włoski

Uwaga: niedawno wprowadzono na tej stronie zmiany w oryginalnej wersji językowej en. Strona w wybranej przez Ciebie wersji językowej jest obecnie tłumaczona przez nasze służby tłumaczeniowe.

Swipe to change

Mediacja rodzinna

Mediacja może okazać się szczególnie pomocna w sporach rodzinnych o charakterze transgranicznym oraz w sprawach dotyczących uprowadzenia dziecka przez jednego z rodziców. Pojęcie „sprawy rodzinne" obejmuje różnorodne sytuacje, w których doszło do sporu, począwszy od spraw czysto prywatnych po sprawy z udziałem organów publicznych.

Czym jest mediacja rodzinna o charakterze transgranicznym?

Mediacja rodzinna o charakterze transgranicznym jest postępowaniem prowadzonym przez jedną bezstronną i wykwalifikowaną osobę trzecią, czyli mediatora, lub kilka takich osób. Mediator nie ma uprawnień do podejmowania decyzji, ale pomaga stronom w ponownym nawiązaniu dialogu i wspiera je w samodzielnym rozwiązaniu problemu.

Osiągnięte porozumienie pozwala rozstrzygnąć spór w sposób dostosowany do indywidualnych potrzeb, z uwzględnieniem najlepszego interesu dziecka, jeżeli w danej sprawie należy ten interes wziąć pod uwagę.

Sprawy rodzinne obejmują zagadnienia dotyczące: odpowiedzialności rodzicielskiej i prawa do osobistej styczności z dzieckiem, uprowadzenia dziecka, środków mających na celu ochronę dziecka, świadczeń alimentacyjnych na rzecz dzieci lub byłych współmałżonków oraz innych następstw rozwodu lub separacji.

Partnerów zachęca się do przyjęcia odpowiedzialności za decyzje dotyczące ich rodziny i przede wszystkim do podjęcia próby rozwiązania sporu na drodze pozasądowej.

Mediacja może zatem stworzyć podłoże do konstruktywnej dyskusji, a także zapewnić uczciwe zasady postępowania w stosunkach między rodzicami przy równoczesnym uwzględnieniu nadrzędnego interesu dziecka.

Bardziej szczegółowe informacje można znaleźć na poniższych stronach:

- Główne zasady i etapy mediacji
- Cechy mediacji o charakterze transgranicznym
- Koszty mediacji o charakterze transgranicznym
- Ramy prawne mediacji o charakterze transgranicznym

Aby uzyskać szczegółowe informacje krajowe, należy kliknąć na flagę kraju.

Jak odbywa się mediacja?

Jako strona możesz się ubiegać o przeprowadzenie mediacji we wszystkich państwach członkowskich. W niektórych państwach członkowskich sędzia może wezwać strony sporu do udziału w postępowaniu mediacyjnym.

Jeżeli wszystkie strony postanowią skorzystać z mediacji, wybrany mediator przedstawia stosowny harmonogram. Sposób wyboru mediatora zależy od konkretnego kraju – informacje te można znaleźć na odpowiednich stronach krajowych, do których łącza podane są po prawej stronie ekranu.

Przedstawiciele prawni mogą odgrywać w tym postępowaniu istotną rolę ze względu na to, że przekazują informacje prawne, które są niezbędne do tego, aby strony mogły podjąć świadomą decyzję.

Ugoda zawarta w drodze mediacji może zostać opatrzona klauzulą wykonalności, jeżeli obie strony o to wniosą. Może to nastąpić np. w drodze jej zatwierdzenia przez sąd lub poświadczenia przez notariusza.

Przedstawiciele prawni mogą dokonać przeglądu porozumienia zawartego w drodze mediacji, aby zagwarantować, że ma ono moc prawną we wszystkich odpowiednich systemach prawnych.

Dlaczego należy spróbować tego rozwiązania?

Ponieważ istnieje możliwość zachowania przez strony wpływu na zaproponowane rozwiązanie sporu.

Mediacja odbywa się w przyjaznym środowisku, w którym stronom przypisuje się wiodącą rolę.

Mediacja pozwala na analizę zakresu sporu i jego modyfikację.

Strony mogą podejmować decyzje i zawierać porozumienia, ale nie są do tego zobowiązane.

Uczestnictwo w mediacji nie powoduje wygaśnięcia prawa do wystąpienia na drogę sądową.

Postępowanie mediacyjne jest korzystne dla wszystkich stron biorących udział w mediacji (ang. *win-win situation*).

Mediator jest bezstronnym i przeszkolonym podmiotem oferującym wsparcie, który pomaga w samodzielnym wypracowaniu rozwiązania.

W porównaniu z postępowaniem sądowym mediacja jest stosunkowo niekosztowna.

Mediację można przeprowadzić stosunkowo szybko. Spotkania mediacyjne można łatwo zaplanować, tak aby wybrane terminy pasowały obu stronom, przy czym spotkania mogą się odbywać w wielu różnych lokalizacjach.

Mediacja pozwala na elastyczne rozwiązania (dostosowane do indywidualnych potrzeb) i pomaga w utrzymaniu lub zbudowaniu konstruktywnych relacji oraz kontaktów między stronami na przyszłość.

W toku postępowania mediacyjnego istnieje możliwość korzystania ze wsparcia i doradztwa przedstawiciela prawnego.

Mediacja może ograniczyć konieczność przeprowadzenia postępowań spornych w przyszłości.

To łącze prowadzi do strony Znajdź mediatora.

Granice mediacji

Jeżeli istnieją przesłanki wskazujące na to, że sprawa nie nadaje się do mediacji lub że jedna strona (lub obie strony) nie jest skłonna do rozpoczęcia mediacji, konieczne jest podjęcie czynności przez organy sądowe. W trakcie oceny, czy sprawa nadaje się do mediacji, należy w szczególności zidentyfikować możliwe zagrożenia, takie jak przemoc domowa oraz jej natężenie, nadużywanie alkoholu i narkotyków, znęcanie się nad dziećmi itd.

Poszczególne sprawy powinny być oceniane indywidualnie, zgodnie ze standardami stosowanymi przez mediatora i organizację zrzeszającą mediatorów.

Ostatnia aktualizacja: 11/05/2022

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Family mediation - Belgium

Mediation is governed by the law of 21 February 2005. Family mediation, like any other mediation, can be carried out in the context of legal proceedings (legal mediation) or without legal proceedings (voluntary mediation).

A mediation process initiated at the request of one of the parties or proposed by the judge requires the agreement of the parties.

The parties agree on the appointment of a mediator (Article 1734, first subparagraph of the '*Code judiciaire,*' Judicial Code) who can be approved by the Federal Commission of Mediation. Either party can terminate the mediation at any time (Article 1729 Judicial Code). The mediation can be about all or part of the dispute (Article 1735(2) Judicial Code).

For all issues relating to the family court, at the time an application is made, the court clerk informs the parties of the possibility of resorting to mediation and gives them all the relevant information (Article 1253*ter*/1 Judicial Code). In divorce for irremediable breakdown, the judge can order the suspension of the procedure for period of not more than a month so that the parties can obtain information about mediation (Article 1255(6), second subparagraph, Judicial Code). However, the family court amicable settlement divisions are founded on the concept of reconciliation (Article 731 Judicial Code): the judges aim to reconcile the parties even if they do not make the final judgment in the case. Judges are not authorised under the judicial code to be mediators.

Mediation is carried out in complete confidentiality and the mediator is bound by professional secrecy (Article 1728(1) Judicial Code).

The mediation process has three phases:

- the appointment of the mediator by the judge
- the deferral of the case to a later date by the judge, who specifies the advance payment.
- the outcome of the mediation: if it is successful, the terms of the agreement are confirmed in writing by the parties (mediation agreement) and can be approved by the judge. If the mediation is unsuccessful, the parties can start (or continue) the court proceedings or jointly request the appointment of another mediator.

The amount of the fees and expenses and the terms of payment are agreed in advance by the parties and the mediator.

Link to a national website for a list of family mediators: http://www.fbc-cfm.be/fr/trouver-un-mediateur

Link to a national website providing information on family mediation or on general mediation: http://www.fbc-cfm.be/fr/mediation

Link to the national legislation on family mediation: http://www.fbc-cfm.be/fr/content/national-0

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Family mediation - Czechia

In the Czech Republic, mediation is regulated by Act No 202/2012 on mediation ('the Act'), which entered into force on 1 September 2012 and which implements Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters.

The Act governs the legal arrangements for mediation in civil matters (including family matters). In order to be placed on the mediators' register and authorised to work as a mediator in accordance with the Act, a mediator must pass a specialist examination.

Where useful and appropriate, a court may order the parties to meet a registered mediator for a maximum of three hours and, at the same time, suspend the proceedings. Should a party refuse without good reason to attend such a meeting with a mediator, the court may penalise it by refusing — in a departure from customary practice — to award all or part of the costs of the proceedings if the party wins the case.

Link to a Czech website providing a list of registered mediators dealing with family matters:

https://mediatori.justice.cz

Link to a Czech website providing information concerning mediation proceedings in family matters or mediation in general:

Such a website is not available.

Links to websites providing access to Czech legislation governing mediation in family matters:

https://www.psp.cz/sqw/sbirka.sqw?cz=202&r=2012

http://www.cak.cz/assets/zakon-o-mediaci_aj.pdf (text of the Act in English)

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Family mediation - Germany

A brief introduction to family mediation in Germany

Extract from the 'Marriage Law' ('*Eherecht*') pamphlet published by the Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz), p. 73:

'6.2.5 Family Mediation

Couples who are going through a separation or divorce often want to manage their family relationships in an amicable way. In cases like this, mediation is an excellent alternative to court proceedings.

The legal framework for mediation was created by the Mediation Act (*Mediationsgesetz*), which came into effect on 26 July 2012.

Mediation helps the parties find an amicable solution to their conflict with the help of a neutral person (the mediator). The participants take responsibility for the solution and the mediator does not have the power to make decisions.

This means that, unlike in a court case, the real interests and needs of those involved can be determined and used as the basis for a solution which is tailored to the individual conflict. Court decisions are less likely to take the interests of those involved into account. Such solutions are therefore more readily accepted by those involved and are generally more effective in the long term. Mediation can lead to contractual agreements being drawn up relating to, for example, maintenance, assets, property, parental responsibility or access rights.

