



# Guidance for Member States on the ELA Mediation procedure

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Luxembourg: Publications Office of the European Commission, 2022

PDF ISBN XXXXXXXXXXXXXXXX Catalogue number: KE-XXXXXXXXX DOI: YYYYYYYYYY

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# 1. Introduction

**Labour mobility and cross-border movement in the EU triggers the combined application of complex EU legislation on labour mobility and social security coordination with national employment and social security law and administrative rules of at least two Member States. National representative bodies and enforcement agencies may have different viewpoints when applying or enforcing the prevailing legislation in cross-border situations involving business and workers. The relevant EU legislation requires administrative cooperation and information exchange between thousands of institutions in the employment and social security field across the EU, creating situations of interdependency and reliance on public bodies from other Member States in order to provide solutions for complex individual cases. In such a context misunderstandings and disagreements between Member States on the implementation of the EU labour mobility acquis and social security coordination may occur. Whereas bilateral dialogue between Member States remains the most direct way to resolve such challenges and divergent points of view, bilateral exchanges may not always lead to effective outcomes and disputes between Member States may remain unresolved.**

In order to overcome differences between Member States that cannot be resolved through dialogue, a **tailor-made mediation facility** has been set up under the umbrella of the **European Labour Authority** (hereinafter 'ELA') providing Member States a streamlined mechanism to resolve their disputes in a time-bound way and with the necessary professional and logistical support. Whereas ELA's mediation function and role have been established in its founding Regulation<sup>1</sup>, the detailed modalities and procedures of the entire mediation process have been laid out in the Rules of procedure<sup>2</sup>. A cooperation agreement between ELA and the Administrative Commission on the coordination of social security systems has also been adopted in order to regulate the interaction between both bodies when disputes concern fully or in part social security coordination issues.

The mediation process before ELA is construed along two consecutive stages of mediation involving a single mediator (first stage of the mediation procedure) or the Mediation Board (second stage of the mediation procedure). A mediation ultimately envisages the adoption of a non-binding opinion to which the Member States shall adhere in the spirit of sincere administrative cooperation and good faith.

The present **Guidance to Member States on the ELA mediation** procedure describes the steps and most important milestones of the mediation procedure and addresses some key questions Member States may have when considering a mediation. It also contains links to the relevant templates for the documents Member States need to use when engaging in a mediation. This Guidance complements the **General guidance and workflows on the ELA mediation procedure** which sets out in detail all the workflows concerned with the ELA mediation and includes all relevant templates for communication and administrative verification purposes.

## 2. What are the core principles of mediation before ELA?

The mediation before ELA is an out-of-court and free-of-charge dispute resolution mechanism aimed at resolving disputes between Member States on the application and/or enforcement of EU labour mobility and social security coordination legislation. It is a **voluntary process** Member States choose to become engaged in. Member States which are party to a particular dispute remain in the driving seat at all times during the process while ELA through the ELA Mediation Secretariat<sup>3</sup> is facilitating the process and is providing professional accompaniment and logistical support. The mediation itself is based

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1 ELA's mandate is illustrated in Article 1(4) of the founding (EU) Regulation 2019/1149, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:%3A32019R1149>.

2 Decision 17/2021 of the ELA Management Board of 10 November 2021, available at: [https://www.ela.europa.eu/sites/default/files/2022-02/Decision%2017\\_2021%20ROPM\\_EN.pdf](https://www.ela.europa.eu/sites/default/files/2022-02/Decision%2017_2021%20ROPM_EN.pdf).

3 The mediation secretariat is part of the Cooperation Support Unit of the ELA.

on the **principles of impartiality, confidentiality and flexibility** and is aiming at the adoption of a mutually acceptable solution Member States agree to implement.







### 3. What are the key features of the ELA mediation procedure?

The mediation procedure consists of **two possible consecutive stages**, each of which is in principle subject to the indicative deadlines set out in the Rules of Procedure. The first stage of the mediation procedure is facilitated by a **single mediator**, chosen by the Member States from [the list of appointed mediators](#). When Member States do not reach an agreement at the end of the first stage of the mediation procedure, they can decide to proceed to the second stage of the mediation procedure which is run before a panel or the entire **Mediation Board**, composed of experts appointed by the ELA's Management Board ([list of experts of the Mediation Board](#)). In this case, the choice of the composition of the panel (or the entire Mediation Board) does not fall on the Member States involved, but on the Chair of the Mediation Board who is responsible for the facilitation of the second stage of mediation.

A mediator or the Chair of the Mediation Board can apply different approaches and styles when embarking upon a mediation process, while during the process the approach and style can evolve depending on the actual context and development of the mediation concerned.

