

LAW ON MEDIATION IN CIVIL DISPUTES

CHAPTER ONE

Purpose, Scope and Definitions

Purpose and scope

ARTICLE 1- (1) The purpose of this Law is to regulate the principles and procedures applicable in resolving civil disputes by mediation.

(2) This Law shall be applied in private law disputes, arising solely from the affairs or actions on which the parties may freely have a disposal, including those possessing the element of alienage. However, disputes containing domestic violence are not suitable for mediation.

Definitions¹

ARTICLE 2- (1) In enforcing this Law:

- a) Mediator: shall mean the real person carrying out the mediation activity, who is entered into the register of mediators maintained by the Ministry;
- b) Mediation: shall mean the method used for resolution of disputes, employing systematic techniques, carried out voluntarily and with participation of an impartial and independent third person with specialty training, bringing the parties together to discuss and negotiate, and establishing a communication process between the parties in order to help them to understand each other and thus enabling them to work out their own solutions;
- c) Ministry: shall mean the Ministry of Justice;
- ç) Department: shall mean the Department of Mediation to be established under the structure of General Directorate of Legal Affairs;
- d) General Directorate: shall mean the General Directorate of Legal Affairs;
- e) (Additional: 12/10/2017-7036/17 art.) Administration: Administration and institutions featuring in table (I), (II), (III) and (IV) annexed to Public Finance Management and Control Law No.5018 and dated 10/12/2003, and local administrations specified in Law No. 5018 and enterprises established by such administrations, other public institutions, councils, supreme boards and organizations established through private law, state economic enterprises and their affiliate companies, organizations and enterprises, other partnerships, more than half of capital of which belongs to the public sector ⁽¹⁾
- (f) Board: shall mean the Board of Mediation ⁽¹⁾;
- (g) Register: shall mean the Register of Mediators ⁽¹⁾.

¹ Through article 17 of Law No. 7036 and dated 12/10/2017, the phrase “able to come up with solution suggestions in the case that the parties cannot come to an agreement” is added to clause (b) of paragraph one of this article in such a way as to ensue the phrase “establishing” and clause (e) is added in such a way as to ensue clause (d) and other clauses followed suit accordingly.

CHAPTER TWO

Basic Principles Concerning Mediation

Voluntariness and equality

ARTICLE 3- (1) The parties shall be free to resort to a mediator, to continue or finalize the process, or to cease such process. (Additional phrase: 6/12/2018-7155/22 art.) Provision of article 18/A regarding mediation as cause of action shall be reserved.

(2) The parties shall have equal rights, both in resorting to the mediator and throughout the whole process.

Confidentiality

ARTICLE 4- (1) Unless agreed otherwise by the parties, the mediator shall be liable to keep confidential the information and documents submitted to him/her within the framework of mediation activity or obtained otherwise, and the records kept by him/her.

(2) Unless agreed otherwise, the parties shall also abide by this principle of confidentiality².

Disuse of statements or documents

ARTICLE 5- (1) In the case that a lawsuit is filed or the parties refer to arbitration, the parties, the mediator or a third person – including those involved in mediation – shall not be able to produce the following statements or documents as evidence, or to testify about them:

- a) Invitation for meditation by the parties, or demand of a party to participate in mediation activity.
- b) Opinions or proposals put forward by the parties for resolution of the dispute by means of mediation.
- c) During the course of mediation activity, acceptance of proposals put forward by the parties or of any fact or claim.
- c) Documents prepared solely for the purpose of mediation activity.

(2) Provision of the first paragraph shall apply regardless of the form of the statement or document.

(3) No court, arbitrator or administrative authority can demand disclosure of the information mentioned in the first paragraph. Such statements or documents shall not constitute the basis for a judgment, even though they are produced as evidence contrary to what is envisaged in paragraph one. However, the information mentioned may be disclosed to the extent stipulated by the provisions of a law, or to the extent required for implementation and execution of the agreement reached at the end of the mediation process.

(4) The above paragraphs of this article shall apply in lawsuits and arbitration, regardless of their relevance with the matter of arbitration.

² Through article 18 of Law No. 7036 and dated 12/10/2017 the phrase featuring in this paragraph “the parties also” is amended as “the parties and other people involved in meetings.”

(5) Without prejudice to the constraints stated in the first paragraph, evidence brought forward in the lawsuit or arbitration shall not become unacceptable evidence solely due to being presented in mediation.

