



GEMME: 20 YEARS PROMOTING MEDIATION IN EUROPE



20 YEARS OF GEMME



“To make peace is to bring the many conflicts of a society
closer to a point of consensus.”

Benazir Bhutto

Table of contents

Presentation: Letter from the President	6
Introducing the GEMME vice-presidents	8
GEMME presentation and objectives	11
Head office.	11
Scope of action.....	11
The association's objectives	12
Governance.	12
General Assembly	12
Who can become a GEMME member?	12
Member countries.	13
Financing.	13
Contact GEMME and follow its activities.	13
Brief history and summary of achievements	15
Reflections from the main contributors to the GEMME story.....	18
The GEMME family: national sections	33
Brief history and legal status of member countries	34
Belgium.....	35
Italy	38
The Netherlands	45
Switzerland.....	47
Germany	50
Spain.....	53
Bulgaria.....	60
France.....	63
Romania.....	68
Ireland.....	73

Austria.....	76
Poland.....	81
Greece	86
Observer countries	88
Portugal.....	89
United Kingdom	90
Hungary.....	93
Slovakia.....	98
Ukraine.....	100
Croatia	104
Finland	106
Latvia	109
Luxembourg.....	112
Memory gallery: a selection of images from GEMME's history.....	113
Acknowledgements	134

Presentation: Letter from the President

Dear GEMME members and collaborators,

It is a great honour and satisfaction for me to address you on the 20th anniversary of our beloved Association, a magnificent moment of celebration and reflection when it is essential to recall the main objective that has united us throughout these two decades: the promotion of amicable dispute resolution methods in order to achieve effective and pacifying justice.

This objective, founded on the fundamental value of dialogue, continues to guide our commitment to promoting mediation in Europe as a means of conflict resolution that contributes to improved coexistence and social pacification.

Since its creation, the European Group of Magistrates for Mediation (GEMME) has played a key role in promoting this method and has witnessed the positive impact of mediation on the lives of citizens across Europe. With its emphasis on ethical communication, mutual understanding, autonomy, and responsibility in the self-composition of conflicts, mediation is not simply an alternative to the judicial process, since it involves a genuine paradigm shift: it is directly linked to the culture of peace, the promotion of human rights and the construction of a society for all, respectful of fundamental values. Mediation fosters social cohesion and is a valuable tool for improving the quality of judicial systems, which are often overwhelmed by problems that go beyond the legal sphere.

Our approach to mediation is a sign of progress towards the humanization of justice, as well as a direct response to the changing needs of a highly stressed society, in a context that is part of a global situation of multiple crises and increasingly complex interpersonal relationships. Today's citizens are looking for solutions that enable them to preserve their personal and social relationships, find common ground and avoid the lengthy and costly litigation that often accompanies traditional disputes. GEMME is proud to have embraced this idea, and to have paved the way for a more people and solution-oriented justice system.

As president of this eminent association, I am pleased to highlight the tireless work of judges who, voluntarily and without seeking personal gain, have embraced the cause of mediation and made a significant contribution to its dissemination and consolidation.

I am truly impressed and grateful for the exceptional dedication and commitment of our members in their efforts to integrate mediation into their national justice systems, thereby promoting more accessible and effective justice.

It is also important to acknowledge the equally selfless collaboration of our non-judicial members who have contributed to the success of our work, as well as the support of government institutions and non-governmental organizations, mediation professionals and civil society in general. We have succeeded in creating a network of professionals committed to mediation, sharing best practices, research, and experience, which has enriched us all. All our efforts have been essential in advancing our common mission.

On this special occasion, as we celebrate two decades of successful work, we must look to the future with the same passion and dedication that has brought us this far, and more. Our commitment to mediation must be strengthened as we face new challenges and opportunities in an ever-changing world, in the face of life's ever-increasing complexity.

We will therefore continue to support training, research, and the promotion of mediation at all levels, and strive to ensure that mediation continues to develop and benefit citizens throughout Europe.

On behalf of the European Group of Magistrates for Mediation, I would like to express my sincere thanks to each and every one of you for everything you have achieved. Let's continue to work together and build a future in which mediation will be at the forefront for all those who want to resolve their disputes.

With gratitude and enthusiasm,

Rosalía Fernández Alaya
Magistrate of the Court of Appeal
from Las Palmas (Spain)
President of GEMME



Introducing the GEMME vice-presidents



Monika Włodarczyk

Judge - District Court in Chrzanów (Poland)
Vice-president of GEMME

Founder and former president of the Polish section of GEMME (2016 - 2022), since 2022 she is Vice-president at European level in charge of coordination of the national sections.

"I truly agree and support the idea of a more people and solution orientated justice system in accordance with law as promoted by GEMME. By conciliating or mediating the judge does the greatest job in the world.

Being a member of GEMME enables judges from all EU countries to obtain the necessary practical experience in conciliation, in referral to mediation and in implementing court-annexed mediation pilot projects and in identifying types of cases that work best with the different solutions. I believe that systemized education, inspiration and better knowledge about conciliation and mediation will change the attitude of reluctant and sceptical judges from all European countries regarding dispute resolution.

As a founder and former president of the Polish section of GEMME, I realized that many could achieve much more than one.

Now, as VP coordinator of the national sections in Europe, I am proud to see how collaboration between countries strengthens our capacity to promote conciliation and mediation among judges in all European Union countries. Together, we are building a more harmonious and just future for all European citizens. Our goal for future is to have society who is more and more aware of resolving conflicts on their own with respect to the future relationships."

Eric Van Engelen
Senior Judge & Vice-president Court of Appeal in
Hertogenbosch (The Netherlands)
Vice-president of GEMME



He joined GEMME in 2008 from the Dutch section and since 2020 is Vice-president at European level.

"As an experienced judge, I am very much in favour of Mediation especially when children are involved. I always ask parties: "Do you love your children"? Of course, the answer is "yes"... "I however do not love your children and you want me to take an important decision as far as your children are concerned!" This approach does convince parties very often to go to Mediation as it should be!"

"For more than 20 years, Gemme plays an important role in promoting collaboration between countries and strengthening Mediation worldwide. The future looks bright!"

Avi Schneebalg
Retired Justice of the Peace (Belgium)
Vice-president of GEMME



He is a founding member of GEMME, and since 2020 has held the position of Vice-president in charge of the new national sections.

"I have been a pioneer in teaching, training and practicing (non-family) mediation in Belgium and Europe for 30 years and have taught it at Belgian and European universities and judicial schools, bar associations, chambers of commerce and others, and continue to do so today. I was one of the first non-North American members of the elite International Academy of Mediators."



Ugo Ferruta

Justice of the Peace (Italy)
Vice-president of GEMME

Justice of the Peace for 20 years, currently in Rome, assigned to the Criminal Section and the Immigration Section.

Member of GEMME Italy since 2014 and since 2020 Vice-president at European level.

"My previous work experience, particularly the years at and around the European institutions, in the "Brussels bubble," certainly helped me, from the beginning, to focus, even in judicial disputes, on mediation, motivating the parties to take shared paths and solutions.

However, over the years, I have come to realize that, to succeed, one needs suitable arguments and tools and continuous education and persuasion. On the level of argumentation, making the parties understand, when appropriate, that not only can an agreed solution bring them better results (and less risk) than a victory or defeat in court but also that the outcome of the process can affect the social environment and third parties they care about.

As for tools, today, thanks in part to GEMME's continuous work of suggestion and solicitation, the legal system makes much stronger ones available than when I started (although the justice of the peace was a judicial body also designed and established to experiment with conciliatory and restorative tools, those were in an embryonic state), and legal practitioners are increasingly aware of the potential of mediation, which has made great strides since then. However, a certain mistrust remains, and to overcome it, it is essential, both in training activities and in the management of everyday work, that the judge convey a message of trust and appreciation of restorative and conciliatory tools. It was only because of this continued persistence that I was able to see results that I would not have imagined and to have experiences that I am and will be happy to share in upcoming activities conducted or promoted by GEMME."



GEMME presentation and objectives

GEMME was founded on December 19, 2003, with the aim of bringing together magistrates who use or wish to use alternative dispute resolution methods, and who believe that effective, peace-making justice requires, among other things, the promotion and development of these alternative methods, and in particular of judicial mediation. This applies to professional and non-professional magistrates, both practicing and honorary, and to the jurisdictions in which these magistrates work, according to the possibilities afforded by the provisions governing them.

Head office. The headquarters of the association is fixed at “*Cour de Cassation*” of the French Republic, 5 quai de l'Horloge 75001 Paris.

Scope of action. The field of activity for GEMME is the European Union and the countries that are members of the A.E.L.E (Switzerland, Liechtenstein, Norway and Iceland). Association members meet in national sections set up in each country. A national section is formed as soon as there are seven memberships in the same country. Sections in the process of being formed are entitled to delegate an observer to the Board of Directors.

The association's objectives



Bringing together judges working in the field of mediation, with a view to strengthening and improving its practice,



Exchange practices and experiences in mediation, conciliation, and other alternative dispute resolution methods,



Contribute to the development of mediation and alternative dispute resolution, by taking part in institutional discussions and work in this area, by promoting the teaching of mediation and alternative dispute resolution in law studies and training courses for judges and lawyers, by making them known to professionals and the public in general, and by participating in the definition of training courses for mediators,



To support magistrates in their individual efforts to promote mediation, and to encourage their training in the relevant and effective use of mediation and other legally recognized alternative dispute resolution methods.

Governance. GEMME is governed by a Board of Directors comprising at least five members elected by the General Meeting, plus one member appointed by each national section. The Board chooses an Executive Committee (Bureau) from among its members, comprising a President, two to four Vice-presidents, a General Secretary and an Assistant General Secretary, a Treasurer, and an Assistant Treasurer.

The board of directors shall meet at least every six months upon notice by the president or at any time upon the request of a third of its members.

The association will be represented by its president, who has the option of having himself/herself replaced for a specific activity by any member of the board of directors.

General Assembly shall meet at least every 24 months and includes all members of the association.

Who can become a GEMME member? Magistrates, whether professional or non-professional, practicing or honorary, are eligible. Associate members may be appointed with the approval of the Board of Directors, including lawyers, academics and any other qualified persons who have an interest in mediation and work to promote it.

Applications for GEMME membership are made via the association's website application form: www.gemmeurope.org/en/become-member

Member countries. A **national section** is formed as soon as there are seven members for the same country. The sections that are in the process of being established are permitted to appoint an observer for the board of directors.

Financing. GEMME finances its activities through membership fees. If you would like to know the amount of the current annual membership fee, please contact the General Secretariat by email secretary.general@gemmeeurope.org .

Contact GEMME and follow its activities. GEMME has a regularly updated website, as well as social profiles on LinkedIn, Facebook and X (before Twitter).

To follow GEMME's activities and connect to its social networks, visit the following link: www.gemmeeurope.org/en/connect



www.gemmeeurope.org



contact@gemmeeurope.org



linkedin.com/company/gemme-europe/



facebook.com/gemmeeurope



twitter.com/gemme_europe

GEMME in 2024

25 countries

more than **800** members

75%

judges and magistrates

Brief history and summary of achievements

Since its creation, GEMME has worked tirelessly to become a major organization, with more than 800 members (75% judges or magistrates and 25% other mediation professionals) in 25 countries.

2003 **Creation of GEMME.** On 19 December 2003 at 10:30 a.m. 6 judges from Germany, 15 judges from Belgium, 35 judges from France, 1 judge from the Netherlands, 3 judges from Italy, 1 judge from Portugal and 1 judge from the United Kingdom, making up the constituent assembly of GEMME, met at the Cour de Cassation in Paris. This is how the European Group of Magistrates for Mediation (GEMME) was born.

Guy Canivet (First President of the Court of Cassation, France) was **GEMME's** first **president**.

Constitution of the **Belgian national section**.

Constitution of the **Italian national section**.

Constitution of the **Dutch national section**.

2004 On 18 March, Guy Canivet presented the "Declaration of Association" to the prefecture of police, depositing the statutes and the list of persons in charge of the administration of the association to comply with the requirements of the French Law of 1 July 1901, article 5. GEMME was thus registered on 19 March.

Constitution of the **Swiss national section**.

2005 Constitution of the **German national section**.

2006 **Ivan Verougstraete** (Honorary President of the Belgian Court of Cassation, former President of the Benelux Court) is elected **President of GEMME**.

2007 Constitution of the **Spanish national section**.

GEMME Spain organizes the first symposium on courts and mediation, attended by over 500 people.

2008 Constitution of the **Bulgarian national section**.

2009 Constitution of the **French national section**.

In October, GEMME France organized the first international conference on judicial mediation at the Palais du Luxembourg in Paris, which brought together 35 countries from 5 continents under the theme: "**Mediation, a universal language of conflict resolution**", underlining the need for a new international approach to mediation to set up amicable methods of conflict resolution in legal systems.

Since then, and if the pandemic has not prevented it, the French section of GEMME organizes its Assises on an annual basis. The 9th edition was held in 2023 in Strasbourg.

2010 **Gavin Lightman** (Justice of the English High Court) is elected **President of GEMME**.

Constitution of the **Romanian national section** organizing the international conference "**Mediation in the European Union. Status and Perspectives**" in Bucharest on October 29. The conference brought together, for the first time in Romania, over 400 professors, judges, prosecutors, lawyers, and mediators.

2011 Constitution of the **Hungarian national section**.

2012 **Jaime Octavio Cardona Ferreira** (First President of the Supreme Court of Portugal) is elected **President of GEMME**.

2014 Publication of the book "**La médiation, un chemin de paix pour la justice en Europe**" (**Mediation, a path of peace for justice in Europe**), featuring the main papers, speeches and debates from the symposium held on June 5 and 6 to mark GEMME's 10th anniversary.

Launch of the "**Mediation meets judges**" project to organize some 40 workshops between judges and mediation practitioners in 7 European countries. Implemented by Eurochambres, GEMME and the mediation centres of the Chambers of Commerce of Andalusia, Barcelona, Bulgaria, Brussels, Cyprus, Spain, Ireland, Milan and Paris. This project has provided judges with a set of tools to facilitate the referral of disputing parties to a mediator.

2016 **Béatrice Brenneur** (Honorary President of the Lyon Court of Appeal, France) is elected **President of GEMME**.

Constitution of the **Polish national section**.

Constitution of the **Austrian national section**.

Constitution of the **Irish national section**.

2020 **Rosalía Fernández** (Magistrate of the Court of Appeal of Las Palmas, Spain) is elected **President of GEMME**.

2022 Constitution of the **Ukrainian national section** (observer status).

2023 Constitution of the **Greek national section**.

On November 10, GEMME's 20th anniversary was celebrated in Athens at an institutional event held at the headquarters of the Greek Ministry of Justice.

GEMME is now an interlocutor with the European institutions, and has the status of:



Observer at the Council of Europe.



Mediation consultant to the European Commission.



Partner of the European Judicial Training Network.



Expert advisor to the Stakeholders Advisory Board (SAB) of the European Intellectual Property Office (EUIPO).



Collaborator in various projects with the Academy of European Law (ERA).

Reflections from the main contributors to the GEMME story

The history of the European Group of Magistrates for Mediation over the last 20 years, with its progress and achievements, has been made possible thanks to the efforts and commitment of many people. You will find below the reflections and memories of some of them.



Sir Gavin Lightman (1939 - 2020)

United Kingdom

Judge of the English High Court, Chancery Division, since 1994. He retired as a High Court judge in 2008 and was subsequently Chairman of the *Harbour Litigation* Funding Investment Committee.

President of GEMME from 2010 to 2012

"What is essential for mediation is firstly to train mediators, secondly to train judges in mediation, and thirdly, and even more importantly, to educate the general public about the benefits of mediation. GEMME intends to work in all three areas."



Jaime Octávio Cardona Ferreira (1937 - 2019)

Portugal

Former First President of the Supreme Court of Portugal

President of GEMME from 2012 to 2016

"We want justice and peace for our countries and our fellow citizens. And we know that mediation is, today, an indispensable "tool", at the service of citizens holding interests whose conflicts must be eliminated."

Ivan Verougstraete
Belgium

Honorary President of the Belgian Court of Cassation, former
President of the Benelux Court of Cassation

President of GEMME from 2006 to 2010.



"Conflict is inherent in human nature, and in our contemporary society, which is strongly focused on the individual and his or her rights, conflict resolution increasingly involves the intervention of an impartial, neutral third party. Social authority and natural regulation, born of an inherent respect for the law, have weakened.

This has given rise to a plethora of conflict regulation systems, encompassing both judicial regulation mechanisms and various conciliation and mediation systems in the broadest sense.

From the outset, Gemme has sought to promote a highly distinctive mediation system based on strict independence, impartiality, and neutrality, inspired by common European values. The aim was not to negate or supplant the various existing forms of conciliation or adjudication, but to offer citizens, public authorities, and businesses a model for resolving disputes based on the parties themselves, under the guidance of a mediator, seeking a solution to their conflicts. Thanks, in particular to GEMME, this formula has been propagated in most European countries.

Christoph Strecker
Germany

Retired family court judge, mediator, and writer

Founder of GEMME



"I've experienced justice from the inside, and I've tried to be close to the people. In my life as a judge, I've met like-minded colleagues. I believe that realizing our aspirations becomes easier if we're not alone, but if we're in a community of colleagues on whose emotional and intellectual solidarity we can rely."



Guy Canivet
France

Honorary First President of the Cour de cassation, former member of the Constitutional Council.

Honorary President of GEMME and GEMME-France.

First President of GEMME (from 2003 to 2006).

GEMME...20 years already!

Every organization has a history.

For me, the GEMME adventure began in 2003, when Béatrice Brenneur (Judge at the Social Division of the Grenoble Court of Appeal), Jacques Clavière-Schiele (Chamber President at the Paris Court of Appeal) and Eric Battistoni (Judge at the VERVIERS Labour Court in Belgium) visited the Cour de Cassation to tell me about their project. At the time, in the absence of an organized implementation policy and guidelines from the Ministry of Justice, the provisions of the law of February 8, 1995, which institutionalized mediation for the first time, and those of the decree of July 22, 1996, were hardly being applied in the courts. Practices, often timid, were very scattered.

At the Paris Court of Appeal, we immediately tried to set up a mediation policy, by creating a list of mediators, systematically informing the parties of the possibility of requesting mediation, asking the chambers to encourage them to do so in cases conducive to amicable settlement, and introducing monthly monitoring of the results. I have to admit that, despite all our efforts, the results were modest. The majority of chamber presidents were unprepared, solicitors were indifferent if not hostile, for understandable economic reasons, and the value of mediation was still little understood by lawyers, who often refrained from advising their clients.

For her part, Beatrice Brenneur, at the Grenoble Court of Appeal's labor division, had introduced very proactive practices to encourage mediation, which were very successful with the parties and their lawyers, but were disapproved of by its first president. We were both convinced that mediation had great economic, social, psychological, moral and practical advantages for the parties involved, but that its development needed to be strongly stimulated. In other words, we needed a propellant ... a booster.

This is what GEMME proposed to do: initiate innovative practices, publicize them, identify those that exist in certain jurisdictions, harmonize them, train judges in

mediation, bring together quality mediators and train them, make itself available to jurisdictions and the Ministry of Justice, lobby public authorities to improve legislation and, from the outset, place itself within a European and then international framework in order to draw on the experience of other countries and the support of European institutions.

Indeed, the Council of Europe had already published several Recommendations on mediation, relayed by the European Commission for the Efficiency of Justice. As for the Commission of the European Union, it had launched the preparatory consultations for what was to become the 2008 directive.

So I got the Cour de Cassation involved in this movement by agreeing to chair it and taking part in its events, giving GEMME intellectual and logistical support, in particular by hosting the association's headquarters there; while at the same time the Court's rulings were developing case law granting binding force to mediation clauses.

When I left the Cour de Cassation at the beginning of 2007 and handed over the presidency of GEMME, thanks to the commitment, dynamism, inventiveness and organizational skills of its management team, most of what had been planned had been achieved: the French section was active and vigorous, the European network had been set up, contacts had been made outside Europe, a doctrine and an ethic of mediation had been forged, training sessions had been organized, and several colloquia had been held, notably in Italy.

The work accomplished in such a short space of time by this group of pioneers was remarkable. Afterwards, from the Constitutional Council, I naturally continued to take an interest in the movement's progress. I have to say that I have never ceased to be impressed by the strength of the momentum generated, as well as by the positive spirit and moral quality of those who have perpetuated it to this day. A community of thought and action has been created, it is beautiful, it lives intensely.

Thanks to GEMME, mediation has developed considerably in France and Europe. But that's another story...



Pascual Ortuño

Spain

Judge of the Family Court of the Provincial Court of Barcelona e.r., now practicing as a collaborative lawyer.

