in a direct presence of the students

The aim of this chapter is to provide a description for university teachers on how to organize mock mediation sessions for students of one university, holding mediation sessions in a direct presence of students and under supervision of the teacher.

1.1. Timing for organization of mock mediation sessions

The first mock mediation session can be organized after the students have accomplished the basic studies of mediation rules and principles. It is not necessary for the students to accomplish the whole theoretical part of mediation studies. Instead, their first experience in leading a mediation process can be gained much earlier. The reason for such approach is the fact that practical experience increases motivation of students to proceed with theoretical studies and also let the students to feel in a more natural and realistic way of the procedure of mediation.

1.2. Location of mock mediation sessions

If for the purpose of lecturing one classroom provides sufficient place, mock mediation sessions require more space. The minimum number of participants in one mediation session is 3 persons. During mock mediation process, all of them are involved in the terms of speaking, disputing, listening, analysing, thinking etc. – even 3 persons can get quite noisy, which accordingly disturbs other persons in the same room. Therefore, for mock mediation sessions it is advisable to organize the working environment for each group of students in a different room. In larger classrooms two groups of students can try to work, taking place in the opposite parts of the classrooms. In smaller classrooms only one group of students can work. Experienced mediation teachers admit that modern students are very flexible and open to new environment. Therefore, some shorter mock mediation sessions can be organized even in hallways of the university, speaking-free premises of the university, library, university gardens, cafes, etc.

1.3. Instructions to the groups of students before mock mediation sessions

First of all a written case for mock mediation session is distributed to the students by the teacher. Depending on the length of the case, the students are given time for getting acquainted with the case. The teacher can either instruct the students to stay strictly with the facts mentioned in the case or on the contrary, to encourage the students to improvise and get in the role of particular characters in a natural way which fits to their personality.

After all students have read the description of the case the teacher answers all questions the students might have about the case and the following procedure. The students are given instructions, including, but not limited to:

- A)** division of students in to groups
- B)** premises where each group of students will be working
- C)** whether or not the teacher will be observing the groups
- D)** whether or not the students in the group shall switch their roles (so each student in the group could be at least once in the role of a mediator)
- E)** if roles of students are switched, whether the students shall re-start mediation process from the beginning or shall they continue from the point where the previous student has stopped

1.4. Structure of a mediation case for a mock mediation session

A teacher is free to choose any structure of a mediation case for a mock mediation session. Here are the three most typical samples of mediation cases to be used for mock mediation sessions:

A) Equal case for all participants:

Description of the case is given in the form of one story on ½ - 2 pages. In the end of the case participating persons are named. Each participant gets the same story on the same page. A sample of such case is attached in the Annex 1 of this Best Practice Manual.

B) Equal case for all participants + Confidential information for each party

Description of the case is given in the form of one story on ½ - 2 pages. In the end of the case participating persons are named. Each participant gets the same story on the same page. After the parties have got acquainted with their cases, the teacher distributes to the parties so called „confidential information“, which only the parties will know. A sample of such case is attached in the Annex 2 of this Best Practice Manual.

C) Case from the perspective of two parties and the mediator

Description of the case is given in the form of one story told from the perspective of three persons: the party 1, the party 2 and the mediator. Parties receive longer stories with more details and facts included, which only they know. The mediator receives only the basic story, places him/her in a real life situation where parties apply to the mediator who does not know anything about the case to be mediated. A sample of such case is attached in the Annex 3 of this Best Practice Manual.

1.5. Observation of students during mock-mediation sessions

A teacher can be either present at all times when the students are playing mock mediation sessions, or circulate around all groups of students, spending a couple of minutes with each group. It is equally possible to just observe the students playing mock mediation sessions without interruption (making notes about typical mistakes or positive moments), as well as to intervene cautiously by correcting the particular situation,

question, attitude and performance. Too profound intervention is recommended only in the case where the students make absolute mistakes and completely misunderstand the process. Instead if the students are successfully progressing in their skills and performance, the teacher shall better allow them to practice without any unnecessary intervention.

1.6. Discussion with students after mock mediation session

After the students have finished the mock-mediation session (or after the time exceeds the time allowed for the mock mediation session), the teacher shall proceed with a discussion and summary about the mediation session. Students can be either given a free floor for comments and questions about their experience in mock-mediation process. Or the teacher can organize a discussion a way that first of all comments and questions are coming from the students who played the roles of the parties in mediation session, followed by the comments and questions from the students who were in the role of a mediator. Another possible way to organize a discussion is to ask the students such questions as (*to the parties*):

- „How did you feel in the role of a party X?“
- „Was the mediator nice and understanding towards you?“
- „Did you feel respected and heard?“
- „What would you do in a different way?“

And to the mediators:

- „Was it easy to be a mediator?“
- „What do you think where did you succeed?“
- „What do you think where you didn't succeed as much as you would like?“
- „Which skills you feel you are still missing to deal with such mediation case?“

If in the particular mock mediation session students – observers were present, the teacher can also ask such questions as:

- „What techniques and skills did the mediator use during mediation process?“
- „Can you give an example of open and closed questions which the mediator used?“
- „If you would be a mediator in this process, what would you do in a different way?“
- „What did the mediator do to establish a good relationship with the parties?“

Finally the teacher can use a simple and fun technique to help the students emotionally to get out of their roles played in the mediation process by saying aloud and all together: „I am not a [name of the party they played]. My name is [real name of the student].“

2

Organization of mock mediation sessions in internet, using Online Mediation Platform

The aim of this chapter is to provide a description for university teachers on how to organize mock mediation sessions in internet for students of either one or more universities and using the Online Mediation Platform.

2.1. Timing for organization of mock mediation sessions in internet

As described in the Chapter 1 of this Best Practice Manual the first mock mediation session on the Internet can be organized after the students have accomplished the basic studies of mediation rules and principles. It is not necessary for the students to accomplish whole theoretical part of mediation studies. Instead their first experience in leading a mediation process on the Internet can be gained much earlier. The reason for such approach is the fact that practical experience increases the motivation of students to proceed with theoretical studies and also let the students to feel a more natural and realistic way of the procedure of mediation. It is advisable that the students have had at least an introductory lecture about the specifics of mediation on the Internet, covering issues, for instance about the importance of body language, technical specifics of the process and usage of the Online Mediation Platform.

2.2. Location of mock mediation sessions

The Online Mediation Platform is created in a way in which the students can get connected to the platform from any place where they have a computer and the Internet access. Therefore, there is no need to be located in the university premises. However, in case the teacher plans to analyse the online mediation process or to watch the performance of one team of students together with other students, the mock mediation session shall be in the premises of the university.

