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### Tarpininkavimas ES šalyse

Tarpininkavimas nėra vienodai išplėtotas valstybėse narėse. Kai kuriose valstybėse narėse taikomi išsamūs teisės aktai dėl procesinių tarpininkavimo taisyklių. Kitose teisėkūros organai neteikia didelės reikšmės tarpininkavimo reglamentavimui. Vis dėlto yra valstybių narių, kuriose yra susiformavusi nuosekli tarpininkavimo kultūra, iš esmės grindžiama savireguliacija.

Vis daugiau ginčų perduodama teismui. Todėl tai lemia ne tik ilgesnį laukimo, kol bus išspręsti ginčai, laiką, bet ir tokias padidėjusias teises išlaidas, kurios dažnai gali būti neproporcingos ginčo vertei.


Daugeliu atvejų tarpininkavimas yra greitesnė ir todėl paprastai už įprastą teismo procesą pigesnė procedūra. Tai itin būdinga šalims, kurių teismų sistema pasižymi dideliu neišnagrinėtų bylų skaičiumi, o vidutinis teismo procesas užtrunka kelerius metus.

Dėl šių priežasčių visoje Europos Sąjungoje, nepaisant tarpininkavimo sričių ir metodų įvairovės, vis labiau domimasi šiuo ginčų sprendimo būdu kaip alternatyva teismo sprendimams.

### Spustelėjus kurios nors šalies vėliavą, bus pateikta išsami tos šalies informacija.

Paskutinis naujinimas: 18/01/2019

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### Mediation in Member States - Belgium

Rather than taking legal action, why not resolve a dispute through mediation? This is an alternative form of dispute resolution in which a mediator helps the parties to reach agreement. In Belgium the Government and the professionals recognise the benefits of mediation.

#### Who to contact?

The **Federal Mediation Commission**.

While it does not itself conduct any mediation, the Federal Commission regulates the profession and keeps an updated list of accredited mediators.

The Commission secretariat provides information in  Dutch and  French. It may be contacted via  e-mail and at the following address:

#### FPS Justice

Commission fédérale de médiation

Rue de la Loi, 34

1040 Bruxelles

Tel: (+32) 2 224 99 01

Fax: (+32) 2 224 99 07

The Federal Mediation Commission guarantees (through mediator accreditation) the quality and development of mediation.

The **List of Mediators** is available in  Dutch and  French.

#### In what areas is recourse to mediation admissible/the most frequent?

Mediation is **admissible** in:

Civil law (including family disputes);

Commercial law;

Employment law;

Victim-offender and restorative mediation also exists but these areas do not fall within the jurisdiction of the Federal Mediation Commission.

The **most frequent** area of mediation is civil law, and more specifically family matters.



#### What are the rules to follow?

Recourse to mediation is a **voluntary choice by the parties**, and there is no penalty if it fails.

Under the recent provisions of family law, the judge is required to inform the parties of the existence and potential of mediation.

There is a **'Code of Conduct'** for mediators, available in  Dutch and  French.

#### Information and training

A **large amount of information** is available on the Internet site in  Dutch and  French, outlining the various aspects of mediation (how mediation is conducted, cost, addresses, etc.).

#### Professionals' corner

This part of the Internet site outlines the **accreditation criteria and training requirements** for mediators.

The Federal Mediation Commission has regulated mediator training but training itself is provided by the private sector.

The programme comprises a common core of 60 hours, divided into at least 25 hours of theoretical training and at least 25 hours of practical training.

The **common core** covers the general principles of mediation (ethics/philosophy), study of the various **Alternative Dispute Resolution Methods**, applicable law, the sociological and psychological aspects and the process of mediation.

The **practical exercises** cover the subjects in the programme and, through role-play, develop negotiation and communication skills.

In addition to this common core, there are programmes specific to each type of mediation (at least 30 hours, freely divided between theoretical and practical training time).

There are specific programmes in family, civil and commercial, and community mediation.

#### Accreditation criteria

Mediator accreditation criteria,

Instructions on submitting an application for mediator accreditation based on the Act of 21 February 2005.

A checklist for applying for mediator recognition (Word)

#### Training criteria/continuing training

Basic training

The Decision of 1 February 2007 establishing accreditation requirements and procedures for training centres and for training of accredited mediators (PDF)

The mediator training bodies accredited by the Federal Mediation Commission

Continuing training

The Decision of 18 December 2008 defining the obligations of accredited mediators with regard to continuing training and the accreditation criteria for programmes in this field

#### Code of Conduct

The Code of Conduct for accredited mediators (Word)

#### Handling of complaints

The Decision on the procedure for withdrawing accreditation, the determining of sanctions resulting from the Code of Conduct and the procedure for applying these sanctions

#### What is the cost of mediation?

Mediation is not free of charge. The mediator's **fees** are **agreed** between the private mediator and the parties. The law does not regulate them. Generally, each party pays half of the fees.

It is possible for a party to obtain **aid** to pay a mediator's fees if that party's income is modest and provided that the mediator is accredited.

#### Is it possible to make an agreement resulting from mediation enforceable?

According to [European Directive 2008/52/EC](#), it must be possible to request that a written agreement resulting from mediation be enforced. The Member States indicate which courts or other authorities are competent to receive such requests. Belgium has not yet provided this information.

However, in conformity with Articles 1733 and 1736 of the Judicial Code, it is possible to have the mediation agreement approved by a judge, which makes such an agreement authentic and enforceable. In terms of form, the agreement then becomes a judgement.

There is an alternative to approval. It is possible to have the mediation agreement made into a notarial instrument by a notary. In this way the agreement is also made authentic and enforceable without recourse to a judge. This option is only possible with the agreement of all of the parties.

#### Related Links

[Federal Public Service Justice](#)

[Federal Mediation Commission](#)

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#### Mediation in Member States - Bulgaria

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

#### Who to contact?

The **Ministry of Justice of Bulgaria** has established a register of mediators as part of the central register of non-profit corporate bodies offering useful public services.

The website of the [Ministry of Justice](#) provides access to:

A [list of mediators](#)

Private organisations which train mediators

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

Mediation is admissible in many areas of law. However, these areas are not regulated or limited by legislation. Up until now, most registered mediators have specialised in commercial and business mediation.

#### Are there specific rules to follow?

Mediation is entirely voluntary. Although mediation provides an alternative means of resolving a dispute without going to court, it is not a prerequisite when initiating court proceedings.

There is no specific code of conduct for mediators. However, provisions on ethical standards are contained in the Law of Mediation and Regulation No. 2 of 15th March 2007, which sets out the conditions and process of approving organisations that provide mediation.

#### Information and training

Organisations that offer training to mediators are from the private sector.

Training seminar topics include legal proceedings and ethical rules for the conduct of mediators, as well as the procedure set out in the **Law of Mediation and Regulation No. 2 of 15th March 2007**.

#### What is the cost of mediation?

Mediation is not free of charge; **payment** is subject to agreement between the mediator and the parties involved.

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

According to [Directive 2008/52/EC](#) (to encourage and facilitate mediation as an alternative form of resolution of cross-border disputes in the EU), it must be possible to request that the content of a written agreement resulting from mediation be made enforceable.

Member states will communicate this to the courts and other authorities competent to receive such requests.

#### Related Links

[Register of mediators](#)

[Register of mediators \(search\)](#)

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Jis jau išverstas į šias kalbas.

## Mediation in Member States - Czech Republic

Rather than going to court, why not resolve disputes through mediation?

This is a form of alternative dispute resolution (ADR), whereby a mediator helps the parties to the dispute to reach agreement. The advantage of using mediation is the time saved by using this form of dispute resolution (compared to a lengthy court case) and, frequently, a financial saving (compared to the costs of a court case).

### Whom to contact

The [Probation and Mediation Service](#) of the Czech Republic is the centralised body responsible for mediation as a means of dealing with the consequences of a criminal offence between the offender and the victim in criminal proceedings. The **Ministry of Justice** has responsibility for this service. For mediation in civil law matters, you can contact one of the mediators offering that service. Contacts for mediators working in the Czech Republic may be found on various websites by entering the search term 'mediation'.

A list of mediators may be found, for example, on the websites of the Czech Mediators Association, the Czech Bar Association and the Union for Arbitration and Mediation Procedures of the Czech Republic. Contacts for the Probation and Mediation Service of the Czech Republic, acting within the remit of the relevant district courts, may be found on the Service's website. A list of mediators registered in accordance with Act No 202/2012 on mediation, held by the Ministry of Justice, is to be published shortly.

A number of other non-governmental organisations (NGOs) and entities work in the area of mediation.

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

Mediation is admissible in every area of law, except where it is excluded by legislation. This includes **family law**, **commercial law** and **criminal law**. According to the Code of Civil Procedure, the presiding judge may, if practical and appropriate, order the parties to proceedings to hold an initial three-hour meeting with a mediator. In such cases, proceedings may be suspended for up to three months.

### Are there specific rules to follow?

Yes, mediation is now governed both by Act No 202/2012 on mediation and, in the area of criminal proceedings, by Act No 257/2000 on the Probation and Mediation Service of the Czech Republic.

### Information and training

A registered mediator acting in accordance with Act No 202/2012 must successfully complete a professional examination before a commission appointed by the Ministry of Justice. A mediator acting within the remit of the Probation and Mediation Service in accordance with Act No 257/2000 must successfully complete a qualifying examination.

The training of mediators acting within the criminal justice system is ensured by the Probation and Mediation Service; training in the area of non-criminal mediation is offered by a range of bodies and educational institutions.

### What is the cost of mediation?

Mediation provided by the Probation and Mediation Service is free of charge, or the costs are paid by the state.

If a court suspends proceedings in a civil case and orders the parties to hold an initial meeting with a mediator, the first three hours of the mediation meeting are paid at the rate laid down in the implementing legislation (CZK 400.- for each hour begun), and this is shared by both parties equally (if the parties are exempt from court fees, they are paid by the state). If mediation extends beyond three hours, the further costs will be shared by both parties equally, up to the amount agreed between the mediator and the parties to the mediation (i.e. to the proceedings).

### Is it possible to enforce an agreement arising from mediation?

[Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement arising from mediation be made enforceable. An agreement between the parties to the mediation in a civil case may be submitted to the court for approval in the context of further proceedings. The results of mediation provided in the context of criminal proceedings by the Probation and Mediation Service may be taken into account by the public prosecutor and the court in their decision in a given case.

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## Mediation in Member States - Denmark

In Denmark it is possible to call on the services of a mediator on a private basis. Mediation on a private basis is not regulated by law and the costs have to be borne by the parties. In addition there is the possibility under the law of mediation in civil cases before a district court, High Court, or the Maritime and Commercial Court, and of conflict resolution in criminal cases (see below).

### Mediation in civil cases

Chapter 27 of the Administration of Justice Act sets out rules on court mediation in civil cases pending before a district court, a High Court or the Maritime and Commercial Court.

At the parties' request the court can appoint a court mediator to help the parties themselves reach an agreed settlement to a dispute between the parties (court mediation).

The aim of the procedure is to give the parties in cases brought before the courts an opportunity, if they so wish, to seek to resolve the dispute in some other way than through the traditional conciliation procedure in court, which is based on the rules of the law as it stands, or through a court judgment. Court mediation can give an opportunity to reach an agreed settlement of the dispute; this is seen as more satisfactory for both parties, since a mediated settlement can give them a greater degree of influence over the course of events and can take account of their underlying interests, needs and future.

A mediator can be a judge or an officer of the court in question who is designated to serve as a mediator, or a lawyer who has been approved by the Court Administration to serve as a mediator in the High Court district concerned.

The mediator determines the course of the mediation in consultation with the parties. With the parties' agreement the mediator can hold meetings with them individually.

Each party bears his or her own court mediation costs, unless they agree otherwise.

If mediation leads to an agreed settlement, a formal record of it can be drawn up, after which the case can be dismissed.

Under § 478(1)(2) of the Administration of Justice Act execution can be enforced on the basis of a conciliation settlement before the courts or other authorities where the law allows execution of court decisions to be enforced.

Under § 478(1)(4) execution can also be enforced on the basis of a written out-of-court conciliation settlement concerning unpaid debts if the settlement explicitly provides that it can serve as the basis for execution.

The Administration of Justice Act can be found on the website [Information about the law](#).

### Mediation in criminal cases

Act No 467 of 12 June 2009 on conflict resolution councils in connection with crimes, which comes into force on 1 January 2010, introduces a permanent, nationwide system for conflict resolution in criminal cases.

The Police Commissioner for each police district establishes a conflict resolution council, where the victim and the offender together with a neutral mediator can meet following a crime.

Mediation in a conflict resolution council can only take place if the parties agree to participate. Children and young people under 18, however, can participate only with the agreement of their legal guardian. Mediation in a conflict resolution council can only take place if the offender has substantially admitted to the crime.

The mediator fixes the conduct of a conflict resolution council after discussion with the parties. During conflict resolution the mediator will help the parties to discuss the crime and can help them to formulate any agreements they may wish to conclude.

Mediation in a conflict resolution council is not a substitute for punishment or any other legal consequence of the crime.

The Act on conflict resolution councils in connection with crimes can be found on the website [Information about the law](#).

### Who can you contact?

In civil cases you can contact the court dealing with the case. The address and telephone number etc. of the court in question can be found via the website of the [Domstolsstyrelsen](#) ([Court Administration](#)).

In criminal cases you can contact the police district dealing with the case. The address and telephone number etc. of the police district in question can be found via the website of the [Danish National Police](#).

### In what areas can mediation be used/is mediation most used?

Please see above.

### Are there special rules that have to be followed?

Please see above.

### Information and training

Please see above.

### Expenditure on mediation

Please see above.

### Is it possible to enforce an agreement entered into in the context of mediation?

Please see above.

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### Mediation in Member States - Germany

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

#### Who to contact?

Numerous organisations provide mediation services. Please see below for a non-exhaustive list of some of the larger associations:

[Federal Association for Family Mediation](#) (Bundes-Arbeitsgemeinschaft für Familien-Mediation e.V. (BAFM), Rosenthaler Straße 32, 10178 Berlin, Germany)

[Federal Association for Mediation](#) (Bundesverband Mediation e.V. (BM), Kirchweg 80, 34119 Kassel, Germany)

[Federal Association for Economic and Professional Mediation](#) (Bundesverband Mediation in Wirtschaft und Arbeitswelt e.V. (BMW), Prinzregentenstr. 1, 86150 Augsburg, Germany)

[Centre for Mediation](#) (Centrale für Mediation GmbH & Co. KG (CfM), GustavHeinemann-Ufer 58, 50968 Cologne, Germany)

[German Lawyers' Association](#) (Arbeitsgemeinschaft Mediation im Deutschen Anwaltverein, Littenstraße 11, 10179 Berlin, Germany)

These associations will support parties wishing to use a mediator.

#### In which areas is recourse to mediation admissible and/or particularly common?

Generally speaking, when there is no formal legal requirement that a particular kind of dispute or matter must be dealt with in court, mediation is always permitted. The most common areas for mediation are family law, inheritance law and commercial law.

#### Are there specific rules to follow?

On 26 July 2012, the Mediation Act (*Mediationsgesetz*), Article 1 of the Act to promote mediation and other procedures for out-of-court dispute settlement of 21 July 2012, published: *Bundesgesetzblatt I*, p. 1577, entered into force in Germany. This was the first piece of legislation to formally regulate mediation services in Germany. The Act also transposes the European Mediation Directive into German law (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, published: OJ L 136, 24.5.2008, p. 3). The scope of the German Mediation Act exceeds the requirements of the European Directive; while the Directive provides only for cross-border civil and commercial disputes, the German Mediation Act covers all forms of mediation in Germany, irrespective of the form of dispute or the place of residence of the parties concerned.

