

ANNEX 2

Document or letter informing parties about mediation

Excerpt from the “[Mediation meets Judges EU toolkit](#)” available on

www.mediationmeetsjudges.eu

Disclaimer

This toolkit has been produced with the financial support of the Civil Justice Programme of the European Union. The contents of this publication are the sole responsibility of the “Mediation meets Judges” Consortium and can in no way be taken to reflect the views of the European Commission.

[Introductory comments¹...]

Have you considered trying to solve your dispute through mediation? Mediation is an alternative to litigation that allows you to find a tailored and presumably more satisfying solution to your disputes, avoiding litigation uncertainty and costs.

Mediation is an informal process in which an impartial third party (the mediator) chosen by the parties and/or appointed by the judge, assists disputing parties in reaching a mutually acceptable agreement. Mediation aims at restoring the dialogue among parties in a confidential way, at identifying the interests of the parties beyond the law, at creating solution options, at assisting parties in the negotiation and at drafting an implementable settlement.

As long as mediation lasts, limitation periods are suspended². The court proceedings will still pend and, if mediation fails, will continue thereafter. The judge will take into account that mediation has taken place and set a priority for the case in such a way that it will not suffer further delays³.

Why should you try mediation?

EFFICIENCY

- Mediation is efficient: statistically an agreement is found in 75%⁴ of the cases.

PROCESS CONTROL

- You keep control over the outcome of the conflict
- You find a solution that best fits your interests and needs
- You can opt-out of the mediation process and go back to court without negative consequences for you at any moment. You avoid any difficulty in enforcing the final decision
- All information disclosed during mediation is confidential and cannot be used in the trial if mediation fails
- You can be assisted by your lawyer

¹ Customised by the judge according to Court practice.

² To be customised according to applicable law.

³ If applicable according to the Court/judge policy.

⁴ "The Cost of Non ADR: Surveying and Showing the Actual Costs of Intra-Community Commercial Litigation", survey funded by the European Union and led by ADR Center, June 2010

TIME AND COST SAVINGS

- Mediation can last a couple of hours; you fix the mediation schedule according to your agenda.
- Mediation cannot last longer than provided by the law or the judge's decision or the mediation institution rules⁵
- Mediation costs are defined in advance and shared between the parties⁶.
- Because of the shortened time to find a solution, you save on technical experts, your own staff involvement and you gain certainty on the financial consequences of the solution (cash availability or provision for losses).
- You avoid potential hidden cost

PRESERVE RELATIONSHIP AND PROMOTE FAIRNESS

- Mediation promotes better relationships through cooperative problem-solving.
- When the dialogue is restored you can strengthen the relationship with the other party.
- Your company promotes an image of fair trade practices

How to start the mediation?

Mediation must be accepted by all parties involved in the dispute.

Once this is agreed, contact a mediation centre to find an appropriate mediator. If necessary, the mediation centre or the judge will appoint a mediator for you. Once the mediator is appointed, the judge will set a new hearing date and define the delay within which you will report about the success or failure of the mediation process. Neither you nor the mediator may report on the nature or content of the discussion and the content of the settlement agreement which remain confidential.

Among existing mediation centres, the followings have agreed to our Court annexed mediation scheme and fees:

[Enter the name of the centres, website and contact details].

If you are entitled to benefit from a legal aid, it will apply also for the mediation process⁷.

[Conclusive comments and appropriate salutations⁸...].

⁵ To be customised according to applicable national law/Court practice.

⁶ To be customised according to the mediation scheme negotiated with the Court.

⁷ To be customised according to applicable law.

⁸ Customised by the judge according to Court practice.