

UDC: 347.965.42:347.61/.64(496.5)

DOI: <https://doi.org/10.46763/BSSR2424241591>

**FAMILY MEDIATION AND ITS EFFECTIVENESS:
EMPIRICAL STUDY ON EXPERTS' PERCEPTION IN ALBANIA**

Juelda LAMÇE¹

Associate Professor, Faculty of Law, Political Sciences and International
Relations, European University of Tirana
E-mail: juelda.lamce@uet.edu.al

Petraq PAPAJORGJI²

PhD, Consultant at Moore Albania Ltd
E-mail: petraq@gmail.com

Abstract

Family Mediation, as an Alternative Dispute Resolution (ADR) instrument, is recommended by international academics and experts as a crucial means for effective dispute resolution. Empirical studies have reported legal, financial, and co-parenting challenges, especially cross-border ones, considering migration challenges. A recent European Union study concluded that the Mediation Directive's aims were fulfilled only in countries that introduced mandatory mediation. In emerging and consolidating democracies - like those in the Western Balkans, where the judiciary is facing efficiency challenges - the use of ADR (including family mediation) is even more significant, reducing the case backlog in courts.

Given the premises, this study aims to investigate the effectiveness of family mediation, specifically its applicability, effectiveness, quality, costs, and the opportunity to introduce its mandatory use in Albania. The methodology used in this paper is a mixed one, using qualitative and quantitative methods. For the empirical study, 50 Albanian experts (mediators, judges, academics) and persons involved in mediation are asked to complete a structured and specific survey form. The survey's structure is based on the Experiment Design Theory, and the technology used to collect and analyze the data is called Mind Genomics. It provides numerous results, allowing for a comprehensive analysis of the issue under investigation. This

¹ <https://orcid.org/0000-0001-8995-3681>

² <https://orcid.org/0000-0002-3833-5215>

study provides a rare example of using quantitative research methods in the field of law.

Keywords: *Family Mediation, Mandatory Mediation, Effectiveness, Mind Genomics, Experiment Design Theory.*

I. INTRODUCTION

Over the past years, there has been a global push to utilize Alternative Dispute Resolution, especially mediation in family matters. The benefits and utility of mediation as a dispute resolution mechanism, when compared to litigation, have been widely discussed by scholars (Higgs Howarth & Caruana, 2017:15). Family mediation has been strongly recommended in the last decades through all means - legal initiatives, at international, European, regional or national ones, starting with the Council of Europe's Recommendation (98) 1 on Family Mediation (Giacalone & Salehi, 2022).

The increasing trend of multicultural migration policies has suggested, for more than a decade, a more in-depth analysis of the efficiency of cross-border mediation when compared to judicial solutions (Stalford, 2010). Prlainović & Belović (2019) suggest that mediation can be particularly beneficial in family disputes, especially in cross-border ones and parental child abduction cases. Recently, the debate at local, regional, and international levels has been focused on the plausibility of its mandatory use. Early studies from Arizona State University (1998) on the effects of mandatory mediation showed that settlement rates were somewhat lower when mediation was mandatory than when both parties chose to mediate (Wissler, 1997). In addition, in emerging and consolidating democracies - like those in the Western Balkans, where the judiciary faces efficiency challenges - the use of family mediation is even more significant. In the Albanian justice system, where the vetting reform has notably decreased the number of judges, effective family mediation would reduce the case backlog in courts.

Mind Genomics technology was used for the study's survey (Moskowitz, et al., 2020). The first stage is determining the four-by-four model that Mind Genomics requires (Gere, et al., 2019). It is necessary to identify four study pillars, or silos, that summarize the main topics under investigation. Four possible answers, or elements, for each silo, must be defined in a way that allows them to represent all possible viewpoints that the respondent may have on the matter (Papajorgji & Moskowitz, 2022), (Ilollari et al., 2020).

II. LITERATURE REVIEW

The use of mediation as an alternative dispute resolution as an out of court solution, has a double relevance: a) reduces the backlog of court cases; b) strengthens the idea of diversification in the justice system (Zienkiewicz, 2018:61). Its mandatory use is of particular relevance in cases of ineffective

judiciary systems. Among different models of mediation as out of court solutions, facilitative mediation is the most popular in use (Lohvinenko et al., 2021).

The use of mediation as an alternative dispute resolution as an out-of-court solution has double relevance: a) reduces the backlog of court cases; b) strengthens the idea of diversification in the justice system (Zienkiewicz, 2018:61). Its mandatory use is particularly relevant in cases of ineffective judiciary systems. Among different models of mediation as out-of-court solutions, facilitative mediation is the most popular use (Lohvinenko et al., 2021).

Recent studies (Baruch Bush, 2023: 256), (Lande, 2023) demonstrate that a system of theoretical models in mediation is considered critically important and that "Dispute System Design" (DSD) theory can provide a better theoretical framework for understanding mediation and guiding people's actions in mediation." Nonetheless, despite several pro-mediation regulations being proposed and enacted at both the EU and national level, "the usage of mediation and alternative dispute resolution (ADR) is still far below its full potential" (De Palo & Canessa, 2016:407). Best practices from other countries, such as Finland, have developed "implementation techniques for family mediation as a learning process with a significant potential for expansion" (Haavisto, 2018:64). The study shows the importance of implementing novel practices through "the constant alternation and interplay between adopting existing knowledge and creating new knowledge."