The German Mediation Act only establishes general guidelines, as mediators and parties concerned need significant scope for manoeuvre during the mediation process. The Act initially defines the terms 'mediation' and 'mediator', to differentiate mediation from other forms of dispute settlement. According to the Act, mediation is a structured process whereby the implicated parties voluntarily and autonomously seek a form of mutual dispute settlement with the help of one or more mediators. Mediators are independent and impartial persons, without decision-making power, who guide the parties concerned through the mediation procedure. The Act deliberately avoids establishing a precise code of conduct for the mediation procedure. However, it does set out a number of disclosure obligations and restrictions on activity, to protect the independence and impartiality of the mediator profession. Moreover, legislation formally obliges mediators to maintain strict client confidentiality.

The Act promotes mutual dispute settlement by including a number of different incentives in the official procedural codes (e.g. the Code of Civil Procedure, *Zivilprozessordnung*). Henceforth, for example, when parties bring an action in a civil court, they will have to say whether they have already sought to resolve the issue via out-of-court measures, such as mediation, and whether there are specific reasons for not considering this course of action. The court may

furthermore suggest that the parties try to settle the conflict via mediation, or another form of out-of-court settlement; if the parties refuse to apply this option, the Court may choose to suspend the proceedings. Legal aid for mediation is not envisaged for the time being.

The Federal Government is legally required to report back to the Bundestag (lower house of parliament) on the impact of the Act five years after its implementation. It must also determine whether further legislative measures need to be introduced regarding the training and professional development of mediators.

#### Information and training

General information is available on the website of the [Federal Ministry of Justice](#) (*Bundesministeriums der Justiz*).

There is no legislation defining the professional profile of a mediator. Similarly, access to the profession is not restricted. Mediators are themselves responsible for ensuring that they have the necessary knowledge and experience (through suitable training and further development courses) to reliably guide parties through the mediation process. German law establishes the general knowledge, competencies and procedures that should be covered by suitable prior training. Any persons meeting these criteria may work as a mediator. There is no set minimum age, and no requirement for example that a mediator must have followed a university-level course of study.

The Federal Ministry of Justice is empowered to make regulations introducing additional training and further development criteria for the profession. In such an instance, persons having successfully completed a form of training corresponding to the prerequisites of that legislation would henceforth be entitled to use the professional title 'certified mediator' (*zertifizierter Mediator*).

No formal initiative is envisaged for the time being.

Mediator training is currently offered by associations, organisations, universities, companies and individuals.

#### How much does mediation cost?

Mediation is not free of charge; payment is subject to agreement between the private mediator and the parties concerned.

There is no legislation governing fees for mediation, nor are there statistics on the costs. It is realistic to assume that hourly fees may range approximately from EUR 80 to EUR 250.

#### Is it possible to enforce a mediation agreement?

In principle, a mediation agreement can be enforced with the assistance of a lawyer or notary (cf. sections 796a to 796c and section 794(1)(5) of the Code of Civil Procedure).

#### Related links

[Federal Association for Family Mediation](#)

[Federal Association for Mediation](#)

[Federal Association for Economic and Professional Mediation](#)

[Centre for Mediation](#)

[German Lawyers' Association](#)

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#### Mediation in Member States - 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?

In Estonia the distinction must be drawn between mediation and conciliation. Mediation is a broad concept covering all activities in which an independent third party intervenes between people in disagreement on any issue, without having the rights of a court arbiter.

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. You can find out more on the [website](#) of the Office of the Chancellor of Justice.

Under Estonian law, conciliation refers to the activities of a conciliator or conciliation body in civil cases. Conciliation is regulated under the Conciliation Act, and mediation under a specific Act providing for mediation. 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 willing to act as a conciliator can be found on the [website](#) of the Chamber of Notaries.

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

The Ministry of Social Affairs is planning to develop the activities of family mediators and conciliators.

You can also contact the following non-government organisations:

The [Estonian Association of Mediators](#) provides information in both Estonian and English. The contact person is [Anneli Liivamägi](#).

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. 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 contact address of the Public Conciliator for collective labour disputes is Henn Pärn, Public Conciliator, telephone, e-mail [Henn.Parn@riikliklepitaja.ee](mailto:Henn.Parn@riikliklepitaja.ee). You can find more information on the [website](#) of the Public Conciliator.

**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 disputes. 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 **Estonian Association of Mediators** has drawn up a professional standard which will be required for conciliators wishing to act as family mediators in Estonia.

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.

Conciliation through the Chancellor of Justice is regulated under Sections 355-3515 of 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 rules of procedure of the Estonian Insurance Association's insurance mediator are available [online](#).

The Ministry of Social Affairs is helping develop family mediation; this includes establishing a standard qualification for family mediation. In future, the state or local government may offer mediation and cover the costs of certain mediation services.

#### **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 willing to act as a conciliator can be found on the [website](#) of the Chamber of Notaries. The same information for attorneys-at-law can be found on the [website](#) of the Estonian Bar Association.

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

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.

According to the data on the website of the Association of Mediators, in 2013 family conciliation cost EUR 60 per session. The cost of mediation is split equally between the parties.

Where the court considers it necessary to ask a conciliator or mediator to resolve a dispute, the economically weaker party may request aid from the state in order to cover the costs.

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 insurance mediator charges an administrative fee of EUR 50 and the insurance conciliator a maximum fee of EUR 160. 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 and 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.

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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#### **Mediation in Member States - Ireland**

The Mediation Act 2017 <http://www.irishstatutebook.ie/eli/2017/act/27/enacted/en/html> came into operation on 1 January, 2018. The Act contains provisions for a comprehensive statutory framework to promote the resolution of disputes through mediation as an alternative to court proceedings. The underlying objective of the Act is to promote mediation as a viable, effective and efficient alternative to court proceedings, thereby reducing legal costs, speeding up the resolution of disputes and reducing the stress and acrimony which often accompanies court proceedings.

The Act:

contains general principles for the conduct of mediation by qualified mediators – sections 6 to 8;

provides for the introduction of codes of practice for the conduct of mediation by qualified mediators – section 9.

provides that communications between parties during mediation shall be confidential – section 10;

provides for the possible future establishment of a Mediation Council to oversee development of the sector – section 12;

introduces an obligation on solicitors and barristers to advise parties to disputes to consider using mediation as a means of resolving them – Sections 14 and 15;

provides that a court may, on its own initiative or on the initiative of the parties invite the parties to consider mediation as a means of resolving the dispute – Section 16;

provides for the effect of mediation on limitation and prescription periods – section 18;

provides that a court may, in awarding costs in respect of proceedings referred to in section 16 of the Act, where it considers it just, have regard to any unreasonable refusal or failure by a party to the proceedings to consider using mediation or any unreasonable refusal of failure of a party to attend mediation following an invitation by the court to do so under section 16 – sections 20 and 21;

The scope of the Act includes all civil proceedings that may be instituted before a court save for certain exceptions provided for in section 3 of the Act.

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Dėmesio! Šiame puslapyje originalo kalba (el) neseniai atlikta pakeitimų.

Puslapį jūsus pasirinkta kalba šiuo metu rengia mūsų vertėjai.

#### Mediation in Member States - 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 (*πρωχρευτικό 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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Puslapj jūsu pasirinkta kalba šiuo metu rengia mūsų vertėjai.

Jis jau išverstas į šias kalbas.

### **Mediation in Member States - Spain**

One of the phenomena affecting the administration of justice in Spain in recent years has been the increase in litigation, which is having an impact on the smooth operation of the justice system.

For this reason, alternative ways of resolving conflicts are being sought which are more efficient than those offered by the current model.

Mediation is one such way, together with arbitration and conciliation.

### **Who to contact?**

See factsheet about how to find a mediator in Spain.

### **In what area is recourse to mediation admissible or most common?**

Law 5/2012 of 6 July 2012 on mediation in civil and commercial matters transposes Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 into Spanish law. This Law establishes a minimum framework for the practice of mediation without affecting the provisions adopted by the Autonomous Communities.

### **Mediation in the labour field**



Mediation is very common in labour disputes. It is sometimes compulsory to attempt mediation before resorting to the courts. Collective disputes are usually subject to mediation and in some Autonomous Communities individual disputes are mediated.

The Autonomous Communities have employment mediation bodies which specialise in such matters. At national level, the Servicio Interconfederal de Mediación y Arbitraje, SIMA, (interconfederal mediation and arbitration service) offers a free mediation service for disputes which fall outside the remit of the bodies of the [Autonomous Communities](#).

Law 36/2011 governing the labour courts introduces a genuine novelty by establishing a general rule that all applications must be accompanied by a certificate attesting to a prior attempt at conciliation or mediation before the appropriate administrative service, the Mediation, Arbitration and Conciliation Service (SMAC), or before bodies performing such functions under a collective agreement, although the article following lists the procedures that are exempt from this requirement.

Law 36/2011 introduces express reference to mediation not only during pretrial conciliation, but also once the court proceedings are under way.

#### **Mediation in the civil and family fields**

Law 5/2012 on mediation in civil and commercial matters includes the possibility of informing the parties at the preliminary hearing that they have the option of using mediation to try to resolve the dispute and, taking into account the purpose of the court proceedings, the court may invite the parties to attempt to reach an agreement that would end the proceedings or allow the parties to request a stay so that they can undertake mediation or arbitration.

Law 5/2012 involves a major change in this area of law in that it introduces into the Code of Civil Procedure express reference to mediation as one of the nonjudicial methods of ending proceedings.

As far as the Spanish system is concerned, it is in the area of family law that the mediation process is most structured and reaches its maximum development.

At central government level, Law 15/2005 takes a significant step forward by viewing mediation as a voluntary alternative means of resolving family disputes and proclaiming liberty as one of the highest values of the Spanish legal system; it provides that the parties may at any time ask the court to stay the proceedings so that they can resort to family mediation and attempt to reach an agreed solution on the issues in dispute.

Furthermore, the Code of Civil Procedure provides for the possibility that the parties, by common accord, may request a stay of proceedings so that they can undertake mediation, but it does not require the court to suspend the process ab initio in order to refer the parties to an information session, nor does it even recommend such a step.

Family mediation services vary considerably between the various Autonomous Communities, and even within the same Community they may vary from one town to the next. In some Autonomous Communities it is the Community itself which offers the service (as in Catalonia, for example), whilst in others it is the local authorities (*Ayuntamientos*) which offer family mediation services.

The General Council of the Judiciary (*Consejo General del Poder Judicial*) supports and supervises mediation initiatives in the various courts in Spain, supported by the Autonomous Communities, universities, local authorities or associations.

#### **Mediation in the criminal field**

Mediation in the criminal field is aimed, on the one hand, at reintegrating the offender and, on the other, at compensating the victim.

In the juvenile justice system (for ages 14 to 18), mediation is expressly stipulated as a means of re-educating the minor. Here, mediation is carried out by teams supporting the service responsible for the prosecution of minors (*Fiscalía de Menores*), although it can also be carried out by organisations of the Autonomous Communities and other bodies such as associations.

In the adult justice system, there is no provision for mediation, although in practice it is carried out in some provinces on the basis of criminal codes and codes of criminal procedure which allow for plea bargaining and a reduction in the sentence by making good the loss, as well as under the applicable international rules.

Usually, mediation is carried out in connection with less serious crimes, such as petty offences, though it is also possible in cases of serious offences depending on the circumstances.

As far as domestic violence is concerned, Organic Law 1/2004 on comprehensive protection measures against gender violence expressly prohibits mediation in cases involving gender-based violence. However, there are more and more advocates of mediation in this branch of the legal system, because it makes sense to look at individual cases in order to assess whether or not mediation would be appropriate. In this regard, the General Council of the Judiciary's 2001 Report on Gender Violence in the Family emphasised that minor offences or offences involving domestic violence should be referred to the civil courts.

The General Council of the Judiciary supports and supervises mediation initiatives which are carried out in local criminal courts (*Juzgados de Instrucción*), criminal courts (*Juzgados de lo Penal*) and provincial courts (*Audiencias Provinciales*). So far, the quantitatively most significant experiments have taken place in Catalonia and the Basque Country.

#### **Mediation in the area of contentious administrative proceedings**

The Law on contentious administrative proceedings does not expressly provide for the possibility of using alternative means of resolving disputes facilitated by a third party, although nor does it prohibit such means.

This law also provides for the possibility that the legality of administrative activities can be reviewed by other means that complement judicial means, to prevent the proliferation of unnecessary court actions and provide inexpensive and rapid methods of resolving the numerous disputes.

The [Administration of Justice Portal](#) contains information about the judicial bodies in the civil, commercial, criminal, family and labour legal systems providing in-court mediation services as well as on the various out-of-court mediation services offered through various professional associations.

#### **Are there specific rules to follow?**

Generally speaking, mediation is carried out by an impartial third party bound by a duty of confidentiality.

The parties, with help from their lawyers, can decide to try mediation and notify the court, or else they may be contacted by the court when it is thought that the case is suitable for mediation.

In the criminal field, it is usual for the offender to be contacted first, and if he or she agrees, the victim is contacted in order to attempt mediation.

#### **Information and training**

Law 5/2012 on mediation in civil and commercial matters provides that the mediator must have an official university degree or advanced vocational training and have specific training to practise mediation acquired by following one or more specific courses taught by appropriately accredited institutions, which will be valid for the exercise of the mediation activity anywhere in the country.

Only certain laws and regulations in some Autonomous Communities refer to the training required to become a family mediator. Generally speaking, the mediator is required to have a university qualification, of at least diploma level plus 100-300 course hours of mainly practical training specifically in mediation. The specific training in mediation is normally offered by universities and professional associations, such as psychologists' or lawyers' associations.

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

Generally speaking, mediation connected with the court is free of charge.

In the employment field, the services of the Autonomous Communities and of SIMA are free of charge.

In the family field, the services offered by the bodies working with the courts are generally free of charge. In Catalonia, the cost of the mediation process is regulated for those who do not receive legal aid.

In the criminal field, the mediation offered by public bodies is free of charge.

Outside of mediation connected with the court, the parties are free to use a mediator and to pay freely agreed fees. Regarding the cost of mediation, Law 5/2012 expressly provides that whether or not mediation has ended in an agreement, the cost will be divided equally between the parties unless otherwise agreed.

With the aim of encouraging the out-of-court settlement of disputes, Law 10/2012 regulating certain fees in the area of the administration of justice and the National Institute of Toxicology and Forensic Sciences, provides for a refund of the amount of the fee when an out-of-court settlement saves some of the costs of the services provided.

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

Law 5/2012 provides that where the parties reach an agreement through a mediation procedure they may formally record that agreement.

When the mediation agreement is to be applied in another State, in addition to the formal record, it will be necessary to comply with the requirements, if any, of the international conventions to which Spain is a party and with European Union rules.

When the agreement has been reached in mediation that took place after judicial proceedings were commenced, the parties must ask the court to approve the agreement pursuant to the provisions of the Civil Procedure Act.

The possibility of enforcing a mediation agreement depends on the parties' freedom of action in respect of the subjectmatter of the agreement.

#### Related Links

[SERVICIO INTERCONFEDERAL DE MEDIACIÓN Y ARBITRAJE DE ESPAÑA](#)

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#### Mediation in Member States - France

Rather than going to court, why not resolve your dispute through mediation? This is an alternative way of resolving disputes where a mediator helps the parties to reach an agreement. In France, the government and professionals are mindful of the advantages of mediation.

##### Who do I contact?

In France there is no central or government authority responsible for regulating the profession of mediator. There are no current plans to create one.

There are, however, non-governmental organisations working in the area of family law:

The [APMF \(Association Pour la Médiation Familiale — Association for Family Mediation\)](#) had 700 members in 2012, mostly family mediators. It provides an easily accessible directory of mediators for each region.

The [FENAMEF \(Fédération Nationale des Associations de Médiation Familiales — National Federation of Family Mediation Associations\)](#) covered more than 480 meeting places for family mediation in 2012, and provides a directory showing the location of mediation services.

