

* * *

**Working Party on Mediation in the Context of the Malta Process
Enforceability Questionnaire**

Identification

Name of contact person: Hilary Linton

Name of Authority / Office: Riverdale Mediation (Province of Ontario, Canada)

Telephone number: 416-593-0210

E-mail address: hilary@riverdalemediation.com

ENFORCEABILITY OF MEDIATED AGREEMENTS	
<p>1. Within your area of experiences, are there legal restrictions on the content of mediated agreements regarding family matters in your jurisdiction?</p>	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes. Please specify: cannot mediate things that parties cannot negotiate, such as: the divorce itself; child support that derivates from the requirements of the provincial Child Support Guidelines.</p>
<p>2. Based on your experiences, are mediated agreements in a family dispute involving children enforceable in your jurisdiction without any additional formalities such as notarisations or approval by court?</p>	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes. If yes, how? A mediated separation agreement is enforceable in the same manner as any separation agreement: including by filing it with the Provincial Division court for enforcement purposes.</p>
<p>3. Can agreements mediated in your jurisdiction in a family dispute involving children be approved by or registered with a court? (If the answer is "No" please continue with question 4.)</p>	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes—they are "filed" with the provincial court, under the Family Law Act, or incorporated into a court order of either the provincial court or the Superior Court.</p> <p><input type="checkbox"/> Other. Please specify:</p>
<p>3. a) Is the agreement once approved by or registered with a court treated as a decision of that court?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please specify:</p>

3. b) What exact steps are needed to make a mediated agreement into a court order?	Please specify: See # 3 above.
3. c) Which court would be competent?	Please specify: Provincial Division and Superior Court, including Superior Court Family Court branch.
3. d) What are the costs for having a mediated agreement made into a court order in your jurisdiction?	Please specify: An action/proceeding must be commenced; there are the court/filing fees plus legal fees to draft pleadings and file agreement with court, and/or to draft the order/judgement incorporating the agreement. Cost at least \$1500-\$2000.
4. Are there any other method(s) by which a mediated agreement can be rendered enforceable in your jurisdiction (e.g. by being notarised)?	Please specify: None that I am aware of.
4. a) What are the possible costs for this other method(s)?	Please specify: N/A
5. Can agreements mediated in another jurisdiction in a family dispute involving children be approved by a court or otherwise formalised in your jurisdiction?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
5. a) If so, will the agreement mediated abroad be treated exactly as an agreement mediated in your jurisdiction?	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Other. Please specify: I am not an expert in this area and have no experience with it.
6. In what circumstances, if any, can an agreement which has been approved by or registered with a court abroad, be recognised and enforced in your jurisdiction?	Please specify: I do not know.
7. What specific measures are available in your line of work for enforcing an agreement on child custody or contact?	Please specify: I am not involved in enforcement of agreements.

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

**Working Party on Mediation in the Context of the Malta Process
Questionnaire**

drawn up by the Permanent Bureau

Identification

State: Canada

Name of contact person: Akbar Ebrahim

Name of Authority / Office: Ismaili Conciliation and Arbitration Board for Ontario

Telephone number: 416.419-2711

E-mail address: ali.ebrahim@ontario.ca

ENFORCEABILITY OF MEDIATED AGREEMENTS	
8. Are there legal restrictions on the content of mediated agreements regarding family law matters in your country?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Please specify:
9. Are mediated agreements in a family dispute involving children enforceable in your country without any additional formalities such as notarisations or approval by court?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
10. Can agreements mediated in your country in a family dispute involving children be approved by or registered with a court? (If the answer is "No" please continue with question 4.)	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Other. Please specify: Mediated agreements can be incorporated into a court order
3. a) Is the agreement once approved by or registered with a court treated as a decision of that court?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify:
3. b) What exact steps are needed to make a mediated agreement into a court order?	Please specify: Through the normal court proceedings, by filing the agreement with the court

3. c) Which court would be competent?	Please specify: Ontario Court of Justice or the Family Court
3. d) What are the costs for having a mediated agreement made into a court order in your country?	Please specify: Normal court proceeding costs
11. Are there any other method(s) by which a mediated agreement can be rendered enforceable in your country (<i>e.g.</i> by being notarised)	Please specify: None
4. a) What are the possible costs for this other method(s)?	Please specify: N/A
12. Can agreements mediated in another country in a family dispute involving children be approved by a court or otherwise formalised in your country?	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Other. Please specify: Child support mediated in another country can be formalised/registered and enforced in Canada
5. a) If so, will the agreement mediated abroad be treated exactly as an agreement mediated in your country?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
13. In what circumstances, if any, can an agreement which has been approved by or registered with a court abroad, be recognised and enforced in your country?	Please specify: Child custody and child support

