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## Mediation in EU countries

### Estonia

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution measure, whereby a mediator helps those involved in a dispute to reach an agreement. The government and legal practitioners of Estonia are aware of the advantages of mediation.

#### Whom to contact?

Conciliation refers to the activities of a conciliator or conciliation body in civil cases. Conciliation is regulated under the Conciliation Act. The Conciliation Act was drafted to transpose Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters into Estonian law.

Under the Conciliation Act a conciliator may be any natural person whom the parties have asked to act as conciliator. Attorneys-at-law and notaries may also act as a conciliator. Under the specific Act the role of conciliator may also be assigned to a state or local government body.

A list of notaries can be found on the [website](#) of the Chamber of Notaries.

A list of attorneys-at-law acting as a conciliator can be found on the [website](#) of the Estonian Bar Association.

You can contact the following non-government organisations:

The [Estonian Association of Mediators](#) provides information in both Estonian and English.

The [Estonian Union for Child Welfare](#) is a non-profit association that supports children's rights. Its activities include giving advice to parents who wish to separate or divorce, encouraging them to use the services of conciliators in order to protect their children's interests. The Union has organised training sessions on the subject of family mediation.

The [Estonian Insurance Association](#) has set up an insurance mediator to deal with disputes between insurance holders and insurers or insurance brokers.

The Copyright Committee, established within the Ministry of Justice, is a conciliation body within the meaning of Section 19 of the Conciliation Act. The Committee deals with applications regarding measures to be applied to enable a work protected by copyright or subject-matter protected by related rights to be used freely in certain cases.

Under the Collective Labour Dispute Resolution Act, the parties have the right of recourse to the Public Conciliator in the event of a collective labour dispute (a dispute regarding the terms of a collective agreement). The Public Conciliator is an impartial expert who helps those involved in the labour dispute to reach a compromise. The Public Conciliator for collective labour disputes is Meelis Virkebau – e-mail: [meelis.virkebau@riikliklepitaja.ee](mailto:meelis.virkebau@riikliklepitaja.ee). You can find more information on the [website](#) of the Public Conciliator.

In some instances the mediator may be the Chancellor of Justice. Although the concept of 'ombudsman' is not used in the Chancellor of Justice Act, the Chancellor of Justice also performs the functions of an ombudsman, in monitoring whether government bodies comply with people's fundamental rights and freedoms and with the principles of good governance and also monitoring local governments, legal persons in public law and private entities performing public functions. Since 2011, the Chancellor of Justice has also performed the functions of the Ombudsman for Children under Article 4 of the Convention on the Rights of the Child and dealt with conciliation in discrimination disputes. You can find out more on the [website](#) of the Office of the Chancellor of Justice.

#### In what area is recourse to mediation admissible and/or the most common?

The conciliation process provided for in the Conciliation Act may generally be used to resolve any civil dispute involving conciliatory content. There is a conciliation procedure in civil cases where the dispute concerns a relationship in private law and is being examined by a county court. While there are no comparative statistics, it is likely that mediation is more common in the field of family law.

The Chancellor of Justice resolves disputes concerning discrimination where an individual files a declaration that they have been discriminated against on grounds of sex, race, nationality (ethnic origin), colour, language, origin, religion, political or other beliefs, financial or social status, age, disability, sexual orientation or other characteristics laid down by law. Mediators may also act in the event of an infringement of fundamental rights.

The Public Conciliator acts as conciliator in collective labour disputes.

#### Are there specific rules to follow?

Under Estonian law recourse to conciliation is generally voluntary. The rules governing conciliation and the conditions for enforcing conciliation agreements are laid down in the [Conciliation Act](#).

The **Estonian Code of Civil Procedure** has a special rule providing for conciliation by a judge in situations where a parent violates an order relating to contact with a child. According to Section 563 of the Code, on petition by one parent, the court may summon both parents to court in order to settle such a dispute by way of an agreement. The court summons the parents to appear in person and informs them of the potential legal consequences (fine or detention) of failing to appear.

The Code of Civil Procedure also provides that if the court considers it necessary in the interests of resolving the case given the facts of the case and the proceedings thus far, it may oblige the parties to take part in a conciliation process under the Conciliation Act.

The rules of procedure of the Estonian Insurance Association's insurance conciliator are available [online](#).

Conciliation through the Chancellor of Justice is regulated under the Chancellor of Justice Act. The resolution of collective labour disputes, the activities of the Public Conciliator and the rights and obligations of the parties involved in the process are regulated by the Collective Labour Dispute Resolution Act.

The specific features of the conciliation procedure conducted by the Copyright Committee are set out in the Copyright Act.

#### Information and training

Information on conciliators acting under the Conciliation Act, including notaries and attorneys-at-law, can be found on the websites of those acting as a conciliator. A list of notaries can be found on the [website](#) of the Chamber of Notaries. A list of attorneys-at-law acting as a conciliator can be found on the [website](#) of the Estonian Bar Association.

Information on the activities of the Chancellor of Justice in their capacity as Ombudsman for Children can be found on the Chancellor of Justice's [website](#).

Information on conciliation in discrimination disputes can also be found on the Chancellor of Justice's [website](#).

Information on the Public Conciliator's activities as a conciliator can be found on the [website](#) of the Public Conciliator.

Training for mediators is provided by the private sector (e.g. the Association of Mediators). There is no specific regulation on the training of mediators.

#### What is the cost of mediation?

Under the Conciliation Act conciliation is not free of charge; the cost of conciliation is subject to agreement between the mediator and the parties involved.

In cases where a court has proposed that parties to proceedings refer to a conciliator or has ordered the parties to follow the conciliation procedure provided for in the Conciliation Act, any party who is unable to afford the costs of the conciliation procedure or can afford them only partially or by paying in instalments may apply, as a form of legal aid, to be partially or fully released from the costs of the conciliation proceedings at the expense of the Republic of Estonia. If the Chancellor of Justice acts as conciliator, no fee is payable. However, there may be additional costs connected with the conciliation process. The Chancellor of Justice decides who is to bear these costs.

The resolution of collective labour disputes by the Public Conciliator is also free of charge. The costs arising from the resolution of a collective labour dispute are borne by the guilty party or split by common agreement between the parties.

The Estonian Insurance Association's contracting authority charges an administrative fee of €50 and the insurance conciliator a maximum fee of €160. With social security contributions and unemployment insurance contributions, this makes a total of €214.08. If conciliation is unsuccessful only half the insurance conciliator's fee is payable.

#### **Is it possible to enforce an agreement resulting from mediation?**

Under the Conciliation Act, the agreement concluded as the result of a conciliation process is enforceable after the appropriate procedure to declare it enforceable has been carried out on the basis of an application (Sections § 6271 or § 6272 of the Code of Civil Procedure). A notary may also declare enforceable a conciliation agreement concluded as the result of a conciliation process by a notary or attorney-at-law in line with the rules laid down in the Notarisation Act. The special rules governing the enforceability of agreements on the procedure for contact with a child are laid down in Section 563 of the Code of Civil Procedure.

Any agreement concluded as the result of a conciliation process approved by the Chancellor of Justice is enforceable.

An agreement reached through the Public Conciliator to resolve a collective labour dispute is binding on both parties and is valid from the date on which it is signed, unless another deadline for entry into force is agreed upon. However, this type of agreement does not constitute an enforceable title.

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