You can also consult one of the following:

The [CMAP \(Centre de Médiation et d'Arbitrage de Paris — Paris Mediation and Arbitration Centre\)](#) handles disputes between (big) businesses.

In 2012 the [IEAM \(l'Institut d'Expertise, d'Arbitrage et de Médiation — Institute of Expertise, Arbitration and Mediation\)](#) grouped more than 100 court experts and specialists working in dispute resolution in the areas of economics and finance, law and taxation, medicine, building and public works, industry, raw materials and transport.

The [FMCML \(Fédération des Médiateurs et Chargés de Mission libéraux — Federation of Mediators and Professional Project Coordinators\)](#) brings together around 100 experts who can act as mediators alongside their role in giving expert opinions in a number of areas (building, property, industry, services, the distributive trades, social affairs and taxation, information technology, the environment, and medical and paramedical matters).

In 2012 the [FNCM \(Fédération Nationale des Centres de Médiation — National Federation of Mediation Centres\)](#) represented 79 bar association mediation centres, organised along regional lines. The members are mainly lawyers; the Federation has the support of the National Council of Bar Associations (*Conseil national des barreaux* — CNB), and has numerous links with the world of the courts. A directory is available on its website.

The [ANM \(Association Nationale des Médiateurs — National Association of Mediators\)](#) was set up in 1993; in 2012 it represented about 20 associations and about 300 members grouped in 11 regional delegations. It has drawn up a national code of conduct for mediators. A directory is available on its website.

##### In which areas of law are referrals to mediation possible/most common?

Under French law, parties may refer a matter to mediation in any area of law, provided the mediation does not undermine **rules of public policy governing social and economic conduct** (*ordre public de direction*). For example, it will not be possible to conclude a mediation agreement in order to circumvent mandatory rules on marriage or divorce.

Mediation is used most often in **family cases** (at the family court, through a family mediator (*médiateur familial*)) and in **small claims cases** (before the local court or the district court, through a legal conciliator (*conciliateur de justice*)).

##### What are the rules?

###### Referral to mediation

A matter can be referred to mediation only with the **prior consent of the parties**.

If court proceedings have already been brought, 'the court hearing the dispute may, with the consent of the parties, appoint a third party to ascertain the parties' positions and to compare and contrast their points of view with a view to enabling them to find a solution to the dispute' (Article 131-1 of the Code of Civil Procedure).

In the specific fields of the exercise of parental authority or interim measures in divorce case, the court may also direct the parties to attend a briefing meeting on mediation, which is free of charge, and which cannot give rise to any penalty (Articles 255 and 373-2-10 of the Civil Code).

Order (*ordonnance*) No 2011-1540 of 16 November 2011 transposed EU Directive 2008/52/EC into French law. The Directive establishes a framework intended to facilitate the amicable resolution of disputes by the parties, with the aid of a third party, the mediator. The Order broadened the scope of the provisions in the Directive to cover not just crossborder mediation but also mediation inside the country, with the exception of disputes relating to a contract of employment or involving administrative law within the sovereign power of the State (*droit administratif régalién*).

This Order of 16 November 2011 amends the Act (*loi*) of 8 February 1995 so as to establish a general framework for mediation. It defines the concept of mediation, describes the conditions that the mediator must satisfy, and confirms the principle of confidentiality, which is vital to the success of the mediation process.

The Order confirms the principle that at any stage in the proceedings a court hearing a dispute may designate a mediator, who in practice may also be a legal conciliator (*conciliateur de justice*). The court may not delegate the preliminary attempts at conciliation in divorce and separation cases to a mediator.

Where the parties have not agreed to mediation, the court may direct them to meet a mediator in order to have the purpose and operation of mediation explained to them. As the law stands, briefings of this kind can be given only by legal conciliators and family mediators.

Order (*décret*) No 2012-66 of 20 January 2012, implementing the aforementioned Order (*ordonnance*) of 16 November 2011, inserts into the Code of Civil Procedure a fifth volume (*Livre V*) concerning amicable dispute resolution, in order to clarify the rules that govern contractual mediation or conciliation and those that govern amicable settlements (*procédure participative*). This fifth volume goes together with Title VI of the Code, which deals with legal conciliation, and Title VI *bis*, which deals with court mediation. Order (*décret*) No 78381 of 20 March 1978 has been amended so that it now comprises only the rules governing the office of legal conciliator.

### Rules governing mediation

There is no national code of conduct for mediators.

The Paris Chamber of Commerce and Industry (*Chambre de commerce et d'industrie*) has established a code of good conduct, and supervises compliance with it itself.

Family mediators are guided, whether they subscribe directly themselves or via the body that employs them, by the **ethical codes or charters** of the two federations of family mediators, the [APMF](#) and [FENAMEF](#). These codes or charters take over the ethical rules of family mediation adopted on 22 April 2003 by France's National Advisory Council on Family Mediation (*Conseil National Consultatif de la Médiation Familiale*, CNCMF). According to the APMF website, 'The APMF lays down the code of conduct for the profession, setting out the ethical rules of professional practice and the conditions for practising family mediation in France. The code is authoritative for all practitioners.'

In March 2008 the [FNCM](#) approved a code of ethics based on the European Code of Conduct for Mediators.

### Information and training

There is no national, official website relating to mediation.

At present French legislation does not make any provision for specific training in mediation, except in family matters, where a **family mediator's diploma** (*diplôme de médiateur familial*) was introduced by an order (*décret*) dated 2 December 2003 and a ministerial order (*arrêté*) dated 12 February 2004.

The legislation provides for training in family mediation to be given by approved centres, and a diploma to be awarded by the regional prefect after completion of training or a certification process validating the knowledge and experience acquired by the mediator. The training centres are approved by their

**Regional Health and Social Services Office** (*Direction régionale des affaires sanitaires et sociales*, DRASS). In these centres students undergo 560 hours of training spread over three years, with at least 70 hours of practice. The training ends with an examination.

### How much does mediation cost?

When parties resort to mediation as an alternative method of resolving disputes, whether in court proceedings or out of court, fees have to be paid. If the parties resort to mediation in the course of court proceedings, the mediator's fee may be covered by legal aid. It will in any event be determined by the judge assessing legal costs (*magistrat taxateur*) after the mediator's role is over, on presentation of a report or a statement of expenses (Article 119 of Order (*décret*) No 91-1266 of 19 December 1991).

The judge who assesses the legal costs fixes the amount of the deposit and the remuneration (Articles 131-6 and 131-3 of the Civil Code of Procedure). The legislation does not lay down any precise scale of remuneration, and the **unit cost** for the provision of family mediation services therefore **varies**. Under a national agreement between the Ministry of Justice, the Ministry of Employment, Social Affairs, the Family and Solidarity, the National Family Allowance Fund (*Caisse nationale d'allocations familiales*, CNAF) and the Central Agricultural Mutual Benefit Fund (*Caisse centrale de mutualité sociale agricole*, CCMSA), departments receiving a family mediation service have undertaken to apply a **national scale, which varies** depending on the income of the parties. Subject to the judge's assessment, the financial share to be borne by the parties per mediation meeting ranges from €5 to €131.21.

In family matters, the National Family Allowance Fund has put in place a system of agreements enabling organisations to receive a family mediation service provided certain rules are followed.

### Is it possible to make the mediation agreement enforceable?

Where court proceedings have not been brought, Article 1565 of the Code of Civil Procedure provides that an agreement reached between the parties may be submitted to the court that would have jurisdiction in the dispute, with a view to making the agreement enforceable.

Where court proceedings have indeed been brought, Article 131-12 of the Code of Civil Procedure provides that on application by the parties the court hearing the case may approve an agreement that the parties submit to it.

Article L111-3 1° of the Code of Civil Enforcement Procedure (*code des procédures civiles d'exécution*) provides that agreements arrived at by court mediation or outofcourt mediation which are made enforceable by the ordinary courts or the administrative courts are enforceable documents.

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## Mediation in Member States - Croatia

The Government of the Republic of Croatia, through the Ministry of Justice, provides strong support (legislative, financial, technical) to the development and promotion of mediation, and it has become one of the important parts of the Judicial Reform Strategy.

### Judicial and extra-judicial mediation

Mediation can be conducted in all regular and specialised first and second instance courts (municipal, county, commercial and the High Commercial Court) in all stages of the proceedings, and therefore for the duration of the appeal proceedings. Mediation is conducted exclusively by a judge of the court concerned who is trained in mediation and who is named on the list of judge mediators determined by the President of the Court by way of an annual assignment of arrangements. A judge mediator shall never conduct mediation in a dispute for which he/she is appointed as a judge.

Extra-judicial mediation has for many years been conducted very successfully by Mediation Centres at the Croatian Chamber of Economy, Croatian Chamber of Trades and Crafts and Croatian Employers' Association and by the Croatian Mediation Association, the Croatian Bar Association, the Croatian Insurance Bureau and the Office for Social Partnership of the Government of the Republic of Croatia. However, mediation with selected mediators can be conducted outside of these centres.

Pursuant to the Mediation Act (*Narodne novine* (Official Gazette of the Republic of Croatia), No 18/11 and the Rules on the Register of Mediators and Accreditation Standards for Mediation Institutions and Mediators (NN, No 59/11), the Ministry of Justice is to maintain the Register of Mediators.

### Alternative Dispute Resolution Commission

The Ministry of Justice established and appointed the Alternative Dispute Resolution Commission, the composition of which includes representatives of the courts, the Public Prosecutor's Office, the Office for Social Partnership of the Government of the Republic of Croatia, the Croatian Chamber of Economy, the Croatian Employers' Association, the Croatian Chamber of Trades and Crafts and the Ministry of Justice.

The Commission's mandate is to monitor the development of alternative dispute resolution, monitor the implementation of existing programs and propose measures to promote the development of alternative dispute resolution. The Commission's mandate also encompasses providing opinions and responses to inquiries falling within its remit.

At the meeting of the Alternative Dispute Resolution Commission, held on 26 November 2009, a Code of Ethics for Mediators was adopted.

### Legislative Framework

Mediation as a means of resolving disputes was regulated for the first time by special regulation - the Mediation Act (NN, No 163/03, entered into force on 24 October 2003), which has integrated some of the guiding principles contained in the Council of Europe Recommendation on mediation in civil and commercial matters as well as the so-called Green Paper on alternative dispute resolution in civil and commercial law of the European Union. The Act was amended in 2009, and at the beginning of 2011 a new Mediation Act was passed (NN, No 18/11), which entered into force in full on the accession date of the Republic of Croatia to the European Union.

In addition to the Mediation Act, which is the most important, there are other laws governing this subject matter in part, as well as implementing regulations ensuring implementation of the law.

### Mediation process

The mediation process is initiated by way of a proposal by one party to a dispute which is accepted by the other party, by way of a joint proposal by both sides for amicable resolution of the dispute, or by way of proposal by a third party (e.g. a judge in court proceedings).

Mediators are persons or several persons that based on an agreement between the parties conduct the mediation. Mediators must be trained (the expertise and skill of a mediator is one of the essential components of successful mediation), and continually undergo professional training. The Judicial Academy is of the utmost importance in organising and conducting training for mediators.

Mediation is to be conducted as agreed by the parties. The mediator, during the course of the mediation, will ensure fair and equal treatment of the parties. The mediator in the mediation procedure may meet with each party separately, and unless the parties have agreed otherwise, the mediator may disclose information and data received from one party to the other party only where permission to do so has been given. The mediator may participate in drafting the settlement and make recommendations as to its contents.

A settlement reached by way of mediation is binding on the parties that signed it. If the parties undertook certain obligations under the settlement, they are required to discharge them in a timely manner. A settlement reached by way of mediation is an enforceable document if it contains an obligation due for performance in respect of which the parties may reach a compromise, and if it contains a statement of direct permission to enforce (enforceability clause). Unless the parties have agreed otherwise, each bears its own costs, while the parties are to bear the costs of the mediation equally, or in accordance with a special law or the rules of the mediation institutions.

According to the majority of experts in the field of mediation, any dispute relating to rights of which the parties may freely dispose is suitable for mediation and the conflicting parties should almost always be encouraged to resolve the dispute amicably. Mediation is particularly suitable for business disputes (i.e. Commercial disputes), as well as in cross-border disputes (one of the parties is domiciled or habitually resident in a Member State of the European Union) in civil and commercial matters. It should be noted that cross-border disputes do not include customs, tax or administrative proceedings or those disputes relating to state responsibility for acts or omissions in the exercise of power.

### Other links

[Find a mediator](#)

[More information](#)

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### Mediation in Member States - Italy

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution (ADR) measure, whereby a mediator assists those involved in a dispute to reach an agreement. The government and justice practitioners of Italy consider mediation to be a particularly effective tool.

#### 1. Who do I contact?

A system of civil and commercial mediation, aimed at settling disputes in respect of any entitlement that the parties are free to renounce or transfer, was introduced in Italy by Legislative Order (*decreto legislativo*) No 28/2010.

Mediation services are provided by mediation organisations which may be public or private and which are entered in a register of mediation organisations (*registro degli organismi di mediazione*) kept by the Ministry of Justice.

The register of accredited mediation organisations is published on the Ministry of Justice website (<http://www.giustizia.it>).

The register should enable you to contact a mediation organisation of your choice and to call on the services of mediators who are members of that organisation. Further information can be obtained direct from the organisation in question.

#### 2. In which areas of law are referrals to mediation possible or most common?

Mediation organisations can help to arrive at outofcourt settlements in any dispute that concerns entitlements that the parties are free to renounce or transfer (*diritti disponibili*). Mediation is voluntary, though it may be suggested by a judge or required by a contract between the parties.

#### 3. Are there specific rules?

Rules governing mediation in civil and commercial matters are currently laid down in Legislative Order No 28/2010, already mentioned, and in Ministerial Order (*decreto ministeriale*) No 180/2010.

#### 4. Training

A person wishing to become a mediator must satisfy the requirements laid down in Article 4(3)(b) of Ministerial Order No 18/2010: in particular, they must hold a degree or diploma at least equivalent to a university degree following three years of study, or in the alternative be a member of a professional association or organisation and have completed at least twoyearly refresher courses with training providers accredited by the Ministry of Justice, and in the course of the twoyear retraining period they must have taken part as assisted trainees in at least twenty cases of mediation.

The training providers that issue certificates stating that mediators have completed the necessary training courses are public or private bodies accredited by the Ministry of Justice on condition that they meet stated standards.

#### 5. How much does mediation cost?



The criteria that determine the mediation fee (*indennità di mediazione*), comprising the fee for initiating the procedure and the fee for mediation proper, are laid down in Ministerial Order No 180/2010.

The amounts are specified in Table A annexed to the Order. They vary depending on the value in dispute.

#### **6. Is it possible to make the mediation agreement enforceable?**

Article 12 of Legislative Order No 28/2010 states that the record of the agreement, provided it is not contrary to public policy or to overriding rules of law, is to be approved, on application by either party, by the president of the lower court (*tribunale*) in whose district the mediation organisation is based. In the case of a crossborder dispute of the kind referred to in Article 2 of Directive 2008/52/EC of the European Parliament and of the Council, the record of the agreement is to be approved by the president of the lower court in whose district the agreement is to be implemented.

The approved record is an enforceable title for execution on property (*espropriazione forzata*), specific performance (*esecuzione in forma specifica*), or registration of a judicial mortgage (*ipoteca giudiziale*).

#### **7. Is access to the database of mediators free of charge?**

At present there is no public register of mediators, but the Ministry of Justice regularly publishes a list of the mediation organisations to which the individual mediators belong. Members of the public can determine which mediators are members of a mediation organisation by asking for specific information from the office at the Ministry which supervises the mediation organisations' activities; the office can be contacted via the Ministry's website.

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### **Mediation in Member States - Cyprus**

#### **Who to contact?**

For information on mediation in Cyprus, please contact a [lawyer registered in Cyprus](#).

