

REPORT ON THE ACTIVITIES OF THE BULGARIAN
ASSOCIATION FOR ALTERNATIVE DISPUTE RESOLUTION
(BAADR) – PLOVDIV FOR 2006

According to Art. 40, Paragraph 2 from the Law on non-
governmental organizations

This report on the activities of the Bulgarian Association for Alternative Dispute Resolution – Plovdiv for 2006 is prepared according to Art. 40, Paragraph 2 from the Law on non-governmental organizations and includes an account of the significant activities, the funds spent on them, their relation to the objectives and programs of the association and the outcomes; the amount of the property received without payment and the income received from other fund raising activities; the financial result.

In 2006 the Bulgarian Association for Alternative Dispute Resolution – Plovdiv functioned according to Art. 8 from its Statute to reach the objectives of the association stated in Art. 7 from the Statute and carried out activities in to the following aims:

- To promote, establish and practice mediation under the conditions of the actual law on mediation;
- To ensure possibilities for its member mediators to gain a substantial practical experience through practicing mediation;
- To train mediators according to the requirements of the law on mediation;
- To inform and popularize the alternative dispute resolution and mediation in particular in society;
- To act in partnership with legal officials and the court to establish and help understand the alternative dispute resolution;
- To cooperate with Bulgarian and foreign NGOs and other institutions to establish alternative dispute resolution;
- To develop and establish the structures and institutions necessary to carry out alternative dispute resolution;
- To cooperate successfully with the local media to popularize and establish alternative dispute resolution;
- To tribute to the establishment of the Bulgarian court-referred mediation model in pending disputes and others;
- To tribute to the development of mediation within the school system as an effective means of dispute resolution and establishment of a new communication culture in school;
- To support, cooperate and defend effectively the interests and rights of people in non-equal position due to their health.

PROJECT ACTIVITIES

The project: "Multiplication of the established court-referred mediation model" has been carried out in partnership with the regional courts in Plovdiv, Asenovgrad and Stara Zagora, and Plovdiv District Court – Commercial Department, as well as with the financial aid of the American Bar Association and the United States Agency for The International Development.

The project is closely related to the main objectives of the Association, namely to assist the building and development of Bulgarian civil society through the establishment of democratic values, practices and approaches of dialogue and understanding in public and private life; to promote, establish and apply alternative dispute resolution, mediation in particular.

Through the project activities carried out the following objectives have been reached:

- The court-referred mediation model has been multiplied through the inclusion of courts in small (Asenovgrad) and medium (Stara Zagora) judicial regions, as well as courts of a higher rank, namely Plovdiv District Court – Commercial Department;
- The Bulgarian court-referred mediation model and its legal establishment have been created;
- Mediation Centers have been institutionalized and are functioning in Asenovgrad and Stara Zagora.

The project was carried out in the conditions of the actual law on mediation and the parallel application of the established in the previous 2004/2005 judicial year court-referred model within the jurisdiction of the regional courts in Vratza, Burgas, Mezdra and Byala Slatina.

The project was carried out on the base of signed Partnership Agreements between BAADR and the regional courts in Plovdiv, Asenovgrad and Stara Zagora.

To reach the objectives of the project activities have been carried out in four main directions:

- Actual project activities consisting in transfer to mediation of disputes in pending lawsuits and actual mediation;
- Activities aimed to institutionalize and enhance the Mediation Centers in Asenovgrad and Stara Zagora;
- Activities aimed to train and expand the qualification of the teams of judges and mediators working on the project;
- Activities aimed to inform and popularize mediation and its possibilities within the court system in society;

The actual project activities consisting in transfer to mediation of disputes in pending lawsuits and actual mediation were the main priority during the whole project term.

53 disputes altogether have been referred to mediation in the three Mediation Centers of BAADR in Plovdiv, Asenovgrad and Stara Zagora.

44 mediations were carried out.

33 agreements were reached.

A mediator, who considered the parties not appropriate for mediation, stopped one of the mediations.

Mediation was carried out in 83% of the court-referred cases.

Agreement was reached in 76.74% of the cases.

According to the nature of the disputes the mediation cases carried out can be distributed as follows:

- Divorce claims – 13
- Division of common property – 8
- Executive actions – 7
- Private criminal cases – 5
- Child support – 2
- Obligation – 2
- Commercial disputes – 2
- Child custody – 1
- General criminal cases – 1
- Unfounded usage claim – 1
- Individual labor claim – 1
- Derivation – 1

Total: 44

Further qualification of mediators

Mediators' qualification was raised mainly through the accumulation of substantial practical experience during actual mediation.

This is supported by the high rate of reached agreements (an average of about 77% of mediations carried out) and the satisfaction of the parties participating in mediations.

All people surveyed say that they were heard and understood by the mediator, who helped them throughout the proceedings.

24% say "they feel very satisfied" upon mediation;

72% say "they feel satisfied";

4% say "they do not feel very satisfied".

No one feels dissatisfied.

90% would recur to mediation again.

The mediations carried out were very serious as to the nature of the disputes, the characteristics of the parties, the problem situations and the misbalance of the parties.

