

Directive on Mediation in Civil and Commercial Matters

On 21 May, the **Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters** has been adopted.

As stated in its Article 1, the aim of the directive is

to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.

Its scope of application shall cover

cross-border disputes, [...] civil and commercial matters except as regards rights and obligations which are not at the parties' disposal under the relevant applicable law. It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (acta iure imperii).

With regard to the recognition and enforcement of an agreement resulting from mediation, recital 20 states that

the content of an agreement resulting from mediation which has been made enforceable in a Member State should be recognised and declared enforceable in the other Member States in accordance with applicable Community or national law. This could, for example, be on the basis of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters or Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

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