CHAPTER THREE

Rights and Obligations of the Mediators

Using the title

ARTICLE 6 - (1) Mediators registered in the mediators' register shall be entitled to use the title 'mediator', and to enjoy the authorities granted by this title.

(2) The mediator shall be obliged to indicate this title during mediation activity.

Demanding the wages and expenses

ARTICLE 7- (1) The mediator shall have the right to demand wages and expenses in return for the activity they carry out. The mediator can also demand an advance for the wages and expenses.

(2) Unless agreed otherwise, wage of the mediator shall be determined according to Mediation Minimum Wage Tariff in effect on the date of completion of the activity; and again, unless agreed otherwise, the wages and expenses shall be covered equally by the parties.

(3) The mediator cannot charge a wage for mediating for certain persons or for recommending certain persons in relation to the mediation process. Actions contrary to this provision shall be null and void.

Negotiating and communicating with the parties

ARTICLE 8- (1) The mediator may negotiate or communicate with each party separately or with both parties at the same time. (Repealed second phrase: 12/10/2017-7036/20 art.) (...).

Carrying out the duty in a careful and impartial manner

ARTICLE 9- (1) The mediator shall personally carry out his/her duty in a careful and impartial manner.

(2) In case of presence of significant circumstances and conditions arising suspicion about impartiality of the mediator, then the person assigned as mediator shall be obliged to inform the parties in this respect. Should the parties jointly make a demand to the mediator despite such statement, the mediator may assume the duty or may continue a duty assumed beforehand.

(3) The mediator shall be liable to maintain equality between the parties.

(4) The mediator shall not assume subsequently the duty of attorney-at-law of any of the parties in a lawsuit filed in relation to the dispute for which he/she acted as a mediator.

Prohibition of advertising

ARTICLE 10– (1) The mediators shall be prohibited from any attempt or action that might be considered as advertisement, especially from using any title other than the title 'mediator', 'attorney-at-law' and their academic titles on their signboards and printed papers, for the purpose of attracting clients.

Informing the parties

ARTICLE 11- (1) The mediator shall be liable to duly inform the parties on the principles, process and outcomes of mediation at the beginning of the mediation activity.

Payment of contributions

ARTICLE 12– (1) An admission fee at the time of registry in the register and a yearly contribution for each year shall be collected from the mediators.

(2) Admission fees and yearly contributions shall be accumulated as income within the general budget.

CHAPTER FOUR

Mediation Activity

Resorting to a mediator

ARTICLE 13- (1) The parties may agree on resorting to a mediator, before filing a lawsuit or during the course of a lawsuit. The court may also inform and encourage the parties to resort to a mediator.

(2) Unless agreed otherwise, if the proposal of one of the parties to resort to a mediator is not answered within thirty days, then such proposal shall be considered to have been declined.

(3) (Additional: 12/10/2017-7036/21 art.) The party in need of legal aid to cover mediation expenses can benefit from such legal aid through decision of civil court peace where the mediation office is located. Article 334 and 340 of Code of Civil Procedure No. 6100 and dated 12/1/2011 shall apply mutatis mutandis.

Selecting the mediator

ARTICLE 14- (1)

Unless agreed on another procedure, the mediator or mediators shall be selected by the parties.

Conducting the mediation activity

ARTICLE 15- (1) After being selected, the mediator shall invite the parties to the first meeting at the soonest possible date.

(2) The parties may freely decide on the mediation procedure on the condition that it is not contrary to mandatory law rules.

(3) If it is not decided by the parties, the mediator shall conduct mediation activity considering the nature of the dispute, the demands of the parties and the procedures and principles necessary for quick resolution of the dispute.

(4) The transactions which, due to their nature, can only be carried out by a judge as the exercise of a judiciary power, shall not be carried out by the mediator.

(5) Should the parties express their desire to resort to a mediator after a lawsuit is filed, then the proceedings shall be postponed by the court for a period of three months. This period may be prolonged for another three months upon joint application of the parties.

(6) (Amended: 12/10/2017-7036/22 art.) Unless decided otherwise, each of the parties shall participate in the mediation negotiations personally or through their legal representatives or attorneys. Experts who can contribute to resolution of dispute may be present during negotiations.

(7) (Additional: 12/10/2017-7036/22 art.) In the case that it is clear that the parties cannot come up with a solution, the mediator can offer a solution.