He is a founding member of GEMME and of GEMME Spain, the national section of which he was president for several years.

"In Spain, we learned about mediation from experiences in the United States and Argentina. We began introducing pilot experiments in 1992, to strong opposition from lawyers and disinterest from most magistrates. One day, we were invited by the founder of GEMME, Guy Canivet, President of the Court of Cassation, to attend a meeting at the Palais de Justice in Paris. That was in 1994, and we realized that the future of justice lay in promoting ADRs. It wasn't easy to innovate, but when we created the Spanish section, a new cycle began. Today, the main objective has been achieved. The General Council of the Judiciary has a section dedicated to promoting mediation, we've had a state law since 2012, and GEMME has been a key driver of this revolution within the justice system."



Jean A. Mirimanoff

Switzerland

Honorary judge and accredited mediator.

Founder of GEMME-Switzerland

"A little note for a big birthday. I'm delighted to celebrate GEMME's anniversary, congratulate its founders, and thank them for extending participation in this institution to magistrates from EFTA member countries such as Switzerland, a decision that will be followed in 2023 by the creation of an association in our country.

In my opinion, confirmed by the European Commission for the Efficiency of Justice (CEPEJ), awareness-raising and training of magistrates is the key to the development of judicial mediation. Translating Plato's advice into everyday judicial life means thinking, saying, and living this: Amicable settlement has priority. Judges only hear and decide cases if they do not lend themselves to conciliation or mediation.

Paul Gilligan
Ireland



Retired Judge of the Court of Appeal Ireland

Former President of the European Network of Councils for the
Judiciary

Former member of the Council of the European Law Institute

Fellow "Mediation" of the Chartered Institute of Arbitrators
(London)

Practicing Commercial Mediator

Senior Counsel, former Vice President of GEMME Europe

Former President and founding member of GEMME Ireland

"I congratulate the founders of GEMME Europe for their foresight in setting up the organization and realizing the significant role that mediation would play in dispute resolution across Europe.

I also congratulate the various Presidents I have worked with in my association with GEMME Europe Jaime Octavia Ferreira (RIP) from Portugal, Beatrice Brenneur from France, and Rosalia Fernandez Alaya from Spain.

Each in their own way have made a significant contribution to the success of the organization.

I would hope that the way forward now is for greater cooperation with the European Commission, Council of Europe, and the various other EU actors.

I would also hope for greater cooperation between all our members working together to propel GEMME Europe towards the Role it deserves as one of the leading EU players in the field of alternative dispute resolution, a place it richly deserves".



Béatrice Blohorn-Brenneur
France

Honorary President of the Chamber of Commerce, former mediator for the Council of Europe, President of CIM.

President of GEMME from 2016 to 2020. President of GEMME-France and honorary president and founder of GEMME.

GEMME creation story. Why was GEMME created?

GEMME's origins lie in the crisis facing the justice system, which is due to two essential errors:

- The first, which is commonly accepted, is the belief that the role of the judiciary is to adjudicate disputes and lay down the law. On the pediment of the ENM in Bordeaux, we see a judge urging others to join her in "protecting rights".

But applying the law is only one of the means given to judges to fulfil the supreme purpose of their function, which is to contribute to social peace. Indeed, article 21 of the French CPC gives the judge the general mission of conciliating the parties. But this has been forgotten in favour of something far more exciting: the trial.

- The second mistake is to think that the legal arguments presented before the judge are the sole cause of the conflict. In fact, the deep-rooted reason for the disagreement is very often to be found in the psychological wound suffered by the person bringing the case to court. By translating the human experience into a legal equation, the legal machine does nothing to alleviate the suffering.

The judge, whose only tool is the law, cannot always be the guarantor of social peace. It's time to anchor our justice system on the solid rock of respect and listening to others. We're up against the wall, and the violence in our societies bears witness to this. This is where mediation comes into its own.

When, in 1996, we set up a mediation practice at the social division of the Grenoble Court of Appeal, we came up against resistance, indifference and even hostility from the judicial world: anonymous letters, written insults, press campaigns, death threats and so on have accompanied our mediation experience. How difficult it is to shake up judicial immobility and change mentalities! But as Einstein said, it's harder to change mentalities than to split the atom.

Eric Battistoni, our Belgian colleague, had the same misfortune. We both felt that to spread a European culture of peace through mediation, we had to join forces. There's an African proverb: "Alone we go faster, together we go further". So we had to set up an association to bring together European magistrates and build a partnership between judges, lawyers, mediators, court clerks, notaries and bailiffs.

The creation of GEMME

Jacques Clavière-Schiele, Chamber President at the Paris Court of Appeal, has joined us. The three of us wanted to give our association a renowned patron, known for having tried to develop amicable dispute resolution methods. The future president of GEMME had to have the human qualities to listen to others. One name stood out: Guy Canivet, then First President of the French Supreme Court.

In October 2003, he received the three of us and agreed, despite his heavy workload, to support us by taking on the presidency of GEMME, participating in its events, providing intellectual and logistical support, accepting its headquarters at the Cour de cassation, in short by associating France's highest court with this movement.

On December 19, 2003, some thirty magistrates from the European Union - Belgium, France, Germany, Italy, Portugal and Spain - came together at the Cour de Cassation to form GEMME's constituent assembly. Thus was born the « Groupement européen des magistrats pour la médiation (GEMME) »).

The soul of GEMME

People sometimes ask me: "It costs €50 to join GEMME. But what return do I get for my €50?"

And I answer tirelessly:

"For just €50, you can become part of the GEMME family.

For €50, you have the right to make a voluntary commitment to help establish peace in the world, peace in the legal system, peace in people's hearts.

With €50, you'll know how to help people in conflict; you'll be able to put yourself at the service of your fellow citizens to organize social life for the well-being of all".

GEMME has a soul. The members of the association live in communion (etymologically, they are "as one") in the face of human suffering and distress. They react with their feelings, their sensitivities, their feelings, their emotions, their affects and their love in all its forms. They can then put their spirit and intelligence to work to create a better world. Without a soul, there is no breath of life: "The soul is moved, the spirit moves; the soul resonates, the spirit reasons", said François Cheng, member of the Académie française.

The soul of GEMME is the lifeblood that animates our large family, enabling us to create and without which our actions would not have existed; we would not have been able to gather, create symposia, international conferences, write books, the mediation guide and have the ear of national and European authorities.

Investing €50 to join GEMME and feel useful in creating a more humane and just world is the best human investment we can make. It is dictated to us by the intelligence of our hearts.

Sometimes, my interlocutor leaves sad because he doesn't see any financial return on his €50. He thinks: "It's a bad investment. I feel like I've thrown my money out the window".

He may have the cerebral intelligence of a good businessman or financier, but perhaps he lacks the intelligence of a heart in action. It is this action to which you contribute that characterizes the members of GEMME, and which seems to me to be worth much more than €50.

Today, over 800 people in Europe have followed this path within GEMME.

GEMME's epic reminds me of Pierre Corneille's line in *Le Cid*:

"We set off 500 but, by a prompt reinforcement.

We saw 3000 of each other as we pulled into port.

So much to see us walking with such a face,

The most frightened regained their courage".

We started out with 30 members at the Cour de cassation in 2003 but have been swiftly reinforced at the Council of Europe, where we now have 800 members in 25 European Union and EFTA countries, working hand in hand as a united, European team that has transcended national borders.

At GEMME, judges are no longer isolated in their offices, facing the hostility that prevailed in 2003. GEMME tells them: "Hang in there, we're here! That's what happened when GEMME judges ran into mediation problems. Colleagues from the Board of Directors went to plead their case before the judicial authorities in their own countries. That's GEMME!

Then, as Pierre Corneille said, "the most frightened regained their courage". Loneliness is conquered within the GEMME family: we're all united for the same cause.

The work of GEMME

To raise awareness of mediation, it was necessary to inculcate its culture. For 20 years, Gemme and its national sections have organized symposia and training sessions in numerous European cities.

Today, GEMME is an interlocutor with European institutions and has observer status with the Council of Europe.

Gemme's work has already been decisive. A privileged observatory for mediation, Gemme has drawn up an inventory of best practices and provided advice.

GEMME has seen some great presidents pass away.

I would like to recall the memory of Sir Gavin Lightman, GEMME president between 2010 and 2012, who loved our association and led it with humility and a willingness to listen to others.

Jaime Cardona Ferreira, President of the Supreme Court of Portugal, took over from him between 2012 and 2016. He was a great president, who has sadly also passed away.

Great men know how to remain humble. Jaime gave us his loyal friendship, without taking power or deciding for the Board of Directors. He knew how to create a close-knit

team where all of us, little ants in the shadows, united in trust and friendship, were able to work hand in hand, no one trying to outdo the others.

Jaime, you've gone and left us orphans. During your funeral oration, we emphasized your kindness, your natural humility and your wisdom, which gave you the authority of those who have the intelligence of the heart. You were a great leader, respected and admired.

In 2014, GEMME celebrated its 10th anniversary at the Cour de cassation. What happened between GEMME's 10th and 20th anniversaries?

The theme we chose to celebrate GEMME's 10th anniversary was "Mediation, a path of peace for justice in Europe".

In an Edito Jaime Cardona Ferreira, wrote:

"GEMME is an international association of people from different cultures, committed to unity in diversity. GEMME contributes to the development of a better, more humane Justice system in Europe, which is delivered within reasonable timeframes, thanks to mediation. And this year we'll be proudly commemorating GEMME's 10th anniversary! And 10 years later, as President of GEMME France, I repeat this sentence: "Let us celebrate with pride the 20th anniversary of GEMME!" with the motto "The development of mediation in the 5 continents: dream or reality?"



María Lourdes Arastey Sahún
Spain

Judge at the Court of Justice of the European Union.
Former Supreme Court Magistrate (Spain).
She was vice-president of GEMME and president of its Spanish section.

"GEMME has ensured that European judges feel united in their desire to provide the best possible response to the conflicts of the citizens they serve.

Understanding that jurisdictional solutions often lead to great dissatisfaction for the people concerned and high costs, European judges have succeeded in working within our systems of procedural guarantees for a better quality of protection of the rights of litigants."



Eric Battistoni
Belgium

Magistrate e.r. of the LIEGE labour court, CFM accredited mediator, Chairman of the Scientific Committee of the International Council of Mediation (CIM).

Founder and former vice-president of GEMME

GEMME's contribution from 2003 to 2023

The test of time is the best measure of the valour of an association and its members. That's why I'd like to invite you to take a look at GEMME in three different ways: in 2003, in 2013, in 2023. We look back, but we also look ahead.

2003, the founding year of the GEMME association...fulfilling a categorical imperative of Justice!

In 2003, Fathi BEN MRAD defended his doctoral thesis entitled "Sociologie des pratiques de médiation", at the University of METZ. This study remains a pioneering

reference document. With a critical eye, BEN MRAD observes how positive law is increasingly imposing itself on everyday interdependencies, to the detriment of autonomous regulation of social interactions. The supremacy of law dissolves solidarity. The fabric of relationships becomes tenser and rougher.

At the same time, legal dogma is reducing not only the training of jurists, but also their field of intervention, by confusing Law with Law. This dissatisfies the French, who declare a 38% confidence index in the judicial institution (CSA poll, 1997). In turn, mediations compensate for the inadequacy of the rules of a law that has become all-powerful. Implementing a negotiated legal order is not without its difficulties, however, as the judiciary has not at all abandoned its ambition to monopolize legal life. It does not support formalized modes of regulation that escape its control. It keeps mediation bodies under its tutelage!

It's true that our courts were fulfilling their primary judicial function, that "short-term" mission which required them to make a decision (by separating two adversaries in the middle of their fight).

However, Mr. CANIVET, Mrs. BRENNEUR and I felt that a second judicial function - our "long-term" mission, in the words of Paul RICOEUR - also required us to achieve social peace (pacify during the time following the dispute). Breaking with the prevailing dogma, GEMME could be the "active minority" that would initiate social peace through mediation, conciliation, Berlinand other amicable means. With his concept of "minority activism modifying social representations", Serge MOSCOVICI warned us that overturning a dominant social representation would take twenty to thirty years!

2013, the year marking GEMME's second ten-year anniversary ... boosting confidence!

By 2013, our active GEMME minority had made its mark in over fifteen countries.

After ten years, it became clear that amicable practices did indeed meet the expectations of litigants.

The words "cooperation" and "trust" were the order of the day: I note that the conference celebrating GEMME's tenth anniversary singled out Niklas LUHMANN and his "trust as a generalized symbolic medium", or Kenneth ARROW and his "trust as a universal lubricant of economic interactions". In 2013, amicable settlements provided a lot of work for the judiciary!

2023, the year marking the third ten-year anniversary of the GEMME association ... amicable reflexivity!

In the year 2023, there is a general trend in Europe towards amicable dispute resolution. The conference organised by GEMME France to celebrate GEMME's twentieth anniversary will demonstrate this in concrete terms.

But amicable methods are neither magic wands nor sleight of hand! Stimulating mediation and conciliation for reasons of economy is bad thinking: it encourages negotiation rather than adjudication. But adjudication and mediation are meant to be "models of justice", not negotiation!

Amicable dispute resolution methods need to become systems of justice, otherwise they will be wasted. But how can this be achieved?

Negotiation is naturally a conflictual, non-cooperative game. The game only becomes cooperative if it is governed by rules. What rules? Who determines them? Who supervises and sanctions? In 2023, there's no answer.

From 2023 to 2033, it will be GEMME's role to provide this.

Even if mediation includes values of autonomy, it is important to encourage mediators and conciliating or homologating judges to set the right rules, the rules of a fair process, the rules of an agreement that will be perceived as fair by each party.

Rules that prevent conflict from dissolving into bad-faith negotiation. Rules that reassure good faith and trust in amicable dialogue. Rules that will guarantee respect for free, equal, and informed rights, as all models of justice, whether amicable or judicial, should practice!

Avi Schneebalg
Belgium



Retired justice of the peace.
He is a founding member of GEMME, and since 2021 has held the position of Vice-president in charge of the new national sections.

20 years old, 20 years already

A very hot day in December 2003 in Paris.

At the initiative of the indefatigable Béatrice Brenneur and under the chairmanship of Guy Canivet, host of the event, and in the presence of magistrates, lawyers, and mediators from several European countries, including the author of these lines, in the magnificent hall of the Cour de cassation, GEMME was officially born.

Several national sections were created in the wake of this, including the Belgian section, under the presidency of Ivan Verougstraete, who would go on to chair GEMME a few years later.

In twenty years of uninterrupted involvement with GEMME, including the presidency of the Belgian section and then the vice-presidency at European level, what wonderful memories of Board meetings, General Meetings, and colloquia in Paris, Nice, Barcelona, Rome, Naples, Vienna, Krakow... and what wonderful friendships made in the process. So much work to create new national sections, and so much satisfaction when these efforts bear fruit: recently, after a long and complicated gestation period and at my instigation, the Greek section was born at last, filling an obvious gap - the cradle of European civilization, the homeland of Socrates and of the maieutics practised by contemporary mediators... - for a European organization.

We've come a long way in Europe and Belgium since then...

At the time, I was a Brussels-based lawyer, mediator, and mediation trainer. Five years earlier, I had played a decisive role in setting up the first training course in civil and commercial mediation in Belgium, and in the creation of the Brussels Business Mediation Centre (BBMC, since renamed bMediation), by the French- and Dutch-speaking Bar Associations of Brussels and the Brussels Chamber of Commerce and Industry.

The Belgian mediation pioneers were soon in contact with their French counterparts, first and foremost Béatrice Brenneur, who had invited them to take an active part in a memorable colloquium presenting mediation to a prestigious audience of magistrates and lawyers in Valence.

The concept was new and revolutionary for legal practitioners, and met with considerable scepticism, if not outright opposition.

Over the last twenty years, a Belgian law introduced mediation into the judicial code in 2005: the concept was now part of Belgian positive law and could no longer be ignored or ridiculed. Gemme Belgium had made a major contribution to this.

Three years later, the first European directive on the subject was promulgated, the fruit of long and difficult preparatory work in which GEMME and I were closely involved.

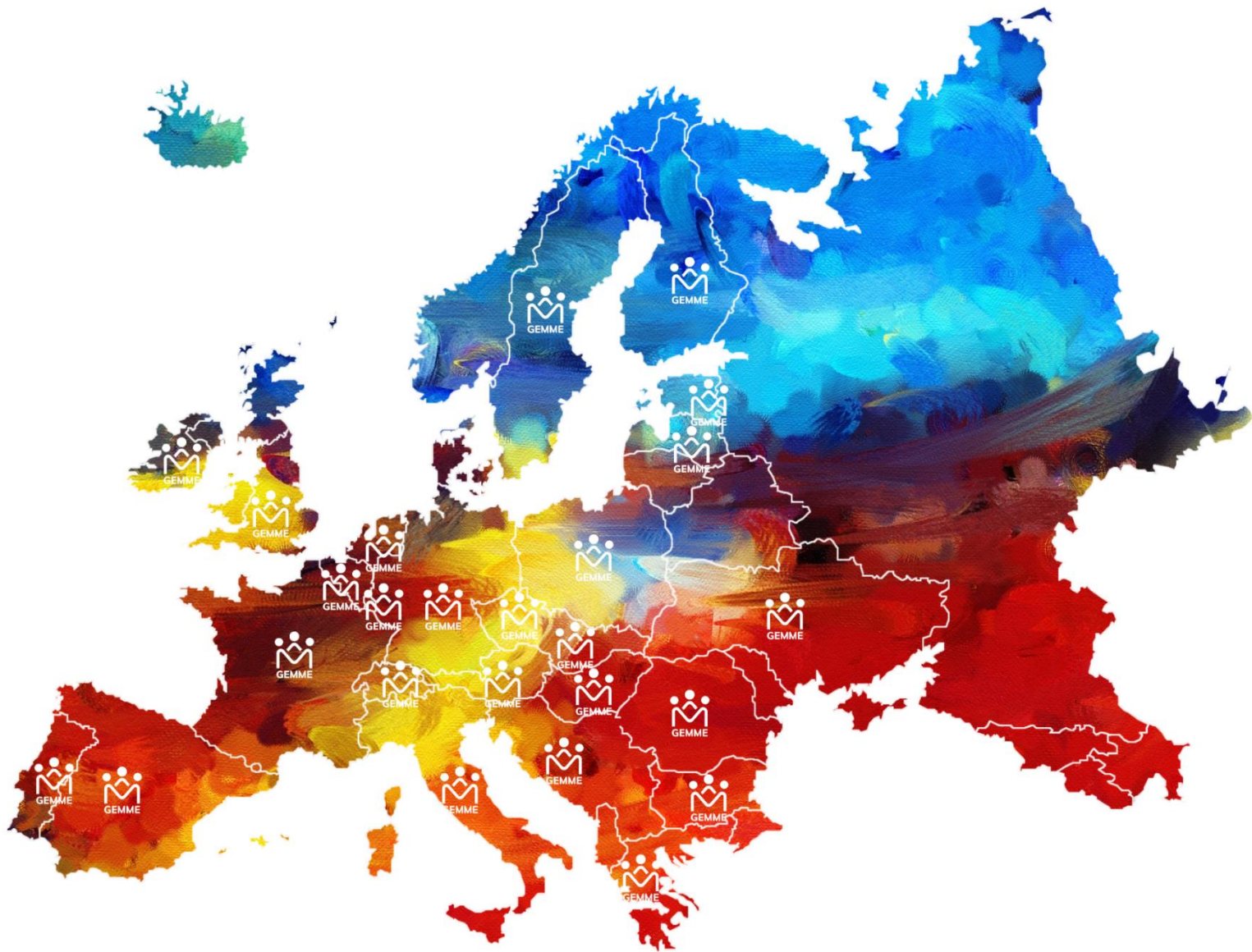
The Belgian law of June 18, 2018, drafted following intense lobbying by the Belgian section of GEMME which I chaired at the time, set in legislative stone the principle of conciliation as an integral part of the judge's mission and enabled the judge to order mediation when only one of the parties to the dispute requested it or did not oppose it.

Amicable settlement chambers were set up in the family courts before being extended to all substantive courts in Belgium, again at the instigation of GEMME Belgium.

Alternative dispute resolution methods, and mediation in particular, are currently placed on an equal footing with traditional legal proceedings, several years before this is the case in France, and French magistrates come to Belgium to learn about and observe conciliation hearings.

But GEMME still has its work cut out for it in terms of training future jurists and legal practitioners, ad maiorem conciliationis gloriam.

Long live GEMME, long live mediation, long live conciliation!



The GEMME family: national sections

At territorial level, GEMME members are organized into national sections for each country. To form a national section, a minimum of 7 members is required, and the association must be registered in accordance with the legislation in force in the country.

