



## **Presentation and first assessment of achievements of the Immediate Project**

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### **1.Premise**

InMEDIATE. International Mediators Trained in Europe is a project cofounded by Eu Commission under the call Erasmus Plus 2019 ([www.immediate.eu](http://www.immediate.eu)).

The project's subject and goals require a transnational implementation to respond to a growing EU policy need for a common approach to foster mediation in the settlement of cross border disputes.

The issue of cross-border disputes is one of the main goals in Europe due to the growing mobility of EU citizens, the intensification of trade and the expansion of ecommerce.

Mediation is a more suitable and effective way to solve cross-border disputes for many reasons: i) time and cost saving effects on legal proceedings; ii) non-binding and low constraints; iii) inclusive and cross-cultural approach; iv) flexible procedure preserving relationships and fulfilling the personal needs of each party. Despite the various initiatives in place at EU level to unlock the potential of mediation and ODR for the settlement of cross-border disputes - Directive 2008/52/EC ('Mediation Directive'), Regulation (EU) 650/2012('Succession Regulation'), Directive 2013/11/EU (Consumer ADR Directive), Regulation 524/2013 (ODR Regulation) – the effective uptake of mediation is still hindered by multiple obstacles, as highlighted in a research report released by the Consortium members within the EU-funded project "Fomento".

Civil mediation in international disputes is yet to see an uptake, despite several past initiatives at EU level. One of the key challenges is the diversity in mediation training standards and qualifications across the EU, making it hard for mediators to handle conflict dynamics and intercultural issues in cross-border civil disputes. InMEDIATE, should aim to establish pan- EU standards related to mediation skills. The complimentary training, open-source information and freely available learning content would contribute to augmenting local, regional, national and cross-border mediation services.

Unifi participates in the project to evaluate and certify whether the necessary qualifications for the creation of the professional figure of international mediator are acquired during the training and in order to implement the participation of Italians and to obtain a formal certification, obtained the certification of the Italian Ministry of Justice. This could be also considered a concrete first achievement in line with the creation of a certification that could be recognized by other member states under the ECVET system.

### **2.Normative background. Development and recognition of citizens' knowledge, skills and competence under European Credit System for Vocational Education and Training (ECVET)**



In order to implement the right of European Citizens to move in European Space, the development and recognition of citizens' knowledge, skills and competence are crucial. It is important for their personal and professional development and for competitiveness, employment and social cohesion in the Community. In this respect, Member States should facilitate transnational mobility for workers and learners and contribute towards meeting the requirements of supply and demand in the European labor market. Participation in borderless lifelong learning for all, and transfer, recognition and accumulation of individuals' learning outcomes achieved in formal, non-formal and informal contexts, should therefore be promoted and improved at the Community level.

This goal is in line with the Lisbon European Council which in 2000 concluded that increased transparency of qualifications should be one of the main components necessary to adapt education and training systems in the Community to the demands of the knowledge society. Furthermore, the Barcelona European Council in 2002 emphasized the importance of improving transparency and recognition methods in the area of vocational education and training ('VET').

VET principles are directly linked to general and higher education, and to the employment and social policies of each Member State. Through their cross-sectoral impact, they promote not only the competitiveness of the European economy and fulfillment of the needs of the labor market but also social cohesion, equality and the participation and involvement of citizens.

After that the Council Resolution of 19 December 2002 on the promotion of enhanced European cooperation in vocational education and training (so called 'the Copenhagen process'), and the 2004 joint interim report of the Council and the Commission on the implementation of the Education and Training 2010 work programme, stress the importance of a credit transfer system for vocational education and training, while the 2008 joint progress report of the Council and the Commission stresses the need to step up efforts to improve the quality and attractiveness of VET.

The Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council of 15 November 2004 on the Future priorities of enhanced European Cooperation in Vocational Education and Training gave priority to the development and implementation of a European credit transfer system for VET in order to allow learners to build upon the achievements resulting from their learning pathways when moving between vocational training systems.

Starting from these premises in THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION issued RECOMMENDATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, of 18 June 2009 on the establishment of a European Credit System for Vocational Education and Training (ECVET). This Recommendation takes into account Decision No 2241/2004/EC of the European Parliament and of the Council of 15 December 2004 on a single Community framework for the transparency of qualifications and competences (Europass) and Recommendation of the European Parliament and of the Council of 18 December 2006 on trans-national mobility within the Community for education and training purposes: European Quality Charter for Mobility. This Recommendation should be without prejudice to



Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (11) which confers rights and obligations on both the relevant national authority and the migrant. Using ECVET should not affect access to the labor market, where professional qualifications have been recognised in accordance with Directive 2005/36/EC. Moreover, ECVET does not imply any new entitlement for citizens to obtain the automatic recognition of either learning outcomes or points.

