



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

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Application of the new EU Directive on mediation

Overview

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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

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B. Preparing the ground for the Directive

- 1999: European Council in Tampere
- 2002: Publication of the Green Paper on ADR (COM(2002) 196 final)
- 2003/
2004: Elaboration of the European Code of Conduct for Mediators
- 2004: Publication of the Commission proposal (COM(2004) 718 final)

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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

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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

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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)

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Further information

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

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