Different approaches can be applied, and it is up to the mediator or the Chair of the Mediation Board, and the Member States to decide on the most appropriate approach for organising the mediation proceedings. The Member States involved can however be reassured by the fact that the mediator or the Chair of the Mediation Board will guide them in the choice of the approach, according to their experience and in view of the situation of the specific case. Two main possible mediation approaches are suggested while in practice a mediation often becomes a variant taking aspects from both mediation approaches:





THE STANDARD MEDIATION	THE GUIDED MEDIATION
<ul style="list-style-type: none"> <li> <b>Key points:</b> Three sessions: Intake, Negotiation, Closing.</li> <li> <b>Main advantage:</b> The process is very linear and allows the mediator to guide the parties, becoming a facilitator.</li> <li> <b>Main risk:</b> The mediator might discover deadlocks and factors preventing a settlement quite late in the process (probably during the negotiation session). This can result in unnecessary delays.</li> </ul>	<ul style="list-style-type: none"> <li> <b>Key points:</b> Three sessions: Intake (very thorough), Negotiation, Closing.</li> <li> <b>Main advantage:</b> The intake session is very thorough; the mediator lets the parties discuss the approach they would like to follow and invites them to design the process. The focus is on understanding from the beginning why the parties have been unable to settle the dispute and based on that to develop a diagnosis which is then used to propose a more structured negotiation session. This can result in a consistent time saving.</li> <li> <b>Main risk:</b> Since the Member States involved might not be convinced to cooperate in a clear and transparent manner immediately, designating the process together might take longer.</li> </ul>

During the mediation process **professional expertise** in the domains of EU labour mobility and social security coordination can be made available to the Member States through the involvement of **experts in an advisory capacity**. The objective throughout a mediation is to reach an agreement by the Member states on a (non-binding) Opinion. Such an Opinion shall take account of the EU acquis and other interpretative documents provided by specialised bodies entrusted by Union law and contains recommendations and/or specific solutions to solve the dispute<sup>4</sup>. Upon reaching an agreement Member States commit to implement the mutually acceptable solution within the agreed time limit and report on its implementation within the time span of three months from the moment of the adoption of said mutually acceptable solution.

## Embarking upon a mediation before ELA

There are two preconditions that always need to be complied with when a mediation before ELA is considered:




-  1 Member States have tried to resolve the matter through direct contact and bilateral dialogue;
-  2 Member States agree to participate in the mediation process before ELA.

## 4. Which disputes can be mediated before ELA?

The scope of mediation includes **all areas that fall under ELA's responsibility**<sup>5</sup>, namely **posting of workers, social security coordination, free movement of workers and social legislation concerned with international road transport**. In case a dispute relates fully or partly to matters of social security, the Administrative Commission will be informed by ELA in accordance with the AC-ELA Cooperation Agreement<sup>6</sup>.

## 5. How are cases initiated for a mediation?

The mediation process can be initiated in three different ways:

-  1 Request by one (or more) Member States which are involved in a dispute;
-  2 Referral by the SOLVIT network;
-  3 At the initiative of ELA.

The standard situation is the one in which **Member States take the initiative to request ELA for a mediation on a dispute they are involved in**. One Member State that is party to a dispute can request a mediation (in which case ELA will seek the consent from the other Member States involved in the dispute) but Member States can also jointly or simultaneously submit a request for a mediation before ELA.

## 6. Who can request a mediation to ELA?

In principle any national public institution or body that has competences in the areas of employment and social security in EU cross-border situations can submit a request for mediation before ELA when they have divergent views and/or an unresolved dispute with a national public institution or body from another Member State on the application of the relevant

<sup>4</sup> Article 17 of the Rules of procedure for mediation of the European Labour Authority.

<sup>5</sup> ELA's mandate is illustrated in Article 1(4) of the founding (EU) Regulation 2019/1149, available at this address: <https://eur-lex.europa.eu/legal-content/EN/TX-/?uri=CELEX%3A32019R1149>.

<sup>6</sup> Decision 18/2021 approved the AC-ELA Cooperation agreement on 22 December 2021. The Agreement entered into force on 1 June 2022 and it is available at this address: <https://www.ela.europa.eu/sites/default/files/2022-03/ELA-AC-signed-agreement.pdf>.

EU labour and social security acquis. Whereas it will **usually be the lead Ministry responsible for employment and/or social security that will request a mediation on behalf of a Member State concerned**, it remains the decision of the Member States to determine whether and, in the affirmative, which other public institutions or bodies are competent to submit a request for mediation to ELA. Such national public institutions or bodies can be (1) social security institutions (2) employment agencies, (3) inspection services or (4) other public agencies.

