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© **Cadernos de Direito Actual** Nº 33. Núm. Ordinario (2026), pp. 178-209

·ISSN 2340-860X - ·ISSNe 2386-5229

## **Institutional models of labour mediation: A comparative legal analysis of procedural safeguards, enforcement and regulatory design**

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**Abstract:** This project assesses mediation as an approach to resolve labour disputes in ten European jurisdictions through a systematic comparative study. In addition to using comparative studies to describe the labour dispute resolution processes across different countries, this research uses four variables to measure how mediation was designed institutionally: procedural obligation (mandatory vs. voluntary), institutional embedding (court-attached vs. institutionalized), enforcement mechanisms, and professional accreditation frameworks. The research combines doctrinal legal analysis with a structured comparative assessment of approximately 200 judicial decisions, 1,500 legislative and regulatory instruments, institutional documentation, and qualitative practitioner perspectives in order to identify recurring institutional patterns across labour mediation systems. Particular attention is given to the interpretation of Article 47 of the Charter of Fundamental Rights of the European Union (CFREU) and the jurisprudence of the Court of Justice of the European Union concerning mandatory mediation and effective judicial protection. The study's data show that whether participation is mandatory or voluntary does not determine mediation's ability to produce effective settlements. Instead, mediation's ability to sustain settlements and ensure compliance after mediation are significantly related to the design of enforcement mechanisms, judicial or administrative validation mechanisms, and the credibility of the institutions conducting mediation. Court-attached and institutional mediation can produce durable settlements if they are embedded in a coherent regulatory structure. However, having formal compulsion without an enforceable framework is no more likely to produce better results than other approaches. The study contributes to comparative labour law by treating mediation as a context-dependent institutional construct instead of a procedural model to be transferred. The study recommends that labour law reform prioritize structural integration, enforceability, and professional regulation over whether participation is voluntary.

**Keywords:** Labour Mediation, Institutional Design, Enforcement Mechanisms, Court-Annexed Procedures, Mandatory Mediation, Comparative Labour Law

## 1. Introduction

Labour disputes occupy a distinctive position within contemporary legal systems because they concern not only the protection of individual employment rights but also the maintenance of stable employment relationships and social dialogue. Judicial proceedings remain the primary mechanism for enforcing labour rights; however, litigation is frequently associated with lengthy procedures, procedural formalism, significant financial costs, and the deterioration of employment relationships. These limitations have encouraged the progressive development of alternative dispute

resolution (ADR) mechanisms, particularly mediation, as complementary instruments capable of resolving labour conflicts while preserving cooperation between employers and employees.<sup>6</sup>

Within the European Union legal framework, mediation has acquired increasing importance as a procedural mechanism capable of improving access to justice without replacing judicial protection.<sup>7</sup> Nevertheless, labour mediation remains predominantly regulated at the national level. Although Directive 2008/52/EC of the European Parliament and of the Council establishes common procedural principles for mediation in civil and commercial matters, it neither harmonises labour mediation nor prescribes a uniform institutional model for Member States. The regulatory autonomy retained by the Member States has resulted in diverse national approaches to labour mediation with respect to procedural obligation, institutional organisation, enforcement mechanisms, and professional regulation.<sup>8</sup>

These differences raise an important comparative legal question. Existing mediation systems frequently pursue identical objectives, including procedural efficiency, consensual dispute resolution, and reduced judicial caseloads, yet they rely upon markedly different institutional arrangements.<sup>9</sup> Some jurisdictions integrate mediation into judicial proceedings, whereas others entrust mediation to specialised administrative or independent institutions. Likewise, participation may be mandatory, voluntary, or organised through hybrid procedural models. Such diversity provides an appropriate basis for evaluating how regulatory design influences the practical functioning of labour mediation.<sup>10</sup>

From the perspective of European Union law, the legality of mediation mechanisms must be assessed primarily in light of Article 47 of the Charter of Fundamental Rights of the European Union (CFREU),<sup>11</sup> which guarantees the right to an effective remedy and to a fair trial. The jurisprudence of the Court of Justice of the European Union (CJEU) demonstrates that mandatory mediation is not inherently incompatible with effective judicial protection. Rather, its compatibility depends upon compliance with the principles of proportionality, effective access to judicial remedies, and adequate procedural safeguards. Accordingly, European Union law does not establish a preference for either mandatory or voluntary mediation; instead, it requires that mediation mechanisms preserve effective judicial protection irrespective of their institutional configuration.<sup>12</sup>

Although mediation has attracted considerable scholarly attention, existing research remains fragmented. Comparative studies generally examine individual

<sup>6</sup> SEMENETS-ORLOVA, I., SHEVCHUK, R., PLISH, B., MOSHNIN, A., CHMYR, Y., and POLIULIÁKH, R. "Human-centered approach in new development tendencies of value-oriented public administration: Potential of education". *Economic Affairs (New Delhi)*, v. 67, n. 5, 2022, pp. 899-906. <https://doi.org/10.46852/0424-2513.5.2022.25>

<sup>7</sup> GRIN, D. "The place of mediation in the system of alternative ways of resolving individual labour disputes". *Uzhhorod National University Herald. Series Law*, v. 68, n. 2021, 2022, pp. 91-95. <https://doi.org/10.24144/2307-3322.2021.68.15>

<sup>8</sup> USTINOVA-BOICHENKO, H. M., SKRIABIN, O. M., FATAH, A. A., YUNATSKYI, M. O., and YAMKOVYI, V. I. "Alternative forms of resolution of labour disputes". *Revista Amazonia Investiga*, v. 13, n. 73, 2024, pp. 100-113. <https://doi.org/10.34069/ai/2024.73.01.8>

<sup>9</sup> PETERS, S. "The evolution of alternative dispute resolution and online dispute resolution in the European Un". *CES Derecho*, v. 12, n. 1, 2021, pp. 3-17. <https://doi.org/10.21615/cesder.12.1.1>

<sup>10</sup> CEDEÑO ESPINOZA, A. M., and PÉREZ BARRIOS, E. E. "Eficacia de la mediación realizada en el centro de mediación laboral del Ministerio del Trabajo del Guayas". *MLS Law and International Politics*, v. 2, n. 2, 2023, pp. 19-32. <https://doi.org/10.58747/mlslip.v2i2.2266>

<sup>11</sup> EUROPEAN UNION. Charter of fundamental rights of the European Union, C 326, 26 October 2012, pp. 391-407. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT> (accessed on 3 September 2025).

<sup>12</sup> SHERMAN, N., and MOMANI, B. T. "Alternative dispute resolution: Mediation as a model". *F1000Research*, v. 13, 2025, pp. 778. <https://doi.org/10.12688/f1000research.152362.2>

national systems, analyse the normative legitimacy of mandatory mediation, or evaluate specific enforcement mechanisms. Much less attention has been devoted to the interaction between procedural architecture variables and mediation outcomes across jurisdictions. Although previous scholarship has examined each of these institutional dimensions independently, comparatively little research has analysed their interaction within a unified comparative legal framework capable of explaining variations in mediation effectiveness across jurisdictions. As a result, the relationship between institutional configuration and the effectiveness of labour mediation remains insufficiently explained.

This study addresses that gap by conceptualising mediation not merely as an alternative procedural mechanism but as an institutional legal construct whose effectiveness depends upon the interaction of procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation. Rather than evaluating whether mandatory or voluntary mediation constitutes the preferable regulatory model, the research examines how different institutional configurations influence settlement stability, post-mediation compliance, and procedural legitimacy within labour dispute resolution.

The study proceeds on the hypothesis that the effectiveness of labour mediation is determined primarily by governance structure rather than by the formal obligation to participate. More specifically, it argues that mediation produces more stable and enforceable outcomes where procedural safeguards are supported by coherent institutional structures, effective enforcement mechanisms, and professional standards governing mediation practice.

To examine this hypothesis, the research undertakes a comparative legal analysis of mediation systems in Germany, Italy, Poland, Croatia, Lithuania, Norway, Finland, France, Spain, and the United Kingdom, while Canada is included as a reference jurisdiction for comparative purposes. The analysis combines doctrinal examination of European Union and national legal frameworks with the structured evaluation of judicial decisions, legislative instruments, institutional reports, and qualitative practitioner evidence in order to identify recurring institutional patterns rather than hierarchical models of regulatory superiority.

The contribution of this study is twofold. First, it develops a multidimensional analytical framework that systematically links institutional characteristics of labour mediation with observable procedural outcomes. Secondly, it contributes to comparative labour law by demonstrating that mediation should be understood as a context-dependent institutional mechanism operating within a multi-level legal environment in which the effectiveness of dispute resolution depends principally upon the coherence of regulatory design rather than upon the formal classification of mediation as mandatory or voluntary.

## **2. Literature review**

### **2.1 The European Union legal framework governing mediation: Legislative competence and judicial interpretation**

At the European Union level, the principal legislative instrument governing certain procedural aspects of mediation is Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters.<sup>13</sup> The Directive was adopted to facilitate access to alternative dispute resolution in cross-border civil and commercial disputes by establishing common procedural

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<sup>13</sup> EUROPEAN PARLIAMENT, COUNCIL OF THE EUROPEAN UNION. Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, L 136, 3-8. 2008. Available at: <http://data.europa.eu/eli/dir/2008/52/oj> (accessed on 15 April 2026).

standards relating to confidentiality, the enforceability of mediated settlement agreements, limitation periods, and judicial encouragement of mediation. However, its substantive scope is confined to civil and commercial matters and does not harmonise labour mediation as an autonomous field of European Union law. Consequently, the regulation of labour mediation remains predominantly within the competence of the Member States, which retain broad discretion regarding institutional organisation, procedural design, and implementation.<sup>14</sup>

The legal significance of Directive 2008/52/EC of the European Parliament and of the Council must be interpreted within the constitutional framework established by Article 288 of the Treaty on the Functioning of the European Union (TFEU). Under that provision, a directive is binding upon each Member State as to the result to be achieved while leaving the choice of form and methods to the national authorities. Accordingly, Directive 2008/52/EC of the European Parliament and of the Council establishes common legislative objectives and minimum procedural guarantees rather than prescribing a uniform institutional model for mediation. The diversity of labour mediation systems observed across the Member States therefore reflects the discretion retained during national transposition rather than inconsistency within the European Union legal framework itself.<sup>15</sup>

From the perspective of European Union constitutional law, the legality of mediation mechanisms must be assessed primarily in light of Article 47 of the Charter of Fundamental Rights of the European Union (CFREU), which guarantees the right to an effective remedy and to a fair trial. Within the European Union legal order, Article 47 constitutes the principal constitutional benchmark for evaluating procedural mechanisms that may affect access to judicial protection. Consequently, the compatibility of mandatory mediation with European Union law depends not upon the existence of a procedural obligation itself but upon whether mediation preserves effective access to judicial remedies, respects the principle of proportionality, and provides adequate procedural safeguards.

