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SUPPORT TO THE IMPLEMENTATION OF MEDIATION IN COURTS AND BAR ASSOCIATIONS IN SERBIA



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Publisher: Partners for Democratic Change Serbia

April 2017

Table of Contents

I. Foreword	4
II. Serbia Pilot Court Mediation Project.....	6
III. Legislative Framework for Mediation in Serbia.....	9
IV. Legal framework for referring cases to mediation	14
V. Development of internal courts' system for referring cases to mediation.....	18
VI. Mediation Support Office in the Second Basic Court in Belgrade	20
VII. Mediation and Lawyers	33
VIII. Cacak Bar Association Mediation Center	37
IX. Conclusion.....	38
X. List of Annexes.....	40

I. Foreword

The publication *Support to the Implementation of Mediation in Courts and Bar Associations in Serbia* is the result of work within the *Serbia Pilot Court Mediation project*, implemented by *Partners for Democratic Change Serbia* (Partners Serbia) in the period from December 2015 to April 2017. The Embassy of the Kingdom of the Netherlands in the Republic of Serbia recognized the importance of enhancing implementation of mediation in Serbia and supported this Project through its MATRA program.

The project has been implemented with the aim to contribute to increased efficiency of the judiciary by resolving the existing backlog and reducing the inflow of new court cases through a more efficient use of mediation for out-of-court dispute resolution before and after the initiation of the court proceedings. The project has been implemented with the active participation of pilot courts - Second Basic Court in Belgrade, Commercial Court in Belgrade, High Court and Basic Court Cacak, Bar Association of Cacak, active involvement of the Judicial Academy, and in coordination and with support of the Ministry of Justice, Supreme Court of Cassation, Bar Association Academy and Serbian National Association of Mediators.

The project provided citizens with the access to faster and more affordable resolution of disputes through Mediation Support Offices and info-desks in the pilot courts and the Mediation Center of the Bar Association of Cacak. The establishment of these services was preceded by a series of trainings for judges on selecting and referring cases to mediation; judicial assistants to identify cases suitable for mediation, case management and communication with clients; and for lawyers for mediation advocacy and representing clients in mediation. In addition, a group of judges, judicial assistants, lawyers and representatives of the Judicial Academy attended an accredited Basic Training for Mediators, which is one of the prerequisites for obtaining mediation licence from the Ministry of Justice. Also, a number of promotional activities were conducted: six panels for lawyers on the advantages of resolving disputes through mediation were organized; leaflets and posters were printed and disseminated to inform citizens about the work of Mediation Support Offices in the pilot courts and the Mediation Center of the Bar Association of Cacak.

At the end of the implementation of the project we are pleased that the project has achieved the goals and successfully implemented planned activities. In this publication, we have tried to present experiences of the project implementation, with a special focus on three topics we believe that the key stakeholders in the Serbian justice system may find helpful to contribute to more intensive use of mediation in resolving existing and future disputes.

Firstly, this publication provides an overview of the legal framework for the use of mediation in Serbia, with a focus on relevant international standards, key novelties of the Law on Mediation enacted in 2014, and the provisions of other domestic laws stipulating the use of mediation.

The second part of the publication presents the role of courts in referring cases to mediation. It also provides a brief presentation of activities carried out within this project in the Second

Basic Court in Belgrade, which ultimately resulted in the establishment of the Court Mediation Support Office.

Furthermore, the role and importance of the bar associations for the use of mediation in resolving disputes are still widely undermined in Serbia. For this reason, the third part of the publication offers a novel approach in Serbia to the relationship between mediation and the bar associations, where we emphasize the advantages of mediation both for clients and lawyers.

Finally, in the Annex section, the publication presents a number of documents, forms and materials developed within this project, including: policy proposals for the improvement of bylaws and courts' internal acts in the field of mediation; forms used within the Mediation Support Offices in the pilot Courts and Mediation Center of the Bar Association of Cacak. Also, invitation letters and programs of workshops, seminars and trainings organized for the participants of the project are presented, as well as promotional materials developed and distributed to beneficiaries. Development of all these documents, training programs and promotional materials, coupled with the implementation of project activities, was a prerequisite for the creation of a comprehensive and sustainable system for the use of mediation in courts and bar associations in Serbia.

We use this opportunity to express our gratitude to the presidents of the pilot courts, judges and judicial associates and assistants who participated in the implementation of the project activities. Their involvement was instrumental in the process of establishment of the Mediation Support Offices and info-desks in the pilot courts. We owe special gratitude to Nebojsa Djuricic, a judge of the Second Basic Court in Belgrade, who actively participated in the establishment of the Mediation Support Office in this court and drafted a chapter of this publication on the use of mediation in courts.

We would also like to thank members and employees of the Bar Association of Cacak, including the President of the Bar, Jasmina Milutinovic, for their participation in the project and efforts to establish the first mediation center of this kind in the Bar Association of Cacak.

We also would like to thank the Judicial Academy, its Director Nenad Vujic, and especially Mirjana Golubovic, for their unreserved support and assistance in implementing the project activities.

We hope that this publication will help the Ministry of Justice, Supreme Court of Cassation and the Bar Association of Serbia in establishing a sustainable mediation system in Serbia, and at the same time motivate various judicial professions (judges, lawyers, mediators, etc.) to utilize and promote mediation as the primary method of dispute resolution.

Blazo Nedic
Partners for Democratic Change Serbia

II. Serbia Pilot Court Mediation Project¹

Start of implementation of the new Mediation Law in Serbia² (the Law) created a need for a comprehensive campaign for promoting the use of mediation, most of all by courts and the bar, in order to prepare all the relevant stakeholders for future use of this alternative dispute resolution method. Serbia Pilot Court Mediation Project, implemented from December 2015 to April 2017, had an overall goal of increasing efficiency of the judiciary through reduction in the number of court cases and improved use of mediation for dispute resolution before and during the court proceedings. With the active participation of judiciary, Judicial Academy, and with the support of the Supreme Court of Cassation (SCC), Ministry of Justice, Bar Association of Serbia (BAS) and Serbian National Association of Mediators (NUMS), Partners for Democratic Change Serbia (Partners Serbia) implemented this project that raised capacities of “pilot” courts in Belgrade (Second Basic and Commercial Court) and Cacak (Basic and High Court), and the Cacak Bar Association for using mediation, as well as the Judicial and Lawyers Academy for education in this area. In addition, Ministry of Justice formed a working group consisting of representatives of all the relevant stakeholders, with the task to analyse the project results, and monitor and coordinate promotion of mediation in Serbia.

As the Project's central activity, “Mediation Support Offices/Services” were established within the “pilot” courts, where, in coordination with the Judicial Academy, the following activities were conducted: 1) training of judicial assistants, where, in addition to their regular duties, they were also trained to provide the clients with all necessary organizational and technical support for referral and use of mediation, 2) professional training of judges for selection and referral of mediable cases, and 3) system for mediation case - management was established.

The Project also included the implementation of promotional and educational activities within the Bar Association of Serbia, and especially within the Bar Association of Cacak, aimed to inform lawyers and law trainees about new legal solutions and the advantages of mediation in resolving disputes before and during court proceedings. These activities were also aimed at sensitizing lawyers towards mediation, as well as improving the skills needed to use mediation in everyday law practice. Two important results have been achieved: the initial resistance that individual lawyers might have had towards mediation as an out-of-court dispute resolution method was overcome, and lawyers have become promoters of mediation and mediation service providers in the upcoming period.

All these activities were carried out in coordination with the SCC, the Ministry of Justice, the Judicial Academy, BAS and NUMS, in order to ensure the establishment of a functional connection between courts and lawyers as beneficiaries of mediation services, on the one

¹ The Project is funded by the Embassy of Kingdom of Netherlands in Belgrade.

² Law on Mediation, "Official Gazette" of RS 55/2014, which has been implemented since January, 1, 2015.

hand, and licensed mediators, as providers of high quality mediation services, on the other hand, which enabled a sustainable and efficient system for out-of-court dispute resolution, which will lead to an increase in the efficiency of the judiciary, easier access to justice and increased public trust in courts and other institutions.

Specific Project objectives and activities:

Specific objective 1: Capacity building of "pilot courts" for referring mediable cases, before and during court proceedings.

1.1. Establishing "Mediation Support Offices" in pilot courts. Selection of judicial assistants and two-day training in pilot courts to provide the necessary organizational and technical support to parties to use mediation before and during court proceedings, including coordination with the Registry Office and "case-management" of cases referred to mediation.

1.2. Workshops with judges from civil departments within pilot courts for the presentation of details and practical aspects related to the implementation of the new Law and determining guidelines for selecting and referring mediable cases, using the existing capacity of courts for providing mediation services (judges - trained mediators) in accordance with the new Law, as well as networking with mediation service providers and availability of licensed mediators.

1.3. Development and application of subsystems for managing court cases referred to mediation within pilot courts (development of internal case-management system).

1.4. Design and development of promotional materials through printing and distribution of leaflets and posters, as well as on-line campaigns through websites and other social network accounts of pilot courts, Partners Serbia, NUMS, Judicial Academy and Lawyers' Academy/Chamber, and Ministry of Justice.

Specific objective 2. Training and capacity building of lawyers, aimed at facilitating the availability of mediation to citizens and legal entities, before and during court proceedings.

2.1. One-day workshops in the region covered by the Bar Association of Cacak and Bar Association of Belgrade aimed at promoting mediation, introducing lawyers to basic concepts and practical implementation of the new Law.

2.2. Two-day seminars for lawyers on "advocacy and mediation" aimed at gaining skills required to effectively represent the interests of their clients in mediation procedures.

2.3. Basic 5-day training for 20 mediators, in accordance with the Rulebook on Basic Training for Mediators, which is a precondition for obtaining the license to mediate, issued by the Ministry of Justice. In addition to lawyers, representatives of other Project participants were also participants at this training.

2.4. Training of the "pilot bar association" staff for establishing a case-management system of mediation cases.

Specific objective 3. Monitoring and reporting on the use of mediation before and during court proceedings in pilot courts within the Bar Association, in coordination with the SCC, BAS, NUMS and the Ministry of Justice.

3.1. Establishing the Focus Group for monitoring the use of mediation in resolving disputes before and during court proceedings, involving representatives of pilot courts, pilot bar associations, Ministry of Justice, SCC, Judicial Academy, BAS, Lawyers' Academy and NUMS.

3.2. Draft and distribution of Project implementation reports in pilot courts and bar associations, as well as on the results of the use of mediation before and during the court proceedings, with recommendations for the use within all courts and bar associations in Serbia.

By establishing "Mediation Support Offices/Services", training of judicial assistants, as well as training of judges and lawyers for referring cases and using mediation, a pool of trained persons was created, needed for successful development and wide use of mediation in dispute resolution before and during the court proceedings, especially in regard to judges referring cases and lawyers being motivated to represent clients in mediation. Such capacity building and establishment of a network of trained staff in courts and bar associations ensured wide availability of mediation to citizens and legal entities, primarily in the regions covered by the pilot courts and pilot bar association, and eventually throughout Serbia, which so far has not been the case. Finally, this sets the foundation for the future strategic networking of courts and organizations providing mediation services, so that courts will also have access to organized and high-quality mediation services, especially bearing in mind that the new Law on Mediation does not envisage a functional link that would enable courts to refer cases to mediation. The new law represents a great opportunity and the right moment for promotion of mediation and education of all relevant beneficiaries, in order to make this method more effective.

Participation of all the above mentioned stakeholders guaranteed sustainability of the project results, given that upon its completion and successful capacity building, all participants continued to use mediation within their domain of work. The results of activities in the pilot courts and bar association were distributed to the Ministry of Justice, Supreme Court of Cassation, and to all Serbian courts. Courts and lawyers in the pilot regions continue to support the use of mediation in accordance with the Law. The Judicial Academy continued the training program for judicial assistants from this Project in its info-sessions training. Mediation outreach workshops for judges will become a part of the initial and continuing training program of judges. Similarly, the Lawyers' Academy will continue with the training programs for lawyers for the use of mediation. This ensures that, after Project completion, relevant institutions and organizations continue with the training programs and the promotion of mediation in the judiciary. All this guarantees the sustainability of the Project and the achievement of the overall goal - the reduction of the number of court cases and, consequently, the increase in the efficiency of the judiciary in Serbia, as well as easier citizens' access to justice.

III. Legislative Framework for Mediation in Serbia

International Standards and Domestic Regulations

The importance of the efforts to resolve disputes outside the court system, by using mediation and other ADR methods, has been confirmed by numerous international documents adopted within the United Nations, European Union and the Council of Europe. In the last decade, the promotion and development of alternative methods of dispute resolution is particularly evident in the business sector. One of the first documents confirming the interest of the European Union in ADR is the Green Paper on Alternative Dispute Resolution in Civil and Commercial Law from 2002, which led to the 2008 Directive 2008/52/EC of the European Parliament and the Council, referring to certain aspects of mediation in civil and commercial matters.

This Directive, *inter alia*, standardized the basic principles of mediation and stipulated the obligation of the EU member states to establish a system of quality control of mediators' work, regulate the manner of referring cases to mediation and the manner of fulfilling the obligations resulting from the mediation agreement. This document confirms the EU Commission's view that encouraging the use of mediation and other forms of ADR will assist in the resolution of disputes, help avoid the stress, time and costs associated with court-based litigation, and thereby assist the citizens to access their legal rights. Within the EU, it has often been pointed out that the importance of alternative dispute resolution is extremely high in the international economic environment, particularly in cases of disputes relating to electronic commerce, consumer disputes and others.

In the context of civil and commercial disputes, the Council of Europe adopted a Recommendation concerning mediation in civil matters – Recommendation Rec (2002) 10 of the Committee of Ministers to member States on Mediation in Civil Matters, which includes disputes that arise in the business sector.

A large number of international commercial disputes and the specifics regarding various regulations of the participating countries in particular disputes, necessitated the development of a model law on commercial mediation in 2002 (UNCITRAL Model Law on International Commercial Conciliation), by the UN Commission on International Commercial Law of the United Nations - UNCITRAL. The existence of this Model Law highlights the need to internationally define principles of peaceful settlement of disputes due to major advantages of mediation demonstrated in resolving international commercial disputes. Simultaneously, the Model Law also points out the specific economic relations and manifested need for the promotion of alternative dispute resolution through conciliation, i.e. mediation, especially in the economic field.

In Serbia, a considerable number of regulations provide legal basis for the implementation of mediation, and in particular, commercial mediation. **The first Law on Mediation** (2005) represented a framework law – the most general law that regulates mediation matters providing for several basic mediation principles, such as self-determination, impartial

treatment of parties, exclusion of public, confidentiality and efficiency. The Law regulated the use of mediation in various disputes, including disputes arising in the commercial arena. The Law supported the use of mediation in any dispute, unless exclusive jurisdiction of the court or other body is stipulated, and stated that mediation could be conducted after the initiation of the court proceedings (the court-annexed mediation), as well as prior to or independent of the commencement of judicial proceedings (private mediation). This allowed the implementation of the mediation process at any phase of the conflict. The 2005 Law on Mediation also determined general conditions that any person providing mediation services should meet, and regulated rights, duties and responsibilities of mediators in Serbia.

In addition to the first Law on Mediation, there are several other regulations that include specific provisions enabling application of mediation in certain types of business disputes. **The Law on Insurance** conditions for mediation in the field of insurance, in resolving compensation claims, and prevention of disputes arising from insurance claims. **The Law on Bankruptcy** provides the application of mediation for the purposes of determining undisputed debts in bankruptcy proceedings. **The Law on Consumer Protection** supports the use of mediation in consumer disputes.

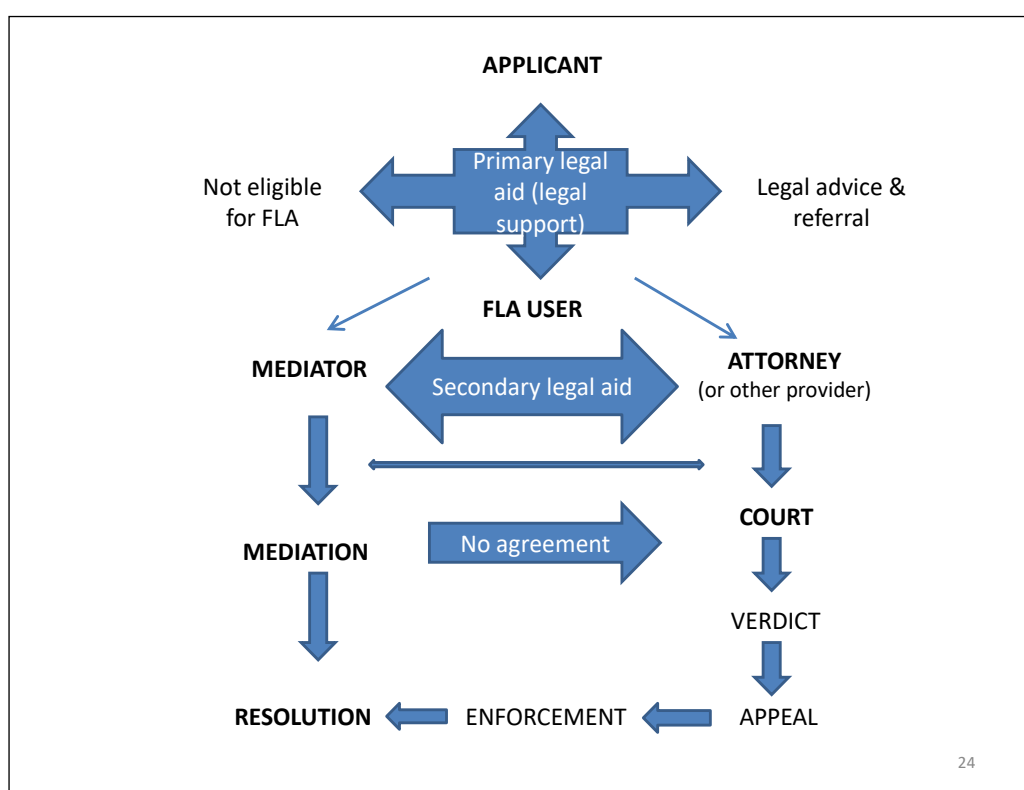
Possible use of ADR methods is also supported by regulations governing settlement of disputes arising at work or in relation to work thorough **the Law on Peaceful Resolution of Labour Disputes** in 2010, **the Law on Prevention of Workplace Harassment** was adopted, providing significant possibilities for mediation in workplace harassment disputes.

Law on Consensual Financial Restructuring adopted in 2011, and renewed in 2015, introduced consensual financial restructuring as an alternative for companies in financial difficulties, i.e. inability to pay debts, threatening inability to pay debts and over-indebtedness. This law enabled the Serbian Chamber of Commerce, defined in the law as the "Institutional Mediation Provider" to conduct consensual financial restructuring cases, organize a pre-bankruptcy mediation system pursuant to the law, in order to facilitate mediator-assisted negotiations between commercial companies and entrepreneurs as debtors, and banks and other financial and legal entities as creditors.

Family Law also supports the use of mediation in divorce and marriage annulment proceedings. Namely, the judge may instruct the spouses to attempt mediation in order to solve their dispute by reaching an agreement related to the issues of child custody and property distribution. Under this law, mediation in family cases may be carried out by the court (e.g. trained judge mediator who cannot later be involved in court proceedings in this same matter) or may be referred to the competent authority (e.g. center for social work), marriage or family counselling service, or other institution specialized in providing family mediation services. Mediation is voluntary, and shall not be conducted if the spouses do not agree to mediation, if one of them is incapable of reasoning, or when the residence of one spouse is unknown. In case where the parties reach an agreement in mediation, the court will include this agreement in the final ruling, assessing only whether the custody agreement is in the best interests of the child.

