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Włodzimierz Broński
John Paul II Catholic University of Lublin, Poland
e-mail: wlodzimierz.bronski@kul.pl
ORCID:0000-0002-1303-6737

Marcin Rokosz
John Paul II Catholic University of Lublin, Poland
e-mail: marcin.rokosz@kul.pl
ORCID:0000-0003-2011-8738

LAWYERS IN MEDIATION: INSIGHTS FROM A PILOT EMPIRICAL STUDY

Abstract

The article explores the current and multi-layered issue of lawyers' roles in mediation, focusing in particular on cases where lawyers act as mediators. Drawing on a pilot empirical study of 161 respondents from various professional groups involved in mediation, the authors look at how legal training influences the effectiveness of mediation. The pilot study highlights both positive and negative determinants affecting a mediator's performance from the perspective of legal training. Consequently, the authors attempt to assess how far legal education can help – or, conversely, complicate – a lawyer's work as a mediator. The findings reveal a dual picture. On the one hand, respondents recognize the advantages of legal background, such as legal expertise and the ability to draft mediation settlement agreements effectively. On the other hand, they also highlight related risks, most notably the tendency to carry over litigation-oriented habits typical of legal counsel into mediation, which may undermine the neutrality required for an effective mediation process. Moreover, the authors advance a *de lege ferenda* proposal calling for the introduction of mandatory instruction in mediation, negotiation, and conflict management into law degree programmes as well as professional legal training. This

approach could tangibly enhance the quality of mediation practice in Poland, contribute to a more nuanced and favourable perception of lawyers in the role of mediators, and ultimately support the wider adoption of consensual dispute resolution as an alternative to court proceedings.

KEYWORDS

dispute resolution, mediation, lawyer in mediation, conflict manager

SŁOWA KLUCZOWE

rozstrzyganie sporów, mediacja, prawnik zajmujący się mediacją, menadżer ds. zarządzania konfliktami

I. LAWYERS AMID THE TRANSFORMATION OF DISPUTE RESOLUTION MECHANISMS

The transformation of dispute resolution mechanisms has become one of the central challenges for modern justice systems. Legal actors increasingly seek solutions to resolve disputes more efficiently, particularly in light of their perceived dissatisfaction with the operation of the judicial system.[1] At the same time, the rising appeal of alternative dispute resolution methods likewise reflects the expectations of those actors to exercise a meaningful degree of autonomy over the decisions taken in their own cases. Mediation is one of the key forms of alternative dispute resolution and is widely regarded in legal scholarship as playing a leading role.[2] By blending legal and social elements, mediation seeks outcomes that all parties can accept, with particular emphasis placed on enabling future cooperation through the reconfiguration of the communicative aspects of the parties' relationship.[3]

Legal scholarship proposes a variety of definitions of mediation, typically emphasizing the characteristics that set it apart from other mechanisms employed to

[1] Marco Giacalone, Seyedeh Sajedeh Salehi, 'An empirical study on mediation in civil and commercial disputes in Europe: the mediation service providers perspective' (2022) Revista Ítalo-Española de Derecho Procesa 12, DOI: 10.37417/rivitsproc/802.

[2] Rafał Świeżak, Maciej Tański, 'Alternatywne metody rozwiązywania sporów. Przegląd zagadnień' (2003) 3; Hazel Genn, 'What Is Civil Justice for? Reform, ADR, and Access to Justice' (2012) 24(1) Yale Journal of Law & the Humanities 397, 411.

