

<http://kluwermediationblog.com/2016/09/27/what-is-a-certified-mediator-new-regulation-in-germany-published/>

Kluwermediationblog, 27.9.2016

Greg Bond (Greg & Bond Mediation / University of Wildau)

## **What Is a “*Certified Mediator*” ? New Regulation in Germany Published**

In March 2014, Sabine Walsh blogged [here](#) on the proposed regulation for mediator certification in Germany. This has finally been published by the German Ministry of Justice, on 21 August 2016. The regulation will come into force on 1 September 2017. It was first promised in Germany’s mediation law in 2012, itself made necessary by an EU directive. The law itself had nothing of substance to say about mediator certification, and thus not much about quality, a gap now filled by the new regulation. For the full German text of the new regulation see [here](#).

Anyone can call themselves a mediator, and this regulation won’t change that. To use the new designation “certified mediator”, mediators will now require at least 120 hours of training including one case and a one-on-one supervision (coaching) of that case. The regulation lists in detail what the 120 hours training must cover and the number of hours required for each – from principles of mediation to conflict theory, communication techniques, negotiation techniques, the law in mediation and of mediation, and mediator values. After qualifying, the mediator requires four documented cases over two years, at least four one-on-one supervision sessions on four cases in those two years, and forty hours further training within every four years.

So far there is no national enforcement agency that will monitor individuals calling themselves certified mediators or training institutions bestowing the title. None is at present intended. This makes this a soft regulation, as Sabine Walsh noted. So what effects will it have ?

Anyone who works in the field of mediation knows that the training market is where many mediators make their living. This is the case in Germany, where the courts are not referring large numbers of cases to external mediators. There is a market for workplace or family mediation and facilitation, often in non-litigious contexts, where those offering the service may be trained or untrained mediators, supervisors, facilitators, or coaches – or have other qualifications. Here, it is generally the market that decides on quality.

The mediation training market in Germany is probably approaching saturation. Year by year more and more trained mediators train more and more new mediators, to the point where this cannot be sustainable. The new regulation will force training providers to focus. Training providers will have to market their products as leading to the qualification as certified mediator – many have been doing so already in anticipation of the new regulation. This means that the trainers they employ will themselves have to be certified mediators. It also means that they will offer at least 120 hours with content in line with the new regulation. The mediation training market may become less diverse as a result of this new regulation, with training providers increasingly offering just what the regulation requires. This may or may not solve the problems of a saturated training market, but it will mean that there will be a broader focus on quality.

My own initial mediation training was first a forty-hour course that qualified me to mediate for the courts in a specified US state, and then a while later training in Germany that involved some 240 hours of practical work. I concede that my views may be seen to be biased. They are certainly shaped by the remarkable quality – not just quantity – of the German

programme. I certainly did not feel qualified after my first forty hours of training. German mediation associations have consistently favoured thorough training, and some in Germany wanted the new regulation to up the required number of hours even further. Germany's largest mediation association, the Bundesverband Mediation, has been providing its own certification of Bundesverband mediators for many years, with requirements that in a number of respects are significantly higher than those in the new regulation (200 hours training instead of 120, for example). Many there will be disappointed in the new regulation. But seen from a broader perspective, this new regulation will encourage training providers to consider their products in the light of quality and within the context of an increasingly competitive market. This interest in quality is also evidenced in the changes made to the regulation between its first draft in 2014 and its publication this year, as requirements for supervision and further training have been made more demanding.

I have trained on various forty-hour programmes, and have trained qualified mediators doing what was sold as advanced training following on from a basic forty-hour programme. Quality and quantity are not simply to be equated, but my experience both as a trainer and practicing mediator – and I believe common sense too – tells me that there is much more scope for reflection, a discussion of values, and thorough work on communication strategies in longer programmes with trainers with the right training and experience themselves. The supervision requirement in the new regulation is based on the assumption that mediators need to be very mindful about their own practice – a key element in the German mediation mindset that makes so much sense.

Ultimately, unless there is some professional association able to enforce a right to use the term mediator, it is the market that will decide. The market for mediation in Germany has been given a useful decision-making tool with this new regulation. Seen in this light, it becomes less significant that there is no national enforcement agency – the market might sort it all out.