Journal of Social and Political Sciences

The online version of this article can be found at:
https://www.asianinstituteofresearch.org/

The Asian Institute of Research *Social and Political Sciences* is a peer-reviewed International Journal. The journal covers scholarly articles in the fields of Social and Political Sciences, which include, but are not limited to, Anthropology, Government Studies, Political Sciences, Sociology, International Relations, Public Administration, History, Philosophy, Arts, Education, Linguistics, and Cultural Studies. As the journal is Open Access, it ensures high visibility and the increase of citations for all research articles published. The *Journal of Social and Political Sciences* aims to facilitate scholarly work on recent theoretical and practical aspects of Social and Political Sciences.

Mediators in Portugal: Training, Status and Professional Recognition

Ana Maria Costa e Silva[1], Patrícia Guiomar[2]

[1] Institute of Education and Researcher at the Communication and Society Research Center (CECS), University of Minho, Braga, Portugal
[2] Researcher at the Communication and Society Research Center (CECS), University of Minho, Braga, Portugal

Correspondence: Ana Maria Costa e Silva, Institute of Education, University of Minho, Campus de Gualtar, 4710-057, Braga, Portugal. E-mail: anasilva@ie.uminho.pt

Abstract
Mediation is an area of activity that has been increasingly (re)known for its potential for the prevention and positive management of conflicts, for the promotion of social ties and social cohesion, as well as for the development and empowerment of interpersonal relationships. Therefore, it seems relevant to call into discussion the quality of mediators' practices by analysing their training and professional recognition. The objectives of the present study have focused on identifying the main contexts associated with the development of the profile of mediators and analyzing the actions implemented for the consolidation and recognition of this professional group. Based on literature review, the analysis of normative production on the topic, and the results of a questionnaire applied to Portuguese mediators, the following conditions and challenges for the establishment and recognition of the mediator profession have been identified: quality training, collective feeling of professional identity, professional sregulation and formal recognition of the profession in institutional settings, both in public and private contexts.

Keywords: Identity, Mediators, Mediation, Professional Recognition, Quality

1. Introduction

The progressive growth of mediation practices across Europe is increasingly felt, Portugal being one among may other countries that have embraced the progressive social and political acknowledgement of mediation in response to needs arising from contemporary social dynamics (e.g. cultural diversity, diverse family structures, the political landscape, the growth of radicalism and increased litigation). This growth also reflects the investment made into training mediators, both in Higher Education and in other institutions, such as associations of mediators. This growing involvement with the mediation agenda demonstrates a consistent interest to leverage the quality of mediation practices and consequently guarantee the quality of training, mediator identity and its professional recognition.

Mediation is a specific methodology of social intervention for the development of peaceful, humanistic and sustainable societies oriented towards the prevention, management and collaborative resolution of conflicts. It is

a methodology that requires 'a professional', the mediator, with specialized training, to carry out a preventive and collaborative, non-adversarial, voluntary, participatory and confidential procedure. Mediation requires important skills for the social and organizational contexts of a rapidly changing society, it presupposes the need to develop complex activity, and consequently it inscribes mediators in a hybrid profession (Noordegraaf, 2007).

For some years now, the quality of mediation practices and the professional identities of mediators have been discussed in depth through various research and scientific papers (Silva, Caetano, Freire, Moreira, Freire, & Ferreira, 2010 ; Faget, 2010; Brandoni, 2011; Guillaume-Hofnung, 2012; Silva, 2015; Bonafé-Schmitt, 2017; Álamo & Villaluenga, 2020). Over the past 25 years, regulatory documents have been published that regulate and specify the responsibilities of mediators. Concomitantly to this development, the last three decades have also revealed the growing importance of ensuring that mediators acquire the required skills for reflexive competent practices.

Even so, the work of professional recognition that has been developed has not been enough to guarantee the professional legitimation of the mediators. In this sense, this study intends to contribute to this reflection and discuss the importance of legitimation and recognized professional legitimacy in the affirmation of the professional identity of mediators.

Talking about the sociology of professions and organizations in this work is essential because it allows defining what characterizes a profession and professional identity (Abbott, 1988; Dubar & Tripier, 1998; Dubar, 1997; Evetts, 1997; Evetts, 1997; 2003, 2013; Noordegraaf, 2007). Throughout the 20th century to the present, several categorisation trends can be identified on what is or should be considered a profession: from the functionalist, to the interactionist, neo-Weberian and neo-Marxist perspectives. It is mainly from the interactionist perspective and, particularly, from the Chicago School approach that the emphasis is placed on a holistic and dynamic analysis of the profession (Tripier, 1987). More recent studies consider the use of the term 'professional groups' more appropriate to broaden the field of analysis and incorporate new realities in the field of work and professional dynamics (Evetts, 2003; Demazière, 2009; Demazière & Gadéa, 2009), such as the dynamics of work, organizations and occupational groups today.

In Portugal and several other countries (such as France, Italy, Belgium, Spain) the development and establishment of mediation as an activity and as a professional occupation of mediators happened gradually. At the end of the twentieth century (from the 1980s onwards) mediation as institution became more visible, namely through the use of internal rules and regulations (including procedures) and the normative recognition of intervention areas. The beginning of the twenty-first century has witnesses an expansion of mediation activities in new areas. Mediation has been capable of providing innovative responses to social problems (in schools, communities, organizations, families…). Several associations have been created, such as the Association of Conflict Mediators (2002) and the National Federation of Conflict Mediation (2012). However, even if, the professional activity of mediators has proven to be relevant for current knowledge societies, the recognition of mediators as a professional group remains fragile, diffuse and yet to be done.