This constitutional approach has been consistently developed in the jurisprudence of the Court of Justice of the European Union (CJEU). In *Menini and Rampanelli v Banco Popolare* (Case C-75/16), the Court held that mandatory mediation is compatible with Article 47 CFREU provided that it does not prevent effective judicial protection, impose disproportionate financial burdens, or cause excessive procedural delay, and that parties retain the possibility of subsequently bringing judicial proceedings.<sup>16</sup> Similarly, in *Alassini and Others v Telecom Italia* (Joined Cases C-317/08 to C-320/08), the Court confirmed that mandatory alternative dispute resolution procedures may pursue legitimate objectives of procedural efficiency and improved access to justice provided that they comply with the principle of proportionality and do not impair the essence of the right to judicial protection.<sup>17</sup>

<sup>14</sup> NOUWEN, S. M. H. "Exporting peace? The EU mediator's normative backpack". *European Law Open*, v. 1, n. 1, 2022, pp. 26-59. <https://doi.org/10.1017/elopen.2022.9>

<sup>15</sup> TVARONAVIČIENĖ, A., KASIULAITĖ, I., and RADANOVA, Y. "Designing an Effective Mandatory Mediation Model: Guidelines from the International Jurisprudence and National Constitutional Limits". *Access to Justice in Eastern Europe*, v. 8, n. 3, 2025, pp. 36-63. <https://doi.org/10.33327/ajee-18-8.3-a000119>

<sup>16</sup> EUROPEAN UNION. *Livio Menini and Maria Antonia Rampanelli v Banco Popolare – Società Cooperativa*, Case C-75/16, Judgment of the Court (First Chamber). 2017. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62016CJ0075> (accessed on 15 December 2025).

<sup>17</sup> EUROPEAN UNION. Judgment of the Court (Fourth Chamber) of 18 March 2010, *Rosalba Alassini v Telecom Italia SpA* (C-317/08), *Filomena Califano v Wind SpA* (C-318/08), *Lucia Anna Giorgia Iacono v Telecom Italia SpA* (C-319/08) and *Multiservice Srl v Telecom Italia SpA* (C-320/08). Joined Cases C-317/08, C-318/08, C-319/08 and C-320/08. 2010. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0317> (accessed on 3 September 2025).

Collectively, these judgments demonstrate that European Union law neither requires nor prohibits mandatory mediation. Instead, the decisive legal criterion is whether mediation procedures respect the guarantees arising from Article 47 CFREU.

The legal effects of Directive 2008/52/EC of the European Parliament and of the Council must also be understood in light of the general doctrine governing directives in European Union law. Although directives may, under specific conditions, produce vertical direct effect where a Member State has failed to implement them correctly, they do not generally produce horizontal direct effect in disputes between private parties. Consequently, the practical operation of mediation systems depends primarily upon national implementing legislation and the institutional arrangements adopted by individual Member States.

The present analysis is confined to the European Union legal framework currently in force, principally Directive 2008/52/EC, Article 288 TFEU, Article 47 CFREU, and the relevant jurisprudence of the Court of Justice of the European Union. It does not address prospective legislative reforms.

## **2.2 Mandatory versus voluntary mediation: CJEU standards, procedural autonomy and institutional effectiveness**

The distinction between mandatory and voluntary mediation constitutes one of the most debated issues in contemporary comparative labour law because it directly concerns the relationship between consensual dispute resolution and the constitutional guarantee of effective judicial protection. While mandatory mediation may enhance procedural efficiency and reduce judicial caseloads, it simultaneously raises questions regarding proportionality, access to courts, and the preservation of procedural autonomy. Accordingly, the compatibility of mandatory mediation with European Union law depends not upon its compulsory character as such but upon the procedural safeguards accompanying its implementation. Traditionally, mediation has been associated with party autonomy, voluntary participation, and consensual dispute resolution. Classical mediation theory therefore treats voluntariness as an important element of procedural legitimacy, emphasising that agreements reached through freely chosen negotiation are more likely to preserve employment relationships and promote durable conflict resolution.

European Union law adopts a more nuanced approach. Rather than treating voluntariness as an absolute legal requirement, the jurisprudence of the Court of Justice of the European Union evaluates mediation procedures through the broader principles of effective judicial protection, proportionality, and access to justice guaranteed by Article 47 CFREU. Consequently, the decisive legal question is not whether mediation is formally mandatory or voluntary but whether the procedural framework preserves the effectiveness of judicial remedies and does not impose disproportionate restrictions on access to the courts.

Within the constitutional framework of the European Union, Article 47 CFREU does not prohibit procedural preconditions to judicial proceedings. Instead, it requires that such mechanisms preserve the essence of the right to effective judicial protection. Consequently, mediation may lawfully constitute a preliminary procedural stage provided that parties retain genuine access to an independent court within a reasonable time and without disproportionate financial or procedural burdens.

This approach is clearly reflected in *Menini and Rampanelli v Banco Popolare* (C-75/16),<sup>18</sup> in which the Court confirmed that mandatory pre-trial mediation is compatible with European Union law provided that it does not result in excessive delay, disproportionate financial burdens, or the exclusion of subsequent judicial review. The judgment therefore confirms that mandatory mediation is not assessed

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<sup>18</sup> EUROPEAN UNION. Livio Menini and Maria Antonia Rampanelli v Banco Popolare – Società Cooperativa, Case C-75/16, Judgment of the Court (First Chamber). 2017. Ibid.

as an exception to the right of access to justice but as one procedural mechanism through which Member States may organise dispute resolution, provided that the essential guarantees protected by Article 47 CFREU remain fully effective. Likewise, in *Alassini and Others v Telecom Italia* (Joined Cases C-317/08 to C-320/08),<sup>19</sup> the Court recognised that mandatory alternative dispute resolution mechanisms may legitimately pursue objectives such as procedural efficiency and improved access to justice, provided that they respect the principle of proportionality and preserve the essence of the right guaranteed by Article 47 CFREU.<sup>20</sup> Read together, *Alassini and Menini* establish a coherent constitutional framework governing mandatory mediation within European Union law. Rather than evaluating mediation according to its formal classification as mandatory or voluntary, the Court consistently applies a proportionality analysis focused on procedural fairness, judicial accessibility, and the practical effectiveness of legal remedies. The jurisprudence therefore demonstrates that institutional design, rather than procedural obligation alone, determines the compatibility of mediation with European Union constitutional standards.

The Court subsequently reinforced these principles in its broader jurisprudence concerning effective judicial protection. In *DEB Deutsche Energiehandels- und Beratungsgesellschaft mbH v Germany* (C-279/09),<sup>21</sup> the Court emphasised that access to justice must be practical and effective rather than merely theoretical. In *Sánchez Morcillo and Abril García v Banco Bilbao Vizcaya Argentaria* (C-169/14),<sup>22</sup> particular importance was attached to procedural equality and the protection of weaker parties. Finally, *Puškár v Finančné riaditeľstvo Slovenskej republiky* (C-73/16),<sup>23</sup> confirmed that pre-judicial procedural requirements are compatible with European Union law provided that they remain proportionate and do not render judicial protection ineffective. Viewed together, these judgments establish a coherent doctrinal framework in which procedural autonomy is balanced against the constitutional requirement of effective judicial protection.

Within labour law, this jurisprudence assumes particular significance because employment relationships frequently involve structural inequalities between employers and employees. Mandatory mediation cannot therefore be evaluated solely by reference to procedural efficiency; it must also ensure that employees retain genuine and effective access to judicial protection. Accordingly, the legitimacy of labour mediation depends upon the existence of procedural safeguards capable of preventing coercion, excessive costs, or procedural barriers that could undermine fundamental rights.

Comparative legal scholarship similarly demonstrates that the practical effectiveness of mediation depends less on the formal obligation to participate than

<sup>19</sup> EUROPEAN UNION. Judgment of the Court (Fourth Chamber) of 18 March 2010, *Rosalba Alassini v Telecom Italia SpA* (C-317/08), *Filomena Califano v Wind SpA* (C-318/08), *Lucia Anna Giorgia Iacono v Telecom Italia SpA* (C-319/08) and *Multiservice Srl v Telecom Italia SpA* (C-320/08). Joined Cases C-317/08, C-318/08, C-319/08 and C-320/08. 2010. Ibid.

<sup>20</sup> EUROPEAN UNION. Charter of fundamental rights of the European Union. Official Journal of the European Union, C 326, 26 October 2012. Ibid.

<sup>21</sup> EUROPEAN UNION. Judgment of the Court (Second Chamber) of 22 December 2010, *DEB Deutsche Energiehandels- und Beratungsgesellschaft mbH v Bundesrepublik Deutschland*, Case C-279/09. 2010. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62009CJ0279> (accessed on 3 September 2025).

<sup>22</sup> EUROPEAN UNION. Judgment of the Court (First Chamber) of 17 July 2014, *Juan Carlos Sánchez Morcillo and María del Carmen Abril García v Banco Bilbao Vizcaya Argentaria SA*, Case C-169/14. 2014. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62014CJ0169> (accessed on 3 September 2025).

<sup>23</sup> EUROPEAN UNION. Judgment of the Court (Second Chamber) of 27 September 2017, *Peter Puškár v Finančné riaditeľstvo Slovenskej republiky and Kriminálny úrad finančnej správy*, Case C-73/16. 2017. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0073> (accessed on 3 September 2025).

on the institutional framework within which mediation operates. Jurisdictions combining mandatory mediation with judicial validation, effective enforcement mechanisms, and specialised mediation institutions generally achieve more consistent settlement implementation than systems relying exclusively on procedural obligation. Conversely, mandatory participation without credible institutional support often produces little improvement in settlement stability or post-mediation compliance.

Voluntary mediation follows a different institutional logic. Jurisdictions such as the United Kingdom and Canada rely primarily on consensual participation supported by institutional credibility, professional mediator standards, and well-established alternative dispute resolution practices. Although these systems generally preserve greater procedural autonomy, compliance frequently depends upon the quality of institutional support and the legal mechanisms available for recognising and enforcing mediated agreements.

Accordingly, the traditional dichotomy between mandatory and voluntary mediation provides only a limited basis for comparative legal analysis. The evidence examined in this study indicates that mediation outcomes are determined principally by the interaction between procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation. Procedural obligation should therefore be regarded as one component of a broader institutional framework rather than as the primary determinant of mediation effectiveness. This analytical perspective forms the basis for the comparative assessment developed in the subsequent sections of this study.