GEMME currently has 13 constituted national sections and 12 observer countries, which are, in alphabetical order, as follows:

MEMBERS		OBSERVERS	
Austria	Italy	Croatia	Luxembourg
Belgium	Poland	Czech Republic	Portugal
Bulgaria	Romania	Finland	Slovakia
France	Spain	Hungary	Sweden
Germany	Switzerland	Latvia	Ukraine
Greece	The Netherlands	Lithuania	United Kingdom
Ireland			

Brief history and legal status of member countries

This chapter is devoted to a brief history of GEMME's national sections, as well as the legal status of mediation in these countries.

The order in which the national sections are listed is chronological according to the date of constitution of each section.





Belgium

- Presidents: **Sylvie Frankignoul** and **Anne-Marie Witters**
- Year of establishment: **2003**
- Current number of members: **72**
- Email contact: **gemmebelgium.presidence@gmail.com**
- Website: **www.gemme-belgium.be**

A BRIEF HISTORY OF THE BELGIAN NATIONAL SECTION

GEMME Belgium exists since January 2003. Belgium was thus truly a founding member of Gemme Europe. Ivan Verougstraete was the first president of Gemme Belgium and he became the second president of Gemme Europe in 2008. Belgium thus always recognized the importance of being embedded in Europe.

GEMME Belgium has always established and maintained international contacts with GEMME (Europe) but also with other courts and tribunals in the European Union.

GEMME Belgium immediately formed partnerships in Belgium with the Federal Mediation Commission, with the High Council for the Judiciary and with the Belgian Institute for Judicial Training.

It started as a modest association promoting alternative methods of dispute resolution with courts and tribunals dealing with family, civil, commercial, and social cases in

Belgium. Judges took the lead in setting up pilots in which they tried to refer cases to mediation when necessary or useful. Judges also experimented with information sessions in courts about mediation and liaised with professional mediators for this purpose.

This happened in several courts and tribunals in the Dutch and French-speaking parts of Belgium and also in Brussels and the pilots were so successful that the legislator thought it useful to intervene. Mediation was by then already successful in family law where there was a clear legal basis.

From referring cases to mediation, judges also explored the possibilities offered by conciliation. Under Belgian law judges cannot act as mediators but they are encouraged to attempt to conciliate parties.

The obvious merit of GEMME Belgium was and is to create a safe and professional space where judges could discuss the best practices and learn from each other's experiences.

GEMME Belgium currently has 72 members of which more than 80% are judges.

LEGAL STATUS OF MEDIATION IN BELGIUM

- The legislator intervened on 21 February 2005 and mediation was regulated and given the same importance as arbitration as an ADR method.
- In family law, mediation was regulated in Belgium since many years (2006 and 2007). Since 2014, every family court and tribunal have to offer access to a so-called amicable settlement chambers as safe spaces to conciliate or refer to mediation.
- On 18 June 2018 the legislator allowed:
 - Public authorities to participate in a mediation.
 - A judge to impose a mediation even if some parties (but not all) oppose it.
 - The law then - under the strong impulse of GEMME Belgium's President Avi Schneebalg - was modified to clarify (after the example in France) that to attempt to conciliate parties was part of the habitual tasks of any judge.
- Since 2020, GEMME Belgium members have set up pilot projects to establish amicable settlement chambers in civil, commercial and social matters which was not provided for by law.
- We are very proud to state that through the efforts of GEMME Belgium, the legislator has enacted on 19 December 2023 a new law requiring all courts and tribunals over Belgium to create amicable settlement chambers.

GEMME Belgium thus became a key player in relation to judges referring case to mediation or attempting to conciliate parties using the same or related tools and techniques of principled negotiation as mediators do.

GEMME Belgium is also actively collaborating with the Belgian Institute for Judicial Training to train judges in conciliation and referral to mediation. The basic program is compulsory for all new judges. There is also a specialized program for judges who sit on the amicable settlement chambers.

As a result, conciliation and referral to mediation is now strongly embedded in Belgian courts and tribunals.

Belgium has a Federal Mediation Commission which safeguards the quality of accredited mediators and hosts a website with names and details of mediators allowing courts to choose the most suitable mediator for a certain case. This commission organizes every year a mediation week with numerous conferences, in which GEMME Belgium members take part.



Sylvie Frankignoul

Judge at the tribunal de l'entreprise
francophone de Bruxelles
President of the Chambre de règlement
amiable
Co-President of GEMME BELGIUM



Anne-Marie Witters

Member of the Brussels Court of Appeal (Market
Court section)
President of the Amicable Settlement Chamber NL
(21st Chamber)
Co-President of GEMME BELGIUM





Italy

- President: **Monica Velletti**
- Year of establishment: **2003**
- Current number of members: **80**
- Email contact: contact@gemmeurope.org

A BRIEF HISTORY OF THE NATIONAL SECTION

The Italian Section of GEMME was established, at the same time with GEMME Europe, in 2003. Magistrates, mediators, lawyers experienced in mediation, university professors, members of the association (varying in number from 30 to 150 over these 20 years) have actively contributed to developing mediation in the courts, in national legislation, and in civil society with strong presences in schools and universities. Over the past 10 years, the following magistrates have been appointed presidents of Gemme Italia: dr.ssa Carmela Cavallo, dr.ssa Monica Velletti, dr.ssa Daniela Bianchini, dr.ssa Valeria Montaruli.

The activity of GEMME Italia has experienced a strong development, particularly thanks to the conclusion of agreements with numerous Courts to bring mediation inside the courtrooms. Another important initiative was to urge the Italian Ministry of Justice to make regulatory changes aimed at developing mediation.

Among the most important initiatives in the last 10 years are:

Realization of a service for family mediation at the court of North Naples and Santa Maria Capua Vetere. In December 2017, the first convention between GEMME Italia and the Court of North Naples was concluded by Pres. Melita Cavallo and the President of the Court, for the activation of a family mediation service. By virtue of this agreement, mediators from GEMME Italia, coordinated by Dr. Vincenzo Orefice, activated a service, aimed at married or unmarried parent couples who are parties to proceedings in family matters (separation, divorce, custody of children born out of wedlock, and their modifications) pending before the Court of Naples North.

Creation of family mediation information office at the court of Bari. In 2018 and 2020, a Protocol was concluded between the President of GEMME Italia Dr. Monica Velletti and the President of the Court of Bari under which an Information Office for Family Mediation was activated within the Court. Protocol was reaffirmed in 2022 with President Daniela Bianchini. In application of this protocol, GEMME Italia mediators, coordinated by Dr. Fulvia d'Elia, receive couples who are in the process of separation, divorce, modification of the conditions of separation or divorce, or custody of children born out of wedlock, and provide information on family mediation, stimulating users to make an informed choice of this tool. The project also provides intergenerational mediation interventions between separated parents and their children.

Creation of family mediation desk at the juvenile court of Potenza. In 2019 the President of Gemme Italia Dr. Monica Velletti and Dr. Valeria Montaruli, President of the Juvenile Court of Potenza, signed a protocol for the establishment of a family mediation service within the Court. As part of this project, mediators from Gemme Italia coordinated by Dr. VINCENZO OREFICE provided specific training for the honorary judges of the Juvenile Court of Potenza, transfusing the experience already gained in the mediation services established in other Courts.

Intergenerational mediation space within the operational headquarters of Gemme Italia in Casavatore (Napoli). Since 2018, the aforementioned location has been used to bring together the children of couples who are on a path of with a GEMME Italia mediator, who have not been seeing each other for months or years with the non-cohabiting parent, in order to avoid them meeting in the context of a Court of Law. Parents of one or both parties are heard when they decisively interfere in their conflict. Children and parents who have signed separation agreements are welcomed so that the latter can inform them about the decisions agreed upon for their future, ensuring a shared and serene reading.

School mediation project implemented with the National Guarantor of Childhood. In the period 2016/2019 the Pres. of Gemme Italia Dr. Monica Velletti and Dr. Filomena

Albano, National Guarantor of Childhood and Adolescence at the time, signed a School Mediation Project that the guarantor, who also reported on its contents, presented as among the most important ones in his 2016 annual report to the Italian Parliament. The guarantor also organizing a special conference for the dissemination of the results held in October 2017. THE project was carried out by mediators registered with GEMME Italia coordinated by Dr. Vincenzo Orefice and Dr. Ornella Di Loreto.

International Activities:

- On October 12/13, 2018, the GEMME EUROPE Board was organized. The meeting was preceded by an important seminar held at the Aula Magna of the Supreme Court of Cassation entitled **"Family mediation: European legislation and practices compared."** with the participation of the First President of the Supreme Court of Cassation at the time, the then Child and Adolescent Authority Guarantor and the Presidents of 4 Courts.
- On October 18/19, 2019, the GEMME EUROPE Board was organized preceded by an important seminar held at the City of Naples, entitled **"Family mediation: results achieved and new prospects"** with the participation of the Mayor of Naples, the then President of the Court of Appeal of Naples, and the Presidents of four Tribunals.
- In 2014 GEMME Italia was one of the associations that organized the workshop **"Juridical Intercultural communication in family mediation"** funded under the "Civil Justice" Programme of the European Union, (Project Just/2013/JCIV/AG/4628) on mediation and alternative dispute resolution methods, aimed at the exchange of information on legislation and good practices between magistrates from four European Union countries (Italy, Croatia, Bulgaria and Romania).
- Two study meetings were organized in 2017 (Trieste and Rome) on the comparison between the Italian and Argentine systems on various topics related to fundamental rights and mediation.
- Numerous trainings and exchange initiatives among practitioners for the dissemination of mediation have been organized by GEMME Italia at the national level:
 - 2016 conference at the Italian *Supreme Court of Cassazione* on restorative justice and victim protection, with the participation of the Magistrate Secretary General of the Supreme Court.
 - 2016 practical and simulation mediation lectures for lawyers (over 200 enrolled for each meeting) organized with Rome Bar Association.
 - 2016 study meeting at Roma Tre University with social service managers of the Municipality of Rome.

- 2016 meeting with *Organismo Nazionale Unitario Avvocatura Italiana* (National Body of the Italian Bar) on the role of the family mediator.
- 2017 conference presenting the results of the national project on school mediation at the Rome headquarters of the National Guarantor of Childhood and Adolescence.
- 2017 conference on family mediation in collaboration with 'Roma III University.
- 2018 numerous meetings in schools to disseminate school mediation (Rome, Naples, Pordenone).
- 2019 conference to disseminate family mediation experience developed by GEMME Italia in Naples.
- 2019 numerous meetings were held in schools to disseminate school mediation (Rome, Naples).
- 2021/2022 meetings on new regulations on mediation held online due to the pandemic.

LEGAL STATUS OF MEDIATION IN ITALY

Italian legislation regulates different forms of mediation, each with specific rules: civil and commercial; family; criminal.

Recent reforms approved in 2022 (d. lg.vo 149/2022 and 1509 /2022) have profoundly innovated the rules on mediation in the three different areas. The important contribution made by one of the Presidents of GEMME Italia, Dr. Monica Velletti, for the elaboration of the new norms on family mediation and partly on civil and commercial mediation must be pointed out. The aforementioned participated as an expert magistrate in the Commissions constituted at the Ministry of Justice for the elaboration of these norms (see decrees of the Minister of Justice of 12.3.2021 and 14.1.2022)

Civil and commercial mediation

Italy was the first country in the EU that in transposing Directive 2008/52/EC of the European Parliament and of the Council of May 21, 2008, with Legislative Decree No. 28 of March 4, 2010, provided for civil and commercial mediation as a condition of procedural due process, for certain matters indicated in the rule. In these cases, the party wishing to sue has the burden of attempting mediation, with the assistance of a lawyer, who must, clearly and in writing, inform his or her client of the possibility of proceeding to mediation and of the related tax benefits. The judge, if he or she finds that this procedural condition has not been proved, shall inform the party of the option to request mediation and shall order that the mediation attempt be carried out. In all other matters, mediation may be initiated by the parties on a voluntary basis, either before or during the trial.

Civil and commercial mediation is introduced by an application to the mediation body at the place of the court with territorial jurisdiction over the dispute, containing an indication of the body involved, the parties, the object of the claim and the reasons for it. The parties may freely choose the mediation body from the accredited ones indicated in the list kept at the Ministry of Justice. After the application has been filed with the mediation body, a mediator is designated and a mediation date is set, not earlier than twenty days after filing and not later than forty, the first mediation meeting where from the outset the parties, together with their lawyers, must negotiate fairly and in good faith to reach a conciliatory agreement. The parties must participate in the mediation procedure, already from the first meeting, with the assistance of a lawyer.

The recent regulatory reform with Legislative Decree No. 149 of 2022 extended mediation provided as a mandatory condition of proceeding to numerous other civil and commercial matters. At present, this list includes disputes on condominium, rights in rem, division, hereditary succession, family pacts, lease, accommodate, business lease, compensation for damages arising from medical and health care liability and defamation by the press or other means of advertising, insurance, banking and financial contracts, but also on matters of partnership, consortium, franchise, work, network, administration, subcontracting and partnership firms.

The 2022 reform changed the discipline of judge-demanded mediation. The judge, even at the time of an appeal and until the conclusion of the case assessed the nature of the case, the state of the investigation, the behaviour of the parties and any other circumstances, may order, by reasoned order, that a mediation be conducted. Mediation requested by the court is a condition of proceeding, and if, on the date of adjournment for the verification of the outcome of the mediation, the attempt has not been made, the court declares the application inadmissible. Important regulatory innovations have been provided by Leg. Decree 149/2022 for the support of civil and commercial mediation with the recognition to the parties of tax credits on mediation expenses, and lawyer's fees.

Family mediation

Family mediation, in Italian legislation, is not a condition for proceeding for initiating the action in Court, due to its different nature and the necessary voluntary adherence to the mediation path in the context of family and juvenile disputes, and in view of the presence of the prohibition of family mediation in cases of domestic violence according to the Istanbul Convention. The 2022 reform (d. leg.vo 149/2022), however, provided for a relevant novelty, which was inspired precisely by the experiences of the Protocols concluded by GEMME Italia with many Italian Courts, which provided for the presence

of mediators within the Courts to whom the judge could refer mediation. The new rules provide for the obligation to establish within each Court a list of family mediators, selected on the basis of precise professional skills, to whom each judge can send the parties to manage the family conflict, with suspension of the judicial proceedings until the completion of the family mediation path: if the mediation path will lead to an agreement between the parties, the process can be defined with the transposition of this agreement (always if it complies with the interests of the minor children), in case of failure to reach an agreement the process will continue according to the ordinary rules.

Criminal mediation

Legislative Decree No. 150 of Oct. 10, 2022, introduced rules for the regulation of "restorative justice" path characterized by the active and voluntary participation of the victim, offender, or alleged offender, which will be implemented unless from the conduct of the program may result in concrete danger to the participants.

The judicial authority at every stage and level of the proceedings as well as at the enforcement stage of the custodial sentence or security measure must inform the victim and offender about the option of accessing restorative justice services and available services. (Art. 47).

The program can be accessed for all criminal offenses, regardless of severity (Art. 44) and at every state and level of criminal proceedings, including before the filing of the complaint and up to the executive phase of the sentence and security measure and even after the execution of the same (Art. 344 bis c.p.p.). The Judge (at the request of the defendant or the victim but also ex officio) may order that the defendant and the victim of the crime be sent to the relevant Restorative Justice Centre to start a restorative justice program by order (in the course of the preliminary investigation the prosecutor shall do so by reasoned decree). Before sending, he or she must hear the parties and defence counsel.

The mediator, during the preliminary meetings with each of the participants, must provide the expected information, about the restorative justice programs available, how they can be accessed and carried out, potential outcomes, and any agreements between the participants. The mediator is required to report on the activities carried out and the outcome of the restorative process, which can be evaluated by the judge for the purpose of qualification of the sentence.

In addition, if the program has been carried out and there has been a restorative outcome, whether symbolic (formal apologies, commitments, agreements) or material

(reparations, restitution, mitigation of the consequences of the crime): the judge also evaluates it for the purposes of Article 133 of the Criminal Code and, namely: 1) as a mitigating circumstance of punishment under Article 62, first paragraph, no. 6 of the Criminal Code; 2) for the purpose of suspended sentence under Article 163, ult. paragraph of the Criminal Code in certain cases; 3) as tacit remission of the complaint under Article 152 of the Criminal Code.

However, the interruption of the restorative justice pathway or the failure to achieve a restorative outcome cannot, in any case, produce unfavourable effects against the person named as the offender.



Monica Velletti

Judge President Civil Section Court of Terni
President Of GEMME Italy





The Netherlands

- President: **Eric J.M. Van Engelen**
- Year of establishment: **2003**
- Current number of members: **45**
- Email contact: **thenetherlands@gemmeeurope.org**

A BRIEF HISTORY OF THE DUTCH NATIONAL SECTION

Since the early days of GEMME, the Netherlands is part of the GEMME organization.

We actively participate in GEMME meetings and activities at European level and proactively collaborate in the association's management bodies. Thus, our president Eric Van Engelen is Vice-president at European level and Laura Van der Krogt is currently the deputy secretary general.

LEGAL STATUS OF MEDIATION IN THE NETHERLANDS

Although in The Netherlands Mediation is always voluntarily and therefore, we do not have legislation on Mediation, Mediation is strongly embedded in the Dutch legal system.

Since more than 20 years, Mediation is one of the 3 official ways of resolving a legal conflict in The Netherlands. Especially in Family Law but nowadays also in Criminal Law, mediation plays a significant role.

In The Netherlands, 4 assumptions are important as far as resolving a conflict through Mediation is concerned:

- Self-determination of parties.
- Voluntariness.
- Confidentiality/privacy.
- Impartiality of the Mediator.



Eric J.M. van Engelen

Senior Judge & Vice President - Court of Appeal in Hertogenbosch
President of GEMME The Netherlands





Switzerland

- President: **Daniel Stoll**
- Year of establishment: **2004**
- Current number of members: **40**
- Email contact: **info@gemme.ch**
- Website: **www.gemme.ch**

A BRIEF HISTORY OF THE SWISS NATIONAL SECTION

The Swiss legal system is characterized by a federalist structure. Switzerland's cultural and linguistic diversity, and a long tradition of international good offices, have fostered the development of a "culture of compromise", anchored in most cantonal codes of procedure through conciliation, until the 2011 reform which led to the unification of the codes of civil and criminal procedure, with mediation complementing the amicable methods of conciliation and settlement. The amicable settlement of disputes has developed through the creation of autonomous and independent conciliation bodies in the fields of tenancy and employment.

The "*Groupement suisse des Magistrats pour la Médiation et la Conciliation*" (hereafter GEMME Suisse) was founded on the initiative of the presidents of three French-speaking cantons (Jacqueline Passaplan (Fribourg), Jean Mirimanoff (Geneva), Isabelle Bieri (Neuchâtel)). It is directly linked to their long experience of conciliation in lease disputes, to their recognition of the need to create an "*ad hoc*" space and time for the

process, and to their conviction that while the traditional judicial approach to disputes puts an end to the procedure, the conflict often outlives it, due to the eminently subjective dimension and perception of the parties involved. At the same time, a strong demand for citizen autonomy, which had already led to reforms in substantive law, notably in family law, called for an appropriate response in terms of procedure.

Although GEMME Suisse has a national vocation, Switzerland's federalist structure has probably meant that the association has developed mainly in the French-speaking part of the country. Through its involvement with other associations, GEMME Suisse has contributed to the promotion of mediation and the formal introduction of this approach into the Swiss legal system since 2011.

LEGAL STATUS OF MEDIATION IN SWITZERLAND

Switzerland is made up of 26 cantons and half-cantons, each of which is a small state within a state, with its own legislature, executive and judiciary. Although substantive law is the same throughout Switzerland, for a very long time each canton had its own civil and criminal procedures. It was only on January 1, 2011, that the Swiss Code of Civil Procedure (hereinafter CPC) and the Swiss Code of Criminal Procedure (hereinafter CPP) came into force, applying to the whole of Switzerland.

Mediation has been introduced into the new Code of Civil Procedure. There was also talk of introducing it into the code of criminal procedure for adults, but parliament ultimately rejected this option. On the other hand, mediation is regulated in juvenile criminal law. The juvenile criminal authority can refer the complainant(s) and the accused to a mediator. If mediation is successful, the charges must be dropped.

About the CPC, mediation has been introduced alongside conciliation by the judge. Conciliation is mandatory for many cases. There are a few exceptions, such as in cases of emergency or debt collection, where conciliation is not mandatory. Where conciliation is mandatory, the parties may agree to replace it with mediation. It is not only at the mediation stage, but at any stage of the proceedings, that the judge may advise the parties to enter mediation, or that the parties may submit a request to open mediation proceedings. In this case, in principle, legal proceedings can be suspended for the duration of the mediation.