When it comes to family mediation, the "Cochem Model" represents the first attempt to use orderly and interdisciplinary cooperation between the various professionals working for the resolution of parental conflicts (Fialho, 2012:10). It started in 1979 in family disputes, when the exercise of parental responsibilities regarding children was brought before the Cochem-Zell Family Court in Germany. It suggests reorganizing the parental conflict decision-making procedures structurally. This article's statistics demonstrated that decisions for the joint exercise of parental responsibilities were made in 100% of cases, and there were no disputes over visitor rights between 1996 and 1999.

In more than twenty-five years since adopting the first Recommendation on Family Mediation³, interdisciplinary models have advanced toward a comprehensive approach to family conflicts, especially those involving minors. Research on the impact of mediation on outcomes, experience, and bias conducted through evidence-based methodology in the United States, Canada, and Australia concluded that parents who went through mediation reported feeling more satisfied with the process than parents in traditional litigation (Ogembo, 2021:21). This study recommended a particular need for such research on the experience of women, minority racial and ethnic groups, and individuals with low incomes.

³ Recommendation No. R (98)1 on family mediation, adopted by the Committee of Ministers of the Council of Europe on 21 January 1998 at the 616th meeting of the Ministers' Deputies.

2.1. Compulsory mediation

Scholars have long debated the role of voluntary and compulsory mediation in civil litigation. According to Smith (1998), the best way to ensure that making mediation mandatory does not discredit the process's efficacy and benefits is to encourage greater voluntary participation among members of the legal community and their clients.

Pro arguments: Mandatory Alternative Dispute resolution (ADR) has been justified in cases of low awareness and/or uptake of conciliatory processes, and it should be viewed as a "temporary expedient" (Higgs Howarth & Caruana, 2017:10). Others distinguish between coercion into mediation and coercion in mediation (Lande, 2022:3). Among its advantages: a) encourages resolution outside of courts; reduces backlogs in courts; c) saves time and reduces costs for the legal system; d) promotes communication; d) improves relationships and reduces animosity between parties, which is fundamental in family relations; e) promotes customized solutions, through agreements to their specific needs and circumstances.

Contrary arguments: The most noteworthy argument against mandatory family mediation considers it as a violation of the fundamental rights of the disputants to have their dispute handled in the forum of their choosing (van Rheen, 2021:8). It is counter to the voluntary participation principle of mediation (Smith, 1998:875). Other fundamental critics are related to the risks for the victims of family violence, mainly because of the insufficiency of related empirical data (McCutcheon, 2021). Empirical studies show that family violence is not always recognized by mediation practitioners (Feresin et al., 2018).

Mandatory mediation has been used in Sweden, Norway, and Denmark since the 1990s. In 2018, it was also introduced in Greece, Romania, and Turkey (van Rheen, 2021). Empirical data on mediation in European civil and commercial disputes concluded that "mandatory mediation is not unanimously shared as an effective measure among experts." Its impediments include, among other factors, "lawyers' little enthusiasm for mediation; a lack of adequate awareness about the effectiveness of mediation; financial difficulties faced by some mediators due to the lack of sufficient cases" (Giacalone & Salehi, 2022).

The European Union is experiencing an increasing trend in using mandatory family mediation. One of the most used models is the discretionary mandatory mediation (Giacalone & Salehi, 2022). A recent study on mediation in the EU concluded that "the aims of the Directive were fulfilled only in those countries that introduced mandatory mediation" (Korsakoviene et al., 2023). According to this analysis, 74% of EU countries have implemented different theoretical frameworks for mandated family mediation (such as discretionary, quasi-mandatory, contractual, and mandatory). The most effective obligatory mediation model in Europe has been identified in Italy, where parties are obliged to attend an initial information meeting but are free to reject further mediation without repercussions (Ibid.).

Nevertheless, certain situations, such as jurisdictional selection and the right to access justice (as guaranteed by Article 6 of the ECHR), may warrant the employment of mandatory preliminary mediation (van Rheen, 2021). According to Brown (2021), among the three options (opt-in, court order, opt-out), the later “opt-out schemes do not, in mediators’ opinions, contradict the principle of voluntariness, as the only mandatory component is the initial meeting/intake session, and parties maintain their self-determination to stay in mediation and to determine a resolution or not.”

2.2. Role and importance of family mediators’ background (lawyers versus psychologists)

Another contentious topic is the mediators' professional background, highlighting the differences between conventional, therapeutic, and legal mediation. The question arises because "there is no consensus on what mediation is and what expertise a mediator should have" (Rubinson, 2016:888).

Berman and Alfini (2012) argue that several variables, including lawyer colonialism, court preferences, and financial limitations, have impacted family mediation's expansion, especially its multidisciplinary nature. Regarding the first one (lawyer colonialism), Blakey (2023) proposes a hybrid mediator type with significant training (and/or experience) in both therapeutic and legal backgrounds.

Conversely, when obligatory mediation is involved, the growing interaction between mediators and attorneys is significant (Rhoades, 2010). Some authors argue that "mediators with a social welfare or mental health background appeared less comfortable with financial and property disputes and considerably more comfortable with children and parenting issues than mediators with legal training" (Walker, 2010).

Studies have demonstrated "certain degrees of mistrust—and occasionally outright ignorance—about each other's abilities to handle separation-related conflicts efficiently and thoroughly" (Fisher, 2003: 215) regarding the collaboration between family mediators and lawyers. The amalgamation of multiple disciplines and ideas during the creation of divorce mediation poses significant obstacles for anyone seeking to attain proficiency. Thus, cross-disciplinary education and expertise are essential for efficient family mediation services (Joan, 2000: 39).

