



# Research on Alternative Dispute Resolution

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Poland



#firstADRkit



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#firstADRkit

## I. Introduction

This paper was developed within the project “First ADR Kit”, one of whose aims is to promote ADR among young people, youth leaders, and youth workers. The goal of this desk research is to diagnose the state of ADR education, especially mediation as the most popular and accessible form of ADR, and explore opportunities for young people to gain knowledge about ADR and develop skills necessary for conflict resolution and intercultural communication.

Alternative Dispute Resolution (ADR) is gaining more and more recognition every year in Poland. However, it is widely acknowledged that mediation, negotiation, conciliation, etc. (elements of ADR) are generally used more often in the business sector than in youth education. Thus, we decided to verify whether there are any programmes or initiatives that focus on introducing alternative ways of resolving conflicts to youth and in youth projects.

We have gathered information about elements of ADR in formal education and programmes for young people provided by non-governmental organisations, youth centres and other institutions. Existing reports (i.e. comprehensive study on conflict resolution, peer mediation and young people’s relationships conducted by EPPI-Centre of University of London in 2006) suggest that early education on conflict management has a visible influence on young people’s relationships. It limits aggression in mutual relations and has a generally positive impact on discipline and behaviour. Therefore, we have taken into consideration educational programmes not only for youth, but also for children.

Based on gathered data, we came to the conclusion that, in general, in Poland there are not many possibilities for young people to learn about ADR, although the situation is slowly changing.

## II. ADR in Polish formal education.

### 1. Schools


Currently, compulsory education in Poland starts at the age of 5 or 6 with kindergarten, however children can attend those schools earlier. After finishing the class “0” of kindergarten, children have to attend primary schools when they are 6 or 7.<sup>1</sup> Primary school (szkoła podstawowa) lasts for 6 years and then pupils join gymnasium for 3 years (lower secondary education). After the compulsory exam, there are some alternatives: 3 years lyceum (upper-secondary general education), or 3 (or 4) years of upper secondary vocational education. This phase ends with final exams that are the basis for the recruitment to the universities. However, currently the system of education is changing and is going to be replaced by 8 year of primary schools and 4 year of high school. The Ministry of Education is also working on new curricula for all subjects.

In general, the core curricula of compulsory education do not include ADR classes in significant extent. In the whole process, children have only a few hours (depends on the teacher of mainly the Knowledge about Society subject) devoted to conflict resolution. As there are not enough hours to tackle this topic we can assume that in most schools they are presented in a theoretical way only.

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<sup>1</sup> currently there is a reform going on and some kids started at the age of 6 and some at the age of 7. Most likely, in the future this age will be 7.





Pupils learn the definition of mediation only in the second year of upper secondary general education (when they are 17 or 18 years old) and only if they choose the extended programme of “Knowledge about Society” subject. So the majority of young people graduate from lyceums at the age of 18 or 19 and entering universities haven’t learnt about mediation in schools.

## **2. Primary education**

In classes IV-VI, children attend classes on History and Society. During those classes, they have first contact with topic of conflicts with the following content: Conflicts – definition, examples, conflicts among peers, ways of resolving conflicts, Emotions and communication, Political, religious and international conflicts. One of the learning objectives at this stage is effective communication in different situations. Classes should develop an attitude of tolerance and respect toward other people. After completing classes of History and Society pupils should be able to present their own point of view and take into account views of others and formulate their own messages (Wodowska 2011). There is no information on how many hours teachers should allocate to this topic, but taking into consideration that the subject of Conflicts is just one of the subtopics in the thematic block named “Reflection on ourselves and social environment”, and there are overall 30 thematic blocks (each consisting of up to 10 different topics and which have to be implemented within 130 hours), we can say that it will not be many hours.

## **3. Lower secondary education (gymnasium)**

In gymnasium, pupils attend classes on subject “Knowledge about Society” for a minimum of 65 hours. The Director may decide to increase this amount. This subject covers various topics connected to social life, among them we can find elements of conflict resolution.

