



'Development of the mediation system'

Case study of a Lithuanian ESF project under the study 'Progress Assessment of ESF Support to Public Administration' (PAPA)

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PROJECT BACKGROUND

Development of the mediation system in Lithuania

Operational Programme	The project is supported under the measure 'Improvement of the judicial system' under priority 10 of the Operational Programme for EU Structural Funds Investments for 2014-2020 (CCI 2014LT16MAOP001)
Beneficiary organisation	Ministry of Justice of the Republic of Lithuania
Target groups	<ol style="list-style-type: none"> 1. Persons seeking to acquire a mediator qualification 2. Members of the society (both natural and legal persons)
Project duration	30/03/2018 – 30/09/2020
Budget	EUR 922,347.71 (EUR 915,670.51 ESF contribution)
Project manager (email address)	Monika Kuodė, Senior Specialist, Ministry of Justice of the Republic of Lithuania (monika.kuode@tm.lt)
Partners	National Courts Administration (info@teismai.lt) State Guaranteed Legal Aid Service (teisinepagalba@vgtpt.lt) State Enterprise Centre of Registers (info@registrucentras.lt)
Project/organisation website	https://www.esinvesticijos.lt/lt/finansavimas/paraiskos_ir_projektai/taikinamojo-tarpininkavimo-mediacijos-sistemas-pletra-1 http://tm.lrv.lt/en/

This case study was produced as part of the project 'Progress Assessment of ESF Support to Public Administration' project, contracted by DG Employment, Social Affairs and Inclusion of the European Commission. The purpose of this project was to present specific cases of ESF-funded public administration reform and capacity building initiatives, as well as to show the role of ESF financial support to public administration, for the purposes of accountability. This report recounts the story of the project '**Development of the mediation system**'. This account discusses the context and purpose of the project; the characteristics of the team implementing it; the main challenges faced and difficulties encountered during its implementation; key developments during the implementation process; the results and impacts achieved; as well as lessons learnt and the contribution of the ESF.

DEVELOPMENT OF THE MEDIATION SYSTEM IN LITHUANIA

Introduction: the context of the project

One challenge faced by the project team working at the Lithuanian Ministry of Justice was that mediation is largely unknown in Lithuania. The project team jokingly agreed that people 'confuse mediation with *meditation*' adding that 'it is a common occurrence that can be recognised quite easily, without any major research'. On a more serious note, however, they discuss the fact that Lithuanian society lacks awareness of mediation. Mediation is one of the alternative dispute resolution (hereinafter, 'ADR') methods, offering a faster, cheaper and more convenient way to resolve disputes. In 2017, the Lithuanian government took a significant leap forward in developing a system of mediation. Legislation was passed establishing mandatory judicial mediation in family matters from 1 January 2020. The team working on the ESF-funded project 'Development of a mediation system' has therefore been entrusted with the important task of mobilising the Ministry's resources and preparing the judicial system to accommodate the increased use of mediation in time for the launch of the mandatory practice.

The first steps in the development of a mediation system in Lithuania date back to 2008. In that year, the government passed a law on mediation in civil disputes, aiming to promote the use of ADR methods¹. The government had expected the increased use of mediation in judicial civil disputes to offer a number of benefits: alleviating the workload of the courts; offering a faster, simpler and more cost-effective way to solve disputes; and reducing the cost of court activities financed from the national budget. This legislation achieved some initial results. According to the National Courts Administration, in 2012, judicial mediation was applied in 17 cases. This figure increased in 2013 to 37 cases; in 2014, to 53 cases; reaching a total of 123 cases in 2015. Likewise, the number of persons granted the status of mediator has increased from 47 in 2013 to 109 in 2014, and 129 in 2015².

Despite the increasing use of judicial mediation in civil matters, it became evident by 2015 that the goals of the 2008 legislation were still largely unmet. First, the workload of courts had not been reduced to the extent that had been anticipated. Second, society still lacked awareness of mediation as an ADR method. Third, the 2008 law adopted a liberal approach to regulating mediation practices, allowing the parties involved in the dispute to decide many aspects of the mediation themselves³. Lastly, the 2008 law did not establish any qualification requirements for mediators. As a result, no quality assurance system was in place to monitor the qualifications of mediators and the quality of services they provided. Due to the judicial regulations in place and the confidentiality of the mediation process, only limited data could be collected on the use of mediation in resolving civil matters, including pre-court cases.

On 17 September 2015, seeing that the mediation system is still widely underdeveloped, the Minister of Justice passed a decree 'Approving the conception of the development of the conciliatory mediation system'. The 2015 decision justified the need for a more thorough judicial regulation of mediation practices in civil matters. It evaluated the financial and

¹ Lietuvos Respublikos Seimas, Lietuvos Respublikos civilinių ginčų taikinamojo tarpininkavimo įstatymas, 2008 m. liepos 15 d. Nr. X-1702, Vilnius [Seimas of the Republic of Lithuania, the law of the Republic of Lithuania on reconciliation of civil disputes, 15 July 2008, No. X-1702], [hereinafter: The law of the Republic of Lithuania on reconciliation of civil disputes, 15 July 2008].