2.3. Instructions to the groups of students before mock mediation sessions

First of all, the teacher distributes a written case for mock mediation session. Depending on the length of the case, the students are given time to get acquainted with the case. The teacher can either instruct the students to base on the facts mentioned in the case, or, on the contrary, to encourage the students to improvise and get in the role of particular characters in a natural way that fits to their personalities. After all students have read the description of the case, the teacher answers all questions the students might have about the case and the following procedure. The students are given instructions, including, but not limited to:

- A) timing how long the mock mediation session will last
- B) division of students in groups, which is done automatically on the Online Mediation Platform
- C) possible premises where the students can be located during the online mediation process
- D) whether or not the teacher will be observing the students or recording the online video
- E) whether or not the students in the group shall switch their roles (so each student in the group could be at least once in the role of a mediator). The Online Mediation Platform allows both options
- F) if roles of the students are switched, whether the students shall re-start mediation process from the beginning or shall they continue from the point where the previous student has stopped
- G) Internet programmes, which are best suitable for the Online Mediation Platform
- H) necessity to be punctual and timely register for the Online mock mediation session
- I) need to follow timing allowed for one mediation session, as the Online Mediation Platform respects strict timing schedule for each mediation session

2.4. Structure of a mediation case for mock mediation session

A teacher is free to choose any structure of mediation case for mock mediation session. The three most typical samples of mediation cases are explained in the Chapter 1.4 of the Best Practice Manual.

2.5. Observation of students during mock-mediation sessions

A teacher can be either present at all times with one student when he/she is participating in the mock mediation session, or circulate around all students seated in different premises, spending a couple of minutes with each student. In those cases where the students are using headphones, the teacher won't be able to hear the whole procedure of the mediation. Only in the case where the student has switched on the loudspeakers and talks in the computer microphone, the teacher is able to follow the process.

It is equally possible to just observe the students playing mock mediation sessions without interruption (making notes about typical mistakes or positive moments), as well as to intervene cautiously by correcting the particular situation, question, attitude and performance. Too profound intervention is recommended only when the students make absolute mistakes and completely misunderstand the process. If the students are successfully progressing in their skills and performance, the teacher shall better allow them to practice without any unnecessary intervention.

2.6. Discussion with students after mock mediation session

After the students have finished the mock-mediation session (or after the time exceeds the time allowed for the mock mediation session), the teacher shall proceed with a discussion and summary about the mediation session. Due to the fact that online mediation sessions are mostly

done with no students present in the university, such summary discussion shall be organized separately, when all students have completed their processes. Students can be either given a free floor for comments and questions about their experience in mock-mediation process, or the teacher can organize a discussion in a way that first of all comments and questions are coming from the students who played the roles of the parties in the mediation session, followed by comments and questions from the students who were in the role of a mediator. Another possible way to organize a discussion is to ask to the students the questions like (*to the parties*):

- „How did you feel in the role of the party X?“
- „Was the mediator nice and understanding towards you?“
- „Did you feel respected and heard?“
- „What would you do in a different way?“

And to the mediators:

- „Was it easy to be a mediator?“
- „What do you think did you succeed the most?“
- „What do you think were you didn't succeed as much as you would like?“
- „What skills you feel you are still missing to successfully deal with this mediation case?“

If in the particular mock mediation session students – observers were present, the teacher can also ask the the questions like:

- „What techniques and skills did the mediator use during mediation process?“
- „Can you give an example of open and closed questions which the mediator used?“
- „If you would be a mediator in this process, what would you do differently?“
- „What the mediator did to establish a good relationship with the parties?“

For all students the teacher can ask additional questions about:

- „How did the Internet mediation differ from the mediation in presence?“
- „What specific concerns did you have because of mediation in the Internet?“
- „Did the limited visual and personal contact affect the quality of mediation process?“
- „What positive aspects of the Internet mediation can you mention in relation to the particular mediation session?“

Finally, the teacher can use simple and fun technique to help the students emotionally to get out of their roles played in the mediation process by saying aloud and together: „I am not a [name of the party they played]. My name is [real name of the student].“

3

Organization of international mock mediation tournaments

Organization of international mock mediation tournaments is a great challenge for a university organizing the event and of course for students who take part in this competition. It is one of the biggest educational events of the year for the university, gathering a large number of students and coaches for the teams and equally large numbers of practicing mediators and mediator trainers from all over the world, as well as supporters, volunteers and sponsors of the event. During the mock mediation tournament, teams of students representing universities of many countries endeavour to resolve disputes of family law, business law or other sectors of law. The performance of students is evaluated by recognized dispute resolution specialists who participate in the tournament as judges.

3.1. Sequence of the international mock mediation tournament

The quality of an international mock mediation tournament depends on many irreplaceable aspects of the process, the most crucial of which is timely and professional planning of the event. Therefore, to start the process, the organizational team of the event shall be selected. The team must include a sufficient number of people capable to smoothly organize the event. After the team is made, the calendar of planning shall be made, envisaging steps for preparation of the event. Sequence and calendar is a subject of frequent changes, as only in the process of the event additional aspects are discovered to be included in the list of tasks.

The organizational team shall decide on size of the event, depending on the budget and capacity, what size of the tournament would be realistic to organize. Considering aspects of premises, available judges, accommodation, catering, etc. the organizational team sets a limit of persons and teams which the event could possibly welcome.

3.2. Rules of mediation tournament

The organizational team shall elaborate rules of mediation tournament, so the students participating in the event and judges evaluating the process would know the reglament in advance. It is also possible to use globally known rules of mediation, for instance, the 2017 Arbitration Rules and 2014 Mediation Rules, which are used by the International Chamber of Commerce.¹

¹ Available: <https://iccwbo.org/publication/arbitration-rules-and-mediation-rules/>

3.3. Invitation to the teams for international mediation tournament

The organizational team publishes information about international mediation tournament in the web site of the university, as well as sends invitation e-mails to other universities encouraging them to apply, attaching the rules of mediation. A deadline for application must be stated, until which the teams may apply. Usually after invitation e-mails are sent and information about the most mediation tournament is published, the first e-mails are incoming with more precise questions about the event. The organizational team can collect the most frequent questions asked by possible participants, and together with answers publish them in the web page of the university as FAQ (frequently asked questions). Such collection of FAQ minimizes the workload of the organizational team.

3.4. Collection of applications

The organizational team shall diligently collect the received applications and make sure that the applications correspond to the requirements of the event. After the deadline of applications, the organizational team selects a number of the best teams which suits to the requirements of the tournament and the capacity of the event. The team sends to all – selected and non-selected teams e-mail replies on the results of selection. The selected teams also receive information about mediation situations – mediation cases. If there is any confidential information for the parties, it is not disclosed via e-mail, but just during the tournament.