The introduction and implementation of ECVET is voluntary, pursuant to Articles 149 and 150 of the Treaty, and can therefore be undertaken only in accordance with existing national laws and regulations.

The purpose of this Recommendation is to create a European Credit System for Vocational Education and Training ('ECVET') intended to facilitate the transfer, recognition and accumulation of assessed learning outcomes of individuals who are aiming to achieve a qualification. **It is a way to permit the recognition of credits acquired in courses established in a different member States with respect to states of the students in a borderless lifelong learning European space.** This will improve the general understanding of citizens' learning outcomes and their transparency, transnational mobility and portability across and, where appropriate, within Member States in a borderless lifelong learning area, and will also improve the mobility and portability of qualifications at national level between various sectors of the economy and within the labor market; furthermore, it will contribute to the development and expansion of European cooperation in education and training.

ECVET should be based on the principles and technical specifications here below.

Furthermore, it should be underpinned by the common principles for quality assurance set out in the Council conclusions of 28 May 2004 on Quality Assurance in Vocational Education and Training and the Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training. Under the Recommendation of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training, *each member State should:*

*-use and further develop the European Quality Assurance Reference Framework (the Framework), quality criteria, indicative descriptors and reference indicators, to further improve and develop their VET systems, support lifelong learning strategies and the implementation of the EQF and of the European Quality Charter for Mobility, and promote a culture of quality improvement and innovation at all levels. Extra emphasis should be placed on the transition from VET to higher education.*

*- participate actively in the European Quality Assurance Reference Framework network (the framework network) as a basis for further development of common principles, reference criteria and indicators, guidelines and tools for quality improvement in VET at national, regional and local levels, as appropriate.*

*-establish, where this does not already exist, a Quality Assurance National Reference Point for VET that is linked to the particular structures and requirements of each Member State and that, in accordance with national practice, brings together existing relevant bodies and*



*involves the social partners and all stakeholders concerned at national and regional levels, in order to ensure the follow-up of initiatives. The reference points should: keep a wide range of stakeholders informed about the activities of the framework network; provide active support for the implementation of the work programme of the framework network, take concrete initiatives to promote further development of the framework in the national context; support self-evaluation as a complementary and effective means of quality assurance which allows the measurement of success and the identification of areas for improvement in respect of the implementation of the work programme of the framework network; ensure that information is disseminated to stakeholders effectively.*

For instance the Italian Quality Assurance National Reference Point has a twofold communication strategy which includes:

- ❖ a 'top down' approach from the institutions responsible for VET at system level to the training providers; and
- ❖ a 'bottom up' approach involving the existing networks of VET training providers.

The Italian Quality Assurance National Reference Point has established a National Board of representatives from the relevant institutions (Ministry of Labour and Social Policies, Ministry of Education, and Regions), the social partners, and VET providers.

In addition, new decrees on the reform of technical and vocational schools included references to the EQAVET Recommendation and the need to develop indicators for self-evaluation and external evaluation. These are examples of the 'top down' process.

On the other hand, the Quality Assurance National Reference Point works with VET providers through their associations or through the school networks on quality issues. The Quality Assurance National Reference Point also promotes pilot projects and new approaches to quality assurance with a particular attention to the European methodology of Peer Reviews in VET.

More information is available from the Italian EQAVET National Reference Point, located in Inapp. See [www.isfol.it](http://www.isfol.it)

The ECVET recommendation is applicable for all learning outcomes which should in principle be achievable through a variety of education and learning paths at all levels of the European Qualifications Framework for lifelong learning ('EQF'), and then be transferred and recognised. This Recommendation therefore contributes to the wider objectives of promoting lifelong learning and increasing the employability, openness to mobility and social inclusion of workers and learners. It particularly facilitates the development of flexible and individualized pathways and also the recognition of those learning outcomes which are acquired through non-formal and informal learning.

Transparent quality assurance principles, exchange of information and development of partnerships between institutions competent for qualifications, VET providers and other relevant stakeholders should help to build mutual trust and should facilitate the implementation of this Recommendation.