As part of divorce proceedings, the court can order that the spouses, either individually or together, attend a free information session on mediation, or take part in another form of out-of-court dispute settlement for pending related matters[1] with the help of a person or body nominated by the court, and that they provide confirmation of their participation (Section 135 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction – *Gesetz*

über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit, FamFG). This order cannot legally be enforced. However, the court can take failure to comply with the order into account when deciding on how to apportion costs (Section 150(4) FamFG).'

The same applies for matters relating to children pursuant to Section 156(1), sentences 3 and 5, and Section 81(2), No 5 FamFG. In cases like these, the court can also order the parents to attend an information session on mediation or take part in another form of out-of-court dispute settlement. This order cannot legally be enforced, but the court can take failure to comply with the order into account when deciding on how to apportion costs relating to the case.

Links for German websites where you can find mediators for family matters

- Internationales Mediationszentrum für Familienkonflikte und Kindesentführung (MiKK e. V.), Fasanenstraße 12, 10623 Berlin, Germany (international mediation for family disputes and child abduction)

http://www.mikk-ev.de/

- Zentrale Anlaufstelle für grenzüberschreitende Kindschaftskonflikte beim Internationalen Sozialdienst im Deutschen Verein (ZAnK), Michaelkirchstraße 17 /18, 10179 Berlin, Germany (mediation for cross-border cases involving children)

http://www.zank.de/

Links for German websites where you can find information about family mediation or mediation in general

- Bundesverband Mediation e.V. (BM), Wittestr. (mediation association) 30 K, 13509 Berlin

http://www.bmev.de/

- Bundes-Arbeitsgemeinschaft für Familien-Mediation e.V. (BAFM), Spichernstraße 11, 10777 Berlin (temporary association for family mediation)

http://www.bafm-mediation.de/

Links for German legislation on family mediation

- Bundesministerium der Justiz und für Verbraucherschutz, Mohrenstraße 37, 10117 Berlin (Federal Ministry of Justice and Consumer Protection)

http://www.bmjv.de/

- Act on the Promotion of Mediation and Other Forms of Out-of-Court Dispute Settlement (*Gesetz zur Förderung der Mediation und anderer Verfahren der außergerichtlichen Konfliktbeilegung*) (BGBl. (*Bundesgesetzblatt*, Federal Law Gazette) 2012 Part I No 35 of 25 July 2012)

https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Archiv/Gesetz_zur_Foerderung_der_Mediation_und_anderer_Verfahren_der_außergerichtlichen_Konfliktbeilegung.html

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[1] Related matters include disputes relating to matrimonial property regimes, pension rights adjustments, maintenance payments, the marital home and household costs.

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Family mediation - Estonia

The family mediation service is intended for parents who have separated or are in the process of separating, who have at least one minor child together and who have failed to reach an agreement on matters relating to the child's living arrangements (such as contact arrangements and maintenance). The family mediator, as a neutral party, helps the parents to exchange ideas and to reach a mutually satisfactory agreement. The aim of mediation proceedings is not so much to achieve reconciliation as to reach a workable settlement.

Family mediation is quicker, more favourable and better for the mental health of the parents and is more considerate of the child's well-being; agreements made between parents through this method are more effective than in court proceedings. Since 1 September 2022, family mediation services have also been available free of charge as a state-run service. The service is accessed by contacting the Social Insurance Board. A judge may also order a family mediation process in judicial proceedings.

According to the State-Funded Family Mediation Services Act (*riikliku perelepitusteenuse seadus*), a family mediator is:

A person directly conducting a conciliation procedure in a contractual relationship with the Social Insurance Board and who assists the parents (hereinafter 'the mediation parties') in finding a solution to a dispute concerning the living arrangements of their minor child, taking into account the best interests of the child.

Within the meaning of the Conciliation Act (*lepitusseadus*), a mediator must be one of the following:

1) a natural person who has been instructed by the parties to mediate in a dispute between them (such as an expert in psychology or social issues (including child protection and social work) or a legal specialist). The mediator may act through a legal person with whom they are in an employment or other contractual relationship;

2) a barrister who has made a declaration to that effect to the board of the Estonian Bar Association;

3) a notary who has made a declaration to that effect to the Chamber of Notaries;

4) in the cases laid down in the Act, a State or local government mediation body.

In the Republic of Estonia, the organisation of family mediation services is governed by the following legislation:

the State-Funded Family Mediation Services Act.

the Conciliation Act

the Social Welfare Act

the Family Law Act and

the Code of Civil Procedure.

In Estonia, family mediators are currently represented by the Estonian Association of Mediators (*Eesti Lepitajate Ühing*) and the Mediation Institute (*Lepituse Instituut*). The work of mediators in the state-funded family mediation service is coordinated by the Social Insurance Board.

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Family mediation - Ireland

The Mediation Act 2017 does not cover cross-border mediations specifically, and mediation under the Act is voluntary in all cases. If cross-border family mediation is undertaken in Ireland, then the provisions of the Act apply.

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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Family mediation - Greece

Family mediation

The expression 'family mediation' refers to a form of out-of-court settlement of family disputes (i.e. financial disputes and disputes relating to property rights between spouses, similar disputes arising out of cohabitation or the relations between parents and children, and other family disputes), in which the parties are helped to arrive jointly at a mutually acceptable settlement.
I. The institution of *mediation* (*διαμεσολάβηση*) was introduced into the Greek justice system by **Law 3898/2010** on mediation in civil and commercial matters (Government Gazette, Series I, No 211/16-10-2010), which implemented Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008.
According to Article 2 of Law 3898/2010, 'privatelaw disputes may be referred to mediation by agreement between the parties, provided the subjectmatter of the dispute is at the parties' disposal', while Article 8 of the same Law provides that: '1. The parties or their legal representatives, or in the case of legal persons their agents, shall attend the mediation with their lawyer. 2. The mediator shall be designated by the parties or by a third party of their choosing. 3. The mediation procedure shall be determined by the mediator in agreement with the parties, who may terminate it whenever they so wish. The mediation process shall be confidential and no minutes shall be kept. In the course of the mediation, the mediator may communicate with and meet each of the parties'. On completion of the process, the mediator must draw up a record of the mediation (Article 9 of Law 3898/2010), including the agreement reached, signed by the mediator, the parties and the parties' lawyers. If so requested by at least one of the parties, the mediator must also deposit the record with the registry of the court of first instance of the place, whereupon it becomes enforceable.
The mediator is remunerated at an hourly rate, for a maximum of 24 hours, which includes the time spent preparing for the mediation. The parties and the mediator may agree on a different method of remuneration. The mediator's remuneration is borne by the parties in equal shares, unless they agree otherwise. Each party bears the cost of the remuneration of their own lawyer. The amount of the hourly fee is set and reviewed by decision of the Minister for Justice, Transparency and Human Rights.
(See http://www.diamesolavisi.gov.gr/)
II. Additionally **Article 214B(1) of the Code of Civil Procedure**, which was inserted by Article 7 of Law 4055/2012, introduced the institution of *judicial mediation (δικαστική μεσολάβηση); according to that Article,* 'privatelaw disputes may also be resolved by recourse to judicial mediation. Recourse to judicial mediation is optional and may take place before an action is filed or while it is pending'. The final subparagraph of paragraph 3 of the same Article states that 'any interested party may, through a lawyer acting on their behalf, submit a written request asking that the case be referred to the judge-mediator'. The Article goes on, '4. The court in which the case is pending may at any time, depending on the case and taking into account all the circumstances, call upon the parties to resort to judicial mediation with a view to settling their dispute and, at the same time, if the parties agree, may defer the hearing of the case for a short period, but for no more than six months. 5. If the parties reach an agreement, a record of the mediation shall be drawn up. The record shall be signed by the mediator, the parties and the parties' lawyers, and the original shall be deposited with the registry of the court of first instance where the mediation took place … Once the record of the mediation is deposited with the registry of the court of first instance, in so far as it shows that the parties have agreed that a claim exists, it shall constitute an enforceable title in accordance with Article 904(2)(c) of the Code of Civil Procedure'.
The costs of judicial mediation fall squarely within the scope of the Law on the provision of legal aid to citizens with low incomes (Law 3226/2004).
Two important provisions are the new **Article 116A of the Code of Civil Procedure,** (inserted by Article 1(2) of Law 4335/2015), which states that 'at any time during a trial and in all proceedings the court shall encourage … the choice of mediation as a means of settling the dispute out of court', and **Article 214C of the Code of Civil Procedure**, which states that 'the court shall suggest that the parties resort to mediation if that would be appropriate in the circumstances of the case. If the court's proposal is accepted, the hearing of the case shall be deferred for a period of three months. The same shall apply if the parties themselves decide to have recourse to mediation while the action is pending'.
There is no legislation in Greece governing family mediation specifically, so the rules that apply are the general rules on mediation and judicial mediation set out above.
Couples with different nationalities — married or living together in nonmarital partnerships — result in bicultural families, and in the event of divorce or break-up of the relationship, in addition to the ordinary issues associated with family disputes (e.g. parental responsibility, custody, contact with the child, child maintenance, property issues between the spouses), an even more serious difficulty can arise in cross-border cases, that of child abduction. The rules outlined above on mediation and judicial mediation can be readily applied in such cases; they are consistent with the already applicable rules of Article 7(2)(c) of the Hague Convention of 1980 and Article 55(2)(e) of Regulation (EC) No 2201/2003 (the 'Brussels IIa' Regulation).
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Family mediation - Spain

1 Regulation of mediation

In Spain, there is no specific regulation on family mediation. However, it is included as a civil matter in Law 5/12 of 6 July 2012, on mediation in civil and commercial matters, which regulates, in general terms, mediation in those areas.

Articles 3 and 27 of the aforementioned Law 5/12 include specific rules on mediation in crossborder matters.

Some autonomous communities which have jurisdiction in this area have also regulated mediation in a way that is quite similar to national legislation. All legislation on mediation at Autonomous Community level is available at:

http://www.poderjudicial.es/cgpj/es/Temas/Mediacion/Normativa-y-jurisprudencia/Leyes-Autonomicas/

2 Family Mediation Procedure

Family mediation is entirely voluntary in Spain and is governed, inter alia, by the principles of confidentiality, equality of the parties and mediator impartiality.