3.5. Selection of judges of the tournament

The organization team invites judges – mediators, lawyers, mediator trainers, etc. – who could be the judges in the mediation tournament. The judges shall be neutral from the competing teams and experienced in evaluation of mediation process. The team acquaints the judges with the procedural rules of the event, as well as organizes accommodation and transportation issues if the budget of the event allows that.

3.6. Welcoming the participants and leading the mediation tournament

The mediation tournament starts with a welcoming ceremony for all participants of the competition, their coaches and judges. The organizational team explains the details of the tournament and then the teams can start the competition. The judges receive evaluation forms which they fill in while observing the performance of the teams. The teams receive confidential information for mock mediation sessions. After the mediation process is completed, the judges can give a short individual feedback to each participant.

Depending on the rules and size of the tournament, there can be one or several rounds of mediation sessions, evaluating performance of either individual students or teams, or both. In the end of the tournament the organizational team announces the best team and the best student of the tournament.

4

Preparatory process for students before mock mediation sessions and tournaments

In this chapter recommendations are given to the teachers to prepare students for mock mediation sessions and tournaments. To become a good mediator, a perfect equilibrium between theory and practice shall be maintained. Therefore, the teachers are invited to encourage students to use various types of learning tools.

4.1. Reading materials

As reading materials, students can use selected articles and book, as well as the Internet resources recommended by teachers. While giving the assignment for reading, the teacher can write specific issues to be searched for, to increase motivation of the students. Many reading materials are available in the project web page. For the beginners, the first introductory information is available at: <http://mediation.turiba.lv/index.php?id=40>. For intermediate students more profound reading materials are published at: <http://mediation.turiba.lv/index.php?id=42>

4.2. Video materials

For video materials it is recommended to review video lectures elaborated by the teachers of six partner universities of this Erasmus + Strategic partnership project, which are available at: <http://mediation.turiba.lv/index.php?id=44>

Also it is recommended to watch four training videos, which are available at: <http://mediation.turiba.lv/index.php?id=43>. If these training videos are watched in the presence of the teacher, it is advisable to pause the videos and immediately analyse certain aspects of mediation. However if these training videos are watched independently by students, the teacher shall assign a task to find and write out particular aspects of the mediation process. Such approach keeps higher interest of the students.

4.3. Practical activities

Confidence and skills of the students raise in a direct proportion of times they have practiced mediation. Therefore, it is advisable for teachers to organize as much practical activities as possible. Initially the students can practice small tasks, like asking open questions, showing active listening skills, rephrasing, etc. With every next practical activity the level and complexity of the task shall raise. Speech and sequence of introductory session is also worth repeating with or without auxiliary notes. Further, the students can try the whole mock-mediation process under supervision of a teacher, followed by a discussion and feedback.

5

A list of typical challenges for students while preparing for mock mediation sessions and tournaments

In this chapter a number of typical challenges met by students are collected while they are preparing for mock mediation sessions and tournaments. The authors of this Best Practice Manual have gathered the most frequently raised questions and concerns of the students, so that every mediation trainer could dedicate time to discuss these issues.

5.1. Content of mediation

No	A question / concern
1	Should / Can you hold yourself out of the conversation while the parties talk alone for a long time (while finding options)?
2	How should you respond to a frequent divagation of a question?
3	The meta-goals of the mediation have quickly defined the parties. As I have noted later, a more detailed questioning and tracking on the concretization of the metagoals would have been more constructive, since the defined goals were not "crisp" and little meaningful.
4	At the next mediation, I will ask more specifically what the parties need or want.
5	In the preliminary talk mr. F. spoke a lot and then in the settings rather less. How do I manage to take these topics into the settings as a mediator?
6	It must be made clear to the parties, that it can have consequences if important topics aren't included in the main tenders.
7	How do I deal with the situation, where the parties have a constructive conversation for a long time?
8	How do I react when I have the feeling that the parties won't stick to the truth?
9	Did we process the two reviewed topics enough or should we have worked longer on them?

10	The two parties have repeatedly burst into fights and it was very difficult to divert the conversation back into proper order. The parties couldn't even be interrupted by the mediators.
11	The parties must be aware of the question: Where are we now, and where do we want to go? In order for the mediation to work, there shouldn't be a better alternative for the parties than mediation.
12	A challenge was dealing with the fact that the elaboration of the needs of the parties was extremely difficult due to mutual accusations.
13	It would have been important to express concrete and clear goals and determine what should emerge at the end of mediation.
14	It wasn't possible for us to put focus of the two parties on their relationship to one another. Have we failed as mediators, are we to blame?
15	I still cannot see clearly what this case is, what is still behind it.
16	How do I deal with different goals?
17	How do I react to unpredictable situations?
18	How could we improve / optimize the beginning? (We have failed to define the course of the day)
19	How do we end up a day in a good manner, so that everyone is satisfied?
20	How can we ease off the situation?
21	How could a change of paradigm change work out in a better way?
22	How can I express topics and questions in a smart way?
23	In our case, the goal was neither realistic nor clearly defined.
24	I felt that the parties were acting too fast.
25	We were perplexed by the surprising denial and weren't capable of acting.
26	We gave the process control for a short time out of hand.
27	Although we were very fast at first, we overran the time frame.

28	An additional consideration of the situation made me aware that in several places a little more of perseverance could have been required by us, to enable a complete clarification.
29	It is difficult to differ who is engaged in general interest and who is trying to place his own interests and win fellow competitors.
30	What can be done in the pre-mediation, so that all involved individuals participate?
31	Which of the learned techniques and procedures I already can use in a good way?
32	How to deal with experts and cross-drivers?

5.2. Organizational structure

No	A question / concern
1	How can I deal with frequent time changings?
2	The initial situation for our case was difficult because a concrete assignment was missing.
3	In addition the insecurity factor by the parallel court proceedings and the related question of whether (especially from the median point of view) there is not an equivalent or even better alternative to a mediation which might be preferred.
4	How can I create a structure during mediation?
5	How do I deal with the deadly unreliability of the parties? Do I charge a fee?
6	How do we deal with the parties in a mediation during the break? What to look for when the break is spent together?
7	Because of the dropout it is very difficult for me to say it was a successful mediation.
8	As a second question, I didn't realize how could I come to a conclusion with this mediation. We couldn't write a real mediation agreement in my opinion.

9	We then agreed with her (the director) the next appointment. Unfortunately, this behavior didn't provide a good picture for the rest of the group, as the director didn't spend time together with them, instead she talked to us.
10	How do we deal with a large number of parties?
11	Is the director part of the mediation team and how do we deal with her role as the only leader in the team?
12	What can be done in the pre-mediation, so that all involved individuals participate?

