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ANCORA MATILDE PROJECT

CASE OF EXCELLENCE

Family Mediation Center “Partners Bulgaria” Foundation - Sofia

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Information on the organization

“Partners – Bulgaria” Foundation is a non-business organization, registered in Bulgaria under the Law for People and Families in March 1998.

“Partners – Bulgaria” is a member of the international network PARTNERS FOR DEMOCRATIC CHANGE INTERNATIONAL (PDCI) with a main office in San Francisco.

PDCI was founded in 1989 in order to support the development of civil society in countries with newly established democracy and market economy. PDCI assists the processes of change in these countries using a specific approach – it helps the development of local resources and the establishment of local structures. Thus PDCI builds an international network which includes similar to “Partners – Bulgaria” organizations in Argentina, Georgia, Lithuania, Poland, Romania, Slovakia, Hungary, Croatia, the Czech Republic, Albania and Kosovo. These organizations work in close co-operation in order to help the democratic changes in these countries.

THE MISSION of “Partners – Bulgaria” is to help the process of democratic change in Bulgaria by helping human relationships in their variety and uniqueness.

THE GOALS, which “Partners – Bulgaria” sets itself in accordance to the above-stated mission are as it follows:

- To assist the formation and development of culture for solving conflicts.
- To stimulate the better representation of interests of different public organizations, informal groups and ethnical communities in the processes of decision-making.
- To make popular the strategies for effective management of social and economic processes during the period of transition to a democratic society.
- To assist communication between different cultures.
- To accelerate the process of development of civil society and social dialogue.

In its work “Partners – Bulgaria” is supported by American and European organizations and government agencies, such as Partners for Democratic Change International, US Agency for International Development (USAID), Save the Children, the “Open Society” Foundation, the European Committee, the Programme “Democratic Network”, Radda Barnen and others.

For the implementation of its programme for application of alternative methods for conflict-solving, the Foundation carries out the following projects:

1. Development of services for business-mediation.
2. Introducing an academic course in Alternative conflict-solving at the faculties of law in Bulgarian universities.
3. Development of a system for alternative conflict-solving in imprisonment institutions in Bulgaria.
4. Ethnical integration and conflict-solving.
5. Development of skills for mediation between coevals.
6. Development of services for family mediation in Sofia.

Main features and methodology of the offered service

In the beginning of 2002 the “Partners – Bulgaria” Foundation started a project called “Centre for Family Mediation”. It is a result from the development of the mediation programme which is carried out from the foundation of the organization in 1998 to present. The project is realised with the financial aid of the “Open Society” Foundation, programme COLPI.

Resume of the programme

A Centre for Family Mediation that works for solving family arguments is established within this project. The work of the centre is based on the already existing experience of the “Partners – Bulgaria” Foundation in providing services in the sphere of mediation of conflicts, but the variety of provided services, as well as the number of citizens that may take advantage of the offered service are largely extended. The Centre for Family Mediation uses the already existing knowledge and skills of its team in the sphere of mediation, psychology, law and social work and thus develops them furthermore in the domain of mediation at solving specific family conflicts.

Goals of the programme

The program has the following goals:

- Development of co-operation with the District Court of Sofia and other courts and organizations which will refer cases to the mediation services.
- Increase of the social knowledge of mediation as an alternative for solving family conflicts and making it popular as a promising and well-functioning mechanism for solving family conflicts.
- Solving particular family conflicts and mitigation of their negative influence on children.
- Support of a state policy that will ease the use of mediation as a promising social mechanism for solving family conflicts.
- Development of the Centre for family Mediation within the “Partners – Bulgaria” Foundation.
- Exchange of experience with partner organizations in Eastern Europe, especially “Partners – the Czech Republic” and “Partners – Poland” that have great experience in family mediation, as well as current exchange of information and consulting with the team of “Partners for Democratic Change” – USA and other organizations.