The law expressly stipulates the mediator's independence from the judge and the confidentiality of the mediation process. Under no circumstances may the parties rely on what has been said and proposed in mediation in the proceedings on the merits. Should a party allege facts relating to the mediation, these would be declared

inadmissible by the judge. This guarantee is there to ensure that the parties feel free to express themselves without fear of negative repercussions on the main proceedings should they fail to reach an agreement in conciliation or mediation. For example, a party would not be able to argue in court that the opposing party had proposed such and such an amount in mediation, and that it was therefore incomprehensible that they should conclude that the action should be dismissed.

The CPC allows the judge to offer the parties free mediation on two conditions:

- mediation is recommended by the judge for the good of the child,
- the parties do not have the financial means to afford mediation.

Some cantons have extended free mediation, or at least free initial mediation sessions, to all types of case, not just those involving children.

Mediation is a voluntary process. The judge can urge the parties to mediate but cannot force them to do so. There is only one exception to date, introduced by the case law of the Swiss Federal Supreme Court. It is possible for a judge to compel parents to enter mediation when it is in the best interests of the child. The Federal Court considers this to be a child protection measure.

The rules governing mediation in connection with legal proceedings were outlined. Of course, the parties can also undertake mediation privately, without having to go to court.



Daniel Stoll

President of the Court of Nyon (VD)

President of GEMME SUISSE





Germany

- President: **Camilla Hölzer**
- Year of establishment: **2005**
- Current number of members: **20**
- Email contact: **deutschland@gemmeeurope.org**
- Website: **www.gemmeeurope.org/deutschland**

A BRIEF HISTORY OF THE GERMAN NATIONAL SECTION

In 2007, Germany's Federal Constitutional Court (in the picture) encouraged judicial mediation by declaring the settlement of an initially contentious issue through an amicable solution to be fundamentally preferable to judicial resolution of the dispute.

GEMME Germany is a non-profit association registered in the Register of Associations at the District Court of Charlottenburg, Berlin. According to the articles of association dated 16.04.2005, the association is not authorized to engage in partisan political activity.

The association's aim is to promote mediation from the judge's perspective and to develop quality standards.

The association encourages the exchange and collaboration of its members, who may be individuals or legal entities, with European professional colleagues.

The association's governing bodies are the General Meeting and the Board of Directors. The General Meeting is held every two years. Under a decision taken by the members on July 15, 2023, it is also possible to hold a hybrid or entirely virtual meeting. Members currently pay an annual membership fee of €60, of which €50 is donated to GEMME Europe by the treasurer, retired administrative court judge Peter Osten. The association's portfolio is therefore modest.

Since 2019, the president of the association has been Camilla Hölzer, Presiding Judge of the Cologne Finance Court. Since July 15, 2023, the German member of the GEMME Europe Board of Directors has been Elisabeth Lintl, Judge at the Nuremberg Court of Appeal.

In recent years, GEMME Germany members have taken part in seminars and conferences in France, Belgium, Austria, and Switzerland as speakers (eg. Cour d'Appel de Caen, ENM Bordeaux, Court of Appeal Vienna, Federal Administrative Court Vienna, GEMME Switzerland, IFJ Brussels, zoom conferences with Brussels finance judges and French conciliators), tried to make the institution of the German *Güterichter* and the great successes of judicial conciliation known to litigation judges in GEMME Europe member states, and to receive suggestions and learn from their colleagues in member states.

Our members have benefited greatly from further training opportunities organized by GEMME Europe and often paid for by EU funds, for example at the Academy of European Law, ERA (e.g. seminars on cross-border mediation). Since 2018, GEMME Germany itself has been offering its members the opportunity of further training through its membership of the VGM (*Verein für gerichtliche Mediation e.V.*), a nationally active association of *Güterichter*.

Wherever possible, we are active in national networks for *Güterichter* (e.g. at the annual exchange of experience on court mediation at federal level by the North Rhine-Westphalia Academy of Justice and at the Central Mediation Congresses, Cologne).

LEGAL STATUS OF MEDIATION IN GERMANY

In Germany, out-of-court mediation is governed by the Mediation Act 2012. Judicial mediation by professional judges, referred to in this capacity as "Güterichter", is governed by § 278 para. 5 CPC and § 278a CPC, also adopted in 2012. All branches of

the courts offer *Güterichter* proceedings. Under these provisions, "Güterrichter" may use all methods of alternative dispute resolution, including mediation, to find an amicable solution to ongoing legal proceedings.

In Germany, judicial conciliation plays a more important role than *Güterichter* procedures. As part of the conciliation process, judges use mediation tools.

Training as a certified out-of-court mediator is currently governed by the Training Regulations for Certified Mediators of August 21, 2016, which will be amended from March 1, 2024. In future, 130 hours of attendance and five super-reviewed mediations as well as online mediation will form part of the training. *Güterichter* training, provided by the Judges' Academies of the Länder Ministries of Justice, is also geared to the training content of these training regulations.



Camilla Hölzer

Presiding judge of the Cologne Finance Court
President of GEMME GERMANY





Spain

- President: **Carme Guil Roman**
- Year of establishment: **2007**
- Current number of members: **200**
- Email contact: **hola@mediacionesjusticia.com**
- Website: **www.mediacionesjusticia.com**

A BRIEF HISTORY OF THE SPANISH NATIONAL SECTION

The Spanish section of GEMME was set up in 2006, and since 2007 has had its own legal personality. It is a non-profit organization.

Its statutes require that two-thirds of its members belong to the so-called judicial professions (magistrates, public prosecutors, lawyers in the administration of justice, etc.) and authorize one-third of its members to be lawyers or other professionals connected with mediation and restorative justice.

GEMME Spain is organized into ten territorial sections, in accordance with article 9 of its statutes (Andalusia, Canary Islands, Castile and Leon, Catalonia, Community of Madrid, Community of Valencia, Galicia, Murcia, Navarre and Basque Country).

In 2012, with the enactment of the State Mediation Act, Neutral Points for the Promotion of Mediation (PNPM) were created in the various autonomous communities.

Since its creation, GEMME Spain has organized four "Symposiums on Mediation and the Courts":

- I) 2007 - November 15-17 at Valencia's Justice City - "Presentation of GEMME's Spanish section" (500 participants).
- II) 2009 - June 18-19 at CaixaForum premises in Barcelona - "New paths for justice" (400 participants).
- III) 2013 - September 26 and 27 at CaixaForum premises in Madrid - "One-year assessment of Law 5/2012 on civil and commercial mediation" (500 participants)
- IV) 2020 - From September 21 to 25 in online mode - "The momentum of mediation in a post-pandemic environment" (700 people registered).

Our symposium, in addition to gaining national and international attention with each edition, has resulted in the publication of various documents and conclusions (only available in Spanish):

- White paper on mediation in Catalonia (2011)
https://justicia.gencat.cat/web/.content/documents/publicacions/libres_fora_coll_eccio/libro_blanco_mediacion.pdf
- Conclusions of the III Symposium on Mediation and Tribunals (2013)
<https://mediacionesjusticia.com/conclusiones-y-recomendaciones-finales-del-iii-simposio-tribunales-y-mediacion>
- Book "Mediation is justice" (2014)
<https://mediacionesjusticia.com/ya-esta-disponible-el-libro-mediacion-es-justicia>
- Conclusions of the IVth Symposium on Mediation and the Courts (2020)
<https://mediacionesjusticia.com/conclusiones-simposio>

Numerous conferences, seminars, webinars, etc. have also been organized on monographic topics related to mediation and restorative justice. Among the most notable and recent, the webinar on "Restorative Practices with Adolescents" organized jointly with the Argentine Ministry of Justice in 2022 (more information at: www.mediacionesjusticia.com/pr), to which over 900 people registered, and the webinar on "The Challenge of Administrative Mediation" organized in June 2021 and to which almost 400 people registered (more information at: www.mediacionesjusticia.com/22jun).

GEMME Spain is a member of the Ministry of Justice Mediation Forum and the European Forum for Restorative Justice.

The Spanish section of GEMME participates with great commitment and enthusiasm in all consultations carried out as part of legislative processes relating to mediation and other ADRs, both at national and regional level, and this work has given rise to various documents. And periodically, through working groups, studies and reports are drawn up with analyses and proposals on certain issues in which GEMME considers that mediation should have a greater presence. Below are some of the most relevant contributions made by GEMME Spain since 2019:

- GEMME Spain's contributions to the draft sports law to promote sports mediation (June 2021) - <https://mediacionesjusticia.com/aportes-gemme-ald>
- GEMME Spain's contributions to the draft law on procedural efficiency measures: full text (February 2021) - <https://mediacionesjusticia.com/aportes-alep>
- GEMME proposals following the presentation of the "Preliminary Map of Restorative Justice in Spain" (April 2023) - <https://mediacionesjusticia.com/jr23>
- GEMME proposals to the Spanish Senate to improve the law on procedural efficiency of the public justice service (November 2022) - <https://mediacionesjusticia.com/gemme-senado>
- Joining forces for Restorative Justice: Presentation of GEMME Spain's proposals (November 2021) - <https://mediacionesjusticia.com/jr>
- Contributions to the Ministry of Justice's public consultation on the procedural measures bill (June 2020) - <https://mediacionesjusticia.com/aportaciones-a-la-consulta-publica-del-ministerio-de-justicia-sobre-el-anteproyecto-de-ley-de-medidas-procesales>
- GEMME Spain's proposals to the bill on the promotion of mediation (February 2019) - <https://mediacionesjusticia.com/propuestas-de-gemme-espana-al-anteproyecto-de-ley-de-impulso-de-la-mediacion>
- GEMME Analysis and proposals for the promotion of Mediation with public administrations - <https://mediacionesjusticia.com/admon>

In its sixteen years of existence, GEMME Spain has acquired institutional clout through the signing of numerous collaboration agreements with state and regional bodies, universities, national councils of professional associations, chambers of commerce and non-profit organizations. The aim of these agreements is to provide mediation advice, support, and training. It is also recognized in Latin American countries, where it has created the figure of the observer partner.

A list of signed agreements and conventions can be consulted on our website: <https://mediacionesjusticia.com/category/acuerdos-y-convenios>

GEMME Spain is increasingly invited to participate in events organized by public and private companies: <https://mediacionesjusticia.com/jornadas-y-congresos>

Since 2013 and following one of the conclusions of the III Symposium on Mediation and the Courts, GEMME Spain has been firmly committed to its digital presence, maintaining a website, and sharing relevant information about mediation on its social networks.

This effort has paid off in terms of visibility and reputation. GEMME Spain's digital presence is specified in:

- The website, which has over 1,400 subscribers who receive all news published in real time by e-mail, can be found at: www.mediacionesjusticia.com
- LinkedIn (with 2,125 followers): www.linkedin.com/company/gemme-espana
- Facebook (with 3,540 followers): www.facebook.com/mediacionesjusticia
- X (3,035 followers): www.twitter.com/MediacionJusta
- YouTube (164 subscribers):
www.youtube.com/channel/UCc9MwqolPAXKqZTApSVRHiv

The GEMME Spain (www.mediacionesjusticia.com) website includes an extensive library of the main publications on mediation, organized into thematic sections. It can be consulted at the following address: <https://mediacionesjusticia.com/biblioteca>

LEGAL STATUS OF MEDIATION IN SPAIN

As far as the state of mediation in Spain is concerned, despite the existence of a wealth of experience and many professionals duly trained in mediation and other ADRs, the truth is that few conflicts continue to be resolved by means of alternatives to civil or commercial legal proceedings.

At national level, the regulations are as follows:

- Law 1/2000 of January 7 on civil procedures: articles 770, 7^a, 777, 2 and third final provision.
- Law 15/2005, of July 8, 2005, amending the Civil Code and the Civil Procedure Act in matters of separation and divorce.
- Law 5/2012, of July 6, on mediation in civil and commercial matters.
- Royal Decree 980/2013, of December 13, developing certain aspects of Law 5/2012, of July 6, on mediation in civil and commercial matters.

- Law 4/2015 on the status of victims of crime.

- Law 26/2015, of July 28, on the modification of the system for the protection of children and adolescents.

Several draft reforms to Law 5/2012 have not been approved.

At the level of the autonomous communities, regulations are equally varied:

• ANDALUSIA

- Law 1/2009, of February 27, regulating family mediation in the Autonomous Community of Andalusia.

- Decree 37/2012, of February 21, approving the implementing regulations for Law 1/2009, of February 27, regulating family mediation in the Autonomous Community of Andalusia.

- Decree 65/2017, of May 23, amending Decree 37/2012, of February 21, approving the implementing regulations for Law 1/2009, of February 27, governing family mediation in the Autonomous Community of Andalusia.

• ARAGON

- Law 9/2011, of March 23, on family mediation in Aragon.

• ASTURIAS

- Law 3/2007, of March 23, on Family Mediation in the ASTURIAS.

• CANTABRIA

- Law 4/2017, of April 19, amending Law 1/2011, of March 28, on mediation in Cantabria.

- Law 1/2011, of March 28, on Family Mediation of the Autonomous Community of Cantabria

• CASTILLA LA MANCHA

- Law 4/2005, of May 24, on the social service specializing in family mediation

• CASTILLA-LEON

- Law 1/2006, of April 6, on family mediation in Castilla y León

- Decree 61/2011, of October 13, approving the Regulations for the development of Law 1/2006, of October 13, on Family Mediation in Castilla y León.

● CATALONIA

- Law 15/2009, of July 22, on mediation in the field of private law.
- Decree 135/2012, of October 23, approving the Regulations of Law 15/2009, of July 22, on mediation in the field of private law.
- Ordinance - JUS/428/2012, of December 18, which regulates the basic content and approval procedure for specific training in mediation in the field of private law.
- Resolution JUS/2896/2012, of December 17, setting the fees for mediation procedures under Act 15/2009, of July 22, on mediation in private law.

● VALENCIAN COMMUNITY

- Law 24/2019, of December 5, on mediation in the Valencian Community
- Decree 41/2007, of April 13, of the Consell, which develops Law 7/2001, of November 26, of the Generalitat, Regulating Family Mediation in the Valencian Community.

● GALICIA

- Law 4/2001 of May 31, 2001, regulating family mediation.
- Decree 159/2003, of January 31, regulating the figure of the family mediator, the Galician Register of Family Mediators and recognition of free mediation.
- Law 3/2011, of June 30, on family support and coexistence in Galicia.

● BALEARIC ISLANDS

- Law 14/2010, of December 9, on family mediation.

● CANARY ISLANDS

- Law 15/2003, of April 8, on family mediation
- Law 3/2005, of June 23, to amend Law 15/2003, of April 8, on Family Mediation.
- Decree 144/2007, of May 24, approving the regulations of the Family Mediation Act.

● MADRID

- Law 1/2007, of February 21, on family mediation in the Community of Madrid.

● NAVARRA

- Foral law 4/2023, 9 March Restorative Justice, mediation and community-based restorative practices.

● BASQUE COUNTRY

- Law 1/2008, of February 8, on family mediation.

- **MURCIA REGION**

- Order of March 1, 2013, from the Regional Ministry of Health and Social Policy, establishing public prices for family mediation services and family meeting points in the Murcia region.

The plurality of regulations in the Autonomous Communities highlights the diversity that exists in Spain and the difference in the implementation of ADRs between the Autonomous Communities, some of which have highly developed instruments and entities for their widespread use among citizens, while others have obvious deficits and are still unfamiliar to the population of these Autonomous Communities.



Carme Guil Roman

Magistrate of the Barcelona Court of Appeal
President of GEMME Spain





Bulgaria

- President: **Dessislava Djarova**
- Year of establishment: **2008**
- Current number of members: **8**
- Email contact: **bulgarie@gemmeeurope.org**

A BRIEF HISTORY OF THE BULGARIAN NATIONAL SECTION (by Judge Evgeni Gueorguiev)

Seven judges formed the Bulgarian section of GEMME in 2008, just one year after Bulgaria joined the EU. These judges were - Tsveta Jeljazkova, Nikola Popov, Daniela Borisova, Desislava Djarova, Vladimir Vulkov, Evgeni Georgiev, Rajna Martinova. Over the past 15 years, GEMME's Bulgarian members have changed; however, all were involved in the creation in 2010 and development of the mediation program annexed to the most durable court in Bulgaria - the Settlement and Mediation Centre of Sofia District Court and Sofia High Court. This mediation program has become a model for other courts nationwide.

In April 2008, at a mediation seminar in Athens, Greece, Beatrice Brenneur recruited the first Bulgarian judge to join GEMME. A few months later the national section was formed and immediately received the support of GEMME, through its then president,

Ivan Verougstrate. The members of GEMME's Bulgarian section, together with the Professional Association of Mediators in Bulgaria (PAMB), in partnership with GEMME Europe and the Bulgarian American Fulbright Commission, implemented a project granted by the Bulgarian Fund to 15 judges of first instance to be trained in mediation, start conciliating cases and then refer cases to mediators. As part of the project, GEMME members Oyvind Smukkestadt and Carl Vrints visited Sofia and discussed the benefits of mediation and court-annexed mediation programs with Bulgarian judges and lawyers. Around the same time, during a personal visit to Sofia, Jaime Octavio Cardona Ferreira did the same.

On several other occasions, GEMME members Beatrice Brenneur, Ruben Murdanaigum, Dragos Calin and Rosalia Fernandez visited Sofia and spoke about the benefits of mediation for courts and society at the invitation of the National Association of Mediators, PAMB and the National Bar Association. GEMME's Bulgarian members have participated in all the working groups of the Ministry of Justice and the Supreme Judicial Council concerning legislative initiatives on mediation, including the latest amendments to the law. These amendments provide for mandatory referral to mediation for specific types of cases and the introduction of court-annexed mediation programs for all 29 district courts in Bulgaria by summer 2024. This achievement is the result of the hard work and perseverance of GEMME's Bulgarian members and their fruitful cooperation with GEMME Europe.

LEGAL STATUS OF MEDIATION IN BULGARIA

Mediation was introduced in Bulgaria by the Mediation Act promulgated on 17.12.2004. Since then, the law has undergone 6 amendments - the latest on 2.02.2023, which will come into force on 1.07.2024.

There is Order 2/2007 of the Minister of Justice. It defines the conditions and order of approval for organizations that train mediators. It regulates the requirements for mediators and their registration in the Unified Register of Mediators with the Ministry of Justice. The Mediation Act and Ordinance 2/2007 set out the legal framework for mediation and the ethical rules to be followed by mediators.

The Mediation Act and Ordinance 2/2007 of the Minister of Justice apply in cases of conventional mediation and judicial mediation. A judge cannot be a mediator. The law provides for the possibility of mediation as an alternative form of conflict resolution in the fields of civil law, consumer law, commercial law, family law, labour law and administrative law. In criminal matters, mediation must be carried out in accordance with the conditions laid down in the Code of Criminal Procedure.

Judicial mediation began to develop in practice in 2010, thanks to the voluntary work of judges and mediators. A mediation and negotiation centre has been set up in Sofia, next to the court of first instance. The centre is staffed by mediators from a variety of professions: jurists and lawyers, psychologists and teachers, engineers and others. The Sofia District Court is also involved in this voluntary work. The example set by Sofia judges is being followed by other cities: Varna, Burgas, Stara Zagora, Veliko Turnovo, Pernik, Pazardjik and others.

The Mediation Act, in its amendment of 2.03.2023, gave more detailed regulation to judicial mediation and especially to the mandatory first meeting in certain cases. Such regulation is incorporated in the Code of Civil Procedure, by the amendment of the Code in 2022 - article 140a and 140 b.

The judge will order a compulsory first meeting with a mediator in co-ownership cases, sums owed to the co-ownership, property division cases, especially in the completion stage, in cases of conflicts between partners, linked to the sale of the company's share of capital. In many other cases, the judge may decide to oblige the parties to meet with a mediator: family matters, divorce, guardianship and maintenance obligations, relations with grandparents, claims linked to a contract or based on tort or unjust enrichment, defects and nullity of contracts, cases linked to the possession or ownership of real estate, cases in the field of employment law and others.

The amended Mediation Act, which comes into force on 1.07.2024, provides for the establishment of state-funded judicial mediation centres in all Bulgarian courts of first instance and district courts. The Supreme Judicial Council is expected to issue regulations on fees for judicial mediation, the registration of mediators with the district courts and remuneration for their work.



