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Mediation in EU countries

Portugal

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. Both the government and legal professionals recognise the advantages of mediation.

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Who should you contact?

Portugal has a centralised government body responsible for the regulation of mediation activities – the Directorate-General for Justice Policy (*Direção-Geral da Política de Justiça*).

This Directorate-General is a department in the Ministry of Justice, located at:

Av. D. João II, Lote 1.08.01-E, Torre H, Pisos 2/3 1990-097 Lisbon.

Contact details:

E-mail correio@dgpj.mj.pt

Telephone: (+351) 217924000

Fax: (+351) 217924048 or 217924090.

The DG's website contains most of the information available on public mediation services as well as other methods of alternative dispute resolution.

It does not tell you how to find a mediator, although it does have lists of mediators. Once mediation has been decided on in accordance with the rules governing public mediation services, a mediator is automatically selected.

There are no non-governmental organisations (NGOs) working in the area of mediation in Portugal. However, there are private associations that provide mediation services and training programmes for mediators.

In which areas is recourse to mediation admissible and/or most common?

The use of mediation is admissible in various areas.

Portugal has adopted measures to promote the use of mediation in specific areas of law, namely family, employment, criminal, civil and commercial matters. Family, employment and criminal mediation have their own structures, with specialist mediators in these areas. Civil and commercial mediation takes place as part of a judicial process in small claims courts (*Julgados de Paz* – Justices of the Peace).

Mediation can also take place outside the jurisdiction of the above courts, which is commonly known as extra-jurisdictional mediation. However, this type of mediation does not follow the same procedures as the matters within the competence of *Julgados de Paz* since, if agreement is not reached during extra-jurisdictional mediation, the process cannot be referred to the court for judgment as is the case with civil and commercial mediation, over which the *Julgados de Paz* have jurisdiction.

Are there specific rules to follow?

Recourse to mediation is entirely voluntary.

There is no national code of conduct for mediators. Mediators conduct their activities in accordance with the European Code of Conduct for Mediators, with some legal and administrative structures defining their activities and the requirements for practising their profession. There are guidelines on conducting mediation sessions, the methods that may be used to achieve constructive communication or rapport with the parties, and the way in which mediators can propose settlements.

The conduct of mediators is monitored by a public mediation system. The type used depends on the area in which they work. The public system has a supervisory committee that monitors mediation activity. The criteria applied during the training given to mediators aim to instil the ethics and principles set out in the European Code.

Each area of mediation – family, employment, criminal, civil and commercial – has its own legal framework with guidelines for conducting mediation.

At the moment, the public mediation systems, including the civil and commercial mediation that takes place before *Julgados de Paz*, seek only to resolve disputes in Portugal, using the procedures and applications provided by Portuguese legislation.

Information and training

Information can be found in the mediation section of the website of the Directorate-General for Justice Policy.

Portugal keeps statistics on recourse to mediation. The DG for Justice Policy keeps information on the number of mediation sessions commenced, the number that ended either with or without achieving settlement, and the time taken by each session.

Portugal does not have a national training body for mediators, who are trained by private bodies. These training courses are approved by the Portuguese Ministry of Justice. To be approved they must cover a certain number of hours of learning, certain teaching practices and specific programme content which is in line with the relevant legislation.

Private bodies that train mediators who apply for inclusion in the lists drawn up by the DG for Justice Policy must meet the training criteria. The training programme ensures that they have the capacity and professional competence to settle family, employment, criminal and civil disputes through mediation.

How much does mediation cost?

Where a court decides to make use of mediation in family disputes, in line with Article 147.C of the Law governing the custody of children, no fee is charged. Fees must be paid in all other cases, without exception, apart from cases where legal aid is granted.

Where mediation takes place at the initiative of the parties, the costs for each party depend on the subject matter of the dispute, as follows:

Family mediation: EUR 50 to be paid by each party

Criminal mediation: exempt from fees when requested by the Public Prosecutor or the defendant and the plaintiff

Employment mediation: EUR 50 to be paid by each party

Civil and commercial matters: EUR 25 to be paid by each party (this type of mediation can take place in *Julgados de Paz* and, in this case, this fee is paid if a settlement is reached).

When parties with financial problems have to pay fees related to the mediation process, they may apply for legal aid and obtain an exemption from the competent body (social security authorities – *Instituto de Segurança Social*).

Useful links

[Directorate-General for Justice Policy](#)

[Monitoring Board for Small Claims Courts](#)

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