

REQUIREMENTS TO BECOME AND BE A MEDIATOR IN ITALY

Nr.	QUESTION	INFORMATION
1	Who can be a mediator? Normative regulation	<p>In civil matter: anyone who holds a 3 year university degree or, alternatively, who is enrolled in a professional order. Additionally, mediators must have a specific education in mediation and take a course to that purpose (min 50 hours theory and practice). Continuous vocational training is mandatory (DECRETO 18 ottobre 2010, n. 180),</p> <p>In criminal cases: mediation is in general not an alternative. Prosecutors have no discretionary power in booking criminals. An exception is given before the Justice of the Peace for those crimes that can only be prosecuted following the complaint of the damaged. The justice can seek mediation in these cases (D.Lgs. 274/2000, Art. 29). Before criminal courts for minors mediation has also been used: the proceedings can be suspended and probation can be ordered (D.P.R.448/88).</p>
1.1	Definition of mediator / certified mediator / mediator in criminal cases	<p>In civil cases: A mediator is the natural person that, alone or jointly with others, guides mediation remaining in any case without any power to take any binding decisions for the parties. Mediation is a structured procedure, however this might be called, where a third natural and impartial party assists the parties in seeking and reaching an amicable settlement of their dispute.</p> <p>In criminal cases: no specific legal definition is given. Mediation is used in the loopholes of the system.</p>
1.2	Which legal norms regulate becoming a mediator?	Decreto legislativo 4 marzo 2010, n.28; Ministry Decree 18 ottobre 2010, n. 180, both subject to different amendments in time.
1.3	Can anyone be a mediator? Are there certified / registered and non-certified / non-registered mediators	Only certified mediators can work. Mediators are not work independently, as they can only work if they are part of a registered mediation centre.
1.4	Are there civil law / criminal law / other divisions of mediators?	<p>Criminal mediation is carried out by prosecutors and judges within the small limits indirectly admitted by the system.</p> <p>Civil mediators are not officially divided in categories, even though they can a field of specialisation (consumers, international, financial, family). Mediation centre can set higher education requirements for mediators working in particular fields (ex family matters).</p>

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2.	Requirements raised towards mediator	
2.1	Age	No requirements here
2.2	Reputation	We call this “honour requirements”. No criminal sanctions for crimes (unless this require fault as means rea), and full enjoyment of civil and political rights.
2.3	Education	See point 1.
2.4	Knowledge of languages and level of knowledge	Not specifically at the legislative level. Again, centre can set higher requirements.
2.5	Previous learning (hours of courses in mediation, which courses)	See point 1
2.6	Necessity of registration / certification	See point 1
2.7	Prohibition to be criminally convicted / in the status of suspect in the criminal case	See point 2.2
2.8	Prohibition to work as a mediator according to the judgment of court	N/A
2.9	Other requirements / prohibitions (recommendations, previous practice, CV, etc.)	No, but centres can require more.
3	Institution certifying mediators	Institutions must be registered as well with the ministry.
3.1	Name of the institution certifying mediators	A list of education centres and of educators: https://www.giustizia.it/giustizia/it/mg_3_14_5.wp .
3.2	Supervision of the institution certifying mediators	Ministry of Justice together with the Ministry of cooperation where consumers are involved (checks are made every six months).
3.3	Contents of the institution certifying mediators	Ministry of Justice