Draft Law on Free Legal Aid is still pending and the Ministry of Justice working group comprised of all relevant stakeholders is experiencing difficulties in completing its work and delivering the final text to the Parliament for adoption. The Law will provide rules and conditions for cases when free legal aid is provided to the citizens in financial need, and certain vulnerable groups. The main point of contention proves to be the list of possible providers of free legal aid services, however the one category that is not in dispute are mediators and mediation services. The Government has recognized the value of mediation in legal aid funded cases, and mediators are therefore listed as one of the providers of free legal aid services, which means that indigent citizens will be able to receive free mediation services, in all suitable cases. It is expected that the law will be adopted in 2017 and enter into force by 2018.

Graphically, the process of mediation in future legal aid funded cases, is presented in the chart below:



The list of laws that recognize mediation as a potential dispute resolution method in Serbia is larger every day, as the legislators clearly recognize the benefits of this conflict resolution tool. However, despite the existence of the legal framework for mediation in Serbia and the support of international organizations in developing mediation centers, training of mediators and bringing international experiences and best practices, the number of mediation cases, on the national level, was decreasing and first court-annexed mediation programs created between 2003 - 2006, with the aim of providing better access to justice throughout Serbia, were having difficulties in finding citizens interested in using mediation services.

Unfortunately, initial efforts to develop and implement mediation as an integral dispute resolution method in Serbia were short lived. A question arises how did Serbia, after initial good results, lost an opportunity to successfully implement mediation into society as an effective dispute resolution tool? It is speculated that this situation derived from shortcomings in the 2005 Law on Mediation, that mediation development was not a priority for the Government, and that there was a lack of cooperation between different stakeholders in the field of mediation.

Recognizing the above problems, in 2011 the Ministry of Justice formed a working group for changes and amendments to the Law on Mediation, with the aim of harmonizing relevant legal framework with international standards in this area, thus contributing to easier implementation of the reform process and EU accession. In December 2012, the working group submitted to the Ministry of Justice the proposal of the new Draft Law, which has subsequently been repeatedly revised. Finally, in 2014, a new working group was formed and it prepared a final version of the new Law on Mediation, which, after some amendments during the legislative drafting process, was finally adopted in May 2014, and entered into force on 1st January 2015.

Key Aspects of the New (2014) Law on Mediation

The new 2014 Law on Mediation, which replaced the 2005 Law, was primarily drafted in order to bring the existing normative provisions in compliance with international standards, including those listed in the 2002 UNCITRAL Model Law on International Commercial Conciliation, as well as with the solutions contained in the Directive 2008/52/EC of the European Parliament and Council on Certain Aspects of Mediation in Civil and Commercial Matters. For the first time the Law contains provisions on the use of mediation in disputes with a foreign element, which often occur in practice, and are of particular importance particularly in the business sector. This is in accordance with Article 1 of the UNCITRAL Model Law on International Commercial Conciliation and the CoE Recommendation REC (2002) 10, which instructs states to encourage the establishment of mechanisms for using mediation in the settlement of disputes with a foreign element. The Law is also an attempt to provide a broader space for development of private mediation and increased availability of mediation services to individuals, businesses and other subjects.

The intention of the legislator was to create mechanisms for ensuring the quality of the mediators' work and improvement of their practice. Therefore, the Law on Mediation provides that the Ministry of Justice will be responsible for, inter alia, the procedure for issuing, renewing and revoking licenses for mediators, maintaining the Register of Mediators, accreditation of the basic and specialized mediation training programs and other activities. One of the most important innovations, the licensing system, should provide a satisfactory level of quality of mediators and create preconditions for the continuous development of the mediation practice. As one of the conditions for the functioning of a standardized system of licensing, the establishment of an accreditation system of the training programs is also stipulated, since the quality training of mediators, through accredited training programs, improves the quality of mediation as a particular service. The basis for these solutions is the

Item 16 of the EU Directive 2008/52/EC according to which "...Member States should support training of mediators, by all means considered adequate."

Although the drafting of the new mediation law started back in 2011, undergoing several versions due to changes in the Government and the Ministry of Justice, one of the key goals of the legislator was to create an enabling environment for the development of mediation in various fields. Hence, the new Law on Mediation provides that „Mediation is a procedure, regardless of its name, where the parties voluntarily seek to settle their dispute through negotiation, facilitated by one or more mediators assisting the parties to reach an agreement.” This provision establishes the Law on Mediation as a general, “framework” statute for the implementation of mediation in various types of disputes.

Although adoption of the new law was an important step made by the State, it could not have been expected that only rules contained in any regulation would be sufficient guarantee of a successful development of mediation. For a successful implementation and development of the alternative dispute resolution system in Serbia, it is necessary to adopt a comprehensive approach, and ensure participation and cooperation of all relevant actors and stakeholders. Thus, after 2 years from the beginning of the implementation of the new law, there is an evident absence of coordination and functional connections between courts and mediators. Namely, although the number of licensed mediators exceeded 300 in 2016, according to a report from the Ministry of Justice, courts in Serbia referred only 30 disputes to mediation. One of the reasons for underutilized use of services of certified mediators is the lack of internal procedures and mechanisms for selection, referral and monitoring of cases that will be referred to mediation. The court acts on very formal rules of procedural laws and court rules, however, none of these regulations stipulates a detailed conduct of the court or the judicial administration, in case some of the disputes that are in the court are referred to mediation. This is certainly not the only area in which the legal framework for the use of mediation in Serbia needs to be improved. However, it is necessary, among other things, to analyze the process of referring court cases to mediators and to develop clear criteria and rules for selection, referral and monitoring.

IV. Legal framework for referring cases to mediation

Since mediation can be utilized in number of different social fields and types of disputes, there is no universal process, nor a single mechanism for referring cases to mediation. The following text presents legal provisions regulating the procedural aspects of mediation, specifically, referral of cases to mediation.

First of all, **Article 11 of the Civil Procedure Code ("Official Gazette of RS" no 72/2011, 49/2013, 74/2013-Constitutional Court decisions, and 55/2014)**, states that the court will refer parties to mediation or to an informal mediation hearing, in accordance with the law, and will present the parties possibilities for out-of-court dispute resolution, through mediation or other consensual mechanism. Parties will, therefore, be informed on right to solve their dispute through mediation.

Further, **Article 340** of the Code stipulates that the court suspends the procedure and refers parties to mediation, if that is provided by the law or proposed by parties to the dispute. If the parties don't solve the dispute through mediation, the court will schedule a hearing after 30 days following the information sent by a party that they left the mediation process (**Article 341, para. 2**).

According to **Article 231, para. 1 of the Family Law ("Official Gazette of RS" no. 18/2005, 72/2011- other law and 6/2015)**, usually mediation conducted by a court, while the summons to mediation hearing is accompanied with the divorce or an annulment petition. The judge who mediates a case cannot take part in decision making in some later stages of the case.

The court orders the mediation hearing, upon receipt of annulment or divorce petition, which is held only before a single judge bench (**Article 232, para. 1**). Reconciliation, the new term introduced for mediation in **Article 233**, is conducted only in a marriage dispute initiated by a divorce petition.

On the other hand, **para. 3** of the same article states that if the spouses agree to psycho-social counselling, the court will, upon their proposal, or with their consent, refer the mediation to the relevant authorities, marital or family counselling, or other institution that specializes in mediation in family matters. The referral is done by submitting the annulment or divorce petition to the relevant authority.

Furthermore, the court, or institution to which the mediation is referred to, is obliged to carry out the reconciliation within **two months from the date of the submission of petition to the court or institution**. In case the institution to whom the mediation is referred does not inform the court about the reconciliation results within three months from the day the divorce petition was filed, the reconciliation procedure will be carried out by the court within 15 days from the expiration of the three-month period (**Article 239, para. 1, 2, 3**).

Judge's obligation to inform about mediation can also be found in **Article 505, para. 1, of Criminal Procedure Code** (*"Official Gazette of RS"*, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2015) and, before scheduling main trial for criminal offenses prosecuted under a private lawsuit, the judge invites the private prosecutor and the defendant to come to court on a particular day to get to inform them about the possibility of referring to the mediation procedure. Aside from the court summons, the defendant is also delivered a copy of a private lawsuit.

Furthermore, in **the Law on the Protection of Whistleblowers** (*"Official Gazette of RS"*, No. 128/2014), **Article 28**, the court is obliged to inform the parties about their right to resolve the dispute through mediation. The court in front of which the procedure for protection in connection with whistleblowing is being conducted is obliged, at the preliminary hearing, or at the first hearing for the main hearing, to inform the parties about the possibility for out-of-court settlement of the dispute by mediation or in another negotiated manner.

Aside from courts and several other state bodies, the judicial professions also have the obligation to refer to mediation, and therefore, according to **Article 33, para. 3, the Law on the Prohibition of Discrimination** (*"Official Gazette of RS"*, No. 22/2009), the Commissioner is obliged to inform the plaintiff about his right and the possibility of initiating a court or other protection procedure, or recommend the conciliation procedure. Then, in **the Law on Enforcement and Security** (*"Official Gazette of RS"*, No. 106/2015), the public enforcement officer is obliged to mediate between the parties debtor and creditor for purpose of reaching a settlement between them for the consent of the enforcement creditor (**Article 137**). In **Article 24, paragraph 2 of the Law on the Protector of Citizens** (*"Official Gazette of RS"*, No. 79/2005 and 54/2007) in addition to the right to initiate and conduct proceedings, the Protector of Citizens has the right to, by providing good services, mediating and giving advice and opinions on matters within its jurisdiction, act preventively, in order to improve the work of administrative bodies and improve the protection of human rights and freedoms. Further, the administrative receiver, as the creditor of the disputed claim, and with the approval of the creditors' committee according to **Article 114 of the Bankruptcy Law** (*"Official Gazette of RS"*, No. 104/2009, 99/2011 – other law, 71/2012 - decision of the Constitutional Court and 83/2014), may propose dispute resolution through mediation, in accordance with the law governing the mediation procedure.

In the legislative regulation we also find instances of **institutional mediation**, and according to **the Insurance Law** (*"Official Gazette of RS"*, No. 55/2004, 70/2004 – correction, 61/2005, 61/2005 – other law, 85/2005 – other law, 101/2007, 63/2009 – decision of the Constitutional Court, 107/2009, 99/2011, 119/2012, 116/2013 and 139/2014 – other law) **Article 144 states that the National Bank of Serbia** mediates in settling the claim for the purpose of preventing disputes from the basis of insurance, examines objections made by insureds, insurance beneficiaries and third injured parties, and protects the rights and interests of such persons. Further, **Article 44, para. 1 and 2, the Law on Protection of Financial Services Consumers** (*"Official Gazette of RS"*, No. 36/2011 and 139/2014) states that the mediation procedure is initiated upon the proposal made by one party in a dispute, which is then accepted by the other party, and that it will be conducted by **the National Bank of**

Serbia or other body/person authorised for mediation. The procedure of mediation before the National Bank of Serbia is free of charge and urgent for the parties in this procedure. Mediation before the National Bank of Serbia is carried out by its employees - mediators licensed by the Ministry of Justice of the Republic of Serbia. The initiation of and mediation procedure itself, between the consumer and the service provider, does not exclude or affect the exercise of the right to judicial protection, in accordance with the law (Article 46).

The Law on Consensual Financial Restructuring ("Official Gazette of RS", No. 36/2011) states that institutional mediation in the process of financial restructuring is conducted by **the Chamber of Commerce and Industry of Serbia (CCIS) (Article 14)**, based on the written consent of the creditors and debtors (**Article 5**). The CCIS, with the prior approval of the minister in charge of economic affairs, will determine the conditions and manner of institutional mediation referred to in Article 14, para. 2, in accordance with the provisions of the Law on Mediation, as well as the amount of compensation for institutional mediation in financial restructuring, para. 3 of the same Article.

The usual approaches to resolving labour disputes, excluding the court proceedings that are recognized in legal doctrine and comparative law, are alternative (out-of-court) methods of dispute resolution. Examples in our legislation can be found in **the Law on the Prevention of Workplace Harassment ("Official Gazette of RS", No. 36/2010)**, in the concretization of **Articles 13 and 14**, where, in case of harassment by a responsible person in a legal entity, or employer as an individual, the employee who believes that he is being harassed can file a request for initiating a procedure for protection against harassment or request mediation directly from the person in question. In the first case, the employer has the obligation to, upon receipt of the request, within three days, propose mediation to the disputing parties; in the second case, the employer can accept the request for mediation from Article 14 of this law, within three days. Employee who considers that he is exposed to harassment, an employee who is accused of harassment and employer's representative (Article 13 of this Law), that is, employer and employee who considers that he is exposed to harassment (Article 14 of this Law) agreed or appointed a person to conduct mediation (hereinafter: the mediator), within three days from the date of receipt of the employer's proposal. The mediation procedure is urgent in this case as well (**Article 17**).

Legislation in the field of peaceful resolution of labour disputes is contained in the provisions of **the Labour Law, the Law on the Peaceful Settlement of Labour Disputes, the Law on Amendments to the Law on the Peaceful Settlement of Labour Disputes and the Rulebook on the Procedure for Peaceful Workplace Dispute Resolution. The Labour Law** sets the basic normative framework for the peaceful resolution of labour disputes. **Article 13, para. 1.** states that employees have the opportunity to directly or through their representatives exercise the right to association, participation in collective bargaining negotiations, peaceful resolution of collective and individual labour disputes, consulting, being regularly updated/informed and expressing their views on important issues in their field of work. Also, **Article 194 of the Labour Law**, with regard to the protection of individual rights of employees, envisages the possibility of resolving disputes between employer and employee before the arbitrator. The same article sets forth deadlines in which proceedings

must be initiated before an arbitrator that the disputing parties have agreed on (from the list of experts in the field relevant to the dispute), along with the 10-day deadline in which the arbitrator is obligated to make a decision that is final and binding to the disputing parties.

Furthermore, the provisions of **the Law on the Peaceful Settlement of Labour Disputes** regulate in great detail the establishment of the Republic Agency for the Peaceful Resolution of Labour Disputes, which was formed as a separate organization within the Government of the Republic of Serbia (**Article 7**). The procedure of peaceful resolution of labour dispute under this law will be initiated by submitting the proposal to the Agency, and the parties to the dispute may submit it jointly or individually (**Article 10**). The legislator has established the obligation of the Director of the Agency to initiate the mediation procedure *ex officio* and to appoint a conciliator or arbitrator upon receipt of the proposal, in case the disputing parties have failed to agree on conciliator/arbitrator within 3 days (**Article 12**).

V. Development of Internal Court System for Referring Cases to Mediation

In order to support pilot courts to establish mediation case-management systems, a series of procedures and policies for the work of the Mediation Support Office in the pilot courts were developed. As a result of project activities, the following documents, forms and templates were developed:

Draft Proposal for Amendments of the Court Internal Rules of Procedure. This document is a policy initiative aimed at the High Judicial Council and Ministry of Justice to amend the existing Court Internal Rules of Procedure. It aims to enable and encourage courts throughout Serbia to establish Alternative Dispute Resolution & Mediation Support Offices able to advise citizens on how to utilize mediation and other ADR methods, and to refer suitable cases to ADR.

Model Court Manual (Guidelines) of the ADR Support Office. This document was developed by the Belgrade Second Basic Court judge Nebojsa Djuricic, with support of Partners Serbia and in consultation with judges from the Commercial Court Belgrade and Basic and High Court in Cacak. It establishes ADR Support Office procedures, forms and templates that the ADR Support Office staff will use in their operation, rules for communication with clients, rules and conditions for case referral to mediation, follow up of the cases, human resource management, etc.

Daily Record Book. This form is used as a brief daily summary of all activities provided by the Mediation Support Office staff.

Intake Questionnaire. This form is designed to record details of the first contact with citizens enquiring about mediation. The pilot courts will use this form to track how citizens first heard about mediation, prior experience with mediation, the type and short description of the dispute, information about other parties in the dispute, their legal representatives, and other relevant ongoing court and other processes. etc. These information are necessary for judicial administration to assess suitability of cases for mediation.

M Record Book. This form will be used by the Mediation Support Office in the pilot courts to follow up every case that has been referred to mediation, that is, every case that was assessed as suitable for mediation and where at least one party is considering using mediation. The form makes it possible for the court to provide statistics on: the number and the type of cases referred to mediation, number of cases where the parties agreed to mediate, and the percentage of cases successfully resolved through mediation. Such statistic will be used to inform the Ministry of Justice on the number of cases referred to mediation and/or resolved through mediation, which is one of the indicators defined in the Action Plan for the Negotiation Chapter 23.

Letter to the parties in dispute. A Model Letter was designed for pilot courts to inform other parties in the dispute that the case is suitable for mediation and that at least one party

requested/agreed to mediate. The template consists of the general information about the work of the Mediation Support Office, identifies the case in question, and invites other parties to consider mediation and contact the Office in order to obtain more information on the mediation and available mediators.

Also, detailed **evaluation forms** and assessment of the clients' satisfaction have been developed. These forms provide evaluation of services provided by ADR Support Office, mediation process, the work of mediators, and the engagement of the court on case-referral and case-monitoring..

In order to make courts able to refer cases to mediation, each targeted court was provided with **a list of certified mediators** available in their respective local communities, relying on the data available in the Register of Mediators of the Ministry of Justice. Certainly this activity had a different scope in Belgrade and in the area covered by the Bar Association of Cacak, having in mind that only one licensed mediator was registered in Cacak before the commencement of the Project. After the completion of the project, there are 16 licensed mediators in Cacak, out of which 14 are lawyers who completed the Basic Training for Mediators within this project. This activity was coordinated with the National Association of Mediators of Serbia which has mediators in more than 30 cities in Serbia, while the Commercial Court in Belgrade was informed about the list of mediators administered by the Serbian Chamber of Commerce. In addition, the Second Basic Court received information on the list of mediators listed by the Municipality of Vozdovac and its Community Mediation Center, which was established as a result of the project "Local Ombudsman and Mediation", implemented by Partner Serbia with the support of MATRA program during 2014-15. Finally, the Basic and High Courts in Cacak, as well as all other courts in the territory of the Bar Association of Cacak, were informed of the opening of the Mediation Center and the list of licensed mediators within the Bar Association of Cacak.

As a result of these activities, the pilot courts have developed their mediation case-management systems either as info-desks or Mediation Support Offices as in the Second Basic Court in Belgrade. The pilot courts have also enacted documents developed within the project– internal rules and forms - and are using them in their daily operation. An example of an internal act developed within the project is the Court Manual (Guidelines) for the ADR Support Office (*Uputstvo o nacinu pristupa sistemu rada i nacinu postupanja info-službe za podršku alternativnom rešavanju sporova*), adopted by the Second Basic Court in Belgrade on 29 March 2017, is presented in this publication. Although such procedures are not formally necessary for a Mediation Support Offices or an Info-desk to operate, they provide suitable normative framework, and also enable courts to track and monitor cases referred to mediation and make statistical analysis. This will ultimately reduce the number of cases in courts and increase their efficiency. At the same time, the adoption of these procedures and accompanying documents will enable the courts to ensure effective monitoring and reporting of these activities, necessary in the process of improving the operation of the judicial system. Finally, citizens, and businesses, as primary beneficiaries, will be provided with a new service that will enable them to more effectively exercise their rights and protect their interests, ultimately ensuring better access to justice.

