Commission adopts proposal to boost mediation in civil and commercial matters

The European Commission has adopted a proposal for a directive seeking to promote the use of mediation by citizens and business for all disputes in the field of civil and commercial law. The proposal will provide a predictable and clear legal framework while safeguarding the flexibility and informal nature of the mediation process. The proposal aims to improve access to justice and forms part of the policy to establish the Union as an area of freedom, security and justice.

“The value of increasing the use of mediation rests principally in the advantages of this dispute resolution mechanism itself: a quicker, simpler and more cost-efficient way to solve disputes, said Antonio Vitorino, Commissioner for Justice and Home Affairs. Mediation allows for taking into account a wider range of interests of the parties, with a greater chance of reaching an agreement which will be voluntarily respected, and which preserves an amicable and sustainable relationship between them.”

The proposed directive contributes to better access to justice through two types of provisions: first, to ensure a sound relationship between mediation and judicial proceedings, by establishing minimum common rules in the Community on a number of key aspects of civil procedure such as suspension of limitation periods, confidentiality, and enforcement of settlement agreements. Secondly, by providing the necessary tools for the courts of the Member States to actively promote the use of mediation, without nevertheless making mediation compulsory or subject to specific sanctions.

The proposal complements action to stimulate self-regulation of mediation in Europe, where the Commission services have worked together with practitioners and stakeholders to develop a European code of conduct, to which mediators can decide to commit on a voluntary basis. The code of conduct covers issues excluded from the proposal for a directive such as the mediation process or the appointment or accreditation of mediators, and for which the Commission considers that legislation is not the preferred policy option. The code of conduct is available on the website of the European judicial network in civil and commercial matters (see http://europa.eu.int/comm/justice_home/ejn/index_en.htm).

These two initiatives taken together – the legislative proposal for a Directive on the one hand and the self-regulatory initiative on a code of conduct on the other - provide for a full response by the Commission to the Council conclusions of 2000 on the development of alternative dispute resolution methods in the EU, and were prepared through a wide-ranging public consultation process launched with the publication of a Green Paper in 2002.