

Interviews Report- MEDIMARE Project

DATA COMPILATION OF INTERVIEWS PORTUGAL AND NORWAY

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Introduction

The MediMARE Project is a project funded by the EEA Grants (an agreement between European Union, Iceland, Liechtenstein and Norway, PT-INNOVATION-0065) under the leadership of Professor Doctor Dulce Lopes, from the University of Coimbra Institute for Legal Research (UCILeR). The project aims to research on the perception of the importance of mediation for a consensus-oriented conflict management in maritime disputes, and, with this input, produce several outcomes.

To be able to develop the perception of the importance of mediation for solving maritime disputes, several interviews were conducted between the months of October and November of 2022 in Norway and in Portugal. In this report, we briefly describe the findings of the interviews.

Nineteen interviews were conducted in Portugal and ten in Norway. The choice for the interviewees was made based on their area of expertise, in order for the Project Team to have a broad vision of several areas of work related to maritime activities. There were lawyers, a shipowner, an insurance company director, a Port Counselor of the Board of Advisors, a Port Director of Business and Logistics, a Port Director of Equipment, Infrastructure and Environment, a Maritime Police Commander and Port Captain, the CEO of a Fishing Company, the Manager of an Environmental Agency, the CEO of an Aquaculture Company, the Member of Development Association of artisanal fishing (Xávaga), a Fisheries Researcher, Fisheries production director, a Maritime Administration, Maritime And Natural Resources Director, Historian and Researcher, an Administrative in a Fishery Association and the Head of Environmental affairs in a public administration. The Norway team interviewed governmental members, people that work with insurance, lawyers, academics and consultants, shipbrokers and a maritime mediator.

In Portugal the interviews were conducted in three fronts. At the University of Coimbra Institute of Legal Research, they were conducted by Roberta Donato, accompanied by a colleague Project Member (either Fernando Borges or Ana Paula Alves) and under the supervision of Dulce Lopes. At the Polytechnic of Leiria they were conducted by Ana Paula Alves with the participation of Cátia Marques Cebola and Roberta Donato. And, at NOVA University they were conducted by Lia Vasconcelos, Filipa Ferreira, Francisco Libreiro and Matilde Almodovar. In Norway, the

interviews were conducted by Jon Ivar Håvold, from NTNU Social Research (with Minerva Consulting AS) and data was treated with the support of Kristine Størkersen.

Most interviews were conducted in Portuguese and Norwegian, native languages of the interviewees, except for one interview, which was held in English.

This report was compiled by Roberta Donato and Dulce Lopes, with the inputs of the reports made by Cátia Marques Cebola, Ana Paula Alves, Lia Vasconcelos, Filipa Ferreira, Francisco Libreiro, Matilde Almodovar, Jon Ivar Håvold and Kristine Størkersen.

In the annex to this Report you will find the interview partial reports from the Portuguese teams and the Norwegian team.

1. Interviewee's personal experience with mediation

Most of the interviewees in Portugal did not have any experience with mediation as a formal procedure. Some do, and mentioned experiences in different areas, such as labour mediation, mediation in the fisheries area, with fisherman or with fishing spaces and insurance mediation. Conflicts among fisherman regarding the size of the fishes and its prices, the fishing areas and personal conflicts among fisherman in the harbor.

Also, one of the interviewees mentioned a very long insurance litigation that occurred and could have been solved if mediation was attempted. The litigation in court took over 20 years to finish, and during all this time, besides the conflict being in place, money (guarantee) remained deposited, so the economic losses were enormous.

There were few interviewees who did understand mediation as the best positive means of solving portuary conflicts, some because there are three types of conflict management within the ports, before reaching a mediation level, and one of them mentioned specially he understood any negotiation with State money could be an indication of corruption.

One of the Portuguese interviewees acts as a Conciliator in maritime conflicts and he is a Port Captain and was going to conciliate / mediate a conflict between a Fishowner and a Navigating Agent, regarding the destruction of a fishing instrument.

In general terms, the attitudes of most of the interviewees regarding mediation are positive. They mentioned, in different terms, how negotiating saves time and money, and helps preserve relationships. Also, how litigation is more expensive. Two interviewees answered that it depends

on the context to know whether mediation is positive or not – one of them did not show a great enthusiasm regarding mediation. For him, it depends on the concrete circumstances to be able to decide whether mediation might be useful. It depends on the relationship of the parties, the type of dispute, the history of the dispute, and a group of factors to know if mediation is adequate or not. One interviewee answered mediation is not an acceptable way of solving disputes, and here we introduce a *caveat* that the answer was giving considering a specific circumstance: of a mediation involving the public administration, having to pay any financial amount to a particular. In such case, the interviewee understood mediation is not a proper means of solving public disputes, which ought to be decided by a judge, to have more transparency and accountability with public spendings.

All the interviewees from Norway consider mediation as very acceptable or positive, and that is confirmed by the fact they seem to have more experience with mediation (8 in 10 answered to have had experience with mediation). Only one interviewee in Norway understood mediation could “weaken transparency, fairness, and legal protection, as opposed to the public court system”. All the other rendered positive comments, such as: mediation is less expensive than courts, and could support with more with maritime problems (less understood by the courts); mediation is highly needed to find a positive, quick and cheaper solution, in opposition to a public legal system. They also mentioned it can be used by the insurance companies (same position as rendered in Portugal). And that mediation “is a very elegant, cheap and fast way to solve disputes”.

It is important to mention that most of the interviewees from Portugal do not have a basis or background in mediation. Some of them have experience or training in litigation and arbitration. The reality was different in Norway, where most of the interviewees had experience with mediation, and almost half had training in mediation.

We could also understand that some interviewees gave answers depending on their background and the area they are inserted in (as already mentioned). So, exemplifying it: an interviewee that works in a Port, reads all situations as being very regulated, from the Port’s perspective, and thus tends to answer that mediation is not a good fit in such situations. We will make the respective *caveats* in the situations in which we have identified these strainers.

2. Interviewee's thoughts regarding the suitability for mediation

2.1 Regarding the types of disputes

Two types of questions were presented to the interviewees. First, they were asked to intuitively answer for which types of disputes mediation would make sense, and second, we presented a list of maritime disputes to the interviewees, from which they were supposed to grade from 1 to 5, where 1 is unsuitable and 5 is strongly suitable. The list included Salvage; Collision; Hull damage claims; Groundings; Charter Party Disputes (freight, hire, demurrage); Unseaworthy claims; Towing; Personal Injury; Marine insurance disputes; Cruise passenger (contractual, injury, death claims); Cargo (damage, construct of carriage, bills of lading, dangerous cargos); Ship building contract or repair disputes; Bunker disputes; Claims regarding the crew, passengers, stowaways and shore workers; Marine pollution; Work conditions at sea; Harassment claims; Safety issues; Fishing quotas; Use of the sea for recreational purposes; and Use of the sea for economic purposes (energy, for instance).

For this question, some of the "open" answers presented in Portugal were: When there is an accident between two boats, among ship owners. Also, when there is an accident in the ocean, not among boats, but regarding fishing acts. When, for example there is fog and a collision occurs; Disputes related to responsibility, to salvage, to pollution, to rights of fishing quotas, removal of ship wrecks, sinking ships, maritime cables; Disputes involving large amount of money and long procedures. Complicated procedures; In the port maritime area mediation is not convenient. In a conflict between fisherman and recreational shps, it would be convenient; An interviewee also understands there is no need for mediation when the parties already have some kind of agreement (when they could use directive negotiation), being more important when there is none; Another interviewee understands direct contact and proximity with the community are essential to solve disputes; In a perspective of a public administration, an interviewee understands disputes that do not involve public spendings may be mediated; Main disputes: Conflicts between fisherman, Recreational boating, Recreational and sporting activities; What is more appropriate and there are still some cases to be resolved is the Mediation of the waters of the Exclusive Zone of the different countries; Mediation is suitable for any dispute or conflict. In all mediation in which an interviewee participated, it was always advantageous; Aquaculture always has great difficulties in communicating with fishing. It is very

common to have some conflict with fishing in the use of spaces and with those who share access to water.

There was also the mentioning of: disputes regarding maritime spatial planning and all the new tensions/conflicts that this type of situation has legally created, between different people/promoters who want to use the same space and between sectors as well, are the type of disputes where mediation must be more suitable; disputes regarding the conflicts between ships and crewmembers are more crucial and suitable for the need for mediation; disputes regarding the use of the maritime space; conflicts between various forms of use of the sea, whether maritime or coastal (surfing communities vs. maritime legislature) or conflicts related to maritime power (such as South China Sea Dispute); Conflicts between fishermen and legislators; and conflicts between vacationers and fishermen and conflicts between surfing and fishing community.

The answers given in Norway are exemplified with collision; compensation after an accident; disputes on contracts and understanding of facts; disputes over a hull damage; seaworthiness; disputes where both parties are professionals (such as in shipping); bunker; demurrage; charter-party, insurance and employment disputes, salvage, hull, groundings, and shipbuilding; shipping agreements, construction risk, hull damage salvage; “a little more problematic can be product defects, bunker disputes, and areas where the balance of power between the parties is uneven, as can be the case in personal injuries”; All disputes may be solved by mediation, but the ones with many parties are the most difficult to solve; if the parties have an unbalance of power, that may be problematic.

Regarding the graded questions, the numbers varied widely. There was no pattern followed. Except that few interviewees decided not to answer the second part of the questions either for not having enough knowledge on it, either for understanding it is hard to answer to these questions in an abstract manner. Also, depending on the area the interviewee works with, their grading would differ substantially. For example: the professional that works with public international law graded poorly all the private disputes. Some interviewees graded the disputes low since they understand they are very regulated and there is no room for mediation.

SUITABILITY OF MEDIATION 2												
Salvage	1		5	3	1	5	3	5	5	4	5	4
Collision	1		5	3	1	1 ou 5	2	5	2 ou 3	4	5	4
Hull damage claims	1		4	2	1	4	3	5	3	2	5	4
Groundings	3		4	2	1	1 ou 5	3	5	3	2	5	4
Charter Party Disputes (freight, hire, demurrage)			4	3	1	4	3	3	5	5	1	4
Unseaworthy claims	1		5	3	1	4	4	5	3	3	4	4
Towing	1		3	3	1	4	4	5	5	3	5	4
Personal Injury	1		4	1	1	4	1	4	5	4	5	4
Marine insurance disputes			4	2	1	4	3	3	5	4	5	4
Cruise passenger (contractual, injury, death claims)			5	2	1	4	4	3	3	1	5	4
Cargo (damage, construct of carriage, bills of lading, dangerous cargos)			1	1	1	4	3	4	3	3	5	4
Ship building contract or repair disputes			3	2	1	5	2a5	3	3	4	5	4
Bunker disputes			3	2	1	4	2	3	3	5	5	4
Claims regarding the crew, passengers, stowaways and shore workers			5	2	1	4	3/4/2/	4	5	4	5	4
Marine pollution			5	3	1	2	1	5	3	2	5	4
Work conditions at sea	3		5	3	1	4	2	4	5	3	1	4
Harassment claims			5	3	1	5	3	5	5	3	5	5
Safety issues			4	2	1	3	3	5	5	4	5	4
Fishing quotas			5	2	1	1	3	3	5	1	1	5
Use of the sea for recreational purposes			4	2	4	4	4	4	3	3	5	3
Use of the sea for economic purposes (energy, for instance)			5	3	1	4	4	4	3	3	5	4

Table 1. Suitability of Mediation – Interviewees from UCLer and Leiria

SUITABILITY OF MEDIATION 2									
Salvage	2	NA	4	4	5	1	2		
Collision	3	NA	5	4	5	2	1		
Hull damage claims	?	NA	?	5	5	4	3		
Groundings	?	NA	?	5	5	2	2		
Charter Party Disputes (freight, hire, demurrage)	?	NA	2	5	5	5	?		
Unseaworthy claims	?	NA	?	3	5	3	3		
Towing	?	NA	4	?	5	1	3		
Personal Injury	?	NA	?	5	3	1	4		
Marine insurance disputes	4	NA	4	5	5	5	3		
Cruise passenger (contractual, injury, death claims)	?	NA	?	5	5	4	4		
Cargo (damage, construct of carriage, bills of lading, dangerous cargos)	?	NA	4	3	5	4	3		
Ship building contract or repair disputes	?	NA	4	2	5	3	?		
Bunker disputes	?	NA	?	1	?	2	?		
Claims regarding the crew, passengers, stowaways and shore workers	1	NA	4	4	3	5	4		
Marine pollution	3	NA	5	5	5	5	2		
Work conditions at sea	4	NA	4	3	3	5	3		
Harassment claims	?	NA	5	5	1	5	3		
Safety issues	?	NA	3	2	1	4	2		
Fishing quotas	4	NA	4	1	3	3	3		
Use of the sea for recreational purposes	5	NA	4	4	5	5	4		
Use of the sea for economic purposes (energy, for instance)	4	NA	?	5	3	5	4		