Rules and regulations for the organization and activity of the centre for family mediation; standards for professional activities of mediators at the centre for family mediation

The centre for family Mediation works according to Rules and Standards which regulate all aspects of its activity. Apart from administrative issues they include a detailed description of procedures for family mediation, mediator’s professional characteristics, issues on conflict of interests, confidentiality and control over the process of family mediation, etc.

Goals and objectives of the Centre for Family Mediation

1. The Centre for Family Mediation (CFM) mediates in settling family conflicts: conflicts between members of one and the same family, related through marriage or kindred.
2. CFM was founded under the “Partners – Bulgaria” Foundation with the following goals:
 - a. to assist citizens in order to solve conflicts by reaching an agreement between them;
 - b. to reach a quicker settlement of conflicts and to reduce expenses of the parties;
 - c. arguments to be settled down in a way that corresponds exactly to the needs of the parties and that satisfies them;
 - d. to ease the work of the legal system;
 - e. solving such family conflicts to be based on family virtues;

- f. to be introduced and strengthened a new culture for solving conflicts based on understanding and mutual respect of the parties' interests;
3. The mediators conduct the mediation procedure according to the model approved by CFM, guided by the mediator's ethical and professional standards developed and approved by the "Partners – Bulgaria" Foundation.

Professional characteristics of mediators

1. Mediators should have the necessary qualification and competence which will facilitate the effective fulfilment of procedure and will meet the expectations of the parties involved. Mediators should constantly improve their knowledge about the procedure by informing themselves about the most recent trends in out-of-court settlement of conflicts and by engaging themselves in a long professional training in mediation.
2. Participants in the out-of-court settlement of conflicts should be well acquainted with the competence, completed training in mediation and practical experience of mediators working on their case.
3. Mediators should have higher education in psychology, law, sociology or other relevant subject (bachelor's or master's degree), or should possess formidable professional experience in spheres requiring skills and knowledge of mediation. Mediators should have certain standing in their professional communities and should help to maintain the high status of their academic disciplines.
4. In order to acquire the right to mediate at out-of-court settlement of conflicts mediators should by all means undergo a special training in mediation under the guidance of qualified specialists. After completing the basic training in mediation they should constantly improve their skills by further training and professional qualification.
5. Mediators work for development of unified standards for training and professional qualification in mediation in order to extend the social standing of the profession.
6. Mediators should take only cases for which they possess the necessary for the particular case qualification and only when there exist requirements for preserving their impartiality throughout the whole process. The mediation process is directly dependent on the mediator's ability to establish effective interpersonal relationships with each of the parties and to control her/his behaviour during the procedure in accordance to the ethical and professional standards for mediation. If the mediator realises that s/he is not capable of establishing such relationships and self-control due to any personal problems, the mediator should withdraw from the mediation process.

Procedure rules of the Centre for Family Mediation

1. Mediation procedure is based on the principles of free will. It may proceed or be concluded by an agreement only if both parties wish so. Either party can, without any limitations in time, renounce its further participation, which terminates the procedure at all.
2. The mediation procedure may be initiated at the request of a person who is a party on the argument, or at the mutual request of both parties concerned.