In order to facilitate mediation in cases involving, inter alia, cross-border family mediation, general legislation on mediation expressly allows it to be carried out by videoconference or other electronic means that allow voice or image transmission. The parties may go to mediation before the start of the court proceedings, while they are ongoing, and even after they have been concluded, in order to change the outcome or to make it easier to enforce the court decision.

The mediation procedure is relatively simple, regardless of when it takes place. The parties contact the mediator of their choice, or, if they are involved in ongoing family proceedings, the mediator who has been appointed by the judge. First, an information session is held so that the parties can learn about the mediation procedure, and if both agree to the procedure, it can begin. The mediator leads the mediation sessions to enable each of the parties to set out its positions and try to reach agreement. The procedure ends with or without agreement on all or some of the issues. The result is recorded in a report and if there is an agreement, it must be submitted to the judicial authority for approval or, if there are no minor or disabled children involved, the report can be submitted to the notary, who can record it in a public deed. It can then be enforced.

If the parties attend mediation before the court proceedings are initiated and reach an agreement, the legal process is expedited because the parties go through a simplified procedure where both parties submit the agreement to the Family Court (*Juzgado de Familia*), which approves the agreement if it is not contrary to the law or to the interests of any minor or disabled children the couple may have. (See Article 777 of the Code of Civil Procedure)

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

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

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

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

3 Profession of family mediator and access to a mediator

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

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

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

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

- The Register of Mediators and Mediation Institutions at national level referred to previously:

https://www.mjusticia.gob.es/es/ciudadania/registros/mediadores-instituciones

- The following institutions indicated by the Ministry of Justice:

https://remediabuscador.mjusticia.gob.es/remediabuscador/RegistroInstitucion

- The Mediation Services indicated for each province by the General Council of the Judiciary (*Consejo General del Poder Judicial*):

http://www.poderjudicial.es/cgpj/es/Temas/Mediacion/Servicios-de-Mediacion-Intrajudicial/Mediacion-Familiar/

- The Mediation Services set up by the different Autonomous Communities. The institutional websites of the Autonomous Communities usually contain information.

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

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

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Family mediation - France

International family mediation is provided for under the instruments of international cooperation in family matters (Hague Convention of 25 October 1980 and Brussels IIb Regulation), in order to facilitate amicable solutions for the return of a child in cases of international abduction, or agreement on the exercise of parental visiting rights.
Cross-border family mediation is promoted by international and European cooperation instruments in order to facilitate smooth and rapid dispute settlements. The Department for mutual assistance, private international law and EU law (Département de l'entraide, du droit international privé et européen – DEDIPE), the central authority for the application of international conventions on family cooperation matters, makes available a list of international family mediators (*médiateurs familiaux*) in order to facilitate the use of mediation in cross-border cases. It is also important to present the national rules on mediation applicable in cross-border cases.

National legal framework:

Court-appointed mediation in France was enshrined under Law No 95-125 of 8 February 1995, followed by Decree No 2012-66 of 22 July 1996. Any court hearing a dispute may, with the agreement of the parties, appoint a qualified, impartial and independent third-party mediator.
Order No 2011-1540 of 16 November 2011, transposing Directive 2008/52/EC of 21 May 2008, amended the Law of 8 February 1995. This law defines mediation as any structured process by which two or more parties attempt to reach an agreement, with the aim of amicably resolving their dispute with the assistance of a third party. It establishes a common system for all mediation.
For family mediation, there is a State diploma created by the Decree of 2 December 2003 (Articles R.451-66 et seq. of the Social Action and Families Code) (*Code de l'Action Sociale et des Familles*) and the judgments of 12 February 2004 and 19 March 2012. However, at the present time, this diploma is not mandatory in order to be able to practise as a family mediator, since family mediation is not a regulated profession.
Family mediation may take place:
1) without legal intervention: in 'conventional' family mediation cases there is direct mediator referral by the parties;
2) during legal proceedings (Article 1071 of the French Code of Civil Procedure (C*ode de procédure civile*), Article 255 and Article 373(2)(10) of the French Civil Code (C*ode civil*):
the family judge (*juge aux affaires familiales* – JAF) may propose mediation to the parties and, once they agree, appoint a family mediator to proceed.
The JAF may instruct the parties to meet with a family mediator who will inform them of the purpose of family mediation and how it is conducted.
In cases not involving divorce or after divorce, an attempt at compulsory prior family mediation (*tentative de médiation familiale préalable obligatoire* – TMFPO) was introduced by Law No 2016-1547 of 18 November 2016 on modernising the justice system for the 21st century, for a period of three years from its promulgation, in 11 courts. This trial was extended until 31 December 2024. TMFPO entails attempting family mediation before submitting certain applications; in the absence of any such attempt at mediation, the court may issue a ruling of inadmissibility of its own motion. These are applications that seek to amend a previous JAF decision or a provision in an agreement approved by the court, and those relating to the habitual residence of the child or children, visiting and accommodation rights, contributions to the education and upkeep of minors, and decisions on the exercise of parental authority. However, this obligation to attempt mediation is waived in the event of violence or in cases in which one parent is clearly under the influence of the other.
The agreement obtained following family mediation may be approved by the family judge (Articles 1534 and 1565 et seq. of the Code of Civil Procedure). The judge approves the agreement unless they find that the agreement does not sufficiently safeguard the interests of the child or that the parents' consent has not been given freely (Article 373-2-7 (2) of the Civil Code), or more generally that it may jeopardise public policy.
Link to the Ministry of Justice's information page on family mediation.
Link to lists of mediators: to find the family mediation service closest to you, you can search for 'family mediation' in the 'categories' tab on the Justice in the region website.

International family mediation:

International family mediation is provided for under the instruments of international cooperation in family matters (Hague Convention of 25 October 1980 and Brussels IIa Regulation), in order to facilitate amicable solutions for the return of a child in cases of international abduction, or agreement on the exercise of parental visiting rights.
The parties involved can contact mediators who work in private practice or in the voluntary sector. The Ministry of Justice's list of international family mediators is publicly available free of charge. This list includes professionals satisfying criteria in terms of experience of family matters, bilingualism and multicultural skills.
Ministry of Justice website on international family mediation: Justice / Portail / La médiation familiale internationale
List of mediators: http://www.justice.gouv.fr/art_pix/liste_mediateurs_familiaux_internationaux.pdf
In order to engage in mediation, at least one of the parents must reside in France and the other abroad, irrespective of their nationality. The mediator, hearing an application for international family mediation from one parent, conveys the proposal to the other parent. The initiative must be **voluntary: there can be no coercion in an international family mediation process.** Mediators perform their duties impartially and diligently, and mediation is subject to the principle of confidentiality.
Mediators are free to set their own fees. Some apply a Family Allowances Fund (*Caisse d'Allocations Familiales*) scale, which adjusts the fee to the parents' income.
Persons interested in international family mediation in the context of an international dispute can contact the French central authority by email: entraide-civile-internationale@justice.gouv.fr
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Family mediation - Croatia

MEDIATION

On 1 November 2015, a new Family Act (*Obiteljski zakon*) (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 103/15 and 98/19) entered into force in the Republic of Croatia. It consists of 10 separate parts, with the seventh part regulating the area of mandatory counselling and family mediation. Mandatory counselling is a way of helping family members to reach agreements on family relations, while taking special care about the protection of family relations which involve a child and about the legal consequences of failure to reach an agreement and the launch of legal proceedings in which the personal rights of the child are decided. Mandatory counselling is carried out by an expert team from the relevant antenna office of the Croatian Institute for Social

Work (*Hrvatski zavod za socijalni rad*) according to the child's place of permanent or temporary residence or the place of the last joint permanent or temporary residence of the spouses or extramarital partners. In accordance with the Family Act, mandatory counselling is not to be carried out prior to initiating enforcement and security proceedings. Members of the family participate in mandatory counselling personally and without proxy.

Mandatory counselling is carried out: 1. before initiating divorce proceedings between spouses who have a common minor child and 2. before initiating other court proceedings for exercising parental custody and a personal relationship with a child. Prior to initiating divorce proceedings, mandatory counselling is not carried out with respect to a spouse or both spouses who are: 1. deprived of contractual capacity, if they are unable to understand the meaning and consequences of the process even with expert assistance, 2. judgment impaired or 3. of unknown permanent or temporary residence.

Mandatory counselling is initiated by way of application of one party, which is submitted to a social welfare centre in written form or registered orally. Upon receipt of the application for mandatory counselling, the social welfare centre is obligated to schedule a meeting and summon the parties. By way of derogation, if the social welfare centre considers that in the given circumstances a joint meeting would not be useful or if one or both parties so request for justifiable reasons, separate interviews with the parties are scheduled and carried out.

Family mediation is a process in which family members participate voluntarily. By way of derogation, the first meeting of family mediation prior to initiating divorce proceedings is mandatory.

Family mediation is a process in which the parties attempt to resolve a family dispute by agreement with the assistance of one or more family mediators. A family mediator is an impartial and specially trained person entered in the register of family mediators. The main purpose of the family mediation process is to achieve a plan of shared parental care and other agreements with regard to the child. Besides achieving that purpose, in the process of family mediation the parties can also agree on any other matters relating to assets and other issues.

Family mediation is not carried out: 1. in cases in which the expert team of a social welfare centre or the family mediator considers that the equal participation of the spouses in the process of family mediation is not possible due to domestic violence, 2. if one or both spouses are deprived of contractual capacity, and are unable to understand the meaning and legal consequences of the process even with expert assistance, 3. if the judgment of one or both spouses is impaired and 4. if the temporary or permanent residence of a spouse is unknown.

Family mediation may be carried out regardless of court proceedings prior to initiating court proceedings, during such proceedings or after they have ended. In accordance with the Family Act, family mediation is not carried out prior to initiating enforcement and security proceedings. By way of derogation, during the process of enforcement for the purpose of exercising a personal relationship with the child, the court may propose to the parties that they enter family mediation. Thus, after interviewing the parties and taking into account the circumstances of the case, the court may postpone the enforcement for thirty days and order that a professional person talk to the child or propose to the parties that they enter family mediation to resolve the dispute by reaching an agreement; if needed, the court may issue a decision specifying in more detail the exercising of a personal relationship during the interview with a professional person or family mediation, but the court will not proceed in such a way if the family mediation was attempted unsuccessfully or if urgent action is necessary.