Table 2. Suitability of Mediation – Interviewees from NOVA

SUITABILITY OF MEDIATION 2										
Salvage	5	Mediation	Especially	4 to 5	Think	Shipbrokers	Sign of	2 to 5	5	4 to 5
Collision	5	is a very	suitable in	4 to 5	most	already solve	weakness	2 to 5	5	4 to 5
Hull damage claims	5	good idea	situations	4 to 5	disputes	issues at the	not wanting	2 to 5	5	4 to 5
Groundings	5	especially	where	5	can be	lowest level	mediator.	2 to 5	5	4 to 5
Charter Party Disputes (freight, hire, demurrage)	5	on	it is important	3 to 4	solved by ADR	He had only	A lot of mediation	2 to 5	5	4 to 5
Unseaworthy claims	1 to 5	contracts	to keep	4 to 5		one case that	possibilities	2 to 5	n.a.	4 to 5
Towing	5	and	the	4 to 5	Without	went t court	in maritime	2 to 5	5	4 to 5
Personal Injury	2 to 5	in	relationship	4 to 5	insurance	He think	disputes.	2 to 5	5	4 to 5
Marine insurance disputes	5	situations	between	4 to 5	we could	that most cases	Many can be	2 to 5	5	4 to 5
Cruise passenger (contractual, injury, death claims)	2 to 5	not	the parties	n.a.	not afford a litigation	can be solved with ADR	solved using	2 to 5	n.a.	4 to 5
Cargo (damage, construct of carriage, bills of lading, dangerous cargos)	5	covered	(n.a. on the specifics)	5			mediation	2 to 5	5	4 to 5
Ship building contract or repair disputes	3 to 5	by		4 to 5	3 to 5			2 to 5	4 to 5	4 to 5
Bunker disputes	2 to 5	law		5				2 to 5	2 to 5	4 to 5
Claims regarding the crew, passengers, stowaways and shore workers	3 to 5	(n.a. on the specifics)		1 to 5 (well regulated)				2 to 5	5	4 to 5
Marine pollution	1 to 2			1 to 2				n.a.	5	1 to 5
Work conditions at sea	3 to 5			5				4 to 5	5	4 to 5
Harassment claims	3 to 5			3 to 5				4 to 5	5	4 to 5
Safety issues	2 to 4			2 to 5				n.a.	n.a.	4 to 5
Fishing quotas	n.a.			n.a.				n.a.	5	4 to 5
Use of the sea for recreational purposes	n.a.			n.a.				n.a.	n.a.	4 to 5
Use of the sea for economic purposes (energy, for instance)	n.a.			n.a.				n.a.	n.a.	4 to 5

Table 3. Suitability of Mediation – Interviewees from NTNU

2.2 Regarding the characteristics of the disputes

In this question, the parties were asked to answer on a scale from 1 to 5, where 1 is unsuitable and 5 is strongly suitable, in which situations mediation could make sense. The list presented was the following:

- Parties have a history of cooperation and successful joint problem-solving.
- The number of parties to a dispute is limited. How many parties maximum?
- Issues are not overwhelming in number, and the parties have been able to agree on some issues
- The hostility among the parties is moderate
- The parties desire for settlement is high
- There is an external pressure to settle (time, money, or unpredictable issues?)
- There is an existing or a possibility of an ongoing relationship among the parties.
- The alternative to mediate is unsatisfactory (eg. a quick solution is needed, ...)

In this question, most interviewees understood all these characteristics as very positive. There were few exceptions of answers that were graded unsuitable. In such cases, there was a specific understanding in case of the interviewee, for example: for question number 1 “Parties have a history of cooperation and successful joint problem-solving” and “The parties desire for settlement is high”, the people who answered unsuitable understood that since the parties had

already a history of cooperation, mediation was not needed. They could solve the issue in an even easier means other than mediation, such as a direct negotiation.

For question “The number of parties to a dispute is limited”, interviewees had a different understanding. Some understood it was better to use mediation when a conflict with more complexity and some understood when there was more complexity, parties should move to arbitration.

The same with “there is an external pressure to settle” and “the alternative to mediate is unsatisfactory”. Some understood that since a quick solution was needed, that was motivation to mediate and solve the conflict faster. Some understood that if something was pressuring the parties to mediate, that was not a good option. The interest in having a solution must be mutual and the parties must be interested in solving the conflict – any external pressure would “ruin” the mediation.

Regarding the hostility among the parties, for the interviewee who gave a low grade, there should not have hostility among the parties for a mediation to happen.

SUITABILITY OF MEDIATION 3												
Parties have a history of cooperation and successful joint problem-solving.	5	1	1	5	4	4	1	5	5	5	2	4
The number of parties to a dispute is limited. How many parties maximum?		3	3	5	4	1	3	5	3	4	3	4
Issues are not overwhelming in number, and the parties have been able to agree on some issues		2	3	5	4	4	4	4	3	3	3	4
The hostility among the parties is moderate	5	4 ou 5	4	5	1	2	4	4	5	3	3	4
The parties desire for settlement is high		4	3	5	4	1	4	5	5	5	2	5
There is an external pressure to settle (time, money, or unpredictable issues?)		3	5	4	1	4	4	5	5	2	3	3
There is an existing or a possibility of an ongoing relationship among the parties.		2	3	4	4	1	4	5	5	4	3	5
The alternative to mediate is unsatisfactory (eg. a quick solution is needed, ...)		5	3	4	1	2	3 ou 4	4	3	2	4	5

Table 4. Suitability of Mediation 2 – Interviewees from UCLeR and Leiria

SUITABILITY OF MEDIATION 3								
Parties have a history of cooperation and successful joint problem-solving.	0 = it depends	NA	4	1	5	1	5	
The number of parties to a dispute is limited. How many parties maximum?	0	NA	4 maximum	two maximum	three maximum	three maximum	five maximum	
Issues are not overwhelming in number, and the parties have been able to agree on some issues	0	NA	4	5	4	4	4	
The hostility among the parties is moderate	0	NA	4	4	3	4	4	
The parties desire for settlement is high	0	NA	5	5	5	4	5	
There is an external pressure to settle (time, money, or unpredictable issues?)	0	NA	4	5	3	5	3	
There is an existing or a possibility of an ongoing relationship among the parties.	0	NA	4	4	5	2	4	
The alternative to mediate is unsatisfactory (eg. a quick solution is needed, ...)	0	NA	4	5	3	3	5	

Table 5. Suitability of Mediation 2 – Interviewees from NOVA

SUITABILITY OF MEDIATION 3										
Parties have a history of cooperation and successful joint problem-solving.	4 to 5	n.a.	5	5	5	5	5	4 to 5	5	5
The number of parties to a dispute is limited. How many parties maximum?	4	n.a.	n.a.	5	n.a.	5	5	4	4	5
Issues are not overwhelming in number, and the parties have been able to agree on some issues	4	n.a.	n.a.	4 to 5	n.a.	5	5	4	5	5
The hostility among the parties is moderate	5	n.a.	5	5	5	n.a.	n.a.	5	5	5
The parties desire for settlement is high	5	5	5	5	5	5	5	5	5	5
There is an external pressure to settle (time, money, or unpredictable issues?)	5	5	5	5	5	5	5	5	5	5
There is an existing or a possibility of an ongoing relationship among the parties.	5	5	5	5	5	5	5	5	5	5
The alternative to mediate is unsatisfactory (eg. a quick solution is needed, ...)	5	5	5	5	5	5	5	5	5	5

Table 6. Suitability of Mediation 2– Interviewees from NTNU

3. Interviewee's thoughts regarding the necessary skills for a mediator

This questioning is two folded. The first question was an open question where the interviewee was solicited to list what skills he or she understood were required for a mediator to present in order for a maritime mediation to be effective.

The qualities freely listed by the interviewees were: to be respected by the parties, to have moral suitability, be friends with people and 'an arbitrator' (*sic*); to have technical knowledge and to know well all the tools available in mediation. To promote a dialogue and how to make the parties have constructive ideas to generate an agreement; empathy, to make the parties feel comfortable, knowledge over the subject matter under discussion, confidence of the parties, impartiality, capacity to build bridges and create solutions; impartiality, the need to be prepared, to be able to coordinate, to have the concept of the parties, to have expertise (both technical and in mediation), and availability; for an interviewee it is important for the mediator to have the ability to convince the parties that they will both win for them to reach an agreement, otherwise, it will never happen. He must help the parties feel committed to a certain goal, and that will depend on the confidence that the parties have among them and in the mediator; for one of the interviewees it is important for the mediator to have a relevant experience in public management to have an understanding of the public interest, as well as previous experience in conflict management; be a good listener, be very objective, to interpret well what is at stake and analyze well what the parties intend.

Also, it is important that the mediator knows the process well and the motivation of each party; identifies the advantages and disadvantages in the good or bad conclusion of the mediation and explains this to the parties; identifies the disadvantages of mediation failure, because sometimes to achieve success it is necessary to focus on failure. And in terms of personal characteristics, the mediator must be able to listen and identify the key points of the argument. The mediator needs to know deeply the fact that is under discussion and then have personal skills to carry out a mediation such as ability to dialogue in order to achieve the objectives of conflict resolution; The mediator has to know the problems; Hear the parties; Have common sense to negotiate; Have knowledge of the cause; and especially, to mediate he/she has to be an expert in the cause; The mediator has to know the matter well, technically; He or She has to be a calm person; Be impartial, he or she cannot have any interest or relationship with any of the parties and has to be emotionally distant from the concrete problem. It is fundamental that there are no emotions; Be a good listener and be impartial.

The interviewees from Norway listed: To listen and ask for information; To have reputation, neutrality, to show distance to both sides (recognizing in small countries you often know the parties on both sides, so keep a professional distance); See the big picture, see the advantages of a solution: i.e. being solution-oriented; Create trust: commercial understanding, professional

expertise and competence and human understanding; Have experience and had done a good job in previous mediations; Have the parties' confidence; Being objective; To use four criteria to know what is a good mediator: to be a good lawyer; to have a good commercial orientation to understand what the dispute is about and what is the room for maneuver for the company chiefs; be a good pedagogue and be able to communicate to the chiefs in the way they understand, and to convince them into getting into an agreement; Trust; Good reputation increases credibility for a mediator; Neutrality, fairness and negotiation skills.

In the second part, the interviewees were asked to grade on a scale from 1 to 5, where 1 was unimportant and 5 was very important, how they understood the following skills to be ideal for a mediator:

- Neutrality, fairness
- Listening ability
- Clear and understandable communication
- Confidence building skills
- Goodwill and Empathy
- Assertivity
- Negotiation skills
- Knowledge of the field
- Informing the parties during the process
- Observation capability during the process
- Settlement oriented
- Reconciliation oriented
- Emotional intelligence
- Patience
- Good summarising and reframing skills
- Good «questioner»
- Credibility and reputation
- Capacity to promote a trustful environment

Most characteristics were seen as very positive by the interviewees. One of them even asked if it would be possible to have all these characteristics in one single person. There were some (little) low grades to few points, and we can explain the understanding of the interviewees to some of them.

'Neutrality' was not seen as needed by one of them. The interviewee claimed neutrality might not be beneficial in some situations.

‘Reconciliation oriented’ received a low grade since, in the interviewee understanding, it is hard to promote a mediation if the parties are apart. He does not believe that when the parties have very diverging positions the conciliation model might work. And conciliation (mediation) have to happen between the parties, not through the mediator.

‘Emotional intelligence’ received a grade 1 from an interviewee that understood the mediator was not supposed to manifest any feelings. In his understanding, if the mediator expresses feelings, he is not fit for mediating. He should not demonstrate emotions. The mediator must be neutral and discrete.

‘To be a good questioner’ received also low grade and the explanation from the interviewee is that the mediator must be more passive, in his understanding. He must listen more than imposing a rule on what he intends. He should build as the parties’ approach. If he imposes a certain position, he is not a mediator.

MEDIATOR SKILLS												
Neutrality, fairness	POSITIVE	5	5	5	4	4	5	2	5	5	5	5
Listening ability	POSITIVE	4	5	5	4	5	5	5	5	4	3	5
Clear and understandable communication	POSITIVE	5	5	5	4	5	5	5	5	4	5	5
Confidence building skills	POSITIVE	5	5	5	4	5	5	5	5	4	3	5
Goodwill and Empathy	POSITIVE	3	5	5	4	3	5	5	5	3	2	5
Assertivity	POSITIVE	3	5	4	5	5	5	5	3	4	5	5
Negotiation skills	POSITIVE	5	5	4	4	4	5	5	5	5	5	5
Knowledge of the field	POSITIVE	5	5	4	4	5	5	4	5	5	5	5
Informing the parties during the process	POSITIVE	4	5	5	4	5	4	4	3	4	4	5
Observation capability during the process	POSITIVE	5	5	4	4	5	5	5	4	3	3	5
Settlement oriented	POSITIVE	3	5	4	4	4	5	5	4	4	4	5
Reconciliation oriented	POSITIVE	3	5	4	1	4	5	5	4	3	4	5
Emotional intelligence	POSITIVE	4	5	5	1	5	5	5	4	4	5	5
Patience	POSITIVE	5	5	5	4	5	5	5	5	4	3	5
Good summarising and reframing skills	POSITIVE	4	4	4	4	5	5	4	4	4	4	5
Good «questioner»	POSITIVE	2	5	4	1	5	4	4	4	3	3	5
Credibility and reputation	POSITIVE	5	4	5	4	5	5	5	4	5	2	5
Capacity to promote a trustful environment	POSITIVE	5	5	4	4	3	5	5	4	4	3	5

Table 7. Mediator Skills – Interviewees from UCLeR and Leiria

MEDIATOR SKILLS							
Neutrality, fairness	5	NA	5	5	5	5	5
Listening ability	5	NA	5	5	5	5	5
Clear and understandable communication	5	NA	5	5	5	5	5
Confidence building skills	5	NA	5	5	5	5	5
Goodwill and Empathy	4	NA	5	5	5	5	5
Assertivity	4	NA	5	5	5	5	5
Negotiation skills	5	NA	5	5	5	5	5
Knowledge of the field	5	NA	3	5	5	5	5
Informing the parties during the process	5	NA	4	5	5	5	5
Observation capability during the process	4	NA	5	5	5	5	5
Settlement oriented	4	NA	5	5	5	5	5
Reconciliation oriented	4	NA	4	5	5	5	5
Emotional intelligence	5	NA	5	5	5	5	5
Patience	4	NA	5	5	5	5	5
Good summarising and reframing skills	5	NA	5	5	5	5	5
Good «questioner»	4	NA	5	5	5	5	5
Credibility and reputation	4	NA	5	5	5	5	5
Capacity to promote a trustful environment	4	NA	5	5	5	5	5

Table 8. Mediator Skills – Interviewees from NOVA

SUITABILITY OF MEDIATION 3										
Parties have a history of cooperation and successful joint problem-solving.	4 to 5	n.a.	5	5	5	5	5	4 to 5	5	5
The number of parties to a dispute is limited. How many parties maximum?	4	n.a.	n.a.	5	n.a.	5	5	4	4	5
Issues are not overwhelming in number, and the parties have been able to agree on some issues	4	n.a.	n.a.	4 to 5	n.a.	5	5	4	5	5
The hostility among the parties is moderate	5	n.a.	5	5	5	n.a.	n.a.	5	5	5
The parties desire for settlement is high	5	5	5	5	5	5	5	5	5	5
There is an external pressure to settle (time, money, or unpredictable issues?)	5	5		5	5	5	5	5	5	5
There is an existing or a possibility of an ongoing relationship among the parties.	5	5	5	5	5	5	5	5	5	5
The alternative to mediate is unsatisfactory (eg. a quick solution is needed, ...)	5	5	5	5	5	5	5	5	5	5

Table 9. Mediator Skills – Interviewees from NTNU

4. Preparation

This point questioned the interviewees to rate, on a scale from 1 to 5, where 1 is unimportant and 5 is very important, how important they understood the mediator's preparation was in order to:

- ... decide whether the conflict can be mediated or not (e.g. overwhelming power differences, history of violence between parties)
- ... decide whether the mediator himself is the “right person”
- ... set up a competent team of mediators (in case of complex conflicts)
- ... set up an adequate process design and strategy
- ... create an atmosphere of trust and mutual confidence
- ... understand the issues, "facts" of a case and the parties' positions
- ... be able to reconstruct and understand the conflict
- ... be able to cope with unexpected situations and/or difficult participants (high emotions, seaming deadlocks, blocking attitudes...)
- ...be able to help parties discover and define points of agreement and disagreement
- ... be able to support parties to create manyfold options for a possible agreement
- ... help parties to develop and elaborate an agreement (that is SMART: Specific, Measurable, Attainable, Realistic and Time-bound)

Most of the interviewees understood preparation was important in most of the cases.