3. When the procedure is started at the request of one of the parties, that party shall be referred to as the “initiator”, and the other party – as the “defendant”.
4. The application form for initiation of the mediation procedure should be handed in personally by the initiator in writing after the pattern of the Centre for Family Mediation, in its office.
5. The application also may be filed by the initiator orally on the phone and in such cases its written form should be executed by the co-ordinator who answered the phone call.
6. The mediation procedure shall be initiated when the application is filed in the office of the Centre for Family Mediation in one of the above-mentioned ways.
7. In three days time from the initiation of the procedure the co-ordinator contacts the defendant on the argument.
8. When the defendant gives her/his consent to participate in the mediation procedure, and when the application is filed in by both parties on the conflict in accordance with the rules, the co-ordinator appoints a date for holding the first session of the mediation procedure and immediately notifies both parties about it.
9. If the defendant withholds her/his consent to take part in the mediation procedure, the co-ordinator immediately notifies the initiator, and the latter has the right only once to ask for continuing the efforts for carrying out the procedure. If the initiator does not state this wish, as well as if the defendant withholds her/his consent for the second time, the mediation procedure is terminated.
10. In three days time from the given by the defendant consent to participate in the procedure, the co-ordinator appoints a joint meeting.
11. Right after the first mediation appointment is made, the Director of the CFM appoints two mediators from the list of the mediators of the Centre.
12. The mediation sessions are held at the office of the CFM, and if necessary and if the parties agree so – at another suitable place.
13. The mediation procedure is confidential. Only the mediators, the parties and the nominated by them people are present at the meetings. The people, present at the meeting sign an affidavit that they will not announce the information made known to them during the procedure.
14. Before the first mediation session, mediators are obliged to reveal all the circumstances which may harm their impartiality. The parties shall have the right at any time during the procedure to change mediators if they are not satisfied by their work.
15. The parties, with the help of the mediators, agree on rules for holding the mediation sessions. In the beginning of the procedure each of the parties states its notion and expectations about the argument.
16. If the discussion reaches a stage at which reaching an agreement is impeded mediators (if they decide that it is necessary), offer independent meetings with each of the parties and after that a new joint meeting is appointed. The information which mediators receive at these independent meetings may not be revealed to the other party, unless the party that provided the information gives its consent to this.
17. After each meeting mediators make a report which is confidential and is added to the file of the case.
18. Mediators assist parties to bring closer their points of view in order to reach an agreement. For that purpose they should help parties to find a suitable solution of the issues on the argument.
19. The mediation procedure is terminated:

- a. By agreement on the whole or part of the conflict;
 - b. By the mediator's initiative when reaching an agreement is obviously not possible;
 - c. At the request of one or both of the parties for termination of the mediation procedure.
20. The agreement is made in writing. If notary verification is needed, the mediator assists in providing a notary. Each party receives a copy of the reached agreement.
 21. When terminating the procedure the mediator writes down in a specified for the purpose book the results from it. A record on each case is kept.
 22. A possibility for an executive power of the agreement on an out-of-court case.
 23. When it is initiated by the parties on an out-of-court case, the agreement which is verified by a notary shall have executive power (Code of Civil Procedure, art. 237, item "Ж");
 24. When the agreement is not verified by a notary, it has the status of a civil contract (The Law for Liabilities and Contracts, art.365).
 25. When it is within a pending process, the agreement if approved by the court shall have the power of a court order (Code of Civil Procedure, art. 192, section 5).
 26. The mediation fee should be paid by the initiator when handing the application form in the office of the Centre; and if it is made on the phone – in a three days time.
 27. The parties should pay fees according to an approved Rate, under the Rules of the Centre for Family Mediation. The parties shall share the expenses, unless they agree on something else.

Impartiality and conflict of interests

1. Mediation is based on the principle of impartiality of the mediator. The mediation procedure is carried out only if both parties have confidence in the mediator. The mediator takes only such cases for which s/he can guarantee her/his impartiality, objectivity and professionalism to each party on the conflict. Mediators do not have the right to mediate if they are not able to guarantee their impartiality when the procedure is started and if at a later stage they are not able to remain objective during the whole mediation procedure.
2. The mediator's behaviour should not lead to any doubts about partiality in any of the parties. If there are any doubts about the mediator's partiality to any of the participants in the procedure, s/he shall withdraw from the case and submit it to a colleague.
3. The mediator should work in good faith in order to reach a mutually beneficial agreement between the parties and should not permit to be influenced by personal prejudice or preferences.
4. When conducting the mediation procedure the information about the parties and the nature of their agreement is considered confidential and the mediator has no right to reveal in public any information on the procedure. An exception of this rule may be the cases when there exists a direct danger to a person, institution or to social interests as a whole, and/or the active legislation of the country is violated. In such cases the mediator is not obliged to observe the rule for confidentiality of information.
5. The mediator shall guarantee confidentiality of information and involvement in the procedure. S/he can use and reveal in public the acquired during procedures information in the form of: publications, scientific research, in lectures on different social events –