The family mediator and other persons involved in the process of family mediation are obligated to safeguard confidential information and data which they became aware of during the process of family mediation in relation to third persons, except: 1. if it is necessary to communicate information for the purpose of conducting or executing the agreement or 2. if it is necessary to communicate information in order to protect a child whose well-being is endangered or in order to remove the danger of a serious violation of a person's mental and physical integrity. The family mediator is obligated to inform the parties of the scope of the principle of confidentiality.

As regards the agreement reached during family mediation, the Family Act prescribes that the plan for shared parental care or other agreements reached in the process of family mediation must be in written form and be signed by all parties and that they will be equivalent to an enforceable document if the court approves them in non-contentious proceedings at the proposal of the parties.

If the parties do not reach an agreement on the plan of shared parental care, or on another contentious family relationship, the family mediator will indicate in the report on the suspension of the process of family mediation whether both parties have participated actively. The report on the suspension of family mediation is delivered to participants. The family mediator will deliver the report on the suspension of family mediation to the court which stayed the proceedings due to the process of family mediation being carried out.

In the event that during court proceedings the parties propose by consensual agreement to resolve the dispute by the process of family mediation, the court may stay the proceedings, in which case it will set a three-month time limit in which the parties may attempt to resolve the dispute in the process of family mediation. In the event that, during court proceedings, the court considers that there is a possibility of reaching a consensual agreement on the family dispute, it may also propose the process of family mediation to the parties. If the parties agree to enter the process of family mediation, the court will stay the proceedings and set a three-month time period in which the parties may attempt to resolve the dispute in the process of family mediation. If the parties, within the three-month time period for conducting family mediation set by a court, do not succeed in resolving the dispute in the process of family mediation or if the parties propose the continuation of court proceedings before the expiry of that time limit, the court will continue with the proceedings. Before deciding on the stay of the proceedings, the court is obligated to assess whether the stay is appropriate in view of the need for urgent action in cases in which a child's rights and interests are being decided.

In the process of family mediation, the family mediator is obligated to inform the participants that they must take care of the well-being of the child, and he or she can allow children to express their opinion in the process of family meditation with the consent of their parents.

The family mediator who conducted the process of family mediation must not participate in writing expert opinions or family assessments or participate in any other way in court proceedings in which the dispute of the parties who participated in family mediation is being decided, except in cases prescribed by law.

If the family mediation is carried out by family mediators employed in the social welfare system, the parties do not pay fees for the work of the family mediators. If the family mediation is carried out by family mediators outside the social welfare system, the parties bear the cost of their participation.

The provisions on mediation are applied in the process of family mediation in an appropriate manner.

For further information see:

The Family Act (NN Nos 103/15 and 98/19)

Rules on mandatory counselling (*Pravilnik o obveznom savjetovanju*; NN No 123/15)

Rules on family mediation (*Pravilnik o obiteljskoj medijaciji*; NN Nos 123/15, 132/15 and 132/17)

The Mediation Act (*Zakon o mirenju*; NN No 18/11)

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Family mediation - Italy

Family mediation is a process which spouses or partners experiencing difficulties can voluntarily decide to use in order to resolve their dispute involving one or more mediators. The task of the mediators is to facilitate communication and help the couple address both the emotional and the material aspects of the separation (division of assets, maintenance payments, allocation of the marital home, etc.). Their task also includes encouraging the couple to structure the agreements that best meet the needs of all family members.

Mediation is governed, in general terms, by Legislative Decree No 28 of 4 March 2010, as amended, on the 'Implementation of Article 60 of Law No 69 of 18 June 2009, concerning mediation for the purpose of settling civil and commercial disputes'.

This law sets out the procedure for settling disputes regarding **transferable rights** out of court. For certain matters expressly indicated, mediation is a **pre-condition** for the document instituting the proceedings to be deemed admissible.

In family law matters, only disputes concerning family business agreements (i.e., contracts through which the business owner transfers, fully or in part, his or her undertaking to one or more descendants) require prior mediation.

For all other family disputes mediation is voluntary.

However, in child custody proceedings the court may postpone delivering a judgment so that the spouses, with the help of experts, can attempt mediation to reach an agreement, especially as regards protecting the moral and material interests of the child(ren).

Mediation can take place **in or through public or private bodies** duly entered in the **register of mediation bodies** kept by the Ministry of Justice.

The list of mediation bodies can be found on the following website:

https://mediazione.giustizia.it/ROM/ALBOORGANISMIMEDIAZIONE.ASPX

Lawyers registered at the Italian Bar are mediators by right.

In many municipalities, **family mediation services** can be accessed through family advice centres, social services or local health undertakings.

Another procedure – which is different from mediation but which is also designed to settle disputes out of court – is **assisted negotiation**. This is governed by Decree Law No 132 of 12 September 2014, converted with amendments by Law No 162 of 10 November 2014.

Assisted negotiation refers to an agreement (known as a 'negotiation agreement') through which the parties agree to 'cooperate in good faith to settle the dispute amicably'. For the agreement to be valid, it must be drawn up in writing **with the help of one or more lawyers**, and must concern transferable rights.

Unlike agreements reached through mediation, assisted negotiation agreements are **enforceable** and mean that judgment mortgages can be registered.

Like mediation, the negotiation can be mandatory or voluntary.

In family law matters, assisted negotiation is always voluntary.

The law governs **assisted negotiation in matters concerning separation and divorce**, with a view to achieving a settlement by consent or an amendment to the conditions previously established.

For **couples who have no children** who are minors (or adult children lacking capacity), the agreement is submitted to the public prosecutor at the competent court who, as long as he or she does not find any irregularities, notifies the lawyers that there is no impediment to the settlement.

In the case of couples with children who are minors (or adult children lacking capacity), the agreement must be sent within 10 days to the public prosecutor's office at the competent court for verification that it will guarantee the interests of the children. If the assessment is positive, the public prosecutor authorises it. If not, he or she sends it to the president of the court, who convenes the parties within the next 30 days.

The agreement reached and authorised in this way has the **effects and takes the place of judicial separation or divorce provisions** and changes the conditions set out therein.

Following the entry into force of Law No 76 of 20 May 2016, the parties may also use assisted negotiation in the event of dissolution of a **civil partnership between persons of the same sex**.

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Family mediation - Cyprus

There is a statutory mediation procedure in Cyprus in family matters, provided for by the Law on Mediation in Family Disputes of 2019, Law 62(I)/2019, which entered into force on 25 April 2019. Special Regulations (RAA 507/2022) were issued on 30 December 2022 to facilitate the implementation of the Law.

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Family mediation - Latvia

In order to facilitate the application of alternative means of dispute resolution, the Republic of Latvia has adopted the Mediation Law (*Mediācijas likums* – in effect since 18 June 2014).

The model of mediation recommended by the court in civil proceedings came into effect on 1 January 2015. Judges are assigned the obligation to offer the parties the option of mediation to resolve the dispute at different stages of the proceedings (after commencement of a case, when preparing a case for trial and at the preliminary case hearing, and also during legal proceedings, until the examination on the merits is completed).

Several projects have been implemented to promote mediation as a way of resolving disputes:

1. Project – Free mediation in family disputes

The Council of Certified Mediators (*Sertificētu mediatoru padome*) is continuing to implement the 'Mediation in family disputes' programme in 2023, as it has been doing since 1 January 2017. Under the State-budget-funded programme, individuals have been eligible for State support giving them the opportunity to attend five free sessions with a certified mediator to resolve disagreements between parents that also affect children's interests and find ways to improve relations between family members. Within the framework of the project, State support provides for the first five mediation sessions (60 minutes each) managed by a certified mediator, which are free of charge for the parties. If the dispute is not resolved within five sessions, the cost of further services should

be covered by the parties. A certified mediator or the Council of Certified Mediators (*Sertificētu mediatoru padome*) should be consulted to assess a person's eligibility. Information on the project is made available to persons concerned via the courts, and is transferred to local authorities, social services, family courts, etc.

To apply for the family mediation service, you would need to contact a certified mediator of your choice who is taking part in the programme or, if it is impossible to agree on the choice of mediator, contact the Council of Certified Mediators by email at smp@smp.lv or by calling 28050777.

More details on the programme can be found here.

2. *Guidance*

Anybody interested may obtain guidance on mediation and its applications by contacting the Council of Certified Mediators by email at smp@smp.lv or by calling +371 28 050 777.

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Family mediation - Lithuania

In Lithuania mediation in civil disputes (including family disputes) is regulated by the Mediation Act of the Republic of Lithuania (a new version of this Act entered into force on 1 January 2019). The Mediation Act applies to the resolution of national and international civil disputes and implements 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.

Mediation is a procedure for resolving civil disputes during which one or more mediators (impartial third persons) assist the parties in settling the dispute amicably. The parties may use this method both for disputes that have not yet been brought to court (extra-judicial mediation) and cases that are already being heard in court (judicial mediation).

Recourse to mediation is subject to the written agreement of the parties to the dispute. The use of mediation may be agreed solely for the types of disputes about which, by law, the parties may conclude a settlement agreement. The mediator is appointed jointly by the parties or, at the parties' request, may be nominated by the State-guaranteed Legal Aid Service.

With effect from 1 January 2019, mediation services may only be provided by persons who have passed a specific examination (with a few exceptions), meet other requirements set out in the Act (good repute, having a university degree, completion of mediation training) and are entered in the list of mediators of the Republic of Lithuania. The list of mediators is published on the website of the State-guaranteed Legal Aid Service (http://vgtpt.lrv.lt/). Mediators are also required to meet standards of impartiality and professionalism. Depending on the agreement reached, mediators may offer their services for payment or free of charge. The parties and mediators may agree on the method and procedure for resolving the dispute. Either of the parties may withdraw from mediation without giving reasons.

It is important to point out that the launch of mediation leads to the suspension of limitation periods. Consequently, even if the dispute cannot be resolved amicably, the parties retain their right to go to court to seek redress. If the parties are able to resolve the dispute amicably with the assistance of a mediator, a settlement agreement is concluded. Once approved by a court by simplified procedure, this agreement is enforceable.