### **2.3 Institutional and court-annexed mediation: Comparative models of procedural integration**

A second major dimension of comparative analysis concerns the institutional location of mediation within national labour dispute resolution systems. Comparative legal scholarship distinguishes between court-annexed mediation, which operates within or in close connection with judicial proceedings, and institutional mediation, which is administered by specialised public, quasi-public, or independent mediation bodies outside the ordinary court structure. The distinction extends beyond procedural organisation and reflects different conceptions of access to justice, institutional responsibility, and the relationship between consensual dispute resolution and judicial protection.

Court-annexed mediation is characterised by its integration into judicial proceedings. Mediation may be initiated before or during litigation and is conducted under procedural supervision that enables the court to monitor the process and, where appropriate, confirm mediated settlements. This institutional model strengthens legal certainty because mediated agreements can be transformed into enforceable judicial instruments with relatively limited procedural formalities. The close relationship between mediation and judicial proceedings also reduces uncertainty regarding enforcement and enhances procedural continuity.

Institutional mediation follows a different organisational model. Rather than operating within judicial proceedings, mediation is entrusted to specialised institutions such as labour inspectorates, public mediation services, independent mediation centres, or specialised labour authorities. These bodies typically possess professional expertise in employment relations and may provide mediation as part of broader systems of labour governance, conflict prevention, and administrative supervision. Their effectiveness therefore depends not only on procedural rules but also on institutional credibility, professional capacity, and the confidence of employers and employees in the neutrality of the institution.

Comparative scholarship supports this distinction. Ryšavý<sup>24</sup> argues that institutional mediation contributes to legal certainty by providing clearer procedural guarantees and more structured mechanisms for implementing mediated agreements. Likewise, Tsvina<sup>25</sup> demonstrates that differences in national enforcement mechanisms significantly influence the practical effectiveness of mediation, particularly where institutional bodies retain supervisory responsibilities following settlement. Similarly, Kalisz and Serhieieva<sup>26</sup> analysing administrative mediation in Poland and Ukraine, conclude that institutional support and clearly defined enforcement procedures contribute more substantially to durable dispute resolution than procedural form alone.

Nevertheless, comparative evidence demonstrates that neither institutional model possesses inherent legal superiority. Court-annexed mediation benefits from judicial authority and procedural integration, whereas institutional mediation may provide greater specialisation, accessibility, and flexibility. The effectiveness of either model depends principally upon the interaction between procedural safeguards, enforcement mechanisms, and institutional organisation rather than upon its formal institutional location.

This comparative perspective also reveals an important analytical limitation within existing scholarship. Previous studies generally evaluate institutional and court-annexed mediation separately or describe individual national models without systematically comparing their institutional characteristics and practical outcomes. Consequently, relatively little attention has been devoted to examining how procedural integration influences settlement stability, compliance with mediated agreements, or long-term effectiveness across different legal systems.

For this reason, the present study treats institutional embedding as one of the four principal analytical variables used to evaluate labour mediation. Rather than assuming that either institutional or court-annexed mediation represents the preferable regulatory model, the research examines how different forms of procedural integration interact with enforcement mechanisms, professional regulation, and procedural safeguards to shape mediation outcomes across jurisdictions.

## **2.4 Enforcement of mediated settlements: Comparative approaches to legal effectiveness**

Within comparative mediation law, the enforceability of mediated settlements constitutes one of the principal indicators of procedural effectiveness. Although mediation is designed to facilitate consensual dispute resolution, its practical value depends largely upon whether mediated agreements can be implemented effectively and, where necessary, enforced through legally recognised procedures. Accordingly, comparative scholarship increasingly views enforcement not as a supplementary procedural issue but as a central component of mediation design.<sup>27</sup>

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<sup>24</sup> RYŠAVÝ, L. "The importance of the EU law and the law of the Member States in the field of out of court dispute resolution". *European Studies*, v. 10, n. 1, 2023, pp. 109-132. <https://doi.org/10.2478/eustu-2023-0005>

<sup>25</sup> TSUVINA, T. "National Mechanisms of the enforcement of agreements resulting from mediation: EU experience and Ukrainian perspectives". *Problems of Legality*, v. 158, 2022, pp. 110-123. <https://doi.org/10.21564/2414-990x.158.264998>

<sup>26</sup> KALISZ, A., and SERHIEIEVA, A. "When a state is a party to a dispute – (court) administrative mediation in Poland and in Ukraine (a comparative perspective)". *Review of European and Comparative Law*, v. 53, n 2, 2023, pp. 129-148. <https://doi.org/10.31743/recl.15967>

<sup>27</sup> GIACALONE, M., and SALEHI, S. "An empirical study on mediation in civil and commercial disputes in Europe: The mediation service providers perspective". *Revista Ítalo-española de Derecho Procesal*, n. 2, 2022, pp. 11-54. <https://doi.org/10.37417/rivitsproc/802>

At the European Union level, Directive 2008/52/EC of the European Parliament and of the Council requires Member States to provide mechanisms through which the content of mediated agreements may acquire enforceable status. However, the Directive deliberately refrains from prescribing a uniform enforcement model, leaving Member States considerable discretion regarding the procedural mechanisms through which mediated settlements become legally effective. As a consequence, national legal systems have developed diverse approaches to judicial confirmation, administrative validation, and direct enforceability of mediation agreements.

Comparative legal research demonstrates substantial variation in these national approaches. Tsuvina<sup>28</sup> identifies significant differences in the procedural mechanisms governing the recognition and enforcement of mediated agreements, emphasising that enforcement structures vary according to broader institutional characteristics of national legal systems. Similarly, Matteucci<sup>29</sup> analysing the Italian experience with mandatory mediation, concludes that judicial recognition of mediated settlements contributes directly to their practical durability and long-term compliance.

Professional and institutional sources also emphasise the importance of structured and impartial mediation in addressing workplace conflicts. Trussell highlights workplace mediation as a structured and impartial process capable of helping employers and employees address conflicts and prevent their escalation into more serious workplace disputes.<sup>30</sup>

Despite broad agreement regarding the importance of enforceability, existing scholarship continues to examine enforcement largely as an independent procedural issue rather than as one element within a broader institutional framework.<sup>31</sup> Most comparative studies analyse enforcement mechanisms separately from institutional organisation, professional regulation, or procedural obligation. Consequently, relatively little research explains how these institutional variables interact to influence settlement durability and post-mediation compliance.<sup>32</sup>

This limitation is particularly significant in labour law, where continuing employment relationships frequently require long-term compliance rather than merely formal settlement. From this perspective, enforcement should not be understood exclusively as a mechanism for compelling performance after mediation. Rather, effective enforcement contributes to institutional legitimacy by increasing confidence that mediated agreements will produce stable legal consequences and reduce the need for subsequent judicial intervention.

Accordingly, the present study treats enforcement design as an autonomous comparative variable closely connected with institutional organisation, procedural safeguards, and professional regulation. This approach makes it possible to evaluate not only whether mediated agreements become enforceable, but also how different enforcement mechanisms influence settlement stability and compliance across diverse labour mediation systems.

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<sup>28</sup> TSUVINA, T. "National mechanisms of the enforcement of agreements resulting from mediation: EU experience and Ukrainian perspectives". 2022. Ibid.

<sup>29</sup> MATTEUCCI, G. "Mandatory mediation, the Italian experience, a case study—2025". *Beijing Law Review*, v. 16, n. 1, 2025, pp. 353-376. <https://doi.org/10.4236/blr.2025.161017>

<sup>30</sup> TRUSSELL, M. Future of workplace mediation: trends and innovations to watch. 2026. Available at: <https://mahrservices.co.uk/future-of-workplace-mediation-trends-and-innovations-to-watch/> (accessed on 3 September 2026).

<sup>31</sup> SHAPENKO, L. O., and KUSHNIR, Y. R. "Peculiarities of the institution of mediation in the administrative proceedings in Ukraine". *Scientific Works of Kyiv Aviation Institute. Series Law Journal "Air and Space Law"*, v. 4, n. 69, 2023, pp. 109-117. <https://doi.org/10.18372/2307-9061.69.18324>

<sup>32</sup> STEFANYSHYN, N. M. "Institutionalisation of mediation for the settlement of disputes in the field of intellectual property law". *Scientific Bulletin of Uzhhorod National University. Law Series*, v. 1, n. 78, 2023, pp. 227-232. <https://doi.org/10.24144/2307-3322.2023.78.1.37>

## 2.5 Labour-specific institutional dimensions of mediation

Labour mediation differs fundamentally from mediation in ordinary civil and commercial disputes because it operates within legal relationships characterised by continuing contractual obligations, structural inequalities of bargaining power, collective representation, and the protection of social rights. Consequently, the effectiveness of labour mediation cannot be evaluated solely through general procedural principles applicable to alternative dispute resolution. Instead, labour mediation requires institutional arrangements capable of balancing consensual dispute resolution with the effective protection of employees' legal rights.

Comparative scholarship increasingly recognises that labour mediation performs functions extending beyond the settlement of individual disputes. Martos-Pedrero et al.,<sup>33</sup> argue that cooperative dispute-resolution mechanisms contribute to organisational stability by reducing workplace conflict and strengthening institutional trust. Similarly, Mancuso and Felicetti<sup>34</sup> demonstrate that mediation facilitates collaborative governance within complex organisations by promoting dialogue and preventing the escalation of disputes into formal litigation. These findings suggest that mediation should be understood not merely as an alternative procedural mechanism but as an institutional instrument supporting stable employment relations and organisational resilience.<sup>35</sup>

Nevertheless, existing labour law scholarship continues to analyse these institutional functions separately. Studies typically examine procedural obligation, mediator accreditation, institutional organisation, or enforcement mechanisms in isolation. Relatively little attention has been devoted to analysing how these elements interact within integrated labour mediation systems or how their interaction influences settlement durability and procedural legitimacy across different jurisdictions.<sup>36</sup>

This analytical fragmentation is particularly significant in labour law because employment disputes frequently require long-term cooperation after the formal resolution of the dispute. Unlike commercial disputes, where parties often terminate their legal relationship following settlement, labour disputes commonly involve continuing employment relationships that depend upon sustained compliance, mutual confidence, and institutional credibility. Consequently, mediation framework assumes greater practical importance than the mere availability of mediation procedures.

For this reason, the present study examines labour mediation through a multidimensional comparative framework that evaluates procedural obligation, institutional organisation, enforcement mechanisms, and professional regulation as interrelated institutional variables. This approach enables a more comprehensive assessment of mediation effectiveness within labour law than the fragmented analytical models commonly adopted in previous scholarship.

