

Kluwer Mediation Blog

Mediation Public Policy in Brazil

Tania Almeida (Mediare) · Sunday, September 25th, 2011

CNJ, the National Justice Council created on December 31st, 2004, and set up on June 14th, 2005 is an organization of the Brazilian Justice Department, with headquarters in the Federal District. It covers the whole national territory aiming at the coordination, administrative control and improvement of public services as far as Justice is concerned. Its Mission is to contribute to the ethics, efficiency and effectiveness of Justice on behalf of society.

CNJ's work consists of: (i) strategic planning and suggestions as to judicial policies; (ii) technological improvement of the Justice system; (iii) expansion of access to Justice, social pacification and responsibility; (iv) guarantee of effective respect as to public rights and penal executions.

On November 29th, 2010 CNJ realized it was necessary to consolidate a permanent public policy of incentive and improvement of consensual conflict resolution mechanisms – Mediation and Conciliation. Resolution #125, about a National Judicial Policy as to the adequate treatment of interest conflict in the Brazilian Judicial Department was edited.

The consequent legitimacy of Mediation guaranteed by the Brazilian Judicial System enables Mediation to be chosen based on the criterium of adequacy to the case instead of its previous status of an alternative conflict resolution method. Such Resolution gives Mediation the status of a consensual method of conflict resolution and validates a multidoor conflict resolution system for the Brazilian society. This will undoubtedly expand the access to Justice, thus reducing the big number of lawsuits which overload the judges' work.

The fact that Resolution #125 deals with public policy requires that the services be the same all over the country which is practically a continent. Each Law Court is supposed to have a Judicial Department for Conflict Resolution and Citizenry. These departments will offer Mediation and Conciliation both before and during the course of the legal suit. The mediators' and conciliators' training was standardized as well, concerning content and length of time. The Resolution also offers an Ethics Code for the practice of Mediation all around the country.

As to Resolution #125 it is important to mention that besides encouraging the practice of Mediation it also stimulates the use of other consensual conflict resolution methods and the development of private Mediation practice as well.

Brazil is taking a huge step in the field of conflict resolution and is on the way to replace a sentence-based culture for another based on dialogue and collaborative processes. Even before

Resolution #125 was edited Mediation training and practice already existed, predominantly in some states of the federation. That came about due to the work carried out by the NGOs and by Private Mediation Centers which also set up agreements with the State Courts. Brazil relies on important Community Mediation Programs. Policemen, government workers of the Justice Department, community leaders and professionals from different fields of work have been trained in Mediation all over the country.

Mediation has been a practice in different fields such as families, communities, corporations, schools and in some environmental issues. Some BAR Associations have Mediation Committees which coordinate different programs. Both in the public and in the private instances the movement towards dialogue processes – Mediation specially – as prevention and conflict resolution tools is fast paced.

Seeing Mediation as a public policy is undoubtedly a great step and a significant example of Brazil's commitment towards social pacification, which is ultimately everyone's aim.


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