

FRANCE

Mediation in individual employment conflicts brought before the Court of Appeal in Grenoble

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Litigation is rarely born in juridical terms. It finds its sense and its solution in a person's suffering. The latter, once translated in the cold and impersonal terms of the law, disappears completely from the proceedings, while being more and more present and oppressive for the person. A human being cannot be translated into a juridical equation. When the judge has rendered his decision in law, he has left intact the invisible part of the iceberg, which is also the most considerable and which is the centre of emotions.

The static aspect of the judgment moves away from the evolving aspect of human conflict. The litigation dealt with by the judge is the juridical translation of a photograph of a situation at a given moment.

According to Section 131-1 of the Code of Civil Procedure, since the French law on judicial mediation of 1995: “the judge to whom a litigation has been referred may, after having received the consent of the parties, designate a third-party in order to hear the parties and to confront their points of view so as to permit them to find a solution to the conflict that opposes them”.

Few cases of mediation have been instigated by judges in industrial tribunal cases. The activities of the social chamber of Grenoble between 1996 and 2005 are more significant. The chamber ordered more than 1000 mediations with a resolution rate of more than 75%.

Mediation is carried out under the supervision of a judge, who retains control of the case.

1) The judge makes a selection of cases appropriate for mediation

Cases chosen for mediation must fulfil certain criteria: (length of service of the employee, family conflicts, maintaining existing links)

2) The judge provides information about mediation

3) The judge proposes mediation

During special mediation proposition hearings organised by the social chamber of Grenoble, 40 cases were recruited by audience. The measure was accepted in around 50 % of cases.

4) the judge approves the agreement

During the approval of the agreement, the judge exercises limited control.

Mediation has shown that, in commercial and civil matters, there were agreements in approximately 80% of the cases and that they were executed without difficulty and very rapidly because they are accepted.

GEMME www.gemme.eu

ASSOCIATION OF EUROPEAN JUDGES FOR JUDICIAL MEDIATION

Gemme was created on 19th December 2003, under the leadership of Guy Canivet, First President of the French Supreme Court.

In its communication with the European institutions, Gemme has the status of Observer to the Council of Europe.

Gemme brings together : career judges, specialising in civil, commercial, family, criminal and tribunal fields. Lawyers, academics and mediators may be admitted to associate membership.

Gemme works to develop and monitor the quality of mediation and conciliation (conferences, good practices, guides and exchanges of experience, training)

INTERNATIONAL CONFERENCE ON MEDIATION AND JUSTICE (CIMJ) **www.cimj.com**

On the 16th of October 2009, at the Luxembourg Palace in Paris, the International Conference of Mediation for Justice (ICMJ), known as CIMJ, which aims to bring together the five continents, was established.

By bringing together judges, lawyers, mediators, specialists in mediation, and academics from all countries, CIMJ will facilitate the exchange of knowledge and best practices, taking into account cultural diversity.

The presence of ICMJ on all five continents will encourage the creation of an international network of those interested in mediation.