14. What specific measures are available in your country for enforcing an agreement on child custody or contact?	Please specify: Through court proceedings And Family Responsibility Office (FRO) For child support in Ontario
--	--

**Working Party on Mediation in the Context of the Malta Process
Questionnaire**

drawn up by the Permanent Bureau

Identification

State: British Columbia, Canada

Name of contact person: Penelope Lipsack

Name of Authority / Office: British Columbia Central Authority under Hague Abduction Convention

Telephone number: 250 356-8433

E-mail address: Penelope.Lipsack@gov.bc.ca

ENFORCEABILITY OF MEDIATED AGREEMENTS	
15. Are there legal restrictions on the content of mediated agreements regarding family law matters in your country?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Please specify:
16. Are mediated agreements in a family dispute involving children enforceable in your country without any additional formalities such as notarisations or approval by court?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
17. Can agreements mediated in your country in a family dispute involving children be approved by or registered with a court? (If the answer is "No" please continue with question 4.)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
3. a) Is the agreement once approved by or registered with a court treated as a decision of that court?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify:
3. b) What exact steps are needed to make a mediated agreement into a court order?	Please specify: The original agreement must be filed with the court. If the agreement was entered into before July 1, 1995, a signed consent (in the form prescribed by the Provincial or Supreme Court Rules, as applicable) must also accompany the agreement.

Permanent Bureau | *Bureau Permanent*
 6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
 telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
 e-mail | *courriel* secretariat@hcch.net website | *site internet* http://www.hcch.net

3. c) Which court would be competent?	Please specify: British Columbia Provincial Court and/or British Columbia Supreme Court
3. d) What are the costs for having a mediated agreement made into a court order in your country?	Please specify: No cost in Provincial Court; filing fee of \$31.00 in Supreme Court.
18. Are there any other method(s) by which a mediated agreement can be rendered enforceable in your country (<i>e.g.</i> by being notarised)	Please specify: No
4. a) What are the possible costs for this other method(s)?	Please specify: N/A
19. Can agreements mediated in another country in a family dispute involving children be approved by a court or otherwise formalised in your country?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
5. a) If so, will the agreement mediated abroad be treated exactly as an agreement mediated in your country?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
20. In what circumstances, if any, can an agreement which has been approved by or registered with a court abroad, be recognised and enforced in your country?	Please specify: The agreement would first have to be incorporated into a court order, either in BC or the other country. If incorporated into the other country's order, that order must be recognized by a court in BC unless certain conditions were not met, e.g., the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made.
21. What specific measures are available in your country for enforcing an agreement on child custody or contact?	Please specify: 1 – the police may assist in enforcing a custody or access order by, for example, apprehending a child and bringing the child to the person entitled to custody or access; 2 - a person who interferes with the custody or access of a child contrary to a court order can be charged with an offence;

3 – a restraining order may be made against someone who interferes with custody granted under an order or an agreement;

4 – the court can make orders in relation to custody and access including, for example, defining access very specifically;

5 – a person who defies a court order for custody or access can be charged with contempt of court.

Groupe de travail sur la médiation dans le cadre du processus de Malte
Questionnaire

établi par le Bureau Permanent

Identification

État : Province de Québec (Canada)

Nom de la personne à contacter : Lorraine Filion

Nom de l'Autorité / du département : Présidente de L' Association internationale francophone des intervenants

Numéro de téléphone :

Courriel : lorfilion@yahoo.ca

FORCE EXÉCUTOIRE DES ACCORDS DE MÉDIATION

22. Y a-t-il dans votre pays des restrictions juridiques sur le contenu des accords de médiation en matière de droit de la famille ?	<input checked="" type="checkbox"/> Non <input type="checkbox"/> Oui. Veuillez préciser :
23. Les accords de médiation passés dans le cadre d'un litige familial impliquant des enfants ont-ils force exécutoire dans votre pays sans formalités supplémentaires telles que la notariation ou l'approbation par un tribunal ?	<input checked="" type="checkbox"/> Non <input type="checkbox"/> Oui
24. Des accords de médiation conclus dans votre pays dans le cadre d'un litige familial impliquant des enfants peuvent-ils être approuvés ou enregistrés par un tribunal ? (dans la négative, veuillez passer directement à la question 4)	<input type="checkbox"/> Non <input checked="" type="checkbox"/> Oui <input type="checkbox"/> Autre. Veuillez préciser :
3. a) Une fois approuvé ou enregistré par un tribunal, l'accord est-il traité comme une décision de ce tribunal ?	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> Autre. Veuillez préciser :
3. b) Quelles sont les étapes nécessaires pour transformer un accord de médiation en décision judiciaire ?	Veuillez préciser : Les parties peuvent voir un avocat pour faire préparer la procédure qui sera déposée à la Cour. Elles peuvent aussi déposer elles-mêmes la procédure à la