[3] Ewa Gmurzyńska, Rafał Morek, *Mediacje. Teoria i praktyka* (Wolters Kluwer 2024) 24–25.

assist parties in resolving a conflict. Most commonly, mediation is understood as a process in which a neutral third party assists in negotiations between the disputing parties with a view to reaching an agreement on the contested matter, without having to issue a binding or formal decision.[4] A mediator may, therefore, be defined as a party who, by enhancing communication between the disputing parties, assists them in reaching a mutually acceptable agreement. The effectiveness and perceived 'quality' of mediation are shaped both by the mediator's personal qualities – such as commitment and creativity – and by their professional background and substantive preparation for the role.[5]

Owing to its interdisciplinary character, mediation has found wide application in practice and is employed across numerous spheres of social life. Its potential as a tool for managing conflict has been noted not only by legal actors, but also by lawmakers, who have enabled the use of mediation in fields such as civil, commercial, family, criminal, and administrative law.[6] Among the core features of mediation, as derived from generally binding legal regulations, are the voluntary participation of the parties, the confidentiality of the process, and the mediator's neutrality and impartiality. Within legal practice, mediation operates both in a private form (out-of-court or extrajudicial mediation), where it arises from private-law agreements between the parties, and within judicial proceedings (court-ordered mediation), thereby giving effect to the concept of the multi-door courthouse.[7]

Legislatures have introduced a number of measures designed to promote greater use of mediation, a trend visible at both the national and EU levels. By way of illustration, reference may be made to the EU's activity in this field, pursued with a view to harmonizing domestic legal frameworks.[8] Developing stable and effective mechanisms for mediation within both the legal regime and society at large is crucial, as it supports wider uptake of mediation and helps build confidence in this form of dispute resolution.[9]

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[4] Jethro K Lieberman and James F Henry, 'Lessons from the Alternative Dispute Resolution Movement' (1986) 53 The University of Chicago Law Review 424.

[5] Agnieszka Siedlecka-Andrychowicz, Anna Cybulko in Ewa Gmurzyńska, Rafał Morek (eds) *Mediacje. Teoria i praktyka* (Wolters Kluwer 2024) 277.

[6] Włodzimierz Broński and others, 'Readiness to Use Mediation – Judges' and Entrepreneurs' Perspective', (2024) 20 Utrecht Law Review 21 < https://utrechtlawreview.org/articles/10.36633/ulr.1020> accessed 25 June 2025.

[7] Cezary Rogula, Agnieszka Zemke-Górecka, *Mediacja w praktyce mediatora i pełnomocnika* (Wolters Kluwer 2021) 27.

[8] Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters [2008] OJ L 136/24.

[9] See Włodzimierz Broński and others, 'Research report on public needs and expectations regarding the National Register of Mediators and competency gaps in mediator training' (John Paul II

Given the mediator's central role in successful mediation, the question of the mediator's educational background has become both significant and current. This prompts a number of key questions. First of all, is legal training the most desirable pathway for mediators? Can a lawyer – whether an advocate, legal adviser – be, in practice, a more effective mediator than one without any legal background? Finally, to what extent can legal training and the practice of a legal profession facilitate or impede a lawyer's performance of the mediator's role? These questions appear all the more pressing in light of the ongoing debate within both doctrine and practice concerning the figure of the lawyer as a mediator.

The developments taking place in dispute resolution also require the lawyer's role in today's legal environment to be revisited.[10] Lawyers are no longer confined to acting solely as courtroom representatives for their clients. Instead, their role is evolving to encompass conflict management, the recognition of the parties' emotional needs, and the creation of conditions conducive to final agreement.[11] These competencies come most clearly to the fore when lawyers take part in mediation proceedings as mediators. In this sense, mediation constitutes 'a tool for effective and constructive conflict management'.[12]

II. THE PILOT STUDY

To address the questions outlined above, a pilot qualitative and quantitative study was carried out to collect relevant data. Combining these two approaches made it possible to gain a broader and more nuanced understanding of the issues in question.[13] The study aimed to establish whether legal training is the most desirable background for serving as a mediator. It also sought to identify the potential advantages and risks that legal training might pose to mediation practice and, ultimately, to evaluate whether lawyers can perform effectively as mediators.

For the purposes of the pilot study, a lawyer is defined as a person holding a degree in law awarded upon completion of a university legal programme in Poland and

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Catholic University of Lublin 2021) 17, 56–58 < https://krm.gov.pl/materialy-do-pobrania> accessed 25 June 2025.

