

# Is mediation a profession? Views of professionals and trainers from an international perspective

*International Social Work*

1–12

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DOI: 10.1177/00208728221082396

[journals.sagepub.com/home/isw](https://journals.sagepub.com/home/isw)**Marta Blanco** 

Complutense University of Madrid, Spain

## Abstract

The main aim of this article is to understand whether, in the opinion of experts and professionals, mediation has sufficient substance to be considered an autonomous profession in comparison with other professions and specifically with social work. For this purpose, a qualitative study was performed based on an analysis of the data obtained from 17 interviews and three focus groups held with participants from eight different countries. Above all, the conclusions of this study offer an international and multidisciplinary perspective that should be taken into account in order to clarify and resolve the difficulties affecting the professional status of mediators.

## Keywords

Identity, mediation, profession, professional association, professionalisation, social work

## Mediation as a profession: The state of the art

### *Fundamental elements for a profession*

The extensive regulation regarding mediation, the inclusion of mediation in undergraduate and postgraduate course programmes and the wide range of mediation training available through professional associations has opened up a new ‘niche’ of employment, increasing graduates’ job expectations. But this new area of employment requires a re-examination of the work of mediators and their distinction – if any exists – from other professionals such as social workers, lawyers and psychologists. The question that we intend to answer in this study is whether mediation is a new profession or if it is merely a specialisation that is accessible from various other professions (Blanco Carrasco, Corchado Castillo & Ferreira, 2020).

Evetts (2018) identifies three essential concepts used in the analysis of the various professional activities: profession, professionalisation and professionalism.

The concept of *profession* is intended to represent ‘a distinct and generic category of occupational work’ (Evetts, 2018: 44). However, as the author points out, sociologists have not yet agreed on a single definition and on the criteria that can distinguish an activity from a profession

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### Corresponding author:

Marta Blanco, Civil Law Department, Faculty of Social Work, Complutense University of Madrid, Campus de Somosaguas sn, Pozuelo de Alarcón, 28223 Madrid, Spain.

Email: [martabla@ucm.es](mailto:martabla@ucm.es)

(Greenwood, 1957). *Professionalisation* refers to the process of achieving the status of a profession. This concept has evolved over time and is very important for some emerging professions that seek status and recognition for their activity, such as social work and psychology. The third important concept is that of *professionalism*, which usually focuses on the relationship between the profession and the organisation in which it is developed (Noordegraaf, 2011). The ‘discourse of professionalism’ (Evetts, 2018: 44–45) focuses on knowledge, occupations and professionals and is often used as a marketing slogan to defend a ‘know-how’, as a way of recruiting professionals or as objectives and mission of some companies. Generally, this concept has very positive aspects. Professional values emphasise a shared identity, based on competencies, and professional relationships are characterised as collegial, cooperative and mutually supportive. But it has also been identified with negative aspects, such as the protection of self-interest, status and power, ultimately, as a monopolistic control of professional activity.

Taking all of the above into account, we will analyse some of the elements pointed out by the literature when assessing the consideration of mediation as a profession (Barahona Gomariz, 2016; Cordero Pando, 1998; Costa e Silva, 2015):

