

# The pilot project

## CROSS-BORDER FAMILY MEDIATION IN ITALY

MARZIA GHIGLIAZZA  
Lawyer – Crossborder Mediator





An architectural plan of the Forum of Augustus in Rome. The plan shows the layout of the forum, including the Basilica Julia, the Temple of Mars Ultor, and the Temple of Venus and Roma. It also shows the surrounding streets and the original site of the Rostra. The plan is labeled with various parts of the forum, such as the Comitium, the Rostra, the Basilica Julia, and the Temple of Mars Ultor. It also shows the surrounding streets, including the Via Sacra and the Via Nova. The plan is a detailed drawing of the forum, showing the layout of the buildings and the surrounding streets.

«These things, however, must be done  
in such a way that consideration  
is given to **strength, utility, and beauty.**»

«Haec autem ita fieri debent, ut habeatur ratio  
**firmitatis, utilitatis, venustatis.**»

Vitruvio



# The strong, functional and beautiful Italian Pilot Project

A construction for international families

Essential Elements for a Vitruvian Building

**Space & Timing:** where & when to construct



**Stakeholders:** who constructs



**Scope:** why to construct



**Completion:** how to construct



# Where?

- Where there is a **void**
- Where there is a **need**
- Where there can be together **reception, organisation, cooperation and space**

---

Where there is a **void**

No CBFM in Italy

# Where there is a **need**

## Juridically

Necessary **implementation** of supranational (Hague Conv.) rules and EU rules, which **require** judicial authority/CA to **invite** parties to mediation

The newest (art. 25 Br II Ter) :

*«As early as possible and at any stage of the proceedings, the court either directly or, where appropriate, with the assistance of the Central Authorities, shall invite the parties to consider whether they are willing to engage in mediation or other means of alternative dispute resolution, unless this is contrary to the best interests of the child, it is not appropriate in the particular case or would unduly delay the proceedings.»*

## Judicially

**Relocation cases** in Court can last 6-8 years in Italy (3 degrees jurisdiction)  
*De facto impossible* to combine a family's relocation **need** and the **judicial** way

Cross-border families **need** complex and **creative solutions** in order to last solidly:  
**no Judge** can provide for it

# Where there is a need

## Factually

Increase of mobility  
and internationalization  
of families



Italy (2023 official data)

Out of 184.207 marriages celebrated in 2023, **29.732** were with at least 1 foreigner (16% of total)



EU (1° January 2024)

**44.7 million** persons born outside the EU were residing in a UE country (9.9% populuation)

**17.9 million** persons living in 1 of the EU countries, were born in another UE country

**29.0 million** non-UE citizens living in the EU (representing 6.4% of the EU population)

Italian citizens are the **3° largest group** of citizens from an EU country living in 1 of the others EU countries (after Romanians and Polish)

# Where

A **space of togetherness** of all the necessary functions for SOLIDITY:

- CA (public interest)
- Trainers & Tutors
- Independent Technicians – CBFM mediators
- Institutional representation of all involved professionals (family mediators, specialized lawyers, judges, academics)



If one function is missing in the foundations, the building will crumble



We funded altogether on CA soil, and are altogether under CA roof



# When?

# When the time is **right**

Choosing the right moment is essential

# When?

Evolution of **national** legislation and grounds



2013

**First administrative regulation (UNI)**

**establishing** the family mediator as a profession and the rules of professional control



2016

**FIAMeF (Italian Federation of Family Mediation Associations)**

is **founded**. Today it represents over 2000 recognized Italian family mediators



2022

**Reform Bill Cartabia**

which **integrated** - by law - family mediation into the reformed family procedure + enlarged civil/commercial cases where mediation is a compulsory pre-requirement to proceed in Court



2023

**Ministerial Decree 151**

oct 2023 that **regulates** the professional discipline of the family mediator, dictating all the requirements for both access to the profession (min. 240 hrs theory + 80 hrs practice + 40 hrs co-med) and compulsory ongoing training (min. 10 hrs/year)