The Act also enshrines the principle of confidentiality as one of the essential principles of mediation. This means that unless the parties agree otherwise, they, the mediators and the mediation services administrators must keep all information relating to the mediation secret, except information required to approve or implement the settlement agreement concluded during mediation and information the non-disclosure of which would be contrary to the public interest. This provision ensures that, apart from the above-mentioned exceptions, any information provided during mediation will not be able to be used against the party providing it.

The Mediation Act regulates the specifics of compulsory and judicial mediation and mediators' disciplinary responsibility.

From 1 January 2020, mediation in family disputes will be made compulsory. Compulsory and judicial mediation are funded from the State budget (for up to six hours) in cases where the selection of mediators is administered by the State-guaranteed Legal Aid Service. The parties retain the right to select a mediator to provide compulsory mediation services from the list of mediators, but in this case they will have to pay for it themselves.

Under the Code of Civil Procedure, people who have had recourse to mediation are subject to lower fees when they go to court.

Information on mediation and related legislation can be found on the website of the Ministry of Justice (in Lithuanian).

http://tm.lrv.lt/lt/veiklos-sritys-1/civiliniu-gincu-taikinamasis-tarpininkavimas-mediacija

Information on mediation on the website of the Ministry of Justice (in English):

http://tm.lrv.lt/en/fields-of-activity/mediation

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Family mediation - Luxembourg

Legislation

Family mediation is governed by the Law of 24 February 2012 on civil and commercial mediation and the Grand-ducal Regulation of 25 June 2012 on the procedure for the approval of legal and family mediators, the specific mediation training programme and the holding of a free information session

Article 1251-1(2) of the New Code of Civil Procedure sets out the matters in which 'family mediation' can be proposed to the parties by a court. These are:

divorce, separation of a married couple and separation of a couple in a registered partnership, including liquidation, the division of joint property and undivided ownership;

maintenance obligations, contributions to household expenses, child support and parental authority.

Procedure

The parties may have recourse to agreed mediation (*médiation conventionnelle*) or to judicial family mediation (*médiation judiciaire familiale*). Agreed mediation can be initiated by either of the parties, whatever the subject-matter, subject to Article 1251-22(2) of the New Code of Civil Procedure, without any legal or arbitration proceedings. The arrangements for the mediation process are set out in a written agreement signed by the parties and the mediator. For agreed mediation, the parties may have recourse to a mediator approved by the Minister for Justice or to another mediator.

When a dispute in one of the categories listed in Article 1251-1(2) of the New Code of Civil Procedure is submitted to a court, the court may propose family mediation to the parties. The court orders a free information session conducted by an approved mediator, or by a mediator who has a dispensation from the requirement for approval in Luxembourg on condition that they fulfil the equivalent or essentially comparable requirements in another Member State of the European Union in accordance with the third subparagraph of Article 1251-3(1) of the New Code of Civil Procedure. Subsequent meetings cost €57 (the figure is laid down by Grand-ducal Regulation). The court sets the duration of the mediation, which may not exceed three months. However, it can be extended by agreement between the parties. Individuals who have insufficient resources can obtain financial assistance for any judicial family mediation process.

It is important to note that agreements arrived at by such mediation have the same evidential value as court rulings. Such mediation agreements, whether reached abroad or at the national level, can be enforced within the European Union under Directive 2008/52/EC of the European Parliament and the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. The approval of the agreement in whole or in part by the presiding judge of a district court (*tribunal d'arrondissement*) renders the agreement enforceable. In family mediation cases the judge checks that the agreement is compatible with public policy and that it is not contrary to the interests of the children, that the dispute is appropriate for resolution by means of mediation, and that the mediator has been approved for this purpose by the Minister for Justice.

Useful links:

List of approved mediators

Ministry of Justice (for general information on civil and commercial mediation)

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Family mediation - Hungary

Please visit the Mediation in Member States page, as it contains information on the mediation available in family matters.

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Family mediation - Malta

Law regulating mediation

The applicable law in Malta is Chapter 474, namely the Mediation Act.

What is mediation?

When a couple is in dispute with one another regarding family matters, they can ask for assistance from a mediator to help them reach an amicable settlement without recourse to formal proceedings in Court. Under Maltese law, mediation is a compulsory step the couple has to go through before instituting proceedings for separation before the Civil Court (Family Section).

Who is the mediator and what is his role?

The mediator is there to help the parties reach an amicable settlement. He is an impartial and independent person appointed by Court. In some cases, the parties choose the mediator themselves against a fee. Mediators are all professionally qualified to act as such. Most of them are also family therapists, social workers or lawyers.

A mediator can never provide evidence in Court as to what was said in mediation proceedings if the parties proceed to a Court case.

Who can apply for mediation?

Mediation can be used in the following cases:

for separation or divorce (provided that for divorce the spouses would have been living apart for four years or more);

for maintenance from his/her spouse;

to regulate matters regarding a child born out of wedlock, for example care and custody, visitation rights and maintenance;

to change his/her contract of separation or divorce;

to change his/her contract that regulates his/her child care and custody, visitation rights or maintenance.

One does not have to be married to apply for mediation.

How do mediation proceedings start and what do they consist of?

To have recourse to mediation, the interested party must file a letter, addressed to the Court Registrar, requesting permission to start the mediation proceedings. The letter must contain both parties' names and addresses and at least the identification card number of the person submitting such letter. The letter does not need the signature of a lawyer to be valid. This letter is filed in the Family Court Registry and which process is completely free of charge.

Mediation can also be opened by a note, however this procedure is used when both parties involved are already agreeing on most legal matters. The note contains the same details of a letter, with the difference that the parties also present a contract drafted by their lawyers or common notary. The note must be signed by both parties together with their notary, or both their lawyers and their notary.

Once a letter or note is filed, a mediator is appointed from a list established by court. The mediator can also be privately chosen by the parties themselves in agreement. The mediator will send for the parties by post with a specific date for them to come to Court. Sessions are held in a private room with only the mediator and if the parties' wish, the parties' lawyers as well. Mediation does not require a lawyer to be present.

The mediator will explore with the parties the possibility of reconciliation. If the mediator feels that there is hope for the couple's marriage or relationship to succeed, he can send them to counselling and put the mediation on hold. If the parties feel that their marriage or relationship can no longer work, the mediator will then try to help the parties reach an agreement on their children and their assets.

If the parties do manage to reach an agreement, a contract is then drafted and read by the mediator, and if the parties are satisfied with the content of the contract, the mediator will then present the contract formally in the Registry so that it can be seen by the Judge. If the Judge approves the contract, the parties can then go to a notary, who will publish the contract and make it official.

If the parties are unable to agree, the mediation is closed and the parties are authorised to proceed with a Court case. Parties are to institute proceedings before the Civil Court (Family Section) within two months from when the mediation is closed. In case of failure to proceed within the said timeframe, the couple will have to commence proceedings through mediation once again.

What if one of the parties lives abroad?

A cross-border dispute shall be one in which at least one of the parties is domiciled or habitually resident in Malta and the other party is domiciled or habitually resident in another Member State on the date on which:
the parties agree to use mediation after the dispute has arisen;
mediation is ordered by court;
an obligation to use mediation arises under national law; or
in cases where a decree or order has been delivered by court, from the date of such decree or order.
In such an instance, the person residing or domiciled abroad shall either travels to Malta or give a power of attorney to his/her lawyer in Malta to represent him/her and then s/he travels to Malta just to sign the contract of separation. On the other hand, if the person domiciled or habitually resident in Malta does not know where his/her partner resides (example left Malta or abandoned his/her partner), s/he is to present a mediation letter stating such fact under oath, and the letter is closed immediately and a court case is instituted by the said individual against curators for the absentee, who are appointed by court.

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Family mediation - Netherlands

In mediation, parties resolve the conflict together, under the guidance of an independent mediator. It is mainly used in civil law and public law. There are many advantages to this type of extra-judicial dispute resolution: a dispute will often be resolved more quickly than it would be if it went to court, mediation also tends to be cheaper, and it helps to maintain the relationship between the parties because they voluntarily try to find a solution.

The Dutch Mediators' Federation (*Mediatorsfederatie Nederland*)

There are various registers of mediators in the Netherlands. The Dutch Mediators' Federation (MfN) manages the Register of Mediators (previously known as the NMI Register). The MfN is the federation representing the largest mediators' associations in the Netherlands. The MfN register contains only mediators who satisfy carefully considered quality standards. The Dutch government uses the MfN's standards as the basis for the register of mediators who work under the legal aid system (register of the Legal Aid Board). The MfN site also contains independent information about mediation and mediators in the Netherlands.

ADR International Register

There is also the ADR International Register, where you can search for mediators and find information about subjects relating to mediation.

Information about mediation

The Netherlands has also introduced an initiative called 'Mediation naast rechtspraak' (Mediation alongside judicial proceedings). This means that the district court or court of appeal hearing a case will alert the parties to the possibility of opting for mediation. The courts can also refer parties in family law cases to a parental examination procedure (*ouderschapsonderzoek*), which includes the use of mediation to find a possible solution to the problem.
Other bodies providing information about mediation include the Legal Help Desk (*Het Juridisch Loket*) and the Legal Aid Board (*Raad voor Rechtsbijstand*).
Under certain circumstances, the costs of the mediation may be refunded in whole or in part. Click here for further information about subsidised mediation.

Related links

Dutch Mediators' Federation
ADR International Register
De Rechtspraak over mediation naast rechtspraak
Legal Help Desk
Legal Aid
Legal Aid Board

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Family mediation - Austria

In Austrian family law cases, the court does its best to reach an amicable settlement. To this end, it can also order an initial briefing on mediation or recommend mediation (Section 107(3), No 2 of the Non-Contentious Proceedings Act, *Außerstreitgesetz*). Although binational mediator teams satisfy the requirements of family mediation in Austria, they must be put together on an ad-hoc basis via the Federal Ministry of Justice (*Bundesministerium für Justiz*), as the central authority, and private mediation associations.

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Uwaga: niedawno wprowadzono na tej stronie zmiany w oryginalnej wersji językowej pl. Strona w wybranej przez Ciebie wersji językowej jest obecnie tłumaczona przez nasze służby tłumaczeniowe.