This Recommendation should facilitate the compatibility, comparability and complementarity of credit systems used in VET and the European Credit Transfer and Accumulation System ('ECTS'), which is used in the higher education sector, and thus should contribute to greater permeability between levels of education and training, in accordance with national legislation and practice.

The validation of assessed non-formal and informal learning outcomes should be promoted in accordance with the Council conclusions of 28 May 2004 on common European principles for the identification and validation of non-formal and informal learning.

This Recommendation complements the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning (8) which recommends that Member States promote close links between the EQF and existing or future European systems for credit transfer and accumulation in higher education and VET. While the main objective of the EQF is to increase the transparency, comparability and portability of acquired qualifications, ECVET is aimed at facilitating the transfer, recognition and accumulation of learning outcomes of individuals on their way to achieving a qualification.

(10).

Since **the objectives of this Recommendation, namely to support and complement the activities of Member States, to facilitate cooperation between them, to increase transparency and promote mobility and lifelong learning, cannot be sufficiently achieved by the Member States** and can therefore, by reason of the scale or effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Recommendation does not go beyond what is necessary in order to achieve those objectives, insofar as it does not replace or define national qualifications systems, qualifications or national credit systems, does not prescribe specific learning outcomes or an individual's competences, and does not aim at or require either the fragmentation or the harmonization of qualifications systems.

### **3. Assessment of the learning results achieved by the trainees.**

With regard to the learning result we will consider the standard of academic courses inside the ECVET perspective and principles.

The European credit system for vocational education and training (ECVET) is one of the common EU tools. It is intended to aid the transfer, recognition and accumulation of assessed learning outcomes of individuals aiming to achieve a qualification and to promote lifelong learning through flexible and individualized learning pathways (Recommendation of European Parliament and Council of the EU, 2009).



In accordance to point 8 of the Recommendation, ECVET is applicable for all learning outcomes which should in principle be achievable through a variety of education and learning paths at all levels of the European Qualifications Framework for lifelong learning ('EQF'), and then be transferred and recognised.

This Recommendation therefore contributes to the wider objectives of promoting lifelong learning and increasing the employability, openness to mobility and social inclusion of workers and learners. It particularly facilitates the development of flexible and individualized pathways and also the recognition of those learning outcomes which are acquired through non-formal and informal learning.

Furthermore, the point 10 explains that the document should facilitate the compatibility, comparability and complementarity of credit systems used in VET and the European Credit Transfer and Accumulation System ('ECTS'), which is used in the higher education sector, and thus should contribute to greater permeability between levels of education and training, in accordance with national legislation and practice.

ECVET is based on the same principles as EQF and is based on the principle of cumulation of learning units. Qualifications are the set of "learning units" described in the form of Knowledge, Skills and Competences. ECVET aims to guarantee the transferability of credits from one training path to another, from one geographical context to another. ECVET credits can be issued, after evaluation, both in the face of formal training courses and on the basis of the recognition of skills deriving from informal and non-formal learning.

Hereby, is recommended to the member States to promote the European Credit System for Vocational Education and Training ('ECVET') at all levels of the EQF with reference to VET qualifications, in order to facilitate transnational mobility and recognition of learning outcomes in VET and lifelong learning without borders.

Following those considerations, with regard to

**Knowledge** the training IMMEDIATE focuses on:

- Concepts and discipline on mediation and particularly Knowledge and understanding of the EU Legal Framework on ADR and Mediation;
- EU legislative measures aimed at improving access to the civil justice system and promoting the use of ADR in cross-border civil and commercial disputes;
- Review the following EU legal initiatives on ADR:

Directive 2008/52/EC on Mediation in Civil and Commercial matters

Directive 2013/11/EU on ADR in Consumer Disputes

Regulation 524/2013 on ODR for Consumer Disputes

Regulation 1150/2019 art. 12 & 13



- What are the general principles and standards of mediation practice;
- What the European Code of Conduct for Mediators is about (in general)
- What the European Code of Conduct for Mediation Providers is about (in general)
- What drives our practice: strategic choice, mediation model and individual style
- Differences in mediation styles or models of practice
- Facilitative mediation style
- Evaluative mediation style
- Transformative mediation style
- Professional development

