Letter of formal notice sent by the European Commission to 9 Member States for failure to communicate the transposition measures of the Directive on mediation in civil and commercial matters

- News on legislation [1]

Fri, 07/22/2011

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The European Commission emphasises that mediation is an important alternative to going to court in cross-border disputes and can help parties find an amicable settlement. It saves time and resources. According to a study funded by the European Union, the time wasted by not using mediation is estimated at an average of between 331 and 446 extra days, plus extra legal costs of between €12 471 and € 13 738 per case.

In this context, Directive 2008/52/EC, which was adopted on 23 April 2008 and entered into force on 21 May 2011, applies when two parties involved in a cross-border dispute voluntarily agree to settle their dispute by using an independent mediator. The rules laid down encourage the Member States to ensure quality control, to establish codes of conduct and to offer training to mediators in order to supervise the effectiveness of the system of mediation established. The Member States must also ensure that agreements resulting from mediation can be implemented.

On the procedural level, from the receipt of the letter of formal notice, which is the first stage in an infringement procedure, the Member States involved have two months to reply to the Commission's request for information. If the Commission is not satisfied with the information and concludes that the Member State in question is failing to fulfil its obligations under EU law, the Commission may then send a formal request to comply with EU law (a "Reasoned Opinion"), calling on the Member State to inform the Commission of the measures taken to comply within a specified period, usually two months. If a Member State fails to ensure compliance with EU law, the Commission may then decide to refer the Member State to the Court of Justice of the EU.

Consulting the Directive [2]

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