Dessislava Djarova

Former Judge, Lawyer, Mediator
President of GEMME Bulgaria





France

- President: **Beatrice Brenneur**
- Year of establishment: **2009**
- Current number of members: **350**
- Email contact: **france@gemmeurope.org**
- Website: **gemme-france-mediation.fr**

A BRIEF HISTORY OF THE FRENCH NATIONAL SECTION

The French section, which is one of the founding members of GEMME, became a legal entity on May 21, 2009, in the form of an association under the French law of 1901. GEMME-France is headquartered at the Paris Court of Appeal. The dynamism of this section, which today has 350 members, 70% of whom are magistrates and 30% associate members, is to be commended. Its Scientific Advisory Board is responsible for enriching research work. François Staechelé keeps abreast of the latest developments in mediation.

The first international mediation conference was held in 2009 at the Senate of the French Republic. They led to the creation of an international network of mediation players, including leading figures from the legal world on 5 continents. Building on this success, GEMME France has been organizing the International Conference of Judicial

Mediation since 2009, the latest of which took place at the Council of Europe, in Strasbourg, on May 25 and 26, 2023.

Why did we choose Strasbourg for the IX International Conference of Judicial Mediation to mark the 20th anniversary of the founding of GEMME?

Strasbourg already evokes the Council of Europe, created in 1949 to guarantee and promote human rights on our continent. The European flag features 12 stars, symbolizing fullness, gathered in a circle, a sign of union. And mediation is a link between people in conflict. But mediation is also part of Strasbourg's history. On February 14, 842, two of Charlemagne's grandsons, Louis the German and Charles the Bald, swore allegiance to each other in the Strasbourg oaths, to keep Charlemagne's empire united. The problem was that they didn't speak the same language: Louis spoke Tudesque and Charles, Romanic. To ensure that each army understood the content of the oath, each gave a speech in the other's language. What a joy for a mediator to hear each party speak the other's language! Louis and Charles were applying the lessons of their grandfather Charlemagne: "To speak another language is to have another soul".

It was a great success! To mark the event, European institutions were represented by the Council of Europe, the European Union, EUIPO and CEPEJ. The French Minister of Justice was also present! A great moment!

GEMME France also organizes seminar-cruises featuring top-quality speakers. They create bonds between participants: its members form a big family.

In 2022, GEMME France organized webinars on Italy, Africa, Asia and mediation in post-armed conflicts.

The French section of GEMME is an authoritative voice. It lobbies legislative and parliamentary bodies to promote the use of ADR. It has just been appointed a member of the *Conseil National de la Médiation de France* (CNM), a kind of national mediation observatory created by the French Ministry of Justice under the terms of an agreement signed with the *Ecole Nationale de la Magistrature* (ENM).

The *Ecole Nationale de la Magistrature* has just entrusted GEMME France with the training of magistrates who will preside over amicable settlement hearings in all French courts.

At court level, GEMME France puts model mediation orders online and improves the implementation of mediation. Has its own publishing house, GEMME France-L'Harmattan, where GEMME France publishes its work.

What now remains to be done is to create a European list of mediators, with selection criteria, training programs and accreditation bodies. This is what the French section of GEMME is calling for.

LEGAL STATUS OF MEDIATION IN FRANCE

1°- General provisions on mediation

Judicial mediation was instituted by **law no. 95-125 of February 8, 1995**. It was **incorporated into the Code of Civil Procedure by Decree no. 96-652 of July 22, 1996, under articles 131-1 et seq.**

2°- The law of February 8, 1995, has been successively amended to facilitate the implementation of mediation:

- **Ordinance no. 2011-1540 of November 16, 2011** and the decree of January 22, 2012 transposing Directive 2008/52/EC of the European Parliament and of the Council of May 21, 2008 on certain aspects of mediation in civil and commercial matters mainly concern:
 - conventional mediation,
 - the definition of mediation and conciliation,
 - the confidentiality of mediation,
 - the quality of the third-party mediator,
 - administrative mediation in cross-border disputes,
 - the legal nature of the probate judgment.
- **The decree of March 11, 2015 requires the parties to justify in the act of referral to the judge (summons or petition) "the diligence undertaken with a view to reaching an amicable resolution of the dispute".**
- **Law No. 2016-1547 of November 18, 2016, on the modernization of justice for the 21st^e century is a milestone:**
 - If the amount in dispute is less than €4,000, an attempt at conciliation must be made before a conciliator, failing which the claim will be inadmissible.
 - It provides for the possibility of using the participative procedure assisted by a lawyer,
 - It introduces judicial mediation before administrative courts,
 - It is experimenting with compulsory prior mediation in family matters in 11 courts, in the event of a request to modify a decision or agreement setting child support contributions.

- **Decree no. 2017-891 of May 6, 2017, introduced an article 910-2 into the Code of Civil Procedure, worded as follows: "the decision to order mediation interrupts the time limits for concluding and appealing.**
- **Law no. 2019-222 of March 23, 2019, on programming 2018-2022 and reform for the justice system enables any judge to order the parties to meet with a mediator in order to be informed about the purpose and progress of a mediation process.**
- **The law of December 22, 2021, for confidence in the judicial institution:**
 - gives enforceability to mediation or conciliation agreements signed by lawyers.
 - creates a National Mediation Council (CNM).
- **The application decree of February 25, 2022¹ includes 4 innovations:**
 - 1- Mediation can be ordered by the *Court of Cassation*
 - 2- Attempted mediation or conciliation or the participative procedure is extended to disputes concerning abnormal neighbourhood disturbances).
 - 3- The mediator's remuneration is no longer paid to the "*Régie de la juridiction*", but directly to the mediator (art 131-6 of the CPC).
 - 4- The start of the 3-month period given to the mediator to carry out his mission begins on the day the advance is paid into his hands.
- **The decree of July 29, 2023, created out-of-court settlement hearings and the trial caesura.**

3°- Specific provisions

1. Family law

- **The laws of March 4, 2002, on parental authority stipulate that the judge may suggest that the parties go to mediation and order them to meet a family mediator, who will inform them about the purpose and progress of mediation.**
- Article 7 of the law of November 18, 2016, provides for the introduction on an experimental basis of an **attempt at mandatory prior mediation in family matters.**

¹ Published in the Official Journal of February 26, 2022

- **Article 373-2-2, amended by Act no. 2021-1754 of December 23, 2021, provides that** the child's contribution to his or her maintenance and education may be set by *a mediated agreement countersigned by the lawyers of each of the parties.*
- **of February 7, 2022, created article 375-4-1 of the Civil Code** provides that *the children's judge who orders an educational assistance measure may propose a family mediation measure to the parents.*

2. Health law

The Act of January 26, 2016, on the modernization of our healthcare system introduces provisions into the Public Health Code enabling the judge to appoint a mediator to propose to the parties an amicable compensation agreement for bodily injury suffered by users of the healthcare system.



Béatrice BLOHORN-BRENNEUR

Honorary President of the Chamber of Commerce, former mediator for the Council of Europe, Honorary President, and founder of Gemme, President of GEMME-France and CIM.





Romania

- President: **Dragos Calin**
- Year of creation: **2010**
- Current number of members: **8**
- Email contact: romania@gemmeurope.org

A BRIEF HISTORY OF THE ROMANIAN NATIONAL SECTION

The first big event organized was the **International Conference "Mediation in the European Union. Status and Perspectives"** (Bucharest, 29 October 2010). The conference brought face-to-face, for the first time in Romania more than 400 professors, judges, prosecutors, lawyers, mediators (including Mr Gavin Lightman, President of GEMME, Mr Ruben Murdanaigum, Deputy Secretary-General of GEMME, Ms Beatrice Brenneur, Vice-President of GEMME, Mr Michel Brenneur, GEMME - French Section, Mr Jaime Octavio Cardona Ferreira, representative of GEMME - Portuguese Section, Ms Anne Martien van der Does, Vice-President GEMME, Mr Isidro Niñerola Giménez representative of GEMME - Spanish Section, Ms Dessislava Djarova, representative of GEMME - Bulgarian Section, Ms Isabelle Bieri, representative of GEMME - Swiss Section, Mr René Constant, representative of GEMME - Belgian Section). Following the conference of 29 October 2010, the Academic Printing House (www.editurauniversitara.ro) published the book **"Mediation in the European Union. Status and Perspectives"**.

The project "**Promoting mediation in cross-border cases in civil matters**" (partners: The Mediation Council - Romania, GEMME, the Ministry of Justice in the Netherlands, the Ministry of Justice in Bulgaria, the Ministry of Justice on the Republic of Moldova) was carried out during 2010-2011. The objective was to promoting mediation in cross-border cases, through the means of: professional training session for judges, mediators, Member States" central institutions" representatives that participate; elaboration of a good practices guide for specialists; elaboration and distribution of information brochures for the public, that would contain information regarding the mediation's advantages for use in causes with cross-border elements" and the coordinates of specialized mediators on diverse domains. More than 200 Romanian judges participated.

The Romanian Section signed a protocol to promote mediation with the Bucharest Court of Appeal, the highest court in Romania, and with The Mediation Council. Location of monitors in courts (first, in the Hall of Lost Steps of the Palace of Justice in Bucharest) enables us to run, alongside regular public information of the court, information relating to mediation (legislation, benefits, mediators, role plays performed by professional actors).

The Romanian Section of GEMME collaborated with the "Dimitrie Cantemir" Christian University in a *Master of Studies* program about mediation. In April 2011, judges, members of GEMME, participated as speakers in two conferences organized by "Dimitrie Cantemir" Christian University and "Nicolae Titulescu" University, with presentation about GEMME and mediation as alternative method of resolving conflicts.

We, also, start a collaboration with the mediation magazine "**Mediation. Engineering and Art**" (www.mediareatehnicasiarta.ro), which has a space dedicated to judges and their experience in mediation.

In November 2011, GEMME - Romanian Section signed an agreement with the National Institute of Magistracy in Bucharest - a lot of courses, seminars, conferences, workshops for judges, in accordance with training programs approved by the Scientific Council of the National Institute of Magistracy and the Superior Council of Magistracy.

The Romanian American Academy of Arts and Sciences (ARA) had organized a seminar on "**Mediation as a Method of Conflict Resolution**", held in Iași on August 29, 2018, by Mrs. Beatrice Brenneur, President of GEMME, Mrs. Oana Ignat, judge, Iasi Tribunal, and Mrs. Monica Palaghia, chief prosecutor, Iasi. ARA was founded in 1975 in California by a group of Romanian intellectuals residing in United States of America.

On September 22, 2021, representatives of Parliament, Government, justice institutions in Romania, profile associations (the Romanian Section of GEMME),

Romanian and foreign specialists discussed, during the round table "Mediation - solution for overloading the courts", organized by the Romanian Parliament, the best solutions to promote the mediation procedure in Romania. Among the most important proposals is the introduction of a mandatory mediation session in a particular type of case, such as disputes concerning family law or consumer disputes, which could easily be resolved by mediation, on the Italian model, according to a formula compatible with the principle of the right of access to the court, before gradually widening the scope. If the mediation was not followed, the trial would not be cancelled, but would only be postponed completing the procedure. Another solution is the extension of public legal aid to this procedure. A proposed measure also concerns the organization of mediation centres under the responsibility or coordination of the Ministry of Justice. In Romania, we want to learn from the Italian experience regarding compulsory mediation in family matters.

LEGAL STATUS OF MEDIATION IN ROMANIA

On 22 May 2006, Law No. 192/2006 on the mediation and organisation of the mediator profession was published in the Romanian Official Journal. It is this law that brings, for the first time, clarification on the place of mediation within dispute or conflict resolution, the role, and obligations of the mediator in dispute resolution, how to access mediation services and who can act as a mediator.

To transfer the provisions of Directive 2008/52/EC of the European Parliament and of the Council regarding certain issues of mediation in civil and commercial cases into Romanian law, the Parliament adopted Law No. 202/2010 on measures to accelerate settlement of lawsuits, which modified the Civil Procedural Code and the Penal Procedural Code. Mediation is now included for the first time in the two procedural codes as an alternative method of settling disputes. After 147 years, a new Civil Code came into force in Romania on 1 October 2011 and a new Civil Procedural Code on 15 February 2013. Both have included specific provisions on mediation and other alternative dispute resolution methods.

Neither the codes nor Law No. 192/2006 concerning mediation and organisation of a mediator's profession include reference to cross-border mediation. All the legal provisions in this matter are applicable for both domestic and foreign mediation.²

To ensure the organization of the system, the Law No. 192/2006 established an autonomous body that develops a public interest activity. This is the Mediation Council, consisting of 9 people authorized as mediators (and 3 alternate members) appointed

² See Sanda Elena Lungu, Constantin Adi Gavrilă - <https://gettingthedealthrough.com/area/54/jurisdiction/73/mediation-romania/>.

by the vote of the authorized mediators, with a 2-year mandate. The Council members undertake the regulatory responsibility in the field of mediation, and mainly, they ensure the quality of the act of mediation and the construction of a coherent system for the use of mediation in Romania.

Regarding the functioning of the Mediation Council, Art. 19 of Law no. 192/2006 provides: "(1) The Mediation Board meets once a month or whenever necessary, as convened by the President. (2) The meetings of the Mediation Council are public, except when its members decide otherwise. (4) In exercising its powers, the Mediation Council adopts decisions by majority of votes of its members. (5) In the meetings of the Mediation Council people from any other institution or professional body may be invited to take part if their consultation is required in order to take action or to adopt the decisions of the Mediation Council."

The main responsibilities of the Council are also defined by the law (Art. 20): it promotes the mediation activity and represents the interests of authorized mediators, in order to ensure the quality of services in the field of mediation, in accordance with the law; it develops training standards in the field of mediation, on the basis of international best practices in this field; it authorizes the initial and continuing training programs, and also the mediators specialization programs; it develops and updates the list of training providers for the mediators who have been authorized; it authorizes mediators, as provided by this law and by the procedure established by the organization and functioning of the Regulation of the Mediation Council; it cooperates, by the Information System in the domestic market, with the competent authorities of other Member States of the European Union, the European Economic Area and Swiss Confederation to ensure the control of mediators and of the services they provide, in accordance with the provisions of Emergency Government Ordinance no. 49/2009; it develops and updates the list of authorized mediators; it keeps the evidences of the offices of authorized mediators; it monitors the fulfilment of educational standards in the field of mediation; it publishes documents to prove the professional qualification of mediators; it adopts the code of ethics and professional conduct of authorized mediators and standards of disciplinary responsibility thereof; it takes steps for the fulfilment of the provisions of the code of ethics and professional deontology of authorized mediators and administers the standards regarding their disciplinary liability; it makes proposals to apply or to correlate the legislation on mediation; it adopt the rules regarding its organization and functioning; it organizes the selection for the next Mediation Council, as provided by law; it undertakes any other action stipulated by the law.

A more detailed overview of the legal situation of mediation in Romania is available on the GEMME website covering the following issues: LINK:
<https://gemmeeurope.org/en/status-romania>

- What is the legal basis of the mediator's activity?
- What is the required education/qualifications to become a mediator?
- What are the requirements to start a mediation?
- What kind of disputes can be the subject of mediation?
- Are there any circumstances in which mediation is obligatory?
- Are the results of mediation legally binding? Is there a necessity to approve the results of mediation in any way?
- Who bears the cost of mediation?



Dragos Calin

Judge, Bucharest Court of Appeal
President of GEMME Romania





Ireland

- President: **Ms Justice Marguerite Bolger**
- Year of establishment: **2016**
- Current number of members: **44**
- Email contact: **info@gemmeireland.ie**
- Website: **www.gemmeurope.org/en/ireland**

A BRIEF HISTORY OF THE IRISH NATIONAL SECTION

GEMME Ireland was established in 2016. The first President/Chairperson of GEMME Ireland was the Honourable Mr Justice Paul Gilligan (retired Judge of the Court of Appeal). The current President/Chairperson is the Honourable Ms Justice Marguerite Bolger (Judge of the High Court) preceded by the Honourable Ms Justice Mary Rose Gearty (Judge of the High Court). Other GEMME Ireland executive members are: Her Honour Judge Rosemary Horgan (Secretary), His Honour Judge Keenan Johnson (Public Relations Officer), and Judge David McHugh (Treasurer).

Members of GEMME Ireland are all accredited mediators and include many serving judges in Ireland, several retired judges, and associate members who hold mediation accreditation. Members have extensive mediation experience and expertise in alternative dispute resolution (ADR) approaches shared enthusiastically at GEMME events.

Each year, GEMME Ireland hosts several mediation events exploring mediation in commercial contexts, in family law matters, in civil matters and in restorative justice. Presenters and event moderators are drawn from the judiciary and practising mediators. Some events are focused on the development of mediation skills e.g. in 2022/2023, GEMME Ireland hosted a 'fishbowl' demonstration by experienced practising mediators in the Family Mediation Service (Ireland) on how mediation works in high-conflict family law cases. Attendees had opportunities to observe expert practitioners in mediation role plays and to discuss ways of de-escalating conflict.

GEMME Ireland welcomed (November 2022) Sir Geoffrey Vos, Master of the Rolls (and Head of Civil Justice in the UK and Wales) as a keynote speaker on 'Mediated Interventions within the Court Dispute Resolution Process'. Attendees included the President of GEMME Europe, Rosalía Fernández Alaya. We have also had events on mediation in specific areas including personal injury, employment law and sports law.

Those events were useful in addressing the issues that can arise for mediators in specific areas.

GEMME Ireland events are live-streamed which has helped to maximise participant-engagement by many who would not otherwise be able to engage.

LEGAL STATUS OF MEDIATION IN IRELAND

Mediation in Ireland is regulated by the Mediation Act 2017. The Act seeks to promote mediation and to require parties involved in litigation to consider mediation as an alternative to running their case in court.

The Act does not compel anyone to go to mediation but does allow for the imposition of consequences on a party who fails or refuses to consider mediation.

It is mandatory for lawyers to advise their clients to consider mediation and to explain how that can be done. If that does not occur, a court may stay the proceedings until that advice had been given.

A court can, of its own initiative or on the invitation of a party to the litigation, invite the parties to consider mediation and put a stay on the proceedings to allow this to take place.

A court can also impose costs on a party where the court finds they have unreasonably refused or failed to consider mediation.

The Act requires the parties and a proposed mediator to sign an agreement before the mediation commences, providing for the framework of the mediation.

The Act requires a mediator to ensure that the outcome of the mediation is done by mutual agreement and the mediator can only make their own proposals where they have been invited to do so.

All communication within the mediation is confidential and cannot be disclosed to a court other than for the purpose of implementing or enforcing a mediation agreement.

Mediation has been very successful in Ireland particularly in family, commercial, medical negligence and employment law claims and has provided parties with a cheaper, quicker method of resolution that gives them some sense of control over the outcome.



Ms Justice Marguerite Bolger
Judge of the High Court
President/Chairperson of GEMME Ireland





Austria

- President: **Konstanze Thau**
- Year of establishment: **2016**
- Current number of members: **8**
- Email contact: austria@gemmeeurope.org

A BRIEF HISTORY OF THE AUSTRIAN NATIONAL SECTION

The expert group "Settlement - Alternative Dispute Resolution in Court", founded on 25.3.2019 and approved in the board meeting of the Association of Austrian Judges on 27.6.2019, promotes self-determined and sustainable dispute resolution of court-pending proceedings. It pools the energies of all Austrian judges interested in alternative dispute resolution.

The aim of this expert group is to improve communication in all proceedings, to promote the work satisfaction of judges, the satisfaction of the parties and thus to promote the reputation of the judiciary.

The expert group "Settlement - alternative dispute resolution in court" currently has about 70 members, not all of them being members of the Austrian section of GEMME.

The aim of this expert group "Settlement - Alternative Dispute Resolution in Court", which is made up of judges who also have mediation training, is to give the parties the opportunity to bring pending court proceedings to an end by means other than a judgment or order. Instead, a group of judges, who have meanwhile also been trained by the judiciary, work on a voluntary basis and without any workload being reduced, using the tools of mediation to find an amicable solution with and for the parties. The parties are not obliged to undergo such a procedure, but this project is by now very well accepted by many parties and by their legal representatives. Within the framework of such a setting, it is not the judge to whom the court case is pending who works with the parties, but rather an honorary conciliation judge. The latter does not discuss the content of the mediative work with the trial judge, but only informs him or her whether the work has been completed and, if so, with what result.

For more than 10 years, the work of this group has continued to be a voluntary project, carried out by dedicated and excellently trained judges. It is still in a pilot stage and in the evaluation phase, at the end of which the work of this expert group is to be fully enshrined in law.

LEGAL STATUS OF MEDIATION IN AUSTRIA

Legal sources of Civil Law Matters other than the "Settlement – Alternative Dispute Resolution in Court”.