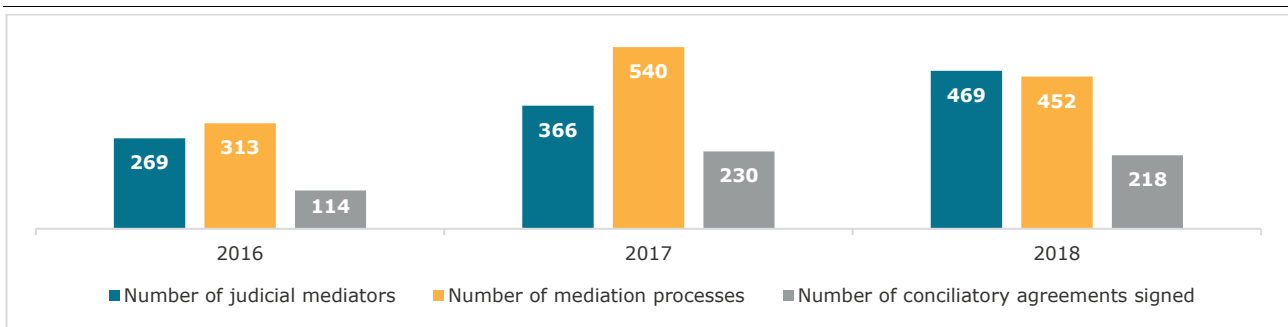
² National Courts Administration (2016), *Teismų veiklos apžvalga 2015* [Overview of court activities 2015]. Vilnius: National Courts Administration, p. 20.

³ The law of the Republic of Lithuania on reconciliation of civil disputes, 15 July 2008.

economic factors of mediation, and analysed other country practices⁴. The decision also stipulated the main provisions for the delivery of quality mediation services and the competencies required for mediators in Lithuania. These developments enabled progress in ensuring a mediation system in line with the Council of Europe Recommendation Rec (2002)10 of the Committee of Ministers to Member States on mediation in civil matters⁵.

In the period following the 2015 reform, the mediation system in Lithuania continued to expand. The number of judicial mediation processes applied in 2018 was 452, which is 44.4% more compared to 2016 (see Figure 1). The number of conciliatory agreements reached during mediation processes and the number of judicial mediators had also increased from 2016 to 2018⁶. In 2018, likewise previous years, the majority of cases passed on to judicial mediation were civil cases dealing with family, contract or property disputes.

Figure 1. Number of judicial mediators, mediation processes and conciliatory agreements signed, 2016-2018



Source: based on National Courts Administration (2019), *Lietuvos teismai. Veiklos rezultatai. 2018 m.* [Courts in Lithuania. Results of activity. 2018], pp. 41-43.

The provisions introduced in 2015 rendered some results – Lithuania’s progress in promoting the voluntary use of ADR methods was evaluated positively (excluding compulsory requirements to use such methods before going to court). According to the 2018 EU Justice Scoreboard, Lithuania was fourth among EU countries in terms of promotion of and incentives for using ADR methods⁷. In 2019, Lithuania maintained its high position in the scoreboard and was seventh in this regard⁸.

Promotion of ADR options can depend a lot on the public opinion and overall trust in the legal system. Trust between mediators and parties involved in the dispute is essential for the success of the mediation and following the agreements reached. According to the 2017 special

⁴ Lietuvos Respublikos Teisingumo ministro įsakymas dėl taikinamojo tarpininkavimo (mediacijos) sistemos plėtros koncepcijos patvirtinimo, 2015 m. rugsėjo 17 d. Nr. 1R-268, Vilnius [Decree of the Minister of Justice of the Republic of Lithuania approving the conception of the development of the conciliatory mediation system, 17 September 2015, No. 1R-268].

⁵ Council of Europe Committee of Ministers, Recommendation Rec (2002)10 of the Committee of Ministers to Member States on mediation in civil matters, 18 September 2002. The Recommendation has set out the key principles of organising and implementing mediation in civil matters, encouraged the training of mediators, stressed the impartiality and independence of mediators, the confidentiality of the mediation process, and the need for disseminating information about mediation practices.

⁶ National Courts Administration (2019), *Lietuvos teismai. Veiklos rezultatai. 2018 m.* [Courts in Lithuania. Results of activity. 2018]. Vilnius: National Courts Administration, pp. 41-43.

⁷ European Commission (2018c), *The 2018 EU Justice Scoreboard*. Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions COM(2018) 364 final. Luxembourg: Publications Office of the European Union.

