

**INTERNATIONAL ASSOCIATION OF JUDGES
48TH ANNUAL MEETING – MOROCCO 2005**

2ND STUDY COMMISSION

QUESTIONNAIRE

**Alternative Dispute Resolution
as a means of improving the delivery of justice
and reducing the delays in civil procedure**

I

Question 1

What alternative means are used in your legal system for resolving civil law disputes outside normal court procedures?

- Mediation (a process in which the parties engage a mediator or conciliator to encourage and assist them towards agreeing a solution)
- Arbitration (a process in which the parties agree to submit their dispute to a binding decision by an arbiter)
- Non-binding arbitration (a process in which the parties obtain a decision on their dispute but which is non-binding and does not prevent litigation)
- Other methods [please describe]

Question 2

(a) Are any of the alternative means used in your country subject to special regulation by statutory provisions?

(b) Does a mediator or an arbiter require to have a particular qualification or to have undergone professional training?

(c) If a mediator requires to undergo training, who provides such training?

(d) Is there a professional organisation of mediators which lays down rules of professional conduct?

Question 3

- (a) Insofar as alternative dispute resolution procedures are available and are in use in your country, what are the principal areas of law (for example family law, building or construction law, medical negligence claims, consumer cases, etc) in which disputes are settled by the alternative procedures?
- (b) Are there any types of civil law dispute which cannot be resolved by such alternative means but must be decided by a court?

Question 4

- (a) Is any publicly funded system of mediation available in your country? In particular, is there any mediation service annexed or attached to the courts?
- (b) If so, for what types of civil law dispute is publicly funded mediation available?

Question 5

- (a) To what extent, and by what means, are the courts in your system able to encourage or to require parties to attempt mediation or some other form of alternative dispute resolution either as a preliminary to commencing any litigation or in the course of ordinary court proceedings?
- (b) Is the court administration able to assist litigants, or potential litigants, in using alternative dispute resolution procedures by, for example, explaining the various possibilities of alternative dispute resolution or providing information about mediators or arbiters?

Question 6

- (a) Has the use of alternative dispute resolution procedures in your country been increasing in recent years?
- (b) If so;-
 - (i) are there any particular reasons for the increase in use of alternative dispute resolution procedures?

- (ii) has the increase in use sufficiently reduced the burden of work on the courts to allow the courts to improve the delivery of justice?
- (iii) has any alteration been made to the rules of procedure or the practices of the courts in response to the increase in the use of alternative dispute resolution?

Question 7

In your system does the court provide any procedures in which a judge acts as a mediator?

Question 8

Are there any proposals to change the law relating to alternative dispute resolution procedures?

II

Which points would you wish to discuss in detail?

III

What subject do you suggest for the next meeting?

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Please send your response to the president of the study commission at the following address by **30 September 2005** :

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or

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