1. *Specialist body of knowledge and practical skills.* Article 4 of 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 refers to ensuring that mediators receive specific training to be able to conduct mediation, as well as establishing an obligation for States to ensure that this training is high quality and continuous (Serra Muñoz and Bujalance Gómez, 2015).
2. *Regulated activity and a code of conduct.* The 2008 Directive expressly refers to a need for mediators and mediation institutions to establish codes of conduct to guarantee service quality, highlighting the European Code of Conduct for Mediators. These codes allow mediation to offer fixed ethical and moral standards, facilitate reflection and analysis and encourage mediators to feel safe, secure and protected in terms of their professional conduct (Taboada González, 2011: 52).
3. *Professional associations.* Most countries do not have an ‘official association’ for mediators, meaning that it is not possible to refer to professional ethics or any disciplinary body that oversees professional practice. However, mediation practice is supported by mediation institutions that do have to offer a professional and high-quality service. The function of these institutions is to oversee the mediator’s actions and to take responsibility on a subsidiary basis if required as a result of malpractice or in relation to the appointment of mediators, as well as to promote and require appropriate initial and continuous training for mediators.
4. *Permanent activity and source of remuneration.* There is no doubt that mediation can be a permanent and remunerated activity. Spanish law shows this with perfect clarity, establishing mediation as a remunerated activity and referring to the cost of mediation, establishing that it will be equally divided between the parties unless agreed otherwise and that a provision of funds can be requested (article 15 of Law 15/2020 on Mediation in Civil and Commercial Matters). It is another matter whether mediation is remunerated in the same way as any other free profession or only works when offered free-of-charge to users; our understanding is that the latter is precisely what happens in the majority of EU Member States.
5. *Recognised social function.* A public-service element is essential in order for a profession to exist (Taboada González, 2011: 47), in addition to an authority recognised by users and other professionals (Greenwood, 1957: 4). The role of mediator is often confused with those of other professionals, such as lawyers, psychologists and social workers. It is for this reason that users frequently have doubts regarding what mediators contribute to the resolution of disputes.

6. *Professional identity*. The construction and recognition of professional groups require workers to demand that their activity is valued, in addition to organisations demanding recognition of their knowledge and responsibility. Becoming a professional can correspond to 'being part of an established group, demanding knowledge and expertise and aspiring to be effective, responsible, autonomous and competent' (Costa e Silva, 2015: 32). Identity dynamics can be essential to an activity securing its own professional space (Almeida, 2016).

However, some difficulties are also noted in the path to the professionalisation of this activity. Raines et al. (2013) identify five challenges in the professional development of mediators: getting and keeping clients, getting parties to the table, educating the parties and the public about mediation, professional development and work–life issues. This study concludes by stating that most mediators find it difficult to reconcile their career as a mediator with their 'other careers' and that those who choose mediation have a significant impact on their professional life. Costa e Silva (2015) points to the lack of professional identity as one of the main difficulties in achieving the status of a profession, something the author believes is of more concern to academics than to mediators themselves.

As Evetts (2018: 56) concludes, the continuity, challenges and opportunities of professionalism as an occupational value are the biggest tasks for professional institutions and governments in the future.

### *Mediation and social work*

Academics have repeatedly emphasised the proximity between the social work and mediation professions in terms of history, origins and shared techniques (Almeida, 2010; Costa e Silva, 2015; Munuera Gómez, 2013). These points in common have made it difficult to establish the limits between one form of intervention and another, meaning that some social workers find it difficult to distinguish when they are acting as mediators and when they are performing social work.

To focus on a social worker's traditional mediation function, we may take as a starting point the distinction made by De Robertis (2007: 200–201) between direct and indirect social worker interventions. Direct interventions involve the social worker and the user coming face-to-face, with both present and acting. Indirect interventions are made in the absence of the user; the social worker is hence the only actor and the user is the beneficiary of their intervention. Direct interventions give rise to the empowerment of users and mediation is cited as a tool for their implementation. This 'mediating' function is identified as representing the interests of the individual as well as intervening in their favour vis-à-vis third parties; it would encompass other functions such as participating in the regulation of tense or dysfunctional social or family situations; negotiating on behalf of users with associations, institutions or public services; and acting as an interface between individuals and institutions, integrating their competing interests (De Robertis, 2007: 290).

But this traditional function must now be distinguished from professional mediation, understood as an intervention methodology that can be implemented by a highly diverse range of specifically trained professionals, including psychologists, social workers and lawyers, and which must be differentiated from the work involved in their original professions (Consejo General de Trabajo Social, 2014). Mediators are professionals who intervene as third parties in a dispute involving two or more parties in order for those parties to reach an agreement. This merely facilitative intervention, which is never in a decision-making capacity, is based on principles of impartiality, neutrality and confidentiality and the presence of users in mediation is always voluntary. Diverse techniques will also be used in this negotiation process, many of which are related to psychology, law and social work, although the objectives and methodology remain distinct from these professions (Blanco Carrasco, 2016).