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

Recourse can be taken to mediation in order to resolve any difference, provided that the parties involved consent.

#### **Are there specific rules to follow?**

Unlike the other form of alternative dispute resolution (arbitration), there are no laws which specifically govern the mediation process and therefore there are no specific rules to follow for mediation.

NB: a bill on the specific question of mediation in family cases has been tabled before the House of Representatives (Βουλή των Αντιπροσώπων) and is currently being debated.

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

There is no fixed cost for mediation; it basically depends on the complexity of the case and the standing of the mediator.

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

The outcome of mediation is not a judgment which can be enforced in the same way as a court judgment.

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### **Mediation in Member States - Latvia**

Why not try solving your dispute through mediation rather than go to court? Mediation is an alternative dispute resolution (ADR) measure, whereby a mediator helps those involved in a dispute to reach an agreement. The government and legal practitioners of Latvia are aware of the advantages of mediation.

#### **Whom to contact?**

The use of mediation in the settlement of civil disputes is currently in its initial stages in Latvia. There is no central government body responsible for regulating the profession of mediator.

#### **The Mediation Council**

[The Mediation Council](#) (*Mediācijas padome*) is an association founded on 25 July 2011 which brings together a number of associations registered in Latvia that are active in the field of mediation. It aims to develop common training standards for mediators and introduce certification for training programmes, to draft and adopt a Code of Conduct for certified mediators, and also to represent certified mediators, to put its views to national and local authorities, other authorities and officials, and to deliver opinions on legislative matters and legal practice pertaining to mediation.

The Mediation Council was founded by the following associations:

Mediation and ADR (*Mediācija un ADR*);

Integrated Mediation in Latvia (*Integrētā mediācija Latvijā*);

Integration for Society (Victim Support Centre) (*Integrācija sabiedrībai (Cietušo atbalsta centrs)*);

The Commercial Mediators Association (*Komercmediatoru asociācija*).

#### **Mediation and ADR**

[Mediation and ADR](#) (*Mediācija un ADR*) was established on 7 April 2005. It aims to:

promote the progressive introduction and use of alternative dispute resolution methods (mediation, conciliation, impartial fact-finding, expert reports, arbitration, etc.) in Latvia;

participate in policy-making processes, e.g. in the working groups set up by public bodies;

promote improvement in the standards of its members' professional qualifications and the provision of the highest possible level of mediation and ADR services;

bring ADR professionals together in order to achieve common objectives;

cooperate with international organisations and with other natural and legal persons.



The organisation advises the parties involved in a dispute and their representatives on the choice of a specialist, and also holds lectures and seminars on mediation and ADR. Some members of the organisation are practising mediators specialising in civil and criminal cases. Members have acquired negotiation and mediation skills both in Latvia and abroad in training with experienced mediators and conflict resolvers from the United States, the United Kingdom, Germany and other countries.

### **Integrated Mediation in Latvia**

🔗 **Integrated Mediation in Latvia** (*Integrētā mediācija Latvijā* — IMLV) was founded on 10 August 2007. It envisions a society that resolves disputes successfully, where the interests of all parties are represented equally and the dispute resolution process is humane, equitable and based on cooperation. IMLV was founded in close cooperation with the *Integrierte Mediation* association in Germany. Cooperation is planned in the fields of education, additional training, supervision, the introduction of mediation services and adoption of good practice.

IMLV aims to promote the development of mediation at a regional, national and international level by integrating it into the dispute resolution process of institutions and organisations and into the work of professionals and society in general.

To achieve this aim, IMLV has set itself the following tasks:

- to promote and develop the idea of integrated mediation in Latvia as a modern highquality form of dispute resolution;
- to promote cooperation between professionals, organisations and institutions;
- to define and advocate the concepts and benefits of integrated mediation;
- to inform and educate the public about the concepts and possibilities of integrated mediation;
- to make the successes of integrated mediation more widely known;
- to organise training on mediation and the potential for its integration into various fields;
- to conduct studies and surveys.

IMLV brings together various professionals – including practising mediators – aiming to integrate mediation skills into their activities and promote public awareness of mediation as a viable option in dispute resolution.

### **Integration for Society (Victim Support Centre)**

The Integration for Society association's 🔗 **Victim Support Centre** became operational in 2003. Its main objective is to support the victims of crime. Since 2004 the staff include 20 mediators well-versed in mediation procedures and able to use them in resolving civil and administrative law disputes.

#### **In which areas is recourse to mediation admissible and/or the most common?**

Mediation is admissible in many areas. The area in which it could be most widely used is that of civil disputes arising in family law and commercial law.

#### **Are there specific rules to follow?**

Recourse to mediation is entirely voluntary.

Mediation is not a prerequisite to initiating certain types of judicial proceedings or continuing judicial proceedings.

Mediation in Latvia is not regulated by any external laws and regulations.

#### **Information and training**

A website dedicated to mediation: 🔗 <http://www.mediacija.lv>.

The two associations Mediation and ADR and Integration for Society have trainers who offer a basic course in mediation intended for future mediators and a course on basic conflict resolution skills for use in professional and personal settings.

#### **What does mediation cost?**

The resolution of civil disputes via mediation is not provided free of charge. The cost of mediation depends on several factors: the mediator's qualifications and experience, the complexity of the dispute, the number of mediation sessions required and other factors.

However, in cases concerning children's interests and rights, the Foreign and Conciliation Affairs Board of the Riga Family Court (*Rīgas Bāriņtiesas Ārlietu un samierināšanas pārvalde*) provides services to residents of Riga free of charge. Disputes mostly concern maintenance, arrangements for a child's place of residence, visiting rights, custody and childraising.

#### **Can an agreement resulting from mediation be enforced?**

🔗 **Directive 2008/52/EC** stipulates that those involved in a dispute may request that a written agreement arising from mediation be made enforceable.

Member States are to inform the Commission of the courts and other authorities competent to handle such requests.

Latvia has not yet communicated this information.

#### **Links**

🔗 [Mediācija.lv](http://www.mediacija.lv)

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### **Mediation in Member States - Lithuania**

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution (ADR) measure, whereby a mediator assists those involved in a dispute to reach an agreement. The government and justice practitioners of the Republic of Lithuania are aware of the advantages of mediation.

#### **Who to contact?**

There is no centralised or government body in charge of mediation (*tarpininkavimas*), and Lithuania has no plans to create one.

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

Conciliatory mediation (*taikinamasis tarpininkavimas*) may be used in civil disputes (that is, disputes heard by way of civil procedure by a court of general jurisdiction).

#### **Are there specific rules to follow?**

Mediation is regulated by the **Law on Conciliatory Mediation in Civil Disputes** (*Civilinių ginčų taikinamojo tarpininkavimo įstatymas*). Within this framework, recourse to mediation is entirely voluntary. There are no specific regulations like codes of conduct for mediators.

#### **Information and training**

No national training programme is in place so far. However, training is provided by the training centre of the **Ministry of Justice** (*Teisingumo ministerija*) and by private bodies. Private bodies are not regulated.

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

According to Law on Conciliatory Mediation in Civil Disputes, conciliatory mediation can be provided for remuneration or free of charge. Where it is provided for remuneration, the procedure may commence only after a mediator agrees in writing with both parties to the dispute about the amount to be paid and method of payment.

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

[Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement arising from mediation be made enforceable. Member States will communicate this to the courts and other authorities competent to receive such requests.

According to the Law on Conciliatory Mediation in Civil Disputes, the competent court is the choice of the parties to the dispute. This may be the district court of the place of residence, or the registered office of one of the parties to the dispute.

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#### Mediation in Member States - Luxembourg

Rather than go to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution (ADR) measure, whereby a mediator assists those involved in a dispute to reach an agreement. The government and justice practitioners of the Grand Duchy of Luxembourg are aware of the advantages of mediation.

#### Who should I contact?

There is no central body responsible for the regulation of mediators.

In addition to mediation in specific sectors (banking, insurance, etc.), and apart from the [Ombudsman](#) responsible for mediation in administrative matters and the [Ombudskomitee fir t'Rechter vun de Kanner](#) (Ombudsman Committee for the Rights of the Child), the following legal associations are engaged in mediation:

[Luxembourg Association of Mediation and Approved Mediators](#) (*Association luxembourgeoise de la médiation et des médiateurs agréés* — ALMA asbl);

[The Centre for Mediation of the Luxembourg Bar](#) (*Centre de médiation du Barreau de Luxembourg* — CMBL asbl);

[The Mediation Centre](#) (*Centre de médiation*) (asbl);

[Family Welfare Mediation Centre](#) (*Centre de médiation SocioFamiliale*, run by the Pro Familia foundation);

#### In which areas of law is mediation possible or most common?

Mediation is admissible mainly in:

Administrative cases,

Criminal cases,

Family cases,

Commercial cases,

Disputes between neighbours.

**Civil and commercial mediation** is a consensual and confidential process conducted by an independent, impartial and competent mediator. It may relate to the whole dispute or just part of it. It comprises both mediation by agreement and court-referred mediation, and family mediation plays an important role.

In **mediation by agreement** (*médiation conventionnelle*) either party may suggest to the other that they take the matter to mediation, at any stage of the legal proceedings, independently of any court or arbitration procedure, as long as the pleadings have not ended.

In **court-referred mediation** (*médiation en justice* or *médiation judiciaire*) a civil, commercial or family dispute has already been brought before a court; the court may at any point refer the case to mediation, as long as pleadings have not ended. This does not apply to cases before the Court of Cassation or proceedings for interim measures. The court may ask the parties to enter mediation on its own initiative, or at the joint request of the parties themselves. Either way, the consent of the parties is required. In a limited number of clearly defined cases which raise a question of family law, the court may propose a mediation measure to the parties. It will then organise an information session free of charge, to explain the principles, procedure and effects of mediation. In **criminal cases** the State Prosecutor may, on certain conditions and before deciding whether to bring a prosecution, decide to use mediation if it is likely:

to provide reparation to the victim;

to resolve the difficulties arising from the offence; or

to contribute to the rehabilitation of the offender.

The use of mediation does not rule out a subsequent decision to bring a prosecution, for example if the terms of mediation are breached.

#### Are there specific rules to follow?

Recourse to mediation is entirely voluntary.

Mediation in administrative matters, mediation in criminal cases, and mediation in particular sectors are all governed by specific legislation.

#### Information and training

##### Mediator in criminal matters

The Act of 6 May 1999 and the Grand-Ducal Regulation of 31 May 1999 introduced the system of mediation in criminal matters. Before taking a decision on bringing a prosecution, the State Prosecutor may decide to use mediation if he or she considers that this is likely to provide reparation to the victim, resolve the difficulties arising from the offence or contribute to the rehabilitation of the offender. If the State Prosecutor decides to use mediation, he or she may appoint as mediator anyone approved for that purpose.

##### Approval:

Anyone wishing to be approved as a mediator in criminal matters may apply to the Minister of Justice, who will decide on approval after consulting the General State Prosecutor.

##### Mediator in civil and commercial matters

The Act of 24 February 2012 creates a national legislative framework for mediation in civil and criminal matters by adding a new title to the New Code of Civil Procedure. The Act transposes 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. It takes up the principles laid down in the Directive for cross-border disputes and applies them to national disputes too. This Act is supplemented by the Grand-Ducal Regulation of 25 June 2012 laying down the approval procedure for mediators for the purposes of court-referred and family mediation, the programme of specific training in mediation and the holding of an information session free of charge.

The mediator is a third party whose job is to interview the parties together, or if necessary separately, with the aim of resolving their dispute. The mediator does not impose a solution on the parties, but encourages them to agree on an amicable negotiated settlement.

A mediator providing court-referred and family mediation services may be approved or unapproved. An approved mediator is a natural person accredited for this role by the Minister of Justice.

In mediation by agreement and in cross-border disputes the parties may use a mediator who has not been approved.

#### **Approval:**

The Minister of Justice is responsible for approving mediators. In civil and commercial matters mediators do not require approval to provide mediation by agreement.

Any natural person may apply for approval if he or she fulfils the conditions (1) laid down by the Act of 24 February 2012 which incorporated mediation in civil and commercial matters into the New Code of Civil Procedure and (2) set out in the Grand-Ducal Regulation of 25 June 2012 laying down the approval procedure for mediators for the purposes of court-referred and family mediation, the programme of specific training in mediation and the holding of an information session free of charge.

Under Directive 2008/52/EC, referred to above, and Article 1251-1(1) subparagraph 3 of the Act of 24 February 2012 on mediation, providers of mediation services who meet equivalent or essentially comparable requirements in another Member State of the European Union are exempt from approval in the Grand Duchy of Luxembourg.

Approval is granted for an indefinite period.

Article 1251-3(2) of the New Code of Civil Procedure and the Grand-Ducal Regulation of 25 June 2012 referred to above set out the conditions which must all be met by natural persons wishing to obtain approval:

they must provide guarantees of good repute, competence, training, independence and impartiality;

they must produce an extract from the Luxembourg police records or a similar document issued by the competent authorities in the country of residence where they have resided for the past five years;

they must enjoy civil rights and be entitled to exercise political rights; and

they must have specific training in mediation in the form of:

a Master's degree in mediation awarded by the University of Luxembourg or a university, a higher education institution or another establishment offering the same level of training, designated in accordance with the laws, regulations or administrative provisions of a Member State of the European Union; or three years' professional experience supplemented by specific training in mediation, as laid down in Article 2 of the Grand-Ducal Regulation of 25 June 2012; or

training in mediation recognised by a Member State of the European Union.

The University of Luxembourg offers a specific [training programme \(a Master's degree\) in mediation](#).

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

Mediation is often free. If a fee is charged it will be clearly indicated.

In the case of **mediation by agreement**, mediators' fees are set freely. In such case the fees and costs are divided equally between the parties, unless they agree otherwise.

In the case of **court-referred mediation and family mediation**, the fees are set by Grand-Ducal regulation.

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

Agreements arising from **civil and commercial mediation** have the same probative value as a court decision. Regardless of whether such mediation agreements were reached in Luxembourg or in another European Union Member State, they are enforceable within the European Union under Directive 2008/52/EC. The approval of all or part of the agreement by the competent court confers enforceability.

The Directive is transposed by the Act of 24 February 2012, which places mediation on the same footing as existing judicial procedures.

#### **Related links**

[Ministry of Justice](#)

[Luxembourg Association of Mediation and Authorised Mediators \(ALMA asbl\)](#)

[The Centre for Mediation of the Luxembourg Bar \(CMBL\)](#)

[The Mediation Centre](#)

[The Family Welfare Mediation Centre](#)

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#### **Mediation in Member States - Hungary**

Rather than going to court, why not resolve disputes through mediation? This is a form of alternative dispute resolution (alternatív vitarendezés) (ADR) (ADR) where a mediator (közvetítő) helps the parties reach agreement. Both the government and legal practitioners in Hungary are well aware of the advantages of mediation.

#### **Who to contact?**

According to Act 2002 LV. on Mediation (a közvetítői tevékenységről szóló 2002. évi LV. törvény) the **Ministry of Public Administration and Justice** (Közigazgatási és Igazságügyi Minisztérium) is responsible for the registration of mediators and of legal persons employing mediators.

A register of mediators and legal entities employing mediators can be found on the [website of the Ministry of Public Administration and Justice](#).

The website provides users with general information and it is possible to search the register of mediators by name, area of expertise, language skills and county in which their office is located. For legal entities, searches are based on name, county and abbreviated name.

Registration forms for mediators and legal entities employing mediators can also be found on the same [website](#).

Among the non-governmental organisations active in the area of mediation are:

The National Mediation Association ([Országos Mediációs Egyesület](#)); and

the Mediation and Legal Coordination Department of the Budapest Chamber of Commerce (Budapesti Kereskedelmi és Iparkamara Mediációs és Jog Koordinációs Osztálya).