[10] Julie Macfarlane, *Prawnik jutra: jak polubowne rozwiązywanie sporów zmienia kształt praktyki prawa* (Krajowa Rada Radców Prawnych 2012) 18–21.

[11] Roland Fritz, Julia Lefèvre, 'The Lawyer as Conflict Manager: Exploring the Lawyer's Role in ADR, Especially as an Advisor in Mediation and as Lawyer-Mediator in Germany' (2025) 1 Studia Prawa Publicznego 9, 10–16.

[12] Ewa Gmurzyńska, Rafał Morek, *Mediacje. Teoria i praktyka* (Wolters Kluwer 2024) 37.

[13] See Stanisław Sudoł, *Nauki o zarządzaniu. Dylematy i wyzwania* (Warszawa: PWN 2019).

the conferral of the master's degree, or upon completion of legal studies abroad recognized in Poland. By contrast, a professional legal representative is understood to mean an advocate or a legal adviser.

The qualitative part of the study relies on interviews, one of the most commonly used methods of data collection in qualitative research.[14] Between December 2024 and January 2025, 15 individual in-depth interviews (IDIs) were conducted as part of the pilot project. The participants included nine legal professionals (three judges, three advocates, and three legal advisers) and six mediators without legal training. The interviews followed a prepared discussion guide and were conducted by three trained interviewers – two with a legal background and expertise in mediation and one experienced mediator. Each interview involved a single respondent, and full anonymity was assured. Consistent with the methodological premises of qualitative inquiry, the study drew upon empirical material derived from the interviewees' life experience.[15]

Based on the findings obtained from the qualitative phase, a survey questionnaire was designed for the quantitative study. The quantitative study aimed to detect recurring patterns, test the hypotheses formulated on the basis of the qualitative findings, and evaluate their consistency.[16] The survey was intended for advocates and legal advisers, who also serve as mediators, for judges, and for mediators without legal training. The questionnaire comprised 19 questions. The questions in the questionnaire, which were tailored to the respective respondent groups, focused primarily on the impact of educational background on the performance of the mediator's role and on whether lawyers are well-suited to act as mediators. Particular attention was devoted to the potential advantages and challenges arising from the legal background and professional legal practice, the cooperation between professional legal representatives and mediators (and vice-versa) during mediation proceedings. The questionnaire also examined the desirability of co-mediation in specific types of mediation conducted by individuals with differing educational backgrounds.

The quantitative phase was carried out online via the LimeSurvey platform between February and March 2025. Invitations to complete the questionnaire were circulated in Poland to 200 individuals employing a snowball sampling

[14] Chand, Satish Prakash, 'Methods of Data Collection in Qualitative Research: Interviews, Focus Groups, Observations, and Document Analysis' (2025) 6(1) Advances in Educational Research and Evaluation 303–317 <https://doi.org/10.25082/AERE.2025.01.001> 304.

[15] Hamed Taherdoost, 'What are Different Research Approaches? Comprehensive Review of Qualitative, Quantitative, and Mixed Method Research, Their Applications, Types, and Limitations' (2022) Journal of Management Science & Engineering Research 5, 54.

[16] Cf Andrzej Boczkowski, 'Badania ilościowe i jakościowe w socjologii. Między separacją epistemologiczną a praktyczną komplementarnością' (2018) 10 Roczniki Nauk Społecznych 4, 66.

method, resulting in 161 responses and yielding a response rate of 80.5%. The sample included 51 advocates and legal advisers acting as mediators, 49 judges, and 61 mediators. A more detailed breakdown of respondent profiles is provided in Table 1.

Participants in the pilot study were informed that the process would remain confidential and anonymous, and that they were free to withdraw at any time. The questionnaire did not address intimate or socially sensitive issues. Prior to commencing the study, respondents were duly advised of the processing and protection of their personal data. They were then requested to acknowledge having read this information and to provide their voluntary consent to participate.