5.3. Attitude of a mediator

No	A question / concern
1	Is a mediator allowed to deal with a case where he knows both parties?
2	It is difficult, as Mr. F. has repeatedly asked for advice and assistance.
3	How do I deal with incriminating situations?
4	How do I deal with manipulation attempts by the parties?
5	How do I behave when I feel that the parties are better off in a therapy?
6	The mediation was very difficult due to the psychological constitution of both parties, and frequently we weren't sure whether this case is mediable at all.
7	Overall, as a mediator, I felt the danger of a certain imbalance from the very beginning, insofar as the Party (consciously and unconsciously) tried very hard to put himself on the side of the mediators in order to make a constructive impression.
8	In particular, the question was that as the mediator team, we weren't 100% sure about the seriousness of the parties.
9	When you mediate for the first time, you are still insecure and afraid of making mistakes.
10	I faced the challenge of keeping distance. There is the question in the room, whether it is difficult for me to separate.

11	Conducting my sympathy for the two parties, I left my position to look at the case from the meta-level and lost the control of the process.
12	A party is more sympathetic to me than the other. How do I perceive my impartiality?
13	How do you deal as a mediator if there is a suspicion that only one party seems to be cooperative or rather responds socially requested?
14	It is problematic for me not to dig too deeply in a therapeutic way.
15	The case was completed for us, no longer pursuable - I saw no more sense in investing further time in this case.
16	For me, the whole thing always moved between a couple counseling and a mediation.
17	I lacked the distinction between mediator and teacher during mediation.
18	In addition, I was unsure whether I would be able to take up any reservations with sufficient sensitivity and to interfere with the allegation of impartiality and confidentiality.
19	There is always the danger, for me as a mediator, to become a "Dispute Settlement Body".
20	There are heated discussions and a battle of words, quarrels, which only partly I can manage as a mediator.

6

Inspiring examples of success and failure stories in mediation

6.1. Methodology

Initially, the project participants conducted phone calls to inquire about cases of successful and unsuccessful mediation. However, many mediators were not willing to provide their answers by telephone and preferred to fill out a written form. Therefore, a standard form was developed, containing the following questions:

- i) What was the legal nature of the parties to mediation (natural persons, SMEs, big corporations)?
- ii) Provide a brief description of the facts of the case.
- iii) At which stage did the mediation reach a critical point and how did you tackle it?

Project participants received more examples of successful mediation. Mediators were less willing to share examples of unsuccessful mediation.

In order to guarantee the confidentiality of mediation proceedings, the project participants have asked the mediators to conceal the identity of the parties to mediation and refer to them in generic terms only. Also, the project participants decided to conceal the identity of the mediators for the same reason as stated above.

The following sections offer examples of both, successful and unsuccessful mediation. The subsequent sections are followed by a brief conclusion. For comprehensive reading of each case there will be given a case number and name. To differ the numbering of cases between successful and unsuccessful ones, the number will start with either S (for “successful”) or U (for “unsuccessful”).

6.2. Successful case studies

The highest number of reported cases of mediation concerns family issues, where a married and non-married couples get divorced or split up and need to govern the parents’ relationship to their children, who are minors.

Case S1: Shared or separate custody

A typical example of family mediation is the following one: Mr. A and Mrs. A are getting divorced. Mrs. A wants to take care of her child exclusively, while Mr. A. would like to have a shared custody of their daughter. For that purpose he rents an apartment close to the new place of residence of Mrs. A who lives there with their daughter while keeping his job in the distant capital city.

Mrs. A rejects the initial idea of shared custody of their daughter. The mediator requests the parties to specify their time flexibility and needs to reconcile their work and the time necessary for looking after their daughter. Both parents can see that none of them has sufficient time available to provide an exclusive care of their child. Mrs. A concedes, that Mr. A's help would be appreciated. Both parents take time to think about the ways in which they could share their time with their child.

During the second mediation session Mr. A says that his employer has agreed Mr. A can work from a home office which makes his time more flexible. Mrs. A agrees that Mr. A can spend time with their child every other weekend and on two weekdays he can pick her up from school and bring her back to school on the following morning. Also, Mrs. A abandons her original idea of horrendously high child maintenance payments. The parties agree that they will resolve their future issues, if any, by means of mediation again. The mediator stressed that both parties tried to understand the other party's feelings of having sacrificed their lives for the family. Both partners felt they have been a victim of the behavior of the other. However, they appreciated the advantages of communicating together and the need for their child to keep in touch with both parents once the parents have separated.

Case S2: Division of heritage

Two sisters inherited their parents' house. Both of them wanted to live in that house, none of them was willing to sell it and divide the proceeds of the sale between the two. The housing situation of both sisters was rather modest. The elder sister was married, had a child, had a flat of two rooms, whereas the younger sister was not married yet, but was in a long term relationship and lived with her boyfriend in a small room. During the mediation session, it turned out that the younger sister was expecting a baby and was about to get married. Under the new circumstances of the case, the elder sister suggested that the younger sister moves into her house, she would move to the parents' house and compensate her younger sister for the difference of the price between the house and her apartment. The mediator stressed the willingness of the parties to come up with a creative solution. Also, a number of personal issues not related to the division of heritage was discussed but these managed to be mitigated and the mutual relationship between the sisters, who had not communicated for years before the mediation session, improved significantly.

Case S3: A dispute between two neighbors

One of the neighbors was disabled and confined to a wheel chair. The other neighbor did not want to let him cross his garden in order to gain access to the second entry to his house. The mutual relationships between the parties were so bad that they were unable to communicate directly. Two mediators were involved in this case, consulting the situation with each of the parties separately. The consultations revealed a deep mutual distrust in the other neighbor. Four mediation sessions were necessary to befriend the neighbors. During the last mediation session, the neighbors were able to communicate directly. They agreed on exchanging parts of their garden in such a way which would enable the disabled

neighbor to use both entries to his house. The mediator appreciated that the mediation session had not only resolved the access to the house of the disabled neighbor, but also significantly improved the relationship between the two families. This was a very positive side effect for all the parties concerned.

Case S4: A dispute about the construction agreement

A construction agreement was concluded between a couple (“the clients”) and a developer. The price for building a house was stipulated in the contract in an ambiguous way, one favoring the clients and the other the developer. The clients have moved into the house once its construction has been completed. The developer asked them to pay the outstanding sum of money which they rejected. The purpose of the mediation session was to agree on the sum to be paid by the clients to the developer. Initially, the clients were unwilling to pay anything at all. The mediator recalled the worst alternative to no agreement (WATNA) which would turn into a judicial decision forcing the clients to move out of the house. This changed the willingness of the clients to negotiate further with the developer. Finally, the sum of 300 thousand Czech crowns (an equivalent of 12 thousand EUR) was agreed as a compromise to be paid by the clients to the developer.