(8) (Additional: 12/10/2017-7036/22 art.) In mediation negotiations administration shall be represented by a commission composed of two members to be designated by the upper management and chief of law unit or a lawyer or legal advisor to be determined by the chief of law unit. At the end of mediation negotiations, the commission shall draw up a reasoned report and keep it for five years.

(9) (Additional: 12/10/2017-7036/22 art.) Compensation lawsuits to be filed on the basis of work conducted by commission members within the scope of mediation activities or decisions made shall only be filed against the State. The State shall seek recourse against the members having abused their power by acting contrary to requirements of their duties within one year as of payment date.

10) (Additional :12/10/2017-7036/22 art.) Procedures and principles regarding application of this article shall be regulated by regulation to be put into effect by the Ministry.

Commencement of the mediation process and its effect on the time periods

ARTICLE 16- (1) In case of resorting to a mediator before a lawsuit is filed, the mediation process shall commence as of the date on which the parties are invited for the first meeting and an agreement is reached between the mediator and the parties for continuing the process and such circumstance is documented with a minute. In case of resorting to a mediator after a lawsuit is filed, then this process shall commence as of the date on which the court's invitation to the parties for mediation is accepted by the parties, or the parties declare their agreement on resorting to the mediator to the court in writing outside the course of the hearings, or such declaration of the parties is entered in the court records during the course of the hearings.

(2) The period elapsed between the commencement and completion of the mediation process shall not be considered in the calculation of statute of limitation or lapses.

Completion of mediation

ARTICLE 17- (1) In the following circumstances, mediation activity shall be deemed to be completed:

- a) An agreement reached by the parties.
- b) Determination by the mediator, upon consulting the parties, that further efforts for mediation are unnecessary.
- c) Notification of withdrawal from mediation activity, by one of the parties to the other party or to the mediator.
- ç) An agreement reached by the parties to terminate the mediation activity.
- d) (Amended: 12/10/2017-7036/23 art.) Determining that dispute is not suitable for mediation.

(2) Agreement or disagreement of the parties or the outcomes of the mediation activity shall be documented with a minute at the end of the mediation activity. Such document to be prepared by the mediator shall be signed by the mediator, the parties or their attorneys. If the document is not signed by the parties or their attorneys, it will be signed by the mediator only, indicating the reason for this.³

³ Through article 23 of Law No. 7036 and dated 12/10/2017 the phrase “by the parties and their representatives” featuring in this paragraph is amended as “by the parties, legal representatives or their lawyers.”

(3) The parties shall decide on which matters to include, apart from conclusion of the activity, in the minute to be prepared at the end of the mediation activity. The mediator shall make the necessary explanations to the parties in relation to this minute and its outcomes.

(4) In case of completion of the mediation activity, the mediator shall keep the notification made to him/her in relation to this activity, the documents submitted and retained, and the minute prepared in line with paragraph two for a period of five years. The mediator shall send a copy of the documents prepared at the end of mediation services to the General Directorate within one month as of completion of the mediation activity.

Agreement of the parties⁴

ARTICLE 18- (1) The scope of the agreement reached as a result of the mediation activity shall be determined by the parties; in case of preparation of an agreement document, this document shall be signed by the parties and the mediator.

(2) Should the parties reach an agreement at the end of the mediation process, they may demand that a commentary be issued regarding enforceability of such agreement. If the parties resort to mediation before filing a lawsuit, a commentary regarding enforceability of the agreement can be issued by the civil court of peace located where the mediator performs his/her duties. If the parties resort to mediation while the case is being heard, a commentary regarding enforceability of the agreement can be demanded from the court where the case is being heard. The agreement containing such commentary shall be considered as a document with the force of a verdict.⁽⁴⁾

(3) Issuance of the commentary of enforceability is part of ex parte proceedings, and examination concerning this shall be carried out on the file. However, examination concerning family law disputes suitable for mediation shall be conducted through oral hearing. The scope of such examination shall be limited to whether the content of the agreement is suitable for mediation and compulsory enforcement. In the case that an application is made to the court for issuance of commentary of enforceability for the agreement document, and in the case that the concerned party appeals decisions given upon such application, fixed fees shall be collected. Should the parties wish to use the agreement document in another official transaction without obtaining a commentary of enforceability, then fixed stamp duty shall also be collected.

