

BETTER ACCESS TO JUSTICE IN TURKEY CONFERENCE

13 February 2009

Istanbul Bilgi University, Dolapdere Campus



Prof. Giuseppe De Palo

*Professor of ADR Law & Practice Hamline University School of Law, St. Paul (U.S.A.)
Chairman of the Board, ADR Center S.p.A, Rome (Italy)*





Innovative Programs at Home and Abroad



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- Overview
- Mediation Case Law Project
- Second Generation Negotiation
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- New ADR Bibliographies**
- [Restorative Justice](#)
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- [Globalization of ADR](#)
- Fall 07 Health Care Conflict Resolution Post-Symposium Publication**
- [Journal of Public Law & Policy](#)
- [2007 Symposium Final Report](#)

dispute resolution INSTITUTE

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DISPUTE RESOLUTION INSTITUTE AT HAMLIN

Established in 1991, the Dispute Resolution Institute (DRI) offers rigorous academic discourse, hands-on simulation experience, and cross-disciplinary examination of ADR themes in domestic and summer abroad courses for law students, lawyers, and other professionals. DRI's mission is to educate students in a full range of theory and skills needed to be successful creative agents of conflict resolution and social healing both at home and abroad.

Top 5 Ranking

Hamline University School of Law is ranked 4th in the nation in Dispute Resolution.



The screenshot shows the ADR Center website with a navigation menu, a main text block, and three columns of featured content under 'IN FOCUS' and 'PROJECTS'.

ADR CENTER
CONFLICT MANAGEMENT & DISPUTE RESOLUTION

Home | About ADR Center – ITA | Areas of Expertise | Services Provided | ADR Projects | Team of Experts | Contacts

ADR Center - International Technical Assistance (ITA) is one of the world's leading consulting organizations specializing in the design and implementation of international projects in the fields of Alternative Dispute Resolution and Access to Justice.

IN FOCUS

 Our international track records cover four areas of expertise:

- [ADR and Access to Justice](#)
- [Conflict Prevention and Social Dialogue](#)
- [Negotiation Diplomacy](#)
- [Trade Development and Judicial Barriers](#)

EVENTS

-  Better Access To Justice In Turkey Conference
13 February 2009, Istanbul(Turkey)
-  Basic Mediation Skills Training for lawyers
14-15 February 2009, Istanbul(Turkey)
-  Improving Access to Justice in Turkey Conference
13 March 2009, Ankara (Turkey)

PROJECTS

-  **Civil Justice: Video** - Making information sessions on the use of mediation easily available throughout the EU: A video guide to facilitate settlement
-  **Civil Justice: Trainings** - Beyond Winning: Successful Mediation Advocacy in Representing Clients
-  **Civil Justice: Survey** - The Costs of Non ADR – Surveying and Showing the Actual Costs of Intra-community Commercial Litigation
-  **Barbados** - Alternative Dispute Resolution Programme
-  **Nigeria** - Expanding Commercial Alternative Dispute Resolution (ADR)
-  **Morocco** - Alternative Dispute Resolution/Mediation Pilot Project
-  **Turkey** - Technical Assistance for Better Access to Justice
-  **10 MEDA Countries** - Promotion of International Commercial Arbitration and Other Alternative Dispute Resolution Techniques in MEDA Countries

Contacts | Brochure | About ADR Center

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Technical Assistance for Better Access To Justice in Turkey (*EuropeAid/123555/D/SER/TR **)

- DATE: **September 2007 – April 2009**
- DONOR: **European Commission**
- CONTRACTING AUTHORITY: **CFCU**
- VALUE: **€1.115.650**
- 3 COMPONENTS:
 - **Legal Aid (LA)**
 - **Alternative Dispute Resolution (ADR)**
 - **Information Technology (IT)**

**Project implemented by ADR Center, in cooperation with CEDR, IBF International Consulting, İstanbul Bilgi Üniversitesi, PwC-Turkey*