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

	Cour
3. c) Quelle serait la juridiction compétente ?	Veillez préciser : Cour Supérieure du Québec
3. d) Quel sont les frais liés à la transformation d'un accord de médiation en décision judiciaire dans votre pays ?	Veillez préciser : Cela dépend de l'avocat mais.....pour déposer un consentement = entre 1000\$ à 1500\$
25. D'autres méthodes existent-elles pour force exécutoire à un accord de médiation dans votre pays ? (par ex. la notariation)	Veillez préciser : NON pas à ma connaissance
4. a) Quels sont les éventuels frais liés à cette/ces autre(s) méthode(s) ?	Veillez préciser :
26. Des accords de médiation conclus dans d'autres pays relatifs à un litige familial impliquant des enfants peuvent-ils être approuvés par un tribunal ou formalisés d'une autre manière dans votre pays ?	<input checked="" type="checkbox"/> Non <input type="checkbox"/> Oui <input type="checkbox"/> Autre. Veuillez préciser :
5. a) Dans l'affirmative, l'accord de médiation réalisé à l'étranger fera-t-il exactement l'objet du même traitement qu'un accord de médiation conclu dans votre pays ?	<input type="checkbox"/> Non <input type="checkbox"/> Oui <input type="checkbox"/> Autre. Veuillez préciser :
27. Le cas échéant, dans quelles circonstances un accord qui a été approuvé ou enregistré par un tribunal à l'étranger peut-il être reconnu et avoir force exécutoire dans votre pays ?	Veillez préciser :
28. Quelles mesures particulières sont disponibles dans votre pays pour exécuter un accord relatif à la garde de l'enfant ou au droit d'entretenir un contact ?	Veillez préciser :

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

* * *

**Working Party on Mediation in the Context of the Malta Process
Enforceability Questionnaire**

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

Identification

Name of contact person: Reeva Parker

Name of Authority / Office: Alberta Justice Family Law

Telephone number: 780 415-1880

E-mail address: reeva.parker@gov.ab.ca

ENFORCEABILITY OF MEDIATED AGREEMENTS	
29. Within your area of experiences, are there legal restrictions on the content of mediated agreements regarding family matters in your jurisdiction?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Please specify:
30. Based on your experiences, are mediated agreements in a family dispute involving children enforceable in your jurisdiction without any additional formalities such as notarisations or approval by court?	<input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes. If yes, how? Mediated agreements regarding <i>support</i> may be enforced if they are in the proper form. Mediated agreements for other family issues are not enforceable. Generally, other family issues do not have outside enforcement available. Where outside enforcement is available, a court order is necessary (eg. police enforcement of access or a restraining order must be in a court order)
31. Can agreements mediated in your jurisdiction in a family dispute involving children be approved by or registered with a court? (If the answer is "No" please continue with question 4.)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Other. Please specify: As noted in the previous comment, agreements with maintenance provisions can be filed with the Court. Also, agreements can be used as evidence in an application for an order which could be considered the Court approving the agreement.
3. a) Is the agreement once approved by or registered with a court treated as a decision of that court?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify: Yes, an agreement with maintenance provisions is treated as an order of the Court for enforcement purposes.

