

The 3 minutes of GENEVACCORD ADR - No.8, June & July 2014

Swiss Commercial Mediation Days on 6 & 7 June 2014 in Neuchâtel

GENEVACCORD Alternative Dispute Resolution attended the Swiss commercial mediation days on 6 and 7 June 2014 in Neuchâtel, organised in partnership by the FSM-SDM and the Swiss Chamber of Commercial Mediation (SCCM).

SDM-FSM
Schweizerischer Dachverband Mediation
Fédération Suisse des Associations de Médiation
Federazione Svizzera delle Associazioni di Mediazione

C S M C Chambre Suisse de Médiation Commerciale
S K W M Schweizer Kammer für Wirtschaftsmediation
C S M C Camera Svizzera per la Mediazione Commerciale
S C C M Swiss Chamber of Commercial Mediation

10 years of GEMME Europe



Groupement Européen
des Magistrats pour
la Médiation

An important week for mediation, as 5 and 6 June 2014 also marked the 10th birthday of the association GEMME Europe!

A European conference at the Court of Cassation in Paris was held to mark the anniversary, under the patronage of Martin Schulz, President of the European Parliament, Christiane Taubira, Minister of Justice and Vincent Lamanda, President of the Court of Cassation.

The theme 'Mediation: Road of Peace for Justice in Europe' brought together more than 250 figures from the legal world, who discussed the use of mediation in the European context.



[Read the full article](#)
(in French)

Meeting of the FSM-SDM Steering Committee in Bern, 23 June 2014

The members of the Steering Committee, all of whom attended, worked very hard and with excellent results.

The key concerns were the interests of the FSM-SDM members, as well as relations between the German-speaking and French-speaking sections.

The members will soon see the benefits of such meetings and be able to reap the rewards.

The commercial side of mediation was given recognition this year, with the theme 'Mediation in Business - trends, methods and tools'.

The days focused on conflict both within and between companies, of any size and working in any field.

The speeches, meetings, round tables and workshops were delivered in French, German and English to represent different cantons and to reflect the international dimension of the event.

The theatre company *Le Caméléon* performed an interactive and original bilingual play, designed to highlight conflict management in the workplace.

The 5th Montalieu Meetings: an essential meeting for experienced mediators!

Around 20 mediators gathered at the traditional Montalieu Meetings, from 29 to 31 May 2014 at the Château du Montalieu near Grenoble in France. It was a good setting to allow some serious reflection.



This year the theme was 'Active and Empathic Listening and Effective Communication'.

The participants' contributions on this topic will be published as a synopsis by Médias et Médiations.

The meetings and the publication of the synopsis will be the subject of discussions over coffee in several major cities (Paris, Montpellier, Lyon, Grenoble, Geneva, etc.) in September 2014.

Congratulations to the three volunteer organizers of the meetings, Dorothee Bernard, François Savigny and Stephen Bensimon, and to Ifomene for their work in sharing and capitalizing on the outcomes.

Guy A. Bottequin represented the FSM-SDM at the 5th International Conference of Judicial Mediation in Biarritz on 3, 4 and 5 July 2014

This was the fifth consecutive year that the International Conference of Judicial Mediation was held. The town of Biarritz was chosen for this year's event on 3, 4 and 5 July 2014.



[Full programme](#)
(in French)

The Conference was organized by the French section of the European Association of Judges for Mediation (GEMME), together with the International Conference of Mediation for Justice (CIMJ), Institute of Training in Mediation and Negotiation (IFOMENE), National Chamber of Mediation Practitioners (CNPM), Adour Amicable Dispute Resolution (AMARE), the Court of Appeal in Pau and L&A Training Unit.

The aim of the Conference was to bring together different countries, organizations and active players in the mediation world.

The theme of 'Mediation at the heart of 21st century justice - the citizen's active role in dispute resolution' was explored over several days.

The main topics were:

(1) A review of conflict mediation cases in Europe

In the 28 member states of Europe, mediation is used on average in 1% of legal cases. This percentage is currently considered too low. In the Netherlands, where the technique is well developed, the rate is stagnant. In Belgium, there are huge strides forward, especially using mediation in criminal cases.

(2) International political mediation

The European Union is being called to act as a civilian agent for peace in resolving conflicts in Maghreb. It is no longer a case of a single mediator stepping in, but of whole teams who need to establish a mediation strategy. The team is led by a professional mediator, surrounded by experts who specialize in religion, intercultural studies, etc. They must work strategically with the people. Care must be taken in communicating with third parties. In international political mediation, there can no longer be complete confidentiality. In international and political mediation, religious consequences and transitional justice must be taken into account.

(3) The reasons behind the paradox in conflict mediation

The overwhelming majority of mediators are still pioneers, conducting only a few mediation missions each year. This is despite the fact that they have undergone in-depth training in both theory and practice of the mediation process.

For French speakers, the A of ADR stands for 'Amiable' ('Amicable'), rather than 'Alternative' as it does for English speakers. The expression 'responsabilisation de résolution de conflits' ('empowerment in conflict resolution') is current in French-speaking Switzerland.

The mediator is an agent for conflict resolution but is not always seen as such. The fact that the mediator is paid leads to suspicions and doubts about ethics. Some people external to the mediation process are uncomfortable about mediators' intransigence regarding confidentiality of information. This applies particularly to criminal judges, who fear that this could allow a potentially guilty party to escape justice.