Case S5: Compliments to the parties

A mediator was having repeated individual sessions with spouses, who were divorcing in a very aggressive manner. The husband was a very wealthy real estate developer who turned out to be bisexual. The wife was a housewife who dedicated 14 years of their marriage only to the family and their four children. Suddenly when the wife discovered a secret life of her husband, the marriage fell apart. The husband was so humiliated by the fact that the wife has unveiled him, that he threatened to destroy the wife's life and take away their children. The wife was scared to death and didn't have any bargaining power either in the court or mediation. Then the mediator decided to try a technique of compliments. From all stories which the parties told to the mediator in individual sessions, the mediator brought to the opposing party only the positive side of the message and shaped it in the form of a compliment. After some time, the mediator started to feel the difference. The parties lost their initial aggression and fears, and finally agreed to meet in a joint mediation session, which was an enormous step towards a renewal of negotiations. Compliments and recognition of value and importance of the other person is a mighty tool.

6.3. Unsuccessful case studies

In the subchapter 6.3 of unsuccessful case studies not only fully unsuccessful cases are analysed, but also difficult and unexpected moments in mediation, with which the mediators dealt during the mediation process.

Case U1: Return of the gift

One of the parties of mediation (a divorced husband) asked for an expensive present (a real estate) to be returned from the divorced wife. The present was made

during the marriage and the reasons stated by the divorced husband ran along the same lines in both: an immoral behavior on the part of the divorced wife. The Czech Civil Code provides the possibility of returning a present if the person who receives it displays bad behavior with respect to the person who made the present. Since the parties were unwilling to compromise and the mediation was ordered by the court, they have already paid the court fees, they preferred to have the case resolved by judge. However, in another similar setting, the mediator reported a successful outcome of the situation, where parties decided to transfer the property rights to a real estate to their child, minor, after the divorce.

Case U2: Sale of business shares in a software company

One of the shareholders was willing to sell his share as he no longer wanted to continue his participation in the company and received an offer to work abroad. On the other hand, the other shareholder wanted to make further investments to the company in order to develop a new project which would significantly increase the value of the company. Under the company's statutes, the transfer of the business share had to be approved by the other shareholder, who disagreed with the transfer for a lower price that would not bring extra investments to the company needed for the new project. This "core" shareholder said he would go to court and sue the other shareholder who wanted to leave the company for compensation of damages, lost profit or for any other reason to stop the transfer of the business share.

During the mediation procedure it turned out that the two shareholders were relatives. They were cousins and instead of discussing business issues they started to insult each other's personal behavior and that of their family members opening up old wounds related to the family's history. Despite repeated separate meetings with the parties, the shareholders were unable to talk together in a constructive manner. The mediator tried to shift the parties' attention to the initial case, but this proved to be impossible. The mediator believes that if more family members would be willing to participate in the mediation (which was not the case) the case could have been resolved successfully, also improving the mutual relations between the members of the two families in the long run.

Case U3: A city council v the developer of heating plant

A dispute arose between a city council represented by a mayor and a developer in charge of building a heating plant. The developer also promised to obtain state funding for the construction of the plant apart from building it, asking the city to transfer the property rights to the land lots concerned to this company. The city transferred the ownership rights to the developer which failed to complete the project, yet it kept the ownership rights to the land lots concerned. Therefore, the city requests the land lots to be transferred back to the city. The developer rejects this as he has made some investments during the initial stages of the project. The developer wants to avoid the lengthy litigation. The representatives of the city council were unable to agree on the sum which the city should pay for the transfer of ownership to the land lots concerned. They believed that given their political accountability, the court decision is going to be more transparent and their constituency will not be

suspicious of their making an unfair deal with the developer. Hence, the reasons for this unsuccessful mediation seem to have a political background.

Case U4: Get me a cappuccino

A mediator received an e-mail from a representative of a bank saying that there is a dispute with one of the employees of the bank. The mediator exchanged e-mails with both parties – the employee and the representative of the bank, agreeing on a particular time of meeting. However, when the mediator welcomes parties to his office he discovers that a bank is represented by three persons and the employee is coming together with two supporters from the trade union and the HR department. A mediator has quite a small office, which is too narrow for all the persons present. Now the mediator regrets he hasn't asked before how many persons will be coming. And if that would not be enough, the representatives of the bank asks to the mediator: "Could you get me a cappuccino, please?" Of course, the mediator does not have a coffee machine in the office. So the situation is highly uncomfortable even before the mediation process has even started.

6.4. Conclusion about collection of successful and unsuccessful mediation cases

Mediators who have not provided specific data on unsuccessful mediation believe that the main reason for failed mediation consist of long-term personal disputes between the parties concerning matters outside the scope of the mediation sessions. Since mediation in civil and commercial law disputes is still rather a new phenomenon in the Czech Republic, many persons continue to believe that the only way to resolve a dispute is going to court. This long standing belief is being changed very slowly.

Another reason for unsuccessful mediation may stem from the intervention of attorneys-at-law who have little knowledge and understanding of mediation and intervene in an unconstructive way. If mediation resolves their client's problems, attorneys-at-law cannot obtain higher fees for representing their client before a law court. Such case, however, was reported only once.

The highest number of successful mediations concerned an agreement on taking the custody of children minor of age following the divorce or separation of their parents. It appears that parties of mediation appreciate the individual approach to their situation and the possibility to actively participate in the outcome of the agreement, whereas, a judge in a judicial procedure would have far less time and interest in taking a tailor made decision. An agreement on taking the custody of children negotiated during the mediation sessions can be submitted to the court to be approved as a settlement which is enforceable under Czech law.

7

Furter reading materials: Links to useful internet resources for preparation for mock mediation sessions and tournaments

In this chapter a list of links to useful internet resources on mediation is presented. The chapter is divided in six subchapters covering six partner countries of the project.

7.1. Austria

No	Link	Short description of the contents of link	Language
1	https://mediation.uni-graz.at/	Information about mediation and alternative dispute resolution	German/ English
2	http://www.mediatoren.justiz.gv.at/mediatoren/mediatorenliste.nsf/contentByKey/VSTR-7DYGZB-DE-p	List of mediators	German
3	https://www.help.gv.at/Portal.Node/hlpd/public/content/10/Seite.100800.html	Description of mediation and the progress itself from government	German
4	https://www.mediatorenausbildung.org/ausbildung-mediation/	Description of mediation and the progress itself	German
5	http://weiterbildungsfinder.de/mediation/	Description of mediation and the progress itself plus a documentary video	German
6	https://www.bmb.gv.at/schulen/unterricht/ba/peermed06_13866.pdf?5te5kz	Guide: Peer mediation in schools, Ministry of Education	German
7	https://www.trend.at/technik/business-solution/wirtschaftsmediation-qualitaet-oesterreich-368413	Article: "Economic mediation: Quality in Austria is very good"	German
8	https://www.oebm.at/ausbildung-eintragung.html	Austrian Association for Mediation	German