Taking these elements as a starting point, this study analyses the opinions of mediation professionals and trainers with the fundamental aim of answering the question of whether mediation is an autonomous profession or a form of professional specialisation. In order to do so, the article first analyses the elements that the study participants believe are required to be able to understand mediation as an independent profession. Second, it analyses the elements that participants consider would prevent mediation from attaining the status of a profession. The article concludes by examining the proposals of these professional and expert respondents in terms of how to promote mediation as an autonomous profession.

## Methodology

A qualitative study was performed in order to achieve the above-outlined goals. The data analysed are the product of holding 17 in-depth interviews and three focus groups. The study participants came from eight countries: Belgium, Spain, Portugal, the United Kingdom, Italy, Sweden, Norway and Finland. In addition to the in-depth interviews carried out with 17 participants (E1–E17), a further 22 participated in the three focus groups (P1–P22), producing a total of 39 participants. The interviews were analysed using version 9 of the ATLAS.TI programme (E1–E17). Three different focus groups were convened (FG1, FG2 and FG3). Teachers and professionals, all of whom are mediators and members of the Complutense Mediation Institute, participated in the first group. The second involved social work teachers with mediation-related lines of research or training. The third group was made up of social workers with the exception of one participant and had no specific training in mediation.

The data obtained from the interviews and focus groups were analysed with ATLAS.TI version 9 software (E1–E17). For the discourse analysis, two essential categories were used, which were further divided into subcategories that yielded a total of 313 citations. The first category addresses the consideration of mediation as a profession and was divided into five subcategories related to profession and professionalisation, training, remuneration, professional association and professional identity. The second category analyses the relationship of mediation with other professions, and within it four subcategories were obtained: confidentiality, impartiality and neutrality, the use of mediation techniques versus professional mediation and confusion with other professions.

Spanish participants made up 51.2 percent of respondents, followed by 17.9 percent of English and 12.8 percent of Portuguese nationality. Women comprised 74 percent of participants (29), as against 25.6 percent who were men (10). The average age of the sample was 51.2 years; specifically, 20.5 percent of participants were aged between 40 and 45 years, with the same percentage aged between 50 and 55 years. In addition, 17.9 percent were senior participants, aged over 60 years and with around 25 years of professional experience.

The main aim of this study is to offer an interdisciplinary view, for which reason professionals from various fields were involved. However, the intention was to place particular weight on social work and 41 percent of study participants were social workers. Over half of interviewees (58.9%) had some experience of acting as mediators, of whom 38.4 percent were professionally dedicated to mediation, while 28.2 percent were fundamentally teachers but engaged in some form of mediation on a sporadic basis. The area of intervention or specialisation of almost half of the interviewees was family-related (48.7%), followed by interdisciplinary and community mediation (30.7% and 10.2%, respectively).

## Results

### *Profession or specialisation: Negotiation is not mediation*

The participants did not find it easy to answer the main question in this study. Most believe that mediation does not have sufficient substance to be considered a profession, with 48.7 percent of

interviewees considering that it is not currently and will not be in the future, as opposed to 17.9 percent who believe that while mediation is not currently a profession, the circumstances might arise in the future for it to become one. Meanwhile, 33.3 percent answered that they did not know or did not answer the question, at least not directly.