According to the core curriculum after those classes pupils should know the principles of communication and team cooperation, have the knowledge and skills to use the basic techniques of resolving group conflicts and can explain, based on the examples, how to keep a distance from unacceptable group behaviours (Podstawa Programowa 2011). It is one of the 31 educational blocks that has to be completed during classes. Among methods of resolving conflicts, at this stage only conflict avoiding, competing, collaborating and accommodating strategies are briefly presented.

## **4. Upper secondary general education**


The subject “Knowledge about Society” is continued in lyceum. All pupils have to attend a minimum of 30 hours of it. For those who chose “Knowledge about Society” as extended subject, there are extra 180 hours provided.<sup>2</sup> This subject, as an extended one, is mainly chosen by pupils who have decided to study law or social sciences after graduation (those faculties which expect exams on history and knowledge about society).

The basic level of the core curriculum for the subject Knowledge about Society includes elementary knowledge about mediation. After those classes, pupils should describe the

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<sup>2</sup> Each pupil is obliged to choose 2 subjects in extended version, one of them might be Knowledge about society.





participants and the process of a trial (civil and criminal) and explain the importance of the mediation.

After completing the extended level, pupils should explain, based on examples and sources, the mechanisms of social conflicts and ways of resolving them. Among them is mediation. Most handbooks of extended Knowledge about Society include definitions of arbitration, negotiation and mediation with additional contexts of social conflicts or courts. There is lack of an attempt to show skills needed in mediation and that might be used on a daily life basis.

### **III. ADR in Polish Universities**

We analysed the programme of 5 universities in different regions of Poland and their educational offer about mediation.

We have chosen the three best Universities according to the “Perspektywy” ranking: Jagiellonian University (Kraków, southern Poland), University of Warsaw (central Poland) and Adam Mickiewicz University in Poznań (western part of the country). We added to this list University of Gdańsk as a significant centre in the northern Poland and John Paul II Catholic University of Lublin as a representative of eastern Poland.

The general conclusion is that mediation is a subject to be taught mainly during post graduate studies for students who have already completed MA studies mainly in Law and who are ready to pay for this course.<sup>3</sup>

On MA and BA studies there are just a few opportunities for students to learn about mediation. The offer is prepared mainly for lawyers. In some cases, students of psychology can also attend classes connected with conflict resolution, especially mediation. There are insufficient classes for sociologists and educators in almost all universities. Students of MA and especially of BA studies have an opportunity to learn only basic issues about ADR. For those who would like to study deeper, all universities that were taken into the consideration offer paid post-graduate studies for graduates. Mediation is taught mainly from the legal point of view in Law Faculties.

#### **1. University of Warsaw**

Warsaw University each year is rated as the best or second best university in Poland (after Jagiellonian University) and teaches more than 48 000 students on BA, MA and PhD programmes on 20 faculties (<http://www.uw.edu.pl/universytet/fakty-i-liczby/>). On mediation, it definitely provides students the widest offer among universities in Poland.

Courses on mediation are provided mainly by Faculty of Law and Administration and Faculty of Psychology.

The 30-hour course “From arbitration court in old Rzeczpospolita to modern mediation” run by the Faculty of Law and Administration might be chosen not only by law students.

This Faculty offers the selection of courses on ADR for law students. They are not obligatory and might be chosen from second or third to fifth year of studying. Among them is the course

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<sup>3</sup> In Poland all full time BA and MA studies in Public Universities are without tuition fee.



“Mediation and other methods of Alternative Law Dispute Resolution” (30h), which is run in an interactive way with active participation of students. Other courses are: “Negotiations” (30h) and “Clinic of mediation” (60h). Furthermore, it offers a series of workshops and lectures:

- “The impasse in mediation” (3h);
- “Legal nature of the settlement agreement as a result of mediation” (3h);
- “Demonstration of family mediation” (3h)
- “Mediation on the example of criminal cases and proceedings involving underaged”
- “Mediation in family disputes” (5h)
- “Mediation in commercial disputes” (8h);
- “Mediation in administrative cases” (4h);
- “Negotiations, mediations and other ADR – typical and not-typical usage” (4h)
- “Practical usage of mediation” (7h);
- “The process and stages of mediation” (6h);
- “Overview of legislation on mediation” (4h);
- “The role of law and lawyers in mediation (4h).