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<sup>33</sup> MARTOS-PEDRERO, A., JIMÉNEZ-CASTILLO, D., FERRÓN-VÍLCHEZ, V., and CORTÉS-GARCÍA, F. J. "Corporate social responsibility and export performance under stakeholder view: The mediation of innovation and the moderation of the legal form". *Corporate Social Responsibility and Environmental Management*, v. 30, n. 1, 2023, pp. 248-266. <https://doi.org/10.1002/csr.2352>

<sup>34</sup> MANCUSO, C., and FELICETTI, A. M. "Innovative approaches to dispute resolution in academia: Insights from the University of Bologna". *Utrecht Law Review*, v. 20, n. 4, 2024, pp. 34-49. <https://doi.org/10.36633/ulr.1022>

<sup>35</sup> GOLDBERG, S. B., SANDER, F. E. A., ROGERS, N. H., and COLE, S. R. "Dispute resolution: Negotiation, mediation, arbitration, and other processes". 7th ed. New York: Aspen Publishing, 2020.

<sup>36</sup> VAOLEVSKA, L., MYSHCHAK, I., IAKYMCHUK, N., and KONDRATOVA, A. "Legal grounds for implementing the institution of recourse to the mediation procedure and the use of other alternative methods of resolving tax and customs disputes". *Cuestiones Políticas*, v. 41, n. 79, 2023, pp. 36-48. <https://doi.org/10.46398/cuestpol.4179.02>

## **2.6 Mediation within the European Labour Authority: Multi-level governance and administrative cooperation**

The establishment of the *European Labour Authority (ELA)* introduced a distinct institutional dimension to mediation within the European Union by extending consensual dispute-resolution mechanisms beyond private employment relationships into the sphere of administrative cooperation between Member States. Established by Regulation (EU) 2019/1149 of the European Parliament and of the Council, the Authority seeks to facilitate the effective application of European Union rules governing labour mobility and the coordination of social security systems.<sup>37</sup>

Unlike the mediation framework established by Directive 2008/52/EC of the European Parliament and of the Council, which concerns certain procedural aspects of mediation in civil and commercial matters, mediation conducted within the ELA does not resolve disputes between private parties. Instead, it provides a structured mechanism through which competent national authorities may resolve disagreements concerning the interpretation and application of European Union labour mobility legislation. Accordingly, ELA mediation performs an administrative coordination function rather than a judicial or quasi-judicial dispute-resolution function.<sup>38</sup>

Participation in ELA mediation remains voluntary and depends upon the agreement of the national authorities concerned. However, once initiated, the procedure is conducted within a formal institutional framework that guarantees neutrality, procedural transparency, and administrative support. The objective is not to produce legally binding decisions but to facilitate coordinated solutions capable of preventing jurisdictional conflicts, inconsistent administrative practice, and formal infringement procedures.

From a comparative legal perspective, the ELA illustrates the growing significance of multi-level governance within the European Union legal order. Whereas traditional labour mediation addresses disputes between employers and employees within domestic legal systems, ELA mediation operates between public authorities responsible for implementing European Union law across national jurisdictions. Consequently, its effectiveness cannot be evaluated using conventional indicators such as settlement enforceability or post-mediation compliance between private parties. Instead, the relevant criteria include administrative coordination, regulatory consistency, institutional cooperation, and the uniform application of European Union labour mobility rules.

At the same time, the institutional limitations of this mechanism should also be recognised. Because ELA mediation does not produce binding legal outcomes, its effectiveness depends primarily upon the willingness of Member States to cooperate and implement coordinated administrative solutions. Institutional credibility, mutual trust, and sustained intergovernmental cooperation therefore constitute the principal determinants of its practical effectiveness.

The inclusion of the European Labour Authority within the present comparative analysis broadens the understanding of mediation beyond traditional dispute resolution. It demonstrates that mediation within the European Union increasingly performs governance functions connected with administrative cooperation and regulatory coordination. This development further supports the central premise of the present study that mediation effectiveness depends principally upon institutional

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<sup>37</sup> EUROPEAN UNION. Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority. Official Journal of the European Union, L 186, 11 July 2019, pp. 21-56. Available at: <https://eur-lex.europa.eu/eli/reg/2019/1149/oj> (accessed on 3 September 2025).

<sup>38</sup> EUROPEAN PARLIAMENT, COUNCIL OF THE EUROPEAN UNION. Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, L 136, 3-8. 2008. Ibid.

arrangement and governance structures rather than solely upon procedural classification.

## **2.7 Identified research gaps**

The preceding analysis demonstrates that contemporary scholarship has substantially advanced the understanding of mediation within labour law and comparative dispute resolution. Nevertheless, several significant analytical limitations remain.

First, comparative research continues to be dominated by descriptive analyses of national mediation systems. Existing studies provide valuable information concerning legislative frameworks and institutional arrangements but rarely develop analytical models capable of explaining recurring comparative patterns across jurisdictions.

Secondly, the conceptualisation of mediation remains fragmented. Many studies examine mandatory and voluntary mediation, institutional and court-annexed mediation, or enforcement mechanisms as independent research themes. Consequently, relatively little scholarship evaluates how these institutional variables interact within integrated mediation systems.

Thirdly, previous research generally treats mediation outcomes separately from regulatory architecture. Settlement stability, compliance, enforceability, and procedural legitimacy are often analysed independently, limiting the ability to explain how particular institutional configurations influence practical dispute-resolution outcomes.

These limitations are particularly relevant in labour law, where employment relationships involve continuing legal obligations, structural inequalities, and broader public interests that distinguish labour disputes from ordinary civil litigation. As policymakers increasingly promote mediation as a mechanism for reducing judicial caseloads and improving access to justice, comparative legal research requires analytical frameworks capable of evaluating institutional effectiveness rather than merely describing legislative diversity.

## **2.8 Positioning of the present study**

The present study responds directly to the analytical limitations identified above by developing an integrated comparative framework for evaluating labour mediation across multiple jurisdictions. Rather than conceptualising mediation exclusively as an alternative dispute-resolution procedure, the research treats mediation as an institutional legal mechanism whose effectiveness depends upon the interaction of procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation.

Building upon the constitutional principles established by Article 47 CFREU, the legislative framework of Directive 2008/52/EC of the European Parliament and of the Council, and the jurisprudence of the Court of Justice of the European Union, the study operationalises four principal institutional variables: procedural obligation, institutional embedding, enforcement design, and professional regulation. These variables are analysed in relation to two principal outcome indicators: settlement stability and post-mediation compliance.

Unlike previous studies that evaluate individual national mediation systems or compare isolated procedural features, this research adopts a multidimensional comparative methodology designed to identify recurring institutional patterns across jurisdictions. The objective is not to establish hierarchical rankings of mediation models but to determine how different institutional configurations influence the effectiveness, legitimacy, and sustainability of labour dispute resolution.

By integrating doctrinal legal analysis with structured comparative evaluation of judicial decisions, legislative frameworks, institutional materials, and qualitative

practitioner evidence, the study contributes to comparative labour law in two respects. First, it provides a coherent analytical model capable of explaining institutional variation across mediation systems. Secondly, it demonstrates that mediation effectiveness within the European Union legal environment depends principally upon institutional coherence and procedural safeguards rather than upon the formal distinction between mandatory and voluntary participation.

Accordingly, the identified research gaps directly inform the methodological design presented in the following section and establish the analytical foundation for the comparative findings discussed later in this article.

### **3. Methods**

#### **3.1 Comparative legal research design**

This study adopts a comparative legal methodology combining doctrinal legal analysis with structured qualitative comparative assessment to examine how different institutional configurations of labour mediation influence dispute-resolution outcomes across jurisdictions. Rather than seeking to establish universal causal relationships through statistical inference, the research identifies recurring legal and institutional patterns capable of explaining variations in mediation effectiveness within different regulatory environments.

The comparative legal method constitutes the principal methodological approach because the regulation of labour mediation remains predominantly within the competence of national legal systems despite the existence of common procedural principles established by European Union law. Consequently, meaningful analysis requires systematic comparison of legislative frameworks, judicial practice, institutional arrangements, and procedural safeguards across jurisdictions rather than examination of individual legal systems in isolation.

Doctrinal legal analysis was employed to interpret European Union legislation, national legal instruments, judicial decisions, and institutional materials governing labour mediation. Particular attention was devoted to the relationship between the procedural guarantees established by Article 47 of the Charter of Fundamental Rights of the European Union (CFREU), the legislative framework provided by Directive 2008/52/EC of the European Parliament and of the Council, and the jurisprudence of the Court of Justice of the European Union concerning effective judicial protection and proportionality.

To ensure analytical consistency across jurisdictions, the comparative assessment was organised around four interrelated analytical dimensions identified in the literature: procedural obligation, institutional embedding, enforcement design, and professional regulation. These dimensions were subsequently evaluated in relation to two principal indicators of mediation effectiveness: settlement stability and post-mediation compliance. The purpose of this analytical framework is not to identify a universally superior mediation model but to determine how different institutional configurations influence the practical functioning of labour mediation within diverse legal contexts.

The methodology therefore combines doctrinal interpretation with comparative institutional analysis, enabling the identification of recurring legal patterns while recognising the constitutional autonomy retained by Member States in organising labour dispute resolution systems.

#### **3.2 Jurisdictional selection and comparative scope**

The comparative analysis encompasses ten European jurisdictions: Croatia, Finland, France, Germany, Italy, Lithuania, Norway, Poland, Spain, and the United Kingdom. Canada is included as a reference jurisdiction to broaden the comparative

perspective beyond the European legal context and to facilitate assessment of institutional models developed outside the European Union.

The selection of jurisdictions followed four analytical criteria designed to maximise meaningful legal comparison. First, the study incorporates both civil law and common law traditions, thereby enabling assessment of mediation across different legal cultures and procedural systems. Secondly, the selected jurisdictions represent diverse regulatory approaches, including mandatory, voluntary, and hybrid mediation models. Thirdly, they demonstrate substantial variation in institutional organisation, encompassing court-annexed mediation, specialised administrative mediation bodies, and mixed institutional arrangements. Finally, the selection includes both European Union Member States and non-Member European jurisdictions, making it possible to evaluate the relationship between common European Union procedural standards and nationally developed regulatory solutions.

The purpose of this jurisdictional diversity is not to establish representative statistical sampling but to ensure analytical variation sufficient for comparative legal evaluation. Accordingly, the selected jurisdictions provide an appropriate basis for examining how differences in institutional organisation, procedural safeguards, and enforcement mechanisms influence labour mediation within distinct legal environments.

### **3.3 Sources of legal and institutional material**

The comparative legal analysis was based on a structured body of legal and institutional material designed to facilitate systematic evaluation of labour mediation across the selected jurisdictions. To ensure methodological robustness, the study combined primary legal sources, secondary doctrinal materials, institutional documents, and qualitative practitioner evidence, thereby enabling triangulation of legal interpretation with practical institutional experience.

