

## Mediation Country Report Hungary by Jozsef Antal

### 1) Definitions

*What are the definitions for mediation and conciliation in the legal framework of your jurisdiction?*

**Mediation** is a special non-litigious procedure conducted according to the mediation Act to provide an alternative to court proceedings in order to resolve conflicts and disputes where the parties involved voluntarily submit the case to a neutral third party ('mediator') in order to reach a settlement in the process and lay the ensuing agreement down in writing.

The term '**conciliation**' is not mentioned in the legal framework.

### 2) Legal Framework

- *What are the Statutes, procedural rules and case law that demonstrate how intertwined mediation is with the legal system in your jurisdiction?*
- *What is the protections provided to confidentiality of mediation proceedings under the law?*
- *Are the commercial contracts and mediation settlement agreements enforceable in your jurisdiction?*
- *Are the parties bound by terms of contracts that require mediation and is a settlement agreement they may reach enforceable?*

Under **Act LV of 2002** on Mediation, the parties (natural persons, legal persons, business entities without legal personality, other organisations) to a civil dispute connected with their personal and pecuniary rights may, if they so agree and if the law does not limit their right of disposition, use a mediation procedure to seek resolution. They may initiate such a procedure by calling on the services of a mediator. The Act specifies the range of civil legal actions in which mediation is not possible and where its provisions cannot apply to mediation and conciliation proceedings governed by other acts or to mediation in arbitration proceedings. The Ministry of Justice publishes the register of mediators on its website: [www.im.hu](http://www.im.hu).

The ADR proceedings described are regulated by high-level legal instruments, parliamentary acts and government decrees which contain rigorous provisions concerning the system of procedures and the requirement of confidentiality. These provisions provide adequate guarantees that ADR proceedings are as reliable as court proceedings.

In civil and commercial cases, the **contracts between the parties** may stipulate that arbitration is to be used instead of court proceedings to settle disputes relating to contractual terms and conditions. If such a clause is contained in the contract, it is binding on the parties.

Unless otherwise prescribed by law, mediators must handle any and all data and information obtained in a mediation process in strict **confidentiality**. Mediators shall remain under the obligation of confidentiality following termination of professional mediation activities.

### 3) Mediation Schemes and Providers

- *What is the basis and the procedure for court-annexed schemes?*
- *Who are the major mediation providers in your jurisdiction?*

There is no court-annexed scheme for mediation in Hungary.

Partners-Hungary, part of an international organization, seems to be emerging as a mediation provider and promoter in Hungary.

Federal Mediation and Conciliation Service (FMCS) is also active in Hungary.

It appears that there are no other prominent mediation providers, however.

#### **4) Regulation of Mediators**

- *What training courses and accreditations are required for to be an accredited mediator in your jurisdiction?*
- *How many training hours are required for accreditation?*

The Ministry of Justice maintains a register of mediators, also containing the names of legal persons and unincorporated business associations employing mediators.

To be admitted to the register the applicant must:

- a) have a degree in higher education and at least five years experience in the respective field,
- b) have no prior criminal record,
- c) not be under guardianship or conservatorship or be otherwise incapacitated.

Upon admission of a mediator in the register, the Ministry shall issue a license to certify that the person in question is authorized to act as a mediator.

There is no requirement to complete mediation training according to the 2002 Act on Mediation.

#### **5) Uptake and Future Developments**

- *What is the success rate of mediation? Please reference statistics, where available.*
- *Is there any potential future legislation, plans or court-annexed schemes? If so, please discuss in detail.*

No future developments are discussed in Hungary's legal framework.

#### **6) Costs**

*What are the costs of mediation? Please assume that the duration of the procedure is one day for a dispute valued at 100.000 €.*

The rules governing the different types of proceedings set out clearly the system of payment of the costs to be borne by the parties. In certain cases the parties are free to agree on the fees and costs incurred in the proceedings, while in other cases the amounts are specified in legal regulations.

The fee for any given case shall be subject to negotiation between the parties and the natural person or legal person mediator.

Since the entry into force on 1 April 2004 of Act LXXXX of 2003 on legal assistance, persons eligible for legal assistance under the Act can receive information from the legal assistance provider on the possibilities of settling a legal dispute out of court, or a document is drawn up that could help resolve the dispute. The legal adviser's fee is paid or advanced by the state according to the assisted person's income and property.

### **7) Mediation Advocacy Training**

*Training schemes and providers are outlined, including the distinction between mandatory and optional training, length of the training and percentages of lawyers who have completed the courses.*

There is no mandatory mediation training requirement in Hungary. Optional trainings may be provided by private organizations.

Partners Hungary provides accredited training courses and consultation for social services professionals, public servants, teachers and representatives of civil society, local government and business sectors.