VI. Mediation Support Office in the Second Basic Court in Belgrade³

Introduction

Mediation is a process where parties in a dispute attempt to resolve their problematic relationship by negotiating, with the assistance of one or more mediators who help the sides reach an agreement. All definitions of mediation, regardless of whether they are part of legislation or theory, contain free will of the parties as one of the main principles of mediation. The Law on Mediation (hereinafter: the Law), just like the previous law regularizing the field of mediation, devotes special attention to this principle. The Law not only insists on voluntary principle when it comes to the will of the parties in choosing to resolve a dispute through mediation, but it also grants them the right to leave the mediation process at any stage and without any consequences. Also, the principle of voluntariness includes complete freedom of parties to determine the contents of the future agreement on dispute resolution through mediation. The disputing parties have the right to decide whether they do or do not want to resolve their dispute through mediation, but need to be well informed about the possibility of resolving their dispute in some other way, and not just by initiating a court proceeding or some other, legally prescribed procedure.

A common argument against mediation is the one stating that had the parties wanted to reach an agreement, they would have done so without initiating the court proceedings in the first place. Nevertheless, at present, majority of citizens are not familiar with the fact that there is an alternative to court proceedings, and know nothing or very little about mediation. It is very important that parties are not only familiar with the possibility of dispute-resolution in some of the alternative ways, but also, they need to have full information on the way that procedure is implemented, its costs, possible influence of the court proceedings or some other procedure that has been or will be initiated. Also, parties need to be familiar with the possible outcomes of this alternative dispute resolution method, and with both legal and factual significance of the agreement ensuing from such a procedure. According to the Law on Mediation, it is mandatory for courts and other bodies to inform the clients about the possibility of using mediation.

Normative Framework for Providing Information and Referring Cases to Mediation

Before the Law was passed, it had been mandatory for the courts to inform the parties of the possibility of negotiation, or, mediation. First of all, the Code of Civil Procedure⁴ prescribes the obligation of the court to inform the parties about the possibility of the out-of-court settlement or some other consensual method (article 11), and also, it is mandatory for the courts to inform the parties about their right to resolve the dispute by mediation (article 305,

³ Prepared by Nebojša Đuričić, a judge in the Second Basic Court in Belgrade

⁴ Code on Civil Procedure (Official Gazette RS, no. 72/2011, 49/2013-decisions of the CC, 74/2013-decisions of the CC I55/2014

para 3). In private lawsuits, the Code of Civil Procedure and the Criminal Procedure Code of the Republic of Serbia (ZKP) prescribe the obligation for courts to invite the private prosecutor and the defendant to come to court prior to the main hearing in order to inform them about the possibility of being referred to mediation (article 505 of the ZKP). According to the Law on Mediation (article 9, para 2), the courts are under obligation to inform the parties about the possibility of using mediation. In line with the Law, the obligation of the courts is not only to inform the parties of the possibility of using mediation, but also to provide all necessary information to fully inform the parties on the possibility of mediation. One should emphasize the fact that according to the procedural rights the judges are obliged to inform the parties in the cases they adjudicate about the possibility of dispute resolution through mediation. On the other hand, according to the Law on Mediation, this obligation is binding on both the courts and other state bodies. This obligation of the courts is very important, taking into consideration the fact that the citizens and parties in disputes are not sufficiently informed about the mediation procedure. One should mention that the system of free legal aid in our legal system is not developed, and that the citizens do not have the opportunity to learn about the mediation procedure within that system.

When it comes to the legal aid for citizens, one should not neglect the provisions of the Court Rules of Procedure that regularize this matter (article 101 of the Court Rules of Procedure). The Court Rules of Procedure prescribe an obligation for the courts to provide legal aid to citizens, that is, to provide citizens with general legal information about out-of-court procedures, regardless of the citizens' financial status. One of the questions that the courts are obliged to provide general legal information is the possibility of reaching a peaceful dispute resolution. The Court Rules of Procedure provides courts with a possibility to provide this kind of legal aid, by judicial assistants or other court staff, as well as to publish certain information through printed public announcements, serving written documents in court buildings, or through public media. One should not forget a provision of the Court Rules of Procedure (article 2) prescribing that in a civil matter, court may forward written information to the parties, which, among other things, may also contain information relating to mediation. This information may be forwarded with the summons for a preliminary hearing or the first main hearing, in person or through a representative (lawyer), like in a procedure of preliminary examination of a petition, if the court deems it necessary.

It can be concluded that the Law on Mediation, as a separate law regularizing mediation, along with two most important procedural laws, the Code of Civil Procedure and the Criminal Procedure Code, prescribe the obligation of the court both to inform the parties about the possibility of resolving the dispute through mediation and to provide all necessary information. It should be emphasized that the Court Rules of Procedure contain provisions that prescribe the way in which court can provide the above information, that is, the normative framework; both the procedural laws and the Court Rules of Procedure normative framework give sufficient space and opportunity to fully inform the parties on the possibility of using mediation.

The Right to Full Information on the Possibility of Using Mediation

Neither process laws, nor the Law on Mediation or the Court Rules of Procedure, give the answer to the question of what it means to fully inform the parties on the possibility of using mediation.

“To fully inform”, first of all, must include the obligation to inform the parties and citizens about the possibility of dispute resolution through mediation. The nature of this alternative way of dispute resolution must be explained to the parties and citizens – the role of the mediator, whether it is a voluntary procedure, that it is a confidential procedure closed for public. Also, it must include informing the parties about provisions of the Law on Mediation that relate to the admissibility of evidence in other proceedings. To fully inform also includes information relating to the influence mediation procedure on the civil proceedings, and any other ongoing process. One cannot neglect the matter of how to end a mediation procedure, or, whether the agreement on dispute resolution through mediation may have the force of an enforceable title, and under which conditions. Of course, mediation costs are an important issue, that is, it should be explained in which way the parties cover the costs should mediation succeed or fail.

Law on Mediation, just like the process laws, provides for the obligation of the courts to inform the parties in the procedure about the possibility of resolving the dispute through mediation – as a matter of fact, to provide them with full information. On the other hand, the Court Rules of Procedure does not grant this right only to the parties in the procedure, but to all citizens, regardless of their financial status. It is very important to inform the citizens, not just the parties already participating in court proceedings, about the possibility of alternative dispute resolution, before they initiate court proceedings or some other process.

Decision to try mediation before initiating court proceedings can reduce costs for both the parties in the dispute, and the court. One should not overlook the fact that initiation of mediation before the court proceedings gives better chances to a peaceful dispute resolution. After a lawsuit has been submitted and after the court requested a reply to petition, or after a lawsuit has been submitted along with an invitation for a hearing, the first reaction of a party in a dispute is how to defend themselves against this “attack”, rather than to look for some of the peaceful ways to resolve the dispute. It is very important for parties in a dispute to think and try peaceful dispute resolution first, and for this reason it is essential to inform both the parties that already participate in court proceedings, and the citizens who have not yet initiated any court proceedings, about the possibility of peaceful dispute resolution.

Providing full information to the parties about the possibility of using mediation has been set as a goal by the Law on Mediation. Without the full information for the parties as well as the citizens who do not participate in court proceedings, it is difficult to expect the citizens to try and resolve their dispute through mediation, or, any other out-of-court method. Mediation as an alternative method of dispute resolution is still a closed box for majority of Serbian citizens, although it entered our legal system more than 10 years ago; it can be said that legal professionals, judges, prosecutors, attorneys, etc, are still not familiar enough with the very essence of this method of dispute resolution. One should not overlook the fact that during

formal legal education, the focus is on the traditional dispute resolution in courts, and only a small number of students get to know about mediation through some elective modules. All these reasons point to a need to provide support for mediation through wide media campaigns, wide support of the judiciary, and, by all means, through certain changes in the education system – not only at the university level, but also in secondary schools. It is of vital importance for the citizens to be informed by courts, as traditional places where justice is sought.

Info-service

The idea to fully inform the parties and citizens about the possibility of dispute resolution through mediation was the reason for the Second Basic Court in Belgrade to start thinking, immediately before the Law on Mediation entered into force, about the possibility of forming an info service for support to alternative dispute resolution. The goal that was to be reached by forming such a service was determined by the Law on Mediation itself – to fully inform the parties and citizens about the possibility of using mediation, that is, other alternative dispute resolution methods. The issues to be solved were: where to provide the necessary information, who will provide those information, to whom the information will be provided, when, or, in which phases of the procedure should such information be provided, and how to provide them.

These dilemmas were resolved by the participation of the Second Basic Court in the project Serbia Pilot Court Mediation Project (hereinafter: the Project) as a pilot court, implemented by Partners for Democratic Change Serbia (Partners Serbia). A series of meetings, workshops, trainings and other activities were organized within the project, with the participation of the Court President, as well as the judges and judicial assistants. Professional support to the establishment of this service was provided by the mediation experts from Partners Serbia. For this cooperation, the Court has allocated human and financial resources for the smooth operation of this service, accompanied by drafting of relevant documents.

The Space

In the past ten years, info desks have been established in Belgrade courts, that, as the Court Rules of Procedure determines (article 101) and prescribes – have offered different information to the citizens and parties, not only about the procedure of their court cases, but also about general legal matters. These info desks have proven to be a very useful system in providing information to the citizens, enabling not just a prompt and easy way of obtaining necessary information, but they have also reduced the number of citizens who went directly to the court registry offices and other services to obtain information, which contributed towards a better functioning of the entire court. When it comes to mediation as an alternative dispute resolution method, the info desk role in providing relevant information to the citizens and parties can be very important and useful, particularly regarding the general information about the process of mediation. Therefore, it has been estimated that info desks should only provide general information on mediation to the citizens, and if they wish to learn more about mediation, it is necessary to have a suitable space within the court building where such information can be obtained. It is a common situation that staff employed at info desks do not have enough time (taking into consideration the number of citizens needing information) to

dedicate themselves to individual citizens and inform them in detail with all relevant information about the use of mediation. It is, therefore, necessary to provide the space in the building of the court where citizens and parties can obtain full information about mediation. Having in mind the fact that at the beginning of 2015 the Second Basic Court in Belgrade was occupying three buildings and that they moved to a building in Kataniceva Street, it has been decided that the info desk is formed after the move has taken place. The need for this special place where citizens can get all necessary information about mediation is also justified by the fact that existence of such space would also provide adequate atmosphere where citizens and parties could obtain information – an office space where citizens can take a seat, be heard and obtain relevant data. Also, it was necessary to provide a separate space for the staff engaged in the info desk service, so that they could fully commit to that work and not disturb the regular work of other colleagues while conversing with citizens and parties.

Who provides information?

The Code on Civil Procedure (article 305, para 3) prescribes that the court shall inform the parties at the preliminary hearing about their right to resolve the dispute through mediation. Also, the Criminal Code provides the obligation of the court to hold a hearing, when it comes to private lawsuits, where the parties will be informed about the possibility to resolve their dispute through mediation. So, it is clear that the acting judge is obliged to inform the parties in civil and criminal matters about the possibility of a peaceful resolution of the conflict through mediation. If the acting judges are to fulfil these provisions adequately, it is necessary that all judges, regardless of whether they are mediators themselves or participate in some other way in peaceful resolution of disputes, have the basic knowledge in connection with the mediation process, so that they could, on the one hand, provide full information about the mediation process to the parties, and on the other hand, recognize the cases that are suitable for mediation. In order to prepare the judges to refer parties efficiently and be familiar with the procedure of mediation, in the Second Basic Court in Belgrade, within the project, a short one-day seminar was held where all judges of that court had the opportunity to learn about the basics of dispute resolution through mediation, as well as with the kind of cases that are most suitable for referring to mediation. These obligations of acting judges, to inform the parties with the mediation procedure, should not be looked upon only as their legal obligations, but rather as an opportunity and chance to engage their authority over parties in cases they adjudicate, and propose to them to try and resolve their dispute by mediation. Judges are in contact with a large number of citizens who are trying to resolve their disputes before courts. The acting judges are familiar with the nature of those cases and they can assess very quickly whether those cases are or are not suitable for mediation, and share that possibility with the parties. One should, by all means, keep in mind the fact that judges that act in the first degree have an enormous number of cases, and, regardless of whether those cases are many and typical, or those are courts with mixed case structure, the huge number of cases forces the judges to keep hearings short in order to hear as many as possible per day – which does not leave enough time for judges to commit to informing their parties about mediation. Because of this, the role of info desks in providing support to alternative dispute resolution in the Second Basic Court in Belgrade is not only to communicate with citizens who do not participate in court proceedings, but also with parties who participate in court proceedings –

the ones referred by the acting judges to the info desk for more detailed information. So, the idea is that when an acting judge informs the parties about the possibility of a peaceful dispute resolution through mediation, at the preliminary hearing or some other phase of the procedure, regardless of the type of the case, and if the parties become interested in this method of dispute resolution, the acting judge then refers them to the info desk, where judicial assistant will receive them and provide them with all necessary information.

Judicial assistants have an important role in providing full information to the parties about the possibility of using mediation. Their role is also very significant when dealing with citizens who are in dispute, but have still not initiated court proceedings and are willing to try and resolve their dispute through mediation. In order to prepare the judicial assistants for their new duties within the project, a two-day training was organized for them, including basics of mediation and communication skills, as well as the skills related to the organization of the mediation service and its promotion.

Judicial assistants, who have been engaged at the info desks to support the alternative dispute resolution, have mainly been appointed in the civil litigation matters of the Second Basic Court in Belgrade. When the info service was formed, it was important to acknowledge the fact that in the Second Basic Court in Belgrade, just like in most other courts, there was a lack of judicial assistants there, and that there was no possibility to distribute certain judicial assistants who would solely commit their time to the info service. For this reason, the engagement of judicial assistants in info service desks had the form of time on duty – this meant that judicial assistants were on duty in the info desk a day at a time, in line with the duty rotation list. Taking into consideration that one info service engages 8-10 judicial assistants, each one of them is engaged in the info desk 2-3 times a month. On those days, they are obliged to respond to telephone calls and emails received during that day in the info service. Apart from a judicial assistant engaged like this, the same space is shared by another judicial assistant, engaged to provide information to the citizens and parties who have been referred by an acting judge with the aim of obtaining additional information, or to those citizens and parties who happen to be in court and want to learn more about mediation. Duty rotations are made on monthly basis, to help better organization of the service itself and easier monitoring of its work.

How shall the information be provided?

In order to better inform the parties and citizens about the info service, visible information have been placed on the web page of the Second Basic Court in Belgrade, including information about the main goals of the service, basic information and frequently asked questions referring to mediation. Apart from that, the web page also contains the contact info – email address and the mobile telephone number of the info service. The citizens also have the opportunity to contact the info service directly, at the service desk. The citizens, therefore, choose themselves the most acceptable way of contacting the info service. Also, within the cooperation with the Partners for Democratic Change Serbia on this project, adequate posters have been placed in the court building, containing information about mediation for citizens and parties. Also within the project, as many as 3000 leaflets have been distributed to inform all interested persons about mediation, containing contact info for additional information.

After moving to a new building in Kataniceva Street, the Second Basic Court in Belgrade has not had the info desk, so majority of citizens seek information in court registry office, delivery of summons service, information desk, and from security officers. Within preparations for the beginning of work of info desk in the Second Basic Court in Belgrade, it was necessary to inform all employees who were in contact with parties and citizens about the establishment of the info service, so that they could refer the interested persons to the space designated for the info service, to obtain information they need. Therefore, for adequate operation of info service, it is not enough to inform citizens and parties about its establishment, but it is also necessary to inform all employees of the court about its work, goals and purpose. As stated above, the Court Rules of Procedure allows for the possibility that in civil matters a party may receive a written information about the possibility of dispute resolution through mediation, and this is used in the info service work. As a matter of fact, a model letter has been drafted – that may be sent to the parties along with the delivery of the petition for the reply, or with summons for the main hearing. This model letter has been distributed in the electronic form to all civil litigation court panels, so if acting judges assess, during the preliminary examination of the petition, or, motion in non-litigation proceedings, prior to sending the petition, invitation or proposal, that the case is suitable for mediation, they may inform both parties that the dispute may be resolved by mediation. Apart from the basic principles of mediation, the model letter also contains the info service contact information.

Info service in the Second Basic Court in Belgrade

When it comes to regularizing mediation by normative framework, a conclusion can be drawn from the previous text, that there are already provisions stipulating that both courts and acting judges must inform the parties about the possibility of using mediation in dispute resolution, as well as about its advantages and relation to the court proceedings; on the other hand, there are provisions in the Court Rules of Procedure that give concrete solutions for how acting judges and courts can fulfil these obligations. Apart from such normative framework, it has also become clear that it would be necessary and useful if the court adopted Guidelines determining functioning of such new court service in detail. To begin with, the first formal decision relating to the work of the info service was the decision of the president of the Second Basic Court in Belgrade according to which “Info service for support to alternative dispute resolution“ was established. This decision was accompanied by the Guidelines on how to access the system of work and modus operandi of the “Info service for support to alternative dispute resolution“, adopted by the acting president of the Second Basic Court in Belgrade (hereinafter: the Guidelines).

The Guidelines regularize info service’s way of work; first of all, procedures and ways to fulfil obligations of the courts and acting judges, in line with legal provisions and provisions from the Court Rules of Procedure. The Guidelines provides for introduction of additional records that the Court Rules of Procedure does not contain. In order to have better monitoring of the info service work and the mediation procedure, as well as to have better system of tracking the number of referred cases, there was a need to create additional records. The goal of the info service is to provide information, not only about the possibility to use mediation, but also about all other methods for out-of-court dispute resolution. Having in mind the competencies of the Second Basic Court in Belgrade as a first-degree general court, it can be

expected that the most information regarding alternative dispute resolution methods will refer to mediation, as well as to the possibility of peaceful resolution of labour disputes before the Agency for Peaceful Resolution of Labour Disputes. Information are provided to citizens regardless of whether they participate in proceedings before court and have a dispute within jurisdiction of a court or some other state agency. Regarding the parties, information will be provided regardless of the stage of the court proceedings, or whether they fall under the jurisdiction of the Second Basic Court in Belgrade or not. Citizens and parties have the right to information regardless of their material status, permanent or temporary address.

The goal of the info service is not just to inform the parties who participate in court proceedings before the Second Basic Court in Belgrade, but also before other courts, about the possibility of peaceful dispute resolution through mediation procedure; it's goal, perhaps a more important one, is to inform the citizens who are engaged in some disputes, to try and resolve the dispute through mediation, before initiating court proceedings. It is necessary that citizens obtain full information on the alternative dispute resolution before they initiate a lawsuit, so that they could try to peacefully resolve their dispute before initiating court proceedings. The service for support to alternative dispute resolution shall be managed by a judge appointed by the president of the court on annual basis; this judge shall appoint judicial assistants who will be engaged within this service.