STUDY GROUPS

Three groups of respondents were involved: judges (n = 49), legal advisers and advocates, (n = 51) and mediators (n = 61). A total of 161 individuals were surveyed. A detailed respondent profile is presented in Table 1.

Table 1. Sociodemographic respondent profile

Variables		Judges	Legal advisers and advocates	Mediators
Age		30-62	35-71	28-74
Gender	Female	25	30	41
	Male	24	21	20
Place of residence	City/town below 50 thou.	15	12	21
	City/town 50-200 thou.	10	17	10
	City/town over 200 thou.	24	22	30

Labels: n – frequency

Next to demographic variables, the study also measured several other variables essential to the achievement of the assumed research objective. These included responses to the following questions:

Legal training as the most desirable pathway for mediators. This variable was measured using the following question: In your view, which field of education is most useful for serving as a mediator? A follow-up open-ended question invited participants to explain the reasoning behind their choice.

Legal training and the practice of a legal profession facilitate or impede a lawyer's performance of the mediator's role. This variable was measured using the following questions: Which skills and qualifications of a practising lawyer (legal adviser or advocate) make them well-suited to serve as a mediator? In your view, can the active practice of a legal profession (legal adviser or advocate) hinder the performance of the mediator's role?

Cooperation between professional legal representatives and mediators, and between mediators and professional legal representatives during mediation proceedings. This variable was measured using two questions: How do you assess your cooperation with mediators when acting as a party's legal representative? How would you assess your cooperation with parties' legal representatives during mediation?

Co-mediation is necessary. This variable was measured using the following questions: In your view, is cooperation between two mediators with different educational backgrounds desirable in certain types of mediation proceedings? How do you assess your cooperation with mediators when acting as a party's legal representative? How would you assess your cooperation with parties' legal representatives during mediation?

The pilot study revealed both positive and negative determinants affecting a mediator's performance from the perspective of the education obtained. It also enabled an assessment of the extent to which legal training may facilitate or hinder a lawyer's performance as a mediator.

III. MEDIATOR'S EDUCATIONAL BACKGROUND

The starting point is the mediator's educational background, a pivotal point in the ongoing debate surrounding the professionalization of mediation. Education is perceived not merely as a set of formal qualifications, but also as a vehicle of specific professional habits acquired during college or university training – habits that shape the manner of conducting mediation sessions, the manner in which conflict is interpreted, and the mediator's relationship with the parties. Examining this issue, therefore, feeds into a broader question: does diversity in mediators' educational backgrounds enhance the flexibility and effectiveness of mediation, or can it also create practical challenges?

Under the legal framework currently in force in Poland, mediators are not required to hold a degree in any specific field of education. For instance, Article 183^2 § 1 of the Act of 17 November 1964 – Code of Civil Procedure merely provides that

a mediator may be a natural person enjoying full legal capacity and full public rights.[17] Furthermore, within Article 157a of the Act of 27 July 2001 – Law on the Organization of Common Courts, a permanent court mediator may be a natural person who: 1) meets the requirements set out in Article 183² §§ 1 and 2 of the Act of 17 November 1964 – Code of Civil Procedure; 2) has appropriate knowledge and skills in conducting mediation; 3) has attained the age of 26; 4) has a command of the Polish language; 5) has not been finally convicted of an intentional criminal or fiscal offence; 6) has been entered on the list of permanent mediators maintained by the president of the regional court. Comparable provisions to those found in civil procedure have been adopted in Article 96f § 1 of the Act of 14 June 1960 – Code of Administrative Procedure.[18] More detailed requirements – particularly with regard to the mediator's skills and expertise – are set out in § 4 of the Regulation of the Minister of Justice of 7 May 2015 on Mediation Proceedings in Criminal Cases, which provides that mediation proceedings may be conducted by a person who: 1) holds Polish citizenship, citizenship of another Member State of the European Union, a Member State of the European Free Trade Association (EFTA) that is a party to the Agreement on the European Economic Area, or the Swiss Confederation, or the citizenship of another State, provided that, under the provisions of European Union law, the person is entitled to take up employment or self-employment within the territory of the Republic of Poland under the conditions laid down in those provisions, 2) enjoys full public rights and has full legal capacity, 3) has attained the age of 26, 4) has a command of the Polish language in speech and writing, 5) has not been finally convicted of an intentional criminal or fiscal offence, 6) possesses knowledge and skills in conducting mediation proceedings, resolving conflicts, and establishing interpersonal communication, 7) guarantees the proper discharge of duties, 8) has been entered on the relevant register.[19]