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

Act LV of 2002 on mediation covers civil litigation, but excludes mediation in libel proceedings, administrative proceedings, guardianship proceedings, proceedings on the termination of parental responsibility, enforcement proceedings, procedures establishing paternity or ancestry, and constitutional appeals.

#### **Are there specific rules to follow?**

Recourse to mediation is voluntary, but has certain advantages in relation to the **Act on Duties** (az illetékekről szóló törvény) and the **Code of Civil Procedure** (polgári perrendtartás).

If the parties participate in mediation after the first hearing and the agreement reached is ratified by the presiding judge only half of the applicable duties are payable. Even the fee payable to the mediator + VAT (HÉA) (but not more than 50.000 forints) may be deducted from this already reduced amount. The only restriction is that the final amount of duty may not be less than 30% of the original amount. The reduction does not apply if in a certain case mediation is not permitted by the law.

If the parties participate in mediation before civil proceedings, then the amount of court duty payable is reduced by the mediator's fee + VAT, but by not more than HUF 50 000, provided that the court duty paid is not less than 50% of the original amount. The reduction does not apply if mediation is not permitted by law in the particular case or if the parties go to court in spite of the settlement reached through mediation (except to give effect to the settlement in the absence of voluntary compliance).

There is no national code of conduct for conduct for mediators, but the majority of mediation associations follow the European Code of Conduct for Mediators (közvetítők európai magatartási kódexe).

There is a specific **code of conduct for employment law disputes**, which was prepared by the Service of Conciliation and Mediation in Employment Cases (Munkaügyi Közvetítői és Döntőbírói Szolgálat).

Certain courts make mediation available to parties free of charge for on-going proceedings. Detailed rules and a list of courts is available on the central website of the Hungarian courts. ([http://birosag.hu/engine.aspx?page=Birosag\\_showcontent&content=Birosagi\\_kozvetites](http://birosag.hu/engine.aspx?page=Birosag_showcontent&content=Birosagi_kozvetites))

#### Information and training

There is no specific information website available in English on mediation or national training body for mediators.

The [website on mediation](#) is available only in Hungarian.

#### What is the cost of mediation?

Mediation is not free of charge; **payment** is subject to agreement between the mediator and the parties.

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

Pursuant to [Directive 2008/52/EC](#), applicants may request that the content of the written agreement concluded as a result of mediation be made enforceable. Member States shall inform the Commission of the courts or other authorities responsible for handling those requests.

Parties may have the content of the agreement they have arrived at through mediation declared enforceable. They can request the court or a notary public to incorporate the agreement into a settlement approved by the court or into an authentic document, which can be enforced afterwards.

#### Related Links

[Website of the Register of Hungarian Mediators](#) (A magyar közvetítők adatbázisának honlapja)

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#### Mediation in Member States - Malta

Rather than going to court, why not resolve disputes through mediation? This is a form of alternative dispute resolution (ADR) where a mediator helps the parties reach agreement. Both the government and legal practitioners in Malta are well aware of the advantages of mediation.

#### Who to contact?

The government body responsible for mediation in Malta is the Malta Mediation Centre, which was established under Chapter 474 of the [Mediation Act, 2004](#). The Mediation Centre provides a forum to which parties to a dispute may refer, or be referred, to resolve their dispute with the assistance of a mediator. You can contact the Centre through the Registrar at the **Malta Mediation Centre**, Palazzo Laparelli, South Street, Valletta VLT 1100.

You can also call on +35621251110 or send an email to [mediation.mjha@gov.mt](mailto:mediation.mjha@gov.mt)

The Centre provides the parties with a list of mediators duly accredited by it, and requests that they select a mutually acceptable mediator from the list.

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

Mediation is admissible in disputes involving civil, family, social, commercial and industrial matters.

#### Are there specific rules to follow?

Mediation is a voluntary process. Parties to any proceedings may, however, jointly request the Court to stay proceedings while they attempt to settle their dispute by mediation. Furthermore, the Court may on its own initiative stay the proceedings for the duration of the process and direct the parties to try and settle the dispute by mediation. It is to be noted however, that mediation in family cases is mandatory, notably in cases dealing with personal separation, access to children, the care and custody of children and maintenance for children and/or spouses.

The Malta Mediation Centre has a **Code of Conduct**, which mediators are required to abide by during the mediation proceedings.

The Code contains inherent adherence measures. It provides, for instance, that the **Board of Governors** of the Centre have the power to take disciplinary action against any mediator whose conduct does not adhere to, or fails short of, the conduct required by the principles of the Code, and any mediator found to have contravened any of the provisions of the Code or to have behaved in an unbecoming manner will have his or her name removed from the list of mediators for such period as the Board of Governors deems appropriate.

#### Information and training

Training courses for mediators are organised from time to time by the Malta Mediation Centre. The first of such courses, on mediation skills, was held in July 2008. Another course, aimed at providing training in mediation skills with focus on the psychological, social and legal aspects of separation, was held on 16-18 April 2009.

#### What is the cost of mediation?

The fee tariff is regulated by regulations 2 and 4 of Legal Notice 309 of 2008.

In family mediation, the parties can either freely choose a mediator (from the accredited list), and bear the cost of doing so themselves, or the **Court Registrar** appoints one of the mediators, on a rota basis, from a list forwarded by the Mediation Centre. In this latter case, the cost is borne by the courts.

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

According to [Directive 2008/52/EC](#), it must be possible to request that the content of a written agreement resulting from mediation be made enforceable. Member States will communicate the courts or other authorities competent to receive such requests.

Amendments to the MT Mediation Act, 2004 aimed at incorporating the above provision are currently in hand.

#### Related Links

[Malta Mediation Centre](#)

[Malta Mediation Act, 2004](#)

## Directive 2008/52/EC

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### Mediation in Member States - Netherlands

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

#### Who to contact?

The **Dutch Mediation Institute (NMI)** is an independent institute which aims to raise awareness of mediation in the Netherlands and improve the standard of the services available. The NMI has developed various models and rules for this purpose.

The NMI also manages a national register of mediators which includes only qualified mediators. These mediators will have completed a basic mediation training recognised by the NMI and then passed a theory exam and an assessment. NMI registered mediators are required to keep their knowledge and skills up to date, and this will be verified by the NMI. The register can be consulted at: [NMI Register of Mediators](#).

The site also contains independent information about mediation and mediators in the Netherlands. You can search for information on the site according to your own interests and preferences, using criteria tailored to your needs. For example, you can look for a mediator with specific expertise in a particular area. The NMI's address is Westblaak 150, 3012 KM Rotterdam. Its **postal address** is P.O. Box 21499, 3001 AL Rotterdam. Tel.: 010 - 201 23 44, fax: 010 - 201 23 45, e-mail [info@nmi-mediation.nl](mailto:info@nmi-mediation.nl)

Mediators can register at the NMI, and must then adhere to the code of conduct for mediators. Registration is voluntary (as is adherence to the code of conduct), but mediators wishing to work within the Dutch system of subsidised legal aid or referral by the courts must register with the NMI and also obtain accreditation and undergo an assessment.

The Netherlands has also introduced an initiative on court-connected mediation, called 'Mediation naast rechtspraak'. This means that the district court or court of appeal hearing your case will alert you to the possibility of opting for mediation. It may do this in writing, in which case both parties will receive a letter with an information leaflet, the mediation self assessment and a reply form. Alternatively, the judge may indicate at the hearing that your case is suitable for mediation and propose this option to you and the other party.

You can also approach the mediation officer yourself. Each district court and appeal court will have such an officer who can answer your questions, put your proposal for mediation to the other party, help the parties to find the right mediator and arrange the first meeting.

Further information about mediation can be obtained from:

The [Legal Services Desk \(Het Juridisch Loket\)](#) P.O. Box 487, 3500 AL Utrecht. Tel: 0900-8020 (0.10 per minute).

The [Legal Aid Council \(Raad voor Rechtsbijstand\)](#) in Utrecht: Jaarbeursplein 15, 3521 AM Utrecht, P.O. Box 24080, 3502 MB Utrecht. Tel: 088-7871012 (Registration Department).

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

Mediation is always allowed and is most frequently used in civil law and public law.

#### Are there specific rules to follow?

Recourse to mediation is entirely voluntary. There is a code of conduct for mediators.

#### Information and training

The [Dutch Mediation Institute \(NMI\)](#) provides information on mediation and registers mediators.

The NMI provides independent quality assurance in respect of mediation and mediators nationwide, and maintains a public [Register of Mediators](#).

NMI-registered mediators are trained and qualified to perform as mediators in accordance with the NMI mediation rules. They have committed themselves to the **NMI Quality Assurance System**.

Mediators wishing to be included in the NMI register must fulfil two basic requirements:

successful completion of a mediation training at an institute accredited by the NMI;

passing an assessment of relevant knowledge.

The NMI has accredited several mediation training institutes. Their training programmes vary from a six-day basic course to courses lasting 20 days or more. Successful completion of one of these training courses is one of the two basic conditions for admission to the NMI Register of Mediators.

The second basic condition for admission is to pass the test of relevant knowledge. The Dutch Government keeps [statistics](#) on mediation (with a summary in English).

#### What is the cost of mediation?

Mediation in the resolution of civil disputes is not provided free of charge.

Costs depend on the type of case. Some procedures are complex and time-consuming and therefore more expensive. There are also cases where the parties are advised to involve specialised lawyers in the mediation. Sometimes referral to a mediator can prompt the parties to resolve their differences by themselves, which is a sign that mediation can work to prevent the escalation of a dispute.

If the parties have sufficient financial means, they have to meet the costs of mediation themselves. The income threshold for eligibility for a state-subsidised lawyer or mediator is:

For married couples, registered partners or those living together: €35 200 per year.

For single people: € 24 900 per jaar.

In addition to these financial limits, legal aid is not available to parties with assets above a certain value requiring disclosure to the tax authorities. These include a second home, other real estate, savings, liquidity, assets, etc. The exact value for married couples, registered partners or people living together is determined on the basis of data from the tax authorities.

If the parties' means fall below the applicable thresholds, the state will contribute to the cost of a lawyer or mediator. However, the state will never pay the full amount. Each party must make a financial contribution. This amounts to €51 for 0 - 4 hours and €102 for 5 or more hours (per mediation, not per party). The contribution for a lawyer is higher. These figures are given by way of an indication and are not legally binding. The exact amounts can be found on the website of the [Legal Aid Council](#).

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



[Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement arising from mediation be made enforceable. Member States will specify which courts and other authorities are competent to receive such requests. Information about the current state of implementation of this Directive can be obtained from the Legal Aid Council.

## Links

[Dutch Mediation Institute](#)

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## Mediation in Member States - Austria

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution procedure, where a mediator assists those involved in a dispute to reach an agreement.

### Who do I contact?

The Federal Ministry of Justice keeps a [list of registered mediators](#). All the mediators included in this list have followed specific training.

There is no central authority with responsibility for mediation services.

There are professional and nonprofessional associations offering mediation services and a few nongovernmental organisations offering support to mediators.

### When should I opt for mediation?

In civil law cases, mediation can be used to resolve disputes in which the ordinary courts would normally take a decision. Parties to a dispute can opt for mediation voluntarily in order to find their own solution to the dispute.

In some neighbourhood disputes an attempt to settle the matter out of court must be made first before the case can be brought to court. This may be done by referring the matter to a conciliation board, seeking a pretrial settlement through the district court (a procedure known as '*prätorischer Vergleich*') or by mediation.

### Are there specific rules for mediators?

There are no specific rules for mediators and there is no code of conduct.

Mediators are not registered as specialising in a given area, such as family, medical or building disputes, but details of the areas in which a registered mediator works can be entered separately.

Anyone who has completed the specific training and who meets the [requirements](#) can be listed as a registered mediator. There are no legal restrictions on who can use the professional title of 'mediator'.

## Information and training

Additional information, including details of training and the requirements for registration as a mediator in Austria can be found [here](#). The information is available in German only.

### How much does mediation cost?

Mediation is not free of charge.

The mediation fees are agreed by the private mediator and the parties to the dispute.

### Can an agreement resulting from mediation be enforced?

Under [Directive 2008/52/EC](#) parties to a dispute must be allowed to submit a request for the content of a written agreement resulting from mediation to be made enforceable. It is up to the Member States to indicate which courts or other authorities are responsible for receiving such requests.

In Austria the content of an agreement resulting from mediation is enforceable only if the agreement takes the form of a settlement (*Vergleich*) before a court or a notarial act before a notary.

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## Mediation in Member States - Poland

Rather than going to court, it is worth trying to resolve disputes through mediation. This is a form of alternative dispute resolution (ADR) in which a mediator helps the parties to a dispute reach agreement. Both the government and legal practitioners in Poland are well aware of the advantages of mediation.

### Who should be contacted?

In 2010 a section was created within the Ministry of Justice to be responsible for mediation issues, currently functional in **the Division for Victims of Crime and the Promotion of Mediation (Wydział ds. Pokrzywdzonych Przystępstwem i ds. Promocji Mediacji)** within the Department of International Cooperation and Human Rights. Background information on mediation activities can be found on [the website of the Ministry of Justice \(Ministerstwo Sprawiedliwości\)](#).

In recent years, the Ministry of Justice has been paying particular attention to issues related to the development and popularisation of mediation and other forms of ADR in Poland and increasing the effectiveness of the justice system and its accessibility to citizens.

In 2010 **a network of mediation coordinators** were appointed upon the initiative of the Ministry.

There are currently 120 coordinators (judges, probation officers and mediators), in eight courts of appeal, all the regional courts and in six areas of district courts.

In respect of advice and opinions, the Minister for Justice works **with the Social Council on Alternative Dispute and Conflict Resolution (Społeczną Radą ds. Alternatywnych Metod Rozwiązywania Konfliktów i Sporów)** ('the ADR Council' - email: [adr\\_rada@ms.gov.pl](mailto:adr_rada@ms.gov.pl)), which plays an important role in promoting the idea of mediation and communication between central government, the justice system and the mediation community.

It was appointed for the first time by Order of the Minister of 1 August 2005 as a body to advise the Minister on issues of alternative dispute and conflict resolution in the broad sense. The achievements of the first term of the Council included the following documents:

[Code of Ethics of Polish Mediators \(Kodeks Etyczny Mediatorów Polskich\)](#) (May 2008).

[Standards for the Training of Mediators \(Standardy Szkolenia Mediatorów\)](#) (October 2007).

[Standards for the Conduct of Mediation and Mediation Proceedings \(Standardy Prowadzenia Mediacji i Postępowania Mediacyjnego\)](#) (June 2006).

The ADR Council was appointed for its second term by Order of the Minister for Justice of 3 April 2009 (amended by the Order of the Minister for Justice of 1 July 2011). The most important document prepared by the Council in that term is [Establishing system changes \(Założenia do zmian systemowych\)](#) (March 2012).

The Council is currently made up of 23 representatives from the field of science and experienced mediation practitioners, as well as representatives of the following nongovernmental organisations, academic institutions and government departments.

The Council's powers consist above all of drafting recommendations for rules on the functioning of the national system of alternative dispute resolution, and also:

adapting the ADR system to the requirements of EU law,

developing a uniform model of mediation in the Polish legal system,

promoting standards for mediation proceedings,

promoting ADR mechanisms as a conflict resolution method among members of the judiciary and judicial staff, law enforcement services and the public,

creating an institutional environment in which particular forms of ADR can develop,

undertaking other ad hoc projects to develop mediation in Poland.

There are also a large number of non-governmental organisations and companies which play an important role in promoting mediation and determining its internal standards. These organisations lay down their own standards in relation to training, requirements for candidates wishing to become mediators, mediation methods, ethical standards and good professional practice. These rules are internal in nature and are directed only to mediators who are members of those organisations.

