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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

**Mediation Development Toolkit
Ensuring implementation of the CEPEJ Guidelines on mediation**

European Code of Conduct for Mediation Providers

Ad adopted at the 31st plenary meeting of the CEPEJ, Strasbourg, 3-4 December 2018

This tool has been developed in reference to point 1. Availability of the CEPEJ Guidelines on mediation.

This code of conduct sets out a number of principles to which mediation centres, institutes or other mediation providers may voluntarily decide to commit themselves. It may be used by mediation providers (including all their employees and affiliated persons) that offer mediation services in different fields of disputes such as civil, commercial, family, administrative and penal matters. This code is coherent and may be used in conjunction with the European Code of Conduct for Mediators developed in 2004 under the auspices of the European Union¹, and with the Council of Europe and the European Commission for the Efficiency of Justice (CEPEJ) recommendations, guidelines and other instruments on mediation and ADR². Legislators of the Council of Europe Member States may opt to incorporate rules of this code in respective national mediation legal environment as a baseline standard for mediation providers.

With a view to improving the present document, the CEPEJ-GT-MED invites mediation providers which commit to use this document to bring their feedback to the Secretariat of the CEPEJ.

1. DEFINITION

“Mediation Provider” means any public or private entity (including court-related mediation schemes) which manages or administers a mediation process conducted by a third party neutral mediator of whatever denomination or profession, (hereafter “mediator”) who provides service under its auspices in assisting parties to amicably resolve their dispute.

2. QUALITY AND COMPETENCE OF THE SERVICE

Mediation providers should take all reasonable steps to ensure an adequate level in the quality and the competence of its services by ensuring that:

- a. it maintains sufficient funds, administrative capacity and an adequate number of affiliated mediators to provide relevant services;
- b. it complies with all relevant domestic laws and rules;
- c. mediators who work under its auspices are qualified in conducting quality mediation processes by having undertaken proper basic and continuing training in dispute resolution and mediation techniques, having due regard to applicable accreditation and/or certification schemes and/or standards;
- d. mediators who work under its auspices are competent to handle specific types of disputes that may be referred to them;
- e. transparent, fair and efficient mediators’ selection and assignment procedures are in place;
- f. monitoring is applied to ensure adequate and efficient performance of the mediation provider and its affiliated mediators, using client satisfaction surveys as appropriate;
- g. statistical data on key indicators is collected;
- h. personnel in its secretariat or case management office are properly trained to assist parties and mediators along the entire mediation process;
- i. the premises and mediation rooms that it provides are easy accessible, signposted, adequately equipped and comfortable to hold mediation sessions;

¹ European Code of Conduct for Mediators can be consulted on the internet at http://ec.europa.eu/civiljustice/adr/adr_ec_code_conduct_en.pdf.

² Can be consulted on the internet at <https://www.coe.int/en/web/cepej/cepej-work/mediation>.

- j. parties can easily access the service by filing mediation requests online or by any proper means of communications and participate in the process;
- k. an adequate quality management system is in place, monitored and effectively applied.

3. TRANSPARENCY AND COMMUNICATION

Mediation providers should have an up-to-date and user-friendly website and/or other means available in order to provide mediation users with accurate and easy understandable information about:

- a. the nature and history of the provider, names of partners, affiliated, management and main stakeholders;
- b. names, accurate up-to-date curriculum vitae and professional competences of the mediators who provide service under its auspices;
- c. the mediation process, mediation rules and relevant legislation applied to the mediation process;
- d. fees and criteria of calculation applied to provide the services and how it can be split between the parties;
- e. the code of conduct endorsed by mediators.

The mediation provider should not make false, unfair or misleading statements in its communications or marketing about its services and the services of its affiliated mediators.

4. RULES AND ETHICS OF MEDIATION

Mediation providers should ensure that they apply the European Code of Conduct for Mediators as a minimum standard in the provision of mediation services.

Mediation providers shall abide by the rules and procedures concerning their performance and provision of mediation services, as established by domestic laws.

5. INDEPENDENCE, IMPARTIALITY AND NEUTRALITY

Mediation providers must be independent and unbiased towards all disputants and legal practitioners.

All mediation processes shall be managed in an impartial, neutral and independent manner.

Mediation providers may not offer mediation services mixed with any other professional or commercial activities unrelated to dispute resolution. A mediation provider's staff, shareholders, stakeholders and affiliated mediators cannot act as attorneys, counsellors, consultants, trainers, or judges in the same dispute or for one of the parties before the end of the dispute or within a reasonable time after it is finished.

Mediation providers shall comply with all other restrictions and procedures in order to safeguard independence and impartiality.

6. CONFLICT OF INTERESTS

Mediation providers should set in place procedures to detect and eliminate potential conflicts of interest.

Mediation providers should disclose the existence of any facts, interests or relationships which are reasonably likely to affect its impartiality or independence, or which might reasonably create the appearance that the provider is biased against a party or favourable to another, including:

- a. any relevant economic interests or sources of revenues (e.g. ownerships, sponsorships, annual contributions, funding, etc.) with any parties or their associations or counsel that could affect its impartiality;
- b. any interests in the outcome of the mediation process;
- c. any facts or relationships with the parties and their counsel that may affect impartiality or create an appearance of partiality or bias.

7. COMPLAINTS, DISCIPLINARY PROCEDURES AND RESOLUTION OF DISPUTES

Mediation providers should establish and maintain fair and effective complaints and disciplinary mechanisms to deal with disputes concerning mediators or administrators of mediation processes.

Mediation providers should subscribe primarily to amicable dispute settlement in their own matters through negotiation and mediation.

8. CONFIDENTIALITY

Taking due note that as a general standard all information associated with the mediation is confidential, mediation providers should take all reasonable steps to protect the level of confidentiality stipulated by the relevant laws and rules and/or agreed by the parties.