The pilot study indicates that as many as 82% of advocates and legal advisers who also serve as mediators, as well as 74% of judges, consider legal education to be a desirable attribute in case of a mediator. By contrast, among mediators without any legal training, only 41% endorse this view, while 55% express a preference for a background in psychology. Irrespective of their professional affiliation, respondents frequently emphasized the legitimacy of a hybrid competence model, premised on combining legal training with skills and knowledge typically associated with psychological education. Notably, 94% of professional legal representatives (advocates and legal advisers) who act as mediators stated that mediators should display both legal and psychological competencies.

[17] Code of Civil Procedure of 17 November 1964 [2024] Journal of Laws 1568.

[18] Code of Administrative Procedure of 16 June 1960 [2025] Journal of Laws 1691.

[19] Regulation of the Minister of Justice of 7 May 2015 on mediation proceedings in criminal cases [2015] Journal of Laws 716.

Respondents also stressed that the suitability of a mediator's educational background should not be assessed in isolation, but rather in context, with due regard to the nature and subject matter of the dispute, as these factors shape the dynamics of the interaction, the choice of mediation techniques, and the overall conduct of the process. A similar approach is reflected in Polish law. Under Article 183^9 § 1 of the Code of Civil Procedure, if the parties have not elected a mediator themselves, the court appoints a mediator with appropriate knowledge and skills relevant to the type of case at hand, giving priority to permanent mediators.

The pilot study results suggest that respondents see the key to effective mediation primarily in mediators' soft skills – such as experience, strong communication abilities, and the capacity to understand and empathize with the parties to a dispute. It is also noteworthy that 26% of respondents who were judges and 12% of mediators indicated that educational background is of no relevance to the quality of a mediator's performance. What ultimately matters, in their view, are the concrete skills and competencies that individual mediators bring to the process. These factors are perceived as fundamental determinants of the effectiveness of the mediation process, influencing both the quality of communication between the parties and the chances of achieving a durable agreement. In this context, the mediator's formal education – while acknowledged by advocates and legal advisers as conducive to navigating legal mechanisms effectively – emerges as only one of many factors contributing to the overall process of dispute resolution.

With regard to the responses of advocates, legal advisers, and judges who indicated in the survey that mediators should possess legal training, the pilot findings suggest that this position is rested upon the conviction that a mediator with a legal background is better equipped to identify and properly interpret the normative dimensions of a dispute, as well as drafting the provisions of a mediated settlement agreement in a manner consistent with formal requirements. As reflected in the survey responses, these competencies are regarded as especially important at the institutional review stage of the settlement, particularly when court approval is required. This apparently enhances the participants' sense of legal certainty and reinforces the perception of the overall effectiveness of the mediation process.

IV. LAWYERS AS EFFECTIVE MEDIATORS: POSITIVE DETERMINANTS

The pilot study results demonstrate that lawyers serving in the capacity of mediators contribute a distinct set of competencies that may materially enhance the effectiveness of mediation as a conflict-resolution process. Respondents

consistently underscored the importance of familiarity with the applicable legal framework, the capacity to undertake a precise assessment of the parties' legal standing, and fluency in the procedural dimensions of disputes. For these reasons, lawyers are often regarded by the public as particularly well equipped to handle mediation proceedings.