⁸ European Commission (2019), *The 2019 EU Justice Scoreboard*. Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions COM(2019) 198/2. Luxembourg: Publications Office of the European Union.

Eurobarometer 461 on trust in institutions, 46% of respondents in Lithuania tended to trust the national legal system, which is slightly below EU average of 53%⁹. In January 2018, the perceived independence of the national justice system in Lithuania among the general public was 50%¹⁰, which remained almost unchanged in the beginning of 2019 when it stood at 49%¹¹.

Recognising the benefits of ADR methods, on 13 March 2017 the Government of the Republic of Lithuania approved an action plan on the implementation of the government programme. This document included a measure on 'Enhancing the application of alternative dispute resolution methods in civil process and their legalisation in administrative process'¹². On 29 June 2017, in relation to the measure, the Parliament of the Republic of Lithuania approved amendments to the Law of the Republic of Lithuania on Reconciliation of Civil Disputes and other associated documents¹³. The Government's action plan and legal amendments that followed set two new milestones in developing the mediation system in Lithuania. First, the law established a new mediation system, some of which amendments had to come into force from 1 January 2019. Second, the reform also established that compulsory mediation should be implemented in family matters from 1 January 2020. The Ministry of Justice was appointed as a coordinator of this plan.

In order to launch a mandatory mediation practice, the updated legislation established a number of measures to prepare for offering an extensive mediation service. For instance, the law stipulates that only qualified mediators that are included on a national mediators' list can offer the service. Persons seeking inclusion on the list will need to have relevant qualifications – had undertaken a minimum of 40 academic-hours-long training on mediation within the period of last five years prior to requesting inclusion on the list; and had passed a mediator's qualification exam. The List of Mediators should be an IT tool, which aims to create an effective and digital system for administering mediators' activities in Lithuania.

The ambitious plan to expand the judicial mediation system in Lithuania and make mediation compulsory in family matters created a need for the ESF-funded project 'Development of the mediation system'. The project had been developed simultaneously with the updates on the judicial mediation law. The project contributes to implementing some of the tools and measures outlined in the new legislation that are necessary for ensuring mandatory mediation in family matters from 1 January 2020.

Design and execution of the ESF-funded project

Previous ESF-supported projects

'**Development of the mediation system**' has not been the first ESF-funded project coordinated by the Ministry of Justice. During the programming period 2007-2013, the Ministry had coordinated four ESF-funded projects. Two of these projects tackled the implementation

⁹ European Commission (2017), *Special Eurobarometer 461. Designing Europe's future: Trust in institutions. Globalisation. Support for the euro, opinions about free trade and solidarity.*

¹⁰ European Commission (2018a), *Flash Eurobarometer 461. Perceived independence of the national justice systems in the EU among the general public. Lithuania. January 2018.*

¹¹ European Commission (2018b), *Flash Eurobarometer 474. Perceived independence of the national justice systems in the EU among the general public. Lithuania. January 2019.*

¹² Lietuvos Respublikos Vyriausybės nutarimas dėl Lietuvos Respublikos Vyriausybės programos įgyvendinimo plano patvirtinimo, 2017 m. kovo 13 d. Nr. 167, Vilnius [Resolution of the Government of the Republic of Lithuania on the approval of the implementation plan of the Government of the Republic of Lithuania, 13 March, 2017, No. 167].

¹³ Lietuvos Respublikos civilinių ginčų taikinamojo tarpininkavimo įstatymo Nr. X-1702 pakeitimo įstatymas, 2017 m. birželio 29 d., Nr. XIII-534, Vilnius [Seimas of the Republic of Lithuania, Replacement of the law of the Republic of Lithuania on reconciliation of civil disputes, No. X-1702, 29 June 2017, No. XIII-534].

and improvement of IT solutions used in the judicial system, including the security of information technologies at the Centre of Registers and the Central Mortgage Office¹⁴. Meanwhile, other two ESF-funded projects had dealt with improving the competencies of staff, and implementing and certifying the ISO 9001 management standard at the Ministry¹⁵. Although these projects have not been directly associated to the current project, they have still contributed to building competencies in managing ESF-funded projects at the Ministry.

ESF-supported project 'Development of the mediation system'

Following the programming period 2007-2013, the Ministry of Justice started working on a new project proposal for the next round of funding. The new programming period coincided well with the judicial reform and the expansion of the judicial mediation system in Lithuania. The Ministry of Justice, which was appointed as the coordinator of the new mediation reform, had to ensure the implementation of some legislative updates that enter into force from 1 January 2019. The Ministry has also to ensure a smooth preparation for the launch of mandatory mediation in family matters from 1 January 2020. The Ministry's team has identified the steps that are essential to prepare for the reform, like training enough mediators needed for conducting mandatory mediation in family matters, providing facilities to conduct mediation, creating an IT tool (List of Mediators), disseminating information about the changes in mediation law etc. Since the Ministry of Justice did not have sufficient human or financial resources to carry out these large-scale activities, the team decided to apply for ESF support.