1. Federal Act on Mediation in Civil Law Matters

(Civil Law Mediation Act - ZivMediatG), Federal Law Gazette I No. 29/2003

Ordinance of the Federal Minister of Justice on the Training of Registered Mediators

(Civil Law Mediation Training Ordinance - ZivMediat-AV), Federal Law Gazette II No. 47/2004

a.) The term

The law defines mediation in § 1 para. 1 ZivMediatG: "an activity based on the voluntariness of the parties, in which a professionally trained, neutral mediator uses recognized methods to systematically promote communication between the parties with the aim of facilitating a resolution of their conflict for which the parties themselves are responsible".

Mediation "in civil law cases" (Zivilrechtsmediation) is mediation for the resolution of conflicts, for the decision of which the ordinary civil courts are responsible in themselves (§ 1 para. 2 ZivMediatG).

b.) The list of mediators

Since 1.5.2004, the Federal Ministry of Justice has maintained a list of registered mediators. The following data are to be entered: first name and surname, academic degree, Date of birth, Name of the profession, Work address.

The following information may also be entered: Field(s) of activity.

In addition, it is possible to publish the knowledge of any other working languages, provided that the knowledge is sufficient to conduct mediation in this language.

c.) Requirements for registration:

Application to the Federal Ministry of Justice (Museum Street 7 1070 Vienna)

minimum age 28 years

professional qualification (not necessarily judicial qualification)

trustworthiness (criminal record certificate)

Liability insurance of the mediator (insurance contract according to Austrian law; minimum insurance sum 400,000 Euro; no exclusion and no time limit of the insurer's subsequent liability)

Indication of where the mediator will carry out his/her activities.

d.) Professionally qualified is someone who based on an appropriate training has the knowledge and skills of mediation and knows the legal and psychosocial basis of mediation.

The training is to be completed as far as possible in registered training institutions - including universities.

The content of the training is regulated in § 29 ZivMediatG as well as in the ordinance issued in this regard (BGBl. II No. 47/2004).

The initial registration is valid for a maximum of five years; the registration can be maintained for a further 10 years.

e.) Compulsory insurance

When submitting the application, proof of liability insurance must be provided (insurance contract according to Austrian law; minimum insurance sum 400,000 Euro; no exclusion and no time limit of the insurer's subsequent liability).

The insurance companies are obliged to inform the applicant of the discontinuation of insurance coverage (e.g. to notify the Federal Ministry of Justice of the lapse of insurance coverage (e.g. due to premium default or termination of the insurance contract). The latter will then request the mediator concerned to provide evidence of the existence of insurance coverage within a certain period of time.

In case of a change of the insurers and terminate an existing insurance contract, the Federal Ministry of Justice will also be notified of this. However, the mediator will not be automatically deleted from the list immediately; in this case, he/she will also be given a deadline to prove, for example, that he/her has concluded an insurance contract with another insurer (unless you have already done so on your own). This also applies in

those cases where the insurance coverage ceases due to withdrawal from an association that has provided group insurance to its members.

f.) Registration in the list of mediators at the Federal Ministry of Justice is not linked to membership in professional associations or societies of mediators.

Conversely, membership also does not replace proof of training, which must be provided to the Federal Ministry of Justice. A fee of 345 Euro is payable for the application.

g.) Maintenance of registration

At the earliest one year and at the latest three months before the expiry of the registration period, the mediator may, if he/she wishes to remain registered in the list of mediators, request in writing that the registration be maintained for a further ten years. At the same time, he/she has to present the further training in the sense of § 20 ZivMediatG and a current (not older than three months) criminal record information. The Federal Ministry of Justice also accepts evidence of further training submitted prior to the application for maintenance of registration.

However, applications for maintenance of registration may be submitted no earlier than one year and no later than three months prior to the expiration of the registration period (the respective date can be seen in the list at each mediator's office). Applications for maintenance of registration submitted earlier would have to be rejected.

A fee of 345 euros is also payable for the application for maintenance of registration.

If no application for maintenance of the registration is filed, the registration ends automatically. A subsequent application for re-registration is possible at any time (and triggers the obligation to pay fees). Persons who were once registered on the list under the transitional provision of Section 34 ZivMediatG under mitigated conditions do not have to provide evidence of additional training content in the event of subsequent re-registration. However, the obligation to undergo further training is independent of this (see below).

h.) Continuing education

Registered mediators must undergo at least fifty hours of continuing education within a period of five years and must provide proof of this to the Federal Minister of Justice every five years (§ 20 ZivMediatG).

Participation in specialized seminars, workshops, InterVision, in-service supervision, etc. shall qualify as continuing education. Teaching does not count as continuing education since the teacher usually imparts knowledge that he or she is already familiar with.

Continuing education completed in the first five years cannot be carried over to the following five-year period. Accordingly, once 50 hours of training have been completed, no further training certificates need to be submitted to the Federal Ministry of Justice.

For the chronological sequence of the continuing education certificate, please see above point "Maintenance of registration".

2. § Section 204 Code of Civil Procedure

At the hearing, the court may, in any situation of the case, upon request or ex officio, attempt an amicable settlement of the legal dispute or a compromise on individual points in dispute. In this connection, reference shall also be made, if this appears expedient, to institutions which are suitable for the amicable settlement of conflicts. If a settlement is reached, its contents shall be entered in the minutes of the hearing upon request.

For the purpose of attempting or recording the settlement, the parties, if they agree, may be referred to a commissioned or requested judge. The extent to which the commencement or continuation of the hearing may be postponed due to settlement proposals or pending settlement negotiations shall be assessed in accordance with the provisions of §§ 128 and 134.

3. Section 107 Extraordinary Disputes Act

§ 107 In proceedings concerning custody or personal contacts.....

the court shall order the measures necessary to safeguard the best interests of the child, provided that this does not jeopardize the interests of a party whose protection the proceedings serve or unreasonably prejudice the interests of the other parties. Such measures may include in particular: participation in an initial meeting about mediation or about a conciliation procedure.



Konstanze Thau

Judge, conciliation judge
President of GEMME Austria





Poland

- President: **Agnieszka Owczarewicz**
- Year of establishment: **2016**
- Current number of members: **37**
- Email contact: **kontakt@polska.gemmeurope.org / polska@gemmeurope.org**
- Website: **www.polska.gemmeurope.org**

A BRIEF HISTORY OF THE POLISH NATIONAL SECTION

The Polish section of GEMME was established in October 2016 by judge Monika Włodarczyk who was encouraged by judge Avi Schneeberg. Since 2016, 36 other judges, leaders in conciliation and in referring cases to mediation and prominent mediators joined the Polish section. Activities of the Polish section of GEMME are presented on the website of the Polish section, on Facebook, X and Instagram profiles of the Polish section.

Major projects and activities organized by the Polish section of GEMME in the recent years are:

1. Creation of templates of documents for mediation that could be used by judges: letter to the party and to the lawyer about mediation, questionnaire for parties helping to determine if mediation is the best solution for their dispute, a case diagnosis.

2. Organizing and co-organizing conferences/ webinars on conciliation and mediation such as: in September 2021 - Webinar for judges organized together with the Regional Court in Warsaw "Are settlements possible in a Swiss franc loans?" or on **16-18 November 2022, in Warsaw** conference "**Solidarity Arbitration and Mediation Days**". The purpose of the event was to express solidarity of international arbitration and mediation community with all those who suffer due to the war in Ukraine. The conference was organized on a non-for-profit basis - all revenues were transferred to a scholarship fund for Ukrainian students and junior lawyers.
3. Organizing on November 6, 2021, GEMME Board Meeting in Krakow. During the meeting, the reports included in the agenda were presented and various initiatives were approved to be carried out in the coming months. Prior to the Board Meeting, an interesting discussion took place. It was the Colloquium - How to promote mediation? The protagonists of the colloquium were the magistrates representing the different national sections of GEMME (The Netherlands, Germany, Switzerland, Austria, Romania, Ireland, Belgium, France, ...) who shared with the attendees the state of mediation in their respective countries, responding to questions like Are judges allowed in your country to act as mediators? Are judges obliged by law to refer cases to mediation or to conciliate? Are there any circumstances in which mediation is obligatory? Do you have any court-annexed mediation programmes?
4. Organizing together with **Polish ProMediation & ProWellness** Foundation in Suwałki and the San Francisco-based Weinstein International Foundation for the Promotion of Mediation on 5-7 October 2022 a training for judges on mediation & conciliation with elements of mindfulness. The training was attended by 46 judges from various court circuits, who emerged as leaders in referring cases to mediation for 2020-2021.

The training covered, among others, the following topics:

- Good mediation practices in the US courts using the courts of New Jersey and New York as an example.
- Good mediation practices in the courts of European Union countries.
- How to refer cases to mediation in Poland? Tools useful for referring a case to mediation.
- Judge mindfulness and bodywork as methods of preventing professional burnout.

During the training, participants acquired knowledge and skills on both referrals to mediation and mediation sessions, including the techniques used by mediators to support the parties to settle. They then had the opportunity to put their skills into practice during mock mediation sessions. In addition, participants learnt about the elements of mindfulness in the work of a judge, as well as practising morning yoga and relaxation exercises, including breathing practices. The lecturers at the training

were Judges (Daniel Weinstein, Rebecca Westerfield, Rosalia Fernandez Alaya, Avi Schneebalg, Agnieszka Owczarewicz, Monika Włodarczyk) and Mediators (Robert E. Margulies, Esq., Katarzyna Przyłuska - Ciszewska).

The 2nd edition of the training on conciliation and mediation with mindfulness elements for Polish and Ukrainian judges took place on 1-4 October 2023. Polish and Ukrainian judges and leaders in mediation attended the multi-day training near Cracow. The training provided knowledge and skills on both referrals to mediation and mediation techniques used during mediation sessions. Mindfulness techniques help judges to reduce stress in their daily work.

These trainings proved to be an excellent platform for the exchange of experiences and mutual inspiration between participants.

5. Creation of the new project "Judges for Judges about Mediation" - judges from the Polish section of GEMME will go to the courts with the lowest rate of referring cases to mediation to encourage judges to refer their cases to mediation, to present Polish section of GEMME and tools that we have created to make our job more satisfactory.

LEGAL STATUS OF MEDIATION IN POLAND

Mediation is a recognized form of ADR in Poland and is regulated by amendments introduced into the Polish Civil Procedure Code in 2005. Provisions regarding mediation are contained in articles 183.1 - 183.15 of the Code, while articles 184 - 186 regulate court settlements.

On 1 January 2016 Poland implemented the ADR Directive which introduced major revisions to the mediation rules. Whilst the Polish Code of Civil Procedure underwent extensive reform in 2019 and July 2023 these revisions had only some impact on mediation.

A mediator may be appointed by the parties or by a mediation institution where this is provided for in the mediation agreement, or by the court referring a case to mediation, provided that the parties agree with both the referral to mediation and the appointment of the mediator. Lawyers usually attend the mediation session to assist their client in the presentation of their case. Mediation may begin with a plenary session where both parties present their case, followed by multiple sessions with the mediator who works with each party separately, followed by a closing plenary session ending possibly with an agreed settlement. However, in practice mediation is also conducted by mediators

in one long plenary session, perhaps adjourned from time to time for separate consultations with the mediator/lawyer assisting the party.

The choice of the method is largely dependent on the experience of the mediator and will of the parties.

Mediation is voluntary. The parties are not obliged to enter mediation and can withdraw from mediation at any time up to the moment of signing of agreement.

Before the first session in the case, the judge is bound to evaluate whether the case should be subject to mediation. The court is also authorised to call upon the parties to take part in an information meeting regarding ADR in general, and mediation in particular.

The court may refer a case to mediation, either at its own discretion or at a party's request for mediation, at any point during the proceedings. The court may refer a case to mediation multiple times during proceedings. The parties are not obliged to agree to mediate but have seven days from the court decision in that respect to oppose mediation. After that, the parties will be deemed to have agreed to mediation.

In its order referring the dispute to mediation, the court specifies a maximum time limit of three months for conducting the mediation. This time limit may only be extended upon the joint request of the parties. Once the time limit has elapsed, the court will schedule a court hearing.

The inclination of individual courts to refer disputes to mediation without a prior request from a party to the dispute may still vary.

Should a party refuse to participate in a mediation to which it has previously agreed, the court may issue a costs order against that party for the costs caused by its conduct, usually amounting to the cost of the mediation, regardless of the outcome of the case. Also, if a party fails to participate in person at an information meeting ordered by the court, it may bear the costs incurred by the opposing party that attended the information meeting.

Mediation is confidential. The duty of confidentiality stems from the parties' agreement as well as being regulated by law. The mediator is bound to keep confidential all that he has learned during the mediation. Parties may not attempt to call or rely on in court, declarations or proposals made by other parties during the mediation; such evidence will be ineffective and will not be considered by the court.

Settlement agreements are valid enforcement orders and may be subject to enforcement in the same way as the court's judgments or settlements entered in the course of litigation. To obtain such status, a settlement agreement reached during a mediation will first need to be approved by the court. The court may refuse to affirm a settlement agreement in part or in whole if it considers that it contradicts or circumvents the law, is contrary to fairness principles or is self-contradictory or ambiguous. Approval of a settlement agreement by the court concludes the proceedings.

There is no state-approved system of accreditation for mediators. However, local mediation institutions conduct numerous training events and have their own accreditation criteria. They also hold lists of accredited mediators, which are sent to Regional Courts. Courts referring cases to mediation shall appoint mediators with adequate expertise necessary to conduct a mediation in cases of a given type, including those entered on the lists.



Agnieszka Owczarewicz

Judge

President of GEMME POLAND





Greece

- President: **Miltiadis Chatzigeorgiou**
- Year of establishment: **2023**
- Current number of members: **24**
- Email contact: **hellas@gemmeeurope.org**

A BRIEF HISTORY OF THE GREEK NATIONAL SECTION

By Order 125/9-3-2023 of the Justice of the Peace of Athens [Greece] which took the number 33857/7-4-2023 in the register of the First Instance Court of Athens, our Association was established under the name "Hellenic Association of Judges for the Mediation (E.E.D.D.) - Branch of the European Association of Judges for Mediation in Greece" and the distinctive title "GEMME HELLAS".

Greece had already participated in some of the association's European board meetings as an observer country and at the time of publication of this report it is the last national section to have been formed. For this reason, its capital city, Athens, has been chosen to host the next Board meeting, the occasion of GEMME's 20th anniversary.

LEGAL STATUS OF MEDIATION IN GREECE

Mediation in civil and commercial cases was introduced in the Greek legal system by L. 3898/2010, which was replaced by L.4512/2018 and finally by L.4640/2019. These three Laws transpose Directive 2008/52/EC.

According to these laws, prior to the hearing of certain types of cases, a mandatory initial session with a Mediator must be held to inform the parties about the possibility of an out-of-court settlement of their dispute by the procedure of Mediation governed by L. 4640/2019.

Other important laws regarding the dispute resolution out of the Courts are:

- Law 4738/2020 regarding the out-of-Court Debt Settlement Mechanism. It is an electronic procedure, without recourse to the courts, through which debts to institutional creditors, (i.e. banks and loan managers), the State (i.e. ADRE) and Social Security Institutions (i.e. EFKA/KEAO) can be settled.

- Law 4821/2021 "Modernization of the Hellenic Cadastre, new digital services and strengthening of digital governance and other provisions" According to Article 8 of the Law, in relation to actions for the correction of inaccurate initial registration of immovable property, prior to the hearing before the Court, the plaintiff must invite all the defendants to a mandatory initial mediation session before a cadastral mediator selected from a special register.



Miltiadis Chatzigeorgiou

Vice President Emeritus of Areios Pagos (Greek Supreme Court)
President of GEMME Hellas



Observer countries

This chapter first includes countries that were national sections of GEMME, but currently (March 2024) have observer status, either because they don't have the minimum number of 7 members (as is the case with Portugal or Hungary), or because after the Brexit they left the EU (United Kingdom).

Next in line are countries that have applied for membership as a national section, but whose admission has not yet been ratified by the General Assembly, such as Slovakia and Ukraine.

Finally, some GEMME observer member countries are included in alphabetical order: Croatia, Finland, Latvia, and Luxembourg.

This chapter includes information on their activities as GEMME observers and the legal status of mediation in their respective countries.





Portugal

- Year of establishment: **2003**
- Current number of members: **5**
- Email contact: contact@gemmeurope.org

LEGAL STATUS OF MEDIATION IN PORTUGAL

Mediation was introduced in Portugal in 1997 with the creation of the Family Mediation Office. This was followed in 2001 by the creation of the Justices of the Peace, extra-judicial tribunals empowered to settle disputes of up to €15,000 quickly and inexpensively. And where mediation is provided for as a preliminary phase in the process.

There are currently 26 justices of the peace, covering 3.4 million inhabitants. In 2022, the rate of conventional dispute resolution (mediation) was 36%. There are also public systems for family, professional and penal mediation. The general mediation system and its principles were enshrined in law 29/2013. Mediation can take place before the court process begins, and at any stage of the process. The agreement reached in mediation is enforceable, without the need for approval by a judge, unless it is reached during the process. In Portugal, mediation is not mandatory and is confidential.



United Kingdom

- President: **Siobhan McGrath**
- Email contact: contact@gemmeurope.org

A BRIEF HISTORY OF THE ENGLISH NATIONAL SECTION

For some years several judges have been enthusiastic members of GEMME. They have participated in international events and made contributions on behalf of the United Kingdom.

Recently it has been decided that we should establish a more structured representation for the United Kingdom in GEMME and new officers have been appointed for that purpose.

We are very grateful to GEMME and to the previous officers who have provided input on our behalf, and we look forward to establishing a branch that can provide even greater insight into the development of mediation in the UK.

LEGAL STATUS OF MEDIATION IN UNITED KINGDOM

Mediation as a tool in dispute resolution has been well established in the UK for many years. Professional bodies and individuals provide and engage in mediation on a regular basis. For example, the Civil Mediation Council (CMC) is a charity set up in the early

2000s to provide the resolution of conflicts and disputes by encouraging the use of mediation and educating the public on what mediation is and how it can help. However, where parties are already involved in formal dispute resolution in either the courts or the Tribunals, the use of mediation has been patchy. This can be explained by both a lack of understanding of the nature of mediation and a reluctance to step out of one dispute resolution arena and into another.

Having said that, there have been several initiatives over the past 30 years both to encourage the use of mediation and to provide access to mediation.

For example, in the Civil Courts, parties are routinely encouraged to use mediation and where there is a failure to do so this may result in an award of adverse costs, see *Halsey v Milton Keynes General NHS Trust* [2004] ECWA Civ 576.

In the Family Courts mediation is an integral part of all aspects of divorce and separation. Family mediators are regulated and governed by the Family Mediation Council (FMC). In the Tribunals both the Employment Tribunal and Property Chamber have provided judicial mediation for over 15 years.

The value of mediation cannot be underestimated. One obstacle to the more comprehensive roll-out of mediation has been the view, supported by Court of Appeal authority, that parties cannot be compelled to mediation. That view has been put in doubt following the publication in June 2021 of a paper on behalf of the Civil Justice Council entitled "Compulsory ADR". As part of the publication, the authors reviewed the case-law on the subject including *Halsey* and the European authority of *Deweere v Belgium* {1980} 2 EHRR 439 and subsequent cases including *Wright v Michael Wright (Supplies) Ltd* [2013] C.P. Rep 32, *Lomax v Lomax* [2019] 1 WLR 6527 and *McPartland v Whitehad* [2020] Bus LR 699 and *Rosalba v Alassini* [2010] 3 C.M.L.R. 17. Their conclusion was that "introducing further compulsory elements of ADR will be both legal and potentially an extremely positive development".

In 2021 the Ministry of Justice issued a Call for Evidence on Dispute Resolution in England in Wales and subsequently in July 2022 they published a consultation on Increasing the use of Mediation in the Civil Justice System. In their response they signalled an intention to pilot integrated mediation to all claims in the County Court valued under £10,000 under the standard part 7 procedure of the Civil Procedure Rules. That pilot is now up and running and will be evaluated over the next 6 to 12 months. If appropriate integrated mediation will be rolled out more extensively. In a separate initiative, the Employment Tribunal is now rolling out mandatory mediation in all cases listed for three or more weeks.

The question of whether mediation can or cannot be mandated is one of the most important issues in the field at present. The matter was considered by the Court of Appeal in *Churchill v Merthyr Tydfil CBC* in July this year and the outcome is awaited with interest.

As has been seen, the jurisprudence surrounding mediation is a matter of importance to the UK Justice system and we would be happy to keep colleagues updated on developments if that would be of interest.



Siobhan McGrath

Judge, President First-tier Tribunal (Property Chamber)
President of GEMME UK





Hungary

- President: **Agnes Bucsi**
- Year of creation: **2011**
- Current number of members: **4**
- Email contact: hungary@gemmeeurope.org

A BRIEF HISTORY OF THE HUNGARIAN NATIONAL SECTION

The association "Hungarian Judges for Mediation" was created in 2011. The association had been a national section of GEMME until 2023 when the number of the section members went down to 4 so we became observers.