The **biggest associations** include:

[The Polish Mediation Centre \(Polskie Centrum Mediacji\)](#),

[The Association of Family Mediators \(Stowarzyszenie Mediatorów Rodzinnych\)](#),

[The Polish Association of Mediators \(Krajowe Stowarzyszenie Mediatorów\)](#),

[Partners Mediation Centre Poland \(Centrum Mediacji Partners Polska\)](#),

[The Polish Arbitration Association \(Polskie Stowarzyszenie Sądownictwa Polubownego\)](#),

The Lower Silesian Mediation Centre (Dolnośląski Ośrodek Mediacji).

In addition, professional bodies carry on institutionalised activities for the promotion of mediation. These include:

[The Supreme Bar Council Mediation Centre \(Centrum Mediacyjne przy Naczelnej Radzie Adwokackiej\)](#).

[The National Association of Lawyers Commercial Mediation Centre \(Centrum Mediacji Gospodarczej przy Krajowej Izbie Radców Prawnych\)](#).

Mediation centres of some Regional Associations of Lawyers (Okręgowa Izba Radców Prawnych)

Mediation centres of some Regional Councils of Notaries (Okręgowa Rada Notarialna)

Non-governmental organisations, within the scope of their statutory duties, and universities may have lists of permanent mediators (*stały mediator*).

Information about the lists and centres are provided by the Presidents of district courts. Lists of mediators in criminal matters and cases involving minors are provided by the Presidents of district courts.

**In which areas is recourse to mediation admissible and/or the most common?**

Disputes can be resolved through mediation in a number of areas. Under Polish law, mediation can be used in respect of the following matters:

civil

commercial

employment law

family law

minors

criminal

judicial-administrative

Detailed information on mediation can be found in [brochures and leaflets produced and distributed by the Ministry of Justice](#).

Mediation is most widely used today in criminal and civil matters. In 2011-2012, family and commercial areas saw the most rapid growth in mediation.

**Are there specific rules to follow?**

Mediation is a voluntary way of resolving disputes and conflicts and is conducted on the basis of:

A mediation agreement ( **out-of-court mediation** )

A decision of the court for referral to mediation ( **mediation referred by the court** ).

If the parties do not choose a mediator, the court is entitled to appoint one to participate in the proceedings from a list of persons holding suitable qualifications. In criminal matters and cases involving minors the court appoints the mediator.

Mediation is governed, inter alia, by the Code of Civil and Criminal Procedure, the Law of Procedure in Cases Involving Minors and the Law on Costs in Civil Cases. Instruments of subordinate legislation have also been enacted governing detailed mediation procedure in respect of specific types of cases.

In respect of **minors** the regulation governs:

the conditions to be met by institutions and persons authorised to conduct mediation proceedings,

the registration of institutions and persons authorised to conduct mediation proceedings,

the training of mediators,

the scope and conditions of access of mediators to the case file,

the form and scope of the report on the progress and outcome of the mediation proceedings.

The regulation on **criminal matters** lays down:

The conditions to be met by institutions and persons authorised to conduct mediation proceedings.

The appointment and dismissal of institutions and persons authorised to conduct mediation proceedings.

The scope and conditions of access of institutions and persons authorised to conduct mediation proceedings to the case file.

The method and procedure to be followed in mediation proceedings.

In **family cases** additional requirements apply for mediators concerning their education and experience (psychology, teacher training, sociology or law, and practical skills in conducting mediation in family cases).

An implementing regulation lays down the amount of remuneration and reimbursable expenses of mediators in civil proceedings (see below - What is the cost of mediation?)

**Information and training**

Basic information on mediation in Poland can be found on [the website of the Ministry of Justice](#), including, inter alia: extracts from legal instruments concerning mediation, international mediation legal instruments and [documents and recommendations drawn up by the ADR Council](#), as well as electronic versions of posters which are published to promote the idea of mediation. [Up-to-date information is also published on activities promoting mediation](#) and activities at national and regional level in connection with International Conflict Resolution Day. The website also brings together [information, translations of legal instruments and examples of good practice from other countries](#).

Mediation issues are covered in general legal training and in the training of prosecutors and judges, and are also included in the training programmes of judges and prosecutors at [the National School of the Judiciary and Public Prosecutors \(Krajowa Szkoła Sądownictwa i Prokuratury\)](#).

Training for mediation coordinators commissioned by the Ministry of Justice to prepare for the role of mediation coordinator has been carried out in the following areas: communication, team management and working with mediators.

Mediators themselves select from among the courses offered by mediation centres, universities and other entities.

The Ministry of Justice keeps statistics on mediation, including:

the number of referrals to mediation by the court,

the number of settlements reached,

the conditions of settlements (for mediation in criminal matters and cases involving minors),

the number of out-of-court mediation proceedings (for civil mediation).

In connection with project-based activities, in 2010-2011 guides, leaflets and brochures with information on the different types of mediation and their practical use were distributed in courts, provincial police headquarters and mediation centres. There was also a campaign on television, radio and billboards to inform the general public about mediation. The Ministry of Justice regularly updates and distributes brochures, leaflets and notes attached to procedural documents and posters, which are also available free of charge on the Ministry's website.

Poland has celebrated International Conflict Resolution Day for five years, and the Minister for Justice is organising a national conference on the subject. In addition, dozens of smaller conferences, events, seminars and debates are held in many cities at regional and local level to mark the event.

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

Information on mediation is distributed free of charge by the Ministry of Justice. [Research](#) shows that mediation is more cost-efficient than court proceedings.

In criminal matters and cases involving minors **the parties do not pay the costs of mediation** – these are covered from Treasury resources. In other types of cases, **as a general rule remuneration** is subject to agreement between the mediator and the parties. The mediator may however agree to conduct mediation on a pro bono basis.

In civil matters, the costs are borne by the parties. The parties usually pay half the costs each, unless they agree otherwise. In respect of mediation proceedings instigated on the basis of a court decision, the amount of the mediator's remuneration in non-property disputes is PLN 60 (approximately EUR 15) for the first mediation session, and PLN 25 (approximately EUR 6) for each subsequent session. If the proceedings relate to property, the mediator's remuneration is 1% of the value of the subject-matter of the dispute (not less than PLN 30 (approximately EUR 7.5) and not more than PLN 1 000 (about EUR 250)). The mediator is also entitled to reimbursement of expenses (covering, for example, correspondence and telephone costs and room rental. VAT is also added to the costs.

If a settlement is reached which is the result of mediation, 75% of the court fees will be refunded to the party who brought the matter before the court. In divorce and separation cases, 100% of the fees are reimbursed.

In the case of out-of-court mediation, the mediator's remuneration and reimbursement of their expenses are priced by the mediation centre or the parties agree on them with the mediator before the mediation begins. The parties cannot be exempt from bearing the mediator's costs even if they are exempt from paying the court fees. The mediator in both types of mediation (court and out-of-court) may waive their remuneration.

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

**In civil matters**, if the parties have reached a settlement it is attached to the minutes. The mediator informs the parties that by signing the settlement they agree to submit it to the court for approval. The mediator forwards the minutes with the settlement to the court and sends a copy of the minutes to the parties. The court promptly conducts proceedings to approve or give a declaration of enforceability of the mediation settlement. The court will refuse to approve the settlement or declare its enforceability, in whole or in part, if the settlement is contrary to the law, contra bonos mores, intended to circumvent the law, confusing or contains contradictions contrary to the legitimate interests of the employee. A mediation settlement which has been approved by the court and declared enforceable has the legal validity of a court settlement and may be enforced.

**Family matters** covered by a settlement may relate to reconciliation of spouses, laying down conditions for separation, parental authority matters, contact with children, meeting family needs, maintenance and child support, and property and housing issues. After separation of parents or spouses, matters such as the issue of a passport, choice of the child's education, contacts with other family members and management of the child's property may also be agreed upon.

In civil matters the commencement of mediation proceedings interrupts the limitation period.

**In criminal matters and matters involving minors, a settlement reached during mediation does not replace a court judgment and is not binding on the court, however** the court should honour the content of the decision at the close of the proceedings. The terms of the settlement may cover the following: formal apology, compensation for material and non-material damage, community service, obligations to the party suffering loss, obligations to society as a whole and so on.

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Jis jau išverstas į šias kalbas.

#### **Mediation in Member States - Portugal**

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution (ADR) measure whereby a mediator assists those involved in a dispute to reach an agreement. Both the government and legal professionals recognise the advantages of mediation.

#### **Who should you contact?**

Portugal has a centralised government body responsible for the regulation of mediation activities – the Directorate-General for Justice Policy (*Direção-Geral da Política de Justiça*).

This Directorate-General is a department in the Ministry of Justice, located at:

Av. D. João II, Lote 1.08.01-E, Torre H, Pisos 2/3 1990-097 Lisbon.

Contact details:

E-mail [✉ correio@dgpj.mj.pt](mailto:correio@dgpj.mj.pt)

Telephone: (+351) 217924000

Fax: (+351) 217924048 or 217924090.

The DG's website contains most of the information available on public mediation services as well as other methods of alternative dispute resolution. It does not tell you how to find a mediator, although it does have lists of mediators. Once mediation has been decided on in accordance with the rules governing public mediation services, a mediator is automatically selected.

There are no non-governmental organisations (NGOs) working in the area of mediation in Portugal. However, there are private associations that provide mediation services and training programmes for mediators.

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

The use of mediation is admissible in various areas.

Portugal has adopted measures to promote the use of mediation in specific areas of law, namely family, employment, criminal, civil and commercial matters. Family, employment and criminal mediation have their own structures, with specialist mediators in these areas. Civil and commercial mediation takes place as part of a judicial process in small claims courts (*Julgados de Paz* – Justices of the Peace).

Mediation can also take place outside the jurisdiction of the above courts, which is commonly known as extra-jurisdictional mediation. However, this type of mediation does not follow the same procedures as the matters within the competence of *Julgados de Paz* since, if agreement is not reached during extra-jurisdictional mediation, the process cannot be referred to the court for judgment as is the case with civil and commercial mediation, over which the *Julgados de Paz* have jurisdiction.

#### **Are there specific rules to follow?**

Recourse to mediation is entirely voluntary.

There is no national code of conduct for mediators. Mediators conduct their activities in accordance with the European Code of Conduct for Mediators, with some legal and administrative structures defining their activities and the requirements for practising their profession. There are guidelines on conducting mediation sessions, the methods that may be used to achieve constructive communication or rapport with the parties, and the way in which mediators can propose settlements.

The conduct of mediators is monitored by a public mediation system. The type used depends on the area in which they work. The public system has a supervisory committee that monitors mediation activity. The criteria applied during the training given to mediators aim to instil the ethics and principles set out in the European Code.

Each area of mediation – family, employment, criminal, civil and commercial – has its own legal framework with guidelines for conducting mediation.

At the moment, the public mediation systems, including the civil and commercial mediation that takes place before *Julgados de Paz*, seek only to resolve disputes in Portugal, using the procedures and applications provided by Portuguese legislation.

#### **Information and training**

Information can be found in the mediation section of the website of the Directorate-General for Justice Policy.

Portugal keeps statistics on recourse to mediation. The DG for Justice Policy keeps information on the number of mediation sessions commenced, the number that ended either with or without achieving settlement, and the time taken by each session.

Portugal does not have a national training body for mediators, who are trained by private bodies. These training courses are approved by the Portuguese Ministry of Justice. To be approved they must cover a certain number of hours of learning, certain teaching practices and specific programme content which is in line with the relevant legislation.

Private bodies that train mediators who apply for inclusion in the lists drawn up by the DG for Justice Policy must meet the training criteria. The training programme ensures that they have the capacity and professional competence to settle family, employment, criminal and civil disputes through mediation.

#### **How much does mediation cost?**

Where a court decides to make use of mediation in family disputes, in line with Article 147.C of the Law governing the custody of children, no fee is charged. Fees must be paid in all other cases, without exception, apart from cases where legal aid is granted.

Where mediation takes place at the initiative of the parties, the costs for each party depend on the subject matter of the dispute, as follows:

Family mediation: EUR 50 to be paid by each party

Criminal mediation: exempt from fees when requested by the Public Prosecutor or the defendant and the plaintiff

Employment mediation: EUR 50 to be paid by each party

Civil and commercial matters: EUR 25 to be paid by each party (this type of mediation can take place in *Julgados de Paz* and, in this case, this fee is paid if a settlement is reached).

When parties with financial problems have to pay fees related to the mediation process, they may apply for legal aid and obtain an exemption from the competent body (social security authorities – *Instituto de Segurança Social*).

#### **Useful links**

[✉ Directorate-General for Justice Policy](#)

[✉ Monitoring Board for Small Claims Courts](#)

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#### **Mediation in Member States - Romania**

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

#### **Who to contact?**

The [✉ Mediation Council](#), established by Law 192/2006 on mediation, is responsible for supervising mediation in Romania. It is an autonomous legal entity which acts in the public interest and has its headquarters in Bucharest.

Law 192/2006 provided the legislative framework for the introduction of mediation, within which the mediation profession operates.

The members of the Mediation Council are elected by the mediators and approved by the [✉ Ministry of Justice of Romania](#).

The main responsibilities of the **Mediation Council** are to adopt decisions in the following areas:

To set the **training standards** in the field of mediation, on the basis of best international practice and to supervise their adherence by the professionals;

To **authorise** mediators and to maintain and update the List of Mediators;

To **approve** the **training curricula** for mediators;

To **adopt** the **Ethical and Deontological Code** for authorised mediators, as well as the regulations regarding their disciplinary liability;

To adopt **regulation** on the organisation and functioning of the Mediation Council;

To initiate **proposals** to amend or to correlate legislation on mediation.

The [Mediation Council](#) 's **contact details** are:

Address: Cuza Vodă Street, 64, sector 4, Bucharest

Telephone: 004 021 315 25 28; 004 021 330 25 60; 004 021 330 25 61

Fax: 004 021 330 25 28

E-Mail addresses: [secretariat@cmediere.ro](mailto:secretariat@cmediere.ro) , [Consiliul\\_de\\_mediere@yahoo.com](mailto:Consiliul_de_mediere@yahoo.com)

#### The National Register of Mediator's Professional Associations

The [Mediation Council](#) has established the [National Register of Mediator's Professional Associations](#). This Register lists the non-governmental organisations which promote mediation and represent mediators' professional interests.

Below is a **list of professional associations** active in mediation services:

[Bucharest Mediators' Association](#) (Asociația Mediatorilor București)

Turda Mediators' Center (Asociația Centrul de Mediere Turda)

Vaslui Mediators' Chamber Association (Asociația Camera Mediatorilor Vaslui)

[Vaslui Mediation Centre](#) (Centrul de Mediere Vaslui)

Galati Mediators' Association (Asociația Mediatorilor Galați)

Iasi Mediators' Chamber Association (Asociația Camera Mediatorilor Iași)

Iasi Mediation and Community Security Centre (Centrul de Mediere si Securitate Comunitara Iasi)

[Craiova Mediation Centre](#) (Centrul de Mediere Craiova)

[Cluj Mediation Centre Association](#) (Asociația Centrul de Mediere Cluj)

[Neamt Mediation Centre](#) (Centrul de Mediere Neamt)

Sibiu Mediation Centre (Centrul de Mediere Sibiu)

[Constanta Mediation Centre](#) (Centrul de Mediere Constanta)

Alba Mediation Centre (Centrul de Mediere Alba)

[Timisoara Mediation Centre](#) (Centrul de Mediere Timisoara)

Maramures Mediation and Arbitral Centre (Centrul de Mediere si Arbitraj Maramures)

[Bacau Mediation Centre](#) (Centrul de Mediere Bacau)

[Călărași Mediation Centre](#) (Centrul de Mediere Calarasi)

[Ialomița Mediation Centre](#) (Centrul de Mediere Ialomita)

#### The Panel of Mediators

In accordance with Article 12 of Law 192/2006, **authorised mediators are registered in the "Panel of Mediators"** managed by the [Mediation Council](#) and published in the Romanian Official Journal, Part I.