## 7. How can a Member State request a mediation to ELA?

The request can be made by using the form '[Letter of request for Mediation](#)' which needs to be completed and signed by the mandated representative of the national public institution that is requesting ELA for a mediation. Each Member States that is willing to request a mediation, completes and sends a request for mediation to ELA. The request for mediation is to be submitted by email to the functional mailbox of the ELA Mediation Secretariat ([mediation@ela.europa.eu](mailto:mediation@ela.europa.eu)). The electronic submission of a duly signed Request for Mediation suffices and no paper versions need to be sent by post. The ELA Mediation Secretariat registers incoming requests in the internal registering system. The date of registration counts as the date of submission of the request concerned.

Together with the Request for Mediation but **not later than 15 working days** from the date of submission of their respective requests for mediation, Member States have to submit a detailed statement by using the form '[Detailed Statement](#)'. In the Detailed Statement Member States describe the scope and details of the dispute or divergent points of view. The Detailed Statement should include all the necessary information which enables ELA to verify, through the admissibility check, whether the case can be taken in for mediation.

Requesting Member States need to ensure that all **personal data** of the individuals and/or businesses which are involved in the (underlying) dispute between the Member States are **anonymised**.

In cases when not all the Member States that are involved into a particular dispute have requested a mediation, ELA ensures that all remaining Member States involved in the dispute are informed about the mediation request(s) that it received from the requesting Member State(s). ELA will furthermore ask whether the remaining Member States agree to mediation or not and, in the affirmative, request them to submit their Detailed Statements. In addition, ELA also has the possibility to ask Member States to provide additional information necessary for a full understanding of the dispute<sup>7</sup>.

## 8. When is a dispute admissible for mediation?

When all Requests for Mediation, Detailed Statements and additional clarification replies from the respective Member States that are involved in the dispute have been received, ELA will conduct an **admissibility check** of the case files. The date of receipt of the last Detailed Statement is the date of the registration in ELA's internal registering system.

The admissibility check is primarily aimed at verifying that there are no obstacles to launch the (first stage of the) mediation procedure in terms of:

1. The parties' voluntary decision of ELA mediation as an adequate means to resolve their disputes;
2. The nature and material scope of the dispute as falling within ELA's mandate;
3. Existence of judicial proceedings on the same subject matter of the dispute;
4. Possible need to inform the AC.

<sup>7</sup> This request is made by ELA through the 'Request for additional information', to which Member States can reply with the 'Reply to the request for additional information'.

## 9. What happens if a dispute is confirmed admissible by ELA?

The admissibility check conducted by ELA Mediation Secretariat may eventually lead to the formal **launch of the first stage of the mediation procedure**. Member States will receive from ELA a '[Notification letter about the start of the first stage of mediation](#)' by means of which the Member States are invited to:

- ① Select a mediator from the [list of appointed mediators](#) within 10 working days.
- ② Confirm or appoint a national representative for the first stage of mediation.

Member States will use the '[Letter to reply to the Notification on the start of the first stage of mediation](#)' in which they confirm their willingness to participate in the mediation and their choice on the mediator.



Member States have different ways in selecting the mediator and can indicate in their Reply:

1. Their choice on one or more mediators from the list of appointed mediators;
2. Their agreement with all mediators from the list of appointed mediators;
3. Their disagreement with one or more of the proposed mediators from the list of appointed mediators.

**Member states are encouraged to identify a mediator from the [list of appointed mediators](#) through direct bilateral contact in order to seek a common agreement.**

In a situation that Member States agree on a mediator, ELA will formally appoint the selected mediator. In the opposite case, ELA will take the initiative and propose the Member States a mediator from the list of appointed mediators, the selection of whom Member States have to agree with.

As from the date of the formal appointment of the mediator by ELA, an indicative **45 working days** period commences within which the first stage of the mediation will be implemented with the goal to reach a common agreement on the dispute.

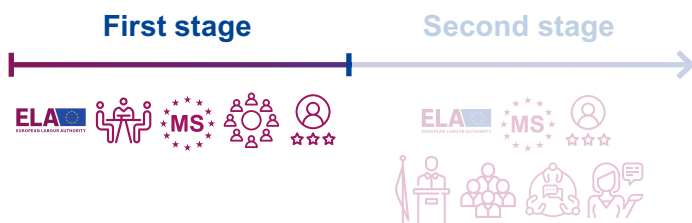


Member States will nominate one national representative who will be the main contact point on behalf of their respective Member State during the mediation.

The national representative can be changed at all times by the Member States by means of a notification to ELA and this person does not necessarily have to be the representative who has initiated a request for mediation to ELA.