Family mediation - Poland

Mediation proceedings in family, divorce and separation cases

Mediation is a voluntary, confidential form of dispute resolution whereby the parties to a conflict or dispute attempt by themselves to reach an agreement with the assistance of a neutral and impartial mediator. Matters to be discussed during mediation are up to the participants. Matters to be agreed upon may relate to: reconciliation of spouses, laying down conditions for separation, forms of parental authority, contact with children, meeting family needs, maintenance and child support, as well as property and housing issues. A mediation settlement may also provide for the issue of a passport, choice of the child's education, contacts with extended family members and/or management of the child's property.

Benefits of mediation

• Mediation helps to reduce the level of negative emotions and understand one's own and each other's needs, thus reducing the psychological burden associated with the conflict.

How is a matter referred to mediation?

• Mediation may be conducted before the matter is brought before the court or after the proceedings are initiated, on the basis of a court decision.
• In any case, mediation is subject to the consent of the parties.
• Each party may apply for mediation at any stage of court proceedings.

Who decides on the choice of a mediator?

• A mediator is chosen jointly by the parties or appointed by the court, considering in the first place individuals from the list of permanent mediators.

How long may mediation go on for?

• Mediation proceedings which have been instituted under a court decision should not last longer than 3 months, but may be extended upon a joint request or for any other valid reason if that facilitates settlement.

The mediation process

• Upon receipt of a court decision, the mediator contacts the parties in order to set the date and place of a meeting.
• The mediator explains the rules and the course of mediation proceedings and asks the parties if they agree to mediation.
• Mediation is a discussion between the parties in the presence of a mediator. One-on-one meetings may also be held between the mediator and any of the parties.
• The parties may decide not to take part in mediation.
• Mediation is confidential. The mediator must not disclose details of the mediation to third parties. Mediation minutes do not contain any judgements or positions of the parties.
• A mediator may not act as a witness with regard to the facts of which he or she becomes aware as a result of conducting the mediation, unless the parties release him or her from the obligation of secrecy.

What are the possible outcomes of mediation?

• Mediation may result in a mutually acceptable settlement signed by the parties.
• In divorce or separation cases, mediation may result in reconciliation of and/or agreement between the spouses, or in developing shared legal positions. These provide a basis for the resolution of the case by the court.
• The mediator serves a copy of the minutes on the parties.
• The mediator submits the minutes and any settlement reached to the court.
• A mediation settlement approved by the court has the legal validity of a court settlement and ends the proceedings.
• The court will refuse to approve the settlement if the settlement is contrary to the law or the principles of community life, intended to circumvent the law, confusing or contains contradictions.
• If a settlement which has been declared enforceable has not been actually enforced, it may be referred to a court-appointed enforcement officer.
• If no settlement is reached, the parties may seek to exercise their rights in court proceedings.

What is the cost of mediation?

The costs of mediation are borne by the parties. Each party usually pays half of the costs, unless the parties agree otherwise.
A party may request exemption from the costs of mediation.
Regardless of the outcome of the case, the court may order a party to reimburse the costs arising out of a manifestly unreasonable refusal to engage in mediation.

If a settlement is reached before the commencement of the court hearing, 100 % of the court fee will be refunded to the party.
If a settlement is reached before the mediator at a later stage of the proceedings (following the commencement of the court hearing), 75 % of the court fee will be reimbursed.

In a divorce or separation case, if the parties are reconciled before the court of first instance and withdraw the action, 100 % of the court fee paid when the case was brought to court will be reimbursed. If the parties have been reconciled before the conclusion of the proceedings before the court of second instance, 50 % of the fee paid for the appeal will be reimbursed.
In the case of out-of-court mediation, the mediator's remuneration is set by the mediation centre or the parties agree on it with the mediator before the mediation begins.

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Family mediation - Portugal

FAMILY MEDIATION IN PORTUGAL

Voluntary participation and need to have the agreement approved by a court or civil registrar

In Portugal mediation is voluntary. The parties to a dispute on family matters concerning children or spouses can use public or private family mediation by mutual agreement. The court can also refer the parties to mediation, but it cannot impose it without their consent.
Family mediation can be accessed before an action is lodged in court or in the civil register office (*Conservatória do Registo Civil*), or after an action is already pending. **In either case, an agreement relating to family matters must be approved by the court or civil registrar to be enforceable**. The parties' representatives (if any) can also attend the mediation sessions — and in practice sometimes do so. The general principles applicable to mediation are set out in Law No 29/2013 of 19 April 2013.

Mediation in court proceedings

If the parties access **family mediation before bringing an action**, and if an agreement is reached, they should **request the civil register office of their choice to approve** the agreement. Such agreements may cover matters concerning the spouses (e.g. divorce, maintenance payments between the spouses, family home, use of the surname of the ex-spouse) or matters concerning the children (e.g. agreement relating to parental responsibility attached to a divorce agreement or agreement for maintenance payments for adult offspring). Before approval by the registrar, the Public Prosecutor's Office (*Ministério Público*) will issue an opinion on the agreement, insofar as it relates to parental responsibility for minors.
If family mediation takes place before bringing an action to court **with the sole purpose of agreeing on parental responsibility for minors** (without an attached divorce or legal separation agreement), the parties will have to request the appropriate court to approve the agreement.

If **family mediation takes place while a judicial action is pending**, it will proceed as follows:
In judicial actions concerning parental responsibility (e.g. custody, visits, maintenance allowances for minors), there is a specialised technical hearing and mediation stage. After being summoned to a meeting by a judge, should the parties not reach an agreement, the judge will adjourn the talks for a period of between 2 and 3 months and will refer the parties to one of the following alternative mechanisms: mediation, as long as the parties consent or request the referral; or a specialised technical hearing, to be undertaken by the technical support services of the court. Once the adjournment period has expired, talks will recommence and, should an agreement have been reached by one of the above methods, the judge will consider and approve the agreement. If there is no agreement, the case will proceed to the litigation phase.
As a rule, in all civil actions, including those concerning spouses (e.g. divorce and legal separation, maintenance payments between the spouses and ex-spouses, awarding the family home, when there is no initial agreement), Article 273 of the Code of Civil Procedure (*Código de Processo Civil*) allows the court to stay the proceedings and refer the case to mediation, unless either of the parties opposes the referral.
In accordance with Article 272(4) of the Code of Civil Procedure, the parties may also request to stay the proceedings by mutual agreement for a period of 3 months and, during that time, access mediation of their own initiative.
If an agreement is reached through mediation while proceedings are pending in the cases described above, the parties must **request its approval by the court**.
Actions concerning family matters that fall under the jurisdiction of the civil registrar must be brought with the prior agreement of both parties, otherwise they will fall under the jurisdiction of the courts. For that reason, access to mediation at the initiative of the parties can be useful before initiating the proceedings.
After proceedings are initiated in the civil register office, Article 14(3) of Decree-Law No 272/2001 of 13 October 2001 states that the registrar should inform the spouses seeking divorce of the existence of mediation services. This provision allows the parties, while the divorce proceedings by mutual consent are pending at the civil register office, to access mediation to reconcile the spouses or to review the agreement relating to parental responsibility, attached to the divorce agreement, when there is a motion from the Public Prosecutor's Office to that effect.

Choice of public or private mediator, duration and cost of mediation

As a general rule, family mediation may **last a maximum of 3 months**, in accordance with Article 272(4) of the Code of Civil Procedure. Only in exceptional and duly justified cases can mediation exceed this period.
If the parties access **private mediation**, they will have to pay the fees of the mediator. This amount, the rules and the mediation schedule are set in the mediation protocol signed by the parties and by the mediator at the start of mediation. The Ministry of Justice maintains a list of public and private mediators that the parties can consult in order to choose a private mediator.
To use **public mediation**, the parties should contact the Alternative Dispute Resolution Office (*Gabinete de Resolução Alternativa de Conflitos*) of the Directorate-General for Justice Policy (*Direcção Geral da Política de Justiça*) and request an appointment for a pre-mediation session. The session can be booked by telephone (+351 808 26 2000) or via the online form. In the public pre-mediation session, a mediation protocol is signed between the parties and the mediator. A time period will be set, sessions will be scheduled and the procedural rules explained.
The cost of public family mediation is €50 for each of the parties, independently of the number of sessions scheduled. This fee of €50 is paid by each of the parties at the outset of the public mediation. The fees of mediators working through the public system are not paid by the parties. They are paid by the Directorate-General for Justice Policy, according to a statutory schedule.
Public mediation sessions can take place at the premises of the Directorate-General for Justice Policy, or at premises made available in the municipality where the parties reside.
In public mediation, the parties can choose a mediator from a list of selected public mediators. If they do not do so, the Alternative Dispute Resolution Office of the Directorate-General for Justice Policy will appoint one of the mediators from the public mediators list chosen by sequential order and considering the proximity to the area of residence of the parties. As a rule, this appointment is made electronically.
If the parties are entitled to **legal aid**, this may cover the cost of mediation.

Cross-border mediation and co-mediation

In the case of a **cross-border dispute**, which makes it impossible to have face-to-face sessions, mediation can take place by videoconference.
In Portugal, **mediators from other Member States** can register to be included in the list of family mediators compiled by the Ministry of Justice (which includes public and private mediators), and they can also be selected for the list of public family mediators (by public tender). In both cases, this will be on the same conditions as those applicable to national mediators.
In Portugal, **co-mediation is allowed**, both in the public system and in the private mediation system. Co-mediation can take place by choice of the parties, or at the suggestion of the mediator, if they believe this is the best approach for the case.

Useful links / applicable legislation

Please visit the DGPJ website for links to:
National legislation on mediation: Law No 29/2013 of 19 April 2013 (Mediation Law);
The list of public and private family mediators;
General information on family mediation.
Requests for public mediation can be made by calling (+ 351) 808262000 or via the online form.
To find out how much public mediation costs, follow this link:
Pedir mediação familiar | Justiça.gov.pt (justica.gov.pt)
The prices for private mediation may differ from those listed for public mediation.

Final Note

The information contained in this factsheet is of a general nature and is not exhaustive. It is not binding on the contact point, the European Judicial Network in civil and commercial matters, the courts or any other persons. It is not intended to replace consultation of the applicable legislation in force.