# When?

Evolution of **supranational** and **EU** rules

- Art. 7 Hague Convention 25 october 1980
- Art. 31 Hague Convention 19 october 1996
- Art. 51 Council Regulation (EC) n. 4/2009
- Art. 25 + Recital (43) Council Regulation (EU) n. 2019/1111 (“Bruxelles II ter”)

# Scope – Building's function

- **Establish** a first pioneering group of CBFM through the best and 30 yrs' experienced international Trainer REUNITE
- **Familiarize** the pioneer group to the core principles, scope and procedural aspects of 1980, 1996, 2007 Hague Conventions and EU Regulations
- **Allow** CA and Judicial Authorities to respond to the requests of CBFM in a structured and operationally effective way
- **Foster** through a Protocol between all stakeholders the collaboration between relevant authorities, mediators, legal professionals in the managing of cross-border family conflicts
- **Promote** and disseminate CBFM and best practices in all competent Courts + at all levels



# The stakeholders – The constructors

- CA
- FIAMEF (Italian Federation of Family Mediation Associations)
- REUNITE (International Child Abduction Center)
- ICALI (International Child Abduction Lawyers Italy\_born out of LEPCA project)
- Milano-Bicocca University (Prof. HONORATI) and Genova University (Prof. CARPANETO)
- EJNita 2.0 (European Network of Judges' Program): supporting with deliverables, such as guidelines, vademecum (open e-book on the dedicated ministerial site Aldricus)
- All relevant associations of National Family Lawyers (AIAF, CAMMINO, UNCM) as promoters

# Completion

→ Training Course

→ Protocol

→ Action



# Training Course

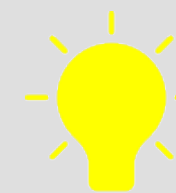
**2 modules** of training. Comprehensive **in-presence** modules of 32-34 hrs each (**5 days** program, **each** module)

**1<sup>st</sup> round** The assessment meeting

**2<sup>nd</sup> round** The mediation meetings, center on needs of the children, conflict management, and the MOU (Memorandum of Understanding)



Each module should **not have more** than half a day, **max 3 half days** altogether of **juridical** training.



Planning at least two social lunches, in order to immediately **consolidate** the group of delegates.

Creation of a **WhatsApp chat group**, including the CA official.

# Training Course

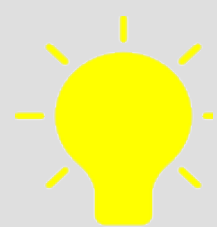
**Between** the two modules a period of +or- **3 months**.

After the first module:

- A first **internship** follows, with an initial phase of **observation** of the assessment sessions conducted by Trainer, followed by **co-conducting** the assessments together with Trainers (minimum of 10 hours, which can be followed remotely or in person at the Trainer's siege)
- Additional remote thematical meetings (i.e. voice of the child, additional legal training)

After the second module:

- A second **internship** phase, with an initial **observation** of the mediation sessions conducted by the Trainers, and with subsequent **co-mediation** sessions of the participants together with the Trainers (minimum 10 hours, remotely or in person at the trainers' premises, at the participant's choice)



Formal **intervention** by the **CA** at the opening and closing sessions +  
**presence of a CA** officer over all the training modules



# Protocol

- ➔ **Clear indication** of the e-mail and party/body to whom CA will **send** the mediation requests received
- ➔ Commitment of the Trainers to **continuous supervision/tutoring and on-going training** of the delegates
- ➔ **PRE-MEDIATION phase - who is in charge of it** (desk of experienced CBF mediators)
- ➔ **PRE-MEDIATION phase - what are the tasks :**  
[up to the identification of the pair of **available co-mediators** (who will start with the assessment)]
  - 1** the **parents are contacted** once the request is received by CA or by any other party (often also the guardian ad litem) has been acknowledged
  - 2** the **information requests** of all the parties involved in the case are **answered** (parents, lawyers, guardian, social services, prosecutor)
  - 3** **arrangements** for the mediation are **made** regarding the place (also remotely), the language, any translators, and/or any specific conditions required by the case
  - 4** the **pair of mediators** suitable and available to proceed with the assessments (by separate meetings between the parents) is **identified**

