



ELECTRONIC MEDIATION: A COMPARATIVE PERSPECTIVE

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(Director)

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(Coordinator)



EMEDU Project:
JUST/2013/JCIV/AG/4689
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PRESENTATION

Private disputes are increasingly being resolved through the assistance of the so-called alternative dispute resolution (ADR) methods. These out-of-courts methods of conflict resolution are governed by different national regulations across the European Union. At the same time they are organically adopting the benefits provided by information and communications technology (ICT) tools underpinned by domestic regulations that seek to ensure fair and efficient systems.

Accordingly, two new elements are converging, i.e. ADR and ICT, offering new options for disputants. As technological advances come to the administration of justice, procedures for dispute resolution are also required to incorporate ICT features, thus offering more attractive options for settling private disputes through streamlined processes –these new processes are often referred to as Online Dispute Resolution (ODR). Amongst the processes that result in combining the efficiency of conventional systems of ADR techniques with the advantages offered by the ICT systems we can identify “electronic mediation”.

Today electronic mediation has not a uniform legal regulation in the European Union, neither within the European level nor within its Member States. Academic research in this rapidly evolving field is also scarce. Hence it was essential to provide updated research in order to fill this gap in the knowledge. At the same time, this research has a maximum interest as currently the European Union is considering the development of new legislation in the field of ADR and ODR, and notably with the aim of promoting electronic mediation among European citizens.

The EMEDEU project aimed to make available a legal framework suitable for effective cross-border electronic mediations in civil and commercial matters that offer maximum guarantees and uniformity throughout the territory of the European Union. It was therefore essential to know the views of litigants and lawyers about the possibility of developing new rules for an out-of-court electronic mediation procedure.

The interest of the EMEDEU project was justified in the evolution of mediation and its consolidation as one of the most important ADR methods at European level, requiring the dissemination and interaction with all the relevant actors in society, including lawyers and those persons who work closely with the administration of justice: judicial authorities, legal professionals, but also businesses and citizens in general. In addition, we wished to design a legal framework for mediation procedures for its implementa-

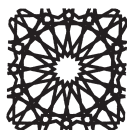
tion through ICT mechanisms, to be considered by the pre-legislative bodies in the EU to improve European legislation about ODR in civil and commercial matters and in full association with the EU Framework Programme for Research and Innovation “Horizon 2020”.

Mediation saves costs and time. It is thus especially attractive for governments and for the administration of justice because they could reduce the financial burdens of litigation. It is also advantageous for the legal profession as it offers a new way to resolve cross-border disputes in a more cost-effective manner. For academics it is a new challenge in their research to examine the new paradigms of electronic mediation procedures in order to design dispute system design strategies that maximise the advantages and minimise its disadvantages. Citizens frequently like mediation more than litigation as they are empowered and allow them to resolve disputes faster and inexpensively. A more amicable resolution of claims in civil and commercial matters through an electronic out-of-courts procedure is particularly beneficial for companies and SMEs as these procedures permit them to restore professional relationships and continue with their businesses after the dispute. Therefore, the EMEDEU project fits perfectly with two strategic lines of the EU Framework Programme for Research and Innovation “Horizon 2020”, namely those strategies dedicated to the “SMEs” and the optimization of its resources, and the introduction of new communication and information technologies.

This book tries to develop a legal model about the future ODR legislation in the EU by promoting the use of efficient and accessible resources for dispute resolution. It does so by proposing pre-legislative proposals that aim at optimizing the electronic mediation procedures at European level, thus reporting immense benefits to the effective access to justice as envisaged in the ADR Directive.



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