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Family mediation - Romania

Law No 192/2006 regulates mediation and the organisation of the profession of mediator and includes general provisions, provisions on the profession of mediator (certification as a mediator, suspension and barring from service, the Mediation Council, organisation and practise of the profession of mediator, the mediator's rights and obligations, the mediator's liability), the mediation procedure (the procedure prior to concluding the mediation agreement, the mediation agreement, the mediation process, the completion of the mediation procedure), and special provisions on family disputes and criminal matters.
The parties may participate in the information meeting on the advantages of mediation, including, where applicable, after legal proceedings have been initiated before the competent court, with a view to settling disputes using this method. The proof of participation in the information meeting on the advantages of mediation is the information certificate issued by the mediator who delivered the information. The procedure for informing on the advantages of mediation may be conducted by the judge, the prosecutor, the legal adviser, the lawyer or the notary, and in such cases it is attested in writing.
The subject matter of mediation may not include strictly personal rights, such as those regarding a person's status, or any other rights the parties may not exercise pursuant to an agreement or any other act.
The mediation activity is conducted equally for all persons, irrespective of race, colour, nationality, ethnic origin, language, religion, gender, opinion, political membership, wealth or social origin.
Mediation is an activity of public interest. In the exercise of duties, the mediator does not have decision-making powers as to the content of the settlement to be reached by the parties, but he/she may guide them in verifying its lawfulness. Mediation may take place between two or several parties. Parties have the right to choose their mediator freely. Mediation may be conducted by one or several mediators. Judicial and arbitration bodies, and any other authorities vested with jurisdictional functions, inform the parties of the possibility and advantages of using the mediation procedure and urge them to use this means in order to settle their disputes.
The parties may ask the notary public to authenticate the settlement. The document drawn up by the notary public, authenticating the settlement in the mediation agreement, is enforceable.
The parties to the mediation agreement may appear before the court in order to apply for a decision that endorses their settlement. The competent authority is either the district court with jurisdiction where any of the parties has the domicile/place of residence/registered office or the district court with jurisdiction where the mediation agreement has been concluded. The decision whereby the court endorses the settlement of the parties is delivered in camera and is enforceable.
Special provisions on family disputes. Mediation can be used to settle disagreements between spouses as regards continuation of marriage, division of marital assets, the exercise of parental rights, establishment of the children's domicile, parents' child support contributions, or any other disagreements arising between spouses regarding rights they may enjoy by law. Mediation agreements concluded between parties in matters/disputes involving the exercise of parental rights, the parents' child support contributions, or establishment of the children's domicile take the form of consent judgments.
The spouses' agreement on the dissolution of marriage and the settlement of ancillary divorce issues is submitted by the parties to the court competent to issue a judgment of divorce.
The mediator ensures that the outcome of mediation is not contrary to the best interests of the child, encourages parents to focus first and foremost on the child's needs and ensures that taking parental responsibility or the de facto separation or divorce does not have a detrimental effect on the child’s upbringing and development.
Before concluding the mediation agreement or, where applicable, during the procedure, the mediator performs due diligence to check whether there is an abusive or violent relationship between the parties and whether the effects of such a state of affairs are likely to influence the mediation, and decides whether in such circumstances settlement by mediation is appropriate. If, during the mediation, the mediator becomes aware of facts that endanger the child’s upbringing or normal development or are considerably detrimental to the best interests of the child, he/she must report the issue to the competent authority.
Law No 217/2003 on preventing and combating domestic violence contains provisions on the institutions entrusted with duties in regard to preventing and combating domestic violence (whose duty is to guide the disputing parties towards mediation), the establishments for preventing and combating domestic violence (including support centres intended for aggressors, which provide counselling and family mediation services, with the possibility of subjecting domestic violence matters to mediation at the parties' request), the protection order and funding in the field of preventing and combating domestic violence.
Under civil proceedings, the judge recommends to the parties to settle their dispute amicably by mediation and, throughout the proceedings, he/she attempts to reconcile the parties, by providing them with the required guidance.
In disputes that may be subject to the mediation procedure, the judge may call for the parties to attend the information meeting on the advantages of using this procedure. Where he/she deems it necessary, considering the circumstances of the case, the judge recommends to the parties to use mediation in order to ensure the amicable settlement of the dispute at any stage of the court proceedings. Mediation is not mandatory for the parties.
If the judge recommends mediation, the parties (if they had not attempted to settle their dispute by mediation before they filed a lawsuit in court) are to appear before the mediator in order to be informed of the advantages of mediation. After receiving the information, the parties decide whether they accept to settle their dispute by mediation.
If the parties reconcile, the judge endorses their settlement in the judgment he/she delivers.
In the case of divorce, the application for divorce may be accompanied by the agreement reached by the spouses through mediation on the dissolution of marriage and, where applicable, on the settlement of ancillary divorce issues.
Law No 272/2004 on the protection and promotion of children's rights includes provisions on children's rights (civil rights and freedoms, alternative family environment and care, child's health and welfare, education, and recreational and cultural activities), provisions on special protection for children who are temporarily or permanently deprived of their parents' protection (fostering, emergency fostering, specialised supervision, and monitoring the application of special protection measures), provisions on the protection of children (refugees or in the event of armed conflict, children who have committed a criminal offence but are not held liable under criminal law, against abuse, neglect, or exploitation, including economic exploitation, against drug abuse and any form of violence, children whose parents are abroad for work, and against kidnapping or any form of trafficking), provisions on institutions and services entrusted with duties in the area of child protection at central and local level, private organisations, and funding for the child protection system.
The public social care service has the obligation to take the required action in order to ensure the early detection of risk situations that can result in a child being separated from his/her parents and to prevent abusive behaviours from parents and domestic violence. Any case of a child being separated from his /her parents and any restriction of the exercise of parental rights must be preceded by the systematic provision of services and benefits provided for by law, with particular emphasis on properly informing the parents and counselling them, and therapy or mediation provided under a service scheme.

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Mediation in Slovenia is regulated by the Mediation in Civil and Commercial Matters Act (*Zakon o mediaciji v civilnih in gospodarskih zadevah* - ZMCGZ; *Uradni list RS* (Official Gazette of the RS); UL RS No 56/08) which is, pursuant to its Article 2(1), used for mediation in family matters concerning claims which parties can freely agree upon and settle. In addition, the Act on Alternative Dispute Resolution in Judicial Matters (*Zakon o alternativnem reševanju sodnih sporov* - ZARSS; UL RS Nos 97/09 and 40/12 - ZUJF) applies to family relationships, and pursuant to that Act the court must allow mediation between parties to a legal dispute.

Article 22(1) of the ZARSS provides that mediation in disputes concerning the relationship between parents and children is free of charge because fees for the mediator and his/her travelling costs are covered in full by the court - not by the parties. This also applies to cases when in the mediation, together with the dispute concerning the relationship between parents and children, the property relationship between spouses is being resolved.

Pursuant to Article 2 of the Rules on mediators in the programmes of the court (*Pravilnik o mediatorjih v programih sodišč*; UL RS Nos 22/10 and 35/13), the court managing the list of mediators under the ZARSS decides, in line with the needs of the programme, the maximum number of mediators which can be entered on the list for a particular area. For mediation in family matters, the court must, with regard to the number of mediators on the list, pay regard to the fact that mediation in disputes concerning relationships between parents and children can be conducted by two mediators, one of whom has passed the bar examination while the other demonstrates expert knowledge and experience in the field of psychology or another similar field.

Our laws do not contain other regulations concerning mediation in family matters. The new Family Code should set out mediation in family matters in greater detail.

The list of mediators for areas and individual courts is accessible on the web site of individual courts, as well as on the web site of the Ministry of Justice, which keeps the central record of mediators participating in court programmes under the ZARSS.

Related web links:

General information on mediation (we do not have a separate link for family mediation)

Central record of mediators

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Family mediation - Slovakia

1. General information on mediation

In the Slovak Republic, family law mediation takes place only on the basis of voluntary participation; it is carried out by mediators who are not specialised in family law. A court is not obliged to order or recommend mediation to settle a dispute. A court may only advise parties to try mediation to settle a dispute.

2. Link to list of mediators in Slovakia

A link to the Slovak website where a list of mediators can be found is available at http://www.komoramediatorov.sk/, where members of the Slovak Chamber of Mediators (*Slovenská komora mediátorov*) are listed, as well as at https://www.najpravo.sk/, where mediators are listed by the region or district in which they are located. A complete list of mediators who have completed professional training to work as mediators is available on the website of the Justice Ministry of the Slovak Republic (*Ministerstvo spravodlivosti Slovenskej republiky*) https://www.justice.gov.sk.

3. Link to website on family law mediation and mediation in general

General information on mediation is available on the website of the Slovak Chamber of Mediators:http://www.komoramediatorov.sk/, as well as at https://www.najpravo.sk/.

4. Link to Slovak legislation

Special national legislation on family law mediation has not yet been adopted. Mediation proceedings in this field — as well as in all other fields where mediation is allowed for outofcourt dispute resolution — take place pursuant to Act No 420/2004 on mediation and amending certain acts.

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Family mediation - Finland

Finland has three different family mediation procedures: 1) out-of-court mediation, 2) court mediation as an independent procedure, and 3) mediation as part of the implementation of a decision concerning the custody of a child or rights of access.

1. Out-of-court mediation

Pursuant to the Marriage Act (234/1929), disputes and legal matters arising within a family should primarily be settled in negotiations between the family members and decided by agreement. If family members need outside help in settling disputes, they may seek help from family mediators made available by municipal social welfare boards. In most cases, family mediators appointed to the task are employees of developmental and family counselling services and other social services. Family mediation is a separate procedure from other social and family counselling services with the aim of finding solutions to disputes between the parties through mutual discussion and negotiation. In addition to municipalities, mediation services are provided by family counselling centres of the Church as well as other organisations and individuals authorised to engage in mediation.

The specific task of the mediator is to safeguard children’s rights in cases of divorce. The mediator helps the parents to amicably arrange any issues related to children. This means, among other things, agreements on whether children remain in the joint custody of both parents, who the children live with and how they meet the other parent, and how the parents will share responsibility for providing for their children. If the parents reach agreement, the mediator helps them to draw up a contract. For the agreement to be enforceable, the mediator asks the parents to have it confirmed by a child welfare officer. A confirmed agreement is equivalent to a court decision.