# Protocol

- ➔ Engagement to publish **Lists of CB mediators** by the signatories of the Protocol
- ➔ Publication of CA-regulated **Fees** for the entire period of the **two-year Pilot project** (renewable), and for the specific purpose of actively **promoting CBFM**
- ➔ The Protocol explicitly foresees the following **commitments** from all Parties, regarding the CA-regulated fees :
  - the **pre-mediation phase** will be carried out by the desk free of charge;
  - the **assessment phase** will be carried out by the mediators free of charge;
  - for **mediation meetings**, a reduced fee of EUR 80 per hour of mediation will be charged for each of the two co-mediators and for each parent. CA will cover up to EUR 640 per mediation (equal to 4 hours of mediation), any excess and subsequent hours will be paid for by the parents

# Tips&Traps

## Tips

- Each Party to the project **must** keep its **own** peculiarity and **role**.
- The **Clue** is connecting cooperating protecting :
- **Connecting:** between all stakeholders from planning to completion
  - **Cooperating:** each Party within its role and competence (public institution can't mediate, which is the role of private professionals. Single mediators can't interact with institutions. Institutions interact with institutions and Authorities)
  - **Protecting:** each Party within its own boundaries and identity, cooperating with each other, is **protective** both for the parents and children (no bias), for the professionals (mediators and lawyers) and for the Institutions (CA, Judges, Social Services)

Training must be delivered JUST to **experienced domestic family mediators**

## Traps

- Mixing up** roles and competences of each stakeholder (i.e.: CA mediating, mediators acting individually without a professional umbrella body to refer to)
- Starting** from the roof (training of mediators) **instead** than from the foundations (planning: to start only later promoting/networking to the relevant institutions by means of individual groups)
- Providing** training models developed in another Country, as if they were a *know-how* for universal exportation (lacking prior study, construction and modulation with the local reality)

**Addressing** delegates lacking of strict family specialization requirements



# Tips&Traps

## Tips

- No more than **15-20** delegates to be effective
- Ideally delegates should be: **50%** from psycho-social background, **50%** from juridical background
- Delegates should be picked-up **from all over the Country**, especially from different and relevant districts of competent Courts for family matters (and return proceedings)
- Exclusivity of the presence of delegates (interpretors, if needed) during the training sessions. **ONLY** admitted: a CA officer/delegate as observer/stakeholder. **NO other** observer shall be allowed to participate to the training.
- Comprehensive **in-presence modules**
  - **Central venues**, equidistant from various districts should be chosen to carry out the training. The idea is, that no trainee should have an advantage over others, and that everyone should be able to reach the training site without too much difficulty. Even better if two different locations are chosen for the two different modules.

## Traps

- Addressing** the training to as many mediators as possible (thinking: the need is widespread and the territory too)
- Remote/online training** (thinking: by now everyone is used to remote)

# Tips&Traps

Tips

Traps

Each module should **not have more** than half a day, **max 3 half days** altogether of **legal** training.

- It must be remembered that mediation does NOT legally resolve the dispute. After mediation, a formal and **legal step is always necessary** to give legal binding force to the agreements. Mediators only need to become familiar with the core principles, scope and procedural aspects of these matters.
- As for the rest (**legally bindingness**), there will be lawyers (and Courts)
- Delegates need role plays and specialized mediation training **the most** (trainer’s experience on matters like: child’s voice, DV, assessment)

Consider **simoultaneos interpreteurs** in the training – there should be **no language barrier** between trainers and delegates. **Not** forcingly delegates/trainees must be fluent in English

**Ongoing** internship/tutoring (remote) + **supervision**

**Packing/filling** modules with **legal** training (on the thought: there are lots of legal issues involved)

Making **English** a mandatory requirement for the training (it can represent a **barrier** and an **obstacle** to finding delegates !)