That said, the assessment of these positive competencies – and their influence on a mediator's effectiveness – is far from uniform. It varies depending on the professional background of the respondent. Judges, legal advisers, and mediators without legal training highlight different aspects when evaluating lawyers in the mediators' role. These differences stem from their respective professional experiences, their expectations regarding mediation, and their understanding of process objectives. Accordingly, any analysis of lawyers' competencies as mediators therefore needs to consider these differing viewpoints.

It is noteworthy that, in the pilot study, judges identified a range of advantages associated with mediators possessing a degree in law. They stressed, above all, that lawyers acting as mediators are in a position to draft settlement agreements in line with applicable legal provisions. In the respondents' view, this reflects lawyers' professional preparation in assessing the legal implications of solutions discussed and proposed to the parties during mediation. This competence is of considerable importance for the subsequent effectiveness and enforceability of mediation agreements. This circumstance further contributes to strengthening the parties' sense of legal certainty and the stability of the outcomes achieved within mediation. Judges involved in the study further noted that legally trained mediators are often skilled at pinpointing the underlying nature of the conflict and display strong interpersonal skills, including effective communication and effective management of the parties' emotions. Their professional experience allows them to approach disputes from a broader, more strategic angle, taking into account not only the legal framework but also the practical implications of entering into a mediated settlement.

A similar line of argument was advanced by the advocates and legal advisers participating in the study. They pointed to the added value of lawyers serving as mediators, arguing that courtroom experience strengthens a mediator's effectiveness, especially in identifying the real source of the dispute, anticipating likely judicial outcomes, and assessing the legal soundness of the proposed mediated settlement.

Speaking of the study findings among mediators without legal training, it should be noted that 63% of respondents considered legal education to be potentially beneficial in the performance of the mediator's role. In their view, this can be attributed

to a combination of several core competencies, including those developed during legal studies – foremost among these being familiar with the law. Additionally, respondents pointed to interpersonal skills, such as effective communication and active listening. Analytical abilities and the capacity to adopt a broad perspective on the dispute are likewise regarded as key strengths, particularly in the case of lawyers acting as mediators. Apparently, respondents suggested that a lawyer-mediator is well positioned to pinpoint the roots of the dispute, anticipate possible judicial decisions, and incorporate these insights into the mediation process, thus ultimately increasing the likelihood of achieving a durable agreement.

V. LAWYERS AS EFFECTIVE MEDIATORS: NEGATIVE DETERMINANTS

Although lawyers exhibit many strengths and qualities when handling mediation, their role as mediators is not viewed uniformly positively. Respondents pointed to certain characteristics acquired during legal education and reinforced throughout professional practice that may constrain the effectiveness of the mediation process. These concerns primarily relate to a tendency to focus predominantly on legal aspects at the expense of the parties' emotional and communicative needs, as well as an inclination toward evaluating or steering the parties toward particular solutions. At the same time, each of the surveyed professional groups identified different risks linked to lawyers acting as mediators, which paves the way for a more interdisciplinary perspective on the issue.

The judges participating in the study most frequently highlighted, among the negative determinants, factors related to the individual's attitude toward the mediation process. The risks most commonly indicated by this group included perceiving mediation merely as a formal component of judicial procedure, rather than as a genuine instrument for conflict resolution, as well as adopting a 'win-oriented' mindset of either of the parties, mostly seen in legal representatives, which may conflict with the principle of mediator impartiality. Another constraint identified by the surveyed judges was lawyers' tendency to confine disputes exclusively to a legal framework. According to respondents, this approach may impede the due consideration of the broader, non-legal aspects of the dispute, such as the parties' emotional, social, and relational needs. Notably, around 10% of the judges expressed firm opposition to appointing in the role of a mediator a lawyer actively practising as a courtroom representative. In substantiating this position, respondents pointed, among others, to the risk of conflating mediation with judicial proceedings, which might result in transforming mediation into a mere

courtroom tool. They also referred to deficits in collaborative competencies and to an insufficiently developed understanding of the psychological underpinnings of conflict. The judges representing this view emphasized that legal representatives not infrequently reduce mediation to a function ancillary to litigation, focusing primarily on achieving settlement as a means of expediting proceedings rather than as a genuine effort to resolve the parties' original problem.

