
Kluwer Mediation Blog

The New German Mediation Law finally came into force

Rafal Morek (DWF LLP) · Thursday, August 9th, 2012

Finally, after a long parliamentary struggle, the German Mediation Act (*Gesetz zur Förderung der Mediation und anderer Verfahren der außergerichtlichen Konfliktbeilegung*) was signed into law by the President of the Federal Republic (*Bundespräsident*) on July 21, 2012. Four days later it was published in the Federal Gazette (*Bundesgesetzblatt*) BGBl. I, 2012, S. 1577, and came into force on July 26, 2012.

When I reported in early January that the law was passed in *Bundestag*, it might have appeared that just a couple of weeks are needed to finalize the legislative process. However it soon turned out that the Mediation Act required the Mediation Committee (*Vermittlungsausschuss*) of the upper and the lower chambers (*Bundesrat* and *Bundestag*) to find an amicable solution within the German parliament.

The model of court-integrated mediation with judges acting as mediators (strongly supported by some federal states), and the concept of a conciliation judge (*Güterichter*) introduced by *Bundestag*, were seen as the main bone of contention. Finally, both were integrated into the Act.

Other regulations in the Mediation Act include for example:

- Financial incentives to encourage mediation (for the first time in German law). Such incentives may be created by individual *Landes* (thus they will potentially differ from state to state). The states can reduce or even waive court fees, if matters are settled through mediation or other means of ADR. It remains to be seen how generous the individual states are in creating these incentives, while they come of their budgets;
- Introduction of the title of a “certified mediator”, who has to pass at least 120 hours of intensive training. Prior to the Mediation Act, German mediators did not have to meet any specific educational standards required by law;
- Suspension of the statutes of limitation during mediation proceedings;
- Enforceability of settlement agreements reached through mediation.

It will be interesting to hear how the new law is welcomed by the German mediation community.

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The graphic features a black background with white text and a circular icon. The icon depicts a magnifying glass over a group of stylized human figures, representing a search or investigation process. The text is arranged in a clean, modern layout with horizontal lines above the main text.

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