**Skills (or Capacity)** the training focuses on

- Ability to address the main theoretical and practical issues emerging in ADR and mediation;
- The ability to search for normative, bibliographic and jurisprudential material, and to use them for correct set-up and problem solving;
- Transcultural mediation;
- Explore where we are coming from as practitioners;
- Introduce prevailing cultural theories and relevant case studies;
- Explore the significant impact various communication methods have upon the mediation process;
- Consider our professional responsibilities as mediators working across cultures and borders;
- Identify resources for use in our practice going forward;
- What are the natural stages of cooperation development;
- What elements are important in choosing a co-mediator to work with;
- How to develop a contract for cooperation between the mediators;
- Spectrum of different roles that mediators can adopt in their collaboration;
- How to give feedback taking into account cultural differences;
- Students will develop an understanding of Online Dispute Resolution and its modalities;
- Students will learn about E-Negotiation, Online Mediation, and Online Arbitration;
- Students will become familiar with applications designed for online mediation and acquire some skills for preparing and conducting a mediation using a video-conferencing platform.

**Competence (or Expertise )**the training is addressed to implement:

Management of ADR and mediation and particularly:

- Concepts and definitions of conflict analysis;
- Steps in a conflict analysis;
- Structure of a conflict analysis;
- Significance of asking questions;
- Approaches to conflict analysis;
- Significance of communication and perception;
- Basic conditions of negotiation;
- Foundations for a successful negotiation;
- Various negotiation styles;
- Aspects of international negotiations;
- Hindrances to a successful negotiation;
- How assumptions and attributions impact on the mediation process;
- How to use positive connotation and build trust in mediation;
- How to communicate and conduct mediation with people from different cultural backgrounds.
- A set of techniques that can be applied in mediation practice – including clarification, identifying vicious circles, working with the value square model and meta-dialogue.

#### **4. Assessment of the training program in terms of impact, efficiency and effectiveness**

The Course is divided in modules focusing on:

*M01 - Alternative Dispute Resolution: Legal Framework & Mediator's Responsibility.*

The goal of this module is to provide participants with knowledge and understanding of the EU regulatory system for Alternative Dispute Resolution and gain familiarity with the main EU legal initiatives aimed at promoting the use of out-of-court mechanisms to resolve cross-border civil and commercial disputes.

*M02 - Mediation Styles and Code of Conduct.*

The module refers to general standards of mediation practice as stated in the European Code of Conduct for Mediators and similar documents as well as mediation styles that mediators might find useful in their practice. The module consists of two lessons. The first lesson focuses on ethical standards in mediation, taking into account rules and frames on the individual, organizational, national and European level. The second lesson concentrates on differences in mediation styles or models of practice, including evaluative, facilitative and transformative approach.

*M03 - Culture and Communication.*





Our cultural backgrounds provide us with a sense of identity and belonging, and ultimately shape the lens' through which we see the world. Culture is subject to change throughout our lives and influences the ways we send and receive communication. Deepening awareness of our values, beliefs and perceptions; and investigating how these link to our environment, strengthens our ability as mediation practitioners and serves to benefit parties in conflict in myriad ways.

Mediating across cultures requires a varied toolkit, which recognizes diversity and appreciates nuance. Curiosity will be our guide as together we extend our understanding of ourselves and the people we seek to support through mediation.

#### *M04 - Conflict Analysis.*

Each conflict is unique in its form and character and a sound analysis of the nature of the conflict is essential for finding a resolution. This module will start with the basic concepts and definitions of conflict analysis. The reason for conducting a conflict analysis and the various steps involved will be described. In the next lesson, participants will become acquainted with tools to conduct conflict analysis. Here the significance of asking questions, the categories of questions and the order of asking questions will be described. Participants will also benefit from new concepts of viewing the conflict in this section.

Finally, a narrative about 'Killing the Play' by author A C Whelan will sum up the lesson.

#### *M05 – Negotiation.*

Negotiation is a vital part of any dispute resolution mechanism. A mediator should also have the right techniques to conduct a negotiation, in order to bring clarity of the individual needs and cooperation between the parties on a negotiation table. In this module, essential skills required for a successful negotiation are discussed. The importance of communication and perception development, basics of negotiation, different negotiating styles and the aspects of international negotiations are explained.

#### *M06 - Mediation Stages.*

This module provides participants with an overview of the mediation process and its main stages, with a particular emphasis on the cultural and legal issues involved in cross-border mediation.