Between 2011 and 2015 the Hungarian section was very active: we organized two international conferences where several members of GEMME were invited as speakers, we took part in national pilot programmes and working groups.

Then came the time when GEMME lost the support of the former president of the national office of the Judiciary for reasons still unknown. As a result of this we have not received any financial support from the State and existed on the membership fees only.

It was in October 2022 that we were able to organize a conference again thanks to the Vice-president of our association. This conference "Mediation, the Peace Pipe of the

21st century" was a great success so much so that in June 2023 we held another conference with the same title. The Polish section of GEMME also delegated a speaker, Olimpia Maluszek to this event, for which we are very grateful.

We hope to continue our work by recruiting new members, participating in various programmes on mediation and cooperating with other associations.

LEGAL STATUS OF MEDIATION IN HUNGARY

The most important law governing mediation is Act LV of 2002. Now mediation is possible in civil, criminal and even administrative cases. Act LV of 2002 regulates mediation in civil cases where this form of alternative dispute resolution is most often used.

Mediation is a voluntary process, however, in a lawsuit (in court) and child protection proceedings for the settlement of parental custody, the parties may be required to participate in a mediation process.

The Civil Code, effective from March 15, 2014, introduced the institution of mandatory mediation. According to Article 4:172 of the Civil Code the court may oblige the parents to use a mediation procedure to be able to properly exercise parental supervision and to ensure their necessary cooperation, including the contact between the separated parent and the child. In such cases the judge can order that the parties try to settle their dispute through mediation.

The court will initiate the mediation process if the parties are in conflict to such an extent that they are unable to communicate and settle even a small part of their dispute. Since the child's interests must prevail in the proceedings, mandatory mediation is particularly important in parental custody cases where the parties are unwilling to discuss each other's positions and insist with all their might on their own will and expectations.

If the judge obliges the parties to use a mandatory mediation procedure, the trial will be suspended at the same time.

Main sources:

Act LV of 2002 (Law on mediation)

Act V of 2013 (Civil Code)

Act CXXX of 2016 (Code of Civil Procedure)

Act XC of 2017 (Code of Criminal Procedure)

Main rules of mandatory mediation:

I. Civil Code

Section 4:22 [Mediation]

Before filing for divorce, or during the divorce action the spouses shall have access to mediation - of their own accord or by recommendation of the court - attempting to reconcile their differences or to settle any disputes they may have in connection with the divorce by way of an agreement. The agreement reached in conclusion of the mediation process may be fixed in a court settlement.

Section 4:172 [Mediation in actions brought in disputes in connection with the exercise of certain rights of custody]

In justified cases, the court may order the parents to submit to mediation in the interest of properly exercising parental supervision and to ensure their cooperation to that end, including the right to maintain direct contact between the parent living separate and apart and the child.

II. Code of Civil Procedure

Section 152

(1) If the outcome of the hearing depends on the adjudication of a prior matter for which the proceedings belong to the jurisdiction of a criminal court or administrative body, the court shall stay the proceedings until the conclusion of such other proceedings. If these proceedings are not yet opened, the court shall move to have the criminal proceedings initiated in the case of felonies or shall set a time limit for the opening of the proceedings as appropriate. In the event of non-compliance with the said time limit, the hearing shall be continued.

(2) Furthermore, the court shall have powers to stay the proceedings if the outcome of the hearing depends on the adjudication of a prior matter for which another civil action or other civil proceedings falling within the court's competence are already pending.

(3) *If the court orders the parties to submit to compulsory mediation, it shall simultaneously order the stay of its own proceedings. The court, in its ruling ordering the parties to submit to compulsory mediation and the stay of its own proceedings, shall instruct the parties to enclose a copy of the ruling ordering mediation proceedings to the request submitted to the mediator. When delivering its decision, the court shall inform the party without legal counsel on the rules set out in specific other legislation on initiating compulsory mediation proceedings.

(4) *If the hearing was stayed on account of the opening of compulsory mediation, it shall be continued if:

- a) either of the parties verify that the mediation process has been concluded,
- b) either of the parties verify of having participated in the first mediation hearing, however, the mediation process had not been opened, or

c) two months has passed since the time of delivery of the ruling ordering the parties to submit to compulsory mediation, during which time the parties failed to submit either of the presentments provided for in Paragraphs a) and b).

(5) *If the mediation proceedings in progress is not expected to be concluded within two months from the time of delivery of the ruling ordering the parties to submit to compulsory mediation, and the parties jointly notify the court thereof eight days before the deadline, the hearing may not be continued insofar as the mediation proceedings are concluded. Enclosed with the notification the parties are to provide proof that the mediation process is ongoing.

III. Act LV of 2002

Chapter IV/B *

COMPULSORY MEDIATION *

Order of Binding Mediation *

Section 38/C *

(1) Where the parties in dispute are ordered by the court or an authority acting within its powers delegated by law to submit to mediation, the provisions of this Act shall apply subject to the exceptions set out in this Chapter (hereinafter referred to as "compulsory mediation").

(2) In the case of compulsory mediation, the court or the authority orders the parties to concur with at least one mediator aiming to reach an agreement on the settlement of their dispute in whole or in part. Within the framework of such obligation of cooperation the parties are required:

a) to contact a mediator collectively (request or petition), and

b) to attend the first mediation hearing.

Section 38/D *

(1) The fee charged for the first mediation hearing may not exceed the hourly rate provided for in the act on the central budget for legal aid providers as a lump sum, multiplied by the number of parties present.

(2) The fee of the mediation proceedings may be established by an hourly rate that may not exceed the hourly rate provided for in the act on the central budget for legal aid providers, multiplied by the number of parties.

Special Provisions Relating to the Parties *

Section 38/E *

(1) The parties shall initiate the mediation process jointly by making a request, submission of a petition or other means provided for by law, within fifteen days of receipt of the binding decision.

(2) A copy of the binding court decision or resolution of the competent authority ordering the parties to submit to compulsory mediation shall be enclosed with the request made to a mediator or the petition for court mediation.

Section 38/F * 1) Unless otherwise provided for by law, the party required to submit to compulsory mediation shall verify his/her compliance by producing the certificate provided for in Subsection (2) of Section 38/H to the competent court or authority.

(2) The agreement reached in conclusion of compulsory mediation may contain a separate written section on issues to which the court proceedings or proceedings of the authority does not pertain.

Special Provisions Relating to the Mediator *

Section 38/G *

(1) The mediator is required to accept a request for conducting compulsory mediation proceedings - except if any conflict of interest exists or if the dispute does not fall within his field of expertise provided for in Paragraph g) of Subsection (1) of Section 6 -, upon making a statement of submission to the minister.

(2) * The mediator shall be allowed to make the statement of submission at any time, at the earliest at the time of submission of notification for admission to the register to the register. That statement may be withdrawn; however, withdrawal shall not apply to the case in which the request was made before the statement was deleted from the register.

Section 38/H *

(1) The mediator shall set the time for the first mediation hearing, following consultation with the parties, to enable the parties to concur. Where a time limit is provided for by law for the verification of initiating compulsory mediation, the time proposed by the mediator for the first mediation session shall be at least fifteen days before the deadline.

(2) The mediator shall provide a certificate made out in writing:

a) to the parties verifying that the mediation process is in progress, but it is not yet concluded,

b) to the parties verifying that they participated in the first mediation hearing, or

c) to a party verifying that the party has made contact indicating his/her obligation to submit to mediation, however, compliance with the provisions set out in Subsection (2) of Section 38/C failed due to reasons other than this party's cooperation with the mediator.



Agnes Bucsi

Judge at Court of Dunaujvaros
President of GEMME Hungary





Slovakia

- President: **Renáta Dolanská**
- Year of establishment: **2019**
- Current number of members: **7**
- Email contact: **contact@gemmeurope.org**

A BRIEF HISTORY OF THE SLOVAK NATIONAL SECTION

The GEMME National Section was established in 2019. Its members are representatives of courts, mediators, and notaries. Currently, the section acts in an observer capacity.

LEGAL STATUS OF MEDIATION IN SLOVAKIA

Mediation in Slovakia is legislatively regulated in several areas:

1. Mediation in criminal cases:

Mediation in criminal cases is regulated in Act No. 550/2003 Coll. on Probation and Mediation Officers. Mediation in criminal cases may only be carried out by probation and mediation officers who have the status of court officials and are in a state employment relationship. Their activity is carried out within the framework of restorative justice and aims at concluding a compensation agreement between the

accused and the victim. Such an agreement is subsequently the basis for a conditional discontinuance of the prosecution or the approval of a settlement in criminal proceedings and a complete discontinuance of the prosecution.

2. Mediation in civil disputes.

Mediation is regulated by Act No. 420/2004 Coll. on mediation. The Act applies to civil disputes, commercial disputes, family disputes, labour disputes and consumer disputes. Mediation in civil disputes is carried out by mediators who are registered in the register of mediators maintained by the Ministry of Justice of the Slovak Republic. The performance of mediator's activity is an independent profession. Mediation is aimed at concluding an agreement which is legally binding.

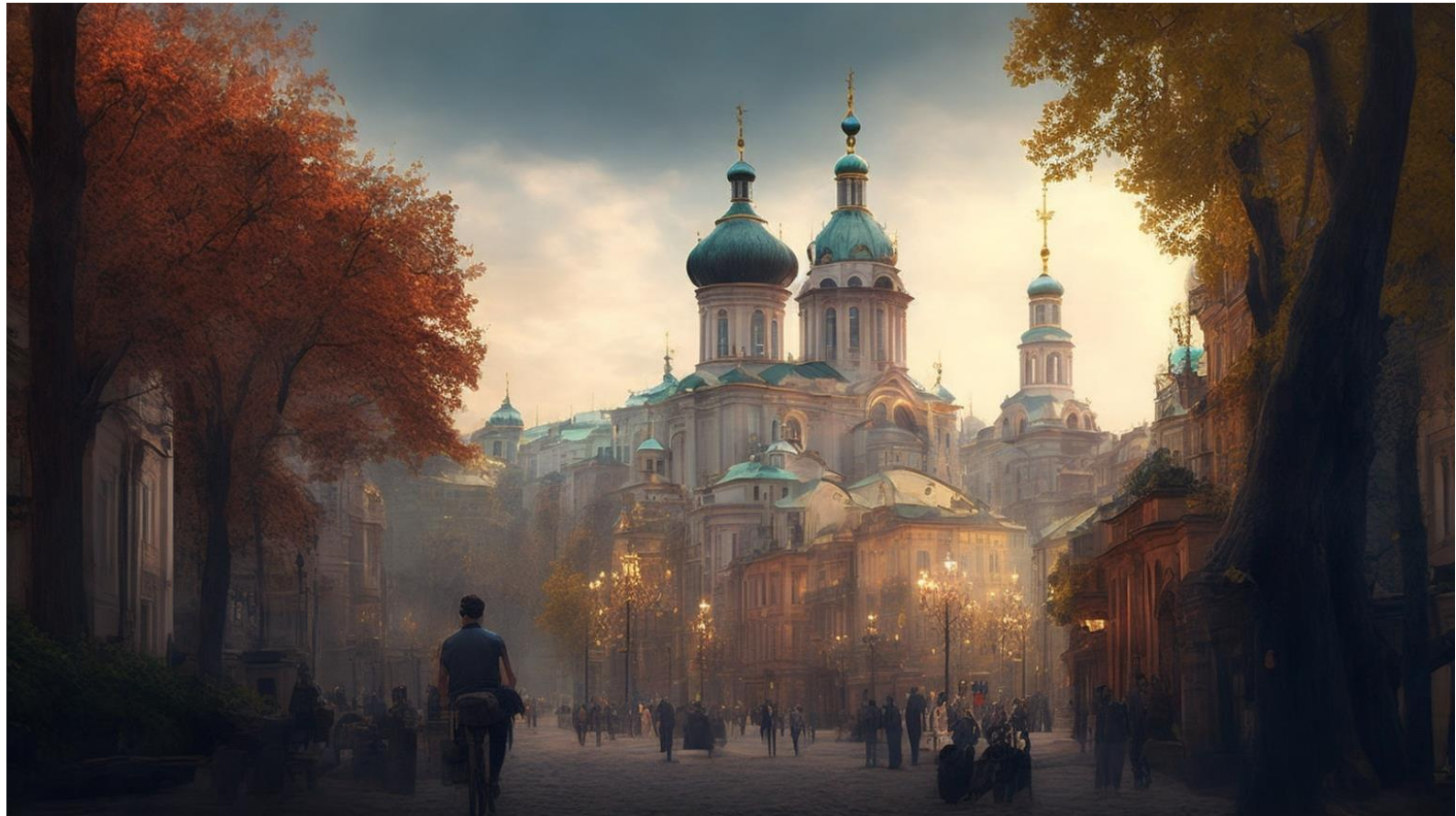
3. Mediation as a professional method in the field of social and family affairs.

Mediation is also defined by Act No. 305/2005 Coll. on social-legal protection of children and social guardianship. According to this Act, mediation is carried out as a professional method for solving conflict situations in the family, which is carried out or ensured by the authority for social and legal protection of children. Mediation as a professional method within the meaning of this Act may only be carried out by persons who have undergone professional training as mediators.



Renáta Dolanská
Attorney & Mediator





Ukraine

- President: [Alina Serhieva](#)
- Year of establishment: **2022**
- Current number of members: **11**
- Email contact: ukraine@gemmeurope.org
- Facebook: [facebook.com/Gemme.Ukraine](https://www.facebook.com/Gemme.Ukraine)
- LinkedIn: [linkedin.com/in/gemme-ukraine](https://www.linkedin.com/in/gemme-ukraine)

A BRIEF HISTORY OF THE UKRAINIAN NATIONAL SECTION

Ukraine is an observer member pending ratification of its full membership of GEMME by the General Assembly.

In the summer of 2022, Alina Serhieieva representative of Ukraine was invited for the first time to the GEMME Europe General Assembly in Barcelona to present current situation, legal regulation, and experience.

On 23 June 2022, the European Union member states voted to grant Ukraine the status of a candidate country for accession to the European Union.

In the autumn of 2022, Alina Serhieieva and Judge Andrii Ryshchenko were invited to Board meeting in Vienna, where was decided to open the Ukrainian National Section as

part of the European community of judges involved in the development, implementation, and promotion of mediation.

The members of our organisation are judges and professionals who practice and are interested in the development of mediation, united by the common goal of implementing the Law of Ukraine "On Mediation" and the best international practices in this area.

Our members include experts and researchers of international projects in Ukraine who are involved in conducting expert research and developing strategies for reforming the judicial system in Ukraine.

We believe that interaction with the courts and models of judicial and out-of-court mediation can be the driving force behind making this tool known to the public and promoting it.

Our goal is to become a platform for bringing together mediation professionals, courts, and government agencies to further develop the culture of mediation and disseminate information to citizens.

LEGAL STATUS OF MEDIATION IN UKRAINE

The Law of Ukraine "On Mediation", which was adopted 15 November 2021.

The relevant law is a framework and defines general provisions. Ukraine provides for the classical model of facilitation mediation, as evidenced by the very definition of mediation as "an extrajudicial voluntary, confidential, structured procedure during which the parties, with the participation of a mediator (mediators), try to prevent or resolve a conflict (dispute) through negotiations". Also, enshrines the following provisions on the functions of the mediator: he is obliged to manage the mediation procedure, cannot provide advice and recommendations to the parties to the mediation on the merits of the dispute or make such decisions. Advice and recommendations of the mediator may relate only to the mediation procedure and execution of its results.

A mediator is a "specially trained neutral, independent, impartial person who conducts mediation". The requirement for a person wishing to become a mediator is to complete a basic mediation course (at least 90 hours, including at least 45 hours of practical skills) in Ukraine or abroad. There is no age limit for mediators. Also, notaries have the right to conduct mediation provided they have completed a basic mediation course, and the Notary Chamber of Ukraine is allowed to conduct mediation training and maintain a register of notaries who can practice as mediators.

According to the Law on Mediation, mediation in Ukraine is conducted in accordance with the principles of voluntariness, confidentiality, neutrality, independence and impartiality of the mediator, self-determination, and equal rights of the parties to the mediation. The principle of voluntariness is defined as one of the main principles, according to which no one can be forced to participate in mediation, mediation is possible only if the parties voluntarily, by mutual consent, apply to the mediator of their choice, and the procedure can be stopped at any time at the initiative of one of the parties. But now there is a tendency to introduce various types of compulsory mediation for certain categories of disputes interpretation of the principle of voluntariness from voluntary entry into the mediation procedure to its voluntary completion.

In 2016, amendments were made to the Constitution of Ukraine, namely in Article 124 "the jurisdiction of the courts extends to any legal dispute and any criminal charge. In cases provided by law, the courts shall also consider other cases. The law may establish a mandatory pre-trial procedure for the settlement of disputes. This provision of the Constitution opens the possibility to introduce a mandatory mediation model in certain categories of cases in the future.

Currently, Ukrainian legislation provides for certain alternative dispute resolution methods in the Civil Procedure Code of Ukraine, Commercial Procedure Code of Ukraine, Code of Administrative Procedure of Ukraine and the Laws of Ukraine "On Arbitration Courts", "On Enforcement Proceedings".

In 2017, the procedural legislation was reformed, which introduced the institution of dispute settlement with the participation of a judge in civil, commercial, and administrative proceedings.

The Law of Ukraine "On Social Services" dated January 17, 2019, No. 2671-VIIIY, the Order of the Ministry of Social Policy of Ukraine "On Approval of the State Standard of Social Mediation Services" No 892 of August 17, 2016 and the Order of the Ministry of Social Policy of Ukraine "On Approval of the Classifier of Social Services" of June 23, 2020. No 429 granted mediation (mediation) the status of a basic social service, the provision of which to its recipients is ensured by the councils of united territorial communities (clause 10, part 6, article 16 of the Law of Ukraine "On Social Services").

The Criminal Procedure Code of Ukraine dated 13 April 2012 No. 4651- VI contains a progressive norm that provides for the possibility of concluding reconciliation agreements between the victim and the accused person. Unfortunately, in the transitional provisions of the Law "On Mediation" there are no provisions on amendments to the Criminal Procedure Code of Ukraine, currently there is only a provision that the agreement on the reconciliation agreement can be conducted independently by the victim and the suspect or accused or with the help of another

person agreed by the parties to the criminal proceedings (except for the investigator, prosecutor or judge) (part 1 of Article 469).

The scope of application of the Law "On Mediation" is quite broad. It applies to relations related to mediation to prevent conflicts (disputes) in the future or to settle any conflicts (disputes), including civil, family, labour, economic, administrative, as well as in cases of administrative offenses and criminal proceedings in order to reconcile the victim with the suspect (accused).



Alina Serhieva

Mediator

President of GEMME Ukraine





Croatia

- Contact person: **Srdan Šimac**
- Email contact: contact@gemmeurope.org

The first contact of Srdan Šimac with GEMME, was a mediation conference at Vienna in 2006. The President held the speech about mediation, and among all, he said something that he sometimes felt as a "black ship" among colleagues judges and lawyers in his country.

At the end of his speech, Beatrice Brenneur, the President of the GEMME, and a few more GEMME colleagues approached him and hugged him with warm words: "You are not alone anymore. We are from GEMME, the organization of Judges for mediation."

From that time on, the connection between GEMME and Croatia exists.

We are currently looking for magistrates to form the Croatian section.

LEGAL SITUATION OF MEDIATION IN CROATIA

Croatia has a Law on Mediation from 2003, and that time was the official beginning of mediation in Croatia, despite some mediation activities earlier.

From 2023, Croatia has a brand-new Law on peacefully solving disputes. Mediation in Croatia has a steady development and still needs more wind in its sails despite being part of many social fields, from some primary schools to state investment disputes.

So far, the highest achievement of mediation in Croatia is that all mediation agreements fulfilled by the private enforceable clause are enforceable by the law. This provision in the law is a big push for mediation.

The informal mediation umbrella organization is the Croatian Mediation Association (*CMA / Hrvatska udruga za medijaciju (HUM)*) founded in 2003 by the members of the group of the first trained mediators in Croatia. This year, 2003, CMA celebrates 20 years of existence. CMA deals with mediation, education of mediators, and promotion of mediation. It is the heart and soul of mediation in Croatia.

Mediation has a bright future in Croatia.



Srđan Šimac, Ph.D.

Judge of the High Commercial Court of the Republic of Croatia, and President of the Croatian Mediation Association (CMA)





Finland

- Contact person: **Henna Luomaranta**
- Email contact: contact@gemmeeurope.org

We are currently looking for magistrates to form the Finnish section.