The first step they had to take was to design project activities and gather a team. The project team understood that the scope of project activities intervenes in the competencies of other institutions. Therefore, the Ministry has applied for ESF support together with three partner organisations – the National Courts Administration, the Centre of Registers and the State Guaranteed Legal Aid Service. The National Courts Administration and the State Guaranteed Legal Aid Service have also been responsible for supervising and managing mediation practices, since the mediation system was established in Lithuania in 2008.

Preparing a project application that involves activities by four separate institutions required a few rounds of coordination. All project partners have confirmed that cooperation with the Ministry of Justice had went smoothly at this stage. Yet, more intense coordination took place with ESFA, the agency implementing ESF funds. For instance, the project team at the Ministry of Justice remembers that developing a project budget has been demanding to some extent. According to ESFA's requirements, the budget had to be based on the costs of implementing similar activities in the market. Due to the innovative dimension of the project, some project activities had very little or no equivalent in the market, which could be used for price comparison. ESFA had also been involved in consulting the project coordinator and partners on project activities, including their type, scope and description. A former Chief Specialist at the National Courts Administration (a project partner), recalls that this collaboration yielded desired results, as 'the collaboration, mutual understanding and argumentation of activities eventually led us to the project being implemented'. The application had been successful, and

¹⁴ ESF-funded projects in the period 2007-2013: 'Strengthening the security of information systems accessible via secure government data transmission network' (2011-2014), for more info (in LT) see: <http://www.esparama.lt/projektas?id=29810&order=&page=&pgsz=10> (accessed: 10 July 2019); and 'Security of information technologies at the Centre of Registers and the Central Mortgage Office' (2011-2014), for more info (in LT) see: <http://www.esparama.lt/projektas?id=29731&order=&page=&pgsz=10> (accessed: 10 July 2019).

¹⁵ ESF-funded projects in the period 2007-2013: 'Improvement of qualifications of civil servants and employees of the Ministry of Justice of the Republic of Lithuania' (2010-2012), for more info (in LT) see: <http://www.esparama.lt/projektas?id=7711&order=&page=&pgsz=10> (accessed: 10 July 2019); and 'Implementation and certification of the quality Management model at the Ministry of Justice' (2010-2012), for more info (in LT) see: <http://www.esparama.lt/projektas?id=7753&order=&page=&pgsz=10> (accessed: 10 July 2019).

the Ministry has secured EUR 783,995.55 from the ESF to implement the project (out of a total project budget of EUR 922,347.71).

The project aims to increase the effectiveness of Lithuania's judicial system by developing the mediation system. There are three project objectives that seek to: 1) encourage mediation in civil disputes by preparing qualified mediators, training and examining them according to the programme developed; 2) guarantee appropriate technical conditions and environment needed for mediation processes; and 3) inform the society about mediation possibilities in civil judicial disputes. In order to achieve these objectives, the team that prepared the project has developed a number of activities encompassing training, technology, refurbishment of facilities and communication.

Within the framework of this project, the project team has to **prepare qualified mediators**. The team has to develop an exam curriculum for mediators; organise training and examination of 420 mediators; organise training for 150 judges; carry out three study visits; and organise one international conference in the area of judicial dispute mediation opened for citizens and persons seeking, or already holding, mediator's qualification and other groups. Regarding the **guarantee of appropriate conditions** for mediation process, the team has to create an IT tool – the List of Mediators, and refurbish five and equip seven facilities needed for conducting compulsory mediation. Another key set of activities within this project encompasses **communication measures** for informing society about mediation practices. This will involve releasing 230,000 leaflets; 20 reports on national and 80 on regional TV channels; radio shows; articles in the printed press and online news platforms; and one banner-ad on an online news platform, running up to 6 months. The project activities have two target groups: 1) persons seeking to acquire a mediator's qualification; or 2) members of the society in need of a mediation service, both natural and legal persons.

Regarding ESF support, the project contributes to the implementation of the Lithuanian Operational Programme (CCI 2014LT16MAOP001)¹⁶. The project supports the achievement of the Specific Objective 10.1.4 (Improve business regulation environment) under Priority Axis 10 (Society-oriented smart public administration). The expected project results correspond to the result indicator of the SO 10.1.4 (Share of courts that implemented measures to improve the efficiency of justice by using ESF resources under the OP), as the project seeks to further expand ADR options and encourage people to rely on these options more. It also contributes to building up institutional capacities needed for coordination and monitoring of the process and thus increasing the effectiveness of the judicial system in Lithuania.

