

# Mediation Country Report

## Latvia

by  
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### 1) Definitions

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

The definition of the conciliation is given in the Civil Law (Article 1881): Conciliation (a settlement) is a contract whereby the contracting parties transform a disputed or otherwise dubious mutual legal relationship into one that is undisputed and undoubted through mutual concessions.

There has been no mediation regulation adopted on the national level yet, therefore, there is no official definition (fixed in the legal acts) for mediation in Latvia.

### 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?*

There are no Statutes in force yet, bringing mediation to the official level of dispute resolution. The same refers to the procedural rules and case law. The only official document related to mediation is the Concept "Implementation of mediation in resolution of civil disputes", drafted by the Cabinet of Ministers (the government) in 2009. It provides for four different models of mediation to be introduced: pure mediation, court-annexed mediation, court-internal mediation and integrated mediation. While the possibility to implement the last two models is still very unclear, court-annexed mediation is to be introduced in the laws of Latvia already in 2011-2012. Currently, mediation associations working on the non-governmental level are asked to work out the standards for the mediators to be included in the court list (including, but not limited to educational requirements, qualification, knowledge and reputation).

Mediation associations in their work follow the European code of ethics of mediators/European Code of Conduct for Mediators, inter alia, regarding the confidentiality of the mediation proceedings.

Since there are no mandatory rules on status and application of mediation, commercial contracts and mediation settlement agreements are enforceable as general agreements (no compulsory enforceability). An exception exists when the settlement agreement has been concluded within the legal proceedings and the court has approved such settlement agreement. In this case the settlement agreement is directly enforceable.

### 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?*

According to the Concept, court-annexed mediation is to be implemented after the pure mediation model proves itself to be effective and the amount of well-qualified mediators is enough to satisfy the needs of both: pure and court-annexed mediation. There is no clarity about the exact procedure to be used, but three possible solutions thereto have been proposed up till now:

- a) Starting mediation process after the case is initiated;
- b) Starting mediation process after the preparatory hearing;
- c) Starting mediation process during the hearing.

Each of the proposals has positive and negative guide-marks and which one (or all of them) will be at last introduced in practice is still unclear.

Currently, there are three largest mediation associations that provide mediation services: "Mediation and ADR", "Integrated mediation in Latvia" and Latvian association of sworn mediators. They are the major mediation providers in Latvia. Besides, the Latvian probation service has been implementing mediation services in criminal cases for the last several years.

#### **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?*

As it was pointed out above, practicing mediators and mediation associations are now working out the standards for education and qualification of mediators.

Currently, it is planned that the first level mediator will have to have 30 hours of initial training (able to practice privately); additional 80 hours will be needed to have the right to be included in the court list for court-annexed mediation (out of which: 50 hours for additional general training and 30 hours for specialization).

#### **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.*

According to the statistical data of three largest non-governmental associations offering mediation services in civil disputes – the settlement has been achieved in 65-75% cases, whereas in criminal cases the agreement has been reached in almost 90% out of all mediation cases of this type in Latvia.

All the potential legislation shall be based on the Concept (please see answers 2) and 3)).

#### **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 €.*

As far as there is no legal regulation of mediation in Latvia, the costs of mediation are also not fixed. It is generally accepted that, for example, custody courts offer mediation services free of charge provided that certain preconditions are fulfilled: the declared living address of the parties is covered by the territory of the particular custody court, and the parties have a child (or children).

For commercial disputes the costs of mediation are being determined on case-by-case basis.

#### **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.*

Mediation advocacy training is generally included in the ADR courses as one of the possible dispute resolution models. These University courses are optional (not mandatory for all students). Currently, first level mediation courses (which are offered by mediation associations for those who are interested; 30 hours) are subject to individual choice.