CHAPTER FIVE⁵

Mediation as Cause of Action

Mediation as Cause of Action

Article 18/A- (Additional: 6/12/2018-7155/23 art.)

- (1) If resorting to the mediator is stipulated as cause of action in relevant laws, the following provisions shall apply to mediation process.
- (2) The plaintiff shall be obliged to attach the original version or a copy of the final minute certified by the mediator specifying that an agreement was reached at the end of mediating activities to the lawsuit petition. In the case that this requirement is not observed, a notice shall be sent to the plaintiff specifying the fact that the final minute must be submitted to the court within one week and that otherwise the lawsuit would be dismissed. If necessary action is not taken, it is decided that the lawsuit be dismissed duly without sending a notice about the lawsuit petition to the opposite party.
- (3) The department shall list those who want to work as mediator as per this article from among registered mediators in the registry by specifying their area of expertise if any in reference to justice commissions of courts of first instance within judicial justice and notify relevant presidencies of commissions of the lists.

⁴ Through article 24 of Law No 7036 and dated 12/10/2017 the phrase “the court to be designated based on duties and rules of authority regarding actual dispute” is amended as “civil court of peace located where the mediator carries out his/her duties”.

⁵ Through article 23 of Law No. 7155 and dated 6/12/2018 Chapter Five with the heading “Mediation as Cause of Action” is added to ensue Chapter Four and other chapters followed suit accordingly.

- Presidencies of commissions shall send these lists to mediation offices within their judicial locality and the office of chief clerk within civil court of peace to be assigned where there is no mediation office.
- (4) Application shall be made to the mediation office where the competent court is located depending on the matter of dispute and to the office of chief clerk to be assigned where mediation office is not established.
 - (5) Mediator shall be designated by the office of mediation out of the list submitted to presidencies of commission. However, if the parties agree on a mediator on the list, the said mediator shall be assigned.
 - (6) The applying party shall provide the mediation office with all kinds of contact information about themselves and the opposing party if they have any. The mediation office shall also be authorized to inquire about contact information contained in official records. Relevant institutions and organizations shall be obliged to provide information and documents required by the mediation office.
 - (7) Contact information about the parties shall be provided to the mediator by mediation office. The mediator shall take information provided to him/her as the basis and can also make inquiries himself/herself when necessary. The mediator shall inform the parties about assignment by making use of all kinds of communication tools and invite the parties to the first meeting. Actions taken by the mediator for information and invitation shall be documented.
 - (8) The mediator shall not take notice of whether the office giving assignment is the competent one or not per se. The opposing party can raise an objection against authority of mediation office by submitting documents regarding authorization in the first meeting at the latest. In that case, the mediator shall immediately submit the file to the mediation office to be sent to the relevant civil court of peace. The court shall make its final decision on the competent office within one week at the latest through examination to be conducted on the file without charging a fee and return the file to the mediation office. The parties shall be notified of the court decision by the mediation office as per provisions of Notification Law No. 7201 and dated 11/2/1959. In case of dismissal of objection for authorization, the same mediator shall be assigned again and periods specified in paragraph nine shall start as of new date of assignment. In case of acceptance of objection for authorization, application can be made to the competent office within one week as of notification of the decision. In that case, the date when application is made to the office without authorization shall be considered as date of application made to the competent office. The competent office shall assign a mediator as per paragraph five.
 - (9) The mediator shall finalize the application within three weeks as of the date he/she is assigned. This period of time may be prolonged by one week at most in unavoidable circumstances.
 - (10) The mediator shall terminate mediation activities if the parties cannot be reached or meeting cannot be held due to absence of the parties or the parties cannot come to an agreement and shall draw up the final minute and notify the mediation office of the situation immediately.
 - (11) The party not having participated in the meeting in the case that mediation activity is terminated due to one of the parties not having participated in the first meeting without a pretext shall be specified in the final minute to be drawn up and this party shall be liable for the entirety of court expenses even if they turn out to be right partially or totally in this case. In addition, a ruling shall not be made in favor of the said party. For the lawsuits to be filed upon termination of mediation activities due to absence of both parties in the first meeting, court expenses shall be paid by the parties.
 - (12) If the parties come to an agreement as a result of mediation activity, mediation fee shall be covered by the parties in equal terms as per Part Two of Mediation Fee Tariff annexed to Minimum Fee Tariff for Mediation unless otherwise agreed. In this case, the fee shall not be less than two-hour fee determined in Part One of the Tariff.
 - (13) In the case that the parties cannot be reached, a meeting cannot be held due to absence of the parties or the parties cannot come to an agreement at the end of meetings that last less than two hours, the two-hour fee shall be paid out of the budget of the Ministry of Justice based on Part One of the Tariff. In the case that the parties cannot come to an agreement at the end of meetings that last more than two hours, the fee for the part exceeding the two-hour limit shall be covered by the parties in equal terms based on Part One of the Tariff by taking into account the matter of dispute unless otherwise decided. The mediation fee paid out of the budget of the Ministry of Justice and covered by the parties shall be deemed court expenses.
 - (14) Mandatory expenses incurred by the mediation office as per this article shall be covered by the budget of the Ministry of Justice to be paid by the parties as per the agreement in the case that the parties come to an agreement and by the party who turns out to be in the wrong in the future in the case that the parties cannot come to an agreement.
 - (15) Statute of limitations shall cease to be during the time that elapses from application to mediation office to the date the final minute is drawn up and lapse of time shall not be valid.
 - (16) If an interim injunction is granted before a lawsuit is filed, term of litigation regulated in paragraph one of article 397 of Law No. 6100 shall not be valid from application to mediation office to the date the final minute is drawn up and if a provisional seizure decision is made, term of litigation regulated in paragraph one, article 264 of Enforcement and Bankruptcy Law No. 2004 shall not be valid from application to mediation office to the date the final minute is drawn up.
 - (17) Mediation meetings shall be held within jurisdiction of justice commission in court of first instance within judicial justice to which mediation office assigning the mediator is affiliated unless otherwise decided.
 - (18) In the cases that there is an obligation to resort to arbitration or any other means of alternative dispute resolution in private laws or there is arbitration agreement, provisions regarding mediation for cause of action shall not apply.
 - (19) Special provisions regarding mediation as cause of action in relevant laws shall be reserved.