The project team has played an instrumental role so far in implementing the project and the mediation reform, and dealing with any obstacles that occurred along the way. The project team at the Ministry involves two project administrators, Monika Kuodė and Vytautė Ročienė; the Head of Strategic Management and Monitoring Group, Artūras Dembskis; the Head of Judicial Justice and Civil Law Group, Jurga Greičienė; and other staff members who have been involved in different stages of the project. One member of the team who had contributed significantly to designing the project and applying for ESF funds has left the team. His contribution and knowledge of the project could have been useful in later project implementation stages. Nonetheless, other team members took over the project tasks initially assigned to him.

There are also separate teams working on the project at partner institutions, with some of the teams being quite large. For the purpose of developing this case study, the study team met with Kęstutis Naujokaitis, Head of Operations Management Unit at the State Enterprise Centre

¹⁶ European Commission (2016), *Summary of Operational Programmes supporting institutional capacity building 2014-2020*. September 2016. Luxembourg: Publications Office of the European Union, pp. 104-115.

of Registers; a Chief Specialist at the National Courts Administration; and Živilė Poželienė, Director at the State Guaranteed Legal Aid Service. The project teams have highlighted the support from middle and senior management at the Ministry of Justice and respective partner institutions as an important factor enabling successful interinstitutional cooperation. Since the project team is large and diverse, coordination and planning have been of paramount importance in delivering the project activities in time and of good quality.

Implementation of the ESF project: main developments and challenges

Since the project encompasses a large number of activities that are divided among four partners, these activities have not been implemented one-by-one, but simultaneously at each of the participating institution. Thus, implementation of the project has required close cooperation between the coordinating Ministry and project partners. They had to ensure that the work schedule of each institution is in line with overall project deadlines and that most activities will be completed in time, before 1 January 2020.

To ensure this, the project team at the Ministry of Justice has decided to organise regular meetings with project partners, where the progress of project activities is discussed. The Ministry of Justice has established a Project Implementation Monitoring Group chaired by the deputy-minister. Monika Kuodė explains that this group has been set up with a purpose to maintain cooperation, as it allows each of the parties involved to know the status of other partners' activities. Vytautė Ročienė also notes that all project partners cooperate willingly and share their expertise and knowledge. For instance, the project team at the Ministry of Justice had some concerns with a few aspects of public procurement documents and sought help from the National Courts Administration that was able to advise them.

Alongside coordination, the Ministry of Justice is primarily responsible for preparing a number of mediators ready to offer mediation services after 1 January 2020, when the legal provisions detailing professional qualifications of mediators come into force. One of the first activities the project team at the Ministry had started working on was the development of an exam programme for mediators. Monika Kuodė explains that there are not that many mediation experts in Lithuania who associate their whole professional practice with mediation. Therefore, the project team is glad that a call for services had been won by one Lithuanian university employing some high-level mediation experts. The exam programme for mediators has been already prepared and confirmed by the decision of the Minister of Justice. The team notes that the quality of the exam programme will be only evident after the examined mediators begin their mediation practice: 'we hope that the programme will allow us to ensure quality mediation. It is important that [mediators] would not only be able to pass an exam but would also be capable to properly mediate.'

After confirming the examination programme, the team at the Ministry started to organise training for 420 persons willing to become mediators. The first training sessions for people (excluding judges) interested in becoming mediators were launched at the end of May. The training is aimed at both the persons who have no prior experience in mediation and those who are already mediating but need to requalify in line with the updated law. In terms of background, persons interested in becoming mediators must meet only two requirements: 1) have a higher education diploma; and 2) have an excellent reputation. This project activity was developed based on a number of mediators that are needed to conduct mandatory mediation in family matters and not on any pre-measured interest in a training of this kind. Nonetheless, the training has gathered a lot of interest, as persons have actively sought to become mediators and all training sessions have been filled. Together with the training sessions, the Ministry has also kicked-off first examinations of mediators.

In addition to training, the project team has procured services to prepare a Mediator's Handbook, which is currently being developed. The handbook will be made fully accessible on

the Internet. Yet, the most effective way to distribute the physical copies is still being decided. The team expects the handbook to be a practical guide, serving as a tool for mediators to revise certain material. It will include examples from court cases; thus, helping mediators to prepare for dealing with most common cases in civil disputes.

The next task awaiting the project team at the Ministry of Justice has been implementing a communication plan. A communication plan employs a wide spectrum of media tools – radio shows, TV shows, printed and online press, as well as banner ads. At the time of writing the case study, the team at the Ministry has implemented the first part of the communication plan, including a radio show on mediation in *Lietus* radio station; an article printed about the project in *Lietuvos rytas* newspaper; an article on mediation in *15min.lt*, an online news portal, including a banner ad on mediation. The team has started preparing for the procurement process of the second part of dissemination activities (also encompassing a radio show, articles, banner ads, as well as reports on regional and national television).