Project Team

M. Haluk Saran
Team Leader



Ferda Paksoy
Legal Aid Expert



Manon Schonewille
ADR Expert



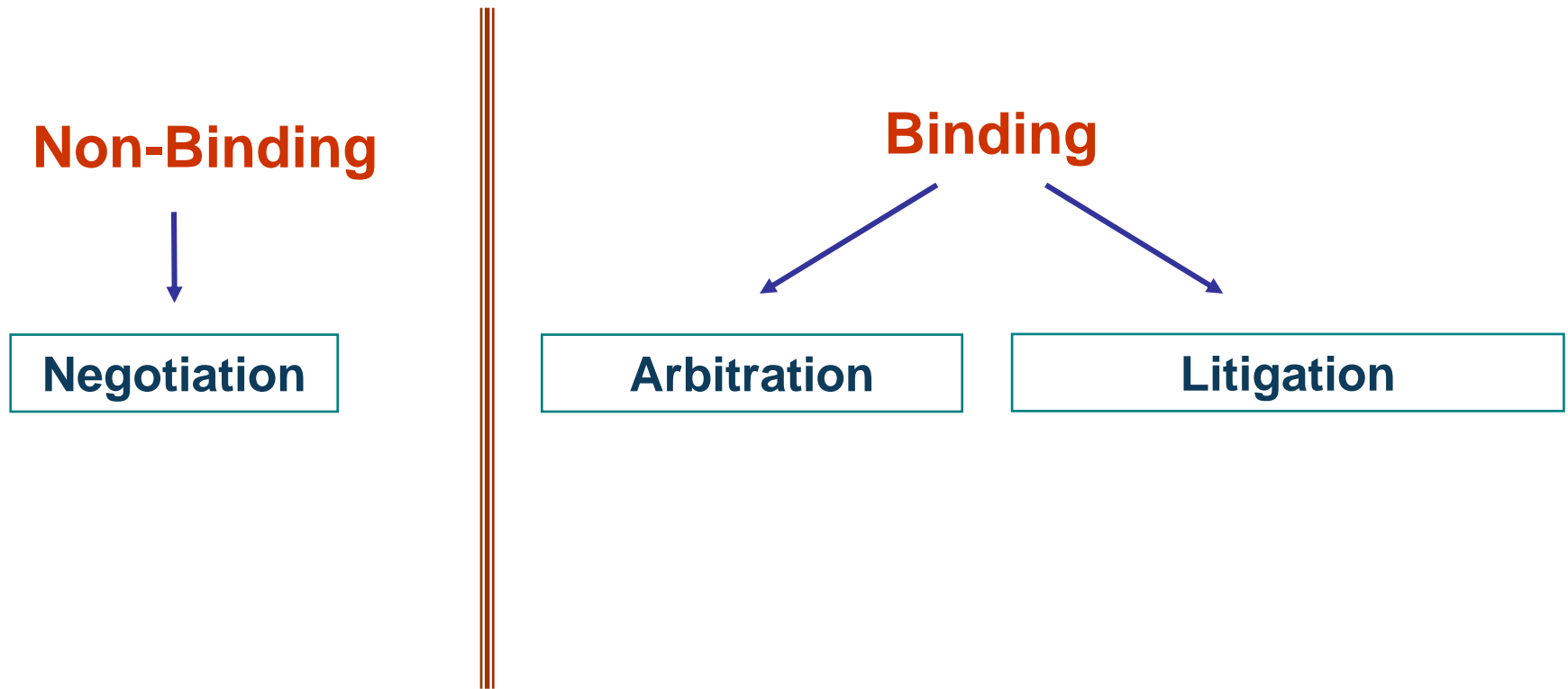
Omur Oznur
Project Assistant