2.3. Relationship between costs of mediation and its quality

Studies have demonstrated the vulnerability of low-income litigants in court-annexed mediation, mainly because they cannot afford lawyers or choose their mediator (Rubinson, 2017). A 2011 study found that “the average cost to litigate in the European Union is €10.449 while the average cost to mediate is €2.497” (European Parliament, 2011). It showed that “even with low success rates, mediation can still produce results”, recommending its promotion through its mandatory use, reimbursing dispute fees, or giving tax credits for

its successful use.

In a regional context, the promotion of ADRs in the Western Balkans could be stimulated by following the Montenegrin example of free mediation. Art. 27/2 of the Law on ADR in Montenegro provides that “The costs of mediation in family disputes, and disputes in which one party is Montenegro, are financed from the budget of Montenegro” (Regional Cooperation Council, 2021: 33).

2.4. Mediation in EU instruments

There are differences in mediation regulation in Europe: voluntary mediation, mediation as per court order, in-court mediation, and mediation as part of specific procedural provisions (Riveros & Coester-Waltjen, 2019). The European Union encourages mediation in family disputes, including cross-border disputes, as well as in the management of international child abduction cases. The Working Group on Mediation of the European Commission for the Efficiency of Justice (CEPEJ) has developed principles of good practice, which should guide the member states of the Council of Europe in promoting these alternative Procedures (CEPEJ, 2022: 2).

Through the EU 2008 Directive on the recourse to mediation in civil and commercial matters, the EU member states are requested to commit to and reach a simple “balanced relationship target number” between civil litigation and mediation. According to the 2018 CEPEJ Reports, over half of the respondents found that “Family Mediation Recommendation and Guidelines had an important to significant impact in their state” (CEPEJ, 2018: 14).

Recently, the CEPEJ adopted “Guidelines on Online Alternative Dispute Resolution” (4-5 December 2023), specifying that “mediation has become increasingly significant to the point where, in some jurisdictions, the attendance of an initial mediation session is a prerequisite to file a case in court, according to the so-called “opt-out” mediation”. In the *Menini and another v Banco Popolare Società Cooperativa* case, the Court of Justice of the European Union (CJEU) specified that “imposing mandatory mediation as a pre-condition to litigation is not precluded by the EU ADR legislative framework” (Case C-75/16). That is, though, conditioned to the fact that the right of access to the judicial system is not precluded.

Nonetheless, given the considerable number of couples from non-EU countries living in the European Union (16 million), experts recommend an international approach to family mediation (O’Shea, Conneely, 2024:492).

2.5. Mediation in the Western Balkans

According to the findings of the Regional Cooperation Council survey in the Western Balkans (WB), the EU 2008 Directive has had only a minor influence on the use of mediation in civil and business disputes (Regional Cooperation Council, 2021: 7-8). Only in the WB6 economies that have imposed mandatory mediation (Montenegro, Kosovo, and North Macedonia) is a discernible rise in the number of mediations (Ibid). Therefore, by European

standards and best practices, mediation—one of the primary forms of alternative dispute resolution (ADR)—needs further improvement and promotion. The principal recommendation is to establish the Western Balkans Dispute Resolution Center (WB-DRC). The results of this survey on mediation techniques in the Western Balkans also suggested the need for a coordinated and cohesive approach.

2.6. Family mediation in Albania

According to the Rule of Law Report for Albania (European Commission, 2024: 9): “Mediation services are scarcely used or referred by courts as there are issues concerning the capacities of the mediation Chamber, awareness and the quality of mediation services provided.” The mediation system in Albania can be classified as voluntary with practically no mandatory elements of referral (Regional Cooperation Council, 2021:27). The Albanian civil and criminal procedure codes foresee non-mandatory court-related mediation procedures, for which legal aid cannot be granted (CEPEJ, 2022).

The first law for mediating civil, criminal, labor, and family conflicts between individuals and private entities was approved in 1999 (Semini-Tutulani, 2023). Lawmakers have continuously sought to improve mediation services by adopting Law No. 9090/2003 and, later, the current law in force, Law No. 10385/2011. Part of the Albanian doctrine has recommended legal changes in the Albanian Family Code, providing that the court should check the conditions in the mediation agreement and not conduct a prolonged and possible judicial process (Liço, Avdyli, 2023:161).

Due to the vetting process in Albania since 2017 and the collapse of the judiciary system, many cases are suspended, and mediation offers an opportunity to solve many conflicts, especially those regarding family life. In addition, the reorganization of the judicial system and the reduction of the number of courts in Albania in 2022 risk creating difficulties for vulnerable groups, individuals with financial disabilities, and persons with different abilities to access the courts (Lamçe, 2022:36).

According to the Albanian “National Strategy for reducing the number of backlogged cases in courts (2024-2027)”, 113,768 cases were pending in 2023 in the Albanian courts of the first and second instance of general and administrative jurisdiction. The Albanian National Action Plan 2023-2025 highlights the need to promote restorative justice programs and mediation in schools and the community and expand citizen awareness of the use of mediation services to resolve legal problems. The 2023 European Commission Report for Albania concluded that: “The efficiency of the judicial system and access to justice continued to be affected by length of proceedings, the increased workload and the large backlog of cases, which remains significant” (European Commission 2023: 18).