One of the interviewees understood the questions asked regarding preparation were too subjective and did not want to grade them. In his understanding, some of the characteristics might be developed, but some might not, and are inherently present in some people. Technical preparation is important which does not mean it is enough. He does not understand training contributes to achieving the goals asked, but they are not enough.

For another interviewee the preparation process is important, but it is also important that whoever goes to the education in mediation already has some of these competencies. That whoever is selected to be a part of the education already has some of the listed competences.

These are some of the questions that were graded as unimportant; organizing a team of competent mediators (since for complex cases the interviewee does not believe mediation is a good fit); being able to understand and reconstruct the conflict (in his understanding that is not a power mediator has. He has the power to bring them close together or construct a solution without the parties); being able to deal with unexpected situations and/or difficult participants (that is not to mediate for him); and being able to help the parties to find out and defining agreement and disagreement points (for him that does not depend on the parties).

For one of the interviewees, it is important to have specialized training since there is a tendency for mediation to increase. Also, there must be amplitude regarding the specialized training for mediators, according to the type of conflicts.

PREPARATION												
... decide whether the conflict can be mediated or not (e.g. overwhelming power differences, history of violence between parties)			4	4	5	5	5	4	4	5	5	5
... decide whether the mediator himself is the "right person"			5	3	4	5	4	4	4	4	5	5
... set up a competent team of mediators (in case of complex conflicts)			4	3	1	5	4	5	5	4	5	5
... set up an adequate process design and strategy			5	4	4	5	5	5	5	4	3	5
... create an atmosphere of trust and mutual confidence			5	4	4	3	5	5	5	3	4	5
... understand the issues, "facts" of a case and the parties' positions			4	5	4	5	5	5	4	5	4	5
... be able to reconstruct and understand the conflict			4	4	1	5	4	5	5	4	5	5
... be able to cope with unexpected situations and/or difficult participants (high emotions, seaming deadlocks, blocking attitudes...)			5	4	1	5	5	5	4	4	5	5
...be able to help parties discover and define points of agreement and disagreement			5	5	4	5	5	5	5	4	4	5
... be able to support parties to create manifold options for a possible agreement			4	4	1	4	5	5	4	3	4	5
... help parties to develop and elaborate an agreement (that is SMART: Specific, Measurable, Attainable, Realistic and Time-bound)			5	4	4	4	5	5	4	5	3	5

Table 10. Preparation – Interviewees from UCLeR and Leiria

PREPARATION							
... decide whether the conflict can be mediated or not (e.g. overwhelming power differences, history of violence between parties)	5	NA	5	5	5	5	5
... decide whether the mediator himself is the "right person"	5	NA	5	5	5	5	5
... set up a competent team of mediators (in case of complex conflicts)	5	NA	5	5	5	5	5
... set up an adequate process design and strategy	5	NA	5	5	5	5	5
... create an atmosphere of trust and mutual confidence	5	NA	5	5	5	5	5
... understand the issues, "facts" of a case and the parties' positions	5	NA	5	5	5	5	5
... be able to reconstruct and understand the conflict	5	NA	5	5	5	5	5
... be able to cope with unexpected situations and/or difficult participants (high emotions, seaming deadlocks, blocking attitudes...)	5	NA	5	5	5	5	5
...be able to help parties discover and define points of agreement and disagreement	5	NA	5	5	5	5	5
... be able to support parties to create manifold options for a possible agreement	5	NA	5	5	5	5	5
... help parties to develop and elaborate an agreement (that is SMART: Specific, Measurable, Attainable, Realistic and Time-bound)	5	NA	5	5	5	5	5

Table 11. Preparation – Interviewees from NOVA

PREPARATION										
... decide whether the conflict can be mediated or not (e.g. overwhelming power differences, history of violence between parties)	3 to 5	n.a.	n.a.	3 to 5	3 to 5	n.a.	5	4	5	4
... decide whether the mediator himself is the "right person"	3 to 5	n.a.	n.a.	5	5	n.a.	5	4	5	5
... set up a competent team of mediators (in case of complex conflicts)	4 to 5	n.a.	n.a.	4 to 5	n.a.	n.a.	5	4 to 5	5	4
... set up an adequate process design and strategy	4 to 5	n.a.	n.a.	4 to 5	n.a.	n.a.	5	n.a.	5	4
... create an atmosphere of trust and mutual confidence	5	5	5	5	5	5	5	n.a.	5	5
... understand the issues, "facts" of a case and the parties' positions	5	n.a.	n.a.	5	n.a.	5	5	5	5	5
... be able to reconstruct and understand the conflict	5	n.a.	n.a.	5	n.a.	5	5	5	5	5
... be able to cope with unexpected situations and/or difficult participants (high emotions, seaming deadlocks, blocking attitudes...)	5	n.a.	n.a.	5	5	5	5	5	5	5
...be able to help parties discover and define points of agreement and disagreement	5	5	n.a.	5	n.a.	5	5	n.a.	5	5
... be able to support parties to create manifold options for a possible agreement	5	5	n.a.	5	n.a.	n.a.	5	n.a.	5	5
... help parties to develop and elaborate an agreement (that is SMART: Specific, Measurable, Attainable, Realistic and Time-bound)	5	n.a.	n.a.	5	n.a.	n.a.	5	n.a.	5	5

Table 12. Preparation – Interviewees from NTNU

5. Education for maritime mediators

This question was whether the interviewee understands developing and offering an education for maritime mediators is a good idea. In case the interviewee answers affirmatively, the questions addressed were: to whom should these courses be directed to; who should promote these trainings: what about a certificate and accreditation (where?); and would you consider to undergo a training/ establish training in your organization/enterprise.

All the interviewees in Portugal understood it is important to have a training for mediation. They have different explanations in their answers.

One interviewee understands the development of an education is advisable, but education is not enough to make peace of the parties. Another understands education is important and cannot precise who is the target of the course. He understands the course must have two strands: one theorist of mediation and another related to the type of subject to be mediated. There is also the understanding that education in maritime mediation to be very important, and that it should be directed to students in the legal area, since several of the matters dealt with in the maritime law are connected to legislation, treaties, among others. The academia is the one to promote such courses. Certification is convenient to provide guarantee to the people that use

the services. There is the understanding that developing and offering an education for maritime mediators is a good idea. Education should be directed to people working in the public sector, private sector and should be included in the *curriculum* of law faculty. Also, law schools should be promoting it, and there should be certification and accreditation with the course.

Maritime business is very specific. Whoever wants to work in the area has to have the specific education as well as knowing the maritime business. The education should be directed also to professionals of the sector or others, which might have a direct connection with it. Also, there is the understanding that an education is important for jurists interested in the maritime and port area. One interviewee sees education as important for maritime mediation, and competences may be trained. Not only an initial competence, but also recycling courses, continuous formation, and roll plays. He understands education should be directed to functions that are hierarchically high or medium high level.

One of the interviewees considers training in maritime mediation is a good idea, and would consider doing the training in her company, so that she and her team could acquire skills for a better conflict management and to mediate conflicts. Another interviewee considers that training in mediation in the environmental area is very important and believes that this training should be promoted by the Universities and directed to students in the Solicitor's courses that have specific subjects in this area. He also emphasizes that it is very important that these trainings have certificates and accreditations through a professional association.

One interviewee considers that specialized training is suitable and required for new mediators because there is a tendency for conflicts to increase. If conflicts can be resolved before they reach the courts, the better. All this needs an institutional base (it is not enough to train mediators). A mechanism with binding consequences on the territory and resources of the sea is needed. In his opinion, there must be amplitude regarding the specialized training for mediators, in the function of the conflicts. Another interviewee argues that specialized training is suitable and required for new mediators and this training must be directed to the people included in the governmental area, in the representative organizations of the sector - fishermen's association, maritime administration – and the interviewee also considers that this type of mediation training must be promoted by the maritime administration.

One interviewee argues that specialized training is suitable and it is a really good idea to apply. The interviewee considers that this type of mediation training must be directed towards people

who have an academic degree in law of the sea and international relations and towards people who have specific training in mediation. Also, the interviewee argues that this type of specialized mediation training must be promoted by national marine resources and fisheries directorates and by the academy – especially colleges and universities that can provide academic degrees in international relations and the law of the sea. Another interviewee considers that specialized mediation training is suitable, and it is a good and important idea because more and more conflicts are related to maritime/litoral problems. It is a quicker and simpler way of solving cases, through a more direct mediation. The interviewee argues that this type of specialized mediation training should be directed to authorities that operate in these areas (maritime police, city councils, state authorities) and to communities that depend on the sea for their survival. This type of training should be administered by education entities that are able to offer academic degrees related to the law of the sea and to entities that can offer training and academic degrees regarding the use of the maritime territory.

One interviewee argues that specialized mediation training is suitable and a good and important idea because there is a lack of knowledge of people with a very comprehensive view of the use of the sea. There are people who know a lot about fishing or the use of the law, but there are not many people who have a comprehensive knowledge of all areas of the sea. The interviewee considers that this type of specialized mediation training should be directed to psychologists and those who should provide this type of training should be people connected with fishing, merchant marine, legislation, and people connected with all the valences of the sea. Another interviewee argues that specialized mediation training is suitable because we lack knowledge regarding the sea. The interviewee considers that this type of specialized mediation training should be directed to lawyers and facilitators who intend to have a degree in this area of knowledge and those who provide this type of training should be people or entities who are in the position to offer a certificate graduation in the law of the sea.

In Norway the understanding from one the interviewees is that lawyers would not take a course on mediation. But it would be a good education for people with maritime background who wants to become maritime mediator. For another interviewee it is important for lawyers and technical professionals relevant for shipping. Also, for the people who take the decisions and who handle the disputes. At the legal or at the level of the executive officers and advisors of the shipping companies or the insurance companies. Another interviewee pointed that it is important to have mediators with different backgrounds, to have people who understand from technical point of

Iceland
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Mecanismo Financeiro do Espaço Económico Europeu
European Economic Area Financial Mechanism

Crescimento Azul, Inovação e PME
Blue Growth, Innovation and SME

views. Also, for management positions or for union representatives it might be essential, as well.
And a mix of theory and practical training.

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ANNEX 1 – INTERVIEW GUIDE

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Project MediMARE - MARITIME MEDIATION

Short information on the project MediMARE, maritime disputes and what mediation is and what it is not.

Maritime Mediation is an international EU research project under the leadership of Professor Dulce Lopes, University of Coimbra, Portugal, funded by the EEA Grants. The project aims to develop courses and training tools teach students and professionals working with maritime topics to expand their skills, with mediation tools in order to promote a culture of peaceful and equitable dispute resolution in their actual or future work in maritime issues.

Maritime disputes are of great diversity and can range from contractual to extracontractual issues, as well as from commercial and civil disputes to those relating to public international law and European Union law. Here are some of the most relevant topics: circulation of vessels and coastal transport; boundary disputes and use of marine resources by coastal countries; environmental disasters at sea; migration issues ; contractual disagreements regarding provision of services; liability for non-performance; labour and disciplinary disagreements; fishing quotas adjudication; location of fishing farms; offshore investments conflicts; disputes between seafarers; safety management at sea; discrimination and harassment claims, etc.

Mediation entails the involvement of an impartial third party to support and help those involved in a conflict to find a resolution. It is an alternative to negotiation, arbitration, or litigation. The key difference between negotiation and mediation is that in negotiation, the parties involved work out their own agreement. In mediation, they are supported by a third party, the mediator, to help them come to an agreement. A key aspect of mediation is that the mediator neither 'sorts things out' nor makes any decisions on behalf of the involved parties. Instead, he or she encourages the parties to collaborate consensus oriented towards an agreement way before their dispute escalates to litigation.

Interview Guide

Introductory question: what 3 words come to mind when you think about conflicts at sea?