(20) In the cases where there is no relevant provision in this chapter, other provisions of this Law shall apply insofar as possible.

CHAPTER SIX

Register of Mediators

Keeping the register of mediators

ARTICLE 19- (1) The Department shall keep the register of the persons who are authorized to mediate in private law disputes. Information pertaining to the persons included in this register shall also be announced via electronic media by the Department.

(2) Procedures and principles concerning keeping the register of mediators shall be regulated in the regulations to be drawn up by the Ministry.

Conditions for registry in the register of mediators

ARTICLE 20- (1) The registry in the register shall be made upon written application of the concerned to the Department.

(2) The following conditions are sought for registry in the register of mediators⁶:

- a) Being a Turkish citizen,
- b) Having at least five years' experience and undergraduate law degree,
- c) Being fully competent,

ç) (Amended: 12/10/2017-7036/25 art.) Even if terms specified in article 53 of Turkish Penal Code No. 5237 and dated 26/9/2004 have elapsed, an imprisonment of more than one year is sentenced for a crime committed willfully or the person is pardoned, not being condemned for crimes against security of the State, crimes against constitutional order and operation of this order, embezzlement, extortion, bribery, thievery, fraud, forgery, abuse of trust, fraudulent bankruptcy, collusive tendering, laundering the assets stemming from crimes or smuggling, expertise contrary to reality, false witness, false oath,

d) (Additional: 5/6/2017-Decree Law-691/9 art.; Acceptance: 31/1/2018-7069/9 art.) Not being affiliated or associated with terrorist organizations ⁽⁶⁾

e) Completing the mediator training and passing the written (...) ⁷ examination carried out by the Ministry.

(3) The mediator may commence his/her activities as of the date of registry in the register of mediators.

(4) (Additional: 12/10/2017-7036/25 art.) The department shall list those who want to work as mediator based on justice commissions of courts of first instance within judicial justice that they want to work and notify relevant presidencies of commissions of the lists. One mediator can enter into maximum three lists of commission.

⁶ As per article 9 of Decree Law No. 691 and dated 5/6/2017, clause (d) is added to this paragraph so as to ensue clause (ç) and the existing clause (d) followed suit as clause (e) and this provision of article 9 of Law No. 7069 and dated 31/1/2018 is accepted and enacted.