Albania is among those states where the Family Mediation Recommendation and Guidelines have had a medium to important impact on their State (Regional Cooperation Council, 2021: 7-8). As provided for in

Albanian Law 10385/2011 on Mediation, the term ‘family matters’ covers a broad range of disputes, from purely private matters to those involving public authorities. Previous studies on family mediation in Albania have stressed the positive effects of mediation in fighting corruption (Dyrmishi, 2014: 16).

Albania ranked second among the Western Balkans countries in achieving Article 1 of the EU Directive regarding the number of mediations per year against the number of incoming judicial proceedings in court per year (Regional Cooperation Council, 2021:18). Nonetheless, when it comes to the number of mediators, it ranked among the lowest, leaving behind only North Macedonia.

Recent studies on family mediation in Albania (Instituti Shqiptar për Studime Ligjore dhe Territoriale - A.L.T.R.I, 2020) concluded and recommended, among others, that young people are more inclined to accept mediation as an efficient means of resolving family disputes; (...) judges in most cases do not refer to mediation; (...) the professional level of mediators is considered insufficient; (...) specialization of mediators according to the fields of law is needed as well as (...) exemption from the fee for groups in need is necessary.

Albanian Intersectional Justice Strategy 2022–2026 (approved by the Albanian Decision of Council of Ministers No. 892, dated 27.12.2022) addresses the need for enforcing restorative justice programs and mediation, among other measures, such as information, education, and awareness of children, parents, and society.

III. METHODOLOGY

The technology used to collect and analyze the data is called Mind Genomics (Moscowitz et al., 2006). 50 Albanian experts (mediators, judges, academics) and persons involved in mediation were asked to complete a structured and specific survey. The survey is based on the Experiment Design Theory (Gofman & Moskowitz, 2010), and its structure differs from the traditional Yes/No type of survey. The model used in this survey is the so-called 4X4 experiment (Moskowitz et al, 2020).

The first step in using the Mind Genomics approach is to define four pillars or silos that will create the backbone of the study. Silos are presented as questions. For each silo, four different answers or elements are carefully selected to cover all potential points of view concerning the silo (Todri et al., 2020). Thus, the system presents a vignette, a collection of four or three different answers taken from each of the topics/silos and presented to the participants, who are asked to evaluate the entire context, not the single questions of the survey. Mind Genomics uses a Likert scale to collect participants’ evaluations for a vignette. The scale could be from 1 to 9 or 1 to 5, considering the specificities of the current project.

Participants are also classified by gender, age, employed/unemployed, living in rural/urban areas to evaluate how these factors may influence the perception of family mediation use and its effectiveness. The four topics analyzed in this paper - aimed to scrutiny experts' and mediated persons'

perceptions of the role and effectiveness of mediation - concerned: a) family mediation applicability; b) the role and importance of family mediators' background (lawyers versus psychologists); c) relationship between costs of mediation and its quality; d) effectiveness of family mediation compared to judicial solution.

For this investigation, 1200 observations were performed. The participants' gender distribution is 40% females and 60% males. The participants' age distribution is 20% between 24-34 years old, 58% between 35-44, 18% between 45-54, 2% between 55-64, and 2% over 65. The participants' status distribution is 40% work in academia, 14% are judges, 8% family mediators, 6% are employed, 2% live in rural areas, 6% live in urban areas, and 20% are interested in family mediation issues.

The scientific foundations of Mind Genomics are solid and proven (Moskowitz et al., 2006), (Moskowitz & Gofman, 2007). Applications of this technology in several areas of scientific activities include law (Moskowitz et al., 2020), business (Papajorgji et al., 2021), education (Todri et al., 2020), finance (Meka & Papajorgji, 2020), marketing (Salom, 2021), (Ilollari et al., 2020), applied psychology (Papajorgji & Moskowitz, 2022) and political sciences (Moskowitz et al., 2022), to name a few.

IV. FINDINGS OF THE SURVEY

The silos and related components from a comprehensive analysis of recent research on family mediation are displayed in Table 1.

Table 1 - Silos, the corresponding elements and the relevance of each element.

	Question A: How is family mediation applicability perceived?		Total Silo
A1	Family Mediation is widely applicable	18	
A2	Family mediation is scarcely applicable	14	
A3	Family mediation reduces courts backlog	11	
A4	I do not know	11	54
	Question B: Who can better play the role of family mediator?		
B1	The quality of family mediation is increased if the mediator is a lawyer	16	
B2	The quality of family mediation is increased if the mediator is a psychologist	16	
B3	Mediator's background is not important	18	
B4	I do not know	15	65

Question C: How does the cost of mediation affect its quality?			
C1	Free family mediation implicates lower quality	20	
C2	Free family mediation does not affect quality	26	
C3	Family mediation should be state funded	24	
C4	I have no opinion	22	92
Question D: How effective is family mediation?			
D1	Family mediation is very effective	13	
D2	Family mediation is not effective	13	
D3	Judicial solution is less effective than family mediation	12	
D4	I have no opinion	12	50

Table 1 indicates that for silo C, the maximum value of the total of the element evaluations for each silo is 92: *"How does the price of mediation impact its quality?"* The quality of family mediation and related expenses are, therefore, the most significant concerns for the respondents. Additionally, Table 1 demonstrates that C2, which is evaluated at 26, is the aspect of this inquiry that performs the best: *free family mediation has no effect on quality*. Free family mediation is a valuable resource that supports and guides families in conflict. It allows them to work through their issues in a safe and neutral environment without the added stress of financial burden. By offering this service for free, families can focus on finding solutions and rebuilding relationships rather than worrying about the cost. This commitment to quality and accessibility sets free family mediation apart and makes it a valuable tool for families in need.