This text reviews the findings of several of the above-mentioned studies, going on to expand upon previous knowledge with recourse to new data and information gained from mediators in Portugal: the outset of the professional activity, the formalisation in legal documents and the process through which mediators gain recognition. Two questions emerge to which answers are sought in this paper so as to illustrate the trajectory mediators in Portugal: i) What are the main circumstances that have led to the development of the job profile of mediator in Portugal?; ii) Which steps have been taken to attain the professional recognition of mediators in Portugal?

We have reviewed international research carried out over the last 30 years and considered Portugal's legal framework to provide a descriptive and prospective systematisation of the path taken by mediators within the Portuguese context. The study is occasionally backed up by statistical data collected from a survey carried out in April 2021 about the profile of Portuguese mediators, by recent projects and initiatives that aim to consolidate and regulate the practice of mediators in Portugal, as well as provide their formal professional recognition.

The text is divided into four main parts. The first presents a brief definition of the profile of mediators, as well as a reflection on their training and professionalisation. The second provides a brief description of the method, data collection and analysis. The third addresses the status and professional background of mediators and contains reflections on the ethical and deontological Codes of Conduct developed both nationally and on a broader European scale to standardise and consolidate the 'professional' role of mediators. The fourth and final part provides a conclusion in which we reflect on the obstacles and difficulties encountered in the recognition of mediators in Portugal and how these can be overcome.

2. The training and professionalisation of mediators

Since the dawn of human existence and interaction, individuals in positions of natural authority and social prestige have acted as mediators to (re)establish order, kinship and peace between conflicting people and groups (Six, 1990; Torremorell, 2008). Mediation is therefore not a new profession; but official recognition of mediation as a profession is, however, recent. Lascoux (2009, p. 24) claims that "(…) from this slow evolution, a profession of peacebuilders, life smoothers: mediators" has emerged, and Demazière (2009) states that some ambiguity still exists around the profession, which is detrimental to the social and professional recognition of mediators. As stated in a previous publication (Silva, 2015), several factors contribute to this ambiguity: the multiplicity of areas within which mediators operate, the diversity of practices related to mediation and the training undergone by mediators. Highton and Álvarez (1999) also highlight the multidisciplinary roots underlying the origin and development of mediation, which according to the authors (1999, p. 191), "enrich the profession, but also negatively impact on its sense of identity and the way in which mediators themselves see their profession".

Several mediation training courses are run both within Portugal and Europe, contributing to the training and specialisation of mediators. This diversity became evident in Portugal from 2010 onwards, when regulations were made regarding the professional qualification of mediators in the mediation systems of Alternative Dispute Resolution Office (GRAL) (Directive No. 237/2010, of 29th April). In addition to highlighting the emergence of a new "player" in legal practice, who operated independently of public institutions - the conflict mediator -, these rules specify the general and specific conditions conflict mediation training courses have to meet to enable their graduates to provide public mediation services. The requirements established for courses and accredited institutions do not adhere to a unified scientific framework nor to common standards, which leads to a diversified training offer, in terms of the training organisation and the number of training hours, the syllabus content and certification of the trainers, which results in various student outcomes that are rarely followed up upon or supervised. An international study carried out (1) (Silva, 2015) on the subject offers the following results: "A lack of common initial, prolonged, quality, specialised training leads to Mediators having diverse educational backgrounds prior to becoming mediators – both in terms of their level of education and the subject areas studied" (Silva, 2015, p. 158).

Though initial training based on a multitude of frames of reference helps to strengthen the practice of mediation as a whole, it prevents mediators from establishing a professional identity and from having their profession officially recognised (Torremorell, 2008; Silva, 2015). According to Faget (2010), the construction of a professional identity has several inherent prerequisites: the requirement of a considerable amount of initial and continuous specialised quality training is a recognised practice; the establishment of professional networks structuring the profession; as well as the ethical and deontological principles applied thereto. However, it has already been established that no standard initial training exists, as well as that public recognition of the occupation and the amount of needed practice are still fragile. It can therefore be concluded that specialised initial and in-service training is key to ensuring quality training is carried out that strengthens the specificities, knowledge, and skills expected of practising mediators (Silva, 2015).

Initial standard training is therefore pinpointed as an opportunity to provide specific knowledge essential to the practice of mediation. According to several authors, this consolidation takes place when undergraduate degree courses in mediation begin to be run by Higher Education institutions (Silva & Munuera., 2020). Thus far, the only registered university courses in mediation have been either at Masters or Doctoral levels. Bonafé-Schmitt (2017) emphasises that mediation courses run by various European universities encompass different subject areas,

including psychology (used to manage emotions), law (for knowledge of litigation and legal processes), sociology (for the ability to assess different action plans), and economics (in order to mediate on matters relating to financial management). Mediators can thus build on a substantial professional background they can draw upon in order to exercise their profession.

According to Guillaume-Hofnung (2012), standard initial training cannot exclude in-service training, as the initial training described is aimed at young mediators who never had training in mediation, whereas in-service training would be strictly aimed at experienced mediators. The purpose is that, through in-service training, experienced mediators can deepen new knowledge related to mediation and continue to practice it with the greatest possible rigor and quality. In-service training gives mediators the opportunity to improve their practices and adapt their interventions to the current demands of society.

Standard initial and in-service training reflects the measures put forwards in the Directive on Mediation in the Member States European Parliament Resolution (2011/2026 (INI) numbers 18 and 20, respectively), which recognises the "need for increased awareness and understanding of mediation" and "the importance of establishing common standards for accessing the profession of mediator in order to promote a better quality of mediation and ensure high standards of professional training and accreditation across the Union".

In short, mediation training is essential to ensure the legitimacy and autonomy of mediators, as well as the acquisition of skills, values, and essential knowledge required in order to exercise the profession adequately. The specialised knowledge required to practice mediation professionally, which is to be obtained in a basic common training course, constitute the prerequisites upon which to recognise, acknowledge, (re)construct and affirm the individual and collective status and identity of mediators.