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3.4	Restrictions for members of the institution certifying mediators (family ties, professional ties, etc.)	Honour requirements. Additionally, to become such they must have produced at least three scientific papers on mediation if they wish to teach theoretical lectures, to have experience in at least three mediation procedures if they wish to teach practical lectures. All must take 8 hours of vocational training a year.
4	Process to become a certified / registered mediator	Applicant should contact the mediation centre to be enrolled in their list. If applicant respects the honour requirements and the education, the centre can enrol him/her.
4.1	Where and when to apply to become a certified / registered mediator?	See point 4.
4.2	How often per year certification / examination process of candidate mediators proceed?	There are many as different centres are operative. Back in 2010 numbers were really high, but now there is less, surely more than two sessions per year per big city, even if this might be with different centres. This is a negative trend, as mediation centres and mediators themselves are decreasing in number http://www.altalex.com/documents/news/2017/04/18/mediazione-civile-statistiche-2011-2016
4.3	Payment to become a mediator	Costs vary between centres.
4.4	Documents to be submitted to become a mediator	You can take a course with your ID and fiscal number, provided that you have a three year university degree.
5	Contents of the exam for mediators	Usually mediation, negotiation, ADR in general, ethics, communication skills of the mediator, practice training.
5.1	Written or oral exam	Written
5.2	Number of parts of exam	This depends on the education centre. It can also be a multiple choice test on the programme
5.3	Possible themes in the exam	Also the whole programme
5.4	Statistics of previous exams	Failures are quite scarce
5.5	Rules of behaviour during examination	No copying, no cheating
5.6	Length of examination	Usually can be 2-3 hours
6	Mediator's certificate (form, contents, validity term)	It gives credit of the training and the positive outcome of the exam, bears the signature of the education centre, has no specific validity terms, but presupposes continuous vocational training.
7	In which cases certificate of the mediator is annulled / stopped?	At the own will of the mediator. Also, if honour requirements to perform will not be respected.

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8	Obligations of the mediator	
8.1	Towards supervisory institution of the mediators (participation in annual meetings, annual payment to the mediators' supervisory institution, etc.)	Follow the centre ethic code and instructions. The mediators does not have to pay, as the centre pays the mediators for its services netto of possible contribution costs. Additionally, continuous training is necessary. If the parties agree, the mediator can work for up to 5 mediation centres at the same time.
8.2	Towards clients in mediation (working in accordance with rules, principles, code of ethics, conclusion of agreement with client, issue of certificate about participation in mediation, etc.)	Respect ethic code, being neutral and impartial, avoid conflicts of interests. If he does not do that, any party can require the centre to change the mediator (so called "ricusazione").
9	Supervision of mediators	
9.1	Institutions supervising mediators	The centre for which they work carries out supervision tasks. The centre itself is under the supervision of the Ministry of Justice.
9.2	Review of complaints about mediators (statistics, typical complains, results, tendencies)	This is not a significant case in terms of numbers.
9.3	Are decisions of institution certifying mediators appealable and where?	There is no statutory provision on that. However, the multitude of education centres can make it easy to seek another results. In any case, judicial action for breach of contract remains available, as the course is given under a contract.
10	Process of repeated attestation of mediators (if any).	There is not.
10.1	Frequency of attestation.	See above on the frequency of exam for mediators. Centre can require the Ministry to become registered centres at any time.
10.2	Payment for attestation	Included with the fees for the mediation course. Centres pay taxes directly the Ministry at the moment of the request for registration.
10.3	Who organizes attestation? (Name of the institution)	For mediators - education centres, for centres - the Ministry of Justice.

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10.4	Information and documents to be submitted for attestation	Mediators, see supra. Centres must prove honour requirements of all shareholders, that they have at least 5 mediators who have declared that they will carry out mediations for the centre, that they have financial and organisation skills to carry out the task (in particular, 10.000,00 Euro company capital), the declaration that the centre can work at least in two different regions of Italy, or in two different provinces of the same region, a 500.000,00 Euros insurance coverage, administrative and organisation transparency.
11	Envisaged future developments in mediation	Mediation still has a low threshold of success (around 11% of success). Mediation procedures have generally diminished, but those that take place are getting better results than in the past (even though success rate is only 11%). Registered mediation centres and mediators are also diminishing, but this seems a natural reaction to the “rush” to mediation of 2012. It seems that the market is keeping in only viable and truly expert centres – this would explain a decline in number of operators but a (very slowly) of success rate where mediation is taken. All in all, it seems that mediation still struggles, but the reduced numbers of operators, the best on the market, seems a good natural selection for the market to grow, and thus “deliver” its positive outcomes on the society and justice management.

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