Faculty of Psychology has also prepared a rich offer of courses on mediation. “Mediation as a procedure of resolving conflicts” (30h) and “Analysis and diagnosis of family and educational conflicts” (30h) are obligatory for students of Applied Educational Psychology specialisation. These courses might be chosen also by Psychology students from different specialisations. “Mediation: theory and practice” (60h) is devoted to students of Social Psychology. There are courses for post-graduate students Forensic Psychology and Psychology in child upbringing and education.

Institute of Applied Social Studies run the major in Sociology with different specialisations, some of them are connected with ADR. At BA level, the Institute offers a specialisation: “Facilitation and intervention in crisis situations” and at MA level: “Mediation and Negotiation”. The aim of both of them is to prepare experts on communication. In the frame of Mediation and Negotiation, specialisation in the following courses are conducted: “Psychology of conflict” (30h), “Introduction to Mediation” (30h), “Negotiations” (30h), “Family mediation “ (30h) and “Mediation in social conflicts” (30h) and aims at preparing negotiators and mediators.

University of Warsaw offers post-graduate studies on Negotiation, Mediation and other Alternative Dispute Resolution. The duration of the studies is 2 semesters, 190 hours of classes.


Furthermore, at the University of Warsaw’s Faculty of Law and Administration in 2006, The Centre of Dispute and Conflict Resolution was open (<http://mediacje.wpia.uw.edu.pl/?lang=en>) as a foundation in order to promote mediation and other ADR.

## **2. Jagiellonian University (Kraków)**

Jagiellonian University, one of the oldest universities in the world (was founded in 1364), currently offers studies in 15 different faculties, where over 41 000 students are gaining knowledge in 87 majors (<http://www.uj.edu.pl/universytet-z-collegium-medicum/statystyki>).

Among them only full-time students in the Faculty of Law and Administration and some of students of Pedagogical majors have access to courses about mediation. Students of law in Jagiellonian University can learn about mediation on the non-obligatory workshops “Mediation in international





cases” offered by PhD Małgorzata Kożuch for students of the third to fifth year. The workshop lasts for 30 hours and 15 students may attend them every year. Another subject directly connected with mediation is “Mediator – the manager of the conflict”. It is also not obligatory and lasts for 30 hours. Student can choose it in any year.

Furthermore, the Chair of European Law at the Faculty of Law and Administration conducts two courses on preparation for international competitions: “International Mediation and Negotiation” (30h) – workshops which provide preparation for the “Competition of Vienna International Arbitral Centre (VIAC)” and “International Commercial Mediation” (60h) , which prepares for Competition of International Chamber of Commerce in Paris. Both courses are in English as faculties for students on their last years and are run by PhD Małgorzata Kożuch.

For students of Administration there is available “Negotiation and mediation techniques” (30h).

Additionally, the Centre of Alternative Dispute Resolution in the Faculty of Law and Administration of the Jagiellonian University offers postgraduate studies on “Mediation and other methods of Alternative Disputes Resolution” for graduate students. The duration of studies is 1 year (more than 200 hours) and the fee is 5600 PLN (around 1350 EUR). Completing those studies gives the qualification of professional mediator.

There is also one course offered for post-graduate students of Psychological Crisis and Crises Intervention in Institute of Applied Psychology: “Mediation and negotiation in Crisis Intervention” (20h).

Basics about mediation are offered also for BA students of different specialisations in the Institute of Pedagogy through educator’s workshops, however, they are not available on a regular basis. Those courses are not obligatory. 45 hours of courses connected with mediation are obligatory for students of Resocialization Pedagogy on their second year of MA studies. This module includes: “Basics of Mediation”, “Criminal Mediation” and “Civil Mediation”. For students of Pedagogy with the specialisation of Cultural and Social Animation, the course “Mediation in public sphere” is provided on the second year of MA studies.