Asiyan Suleymanoglu
ADR Project Assistant



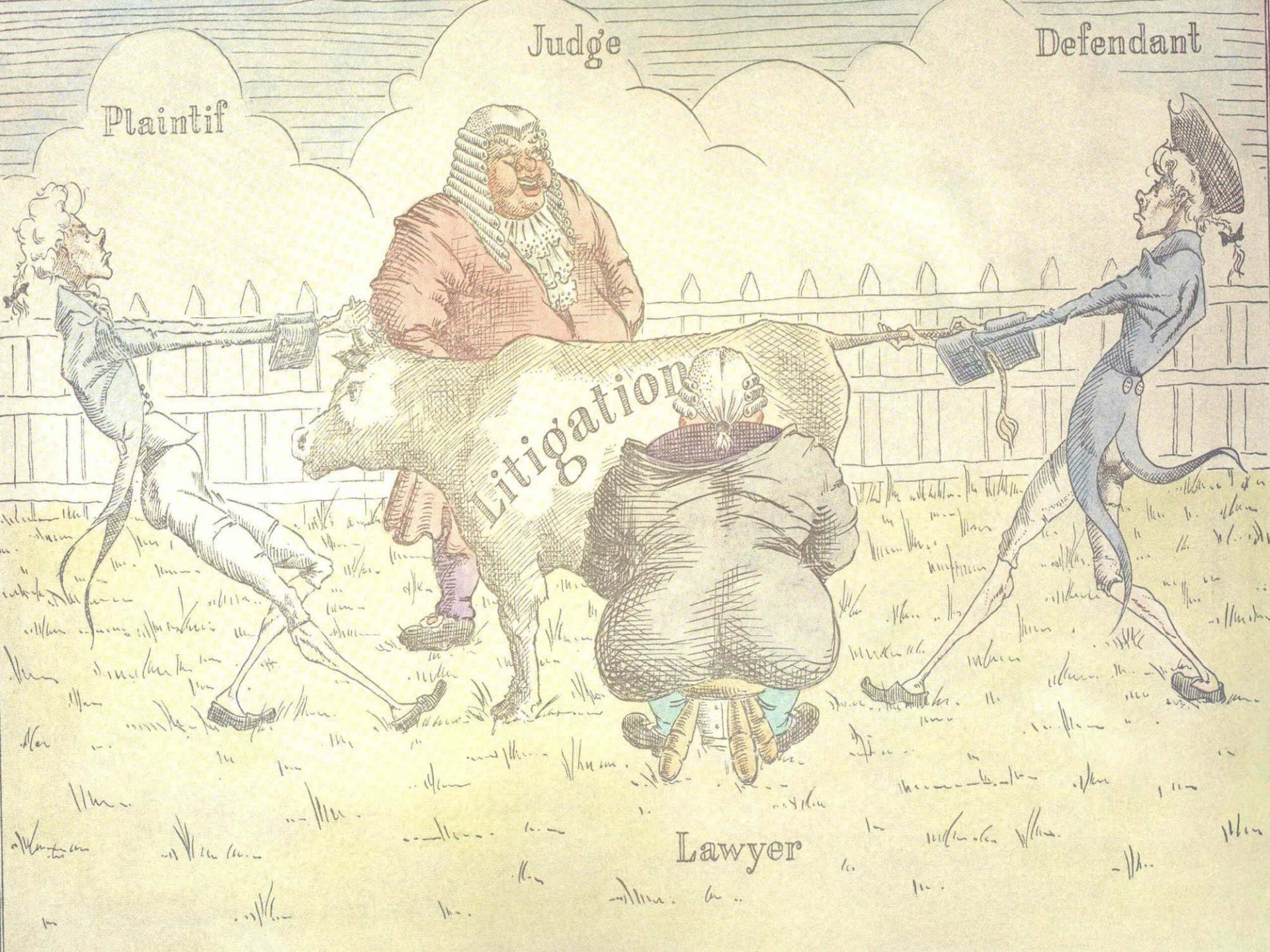
Dispute Resolution: Before ...



Judge

Defendant

Plaintif



Litigation

Lawyer

Litigation explosion/crisis?



