Mediation is an important factor in enhancing the business enabling environment, as it helps businesses to unlock capital tied up in litigation, while reducing pressure on the clogged courts.

An IFC Survey “The practice of companies in Bosnia and Herzegovina in commercial dispute resolution” showed that local and foreign companies most often use court methods of dispute resolution – litigation and court settlement. According to the Doing Business Report 2007 enforcing a commercial contract in the region takes around 500 days, which directly hinders economic development and inhibits future investments.

Which method have companies used to resolve their disputes?

![Graph showing litigation at 61%, court settlement at 18%, negotiation at 16%, mediation at 2%, and arbitration at 1%]

Now, businesses have a possibility to use a cheaper, effective and efficient way to resolve their disputes, while at the same time preserving business relations.

IFC’s Alternative Dispute Resolution Program in Southern Europe provides businesses with an effective tool – mediation by:

- **Supporting** the improvement of the legal and regulatory framework to enable a broad introduction of mediation.

- **Developing** a professional cadre of mediators and building skills of local civil society institutions committed to the expansion of commercial mediation.

- **Building** a commercial viable network of mediation centers throughout the region.

- **Educating** businesses, investors, legal professionals and state representatives about the benefits of mediation.

The three year Program introduces mediation in order to allow cheaper and faster resolution of commercial disputes.

**Serbia Welcomes Mediation**

23 trainers and 81 mediators certified

The first national mediation center was opened in Belgrade in August 2006. Beside mediation services, the Center delivers trainings for mediators according to the newly developed Training Manual for Mediators. Future mediators can specialize in three areas: commercial disputes, disputes involving national minorities and juvenile disputes.

“The opening of the center is one of the most important elements in the reform of our judiciary. The mediation center will provide a more efficient and cheaper way of resolving commercial disputes while at the same time cutting the backlog of cases we face in our courts” said Mr. Zoran Stojkovic, former Serbian Justice Minister, at the opening ceremony.
Statistics from the mediation pilot projects in Southern Europe:

During the last two years, more than 2700 disputes were mediated in Bosnia and Herzegovina, FYR Macedonia and Serbia. Agreements were reached in 2053 cases within an average time of 2.4 hours for the mediation session.

| Number of mediation centers established | 10 |
| Number of cases mediated                | 2735 |
| Number of successful mediations         | 2053 |
| Released funds                          | $60,000,000 |
| Success rate                            | 76% |
| Average time in court                   | Doing Business Report 2007 |
|                                         | 500 days |
| Average time in mediation               | 2.4 hours |

MEDICATION

Mediation is commonly defined as a process of settling disputes in which a third party oversees the negotiation between two parties but does not impose an agreement. It is a useful vehicle for improvement of the investment climate, the trust of businesses and it constitutes a viable complement to litigation.

Progress of the implementation of the Alternative Dispute Resolution Program:

- State institutions across the region strongly support non-judicial commercial dispute resolution. The national laws are adjusted, positive policies and practices are adopted which are in accordance with international ADR standards.

- Ten mediation centers were established in Bosnia and Herzegovina, FYR Macedonia and Serbia. More than 2700 cases were mediated by 62 mediators trained according to best international practices. In 95 percent of the cases mediating parties reported increased trust in the legal system; 75 percent of businesses reestablished business relations after mediation.

- Assisted establishment and development of civil society institutions across the region. A new profession, mediator, created, allowing for additional employment opportunities.

- The advantages of mediation were promoted at more than 140 events across the region, attended by 5000 participants; 65 training sessions were delivered.

Bosnia and Herzegovina

Mediators helped business reach an agreement in 150 cases

IFC assisted in the development of the Association of Mediators in Bosnia and Herzegovina. Two mediations centers, in Sarajevo and Banja Luka, were transferred to the Association in April 2007. More than 280 individuals were trained in mediation; 12 fully trained mediators have mediated 342 cases in these two centers, releasing close to $ 12.8 million in assets to parties. The Association offers mediation services, trainings, certification, seminars, presentations and direct consulting on mediation. A businessman from Banja Luka on how four disputes involving his company were resolved in just three hours through mediation:

“The mediation process resulted in nearly $1.9 million being freed up for my business. So, in my case, this quick turnaround time in resolution of my disputes, literally translated into millions of dollars, which I am now able to reinvest.”

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