3. Method

In Portugal, over the last decade, studies on mediation, the areas of activity of mediators and the training offers at university level (postgraduate, master's and doctoral) and non-university levels have expanded. However, despite the fact that mediation is a growing area of intervention, with two decades of implementation, the recognition of mediators as a professional group remains fragile and diffuse. Although the issue of identity and professional recognition of mediators has been analyzed and debated for several years (Demazière, 2009; Faget, 2010; Guillaume-Hofnung, 2012; Silva, 2015; Bonafé-Schmitt, 2017), in Portugal professional recognition continues unrealized. However, there has been a growing mobilization of mediators and associations that represent them in claiming this formal recognition.

The growing relevance of mediation and mediators in contemporary societies, for the promotion of peace and social cohesion, encouraged us to carry out an investigation into the situation of this professional group in Portugal. The research presented here is predominantly quantitative and, in this work, reference will be made only to a part of the quantitative data.

2.1 Instruments and procedures

To respond the research questions of this work, two methods were used: desk research and analysis and questionnaire survey.

Desk research focused on the various legal documents and codes of ethics produced in Portugal regarding mediation and mediators and on various empirical and theoretical studies on the subject at national and international level. Although the study focuses on Portuguese reality, it is relevant to understand the international reality of mediation since it is subject to different levels of evolution and legal, empirical and theoretical recognition depending on the country. To grasp different realities and needs (legal, theoretical, practical and scientific) is important to understand which aspects to (dis)claim when defining the profession and the professional activity of mediators in Portugal. The diverse documents were analysed from an integrative perspective. Firstly, we searched for legal documents in the databases "Diário da República Eletrônico" and "Official Journal of the

European Union"; then we searched for empirical and theoretical articles in the databases "ScieELO", "RepositoriUm" and "Google Académico". The following descriptors and their combinations in Portuguese, English, French and Spanish were used: "conflict mediation", "conflict mediators", "mediation training", "mediator recognition", "mediators as professionals". The inclusion criteria defined for the selection of these documents were: documents published in Portuguese, English, French and Spanish; mediation articles; documents and articles on the practice of mediators in different contexts; published and unpublished documents on mediation training; published and unpublished documents on the professional recognition of mediators; and documents published and indexed in the last 25 years.

Data collection covered a total of 30 documents published between 1998 and 2021: 12 of a legal nature and 18 of a scientific nature (theoretical reviews, empirical studies and meta-analyses) with mediation and mediators as the central theme. These documents were subjected to descriptive critical analysis which was organised through text and figures. The aim was to summarise and gather as much information as possible on mediation and on the social, institutional and legal challenges to its professional recognition.

The questionnaire survey on the profile and employment status of mediators in Portugal was implemented as part of a European project Erasmus+ LIMEdiat (reference: 2020-1-FR01-KA203-079934). The structure of the questionnaire included a total of 23 questions: 7 closed-response, 9 multiple-choice, 3 with Lickert-type scale and 4 with open-response, and was applied online, through the Google Forms application, to Portuguese mediators. The survey consisted of four sections: 1) sociodemographic characterisation; 2) training paths in mediation; 3) professional action of mediators; 4) expectations on existing and desired training. This article focuses on the first three dimensions. Data were collected, processed, stored and shared in accordance with the European Data Protection Regulation.

2.2 Participant

The questionnaire survey applied reached a total of 175 participants constituting a non-probabilistic sample, since the total number of the study population is unknown. The snow-ball method was used to reach these 175 mediators as the questionnaire was disseminated through social networks and the project's email. Since the universe of this population is not known, this strategy proved to be the most advantageous to reach the largest possible number of mediators.

2.3 Data analysis

Data processing and analysis of the quantitative data of the questionnaire was performed using the Statistical Package for the Social Sciences (SPSS) program (version 27.0 for macOS). Data analysis followed three phases: 1st phase - data organization, exclusion of invalid information and recoding of variables; 2nd phase - analysis of coding discrepancies; 3rd phase – moment when the descriptive data were generated.

Triangulation of collected data from the questionnaire and desk research crossed information resulting from various types of documents, for a broader, diachronic and updated analysis, thus broadening the understanding of the phenomenon in the Portuguese case. Triangulation of data has two phases: the first was the internal analysis of documents; and the second was the triangulation of data. After being organised, analysed and described separately. Data were correlated in terms of how mediation developed in concrete action and in the Portuguese legal framework.

3. Results and discussion

The social and professional recognition of professional group is essential to its development and consolidation, as is the affirmation of its identity with regard to other professions or professional groups. Although a small number of documents regulating the practice of mediation exist within Portugal and Europe, the profession is not listed in the Portuguese Framework of Professions, which negatively affects recognition of the occupation both professionally and socially. The difficulty encountered by mediators as a result of these circumstances is that they

may find entering the labour market challenging, their roles most often co-opted by other professionals untrained in mediation. This may be the case in schools, for example, as well as in residential care homes for children and young people, among several other institutions. This lack of professional recognition means that a large majority of mediators in Portugal work as freelancers, even when working for public mediation systems.

The regulatory documents and codes of ethics relating to the status of mediators are subsequently presented in response to the first question asked in this paper: What are the main circumstances that have led to the development of the profile of mediator in Portugal? We respond to the different topics based on an analysis of Portuguese laws and regulations in the field of mediation, an analysis of the codes of ethics developed by Portuguese mediation associations, and an analysis to the results of the implemented questionnaire.