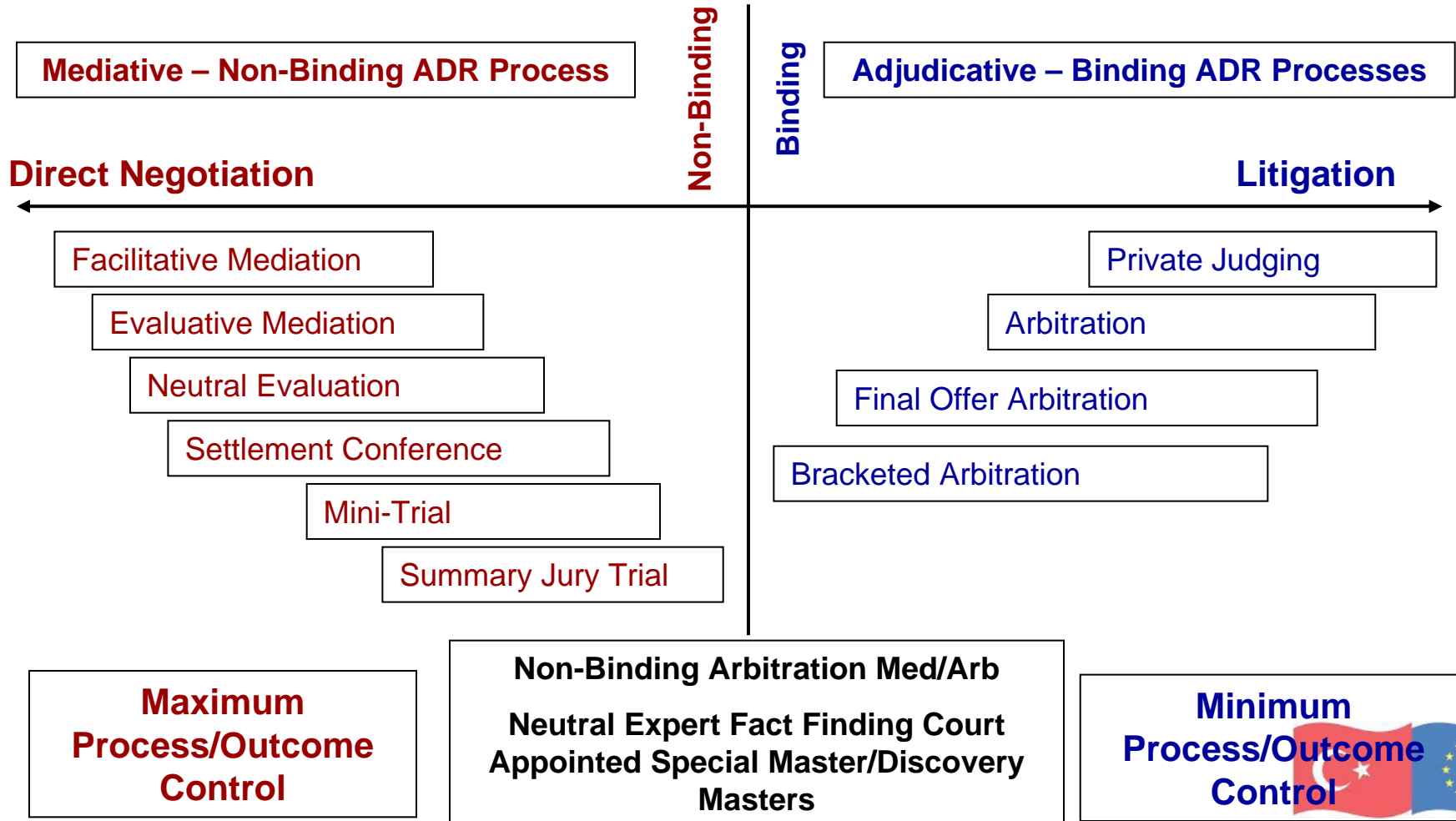




Friedrich August von Hayek
(Vienna, 1899 – Freiburg, 1992)



The ADR Spectrum





www.bydmead.com

ADR Dimensions and Actions (part I)

- Justice as a “superior good”
- Two main ways to promote ADR
 - 1) putting it “on the legal map” (DIRECTIVE 2008/52/EC of The European Parliament and of the Council of 21 May 2008)
 - Member States currently thinking of mediation for domestic disputes
 - 2) Court-annexed ADR (more later)



Mediation Legislation in EU Countries

Some Examples

- **No rules:** The Netherlands
- **Some rules:** UK – Civil Procedure Rules 1999
- **Full Statute:**
 - Austria – Austrian Law on Mediation in Civil Cases, 2003
 - Belgium – Law on Mediation, 2005
 - France – Law No. 95-125, 1995





**SPECIFIC PROGRAMME “CIVIL JUSTICE”
2007-2013**

JLS/CJ/2007-1

**Making Information Session on the Use of
Mediation Easily Available Throughout the EU:
A Video Guide to Facilitate Settlement**

Submitted to:

**European Commission
Directorate-General Justice, Freedom and Security**

Directorate C: Civil justice, rights and citizenship
Unit C4: Financial support for justice, rights and citizenship

Applicant:



CONFLICT MANAGEMENT & DISPUTE RESOLUTION

(Rome – ITALY)



**SPECIFIC PROGRAMME “CIVIL JUSTICE”
2007-2013**

JLS/CJ/2007-1

**“Beyond Winning”:
Successful Mediation Advocacy in Representing Clients**

Submitted to:

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**SPECIFIC PROGRAMME “CIVIL JUSTICE”
2007-2013**

JLS/CJ/2007-1

**“The Costs of Non ADR”:
Surveying and Showing the Actual Costs of Intra-Community
Commercial Litigation**

Submitted to:

**European Commission
Directorate-General Justice, Freedom and Security**

**Directorate C: Civil justice, rights and citizenship
Unit C4: Financial support for justice, rights and citizenship**

Applicant:

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CONFLICT MANAGEMENT & DISPUTE RESOLUTION

(Rome – ITALY)

ADR Dimensions and Actions (part II)

Private
(Non Court-Annexed)

Public
(Court-Annexed)



Federal Courts FY 2007

Type of ADR Process Authorized	No. of Districts
Arbitration	28
Mediation	63
Early neutral evaluation	23
Mini-trial	13
Settlement week	2
Summary jury trial	27
Settlement conferences	53

Source: Federal Judicial Center, Washington, DC.



