

Mediation Act

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Chapter One

GENERAL CONDITIONS

Field of Application

Art. 1. This Act encompasses the arrangements with respect to mediation as an alternative mean of resolving legal and non-legal disputes.

The Concept of Mediation

Art. 2. Mediation is a voluntary and confidential procedure for out-of-court resolution of disputes in which a third party – a mediator supports the disputing parties in the process of reaching an agreement.

The Subject of Mediation

Art. 3. (1) Subject of Mediation could be civil, commercial, labor, family and administrative disputes, related to customers' rights and other disputes between individuals and legal entities.

(2) Mediation shall be conducted in the cases, envisaged by the Penal Procedural Code.

(3) Mediation shall not be conducted if there is an Act or another legal arrangement that provides for a different order of concluding an agreement.

The Organization of Mediation

Art. 4. Mediation shall be practiced by individuals. These individuals may form associations to perform the activity. Individuals involved in functions related to justice administration in the judicial authorities system cannot practice mediation.

Chapter Two

MEDIATION PRINCIPLES

Voluntary and equal opportunity

Art. 5. The parties shall have equal opportunities to participate in the mediation procedure. They shall be involved in the procedure of their own free will and may withdraw from it at any time.

Neutrality and Impartiality

Art. 6. (1) The Mediator shall not express partiality and shall not impose resolution upon the dispute.

(2) All issues in the mediation procedure shall be negotiated through mutual assent of the disputing parties.

Confidentiality

Art. 7. The debates in relation to the dispute shall be confidential. The participants in the mediation procedure shall be bound to secrecy with respect to all circumstances, facts and documents that have come to their knowledge in the course of the procedure.

Chapter Three

LEGAL STATUTE OF THE MEDIATOR

General requirements

Art. 8. A Mediator can be any active person that has never been convicted of indictable offence and is enlisted in the Unified Register of Mediators under the Minister of Justice.

Rules of Conduct

Art. 9. (1) The Mediator shall conduct his/her activity in good will, under the rules of law, the good morals and the procedural and ethical rules of conduct of mediators.

(2) The Mediator shall accept to run the procedure only if he/she can ensure his/hers independence, impartiality and neutrality.

Responsibilities of the Mediator

Art. 10. (1) The Mediator shall not provide legal advice.

(2) In the course of the procedure the Mediator shall be bound to conform with the views of each disputing party.

(3) The Mediator shall withdraw from the procedure should there be circumstances developing doubts in his/hers independence, impartiality and neutrality.

(4) The Mediator shall not disclose circumstances related to only one of the disputing parties, to other participants in the procedure unless provided with the party consent.

(5) The Mediator shall not be held responsible should the disputing parties fail to reach an agreement.

(6) The Mediator shall not be responsible for the non-execution of the agreement.

Chapter Four

MEDIATION PROCEDURE

Opening a Procedure

Art. 11. (1) A Mediation procedure shall be opened under the initiative of the disputing parties and each party may offer a proposal to resolve the dispute through mediation.

(2) A proposal to resolve a dispute through mediation can be offered also by the Court or by another competent body to which the dispute has been addressed for resolution.

(3) Parties consent to resolve future disputes between them through mediation can be drawn as a clause in a contract.

Participants

Art. 12.(1) Mediation procedure shall be conducted by one or more Mediators nominated by the parties.

(2) Disputing parties shall participate in the procedure either in person or through a representative.

(3) The mediation procedure can involve the participation of attorneys at law as well as other professionals.

Actions of the Mediator

Art. 13. (1) Before initiating the procedure, the Mediator shall advise the parties on the nature of mediation and the consequences arising from it, and shall require the parties' written or verbal consent of participation.

(2) The Mediator shall be bound to point out all circumstances that may develop doubts of his impartiality and neutrality.

(3) In the course of the procedure the nature of the dispute shall be clarified, mutually acceptable resolution options shall be specified and the possible agreement framework shall be outlined.

(4) In performing the above activities the Mediator can schedule separate meetings with each party while respecting the parties' equal opportunity right of participating in the procedure.

Reasons to suspend the procedure

Art. 14. (1) Mediation procedure shall be suspended when:

1. a mutual consent between disputing parties is reached to do so or at the request of one of the parties involved;
2. at Mediator's death;
3. in cases, provided for in Art. 10, par. 3.

(2) Should mediation be conducted during running court procedures, the parties shall notify immediately the competent body to suspend the procedure.

Reasons to terminate the procedure

Art. 15. (1) Mediation procedure shall be terminated when:

1. an agreement is reached;
2. upon reaching a mutual consent to do so;
3. upon refusal of one of the parties;
4. at death of any party involved;
5. upon liquidation of the legal entity – a disputing party.

(2) Parties' consent to dismiss the dispute shall be expressed clearly and unequivocally.

(3) Upon termination of the mediation procedure, the court procedure that has been suspended shall be reinstated in accordance to the provision of law.

Chapter Five

AGREEMENT

Format and Content

Art. 16. Agreement content and format shall be determined by the parties. The format can be verbal, written and written with a notarial attestation. The written agreement shall bear the date and place of agreement, the parties' names and addresses, the agreement subject, the Mediator's name and the signature of the parties.

Scope of Agreement Action

Art. 17. (1) The agreement shall bind the disputing parties only and cannot be opposed to individuals that have not participated in the procedure.

(2) The Agreement shall bind over the parties only with respect to the subject, agreed upon, and shall not contradict the law or moral.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 1. In 6 months time from the effective date of this Act, the Minister of Justice shall approve the Training Standards for Mediators, Procedural and Ethical Rules of Mediator's Conduct, and shall set up and maintain a Unified Register of Mediators.

§ 2. This Act is assigned for execution to the Minister of Justice.

The Act has been passed by the 39-th National Assembly on Dec 2 2004 and has been sealed with the official seal of the National Assembly.

SOURCE: <http://dv.parliament.bg/DVWeb/index.faces>