The primary legal sources comprised approximately 200 judicial decisions delivered between 2015 and 2024, together with approximately 1,500 legislative and regulatory instruments governing labour mediation and labour dispute resolution. Judicial materials included decisions of national labour courts, appellate courts, constitutional courts where relevant, and the Court of Justice of the European Union (CJEU). Particular emphasis was placed on judgments addressing mediation procedures, judicial validation of mediated settlements, procedural proportionality, and the right to effective judicial protection under Article 47 of the Charter of Fundamental Rights of the European Union (CFREU). The examination of judicial practice was complemented by analysis of national legislation regulating labour mediation, procedural codes, specialised mediation statutes, labour legislation, ministerial regulations, and institutional rules governing dispute-resolution procedures.

At the supranational level, the doctrinal analysis focused primarily on the principal sources of European Union law relevant to labour mediation. These included Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters, Regulation (EU) 2019/1149 establishing the European Labour Authority, the relevant provisions of the Treaty on the Functioning of the European Union (TFEU), particularly Article 288 concerning the legal nature of directives, and Article 47 CFREU as the constitutional standard governing effective judicial protection. The interpretation of these legislative instruments was undertaken in conjunction with the jurisprudence of the CJEU in order to examine the relationship between European Union procedural standards and national regulatory autonomy.

Secondary doctrinal materials consisted of contemporary academic literature addressing comparative labour law, mediation, alternative dispute resolution, and European Union procedural law. Rather than serving merely as descriptive

background, these materials were used to identify competing doctrinal approaches, evaluate conceptual developments, and refine the analytical framework adopted in this study. Particular attention was given to recent scholarship published between 2021 and 2025, thereby ensuring that the comparative analysis reflects current developments in European labour mediation.

Institutional materials constituted a further component of the analytical corpus. Approximately 75 institutional reports, policy documents, and official publications issued by the European Commission, the European Labour Authority, national labour inspectorates, mediation institutions, employment tribunals, and other public authorities responsible for labour dispute resolution were examined. These materials provided contextual information concerning institutional organisation, mediator accreditation, procedural implementation, enforcement mechanisms, and administrative practice. Their principal methodological function was to support the interpretation of legislative frameworks and judicial practice rather than to establish independent empirical findings.

To complement the doctrinal analysis, the study incorporated qualitative practitioner perspectives collected between March and June 2024. The qualitative component comprised perspectives from 110 participants, including accredited mediators, labour lawyers, judges, public officials, trade union representatives, employer representatives, and practitioners directly involved in labour mediation. The purpose of this material was not to generate statistically representative findings but to provide contextual insight into the practical operation of mediation systems and to assist in interpreting recurring institutional patterns identified through comparative legal analysis.

Legal and institutional materials were obtained exclusively from authoritative sources to ensure the reliability and comparability of the research. European Union legislation was consulted through EUR-Lex, while the jurisprudence of the Court of Justice of the European Union was examined using the CURIA database. National legislation and judicial decisions were retrieved from official governmental and judicial repositories, and Canadian legal materials were consulted through CanLII. Institutional reports were obtained directly from the official publications of the relevant organisations. Reliance on official legal sources ensured consistency of legal interpretation and strengthened the comparative validity of the research.

The temporal scope of the study extends from 2015 to 2024. This period was selected because it reflects the mature implementation phase of Directive 2008/52/EC of the European Parliament and of the Council across European Union Member States while also encompassing recent developments relating to labour mediation, digital justice, institutional reform, and the evolving jurisprudence of the Court of Justice of the European Union. The selected timeframe therefore permits both doctrinal analysis of established legal frameworks and comparative evaluation of contemporary institutional developments affecting labour dispute resolution.

### **3.4 Case selection and comparative legal classification**

The comparative assessment of judicial practice was based on a structured selection of decisions concerning labour disputes in which mediation, conciliation, settlement approval, or other alternative dispute-resolution mechanisms constituted a substantive or procedural element of the proceedings. Case selection was designed to ensure analytical comparability across jurisdictions rather than statistical representativeness. Accordingly, only judicial decisions capable of illustrating institutional characteristics relevant to the objectives of this study were included in the analytical corpus.

Judicial decisions were selected according to three cumulative criteria. First, the dispute had to concern either an individual or collective labour relationship governed by national labour law or, where applicable, by relevant European Union legal

standards. Secondly, the proceedings had to involve mediation, conciliation, judicial approval of settlements, or another legally recognised consensual dispute-resolution mechanism affecting the resolution of the dispute. Thirdly, the decision had to contain sufficient legal reasoning to enable assessment of the institutional characteristics of mediation, including procedural organisation, enforcement mechanisms, judicial supervision, or the legal consequences of mediated settlements.

Each selected judgment was examined using a standardised comparative legal classification framework designed to ensure methodological consistency across jurisdictions. The classification did not seek to quantify judicial reasoning but to identify legally relevant institutional characteristics capable of supporting comparative analysis. For each decision, the following analytical categories were recorded: jurisdiction and judicial level; nature of the labour dispute (individual or collective); mediation model (mandatory, voluntary, or hybrid); institutional setting (court-annexed, administrative, institutional, or mixed); procedural stage at which mediation occurred (pre-litigation, during judicial proceedings, or post-filing); legal outcome of the mediation procedure (full settlement, partial settlement, unsuccessful mediation, or termination); method through which the mediated agreement acquired legal effect, including judicial confirmation, administrative validation, statutory recognition, or voluntary implementation.

The purpose of this structured legal classification was to facilitate systematic comparison of institutional arrangements rather than to produce quantitative rankings of mediation systems. Differences in national legal terminology were therefore interpreted functionally by identifying equivalent legal institutions and procedural mechanisms capable of performing comparable dispute-resolution functions across different legal systems.

Particular attention was devoted to the relationship between regulatory design and judicial protection. Consequently, the analysis examined whether judicial decisions addressed issues such as proportionality, procedural fairness, enforceability of mediated settlements, access to judicial review, or other safeguards associated with Article 47 of the Charter of Fundamental Rights of the European Union. This approach enabled the comparative assessment of mediation not merely as a procedural technique but as an institutional mechanism operating within broader constitutional and labour-law frameworks.

The structured legal classification adopted in this study therefore provides a transparent methodological basis for identifying recurring institutional patterns while respecting the diversity of national legal traditions and procedural models. Rather than reducing judicial practice to numerical indicators, the classification facilitates doctrinal comparison capable of explaining how different regulatory arrangements influence the practical operation of labour mediation across jurisdictions.

### **3.5 Comparative analytical dimensions**

To ensure methodological consistency across jurisdictions, the comparative legal analysis was structured around four analytical dimensions derived from the doctrinal literature on labour mediation and alternative dispute resolution. These dimensions do not represent independent causal variables but constitute complementary criteria for evaluating how different legal systems organise mediation within their respective institutional and procedural frameworks. Their combined application makes it possible to compare mediation systems that differ significantly in legal tradition, institutional architecture, and regulatory design.

The first analytical dimension concerns procedural obligation, referring to the legal conditions governing participation in mediation. Comparative assessment distinguishes between mandatory mediation, voluntary mediation, and hybrid procedural models in which mediation may become obligatory only at specific stages of the dispute-resolution process. The analysis focuses not merely on whether

participation is compulsory but on how procedural obligation interacts with judicial protection, access to justice, and the guarantees established by Article 47 of the Charter of Fundamental Rights of the European Union.

The second analytical dimension is institutional embedding, which examines the organisational context within which mediation operates. The study distinguishes between court-annexed mediation conducted under judicial supervision, mediation administered by specialised public or administrative institutions, and hybrid arrangements combining judicial and institutional elements. Particular attention is devoted to the relationship between institutional organisation and procedural legitimacy, recognising that different institutional models may perform comparable legal functions despite differences in organisational structure.

The third analytical dimension addresses enforcement design. Rather than considering mediated settlements solely as consensual agreements, the analysis examines the legal mechanisms through which settlements acquire binding effect and become capable of implementation. Comparative assessment therefore considers judicial confirmation, administrative validation, statutory recognition, and voluntary compliance as alternative legal mechanisms contributing to the effectiveness and durability of mediation outcomes. Special emphasis is placed on the interaction between enforcement procedures and post-mediation legal certainty.

The fourth analytical dimension concerns professional regulation, encompassing the legal and institutional standards governing mediation practice. The analysis evaluates the existence of statutory accreditation requirements, official registers of mediators, professional codes of conduct, continuing professional education, and other regulatory mechanisms designed to ensure the quality, independence, and credibility of mediation services. These elements are examined as indicators of institutional capacity rather than as isolated regulatory requirements.

These four analytical dimensions were subsequently examined in relation to two principal indicators of mediation effectiveness: settlement stability and post-mediation compliance. Settlement stability refers to the capacity of mediation procedures to produce durable agreements that successfully resolve labour disputes, whereas post-mediation compliance concerns the practical implementation and continued observance of mediated settlements following the conclusion of proceedings. Neither indicator was treated as an autonomous measure of institutional performance. Instead, both were interpreted within their broader legal and procedural context, taking account of differences in national legislation, judicial practice, and institutional organisation.

The analytical framework adopted in this study is therefore explanatory rather than evaluative. Its objective is not to identify an ideal model of labour mediation or to rank national legal systems according to predefined criteria. Instead, it provides a structured basis for examining how different combinations of procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation influence the practical operation of labour mediation across diverse legal environments. This approach is consistent with the objectives of comparative legal research, which seeks to explain institutional diversity rather than establish universal models of regulatory superiority.

### **3.6 Comparative analytical framework**

The comparative assessment was conducted through a structured analytical framework designed to identify recurring institutional patterns in labour mediation across the selected jurisdictions. Consistent with the objectives of comparative legal research, the analysis sought to explain how different regulatory arrangements influence the practical operation of mediation rather than to establish universal causal relationships or hierarchical rankings of national legal systems.

The analytical process proceeded through four sequential stages.

First, the relevant legislative frameworks, judicial decisions, and institutional arrangements governing labour mediation were examined individually within each jurisdiction. This stage involved doctrinal interpretation of applicable legal rules together with analysis of their practical institutional implementation. Particular attention was given to the relationship between national legislation and the common procedural standards established by European Union law, especially those deriving from Directive 2008/52/EC of the European Parliament and of the Council, Article 47 of the Charter of Fundamental Rights of the European Union, and the jurisprudence of the Court of Justice of the European Union.

Secondly, the selected jurisdictions were compared according to the four analytical dimensions established in Section 3.5: procedural obligation, institutional embedding, enforcement design, and professional regulation. Rather than comparing legal terminology alone, the analysis adopted a functional comparative approach by examining whether different legal institutions performed equivalent procedural functions despite differences in legislative structure or legal tradition.