<p>3. b) What exact steps are needed to make a mediated agreement into a court order?</p>	<p>Please specify:</p> <p>A maintenance agreement only has to be filed to be enforced as an Order. Other types of provisions in an agreement would have to be put into the form of a Court Order to be treated as a Court Order.</p> <p>For <i>support</i>, the agreement does not need to be incorporated into an order if it is in the proper form and has been filed with the court.</p>
<p>3. c) Which court would be competent?</p>	<p>Please specify: With regard to a filed maintenance agreement, the Court of Queen's Bench. However, an application for an Order can be made in either the Provincial Court or the Court of Queen's Bench.</p>
<p>3. d) What are the costs for having a mediated agreement made into a court order in your jurisdiction?</p>	<p>Please specify: There would be a fee of \$25 for filing an agreement. If an application is made to have the Court grant an Order incorporating the terms of an agreement, an action would have to be commenced and the regular filing fees would apply. (For divorce proceedings the cost is \$210; for <i>Family Law Act</i> proceedings, if it a matter over which the Courts have concurrent jurisdiction, there is no filing fee. If it is a matter that only the Court of Queen's Bench has jurisdiction over, the filing fee is \$200.</p>
<p>32. Are there any other method(s) by which a mediated agreement can be rendered enforceable in your jurisdiction (<i>e.g.</i> by being notarised)?</p>	<p>Please specify: No.</p>
<p>4. a) What are the possible costs for this other method(s)?</p>	<p>Please specify: Not applicable</p>
<p>33. Can agreements mediated in another jurisdiction in a family dispute involving children be approved by a court or otherwise formalised in your jurisdiction?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> Other. Please specify: Only by the court granting an order that includes the mediated terms</p> <p>For <i>support</i>, agreements that are enforceable in other jurisdictions will be enforceable in Alberta.</p>

<p>5. a) If so, will the agreement mediated abroad be treated exactly as an agreement mediated in your jurisdiction?</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify: Not applicable for most family issues.</p> <p>For support, yes, the agreement from abroad will be treated as an agreement from Alberta. The criteria for Alberta (in the proper form) is not necessary for foreign agreements. The only requirement is that the agreement be enforceable in the foreign jurisdiction (and that Alberta have reciprocity with that jurisdiction).</p>
<p>34. In what circumstances, if any, can an agreement which has been approved by or registered with a court abroad, be recognised and enforced in your jurisdiction?</p>	<p>Please specify: See above.</p> <p>If by registering it, the agreement was treated as a court order in the original jurisdiction</p>
<p>35. What specific measures are available in your line of work for enforcing an agreement on child custody or contact?</p>	<p>Please specify: Generally, none.</p>

* * *

**Working Party on Mediation in the Context of the Malta Process
Enforceability Questionnaire**

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

Identification

Name of contact person: MAX BLITT

Name of Authority / Office: Barrister & Solicitor

Telephone number: 403-699-1257

E-mail address: mblitt@spierhaben.com

ENFORCEABILITY OF MEDIATED AGREEMENTS	
36. Within your area of experiences, are there legal restrictions on the content of mediated agreements regarding family matters in your jurisdiction?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Please specify: Mediated Agreements are confidential.
37. Based on your experiences, are mediated agreements in a family dispute involving children enforceable in your jurisdiction without any additional formalities such as notarisations or approval by court?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. If yes, how? Provided the mediated agreement is drawn up as a contract it is enforceable as would any contract subject to specific concerns such as access which may require a court order.
38. Can agreements mediated in your jurisdiction in a family dispute involving children be approved by or registered with a court? (If the answer is "No" please continue with question 4.)	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
3. a) Is the agreement once approved by or registered with a court treated as a decision of that court?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify: Subject to using the appropriate court order language.
3. b) What exact steps are needed to make a mediated agreement into a court order?	Please specify: Must have legal proceeding filed with the court – e.g. Divorce, Provincial Court Action.
3. c) Which court would be competent?	Please specify: Queen's Bench of Alberta and Provincial Court of Alberta

3. d) What are the costs for having a mediated agreement made into a court order in your jurisdiction?	Please specify: Would depend on the hourly rate of the lawyer or tariff if it is a legal matter.
39. Are there any other method(s) by which a mediated agreement can be rendered enforceable in your jurisdiction (e.g. by being notarised)?	Please specify:
4. a) What are the possible costs for this other method(s)?	Please specify:
40. Can agreements mediated in another jurisdiction in a family dispute involving children be approved by a court or otherwise formalised in your jurisdiction?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Other. Please specify:
5. a) If so, will the agreement mediated abroad be treated exactly as an agreement mediated in your jurisdiction?	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Other. Please specify: Would depend upon the language used, whether it conforms to our legal approach and manner it was signed.
41. In what circumstances, if any, can an agreement which has been approved by or registered with a court abroad, be recognised and enforced in your jurisdiction?	Please specify: If it relates to custody, access, child/spousal support, and the party seeking to enforce has a "real and substantial" connection to our jurisdiction.
42. What specific measures are available in your line of work for enforcing an agreement on child custody or contact?	Please specify: Court application.