No	Link	Short description of the contents of link	Language
10	http://www.mediation.at/	Information, listed mediators	German
11	https://www.bmfi.gv.at/familie/trennung-scheidung/mediation.html	Information on mediation while divisions and divorces. Federal Ministry for Youth and Family	German
12	http://www.co-mediation.or.at/	Austrian association for CO-mediation ; Organization training mediators	German
13	https://www.psychotherapie.at/	Association for the advancement of mediation; Organization training mediators	German
14	https://www.oebm.at/	Austrian Association for mediation processes; Mediation society/association NGO training mediators	German
15	http://www.mediation-vfm.at/#home.html	Association for the advancement of mediation; Organization training mediators	German
16	https://www.avm.or.at/	Lawyers' society for mediation and collaborative negotiation	German
17	https://www.winwinmediation.at/	Company for applied mediation and conflict management; Organization training mediators	German
18	https://www.sozialministeriumservice.at/site/Menschen_mit_Behinderung/Gleichstellung/Mediation/	Social Ministry of labour, social affairs and consumer protection	German
19	https://www.wko.at/branchen/information-consulting/unternehmensberatung-buchhaltung-informationstechnologie/wirtschaftsmediation/Lehrlingsmediation.html	Information about apprentice mediation	German
20	http://www.medius-gmbh.at/hauptseiten/news/medius-konflikt-navigator.html	Information about a conflict-navigator	German

7.2. Bulgaria

No	Link	Short description of the contents of link	Language
1	http://pamb.info/	The biggest mediation association in Bulgaria, offering a wide variety of teaching courses, list of mediators and the applicable regulatory in Bulgaria in the field.	Bulgarian/ English
2	http://www.justice.government.bg/42/	The website of the Bulgarian Ministry of Justice providing full access to the comprehensive list of all registered mediators in the country, registration procedures – both for receiving a license to practice the profession of a mediator and for certifying training organizations with the right to offer trainings	Bulgarian
3	http://mediation-net.eu/index.php?lang=en	Platform developed under the EU PROJECT "EUROPEAN NETWORK OF MEDIATORS FOR CROSS BORDER DISPUTE RESOLUTION", featuring additional information regarding the legal framework and options for collaboration in-between organizations from various EU member states.	Bulgarian/ English
4	http://elearn-childabduction.eu/index.php/en/	The site features a e-Learning Course is designed to qualify practitioners dealing with cases of parental cross-border child abduction to protect the best interest and welfare of children within the legal system through improved cross-border cooperation and the integration of mediation.	English
5	http://mediationtea.com	Site, maintained by a Bulgarian mediator practicing in the country and featuring numerous articles on diverse topics ranging from the conceptual theoretical paradigms of mediation to the gradually developing case law in the country.	Bulgarian
6	https://www.mediation.bg/	The unified portal in Bulgaria regarding mediation and mediation centers offering training in the field.	Bulgarian/ English

No	Link	Short description of the contents of link	Language
7	http://blog.amandabucklow.co.uk/	Informational blog providing various articles on the different perspectives of mediation.	English
8	https://www.mediate.com	Resourceful platform with articles on various mediation topics	English
9	http://www.wipo.int/amc/en/mediation/guide/	The World Intellectual Property Organization providing additional information on the topics of mediation	English
10	https://blog.globalpoundconferece.org/about/	A brand new platform seeking to shape the future of mediation and amicable dispute resolution	English
11	https://www.studymediation.com/	A platform developed for students in mediation operating in the University of National and World Economy, featuring various materials and presentations	Bulgarian
12	https://www.pon.harvard.edu/	Harvard program on negotiations and mediation	English
13	https://iccwbo.org/dispute-resolution-services/mediation/mediation-rules/	ICC Mediation Rules, Clauses and Procedures	English
14	http://kluermediationblog.com	Kluwer Blog on mediation	English
15	https://www.resolution.institute/	The Resolution Institute offers paid and partially non-paid access to various documents in the mediation field.	English

7.3. The Czech Republic

No	Link	Short description of the contents of link	Language
1	https://www.youtube.com/watch?v=nrxCmeuFMaA	Beginner's guide to mediation - a video by a certified mediator	CZE
2	http://kpep.vse.cz/projekt-erasmus-o-mediaci-2016-2019/akce-poradane-v-ramci-projektu/	Video on the theory of mediation with a mock-mediation created in the Framework of the Erasmus- project	CZE
3	http://www.academia.edu/4099990/Current_social_and_legal_challenges_for_a_changing_Europe	A conference paper by Nicole Grmelova on ADR, including mediation at pp. 150-165	EN
4	http://www.creducation.org/resources/curwen_peer_mediation_workbook_webversion.pdf	A student workbook for peer mediator training	EN
5	https://www.irex.org/sites/default/files/node/resource/conflict-resolution-and-peer-mediation-toolkit.pdf	Conflict Resolution and Peer Mediation Toolkit – a book from a non-profit organization IREX	EN
6	http://www.ksp.upol.cz/cz/clenove/profil/ruzicka/ucebnice.pdf	A course book about mediation and family mediation from Palackeho University in Olomouc	CZE
7	https://www.youtube.com/watch?v=1vFMgoPM0Wg	A discussion between Ales Hodina, leading Czech expert on family relationships, and Lenka Pavlova, director of European institute for reconciliation, mediation and arbitration	CZE
8	https://www.youtube.com/watch?v=_qp4WOPJiVA	A discussion between Hana Zalabakova, psychiatrist, and Jiri Fiala, chairman of a citizens(") association focused on custody trials	CZE
9	https://www.youtube.com/watch?v=E32KsK0M93s	Tip for Mediation Success – a video by an US attorney specialized on civil litigation	CZE
10	https://www.youtube.com/watch?v=fS0T-Bbq5tU	An interview with Robert Mnookin, director of Harvard negotiation research project	EN
11	https://www.youtube.com/watch?v=UBH7OY7_QGk	A reenacted mediation process between a separated couple deciding on parenting arrangements by Family Court of Australia	EN

No	Link	Short description of the contents of link	Language
12	https://www.mediate.com/index.cfm	An US website about mediation with articles, blogs and possibility to find a mediator in different countries	EN