3.1 Regulatory framework

In Portugal, the role of mediators is legally established by the Law of Mediation (Article 2 of Law No. 29/2013, of 19th April), which states that the mediator's role is limited to resolving conflicts:

"b) 'Mediator' is deemed to be an impartial and independent third party, devoid of powers of imposition upon the parties to the mediation, who assists the parties in their attempt to obtain a final settlement on the subject matter in dispute."

In addition to this law, there are regulations to recognise, characterise, and regulate the professional practice of mediators in various specialist areas: Cultural Mediators for Education (Joint Ordinance no. 304/1998, of 24th April); Socio-Cultural Mediators (Law No. 105/2001, of 31st August); Family Mediators (Ordinance no. 18 778/2007, of 13th July); Criminal Mediators (Law no. 21/2007, of 12th June); Mediators in Public Mediation Systems (Decree law No. 237/2010, of 29th April); Business or Company Recovery Mediator (Law No. 6/2018, of 22nd February). These pieces of legislation are complemented by ethical codes of conduct, which were issued with the aim of standardising and guiding the practice of mediators. The Code of Ethics and Deontology for Mediators (Association of Conflict Mediation (AMC), 2003) is of particular note, as is the European Code of Conduct for Mediators (DGPJ, 2014), the Code of Deontology and Good Practices for Mediators (Federation of Conflict Mediation (FMC), 2016). The reading of these regulations and codes of conduct provides an image of mediators as conflict mediators, who take on a neutral, dialogic, empathetic role to ease communication and help reach a consensual agreement between parties to a dispute. However, what mediators actually do is to aid parties in restructuring the relationship between them. They play a broader role rather than strictly providing the necessary support for them to reach a consensual solution to a dispute. We may thus conclude that "(...) the role of the mediator is to activate interaction and communication networks, to suggest bridges, or walkways, that may serve to bring together those who are unable to, or find it difficult to, communicate." (Silva et al., 2010, p.121).

The timeline presented below provides a more comprehensive understanding of the development of legislation relating to mediators in Portugal (figure 1). Though it provides a stylised image of the regulatory path traced by mediation practices in Portugal, the figure presented above also raises several questions regarding the congruence and uniformity of such regulation.
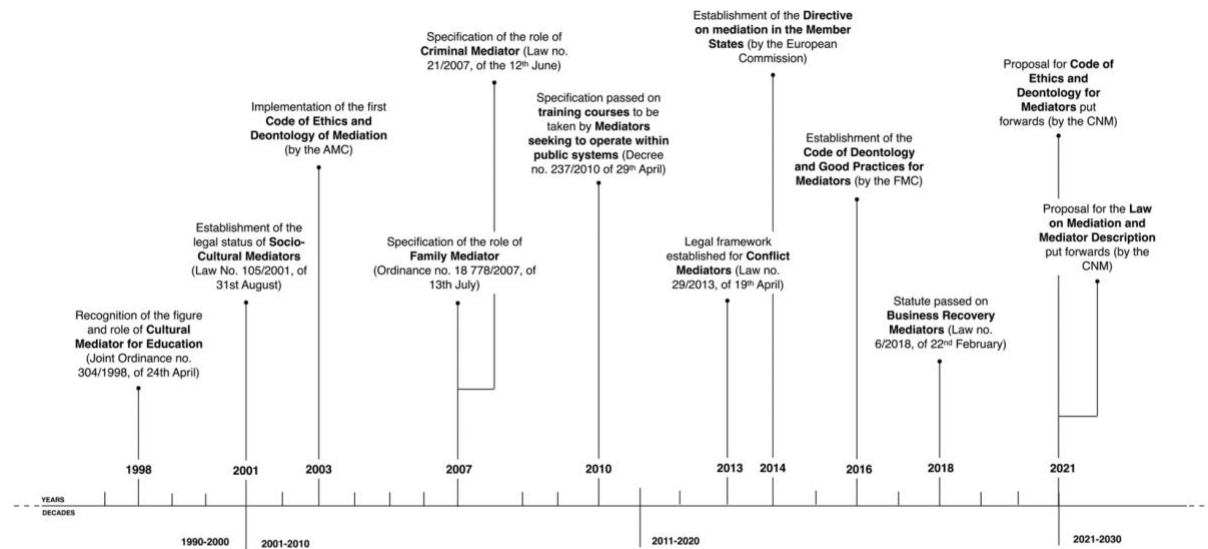
Figure 1: Timeline representing the development of Portuguese legislation relating to mediators
Source: author's own elaboration

As no standardised initial training is provided to professional mediators, every professional with an interest in the area feels entitled to publish information on their roles, which rather than contributing to standardise the interdisciplinary role of a mediator, essentially serves to further stratify the occupation and its essence (Silva, Carvalho & Aparício, 2016). According to Torremorell (2008, p. 16), "This is because of the high level of permeability between theorists and, in practice, each mediator relies on the combination of assumptions closest to those gained through their education, values, area of work, experience and context, among others". Furthermore, when we limit the role of mediators to facilitators of conflict resolution, as has been often the case, has proven to be too restrictive, since it is common knowledge that mediation also seeks to prevent and transform conflicts (Silva et al., 2010; Gimenez Romero, 2019). Mediators take on the role of independent, impartial, prudent, respectful professional figures that strive for inclusion, cooperation, and justice, they preserve communication in situations of social complexity, they are builders of social cohesion and humanity (Torremorell, 2008; Oliveira & Freire, 2009).

The complexity of the practice of mediation is clear in the way it connects to a range of contexts in which it can be applied and in myriad of training processes and ethical codes of professional development that have been created. This complexity conditions the assertion and recognition of the definition of mediator, which in turn leads to the socio-professional group becoming segmented and blurred, and consequently lacking significant political and legal legitimacy (Faget, 2010; Silva, 2015; Silva et al., 2016).