For the first time in Bulgaria mediations were carried out in private criminal cases, a general criminal dispute case, pending executive actions; with the participation of blind-deaf parties; a derivation dispute mediation with the participation of an expert.

INFORMATION AND POPULARIZATION OF MEDIATION

The planned and accomplished project activities aimed to inform and popularize mediation in society and the pilot project were carried out in three main directions: presentations; the media; educational video – demonstration "Court Referred Mediation".

3 mediation presentations were arranged and carried out – two in Stara Zagora and one in Asenovgrad.

Presentation target groups consisted of representatives of the judicial society, mainly lawyers, from the corresponding towns,

prospective participants in mediation and journalists. The presentations were widely covered by the local and national media.

The court-referred model was further presented as a separate module in the training of mediators carried out by the Association.

Information boards and leaflets on mediation were placed and distributed in the buildings of the law courts in Plovdiv, Stara Zagora and Asenovgrad, as well as in the Town Hall of Asenovgrad.

The pilot project was widely covered by the local and national media: 7 TV programs, one of them broadcast 26 times in October and November in Asenovgrad; 5 radio programs, 7 articles in newspapers.

The activities of the project carried out during the second judicial year contributed to the expansion of the application scope of court-referred mediation as compared to the first year:

- For the first time in Bulgaria mediation was applied in private criminal cases – 5 mediations altogether, and in three of them agreement was reached and claims were withdrawn.
- The mediation in a pending general criminal case started by the request of the claimant and the defendant showed that mediation could be also used in more serious cases.
- The 7 mediation cases in executive actions showed that mediation could also be used in the final stage of court proceedings.
- The mediation in a case of unfounded usage claim pending before the Supreme Cassation Court showed in practice that mediation could be used in any stage of court proceedings before the court decree.

Our concept of the application of court-referred mediation has changed.

During the second project year it became possible for the parties in pending disputes to initiate mediation by themselves.

Mediation agreements reached in such cases include a clause for termination of court hearings due to withdrawal or traverse of claim or termination of proceedings.

Mediation initiated by the parties was carried out in the following cases: in the unfounded usage claim pending before the Supreme Cassation Court, in the general criminal case, in the executive actions and in a commercial dispute. In these cases mediation led to termination of three court disputes and two administrative correspondences.

As an outcome of the successfully working project a court-referred mediation model has been established. The model has the following features:

- The court refers cases to mediation, but not to any specific Mediation Center or mediator;
- The parties in dispute are free to choose the Mediation Center or the mediator;
- Judges voluntarily inform the parties on the possibility to reach an agreement through mediation;
- Only those parties and cases evaluated by the judge as most suitable for mediation are referred;
- Cases are referred to mediation by judges trained in mediation, who evaluate the dispute and the parties for mediation;
- The parties themselves can initiate mediation without the formal intermediacy of the court;
- Disputes are resolved rapidly in the term of two regular court hearings, which does not delay court proceedings;
- Court-referred mediation does not stop court proceeding, except in cases in which the parties specifically want it.

The application of this court-referred mediation model in courts of different types and ranks shows that it works effectively in its present format – in all three Mediation Centers the ratio between referred cases/mediations/agreements reached has remained the same or has even improved:

- **in Plovdiv** – mediation was carried out in 88.46% of court-referred cases; in 72.72% of the cases agreement was reached.
- **in Asenovgrad** – mediation was carried out in 60% of court-referred cases; in 83.33% of the cases agreement was reached.
- **in Stara Zagora** – mediation was carried out in 88% of court-referred cases; in 80% of the cases agreement was reached.

The general ratio points out without a doubt that the philosophy of the model - to refer only pending disputes and parties, especially appropriate for mediation according to the evaluation of a judge, trained in mediation - is correct and works: mediation was carried out in 83% of court-referred cases; in 76.74% of the cases agreement was reached.

The accomplishment of the pilot program and the promotion of its objectives and outcomes have contributed to ***the active involvement of judges and lawyers in the intent to establish mediation in Bulgaria.***

Court-referred mediation has contributed to the development of mediation in general and its expansion out of court.

There is a real base for ***the creation of a common Bulgarian model of court-referred mediation, which can be established by legislation as a specific mechanism within legal proceedings.***

The pilot program has been multiplied within the country.

Since 2006 the court-referred mediation model has been applied by the courts in Vratza, Burgas, Stara Zagora, Asenovgrad, Sredetz, Montana.

“Different, but with equal human rights” Project with the financial support of Foundation “Institute “Open Society” - Sofia

Support, cooperation and effective protection of people in non-equal position due to health problems have been a constant priority in our activity ever since the foundation of the Association.

Within the project the target group has been granted legal aid and assistance through legal consultations, procedural representation in court; lawyer’s assistance in legal actions; court-referred dispute resolution through mediation.

During the project period to the end of 2006 the total number of beneficiaries who used legal assistance under the project is 379.

A total of 288 hours of legal consultations were granted.