Mediation can be a form of intervention, a range of skills or an intervention model that is applied in the framework of interventions in the context of one's original profession (E7, E17 and FG2). This was fundamentally highlighted by social workers, who interpret mediation as part of their intervention as social workers:

For me, mediation is a social work tool and not a profession; I don't believe mediation can be a profession because it lacks the elements to construct a profession, which is built on the basis of a specialisation in professional intervention. (FG2)

Others believe that mediation is a specialisation for certain professionals, who perform interventions that are different from those of their original professions, but that it does not reach the category of a profession in and of itself (E2, E9, E10 and E17):

What I think is that mediation is a specific methodology, an intervention methodology that has models, principles, tools – well, a whole range of circumstances that make it different from other equally important and relevant intervention methodologies. (E16)

I understand mediation as a practice, as an intervention and as an intervention that is highly defined and perhaps very different from other kinds of interventions, because it is an intervention that has been arrived at from other base professions and base training, and also from many experiences in which there was almost no training. So you say, well, how can we make this kind of practice compatible, since we can get there by different routes? I come back to the idea that it is a specialisation, I don't see it as a profession either now or in the future, and so the idea of a professional association doesn't fit, although maybe instead there could be strong associations to promote it. (P1 in FG1)

Many professions have functions, including negotiating or attempting to reach agreements, but they are not necessarily engaging in mediation as a result. It is important to distinguish the negotiation that takes place in the context of interventions from other professions from the mediation that takes place in an autonomous form and independently from these other original professions.

Lawyers stand out among the professions that include negotiation as part of their interventions. Study participants insisted that their approach to negotiating was completely different from the scope and approach of mediation. For lawyers, the function of mediation is understood as being to push, with an admission that there is sometimes a degree of 'manipulation' or even a threat of a greater evil. In this regard, E2 stated that 'I sometimes try a little sneaky blackmail . . . in the end, all the court can say is that if you don't move, the court will make a decision'. In the opinion of the participants, the majority of lawyers consider mediation to be part of their work, but in reality they confuse negotiation and mediation. Participants highlighted the difficulties posed by codes of professional conduct, including, for example, the fact that it is difficult for a lawyer to be able to represent the interests of all those involved in a dispute (E1, E4 and E9).

Mediators have to intervene when there is a conflict and with the fundamental aim of achieving an agreement (E1, E5 and E8). This distinguishes them from other professionals who might use the same techniques but intervene on a broader scale. Psychologists provide an example of this: they do not pursue agreements (at least not necessarily), but rather an intervention that improves patient well-being, in addition to emphasising that psychological intervention is more prolonged since it has broader objectives (E10 and E11). The same is true of social work interventions, where a

possible negotiation is framed within the context of a broader intervention; there may be a previous or subsequent intervention, with different objectives and a different context. This is a fundamentally different task of support and assistance in a situation involving difficulty (E15). It is what some participants identify with the social work 'outlook' or 'position':

As a social worker, I'm in an office with a parent and a child mediating because they're killing each other, right? Well, I was using interview and mediation techniques as a tool for my work, but my aim wasn't for them to make decisions, for them to listen to each other – not at all. My concern is the treatment of the child; I mean, I can use mediation techniques as a tool, can't I? Like I use psychology techniques and I'm not treating them, right? Absolutely – I mean, any social worker can do that. And it's a different matter for me to do mediation. I'd have to be a mediator then . . . When you distinguish and say right, I'm going to mediate from a social work perspective or from the perspective of a mediation professional – what is that perspective? What is that outlook? How is it different? (E14)

Another distinction is the mediator's role; rather than being figures of authority or experts, mediators are facilitators (E3, E6 and E14). Participants emphasised the importance of the principles that should guide mediators in their actions, fundamentally neutrality and impartiality, which help to distinguish mediators' interventions from those of other professionals. The distinction from professions such as psychology or law is simple insofar as they play more of a steering or expert role, where neutrality and impartiality are either not applied or understood differently:

There are lots of differences, of course, they're very different processes. Therapy, for example, doesn't have the whole issue of the structure, papers, documents, does it? None of that is present. Nor is the question of neutrality. It's far more managerial. Therapy is managerial in the sense that your aim would be to change the person's belief system or behaviour, but it's going to be based on your recommendations, your guidelines, your prescriptions. It wouldn't have anything to do with the mediation process, which would be more a matter of facilitating things, providing guidance, right? Not saying exactly what you have to do, that would be the fundamental difference. (E11)