- only after the mutual consent of the parties is given and only in their favour, providing that s/he shall not allow for any deceitful or misleading actions, misrepresentation and concealment of facts and information, and s/he shall not reveal their personal information.
6. Mediation is a process which is based on the principle of absence of conflict of interests. The conflict of interests is a business connection or personal relationship between the mediator and any of the parties, which may lead to doubts about the impartiality of the procedure. The necessity for avoiding conflicts guides the mediator's conduct during and after the procedure. If a conflict of interests is found out, the mediator withdraws from the procedure.
 7. The mediator cannot enter into professional relationship with any of the parties without its explicit consent, during and after the procedure. During the mediation process s/he shall avoid behaviour that can inflict any doubts about the objectivity of procedure.
 8. If a conflict of interests exists and each of the parties on the conflict give their consent, the mediator can proceed with her/his work after stating before the concerned parties all aspects of her/his relationships with the party/ies. If the conflict of interests contradicts seriously the requirement for impartiality of procedure, the mediator shall be obliged to cease working on the case.
 9. If a conflict of interests is ascertained and there are doubts about the objectivity of the mediator, s/he may refer the parties to other mediators who have the relevant competence to conduct the procedure. The choice of a new mediator is to be made only after the parties make sure that there is no conflict of interests as a result of the very act of offering made by the previous mediator.
 10. The mediator is obliged to counter any attempts of future institutions or people to provoke conflict of interests in order to influence the final result of the mediation procedure and favouring of a party on the conflict. The mediator undertakes to observe the principle of objectivity and to observe her/his obligations on the mediation procedure which require her/his neutrality in regards to the decisions made by the parties and countering any potential outer influence on her/his job.
 11. The principle of good will is basic in mediation. The procedure is based on the ability of the parties to reach an agreement voluntarily, without outside interference. In this sense, each of the parties can withdraw from the procedure at any time.
 12. The mediator's main role is to assist the parties in order to solve the conflict in a good will. For that purpose, s/he provides information on the process and acquaints the parties with the various options for the most favourable choice for them.

Target groups

Families in which there are conflicts: citizens who want to settle family conflicts, including divorce, custody of children, and division of property.

Organizations, providing social services and social workers: the county services in Sofia for protection of children.

Non-government organizations: Women's association for development. Save the children, Society for protection of children's rights.

People of law: judges working on family cases at the District Court of Sofia, Association of Women of the Legal Profession, Institute of the Principles of Law, lawyers.

State and local authorities: Ministry of Justice, Ministry of Labour and Social Policy, State Agency for Children's Protection, the Municipality of Sofia.

Results

The programme was started in the beginning of the year and so far there have been only 8 cases, none of which has been concluded. So, no specific results can be worked out.

Evaluation of the provided service

Points of power

In most of the cases the sessions are held by a mediator and a co-mediator, one of them being a jurist or psychologist. Thus it is possible to meet quickly and more efficiently the needs of the clients.

The preliminary meeting with the defendant provides depth and quickness of the work process. A decision was made by the team of the Centre for cases of family mediation which involve directly children, or for cases dealing only with custody of children, no fees to be paid.

Another strong point of this project is the possibility the reached agreement to be verified by a notary. This gives to it executive powers according to Bulgarian legislation.

Points of limits

Because the project is at its initial stage, its shortcomings, if any, are not obvious yet. Only the few cases may be pointed out, but this is due more to the stage of development of Bulgarian society than to any weakness of the services offered by the Centre for Family Mediation.