⁷ Through article 25 of Law No. 7036 and dated 12/10/2017 the phrase "and practical" featuring in this clause is removed from wording of the article.

Erasing from the register of mediators

ARTICLE 21- (1) The Department shall erase the record pertaining to the mediators who are entered in the register although they do not possess the conditions sought for mediation, or who lose such qualifications later.

(2) The Department shall warn in writing the mediators who do not fulfill the liabilities stipulated in this Law; in case of failure to comply with such warning, the Department may, if necessary, demand that the Council erase the mediator's name off the register after taking the mediator's statement.

(3) The mediator may ask for erasing of his/her record off the register of mediators at any time.

CHAPTER SEVEN

Mediation Training and Training Institutions

Mediation training

ARTICLE 22- (1) The term 'mediation training' refers to a training, which is received after completion of law studies, and which covers basic knowledge, communication techniques, negotiation and dispute resolution methods and behavioral psychology related to execution of mediation activity, and other theoretical and practical knowledge to be specified in the regulation.

Granting permission to training institutions

ARTICLE 23- (1) Mediation training shall be granted by the law faculties of universities which have law faculties, Union of Turkish Bar Associations and Justice Academy of Turkey. These institutions can provide training by obtaining permission from the Ministry. The list of the training institutions shall be promulgated via electronic media.

(2) Application for permission shall be made in writing. In such application, reasoned information shall be provided about the training program, the number and specialties of the trainers and financial resources of the training institution or the training program.

(3) Should it be determined, depending on the documents submitted for application, that the training will achieve its goal and continuity of training will be ensured in the training institutions, then a permission valid for maximum three years shall be granted to the related training institution.

Extension of permission period

ARTICLE 24- (1) A training institution registered in the register may demand in writing extension of the validity period of its record in the register, one year at the earliest and three months at the latest before the end of the registry period. Where it is determined – from the documents submitted by the training institution in accordance with article 26 – that the mediation training continues successfully and that the reasons specified in article 27 are

not present, validity period of the granted permission may be extended by three years each time. The training institution is kept registered in the list until a decision is made about its timely made application.

Mediation authorization certificate

ARTICLE 25- (1) The training institutions shall issue a certificate about completion of the mediation training.

Obligation to inform the Department

ARTICLE 26- (1) In January, the training institutions shall submit the Department a report about the scope, contents and success of the training activities carried out within the previous year.

Cancellation of the permission granted to the training institution

ARTICLE 27- (1) In the following circumstances, permission granted to the training institution shall be revoked by the Council upon request of the Ministry:

- a) Determining absence or nonexistence of one of the conditions sought for granting the permission.
- b) Insufficient delivery of training.
- c) Forgery or significant errors in the issuance of mediation authorization certificates.
- c) Failure to fulfill the obligation to submit reports as specified in article 26, despite the warning given.
- d) Determining that continuity of the training activity is not ensured.

CHAPTER EIGHT

Establishment and Duties

Establishment and organization

ARTICLE 28- (1) In order to fulfill the duties specified in this Law, a Department shall be established within the structure of the General Directorate.

(2) In order to fulfill the duties specified in this Law in relation to the mediation services, a Mediation Council shall be established within the structure of the Ministry.

(3) (Additional: 12/10/2017-7036/26 art.) Mediation offices shall be established within courthouses deemed appropriate by the Ministry in order to inform those who resort to mediation, to assign mediators and fulfill other duties assigned by law. A chief clerk and adequate number of personnel shall be assigned to work exclusively in these offices by justice commission of court of first instance within judicial justice. Mediation offices shall operate under supervision and surveillance of civil magistrate to be appointed by Council of Judges and Prosecutors. In places where mediation offices are not established, duties of these offices shall be fulfilled by the office of chief

clerk within civil court of peace assigned by justice commission of court of first instance within judicial justice under supervision and surveillance of the relevant judge.

The Department

ARTICLE 29- (1) The Department shall consist of a department chairman, adequate number of rapporteur judges, and other specialist personnel.

