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Greek

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## Mediation in EU countries

### Greece

Rather than going to court, why not solve disputes through Mediation? It is a form of alternative dispute resolution (ADR) where a mediator assists disputants in reaching an agreement. The Greek government and justice practitioners are attentive to the advantages of mediation.

#### Who to contact?

Mediation services in Greece are provided by the following bodies:

Under Law 3898/2010 (Government Gazette, Series I, No 211, 16.12.2010), which transposes Directive 2008/52/EC, a mediator must be a specially certified lawyer. The Mediator Certification Board (*Επιτροπή Πιστοποίησης Διαμεσολαβητών*), created by the above Law, operates under the Ministry of Justice, Transparency and Human Rights and is responsible for certifying mediators. A mediator is certified after passing an examination before an examination board composed of two members of the Mediator Certification Board and one judicial official. The Legal Profession and Bailiffs Department (*Τμήμα Δικηγορικού Λειτουργήματος και Δικαστικών Επιμελητών*) of the Directorate-General for the Administration of Justice of the Ministry of Justice, Transparency and Human Rights is responsible for certifying mediators and issuing administrative acts required for certification. The Department also ensures that tables of licensed mediator training organisations and of certified mediators are drawn up and distributed to courts. Lists of certified mediators may be found on the website of the [Ministry of Justice, Transparency and Human Rights](#).

The **Ministry of Labour, Social Security and Welfare** provides a government service which allows an employee to request an official hearing on an employment-related dispute. The procedure is conducted by the Labour Inspectorate (*Επιθεώρηση Εργασίας*). A specialised inspector will schedule a hearing for the employer to explain its position. This hearing is separate from any judicial procedure.

The **Consumer Ombudsman** (*Συνήγορος του Καταναλωτή*) is an independent authority for the protection of consumer rights, operating under the Ministry of Regional Development and Competitiveness. The Ombudsman is an extrajudicial body for the consensual resolution of consumer disputes and an advisory institution acting alongside the government to resolve problems within its remit. The Ombudsman also oversees the [Amicable Dispute Resolution Boards](#) (*Επιτροπές Φιλικού Διακανονισμού*) of the local Prefectural Councils (*Νομαρχιακές Αυτοδιοικήσεις*), which may act if no parallel judicial procedure is taking place.

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

Mediation is provided:

- for civil and commercial cases;
- in the field of labour law and for the resolution of consumer disputes, as described above;
- for victims of domestic violence (Law 3500/2006); and
- for certain offences as provided for in Law 3094/2010.

#### Are there specific rules to follow?

Greece has transposed [Directive 2008/52/EC](#) by means of Law 3898/2010 (Government Gazette, Series I, No 211, 16.12.2010).

Under the above Law, private legal disputes may be subject to mediation with the agreement of the parties, if they have the power to dispose freely of the subject of dispute. An agreement to submit a dispute to mediation may be proven by means of a document or by the records of a court before which the dispute is pending, and is governed by material contract law.

Mediation is possible if: (a) the parties agree to mediation before or after legal proceedings; (b) a court where the case is pending calls on the parties to submit to mediation, taking account of all aspects of the case; subject to agreement by the parties, the court must then defer discussion of the case for three to six months; (c) a court in another Member State orders mediation; (d) mediation is required by law.

Decision 109088 of the Minister for Justice, Transparency and Human Rights: (a) establishes the specific terms and conditions for certifying mediators and the procedure for having certification recognised in another EU Member State; such recognition and temporary or definitive loss of certification require the prior consent of the Mediator Certification Board; (b) establishes a Code of Ethics for certified mediators; (c) lays down the specific conditions for applying penalties for violation of the Code of Ethics; these penalties, which require the prior consent of the Board, consist in temporary or definitive loss of certification; and (d) specifies all other relevant matters.

In the mediation process, each party or its legal representative appears with its lawyer.

A mediator is appointed by the parties or by another person of their choice.

The mediation process is determined by the mediator in agreement with the parties, which may end the process at any time. The mediation process is confidential, with no records kept of discussions. A mediator may contact and meet either party as part of the mediation process. A mediator may not pass on information obtained during a meeting with one party to the other without the consent of the first party.

A person proposed as mediator is not required to agree to the appointment. During mediation, a mediator may be held liable only for intent to deceive.

A mediator draws up a record of the mediation process, which must include:

- (a) the mediator's full name;
- (b) the place and time of mediation;
- (c) the full name(s) of anyone taking part in the mediation process;
- (d) the agreement under which mediation took place;
- (e) the agreement reached by the parties during mediation or confirmation of failure to reach an agreement, as well as the reason for the dispute.