The skills required by mediators are founded in specific expertise relating to know-how (to know, to do and to be) that must be constituted, structured, understood, and apprehended in the most rigorous high-quality dedicated training programmes designed for the purpose. This condition is therefore considered key to consolidating the status of mediators and for them to gain professional recognition.

3.2 Professional status

Although projects and initiatives were being developed within the scope of mediation that allowed for the profession to be divulged in various contexts, among families as well as in educational environments, in the late 20th century, it was only in 2001, shortly after the Justices of the Peace Act was published, that the statute of Socio-Cultural Mediators was established (Law No. 105/2001, of 31st August). The law states that:
1 – The role of socio-cultural mediator is thus created, the role of whom is to collaborate in the integration of immigrants and ethnic minorities with a view to strengthening intercultural dialogue and social cohesion.

2 – Socio-cultural mediators shall exercise their respective functions in schools, social security institutions, health institutions, alongside the Immigration and Borders Service, in the Social Reintegration Institute, alongside local authorities, public services and any entity that may require their services.

Contrary to the contents of the Justices of the Peace Act, in which mediators are limited to exclusively solving extrajudicial disputes, this new statute grants mediators a broader scope in which to operate. They cease to be limited to merely resolving conflicts (of a socio-cultural nature), but acquire a role to play in outlining social intervention strategies, as well as promoting inclusion and respect for cultural diversity and equality (Law No. 105/2001, of 31st August). This was the first significant step towards regulating the job description of a mediator in Portugal. Job descriptions of criminal (Law No. 21/2007, of 12th June) and family mediators (Order No. 18 778/2007, of 13th July) ensued which describe duties relating to conflict resolution in those areas.

In 2013, the Law of Mediation (Law 29/2013, of 19th April) establishes the status of conflict mediators in Portugal and, as the name suggests, restricts the applicable legislation to cases of dispute resolution only. More recently, in 2018, the statute of Business Recovery Mediators establishes that mediators are responsible for assisting a debtor company in financial difficulty or facing insolvency (Law no. 6/2018, of 22nd February).

As it happens, though mediators played an important part in explaining, clarifying, and publicising the role of professional mediators in the diverse areas in which they operate, all the regulatory documentation relating to the statute of mediation professionals ended up dispersing and 'cantoning' the role of mediators, each description limited to specific characteristics of each domain. Though this progression was an essential step in regulating the various areas within which mediators operated individually (socio-cultural, family, criminal, business recovery areas), this made it all the more difficult to consolidate and recognise the professional status of mediators as one unified, professional group. Initial standard training would therefore play a fundamental role here, were it to be implemented, as it would allow for professionals to receive standardised training for the same professional activities, after which they could develop their own specialisations down the line, should they wish to do so.

Mediators in Portugal can and have operated in various specialist areas. Specifically, they are able to operate within the scope of public mediation services overseen by Justices of Peace; in the Public Family, Criminal, and Labour Mediation Systems; they provide private mediation services to private companies and those outside public administration, as well as in public and private institutions such as hospitals, schools, local governments, community and social associations, among many others. A recent study carried out in Portugal (April 2021) highlights the multiplicity of areas in which mediators who responded to the survey were operating (figure 2).
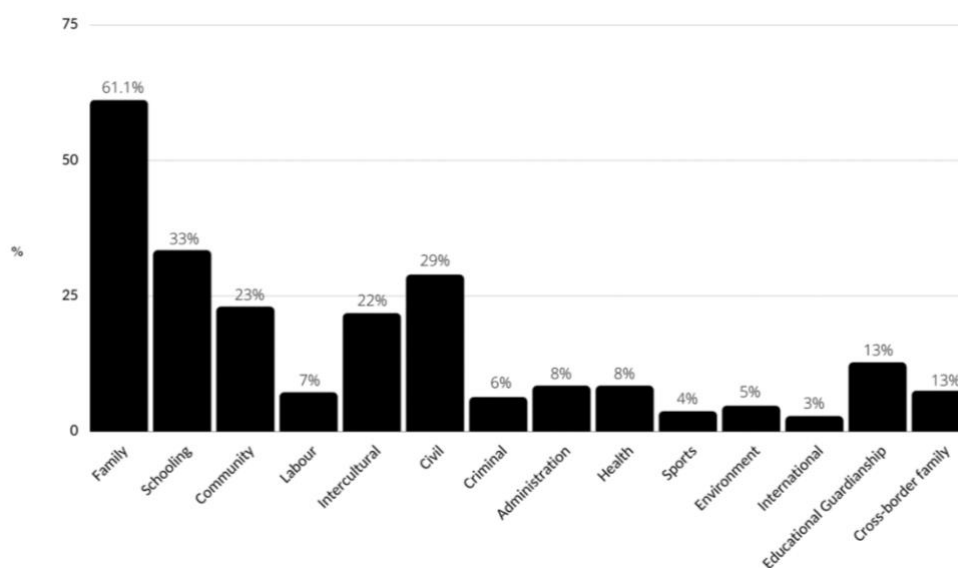

Figure 2: Main areas within which mediators were operating at the time of the survey (2)
Source: Author's own elaboration

The same study also identified that of the 100 respondents to the question 'what type of institution are you currently working in as a mediator?' the majority was working in a public institution (57%). The study showed that mediators also work in other institutions, specifically private institutions (20%), as well as for entities subcontracted for mediation services by a public entity (13%). However, although they operate in different types of organisations and within various employment relationships, the vast majority reported that they worked as freelancers (77.5%); that is, they had no contractual relationship with the institutions they worked for.