Regarding the significance of the question *"How is family mediation applicability perceived?"*, women give it a higher priority than men (39 versus 32). When it comes to the option "I don't know" for the question "How is family mediation applicability perceived," men score higher (14) than women (10). Regarding the question, *"Who is more qualified to serve as a family mediator?"* Men score higher (23) than women (17).

When asked, "Who can better play the role of family mediator?" women scored higher (11) than men (7). Even when considering the question *"How does the cost of mediation affect its quality?"* females assign higher importance (29) compared to males (12). Interestingly, more females (7) have no opinion on tackling this issue in this scenario than males (1).

When it comes to answering the question, *"How effective is family mediation?"* Men and women differ significantly; men believe it to be quite important (30), while women do not think it to be important at all (-4).

Table 2 - Age-based distribution of coefficients.

	Group (Binary Ratings)	Total	25 - 34	35 - 44	45 - 54	55 - 64	65+
	Question A: How is family mediation applicability perceived?		20 %	58 %	18 %	2 %	2%
A 1	Family Mediation is widely applicable	18	20	14	31	40	-68
A 2	Family mediation is scarcely applicable	14	16	10	26	21	11
A 3	Family mediation reduces courts backlog	11	13	7	31	5	12
A 4	I do not know	11	16	10	13	1	-12
	Question B: Who can better play the role of family mediator?						
B1	The quality of family mediation is increased if the mediator is a lawyer	16	9	17	26	34	-19
B2	The quality of family mediation is increased if the mediator is a psychologist	16	14	16	16	34	-26
B3	Mediator's background is not important	18	15	18	18	49	18
B4	I do not know	15	24	10	15	59	48
	Question C: How does the cost of mediation affect its quality?						
C1	Free family mediation implicates lower quality	20	23	15	17	50	100
C2	Free family mediation does not affect quality	26	26	25	21	23	3
C3	Family mediation should be state funded	24	24	20	29	31	83
C4	I have no opinion	22	14	19	26	39	42
	Question D: How effective is family mediation?						
D 1	Family mediation is very effective	13	33	13	-1	32	26
D 2	Family mediation is not effective	13	12	14	15	2	38

D 3	Judicial solution is less effective than family mediation	12	15	17	1	-8	8
D 4	I have no opinion	12	28	11	4	31	43

Given their statistical insignificance, the 55–64 and 65+ age groups may potentially be eliminated. Table 2 demonstrates that all participant groups had highly favorable views of element C2, which states that *"Free family mediation does not affect quality"*. Therefore, it can be said that *all players agree on this matter, which should be brought up for consideration by governmental organizations so they can improve relevant legislation*. A further noteworthy observation is that individuals aged 25-34 gave a high rating to every element that falls under the "I have no opinion" category. *The strongest performing element in Table 2 is D1: "Family mediation is very effective"*, which shows the relevance that participants gave to this issue.

Table 3 shows the status distribution of study participants. Again, in this table columns "I live in an urban area" and "I live in a rural area" could be discarded as they have no statistical relevance. *The best-performing element is: "The quality of family mediation is increased if the mediator is a lawyer," which received a score of 49 and demonstrates the importance of the mediator's legal background*. Not surprisingly, this high-scoring value is in the category "I am a family mediator." Not surprisingly, the silo "How is family mediation applicability perceived?" has the maximum evaluation of 118 by family mediators.

Table 3 - Participants status distribution

	Group (Binary Ratings)	Total	I work in the academic field	I live in a rural area	I live in an urban area	Currently I am unemployed	Currently I am employed	I am a family mediator	I am a judge	I am interested in family mediation matters
	Base Size	100	40%	2%	6%	0	6%	8%	14%	20%

	Question A: How is family mediation applicability perceived?									
A1	Family Mediation is widely applicable	18	14	51	29	0	12	31	20	18
A2	Family mediation is scarcely applicable	14	9	17	38	0	26	27	15	0
A3	Family mediation reduces courts backlog	11	7	8	24	0	13	41	12	2
A4	I do not know	11	7	15	22	0	16	19	14	6
	Question B: Who can better play the role of family mediator?									
B1	The quality of family mediation is increased if the mediator is a lawyer	16	15	4	19	0	14	49	7	13
B2	The quality of family mediation is increased if the mediator is a psychologist	16	24	11	15	0	11	18	6	8
B3	Mediator's background is not important	18	21	71	0	0	16	26	8	23

B4	I do not know	15	20	-26	17	0	17	23	11	3
	Question C: How does the cost of mediation affect its quality?									
C1	Free family mediation implicates lower quality	20	28	64	18	0	20	-15	19	11
C2	Free family mediation does not affect quality	26	24	-23	28	0	32	4	31	31
C3	Family mediation should be state funded	24	29	69	5	0	16	16	28	20
C4	I have no opinion	22	27	19	17	0	7	19	28	14
	Question D: How effective is family mediation?									
D1	Family mediation is very effective	13	19	15	0	0	25	-21	18	16
D2	Family mediation is not effective	13	12	29	16	0	17	15	4	22
D3	Judicial solution is less effective than family mediation	12	6	67	8	0	16	13	28	12
D4	I have no opinion	12	15	27	5	0	16	1	14	14

V. DISCUSSION

The implications of this research are twofold: theoretical and practical. The theoretical implication is related to using the Mind Genomics technique for the first time in Albania to measure the perception of experts and mediated clients on the effectiveness of mediation.