However, it appears more difficult to distinguish mediation from social work interventions. Participants emphasise the need to distinguish the two, with a majority of interviewees highlighting the principles guiding their interventions. The majority of interviewees maintain that social work interventions are not always neutral and impartial (E14 and E15):

Are social workers neutral or impartial? No, it's not possible. No, because the thing is that you always have protected parties, whether minors or adults. Whoever you're seeing, of course. You know, you can't be neutral . . . Of course, if they're being harmed by someone else; then what you're going to do is defend those rights. And try to help them in some way. If you're in social services, there's always going to be someone or a full group to protect. (E12)

Social workers are seeking social justice, they have to take the side of the weak; mediators are seeking agreements, so they have to be neutral. (P17 in FG3)

Neutrality is the essential principle in mediators' interventions and it is hence necessary to be particularly careful with the image of neutrality that is offered to users. The defence of this neutrality and impartiality has led to mediation models in which mediators cannot make any proposals, such as in the United Kingdom (E1, E3 and E5). However, for some participants neutrality cannot be identified with the idea of 'not doing anything'; they maintain that mediators can make proposals that help users to break an impasse. There is no doubt that this is a difficult point in

interventions, but neutrality is not incompatible with the possibility of making proposals; rather, the manner in which they are made is what can harm the process:

It is also true that I believe that in mediation, in practice, it's not so – how can I put it – mediators don't have this role in which they don't actually contribute anything. You can provide information, you can give opinions, you can say things based on your experience . . . because you wouldn't be contributing anything otherwise, would you? Based on your experience of what other families have done, but that's not the same as telling them, 'in your case you should do this, or what you're saying is going to be. . . .' Well, you can let them know, but instead of saying it so directly, you say it in a far more subtle way. You have to raise it so that it occurs to them. That's the idea. (E11)

Well of course I don't go, but when you're talking about mediation it's always said that you can't make suggestions or give information. Well, I think that in mediation processes we do have to give something; the aim is to achieve an agreement, I have to give information or at a certain point I have to say, look, I don't know if this would be useful to you, but sometimes it's been useful to other people. Not imposing, but when these people don't have the choices, I produce the options. (E15)

The study participants also emphasise the importance of the process, the working methodology that defines the difference between various professions even though they might share the same techniques:

Yes, it's the most well-known; above all the word is well-known, but I'm telling you that the process is very obscure, lots of people think that mediation – I'm not talking about professionals, but the users too – for example, they call couples therapy mediation too sometimes, so mediation is the best-known term, but I don't know, I don't think it's . . . the actual process, say, I don't think it's so well-known. (E10)

### *Training: The suit does not make the person*

One of the main difficulties to which the interviewees referred was that of some professionals having to change their approach – despite having training in mediation, they would continue to lead a negotiation along the lines of their original profession. The current training required to become a mediator does not facilitate a paradigm shift in the style of professional interventions, which has a highly negative impact on the quality of mediation and on how it is perceived by users and other professionals:

I think that there are lots of lawyers and many psychologists and social workers who cannot be mediators, because they're not capable of changing their role and so they end up doing exactly the same thing; in other words, their mediation training is a form of whitewashing, right? Of saying now I do mediation too, but they don't end up understanding the difference of the role. I've seen that in lawyers but also in psychologists, who say well, the thing is that I don't see the difference. That's when I say that perhaps they shouldn't be mediators, because it's true that it's different, and I think there are professionals who don't see that . . . As there is so little regulation in mediation, too, that means the professional can't truly be immersed in what mediation is; instead you're doing a 100-hour course, which is completed very quickly, with no kind of practical experience; how do we expect that the professional is going to change? They're going to keep doing the same thing. So I think that, for example, there are lots of mediators who are negotiators, but they already were before; that's why they say mediation already existed in substance. No; mediation is something new compared to that, the problem is that you're still doing the same thing. (E10)