These results support the perception that the formal professional framework of mediators in Portugal is ambiguous and insufficient. Having a professional framework of mediators will help clarify the purpose, practice circumstances, fields of activity, rights, duties, and functions of mediators, and also, show mediation benefits for people and society. As a result of the failure to register the profession within the Portuguese Professional Qualifications Framework (CQP), and the lack of a Professional Association able to register all of the mediators working in Portugal, finding out the true circumstances faced by mediators in Portugal becomes an impossible task (as sample sizes cannot be determined due to the lack of knowledge relating to the total population from which a sample would be taken). On the other hand, where an employment relationship does exist, it seems to be precarious and short-term mostly. As no consolidated professional framework exists, mediators also operate in areas other than mediation, as demonstrated in the same study.

A formal professional framework of mediators is essential to qualifying their operations and consolidating them as a professional group. Dubar and Tripier (1998, p. 13) stress that professions are ways of gathering and organising actors who defend their own interests seeking to ensure and maintain the exclusivity of their sector, to preserve a monopoly on operations, guarantee clientele for their services, stable employment and high pay in recognition of their expertise.

However, the survey results confirm that only a small percentage (14.18%) of respondents worked exclusively in mediation, with the majority also having another profession or playing other roles (85.82 %). These data allow us to reflect on the characteristics of new professional groups and hybridized professionalism (Noordegraaf, 2007). In this case, professionals "are not merely about being or becoming "really" professional – they are about showing professionalism or putting on a professional performance (Hodgson, 2005) to enact meaningful and legitimate work practices." (Noordegraaf, 2007, p. 778).

The diversity of mediator backgrounds (mediators with initial training in law, social work, psychology, education, sociology, criminology, and others - data collected as part of the implementation of the survey) and pre-existing perceptions about mediation contribute to the fragility of the identity of mediators and recognition of their profession. A study carried out previously (Silva, 2015) in various countries identified the diversity of interviewed mediators' perceptions in relation to mediation and its status as a profession and corroborates the results now obtained in Portugal. For some mediators,

> Mediation is a profession for which they have undergone specialised, certified training and to which they dedicate themselves exclusively. For others, it is a specific activity they were trained in and operate in, in addition to other roles relating to the law, psychology, social work, sociology, anthropology and the like. For others still, mediation is something they do occasionally because they feel a connection with certain practices, whether due to professional demand or need, or because of social, political or ideological beliefs. (Silva, 2015, p. 158).

The vague discourse surrounding the practice and professional framework of mediators contributes, to some extent, to devalue its potential as a professional group, and prevents mediators from providing high-quality responses to contemporary societal challenges.

3.3 Codes of ethics

Codes of ethics are, above all, guidelines used to regulate, protect, and characterise professional practices and identities, as well as characterising and setting apart one profession from others (Barroco, 2009; Silva, 2015).

For mediation, specifically, ethical codes have been put together since the early 21st century. By laying down a set of values, standards and principles, rights and duties, these codes allow mediators and the institutions they work with, and for, to (self) regulate mediating practices. However, previously to being published as ethical guidelines, it was the ethics of practice that prevailed. When applied by professionals from different specialist areas in different ways, based on different assumptions, these ethical practices distorted the collective meaning of the professional group. Bringing multiple and distinct views of the ethical practice of mediation, which can complexify the collective meaning of this professional group, make mediators professional recognition even slower. The ethical and deontological conduct of mediators began to unfurl through the publication of texts, sharing of good practices, and training, whereby "the practice preceded the norms and was not supported by any collective professional project." (Silva, 2015, p. 87).

In Portugal, the first Mediators' code of ethics was implemented in 2003 – the Code of Ethics and Deontology of Mediation – put together by the Association of Conflict Mediators (AMC). Ethical and deontological requirements determined by this code wish to strengthen the credibility, as well as the technical and ethical quality, of the practice of mediators. This constitutes the foundation of principles and standards for mediation and the work of mediators.

In 2014, given the importance of standardising mediation practice, which had, until then, expanded into different fields of action and in different countries, including those scattered across Europe, the European Commission designed the European Code of Conduct for Mediators. This Code came about with the primary objective of establishing a set of principles to be applied by mediators to any mediation cases relating to civil or commercial matters.

Acting upon the belief that conflict mediation should be based on common general principles, the National Federation of Conflict Mediation (FMC) put together the Code of Deontology and Good Practices for Mediators in 2016, to establish standards of good practice for mediators through principles and norms that can be applied regardless of any initial training being provided.

In 2021, the National Mediation Commission (CNM) presented the Ethical-Deontological Code of Mediators to the Assembly of the Republic, which, having been developed by a diverse group of professionals with vast experience in mediation, focusses on specific interdisciplinary details to enable the regulation of mediating practices. This regulation reaches further than conflict resolution and spans various specific interdisciplinary areas and dimensions of mediation. The code guides mediators to adopt a permanent reflective ethical attitude as guarantee for the high quality of their practices and as a building block of collective professional identity.

It is expected that this most recent code of ethics enables greater clarification and autonomy of the concept of mediation, besides consolidating the identity of mediators as a professional group. The latter will assist the separation of the role of mediator from other areas and professional groups. This is how the professional group will gain the legitimation and visibility which are deemed essential for the growth and achievement of quality in mediation.

3.4 International Networks

Arlekin – a European mobility project (539947-LLP-1-2013-1-FR-GTV-GMP) carried out between 2013 and 2016 - was one of the initiatives run to aid in consolidating a job description for mediators. This project arose from a collaboration between Belgium, France, Italy, Spain, and Portugal to establish a professional European community of mediators for social inclusion. Through this project a network of professional and training organisations was created for mediators, all of which adhered to common mediation practices.