The **"Panel of Mediators"** is also available from the official websites of the [Mediation Council](#) and of the [Ministry of Justice](#).

The list of **authorised mediators** contains information on:

Their membership to professional associations,

The institution from which they graduated,

The mediation training programme they followed,

Foreign languages in which they are able to conduct mediation services,

Their contact details.

Persons interested in resolving their dispute through mediation can contact a mediator within 1 month of the date of publication of the "panel (list) of mediators" on the premises of the courts and on the website of the Ministry of Justice.

The Mediation Council is legally obliged to regularly update – at least once a year – the **Panel (List) of mediators**, and to communicate updates to the courts, to local government authorities, and to the Ministry of Justice.

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

Article 2 of Law 192/2006 allows parties to seek mediation in **disputes relating to civil or penal matters, family matters** and other fields of law subject to the legal provisions. **Consumer disputes**, and other **disputes subject to renounceable rights**, can also be resolved using mediation. However, matters relating to personal rights and to non-renounceable rights cannot be the subject of mediation.

#### Are there specific rules to follow?

Recourses to mediation is **voluntary**. There is no obligation for parties to look for mediation services, and they may opt out of mediation at any stage. In other words, parties are free to seek other means of dispute resolution at any point: court proceedings, arbitration. Interested parties may contact a mediator before coming to court, and also during court proceedings.

However, various national legal provisions in the field of mediation oblige judges, in certain cases, to **inform parties of the possibility of opting for mediation and the advantages of doing so**. In other cases, a number of **financial incentives** are offered to parties who choose mediation or other alternative dispute resolution proceedings.

On 17 February 2007 the [Mediation Council](#) approved the **Ethical and Deontological Code** for mediators. The Code is binding on all mediators included in the Panel of Mediators.

#### Information and training

The [Mediation Council](#) website is the main source of information about mediation in Romania.

Training on mediation is provided only by the private sector, but the [Mediation Council](#) is responsible for authorising training courses providers in order to ensure that all courses offer trainings of the same standards.

A list of **training programme providers** is also included in the [Mediation Council](#)'s official website.

Training courses are run on a regular basis. One training programme which counts for **mediators' initial training course** (80 hours) is currently in place. The programme sets learning objectives, skills to have developed by the end of the programme and the evaluation methods. The 8 providers authorised by the Mediation Council are responsible for developing support material and exercises following the frame set by the national training programme.

#### What is the cost of mediation?

Mediation is not free of charge; **the level of payment** is subject to agreement between a private mediator and the parties.

Currently no legal or financial support to provide mediation services is available from local or national authorities.



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

[Directive 2008/52/EC](#) creates the possibility to request that the content of a written agreement resulting from mediation be made enforceable. Member States shall inform the Commission of the courts or other authorities competent to receive requests.

Romania has not yet communicated this information.

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### Mediation in Member States - Slovenia

Rather than going to court, why not resolve disputes through mediation? This is a form of alternative dispute resolution (ADR) where a mediator helps the parties reach agreement. The Slovenian Government and judicial officials realise the advantages of mediation.

#### Who to contact?

The Act on Alternative Dispute Resolution in Judicial Matters (ZARSS, *Uradni List RS* (UL RS; Official Gazette of the Republic of Slovenia) Nos 97/09 and 40/12 – Fiscal Balance Act (ZUJF)), which was adopted on 19 November 2009 and came into force on 15 June 2010, requires first-instance and second-instance courts to adopt and bring into force a programme of alternative dispute settlement to allow parties alternative means of settlement in disputes on commercial, labour, family and other civil-law matters. Under this programme courts are obliged to allow the parties to use mediation in addition to other forms of alternative dispute resolution.

The Ministry of Justice keeps a [central register of mediators](#) who operate in court programmes for alternative dispute resolution.

A number of non-governmental organisations are involved in mediation:

[Slovenian Association of Mediators](#) ([list of mediators](#)),

[Centre for Mediation at the Legal Information Centre](#),

[Slovenian Association of Mediation Organisations – MEDIOS](#) ([list of mediators](#)).

The Council for Alternative Dispute Resolution operates under the auspices of the Ministry of Justice and Public Administration. The Council was set up in March 2009 and is a central, independent, expert body of the Ministry with a coordinating and consultative role.

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

Mediation may be used in civil, family, commercial, labour and other property-related matters with regard to claims which can be disposed of and settled by the parties. Mediation is also admissible in other matters, as long as it is not excluded by law.

Mediation is most common in civil, family and commercial matters.

#### Are there specific rules to follow?

Recourse to mediation is voluntary. The Mediation in Civil and Commercial Matters Act (ZMCGZ, UL RS No 56/08) refers to mediation in general, i.e. to mediation associated with judicial procedures and to non-judicial mediation. It sets out only the basic rules for mediation procedures, leaving other aspects to self-regulating mechanisms. For example, it lays down where mediation begins and ends, who appoints the mediator, the mediator's basic rules of conduct, the form of the dispute settlement agreement, how to ensure it can be enforced, etc. Parties may deviate from provisions of the Act, except provisions regulating the principle of impartiality of mediator and the impact of mediation on preclusion and limitation periods.

The Slovenian Association of Mediators has adopted a [code of conduct](#) for mediators, but this applies only to its members.

#### Information and training

You can find relevant information about mediation and how to contact a mediator on various NGO websites, including:

[Slovenian Association of Mediators](#)

[Slovenian Association of Mediation Organisations – MEDIOS](#)

[Centre for Mediation at the Legal Information Centre](#)

Training for mediators is provided by a number of NGOs, including the [Centre for Judicial Education](#) at the Ministry of Justice.

#### What is the cost of mediation?

For the time being court-based mediation conducted under ZARSS in disputes arising from relationships between parents and children and in labour-law disputes due to termination of an employment contract is free of charge for the parties; parties pay only for their lawyers. In all other disputes, except commercial disputes, the court covers the mediator's fees for the first three hours of mediation.

Private organisations charge various fees for mediation.

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

Such an agreement is not directly enforceable. It is possible, however, the parties may agree that the dispute settlement agreement is to take the form of a directly enforceable notarial deed, a court settlement or an arbitration award based on the settlement.

#### Related links

[Slovenian Association of Mediators](#)

[Centre for Mediation at the Legal Information Centre](#)

[Slovenian Association of Mediation Organisations – MEDIOS](#)

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### Mediation in Member States - Slovakia

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

#### Who to contact?

The website of the [Slovak Ministry of Justice](#) has a [section dedicated to mediation](#), which is available only in Slovak.

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

Mediation mechanisms are described in Act No 420/2004 on mediation and amending certain laws, as amended, which governs:

the performance of mediation,

the basic principles of mediation, and

the organisation and effects of mediation.

This Act applies to conflicts in relationships governed by civil law, family law, commercial contracts, and labour law.

Mediation is an out-of-court arrangement where the mediator seeks to help resolve a conflict arising from contractual or other legal relationships. It is a procedure whereby two or more parties to a dispute are assisted by a mediator to settle the dispute.

The third sentence of Section 99 (1) of Act No 99/1963 Rules of Civil Procedure, as amended, reads as follows: "The circumstances of the case permitting, prior to the first hearing and during the proceedings the court may invite the parties to attend an informative meeting with a mediator listed in the Register of Mediators in order to try and settle their dispute through mediation."

#### Information and training

The section on [mediation](#) of the website of the Slovak Ministry of Justice provides information on mediation in Slovak. More information is available on the website of the [European Judicial Network](#).

#### What is the cost of mediation?

Mediation is a paid service. The fee for the mediator is set on an individual basis and is usually based on an hourly rate or a flat fee. Mediation is a business activity and there are no preset costs.

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

[Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement resulting from mediation be made enforceable. Member States will communicate this to the courts and other authorities competent to receive such requests.

Mediation in Slovakia is an informal, voluntary and confidential procedure for resolving conflicts out of court by using a mediator. The aim of mediation is to reach an agreement that is acceptable to both parties.

The agreement resulting from the mediation procedure must be set down in writing. It applies primarily to the parties involved in the agreement and is binding on them. On the basis of the agreement, the entitled party may apply for judicial enforcement of the decision or for distraint, providing that the agreement is: drawn up in the form of a notarial act;

endorsed as conciliation in court by an arbitral body.

If no mediation agreement is reached, the matter can be pursued in court.

#### Related links

[Ministry of Justice of the Slovak Republic](#)

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#### Mediation in Member States - Finland

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

#### Who to contact?

The general management, guidance and supervision of mediation in criminal and certain civil cases are the responsibility of the Ministry of Social Affairs.

Health state provincial offices must ensure that mediation services are available and appropriately implemented in all parts of the country.

You can find information on mediation on the [National Institute of Health and Welfare \(THL\)](#) website.

Mediation services annexed to a court are managed by the District courts. District Courts may decide upon initiating mediation in civil disputes. The purpose of mediation is to help the parties to a dispute find a solution that is acceptable to both parties. Results achieved by mediation are therefore generally based more on what is reasonable under the given circumstances than on the strict application of the law. Further information on District courts is available from the [Finnish Ministry of Justice website](#). A [brochure on judicial mediation](#) is also available.

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

Mediation is used in both civil matters and criminal matters.

Mediation is most commonly used in civil disputes, particularly in minor civil cases. However, all civil disputes need not to be subjected to court-connected mediation. Consumer disputes, for instance, may be handled by a consumer adviser and the **Consumer Complaints Board**. However, for criminal matters, there is a specific procedure for mediation.

Civil matters and disputes submitted to general courts may be mediated as set out in the statute on court-annexed mediation (Act 663/2005). The objective of court-annexed mediation is the amicable settlement of disputes. The preconditions for court-annexed mediation are that the matter is amenable to mediation and that the mediation is appropriate in view of the claims of the parties. One or both of the parties to a dispute may make a written application before going to court. The application must be filed in writing, indicating the subject matter of the dispute and how the positions of the parties diverge. In addition, grounds must be supplied as to why the matter is amenable to mediation.

Conciliation (mediation) may also be used in civil cases in which at least one of the parties is a natural person. Civil cases, other than those involving claims for damages based on a crime, may, however, be referred to conciliation only if the dispute is of a minor nature, taking into account the subject and the claims put forward in the case. What the statute provides on conciliation in criminal cases applies, as appropriate, to conciliation in civil cases.

Conciliation may be carried out with parties that have personally and voluntarily expressed their agreement to conciliation. They must be capable of understanding its meaning and the solutions arrived at through the conciliation process. Thus, before parties agree to conciliation, they must have their rights in relation to conciliation and their position in the conciliation process explained to them. Each party has the right to withdraw its agreement at any time during the conciliation process.

Underage persons must give their agreement to conciliation in person. In addition, an underage person's participation in conciliation requires agreement by his/her custodian or other legal representatives. Legally incompetent adults may participate in conciliation if they understand the meaning of the case and give their personal agreement to the process.

Conciliation may be used for crimes that are assessed as eligible for conciliation, taking into account the nature and method of the offence, the relationship between the suspect and the victim and other issues related to the crime as a whole. Crimes involving underage victims must not be referred to conciliation if the victim needs special protection because of the nature of the crime or because of his/her age.

Mediation offices receive mediation requests and co-operate with various authorities throughout the mediation process. Each mediation case is assigned to a voluntary mediator chosen by professionals working at the mediation office. Mediators undertake mediation cases and related practicalities in co-operation with the mediation office. The office staff guides and supervises the mediators in their work.

#### Are there specific rules to follow?

In criminal matters, conciliation may be carried out only between parties that have personally and voluntarily expressed their agreement to conciliation and are capable of understanding its meaning and the solutions arrived at in the conciliation process. In civil matters (court-annexed mediation) the commencement of mediation requires the consent of all parties.

In Finland, there is a national code of conduct for mediators, with sectoral codes of conduct for mediators (e.g. by area of specialisation such as family law mediators, medical, construction).

#### Information and training

A brochure on court-annexed judicial mediation is available from the website of the [Finnish Ministry of Justice](#).

The National Institute for Health and Welfare (THL) organises training for mediators.

The institute also compiles statistical information on mediation in criminal and civil cases, monitors and conducts research on mediation activities, and coordinates development efforts in the field. This work is supported by the **Advisory Board on Mediation in Criminal and Civil Cases**.

#### What is the cost of mediation?

Mediation in criminal cases is a non-chargeable service. It allows the victim of a crime and the offender to meet through an impartial mediator to discuss the mental and material damage caused to the victim and agree on measures to redress the harm (Act 1016/2005).

Mediation involves lower costs than a trial for the parties concerned. Each party pays only his or her own costs and is not obliged to pay the costs of the opponent. If the parties so wish, they may engage a legal adviser. It is also possible for a party to apply for legal aid at a legal aid office.

In judicial mediation, a judge of the district court acts as mediator. Indeed, mediation in disputes is one of the ordinary tasks of a judge. If the case requires specific knowledge in some area, the mediator may, with the agreement of the parties, engage an assistant whose fee is paid by the parties.

A fee is charged for judicial mediation, as for all other matters handled by a court.

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

[Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement arising from mediation be made enforceable. Member States shall inform the Commission of the courts or other authorities competent to receive requests.

Finland has not yet communicated this information.

#### Related Links

[brochure on judicial mediation](#), [Website on mediation \(The National Institute for Health and Welfare \(THL\)\)](#)

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Puslapj jūsu pasirinkta kalba šiuo metu rengia mūsų vertėjai.

Jis jau išverstas į šias kalbas.

#### Mediation in Member States - Sweden

If you are engaged in a civil law dispute, why not try to solve it through mediation, rather than going to court? Mediation is an alternative dispute resolution (ADR) measure, whereby a mediator helps those involved in a dispute to reach an agreement. The government and justice practitioners in Sweden are aware of the advantages of mediation. Mediation can also be used in criminal cases, but is not a sanction for the offence and can never replace a criminal trial. The purpose of mediation in criminal cases is to give the offender a better insight into the consequences of the crime and to allow the victim the opportunity to work through his or her experiences.

#### Mediation in civil cases

##### Who to contact?

There is no central body responsible for regulating the profession of mediator. However, the National Courts Administration ([Domstolsverket](#)) can be contacted for information on mediation. A list of persons who have expressed a willingness to mediate in the courts has also been drawn up by the National Courts Administration and can be consulted at <http://www.domstol.se/>.

In commercial matters the Stockholm Chamber of Commerce ([Stockholms handelskammare](#)) and the West Sweden Chamber of Commerce and Industry ([Västsvenska industri- och handelskammaren](#)) do work in the area of mediation.

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

Mediation is admissible in multiple areas, but most common in civil law matters.

There is a possibility of recourse to a mediator within the court proceeding.

##### Are there specific rules to follow?

Recourse to mediation is entirely voluntary. There are no specific regulations, such as codes of conduct for mediators.

#### Information and training

There is no specific information on mediation training, and no national training body for mediators.

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

Mediation is not free of charge; payment is subject to an agreement between the private mediator and the parties. The cost of mediation is shared equally by the parties.

#### Mediation in criminal cases

##### Who to contact?

Since 1 January 2008 all Swedish local authorities have been required to offer mediation if the offence was committed by someone under the age of 21.

Either the police or the local authority can take the initiative of asking an offender whether he or she is interested in taking part in mediation.

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

Mediation can be used for offenders of any age and at any stage of the judicial process. The Mediation Act sets no upper age limit, but since 1 January 2008 all Swedish local authorities have been required to offer mediation if the offence was committed by someone under the age of 21.

##### Are there specific rules to follow?

Mediation is not part of the punishment. The following conditions apply:

It must be voluntary for both parties.

The offence must have been reported to the police and the offender must have admitted guilt.

Mediation must be seen as appropriate in the light of the circumstances.