The team notes that there are some specificities of the market, which make designing a communication plan and procuring relevant services challenging even for those who already have experience in this field. As Monika Kuodė explains, having a direct contact with potential service providers from the marketing field would help to clarify a communication campaign and what should be requested in the technical specification. Now, without having this direct contact, it is only possible to describe these activities by relying on own experience and understanding, which can sometimes lack a comprehensive view of the communication market and best tools, strategies to employ. Notably, the Ministry of Justice shares communication activities with the National Courts Administration, which is responsible for the release and dissemination of leaflets.

The National Courts Administration has four key activities – study visits, information activities, training on mediation for judges, and an international conference. The project team at the National Courts Administration, as planned in the project application, kicked-off the project activities by organising three four-day study visits to Finland, Norway and the Netherlands. The Chief Specialist interviewed explains that destination countries were chosen based on their expertise in mediation and the popularity of it as an ADR method.

Study visits have been selected as a first activity, because the team had expected to apply the experience gained during these visits in implementing next project activities – training for judges and communication. Therefore, in order to gain most experience needed for the implementation of future activities, staff that work with communication or training have also participated in them (e.g. Head of Communication Division, staff from Training Division, project managers and lawyers). All three study visits have been already completed, during which the teams have engaged in a number of discussions, meetings and other activities.

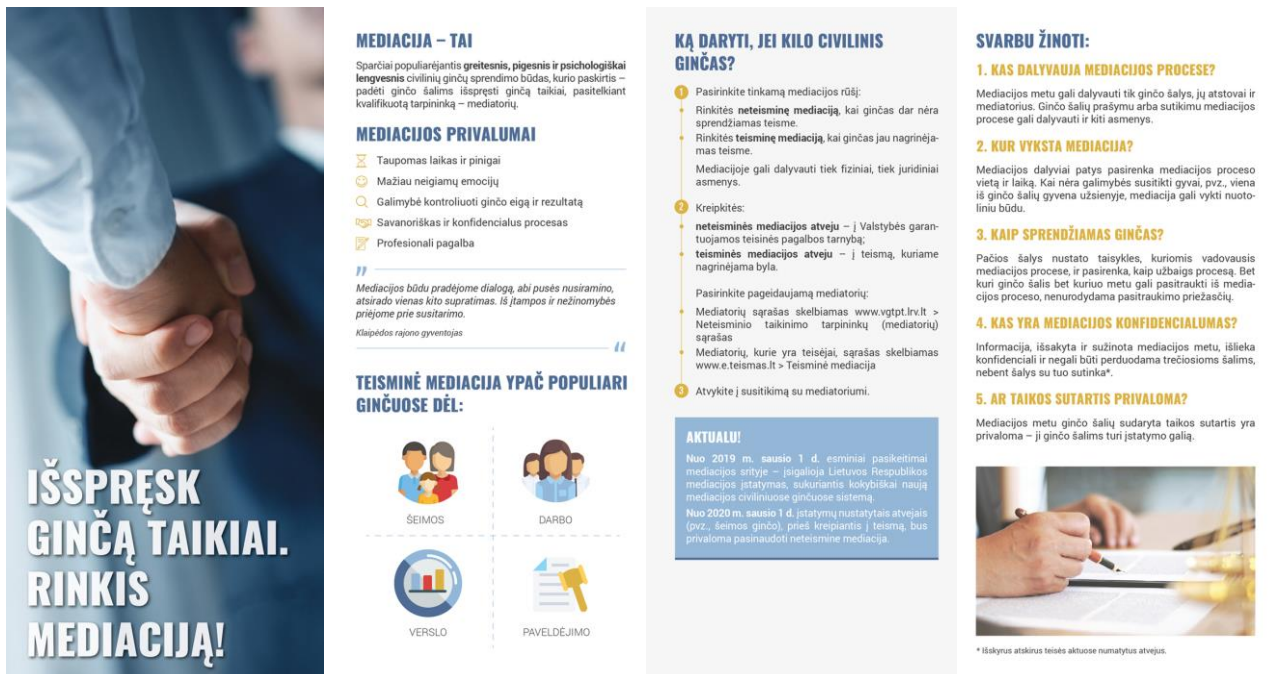
Following the study visits, persons that participated in them had to prepare reports detailing key information acquired, lessons learnt and good practice examples found that could be replicated in Lithuania. The interviewee from the National Courts Administration distinguishes this type of reporting as a good practice, since having as much of information documented on paper allows to disseminate the knowledge acquired to those colleagues who could not participate in the visits. Most importantly, the interviewee notes that 'we started to implement other project activities and we have already noticed that the people who went on study visits can contribute to implementation of the project'.

The next activity the project team has started working on has been the production and dissemination of leaflets. The project team at the National Courts Administration had decided to divide leaflet production into two separate batches. While the first batch of 10,000 leaflets has already been designed and released, the second batch of 220,000 leaflets has not been developed yet. The aim is to produce the leaflets before the end of 2019, so they could feature

an updated information on the mediation system, including mandatory mediation in family matters.