The analysis of the empirical data leads to this paper's second and practical contribution: the recommendations for policymakers and enforcement bodies in Albania for more effective regulation of mediation and more effective use of it. The analysis shows that most young experts or mediated clients have yet to have an opinion on the effectiveness of mediation. Thus, promoting family mediation among young people is recommended through all means. This study confirms that the systematic use of family mediation would reduce the court backlog and effectively reduce the number of cases by definitively resolving the dispute in a win-win, long-term, and in the best interest of the child solution. Improving family mediation is crucial when considering the specific situation and challenges the judiciary faces in Albania due to the vetting process. The survey results also show that the quality of family mediation is improved if the mediator is a lawyer.

That leads to the recommendation, in line with recent Albanian studies, on the need for mediators to specialize according to the fields of law they are practicing. In addition, this study shows that free mediation does not affect its quality and that incentives for parties who choose to mediate - such as free legal assistance, refunds of court fees or tax credits, or even covering the costs for family mediation from the State budget – would increase its practical use. Finally, mandatory mediation, according to the Italian model (considered the most effective one in Europe), would increase its use and alleviate the court backlog in this critical phase of the vetting process in the Albanian courts.

This study enriches the current literature in three ways. First, it is one of the few studies to use a quantitative approach to address family mediation issues. Second, it presents a holistic analysis of the issue. The results obtained are distributed over many variables, such as the age group of participants, gender, employed status, living location, and profession, to name a few. Thus, the depth of analysis makes this study of particular interest. Third, this study could be used to pave the way for analyzing other family-related issues using quantitative methods.

VI. CONCLUSION

The analysis in this paper gives some interesting insights into the perception of family mediation in Albania and grounds for some recommendations to increase its effectiveness.

Regarding its applicability in Albania—considering the challenges that the judiciary is facing due to the vetting process, which has notably decreased the number of judges—the systematic use of family mediation would reduce the court backlog. The survey showed that women are more sensitive in responding

than men, while young people (aged 25-34) are less interested in it (responding "I have no opinion"). Thus, further promotion of family mediation is recommended.

The survey results showed that the quality of family mediation is increased if the mediator is a lawyer. In line with recent Albanian studies, this leads to the recommendation that mediators specialize according to the fields of law they practice.

The survey also showed that free family mediation does not affect quality. Comparative studies in the Western Balkans showed that, by systematic recourse of the two-step approach of mediation-then-litigation, savings in time and cost due to the systematic recourse to mediation before litigation would reach an average of 68% in time and 62% in costs. Thus, the recommendation for the Albanian legislation is to provide incentives for parties who choose to mediate, such as free legal assistance, refunds of court fees or tax credits, or even covering the costs for family mediation from the State budget (as other EU and Western Balkan countries do).

At present, Albanian legislation requires only parties to be informed of the possibility of using mediation. We would, therefore, recommend the adoption of the Italian model of mandatory family mediation, which is the most effective in the EU. This model would be adopted in a specific initial information meeting for the parties, with no prejudice to their further choice not to proceed with the mediation.

REFERENCES

- Baruch Bush, R. (2023). Beyond the toolbox: values-based models of mediation practice. *Cardozo J. of Conflict Resolution*, 24, 255–301. <https://static1.squarespace.com/static/60a5863870f56068b0f097cd/t/6458395520b3f62db32f8be3/1683503446702/robert+baruch+bush.pdf>
- Berman, D., Alfini, J. (2012). Lawyer Colonization of Family Mediation: Consequences and Implications. *Marquette Law Review*, 95 (3): 887-925. <https://ssrn.com/abstract=2690410>
- Blakey, R. (2023). Mediators mediating themselves': tensions within the family mediator profession. *Legal Studies*, 43 (1):139-158. DOI:<https://doi.org/10.1017/lst.2022.29>
- Brown, K. (2021). A comparative view of mediation in Spain as contrasted with other European countries: moving from the shadows into the spotlight. *Intergovernmental Research and Policy Journal* (on line). <https://irpj.euclid.int/articles/a-comparative-view-of-mediation-in-spain-as-contrasted-with-other-european-countries-moving-from-the-shadows-into-the-spotlight/#>
- De Palo, G., Canessa, R. (2016). New Trends for ADR in the European Union. In *The New Regulatory Framework for Consumer Dispute Resolution*, 407–426. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780198766353.003.0020>