Member States are free to decide which institutions (and their representatives) will be involved during the mediation as being part of their delegation. In some instance Member States will involve the national social partners in their delegations during the mediation.

## 10. How does the first stage of the mediation procedure work?



The first stage of the mediation procedure essentially aims to overcome differences in viewpoints between the parties on the application of the relevant EU labour mobility acquis in a particular case, with the support of a single mediator who has been selected by common agreement of the Member States. The mediator facilitates the process with the aim to reconcile the divergent points of view of the Member States involved, which ultimately may result in a mutually acceptable solution.

The first stage of mediation is in principle expected to last for 5 months maximum. However, during the mediation process, the procedure may be suspended or an early closure may occur<sup>8</sup>. In addition, during the mediation, it may be necessary for ELA to liaise with the AC in order to address social security coordination related matters<sup>9</sup>.

The appointed mediator consults the Member States in order to choose the most appropriate approach for the mediation. The mediator leads the process of the mediation in terms of setting the agenda, choosing the language of communication and of the planning of the (physical and/or online) meetings and exchanges between the Member States. The mediator is hereby supported by ELA Mediation Secretariat for the administrative and logistical support including interpretation services. The mediator actively involves and consults with the Member States from the beginning of the process and throughout, up until the drafting of the final report and the non-binding opinion.

Once the mediator has decided on the most appropriate approach to organise the proceedings (whether standard or guided, or a combination), **the mediator is encouraged to draw up what has been agreed with the Member States in writing as it is the basis on which the parties are engaging themselves for the further steps including time frame and respective commitments.**

A template for such a '[Communication on the Mediation Outline](#)' for a specific mediation case is provided. The mediator is however free to use it or not, and can opt to use a different model. The importance is that the Member States and everyone involved in the process have a written framework and time planning for the first stage of the mediation.

### Fast-track mediation

The Member States that are party to the dispute may commonly agree with the mediator during the first stage of mediation, to shorten the deadlines which are set out in the working arrangements, provided that the quality of the procedure and of the non-binding opinion can be preserved.

<sup>8</sup> The different hypotheses that may lead to suspension or early closure are described in the General Guidance and Workflows for the ELA mediation procedure.

<sup>9</sup> In all cases where it is necessary to involve the AC, the appropriate Workflow guidance for AC-ELA interaction should be consulted and applied.



The first stage of the mediation procedure will in principle end at the moment the **standard 45-day period** has elapsed<sup>10</sup>. The final procedural step varies depending on the outcome of the mediation.



### **OUTCOME A: THE MEMBER STATES AGREE ON A NON-BINDING OPINION**

If the parties **agree on a non-binding opinion within the time span of 45 working days** which is foreseen for the first stage of mediation, the mediator will guide the parties towards the end of the process. In that case, the mediator draws up a **final factual report, including the non-binding opinion**, which is sent to the Member States and to ELA for comments and feedback. Member States can **provide feedback within 15 working days** counted as from the date the draft factual report and the non-binding opinion have been sent. ELA verifies that the non-binding opinion adopted complies with the EU labour mobility acquis.



### **OUTCOME B: THE MEMBER STATES DO NOT AGREE ON A NON-BINDING OPINION**

If, on the other hand, the Member States have **not agreed on a non-binding opinion within time span of 45 working days**, they can decide to **extend the first stage of mediation with an additional 15 working days**<sup>11</sup> or to **stop the first stage of the mediation**. If after the extension of 15 working days no agreement has been reached, the first stage will end. The mediator will always draw up the final factual report reporting on the mediation and its process.

Once the first stage of the mediation has ended, Member states can still agree whether or not to proceed with the second stage of mediation before the Mediation Board<sup>12</sup>.

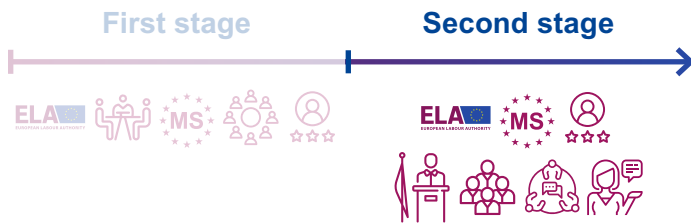
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<sup>10</sup> Without considering a possible suspension or extension of the mediation procedure.

<sup>11</sup> In this case the mediator informs ELA about the extension through the 'Notification of extension of the stage of mediation'.

<sup>12</sup> In this case the Member States agree through an 'Agreement to start the second stage of mediation'.

## 11. How does the second stage of the mediation procedure work?



The objective of the second stage of the mediation procedure is to give Member States an **additional opportunity to resolve their dispute** if no solution was found during the first stage of the mediation procedure and hence no agreement reached on a non-binding opinion.

