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Mediation in EU countries

Italy

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

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1. Who do I contact?

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

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

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

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

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

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

3. Are there specific rules?

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

4. Training

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

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

5. How much does mediation cost?

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

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

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

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

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

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

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

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