The Guidelines prescribe an obligation for the info service to keep records and lists. Regarding records, they include: daily records, records on cases in which parties were referred to mediation, or, peaceful resolution of labour disputes (form 105 of the Court Rules of Procedure) where all court cases referred to mediation or to the Agency for Peaceful Resolution of Labour Disputes are entered. The downside of these records is the lack of its electronic tracking version (in AVP program used in the Second Basic Court in Belgrade), and on the other hand, a much larger problem lies in the fact that this form cannot contain any of those disputes in connection with which no court proceedings have been initiated, that is, those cases where the citizens have obtained information about mediation in the court and used mediation to resolve the dispute. In that situation, although the court (or, the info service) provided all necessary information to the citizens who, consequently, have not initiated proceedings before court – this cannot be entered into the records. Because of this, the Guidelines provide for creation of the M record book that will, practically, be an auxiliary record book, not provided for by the Court Rules of Procedure. This record book will contain new disputes referred to mediation. It should be stressed that the contents of the information entered into the M record book are somewhat different from the form 105 from the Court Rules of Procedure. To be exact, the M record book shall contain the information on the party that has initiated the mediation procedure, the court case number, every stage of the process starting from the referral until the finalisation of mediation. The M record book shall also contain information on whether the other party in the dispute has accepted mediation, the date of mediation, as well as when have the parties signed the Agreement to Mediate, have they and how completed the mediation procedure, or, have they and in which form concluded the mediation agreement. The goal of recording all these different steps in the procedure of referring a case to mediation is to be able to monitor the number of cases where one party was interested to try and solve the dispute through mediation, in how many cases the other party

accepted that, in how many cases the Agreement to Mediate was reached, and how many cases ended successfully and reached mediation agreement.

The Guidelines provide for keeping the daily records by the info service, with the aim of recording all activities done by judicial assistants in this service, in order to monitor the work of the service, record the content of information provided to citizens, even if the information are not strictly connected with mediation.

The Guidelines contains the obligation to keep lists of mediators by the info service, as well as the list of providers of mediation services, the list of accredited organizations for training of mediators, and the schedule of duty rotations. When it comes to the list of mediators, it should be stressed that the Court Rules of Procedure contains the obligation to keep this list, as well as a special form that serves this purpose. Regarding the accredited organizations for training of mediators, the purpose of this list is to provide information, first to court employees and then to citizens and parties, about which are the accredited organizations that provide the training for mediators, in line with the Law on Mediation.

The Referral Procedure

The info service for support to alternative dispute resolution provides all necessary information to the citizens and parties who contact the service for additional information. The Guidelines contains provisions referring to the procedures that will be implemented in the info service by judicial assistants. A judicial assistant, while conversing with parties and citizens, shall provide basic information in relation to the mediation procedure, regardless of whether the conversation is held on the telephone, via email or in person in the court building.

The Guidelines provide for the judicial assistants to inform all interested persons about the basic principles of mediation procedure – first of all, voluntariness; that mediation procedure is a voluntary procedure, that parties to mediation decide for themselves whether they wish to engage in such a procedure, that they can at any time and without any consequences give up the mediation procedure, that parties to mediation make an agreement, but that this agreement cannot be imposed upon them. Also, parties and citizens are acquainted with the principle of confidentiality – that the procedure is confidential, the public is excluded according to the rules determining the possible use of evidence in other court procedures. Judicial assistants shall explain the role of the representative in the mediation procedure, as well as the costs of this procedure. Parties and citizens must be informed about the possible outcome of the mediation procedure, or, what is the nature of the mediation agreement, whether this agreement and under which conditions may have the force of an enforceable title, and what is the relation of the mediation agreement to the possible ongoing court proceedings.

This course and outcome of the conversation between the judicial assistant and the interested person will influence further actions of the judicial assistant.

If the judicial assistant has determined, during a conversation, that information they need to provide do not refer to the mediation procedure, but fall under competence of another court department, or do not fall under court jurisdiction in the widest sense at all, this conversation will only be entered in the daily records, and the intake questionnaire will not be completed.

If the information judicial assistant is supposed to provide is in connection with the mediation procedure, or, if the judicial assistant assesses, during the conversation, that the party who has contacted the service is interested in the mediation procedure, in that case, the judicial assistant will complete the intake questionnaire.

The intake questionnaire is an integral part of the Guidelines, and can be found in its attachment. The intake questionnaire contains basic information of the party interested in resolving the dispute through mediation, as well as their contact info. Also, information on the representative of that party are entered, as well as whether any negotiations or some other procedure were held in connection with that particular dispute. If a court proceeding is or was ongoing, the case number is also entered, as well as the competent court. Also, the intake questionnaire shall contain a short description of the dispute (whether it is a family, property, commercial, labour, discrimination, administrative, consumer or some other type of dispute). In the intake questionnaire, the information on the other party will also be noted, in order to, possibly, contact the other party with the purpose of joining the mediation process.

A judicial assistant may, as soon as the questionnaire has been completed, archive the case. That will happen if the dispute is not suitable for mediation – the judicial assistant will in that case explain to the person seeking information why mediation is not possible in that particular case, and will archive the case and complete the M record book.

If a party or citizen declares readiness to resolve the dispute through mediation, then the judicial assistant will create a file – put the completed questionnaire in it – and after that, complete the file by entering this case in the M record book, and write the reference number from the M record book, along with their name, on the file cover. The judicial assistant will put their name on the cover of the M record book so that they could still monitor this case and, if necessary, undertake other actions during the course of the mediation process. During the conversation with the party that initiated the mediation procedure, the judicial assistant shall explain to that party the possibility of the info service contacting the other party in the dispute, trying to find out whether they are interested in resolving the dispute through mediation.

If the party that has initiated the mediation procedure decides on their own accord to contact the other party, the judicial assistant will enter that information into the questionnaire, and after the file has been created, they will put the case in the records. The case is put in the records so that the judicial assistant could, after a period of time, contact the party that had initiated the mediation procedure, and ask for the information on whether the other party accepted to try and resolve the dispute by mediation. If the party that initiated the mediation procedure decided that the info service should contact the other party, the judicial assistant will, in the most adequate manner, contact the other party by telephone, email or in writing, and provide all information in a similar way as with the party that initiated the mediation process. The judicial assistant will enter a short description of the conversation with the other side in the intake questionnaire (in the part that deals with case monitoring), or, whether the other party is interested in dispute resolution by mediation or not. The printed emails or written letters sent to the other party will be placed together in the M file.

Further actions of the judicial assistant will depend on whether the other party in the dispute accepted or not to try and resolve the dispute through mediation. If the other party refuses the possibility of dispute resolution through mediation, the judicial assistant may put the case file in the records, and after a certain period of time, contact the other side again – because they may change their mind and accept dispute resolution through mediation. The judicial assistant will, by all means, inform the party that has initiated the mediation procedure about these conversations and actions. If the other side ultimately does not accept to try and resolve the dispute by mediation, the judicial assistant will note that in the file, complete the M record book, and inform the party that has initiated the mediation procedure; then, the case will be archived.

If the parties accept mediation, during the first conversation with the party that has initiated mediation to resolve the dispute, the judicial assistant will explain that the info service can help the parties with the choice of mediator. This possibility will be explained to both parties by the judicial assistant. What judicial assistant has to keep in mind is that at any moment, and this also needs to be explained to the parties, the parties may choose a mediator by their own will. When helping with the choice of mediator, the judicial assistant will introduce groups of mediators to the parties and explain whether there are judges of that or another court on the list of mediators, which mediators have legal background, etc. Also, the obligation of the judicial assistant is to explain to the parties the costs of mediation, that is, whether some of the mediators mediate all or some disputes free of charge. The Guidelines specifically regularizes the situation where the parties opt for a mediator who is a judge, but do not designate any specific person from the list of mediators – the judicial assistant will in that situation propose to the parties the next judge-mediator in the line, taking into consideration that division of work is equal among mediators.

After the parties in the dispute choose a mediator, the judicial assistant will then complete the M record book by entering a note if the other side agreed to solve the dispute by mediation or not. The judicial assistant puts certain information on the file in order to contact the mediator, or if the parties chose a mediator themselves. Judicial Assistant will contact the parties to obtain the information on whether the Agreement to Mediate has been reached and when – and will enter this information into the M record book. After obtaining the information that the parties have agreed to mediate, the judicial assistant then places the file into the records for 60 days, which is the legal deadline within which a mediation procedure should be completed. The judicial assistant will enter into the M record book that the parties have agreed to mediate and concluded the Agreement to Mediate. If within 60 days the judicial assistant does not get the information on the outcome of the mediation procedure, he will contact the mediator and ask for the information on the dispute outcome. Regardless of the mediation outcome, of the success of the outcome, or termination of procedure, the judicial assistant will note the mediation outcome in the M record book, and will archive the M case file.

If, during the first conversation, the person seeking information regarding the mediation procedure does not accept the dispute resolution through mediation, and judicial assistant assesses that it would be purposeful to contact this person again, he will, upon creation of the

M file, place the file into the records for a specific period of time, and after that time has expired, he may contact this person again. If this person accepts dispute resolution through mediation in the new conversation, the judicial assistant will act as described above; and if the person does not accept dispute resolution through mediation, in that case the case file will be archived.

Conclusions and Recommendations for the Establishment of Mediation and Alternative Dispute Resolution Support Services in Courts

Serbian procedural laws, like the law regularizing the process of mediation, contain provisions that are binding on the courts and other state agencies, not only to inform the parties about the possibility of dispute resolution through mediation, but also to provide full information in this regard. Information should not be provided only to the parties in court proceedings, but also to all other citizens as potential participants in different court proceedings. Apart from the legal framework, one should keep in mind provisions of the Court Rules of Procedure that contain concrete solutions and methods on how these information can be provided to the parties and citizens. These legal provisions from the Court Rules of Procedure have been used in the establishment of the Info Service for Support to Alternative Dispute Resolution in the Second Basic Court in Belgrade. It would, by all means, be useful to provide for the establishment of such service by the Court Rules of Procedure. That way, not only the obligation of providing full information to parties and citizens is institutionalized through provisions of the Court Rules of Procedure, but also, the modus operandi of this service is prescribed in a uniform manner. Of course, the work of the info service should be adaptable to every individual court, depending on court's particular jurisdiction and characteristics. Also, provisions of the Court Rules of Procedure, and, first of all, the support records, should be adapted according to the needs of record-keeping of not only those cases that have been referred to mediation and that are already in the court proceedings, but also to record-keeping of those cases where the parties opted for mediation before initiating court proceedings. We are of the opinion that it is useful to record each phase in the referral procedure, that is, from the moment a party proposed mediation and the other party accepted it, through the signing of an Agreement to Mediate, all the way to the stage where the mediation process has ended, along with the description of the outcome.

Experience obtained during the creation of the info service for support to alternative methods of dispute resolution in the Second Basic Court in Belgrade may be used for the establishment of similar services in other courts. We would like to emphasize several important points that should be taken into consideration:

- First of all, it should be established whether there has ever been a similar service in the court, or, whether there have been any activities directed towards promotion and implementation of mediation. Any previous experience, particularly the existence of a space adapted to this kind of activity, could be very useful.
- It is essential to inform the judges about the basic principles of mediation and its advantages. Judges are the ones who have the most opportunities to emphasize the possibility of dispute resolution through mediation in their contacts with the parties.

- It is necessary to provide that parties and citizens who are not participating in court proceedings are informed about mediation. The information may be provided by judges, someone from the court administration, or judicial assistants at the info desk or special premises designated for this purpose.
- It is necessary to record all cases that have been referred to mediation, and not only those that are included in an ongoing court proceedings, but also those where citizens opted for mediation, before initiating court proceedings.
- It is necessary to train judges so that they can recognize which cases are suitable for mediation and provide full information to the parties. Judicial assistants should get the same kind of knowledge and skills, and, apart from that, it is necessary to train them how to talk to citizens and parties interested in mediation.
- It is necessary to promote the work of the mediation (ADR) support service. First of all, all employees of the court should be informed about the establishment of such a service, its role and significance, and then, inform the parties and citizens by way of posters, leaflets, internet web page, and social networks.

VII. Mediation and Lawyers⁵

During the last decade of the 20th century, an increase in the application of alternative dispute resolution (ADR) methods was noted in the world, lead by the USA where more than 95% of all disputes find their resolution out of the court. From the USA, and Europe, to our region, mediation has become the most dominant method of ADR, primarily due to its flexibility, confidentiality, speed and accessibility, but also because of the parties' ability to control the outcome of the process.

In Serbia where the new Law on Mediation⁶ entered into force in January 2015, and mediation was recognized as one of the priorities for improving judicial efficiency, the first organized programs of mediation started back in 2001, implemented by civil society organizations with support of international organizations and donors. Within the process of judicial reform in 2002, mediation was recognized as a technique that can potentially increase judicial efficiency, a "settlement week" in 2003, and good results of pilot projects in a few municipal courts led to adoption of the first law in this field in Serbia in 2005, followed by the establishment of the "State Mediation Center" in 2006. Unfortunately, initial efforts to develop and implement mediation as an integral dispute resolution method in Serbia were short lived. Despite of the established legal framework, international technical support, and opening of mediation centers, number of mediation cases decreased and court-annexed mediation programs were closing down, hence today, after almost 15 years since the first steps were made in this field in Serbia, we are still at the beginning of the process of establishing mediation as a viable alternative to court proceedings. A question arises how did Serbia, after initial good results, lose an opportunity to successfully implement mediation into society as an effective dispute resolution tool? It is speculated that this situation derived from shortcomings in the 2005 Law on Mediation, that mediation development was not a priority for the Government, and that there was a lack of cooperation between different stakeholders in the field of mediation.

One of the contributing factors to this situation was a total disregard of the role of lawyers⁷ in mediation. Initial programs and projects in this field devoted little or no attention to lawyers, as one of the very important stakeholders in this dispute resolution method. In truth, introduction and development of mediation was followed by a certain resistance of lawyers (advocates) in many countries, which could be explained by a fear that such novel method of dispute resolution could negatively affect their income. However, this "resistance" was mainly a result of prejudice and lack of information, as traditional legal education in many countries did not, and still does not, provide much information about mediation during the initial legal studies. Still, many lawyers who engage in mediation today, as advocates or mediators, testify

⁵ Parts of this text were published in the magazine "Lawyer", from June 2013.

⁶ Law on Mediation in Dispute Resolution ("OG RS" 55/2014)

⁷ Licensed advocates, attorneys-at-law.

that mediation is a great tool for achieving their clients' best interests, while at the same time, improving their legal practice. By supporting and properly representing their clients in mediation lawyers can expect better client satisfaction, as well as building their own reputation and respect. Lawyers who embrace mediation, will soon realize benefits for their clients, and many advantages over the traditional court process. Finally, increased use of mediation will open new possibilities for lawyers' engagement, as they can be called upon to act as mediators, or represent their clients in mediation even before initiation of the court or any other formal proceedings. However, in order to achieve this, lawyers need to acquire new skills, as traditional legal education lacks substantive ADR topics (except to some extent on arbitration) and skills training necessary to master them.

Although most lawyers who are familiar with the principles of mediation may wish to become fully trained mediators, in practice they will have more engagement as mediation advocates, representing their clients in mediation cases. The role of a lawyer as a mediation advocate is very important, sometimes even crucial, for the decision of the clients to attempt mediation:

- Firstly, lawyers advise their clients about the suitability of a dispute for mediation;
- If a case is deemed suitable, lawyer will then participate in the selection of a qualified mediator or a mediation provider organization;
- When the mediator is selected, lawyer will prepare the client for mediation. This preparation will cover differences between mediation and the traditional court process, role of a mediator, legal nature of the mediation agreement, as well as development of a certain negotiation strategy for the specific dispute, as the dispute resolution approach in mediation for a lawyer and his client, is very much different than the one in litigation;
- Lawyer and the client must be prepared to resolve the case "on the day of mediation" if at all possible. Mediation session will be scheduled when all participants are ready to fully and comprehensively discuss the causes of the dispute and consider all possible options for the solution. This also includes their negotiation ability, hence all participants, including the lawyers, must be fully prepared before the mediation could start;
- During the entire mediation process the lawyer protects the client's best interests. Although it is possible for individuals to participate in a mediation without a lawyer, in practice the presence of a lawyer is particularly helpful in property and commercial disputes, especially since the mediator has no authority to provide legal advice;
- Lawyer participates in the negotiation and advises the client on important legal and other aspects of a possible solution. This requires that lawyers also possess negotiation skills in order to achieve the best possible outcome for their client;
- Lawyer must "cooperate" with the mediator throughout the process. One of the preconditions for a successful mediation is a constructive relationship between mediators and representing attorneys. Of course, this relationship will be based on the full respect of the principles of impartiality and confidentiality. The mediator and

lawyers must cooperate, as lawyers know their clients case to the finest detail, while impartial mediators may bring an uncooperative party to the negotiation table and help the negotiation process in many other ways (i.e. empathy, reality testing, shuttle diplomacy, etc.). During the negotiation dance, lawyer may use the mediator to objectively discuss pros and cons of a certain solution with the client, and can rely on the mediator to suggest a change in the mediation approach and strategy, or even the termination of the entire process, if it becomes futile.

- Finally, the lawyer participates in drafting and implementation of the mediation agreement, that can also include an enforcement process.

In case the mediation does not result in an agreement, the lawyer and client can at any time go back to the court or other formal process of dispute resolution without any procedural consequences.

There are many advantages of mediation for lawyers. By engaging in mediation lawyers acquire a new skill and can offer it to their clients in suitable cases, which will result in a better client-attorney relationship. In mediation lawyers retain control over costs, duration and ultimately the outcome of the case, as the decision in mediation cannot be made without their consent. Mediation will also enable lawyers to improve the case management of their own legal practice, and to properly distribute their internal resources between mediation and litigation. Finally, mediation contributes to the increase of the professional reputation, as lawyers who embrace it will be considered as problem solvers by their clients and local communities.

In order to support participation of lawyers in the process of mediation and for the purposes of increasing capacity of the bar associations to utilize mediation in the future, bar associations should consider the following activities:

- Organization of continuing training of lawyers to utilize mediation:
 - Basic workshops to familiarize lawyers with the principles of mediation and their role in the mediation process;
 - Skill-seminars for effective mediation advocacy;
 - Training lawyers as mediators, so that each bar association would have an optimum number of lawyers-mediators to provide mediation services;
- Establishment of "mediation centers" within bar associations;
- Selection and training of mediation officers in the bar associations and raising capacity of the bar associations to provide mediation services;
- Establishment of lists of mediators in the bar associations;
- Promotion of mediation in local communities.

Bar associations are ideal organizations for organizing and providing mediation services. Each bar association may, according to its needs, establish a list of mediators and mediation services and appoint a mediation officer. Following the examination of the case, lawyers

would (having passed the basic informative workshops and seminars on how to represent clients in mediation) evaluate the suitability of cases for mediation, and obtain clients' consent in this regard. After that, the mediation officer in the bar association would be approached, who may then contact the other party and perform necessary case intake tasks to prepare the mediation. In this way, the lawyers would offer their clients additional service in the Bar Association prior to initiating the court proceedings.

Organization of mediation services in this manner would contribute to increased reputation of the bar associations, improvement of the lawyers' practice, additional income for lawyers, greater client satisfaction, and certainly relief for the courts, since significant number of disputes would be resolved before initiating the court proceedings, especially having in mind a number of lawyers who have already passed the basic mediation training. Existing regulations enable bar associations, as well as other organizations, to organize mediation services in this way.