The course “Negotiations and international agreements” (60h) is obligatory for BA students of International Relations in Institute of Political Science and International Relations on their second year.

There are no courses on mediation in the Institute of Sociology.


### **3. Adam Mickiewicz University in Poznań**

Another Polish University with over 40 000 students is Adam Mickiewicz University in Poznań, according to “Perspektywy” ranking, the third best university in the country (<http://www.perspektywy.pl/RSW2016/ranking-uczelnia-akademickich/ranking-wg-typow-uczelnia/universytety>).

Students of Law in Adam Mickiewicz University in Poznań can choose lectures on “ADR: arbitration and mediation” (30h). BA Students of Administration can attend the non-obligatory course “Techniques of negotiation and mediation in civil cases” (30h). The Faculty of Law and Administration also offers classes on “Trans-border mediation” (30h). Apart from those mentioned above, the Faculty offers numerous other classes on ADR.







What is interesting is that students of many other faculties of Adam Mickiewicz University have a chance to gain basic knowledge about ADR. Classes on mediation are offered also by: the Institute of Applied Linguistics (“Intercultural mediation” 30h, “Communication or mediation” 30h, ), Faculty of Theology (“Family mediation” 30h, “Social mediation” 30h), Faculty of Social Science (“Mediation and negotiation in social assistance” 30h), Faculty of Educational Studies (“Mediation and negotiation – conflict management” 5h, “Mediation as a method of Alternative Dispute Resolution” 15h), Institute of History (“Mediation and negotiation” 30h, “People in economy: mediation and negotiation” 30h). Adam Mickiewicz University definitely had the richest offer of classes on mediation for students of different majors other than law.

The Faculty of Law and Administration offers post-graduate studies on mediation. Candidates have to have MA in any discipline. The duration of the course is 2 semesters, the cost around 1000 EUR. The programme connects knowledge about law with social science.

#### **4. John Paul II Catholic University of Lublin**

Although Catholic University of Lublin is second most significant and biggest university in east of Poland (19 000 students) after Maria Curie-Skłodowska University (UMCS) in Lublin (36 000 students), we have decided to include this university due to its unique profile and as an example of a catholic school.

The Faculty of Law, Canon Law and Administration offers obligatory lectures (30h) and classes (30h) on “Negotiation and mediation in Polish law” for students of MA last year.

Students of Psychology gain knowledge about mediation during tutorials on “Functioning styles in conflict situation”, “Mediation procedure: the structure and techniques” and “Functioning styles in conflict situations”. The duration of each of them is 30h and are available during the last year of MA studies. Students of Sociology have a obligatory classes “Family mediation” (30h) in their second year of MA if they choose specialisation in Family Assistance.

The University offers post-graduate studies on mediation. Surprisingly the programme is realised by the Faculty of Social Science. The duration is 2 semesters and the cost around 900 EUR.

#### **5. University of Gdańsk**

University of Gdańsk has 11 Faculties and 73 major studies. In 2016 the number of students was over 27 000 ([http://ug.edu.pl/universytet/o\\_nas/ug\\_w\\_liczbach](http://ug.edu.pl/universytet/o_nas/ug_w_liczbach)).

University of Gdańsk do not offer many courses connected with mediation. Extramural students of Administration can attend classes “Techniques of negotiation and mediation in administration” (20h). However, after MA studies, students can continue their education in The Faculty of Law and Administration on postgraduate studies “Law for mediators”. During 2 semesters, 240 hours, students learn mostly about law but also have practical workshops with mediators. The cost is around 500 EUR per semester.

In the Faculty of Law and Administration there is a Student Research Group of Arbitration and Mediation, however it is difficult to trace its activities on the Internet.

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### Conclusions about formal education

The whole structure of formal education in Poland means that knowledge about ADR is accessible mainly for Law students and to a lesser extent for Psychology and Sociology students. Teaching about ADR at MA level is very much focused on the legal aspects. There are many postgraduate programs for those who would like to become professional mediators.

