

1 Family Mediation Procedure

Family mediation is entirely voluntary in Spain and, to facilitate it in cases involving, inter alia, cross-border family mediation, general mediation legislation expressly allows it to be carried out by videoconference or other electronic means that allow voice or image transmission. The parties may go to mediation either before the start of the court proceedings or while they are ongoing, and even after they have been concluded, in order to change the outcome or to make it easier to enforce the court decision. If they do so before the proceedings and reach an agreement, the legal process is expedited because the parties go to a simplified procedure where both parties present the agreement to the Family Court (*Juzgado de Familia*), which approves the agreement if it is not contrary to the law or the interests of the minor or disabled children the couple may have. Likewise, if there are no minors or disabled children, the parties may also choose to present the agreement directly to a notary, who will record it in a deed, giving it the same effects as a court decision.

If the court proceedings have begun without the parties going to mediation, the judge, taking into account the circumstances of the case, may agree that the parties should go to mediation and the Family Court will refer them to a free information session. If they decide to go to mediation, the legal proceedings are not suspended, unless the parties request a stay of proceedings, and if an agreement is ultimately reached, it is approved by the court. However, if no agreement is reached or the parties did not want to use mediation, judgment is made on all those points on which the parties disagree.

Family mediation is not possible where there are proceedings for gender-based violence between the parties.

The information session is free, but the mediation itself involves a cost to be borne by the parties unless they qualify for legal aid. All the information about the content and requirements for obtaining legal aid is available at

<http://www.mjusticia.gob.es/cs/Satellite/Portal/es/servicios-ciudadano/tramites-gestiones-personales/asistencia-juridica-gratuita>

2 Profession of family mediator and access to a mediator

The mediator must have a university degree or higher vocational training and, in addition, must have specific training to practise mediation that is given in institutions accredited for that purpose.

There is no requirement to be registered in any register in order to be able to practise family mediation, but registers have been set up where mediators can register both at the national level (Register of Mediators and Mediation Institutions whose website is given below - *Registro de Mediadores e Instituciones de Mediación*) and at the level of the Autonomous Communities.

At the latter level, almost all the Autonomous Communities have created a public mediation service. For information about this, simply go to the mediation section of their institutional websites where they explain in varying degrees of detail how the mediation system works, regulate the Registry of Mediators, where there is one, with a link to it. The websites also usually have mediation request forms that refer to the specialised agencies they have set up to carry out the mediation.

In order to find a family mediator, you have to differentiate between whether mediation is to take place once the proceedings have started or independently of the proceedings. If mediation is requested once the proceedings have started, the relevant Family Court will refer the parties to the family mediation bodies attached to it, whereas if mediation is used before or outside the court proceedings, the party will have to seek a family mediator. The following sources of information may be useful:

- The Register of Mediators and Mediation Institutions at the national level referred to previously
<http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/mediadores-instituciones>
- The following institutions, suggested by the Ministry of Justice <https://remediabusador.mjusticia.gob.es/remediabusador/RegistroInstitucion>)
- The Mediation Services suggested for the provinces by the General Council of the Judiciary (*Consejo General del Poder Judicial*)
<http://www.poderjudicial.es/cgpj/es/Temas/Mediacion/Servicios-de-Mediacion-Intrajudicial/Mediacion-Familiar/>
- The Mediation Services set up by the different Autonomous Communities. The institutional websites of the Autonomous Communities usually contain information.

In addition to the above, more information on the family mediation procedure, the applicable legislation, the mediation services existing in the different Autonomous Communities and the relevant formalities are available on the website of the General Council of the Judiciary

<http://www.poderjudicial.es/cgpj/es/Temas/Mediacion>

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