7.4. Italy

No	Link	Short description of the contents of link	Language
1	https://www.camera-arbitrale.it/it/formazione-camera-arbitrale/index.php?id=169	Camera arbitrale di Milano (ADR - Mediation) website. Teaching materials, seminars, courses, etc.	Italian
2	http://www.ordineavvocati-genova.it/organismo-di-mediazione-composizione	Organismo di mediazione dell'Ordine degli Avvocati di Genova. Genoa's mediation organism provides courses to become mediator; it's also responsible for the control over the mediation proceedings and for the fairness of mediators' conduct	Italian Italian
3	https://www.giustizia.it/giustizia/it/mg_2_7_11.wp	Italian Ministry of Justice webpage - section devoted to explain the main issues about mediation in civil and commercial matters	Italian
4	https://webstat.giustizia.it/_layouts/15/start.aspx#/SitePages/Studi%20analisi%20e%20ricerche.aspx	Italian Ministry of Justice webpage - section devoted to the statistics about mediation in Italy	Italian
5	http://www.altalex.com/cerca?argomento=mediazione-civile	News about mediation in Italy	Italian
6	http://www.altalex.com/documents/altalexpedia/2016/11/16/mediazione-civile	Compendium about Italian mediation rules and procedures	EN

7.5. Latvia

No	Link	Short description of the contents of link	Language
1	http://sertificetimediatori.lv/	A web page of certified mediators of Latvia, charge free mediation services and certification and attestation procedure.	Latvian
2	http://www.mediacija.lv	A web page of mediation in Latvia. Courses, seminars, new books.	Latvian
3	http://adr.mediacija.lv/	A web page of NGO Mediation and ADR. Courses, seminars.	Latvian
4	https://www.tm.gov.lv/lv/cits/mediacija	The Ministry of Justice. Topical information about mediation.	Latvian, English
5	https://tiesas.lv/Contents/Item/Display/5267 https://www.tiesas.lv/Media/Default/baneri/mediacija_final.pdf	Courts of Latvia. Mediation in the dispute settlement.	Latvian
6	http://advokatura.lv/lv/aktualitates	The Council of Sworn advocates of Latvia. In the settlement of disputes advocates are also applying mediation.	Latvian, English
7	https://ltmc.lv/	The Training Centre for Judges of Latvia. Also seminars about mediation are organized.	Latvian, English
8	http://www.cac.lv/lv/mediacija	The NGO Victims Support Centre. Provides mediation sessions.	Latvian, English, Russian
9	http://mediation.turiba.lv/	Turība University web page. Provides mediation studies and study materials.	English
10	http://at.gov.lv/files/uploads/vfiles/1_Sakums/Mediacija.pdf	Supreme Court of Latvia. Information leaflet about mediation.	Latvian
11	http://www.barintiesuasociacija.lv/mediacijas-pakalpojums	The NGO Association of Employees of Latvian Custody Courts.	Latvian
12	http://www.centrsdardedze.lv/lv/pakalpojumi/vecakiem/mediacija	The NGO Dardedze. Mediation is family cases.	Latvian, English

No	Link	Short description of the contents of link	Language
13	https://www.vpd.gov.lv/izlgums	The State Probation Service. Organization of settlement agreements in criminal cases. Restorative justice.	Latvian, English
14	https://www.rsu.lv/studiju-programma/socialais-darbs-magistrantura-1	Stradiņš University. Mediation studies.	Latvian

7.6. Lithuania

No	Link	Short description of the contents of link	Language
1.	http://www.arbitrazas.lt/tarpininkavimas%20mediacija%20mediatoriai.htm	Arbitration court and mediation	Lithuanian English Russian
2.	https://e.teismas.lt/lt/public/teismin%C4%97-mediacija/	Courts of Lithuania. Information about mediation service.	Lithuanian English
3.	http://www.seimosmediacija.lt/taikinamasis-tarpininkavimas/apie/mediatoriai.html	Family mediation	Lithuanian English



Annex 1

Equal case for all participants

Mediation in Civil Case

FAMILY MAINTENANCE DISPUTE BETWEEN MOTHER AND DAUGHTER

Ms Ivonne is a 95 years old lady living in a private house with very modest, even poor conditions. Ms Ivonne has 3 children – Anne (72), Christen (70) and Robert (65).

15 years ago when Ms Ivonne was 80 years old, she decided to conclude a specific agreement with her daughter Anne, according to which Ms Ivonne re-registers her house to the name of Anne, and Anne promises to support her mother financially all her life. This is so called Maintenance Agreement.

Ms Ivonne does not have any other property – only the house where she lives in. After she signs the Maintenance agreement with the daughter, she does not have any other property. For Christen this is fine and she does not raise any objections, because Anne anyway always have taken care of the mother. Moreover, Christen has her own property and good relations with the mother and her sister Anne. For Robert this is shocking, because Ms Ivonne has a very bad relationship with her son, especially after he got married (at the age of 32), because Ms Ivonne hates the wife of Robert.

So after the Maintenance agreement is concluded, Anne regularly brings her mother money, so the Mom can buy food, clothes and pay for doctor services. Anne frequently visits her mother and helps her around the garden – to water plants, to pick out weeds, to harvest fruits and berries. 10 years ago Anne has moved to live in Canada, but she visits her mom at least twice a year, every time staying at least for 4 weeks. And every time she pays to her mom EUR 5000 – 7000, which maintains good living standard for Ms Ivonne.

One bad day, 2 months ago, Ms Ivonne falls at home and badly hits her head and legs. She calls Anne, who can't immediately arrive from Canada. Anne calls her sister and brother, and Robert is the first one who arrives to the house of the mother, and calls the emergency doctors. After this event, the attitude of Ms Ivonne completely changes. Now Robert has become her favourite child. She communicates only with Robert, and does not pick up phone calls neither from Anne nor from Christen. Even when Anne arrives to her mother, Ms Ivonne screams and orders the daughter to leave her house immediately. Ms Ivonne does not accept any money or help from Anne, and says that only Robert loves her and takes care of her. Ms Ivonne also fires the housekeeper, who was provided by

Anne. So in these circumstances Anne can't help her mother anymore, although she would love to.

1 month ago Ms Ivonne raises a claim in the court and asks the judge to annul the Maintenance agreement, claiming that Anne is not fulfilling this agreement. Ms Ivonne claims that Anne has never paid her any money, never helped at home or with doctor services. Anne is shocked and she can't prove the opposite, because all the money has been given to mother in cash and there is no evidence about payments. The mother does not have a bank account and there is even no chance to transfer her any money. Also the mother re-registers all communal supply agreements (electricity, heating, gas, TV, water) from Ms Ivonne to her son Robert, so Anne can't pay for these services and help her mother anymore.

Anne is not happy about the litigation, because this is indeed humiliating to litigate with her own mother. Moreover Anne feels a pity, because her mother has either forgotten and neglects all the help which Anne provided to her mother all previous 15 years until that bad accident. With the money with which she helped to her mother all previous years she could have even bought a similar house, and Anne hoped that one day she will move to this house after her mom passes away.