Number of Cases Referred to ADR in 49 Federal District Courts

ADR Process	No. of Cases Referred
Mediation	16,140
Arbitration	2,326
Ca-N multi-option program	3,988
Settlement conferences	1,449
Early neutral evaluation	961
Settlement week	250
Summary trials	4
Mini-trials	23
Other	158
Total	25,299

20% of all federal litigations

Source: *Federal Judicial Center, Washington, DC.*



Mediation

Neutral
Evaluation

Arbitration

Litigation



Before rushing to Sue,
visit



— THE LAGOS —
**MULTI-DOOR
COURTHOUSE**

...an alternative dispute resolution centre

*Reasoning our way out of disputes through
...Mediation and Arbitration*

High Court of Lagos, Nigeria. Telephone: (234 -1) 2631688, 2631689, 7237415. www.lagosmulti-door.org

Some Features of The Turkish Draft Law on Mediation in Civil Disputes – Is It Enough?

- **Scope:** civil disputes arising from business and transactions which are at the complete disposal of the parties
- **Definition of mediator:** a person who carries out the mediation process and is registered in Mediators' register kept by Ministry of Justice
- **Initiation:** the parties may initiate the process before or throughout the duration of the civil trial. The Court may suggest /encourage the parties to resort to mediation
- **Non binding process:** the parties are *free* to resort to a mediator, continue and conclude, or withdraw from, the process
- **Enforceability:** the agreement might be made enforceable through the application of the parties to the competent court



ADR Being "Exported"

Expanding Commercial Alternative Dispute Resolution (ADR) Institutions and Mechanisms in Nigeria

DATE: July 2008 – December 2009

DONOR: International Development Association

VALUE: 1,437,950 USD

14 Experts involved from 7 different countries



International Commercial and other Alternative Dispute Resolution Mechanisms in the MEDA Region

(Morocco, Tunisia, Algeria, Egypt, Jordan, Israel, West Bank, Gaza, Turkey, Israel, West Bank, Gaza, Jordan)

Commission

VALUE: 391.950 USD

VALUE: 109,000 USD

43 Experts involved from 15 different countries

12 Experts involved from 6 different countries

6 Experts involved from 4 different countries



SAVE THE DATE

13 March 2009

Ankara



*Improving Access for Justice in Turkey
conference*



CONFERENCE EFFECTIVE RESOLUTION OF COMMERCIAL DISPUTES IMPROVING ACCESS FOR JUSTICE IN TURKEY

EuropeAid/123555/D/SER/TR—Technical Assistance for Better Access to Justice-Turkey



UNION OF TURKISH BAR ASSOCIATIONS
PREMISES, ANKARA
March 13, 2009



MORNING SESSION 9.00 – 12.45
EFFECTIVE RESOLUTION OF COMMERCIAL DISPUTES
BUILDING THE INFRASTRUCTURE

OPENING PLENARY

Welcome and introduction improving access for justice: (9.00-9.30)

Özdemir Özok (President Union of Turkish Bar Associations, TR),
Ahsen Cosar (President Ankara Bar Association, TR).
[NAME] (Ministry of Justice, TR).

Introduction to mediation and ADR (9.30-9.45)
Giuseppe De Palo (President ADR CENTER, Consortium Leader, IT)

IMPROVING ACCESS FOR JUSTICE (9.45-10.30)
*Regulatory Developments in Turkey and Europe: National Legislation
and International Conventions, the EU Directive*

BREAK 12.45 – 14.00

AFTERNOON SESSION 14.00 – 17.30
BEYOND BEST INTERNATIONAL PRACTICES

PANEL DISCUSSION I (14.00-15.45)

Companies, Lawyers and ADR

Moderator: Chris Honeyman, (USA)

Panelists: Jan Eijsbouts, (former CLO AKZO Nobel, NL), Metin
Reyna (Sabanci, TR), (OR Karl Mackie (President CEDR, UK).)

Prof. Özsunay (TR).

Coffee/tea break (15.45—16.00)

PANEL DISCUSSION II (16.00-16.45)

Review of the Turkish draft law and international ADR regulations.

Moderator: Machtel Pel, (Director of National Bureau of Court Con-
nected Mediation, Vice –President Arnhem Court of Appeal, NL),
Panelists: Ronald Bradbeer (UK) Prof. Hakan Pekcanitez (TR)

Thank You!

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