The Arlekin project, which continued to run from 2016 to 2019 through the CreE.A Project (580448-EPP-1-2016-1-FR-EPPKA3-IPI-SOC-IN), went on to include two more European countries in the consortium's team: Germany and Luxembourg. This project aimed to build a European Mediation Area for Social Inclusion to prevent violent radicalisation and promote democratic values, fundamental rights, intercultural understanding, and active

citizenship; foster mutual understanding and respect among people with different ethnic or religious backgrounds, beliefs or convictions, and encourage youth participation in social and civic life.

Another project began in 2020 - the LIMEdiat project (2020-1-FR01-KA203-079934) – which is set to run until 2023, has the objective of consolidating training and professionalization in mediation both within Portugal and on a wider European level. In order to do so, the primary purpose of the project is to gather resources and knowledge of the consortium (comprised of four European countries: Portugal, Spain, Italy, and France) relating to mediation and practices of mediation to build a Europe-wide undergraduate training syllabus that seeks to consolidate professionalization in mediation and innovation in training.

All these projects run and carried out by Portugal in collaboration with other European countries, as well as other initiatives mentioned throughout this paper, provide an answer to the second question asked: Which steps have been taken to consolidate the profiling and professional recognition of mediators in Portugal? It also allows for an understanding to be gained of the sheer number of professionals, researchers, professors and working groups committed to consolidating the professionalization and professionalism of mediators within both Portugal and other European countries.

4. Conclusions

The affirmation and consolidation of mediators as an occupational group has witnessed a gradual development in Portugal. However, mediators have faced difficulties in being recognised and classified as a professional group in the Portuguese Framework of Regulated Professions, which has a limiting effect on mediators' possibilities of insertion and professional affirmation. Due to the inexistence of a competent authority to monitor and supervise mediation operations across various sectors, various organisations have built ethical and deontological codes of conduct, the main objectives of which are to hold mediators responsible for the principles of mediation and guide them in their operations so that they may achieve the highest rigour and the best quality standards. However, codes of conduct alone fail to consolidate and regulate the practice of mediation. Initial standardised and in-service training in mediation is essential to stabilise and consolidate the practice of mediation and the job description of mediators. As the situation currently stands, basic training courses attended by mediators, each very different from the other, have contributed to aggravate the fragment practices of mediation and to obstruct the exercise of the profession and collective professional identity.

The consolidation the activity of mediation and the professionalism of mediators in Portugal has undoubtedly been a challenging, prolonged process. However, legislative initiatives, projects, research work, national and international events carried out between 2011 and 2021 have contributed to the visibility and valorisation of mediation. Thinking about training in a broad and transdisciplinary way through the creation of an initial basic training for all mediators has been seen as one of the strategies that can contribute to the professional recognition of mediators. This activity area is increasingly (re)visited thanks to its potential for conflict prevention and favourable resolution, the promotion of social bonds and cohesion, positive and inclusive dialogue, as well as the development of essential collaborative, constructive and co-responsible interpersonal relationships, all of which contribute to the construction of peaceful and sustainable societies.

Mediators develop specialized and fundamentally reflective work, thus being "reflective practitioners" (Schön, 1983) with characteristics of hybrid professionalism. Noordegraaf (2007, p. 779) highlights three characteristics of hybrid professionalism: links between work and organised action (subtle, soft, and selective standards; frameworks for meaning making); mechanisms for legitimating work (rhetoric for normative control and symbolic acts); searches for occupational identities (work as dealing with trade-offs; communal identity).

Throughout the text we emphasised several characteristic aspects of mediators and their practices, which situates them in complex social contexts and dynamics that attribute social meaning to these practices. Mediation has developed in a socio-historical era when "awareness of uncertainty, complexity, instability, uniqueness and conflict of values led to the emergence of professional pluralism" (Schön, 1983, p. 17). However, it is essential to emphasise the importance of legitimation and recognized professional legitimacy in the affirmation of professional

identity, which is why "so many new service and knowledge-based occupational groups are attracted to the normative aspects of the ideological appeal." (Evetts, 2013, p. 789).

In the case of mediators in Portugal, as in other countries mentioned above, professional identity seems to emerge from a "socio-symbolic legitimacy in times of change" (Noordegraaf, 2007, p. 780), and from a hybrid professionalism that supposes a 'reflexive control', which means that "it is about controlling the meaning of control, organizing, and professionalism. Professionalism is not so much used to improve organizational contexts but to improve the idea of professionalism in changing organizational contexts" (Noordegraaf, 2007, p. 775). In short, the social, political, and legal recognition of mediation and mediators themselves must continue to be nurtured and built upon.

Acknowledgments

Funding

References

Abbott, A. (1988). *The System of Professions. An Essay on Division of Expert Labour*. London: The University of Chicago Press.

Álamo, M. R. & Villaluenga, L. G. (Coords.) (2020). *Las Competencias para la formación de la persona mediadora*. Santiago de Compostela: CUEMYC.

Barroco, M. L. (2009). Fundamentos éticos do Serviço Social. CFESS & ABEPSS (Orgs.), *Serviço Social: Direitos Sociais e Competências Profissionais* (pp. 165-184). Brasilia: CFESS & ABEPSS

Bonafé-Schmitt, J-P. (2017). Les enjeux de la formation à la Médiation. *Revue Informations Sociales*, 2, 201-219.

Brandoni, F. (comp.). (2011). *Hacia una mediación de calidad*. PAIDÓS.

Demazière, D. (2009). Les figures de la reconnaissance professionelle de la médiation socioéducative. In A. M. Silva & M. A. Moreira (orgs.), *Actas do Seminário Mediação Socioeducativa: Contextos e Actores* (pp. 1-23). Universidade do Minho.

Demazière, D. & Gadéa, C. (2009). Introduction. In D. Demazière and C. Gadéa (eds.), *Sociologie des groups professionnels. Acquis recentes et nouveaux défis* (pp. 13-24). La Découverte.