	Research questions	Interview questions
1	What are the formal and real competences of the interviewed person?	Tell us about your background? a) Professional position b) Age, if you wish to disclose c) Gender, if you wish to disclose d) Education e) Work experience f) What is your main occupation? What do you do? g) In your opinion what are your main skills?
2	Experience with mediation (arbitration / litigation) Knowledge of mediation	Have you had so far any experience of solving disputes by using mediation (or negotiation/conciliation)? Do you have any mediation training? Are you a mediator yourself? Have you ever been involved as one of the parties in a mediation to solve a dispute/conflict? Have you had so far any experience in arbitration or litigation? Do you have any arbitration or litigation training? Are you an arbitrator yourself? Have you ever been involved as one of the parties in an arbitration or litigation process?
3	Attitude towards mediation	Do you think mediation is a positive/acceptable way/negative/unacceptable way to solve a dispute? Why do you think mediation is a positive/acceptable way/negative/unacceptable way to solve a dispute? Explain please...
4	Suitability of mediation 1	Without any help, please intuitively tell for which disputes mediation could make sense.

	What kind of maritime disputes do you think mediation is most suitable for?	
5	<p>Suitability of mediation 2</p> <p>On a scale from 1 to 5 where 1 is unsuitable and 5 is strongly suitable</p> <p>... for which disputes mediation could make sense.</p>	<ul style="list-style-type: none"> • Salvage • Collision • Hull damage claims • Groundings • Charter Party Disputes (freight, hire, demurrage) • Unseaworthy claims • Towing • Personal Injury • Marine insurance disputes • Cruise passenger (contractual, injury, death claims) • Cargo (damage, construct of carriage, bills of lading, dangerous cargos) • Ship building contract or repair disputes • Bunker disputes • Claims regarding the crew, passengers, stowaways and shore workers • Marine pollution • Work conditions at sea • Harassment claims • Safety issues • Fishing quotas • Use of the sea for recreational purposes • Use of the sea for economic purposes (energy, for instance)
6	<p>Suitability of mediation 3</p> <p>On a scale from 1 to 5 where 1 is unsuitable and 5 is strongly suitable</p> <p>... in which situations mediation could make sense. Where:</p>	<ul style="list-style-type: none"> • Parties have a history of cooperation and successful joint problem-solving. • The number of parties to a dispute is limited. How many parties maximum? • Issues are not overwhelming in number, and the parties have been able to agree on some issues • The hostility among the parties is moderate • The parties desire for settlement is high • There is an external pressure to settle (time, money, or unpredictable issues?)

		<ul style="list-style-type: none"> • There is an existing or a possibility of an ongoing relationship among the parties. • The alternative to mediate is unsatisfactory (e.g. a quick solution is needed, ...) • Can you imagine other situations? (open question) <p><i>(digging, using the 5W, why, who, when, where and how...)</i></p>
7	<p>Mediator skills 1</p> <p>In your opinion / experience; what skills are essential for an effective maritime mediation?</p>	<p>Without any help, please list what skills are required for a mediator to present for a maritime mediation to be effective.</p>
8	<p>Mediator skills 2</p> <p>On a scale from 1 to 5 where 1 is unimportant and 5 is very important how would you rate the following skills are for an ideal mediator</p>	<p>Importance of mediator skills</p> <ul style="list-style-type: none"> • Neutrality, fairness • Listening ability • Clear and understandable communication • Confidence building skills • Goodwill and Empathy • Assertivity • Negotiation skills • Knowledge of the field • Informing the parties during the process • Observation capability during the process • Settlement oriented • Reconciliation oriented • Emotional intelligence • Patience • Good summarising and reframing skills • Good «questioner» • Credibility and reputation • Capacity to promote a trustful environment <p><i>(digging, using the 5W, why, who, when, where and how...)</i></p>
9	<p>Preparation</p> <p>On a scale from 1 to 5 where 1 is unimportant and 5 is very important, please rate how</p>	<ul style="list-style-type: none"> • ... decide whether the conflict can be mediated or not (e.g. overwhelming power differences, history of violence between parties) • ... decide whether the mediator himself is the “right person”

	important is the mediator's preparation in order to....	<ul style="list-style-type: none"> • ... set up a competent team of mediators (in case of complex conflicts) • ... set up an adequate process design and strategy • ... create an atmosphere of trust and mutual confidence • ... understand the issues, "facts" of a case and the parties' positions • ... be able to reconstruct and understand the conflict • ... be able to cope with unexpected situations and/or difficult participants (high emotions, seaming deadlocks, blocking attitudes...) • ...be able to help parties discover and define points of agreement and disagreement • ... be able to support parties to create manifold options for a possible agreement • ... help parties to develop and elaborate an agreement (that is SMART: Specific, Measurable, Attainable, Realistic and Time-bound)
10	<p>Do you think that developing and offering an education for maritime mediators is a good idea?</p> <p>In case the answer is affirmative:</p> <p>...to whom should these courses be directed to?</p> <p>... who should promote these trainings</p> <p>... what about a certificate and accreditation (where?)</p> <p>... would you consider to undergo a training/establish training in your organization/enterprise</p>	<p>Without any help, does a specialized training makes sense? If yes: why? If no: Why not?</p>
11	Closing	<ul style="list-style-type: none"> • What should I have asked you about in addition to what we have been talking about? • Any other comments you wish to make

ANNEX 2 – UCILeR REPORT

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Interviews Report- MEDIMARE Project COIMBRA UNIVERSITY Team (Portugal)

Roberta Donato

Dulce Lopes

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2. Interviewee's personal experience with mediation
3. Interviewee's thoughts regarding the suitability for mediation
4. Interviewee's thoughts regarding the necessary skills for a mediator
5. Preparation
6. Education for maritime mediators

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Introduction

The MediMARE Project is a project funded by the EEA Grants (an agreement between European Union, Iceland Liechtenstein and Norway, PT-INNOVATION-0065) under the leadership of Professor Doctor Dulce Lopes, from the University of Coimbra Institute for Legal Research (UCILeR). The project aims to research on the perception of the importance of mediation for a consensus-oriented conflict management in maritime disputes, and, with this input, produce several outcomes.

To be able to develop the perception of the importance of mediation for solving maritime disputes, several interviews were conducted between the months of October and November of 2022. In this report, we briefly describe the findings of the interviews.

The choice for the interviewees was made based on their area of expertise, in order for the Project Team to have a broad vision of several areas of work related to maritime activities.

The interviews followed the same structure and were conducted online, through the zoom platform (or another platform preferred by the interviewee). Most interviews were conducted in Portuguese, native language of the interviewees, except for the interview with a law professor, that was held in English. All the interviews were conducted by Roberta Donato, accompanied by a colleague Project Member (either Fernando Borges or Ana Paula Alves).

1. Interviewee's personal experience with mediation

The first interviewee is a ship-owner who holds years of experience in the ocean, mainly fishing and as a master of a fishing boat. The interviewee has never had any formal experience with mediation or arbitration, although, in his understanding, mediation is a positive means of solving conflicts. In the end of the interview, the interviewee explained that some of the conflicts in the harbor are solved by calling an expert in the field to support the parties in reaching an understanding, which is (in our understanding), mediation.

The second interviewee is a lawyer who has a life working at the sea and another as a jurist. The interviewee holds a knowledge of the maritime context and has experience with mediation, and arbitration, but not in the maritime area. The area of work is consulting, not litigation.

The third interviewee is the executive administrator of an insurance company. The interviewee has acted as a representative of his company in mediation procedures and negotiation and has a very positive attitude towards mediation, understanding mediation as a means of solving disputes faster and in a better way.

The fourth interviewee is a law professor of sea and environmental law, with a background in maritime practice. The interviewee has experience with litigation and with negotiation with the IOPC Funds in pollution claims.

The fifth interviewee is the Port Counselor of the Board of Advisors. The interviewee does not hold any experience with mediation from a formal perspective and explained, during the interview, that it is very rare that situations need to be mediated or litigated outside of the port, since there are three instances where conflicts are solved within the port public administration.

The sixth interviewee is the Port Director of Business and Logistic. The interviewee holds some experience in negotiation, which he calls “positive negotiations”, being those in which there were advantages for both parties.

The seventh interviewee is the Port Director of Equipment, Infrastructure and Environment. The interviewee holds experience in mediation, although explaining that in a Port mediation is only used as a last resort. Since there are several other instances to solve amicably the situation before recurring to mediation.

2. Interviewee’s thoughts regarding the suitability for mediation

For the first interviewee, mediation is positive due to the fact that it is a resolution based in the understanding, and it is fast. The examples given by the interviewee were an accident between two boats, and accidents at sea (acts of fishing, due to fog or rain, or other conditions that diminish visibility). When the interviewee heard the specific situations that could lead to mediation, the interviewer read to him, his grades were very low, or he did not grade the situations. Grounding got a 3 due to the fact that there might be mediation if the ship-owner is on land and the boat is delivered to a master. If the boat sunk with the master and the ship-owner does not have any fault, and the insurance denies any sorts of payment, ship-owner may request that the person in charge of the boat to indemnify him. Also, regarding conditions of work at sea the interviewee lists the possibility of an accident with a crane, in case the insurance

company does not want to pay the indemnification. Regarding the situations in which mediation may be used, the interviewee understands most of the situations are fit, except when there are too many people and when there is an external pressure to reach an agreement.

The second interviewee understands it is very hard to define whether mediation is a positive or negative means of solving a dispute, with just this statement. There is a need to understand the circumstances, according to him. He does understand there are situations in which mediation might be useful. It depends on the relationship among the parties, the type of disputes, the history of disputes and of a group of factors to know whether mediation is adequate or not. He understands mediation has specific characteristics that adequate to certain circumstances and not to others. Regarding the situations in which mediation is suitable, he understood most are positive and were given high grades (4 or 5), but in some situations he understands they are not important, like when the parties have a history of cooperation and joint and successful resolution of problems; when too many questions and parties cannot agree in some points and when there is an existing relationship or a possible continuous relationship among the parties. He also understands mediation is not possible when the parties do not trust each other or do not understand the mediated solution will be implemented by the other party. Also, that the factual circumstances are more important to determine the resource to mediation than the dispute itself.

For the third interviewee mediation is absolutely acceptable and necessary in the maritime area. Specially since some disputes can last for years. He exemplified this statement with one dispute that lasted more than 20 years. Situations like this could be solved by mediation. He understands maritime disputes are more related to the law of different countries than to the amount that is being disputed. Regarding the types of disputes to which mediation may be used, most relate to what is the competent court, what is the applicable legislation and international treaties in place. He intuitively enumerated salvage, collision, pollution, fishing quotas and wreck removal. Regarding the situations, the third interviewee understands that, when there is a good relationship between the parties, there is no need for mediation. When there is a conflict, or the parties do not hear each other, then mediation might be crucial.

The fourth interviewee understands mediation to be very positive in the law of the sea, and gave examples of disputes which involved international public law (border disputes, and mediations carried out by the United Nations Secretary General). In the private area, thought, the

interviewee understands one can have mediation when there is pollution after an oil spill. It is important to have mediation in disputes of large amounts of money, long and complicated procedures, when mediation could be a first step to avoid lengthy procedures. When the interviewer listed the situations, the interviewee graded them with low rates, which shows either a diminished involvement in these types of situations on a daily basis, or an understanding mediation does not fit on them. All the situations listed for the suitability for mediation were given high grades, with the *caveat* that there is a need to have an impartial mediator.

The fifth interviewee did not answer the question as to whether mediation is positive or negative, since he understands everything is good or bad only in concrete situations. In abstract, it is hard to answer this question. He prefers arbitration to mediation, since the arbitrator has more autonomy in the resolution of conflicts than the mediation, who needs to gather the involved people for solving the conflict. For him mediation is positive for labor conflicts. He is not sure if it is positive for solving maritime businesses. For the port/maritime business, mediation is not adequate. It would be for a conflict among fisherman, for example. In all the situations listed, he rated one, except for use of the sea for recreational purposes, for which he graded as four. As to the characteristics of the conflict, he understands that whether hostility of the parties is moderated mediation does not fit, since there should not be any hostility. Also, there should be mutual interest, so when there is external pressure to reach an agreement, it could ruin mediation. In the same sense, when the alternative to mediation is unsatisfactory, that is not a condition that is sufficient to determine there will be mediation, since the problem is mostly whether the parties being or not willing to mediate, and in mediation the solution is constructed collectively by the parties.

For the sixth interviewee, mediation is only fit for private matters. Mediation procedures, which would require any sort of indemnification from the State, are not possible. In the interviewee understanding, for public affairs there is always a risk of corruption when the public administrator negotiates with public money. Therefore, it is better to direct those cases to State Courts. His understanding is that the public administrator must not negotiate (nor mediate), unless waiting would increase costs. In all other situations, litigating in State Courts would be better. Negotiating, for the interviewee, is a signal of corruption. When received the list of possible maritime situations, he graded them positively, except for the most regulated areas: collision (when with the port), grounding (if it is the ship's fault), maritime pollution, and fishing quota. Regarding the situations listed regarding people, he understands mediation is more

adequate for more parties than to fewer parties; mediation does not fit for when there is hostility; there is not a public desire for an agreement; a continuous relationship is not grounds for choosing mediation and in public arena there is nothing more important than time.

For the seventh interviewee, mediation is an important tool, but only used in the most complicated situations, in which the other recourses have failed to solve the situation in the Port. The Port Authority has a very close relationship with the community, and attempts to solve all problems before it reaches the mediation level. In his perspective, the maritime situations listed in the interview were not the best fit for mediation, getting, in general, a grade three. Situations the interviewee thinks fits better mediation are unseaworthiness, towing, passenger's cruise, disputes over the construction or repair of vessels, and use of the sea for recreational and economic purposes. Mediation is not a good fit when the parties have a history of good cooperation and collective resolution of problems.

3. Interviewee's thoughts regarding the necessary skills for a mediator

For the first interviewee, it is important for the mediator to be respected by the parties, to have moral suitability, be friends with people and 'an arbitrator' (*sic*). He listed all qualities read by the interviewer as positive for a mediator to have.