Whereas during the first stage of the **mediation one mediator is facilitating the process, the mediation during the second stage is conducted before the Mediation Board (or panel)**, which is composed of experts from the Member States other than those that are party to the dispute. The Chair of the Mediation Board has an active role during the second stage of the mediation procedure<sup>13</sup>. Additionally, a rapporteur is nominated who is responsible for preparing the factual report and the non-binding opinion, taking into account all the views of the members of the Mediation Board or the panel.

The second stage of the mediation procedure can only be launched by ELA through the '[Notification to inform Member States that the second stage of mediation is about to start](#)', if the following two conditions are simultaneously met:

1. No solution was found during the first stage of mediation and the Member States that are party to the dispute did not agree on a non-binding opinion.
2. All Member States that are party to the dispute agree to continue the process and to launch the second stage of the mediation procedure<sup>14</sup>.

The second stage of mediation is in principle expected to last 5 months maximum. However, during the mediation process, the procedure may be suspended or an early closure may occur<sup>15</sup>. In addition, also during this second stage of the mediation, it may be necessary for ELA to interact with the AC in order to address social security coordination related matters<sup>16</sup>.

The Chair of the Mediation Board will consult the Member states on the preferred approach of the mediation, and s/he will guide them in the choice of the best one. The Chair will contact the national representative of the Member States that are party to the dispute on the approach and planning of the mediation process. Based on the consultation, the Chair decides on which approach is most appropriate to be followed during the second stage of the mediation.

The main approaches to mediation are similar to those described for the first stage of the mediation procedure with the **main (organizational) difference being that under the second stage, the planning needs to take into account the availability of all experts of the panel or Mediation Board that has been appointed as the mediating body during the second stage** of the mediation.

Once the Chair has chosen the most appropriate approach (between the standard and the guided mediation procedure), s/he is encouraged to draw up what has been agreed with the parties in the '[Communication on the Mediation Outline](#)'.

<sup>13</sup> See Article 8 (5) RoP for an overview of the different functions of the Chair during the second stage of mediation.

<sup>14</sup> In this case, consent is formalised by the document that the Member States signed with the support of the mediator, during the first stage of mediation through the 'Agreement to start the second stage of mediation'.

<sup>15</sup> The different hypotheses that may lead to suspension or early closure are described in the General Guidance and Workflows for the ELA mediation procedure.

<sup>16</sup> In all cases where it is necessary to involve the AC, the appropriate Workflow guidance for AC-ELA interaction should be consulted and applied.



### Member States can rely on the support services and facilities provided by ELA during both stages of the mediation:

- Involvement of trained mediators;
- Involvement of experts in the Mediation Board with strong know-how in the technical domains of EU labour mobility;
- Possibility to rely on (additional) experts in advisory capacity;
- Functional Mediation Secretariat with trained staff;
- Fully equipped venue and room with interpretation booths at ELA's headquarters in Bratislava;
- Availability of interpreters with experience in the subject matter;

### Fast-track mediation

The Member States that are party to the dispute may commonly agree with the mediator during the first stage of mediation, to shorten the deadlines which are set out in the working arrangements, provided that the quality of the procedure and of the non-binding opinion can be preserved.

The second stage of the mediation procedure will in principle end once the standard 45-day period (counted as from the date of the appointment of the Mediation Board or the panel) has elapsed<sup>17</sup>. The final procedural steps vary depending on the outcome of the mediation.

#### **A** OUTCOME A: THE MEMBER STATES AGREE ON A NON-BINDING OPINION

When the Member States that are party to the dispute agree on a non-binding opinion within 45 working days, the Chair will guide the parties towards the end of the mediation process.

In this case, the rapporteur draws up a final factual report, including the non-binding opinion, which is sent to the ELA Mediation Secretariat and the Member States for comments and feedback. Member States can **provide feedback within 15 working days** counted as from the date the draft factual report and the non-binding opinion have been sent. ELA verifies that the non-binding opinion adopted complies with the EU labour mobility acquis.

#### **B** OUTCOME B: THE MEMBER STATES DO NOT AGREE ON A NON-BINDING OPINION

If, on the other hand, there is no agreement on a non-binding opinion between the Member States within the time frame of 45 working days the Member States may choose to:

1. Extend the second stage of the mediation procedure **with an additional 15 working days**<sup>18</sup>;
2. Close the mediation procedure definitively.

In both options, the rapporteur will always draw up the final factual report of the second stage of the mediation procedure.

<sup>17</sup> Without considering possible suspensions of the mediation procedure.

<sup>18</sup> In this case the Chair informs ELA about the extension through the 'Notification of extension of the stage of mediation'.

