

Position of EuroExpert Council concerning mediation in the European Union

Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters

1. Objectives and aims of the Directive

On the 21 of May 2008 the Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters entered into force.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 21 May 2011. The provisions of this Directive should apply only on mediation in cross-border disputes, but nothing should prevent Member States from applying such provisions also to internal mediation process. The Directive should not apply to pre-contractual negotiations or to processes of an adjudicatory nature such as certain judicial conciliation schemes, consumer complaint schemes, arbitration and expert determination.

2. The main requirements of the Directive are:

- Mediation should be a voluntary process in the sense that the parties are themselves in charge of the process
- Confidentiality of mediation
- Encourage the training of mediators and the introduction of effective quality control mechanisms
- Ensure that mediation is conducted in an effective, impartial and competent way
- Enforceability of agreements resulting from mediation

3. Position of the council

The member associations of EuroExpert agree and will promote the following in their countries:

- Notify the relevant national authorities that expert associations should be involved in the adoption of the directive in case this has not been done
- That qualified experts could also be recognized as mediators as they already fulfil requirements of the Directive since they comply with the EuroExpert Code of Practise.
- That the member associations of EuroExpert appreciate qualified training of mediators and the introduction of effective quality control mechanisms to ensure that mediation is conducted in an effective, impartial and competent way. As the EuroExpert mediation training standards comply with the Directive requirements, this standard should be implemented.

- That there shall be no law for the profession of mediators. Mediators shall comply with high standards, regardless of their denomination or profession.
- As the Directive requires the provision of information to the general public on how to contact mediators and organisations providing mediation services, the council appreciates a European platform of qualified mediators, supported by EuroExpert.

January 2009