As to their topics consultations covered the following areas:

- property rights – 64
- contractual claims – 24
- family (child support and divorce) – 20
- social rights of disabled people – 17
- labor rights – 17
- immovable property – 7
- consumer rights – 4
- civil procedural code and ADR – 3
- administrative claims – 1
- criminal claims – 3
- illicit damage claims – 1
- consultation on the Law on NGOs – General meetings, Boards of directors, change of Statute, legal assistance in negotiations and agreements - 22

13 procedural representations in court were carried out, as well as 1 procedural representation in mediation on a commercial dispute referred by Plovdiv District Court; an agreement was reached and presented; as a result claims were withdrawn and court proceedings were terminated.

Till the end of 2006 decrees were passed in 7 court proceedings.

These court decrees demonstrate the quality and effectiveness of the provided legal assistance. In the seven cases the court decrees were in favor of the people represented under the project.

The project objectives and activities were popularized among the target group through the regional organizations of the blind, deaf, blind and deaf.

In the beginning of 2006 we announced the project objectives and activities in a live TV program with a sign translation broadcast by Plovdiv Public TV. As a result people with disabilities alien to the stated organizations also contacted our Association.

In compliance with our agreement with partner organizations consultations are provided on location, the days and times being previously appointed and duly announced, at the sites of the organizations of the disabled – at The Bulgarian Association of the Blind and Deaf, at PP “Uspeh” and “Tih Trud”, as well as, in case it is necessary, in the homes of those who need such consultations.

Consultations are also provided at the Mediation Center of the Association in Plovdiv, which is familiar to the target group.

The Association has established beneficial partnerships with the following organizations: the Bulgarian Association of the Blind and Deaf, the regional organizations of the Union of the Blind and the Union of the Deaf in Bulgaria; the Association “Different Children”; the Social Assistance Directions in Plovdiv and the region; the production enterprises of the disabled in Plovdiv – “Tih Trud” and “Uspeh”.

Our major media partner is Plovdiv Public TV.

One of the major priorities in the activities of our Association since its foundation has been the work with people in non-equal position due to health problems. The need of constant aid and assistance in defense of their civil rights, as well as the established working model of cooperation and mutual trust between the Association and the target group make this a priority in our future, too. In relation to this we are planning to continue our activities and provide services under this project, as well as to expand them according to the needs of the target group and ensure the necessary funding.

ACTIVITIES RELATED TO THE TRAINING OF MEDIATORS

In 2006 the Association gained ground as a leading organization in training of mediators.

The training syllabus is prepared in compliance with the requirements of the Law on mediation.

By December 11-th 2006 out of the 281 mediators registered in The Unified Register of Mediators at the Ministry of Justice 101 have been trained by BAADR.

OTHER ACTIVITIES

In 2006 representatives of the Association participated actively in the activities of the **National Association of Mediators**.

Our Association is one of its founders, and Zoya Gerasimova, the President of our Board of Directors, is a member of the NAM Board of Directors.

We presented concepts on the prospective changes of the Law on mediation and the conceptual draft of the future Regulations according Art. 8 from the Law on mediation.

On February 8-th John Biarly, the US Ambassador to Bulgaria, visited the Mediation Center in Plovdiv as part of his first visit to the town.

The activities of the Association and its team in the field of mediation and partnership with the courts in Plovdiv were highly estimated.

In April 2006 during “Mediation Days” in Sofia, the Association participated in the National Conference on Mediation with two presentations: “Court-referred mediation model”, presented by Zoya Gerasimova; and “Mediation in School – A New Communication Culture”, presented by Nadezhda Mahmudieva.

In May 2006 with the financial aid of the American Bar Association CEELI and the United States Agency for The International Development, and in partnership with Plovdiv Regional Court an education video titled “Court Referred Mediation” was filmed. This film-demonstration is used in the training of mediators.

In July 2006 the experience of our Association in the establishment of court-referred mediation model was presented before NGOs and officials from the Ministry of Justice as a model of good practice for public-private partnership.

The income and expenses of the Association are formed according to the Accounts of income and expenses of non-profit activities, annexed to the report in compliance with Art. 42, paragraph 2, from the Law on NGOs.

The income of the Association for 2006 is formed as follows:

1. Target funding of projects:

- from ABA CEELI and USAID – **33 949.36 BGN**
 - from the Institute “Open Society” in Sofia – **16 085.83 BGN**
- 2. Our own activity** (training, paid mediation, certificates) – **32 899.28 BGN.**
- 3. Membership fees – 1 200.00 BGN.**
- 4. Financial income:**
- bank interest – **30.58 BGN**
 - favorable exchange rates – **136.89 BGN.**

The expenses of the Association for 2006 are as follows:

1. Expenses on target projects:

- From ABA CEELI and USAID – **31 972.56 BGN**
 - From the Institute “Open Society” in Sofia – **6 932.07 BGN**
- 2. Our own activity** (training, mediation) – **28 793.26 BGN.**
- 3. Administrative expenses** (from membership fees) – **1 106.80 BGN.**
- 4. Financial expenses:**
- bank taxes paid – **239.28 BGN.**
 - Negative exchange rates – **880.08 BGN.**

The Association has a positive financial result of 5 224.13 BGN /five thousand two hundred and twenty-four BGN and thirteen cents/.

May 28 2007

Plovdiv

Chair of the BAADR Supervisory Board :

/Zoya Gerasimova/