## 12. What happens once the mediation is concluded?

Once the mediation process is concluded and a mutually acceptable solution has been reached by the Member States, i.e. at the end of the first or second stage of the mediation procedure, Member States are required to report on the progress of implementation within a period of three months<sup>19</sup>.

## 13. Can Member States interact with the Administrative Commission?

The Member States involved in the dispute **may decide to refer the social security coordination part of the dispute (if any) to the Administrative Commission, at any stage of the mediation process.**

In this case, ELA Mediation Secretariat will receive a '[Request to refer the issue concerning social security to the AC](#)' from all Member States to refer the part of the dispute related to social security coordination to the Administrative Commission on the date of that request.

Once the request has been received, ELA Mediation Secretariat notifies the Member States involved about the closure of the mediation process in its entirety, or only for the part relating to the social security matter, now being referred to the Administrative Commission.

## 14. Can Member States withdraw from the mediation procedure?

Mediation before ELA remains throughout its duration a voluntary process, in which Member States decide to take part. This means that they may at any time during the proceeding (first or second stage of mediation procedure) decide to withdraw<sup>20</sup> from the proceedings or request to suspend it in certain circumstances such as the commencement of a judicial proceeding on the subject matter of the dispute<sup>21</sup>.

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<sup>19</sup> Article 20 of the Rules of procedure for mediation of the European Labour Authority

<sup>20</sup> Article 18(2/d) of the Rules of procedure for mediation of the European Labour Authority: 'By a written request of one or more Member States that are party to the dispute, at any stage of the mediation procedure, on the date of that request'.

<sup>21</sup> Article 18(3/a) of the Rules of procedure for mediation of the European Labour Authority: 'By a written request of one or more Member States that are party to the dispute, at any stage of the mediation procedure, indicating that Court proceedings were initiated after the launch of the mediation procedure'

## **15. The Templates and Forms**

## 15.1 LETTER OF REQUEST FOR MEDIATION FROM MEMBER STATE(S) TO ELA

[Mr/Ms Insert the name of the addressee]  
Executive Director/Head of the Cooperation  
Support Unit  
the European Labour Authority  
Landererova 12  
81109 Bratislava Slovakia  
[mediation@ela.europa.eu](mailto:mediation@ela.europa.eu)

**Subject: Request for mediation**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

I, the undersigned, [name and Last Name], in the role of [Please indicate your role], on behalf of [Name of the Member State], on the [ ] day of the month of [ ], in the year [ ], is hereby requesting the European Labour Authority (hereafter 'ELA'), to mediate an individual case of application of Union law, covered by Article 1(4) of the Regulation (EU) 2019/1149. The dispute involves the following MS(s)/actors:

- Member State No 1 [Please indicate: name, national representative (if known), contact details].
- Member State No 2 [Please indicate: name, national representative (if known), contact details].
- Member State No 3 [Please indicate: name, national representative (if known), contact details].

I declare that, to my knowledge, the above-mentioned MS(s)/actors involved in the dispute, for which mediation is requested:

- Are aware of the request for mediation before ELA and [agree/do not agree] with it;
- Are not aware of the request for mediation before ELA.

Are there any other actors concerned with the individual case?

- Social partners organisations [Please indicate: name, national representative (if known), contact details].
- Other public institutions/agencies [Please indicate: name, national representative (if known), contact details].
- Other Stakeholders [Please indicate: name, national representative (if known), contact details].

Please briefly describe the dispute and the reasons why you would like to see the dispute mediated (This box does not need to be filled out in case you are submitting the detailed statement together with the present request).

Write your answer here

The undersigned is aware that this request will be dealt with in accordance with the Rules of Procedure for mediation of the European Labour Authority, and in accordance with the timeframe and modalities thereof.

I confirm that:

- The detailed statement is attached to this request.
- The detailed statement is not attached to this request\*.

\*Please note that **in case the detailed statement is not attached**, the requesting party has 15 days from the sending of this request to submit it, in accordance with Article 14(2) of the Rules of Procedure for mediation of the European Labour Authority.

*Please indicate below the contact details of the national representative (if known)*

Name and Last Name

Function

Organisation/Institution/Entity

Email

Telephone Number

Name and Last name:

Organisation/Entity/Department:

Function:

Place and date of signature:

Signature:

Documents attached to the request for mediation:

- Detailed Statement (Doc. No II)

## 15.2 DETAILED STATEMENT FROM MEMBER STATE(S) TO ELA

[Mr/Ms Insert the name of the addressee]  
Executive Director/Head of the Cooperation  
Support Unit  
the European Labour Authority  
Landererova 12  
81109 Bratislava Slovakia  
[mediation@ela.europa.eu](mailto:mediation@ela.europa.eu)

**Subject: Detailed Statement of [Please write here the name of the Member State]**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

With reference to the request for mediation sent to the European Labour Authority (hereafter 'ELA), on the [ ] day of the month of [ ], in the year [ ], the undersigned, in the role of [Please indicate your role], on behalf of [Name of the Member State], on the [ ] day of the month of [ ], in the year [ ], is hereby submitting the detailed statement, in accordance with Articles 9 and 14 of the Rules of Procedure for mediation of the European Labour Authority.