Mediation is no longer only an alternative, but probably the most appropriate method of dispute resolution today. It is complementary to the court process and contributes to more efficient administration of justice and increased public confidence in the legal system. It is therefore in the interest lawyers to acquire mediation skills in order to provide their clients with the best possible legal representation and assistance, and at the same time achieve better work satisfaction, expansion of their legal practice, and development of their personal and professional respect and reputation in the society.

VIII. Cacak Bar Association Mediation Center

As one of the results of this project, a Mediation Center was opened in the Bar Association (BA) of Cacak. Cacak BA has over 700 members - lawyers, and covers a very large territory in the west part of Serbia, from Zlatibor to Novi Pazar, including 14 basic, 5 high, and 3 commercial courts. Cacak Bar Mediation Center has a list of 15 licensed mediators, all lawyers, 14 of which have been trained within this project, and one full time administrative officer in charge of the case management. As a part of the project, all necessary forms, checklists and templates were developed, and the Center started receiving first mediation cases. When selecting lawyers to be trained as mediators, Cacak Bar ensured that all major cities within its territory are represented, hence trained mediators are now available in Krusevac, Kraljevo, Uzice, Gornji Milanovac, Pozega, and of course, the city of Cacak. Cacak BA also expanded its premises to include a training room and additional break-out room for mediations. It is anticipated that Cacak Bar Association Mediation Center will receive more mediation requests and cases in the future.

In addition to the mediation center and basic training for mediators, Cacak Bar members and lawyers from Belgrade showed great interest in outreach workshops where they received basic information about mediation, and also in 2-day mediation advocacy trainings. By participating in these events lawyers from Cacak and Belgrade are now better informed about the basic principles of mediation, advantages of mediation over the court proceedings, and trained in mediation advocacy skills, which will contribute to further development of the peaceful dispute resolution culture and ultimately the reduction of the court backlog. Through these activities a sustainable mediation system that ensures both supply of high-quality mediation services (center with adequate premises, mediation case-management capabilities, and availability of licensed mediators), and demand for these services (outreach campaign towards the general public, and all basic, high, and commercial courts within the Cacak Bar territory, local governments, public institutions and enterprises, and commercial companies, as well as lawyers skilled in representing clients in mediations) has been created. This was necessary to kick-start the bar association activities in this relatively new field for this legal profession.

As a justification of this approach of developing internal bar association capacity for alternative dispute resolution, it could be stated that after the conclusion of this project three other regional bar associations in Serbia have expressed interest in developing mediation centers and conducting similar activities within their own jurisdictions and competences.

IX. Conclusion

As a result of this project, pilot courts in Belgrade and Cacak have introduced systems for management of cases referred to mediation, and established info-desks, or offices for the support of mediation, as in the Second Basic Court in Belgrade. Furthermore, some courts have adopted formal regulations and defined procedures, as well as developed necessary forms and templates for referreing cases to mediation. Defining of the procedures and development of necessary documents, forms and templates created normative and operational framework enabling the courts, within their limited material capabilities, to select, refer and track cases suitable for mediation, that will reduce the overall court backlog and improve court efficiency. At the same time, adoption of these procedures and development of accompanying documents will ensure efficient monitoring and reporting of cases referred and resolved through mediation, necessary for the adoption of the European Union standards in this field. Finally, citizens, as well as, business entities, as primary users, will gain a new service that will provide them more efficient protection and opportunity to fulfil their interests, and ultimately have better access to justice. This pioneer effort was led by the Second Basic Court in Belgrade, and followed by the Basic and High Court in Cacak, as well as the Commercial Court in Belgrade. With very limited human and material resources, and in addition to their everyday workload, presidents, judges, and staff of these courts have provided unreserved support and invaluable contribution to the creation of a new case management model and thereby contributed to further improvement of the entire judicial system that has ensured easier access to justice for citizens and businesses.

Activities implemented in the Bar Association of Cacak, trainings for lawyers and law firm trainees conducted in Cacak and Belgrade, and development of internal bar association case-management system, enabled the legal profession to be actively engaged in the process of incorporating this alternative dispute resolution method in the Serbian legal system. Bar Association of Cacak established its own Mediation Center, created a list of available licensed mediators, trained administrative staff, adopted operational check-lists and procedures, and developed necessary forms and templates, in order to organize mediation services within its entire territory. In addition to the lawyers who were trained as mediators within this Project, a number of lawyers from Belgrade and Cacak gained necessary knowledge and skills that enabled them to provide high quality legal advice and representation to their clients in mediation cases. Creation of the Mediation Center by one bar association is unprecedented in Serbia, and therefore it represents a commendable effort. As a follow up, this effort lead to an increased interest of other bar associations in. Having in mind recent developments in the reform of legal professions in Serbia, as well as traditional, albeit unfounded resistance of lawyers to mediation and alternative dispute resolution in general, the effort of the Cacak Bar Association shows openness, dedication and vision of their leadership and members, lead by a clear desire to modernize the bar and provide better legal service to the citizens.

This entire project and all implemented activities, received unreserved support by the Supreme Court of Cassation, Ministry of Justice, Judicial Academy, and the Bar Association

Academy. From the initial support, through direct consultations, and participation in the project activities and training sessions, the Supreme Court of Cassation demonstrated support for implementation of alternative methods of dispute resolution in the judiciary. Following the adoption of the new law in 2014, Ministry of Justice has on numerous occasions expressed support to mediation and other alternative dispute resolution methods. Most recently, the Ministry established an Advisory Group tasked with supporting creation of efficient and sustainable system of mediation in Serbia. Judicial Academy supported and participated in trainings for judges and judicial assistants, and after the end of this Project, continued with its own info-sessions, and other trainings for judges and judicial assistants in this field. Finally, the Bar Association of Serbia, through its Training Academy, participated in trainings and other activities for lawyers and legal trainees, and clearly showed that the Bar is an active stakeholder and promoter of peaceful methods of dispute resolution, in the best interest of their clients.

Finally, Partners Serbia has increased its own capacities as a result of this Project, gained new experience and skills, and had opportunities to work together with their colleagues from courts and bar associations on the full integration of mediation into the legal system. However, probably the greatest satisfaction at the end of this pioneering "Serbia Pilot Court Mediation Project" effort is the fact that implemented activities are already showing concrete results, both in Cacak where the Bar Mediation Center that has already received several cases, and the Second Basic Court in Belgrade where more than 15 cases have been referred to mediation. The Commercial Court in Belgrade is continuing with its efforts, coordinated with the Appeal Commercial Court and the Judicial Academy, on the establishment of the info-desk in order to provide their users with more information on the benefits of mediation in the resolution of commercial disputes.

We would once again like to thank MATRA Program of the Royal Dutch Embassy in Serbia for the opportunity to utilize our skills and experiences in the process of development of mediation in Serbia. Without their trust and support the implementation of the Project activities and achievement of the Project results would not have been possible.

X. List of Annexes⁸

I.1 FORMS AND TEMPLATES DEVELOPED FOR THE PILOT COURTS

1. Intake Questionnaire
2. M Record Book
3. Daily Record Book
4. Mediation Referral Office - Information letter
5. Letter to Parties in Dispute
6. Case File
7. Court Manual (Guidelines) of the ADR Support Office
8. Mediation Case-flow Chart

I.2. FORMS AND TEMPLATES DEVELOPED FOR THE BAR ASSOCIATION OF CACAK

1. Intake Form
2. Daily Record Book
3. Letter to Parties in Dispute
4. Agreement to Mediate Template
5. Preparation of the Mediator
6. Notes on the Opening Address by the Mediator
7. Evaluation Form for Mediators
8. Evaluation Form for Parties in the Dispute
9. Notification of Case Closure
10. Case File

II WORKSHOPS TOPICS AND AGENDA

1. Mediation in the Judiciary; Selection and referral of court cases to mediation
2. Mediation in the Judiciary; Case-management system
3. Mediation in the Judiciary; Referral of court cases to mediation
4. Basic Training for Mediators
5. Mediation Advocacy; The role of lawyers in mediation
6. Mediation Advocacy; Representing Clients in Mediation

III PROMOTIONAL MATERIALS

1. Leaflet of the Second Basic Court in Belgrade
2. Posters for the Second Basic Court in Belgrade
3. Leaflet of the Cacak Bar Association
4. Posters for the Cacak Bar Association
5. Leaflet of the High Court in Cacak and Basic Court in Cacak
6. Posters for the High Court in Cacak and Basic Court in Cacak

⁸ The Annexes attached to the publication are in Serbian. Annex translated in English are available with Partners Serbia.

I.1 FORMS AND TEMPLATES DEVELOPED FOR THE PILOT COURTS

У П И Т Н И К

Име/назив : _____

Контакт : _____

Како је корисник сазнао за медијацију : _____

Да ли је корисник први пут у поступку медијације : ДА НЕ

Да ли су поводом спорног предмета већ вођени преговори или неки други поступак : ДА НЕ

Пуномоћник (контакт) : _____

Природа спора :

1) Породични 2) Имовински 3)Привредни 4)Радни 5)Дискриминација 6) Управни 7) Потрошачки 8) Други _____

Опис спора:

Основне информације о другој страни : _____

Разговор -исход :

- 1) Није за медијацију/ дат савет/ упућен даље
- 2) Погодан за медијацију/ контактираће другу страну
- 3) Погодан за медијацију / Служба ће контактирати другу страну

Праћење :

М УПИСНИК

ДРУГИ ОСНОВНИ СУД У БЕОГРАДУ

Редни број	Стране у спорном односу	Предмет спора	Страна која је прихватила посредовање ради решавања спора (датум)	Да ли су остале странице у спору прихватиле да се покуша решавање спора посредовањем	Стране су потписале споразум о решавању спора посредовањем (датум)	Да ли је закључен споразум о решавању спора посредовањем (да/не и датум)

ДНЕВНА ЕВИДЕНЦИЈА**ДРУГИ ОСНОВНИ СУД У БЕОГРАДУ**

Редни број	Датум	Број судског предмета	Врста информације која је дата	Број М предмета (уколико је формиран)



РЕПУБЛИКА СРБИЈА
ДРУГИ ОСНОВНИ СУД У БЕОГРАДУ
- Служба за подршку медијацији-
БЕОГРАД
ул. Катанићева бр. 15

Поштовани,

Обавештавамо Вас да је у Другом основном суду у Београду отворена Служба за подршку посредовању у решавању спорова - медијацији.

Медијација (посредовање) је вансудско решавање спора у коме медијатор, као треће, неутрално и непристрасно лице усмерава комуникацију између страна у спору, помаже у преговорима ради постизања заједнички прихватљивог решења спора.

Служба за подршку медијацији помаже грађанима и странкама у поступку како би се упознали са поступком медијације, њеним предностима и утицајем на вођење поступка, као и на ток самог судског поступка. Поред пружања ових информација, служба ће помагати грађанима и странкама како би се друга страна у спорном односу позвала да приступи поступку медијације, као и да помогне странама да изаберу личност медијатора.

Овај допис упућен је свим странкама у поступку, те Вас позивамо да се обратите Служби уколико сте заинтересовани да покушате да спор решите у поступку посредовања - медијације, или су вам потребне друге информације у вези са овим поступком.

Можете нас контактирати на број телефона 062/237 785 или путем наше имејл адресе drugiosnovnisud.medijacija@gmail.com.

Срдачан поздрав,

Служба за подршку медијацији
Другог основног суда у Београду



РЕПУБЛИКА СРБИЈА
ОСНОВНИ И ВИШИ СУД У ЧАЧКУ
СЛУЖБА ЗА МЕДИЈАЦИЈУ
Цара Душана бр. 6/1,
Чачак

адв. Б

11000 БЕОГРАД
ова бр. 13

адв. Ђ

11000 БЕОГРАД
бр. 52/37

Поштовани,

Обавештавамо Вас да је у Основном и Вишем суду у Чачку отворена Служба за медијацију.

Медијација (посредовање) је вансудско решавање спора у коме медијатор, као треће, неутрално и непристрасно лице усмерава комуникацију између страна у спору, помаже у преговорима ради постизања заједнички прихватљивог решења спора.

Служба за медијацију помаже грађанима и странкама у поступку како би се упознали са поступком медијације, њеним предностима и утицајем вођења овог поступка на ток самог судског поступка. Поред пружања ових информација, служба ће помагати грађанима и странкама како би се друга страна у спорном односу позвала да приступи поступку медијације, као и да помогне странама да изаберу личност медијатора.

У предмету тужиоца Ћ Д против туженог Ц Пе, П.бр. 0000/14 поднеском од 18.10.2016. године пуномоћник тужиоца адв. Б П, обавестио је суд да је заинтересован да се спор реши путем медијације.

Овом приликом позивамо обе стране да се обрате служби уколико им је потребна помоћ приликом избора медијатора и свих осталих додатних информација у вези овог поступка.

Можете нас контактирати на број телефона 032/22 22 42, локал 127 или путем наше имејл адресе medijacija.sud.cacak@gmail.com.

Срдачан поздрав,

Служба за медијацију
Основни и Виши суд у Чачку

ОСНОВНИ СУД У ЧАЧКУ

ВИШИ СУД У ЧАЧКУ

Су.бр. _____ / _____

Омот списка

Други основни суд у Београду, и то в.ф. председника Другог основног суда у Београду, судија Татјана Јеремић, на основу одредбе чланова 3 и 6 Судског пословника, дана 29.03.2017. године, доноси

УПУТСТВО О НАЧИНУ ПРИСТУПА, СИСТЕМУ РАДА И НАЧИНУ ПОСТУПАЊА „ИНФО-СЛУЖБЕ ЗА ПОДРШКУ АЛТЕРНАТИВНОМ РЕШАВАЊУ СПОРОВА"

ОПШТЕ ОДРЕДБЕ

Члан 1

Инфо-служба за подршку алтернативним начинима решавања спорова у Другом основном суду у Београду (у даљем тексту Инфо-служба за подршку АРС) пружа информације и обавештења о могућности вансудског решавања спорова у Другом основном суду у Београду.

Члан 2

Инфо-служба за подршку АРС пружа потребна обавештења и информације свим грађанима и странкама без обзира на њихово имовно стање и место боравишта и пребивалишта.

Информације и обавештења се односе на могућност решавања спорног односа посредовањем у решавању спорова - медијацијом.

Члан 3

Годишњим распоредом послова, председник суда одређује судију који ће да руководи Инфо-службом за подршку АРС, који ће одредити судијске помоћнике који ће бити ангажовани у оквиру Инфо службе за подршку АРС.

Члан 4

Поступајуће судије које из судског поступка упуте странке на медијацију, уз сагласност странака и њихових пуномоћника, обавестиће о томе Инфо-службу за подршку алтернативном решавању спорова ради евидентирања и праћења предмета.

ЕВИДЕНЦИЈЕ

Члан 5

У Инфо - служби за подршку АРС воде се евиденције и спискови:

Евиденције:

- дневна евиденција
- евиденција предмета у којима су странке упућене на медијацију односно на мирно решавање радних спорова Образац бр. 105
- „М“ уписник

Спискови:

- списак медијатора (Образац 101)
- списак пружалаца услуга медијације
- списак акредитованих организација за обуку медијатора
- списак дежурстава

Дневна евиденција

Редни број	Датум	Број судског предмета	Врста информације која је дата	Број предмета М уколико је формиран
1	2	3	4	5

Све информације које се дају у Инфо-служби за подршку АРС, лично, преко телефона или у писаном облику евидентирају се у Дневној евиденцији.

Уколико се води судски поступак у Дневној евиденцији се уписује и број судског предмета (п;к;о...)

У рубрици „врсте информација која је дата“ уписује се кратак опис информације која је дата нпр. да ли је општа информација о медијацији, да ли пре покретања спора или у току спора, потребна помоћ око избора медијатора.

Евиденција предмета у којима су странке упућене на медијацију односно на мирно решавање радних спорова (Образац бр. 5 Судског пословника)

Редни број	Суд - судска јединица	Ознака списка	Медијатор, агенција	Датум упућивања	Рок за решавање спора посредовањем	Начин окончања поступка посредовањем	Примедбе
1	2	3	4	5	6	7	8

У рубрици „ознака списка“ уписује се број судског предмета који се упућује на медијацију. Уколико суд упућује стране које немају судски поступак тада се уписује М број.

Као дан упућивања уписује се дан када суд добије информацију да су све стране спремне да приступе медијацији ради решавања спора.

Након што медијатор обавести суд да су стране потписале споразум о решавању спора посредовањем у рубрику „Рок за решавање спора посредовањем“ уписује се датум који представља шездесети дан од дана када је потписан споразум о решавању спора посредовањем.

У рубрици „начин окончања спора посредовањем“ поред напомене да ли је поступак успео или не, треба навести да ли је, у случају успешно окончаног поступка, а вођен је поступак у суду: 1. Тужба повучена, 2. Закључено поравнање пред судом, 3. Закључен споразум о решавању спора посредовањем као извршна исправа 4. Или је само сачињен споразум у писаној форми, 5. Спор окончан на други начин.

М уписник

Редни број	Стране у поступку посредовања	Предмет спора	Страна која је прихватила посредовање ради решавања спора (датум)	Да ли су остале стране у спору прихватиле да се покуша решавање спора посредовањем	Стране су потписале споразум о решавању спора посредовањем (датум)	Начин окончања поступка посредовањем	Примедбе
1	2	3	4	5	6	7	8

У „М“ уписник приликом евидентирања страна које су прихватиле да покушају да спор реше путем медијације треба назначити и датум.

Обавештавање и информисање

Члан 6

Судијски помоћници информације и обавештења странкама и другим лицима пружају у службеним просторијама, путем телефона, интернет презентације и путем електронске поште.

ПОСТУПАК

Члан 7

Судијски помоћници приликом разговора са странкама и другим лицима дају основне информације које се односе на поступак медијације:

- добровољност медијације (приступ медијацији, излазак из медијације, сачињавање

споразума од стране самих учесника у поступку медијације)

- поверљивост медијације (поступак је поверљив, искључена је јавност, докази, предлози и наводи изнети током поступка медијације се не могу користити у судском или другом поступку)
- учешће пуномоћника

начинима окончања медијације (закључењем споразума, закључењем споразума-поравнања, закључење споразума као извршне исправе)

- трошковима поступка.

Члан 8

Приликом разговора судијски помоћник попуњава упитник. (Упитник прилог бр. 01)

Након попуњавања упитника, судијски помоћник може на основу упитника:

- формирати списе предмета за медијацију
- ставити у привремену евиденцију или
- архивирати.

Формирање списка предмета за медијацију

Члан 9

Списи предмета медијације се формирају уколико странка или грађанин изразе спремност да спор реше путем медијације и тада судијски помоћник формира списе:

- у њих прилаже попуњени упитник,
- на одговарајућем месту на омоту уписује своје име.

Контактирање друге стране

Члан 10

Судијски помоћник ће на најпогоднији начин (телефоном, путем мејла или дописом контактирати супротну страну и предочити јој све информације из члана 7 уколико је у упитнику наведено да ће Инфо-служба контактирати другу страну.

Ако са другом страном разговара, непосредно или путем телефона, судијски помоћник ће сачинити службену белешку у наставку упитника. Службена белешка обавезно садржи, изјаву друге стране да ли жели или не жели да приступи решавању спора медијацијом.

Допис или mail којим се друга страна изјашњава о приступању медијацији судијски помоћник ће здружити списима предмета.

Ако се друга страна не сагласи приликом првог разговора да се покуша спор решити медијацијом, судијски помоћник, уколико процени да је целисходно, може обавити још разговора. Како би поново контактирао другу страну, на омот списка ставља одговарајућу евиденцију како би поново контактирао другу страну.