Thirdly, recurring institutional configurations were identified by examining how different combinations of procedural safeguards, organisational arrangements, and enforcement mechanisms influenced the practical operation of labour mediation. Particular emphasis was placed on identifying similarities and differences in settlement implementation, judicial supervision, institutional credibility, and post-mediation compliance. This stage of the analysis sought to explain institutional interaction rather than isolate individual regulatory elements.

Finally, the comparative findings were synthesised through cross-jurisdictional evaluation in order to identify broader doctrinal tendencies within labour mediation. The purpose of this synthesis was not to determine whether one national model should be regarded as legally superior, but to explain which institutional characteristics consistently contributed to effective dispute resolution within different legal environments.

To facilitate consistent comparison across jurisdictions, two complementary analytical indicators were employed throughout the study. The first, settlement stability, refers to the ability of mediation procedures to produce durable agreements capable of resolving labour disputes without subsequent judicial intervention. The second, post-mediation compliance, concerns the implementation and continued observance of mediated settlements through judicial confirmation, administrative supervision, statutory recognition, or voluntary performance. These indicators were interpreted qualitatively within their respective legal contexts rather than as independent statistical measures.

Because the study is comparative and doctrinal in nature, the analytical framework does not seek to demonstrate statistical causation. Instead, it identifies legally significant institutional relationships capable of explaining recurring comparative patterns across jurisdictions. The emphasis therefore remains on functional legal comparison and doctrinal interpretation rather than quantitative measurement. This methodological approach is consistent with established principles of comparative legal scholarship, according to which institutional diversity is explained through contextual legal analysis rather than numerical evaluation alone.

### **3.7 Reliability, validity and methodological limitations**

The methodological reliability of this study was strengthened through the systematic application of a uniform comparative analytical framework across all examined jurisdictions. Legislative materials, judicial decisions, institutional documents, and qualitative practitioner perspectives were analysed according to the same analytical dimensions, thereby ensuring consistency in the interpretation of legal and institutional characteristics irrespective of differences in national legal terminology or procedural organisation.

The validity of the research derives primarily from the triangulation of multiple categories of legal material. Rather than relying upon a single type of source, the study integrates European Union legislation, national legislation, judicial practice, institutional reports, academic literature, and practitioner perspectives. The convergence of these complementary sources enhances the credibility of the comparative findings by allowing doctrinal interpretation to be evaluated against practical institutional experience and administrative practice.

The qualitative practitioner component was incorporated as contextual evidence supporting the interpretation of the comparative legal analysis rather than as an independent empirical investigation. Responses obtained from mediators, labour lawyers, judges, public officials, employer representatives, and trade union representatives were examined through thematic analysis to identify recurring perceptions concerning procedural fairness, institutional credibility, enforcement practices, and post-mediation implementation. Accordingly, the qualitative material serves an interpretative function by assisting in the explanation of institutional patterns identified through doctrinal analysis and comparative assessment.

Several methodological limitations should nevertheless be acknowledged. First, the study does not seek to establish statistically generalisable conclusions regarding labour mediation across all jurisdictions. The selected jurisdictions were chosen because they represent diverse legal traditions, institutional arrangements, and regulatory approaches capable of supporting meaningful comparative legal analysis rather than statistical representation.

Secondly, although approximately 200 judicial decisions and 1,500 legislative and regulatory instruments were examined, the research is not intended to provide exhaustive coverage of all mediation-related practice within each jurisdiction. Instead, the analytical corpus was designed to capture representative institutional models and legally significant patterns relevant to the objectives of the study.

Thirdly, institutional reports and practitioner perspectives necessarily reflect particular administrative experiences and professional viewpoints. To minimise the influence of individual institutional perspectives, these materials were not treated as autonomous evidence but were systematically evaluated alongside legislative provisions, judicial reasoning, and academic scholarship.

Finally, the comparative methodology adopted in this research identifies recurring institutional relationships rather than universal causal rules. Because labour mediation operates within diverse constitutional, procedural, and socio-economic environments, institutional effectiveness remains context-dependent. The purpose of the study is therefore not to prescribe a single regulatory model but to explain how different combinations of procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation influence the practical operation of labour mediation across different legal systems.

Accordingly, the methodological framework combines doctrinal legal interpretation with structured comparative analysis while recognising both the diversity of national legal traditions and the constitutional autonomy retained by Member States in regulating labour dispute resolution. This integrated approach provides a reliable basis for evaluating institutional models without reducing comparative legal analysis to either purely doctrinal description or quantitative measurement.

## **4. Results**

### **4.1 Comparative institutional models of labour mediation**

The comparative assessment identified four recurring institutional configurations through which labour mediation is organised across the examined jurisdictions. Although national legal systems employ different legislative techniques and

institutional structures, these configurations reveal common procedural characteristics that facilitate meaningful comparative legal analysis.

The first configuration comprises mandatory court-annexed mediation, represented principally by Italy and, to a more limited extent, Finland. In these systems, mediation forms part of the procedural framework surrounding judicial proceedings and is closely connected with judicial supervision. The defining characteristic of this model is not merely the obligation to participate but the existence of mechanisms enabling mediated settlements to acquire legal effect through judicial confirmation. Consequently, procedural certainty and enforceability are closely linked with judicial oversight rather than with the compulsory nature of mediation itself.

The second configuration consists of mandatory institutional mediation, observed primarily in Norway and Lithuania. Here, mediation is conducted by specialised public authorities or labour institutions operating outside the ordinary judicial structure. Administrative supervision, institutional expertise, and continuing oversight following settlement contribute significantly to the effectiveness of dispute resolution. The comparative analysis indicates that these systems derive their effectiveness from institutional credibility and organisational capacity rather than from procedural compulsion alone.

The third configuration encompasses voluntary court-annexed mediation, represented by Germany, Poland, and Croatia. In these jurisdictions, participation in mediation generally depends upon the consent of the parties. Nevertheless, mediation remains closely integrated with judicial proceedings, allowing courts to confirm mediated agreements and provide enforceable legal effect where settlement is achieved. This institutional arrangement demonstrates that voluntary participation can coexist with high levels of legal certainty when supported by appropriate judicial safeguards.

The fourth configuration comprises voluntary institutional mediation, represented by France, Spain, the United Kingdom, and the Canadian reference model. These systems rely principally upon consensual participation and the credibility of specialised mediation institutions. Because judicial confirmation is frequently optional rather than automatic, settlement implementation depends more heavily upon institutional trust, professional mediation standards, and the willingness of the parties to comply voluntarily with negotiated agreements.

Although these four configurations differ substantially in organisational structure, the comparative analysis demonstrates that the formal distinction between mandatory and voluntary mediation does not adequately explain institutional performance. Instead, recurring patterns indicate that mediation effectiveness depends upon the interaction between procedural safeguards, enforcement mechanisms, institutional organisation, and professional regulation. These findings support the analytical framework developed in the preceding sections and provide the basis for evaluating settlement stability and post-mediation compliance across jurisdictions.

## **4.2 Settlement stability and procedural effectiveness**

Comparative evaluation of the selected jurisdictions demonstrates that settlement stability is influenced primarily by procedural architecture and enforcement design rather than by the formal classification of mediation as mandatory or voluntary. Across all four institutional configurations, durable settlements were consistently associated with procedural safeguards that enhanced legal certainty and facilitated effective implementation following the conclusion of mediation.

Mandatory court-annexed systems displayed comparatively high levels of settlement stability. Judicial supervision reduced procedural uncertainty and enabled

mediated agreements to acquire enforceable legal status through relatively straightforward confirmation procedures. The findings indicate, however, that the decisive factor was not mandatory participation itself but the existence of effective judicial validation mechanisms that strengthened the legal certainty of mediated settlements.

Mandatory institutional mediation demonstrated comparable levels of settlement durability where specialised labour authorities exercised continuing supervisory functions. In these jurisdictions, institutional credibility and administrative expertise contributed significantly to post-settlement implementation. The effectiveness of mediation therefore depended less upon procedural obligation than upon the capacity of specialised institutions to monitor compliance and resolve subsequent implementation issues.

Voluntary court-annexed mediation likewise produced stable settlement outcomes despite the absence of compulsory participation. Judicial involvement at the stage of settlement confirmation enhanced enforceability while preserving party autonomy. These findings indicate that voluntary mediation can achieve levels of procedural effectiveness comparable to mandatory systems where judicial safeguards remain available.

Greater variation was observed within voluntary institutional mediation systems. Because mediated agreements frequently depended upon voluntary implementation without automatic judicial validation, settlement stability was more closely associated with institutional reputation, mediator competence, and the willingness of the parties to maintain cooperative employment relationships after the conclusion of mediation.

From a comparative legal perspective, these findings demonstrate that settlement stability cannot be explained by procedural obligation alone. Rather, stable mediation outcomes emerge where procedural safeguards, institutional credibility, and legally effective enforcement mechanisms operate as mutually reinforcing elements within the broader regulatory framework governing labour dispute resolution.

#### **4.3 Enforcement mechanisms and post-mediation compliance**

The comparative analysis demonstrates that the legal effectiveness of labour mediation depends not only on the successful conclusion of settlement negotiations but also on the existence of mechanisms capable of ensuring the implementation of mediated agreements. Across the examined jurisdictions, significant differences were identified in the procedures through which settlements acquire legal effect, become enforceable, and are implemented following the completion of mediation. These differences substantially influence post-mediation compliance and the long-term stability of dispute resolution.

Jurisdictions integrating mediation within judicial proceedings generally provide the most direct route to enforcement. In Germany, Italy, Poland, and Croatia, mediated settlements may be confirmed by competent courts, thereby acquiring the legal force of enforceable judicial instruments. Judicial confirmation increases legal certainty, reduces ambiguity concerning the parties' obligations, and provides access to ordinary enforcement procedures in the event of non-compliance. The comparative assessment indicates that judicial validation contributes significantly to the durability of settlements because parties negotiate within a procedural framework that ensures legal certainty from the outset.

Different mechanisms operate within jurisdictions relying primarily upon institutional mediation. Norway and Lithuania employ specialised labour authorities that retain an active role in supervising settlement implementation and facilitating compliance following mediation. Although these systems rely less extensively on judicial confirmation, administrative supervision and institutional continuity perform comparable functions by supporting implementation and reducing the likelihood of

renewed disputes. Consequently, legal effectiveness is achieved through administrative oversight rather than judicial intervention.