This line of reasoning aligns with the opinion expressed by approximately 37% of the surveyed mediators without legal training. This position is justified by reference to the distinct professional role of the lawyer, an allegedly insufficient level of empathy, or a schematic approach to conflict. An analysis of the mediators' responses reveals a clear emphasis on the distinctiveness of the mediator's profession vis-à-vis that of the lawyer. At the same time, respondents underscored that effective mediation requires specific interpersonal competencies, which do not necessarily derive from legal education.

Mediators participating in the study who were simultaneously professional legal representatives (advocates and legal advisers) likewise acknowledged the risks associated with lawyers assuming the role of mediator. Respondents noted that being accustomed to representing one party may result in an unconscious tendency to side with the party seen as inferior in mediation. Some responses further indicated that assessments should not be made in abstract terms but rather require contextual specification. In this regard, respondents pointed especially to litigation lawyers – advocates and legal advisers focused on courtroom practice – who are typically motivated by a 'win-oriented' mindset, which may impede their full adoption of the mediator's role as a neutral and impartial facilitator of the process. At the same time, participants stressed that the effectiveness of a professional legal representative acting as mediator largely depends on their personal traits, a view echoed across the other respondent groups.

VI. COOPERATION BETWEEN PROFESSIONAL LEGAL REPRESENTATIVES AND MEDIATORS DURING MEDIATION

The study further examined experiences of cooperation between professional legal representatives and mediators. Owing to the diversity of respondents' feedback, three levels of cooperation were ultimately defined. The assessment of mutual relations was thus divided into three categories: positive (as defined by 71% of respondents), moderate (18% of respondents), and negative (12% of respondents).

Respondents who rated the cooperation positively most often pointed to the mediator's interpersonal skills, which helped lower tensions and made the parties

more open to dialogue and settlement. Where cooperation was assessed as only moderate, respondents raised concerns about the working style of some mediators, especially a tendency to pursue settlement at any price. According to the respondents, some mediators tend to sideline professional legal representatives or to challenge their role in the mediation process. Negative experiences were most commonly linked to situations where the mediator refused to adequately address the substance of the dispute or displayed prejudice toward lawyers.

Mediators participating in the pilot study likewise indicated, in the majority of cases, that cooperation with professional legal representatives proceeded appropriately, that is, positively or at least moderately. In this group, 40% rated the cooperation positively. Respondents noted that legal representatives often contribute to lasting solutions, support the drafting of settlement terms, improve communication, ensure stability of the mediation process, and offer psychological reassurance to the parties. 25% of respondents stated that the quality of cooperation depends largely on the individual lawyer involved. However, based on their experience, they noted that many legal representatives remain strongly attached to the ambition of winning the case. At the same time, 35% of those surveyed assessed cooperation with professional representatives negatively. The advanced arguments focused primarily on adverse attitudes toward mediation or those based on misunderstanding.

VII. COOPERATION OF MEDIATORS WITH DIFFERENT EDUCATIONAL BACKGROUNDS: A REMEDY?

The findings of the pilot study reveal an intriguing tendency, namely that the effectiveness of mediation proceedings may be substantially enhanced through the cooperation of mediators representing diverse educational backgrounds and professional experience. Particular attention should be given to configurations in which one mediator possesses legal training while the other has a background in psychology. An interdisciplinary pairing of this kind can offer a more balanced understanding of both the legal framework and the emotional and social dynamics of the conflict. That said, views on co-mediation – meaning mediation conducted jointly by two mediators – vary markedly across the respondent groups.