After mediation, a mediation record is signed by the mediator, the parties and their lawyers. At the request of at least one of the parties, the mediator ensures that the original record is deposited with the secretariat of the single-member court of first instance of the region where the mediation took place. This requires payment of a fee, the base and adjusted amount of which have been established by a joint decision of the Minister for Finance and the Minister for Justice, Transparency and Human Rights. If mediation fails, the mediation record may be signed by the mediator alone.

Once deposited with the secretariat of the single-member court of first instance, the mediation record is an enforcement order as provided for in Article 904(2) (c) of the Code of Civil Procedure if it includes an agreement between the parties on an enforceable demand.

#### **The practical application of alternative dispute resolution (ADR)**

The only ADR mechanism which can be considered operative in Greece is **arbitration**:

According to articles 99 ff. of the Greek Bankruptcy Code, a mediator may be appointed to a transaction procedure upon request by a natural or legal person to the bankruptcy court (*πτωχευτικό δικαστήριο*).

The bankruptcy court determines the validity of the request and may appoint a mediator from a list of experts. **The mediator's role is to use all appropriate means to achieve an agreement between the debtor and a (legally defined) majority of the creditors, in order to ensure the survival of the debtor's business.**

A mediator may ask a credit or financial institution for any information regarding the debtor's economic activity which could be useful for the success of the mediation process.

If no agreement can be achieved, the mediator immediately informs the president of the court, who initiates proceedings before the bankruptcy court. The mediator's role ends here.

#### **Information and training**

The Mediator Certification Board is responsible for certifying mediators, ensuring that mediation training organisations comply with requirements, ensuring that certified mediators comply with the Code of Ethics and recommending legally established penalties to the Minister for Justice, Transparency and Human Rights.

Mediation training may be provided by a not-for-profit company comprising at least one bar association and at least one of the national chambers and operating under a licence from the Legal Profession and Bailiffs Department of the Directorate-General for the Administration of Justice of the Ministry of Justice, Transparency and Human Rights, upon a recommendation from the Mediator Certification Board. Presidential Decree 123/2011, issued upon a proposal from the Minister for Justice, Transparency and Human Rights, the Minister for Finance, the Minister for Competitiveness and Shipping and the Minister for Education, Lifelong Learning and Religious Affairs, established the specific terms and conditions for the licensing and operation of mediation training organisations, the content of curricula for initial and ongoing training, the duration of training, the place of training, the qualifications of trainers, the numbers of participants and the penalties to be applied to any training organisation failing to comply with the requirements. The penalties consist in a fine or temporary or definitive loss of an operating licence. The criteria for selecting and applying penalties will be defined in the above Presidential Decree. To obtain an establishment licence, a training organisation must pay a public fee, the base and adjusted amount of which have been established in a joint decision by the Minister for Finance and the Minister for Justice, Transparency and Human Rights.

The Ministry of Justice, Transparency and Human Rights uses all appropriate means, in particular the Internet, to inform the public of ways to access mediation.

#### **What is the cost of mediation?**

Mediators receive an hourly fee for a maximum of 24 hours, including preparation time. A mediator may agree on a different means of remuneration with the parties to a dispute. A mediator's fee is shared equally between the parties unless otherwise agreed. Each party pays its own lawyer's fees. The base and adjusted maximum hourly fee for mediation is established by a decision of the Minister for Justice, Transparency and Human Rights.

#### **Is it possible to enforce a mediated agreement ?**

After mediation, a mediation record is signed by the mediator, the parties and their lawyers. If at least one of the parties so requests, the mediator ensures that the original record is deposited with the secretariat of the single-member court of first instance of the region where the mediation took place. This requires payment of a fee, the base and adjusted amount of which have been established by a joint decision of the Minister for Finance and the Minister for Justice, Transparency and Human Rights. If mediation fails, the mediation record may be signed by the mediator alone.

Once deposited with the secretariat of the single-member court of first instance, the mediation record is an enforcement order as provided for in Article 904(2) (c) of the Code of Civil Procedure if it includes an agreement between the parties on an enforceable demand.

A legally initiated mediation process suspends the time-barring period and the limitation period for demands until complete. Subject to Article 261 ff. of the Civil Code, suspended time-barring and limitation periods resume once a record of failed mediation is drawn up or one of the parties serves the other party and the mediator with a notice or other act ending the mediation process.

Under Article 10 of Directive 2008/52/EC, requests should be submitted to the secretariat of the single-member court of first instance of the region where mediation took place, which is the competent authority (as provided for in Article 6(1) and (2) of the Directive).

#### **Related links**

[Athens Bar Association](#)

[Ministry of Labour, Social Security and Welfare](#)

[Consumer Ombudsman](#)

[Ministry of Justice, Transparency and Human Rights](#)

[Hellenic Centre for Mediation and Arbitration](#)

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