Family mediation is voluntary, confidential and free of charge. The whole family or the spouses jointly or separately may contact family mediation services.

2. Court mediation

Courts can mediate in matters related to the custody, housing, rights of access and financial support relating to children (section 10 of the Act on mediation in civil matters and confirmation of settlements in general courts, 394/2011). Mediation is a separate procedure from legal proceedings. It is voluntary, but it requires the consent of both parents. It is quicker and cheaper than court proceedings.

Mediation is initiated when the parties request mediation from a court. It is also possible to refer to mediation a case from court proceedings that have already started. Mediation can be terminated at any stage. The mediator is a judge assisted by an expert, usually a psychologist or a social worker. Parties to mediation may be assisted by a lawyer of their own choosing or other assistant. For court mediation, it is possible to apply for legal assistance from State

funds to cover the compensation of the assistant. In court mediation, the best interests of children must be safeguarded. In judging whether an agreement can be confirmed, the court must consider the Act on child custody and right of access (361/1983) and the Child Maintenance Act (704/1975). A confirmed agreement is equivalent to a court decision. If an agreement cannot be reached, the court closes the case. If the case has been referred to mediation from court proceedings, it is returned to court proceedings if mediation proves unsuccessful.

3. Mediation as part of an implementation process

This form of mediation is available only when one of the parents has initiated an implementation process in the district court. In this case, a court decision already exists, but it has not been complied with by the other parent.

Pursuant to the Act on the implementation of decisions on child custody and right of access (619/1996), the court principally determines the mediator in cases when the implementation of a decision concerning custody or right of access has been sought from the court. The mediator is usually a psychologist familiar with child psychology, a social worker familiar with child protection or a child welfare officer. The purpose of mediation is to facilitate collaboration of the parents of the children or other interested parties with a view to ensuring the children's well-being. The mediator arranges a meeting between the parents and talks in private with the child (or children) in order to find out their wishes and opinions, if this is possible considering the age and level of development of the child (or children). The mediator prepares a report about the mediation for the court. If the mediation does not lead to an agreement between the parents, the court gives a ruling in the case based, among other things, on the mediator's report.

About mediators

Arranging family mediation is the responsibility of the municipal social welfare boards. For contact details of municipalities, see: http://www.kunnat.net/fi/Yhteystiedot/kunta-alan-yhteystiedot/kunnat/Sivut/default.aspx

The Finnish Bar Association trains lawyers to act as mediators in family law disputes:
https://asianajajaliitto.fi/

Court mediation is the responsibility of district courts. For the contact details of district courts, see the website of the Judicial Administration: http://oikeus.fi/tuomioistuimet/karajaoikeudet/fi/index/yhteystiedot.html

About mediation

Mediation on the website of the Judicial Administration: https://oikeus.fi/fi/index/esitteet/avioliittolaki/perheasioidensovittelu.html

Ministry of Justice brochure on court mediation of custody disputes:
https://oikeus.fi/en/index/esitteet/expert-assistedmediationofcustodydisputes_2.html

English brochure: https://oikeus.fi/en/index/esitteet/expert-assistedmediationofcustodydisputes_2.html

National Institute for Health and Welfare, Child Protection Handbook, family mediation:
https://www.thl.fi/fi/web/lastensuojelun-kasikirja/tyoprosessi/erityiskysymykset/lapsen-asema-erotilanteessa/perheasioiden-sovittelu

Procedure for the amicable settlement of family law matters from the Finnish Bar Association:
https://asianajajaliitto.fi/

Finnish Forum for Mediation:
http://www.ssf-ffm.com/index.php

National legislation

Separate provisions on family mediation are included in the following Acts:

Marriage Act (234/1929):
http://www.finlex.fi/fi/laki/ajantasa/1929/19290234?search%5btype%5d=pika&search%5bpika%5d=avioliittolaki#O1L5

Act on child custody and right of access (361/1983):
http://www.finlex.fi/fi/laki/ajantasa/1983/19830361

Act on the implementation of decisions on child custody and right of access (619/1996):
http://www.finlex.fi/fi/laki/ajantasa/1996/19960619

Act on mediation in civil matters and confirmation of settlements in general courts (394/2011):
http://www.finlex.fi/fi/laki/ajantasa/2011/20110394

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Family mediation - Sweden

Family mediation

It is a general principle of Swedish law that consensual solutions are considered best for the child. The rules have therefore been formulated in such a way that an attempt must first be made to persuade parents to agree on matters that affect their children.

Whom to contact

The social services have special responsibility and must, among other things, offer parents conciliation (*samarbetssamtal*). The aim of the conciliation process is to help the parents reach an agreement; see further information on conciliation. If the parents agree, their consensual solution can be incorporated into an agreement which is approved by the social services. The courts also have a responsibility to try first to reach a consensual agreement between the parents. If this does not succeed, the court may order conciliation or mediation (*medling*).

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

Family mediation in cases before a court is intended to be used where, for example, conciliation has not produced a result but there is still thought to be a possibility that the parents will agree in matters affecting their children.

Are there specific rules to follow?

It is for the court to decide who will be appointed as mediator. A decision ordering mediation does not in itself require the consent of the parents, but it can be difficult for a mediator to carry out his or her task if a parent actively opposes the appointment of a mediator. The mediator will decide, in consultation with the court, how the mediation is to be organised. There is no code of conduct or similar arrangement for mediators.

Information and training

There is no national training organisation for mediators.

What does mediation cost?

Mediators are entitled to reasonable remuneration for their work, time and expenses. This remuneration is paid by the State.

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Family mediation - England and Wales

Family mediation procedure

Family mediation is a voluntary process. However, from April 2014 in England and Wales, all applicants (not just those in receipt of public funding) have to consider the use of mediation by attending a Mediation Information and Assessment Meeting (MIAM) before they can make an application to the court, unless exeptions apply such as domestic violence. The prospective respondent is expected to attend if invited to do so. If the applicant continues to court they should complete the relevant section on their application to show that they are either exempt from attending a MIAM, that they attended a MIAM and mediation was not considered suitable, or they attended mediation and it broke down or they were unable to resolve all the issues.

Additional public information materials on family mediation is available on the UK Government website.

Legal aid remains available for family mediation and for legal advice to support family mediation. You can find out more about legal aid, including whether you may eligible for legal aid at the following website.

Family mediation profession

Family mediation is a self-regulated profession which consists of a number of membership organisations to which mediators are affiliated. These member organisations are represented by the 'umbrella' organisation, the Family Mediation Council (FMC). The FMC was established to harmonise standards for family mediation in England and Wales and represents its member organisations and family mediation practitioners in the dealings of the profession with government.

Family mediators come from a number of backgrounds, including legal, therapeutic and social services. The various membership/accreditation organisations maintain their own sets of training and professional standards, which feature training requirements. The Family Mediation Standards Board (FMSB) has been established to monitor and regulate family mediation standards of the FMC member organisations.

The FMC is a non-governmental body and plays a central role among its member organisations, which are 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 Mediators
- Resolution
- The Law Society

You can find an accredited family mediator on the FMC website.

You can identify a mediator in your local area by accessing the 'Find a Local Mediator' tool.

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Family mediation - Northern Ireland

Family mediation procedure

Family mediation is an entirely voluntary process and there is currently no requirement in Northern Ireland to consider resolving a dispute through mediation before making an application to the court. However the courts are supportive and will encourage its use in appropriate cases. Although the process to be applied is not specified statutorily, the courts are likely to permit an adjournment in cases where it appears issues could be resolved through mediation. Parties can also apply to the court to have a mediated agreement made enforceable as if it were an order of the court.

Public funding is available in some cases. The Legal Services Agency Northern Ireland has met the cost of some mediation from legal aid funds and the Department of Health, Social Services and Public Safety currently provides funding for pre-court mediation in family disputes. Further information can be obtained from the website of Family Support Northern Ireland.

Family mediation profession

Training and accreditation is not regulated by government. The profession is self-regulating and qualification and experience requirements vary across affiliate professional organisations. Further information can be obtained from provider websites and the information booklet Alternatives to Court in Northern Ireland available on the NI Direct website.

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Family mediation - Scotland

Family mediation profession

The Scottish Government encourages the use of Alternative Dispute Resolution (ADR), including mediation, to resolve family disputes although mediation is not appropriate where there has been domestic abuse. Family mediation is generally a voluntary process. There is no obligation in Scotland to use ADR or mediation although once a family case is in court, the judge may ask for mediation to be undertaken.

If you wish to enforce the content of a mediation agreement in Scotland, either of the following procedures may be followed:

• You can apply to the Court of Session or a Sheriff Court to ask the Court to “interpone” its authority to the mediated agreement. This means the court uses its powers to change the mediation agreement into a court order.

• Alternatively, “self-proving” written agreements can be registered for execution in the Books of Council and Session or in Sheriff Court Books. A self-proving document is one which meets the formalities to be treated as signed without needing proof. Rules about self-proving documents are contained in the Requirements of Writing (Scotland) Act 1995. To register the agreement in the Books of Council and Session, you should apply to the Keeper of the Registers of Scotland.

When an agreement is registered for execution, the document becomes an authentic instrument.

Agreements that have been endorsed by the Court or registered by either of the methods outlined above may be enforceable in other EU Member States. Information on Mediation in Scotland can be found on the Scottish Mediation Network website.

National legislation on family mediation

As there is no obligation to use mediation in family disputes, there is relatively little national legislation.

However, the Civil Evidence (Family Mediation) (Scotland) Act 1995 makes provision on the inadmissibility as evidence in civil proceedings in Scotland of information as to what occurred during family mediation.

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Family mediation - Gibraltar

Family mediation is a voluntary process. The Courts in Gibraltar do encourage mediation in cases where there is a real possibility that mediation will assist the parties to resolve or narrow down their differences. There are various legal practitioners who are qualified mediators. They can be instructed to mediate in family disputes. In addition, the Family and Children Team of the Social Services also undertake mediation with parties that are referred to them by the Courts. There is no legislation on family mediation.

There is no website on which a list of family mediators can be found nor is there one that provides information on family mediation or mediation in general.

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