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Mediating in Greece: an insight

The Greek Mediation Act (law 3898/2010) took pride in being one of the very first laws within the EU to implement Directive 2008/52 into the domestic legal system. Despite this, three years later, we are still eager to start mediating under this law and to make mediation part of our legal culture.

The mediation process, as regulated by the Greek legislation, does not differ in many ways from the international concept of mediation: it is a structured process that lasts up to 24 hours (including preparation time) where the parties involved commit to work together in finding an effective and satisfactory solution to their conflict, with the assistance of an independent, neutral and impartial mediator. The process is guaranteed by confidentiality and carried on at the free will of the parties.

However, each party must come to mediation with their lawyer(s) and, when mediating a domestic dispute, the mediator has to be a lawyer himself. A legal background is not enough: the mediator needs to be a lawyer with one of the country's Bar Associations. There has been (and still is) a lot of debate on whether the process becomes too formal and uninviting for the parties, because of the presence of so many lawyers in the room. The Greek legislator saw fit to include them out of concern for the parties being able to fully understand the consequences of their engagements and - eventually - limit the mediator's liability, who, according to the law, is accountable only for willful misconduct.

As to the mediation process itself, it starts with a mediation agreement, signed by all the parties, their legal counselors and the mediator and ends with a mediation's minutes document, which includes a settlement agreement or a "failure" mention. In the case where the settlement agreement includes clauses that can be enforced to the parties, the mediator, upon request of the parties, may file it to the court of first instance and make it enforceable under the Greek law (the fee for the State in order to make a settlement agreement enforceable is, at this time, set at 100€).

The remuneration fee of the mediator can be freely decided between him and the parties, however, the law provides an indicative fee currently set at 100€/hour limited to 24 hours maximum.

What is needed in order to become an accredited mediator under the Greek law? Regardless of the training institution that a mediator has attended and was accredited from, there is a certification process to follow before a Mediator's Accreditation Committee under the auspices of the ministry of justice. An application for certification is filed before this committee, along with several documents and a fee for the State (for the moment set at 300€). The committee decides whether the applicant meets the requirements defined by the law and if he/she should undertake complementary examinations and certifies him/her as an accredited mediator according to the Greek laws.

To this date, even if more than 180 mediators have been trained and accredited by Greek training institutions, the certification process has not yet begun and only 50 mediators trained by foreign training institutions, before Dec 31st 2012 have been certified by the Greek state. Furthermore, there are no statistics on mediation in Greece and very few mediations have taken place.