Контактирање друге стране од стране лица које је иницирало медијацију

Члан 11

Након што лице које је иницирало медијацију обавести Инфо-службу за подршку АРС, да је и друга страна пристала да приступи медијацији, приступа се избору медијатора уколико га стране нису саме одредиле.

Избор медијатора

Члан 12

Стране су слободне да својом вољом одреде медијатора.

Након што добије пристанак друге стране или га о том престанку обавести лице које иницирало поступак медијације, а стране саме нису одредиле, судијски помоћник помаже странама да изаберу медијатора.

Уколико се стране одлуче да медијатор буде судија, а стране медијатора не одреде, судијски помоћник ће странама предложити медијатора са листе тога суда по реду уписа водећи рачуна да све уписане судије медијатори буду подједнако ангажовани.

Судијски помоћник је дужан да упозна стране са групама медијатора које се налазе на Списку медијатора, односно да се у њему налазе судије, тог и других судова, остали правници као и лица каја нису правници по струци.

Странама се предочавају могући трошкови поступка медијације односно да ли неко од медијатора може спровести конкретан поступак медијације без какнаде.

Члан 13

Након што стране изаберу медијатора, судијски помоћник име медијатора уписује у упитник и примерак упитника достављају медијатору (имејлом, или у фотокопији...), списе ставља у евиденцију и врши евиденцију у обрасцу 105 и М уписника.

Судијски помоћник ће од медијатора затражити информацију да ли су стране приступиле медијацији и то евидентирати у списима.

Уколико стране нису приступиле медијацији „М“ списи ће се архивирати.

Уколико су стране приступиле медијацији „М“ списи се стављају у евиденцију на 60 дана.

Након протеча времена за евиденцију, контактираће медијатора и информацију о начину окончања поступка медијације евидентирати у списима предмета, као и у обрасцу 105.

Привремена евиденција

Ако грађанин или странка којој је дато обавештење или информација у вези са поступком медијације одмах не прихвати да спор реши путем медијације судијски помоћник га може поново контактирати.

Судијски помоћник ће у овој ситуацији упитник ставити у привремену евиденцију и након одређеног времена поново контактирати странку или грађанина.

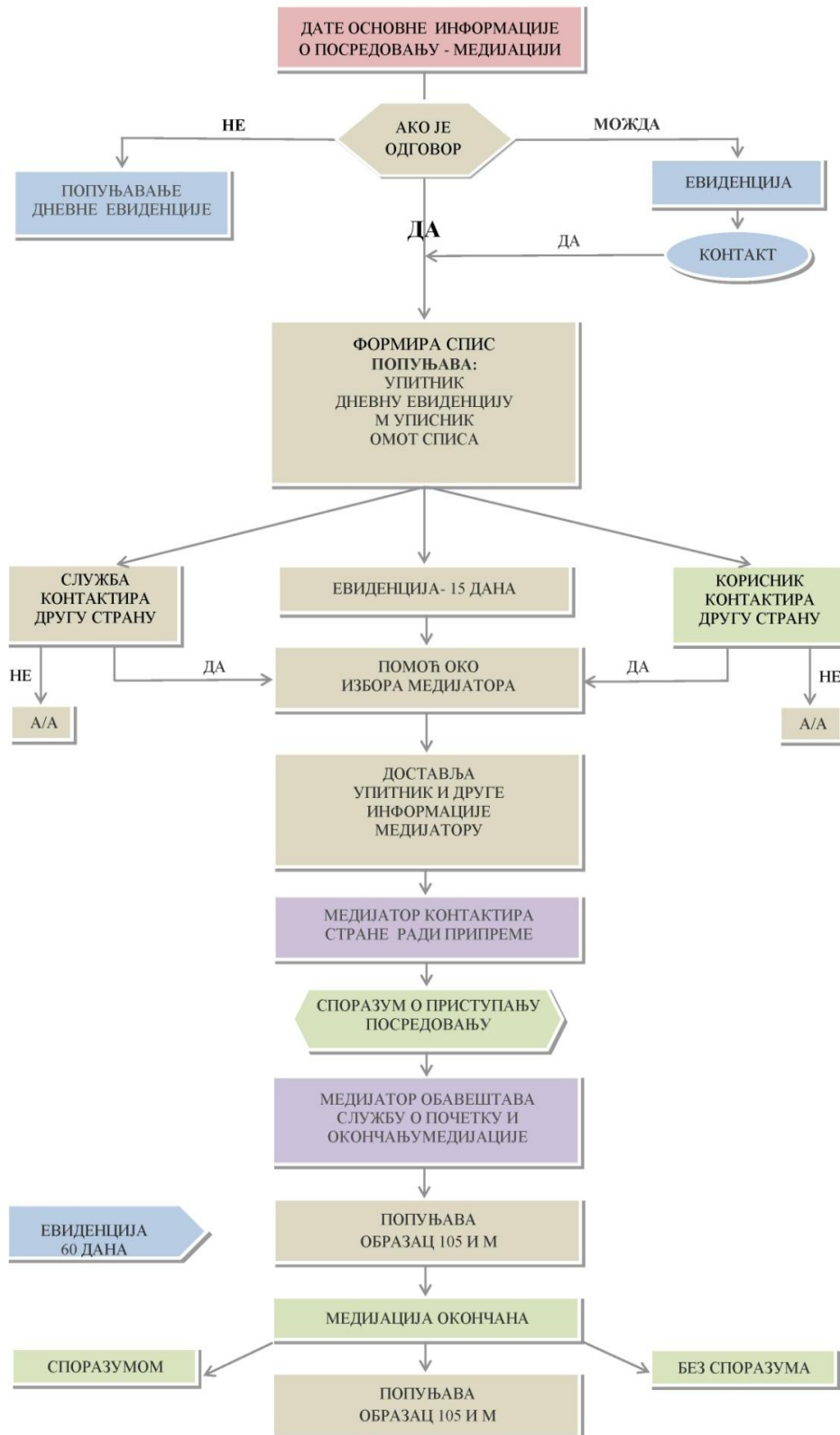
Уколико странка или грађанин прихвати да спор покуша да реши путем медијације судијски помоћник поступа на начин прописан у члановима 9-13 овог Упутства.

Архивирање упитника

Након попуњавања упитника ако судијски помоћник процени да странка или грађанин није заинтересован да покуша да спор реши медијацијом упитник ће архивирати.

Службене просторије

Простор у коме је смештена Инфо-служба за подршку алтернативном решавању спорова мора бити приступачан грађанима и странкама. Посебно треба водити рачуна да буде доступна и особама са инвалидитетом.



I.2. FORMS AND TEMPLATES DEVELOPED FOR THE BAR ASSOCIATION OF CACAK



Broj predmeta:
Rukovodilac predmeta:
Datum i vreme poziva/dolaska:

Ime/naziv korisnika:

Zanimanje/delatnost:

Kontakt:

Kako je korisnik saznao za postupak medijacije?

Da li je korisnik prvi put u ovom postupku?

ДА НЕ

Da li su povodom istog predmeta već vođeni pregovori?

Da li se povodom istog predmeta vodi neki drugi postupak?

ДА НЕ

Kontakt punomoćnika:

Priroda spora:

- | | |
|--------------|-------------------|
| 1) porodični | 6) potrošački |
| 2) imovinski | 7) privredni |
| 3) vršnjački | 8) diskriminacija |
| 4) komšijski | 9) upravni |
| 5) radni | 10) ostalo _____ |

Osnovne informacije o drugoj strani:

Opis spora (ukratko):

Ishod prvog razgovora:

1) Nije za medijaciju/upućen dalje/dat savet

2) Pogodan za medijaciju i kontaktiraće drugu stranu

3) Pogodan za medijaciju, Advokatska komora Čačka će kontaktirati drugu stranu

Follow up – praćenje nakon prvog kontakta:

[illegible]

Дневна евиденција



Адвокатска комора Чачка



Адвокатска комора Чачка
Др Драгише Мишовића ½
32000 Чачак

Поштовани,

Обавештавамо Вас да је у Адвокатској комори Чачка отворен Центар за медијацију.

Медијација (посредовање) је вансудско решавање спора у коме медијатор, као треће, неутрално и непристрасно лице усмерава комуникацију између страна у спору, помаже у преговорима ради постизања заједнички прихватљивог решења спора.

Центар за медијацију помаже грађанима и странкама у поступку како би се упознали са поступком медијације и њеним предностима. Поред пружања ових информација, центар ће помагати грађанима и странкама како би се друга страна у спорном односу позвала да приступи поступку медијације, као и да помогне странама да изаберу личност медијатора.

Овај допис упућен је свим странкама у поступку, те Вас позивамо да се обратите Центру уколико сте заинтересовани да покушате да спор решите у поступку посредовања- медијације, или су Вам потребне друге информације у вези са овим поступком.

Можете нас контактирати на број телефона +381 32 227 142 или путем наше имејл адресе info@advokatskakomoracacak.rs.

Срдачан поздрав,

Центар за медијацију
Адвокатска комора Чачка



SPORAZUM O PRISTUPANJU POSREDOVANJU (MEDIJACIJI)

Dole potpisane ugovorne strane su se sporazumele o pokretanju postupka medijacije radi rešenja spornog odnosa i izjavljuju da razumeju i prihvataju sledeće:

1. Strane u spornom odnosu (Strane) ulaze u postupak medijacije u dobroj veri i spremne da pruže svoj doprinos mirnom rešavanju spora.
2. Strane saglasno biraju _____ iz _____, kao medijatora.
3. Medijator nema ovlašćenje da donosi odluku kojom se spor rešava. Uloga medijatora je da vodi postupak medijacije i pomaže Stranama u pronalaženju prihvatljivog rešenja spora podsticanjem konstruktivne komunikacije i pregovaranja. Odgovornost za donošenje odluke i postizanje sporazuma o rešavanju spora je isključivo na Stranama u spornom odnosu. Nijedna od Strana ne može biti primorana na prihvatanje rešenja koja joj ne odgovaraju.
4. Medijator nije ovlašćen da daje pravne savete. Strane su slobodne da angažuju pravne zastupnike i da se sa njima savetuju u vezi i tokom postupka medijacije.
5. Medijacija je postupak koji je zatvoren za javnost i koji je poverljiv. Medijator je obavezan da sve podatke, predloge i izjave u vezi sa postupkom medijacije čuva kao tajnu, osim ukoliko se Strane nisu drugačije sporazumele. Medijator ne može biti pozivan kao svedok u sudskom, arbitražnom ili drugom postupku u pogledu informacija koje je saznao u vezi sa postupkom medijacije. Izuzetno, medijator je zakonom obavezan da, i bez saglasnosti Strana, otkrije informacije koje je saznao u vezi sa postupkom medijacije u slučaju kada je to neophodno radi zaštite javnog poretka, a posebno radi zaštite najboljeg interesa deteta ili radi sprečavanja nanošenja štete fizičkom ili psihičkom integritetu lica, kao i onda kada je to potrebno radi sprovođenja sporazuma Strana
6. Strane u spornom odnosu su dužne da sve podatke, predloge i izjave u vezi sa postupkom medijacije čuvaju kao tajnu. Strane ne mogu predloge, mišljenja i stavove, koji su tokom postupka medijacije izneti isključivo radi zaključenja sporazuma o rešavanju spora, koristiti kao dokaz u sudskom, arbitražnom ili drugom postupku.
7. Medijator je ovlašćen da obustavi postupak medijacije ukoliko smatra da dalje vođenje postupka nije celishodno. Strane u sporu imaju pravo da u bilo kom trenutku odustanu od daljeg učešća u postupku medijacije ukoliko smatraju da nema mogućnosti postizanja sporazuma.
8. U slučaju postizanja sporazuma o rešavanju spora, medijator će na zahtev Strana pripremiti sporazum koji su Strane postigle u postupku medijacije. Sporazum o rešavanju spora postignut u postupku medijacije predstavlja ugovor koji Strane obavezuje nakon što ga potpišu.
9. Strane su saglasne da troškove medijacije, uključujući i naknadu troškova i honorar medijatora, snose na jednake delove. Ovo ne uključuje troškove zastupanja Strana u postupku medijacije od strane njihovih pravnih zastupnika.

_____ Ime i prezime	_____ Potpis (STRANA 1)
_____ Ime i prezime	_____ Potpis (STRANA 2)
_____ Ime i prezime	_____ Potpis (MEDIJATOR)
_____ Mesto i datum	



ПРИПРЕМА МЕДИЈАТОРА ЗА МЕДИЈАЦИЈУ

1. Ко су све учесници у поступку (колико особа долази, да ли ће бити присутни сви релевантни за решавање сукоба / њихови пуномоћници; уколико је страна група- да ли представници групе имају мандат за доношење одлука, да ли ће бити присутни правни заступници, итд.)
2. На који начин је организован простор у којем ће бити организован састанак- распоред седења.
3. Да ли је обезбеђен адекватан простор:
 - довољно места за седење за све стране
 - простор мора да пружа могућност и за одржавање кокуса
 - чекање пред заједнички улазак у просторију у којој ће се одигравати медијација
4. По којим све аспектима може бити присутан дисбаланс моћи страна- како га контролисати
5. Да ли ће медијацију водити један медијатор или пар; уколико се ради у комедијацији, ко из тима чини адекватан пар медијатора за тај случај
6. Договор између комедијатора на који начин ће сарађивати- водити медијацију (да ли ће свако бити надлежан за једну фазу, или ће медијатор водити дијалог са станама а други медијатор водити белешке, итд.)
7. На који начин ће бити вођен процес (заједнички састанак или кокуси, итд.)



PODSETNIK ZA UVODNU REČ MEDIJATORA

1. PREDSTAVLJANJE

- predstavi sebe
- upoznaj se sa stranama u sukobu

2. OBJASNI SUŠTINU POSTUPKA MEDIJACIJE

- neformalan, dobrovoljan, privatan, poverljiv, itd.

3. OBJASNI SVOJU ULOGU MEDIJATORA

- nezavisan
- neutralan
- ne donosi odluku, itd.

4. OBJASNI PRINCIP POVERLJIVOSTI

- kako poverljivost obavezuje medijatora
- kako poverljivost obavezuje strane u sporu i druge učesnike

5. OBJASNI PRINCIP DOBROVOLJNOSTI

- strane mogu odustati od daljeg učešća u medijaciji
- medijator može prekinuti postupak

6. OBJASNI OSNOVNA PRAVILA POSTUPKA

- zajednički i odvojeni razgovori
- posebna pravila
- broj sesija
- vreme trajanja sesija

7. OBJASNI ŠTA ĆE BITI KADA STRANE POSTIGNU SPORAZUM

- ko sastavlja sporazum
- kakva je pravna priroda sporazuma (vansudsko poravnanje/sudsko poravnanje)

8. PITANJA I ODGOVORI

9. POTPISIVANJE SPORAZUMA O PRISTUPANJU MEDIJACIJI



Евалуациони лист за медијаторе

У циљу унапређења спровођења поступка медијације пред Адвокатском комором Чачка, молимо Вас да процените поступак који сте водили. Захваљујемо на сарадњи.

Број предмета: _____

Датум покретања поступка: _____

Датум окончања поступка: _____

Начин окончања поступка:

Кратак опис ситуације која је била повод иницирања поступка:

Током припрема за поступак и контаката са учесницима:

- шта Вам је било од помоћи у мотивисању страна да прихвате поступак медијације ?
- Које сте тешкоће имали и како сте их превазишли?
- Ваше сугестије за унапређење ове фазе поступка:

Поступак посредовања се одвијао на следећи начин:

- 1) заједнички састанци од почетка до краја
- 2) заједнички састанци уз повремено коришћење одвојених разговора
- 3) одвојени састанци од почетка до краја
- 4) почело је одвојеним разговорима, а настављено кроз заједничке састанке
- 5) друго

Током поступка посредовања:

- шта можете да истакнете као позитивно у току поступка посредовања ?
- на које сте препреке наилазили и како сте их превазишли ?
- Ваше сугестије за унапређење ове фазе поступка

Да ли сте у било којој фази поступка имали проблема са поштовањем неких од принципа поступка:

- 1) поверљивост
- 2) неутралност и непристрасност
- 3) баланс моћи
- 4) друго _____

Уколико јесте, молимо да наведете више детаља:

Оцените сарадњу са Адвокатском комором Чачка: (1 – лоша, 5- одлична):

1 2 3 4 5

Ваши предлози за унапређење ове сарадње:

Додатни коментари и сугестије:



Broj predmeta: _____

Medijator: _____

EVALUACIONI FORMULAR ZA UČESNIKE

U cilju unapređenja kvaliteta mediacije i prikupljanja statističkih podataka, molimo Vas za nekoliko informacija o procesu medijacije - posredavanja u kojem ste učestvovali.

1. Kako ste saznali za postupak medijacije?

- 1) od advokata
- 2) u sudu
- 3) u opštini
- 4) putem sredstava informisanja
- 5) drugim putem: _____

2. Ocenite medijatora i proces medijacije prema sledećim pravilima: od 1-loše do 5-odlično;

Primio sam jasne informacije o tome šta da očekujem u postupku.	1	2	3	4	5
Proces medijacije je jasno objašnjen.	1	2	3	4	5
Imao/la sam dovoljno vremena da kažem šta želim.	1	2	3	4	5
Osećao sam se slobodnim da kažem šta mislim.	1	2	3	4	5
Medijator je sugerisao kako spor treba da bude rešen.	1	2	3	4	5
Mediator mi je pomogao da sagledam različite načine rešenja spora.	1	2	3	4	5
Osetio sam da me druga strana razume bolje nego pre procesa medijacije.	1	2	3	4	5
Razumeo sam drugu stranu i njene interese bolje nego pre procesa medijacije.	1	2	3	4	5
Diskutovali smo o suštinskim pitanjima i razlozima koji su nas doveli u postupak medijacije.	1	2	3	4	5
Medijator je podjednako postupao prema stranama.	1	2	3	4	5
Osećao sam pritisak od strane medijatora da postignem sporazum.	1	2	3	4	5

Medijator je bio dobar slušalac.	1	2	3	4	5
Medijator je pomogao u rešavanju spornih pitanja.	1	2	3	4	5
Medijator se odnosio prema učesnicima s poštovanjem.	1	2	3	4	5
Zadovoljan/na sam procesom.	1	2	3	4	5
Zadovoljan/na sam ishodom.	1	2	3	4	5

4. Ko je došao na ideju o mogućem rešenju? Moguće je zaokružiti više odgovora.

- 1) ja
- 2) protivna strana
- 3) medijator
- 4) advokati
- 5) drugo: _____

5. Medijacija se završila:

- 1) potpunim sporazumom
- 2) delimičnim sporazumom
- 3) bez sporazuma

6. Da li biste ponovo učestvovali u postupku medijacije?

Da Ne

Ako je Vaš odgovor NE, Molimo Vas da ga obrazložite:

7. Da li biste preporučili medijaciju drugima?

Da Ne

8. Da li imate komentara ili sugestije?

Zahvaljujemo Vam na saradnji!



Датум: _____

Број предмета: _____

ДОПИС

О окончању поступка посредовања-медијације

За: _____

Овим Вас обавештавамо да је Адвокатска комора Чачка затворила Ваш предмет из следећих разлога:

- Предмет је процењен као неподобан за медијацију.
- Друга страна није одговорила или је одбила да учествује у поступку.
- Предмет је затворен према препоруци медијатора.
- Стране су одустале од поступка медијације.
- Једна од страна је одустала од поступка медијације.
- Стране су постигле споразум.
- Стране су постигле делимичан споразум.