Directive No. 237/2010, of 29th April. Regulation passed to recognise training courses for conflict mediators seeking to operate within the scope of public mediation. Available [in Portuguese] at: https://dre.pt/pesquisa/-/search/614174/details/maximized.

Directive 2013/C 51 E/03. Directive on mediation in the Member States (2011/2026 (INI). Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011IP0361&from=EN.

Dubar, C. (1997). *A socialização. Construção de Identidades Sociais e Profissionais*. Porto Editora.

Dubar, C. & Tripier, P. (1998). *Sociologie des Professions*. Armand Colin.

Evetts, J. (2003). The Sociological Analysis of Professionalism: occupational change in the modern world. *International Sociology*, 18(2), 395-415. DOI: 10.1177/0268580903018002005

Evetts, J. (2013). Professionalism: Value and ideology. *Current Sociology Review* 61(5-6) 778-796. DOI: 10.1177/0011392113479316

Faget, J. (2010). *Médiations: les ateliers silencieux de la démocratie*. Editions Érès.

Guillaume-Hofnung, M. (2012). De la nécessité de former les médiateurs. *Revue Informations Sociales*, 2, 114-120.

Highton, E. I. & Álvarez, G. S. (1999). A Mediação no Cenário Jurídico: seus limites – a tentação de exercer o poder e o poder do Mediador segundo a sua profissão de origem. In D. F. Schnitman & S. Littlejohn (org.), *Novos paradigmas em mediação* (pp. 185-206). Porto Alegre: Artmed Editora.

Joint Ordinance no. 304/1998, of 24th April. Recognition of the figure and role of a Cultural Mediator for Education. Available [in Portuguese] at: https://dre.pt/web/guest/home/-/dre/3245354/details/maximized?print_preview=print-preview&dreId=755511.

Lascoux, J.-L. (2009). *A prática da Mediação*. REAPN.

Law No. 105/2001, of 31st August. Establishment of the legal status of Socio-Cultural Mediators. Available [in Portuguese] at: https://dre.pt/pesquisa/-/search/632069/details/maximized.

Law no. 21/2007, of 12th June. Creation of the Criminal Mediation Framework. Available [in Portuguese] at: https://dre.pt/pesquisa/-/search/639130/details/maximized.

Law 29/2013, of 19th April. Establishes the general principles applicable to mediation in Portugal, as well as the legal framework applicable to civil and commercial mediation, mediators and public mediation. Available [in Portuguese] at: https://dre.pt/pesquisa/-/search/260394/details/maximized.

Law no. 6/2018, of the 22nd February. Statute on business recovery mediators. Available [in Portuguese] at: https://dre.pt/home/-/dre/114749189/details/maximized.

Law no. 6/2018, of the 22nd February. Statute on business recovery mediators. Available [in Portuguese] at: https://dre.pt/home/-/dre/114749189/details/maximized.

Moisan, A.; Silva, A. M. C.; Faria-Fortecöef, C.; Kinet, F. & Ghobrini, H. (2021). *Formation a la Médiation Sociale par le Compagnonnage et la Mobilité européenne. Les Tours d'Europe (2016 - 2019).* L'Harmattan.

Noordegraaf, M. (2007). From "Pure" to "Hybrid" Professionalism Present-Day Professionalism in Ambiguous Public Domains. *Administration & Society*, 39(6), 761-785. DOI: 10.1177/0095399707304434

Oliveira, A. & Freire, I. (2009). *Sobre... a mediação Socio-Cultural*. Alto Comissariado para a Imigração e Minorias Étnicas.

Ordinance no. 18 778/2007, of 13th July. Regulates operations carried out by the Family Mediation System. Available [in Portuguese] at: https://dre.pt/web/guest/pesquisa/-/search/3046940/details/normal?q=18778%2F2007.

Schön, D. (1983). *The reflective practitioner*. Basic Books

Silva, A. M. C. (2015). *Assistentes Sociais e Mediadores: construindo identidades profissionais*. Chiado Editores.

Silva, A. M. C.; Caetano, A. P.; Freire, I.; Moreira, M. A.; Freire, T & Ferreira, A. S. (2010). Novos atores no trabalho em educação: os mediadores socioeducativos. *Revista Portuguesa de Educação*, 23, 119-151. https://doi.org/10.21814/rpe.13989

Silva, A. M. C.; Carvalho, M. L. & Aparício, M. (2016). Formação, profissionalização e identidade dos mediadores sociais. In A. M. C. Silva; M. L. Carvalho & L. R. Oliveira (Eds.), *Sustentabilidade da Mediação Social: processos e práticas* (pp. 35-51). CECS – Universidade do Minho. https://hdl.handle.net/1822/41086

Silva, A. M. C. & Munuera, P. (2020). A mediação enquanto ramo do conhecimento e disciplina científica. *Revista da Federação Nacional de Mediação de Conflitos*, 1-11. https://hdl.handle.net/1822/66318

Six, J. F. (1990). *Le temps des médiateurs*. Editions du Seuil.

Torremorell, M. C. (2008). *Cultura de Mediação e Mudança Social*. Porto Editora.

Tripier, P. (1987). De la qualification au marché du travail professionnel. Communication aux Journées de Sociologie du Travail, Nantes (no publisched).

Notes

Note 1. Study conducted as part of research project carried out in the 2011/2012 academic year in which mediators from four countries were interviewed: Argentina, Brazil, France and Portugal.

Note 2. The type of response relating to the area of operation corresponds to the Likert scale (1 = not at all; 2 = very little; 3 = a little; 4 = very much; 5 = a lot). Only responses 4 and 5 were considered for this graph (measures that indicate that the mediators operated in a given area very much and a lot).