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Mediation

Romania

Article 10 - Information on competent courts or authorities

Pursuant to **Articles 58 and 59 of Law No 192/2006** on mediation and the organisation of the profession of mediator, as amended and supplemented, when the parties to a conflict have reached an understanding, a written agreement can be drawn up, comprising all the clauses agreed upon, which has the status of a private document. As a rule, the agreement is drawn up by the mediator, with the exception of cases where the parties and the mediator agree otherwise. The parties' agreement must not contain provisions contrary to law and public order. Where the law requires substantive and formal conditions, the legality of the mediation agreement may be verified and attested by the parties' lawyers or a notary public, where they have been assisted in the course of the mediation, or indeed by another lawyer or notary public chosen by the mediator with the agreement of the parties.

The mediation agreement verified and attested by the parties' lawyers, a notary public or by a lawyer or notary public chosen by the mediator with the agreement of the parties is enforceable.

Where the mediated conflict concerns the transfer of property as well as other rights in rem, division and succession cases, failing which the agreement is null and void, the mediation agreement drawn up by the mediator will be presented to the notary public or court in order for them, based on the mediation agreement, to verify the substantive and formal conditions using the procedures laid down by law and to issue an authentic instrument or judgment, as appropriate, regarding the legal procedures. The mediation agreements will be verified on the fulfilment of the substantive and formal conditions; the notary public or the court will, where appropriate, be able to amend or supplement them with the agreement of the parties. The mediator shall be bound by these obligations and by any right in rem in immovable property constituted, amended or extinguished by the mediation agreement. These obligations apply in all cases where the law requires substantive and formal requirements to be fulfilled, failing which the agreement is null and void. Where the law requires that the conditions of advertising be met, the notary or court will request that the authenticated contract or court judgment be entered into the Land Register.

The settlement reached by the parties is binding.

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. If the mediation agreement relates to a succession case and was reached before the issue of the succession certificate, the legal competence lies with the notary public.

The parties may appear before the court in order to ask for a judgment which establishes 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, as the case may be, or the district court with jurisdiction where the mediation agreement has been concluded. The judgment establishing the parties' settlement is delivered in closed session and is enforceable, Articles 438 to 441 of the Code of Civil Procedure applying accordingly.

Pursuant to **Article 63 of Law No 192/2006** on mediation and the organisation of the profession of mediator, as amended, where the dispute has been resolved by mediation, the court will, on request of the parties and in compliance with the legal conditions, deliver a judgment establishing a settlement between the parties (transaction), Articles 438 to 441 of the Code of Civil Procedure applying accordingly. The transaction will be concluded in writing and form the operative part of the judgment. The consent judgment issued in accordance with the law is enforceable.

In accordance with Article 6(3) of the Directive, the Courts or authorities competent to receive the above-mentioned requests in accordance with paragraphs 1 and 2 are: district courts; tribunals; courts of appeal; the High Court of Cassation and Justice.

A list of mediators and notaries public is published on the e-justice website:

How to find a mediator? [here](#)

How to find a notary public? [here](#)

Last update: 26/06/2023

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