

Article 10 - Information on competent courts or authorities

Responsibility for receiving applications for a declaration of enforceability is dependent upon the nature of the mediation agreement. The enforceability of mediation agreements is governed by the ordinary rules.

This means that in Germany, mediation agreements may be enforced only as judicial or judicially approved settlements (*gerichtliche oder gerichtlich gebilligte Vergleiche*, Section 794(1)(1) of the Code of Civil Procedure (ZPO); Sections 86(1)(2) and 156(2) of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG); Sections 86(1)(3) and 36 FamFG) on the basis of enforceable notarial instruments (*vollstreckbare notarielle Urkunden*, Sections 794(1)(5) and 797 ZPO; Section 86(1)(3) FamFG, Section 794(1)(5) ZPO) or enforceable instruments from the Youth Welfare Office concerning maintenance (*vollstreckbare Urkunden des Jugendamtes über Unterhalt*, Section 59(1), first sentence, points 3 and 4, and Section 60 of Volume VIII of the Social Code (SGB)), or on the basis of settlements drawn up by lawyers and declared enforceable (*für vollstreckbar erklärte Anwaltsvergleiche*, Sections 794(1)(4b), 796a and 796b ZPO), or on the basis of enforceable settlements reached before recognised dispute resolution bodies (*vollstreckbare Vergleiche vor anerkannten Gütestellen*, Sections 794(1)(1) and 797a ZPO). Jurisdiction falls to the courts or notaries that have competence in accordance with the ordinary rules, or to the local court for the place where the dispute resolution body has its offices.

If the mediation agreement does not take an appropriate form, and is consequently not enforceable as it stands, the substance of the agreement must be brought before the court that has jurisdiction in accordance with the ordinary rules, which may then order its enforcement.

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