Duties of the Department

ARTICLE 30- (1) The duties of the Department are as follows:

- a) To ensure orderly and efficient execution of mediation services.
- b) To make publications related to mediation, to promote and support the scientific studies on this matter.
- c) To carry out all kinds of decisions and transactions related to functioning of the Council, and to cooperate with the ministries, other public institutions and agencies, universities, professional organizations having the nature of public institutions, non-profit foundations and associations and appropriate real and corporate persons as regards its duties.
- ç) To publicize the mediation concept, to inform the public on this matter, to organize or support the scientific organizations such as national and international congresses, symposiums and seminars.
- d) To monitor country-wide mediation practices, to keep and publish the relevant statistics.
- e) To submit resolving on the applications made by the institutions aiming to provide mediation training and on demands for extension of the validity period in the register for approval of the Ministry, to list the training institutions aiming to provide meditation training, and to publish this list via electronic media.
- f) To maintain the register of mediators, to resolve on the demands for inclusion in the register, to resolve on erasing the mediator off the register within the scope of paragraphs one and three of article 21 and to promulgate via electronic media the information related to the persons included in the said register.
- g) To maintain the records and keep one copy of the documents prepared by the mediators as a result of the mediation services.
- ğ) To carry out inspections and inquiries and make suggestions to the General Directorate concerning laws and regulative actions covered in its field of duty.
- h) To prepare the annual activity report and the activity plan of the following year and submit these for the Council's information.
- ı) To prepare the Annual Mediation Minimum Wage Tariff.

The Council⁸

ARTICLE 31- (1) The Council shall consist of the following members:

- a) General Director for Legal Affairs.
 - b) Department Chairman.
 - c) Two judges, to be selected by the Council Judges and Public Prosecutors, from among the judges working in civil courts and singled out as first grade.⁽⁸⁾
 - ç) Three representatives from Union of Turkish Bar Associations.
 - d) One representative from Union of Turkish Public Notaries.
 - e) One academic in the field of private law, to be selected by Higher Education Board.
 - f) Three mediators to be selected by the Minister of Justice.
 - g) One representative from Union of Chambers and Commodity Exchanges of Turkey.
 - ğ) (Additional: 12/10/2017-7036/27 art.) One representative each to be selected by three Confederation of Workers' Trade Unions with the highest number of workers as members.
 - h) (Additional: 12/10/2017-7036/27 art.) One representative to be selected by Confederation of Employers' Union with the highest number of employers as members.
 - ı) One representative from Confederation of Turkish Tradesmen and Craftsmen.⁽⁸⁾
 - i) Director of Justice Academy of Turkey Training Center.⁽⁸⁾
- (2) If required, the chairman can invite specialists to the meetings of the Council.
- (3) The chairman of the council is the General Director. The Department Chairman shall assume the duty of Chairman of Council at the meetings held in the absence of the General Director.
- (4) The Council shall meet at least twice a year, in March and September. In addition, the Council may be convened at any time upon request of the Chairman or of at least five members.
- (5) The Council shall make decisions with absolute majority of the total number of members. The membership of a member failing to participate in two consecutive meetings without excuse shall be terminated.
- (6) The term of office of the members of the Council assigned from outside the Ministry shall be three years. The members, whose terms of office expire, may be reassigned.
- (7) Transportation, accommodation and other compulsory expenses of the Council members participating from another location shall be met by the Ministry as per provisions of Travel Expense Law No. 6245 and dated 10/2/1954
- (8) Working procedure and principles of the Council shall be regulated through regulation.

Duties of the Council

⁸ Through article 27 of Law No. 7036 and dated 12/10/2017 the phrase "Supreme Council of Judges and Prosecutors" featuring in clause (c) of paragraph one is amended as "Council of Judges and Prosecutors" and clauses (ğ) and (h) are added so as to ensue clause (g) and the other clauses followed suit accordingly and the phrase "Director" featuring in clause (h) is amended as "Chairman".

ARTICLE 32- (1) The duties of the Council are as follows:

- a) To determine the basic principles concerning mediation services and the codes of practice of mediation.
- b) To determine the basic principles and standards concerning mediation training, and the examination to be held at the end of such training.
- c) To determine the rules concerning supervision of the mediators.
- ç) To finalize the drafts of the regulations, which have to be issued in accordance with this Law and which are prepared by the General Directorate, by making amendments if necessary.
- d) To cancel the training permissions of the training institutions.
- e) To resolve on erasing a mediator off the register within the scope of paragraph two of article 21.
- f) To determine the admission fees and yearly contributions to be paid by mediators.
- g) To approve the Mediation Minimum Wage Tariff, making amendments if necessary.
- ğ) To make recommendations in order to increase efficiency of the activities to be carried out by the Department.
- h) To deliver opinions about the annual activity report and plan of the Department.
- ı) To determine the contributions that the institutions and agencies – related with the matters covered in the activity plan of the Department – may provide for implementation.