Greater diversity was observed among jurisdictions operating voluntary institutional mediation. In the United Kingdom, France, Spain, and Canada, implementation depends largely upon voluntary compliance reinforced by professional mediation practice, contractual enforceability, and institutional credibility. Although judicial confirmation remains available in certain circumstances, these systems primarily rely upon the cooperative behaviour of the parties and the authority of mediation institutions rather than compulsory enforcement mechanisms. Settlement durability therefore depends more heavily on the quality of mediation procedures and the confidence of participants in the legitimacy of negotiated outcomes.

The comparative findings indicate that enforcement mechanisms should not be viewed merely as procedural instruments activated after mediation has concluded. Rather, their existence influences the mediation process itself by shaping the parties' expectations concerning the legal consequences of settlement. Where reliable enforcement mechanisms are available, parties demonstrate greater confidence in negotiated solutions, thereby increasing both settlement stability and post-mediation compliance.

From a comparative legal perspective, no single enforcement model can be regarded as universally superior. Judicial confirmation, administrative supervision, and voluntary implementation each achieve satisfactory outcomes when operating within coherent procedural architecture supported by effective procedural safeguards. The decisive factor is therefore not the specific enforcement mechanism employed but the extent to which it forms part of an integrated regulatory system capable of ensuring legal certainty and practical implementation. These findings reinforce the central hypothesis of this study that mediation effectiveness is determined primarily by the interaction of institutional and procedural elements rather than by any individual regulatory feature.

#### **4.4 Professional regulation and institutional credibility**

The comparative assessment further demonstrates that professional regulation constitutes one of the principal institutional determinants of effective labour mediation. Across the examined jurisdictions, substantial differences exist regarding mediator accreditation, professional qualifications, ethical standards, continuing education, and institutional oversight. These differences influence not only the quality of mediation procedures but also public confidence in mediation as a legally credible mechanism for resolving labour disputes.

Jurisdictions maintaining comprehensive regulatory systems for mediator accreditation generally exhibit higher levels of institutional consistency. Germany, Italy, and Norway provide detailed legal frameworks governing professional qualifications, ethical obligations, and continuing professional development. These regulatory mechanisms contribute to procedural predictability by establishing common professional standards while strengthening confidence in mediator impartiality and competence.

Other jurisdictions rely upon more flexible models of professional regulation. In the United Kingdom and Canada, mediation practice is supported primarily through professional organisations, accreditation bodies, and recognised codes of professional conduct rather than through comprehensive statutory regulation. Although these systems provide greater institutional flexibility, their effectiveness depends largely upon the credibility of professional associations and the voluntary observance of recognised ethical standards. The comparative analysis indicates that strong professional self-regulation may achieve levels of procedural legitimacy comparable to statutory regulation when supported by mature mediation institutions.

Intermediate approaches are observed in several continental European jurisdictions where statutory regulation coexists with professional self-governance. France, Spain, Poland, and Croatia combine legislative standards with institutional accreditation procedures administered by specialised mediation organisations. This hybrid approach seeks to balance legal certainty with professional flexibility while preserving high standards of mediator competence.

The findings demonstrate that professional regulation influences mediation effectiveness through several interconnected mechanisms. First, clearly defined qualification requirements enhance confidence in mediator expertise. Secondly, ethical standards and disciplinary procedures reinforce institutional neutrality and procedural fairness. Thirdly, continuing professional education enables mediators to respond effectively to evolving legal frameworks and increasingly complex employment disputes. Collectively, these mechanisms strengthen institutional credibility and contribute to greater acceptance of mediation among employers, employees, and judicial authorities.

Importantly, the comparative analysis indicates that the effectiveness of professional regulation depends less upon the degree of statutory intervention than upon the coherence of the overall regulatory framework. Jurisdictions combining transparent accreditation procedures, recognised ethical standards, institutional accountability, and effective quality assurance consistently demonstrate higher levels of confidence in mediation irrespective of whether regulation is primarily legislative or professionally administered.

Accordingly, professional regulation should be understood as an integral component of labour mediation rather than a supplementary administrative requirement. Its principal contribution lies in reinforcing procedural legitimacy, institutional trust, and confidence in the enforceability of mediated settlements. These findings further support the central proposition advanced throughout this study that mediation effectiveness emerges from the interaction of multiple institutional safeguards operating within coherent regulatory frameworks rather than from isolated legislative measures.

#### **4.5 Representative case analysis**

To complement the comparative assessment of legislative frameworks and institutional models, the study examined representative judicial decisions illustrating the practical operation of labour mediation within different procedural environments. The purpose of the case analysis was not to evaluate individual disputes but to identify recurring legal principles governing mediation, judicial supervision, settlement approval, and procedural fairness across the selected jurisdictions.

The examined decisions demonstrate that courts consistently regard mediation as a complementary mechanism for resolving labour disputes rather than as an alternative to judicial protection. Regardless of whether mediation is mandatory or voluntary, judicial practice emphasises that negotiated settlements must remain consistent with fundamental procedural guarantees, including voluntary consent, equality of the parties, procedural fairness, and effective access to judicial review. These principles appear consistently across both civil law and common law jurisdictions despite differences in legislative technique.

The comparative assessment further indicates that judicial intervention performs different institutional functions depending on the regulatory model adopted within each jurisdiction. In court-annexed systems, judicial involvement primarily concerns supervision of procedural fairness and confirmation of mediated settlements. In institutional mediation systems, courts intervene less frequently during the mediation process itself but remain responsible for ensuring the legal enforceability of settlements where disputes concerning implementation subsequently arise. Although

the procedural mechanisms differ, both approaches seek to reconcile consensual dispute resolution with effective judicial protection.

The jurisprudence examined also demonstrates that courts rarely assess mediation solely in terms of procedural efficiency. Instead, judicial reasoning consistently balances procedural economy with the protection of labour rights, recognising that mediation cannot compromise statutory guarantees afforded to employees. Consequently, judicial practice supports the proposition that mediation functions most effectively where consensual dispute resolution is accompanied by adequate legal safeguards capable of protecting weaker parties within employment relationships.

A further comparative observation concerns the relationship between judicial discretion and institutional regulation. Jurisdictions providing clear legislative guidance regarding mediation procedures, settlement approval, and enforcement exhibit greater consistency in judicial practice than systems relying predominantly upon discretionary procedural approaches. This finding suggests that legal certainty is enhanced where judicial discretion operates within coherent statutory and procedural architecture rather than in the absence of structured procedural regulation.

Accordingly, the representative case analysis confirms the broader comparative findings of this study. Judicial practice across the examined jurisdictions consistently supports the conclusion that mediation effectiveness depends upon the interaction of procedural safeguards, institutional organisation, and enforceable legal consequences rather than upon the formal classification of mediation as mandatory or voluntary.

#### **4.6 Comparative synthesis of findings**

The comparative analysis undertaken in this study demonstrates that labour mediation across the examined jurisdictions exhibits considerably greater institutional convergence than may initially appear from differences in national legislation. Although mediation systems vary with respect to procedural obligation, institutional organisation, enforcement mechanisms, and professional regulation, they pursue broadly comparable objectives centred on effective dispute resolution, procedural fairness, and the preservation of employment relationships.

The findings consistently indicate that procedural obligation alone does not determine mediation effectiveness. Mandatory mediation does not automatically produce higher settlement rates or greater compliance, just as voluntary mediation does not necessarily reduce procedural effectiveness. Instead, mediation performs successfully where procedural safeguards, institutional credibility, legally effective enforcement mechanisms, and professional regulation operate as mutually reinforcing elements within an integrated regulatory framework.

The comparative assessment also demonstrates that different institutional models frequently perform equivalent legal functions despite organisational diversity. Court-annexed mediation enhances legal certainty through judicial supervision and settlement confirmation, whereas institutional mediation achieves comparable outcomes through specialised administrative expertise and continuing institutional support. These functional similarities explain why jurisdictions employing substantially different regulatory techniques may nevertheless achieve comparable levels of dispute-resolution effectiveness.

Professional regulation emerges as an equally significant determinant of mediation quality. Jurisdictions maintaining transparent accreditation procedures, recognised ethical standards, and effective quality assurance mechanisms demonstrate greater institutional consistency regardless of whether regulation is primarily legislative or professionally administered. Consequently, mediator competence and institutional credibility contribute directly to public confidence in labour mediation and to the practical implementation of mediated settlements.

Taken together, these findings confirm the central hypothesis advanced in this study. The effectiveness of labour mediation depends principally upon the coherence of the overall regulatory framework rather than upon any single institutional characteristic. Procedural obligation, institutional embedding, enforcement mechanisms, and professional regulation function as complementary components whose interaction determines the practical operation of mediation within different legal environments.

From a broader comparative perspective, the study demonstrates that European Union procedural standards provide an important constitutional framework while allowing Member States substantial discretion in designing national mediation systems. This balance between common procedural guarantees and national regulatory autonomy explains the coexistence of diverse institutional models within the European Union legal order and reinforces the conclusion that effective labour mediation is compatible with multiple regulatory approaches, provided that fundamental procedural safeguards are consistently respected.

## **5. Discussion**

### **5.1 Comparative legal implications**

The comparative findings of this study contribute to the ongoing development of labour mediation scholarship by challenging the traditional distinction between mandatory and voluntary mediation as the principal criterion for evaluating institutional effectiveness. While previous research has frequently assessed mediation systems according to the formal obligation imposed upon parties, the present analysis demonstrates that procedural obligation alone provides only limited explanatory value when examined across different legal systems.

Instead, the comparative assessment indicates that mediation effectiveness depends upon the interaction of multiple institutional components operating within coherent regulatory frameworks. Procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation function as mutually reinforcing elements whose combined operation determines the practical effectiveness of labour mediation. This multidimensional perspective offers a more comprehensive analytical model than approaches focusing exclusively on individual legislative instruments or isolated procedural characteristics.

The findings further demonstrate that apparently different mediation systems frequently perform equivalent legal functions. Court-annexed mediation achieves procedural legitimacy through judicial supervision and settlement confirmation, whereas institutional mediation relies upon specialised administrative expertise and continuing institutional oversight. Despite differences in organisational structure, both approaches seek to reconcile consensual dispute resolution with effective legal protection and sustainable employment relationships. This functional equivalence supports the methodological premise adopted in this study that comparative legal analysis should focus upon institutional functions rather than formal legislative classifications.

The analysis also contributes to comparative labour law by emphasising that labour mediation cannot be understood simply as an extension of civil or commercial mediation. Employment disputes involve continuing legal relationships characterised by structural inequalities, statutory labour protections, and broader social interests that distinguish them from ordinary private disputes. Consequently, institutional safeguards assume greater significance within labour mediation than in many other forms of alternative dispute resolution. This observation explains why regulatory coherence, professional standards, and enforceability consistently emerge as decisive factors influencing mediation outcomes across jurisdictions.

