EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

2.6.2005 PE 359.945v01-00

AMENDMENTS 12-13

Draft opinion **(PE 357.668v01-00)**
Johannes Blokland
Certain aspects of mediation in civil and commercial matters

Proposal for a directive (COM(2004)0718 – C6-0154/2004 – 2004/0251(COD))

Text proposed by the Commission	Amendments by Parliament

Amendment by Adeline Hazan

Amendment 12
Article 1, paragraph 1

1. The objective of this directive is to facilitate access to dispute resolution by promoting the use of mediation and by ensuring a sound relationship between mediation and judicial proceedings.	1. The objective of this directive is to facilitate access to dispute resolution by promoting the ***voluntary*** use of mediation ***by the parties*** and by ensuring a sound relationship between mediation and judicial proceedings.

Or. fr

Justification

The distinguishing feature of mediation is that both parties agree to it, and this should be specified.

Amendment by Patrick Gaubert

Amendment 13
Article 2, point (a), subparagraph 1

(a) “Mediation” shall mean ***any*** process, however named or referred to, where two or more parties to a dispute ***are assisted by a third party*** to reach an agreement on the settlement of ***the*** dispute***, and regardless of whether the*** process ***is*** initiated by the parties, suggested or ordered by a court or ***prescribed*** by the national law of a Member State.	(a) “Mediation” shall mean ***a*** process, however named or referred to, where two or more parties to a dispute ***seek*** to reach an agreement on the settlement of ***their*** dispute ***through a mediator. This*** process ***may be*** initiated by the parties, suggested or ordered by a court ***with the consent of the parties*** or ***initiated pursuant to an obligation laid down*** by the national law of a Member State.

Or. fr

Justification

This definition states that the aim is to reach agreement through a mediator, whose job is not to 'assist' the parties. It also makes it clear that the mediation process must always have the consent of both parties. This is of essential importance to its success.