Application of the new EU Directive on certain aspects of mediation in civil and commercial matters

Markus Zalewski
European Commission
DG JLS, Unit E.2 - Civil Justice
Application of the new EU Directive on mediation

Overview

A. Promotion of ADR at EU level
B. Preparing the ground for the Directive
C. Scope of the Directive
D. Contents of the Directive – Five basic rules
E. Next steps
A. Promotion of ADR at EU level

Commission 1998 Recommendation: processes in which the third party finds the solution and puts it to the parties, e.g.: complaints network for financial services FIN-NET, on-line Internal Market problem solving network SOLVIT

Commission 2001 Recommendation: processes in which the third party helps the parties to come to an agreement without formally expressing an opinion on the solution e.g.: European Consumer Centres Network (ECC-NET) of national contact points for consumer disputes

Legal Aid Directive and Brussels IIa Regulation
B. Preparing the ground for the Directive

- 1999: European Council in Tampere
C. Scope of the Directive

‘Civil and commercial matters’ include mediation in family, consumer and employment matters

Limitation to ‘cross-border cases’, but broad definition:

– parties’ domicile or habitual residence in different MS

– rules on confidentiality and on limitation and prescription periods apply to ‘mobile conflicts’

Member States are free to apply the Directive also to internal mediation processes
D. Contents of the Directive – Five basic rules

- Ensuring quality of mediation
- Recourse to mediation
- Enforceability of settlement agreements
- Confidentiality of mediation
- Effect of mediation on limitation and prescription periods
E Next steps

- Entry into force on: 13 June 2008
  Transposition by: 21 May 2011
- Guidance to Member States to ensure the proper transposition of the Directive into national law
- Continuing cooperation with other international organisations active in the area, such as the Council of Europe and UNCITRAL
- Provision of funding for mediation training through Specific Programme ‘Civil Justice’ (2007 - 2013)
Application of the new EU Directive on mediation

Further information

http://ec.europa.eu/civiljustice/adr/adr_ec_en.htm

e-mail: makus.zalewski@ec.europa.eu