The second interviewee understands it is important for the mediator to have technical knowledge and to know well all the tools available in mediation. To promote a dialogue and how to make the parties have constructive ideas to generate an agreement.

The third interviewee understand there are several characteristics necessary for a good mediator. He listed empathy, to make the parties feel comfortable, knowledge over the subject matter under discussion, confidence of the parties, impartiality, capacity to build bridges and create solutions. The interviewee rated most qualities as very positive, and even questioned if there is someone with all these qualities.

The fourth interviewee listed as mediator's skills impartiality, the need to be prepared, to be able to coordinate, to have the concept of the parties, to have expertise (both technical and in mediation), and availability. All the qualities listed by the interviewer were rated as very important.

For the fifth interviewee it is important for the mediator to have the ability to convince the parties that they will both win for them to reach an agreement, otherwise, it will never happen. He must help the parties to feel committed to a certain goal, and that will depend on the confidence that the parties have among them and in the mediator. In the list the interviewer read to the interviewee, he graded highly all the items, except orientation to reconciliation and emotional intelligence, and being a good “questioner”, which he does not believe to be qualities needed for a mediator to have. He understands mediation is hard to achieve when the parties are separated, with diverging positions, it is hard to conciliate themselves with mediation, since the parties are to ones who have to perform the approximation, not the mediator. Regarding emotional intelligence, he understands the mediator is not to express any feelings or emotions during the mediation (the question was not very clear to the interviewee). And, regarding being a good “questioner”, he understands the mediator has to be more passive than trying to impose what he intends. He does not have to make questions, but to listen to the parties.

For the sixth interviewee it is important for the mediator to have a relevant experience in public management to understand the public interest, as well as previous experience in conflict management.

The seventh interviewee understands a good mediator must be a good listener, very objective, to interpret well what is at stake and analyze well what the parties intend. Regarding the listed competencies, he understands neutrality is not an important characteristic.

4. Preparation

For the first interviewee, the role of the mediator is to convince the parties. The parties’ role is to accept. The mediator has to know how to conciliate, has to be respected. Has to “have a pulse”, to put order in the situations. He also mentioned that in the fishing sector, the parties want to negotiate more among themselves than any other form of resolution of conflicts.

The second interviewee understood the questions asked regarding preparation were too subjective. Some of the characteristics might be developed, but some might not, and are inherently present in some people. Technical preparation is important which does not mean it is enough. He does not understand training contributes to achieving the goals asked, but they are not enough.

The third interviewee understands the preparation process is important, but it is also important that whoever goes to the education in mediation already has some of these competencies. That whoever is selected to be a part of the education already has some of the listed competences.

The fourth interviewee understands preparation as very important. The items which are understood as less important are to decide if the mediator himself is the right person and to set up a competent team of mediators in case of complex conflicts.

Regarding preparation, the fifth interviewee understands most questions asked are important, except: organizing a team of competent mediators (since for complex cases he does not believe mediation is a good fit); being able to understand and reconstruct the conflict (that is not a power mediator has. He has the power to bring them close together or construct a solution without the parties); being able to deal with unexpected situations and/or difficult participants (that is not mediator for him); and being able to help the parties to find out and defining agreement and disagreement points (for him that does not depend on the parties).

For the sixth interviewee all the listed factors of preparation are important. The least important one, in his opinion, would be to create an atmosphere of mutual trust.

The seventh interviewee understands it is difficult to say whether the mediator is the right person, since there will not be a right person. There are people that create conditions to be a good mediator, even if they are not excellent in all the conditions we listed in the interview.

5. Education for maritime mediators

The first interviewee understands the development of an education is advisable, but education is not enough to make peace of the parties. He does not remember one conflict in which the parties have not reached an understanding. Or they brought a specialist in the area to tell each one how much they owe and the conflict ends. Although nowadays it is hard to find one to intervene with the parties to solve conflicts.

The second interviewee understands education is important and cannot precise who is the target of the course. He understands the course must have two strands: one theorist of mediation and another related to the type of subject to be mediated.

The third interviewee understands education in maritime mediation to be very important, and that it should be directed to students in the legal area, since several of the matters dealt with in the maritime law are connected to legislation, treaties, among others. The academia is the one to promote such courses. Certification is convenient to provide guarantee to the people that use the services.

The fourth interviewee thinks developing and offering an education for maritime mediators is a good idea. Education should be directed to people working in the public sector, private sector and should be included in the *curriculum* of law faculty. Also, law schools should be promoting it, and there should be certification and accreditation with the course.

For the fifth interviewee the maritime business is very specific. Whoever wants to work in the area has to have the specific education as well as knowing the maritime business. The education should be directed also to professionals of the sector or others, which might have a direct connection with it.

The sixth interviewee understand an education is important for jurists interested in the maritime and port area.

The seventh interviewee understands education is important for maritime mediation, and competences may be trained. Not only an initial competence, but also recycling courses, continuous formation, and roll plays. He understands education should be directed to functions that are hierarchically high or medium high level.

ANNEX 3 – POLITECHNIC OF LEIRIA REPORT

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Interviews Report- MEDIMARE Project

POLYTECHNIC OF LEIRIA – Portugal

Ana Paula Alves

Cátia Marques Cebola

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1. Introduction

The MediMARE: Mediation in International Disputes project, financed by EEA Grants and developed by a Consortium led by the Legal Institute of the Faculty of Law of the University of Coimbra, has Doctor Dulce Lopes as general coordinator and, by partners, the Polytechnic of Leiria; MARE from Universidade Nova de Lisboa and NTNU Samfunnsforskning from Norway.

Within the scope of the project, which aims to develop skills in terms of mediation as a way of resolving conflicts related to the sea, several semi-structured interviews were carried out with relevant actors in the maritime domain or in related domains.

In this report, we briefly describe the findings of the interviews.

The interviews were carried out between October and November 2023 and all interviews followed the same structure. The interviews were conducted online, through the zoom platform and were conducted by Ana Paula Alves, with the presence of Doctor Cátia Marques Cebola or Roberta Donato.

The choice of interviewees was made based on their area of expertise, so that the Project Team has a broad view of the various areas of activity related to maritime activities, notably Maritime Police Commander and Port Captain; Fishing Company; Manager at Environmental Agency; Aquaculture Company; Member of Development Association - Artisanal Fishing: Xávega.

All interviews were conducted in Portuguese, the native language of respondents.

We are convinced that these interviews within the scope of the MediMARE project were an asset to the issue of identifying and resolving conflicts in the maritime domain.

2. Interviewee's personal experience with mediation

The first interview was made to a Port Captain and Local Commander of the Maritime Police and within these roles he noted that he had already some experience in resolving

disputes through mediation. The interviewee gave one example of an informal mediation regarding disagreements between fishermen and another example of a formal mediation that occurred recently, when a lawyer filed a conciliation request before going to the Maritime Court to deal with a conflict between a fishing and a shipping agent regarding distribution of sea and fishing. About this last maritime mediation that the interviewee will conduct, he described in detail as shown in the literal transcript of the interview (Item 11 - Conclusion).

We emphasize that the Captain of the Port and Local Commander of the Maritime Police, does not have training in mediation, although in the course of National Maritime Authority this theme was addressed.

The second respondent is the CEO of a group of companies linked to the fish canning industry and he has no experience with dispute resolution through mediation. He clarified that although their activity lies in the sea, the company is not the one who directly exploits the resource from which they produce and transform. Therefore, the conflicts that exist are not in direct discourse and maritime mediation is a little recurrent subject.

The third interviewee has extensive experience with Mediation, as in addition to being a chief department at the Portuguese Environment Association – APA, he is often called upon to give technical opinions in court regarding environmental issues. Within the scope of the APA, the directors always try to mediate to avoid the initiation of legal proceedings.

As for the personal experience of the interviewee with mediation, although he has no training as a mediator, he has already been involved as a representative of the State in a mediation to resolve a conflict. Furthermore, he has had experience in arbitration before the courts; he is trained to be an arbitrator and has been involved as a party to arbitration and court proceedings.

The fourth interviewee is the CEO of an aquaculture company and she has already had experience with mediation because mediation is quite common among workers.

However, mediation also happens with conflicts that we may have with those who share access to water, it can be with fishermen or with others who use the space. Since the company has the concession of sea space, this place cannot be visited by fishermen nor can there be fishing. Therefore, in aquaculture, the interviewee pointed out that it is very common to have some conflict with fishing in the use of spaces and with what this is related.

Regarding the interviewee's personal experience with mediation, she provided us with an enriching example in which she was involved as part of a mediation to resolve a conflict. The dispute involved the Captain of the Port of Figueira da Foz who was the mediator between the aquaculture company and the fishermen. It was a situation in which there were fishermen entering areas that were not authorized and that endangered the aquaculture activity. Therefore, it was through the Captain of the Port of Figueira da Foz that she had direct contact with the other party (fishermen) and mediation was carried out.

As for the last interviewee, the main experience with maritime mediation comes from the fact that he has clients who practice artisanal fishing called *Arte Xávega* and when these fishermen went to renew their fishing license, there was a conflict because the Regional Directorate of Natural Resources – DGRM did not want to renew the license. The interviewee was responsible for bringing together those interested and society itself so that they reached a consensus and the license was issued so that the fishermen could continue with the sustainable practice of artisanal fishing (*Xávega*).

Therefore, the interviewee has already had experience with mediation for conflict resolution and has already been involved as part of a mediation to resolve the artisanal fishing conflict of *Arte Xávega*.

That said, we concluded that among the five interviewees, only one (canned goods from Portugal) had no experience in resolving disputes through mediation.

3. Interviewee's thoughts regarding the suitability for mediation

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The first interviewee understands that mediation is a very positive form, as long as there is, in the first place, a legal mechanism that provides for it and guidelines in which situations it should be carried out. If there is a legal provision and mediation runs well, a very large number of processes are removed from the Courts and there is a great advantage in terms of bureaucracy.

The interviewee highlighted that mediation would be more appropriate in cases of conflicts between fishermen; recreational boating; recreational and sporting activities (sports that are emerging in the maritime and fluvial area and the recreational areas that are increasingly being developed in the maritime public domain).

The second respondent believes that mediation is acceptable and necessary, as without mediation it is difficult to find the necessary solutions to solve the problems we encounter in maritime sector.

The third interviewee understands that mediation is positive for resolving any dispute or conflict, as he believes that any mediation is the basis for resolving and reaching a consensus and in all the mediations in which he participated, it was always advantageous.

However, when listing the disputes, the interviewee drew attention to some hypotheses in which he believes that mediation is not as appropriate, such as maritime pollution, since he believes that it is such an urgent issue and requires such a technical intervention that mediation can be considered ineffective. He emphasizes that maritime pollution in general has a specific procedure to follow, and no negotiation exists in this procedure, so in this field he gave a score of 2. And still in this reasoning, for the hypotheses of passenger cruises and fishing quotas he gave a score of 1 (not adequate) as they are already established procedures and quotas and must be complied with, leaving no room for mediation, in his opinion.

The fourth interviewee believes that mediation is always useful, because when there is a conflict, mediation is always important to bring the parties together to reach an understanding. For this reason, the interviewee gave maximum marks for all the

hypotheses listed, except for disputes between the parties regarding freight contracts, working conditions at sea and fishing quotas, as these situations are already provided for, respectively, in contracts and laws. Therefore, she gave a minimum score (1) because she believes that there is no scope for mediation.

As for the adequacy of mediation in aquaculture, the interviewee drew attention to conflicts with fishing, as normally the aquaculture sector has great difficulty in communicating with fishing and mediation is very adequate. Another common situation in aquaculture is conflicts with local communities that do not like the visual impact of the structure and sometimes this generates a conflict in which mediation is very useful. On the other hand, she describes other types of conflicts at sea in which she does not consider that mediation could be useful, such as illegal fishing with diving. In this case, she is not available to participate in a mediation process because she considers that the other party has no right and therefore considers mediation to be unnecessary.

The last interviewee understands that mediation is positive, as it is a way of resolving the conflict out of court. An example of a maritime conflict in which mediation was very suitable was in the concrete situation in which the DGRN informed the fishermen that they would not have their fishing licenses renewed, the fishing community of Arte Xávega felt threatened and they had to find an alternative solution of conflict resolution, which in this case was mediation.

4. Interviewee's thoughts regarding the necessary skills for a mediator

For the first interviewee, the mediator has to know the process well and the motivation of each party; identify the advantages and disadvantages in the good or bad conclusion of the mediation and explain this to the parties; identify the disadvantages for mediation failure, because sometimes to achieve success it is necessary to focus on failure. And in terms of personal characteristics, the mediator must be able to listen and identify the key points of the argument.

The second respondent believes that the mediator needs to know deeply the fact that is under discussion and then have personal skills to carry out a mediation such as ability to dialogue in order to achieve the objectives of conflict resolution.

The third respondent listed that the mediator has to know the problems; hear the parties; have common sense to negotiate; have knowledge of the cause; and especially, to mediate he/she has to be an expert in the cause.

The fourth interviewee believes that the mediator has to know the matter well, technically; it has to be a calm person; he has to be impartial, he cannot have any interest or relationship with any of the parties and he has to be emotionally distant from the concrete problem. She emphasizes that it is fundamental that there are no emotions.

The last interviewee considers that the mediator has to be a good listener and be impartial. And the respondent gave the maximum score (scale 5) in all the skills that we listed as ideal for a mediator.

5. Preparation to a mediation

The first respondent understands that preparation is very important, granting the maximum score to almost all items listed, except for deciding whether the conflict can be mediated or not and for deciding whether the mediator is the “right person”.

The second interviewee gave high marks (4 or 5) in the preparation of the mediator, considering it to be important in the process.