- Court of Justice of the European Union, case *Menini and another v Banco Popolare Società Cooperativa* (Case C-75/16), decision date 14 June 2017. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0075>
- Dyrmishi, A. (2014). Mediation's role solving conflicts in corrupted judiciary systems. *Mediterranean Journal of Social Sciences MCSER*, 5 (22):12-19. DOI: 10.5901/mjss.2014.v5n22p12
- European Commission (2024). Rule of Law Report. Country Chapter on the rule of law situation in Albania. Brussels, 24.7.2024 SWD (2024) 828 final. https://commission.europa.eu/document/download/0154dce1-5026-45de-8b37-e3d56eff7925_en?filename=59_1_58088_coun_chap_albania_al.pdf
- European Commission (2023). Albania 2023 Report. Brussels, 8.11.2023 SWD (2023) 690 final. https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en
- European Commission for the Efficiency of Justice (CEPEJ). (2023). HFIII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans “DASHBOARD Western Balkans. <https://rm.coe.int/albania-deliverable-2/1680ad53ab>
- European Commission for the Efficiency of Justice (CEPEJ). (2022). State of play of the practice of mediation in administrative disputes in the Member States of the Council of Europe. <https://rm.coe.int/cepej-gt-qual-2022-1rev-en-state-of-play-of-the-practice-of-mediation-/1680ab3db7>
- European Commission for the Efficiency of Justice (CEPEJ). (2018). The impact of CEPEJ guidelines on civil, family, penal and administrative mediation. <https://rm.coe.int/report-on-the-impact-of-cepej-guidelines-on-civil-family-penal-nd-admi/16808c400e>
- European Parliament (2011). *Quantifying the cost of not using mediation – a data analysis*. <https://www.europarl.europa.eu/document/activities/cont/201105/20110518ATT19592/20110518ATT19592EN.pdf>
- Feresin, M. et al. (2018). Family Mediation in Child Custody Cases and the Concealment of Domestic Violence. *Affilia*, 33(4), 509–525. <https://doi.org/10.1177/0886109918766659>
- Fialho, A. J. (2012). Coordinated and interdisciplinary cooperation. In parental conflict resolution. The experience of the court of De Cochem-Zell. *Verbo Juridico compilações Doutrinais*, 9. <https://www.cochem.cz/wpcontent/uploads/2021/09/Interdisciplinary-Cooperation-Cochem-Praxis.pdf>
- Fisher, T. (2003). Family Mediators and Lawyers Communicating About Children: PDR-Land and Lawyer-Land. *Journal of Family Studies*, 9(2), 201–217. <https://doi.org/10.5172/jfs.9.2.201>
- Gere, A., et al. (2019). “Candy Is Dandy”: The Mind of Sexuality as Suggested by a Mind Genomics Experiment [Chapter]. *Sex, Smoke, and Spirits:*

- The Role of Chemistry, Part 2 - "Candy Is Dandy": The Mind of Sexuality as Suggested by a Mind Genomics Experiment.* <https://doi.org/10.1021/bk-2019-1321.ch002>
- Gofman, A., Moskowitz, H. (2010). Application of Isomorphic Permuted Experimental Designs in Conjoint Analysis". *Journal of Sensory Studies*, 25(1), 127–145, from <https://onlinelibrary.wiley.com/doi/10.1111/j.1745-459X.2009.00258.x>
- Haavisto, V. (2018). Developing Family Mediation in Finland: The Change Process and Practical Outcomes. *Nordic Mediation Research*: 41–66. Springer International Publishing. https://doi.org/10.1007/978-3-319-73019-6_4
- Higgs Howarth, S., Caruana, C. (2017). *Appendix A: Mandatory mediation in family law—a review of the literature* (2). https://csrm.cass.anu.edu.au/sites/default/files/docs/CSRM_60ICERT_APPENDIX_A.pdf
- Hollari, O. et al. (2020). Understanding client's feelings about mobile banking in Albania. 2 Nd UNICART - *Interdisciplinary International Conference on Management, Tourism and Development of Territory*, 147–154.
- Instituti Shqiptar për Studime Ligjore dhe Territoriale - A.L.T.R.I. (2020). *Raport mbi rezultatet e Monitorimit të zbatimit të legjislacionit të ndërmjetësimit.* <https://altri.al/wp-content/uploads/2020/07/Raporti-i-monitorimit-Qendra-ALTRI.pdf>
- Joan B, K. (2000). Issues Facing the Family Mediation Field. *Pepperdine Dispute Resolution. Pepperdine Dispute Resolution, Law Journal*, 1(1/5), 37–44. <https://digitalcommons.pepperdine.edu/drlj/vol1/iss1/5>
- Lamçe, J. (2022). The effects of the new judicial map on family disputes resolution. *Jus & Justicia* 16/2, 28-39. <https://doi.org/10.58944/ukdd7263>
- Lande, J. (2022). Charting a Middle Course for Court-Connected Mediation. *Journal of Dispute Resolution*, 2022(1/7)]. <https://scholarship.law.missouri.edu/jdr/vol2022/iss1/7/>
- Lande, J. (2023). Real Mediation Systems to Help Parties and Mediators Achieve Their Goals. *University of Missouri School of Law Legal Studies Research Paper No. 2022-14*, 23, 347–388.
- Liço, L., Avdyli, D. (2023). History of development and legal process of mediation institute in Albania and Albanian people in migration. *Boletín de Literatura Oral*, 10, 159-163.
- Lohvinenko, M. et al. (2021). Models of mediation: Theoretical and legal analysis. *Conflict Resolution Quarterly*, 39(1), 51–65. <https://doi.org/10.1002/crq.21315>
- McCutcheon, R. (2021). Addressing Domestic Violence in Mediation: The Need for More Uniformity and Research, in <https://journals.law.harvard.edu/hnlr/2021/05/addressing-domestic-violence-in-mediation-the-need-for-more-uniformity-and-research/>