Ms Ivonne is not happy either about litigation. But she truly feels that Robert has saved her life after that bad accident. Ms Ivonne is so happy that she had renewed good relationship with Robert and found a common language with his wife (Ms Ivonne's daughter-in-law). Now she does not know any other way how to give a share from her property as to litigate with Anne, and by the help of judgment to annul the Maintenance agreement, which she later plans to register to Robert's name. Ms Ivonne thinks that Anne is wealthy enough, and she regrets that she registered the house to Anne's name. Ms Ivonne is strongly supported in the court by her son Robert and his wife. Anne is supported by her sister Christen.

The judge sends both parties – Ms Ivonne and Anne to a mediator.

Organize mediation session in a civil case with the following persons:

1. Two co-mediators
2. Ms Ivonne – 95 years old mother (may be supported by her son Robert)
3. Anne – 72 years old daughter (may be supported by her sister Christen)

Annex 2

Equal case for all participants + Confidential information for each party

Mediation in Civil Case

TEACHERS IN A DISPUTE

Two teachers – Ms Samanta Kropiweic (49) and Ms Beatriz Wojcieszek (45) – working in a small, but prestigious school in Latvia have found themselves in a conflict. Both of them teach a foreign language – Polish, which is a mandatory subject in a particular school. It is the middle of the semester, when the conflict becomes unbearable. Ms Samanta Kropiweic in addition to the teacher's job is also an assistant of the director in administrative matters. She has been born to be a leader and her activity is overwhelming in every aspect of the school life. Ms Beatriz Wojcieszek is also trying to promote additional activities for the school children, organizing events, friendship projects with schools from Poland and art classes as an optional arts-and-crafts club.

Both teachers many have times complained to the director of the school about their objections towards each other. The teacher Samanta Kropiweic says that Beatriz is too slow and too vulnerable. Whatever Samanta says to Beatriz, the latter takes too personally and starts crying. Samanta says she does not have any problems – Beatriz, who has. From the other side the teacher Beatriz Wojcieszek says that Samanta is bullying her and gives her instructions and commands without any reason. Samanta criticizes any initiative of Beatriz, and is arrogant and mean in all aspects. Beatriz can't keep working in the same small school with a colleague who constantly humiliates her.

The director of the school feels quite helpless in this situation. The school may not lose any of teachers – where else they will find a professional teacher of Polish language in Latvia, especially in the middle of the semester. Moreover, a unique combination of both teachers – their ability to multitask – makes both of them truly irreplaceable.

The director offers both teachers to meet with a mediator, and teachers agree. The purpose of the mediation is to resolve the dispute on how to proceed working in the same school, or is it better to leave the school for one or both teachers.

Confidential information to Ms Samanta Kropiweic

Samanta wants to stay in the particular school very much. School is almost all her life. She does not have a family, so all her time is invested in school activities. The God has blessed her with super high energy, so she is perfectly multitasking in school with all her talents. She is loved teacher of Polish language by her school children. She easily organizes administrative assistance works for the director of the school. But over all and especially Samanta loves representation functions. Due to the fact that the school is small and schoolchildren learn special and quite rare for Latvia foreign language – Polish – the school is invited to many representative events – concerts in Latvia and in Poland, events for ambassadors and officials of Ministry of Education, etc. Samanta feels completely associated with the school and even hopes that one fine day she could become a director of the school. Moreover – if she would move to work to another, larger school, nobody would maybe even notice her. Instead, in a smaller school she can be a star and behave quite bossy. Regarding the feelings of Beatriz, she does not care much. In her eyes Beatriz is quite weak and irritating in her vulnerability. At the same time, Samanta understands that Beatriz is also trying to find her place in a school, so she does not feel threatened in her strong positions.

Confidential information to Ms Beatriz Wojcieszek

Beatriz wants to stay in the particular school, because her education of Polish language teacher and arts-and-crafts teacher fit best of all in the particular school. If she would move to a different school she could do just one thing – to teach Polish or to teach arts-and-crafts. However, Beatriz loves both things. Beatriz has a nice family and, therefore, can't spend in the school as long working hours as Samanta. Accordingly, Beatriz manages to do a lot, but still not so much as Samanta. Therefore, many times Beatriz feels underestimated by the director of the school and by her colleague Samanta. Beatriz loves working with children, but the administrative issues connected with her colleague Samanta gives her bitter moments. Beatriz would love to feel respected and honoured so much more than she feels now. Beatriz is not a beginner teacher, so she can't stand critique and constant comments about the necessity to improve everything that she has accomplished in good faith.

Annex 3

Case from the perspective of two parties and the mediator

Mediation in Civil Case NEIGHBOURHOOD DISPUTE

Role for the participant of the mock mediation session: Frank

Frank Smith is 25 years old. He has moved to live in Latvia 3 months ago. He is a 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. Antonia Daugaviete, 72 years old lady. There are 5 more apartments in this building. Mrs. Antonia lives in one of these apartments. In other 4 apartments live people of the same age as Mrs. Antonia – all of them are already retired.

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 keep 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. Antonia. Financially Frank is very accurate and pays all the bills and rent of the apartment, which is quite high taking into account the technical condition of the apartment. However, Frank likes the district and wants to stay in the apartment, because it is located in a quiet place where it's nice to relax after loud daily work.

Mrs. Antonia 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. Once Mrs. Antonia discovered that Frank has put the beautiful small metallic doors of the stove in the garbage. Mrs. Antonia remembers that in her childhood – 65 years ago – when her grandfather built this house – she assisted her father 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 Mrs. Antonia, he changed these doors and installed new ones.

Now Mrs. Antonia 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: Antonia

Antonia Daugaviete is a 72-year-old woman who owns a rental house in the suburbs of Riga. 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 known or throughout her life. Home dwellers are like a large family grown up at the same time, with similar views and equal financial opportunities.

Since Mrs Daugaviete's husband died and her retirement pension is low, she rented out one apartment to a young Englishman Frank Smith. Unfortunately, Mrs Daugaviete soon regretted renting the apartment to Frank. He's dressed terribly indecent – in worn pants, obscene shirts, and he regularly drives different guys to visit him at home. The house has a bad sound insulation, so Mrs. Antonia is listening suspiciously to noises coming from the 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 the oven, which her grandfather built 65 years ago when she was a little girl. Frank replaced the doors that were old, however, sweet a memory from her grandfather's time.

Mrs. Antonia 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. Antonia, Frank's clothes are provocative, also his lifestyle is unacceptable, the type of the music, he listens to is weird and scary. In other words – to Mrs. Antonia Frank looks like from a different planet. Moreover he is a foreigner and she does not trust foreigners, because all her life she has lived in just one country, even one city, without meeting much people outside.

Financially Mrs. Antonia 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 the house, but from the other side she is frustrated about his very modern life style. It would not be easy for Mrs. Antonia to find a new renter, because the house is, overall, in a bad technical condition.

Role: The mediator

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

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