The third interviewee gave high marks (4 or 5) for all aspects of preparation, except for creating an atmosphere of mutual trust and being able to help the parties to create multiple options for a possible agreement, both of which he gave a score of 3.

The fourth interviewee also considered the preparation important and the grades were all high, without major discrepancies.

The last interviewee gave the maximum score for all the situations listed, that is, he classifies all aspects as very important in the preparation of the mediator.

That said, all interviewees consider mediator preparation to be important.

6. Education for maritime mediators

The first interviewee is totally in favor of training for maritime mediators, as he believes that training is the basis of everything. And within the scope of their functions, if they had tools to use, the mediations would be better and more effective. Therefore, the interviewee considers participating in training and suggests that training should be promoted in modules that may be integrated into a course or if there were several levels of training that the first level had integrated into the course and then throughout the exercise of functions, if there were other levels of complexity, there are other modules that could be removed *a posteriori*.

The second respondent considered training important, but he is not interested in participating because they do not have a direct relationship with maritime mediation conflicts.

The third interviewee thinks training in maritime mediation is a good idea, however he believes that training is not enough. A good mediator has to have personal skills and good knowledge of the facts, because without that it is difficult to negotiate.

The fourth interviewee considered that training in maritime mediation is a good idea, and would consider doing this training in her company, so that she and her team could acquire skills for better conflict management and to mediate conflicts.

The last interviewee considers that training in mediation in the environmental area is very important and he believes that this training should be promoted by the Universities and directed to students in the Solicitor's courses that have specific subjects in this area. He also emphasizes that it is very important that these trainings have certificates and accreditations through a professional association.

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ANNEX 4 - NOVA UNIVERSITY OF LISBOA (MARE) REPORT

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Interviews Report – MEDIMARE Project

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Introduction

The MEDIMARE project is an international research project under the leadership of Professor Dulce Lopes, University of Coimbra (Legal Institute), Portugal, funded by EEA Grants. The project aims to develop courses and training tools for students and professionals working in the maritime field to expand their skills and promote a culture of peaceful dispute resolution in their work on maritime matters, both current and future.

Maritime disputes are very diverse and can refer to both contractual and non-contractual matters, as well as commercial and civil disputes, related to Public International Law and European Union Law. We mention here some of the most relevant conflict situations: movement of ships and coastal transport, border disputes and use of marine resources by coastal countries; environmental disasters at sea; migratory issues; contractual disputes regarding the provision of services; liability for failure to provide services; labour and disciplinary disputes; fishing quotas; conflicts over offshore investments; insurance issues at sea; discrimination and harassment claims, etc.

Mediation requires the involvement of an impartial third party to assist and support those parts in the conflict to find a solution. It is an alternative to negotiation, arbitration, or court proceedings. A key aspect of mediation is that the mediator neither "settles the issues" nor decides for the parties involved. Instead, he or she encourages the parties to collaborate in a consensual way to reach an agreement.

Regarding the project's focus, this report serves the purpose of collecting data and information from different actors who work with maritime conflicts/disputes on a daily basis, collecting their opinion and information on their experience, position and opinion on mediation and on the suitability for the use of mediation, the mediators' skills and specialized training of mediators.

1. Interviewee's personal experience with mediation

The first interviewee is a fisheries researcher with more than 20 years of experience in maritime research. The interviewee's main responsibilities rely on the focus on the advisory in fisheries and marine management, where the interviewee participates in deliberative processes. The interviewee acknowledges that bringing knowledge to the space where decisions are made and critical thinking are essential to reduce the decision space, by the process of eliminating scientifically less acceptable options. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something highly related to maritime spatial planning, intersectoral conflicts and the privatization of space through concessions or other occupations.

Despite the interviewee's many years of experience, never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). Regarding the interviewee's experience with the courts, it was reported that the interviewee has already supplied the courts with data and information regarding a conflict, at a request from the authorities.

The second interviewee is a fisheries production director for more than 20 years. The interviewee's main responsibilities rely on the unloading and sale of fish and delivery of it in Portugal. The interviewee manages the exploitation area and deals with problems regarding the receiving and weighing of the fish and its delivery to traders. The interviewee makes all the acquisitions and purchases for the company, nationally. Sells, keeps, and stores the fish; validates contracts for the company, under supply contracts (with pre-defined price, an agreement between parties - trader and fishermen). The interviewee classifies the daily basis of the fishing auctions as a place where multiple conflicts happen. There are conflicts of interest between customers and salespeople.

The customers want the best product, for the lowest price, while the salesperson always wants to sell the most expensive product possible.

***Specific case of conflicts presented by the second interviewee_2** (described below)

The third interviewee works in maritime administration for over 10 years, where the interviewee manages a team who works on ship management and monitorization (compliance management, voyage data collection, vessel assistance) along the Portuguese coast, focusing mostly on safety issues. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something highly related to legal, international, and cultural matters. Despite the interviewee's many years of experience, never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). Regarding his experience with the courts, the interviewee has never experienced any kind of mediation or interaction with the courts.

***Specific case of conflict provided by the third interviewee_3** (described below)

The fourth interviewee is a maritime and natural resources director who has worked in areas connected to the environment, sustainability, marine environment, and communication and who represents Portugal in the European space in matters regarding marine litter. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something highly related to energy, maritime spatial planning and environmental radicalism. Despite the interviewee's many years of experience, has never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). Regarding his experience with the courts, the interviewee has never experienced any kind of mediation or interaction with the courts.

The fifth interviewee is a historian and a researcher in environmental sciences, who has worked as a researcher and as a professor in the area for over 10 years. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something

highly related to negotiation and opposition. Despite the interviewee's many years of experience, has never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). In the same way as the fourth interviewee, the fifth one has never experienced any kind of mediation or interaction with the courts.

The sixth interviewee is administrative in a fishery association where the main responsibilities rely on assisting fishermen with all the bureaucratic paperwork. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something highly related to trawlers, legislation, and lack of inspection. Despite the interviewee's many years of experience, has never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). In the same way as the previous interviewees, the fifth one has never experienced any kind of mediation or interaction with the courts.

The seventh interviewee is the head of an environmental monitoring division where the main responsibilities rely on the drafting of situation plans and maritime spatial planning laws in order to define new areas for the sea to be used. The interviewee classifies the conflicts in the sea, whether in the high sea or near the coast, as something highly related to the common, private, and exclusive use of the sea. The interviewee has a degree in conflict management, however, despite the interviewee's many years of experience, has never experienced or acted as a mediator in any dispute resolution through mediation and does not have any mediation training (whether it is judicial mediation or not). In the same way as the previous interviewees, the seventh one has never experienced any kind of mediation or interaction with the courts.

2. Interviewee's attitude regarding mediation

The first interviewee understands that mediation is a positive way to solve a dispute because it is a way to avoid these disputes or conflicts from reaching courts mediation. The interviewee argues that mediation is a way to aggravate less the conflict because it

seeks to mitigate the conflict and allows for more reasoning and intelligence when searching for a solution.

The third interviewee argues that mediation is a positive way to solve a dispute.

The fourth interviewee argues that mediation is a positive way to solve a dispute. The interviewee considers that mediation is fundamental because it is often the case that the parties' vision is flawed, and before there is a compromise, the technicalities are resolved and realized in a more straightforward conversation and only by establishing common ground on what is involved (in terms of implications and action to be taken). In this case, mediation is key to achieving this common ground. Mediation allows you to understand the reasoning of the parties.

The fifth interviewee argues that mediation is also a positive way to solve a dispute, understanding that it is a way to reach a consensus without having to go to a higher-level institution. It is much simpler. Historically, it is the most common cause of conflict resolution, notably in fisheries cases.

The sixth interviewee argues that mediation is a positive way to solve a dispute. The interviewee provides a specific example of mediation use within the fishery community - academy can appease the conflicts between fishermen. The academy offers a different point of view to the fishermen that make them think about the different perspectives from which they should approach the problem at hand.

The seventh interviewee argues that mediation is a positive way to solve a dispute, considering that mediation should be mandatory and properly regulated to be more useful. There is a huge room for mediation due to the gaps in the law - sluggish law (in this case Portuguese, but also in Southern European countries).

3. Interviewee's thoughts regarding the suitability for mediation

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The first interviewee understands that the disputes regarding maritime spatial planning and all the new tensions/conflicts that this type of situation has legally created, between different people/promoters who want the same space and between sectors as well, are the type of disputes where mediation must be more suitable. The interviewee also appointed disputes such as rescue, collision, maritime insurance, maritime pollution, conditions in sea labour, fisheries quotas, and the use of the sea for economic and recreational purposes as types of conflicts where mediation is necessary.

The third interviewee argues that the disputes regarding the conflicts between ships and crewmembers are more crucial and suitable for the need for mediation. The interviewee also appointed disputes such as rescue, collision, towing, maritime insurance, cargo, maritime pollution, conditions in sea labour, harassment complaints, safety matters, fishing quotas, the use of the sea for economic and recreational purposes where the interviewee assess these conflicts as very important cases of conflict regarding the need for mediation.

The fourth interviewee argues that disputes regarding the use of the maritime space are the ones more crucial and suitable for the need and the use of mediation. However, the interviewee also considers that disputes regarding rescue, collision, ship hull damage claims, grounding, disputes between parties over freight contracts, personal damages, maritime insurance, cruise ships, cargo, complaints regarding workers, passengers, stowaways and coastal workers, maritime pollution, conditions in sea labour, harassment complaints, the use of the sea for economic and recreational purposes are conflicts/disputes where mediation will be more necessary.

The fifth interviewee argues that the conflicts regarding conflicts between various forms of use of the sea, whether maritime or coastal (surfing communities vs. fishing communities; fishermen vs. maritime legislature) or conflicts related to maritime power (e.g., South China Sea dispute) are the ones where maritime mediation will be more necessary. However, the fifth interviewee also argues that conflicts/disputes regarding cases such as rescue, collision, ship hull damage claims, grounding, disputes between parties over freight contracts, claims regarding the unseaworthiness of the ship, towing,

maritime insurance, cargo, bunker, maritime pollution, and the use of the sea for economic and recreational purposes are conflicts/disputes where mediation will be needed the most.

The sixth interviewee argued that conflicts between fishermen(women) and conflicts between fishermen(women) and legislators are the ones where mediation is more urgent and necessary. However, the sixth interviewee also argues that conflicts regarding cases such as ship hull damage claims, disputes between parties over freight contracts, claims regarding the unseaworthiness of the ship, maritime pollution, labor condition at sea, safety measures, the use of the sea for economic and recreational purposes, cargo and complaints regarding workers, passengers, stowaways, and coastal workers are, also, other conflicts/disputes where mediation is needed.

The seventh interviewee argued that conflicts regarding the use of the maritime space that demands quick mediation, conflicts between vacationers and fishermen(women) and conflicts between the surfing and fishing community are the ones that demand mediation in a more urgent way. However, the seventh interviewee argued that conflicts/disputes regarding personal damages, contractual damage, personal and death claims in cruise ships, cargo, complaints regarding workers, passengers, stowaways and coastal workers and the use of the sea for economic and recreational purposes are other types of conflicts where mediation is necessary.

4. Interviewee's thoughts regarding the necessary skills for a mediator

The first interviewee argues that a mediator must have the legitimacy to act, must be neutral, must have good listening, observation, and communication skills, must have knowledge regarding the area of dispute, goodwill, emotional intelligence, must be patient, must give orientation towards the agreement and reconciliation, must have credibility and good access to information and must be a good inquisitor.

The third interviewee argues that a mediator must have empathy, communication skills and assertiveness as the key skills. However, the interviewee also considers that a mediator must be neutral, must have good listening, negotiation and observation skills, knowledge of the matter in question, credibility, must be a good inquisitor, must have emotional intelligence and must be patient.

The fourth interviewee argues that a mediator must have good negotiation skills, good technical knowledge regarding the conflict in the subject and must be impartial. The interviewee also considers that a mediator must be neutral, must have good listening, communication and summarizing and reframing skills, must be a good inquisitor, must have a good orientation towards reconciliation and an agreement, must have emotional intelligence, must be patient and credible.

The fifth interviewee argues that a mediator, more importantly, must have the exemption, a good knowledge of the case and professionalism. However, a mediator must also be neutral, have good communication, observation, listening and summarizing skills, must have assertiveness, a good knowledge of the conflict in the case, must be patient, must have credibility and reputation, must have emotional intelligence and must be a good inquisitor.

The sixth interviewee argues that a mediator, more importantly, must be neutral, assertive, and empathic. However, a mediator must also have good communication, observation, listening and summarizing skills, a good knowledge of the conflict in the case, must be patient, must have credibility and reputation, must have emotional intelligence and must be a good inquisitor and must guide the parties involved towards reconciliation and an agreement.

The seventh interviewee argues that a mediator, most importantly, must be neutral and have good communication skills. However, a mediator must also have good observation, listening and summarizing skills, a good knowledge of the conflict in the case, must be patient and assertive, must have common sense, credibility and reputation, must have

emotional intelligence and must be a good inquisitor and must guide the parties involved towards reconciliation and an agreement.

5. Preparation

The first interviewee considers that specialized training is suitable and required for new mediators because there is a tendency for conflicts to increase. If conflicts can be resolved before they reach the courts, the better. All this needs an institutional base (it is not enough to train mediators). A mechanism with binding consequences on the territory and resources of the sea is needed. In the opinion of the first interviewee, there must be amplitude regarding the specialized training for mediators, in the function of the conflicts.

The third interviewee argues that specialized training is suitable and required for new mediators and this training must be directed to the people included in the governmental area, in the representative organizations of the sector - fishermen's association, maritime administration – and the interviewee also considers that this type of mediation training must be promoted by the maritime administration.

The fourth interviewee argues that specialized training is suitable and it is a really good idea to apply. The interviewee considers that this type of mediation training must be directed towards people who have an academic degree in law of the sea and international relations and towards people who have specific training in mediation. Also, the interviewee argues that this type of specialized mediation training must be promoted by national marine resources and fisheries directorates and by the academy – especially colleges and universities that can provide academic degrees in international relations and the law of the sea.