Unfortunately, children do not learn ADR in schools. They have just basic classes about conflicts. However, there is lack of hours to develop skills connected with conflict resolution. The term “mediation” is presented in the legal context.

## IV. ADR in youth field


The main Internet source of knowledge about mediation is the governmental website <http://mediacja.gov.pl/en/>. The website present all legal aspects of mediation and official information. Unfortunately, there is no list of organisations dealing with mediation on this website.

In Poland, there are around 115 mediation centres and non-governmental organisations dealing with mediation. There are many associations for mediators, however the main focus of their activities is on training courses for professional mediators and mediation service. Young people in most cases are not the target group of their projects. We have found only a few initiatives involving young people.

Below are listed the most important organisations and their activities (apart from standard workshops for mediators and mediation):

- **Polish Centre of Mediation (Polskie Centrum Mediacji)** – the most significant association of mediators in Poland was established in 2000 in Warsaw on the base of Mediation Task Force *Zespołu ds. Wprowadzania Mediacji*. Currently, it has around 50 departments in different Polish cities.  
  
In 2007 the Association was responsible for the program "Conflict resolution by mediation" - implemented jointly with the Methodological Centre for Psychology and Pedagogy in Warsaw, under the "Zero tolerance for violence in schools" (the Ministry of Education).  
  
The association supports the program “The school without violence”. One of the most important activities is education about mediation. Over 2500 mediators were trained in Polskie Centrum Mediacji. Unfortunately, there is lack of information about workshops for young people. (<http://mediator.org.pl/>)
- **The National Association of Mediators (Krajowe Stowarzyszenie Mediatorów)** in Poznań and Szczecin is one of the few, who declares on their website readiness to implement workshops for young people and who has special programmes for them. Apart from standard courses for mediators, it offers interesting training course directed to young people aged 13-19: "Accord - the consent agreement" – preventive and educational programme for pupils of high schools and junior high schools, which aim is to teach youth the role of peer mediator, in order to prevent school violence. The participation fee is 200 PLN (around 50 EUR). Unfortunately, there is no information about duration.





The National Association of Mediators also offers a 16 hours program “School and peer mediation” for teachers in order to prepare them to be a mediator in school to support pupils, their parents and help them to resolve conflicts without aggression.

Another proposal is directed to kindergarten teachers. The program “Zosia Samosia goes in the world” (Zosia Samosia idzie w Świat) is based on non-formal education methods and lasts 16 hours. The cost of participation is 200 PLN (50 EUR).

- **The Guild of Mediation Foundation (Fundacja Gildia Mediacyjna)** is the organisation that has youth as one of its target groups. It was founded in 2014 in Toruń. The organisation's mission is to disseminate and promote the idea of mediation, social dialogue and educational activities in order to build positive changes in human relations.

The foundation organised city game “Thieves of agreement” for youth in 2014.

Another interesting project was implemented in 2015 “The experience of mediation, restorative justice and preventing violence among pupils of Secondary and Vocational Schools” with five schools in Toruń. The Foundation organised numerous informative meetings with pupils and teachers about mediation. 20 active participants among their pupils were selected and during 24 hours of workshops about mediation, the group prepared the play “Mediation vs. Court Trial”. The play was presented on 21<sup>st</sup> of November 2015.

The foundation has a blog about mediation, written in accessible format for all languages, where mediators write about their experience and analyse different elements of mediation. Unfortunately, the last update was in May 2015 (<http://www.wybierammediacje.pl/>)

There are also a few initiatives in schools. The aim of those activities is to make pupils, teachers and parents more familiar with the concept of “school mediation”.