LEGAL SITUATION OF MEDIATION IN FINLAND

In Finland there are many active mediation systems and the second largest is the Court-annexed mediation. The system was established in 2006 by Act on Court-Annexed Mediation which was substituted by Act on mediation in civil matters and confirmation of settlements in general courts. The latter came into force in May 2011 and still is.

Just to emphasize that in civil and custody court proceedings an important task and a duty of the sitting judge is to try to persuade the parties to settle the matter, while in Court-annexed mediation another judge shall work as a mediator in the case. It is also necessary that the mediator judge has been trained to be a mediator.

Civil/commercial and child/custody disputes can be mediated in the court-annexed mediation. In custody disputes there are two mediators - a judge-mediator plus a psychologist or a social worker.

Mediation is voluntary and the task of the mediator is to help the parties to find a solution to the dispute. Mediator shall not evaluate the case and as already stated earlier, shall also not adjudicate the case.

The Act on mediation in civil matters and confirmation of settlements in general courts also allows the party to ask a certain judge to be appointed as a mediator in the case. Mediation is per se confidential.

A whole day or, if needed, several days will be reserved for a mediation. In most cases parties have their lawyers with them in the mediation. It is very important that the lawyers are also trained in mediation. The mediation is organized in the premises of the court and most of the courts have specific rooms for mediation.

The Act on mediation in civil matters and confirmation of settlements in general courts also allows the party to ask only a mediation in a dispute - a pending court case is not needed.

The number of cases in the court-annexed mediation system has been growing largely during the years. There are 20 district courts in Finland and 5 appeal courts. Nowadays in most of the district courts approximately 20-50 percent of disputed civil cases go to mediation instead of proceedings and the number of mediations in custody disputes is even bigger than that. There are also mediations in the appeal courts.

The fee from mediation to the court is now 530 or 270 euros.

Overall, the court-annexed mediation in Finland has become a real alternative to the court proceedings. The mediation trainings for the judges are organized yearly by National Courts Administration. Civil mediation training consist of 3-4 days and the advanced training of 2 days. To be a mediator in custody cases one must attend civil mediation training and in addition to that, a specific training of total 7 days.

You can find more information about court-annexed mediation system in Finland from

<https://oikeus.fi/tuomioistuimet/en/index/asiat/riita-asiat/disputemediation.html>

and

<https://oikeus.fi/tuomioistuimet/en/index/asiat/perheasiat/lapsenhuoltoasuminenelatusjatapaaminen/expert-assistedmediationofcustodydisputesatthedistrictcourt.html>

Mediation in criminal cases is also possible in Finland and actually the largest number of mediations is in that system (approximately 10,000 + cases per year). That is also voluntary and usually it is used in minor criminal cases.

System is governed by Finnish institute for Health and Welfare by "Act on Conciliation in Criminal and Certain Civil Cases". The Act came into force in 2006. The mediators are trained volunteers, and a case is mediated by two volunteers. It is always evaluated beforehand whether a specific case is suitable for mediation. If an agreement is done the police or the prosecutor evaluates whether the agreement shall impact to the possible criminal proceedings. This mediation is free of charge. You can find more information from <https://thl.fi/en/web/thlfi-en/services/special-government-services-in-social-welfare-and-health-care/mediation-in-criminal-and-civil-cases>

As said in the beginning, there are other mediation systems in Finland, too. That includes for example mediation services organized by Finnish Bar Association (<https://asianajajaliitto.fi/en/>) and Mediation in education, Verso, <https://sovittelu.com/vertaissovittelu/in-english/>. In Verso pupils also act as peer mediators and the system has been very successful and presented in many countries worldwide.

Henna Luomaranta

District court judge and mediator, chair of the civil mediation judges' network in Finland and mediation trainer.





Latvia

- Contact person: **Zane Pētersone**
- Year of establishment: **2007**
- Email contact: **contact@gemmeurope.org**

A BRIEF HISTORY OF THE LATVIAN NATIONAL SECTION

Latvia joined GEMME in 2007.

In 2023 the Latvian Council of Certified Mediators participated as one of the partners in the project of the European Commission "Strengthening the capacity of the Latvian national judicial cooperation network within European Judicial Network".

In 2023 there is a continuing project in Family disputes, where the state funds first 5 mediation hours for arguing parties in family disputes involving children.

Until 2021 there was a four-year educational project for judges, court employees, attorneys and bailiffs on mediation and referral to mediation. The most important task was to introduce judges and other practitioners to mediation and to teach them referral skills - how to pick cases that are suitable for mediation and how to refer parties to mediation.

There are many publications, but mainly in the Latvian language. There are some of the articles that can be found in English:

- Zane Peterson. Mediation in Latvia and Peculiarities of Mediation in Labour Disputes. Proceedings of the International Symposium on Enhancing Mediation (*Arabuluculuğun Geliştirilmesi Uluslararası Sempozyumu*; Ankara, Turkey, 6-7 December 2018). Ankara: 2019.

- Dana Rone. Legal Regulation of Mediation and Involved Institutions: Latvia.

https://mediation.turiba.lv/saturs/ieprikseja_lapa/files/Chapter%201%20A4.pdf

- Dana Rone. Phases of Mediation.

https://mediation.turiba.lv/saturs/ieprikseja_lapa/files/Chapter%2013.pdf

- Dana Rone. Skills of the Mediator.

https://mediation.turiba.lv/saturs/ieprikseja_lapa/files/Chapter%2015.Pdf

LEGAL STATUS OF MEDIATION IN LATVIA

Latvia has a Mediation Law since 2014, and it is available in English at <https://likumi.lv/ta/en/en/id/266615>. It governs the general principles of mediation, contracts on mediation between the parties and among the parties and the mediator, some aspects of mediation process, requirements for certified mediators, the Council of Certified Mediators, etc. One of the most important chapters is Chapter IV on the court-advised mediation (the so called "court-annexed" mediation) that has to be applied together with several provisions on mediation incorporated in the Latvian Civil Procedure Law.

There are "certified mediators" and "mediators" in Latvia. This means that everyone can act as a mediator if he or she himself/herself and the parties find the person capable of performing the duties of a mediator. However, the court may only advise parties to choose a mediator from the list of certified mediators, and the state-funded Family Mediation Project is also carried out only by certified mediators.

The certification procedure is prescribed by law (Mediation Law and 2014 Regulation by the Cabinet of Ministers on the Certification and Re-certification of Mediators), and every autumn there is a 3-step examination of new certified (court-annexed) mediators. At the moment there are 51 certified mediators, and they can be found at: <https://sertificetimediatori.lv/mediatori/>.

Mediation in criminal matters is carried out by the State Probation Service - a State administrative institution under the supervision of the Ministry of Justice, which puts

into effect State policy in the supervision of probation clients and the correction of their social behaviour, as well as performs other functions specified by the law.

The State Probation Service's work regarding mediation for criminal matters is regulated by:

- 2005 - Criminal Procedure Law (It contains several articles facilitating a peaceful dispute resolution between the victim and the offender. Mediation is not mentioned by the name, as the word "settlement" is used. However, mediation has become the main method used for reaching a settlement. The other method that is used alongside mediation in order to reach settlements between victims and probation clients, is conferencing);
- 2003 - State Probation Service Law;
- 2018 - Regulation on the Settlement Procedure (before that - 2007 Regulation);
- 2018 - Regulation on the Training and Certification of Voluntary Mediators for Organization and Conduction of the Settlement Process (before that - 2007 Regulation).

The two main web pages for information on mediation in Latvia are:

- <https://mediacija.lv/>
- <https://sertificetimediatori.lv/>



Zane Pētersone

Judge - Supreme Court of the Republic of Latvia, Riga





Luxembourg

- Email contact: contact@gemmeurope.org

Currently looking for magistrates to form the Luxembourg section.

THE LEGAL STATUS OF MEDIATION IN LUXEMBOURG

Act of February 24, 2012 introducing mediation in civil and commercial matters into the New Code of Civil Procedure.

Articles 1251-1 et seq. of the New Code of Civil Procedure.

Law of May 6, 1999 on penal mediation.



Philippe Wadlé

First judge at the District Court of and in Luxembourg





Memory gallery: a selection of images from GEMME's history



On December 19, 2003, 62 magistrates from the European Union came together at the “Cour de Cassation” in Paris (France) to form the GEMME Constituent Assembly. Thus was born the « Groupement Européen des Magistrats pour la Médiation » (GEMME).



Rome at the Supreme Court, *March 18, 2006* - the formation of the Spanish section was announced by its founders: (from left to right) Raquel Alastruey, Teresa Martín Nájera, Pascual Ortuño, Margarita Pérez Salazar, Rosa Freire, Enric Anglada, Isabel Tomás y Juan Francisco Mejías.



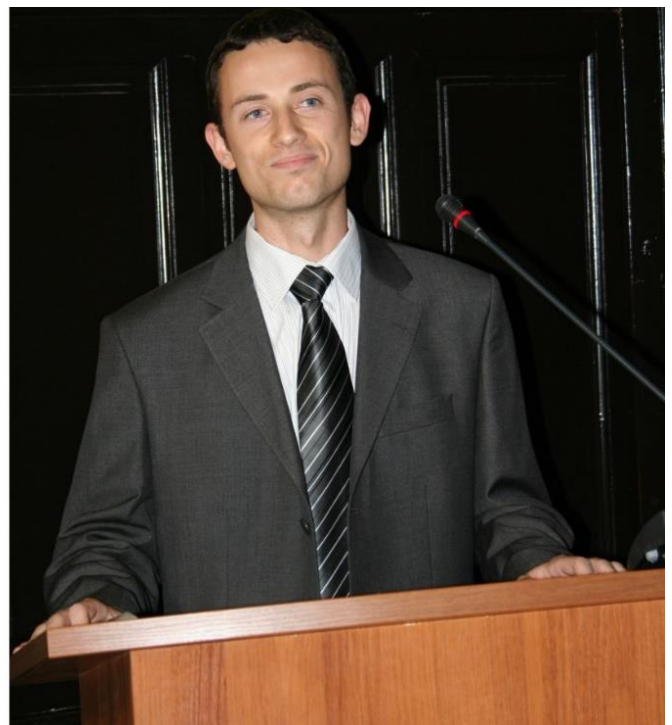
Sofia (Bulgaria) May 21, 2010 - Meeting of mediators and GEMME members at the Court of First Instance to speak with Bulgarian judges and attorneys about the benefits of mediation and court-annexed mediation programs.



Sofia (Bulgaria), July 14, 2010 - Opening of the Mediation Centre at the Sofia Municipal Court and Sofia City Court. This mediation program has become a model for other courts nationwide to be followed.



Sofia (Bulgaria), July 14, 2010 - Opening of the Mediation Center, the most sustainable court-annexed mediation program in Bulgaria. Parliaments of Svilena Dimitrova, Tzveta Jeliazkova (founder member of GEMME Bulgaria) and court president Krassimir Vlahov.



Sofia (Bulgaria), July 14, 2010 - Opening of the Mediation Centre. Judge Evgeni Gueorgiev opens the Mediation Centre at the Court of First Instance (left) - Lachezar Nasvadi the Centre's first coordinator (right).



Bucharest, October 29, 2010 - International conference "Mediation in the European Union. Status and perspectives". The conference brought together, for the first time in Romania, over 400 professors, judges, prosecutors, lawyers, mediators, and other professionals in the field of mediation.



Cover of the book published at the end of the Bucharest International Conference "Mediation in the European Union. Status and prospects", which was also available in digital format (CD).



Bucharest, October 29, 2010 - Speech by Béatrice Brenneur at the International Conference "Mediation in the European Union. Status and perspectives". GEMME members representing the national sections of Portugal, Spain, Italy, Switzerland and others were present at the event.



Madrid, September 26, 2013 - GEMME Spain inaugurated the third edition of its conference "Mediation and Courts Symposium", which this year was entitled "Evaluation of one year of Law 5/2012 on civil and commercial mediation". It was attended by more than 500 people, including GEMME members, authorities from the judiciary and mediation professionals.



Madrid, September 26, 2013 - Speech by Lourdes Arastey, then President of GEMME Spain, at the opening of the III Symposium, which was also attended by Alberto Ruiz Gallardón, then Spanish Minister of Justice. Lourdes Arastey currently sits on the High Court of Justice of the European Communities as a judge representing Spain.



Cover of the book "MEDIACION ES JUSTICIA" developed with the most important documents and conclusions of the III GEMME Spain Mediation and Courts Symposium.



Bucharest, October 5, 2013 - International Conference “State, Justice and Mediation”, organized by GEMME – Romanian Section, Ministry of Justice, National Institute of Magistracy, National Anticorruption Directorate, Dimitrie Cantemir Christian University, Association of Professional Mediators – Bucharest, Professional Mediation Association Bucharest – Ilfov, Mediation Centre Association Buzău, Romanian Judges’ Forum and University Publishing House.



Bucharest, October 5, 2013 - International conference "State, justice and mediation".



Celebration of GEMME's 10th anniversary in June 2014 - The tenth anniversary of GEMME was an important event for the Association which took place in Paris, at the Cour de Cassation, the same venue where the European Group of Magistrates for Mediation was created.



Celebration of GEMME's 10th anniversary in June 2014 - Attended by representatives of all the national sections constituted at that time, as well as various observer members.



Pascual Ortuno, Jacques Duplat, Béatrice Brenneur and Christoph Strecker at the Cour de Cassation in Paris (France) on the occasion of GEMME's 10th anniversary celebration in June 2014.



Cover of the book published in 2014 to mark GEMME's 10th anniversary. It gathers the contents of the previous year's "*Assises de la médiation internationale*" and is available in the library of our website.



Board of Directors meeting in Barcelona (Spain) in November 2015 chaired by Portuguese magistrate Jaime Octávio Cardona Ferreira. The board consists of up to 7 elected members, plus 1 representative from each national section.



More than 20 board members met in November 2015 in Barcelona (Spain) to discuss the association's next activities, including the preparation of a training module on "the role of the judge in mediation" to be offered to judicial schools and the drafting of a report for the European Commission on cross-border mediation.



Working lunch on the Board of Directors meeting in Barcelona (Spain) in November 2015, an opportunity for GEMME representatives from different countries to strengthen their personal relationships in order to promote mediation.



The Hague, March 2019 - Some of the Board Meeting participants during the sightseeing tour of the city that took place after the meeting.



Naples, October 2019 - After the GEMME Board Meeting, participants pose for a photo.



Krakow, November 6, 2021 - GEMME board meeting chaired by Spanish magistrate Rosalía Fernández. The members of the Board of Directors had the opportunity to meet representatives of the Cracow Chamber of Commerce and the main Polish Mediators' Associations.



Vienna November 6, 2022 - GEMME board meeting. GEMME board meetings are increasingly attended by more and more participants, as the number of national member and observer sections grows to 25.



Vienna November 6, 2022 - GEMME board meeting. This meeting was particularly moving because of the participation of representatives from Ukraine, who, at the beginning of the Russian invasion of their country, applied for GEMME membership, which was unanimously accepted and is now pending ratification at the 2024 General Assembly.



Barcelona, June 5, 2022 - Academic conference prior to the General Assembly organized jointly with the Barcelona Bar Association under the title GEMME-ICAB Mediation Conference: The judiciary and the legal profession for the peaceful resolution of conflicts, with over 300 people in attendance.



Barcelona, June 6, 2022 - GEMME's Annual General Meeting was held at the Barcelona Bar Association's headquarters.



Barcelona, June 6, 2022 - Constitution of the current Board of Directors following the Annual General Meeting held at the Barcelona Bar. From left to right: Monica Velletti (Italy), Eric van Engelen (Netherlands) Carme Guil (Spain), Konstanze Thau (Austria), Camilla Hölzer (Germany), Avi Schneebalg (Belgium), Rosalía Fernández (Spain), Béatrice Brenneur (France), Michèle Weil (France), Anne Gongora (France), Ugo Ferruta (Italy), Monika Wlodarczyk (Poland).



Founders of the Greek national section "GEMME Hellas" formed in March 2023 in Athens. In the foreground, Secretary Georgia Angelidaki and president Miltiadis Chatzigeorgiou Vice-president emeritus of the Areios Pagos (Greek Supreme Court).



The ninth Assises organized by GEMME France was held in Strasbourg on May 25 and 26, 2023.



All members of the Polish section of GEMME with Avi Schneebalg (vice president of GEMME) and the American guests on the occasion of the 2nd edition of the training on conciliation and mediation with mindfulness elements for Polish and Ukrainian judges, that took place on 1-4 October 2023 near Cracow (Poland).



2nd edition of the training on conciliation and mediation with mindfulness elements for Polish and Ukrainian judges, that took place on 1-4 October 2023 near Cracow organized by GEMME Poland.



Athens, November 2023 - Board meeting with a particularly important task: the renewal of GEMME's statutes. It is a project led by German judge Camilla Hölzer.

GEMME's 20th anniversary celebration in Athens



Athens, November 2023 - After the celebratory dinner, GEMME President, Spanish magistrate Rosalía Fernandez blew out the candles for GEMME's 20th anniversary.



November 2023 - Photo of some of the participants in GEMME's 20th anniversary celebration activities at a particularly significant place, the hill of Ares, "Areopagus", where, according to mythology, Alcippus (son of Poseidon) and Orestes were judged.



10th of November 2023 - The Greek Ministry of Justice hosted a commemorative session in which **Ioannis D. Bougas**, Deputy Minister of Justice; **Rosalía Fernández**, President of GEMME and **Miltiadis Chatzigeorgiou**, President of GEMME Hellas participated.



10 November 2023 - The presentation of the book project, which aims to highlight the history and achievements of GEMME in its first 20 years, took place during a ceremony at the Greek Ministry of Justice. GEMME's Vice-Presidents (**Monika Włodarczyk**, **Eric Van Engelen** and **Ugo Ferruta**) presented the project and GEMME's Communication Director **Myriam Rius** presented the book.



The event at the Ministry ended with a debate on the influence of Greek philosophers on modern mediation moderated by **Tomi Kimiskidou** (Judge, Court of Appeal of Athens and Board member of GEMME Hellas). Speakers: **Jean A. Mirimanoff** (Honorary judge and accredited mediator, founder of GEMME Switzerland), **George Papageorgiou** (Supreme Court Judge and accredited mediator, VicePresident of GEMME Hellas) and **Poly Tsitsoni** (Lawyer and accredited mediator).



10th of November 2023 - Picture of some of the participants in the event at the Ministry.

Acknowledgements

Special thanks to all those who contributed to this publication and made it possible:

General coordination: Myriam RIUS

Coordination of national sections: Monika WŁODARCZYK

Impulse and validation: Rosalía FERNÁNDEZ ALAYA

Translation and lay-out: Cata MASSANA

Content proof Reading: Paul GILLIGAN

GEMME members who have contributed with their reflections, texts, historical photographs, and information on the history of national sections and the legal status of mediation in their countries (in alphabetical order):

ARASTÉY SAHÚN, María Lourdes (Spain)

BATTISTONI, Eric (Belgium)

BLOHORN-BRENNEUR, Béatrice (France)

BUCSI, Agnes (Hungary)

CALIN, Dragos (Romania)

CANIVET, Guy (France)

CARDONA FERREIRA, Jaime Octávio (Portugal)

CHATZIGEORGIOU, Miltiadis (Greece)

DJAROVA, Dessislava (Bulgaria)

DOLANSKÁ, Renáta (Slovakia)

FERNÁNDEZ ALAYA, Rosalía (Las Palmas (Spain))

FERRUTA, Ugo (Italy)

FRANKIGNOUL, Sylvie (Belgium)

GILLIGAN, Paul (Ireland)

GUEORGUIEV, Evgueni (Bulgaria)

GUIL ROMAN, Carme (Spain)

HÖLZER, Camilla (Germany)

VELLETTI, Monica (Italy)

LUOMARANTA, Henna (Finland)

MCGRATH, Siobhan (United Kingdom)

MIRIMANOFF, Jean A. (Switzerland)

BOLGER, Marguerite (Ireland)

ORTUÑO, Pascual (Spain)

OWCZAREWICZ, Agnieszka (Poland)

PĒTERSONE, Zane (Latvia)

SCHNEEBALG, Avi (Belgium)

SERHIEVA, Alina (Ukraine)
SIR GAVIN LIGHTMAN, Sir Gavin Lightman (United Kingdom)
ŠIMAC, Srđan (Croatia)
STOLL, Daniel (Switzerland)
STRECKER, Christoph (Germany)
THAU, Konstanze (Austria)
VAN ENGELLEN, Eric J.M. (The Netherlands)
VEROUGSTRAETE, Ivan (Belgium)
WADLÉ, Philippe (Luxembourg)
WITTERS, Anne-Marie (Belgium)
WŁODARCZYK, Monika (Poland)