The fifth interviewee considers that specialized mediation training is suitable, and it is a good and important idea because more and more conflicts are related to maritime/littoral problems. It is a quicker and simpler way of solving cases, through a more direct mediation. The interviewee argues that this type of specialized mediation

training should be directed to authorities that operate in these areas (maritime police, city councils, state authorities) and to communities that depend on the sea for their survival. This type of training should be administered by education entities that are able to offer academic degrees related to the law of the sea and to entities that can offer training and academic degrees regarding the use of the maritime territory.

The sixth interviewee argues that specialized mediation training is suitable and a good and important idea because there is a lack of knowledge of people with a very comprehensive view of the use of the sea. There are people who know a lot about fishing or the use of the law, but there are not many people who have a comprehensive knowledge of all areas of the sea. The interviewee considers that this type of specialized mediation training should be directed to psychologists and those who should provide this type of training should be people connected with fishing, merchant marine, legislation, and people connected with all the valences of the sea.

The seventh interviewee argues that specialized mediation training is suitable because we (as humans) lack knowledge regarding the sea. The interviewee considers that this type of specialized mediation training should be directed to lawyers and facilitators who intend to have a degree in this area of knowledge and those who provide this type of training should be people or entities who are in the position to offer a certificate graduation in the law of the sea.

*** Specific cases of conflicts presented by the second interviewee_2:**

Usually, the conflicts that occur in the fishing auctions are solved on the spot. The conflicts that occur are classified as a clash of interests or conflicts based on frustration, for example - when a fisherman arrives at the auction and sees a low price for fish in relation to what he expected, and a conflict is generated due to frustration with the company responsible for the attribution of the fish's price. Conflicts also happen related to the size and weight of the fish, due to the violation of the law due to the fisherman's interest - when the fisherman places a fish of a certain size in a measure that is not appropriate for its weight and size, according to the law.

Usually, these conflicts are not serious enough to proceed to the mediation of the courts because they are conflicts regarding verbal aggression and, therefore, they are solved on the spot. However, there might be a possible and usual conflict soon, which will affect the fishermen's lifestyle on a daily basis. The possibility of renting out areas of the sea is increasing, whether through aquaculture, recreational areas (diving, for example), or mussel farming. The sea will be "rented out"; here, mediation will be necessary and important. Now, fish exist closer to the shore and all these activities will conflict with the fishermen's fishing areas, which makes fishermen uncomfortable and unable to do their work. Here mediation will be necessary. Good faith and willingness between both parties are fundamental. The new business areas at sea will generate conflicts in the future.

Regarding these future conflicts, it will be really advantageous to use a mediator in order to solve this type of conflict, where the mediator must have good knowledge and enough information in order to act and mediate regarding the subject of the problem. In this case, the mediator must try to find out whether the interests diverge too much, and whether everyone can live with this new situation, if not, then mediation will be needed.

***Specific case of conflict provided by the third interviewee_3:**

A fisherman thought that he was being persecuted by the national maritime administration because he was always fishing in the same place and kept being notified by the authorities, but in fact, a notice was being issued for safety/safety of life concerns, as he had a small boat that met and interfered with the route of larger vessels and could result in an accident, for which the national maritime administration could be held responsible (if they failed to act). The fisherman was contacted many times by the national maritime administration and did not respond. This lack of communication created a conflict between both actors, which then went to court. If there was a

mediator, this conflict would not be necessary because the mediator could have facilitated communication between both actors.

Annex: Interviews Conducted between October 27th and November 30th

	Profile	Background	Entrevista	
1	administration/researcher	Biologist	27/10/2022	IPMA
2	manager	Fisheries production director	3/11/2022	DOCAPESCA
3	manager	Maritime Administration	9/11/2022	DGRM
4	administration/researcher	Biologist	14/11/2022	DGRM
5	student/researcher	Historian	28/11/2022	UPorto/MARE
6	Manager/researcher in fisheries	Education	28/11/2022	AlaAla
7	Head of environmental monitoring division	Environmental authority	30/11/2022	DGRM

ANNEX 5 – NTNU REPORT

Program operator



Promoter



INSTITUTO JURÍDICO
FACULDADE DE DIREITO
UNIVERSIDADE D
COIMBRA

Partners



Interviews Report- MEDIMARE Project

NTNU Team (Norway)

Kristine Størkersen

Jon Ivar Håvold

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1. Introduction

The MediMARE: Mediation in International Disputes project, financed by EEA Grants and developed by a Consortium led by the Legal Institute of the Faculty of Law of the University of Coimbra, has Doctor Dulce Lopes as general coordinator and, by partners,

Program operator



Promoter



Partners



the Polytechnic of Leiria; MARE from Universidade Nova de Lisboa and NTNU Samfunnsforskning (Norway).

Within the scope of the project, which aims to develop skills in terms of mediation as a way of resolving conflicts related to the sea, several semi-structured interviews were carried out with relevant actors in the maritime domain or in related domains.

In this report, we briefly describe findings from the interviews.

Ten interviews were carried out in October and November 2022 and all interviews followed mainly the same structure. All interviews were conducted online by Doctor Kristine Størkersen (PhD/Senior scientist) and Jon Ivar Håvold (PhD/Professor) using the TEAMS platform. Interviews were recorded and transcribed in TEAMS.

The choice of interviewees was made based on their area of expertise and we were able to recruit very good informants, many with broad mediation, arbitration and maritime experience.

The interviews were conducted in Norwegian the native language of the interviewers and interviewees and partly translated into English for use in this report. The interview study is reported and accepted by NDS/SIKT application 135396.

2. Interviewee's personal experience with mediation

The first interviewee holds more than 25 years of experience of dispute resolution, arbitration, and mediation. He has extensive experience with handling large and complex maritime cases worldwide.

The second interviewee is a senior lawyer who the last ten years has been working in a maritime governmental organization. Before he joined the maritime organization he has been working in oil service and shipping. He has also been a sailor. He has no direct experience with mediation.

The third interviewee is the managing director in a fishexporting company. Previous experience as lawyer in a large lawfirm and judge. Experienced boardmember in many companies.

The fourth interviewee is a lawyer and insurance director. Head of a department employing many lawyers, many with mediator competence and education. Have worked as mediator in a previous position.

The fifth interviewee is an engineer and business graduate. Forty years experience working in a broad specter of maritime businesses like shipbuilding, design, classification societies and as university professor. From his employment in shipbuilding, he has mediation experience.

The sixth interviewee is a retired shipbroker who have worked with shipbroking all his life. Disputes was solved on the lowest level in the business, only once it ended up with litigation. Problems with disputes was closest when customers had inexperienced employees, or the company was a big international oilcompany.

The seventh interviewee is a lawyer from a large law firm who marketed mediation as one of their services. This lawyer was one of the lawfirms employees eith substantial experience in mediation.

The eight interviewee is a judge and a lawyer who has practiced court mediation and recommended court mediation im many cases brought to court.

The ninth interviewee is a law professor of maritime law, with a broad industrial background also from maritime practice. The interviewee has long experience with litigation, arbitration, and mediation.

The tenth interviewee is an engineer and business graduate who has been working in industry, insurance and is a professor. Especially during his time in insurance, he has experience with arbritation and mediation, also from the maritime industry.

3. Interviewee's thoughts regarding the suitability for mediation

The first interviewee is very positive to mediation, but there might be situations that might be better for court proceedings. However, the most important argument for choosing mediation is that mediation is a fast process, is better for relations between the parties and is cheap.

“Time is money and business conditions is important in shipping, a ship lying idle is expensive..... it is very often the case that the parties want the dispute solved because they want to continue doing business together. Both parties are often dependent on each other. However, there are cases where you see no possibilities to achieve a good solution for business, even if you get a mediated solution. They go separate ways”.

“Some of the cases where pollution has been an elementthe cases live their own lives with a great disagreement between the parties regarding responsibility and blame. Let's say that it is a large area of land that has been polluted by an oil cargo as well as a fish farm. Then it is an extensive problem which I think is better suited for court proceedings”.

“All parties will be concerned with the costs of the process. It must not be too expensive, right? It is important for most parties that a solution is quick and unbureaucratic. A lawsuit costs an awful lot of money. I just had one case down in Arendal in the Court of Appeal where the shipping company was ordered to pay NOK 25 million in court costs. And they probably had just as much on their own side. It's clear that you need a strong back to carry those kinds of costs.”

The second interviewee is very positive to mediation. Mediation is a very good idea on many levels also at the workplace. ADR should be marketed more.

The third interviewee was not negative to mediation but felt that solving disputes using mediation had some negative effects. Mediation could weaken transparency, fairness, and legal protection, as opposed to the public court system. That mediation lacks transparency can in the long run lead to stagnation and inertia in changing laws.

The fourth interviewee is very positive to mediation Being able to get the parties to understand that everyone benefits from a final negotiated settlement because then they minimize risk and we save money and time, everyone benefits from that.

“How much you pay at the end, either in legal fees or in liability costs, depends very much on how well you manage to handle the disputes; doesn't it. It is said that those who have time to go to court cannot afford it, while those who can afford it do not have time. Solutions must be found in other ways like mediation.”

“And then we have the lawyers in the middle of this, as soon as they come up with a case, you must remember that they have their own interests. There are many good and clever lawyers out there, but they have a purpose for the business they run, and that is to generate profits for their partners or for the partnership. And if you do not have control over the lawyers when you meet the deadlines, big and small, then they are very happy to provide an overservice on this to make good money.”

“Perhaps, the core of what we do is to find solutions to practical and legal problems for the shipowners. Not necessarily winning the argument, and that's why it is important to having a practical approach to the shipping companies. Part of what we work with is that the shipowners make money from the ships sailing and being in operation. In addition to pure management of cases that go through the claims system we spend quite a lot of energy negotiating and trying to find solutions, because everyone knows that the ones who benefit from not settling are mostly the lawyers and arbitrators.”

“You try to solve disputes at the lowest level, but often it will be the case that the parties disagree so much that it is not possible to reach a solution the challenge is to get in early enough. Being able to get the parties to understand that everyone benefits

from a final negotiated settlement because then the parts minimize risk, save money and time, and everyone benefits.”

“Very few of the cases we work on end up in court, even though there are a lot of arbitrations. But it is typical to cancel deadlines, statutes of limitations and things like that that there is a procedural step that is taken, but then by definition you have a deadline, but most things are negotiated. The advantage in shipping is that there are professional parties on both sides. This is what they live off, and most agree that the best thing to do is to settle disputes and move on. Often when you want to have a commercial relationship with the counterparty you don't want to stretch the disagreement too far, however, others might feel that they have an upper hand and be more forward. Typically disputes between small companies and large/very large companies.”

“The legal system is one thing and then you have arbitration, which is very common as an agreed dispute resolution method in contracts. Then you have mediation, where a mediator must facilitate a situation and try to find a solution. I think most people who have been through mediation and get decent results have a good experience. Often you will also see that if you are unable to reach an agreement in mediation and then it gives results one, two or three weeks later.”

The fifth interviewee is very positive to mediation and find mediation highly needed to find good, quick and cheaper solutions as opposed to the public, legal system.

The sixth interviewee is very positive to mediation, however in his profession that is shipbroker they mainly solve issues at the lowest level, at least if they have industry competence.

The seventh interviewee is very positive to mediation and recommend including use of mediation in contracts. He underpins that there are many underused mediators in the system.

The eighth interviewee was very positive to mediation. Mediation in courts is free if clients use a judge. Clients can still bring technical or business consultants to mediation.

“The success rate of court mediation is 70%. on a national basis, in Oslo it is 80 % success rate, I have been mediating for over 16 years now and I feel statistics that I have over 90%, so it is quite possible to find solutions in most cases where the parties want mediation.”

“If the parts in a dispute are somehow loyal to this system, you will get solutions. But it. But with us it is a very big means of pressure in that if they do not come to an agreement, the case actually goes to court. Then they must go through a main negotiation which can often be very lengthy and not least expensive. It is a huge pressure tool. The advantage of mediation is that you have one hand on the wheel, so you can help decide the solution.”

“And then it is a fact that parties in processes overestimate the opportunities they have to win. There is usually someone who is very disappointed after a verdict, here you can get your hands on the wheel and arrive at an immediate solution. And then you also might manage to come up with solutions that are outside of what you would be able to come up with if you took it to court.”

The ninth interviewee is very positive to mediation and is a good idea for most disputes.

“Above all, one must want to find a solution.”

“Now you disagree about us starting with the easy thing to find out, why do you disagree and already there you are into a bit of such mediation philosophies for some American mediation literature. They emphasize that it is bad to dig into why people disagree. You must make sure that they agree, and it's like a lot of American mediation result literature, so it has a point, but I think that American writers in that area are a bit too single-tracked to their points.”

The tenth interviewee is very positive to mediation.

“Mediation and arbitration are a much more elegant ways to solve disputes than litigation. It is cheaper, faster and you more often keep your business relation.”

4. Interviewee's thoughts regarding the necessary skills for a mediator

The first interviewee: “Justice comes very high, I think. After all, it is very important for a mediator both to listen and ask for information; if you see that the parties can provide additional information to help to further the case. In other words, a good mediator is fishing for things that the parties themselves may not understand the importance of or hold back because they are afraid to show. “

“It's a question of trust, which you see very well. You get work because of your reputation, Neutrality is important for building trust and I live off everyone's trust and if my trust is lost, I think that everything will be destroyed because a bad reputation is not easily gotten rid of.”

“Negotiation and finding solutions that can be defended and both sides can accept is an important skill. Customers use mediation also because they want an unbureaucratic and relatively quick decision.”

“It is important to have some distance to both sides, but at the same time you recognize that the world is small, at least in Norway where you very often know the parties on both sides. In a way, you must keep a professional distance and that you show that the fact that I know you doesn't matter in this case.”

