

# Summary

## Mediation Monitor 2007

### Interim report

#### Aims and methods

To promote people's familiarity with and the use of mediation, policy measures (mediation facilities at Legal Counters and Courts, as well as financial facilities<sup>1</sup>) have been introduced since April 2005. This *interim report* of the Mediation Monitor aims to describe the current state of affairs for the period of April 2005 up to and including December 2006 with regard to:

- 1 familiarity with mediation and its use;
- 2 the quality and outcome of mediations;
- 3 the quality and availability of mediators;
- 4 the financial facilities and their use.

For the data collection a Monitor Court annexed Mediation and a Monitor Legal Counter Mediation was developed. Data are gathered through questionnaires, as completed by mediators and parties involved, and through administrative systems of the Courts, Legal Counters and Councils for Legal Aid.

#### Results

##### *Familiarity and use*

- Referral facilities at Legal Counters and Courts were rolled out in 2005 and 2006. The number of mediations increased from 2005 to 2006. In total, 565 mediations were started following referral through a Legal Counter and 2,721 following referral through a Court. In addition, another 395 mediations were started without referral through either of these, but where at least one party used a mediation assignment.
- Some parties that took part in mediation were already familiar with it (20% from Legal Counters and 45% from Courts).
- Legal Counters and Courts are important sources of information for parties about mediation.
- The three main reasons parties give for accepting mediation are that they expect mediation to benefit future relationships with the other party and that out of court proceedings will yield faster or better solutions.

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<sup>1</sup> There are two different financial facilities available. For lower income groups, there is a mediation assignment (similar to a solicitor assignment) that covers the fee of the mediator (but for a means tested contribution). For those enrolled in court, who do not use a mediation assignment there is an incentive payment to promote mediation (2.5 hours mediation free of charge).

### *Quality and outcome of mediation*

- In mediations referred through a Legal Counter, there was full agreement in 71% of all cases and partial agreement in 8% of the cases. For mediations that had been referred through a court, 55% ended in a full and 9% in a partial agreement.
- More than one quarter of the mediations referred through a Legal Counter were completed within two weeks. One quarter of all mediations was completed within four contact hours and 40% within eight hours. In the courts 72% of all administrative matters were completed within four weeks (28 days). Administrative matters are completed faster than civil cases. In civil cases 44% of mediations were completed within 28 days. About 7% of all civil cases were completed within two contact hours, compared with 42% of all administrative cases.
- On average, parties were satisfied to very satisfied about the duration, financial costs and outcome of the mediation. Parties were more satisfied when the mediation resulted in full agreement than if it ended in a partial agreement or no agreement.
- In general, parties seemed prepared to opt for mediation in future conflicts, too.

### *Quality and number of mediators*

- The Netherlands Mediation Institute (NMI) recorded 829 NMI Certified Mediators, including 534 mediators registered with the Councils for Legal Aid. There are no signs that there is a shortage of mediators.
- Parties are generally satisfied to very satisfied about the quality of the mediators, in such terms as their carefulness, impartiality and the manner in which the mediator presides.

### *Claim on financial facilities*

- A total of 1,050 incentive payments were issued for mediations referred via the Courts.
- In a total of 1,887 mediations at least one of the parties received a mediation assignment. Overall, 2,908 mediation assignments were received.
- The availability of mediation assignments appears (somewhat) relevant to 70% of the parties referred by the Legal Counters in their choice for mediation. The incentive payment appears to be (somewhat) relevant to 51% of all parties referred by the Courts in their choice.

## **Limitations**

The interim report provides an insight into the current state of affairs concerning the use of and familiarity with mediation. Nevertheless, this interim report can do no more than provide a preliminary image as the implementation of the referral facilities was still in progress during the research period. Future Mediation Monitor reports may paint a more complete and extensive picture when more data and in-depth analyses will have become available.