1. Please indicate which is/are the other Member State(s) involved.

Write your answer here: [ ]

2. Please describe the nature and the timeline of the dispute including the main issues of contention.

Write your answer here: [ ]

3. Please indicate which public institutions in your Member State are directly concerned by the subject matter.

Write your answer here: [ ]

4. Please indicate which public institutions in the other Member State(s) are directly concerned by the subject matter.

Write your answer here: [ ]

5. Please indicate whether there are (or not) pending or ongoing court proceedings on the subject matter.

Write your answer here: [ ]

6. Please describe whether, if the dispute concerns social security coordination, any of the parties have ever referred the case to the Administrative Commission for the coordination of social security systems.

If yes, please provide details, date and relevant documents together with this request (to the extent that this is possible and with due regard to the confidentiality).

**Does the dispute concern relevant European legislation within ELA's mandate? (Article 1(4) Regulation (EU) 2019/1149)?**

### Posting of workers

- YES  
 NO Directive 96/71/EC  
Directive 2014/67/EU

Additional observations:

[ ]

### Social security coordination

- YES  
 NO Regulation (EEC) 1408/71  
Regulation (EEC) 574/72  
Regulation (EC) 883/2004  
Regulation (EC) 987/2009  
Regulation (EC) 859/2003  
Regulation (EC) 1231/2010

Additional observations:

[ ]

### Free movement of workers

- YES  
 NO Regulation (EU) No 492/2011  
Directive 2014/54/EU  
Regulation (EU) 2016/589

Additional observations:

[ ]

### Social legislation in road transport

- YES  
 NO Regulation (EC) 561/2006  
Directive 2006/22/EC  
Regulation (EC) 1071/2009

Additional observations:

[ ]

7. Please describe all efforts, exchanges and the outcome of previous contact and dialogue to resolve the dispute.

8. Is there agreement between all the parties to refer the dispute for mediation before ELA?

- YES
- NO
- NOT SURE

**List of documents attached in support of the detailed statement**

Please indicate the documents attached below:

- 
- 
- 
- 

**Name and Last name:**  
**Organisation/Entity/Department:**  
**Function:**  
**Place and date of signature:**  
**Signature:**



### 15.3 NOTIFICATION LETTER TO INFORM MEMBER STATE(S) THAT THE FIRST STAGE IS ABOUT TO START, FROM ELA TO MEMBER STATE(S)

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[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Notification of the start of the first stage of mediation, case No [ ]**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'), hereby informs

[Member State No 1], represented by [name of the national representative No 1], and

[Member State No 2], represented by [name of the national representative No 2]

that the first stage of mediation procedure No [ ] is about to start.

This notification indicates the beginning of the first stage of mediation. Member States have 45 working days to mediate the dispute, from the day the mediator is appointed by ELA.

Therefore, ELA hereby calls on [Member State No 1] and [Member State No 2] to:

- agree within 10 working days of the launch of the first stage of mediation (i.e. from the receipt of this notification letter) on a mediator that could mediate the dispute;
- appoint/confirm a national representative who will follow the mediation procedure from the beginning to the end.

ELA invites the Member States to reply, through the '**Reply to notification letter**', attached to this document, with the above information within 10 working days, so that the mediator chosen by the parties can be appointed.

In the event that the parties cannot find a mediator who meets the needs of both parties, ELA, in accordance with Article 19(5) of the Rules of Procedure for mediation of ELA, will select the mediator it deems appropriate.

Attached to this letter of notification the Member States, party to this mediation process, will find the list of mediators available from which is possible to select one mediator.

**Name and Last name:**



**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

*Documents attached to the notification letter:*

-  Reply to notification of the start of the first stage of mediation (Doc. No XIV)
-  List of the mediators available for the dispute, selected by ELA.

