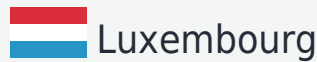


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Family mediation



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European Judicial Network
(in civil and commercial
matters)

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 instances where the judge can propose 'family mediation' to the parties. These are:

- divorce, legal 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 voluntary mediation (*médiation conventionnelle*) or to judicial family mediation (*médiation judiciaire familiale*). Voluntary 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, independently of 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 voluntary mediation, the parties may have recourse to a mediator approved by the Minister for Justice or to a mediator who has not been approved.

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 judge, the judge may propose family mediation to the parties. The judge 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 EUR 57 (the figure is laid down by Grand-ducal Regulation). The judge 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 means can obtain financial assistance for all judicial family mediation processes.

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 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 whether the mediator has been approved for this purpose by the Minister for Justice.

Useful links

[List of registered mediators in civil and commercial matters](#)

For general information on civil and commercial mediation:

[Ministry of Justice](#)

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