Below are a few examples of those activities:

- In March 2016 the new organisation was launched “Mediation for Education” (Fundacja Mediacji dla Edukacji) in Biała Podlaska with the focus on youth in order to teach peer-to-peer mediation in schools. The founders underline that their aim is to promote mediation as a process of peaceful resolution of problems in schools and society (<http://polbel.biz/obshchestvo/sobytiya/item/150-mediacja-na-rzec-edukacji-meditation-for-education>).
- In 2011-2012 a pilot project was implemented by the Commissioner for Children’s Rights: “Peer mediation in schools as a method of preventing aggression and social maladjustment” in Lublin Voivodeship. 13 Middle Schools from different towns participated in the project. The main aim of the project was the preparation of young mediators in schools and to teach them conflict resolutions through dialogue (<http://lublin.so.gov.pl/pliki/208.pdf>).
- In Biała Podlaska’s second Middle School is the School Mediation Activity Club, that organises meeting with mediators for young people (<http://serwer1344515.home.pl/kreator/aktualnosci/mediacja-rowiesnicza-w-szkole-metod-a-przeciwdzialania-agresji-niedostosowaniu-mlodziezy/>).



Other important institutions and organisations offering mediation training courses and mediation without focus on youth are:


- **Association of Mediators PACTUS (Stowarzyszenie Mediatorów Pactus)** in Łódź- (<http://www.pactus.pl/>)
- **Association of Family Mediators SMR (Stowarzyszenie Mediatorów Rodziny)** in Warsaw. SMR gathers lawyers, psychologists, educators, sociologists and other specialists with the focus to support families during the crisis. The Association offers training course of 80 hours for the beginners and 40 hours for advanced in mediation. On the website of the SMR there are 5 articles available about family mediation, which are a rich and complex source of knowledge about research on family mediation in the world, role of all parties in the mediation especially children and comparison of law in different countries. (<http://www.smr.org.pl/>)
- **Association of Civil Mediators (Stowarzyszenie Mediatorów Cywilnych)** in Wieluń, Wrocław Łódź and Kalisz. The association runs training courses on mediation and offers 13 different topics of workshops connected with mediation, each of them with the duration from 4 – 30 hours. None of them is directed at youth (<http://www.mediatorzycywilni.pl/>).
- **Association Polish Mediator (Stowarzyszenie Polski Mediator)** in Warsaw (<http://www.mediatorpolski.pl/>).
- **Association of Mediators Batna (Stowarzyszenie Mediatorów BATNA)** in Zielona Góra (<http://www.mediacje.zgora.pl/>).
- **Centre of Mediation TRIALOG (Centrum Mediacji TRIALOG)** in Legnica (<http://trialog.pl/>).
- **The Center for Dispute and Conflict Resolution at the Faculty of Law and Administration** at the University of Warsaw (<http://mediacje.wpia.uw.edu.pl/>). This foundation focuses on promotion ADR among students.
- **Polish Association of Economic Mediation Polskie Stowarzyszenie Mediacji Gospodarczych** (<http://www.psmg.pl/>)
- Company **mediatorzy.pl** is specialised in mediation in organisation and multiculturalism. Mediatorzy.pl has a rich offer of training courses for companies and organisations. As well, they offer modules on solving conflicts in local communities.

They offer two programmes in this field: *Public and community disputes: psychological and social processes, approaches to resolution* and *Public consultation: how to inform and get informed by the local community*.

## V. Conclusions

This analysis shows the insufficient number of activities on ADR targeted at young people. It might be explained by the still low level popularity of ADR in general. “This conclusion is applicable to all areas of law – the percentage of business law cases referred by district courts to mediation in 2014 constituted 0.25% of all court proceedings (regional courts - – 2.1%), for family law – 0.17%,





for civil law – only 0.023% (at regional courts – 0.68%), for labour law – 0.21%, and for criminal law – 0.16% (*Diagnosis of the use of mediation and of the reasons for its lower than expected popularity*, 2015 <http://mediacja.gov.pl/files/doc/rk-mediacje-agrotec-16.09-en.pdf>, s.5). Authors of the report describe a number of reasons of it, however for us the most important conclusion is the fact that there is not enough knowledge about mediation in the society. “In year 2015, only slightly more than a half of the population of Poland (52.6%) understood the term ‘mediation’ (*Diagnosis...* s.43). Most likely, educators of ADR firstly target adults in order to raise the consciousness about mediation in general. Adults are, in most cases, potential participants of mediation. In the whole report, young people are not even mentioned once.