## 15.4 REPLY TO THE NOTIFICATION THAT THE FIRST STAGE IS ABOUT TO START, FROM MEMBER STATE(S) TO ELA

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[Mr/Ms Insert the name of the addressee]  
Executive Director/Head of the Cooperation  
Support Unit  
the European Labour Authority  
Landererova 12  
81109 Bratislava Slovakia  
[mediation@ela.europa.eu](mailto:mediation@ela.europa.eu)

**Subject: Letter to reply to the notification of the start of the first stage of mediation**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

With reference to the notification of the start of the first stage of mediation, sent by the European Labour Authority (hereafter 'ELA), on the [ ] day of the month of [ ], in the year [ ], the undersigned, of [Please indicate your name and last name] , in the role of [Please indicate your role], on behalf of [Name of the Member State], is hereby confirming receipt of the notification, on the [ ] day of the month of [ ], in the year [ ].

The undersigned expressly agree to the launch of the first stage of mediation.

**Sign here:**

The undersigned approves the mediators indicated below for the mediation procedure requested.

Write the name and the last name of the preferred mediator(s) here:

The undersigned [confirms/appoints], Mr/Ms [First name and last name of the national representative] as national representative on the behalf of [Member State's Name].

**Sign here:**

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 15.5 COMMUNICATION ON THE MEDIATION OUTLINE, STYLE AND RULES FROM MEDIATOR/ CHAIR TO ELA

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[Mr/Ms Insert the name of the addressee]  
Executive Director/Head of the Cooperation  
Support Unit  
the European Labour Authority  
Landererova 12  
81109 Bratislava Slovakia  
[mediation@ela.europa.eu](mailto:mediation@ela.europa.eu)

**Subject: Communication on the mediation outline for case No [ ]**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

I [First name and last name], the undersigned, in my capacity as [mediator/Chair] for mediation procedure No [ ], hereby inform the European Labour Authority, (hereafter 'ELA'), that following review of the materials received, consultation with the parties and a full evaluation of the dispute, I propose to pursue the following approach:

Please indicate whether you propose a:

- Standard mediation procedure
- Guided mediation procedure
- Other procedure (please specify in the box below).

Please provide further details about your choice:

Please list all elements related to technical organisation of which you would like to inform ELA before the launch of the:

- first stage of mediation
- second stage of mediation

(e.g. timeline, meetings, etc.)

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 15.6 NOTIFICATION LETTER TO INFORM MEMBER STATES THAT THE SECOND STAGE IS ABOUT TO START, FROM ELA TO MEMBER STATES

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[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Notification of the start of the second stage of mediation, case No [ ]**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'),

hereby informs

[Member State No 1], represented by [name of the national representative No 1], and

[Member State No 2], represented by [name of the national representative No 2]

That the second stage of mediation procedure No [ ] is about to start.

Member States have 45 working days to mediate the dispute, from the day the Mediation Board or one of its panels is appointed by ELA.

ELA hereby informs [Member State No 1] and [Member State No 2], that in accordance with Article 16(3) of the Rules of Procedure for mediation, ELA is sending the following documents to the Chair of the Mediation Board [Mr/Ms first name and last name]:

1. the final factual report prepared by the mediator after the first stage;
2. the detailed statements of the Member State;
3. [If applicable] any other additional relevant information and/or clarifications in relation to the first stage of mediation submitted by the Member States that are party to the dispute.

Attached to this letter you will find the signed letter of consent from [Member State No 1][Member State No 1] and [Member State No 2] agreeing to follow up the first stage of mediation with a second stage, confirming:

- the absence of a non-binding opinion at the end of the first stage.  
 the agreement of all Member States involved (see '**The agreement to start the second stage of mediation**').

**Name and Last name:**  
**Organisation/Entity/Department:**  
**Function:**  
**Place and date of signature:**  
**Signature:**


## 15.7 REQUEST TO REFER THE ISSUE CONCERNING SOCIAL SECURITY TO THE AC, FROM MEMBER STATE(S) TO ELA

---

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Letter of request to refer the dispute to the AC, case No [ ]**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

[Member State No 1], represented by [name of the national representative No 1],

and

[Member State No 2], represented by [name of the national representative No 2]

inform(s)

the European Labour Authority (hereafter 'ELA'),

that mediation procedure No [ ], which was launched on the [ ] day of the month of [ ], in the year [ ],

concerns social security coordination matters and should therefore be referred to the Administrative Commission (hereafter 'AC'), (in accordance with Article 11(2) of the Rules of Procedure for mediation of the European Labour Authority).

Please describe the social security coordination matters identified in the dispute.

Write your answer here:

The abovementioned Member State(s) therefore request ELA to refer the social security coordination matter related to mediation procedure No [ ] to the AC, in compliance with Article 9(1) of the AC-ELA Cooperation Agreement.

The requesting Member State(s) hereby accept(s) that ELA will forward its/their detailed statement to the AC, to enable the AC to properly assess the issue, in accordance with Article 7(1) of the AC-ELA Cooperation Agreement.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