CHAPTER NINE

Penal Provisions

Breach of confidentiality

ARTICLE 33- (1) Any person, who acts contrary to the liability specified in article 4 and who infringes the legally protected rights of an individual, shall be sentenced to an imprisonment of up to six months.

(2) The investigation and prosecution of such offences shall depend on complaints.

CHAPTER TEN

Final and Provisional Provisions

Cadres⁹

ARTICLE 34- (1) The cadres covered in the attached lists (1) and (2) have been created, and are added to the sections pertaining to the Ministry of Justice in the tables (I) and (II) annexed to the Decree Law No. 190 concerning the General Cadre and Its Procedure.

Amended Provisions

ARTICLE 35- (1) The phrase “mediation” is added to clause (d) of paragraph one of article 12 of Legal Profession Act No. 1136 and dated 19/3/1969 so as to ensue the phrase “arbitration”.

(2) The following is appended to Code of Civil Procedure No. 6100 and dated 12/1/2011:

- a) The phrase “or mediation” is added to paragraph one of article 137 so as to ensue the phrase “to peace.”
- b) The phrase “or mediation” is added to paragraph two of article 140 so as to ensue the phrase “to peace” and the phrase “or mediation” is added to paragraph three of article 140 so as to ensue the phrase “peace.”
- c) The phrase “or mediation” is added to paragraph two of article 320 so as to ensue the phrase “parties to peace”.

Regulations¹⁰

ARTICLE 36- (1) The qualifications and supervision of the training institutions to deliver mediation training and contents and standards of the training, determining the principles and conditions of the written (...) ¹⁰ examination to be carried out, regulation of the mediation register and the conditions sought for in the mediators, supervision and monitoring of the mediators, procedures and principles concerning the validity of the mediation certificates obtained without implementing provisions of this Law, and the other matters concerning execution of this Law, shall be regulated through regulations to be issued by the Ministry.

PROVISIONAL ARTICLE 1- (1) Establishment and organization shall be completed within two months as of the date that this Law is published in the Official Gazette.

(2) The institutions and agencies specified in article 31 of the Law shall inform the General Directorate about their representatives to be appointed to the Council within two months as of the date that the Law is published in the Official Gazette. The institutions in sub-clauses (ç), (g) and (ğ) of paragraph one of article 31 shall each appoint one extra representative in substitution for the three mediators to be selected by the Minister of Justice for the first three years.

(3) The term of office in the Council of the representatives appointed by the relevant institutions in substitution for the mediators shall be one year. The Ministry of Justice shall notify the Council of the names of three mediators to be selected at the end of this period. The mediators thus selected shall complete the terms of office of the Council members that they are appointed to replace.

⁹ Please see the Official Gazette No. 28331 and dated 22/6/2012 about the cadres featuring in this article.

¹⁰ Through article 28 of Law No. 7036 and dated 12/10/2017 the phrase “and practical” featuring in paragraph one of this article is removed from wording of the text.

(4) The Council shall meet within three months as of completion of establishment and organization specified in paragraph one. The date of the first meeting of the Council shall be considered as beginning of the term of office of three years of the Council members.

PROVISIONAL ARTICLE 2- (1) The regulations specified in this Law shall be issued within three months as of the first meeting of the Council.

Effect

ARTICLE 37- (1) In this Law,

a) Articles 28 to 32 and the provisional articles shall become effective as of the date of publication in the Official Gazette,

b) The other articles shall become effective one year after the date of publication.

Execution

Article 38- (1) Provisions of this Law shall be executed by the Council of Ministers.

TABLE INDICATING ENTRY INTO EFFECT DATE OF LEGISLATION OR ANNULMENT
DECISIONS OF CONSTITUTIONAL COURT AMENDING OR APPENDING LAW NO 6325

Number of Amending Law/Decree Law or Repealing Constitutional Court Decision	Amended or Repealed Articles of Law No. 6325	Entry into Effect Date
Decree Law/691	20	22/6/2017
7036	2, 4, 6, 8, 13, 15, 17, 18, 20, 28, 31, 36	25/10/2017
7069	20	8/3/2018
7155	3, Chapter Five, 18/A	19/12/2018

21/6/2012