**Providing** training modules and afterwards saying *bye-bye* to the trainees (**no** tutoring, **no** intern, **no** on-going supervision; **just** offering to the trained mediators to be in a published «list» for showcase purposes)

# Roadmap

1

**Preparatory study of the Country-reality:** immediate identification of all the **key stakeholders**. Namely: **CA, representatives** of the associations of mediators, representatives of the national lawyers' category for the family/international section, the **judicial** network, **universities/academics** dedicated to the study of the sector (for the technical and editorial contribution of country guides and for the provision of training spaces), and sector associations for support/logistics

2

**Identification of trainers** with over twenty years' CBFM experience on the international scene

3

**Involvement** of all parties from the outset, with operational subgroups **\_Planning**

4

**Development of the Programm** having in mind final drafting of **Protocol & Guidelines**

12 months

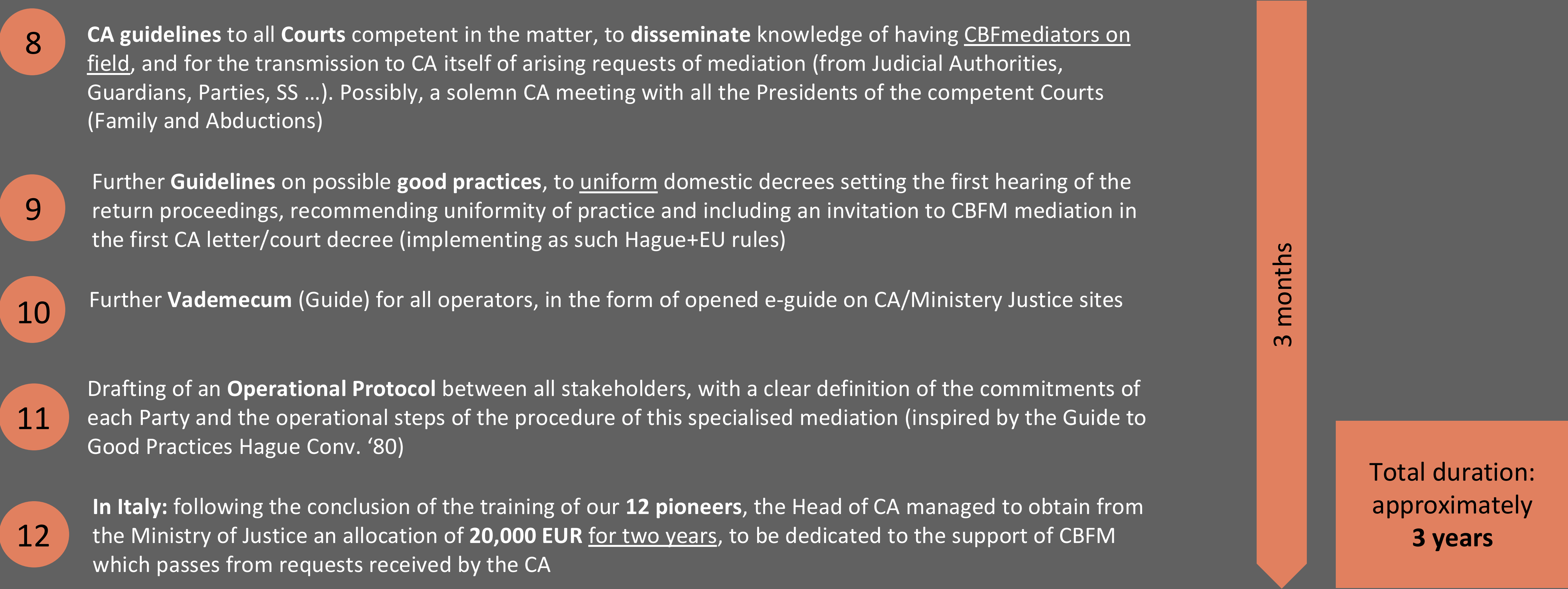


# Roadmap

- 5 Leaflet & dissemination
- 6 **Selection of participants** on the basis of CVs and interviews, by two experienced domestic family mediators in senior positions of the relevant national associations
- 7 Two modules **Training course & Internships**



# Roadmap



# Material

Click here to download  
**Ministerial decree**

Click here to download  
**Rule Cartabia Bill**

Click here to download  
**Course program**

Click here to download  
**Guidelines**

Click here to download  
**Protocol draft**



# Thanks for your attention!