- Meka, E., Papajorgji, P. (2020). Financial Literacy on EU Financial Infrastructure and Institutions: Points of View from the Albanian Students, using the Mind Genomics Approach. *3rd UNICART Interdisciplinary International Conference*, 229–238.
- Moskowitz, H. R. et al. (2020). *Mind Genomics and the Law*. United Kingdom: LAMBERT Academic Publishing.
- Moskowitz, H. R. et al. (2006). Founding a new science: mind genomics. *Journal of Sensory Studies*, 21(3), 266–307. <https://doi.org/10.1111/j.1745-459X.2004.00066.x>
- Moskowitz, H. R. et al. (2022). *Applying Mind Genomics to Social Sciences*. IGI Global. <https://doi.org/10.4018/978-1-7998-8409-5>
- Moskowitz, H. et al. (2020). *Mind Genomics and the Law* (1st Editio). LAP Lambert Academic Publishing.
- National Strategy for reducing the number of backlogged cases in courts (2024-2027 [Strategjia kombëtare e uljes së numrit të çështjeve të prapambetura në gjykata (2024-2027)]. <https://klgj.al/strategjia-e-uljes-se-numrit-te-ceshtjeve-te-prapambetura-2024-2027/>
- Ogembo, D. (2021). *Rapid evidence review: The impact of mediation on outcomes, experience and bias*. <https://research.thelegaeducationfoundation.org/wp-content/uploads/2021/10/FINAL-Rapid-Review-Mediation-4-SINGLE-PAGES.pdf>
- O’Shea, R., Conneely, S. (2024). Family Mediation: The International Context. *Journal of the American Academy of Matrimonial Lawyers*, Vol. 36/2, 485–498. https://www.aaml.org/wp-content/uploads/02_MAT_36_2_Article-9_Family-Mediation.pdf
- Papajorgji, P., Moskowitz, H. (2022). The ‘Average Person’ Thinking About Radicalization: A Mind Genomics Cartography. *Journal of Police and Criminal Psychology*. <https://doi.org/10.1007/s11896-022-09518-6>
- Papajorgji, P. et al. (2021). A Mind Genomics-Based Cartography to Assess the Effects of the COVID19 pandemic in the tourism industry. *WSEAS transactions on environment and development*, 17, 1021–1029. <https://doi.org/10.37394/232015.2021.17.94>
- Prlainović, J., Belović, J. (2019). Mediation in family disputes. *Iustinianus Primus Law Review*, 1–10, from <https://pf.ukim.edu.mk/wp-content/uploads/2020/05/16.-Olga-Jovic-Prlainovic-JelenaBelovic.pdf>
- Recommendation No. R (98)1 on family mediation, adopted by the Committee of Ministers of the Council of Europe on 21 January 1998 at the 616th meeting of the Ministers' Deputies.
- Regional Cooperation Council (2021). Promoting cross-border mediation in resolving civil and commercial disputes in the Western Balkans. <https://adrcenter.com/promoting-cross-border-mediation-in-resolving-civil-and-commercial-disputes-in-the-western-balkans/>
- Rhoades, H. (2010). Mandatory mediation of family disputes: reflections from Australia. *Journal of Social Welfare and Family Law*, 32(2): 183–194. <https://doi.org/10.1080/09649069.2010.506313>

- Riveros C, Coester-Waltjen D. (2019). Alternative dispute resolution in family disputes in Europe and Chile: mediation. *Revista Direito* 15(2). doi:10.1590/2317-6172201914
- Rubinson, R. (2016). Of grids and gatekeepers. The socioeconomics of mediation. *Cardozo J. of Conflict Resolution*, 17: 873-907.
- Rubinson, R. (2017). Indigency, Secrecy, and Questions of Quality: Minimizing the Risk of 'Bad' Mediation for Low-Income Litigants. *Cardozo J. of Conflict Resolution*, 100 (1353): 1353-1386. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2839910
- Salom, J. (2021). Mind genomics with big data for digital marketing on the internet. In Mi. Milutinovic, Veljko, Kotlar (Ed.), *Handbook of Research on Methodologies and Applications of Supercomputing* (pp. 282–289). IGI Global.
- Semini-Tutulani, M. (2023). *Analiza e kornizës ligjore lidhur me ndërmjetësimin e konflikteve individuale dhe kolektive të punës në Shqipëri*. https://www.esap.online/download/docs/ILO_Analiza_SeminiFormat.ed.pdf/785e95fe45e5a4a11a79c8cb2cfa35d6.pdf
- Smith, G. (1998). Unwilling Actors: Why Voluntary Mediation Works, Why Mandatory Mediation Might Not. *Osgoode Hall Law Journal*, 36(4), 847–885. <https://doi.org/10.60082/2817-5069.1555>
- Stalford, H. (2010). Crossing boundaries: reconciling law, culture and values in international family mediation. *Journal of Social Welfare and Family Law*, 32(2), 155–168. <https://doi.org/10.1080/09649069.2010.506311>
- Todri, A. et al. (2020). Perceptions regarding Distance Learning in Higher Education, Smoothing the Transition. *Contemporary Educational Technology*, 12(1). <https://doi.org/10.30935/cedtech/9274>
- van Rhee C. H. (2021). Mandatory Mediation before Litigation in Civil and Commercial Matters: A European Perspective. *Access to Justice in Eastern Europe* 4 (12): 7–24. <https://doi.org/10.33327/AJEE-18-4.4-a000082>
- Walker, J. (2010). Family mediation: The rhetoric, the reality and the evidence. *Psykologi*. <https://psykologtidsskriftet.no/fagartikkel/2010/08/family-mediation-rhetoric-reality-and-evidence>
- Wissler, R. (1997). The Effects of Mandatory Mediation: Empirical Research on the Experience of Small Claims and Common Pleas Courts. *Willamette Law Review*, 33, 565–604.
- Zienkiewicz, A. (2018). Mandatory Mediation – Remarks on Determining a Dispute's Suitability for Mediation and the Parties' Concerns Regarding Mediation. *Studia Iuridica Lublinensia vol. XXVII*, 3, 61–71.