Подсетник о поверљивости

Стране се подсећају да је поступак медијације строго поверљив, са чим су се сагласиле потписивањем Споразума о приступању медијацији. Стране су у обавези да чувају тајност поступка и свих података сазнатих током трајања поступка медијације.

Руководилац предмета
Центар за медијацију
Адвокатска комора Чачка



BR: _____
DATUM: _____

OMOT PREDMETA

Ime i prezime korisnika:

Adresa:

E-mail:

Telefon:

Punomoćnik/zastupnik:

Ime i prezime korisnika:

Adresa:

E-mail:

Telefon:

Punomoćnik/zastupnik:

Rukovodilac predmeta

Ime i prezime: _____

Kontakt: _____

Medijator

Ime i prezime: _____

Kontakt: _____

Dodatne informacije o korisnicima/stranama u sporu:

Priroda spora:

6) porodični
7) imovinski
8) vršnjački
9) komšijski
10) radni

6) potrošački
7) privredni
8) diskriminacija
9) upravni
10) ostalo _____

Kratak opis spora:

Kratak opis radnji pripreme za medijaciju/Dokumenti primljeni od korisnika:

- 1) _____
2) _____
3) _____
4) _____

Podaci o održanoj medijaciji:

Mesto održavanja medijacije (grad, opština): _____

Datum iniciranja medijacije: _____ Datum okončanja medijacije: _____

Broj strana koje su učestvovalе u medijaciji: _____

Da li su strane imale punomoćnike, advokate, zakonske zastupnike, ili su samostalno učestvovalе u medijaciji?

Postupak medijacije odvijao se na sledeći način:

6) zajednički sastanci od početka do kraja _____

7) zajednički sastanci uz povremeno korišćenje odvojenih razgovora _____

8) odvojeni sastanci od početka do kraja _____

9) počelo je odvojenim razgovorima, a nastavljeno kroz zajedničke sastanke _____

ostalo _____

Ukupan broj medijacijskih sastanaka: _____

Kratak opis toka medijacije:

[illegible]

Postupak okončan:

Datum:_____

- 1) Sporazum nije postignut, ali će pregovori biti nastavljjeni (vidi dole - praćenje)
 - 2) Jedna strana je odlučila da napusti postupak
 - 3) Strane su odustale od postupka medijacije
 - 4) Postupak je prekinut na osnovu odluke medijatora
 - 5) Strane su postigle delimičan sporazum
 - 6) Strane su postigle sporazum
 - 7) Ostalo _____
- _____

Praćenje predmeta / komunikacija sa sudom ili drugim organom:

Potpis medijatora/ko-medijatora

Potpis rukovodioca predmeta

II. WORKSHOPS TOPICS AND AGENDA



Kingdom of the Netherlands



Partneri za demokratske promene Srbija

u saradnji sa

Pravosudnom akademijom

uz podršku

Ambasade Kraljevine Holandije u Srbiji

organizuju seminar na temu

POSREDOVANJE (MEDIJACIJA) u PRAVOSUĐU - selekcija i upućivanje sudskih predmeta na medijaciju -

koja će se održati u sredu **1. juna 2016. godine, od 14:00 - 16:00**
u prostorijama Pravosudne akademije u Beogradu, Terazije 41 (sala u prizemlju)

Seminar je deo projekta „Podrška primeni medijacije u pravosuđu”, podržanog od strane Ambasade Kraljevine Holandije u Srbiji koji Partneri Srbija sprovode uz aktivno učešće Pravosudne akademije, Vrhovnog kasacionog suda, Ministarstva pravde, Advokatske komore Srbije i Nacionalnog udruženja medijatora Srbije (NUMS).

Ovaj interaktivni seminar, namenjen je sudijama i sudijskim pomoćnicima građanskih odeljenja sudova u Beogradu i ima za cilj upoznavanje učesnika sa praktičnim i procesnim aspektima primene novog Zakona o posredovanju u rešavanju sporova u građanskim postupcima, kao i unapređenje veština za selekciju i upućivanje pogodnih predmeta na medijaciju. Seminar između ostalog uključuje sledeće teme:

- Pravni okvir za primenu medijacije (posredovanja) u Srbiji
- Odnos medijacije i sudskog postupka
- Kriterijumi za selekciju pogodnih predmeta i upućivanje na medijaciju
- Korišćenje postojećih kapaciteta sudova za pružanje usluga medijacije (sudije kao medijatori)
- Pristupačnost medijacije i dostupnost medijatora građanima

Iako je medijacija u naš pravni sistem uvedena još 2005. godine, novim Zakonom o posredovanju u rešavanju sporova koji se u Srbiji primenjuje od 1. januara 2015.g, predviđeno je da se čitav niz sporova može rešavati putem medijacije, uključujući i sporove u oblasti privrede, radnih odnosa, zlostavljanja na radu, diskriminacije, porodičnih i imovinskih odnosa, naknade šteta, itd. Novim Zakonom uvedene su značajne novine i podsticaji za medijaciju, a predviđeno je i vođenje Registra posrednika - medijatora, koji moraju imati dozvolu za rad izdatu od strane Ministarstva pravde. Osim toga, Ministarstvo pravde je najavilo da će u primeni akcionog plana za Poglavlje 23 u procesu pregovora za pristupanje Evropskoj uniji velika pažnja biti posvećena unapređenju efikasnosti

pravosuđa i smanjenju broja zaostalih sudskih predmeta. 1. januara ove godine na snagu je stupio i Zakon o zaštiti prava na suđenje u razumnom roku.

Seminar vode Ljubica Milutinović, sudija Vrhovnog kasacionog suda, i Blažo Nedić, advokat, regionalni medijator Svetske banke i predsednik Nacionalnog udruženja medijatora Srbije (NUMS).

Molimo Vas da svoje učešće potvrdite najkasnije do 27. maja, 2016. godine, na office@partners-serbia.org, ili putem telefona 011 3231 551.

Partneri za demokratske promene Srbija

u saradnji sa

Pravosudnom akademijom

uz podršku

Ambasade Kraljevine Holandije u Srbiji

organizuju obuku na temu

POSREDOVANJE (MEDIJACIJA) u PRAVOSUĐU

-rukovođenje sudskim predmetima u medijaci -

koja će se održati **14. i 15. juna 2016. godine, od 10h**
u prostorijama Pravosudne akademije u Beogradu, Terazije 41 (sala u prizemlju)

Obuka je deo projekta „Podrška primeni medijacije u pravosuđu”, koji ima za cilj doprinos povećanju efikasnosti pravosuđa kroz rešavanje postojećih i smanjenje priliva novih predmeta putem efikasnijeg korišćenja medijacije za vanskudsko rešavanje sporova pre i nakon pokrenutog sudskog postupka, a koji je podržan od strane Ambasade Kraljevine Holandije u Srbiji koji Partneri Srbija sprovode uz aktivno učešće Pravosudne akademije, Vrhovnog kasacionog suda, Ministarstva pravde, Advokatske komore Srbije i Nacionalnog udruženja medijatora Srbije (NUMS).

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Obuka je namenjena sudijskim pomoćnicima i saradnicima da, pored svojih redovnih zaduženja, budu osposobljeni i da strankama pružaju svu potrebnu organizacionu i tehničku podršku radi upućivanja i korišćenja medijacije, kao i upoznavanje učesnika sa praktičnim i procesnim aspektima primene novog Zakona o posredovanju u rešavanju sporova u građanskim postupcima, uspostavljanje sistema za upravljanje sudskim predmetima koji su upućeni na medijaciju (mediation case-management), kao i upoznavanje učesnika sa veštinama komunikacije i promocije medijacije. Seminar između ostalog uključuje sledeće teme:

- Pravni okvir za primenu medijacije (posredovanja) u Srbiji
- Odnos medijacije i sudskog postupka
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- Pristupačnost medijacije i dostupnost medijatora građanima
- Veštine komunikacije
- Veštine promocije medijacije

Obuku vode Mirjana Golubović rukovodilac sektora za krivično pravo Pravosudne akademije, Dragana Ćuk Milankov, psiholog, predsednica Centra za alternativno rešavanje sukoba; Nebojša Đuričić, sudija Drugog osnovnog suda i Blažo Nedić, advokat, regionalni medijator Svetske banke i predsednik Nacionalnog udruženja medijatora Srbije (NUMS);

POSREDOVANJE (MEDIJACIJA) u PRAVOSUĐU

- upućivanje sudskih predmeta na medijaciju -

14-15. jun 2016. Beograd

DAN I

Vreme	TEME: Alternativno rešavanje sporova; Veštine komunikacije; Motivisanje strana da pristupe postupku medijacije
13:00-14:30	Otvaranje/Predstavljanje trenera i učesnika/ Predstavljanje programa Alternativno rešavanje sporova – pojam i vrste Pravni okvir za primenu medijacije u Srbiji
14:30-15:00	Pauza za ručak
15:00-16:30	Veštine komunikacije elementi konstruktivne komunikacije tehnike aktivnog slušanja
16:30-16:45	Pauza
16:45-18:00	Primena veština komunikacije u cilju obezbeđivanja uslova za sprovođenje postupka medijacije prvi kontakt sa stranama motivisanje strana prevazilaženje prepreka u komunikaciji

DAN II

Vreme	TEMA: Veština promocije postupka medijacije u sudovima; Pravni okvir za upućivanje predmeta na medijaciju;Upravljanje predmetima upućenim na medijaciju
09:00-10:30	Veština promocije postupka medijacije u sudovima i profesionalno vođenje sudskih službi/odeljenja za promociju medijacije
10:30-10:45	Pauza
10:45-12:15	Pravni okvir, medijacije u parničnom i drugim sudskim postupcima, pravni okvir za upućivanje predmeta na medijaciju
12:15-13:00	Pauza za ručak
13:00-14:15	Upravljanje predmetima upućenim na posredovanje - medijaciju
14:15-14:30	Pauza
14:30-16:00	Praktična vežba
16:00-16:30	Evalvacija i zatvaranje seminara



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uz podršku

Ambasade Kraljevine Holandije u Srbiji

organizuju

OSNOVNU OBUKU ZA POSREDNIKE – MEDIJATORE

koja će se održati od 12. do 16. jula 2016. godine u Kraljevu

Obuka je deo projekta „Podrška primeni medijacije u pravosuđu”, koji ima za cilj doprinos povećanju efikasnosti pravosuđa kroz rešavanje postojećih i smanjenje priliva novih predmeta putem efikasnijeg korišćenja medijacije za vansudsko rešavanje sporova, a koji je podržan od strane Ambasade Kraljevine Holandije u Srbiji, i koji Partneri Srbija sprovode uz učešće Pravosudne akademije, Vrhovnog kasacionog suda, Ministarstva pravde, Advokatske komore Srbije i Nacionalnog udruženja medijatora Srbije (NUMS).

Iako je medijacija u naš pravni sistem uvedena još 2005. godine, novim Zakonom o posredovanju u rešavanju sporova koji se u Srbiji primenjuje od 1. januara 2015.g. predviđeno je da se čitav niz sporova može rešavati putem medijacije, uključujući i sporove u oblasti privrede, radnih odnosa, zlostavljanja na radu, diskriminacije, porodičnih i imovinskih odnosa, naknade šteta, itd. Novim Zakonom uvedene su značajne novine i podsticaji za medijaciju, a predviđeno je i vođenje Registra posrednika - medijatora, koji moraju imati dozvolu za rad izdatu od strane Ministarstva pravde. Osim toga, Ministarstvo pravde je najavilo da će u primeni akcionog plana za Poglavlje 23 u procesu pregovora za pristupanje Evropskoj uniji velika pažnja biti posvećena unapređenju efikasnosti pravosuđa i smanjenju broja zaostalih sudskih predmeta. 1. januara ove godine na snagu je stupio i Zakon o zaštiti prava na suđenje u razumnom roku.

Cilj ove obuke je sticanje znanja i veština za obavljanje poslova posredovanja – medijacije u rešavanju sporova, unapređenje veština komunikacije i pregovaranja, upravljanja i rukovođenja, prevencija i rešavanje sukoba u svakodnevnom radu.

Ova obuka akreditovana je Rešenjem Ministarstva pravde Republike Srbije, organizuje se u skladu sa **Pravilnikom o programu obuke za posrednika** („Službeni glasnik RS“, br. 146/14) i **predstavlja jedan od uslova za dobijanje Dozvole za posredovanje** i sticanje prava na upis u Registar posrednika pri Ministarstvu pravde RS.

Obuka je namenjena sudijama, sudijskim pomoćnicima i saradnicima, kao i advokatima sa područja AK Čačak.

Učešće na obuci je besplatno i moguće je samo po pozivu, u okviru Projekta koji sprovode Partneri Srbija.

Učesnici snose svoje troškove transporta.

Prema Pravilniku o programu obuke za posrednika obuka traje 5 dana i između ostalog uključuje i sledeće teme:

- Pojam i vrste tehnika alternativnog rešavanja sporova
- Pravni okvir za primenu posredovanja – medijacije (nacionalni i međunarodni propisi)
- Razumevanje konflikta, pristupi konfliktu i analiza konflikta
- Veštine komunikacije
- Pojam, načela i stilovi posredovanja – medijacije
- Priprema za medijaciju, faze medijacije i uloga medijatora
- Postupak posredovanja, saradnja sa advokatima i učešće trećih lica
- Veštine pregovaranja, prevazilaženje blokada, zaključenje sporazuma
- “Best practices“ medijatora iz SAD i Evrope, praktični primeri, vežbe i simulacije
- Standardi ponašanja medijatora i etička pitanja

PREDAVAČI:

- **Dragana Ćuk Milankov**, psiholog, medijatorka, Centar za alternativno rešavanje sukoba
- **dr Jelena Arsić**, medijatorka, Pravni fakultet Univerziteta Union
- **Blažo Nedić**, advokat, regionalni medijator Svetske banke, Predsednik Nacionalnog udruženja medijatora Srbije.

Obaveštavamo sve učesnike da je radi izdavanja Uverenja o završenoj obuci, prisustvo svim danima i sesijama obuke **OBAVEZNO**. Stoga, a zbog ograničenog broja mesta, molimo sve pozvane kandidate da najkasnije do petka, 24. juna 2016. godine potvrde svoje učešće na obuci.

Zbog velikog interesovanja za ovu obuku molimo Vas da nas bez odlaganja obavestite **UKOLIKO NISTE U MOGUĆNOSTI** da prisustvujete obuci, kako bismo bili u prilici da slobodno mesto ponudimo drugom kandidatu.

Nakon prijavljivanja dobićete informaciju o programu, satnici i mestu održavanja obuke, kao i sve ostale neophodne detalje u vezi sa obukom.

PRIJAVLJIVANJE SE VRŠI POPUNJAVANJEM FORMULARA U PRILOGU I SLANJEM NA EMAIL ADRESU:

office@partners-serbia.org ili office@nums.rs

Sve dodatne informacije možete dobiti putem telefona 011/3231-551 i 3231-552

OSNOVNA OBUKA ZA POSREDNIKE – MEDIJATORE

Kraljevo, 12 - 16. jul 2016. godine

DAN I

Vreme	TEME: Alternativno rešavanje sporova; Pravni okvir za posredovanje (medijaciju); Veštine komunikacije
12:30-13:00	Registracija učesnika
13:00-14:30	Otvaranje/Predstavljanje trenera i učesnika/ Predstavljanje programa Alternativno rešavanje sporova – pojam i vrste Pojam i istorijski razvoj medijacije
14:30-15:00	Pauza – Kafa i osveženje
15:00-16:30	Zakon o posredovanju u rešavanju sporova i uporednopravna rešenja Načela posredovanja (medijacije) i karakteristike postupka
16:30-17:00	Pauza – Kafa i osveženje
17:00-18:30	Posrednik (medijator) – uslovi, sklonosti i veštine za bavljenje posredovanjem Uvod u veštine komunikacije; Elementi uspešne komunikacije

DAN II

Vreme	TEME: Veštine komunikacije; Upravljanje sukobima
10:00-11:30	Uspostavljanje odnosa poverenja i saradnje sa stranama, veštine slušanja, postavljanja pitanja i prikupljanja informacija (tehnike aktivnog slušanja)
11:30-12:00	Pauza – Kafa i osveženje
12:00-13:30	Dvojna priroda konflikta, pristupi konfliktima i njihovi ishodi
13:30-14:30	Pauza – Kafa i osveženje
14:30-16:00	Veština identifikovanja problema i interesa strana; Identifikacija tačke konflikta i razloga za prekid komunikacije strana (tehnika analize sukoba)

DAN III

Vreme	TEME: Veštine pregovaranja; priprema za posredovanje (medijaciju)
10:00-11:30	Veštine pregovaranja Pregovaranje: praktična vežba
11:30-12:00	Pauza – Kafa i osveženje

12:00-13:30	Posredovanje (medijacija) – video prikaz Analiza slučaja - strategije za zajedničke i odvojene sesije
13:30-14:30	Pauza – Kafa i osveženje
14:30-16:00	Izbori podobnih slučajeva i upućivanje na posredovanje (medijaciju) Priprema za posredovanje (medijaciju) – izbor medijatora, priprema medijatora, priprema advokata i klijenata, obezbeđivanje neophodnih uslova za početak postupka posredovanja (medijacije)

DAN IV

Vreme	Postupak posredovanja (medijacije) kroz faze
10:00-11:30	Započinjanje posredovanja (medijacije), uvodno izlaganje medijatora, dogovor o pravilima postupka i ponašanja; Sporazum o pristupanju posredovanju; Prva izlaganja strana (uvodne izjave strana u postupku).
11:30-12:30	Pauza – Kafa i osveženje
12:30-13:30	Redefinicija problema, razvijanje procesa pregovaranja, razmatranje opcija i potencijalnih rešenja, procena opcija i izbor rešenja.
13:30-14:00	Pauza – Kafa i osveženje
14:00-16:00	Okončanje postupka (sporazum ili obustava); Pravna priroda sporazuma; Postupak posredovanja (medijacije) kroz faze: praktična vežba.

DAN V

Vreme	Posredovanje (medijacija) - praktične vežbe; Etička pitanja
10:00-12:00	Praktična vežba
12:00-12:30	Pauza – Kafa i osveženje
12:30-14:30	Praktična vežba
14:30-15:00	Pauza – Kafa i osveženje
15:00-16:00	Praktična vežba Etička pitanja u posredovanju (medijaciji)
16:00	Dodela sertifikata i zatvaranje seminara



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Partneri za demokratske promene Srbija
u saradnji sa
Advokatskom akademijom Advokatske komore Srbije
uz podršku
Ambasade Kraljevine Holandije u Srbiji
organizuju radionicu

MEDIJACIJA i ADVOKATURA **- uloga advokata u medijaciji -**

koja će se održati **16. maja 2016. godine, od 17:00 - 19:00**
u prostorijama Advokatske akademije u Beogradu, Dečanska 13, VI sprat

Radionica je deo projekta „Podrška primeni medijacije u pravosuđu”, podržanog od strane Ambasade Kraljevine Holandije u Srbiji koji Partneri Srbija sprovode uz aktivno učešće advokature, sudstva, Pravosudne akademije, Visokog saveta Sudstva, Ministarstva pravde, Advokatske komore Srbije, i Nacionalnog udruženja medijatora Srbije (NUMS).

