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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-erolanteessa/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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