The legal profession was highlighted as one for which this change of approach is particularly difficult (E8, E10, E11, E13 and E16):

Another of my great concerns, for example, is that some lawyers say they are doing mediation . . . and I usually say no, they're not doing mediation: just like a mediator who is a lawyer is not advocating, a mediator who is a teacher is not teaching, and so on. To make things clear, we're saying that I can't do mediation when I dress as a barrister. (E17)

And lawyers who have come to practise here say well, this can be settled with a claim. So should we close our doors? (E13)

The interviewees were asked about whether there is a profession that particularly lends itself to becoming a mediator. All the professionals from different social work areas considered that the original profession did not provide better or worse training as a mediator. However, most interviewees whose original training was in social work believed that it provided a particularly suitable background for being a mediator (E5, E12, E14, E16, P12 and P13 in FG2):

When I was training as a mediator, lots of what I was told, techniques and skills – I recognised them, they're used in social work, like they might also be used in psychology, but they weren't unknown to me, I recognised them, although the setting is different. (E15)

A significant proportion of interviewees argued that the complexity of certain areas makes it appropriate for mediators to be lawyers in those areas or for the mediator to have significant training in legal aspects; this was particularly emphasised in the case of family conflicts (E4 and E13):

The mediations I have been involved in were done by lawyers, because we were lawyers and it was a legal case. So I'd go to a lawyer. They were commercial disputes, so you wouldn't go to a psychologist or a social worker for a commercial matter . . . One thing that is always debated is the extent to which you need to be a specialist in the area. In legal disputes it tends to come down to credibility, to talking the language. If it's a commercial dispute, a lot of the work comes from disputes over construction; there's a whole contractual language. You can't put a social worker there. It's not that they necessarily do better in the mediation, it just means that they can talk about what they're being told and work with it. They understand the mentality. I suppose that's the thing, you have to fit in with the mentality of the people you're working with. (E7)

However, this 'need for specific knowledge' also produces criticism of a certain 'air of superiority' from lawyers with respect to other mediators. Some even expressed a feeling that in certain areas lawyers hoard the management of these conflicts, acting as a kind of lobby (E14):

The danger is that the idea and concept of mediation as a whole is assumed by the lawyers and there is little space for the existential part of conflicts, which would mean that the alternative dispute resolution model would lose part of its impact and power. If you look at Belgium, you can see that most mediators are lawyers who have done courses in family, social, civil or commercial mediation. They are lawyers and official mediators, well organised and a good pressure group, and have managed to introduce a new law on 'collaborative negotiation procedures' that allows lawyers – with that qualification and training – to resolve disputes at any point of the court proceeding when the judge makes the relevant order. So they're becoming stronger and more powerful when it comes to mediation; they're still doing the same work as they were before, but under the cover of mediation or collaborative negotiation. (E8)

Yes, I have the same feeling in Portugal. Of course they've established a lobby and they're going to continue. For example, I'm hearing about big law firms acting as conflict mediators, and so the mediators who are contracted to lead the processes are lawyers too and they don't accept it if the mediator has another basic profession. There are some movements too and we know this from some mediation meetings that

we're holding, movements in the sense that mediators are all lawyers, there are no mediators, they don't want to develop other mediators with different basic training. And you have to say that fortunately, for most mediators – many lawyers – that's unthinkable and unjustified. (E17)

### *Professional identity: Do-gooding and idealistic discourse*

The study participants considered that the profession of mediator does not yet have its own identity. Professionals do not feel that they were exclusively 'mediators' and users do not recognise mediation as having a distinct professional identity either:

I've noticed that as we've been introducing ourselves, each person has said they're a lawyer, or a psychologist . . . and presumably a mediator as well. P4 has told us that they're not a mediator but [P4 is heard stating that they are a conflict resolution researcher], but one way or another we have all introduced ourselves as if our profession, what we do, is one thing and then we're mediators. (P5 in FG1)