Ova interaktivna radionica, koja ima za cilj upoznavanje advokata i advokatskih pripravnika sa osnovnim načelima i pravnim okvirom za primenu medijacije u Srbiji, kao i sa ulogom advokata u medijaciji i uticajem medijacije na advokatsku praksu, obradiće između ostalog i sledeće teme:

- pojam i osnovna načela medijacije
- pravni okvir za primenu medijacije (posredovanja) u Srbiji
- odnos medijacije i sudskog postupka
- uloga medijatora
- uloga advokata kao punomoćnika u postupku medijacije
- odnos medijacije i advokature

Poslednjih godina u svetu, a sve više i u našem regionu, medijacija postaje prvi izbor korporacija, privrednih društava, preduzetnika i građana u rešavanju sporova, dok se u sferi privrede i do 90% sukoba uspešno rešava van suda. Iako je medijacija u naš pravni sistem uvedena još 2005. godine, novim Zakonom o posredovanju u rešavanju sporova koji se u Srbiji primenjuje od 1. januara 2015.g, predviđeno je da se čitav niz sporova može rešavati putem medijacije, uključujući i sporove u oblasti privrede, radnih odnosa, zlostavljanja na radu, diskriminacije, porodičnih i imovinskih odnosa, naknade šteta, itd. Novim Zakonom uvedene su značajne novine i podsticaji za medijaciju, a predviđeno je i vođenje Registra posrednika - medijatora, koji moraju imati dozvolu za rad izdatu od strane Ministarstva pravde. Osim toga, Ministarstvo pravde je najavilo da će u primeni akcionog plana za Poglavlje 23 u procesu pregovora za pristupanje Evropskoj uniji velika pažnja biti posvećena unapređenju efikasnosti pravosuđa i smanjenju broja zaostalih sudskih predmeta. 1. januara ove godine na snagu je stupio i Zakon o zaštiti prava na suđenje u razumnom roku.

Radionicu vodi Blažo Nedić, advokat, regionalni medijator Svetske banke i predsednik NUMS-a.

S obzirom da je broj mesta za učešće na seminaru ograničen, molimo Vas da svoje učešće potvrdite najkasnije do 13. maja 2016. godine na office@partners-serbia.org, ili putem telefona 011 3231 551.



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Partneri za demokratske promene Srbija
u saradnji sa
Advokatskom akademijom Advokatske komore Srbije
uz podršku
Ambasade Kraljevine Holandije u Srbiji
organizuju obuku na temu

MEDIJACIJA i ADVOKATURA –ZASTUPANJE KLIJENATA U MEDIJACIJI

koja će se održati **31. marta - 1. aprila 2017. sa početkom u 14:00**
u prostorijama Advokatske akademije u Beogradu, Dečanska 13, VI sprat

Poslednjih godina u svetu, a sve više i u našem regionu, medijacija postaje prvi izbor korporacija, privrednih društava, preduzetnika i građana u rešavanju sporova, dok se u sferi privrede i do 90% sukoba uspešno rešava van suda. Iako je medijacija u naš pravni sistem uvedena još 2005. godine, novim Zakonom o posredovanju u rešavanju sporova koji se u Srbiji primenjuje od 1. januara 2015. godine predviđeno je da se čitav niz sporova može rešavati putem medijacije, uključujući i sporove u oblasti privrede, radnih odnosa, zlostavljanja na radu, diskriminacije, porodičnih i imovinskih odnosa, naknade šteta, itd. Novim Zakonom uvedene su značajne novine i podsticaji za medijaciju, a predviđeno je i vođenje Registra posrednika - medijatora, koji moraju imati dozvolu za rad izdatu od strane Ministarstva pravde. Osim toga, Ministarstvo pravde je najavilo da će u primeni akcionog plana za Poglavlje 23 u procesu pregovora za pristupanje Evropskoj uniji velika pažnja biti posvećena unapređenju efikasnosti pravosuđa i smanjenju broja zaostalih sudskih predmeta.

Obuka je deo projekta „Podrška primeni medijacije u pravosuđu”, podržanog od strane Ambasade Kraljevine Holandije u Srbiji koji Partneri Srbija sprovode uz aktivno učešće advokature, Vrhovnog kasacionog suda, Ministarstva pravde, Advokatske komore Srbije, Pravosudne akademije i Nacionalnog udruženja medijatora Srbije (NUMS).

Ova dvodnevna obuka namenjena je advokatima i advokatskim pripravnicima koji se mogu naći u ulozi zastupnika svojih klijenata, pravnih i fizičkih lica, u postupcima medijacije i ima za cilj unapređenje veština advokata za efikasno zastupanje svojih klijenata u procesima vansudskog rešavanja sporova. Obuka između ostalog uključuje sledeće teme:

- Alternativno rešavanje sporova – pojam i vrste
- Pravni okvir za primenu medijacije (posredovanja) u Srbiji
- Odnos medijacije i sudskog postupka
- Veštine komunikacije, tehnike aktivnog slušanja, osnove pregovaranja
- Selekcija predmeta pogodnih za medijaciju i izbor medijatora
- Priprema advokata i klijenta za medijaciju
- Sporazum o pristupanju medijaciji, pravne posledice
- Strategije zastupanja, uloga advokata u medijaciji
- Faze medijacije, saradnja sa medijatorom, pre, tokom i posle procesa medijacije
- Pravna priroda sporazuma postignut u procesu medijacije

Obuku vode **Dragana Ćuk Milankov**, psiholog, medijatorka i **Blažo Nedić**, advokat, regionalni medijator Svetske banke i predsednik NUMS-a.

Obuka je besplatna, a na kraju obuke učesnicima će biti dodeljeni sertifikati.

S obzirom da je broj mesta za učešće na obuci ograničen, molimo Vas da svoje učešće potvrdite na office@partners-serbia.org ili putem telefona 011 3231 551 najkasnije do 24. marta 2017. godine.

ZASTUPANJE KLIJENATA U MEDIJACIJI

Beograd, 31. mart – 1. april 2017. godine

DAN I

Vreme	TEME: Alternativno rešavanje sporova Veštine komunikacije i upravljanje sukobima
13:30-14:00	Registracija učesnika
14:00-15:30	Otvaranje/ Predstavljanje projekta/ Predstavljanje trenera i učesnika/ Predstavljanje programa obuke Alternativno rešavanje sporova – pojam i vrste Pravni okvir za primenu medijacije u Srbiji
15:30-16:00	Pauza
16:00-17:30	Veštine komunikacije i njihova uloga u konstruktivnom rešavanju sukoba u procesu medijacije <ul style="list-style-type: none">• prepoznavanje potreba• identifikacija interesa• analiza i upravljanje sukobima
17:30-17:45	Pauza
17:45-19:00	Tehnike aktivnog slušanja <ul style="list-style-type: none">• postavljanje pitanja• sumiranje• parafraziranje• slušanje sa empatijom Osnove pregovaranja

DAN II

Vreme	TEMA: Zastupanje klijenata u postupku medijacije
10:00-11:30	Uloga advokata u medijaciji Pripreme za medijaciju <ul style="list-style-type: none">• procena da li je predmet pogodan za medijaciju• izbor medijatora• sporazum o pristupanju medijaciji• priprema klijenta i advokata za postupak medijacije
11:30-11:45	Pauza
11:45-13:15	Faze u postupku medijacije Zastupanje klijenata u postupku medijacije <ul style="list-style-type: none">• uvodna reč• strategije za zajednicke i odvojene sesije• saradnja sa medijatorom Okončanje medijacije <ul style="list-style-type: none">• obustava ili sporazum• izvršenje• honorari i troškovi
13:15-13:45	Pauza
13:45-15:15	Praktična vežba - zastupanje klijenata u medijaciji
15:15-15:30	Zatvaranje obuke i evaluacija

III. PROMOTIONAL MATERIALS

Други основни суд у Београду

Опште информације

Надлежност:

Други основни суд у Београду је суд опште надлежности за територију општина: Вождовац, Гроцка, Чукарица и Раковица

Седиште суда:

Катанићева бр. 15

Рачун депозита:

840-427802-32

Рачун судских такси:

840-30616845-57

Служба за подршку медијацији:

Кабинет 10, II спрат

Број телефона:

+381 +381 62 237 785

Радно време службе:

9:00 – 15:00

Радно време суда:

7:30 – 15:30



САМО РАЗГОВОР НУДИ ДОГОВОР!!!

Уколико желите да спор или сукоб решите на **бржи и ефикаснији** начин, уз **мање неизвесности** и **уштеду времена и новца** уз унапређење комуникације и међусобних односа,

ПОЗОВИТЕ НАС!



Kingdom of the Netherlands



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ПОСРЕДОВАЊЕ У РЕШАВАЊУ СПОРОВА

Служба за подршку медијацији
Катанићева бр.15

Контакт телефон: +381 62 237 785
e-mail: drugiosnovnisud.medijacija@gmail.com



■ ШТА ЈЕ МЕДИЈАЦИЈА?

Медијација (посредовање) је поступак мирног, вансудског решавања спора у коме медијатор (посредник), као треће, неутрално и непристрасно лице усмерава комуникацију између страна у спору, помаже у преговорима ради постизања заједнички прихватљивог решења спора.

■ КАДА СЕ МОЖЕ ПОКРЕНУТИ ПОСТУПАК МЕДИЈАЦИЈЕ?

Медијација се може покренути пре или у току судског поступка, као и у току поступка по правним лековима и све до окончања извршног поступка.

■ У КОЈИМ СЛУЧАЈЕВИМА ЈЕ ПОГОДНА (МОГУЋА) МЕДИЈАЦИЈА?

У грађанским, породичним, привредним, управним, кривичним (по приватној тужби), имовинским, радним (мобинг), потрошачким, медијским, комуналним, комшијским, споровима у области дискриминације и др.

■ КАКО ДО МЕДИЈАЦИЈЕ?

Лако – обраћањем нашој Служби која даје информације, процењује да ли је случај погодан за медијацију и упућује на лиценцираног медијатора. Медијатор се може изабрати са листе суда, регистра Министарства правде, Националног удружења медијатора (НУМС) и Центра за мирно решавање спорова ГО Вождовац.

■ ЗАШТО МЕДИЈАЦИЈА ?

ДОБРОВОЉНОСТ И ЈЕДНАКОСТ



Стране у сукобу добровољно улазе у медијацију, заједнички бирају медијатора и самостално одлучују о закључењу и садржини споразума.

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СПОРАЗУМ ПОСТИГНУТ У МЕДИЈАЦИЈИ МОЖЕ ИМАТИ СНАГУ ИЗВРШНЕ ИСПРАВЕ АКО СЕ СТРАНЕ ТАКО ДОГОВОРЕ





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ДРУГИ ОСНОВНИ СУД У БЕОГРАДУ

СЛУЖБА ЗА ПОДРШКУ МЕДИЈАЦИЈИ

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начин

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уз **уштеду**
времена и
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Контакт телефон: 062/237 785
e-mail: drugiosnovnisud.medijacija@gmail.com
Кабинет 10, II спрат



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ДРУГИ ОСНОВНИ СУД У БЕОГРАДУ

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ADVOKATSKA KOMORA ČAČAK

Advokatska komora Čačka osnovana je 1972. godine sa ciljem da svojim radom zaštiti i unapredi profesionalni, društveni, ekonomski i statusni položaj advokata na području ove komore.

Advokatska komora Čačka pokriva teritoriju viših sudova u Čačku, Krajevu, Kruševcu, Užicu i Novom Pazaru, kao i teritoriju 14 osnovnih i 3 privredna suda.

Danas AK Čačak okuplja više od 710 advokata, 37 redovnih advokatskih pripravnika i 223 advokatska pripravnika-volontera.

CENTAR ZA MEDIJACIJU

Centar za medijaciju osnovan je pri Advokatskoj komori Čačka radi pružanja usluga medijacije u rešavanju sporova. U Centru možete dobiti informacije o postupku medijacije, procenu da li je Vaš spor pogodan za medijaciju, kao i izabrati licenciranog medijatora sa liste Advokatske komore Čačka.

Ukoliko želite da spor ili sukob rešite na **brži i efikasniji** način, **uz manje neizvesnosti i uštedu vremena** i novca uz **unapređenje** komunikacije i međusobnih odnosa

ili

imate dodatnih pitanja u vezi sa medijacijom,

POZOVITE NAS!

ADVOKATSKA KOMORA ČAČAK

Dragiše Mišović 1/2, Čačak,

Tel: 032/227 142

E-mail: sekretar@advokatskakomoracacak.rs

Web: www.advokatskakomoracacak.rs



ADVOKATSKA KOMORA ČAČKA

CENTAR ZA MEDIJACIJU



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ŠTA JE MEDIJACIJA

Medijacija je proces mirnog, vansudskog rešavanja sporova u kome medijator, kao treće, neutralno i nepristrasno lice, pomaže stranama u sukobu da putem pregovora dođu do zajednički prihvatljivog rešenja spora.

Medijaciju je moguće pokrenuti pre ili u toku sudskog ili bilo kog drugog formalnog postupka rešavanja sporova, kao i u postupku po žalbi i prinudnog izvršenja.

Medijacija u svetu sve više postaje primarni metod rešavanja sporova, pre svega zbog svoje fleksibilnosti, poverljivosti, brzine i pristupačnosti, a najviše zbog toga što, u skladu sa načelom dobrovoljnosti, pravo odlučivanja i kontrolu nad ishodom spora vraća stranama u sukobu.

ULOGA MEDIJATORA

Medijator nema ulogu arbitra i ne sme stranama nametati rešenje, već korišćenjem posebnih tehnika i veština, pomaže u pregovorima koji imaju za cilj postizanje sporazuma.

KO MOŽE BITI MEDIJATOR

Medijatori mogu biti različitih profesija: pravnici, ekonomisti, inženjeri, psiholozi, pedagozi, nastavnici, profesori, lekari, kao i drugi koji imaju završenu osnovnu obuku za posrednike i ispunjavaju ostale uslove propisane Zakonom o posredovanju u rešavanju sporova.

ZAŠTO MEDIJACIJA?

DOBROVOLJNOST I JEDNAKOST



Strane u sukobu dobrovoljno ulaze u medijaciju, zajednički biraju medijatora i samostalno odlučuju o zaključenju i sadržini sporazuma.

TROŠKOVI



Troškovi medijacije su daleko niži u odnosu na sudski postupak, a medijacija u pojedinim slučajevima može biti i besplatna.

BRZINA



Postupak medijacije je hitan i najčešće se okončava u roku od 30-60 dana. Daleko je efikasniji od sudskog postupka i učesnici u njemu potpuno sami kontrolišu tok i ishod postupka.

POVERLJIVOST



Sve informacije, predlozi i dokumenti vezani za medijaciju su poverljivi. Medijatori i učesnici ih ne smeju saopštiti trećim licima.

OČUVANJE I UNAPREĐENJE ODNOSA



Medijator pomaže stranama u sukobu da uspostave i poboljšaju poremećene odnose, kao i da nastave prekinutu saradnju.

Medijacija je pogodna za rešavanje različitih vrsta sporova:

- građanskih
- porodičnih
- privrednih
- upravnih
- krivičnih (po privatnoj tužbi)
- imovinskih
- radnih (mobing)
- potrošačkih
- medijskih
- komunalnih
- komšijskih
- sporova u oblasti diskriminacije
- i drugih

Korisnici medijacije su:

- građani
- zaposleni i poslodavci
- sindikati
- profesionalna udruženja
- privredna društva
- osiguravajuća društva
- finansijske institucije
- državni organi i lokalne samouprave
- javna preduzeća
- organizacije civilnog društva
- mediji
- advokati
- javni izvršitelji
- stečajni upravnici
- i drugi



ADVOKATSKA KOMORA ČAČKA

CENTAR ZA MEDIJACIJU

REŠITE SPOR

na **brži** i
efikasniji
način

uz **manje**
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uz **uštedu**
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Основни суд и Виши суд у Чачку

Опште информације

Надлежност:

Основни суд у Чачку је суд опште надлежности за територију града Чачка.

Виши суд у Чачку је суд опште надлежности и месно је надлежан за подручје Основног суда у Горњем Милановцу, Основног суда у Ивањици и Основног суда у Чачку.

Седиште суда:

Основни суд у Чачку - Цара Душана бр. 8/1
Виши суд у Чачку - Цара Душана бр. 6/1

Служба за подршку медијацији:

Библиотека Вишег суда у Чачку

Број телефона:

032/ 22 22 42, локал 127

Радно време службе:

9:00 – 15:00

Радно време суда:

7:30 – 15:30

САМО РАЗГОВОР НУДИ ДОГОВОР!!!

Уколико желите да спор или сукоб решите на **бржи и ефикаснији** начин, уз **мање неизвесности и уштеду времена и новца** уз унапређење комуникације и међусобних односа,

ПОЗОВИТЕ НАС!



МЕДИЈАЦИЈА

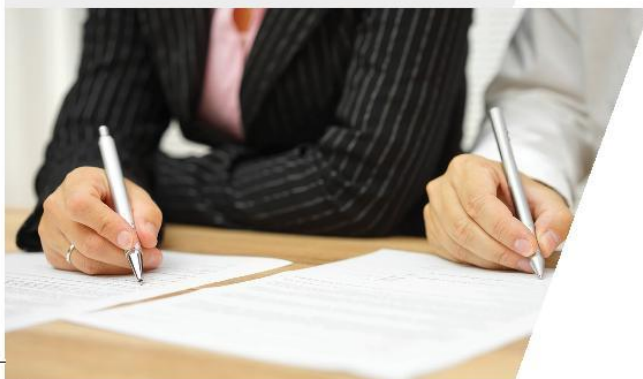
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Цара Душана бр. 6/1, Чачак

Контакт телефон: 032/22 22 42, локал 127

Е-пошта: medijacija.sud.cacak@gmail.com



■ ШТА ЈЕ МЕДИЈАЦИЈА?

Медијација (посредовање) је поступак мирног, вансудског решавања спора у коме медијатор (посредник), као треће, неутрално и непристрасно лице усмерава комуникацију између страна у спору, помаже у преговорима ради постизања заједнички прихватљивог решења спора.

■ КАДА СЕ МОЖЕ ПОКРЕНУТИ ПОСТУПАК МЕДИЈАЦИЈЕ?

Медијација се може покренути пре или у току судског поступка, као и у току поступка по правним лековима и све до окончања извршног поступка.

■ У КОЈИМ СЛУЧАЈЕВИМА ЈЕ ПОГОДНА (МОГУЋА) МЕДИЈАЦИЈА?

У грађанским, породичним, привредним, управним, кривичним (по приватној тужби), имовинским, радним (мобинг), потрошачким, медијским, комуналним, комшијским, споровима у области дискриминације и др.

■ КАКО ДО МЕДИЈАЦИЈЕ?

Лако – обраћањем нашој Служби која даје информације, процењује да ли је случај погодан за медијацију и упућује на лиценцираног медијатора. Медијатор се може изабрати са листе суда, регистра Министарства правде, Националног удружења медијатора (НУМС) и Центра за мирно решавање спорова ГО Вождовац.

■ ЗАШТО МЕДИЈАЦИЈА?

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ОСНОВНИ СУД У ЧАЧКУ



РЕПУБЛИКА СРБИЈА
ВИШИ СУД У ЧАЧКУ

СЛУЖБА ЗА МЕДИЈАЦИЈУ

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