Participants will review a 4-stage mediation process designed to facilitate cross-border disputes

Participants will be able to demonstrate competence in mediation, the ability to differentiate various mediation stages and understand the importance of the preparatory phase in cross-border commercial disputes

The module will help students reflect on and evaluate the impact cultural influences may have on mediation in cross-border disputes

#### *M07 - Mediation techniques.*

The module refers to techniques that mediators might find useful in international practice. It consists of three lessons. The first lesson focuses on reflexivity in mediation, taking into account assumptions and cultural lenses. The second lesson concentrates on the initial phases of mediation (including preparation) and varying expectations as well as ways of communicating and working with culturally diverse parties. The third lesson focuses on some specific techniques useful throughout the mediation process, including clarification, identifying vicious circles and working with the value square model.

#### *M08 - Co-mediation.*

The module refers to the process of establishing creative cooperation between co-mediators.

In the first lesson we will look at a natural dynamic of cooperation which is irrespective of the mediators' competence and personality. In the next lesson we will try to show how the potential of co-mediation depends on the complementary professional competences of the mediators, as well as the compatibility of their personal characteristics. In the third one we will focus on practical aspects of establishing cooperation between co-mediators.

#### *M09 - Online Dispute Resolution.*

The goal of this module is to provide participants with a general overview of online dispute resolution, specifically e-negotiation, online arbitration, and online mediation. In this module, we will also discuss the advantages and disadvantages of using video-conferencing platforms for online mediation and offer some tips for preparing and conducting mediation in a virtual space.

### **5. Final Assessment.**

ECVET is also a methodology for describing a qualification in terms of units of learning outcomes to which credit points are associated. In practice, in any context regional or national qualifications or education/training programs can be divided into units or parts of units. A unit is defined within ECVET as the smallest part of the qualification or training programme, and is result-oriented. The unit

is the object of the assessment and can, possibly, be certified. Each unit also corresponds to a specific combination of Knowledge, ability (Skills) and Expertise (Competence) and it can be of different measure, in accordance with national education and training systems.

As part of the ECVET recognition methodology, the University of Florence suggests assigning an adequate number of credits to each part of the training and the learning outcomes. Tools



and procedures adopted in order to define a framework of skills is of fundamental importance for a transnational mobility project like IMMEDIATE is. It could be certified through ECVET if in accordance with the relevant lines of this system. **The Italian system of education and certification of professional skills, knowledge and competences is aligned with ECVET principles (see D.lgs. 16/01/2013 n° 13, G.U. 15/02/2013).**

First of all, consider the following table with reference to the relationship between study commitment, theoretical and practical lessons, training results, number of credits recognized:

MODULE	Knowledge	Ability	Expertise	Credits
M01	EU regulatory system – EU legal initiatives			1
M02	Standards of mediation practice as stated in the European Code of Conduct for Mediators			2
M03		Deepening awareness of our values, beliefs and perceptions		2
M04		Asking questions		2
M05		Conduct a negotiation		2
M06		Ability to demonstrate competence, to differentiate various mediation stages and to understand the importance of the preparatory phase in cross-border		4



		commercial disputes		
M07			Reflexivity in mediation, taking into account assumptions and cultural lenses. Preparation and varying expectations as well as ways of communicating and working with culturally diverse parties. Specific techniques useful throughout the mediation process, including clarification, identifying vicious circles and working with the value square model	3
M08			Creative cooperation between co-mediators	3
M09			Overview of online dispute resolution, specifically e-negotiation, online arbitration, and online mediation. The advantages and	2



			disadvantages of using video- conferencing platforms	
Total				<b>21 Credits</b>

ECVET is a solution for those benefiting from mobility programmes transnational also in learning contexts for mediators. So, the description of qualifications in terms of units of learning outcomes allows one to define the knowledge, skills and competences that characterize each qualification and to improve their readability both for the person and for the bodies responsible for qualifications, both for employers.

One of the basic principles of the ECVET system is mutual recognition and mutual trust between countries that adopt it. It is not an obligation for the different education systems and training and should be developed and implemented gradually on a voluntary basis; the application of ECVET in the countries that will adopt it will in fact have to take into account the existing national or regional legislation and/or sectoral regulations regarding qualifications.

In line with ECVET's aims, UNIFI proposes that the "mediation qualification" recognition could be achieved at the European level through the creation of a Working group called "Mediation Skills Certification Group".

The Group could be engaged in verifying the possession of the qualifications described in the table, eventually with the recognition, even partial, according to the credits acquired and the final test could be used for the assessment of competences for the professional qualification. The title of international mediator could be acquired only with the completion of the credits as indicated above.

The training experienced in the context of the InMediate Project proved to be complete with regard to the wealth of knowledge, skills and competences that a mediator's professionalization system requires.