“I'm often a bit confused about the mood and background of the case. Sometimes you can see that the dispute has been a long-standing argument between the parties. I'm a little careful about pouring fuel on that fire. I am trying quickly get to the core of the matter to find a decision, not dragging the matter out.”

The second interviewee. A good mediator must be trustworthy, credibility and reputation seems also to be important. Being a good negotiator is an advantage.

The third interviewee. The most important thing with a mediator is trust from all parts.

The fourth interviewee. A good mediator can see the big picture, see the advantages of a solution rather than an advantage of winning a series of arguments. There are often different ways to solve the problem, some people must at any cost win any discussion without necessarily finding a solution to the problem.

It is important to ask: How can we find a solution rather than what? What arguments speak for and against finding a solution. We see that among lawyers there are many who must use a legally completely correct approach to all problems, and that their job then is to argue to find weaknesses in the other party's arguments by attacking them. But if you are going to solve a problem that both parties must deal with, then you as mediator have to have a slightly different approach, both to be a bit more solution-oriented, and also be able to see the big picture.

“A good mediator must also be able to create trust with the parties. After all, they only have a formal mandate to go from room to room and arrange, and perhaps give some input. A mediator must be able to read the parties to see where the parties are, and at the same time be able to see what is possible to achieve.”

“The mediator must have some insight or experience in psychology, he cannot just be a messenger, mediators must also try to facilitate without going too far and having a formal role in the matter. It is very important that the parties have confidence that the mediator is impartial and not biased in any way. Obviously, if there are emotions involved, it's a very difficult balance. So, I think that both commercial understanding, professional expertise and competence and human understanding when it comes down to the individual level sitting down negotiating with the parties. After all, there are people sitting in the rooms, not algorithms.”

“When an arbitrator or mediator is needed the discussion often starts with: Who can be a good arbitrator or mediator. Asking around, do you have any suggestions? Then there will be some input and then perhaps a discussion around those you know or have been suggested from others. There is very little structure, but it is often those who have managed to establish themselves as good mediators that are used again and again. There is no formal certification of mediators, but the industry will eventually regulate

itself so that if you don't deliver results, you quickly disappear from the market. It is those who manage to achieve results and who market this that survive in the first place. We will see if there will be any more formalization around this.”

The fifth interviewee. A good mediator must have a deep and wide knowledge and understand the importance of all kinds of culture. It is more psychology than you think in mediation and negotiation.

The sixth interviewee mentioned humbleness and practical competence as special important.

The seventh interviewee mentioned communication skills, culture to pick up the ball early (early intervention). Both competence from law and psychology is important. To be a successful mediator trust from all parts are important.

The eighth interviewee claims that the most important thing is that the parties have confidence in the competence of the person mediating and that the person is objective. Creativity and wisdom is also important. Not only a top professional but also one who has the human qualities that enable to create the necessary trust.

“I have found, for example, a civil engineer who I have involved in many mediations. He is very good, not only is he top professionally, but he also has the human qualities that enable him to create the trust that is necessary. The parties must have confidence that this is a wise person who can see this from both sides. You must not appoint someone to be a helper that your customers do not accept. Then, you won't get the confidence you need for the mediation.”

“It is not a given that those who make a living from invoicing hours or make a living from being arbitrators, think that it is a very good solution that more and more disputes are solved by mediation.”

The ninth interviewee claims: “A good mediator must be a person who meets four criteria. The first criterion is to be a good lawyer. Secondly, the person concerned must have a good commercial orientation to understand what the dispute is about what the room for maneuver for the company chiefs is. Thirdly, it must be a good pedagogue, and that person must be able to communicate to the chiefs in such a way that they understand, then came the difficult part, and that is criterion number 4 which on closer reflection, is connected to number 5. The mediator must be a charming bad ass because if he is not, he will be unable to move the chiefs to get it done.”

“An example of a good mediator was Ole Lund, he is a legendary lawyer who fulfills all the criteria.”

“A fundamental word in mediation is trust. It is the first word you hear about in mediation, imagine a trust account that you deposit in to and withdraw from when you need to, that never goes down to zero. To have a very clear understanding that trust goes all ways between the parties both between the mediator and the parties and between the parties. Maybe it's a bit strong to say that you must like each other, but it's not that far off the truth.”

The tenth interviewee claims: “the three most important things for success in mediation is trust, trust, and trust.

Trust between all parties is the most important thing for success in mediation. How can a mediator become a trusted part of solving a dispute and influence the trust between the two parties in a case? I would say that a good reputation increases the credibility for a mediator. Other important skills that influence trust is neutrality and fairness Negotiation skills are also important.”

“To create trust the mediator should have an outgoing personality broad competence and skills in more than one skill e. g. psychology, negotiation, law, business, technology, etc. “

5. Preparation

All interviewees ment that preparation, knowledge, and plan for the unforeseen was important. The tenth interviewee summed up as: “Proper prior planning prevents poor performance i.e., need to know where to call for outside expertise. “

6. Education for maritime mediators

The first interviewee recomendad many different backgrounds as target groups for mediation courses; could be lawyers, engineers, people with business administrative background and social scientists. Maritime students and students in general can also be an interesting tatget group.

“I do not know; many lawyers take on arbitration assignments, but it surprises me that they reuse the same arbitrators time and time again. There are some who have gained a reputation for being competent.”

“I don't think about the students at university now, I think more about lawyers. I know that there are very competent lawyers who can handle maritime disputes for example freight or towing. But the parts who wants an arbitrator or mediator goes to the same persons time and time again. It has probably something to do with knowledge, and they have done a good job in the past.”

“Courses or education in mediation is something that law firms certainly will be interested in even if many lawyers will think that I already know this. Often is a dispute technical so some technicians/engineers can be interested in taking a course. I think that many backgrounds can be requited for a mediation course for example people with economic background can do a good job in many disputes, especially where there are questions about the economic side then the lawyers aren't always that good and the technicians aren't either. Students can also be a recruitment base.”

The second interviewee focused on maritime HR and union representatives as target students for education and training.

The four interviewees recommended many different backgrounds as insurance, shipping, seafarers as target groups for courses in mediation. Interesting with adult education, distance education.

“In our company we have several employees with mediator training. We use them as internal mediators. I can't imagine that such a course could be interesting for English lawyers in shipping, however, it can be education for people with a maritime background who wants to become mediators and wants to turn this into something to make a living from. I think there are many different backgrounds for which it can be important to have mediator skills.”

“Yes, I can send some of mine employees, however, some has taken a relatively extensive mediator education in England.”

“All in all, dispute resolution is what we do. There are many people who can benefit from dispute resolution skills, not just us who work in insurance. I think people in the shipping industry, like those working in the offices onshore should have some insight into how to resolve disputes because they are after all those who sit with much decision-making authority. To what extent it is relevant for maritime education and for people in the maritime industry I don't know, but on some level, I think it will be useful. For example, to have a basic understanding of how mediation works and how to resolve a crew dispute can be important.”

“Competence is never wasted. I think the goal should be to gain entry with the course to where the decisions are made, and the disputes are handled. Perhaps at the legal or lawyer level, or at the level of executive officers and advisors at the shipping companies or the insurance companies. However, it is no disadvantage for those working aboard the vessel to understanding how disputes are resolved.”

“When I decide on a mediator, I am looking for one with the right background for the dispute. Some are engineers when you need people with technical understanding, in other words on a mediator who can, after all, understand what the parties disagree

about. In a purely legal disputes, it may be important to bring in an experienced lawyer. Sometimes you need someone who has great commercial understanding. So, it depends on the type of dispute you have, so there is not a shipping lawyer that will be the best mediator for all types of disputes.”

The fifth interviewee recommended insurance, shipping, adult learning after a bachelor or master’s degree.

The sixth interviewee recommended to include courses into the curriculum at universities or as adult/distance learning.

The seventh interviewee recommended to market the courses to lawyers, judges, and the maritime industry.

The eight interviewee recommend to market courses to lawyers, engineers, insurance companies, HR and union representatives.

“Mediation education for lawyers and technical professionals relevant for shipping. The whole purpose is to get the parties to talk. In a way, get them to understand the other party's views in a slightly different way than before. Maybe also that some suggestions for solutions appear that may be outside the box that was originally chosen. Creative on the solution side is important.”

“Those who sit as parties in disputes can benefit from a course in mediation, for example insurance companies and industrial companies because you want them to see the possibilities that mediation gives.”

“Shop stewards or other union representatives it may be relevant for such courses. In other words, when unions mediate using a lawyer, they also team up with a shop steward. Normally a representative of the club in question because they are the ones paying for legal assistance. Internally in the Confederation of Trade Unions system, the lawyers are invoiced to the individual union and then it is good that those who pay for legal assistance are actually involved and see what happens, because they can, in the

last resort, snatch the wallet back if they believe that the employees is not experiencing a reasonable balance. So, I think for shop stewards and union representatives, a course might be relevant.”

The ninth interviewee recommend targeting operative maritime industry, insurance companies, shipbuilding and union representative.

“Look at the context, I think it might make sense to start at that end and try to identify the types of conflicts that may need mediation as an instrument. Then you probably very quickly can link it to operational aspects of maritime business, meaning that you have a circle, you have insurance settlements and disputes in various contexts, you have construction building ships and then you have the whole crew side. Just take the relationship to the safety representative on board who quickly can come into conflict with the ship's management about different aspects of the business. All those and more can be potential customers.”

For the tenth interviewee recommend marked to All in management position and union representatives in maritime. Students within curriculum and adult education. Distance education.

“Negotiation and mediation are important tools for almost everyone. In management positions and for union representatives it might be an essential skill both in the maritime world and most other businesses. Especially important is it to include mediation as dispute solution in contracts. Courses could be offered on different levels both to students as part of their curriculum and for adult education and training. I think courses in mediation are well suited to be a mix of theory and practical training.”

Annex: KEY FININGS FROM INFORMANTS NORWAY PROJECT MEDIMARE

INFORMANT/ AFFILIATION	PERSPECTIVE / ATTITUDE TO MEDIATION	DISPUTES SUITABLE	MEDIATOR SKILLS	A: TARGET STUDENTS B: Syllabus Ideas
1. Specialized lawyer in joint accidents	Mediation is a good idea; the court does normally not understand maritime problems and is very costly	Almost all disputes can be solved by arbitration or mediation. Unseaworthy, marine pollution, personal injury disputes is probably of the few that might be more suitable for court	Trustworthy +++, fair, neutral, knowledge, listening ability, settlement oriented, good chemistry between mediator and parties, has to be open for at each case is different	A: Lawyers, engineers, business administration, many backgrounds
2. Government, lawyer	Mediation is a good idea on many levels, also at the workplace. ADR should be marketed more.	Contracts, dispute not covered by law	Trustworthy, negotiation, credibility, reputation, ,	A: Union/safety representative B: Negotiation
3. Industry/ lawyer Managing Director fishexport	Mediation could weaken transparency, fairness, and legal protection, as opposed to the public court system. Disputes is costly in general	Disputes where it is important to keep the relationship between the parties	Trustworthy +++)	
4. Insurance Director in large insurance group	Mediation is highly needed to find good, quick, and cheaper solutions, as opposed to the public legal system/lawyers. Mediation can be used by insurance companies	When professionals on both/all sides there are no disputes that isn't suitable for mediation. Disputes with big oil companies and pollution (government) might be problematic for mediation	Expert skills dependent on the case: Industry, technical, legal, always trustworthy and recognized, perhaps certified	A: Insurance, shipping, seafarers, adult learning. B: Plenty
5. Consultancy/ Academia Director in shipbuilding	Mediation is highly needed to find good, quick and cheaper solutions, as opposed to the public legal system/lawyers	Important to understand the consequences before taking a case to litigation. Without insurance we could not afford a litigation.	Trustworthy, deep and wide knowledge, culture, it is more psychology than you think	A: Insurance, shipping, adult learning / after bachelor or masters degree B: Psychology/sociology / risk management, leadership
6. Former Shipbroker (Retired)	Ship brokers already solve issues on the lowest level, at least if they have industry competence		Practical competence, humbleness	A: Students, as part of education or adult learning B: Practical shipping
7. Lawyer Partner in large law firm	Mediation is a good idea. Include use of mediation into contacts is important. Among lawyers there are many underused mediators.	E.g, transport claims, casco claims, disputes with insurer	Trustworthy, communication skills, culture to pick up the ball early (early intervention). Both competence from law and psychology is important.	A: Towards maritime industry, lawyers and judges

<p>8. Law/court Judge</p>	<p>Mediation is a good idea, mediation in court is free of clients use a judge, clients can bring e.g. Lawyer and technical experts. Main advantage: you have a hand on the wheel</p>	<p>Commercial and technical disputes within shipping.</p>	<p>Trust and competence, objectivity, wise person, creativity</p>	<p>A: Lawyers, engineers, insurance companies, union representatives B: Learn to think outside the box, understand the counterparts view, creativity</p>
<p>9. Law/ Academia Supreme court Professor</p>	<p>Mediation is a good idea for most disputes.</p>	<p>It is a large specter of potential disputes within shipping. Example disputes within charterparty, insurance, work and labor disputes, collision, salvage, groundings, hull damage, shipbuilding</p>	<p>Trust, need a trust account, trust between all parts of a mediation Four criterium to become a good mediator: a good lawyer, be commercial, be pedagogical and be a charming bad ass. Mediators has to be extrovert,</p>	<p>A: Operative maritime; insurance companies, shipbuilding, union representatives,</p>
<p>10, Maritime mediator Director Professor</p>	<p>Mediation is a very elegant, cheap, and fast way to solve disputes</p>	<p>All kinds of disputes can be solved but many things might influence how well mediation will function</p>	<p>Trust and reputation. Neutrality and fairness, communication and negotiation skills.</p>	<p>A: All in management position and union representatives in maritime. Students within curriculum and adult education. Distance education.</p>