Regarding the 10,000 leaflets that have already been released and disseminated, their main aim has been to familiarise people with new changes introduced in the mediation system from 1 January 2019 (see Figure 2). The team working on this activity has considered it as a success, as there has been a lack of paper publications released on mediation in the recent years. The National Courts Administration distributed the leaflets proportionally among different institutions – courts, Lithuanian Bar Association, the Ministry of Justice, and the State Guaranteed Legal Aid Service. At courts, the leaflets were placed at one-stop facilities, as well as sent together with judicial summons to court. In addition, the electronic version of the leaflet has been uploaded to National Courts Administration’s website. This has received some positive feedback, as members of the public that sought information on the mediation process were able to access the leaflet online.

Figure 2. Leaflet 'Solve the dispute peacefully. Choose mediation!' produced by the National Courts Administration (4 out of 6 pages)



Note: The leaflet is published only in Lithuanian. The four pages inserted above feature information on what mediation is, the benefits of mediation, the process of accessing a mediation service, and key information about the mediation process itself (e.g. who is participating in the mediation process, signing of the conciliatory agreements).

Source: National Courts Administration

Other two project activities that are managed by National Courts Administration – mediation training for judges and an international conference – have not been started at the time of writing. Regarding the training for judges, the team has been working on preparing procurement documents and has been consulting with colleagues at their institution on executing training. The plan is to complete all training for judges by the end of 2019. Likewise, no concrete plans have been made in respect to the international conference, which is going to take place at the end of the project, in 2020. The conference will be open for citizens and professionals interested in or already working in the area of judicial mediation. Nonetheless, the team keeps the conference in mind and collects relevant information as they go along with project activities (e.g. potential speakers, topics to be covered).

The project 'Development of the mediation system' also features digital solutions by introducing an innovative IT tool within the Lithuanian context – the List of Mediators. The Ministry of Justice has selected the Centre of Registers as a project partner for developing this list, as the Centre of Registers has been already managing TEISIS – the Legal Aid Service Information Systems – in which the List of Mediators will be integrated. The team that had prepared the project application has come to this decision after considering the results of a cost-benefit analysis between creating an independent system and a system integrated into TEISIS. The latter alternative has been chosen, because the TEISIS system had to incorporate a Legal Aid Gateway, which could be used by citizens to access e-services in relation to legal support. Thus, this gateway, by integrating the List of Mediators, has to combine different services in one place.

In terms of functionalities, the list will help to ensure that all mediators would have the necessary qualification to offer mediation services. The list will be multifunctional – it will allow persons to select a mediator; and the State Guaranteed Legal Aid Service will be able to monitor mediators' workload, account for the hours worked, book facilities for conducting mediation etc. The List of Mediators should be accessible online from 1 January 2020. The Centre of Registers team has already completed the procurement procedures and the service provider has started developing the tool. The team is glad that the service providers will use modern Cloud Ready system technologies for developing the IT tool.

Kęstutis Naujokaitis points out that creating a new IT system is always a serious challenge for the project team and stakeholders. In the case of mediation, the team developing the IT tool had little experience with this kind of activity. Therefore, Kęstutis Naujokaitis explains that one of the key challenges for the team was to accommodate the request of different stakeholders and project partners. Another challenge is to complete the developing, testing and smooth launching of the IT tool within the given timeframe, which has been rather tight.

Working on the List of Mediators, the Centre of Registers has cooperated closely with the State Guaranteed Legal Aid Service, which will be the prime user of the tool. The State Guaranteed Legal Aid Service is also responsible for guaranteeing the environment needed for mediation process. The project team has to prepare facilities needed for conducting mandatory mediation. Some of the facilities found either at the State Guaranteed Legal Aid Service or other institutions require a bigger refurbishment (e.g. installing a soundproofing system) and other facilities need mainly equipment (e.g. round tables, a computer, printer etc.). At the time of developing the project, the team at the State Guaranteed Legal Aid Service has collaborated with different institutions to learn from their practice on how to design cosy facilities, as well as sought help from the State Enterprise 'Turto bankas' in finding facilities in cities where they did not have an appropriate room.

The team has started working on developing a technical specification for procuring the services for refurbishing and equipping these facilities. Živilė Poželienė and her team believe that first facilities, except in Vilnius, will be refurbished by autumn. The team says that the implementation of these activities will demonstrate how feasible their plans were, as at the moment it is still premature to assess the project's success. Indeed, much of the project activities implemented by different partners are still in progress. The project team that is spread across different institutions maintains a positive attitude that all activities will be completed in time to prepare for the execution of the new mediation system by 1 January 2020.