The present findings therefore extend the existing literature by proposing an integrated analytical framework capable of explaining institutional variation across mediation systems. Rather than treating procedural obligation, institutional embedding, enforcement design, and professional regulation as separate variables, the study demonstrates that their interaction provides a more accurate explanation of mediation effectiveness within contemporary labour law.

## **5.2 Implications for European Union and national labour law**

The comparative findings of this study have important implications for understanding the relationship between European Union procedural standards and the regulatory autonomy retained by the Member States in the field of labour mediation. Although European Union law establishes common procedural guarantees applicable to mediation through Directive 2008/52/EC of the European Parliament and of the Council, the Charter of Fundamental Rights of the European Union, and the jurisprudence of the Court of Justice of the European Union (CJEU), the organisation of labour mediation remains predominantly within the legislative competence of national legal systems. Consequently, the diversity of mediation models identified in this study should not be interpreted as evidence of regulatory inconsistency but rather as a reflection of the constitutional allocation of competences within the European Union legal order.

The findings demonstrate that European Union law provides a common normative framework without prescribing a uniform institutional model of labour mediation. Directive 2008/52/EC of the European Parliament and of the Council establishes minimum procedural standards concerning mediation in civil and commercial matters, while Article 47 of the Charter guarantees effective judicial protection as a constitutional requirement applicable whenever mediation affects access to justice. Within these legal parameters, Member States retain broad discretion in determining whether labour mediation should be mandatory or voluntary, court-annexed or institutionally administered, provided that national procedures remain compatible with the fundamental guarantees of procedural fairness, proportionality, and effective judicial protection.

This distinction between procedural harmonisation and institutional autonomy is of particular importance for future legislative development. The comparative evidence suggests that attempts to promote mediation exclusively through mandatory participation are unlikely to produce consistent improvements in dispute-resolution outcomes unless accompanied by effective institutional safeguards, enforceable settlement mechanisms, and coherent systems of professional regulation. Legislative reform should therefore focus less on expanding procedural obligations and more on strengthening the institutional conditions that support high-quality mediation practice.

The findings also have implications for the continuing development of European labour governance. Recent initiatives concerning digital justice, cross-border labour mobility, and administrative cooperation indicate an increasing emphasis on consensual dispute-resolution mechanisms within the broader European legal landscape. However, these developments should not be understood as expanding the legislative competence of the European Union in labour mediation. Rather, they illustrate how European Union institutions facilitate cooperation, promote procedural standards, and encourage the exchange of best practices while respecting the regulatory autonomy of the Member States. This distinction is essential for maintaining consistency with the constitutional principles governing the distribution of competences under the Treaties.

From a comparative perspective, the research further demonstrates that institutional diversity should be regarded as a strength rather than a weakness of the European labour mediation framework. Different legal traditions have developed distinct regulatory solutions capable of achieving comparable levels of effectiveness

through functionally equivalent institutional mechanisms. Accordingly, future reforms should not seek comprehensive harmonisation of labour mediation but should instead encourage the dissemination of effective institutional practices that remain adaptable to different constitutional and labour-law traditions.

More broadly, the findings contribute to the development of comparative labour law by illustrating that the effectiveness of mediation cannot be evaluated independently of its legal and institutional context. Sustainable labour dispute resolution requires an integrated framework combining procedural guarantees, institutional credibility, enforceable legal consequences, and professional regulation. This multidimensional understanding provides a more accurate basis for future legislative and doctrinal development than approaches centred exclusively on the mandatory or voluntary character of mediation.

### **5.3 Methodological limitations and future research**

Although the comparative methodology adopted in this study provides a comprehensive framework for analysing labour mediation across different jurisdictions, several limitations should be acknowledged when interpreting the findings.

First, the study focuses primarily on the legal and institutional organisation of labour mediation rather than on quantitative measurement of mediation performance. Consequently, the comparative conclusions concern the relationship between regulatory frameworks, procedural safeguards, and institutional arrangements rather than statistical indicators such as settlement rates or litigation reduction. This methodological choice reflects the objectives of comparative legal research, which seek to explain institutional diversity through doctrinal analysis rather than establish universal empirical regularities.

Secondly, the jurisdictions included in the comparative assessment were selected to represent different legal traditions, regulatory approaches, and institutional models. The objective was therefore analytical diversity rather than geographical representativeness. Although the selected jurisdictions provide a sufficiently broad basis for comparative evaluation, they cannot encompass the full range of mediation systems operating internationally. Future research could expand the comparative framework to include additional European jurisdictions, candidate countries, and non-European legal systems in order to examine whether the institutional relationships identified in this study remain consistent across broader comparative contexts.

A further limitation arises from the evolving character of labour mediation within the European legal environment. Legislative reforms, digitalisation of dispute-resolution procedures, and the continuing development of European Union initiatives relating to access to justice and labour mobility may influence national mediation systems over time. Accordingly, the present findings should be interpreted within the legal framework existing during the period covered by the research rather than as definitive assessments of future institutional developments.

The qualitative practitioner evidence incorporated into the study also requires careful interpretation. Practitioner perspectives were used to contextualise and support the doctrinal analysis rather than to generate statistically representative conclusions concerning mediation practice. Their principal methodological contribution lies in explaining how legislative frameworks and institutional arrangements operate in practice, thereby strengthening the interpretation of comparative legal findings through triangulation with judicial decisions, legislative materials, and institutional documentation.

Notwithstanding these limitations, the integrated comparative methodology adopted in this research offers a structured analytical framework capable of explaining institutional variation across labour mediation systems. By combining doctrinal legal analysis with comparative institutional assessment and qualitative

contextual evidence, the study demonstrates how different regulatory arrangements produce functionally comparable approaches to labour dispute resolution while remaining consistent with the constitutional principles governing the European Union legal order.

The findings also identify several promising directions for future research. Comparative analysis could examine the impact of digital mediation platforms, artificial intelligence-assisted dispute resolution, and online labour mediation on procedural fairness and access to justice. Additional research may also explore the interaction between collective labour rights, cross-border employment relationships, and mediation within the context of increasing labour mobility across Europe. Finally, longitudinal comparative studies evaluating the practical effects of future legislative reforms and institutional innovations would contribute to a more comprehensive understanding of how labour mediation evolves within both national legal systems and the broader European Union legal framework.

## **6. Conclusion**

This study examined labour mediation through a comparative legal analysis of institutional models operating across selected European jurisdictions and Canada, with particular attention to the relationship between procedural safeguards, institutional organisation, enforcement mechanisms, and professional regulation. Rather than evaluating mediation exclusively through the traditional distinction between mandatory and voluntary participation, the research adopted an integrated comparative framework designed to explain how different institutional configurations influence the practical effectiveness of labour dispute resolution. The findings confirm that mediation cannot be adequately understood as an isolated procedural mechanism but should instead be analysed as part of a broader legal and institutional framework governing access to justice, dispute resolution, and the protection of employment rights.

The comparative assessment demonstrates that the formal classification of mediation as mandatory or voluntary does not constitute the principal determinant of institutional effectiveness. Across the jurisdictions examined, mediation systems employing different legislative techniques frequently achieved comparable dispute-resolution outcomes where procedural safeguards, legally effective enforcement mechanisms, institutional credibility, and professional regulation operated as mutually reinforcing elements. Conversely, mandatory participation alone did not guarantee higher levels of settlement stability or post-mediation compliance where these complementary institutional conditions were absent. These findings challenge approaches that evaluate mediation primarily through procedural obligation and instead support a multidimensional understanding of mediation effectiveness grounded in institutional coherence.

A further contribution of this study concerns the functional comparison of diverse mediation models. Although the examined jurisdictions differ considerably in legal tradition, judicial organisation, and administrative structures, the research demonstrates that apparently distinct institutional arrangements often perform equivalent legal functions. Court-annexed mediation promotes legal certainty through judicial supervision and settlement confirmation, whereas institutionally administered mediation achieves comparable objectives through specialised administrative expertise and continuing organisational support. This functional convergence illustrates that different regulatory approaches may satisfy common legal objectives while remaining fully compatible with national constitutional traditions and labour-law systems.

The study also contributes to the understanding of the relationship between European Union procedural standards and national regulatory autonomy. The comparative findings confirm that the European Union legal order establishes

common constitutional guarantees applicable to mediation, particularly through Article 47 of the Charter of Fundamental Rights of the European Union, the procedural framework established by Directive 2008/52/EC of the European Parliament and of the Council, and the interpretative jurisprudence of the Court of Justice of the European Union. At the same time, the organisation of labour mediation remains predominantly within the competence of the Member States, allowing diverse institutional models to develop while maintaining compliance with shared procedural principles. Accordingly, institutional diversity should be understood not as regulatory inconsistency but as a consequence of the constitutional allocation of competences within the European Union legal order.

An important methodological contribution of the research lies in the development of an integrated comparative analytical framework combining doctrinal legal analysis with structured comparative institutional assessment. By examining procedural obligation, institutional embedding, enforcement design, and professional regulation as interconnected analytical dimensions, the study provides a coherent methodological model capable of explaining institutional variation across labour mediation systems. This framework extends existing comparative scholarship, which has frequently examined these elements separately, and offers a more comprehensive basis for evaluating mediation within labour law.

The findings also have practical significance for legislators, courts, mediation institutions, and policymakers. Legislative reforms should focus not exclusively on expanding mandatory mediation but on strengthening the institutional conditions that support effective dispute resolution, including transparent procedural safeguards, reliable enforcement mechanisms, high professional standards for mediators, and coherent systems of institutional accountability. These elements collectively contribute to greater legal certainty, public confidence, and long-term stability of mediated settlements while preserving effective access to judicial protection.

From a broader comparative perspective, the research demonstrates that labour mediation should be regarded as an evolving component of contemporary systems of labour justice rather than merely an alternative to judicial proceedings. The continuing development of digital justice, increasing labour mobility, and expanding cross-border employment relationships are likely to increase the importance of mediation as a flexible mechanism capable of resolving complex employment disputes while preserving continuing legal relationships. Future regulatory development should therefore prioritise institutional quality, procedural fairness, and professional competence rather than pursuing uniform legislative models across different jurisdictions.

Finally, this study confirms that effective labour mediation depends fundamentally upon the coherence of the overall legal and institutional framework within which mediation operates. The comparative evidence demonstrates that sustainable dispute resolution is achieved where procedural guarantees, institutional organisation, enforceability of mediated settlements, and professional regulation function together as mutually reinforcing components of a coherent legal system. By integrating doctrinal legal analysis with structured comparative evaluation, the research contributes both to comparative labour law scholarship and to the broader understanding of how mediation can strengthen access to justice while respecting the constitutional balance between European Union procedural standards and the regulatory autonomy of Member States.

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