

## THE FRENCH JUDICIAL CONCILIATOR

### What is a judicial conciliator?

According to the 1<sup>st</sup> article of the decree 78-381 of March 20<sup>th</sup> 1978, the mission of the judicial conciliator is

*“to facilitate the alternative dispute resolution regarding rights of which the concerned persons are authorised to dispose liberally- without having recourse to any judicial proceedings”.*

More precisely that is to say that the conciliator shall facilitate the out-of-court settlement of disputes between consumers and professionals, suppliers and clients, owners and tenants, among tenants.

It is important to note however, that the conciliator can only intervene upon appeal of the two parties involved. It is indeed impossible for him to treat the dispute, if one of the two parties does not want to consent to the procedure.

### Who can be judicial conciliator?

A judicial conciliator is a volunteer. He is nominated by the first president of the court of appeal (*cour d'appel*). The nominations are made for a period of one year first, and then for renewable periods of five years. He has to have a minimum judicial experience of 3 years and he is neither allowed to hold the office of a public or ministerial functionary, nor to participate in any way in the action of the court of appeal by which he has been nominated.

It has to be pointed out that the number of judicial conciliators is changing according to the different regions of France.

Finally, the judicial conciliator is bound to professional discretion towards any third party. He assures discretion and neutrality- two qualities, which are recommended by the European Commission (Recommendations 98/257/CE and 2001/310/CE).

### How to appeal the judicial conciliator?

Any physical person and any legal entity involved in a conflict can appeal to the judicial conciliator without having to respect a specific form. A judge who has to deal with a dispute in court can also appeal the conciliator in order to find an alternative dispute resolution.

But it is important to know that the appeal to the conciliator does neither interrupt nor adjourn the terms of the prescription, which have to be respected in order to start legal proceedings.

### How does he proceed?

When matter is brought before the conciliator, he will at first try to contact the other party involved in the conflict. By this means, the conciliator makes sure that the latter is willing to engage a procedure of conciliation, and at the same time to get to know the other party's position in the conflict.

The conciliator provides an alternative way to settle contentious issues at a regional level. Generally, he proceeds in summoning the two parties in his office rooms for a hearing, together or separately. This approach implies that the two parties involved are living in the same “*Département*” (French administration district) or that one of them is represented at the hearing.

Some conciliators agree to a hearing by telephone. This solution has proved particularly appropriate in cases of cross border disputes, even if the language barrier may subsist in some of the cases.

In the end of the procedure, when a settlement has been met- even if it is a partial settlement- the judicial conciliator drafts a document of agreement, which he signs and submits to both parties for their respective signatures. Each party keeps one copy of the document, the conciliator keeps one and he deposes another one at the bailiff of the court (greffe du tribunal).

The procedure is entirely free of charge.

Finally, if the two parties agree, the district court judge (juge d'instance) may give legal force to the above-mentioned agreement.

### **How to contact the conciliator?**

Please get in touch with the information service of your local district court or the courthouse of your "*Département*" in order to find the address the responsible conciliator.

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Euro-Info-Consommateurs  
Centre Européen des Consommateurs France  
Rehfusplatz 11  
77694 Kehl  
Germany  
Tel. : 0049 7851 991 48 0  
Fax. : 0049 7851 991 48 11  
e-mail : [info@euroinfo-kehl.com](mailto:info@euroinfo-kehl.com)