Conclusion: results, lessons learnt and the role of ESF financial support

Main results

Although the majority of project activities are still in progress, the project team has achieved some first visible outputs. The main achievement of the project has so far been the development of the examination programme for mediators, which has directly fed into the training curriculum. Also, the project team at the National Courts Administration has completed three study visits to institutions abroad. The visits proved to be a valuable experience that could be applied in implementing other project activities or may become relevant for the institution's future work in mediation. More tangible outputs will become evident once other project activities, such as creating the List of Mediators or refurbishing facilities, will be finalised.

Likewise, short-term and long-term impacts of the project's results will only become apparent after the project is complete in 2020. At institutional level, the project should contribute to increasing the effectiveness of the judicial system, by implementing new measures for enhancing the mediation system. These measures involve creating the exam programme for mediators, organising centralised exams of mediators, developing the List of Mediators, etc. The project team expects that this will allow to reduce the workload of courts, save funds of the Lithuanian National budget, increase the number of persons choosing a mediator's profession, as well as streamline the processes associated to administering the mediation system.

At society level, the project team hopes that the project will bear positive results to the way disputes are solved. The team at the State Guaranteed Legal Aid Service points out that the decision reached during mediation is more sustainable, as parties involved in the dispute have participated in agreeing on it and thus are more likely to abide by it. The team hopes that the project will help to raise awareness about the mediation practice and more people will pursue solving their disputes peacefully, not only when it is mandatory. As the Chief Specialist at the National Courts Administration suggests: 'Perhaps, the more disputes are solved peacefully, the more successful and happier is the society'.

Lessons learnt and success factors

The project team recognises that they have already learnt some lessons. First, the project team at the Ministry of Justice agrees that continuity of persons working on the project should be ensured from its initial stage to finish. In the case of this project, a colleague who has contributed considerably to designing the project and applying for ESF funds has left the team. His expertise would have been very useful in other stages of project implementation. Second, the project team at the Ministry of Justice and National Courts Administration feel that they have learnt from the procurement process. For instance, the team at the Ministry has had some struggles with finding the best way of combining administrative requirements of both ESFA and regular procurement procedures. Meanwhile, the National Courts Administration has felt that the procurement of services (e.g. for leaflets) has went smoothly, since the institution had extensive experience of implementing projects, and will replicate the same steps in future activities.

Although it is still too early to determine whether or not this project has been successful, certain factors can be already noted as having a bearing on the project's outputs to date. This includes the willingness of all partners to collaborate and communicate effectively. None of the project partners had concerns regarding this aspect and generally praised the overall communication of the project. The team also identifies other key success factors, such as the internal competencies of staff working on project activities, careful planning, risk management,

as well as the support from middle and senior management at the Ministry of Justice and respective partner institutions. The latter support has enabled successful interinstitutional cooperation.

At the same time, certain factors may negatively affect the quality of the project's final outcomes, if no measures are taken to counter them. The main factor is the novelty dimension of the project, as before little data has been collected on mediation practices. Thus, the team had lacked a vision of the full scale of mediation practices in Lithuania and has based its project outputs on predictions (e.g. how many mediators they will need etc.). Similarly, the List of Mediators is going to be a new tool, the creation of which can be challenged by diverse expectations and needs of all stakeholders. Another factor affecting the project outputs can be the lack of trust in the judicial system, mediators and other parties involved in mediation, which are necessary prerequisites for smooth implementation of the mediation reform and this project. Also, the team has to complete the majority of project activities by 1 January 2020, which gives the team a tight and non-negotiable deadline. It will be crucial for the project team to bear these factors in mind as they take the next steps in project implementation.

Role of ESF support

Support provided by the ESF during the programming periods 2007-2013 and 2014-2020 has been instrumental to improving Lithuania's judicial system. During the programming period 2007-2013, ESF-funded projects coordinated by the Ministry of Justice had contributed to improving the security of judicial IT systems, increasing the competencies of civil servants, as well as implementing and certifying the ISO 9001 management standard. Meanwhile, the current ESF-funded project '**Development of the mediation system**' has played a key role in preparing for executing the mediation reform.

By securing ESF funds, the Ministry of Justice and its partner institutions have taken significant steps towards enhancing the mediation system in Lithuania. It is expected that the increased use of mediation can contribute to reducing the workload of courts; saving the funds of the Lithuanian National budget; reducing the duration it takes to decide a civil case in courts; and promoting mediation as an ADR method. The project has contributed to strengthening institutional capacities needed for coordination and monitoring of the mediation process in Lithuania.

Importantly, this project has revealed that it is possible to align the implementation of reforms with ESF funding processes. This inevitably requires a stable political will, ownership of the reform and good interinstitutional coordination. However, likewise in the mediation reform, such alignment may work better in the case of pragmatic reforms, dealing with incremental changes in non-political or depolarised areas. In the case of systemic reforms, where there is often no or little consensus among stakeholders, it could be more difficult to reach such coordination.

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