In the pilot study, as many as 88% of advocates and legal advisers who concurrently serve as mediators said that cooperation between mediators with different educational backgrounds (e.g., legal and psychological) was particularly valuable in industry-specific and complex cases. Such collaboration is perceived as streamlining the process and facilitating the achievement of outcomes that satisfy the

parties, owing to the integration of distinct professional perspectives within the mediation process. The high level of endorsement for this model suggests a growing recognition that modern disputes are multidimensional and require attention not only to legal issues but also to psychological, social, and even technical factors. Only 12% of professional representatives viewed co-mediation negatively, pointing to the risk that differing approaches between mediators could create difficulties during the process. Even so, the criticism was not absolute, as those respondents generally accepted co-mediation in particularly demanding cases.

A substantial majority of judges (79%) supported cooperation between mediators with different educational backgrounds, arguing that this approach can increase the likelihood of reaching a more advantageous agreement. Conversely, 21% of the surveyed judges emphasized that co-mediation may give rise to misunderstandings and procedural complications. Judges expressing this view suggested that it may sometimes be preferable to seek input from an external expert when needed. In their opinion, co-mediation should be reserved for exceptional cases where the nature of the dispute clearly justifies it.

Among the mediators participating in the study, as many as 60% opt for cooperation between mediators with different educational backgrounds. The arguments advanced in favour of this model emphasized, in particular, the possibility of achieving a more comprehensive understanding of both the context and the underlying nature of the dispute, as well as the practical benefits of combining complementary areas of expertise to ensure that the mediation is conducted properly. Respondents underscored that such an approach may prove especially beneficial in disputes of a particular complexity, including cases involving multiple parties. At the same time, 40% of mediators expressed a negative view of cooperation between mediators with dissimilar educational profiles. Concerns were raised regarding potential communication issues, the risk of distracting the parties, and the possibility of disrupting mediation dynamics. Respondents also noted that each mediator often has their own preferred mediation style, and that involving more than one mediator may generate inconsistencies in how the process is conducted. Respondents further observed that, in complex cases, it remains possible to seek consultation from a suitably qualified expert.

VIII. CONCLUSIONS

The pilot study allowed for an assessment of both the advantages and potential risks associated with lawyers acting as mediators. The findings indicate that the formal education of mediators constitutes but one of many components of the

broader dispute resolution process. Nevertheless, a person holding legal qualifications brings to mediation a distinct set of competencies, including the capacity for legal analysis of the dispute, an understanding of the legal consequences of the parties' decisions, and the ability to draft a settlement agreement free from legal defects. Taken together, these attributes may significantly enhance the overall effectiveness of the mediation process.

The study also reveals that for lawyers to succeed as mediators, they must rethink their professional role, moving beyond a purely legal mindset toward that of a 'conflict manager'. Such a transformation presupposes the integration of legal expertise with soft skills, including the capacity for effective communication, the management of the parties' emotions, and the de-escalation of tensions, all exercised within a flexible approach to the dispute. In practice, this means that a lawyer serving as a mediator should focus first and foremost on resolving the conflict, balancing formal legal aspects with the process of facilitating agreement between the parties. The pilot study suggests that legal training can be a significant asset in mediation, so long as it goes hand in hand with well-developed interpersonal skills.

Given these findings, it seems reasonable to put forward a *de lege ferenda* proposal to advocate mandatory training in mediation, negotiation, and conflict management both at law degree programmes and within professional apprenticeship programmes for advocates and legal advisers. Including these components in judicial training could also increase the practical use of mediation, especially the court-ordered one. From a long-term perspective, such measures may translate into greater public trust in mediation, foster its broader adoption, and reduce the burden on ordinary courts through the more effective application of consensual dispute resolution mechanisms.

The integration of legal expertise with interpersonal competencies related to conflict management may enhance the quality of mediation proceedings and enhance the perception of lawyers as effective mediators – professionals who, beyond their command of legal norms, are capable of managing conflict in a constructive manner. Over time, this may increase public trust in mediation, support its wider adoption, and reduce the caseload at courts through more effective deployment of consensual dispute resolution mechanisms.

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