#### Information and training

The Act requires those designated as mediators to be competent and honest. They must also be impartial.

Further information about mediation can be obtained from the local authorities or the National Council for Crime Prevention (Brottsförebyggande rådet).

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

Mediation is free of charge for both victim and offender.

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### Mediation in Member States - England and Wales

Rather than going to court, why not try to solve your dispute through mediation? This is an alternative dispute resolution (ADR) measure, whereby a neutral mediator assists those involved in a dispute to reach an agreement. The government and justice practitioners of England and Wales are aware of the advantages of mediation and are committed to the promotion and use of mediation to resolve disputes as an alternative to going to court, in suitable cases. Your case may be eligible to be funded by legal aid (subject to it passing the usual qualifying criteria).

#### Who to contact?

The Ministry of Justice is responsible for policy on civil and family mediation, including its promotion as it relates to England and Wales only.

#### Civil Mediation

In order to ensure the quality of court-referred mediation in civil disputes (excluding family disputes in the jurisdiction of England and Wales), the Ministry of Justice and Her Majesty's Courts and Tribunals Service (HMCTS) have established two civil mediation processes via which parties can resolve disputes depending on the value of the claim. The Small Claims Mediation Service is an in-house service provided and run by HMCTS, in relation to cases falling within the small claims track, generally cases under £10000. For higher value cases, over £10000, the Ministry of Justice has worked with the [Civil Mediation Council](#) (CMC) to introduce an accreditation scheme via which mediation provider organisations can apply to be included in the civil mediation directory and for courts to refer parties to them in suitable cases. The CMC is one organisation representing civil and commercial mediation providers.

#### Family Mediation

With regard to family disputes, mediation is self-regulated, consisting of a number of membership organisations or accreditation bodies to which mediators are affiliated. These bodies have converged to form the [Family Mediation Council](#) (FMC) in order to harmonise standards in family mediation. Another function of the FMC is to represent its founding member organisations and family mediation practitioners at large in the dealings of the profession with government.

The FMC is a non-governmental body and plays a central role among its member organisations, which are all non-governmental organisations/associations and founder members of the FMC. The most prominent of these are:

ADR Group

Family Mediators Association

National Family Mediation

College of Family Mediators

Resolution

The Law Society

Government has no plans at present to set up a regulatory body in relation to civil or family mediation.

You can find an accredited civil mediator on the civil mediation directory, available on the [justice website](#). You can search the directory for a mediation provider that is local to you; and the cost of mediation is based on a fixed fee, depending on the value of the dispute. For parties who are unable to afford the cost of mediation a free mediation service is available for those who are eligible, provided by LawWorks. LawWorks can be contacted on **01483 216 815** or via the [LawWorks website](#).

A family mediation service finder is available within the GovUK website (previously known as DirectGov) at: [Family Mediation Service Finder](#). Please note there is no longer a Family Mediation Helpline.

You can find out more about legal aid, including whether you may be eligible for legal aid on the new Legal Aid Information Service on the Gov.UK site at [check-legal-aid](#)

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

Mediation can be used to resolve a whole range of everyday civil and commercial disputes – including housing issues, business disputes, workplace disputes, small claims, debt claims, boundary disputes, employment disputes, contractual disputes, personal injury and negligence claims as well as community disputes such as nuisance or harassment issues.

Mediation can also be used in relation to family disputes, including divorce, dissolution, civil partnership dissolution, Children Act applications, including contact and residence. It is not restricted to former partners or spouses. For example, grandparents could use family mediation to help agree on arrangements for them to continue a relationship with their grandchildren.

#### Are there specific rules to follow?

##### Civil mediation procedure

Civil mediation is not regulated by law, nor is it a prerequisite to court proceedings. However, parties in civil cases are required to consider mediation seriously before going to court.

The **civil procedure rules** (CPR) govern the practice and procedure to be followed in the civil divisions of the Court of Appeal, the High Court and County Courts. The CPR has a procedural code, whose overriding objective is to help the courts deal with cases justly. Part of that overriding objective requires the court to manage cases actively, this includes encouraging the parties involved to use an alternative dispute resolution procedure if the court considers this appropriate and facilitates the use of such procedure.

While mediation is entirely voluntary, the civil procedure rules set out the factors to be taken into account when deciding the amount of costs to award. The court must have regard to the efforts made, if any, before and during the proceedings in order to try to resolve the dispute. Consequently, if a winning party has previously refused a reasonable offer of mediation, the judge could decide that the losing side will not be required to pay the winning side's costs.

##### Family mediation procedure

"Since April 2011 all clients (not just those in receipt of public funding) have been expected, except in specified circumstances, to consider the use of family mediation by attending a Mediation Information and Assessment Meeting (MIAM) before they can make an application to the court under the President's Pre Application Protocol (PAP) - Practice Direction 3A. At this meeting which parties can attend either together or separately, mediation or any other dispute resolution option available locally, can be discussed and considered.

Prior to April 2014 applicants were expected to file Form FM1 with their application to show that they are:

exempt from attending a MIAM; that mediation is not suitable; that they attended a MIAM but mediation is not suitable; or that mediation took place but was not able to resolve any or all of the issues. Post April 2014 the mediation declaration is contained within the relevant application form, eg C100.

It is now a legal requirement that anyone considering applying to court for an order about their children is legally obliged to attend a MIAM first. To support this, the Government has kept family mediation and Legal Help for Mediation within scope for legal aid. If one party qualifies for legal aid, the cost of the initial MIAM will be covered for both participants. There are certain exemptions to this requirement, for example in relationships involving domestic violence.

In addition to this, as of 3 November 2014, the first single session of mediation is publicly funded in all cases where one of the people involved is already legally aided. In this scenario, both participants will be funded for the MIAM and the first session of mediation. It is hoped that the combination of the compulsory MIAM with the free first mediation session will prove effective in introducing more people to the benefits of mediation, and away from the courts. However mediation is still a voluntary process and both parties must agree to mediate."

Like the **Civil Procedure Rules**, the **Family Procedure Rules** (a comprehensive set of rules that relate to court procedure) encourage the use of alternative dispute resolution (ADR) methods.

#### **Maintaining professional standards**

There is no national code of conduct for mediators specific to England and Wales. However, in order to be accredited by the CMC the civil mediation provider must adhere to a code of conduct – the [EU Code of Conduct](#) is used as the model. The profession is self-regulating and the government plays no role in encouraging adherence to any voluntary code

All founding members of the FMC are required to ensure that their members (family mediation practitioners) adhere to the [FMC Code of Conduct](#).

#### **Information and training**

Information about civil mediation, services and pricing is available from the Government website at the [Ministry of Justice website: civil mediation](#)

The Civil Mediation Directory offers a search facility to find a mediator who is able to provide mediation in a location suitable to the parties. The CMC website and the websites of the CMC provider organisations provide more information about mediation and mediation services.

The Family Mediation Service Finder offers a search facility to find a mediator in a user's local area. The websites of the FMC member organisations provide more information about mediation services

There is no national training body for civil mediators in England and Wales. Civil mediators are trained by the private sector, which is self-regulated. The profession self-regulates and deals with the training of its membership.

Family mediators come from a variety of backgrounds, including legal, therapeutic and social services, and there is no legal requirement that they undertake any specialist training. The various membership/accreditation organisations do, however, maintain their own sets of training and professional standards, which feature training requirements. Mediators who have a contract to provide publically funded mediation are expected to attain a particular high standard of accreditation and training to carry out the initial Mediation Information Assessment Meeting (MIAM) and mediation.

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

The cost of mediation varies by provider and is not generally regulated by the state. In civil matters, the cost of mediation relates to the value of the issues in dispute and the time required to undertake the mediation process. The rates for the provision of mediation provided via the online civil mediation directory are available from the justice website. The LawWorks charity provides free mediation to those who cannot afford to pay. LawWorks can be contacted on 01483216815 or via the [LawWorks Mediation website](#).

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

[Directive 2008/52/EC](#) implemented in the UK under The Cross-Border Mediation (EU Directive) Regulations 2011 (SI 2011 No 1133) allows those involved in a cross-border dispute, where one party is domiciled in a Member State at the time of the dispute to request that a written agreement arising from mediation be made enforceable. Member States shall inform the Commission of the courts or other authorities competent to receive requests.

For England and Wales, details on competent courts are available on the website of [Her Majesty's Courts and Tribunals Service](#).

Parties to a civil dispute, issued in court, who have reached an agreement through mediation, may apply to the court to have their agreement legal endorsed by a judge. Once endorsed by a judge the agreement becomes legally binding and enforceable 'consent order', should the court be satisfied as to the fairness of the agreement reached.

Parties to family disputes who have reached agreement amongst themselves, through their solicitors or through mediation, may apply to the court to convert their agreement into a legally binding court 'consent' order, should the court be satisfied as to the fairness of the agreement in question. This is more likely to apply to financial agreements rather than those relating to children.

#### **Related Links**

[Civil Mediation Council](#), [Family Mediation Council](#), [Civil Mediation Online Directory](#), [Family Mediation Service Finder](#), [EU Code of Conduct for Mediators](#) [FMC Code of Conduct](#), [LawWorks Mediation](#)

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#### **Mediation in Member States - Northern Ireland**

Rather than going to court, why not try to solve your dispute through alternative dispute resolution (ADR)? ADR, which includes mediation, conciliation and arbitration, allows parties in dispute to engage independent support to assist them in reaching agreement. ADR facilitates self-determination and when used in appropriate cases can give rise to genuine consent and sustainable workable agreements between parties. It can also be less stressful and cheaper than court proceedings.

#### **Who to contact?**

No one government department or body has responsibility for the promotion and development of ADR in Northern Ireland but the advantages are widely recognised and there are a number of private, voluntary and community organisations which provide ADR services. More information can be found in the information booklet [Alternatives to Court in Northern Ireland](#).

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

ADR can be used in a wide range of civil/commercial disputes including business, workplace and employment disputes, contractual and debt claims, small claims, housing, boundary disputes and community disputes. It can also be used in family disputes such as disagreements between parents or members of the extended family about arrangements for children following the breakdown of a marriage or relationship.

#### **Are there specific rules to follow?**

There is no legal requirement to use ADR in Northern Ireland and process to be applied is not specified statutorily but the courts are supportive and will encourage its use in appropriate cases. Courts also likely to permit adjournment of cases where it appears issues could be resolved through ADR.

#### **Information and training**

Training and accreditation is not regulated by government. Qualifications and experience are a matter for the service provider although a number of practitioners are members of professional bodies for which training and continuing professional development is a prerequisite to membership and accreditation. Requirements vary across providers. Further information can be obtained from service provider websites.

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



The cost of ADR is not regulated and varies by provider. Some mediation is publicly funded. The Department of Health, Social Services and Public Safety currently provide some funding for pre-court mediation in family disputes. The Northern Ireland Legal Services Commission has also met the cost of some mediation from legal aid funds.

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

Parties who have reached an agreement through mediation may be able to apply to the court to have it made into a legally binding and enforceable "consent order" if the court is satisfied as to the fairness of the agreement reached.

Directive 2008/52EC implemented under the Cross-Border Mediation Regulations (NI) 2011 (SR 2011 No. 157) allows those involved in a cross-border dispute, where one party is domiciled in a Member State at the time of the dispute to request that a written agreement arising from mediation be made enforceable. For Northern Ireland details of competent courts to receive such requests are available from the Northern Ireland Courts and Tribunals Service.

### Related Links

[NI Direct](#)

[Familysupport NI](#)

[Family Mediation NI](#)

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### Mediation in Member States - Scotland

Mediation can be a practical alternative to going to court or a tribunal. It involves a third party mediator who helps people to agree a solution when there is a dispute. It is a flexible and voluntary process that can be used to settle disputes in a whole range of situations. If parties are unable to reach agreement they can still go to court. The Government and justice practitioners in Scotland recognise the potential advantages of mediation.

The Scottish Government provides funding to the Scottish Mediation Network, which acts as a professional body for mediators in Scotland, and promotes a wider understanding of the appropriate use of mediation and other related forms of conflict management and prevention.

### Who to contact?

The Civil Law and Legal Systems Division in the Justice Directorate of the Scottish Government is responsible for mediation in the civil justice system in Scotland.

Relevant addresses on mediation:

**Scottish Mediation**, 18 York Place, Edinburgh, EH1 3EP

**SACRO** (Safeguarding Communities Reducing Offending), 29 Albany Street, Edinburgh EH1 3QN

**Scottish Community Mediation Centre** 23 Dalmeny Street, Edinburgh EH6 8PG

**Relationships Scotland**, 18 York Place, Edinburgh, EH1 3EP

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

Recourse to mediation is admissible in all areas of law. It is most commonly used in family conflicts and neighbourhood disputes. Increasingly, commercial and business differences are referred for mediation. Mediation must be offered in disputes about **additional support needs**, and conciliation must be available in **disability discrimination claims**.

### Are there specific rules to follow?

The emerging mediation profession in Scotland does not have a mandatory regulatory framework. Nor is it a prerequisite to initiating certain types of court proceedings. Mediation is entirely voluntary.

However, there is a **code of conduct** for mediation in Scotland. The code takes into consideration the various areas of specialisation: such as family law, medicine, and construction. The Scottish Government has given its support to the work of the (SMN) and the development of the [Scottish Mediation Register](#) (SMR). All members of the SMN are required to observe the code of conduct for mediation in Scotland. Those mediators and mediation services appearing on the SMR may also demonstrate higher standards. The websites for both these initiatives are free to access and well used, and mediators must observe the code if they are to appear on the sites.

### How you can access information on mediation

Information on mediation is available on the website of the [Scottish Mediation Network](#) (SMN), and the [Scottish Mediation Register](#) (SMR) provides information about finding a mediator in Scotland. Both these websites are available to the general public and offer you free access to all information.

The [Scottish Mediation Register](#) is an independent register of mediators and mediation services. This website gives you free access to information about people who practice all kinds of mediation. The register is administered by the [Scottish Mediation Network](#) (SMN).

The data on the site is updated by the mediators at least once a year.

The aim of the Scottish Mediation Register is to reassure people of the professional quality of the mediators they select, by certifying that they meet minimum standards. These [standards](#) are set by an independent [Standards Board](#). Mediators who appear on the SMR can call themselves a [Scottish Mediation Registered Mediator](#) and use the SMR logo next to their name.

Once a [regulating organisation](#) certifies that a mediator has met the organisation's additional sectorial standards, an additional 'badge' from that organisation may be applied beside the mediator's entry on the register.

### Information and training

Since 2004, the SMN network has provided a **'map of mediation'** on its website. The presentation of information has been upgraded several times – work that has been funded by the Scottish Government. The link appears in a number of leaflets and web links. This has now been linked to the Scottish Mediation Register to provide a single point of enquiry for finding a qualified mediator

The SMN office also receives telephone enquiries, which are directed to the appropriate mediation services.

The SMR sets out mediator qualifications so that parties have better information when selecting a mediator.

In Scotland, there are **training programmes** for different spheres of mediation. All are at least 30 hours long and should include training in:

Principles and practice of mediation

Stages in the mediation process

Ethics and values of mediation

The legal context of disputes (if any)

Communication skills useful in mediation

Negotiation skills and their application

The effects of conflict and ways of managing it

Diversity.


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

The cost of mediation varies by provider and is not regulated by the state.

Mediation is generally **free** to the individual user when the dispute involves children, neighbour and community conflicts, additional support needs and disability discrimination conciliation.

**Fees** for private mediators range from £200 to £2000 or more per day.

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

 [Directive 2008/52/EC](#) allows those involved in a dispute to request that a written agreement arising from mediation be made enforceable. Member States will communicate this to the courts and other authorities competent to receive such requests.

### **Related Links**

 [Scottish Mediation Network](#),  [Scottish Mediation Register](#),  [Standards](#),  [Scottish Mediation: Registered Mediators](#),  [Regulating organisation](#)

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