People who come say that they have an appointment with the lawyer. It's very unusual for them to say they're coming for mediation. (E13)

On some occasions, this identity is linked to the idea of a professional association. Many interviewees stated that mediation would not be a profession until it had a professional association (E14, E15, E17; P8 in FG1):

Mediation won't be a profession until it has a professional association. Of course, the thing is that as a social worker I feel protected. Apart from the fact I've worked in institutions within the region of Madrid, if something happens to you, there are people who are behind you; I mean, if you have an association with strong needs it's true that there's a negative aspect, which is that they clip your wings a bit, don't they? You know, you can't do whatever you want, but you need . . . So with a professional association and a code of conduct, it'll be a profession. (E14)

However, particular emphasis was placed on the idea that mediation is surrounded by a 'halo of goodness' that to an extent prevents this activity being located in the everyday reality of professional practice. The study participants interpreted mediation as not merely a form of intervention but as a 'philosophy for life' (E17, E2 and E12), an instrument for bringing about a culture shift, to transform societal conflict management into a more collaborative model (E8, E12, E14, E15):

My students and other people often cite me saying that mediators have to have belief in mediation, because it's a culture where if you don't believe in it you're not going to be a good mediator, and persistence. I think it's usually important to add the characteristics of belief and persistence to the others that are important to be a mediator. (E16)

However, interviewees also stated that an unwavering belief in the idea of mediation has led to a notion that it is an all-encompassing panacea. This represents an excess of confidence that may be one of the obstacles to developing the profession:

I have experienced mediation being sold as a kind of panacea and the legal field saying it will be fantastic, the courts are overloaded and the time will definitely come when mediation is used to decongest the courts. And we saw the mediators getting rich. So if think that what mediation could do has been sold in an unrealistic way, and maybe this is what is causing a slightly pessimistic tone when we talk about this topic. (P6 in FG1)

Of course we're idealistic, we're foolish, and I don't know if this is one of those proactive moves that we discussed against mediation, I don't think that there are any bad intentions, but it certainly doesn't help us to be seen as valuable professionals. (P11 in FG1)

Sometimes there's an expectation, a feeling that there are very illusory and fantastical expectations but when it comes to taking a firm step forward, I don't know . . . it's like people are too naive, very innocent; that's my view, without wishing to be hurtful. But I have the feeling that it's a culture of wonderful intentions, but things are different for people in the end. (P4 in FG1)

A lack of demand is identified as a further problem preventing professionals from practising exclusively as mediators and being able to make a living from this activity. Generally, mediators are forced to combine the role of mediation with that of their original profession – lawyer, psychologist or social worker (E10, E8 and E17). E3 clearly expressed this, noting that there were insufficient opportunities for paid mediation in Spain to support a professional model.

Mediation in the context of parental conflicts takes place across all countries today and is predominantly free-of-charge. However, professionals and trainers believe that the receipt of remuneration for services provided is essential in order to 'professionalise' the activity and lend it prestige (E1, E3, E8, E9, E10, E17 and P2, P4 and P11 in FG1):

The activity I know of is free. And I don't agree with it being free-of-charge. Because you realise that sometimes people don't value what they don't pay for. We have always talked about the topic of free justice, right? Well, just like free justice assesses if a person has a right, it should be the same in mediation, right? Those who have financial means should pay for it. (E9)

What has been said about charging something is fundamental, it defines you are professional. You know, you go to a psychotherapist and they have to charge you because if they do it for free then in the end it won't benefit them, it's devaluing. That's why I think that one of the things mediation has to do is for everything that is done to involve effort, and that effort is financially rewarded in these societies. (P4 in FG1)

Among other consequences, a lack of demand or remuneration has led mediators to focus on training as a source of income, which can be counter-productive insofar as more mediators are being trained to enter a job market in which there is very little demand:

I've observed lots of people who were dedicating lots of resources and time to dissemination . . . At this family support centre there are lots of very valuable people who have worked for free. So we turn to training because it's the only thing that brings in money, and so there's an over-supply of training, and then there's a paradox because the time that we're dedicating to training is not being dedicated to working out in public so that people get to know us and specifically ask for mediation when they ask for help. So yes, I think that we turn to training because of this lack of remuneration, I don't really know how to stop it, but it has been identified. (P11 in FG1)

## **Conclusion**

Studies such as the one presented here allow us to examine the reality of a professional activity that requires urgent decisions in order to avoid stagnation. There are numerous studies addressing mediation from a theoretical perspective, but few that analyse its status as a profession from the perspective of the professionals themselves and even fewer that do so from an international and interdisciplinary perspective.

The views of the professionals and trainers expressed in the interviews and focus groups allow us to affirm that mediation cannot currently be understood as a profession that is autonomous and independent from the professions from which mediators have originally come. It certainly fulfils some of the essential requirements to become a profession, such as solid training, a code of conduct and even a generally recognised social function. However, two essential elements are missing: demand and professional identity.

The lack of demand implies the absence of a broad client base and this means that the authority of mediators is not recognised either by citizens or by other professionals. This is why we have to emphasise the need for a culture shift so that citizens will resort to this alternative system before going to the courts, in the trust and conviction that it is better to have dialogue than litigation.

The lack of a professional identity is clear not only from a lack of recognition by other groups such as judges, magistrates, lawyers, psychologists and social workers and even users themselves, but also fundamentally from the impossibility of performing the functions of mediation on an exclusive basis owing to a lack of demand and remuneration.

This study supports the position of Costa e Silva that despite mediation being a potentially significant and innovative practice and regardless of attempts to grow it from within, the fact is that it has not achieved the affirmation or the recognition of having its own social and professional space. In this regard, it is not appropriate to refer to an ongoing process of confirmation of identity; this issue is a more prominent concern for those studying and researching mediation than for those performing mediation in practice. The results of this study confirm that this is the case.

Until mediators themselves have a real sense of belonging to a group that practises interventions differently from others, they will not be able to defend their work with the necessary forcefulness. In order for this to be possible, the groundwork will need to be done so that professionals can really change their outlook and engage in interventions that are unlike those characteristic of their original professions. The main concern revolves around the number of professionals who, despite their mediation training, keep doing the same things as before: this is perhaps one of the most important pieces in this puzzle. It has become clear that there is great confusion between the function of mediation or negotiation performed by certain professions as part of their own intervention methodology and mediation as an intervention performed by a different professional. This requires us to emphasise the need to distinguish between 'mediation techniques' that can be used by various professions and mediation as an autonomous intervention.

This confusion between the function of mediator and social worker is common in certain areas. As the participants repeatedly stated during this study, the isolated use by social workers of mediation techniques in the context of their interventions does not make them mediators. The distinguishing factor is not the techniques used, which are common to other disciplines. Rather, mediation is distinguished by the method in which we nest those techniques, the intervention aims and the principles that guide professionals and define, determine and distinguish their interventions.

Finally, it is striking that professionals have indicated a need to abandon idealistic discourse and be more realistic, assessing when and how they should intervene in mediation processes, even if this entails renouncing certain ideals. Among other things, this implies making a better assessment regarding which cases can be mediated, rejecting those that cannot and defending remuneration for a service that is offered by specially trained professionals.

### **Declaration of conflicting interests**

The author declared no potential conflicts of interest with respect to the research, authorship and/or publication of this article.

## Funding

The author received no financial support for the research, authorship and/or publication of this article.

## ORCID iD

Marta Blanco  <https://orcid.org/0000-0002-5000-7310>

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## Author biography

Marta Blanco, PhD, is Full Professor at UCM Madrid and was Family Mediator in Madrid City Council Social Services (2000–2007), Vice-Dean of International Relations (2011–2016) and Vice-Dean of Studies and Quality (2016–2018) at the Faculty of Social Work.