The application of the law in justice is currently dominated by judges and there is a need for a fresh approach.

(4) Barriers to mediation

There are few barriers to mediation. The approach is gaining ground and we can see significant progress. However, the greatest threat is the existence of bad or pseudo-mediators.

What is a bad mediator?

- (1) A mediator who lacks courage and takes too long over introductions and explanations.
- (2) A mediator who sees him/herself as a judge.
- (3) A mediator who is not able to inspire confidence in the process.
- (4) A mediator who is not able to break a deadlock when required.
- (5) A mediator who is not able to break deadlocks by applying either experience or the tools available.

- (6) A mediator who cannot untangle a problem situation.
- (7) A mediator who cannot deal with problems in a logical order.
- (8) A mediator who is not adaptable or able to choose the appropriate technique.
- (9) A mediator who does not pay attention to body language, posture, eye contact, non-verbal and para-verbal communication.

Conclusions from the 5th International Conference of Judicial Mediation in Biarritz:

- There is significant progress with mediation in criminal cases in Belgium, news which will be welcomed in Switzerland. Encouraging statistics show that criminals who are brought face to face with their victims through the mediation process are more accepting of their sentence and that as a result, repeat offending is reduced by 33%.
- A role has been established for mediators in international politics, where they are now in demand, with the backing of Brussels.
- Mediation is making clear progress throughout Europe.
- There is a need for robust accreditation in each country, providing recognition for reliable and recognized mediators.



*Contributors to the panel 'A culture change':
Philippe Bertrand, Presiding Judge at the Court of Appeal in Pau,
Boris Barnabe, Professor at Paris XI University,
Colette Capdevielle, Member of Parliament for Pyrénées-Atlantiques.*

Attacks on the conflict mediation process

There are still magistrates, lawyers and diplomats who have no wish to accept the conflict mediation process, as an element in restorative justice. Surprisingly, they reject all offers to learn more about it or to attend any event relating to the subject.

There is no political debate about mediation; there is consensus among all parties as to its benefits. In several European countries, restorative justice is not even a cause for debate between the National Assembly and the Senate; in politics, mediation is a subject everyone agrees about.

There are, however, attackers and opponents. I came across this quote, from a source who thinks they know about mediation without ever having received any training:

"Prestige is a trick designed to seduce.*

Those who practice this form of illusionism, through thirst for prestige, are the cause of many conflicts:

They promise you paradise by converting to a religion,

They manipulate you with advertising messages, offering fulfilment, happiness, confidence, security, etc.

They give you 100 with one hand and take 1,000 from you with the other hand.

Having aroused imaginary fears, they then lead you to a biased decision.

Let's leave the magicians to enjoy displaying their dexterity in their own circus, and be aware of other approaches within the human rights community.

**The word 'seduce' is derived from the Latin 'seducere', meaning literally 'lead astray'. A good modern translation might be 'divide and rule'."*

Support from GENEVACCORD ADR

GENEVACCORD ADR provided generous support for two major events in Geneva, which were both historic and symbolic of the city.

The Bicentenary of the Geneva Police

The period from 31 December 2013 to 19 May 2015 marks the 200 year anniversary of Geneva joining the Swiss Confederation. Commemorative events will take place over several months. The official program is being managed by the organization GE200.CH, which is retracing the major steps in the creation of the Republic and Canton of Geneva.



The Bicentenary of the Geneva Cantonal Police is also being celebrated, as the institution was formed through entry into the Swiss Confederation.

The celebrations were announced on 27 June 2014, at a press conference which brought together Pierre Maudet, State Councillor responsible for the Department of Security and the Economy, and Gérard Maury, president of the organizing committee. They will begin on 2 August 2014, with a display by the waterways police, and will continue into the Autumn with a ceremonial parade, open door events and a concert by the French Republican Guard. 200 years of history and of service to the people will also be recognized through the publication in September of a commemorative book, mostly based on the work of historians and the curator of the police museum.

The Day of the Rose



The 67th Geneva International New Rose Contest, chaired by Enza Testa Haegi and with the involvement of the City of Geneva and its green spaces, was held from 14 to 25 June 2014.

The city was turned pink for the occasion, and in addition the benefits of smiling, showing respect, sharing and having a positive attitude were promoted through the OLA Souris initiative.

The historic event featured ten days of activities, with some of the highlights being: the Flower Clock entirely covered in roses, the water jet turned pink and a closing party with the soloists of the Menuhin Academy.

The contest was praised and appreciated as much by professionals as by the general public!



Poetic reflection of the month suggested by our correspondent M Daniel Courbe, lecturer at the Université de Liège, certified family, civil and commercial mediator, mediation trainer and human resources consultant.

Guy A. Bottequin dedicates this snippet to all his mediation colleagues.

*We are not your enemies
Who want to give ourselves vast strange domains
Where mystery flowers into any hands that long for it
Where there are new fires colours never seen
A thousand fantasies difficult to make sense out of
They must be made real
All we want is to explore kindness the enormous country where everything is silent*

Guillaume Apollinaire

(extract from *Calligrammes, La jolie rousse* 1918)

[*The Pretty Redhead, English version by James Wright, from Collected Poems, 1971*]