

LAW ON MEDIATION IN CIVIL DISPUTES

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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 through 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 foreign elements. However, the disputes pertinent to domestic violence are not applicable for mediation.

Definitions ⁽¹⁾

ARTICLE 2 – (1) In the application of this Law:

- a) Mediator shall mean the natural person carrying out the mediation activity, who has been registered to the register of mediators maintained by the Ministry,
- b) Mediation shall mean a dispute resolution method, which is carried out voluntarily and with the participation of an impartial and independent third person with specialized training who employs systematic techniques to bring the parties together to discuss and negotiate, and who can also bring a solution proposal in case the parties are unable to produce solutions and establish a communication process between the parties in order to help them understand each other and work out their own solutions,⁽¹⁾
- c) Ministry shall mean the Ministry of Justice,
- ç) Department shall mean the Department of Mediation to be established under the Directorate General for Legal Affairs,
- d) Directorate General shall mean the Directorate General for Legal Affairs,
- e) **(Added: 12/10/2017-7036/Art. 17)** Administration shall mean the administrations and institutions included in the tables (I), (II), (III) and (IV) annexed to the Public Financial Management and Control Law No. 5018 dated 10/12/2003, and local administrations defined in Law No. 5018 and enterprises established by these administrations, other

public institutions, boards, supreme boards and organisations established by private law, state economic enterprises and their subsidiaries, establishments and enterprises, other partnerships whose more than fifty percent of the capital is owned by the public;⁽¹⁾

f) Board shall mean the Board of Mediation;⁽¹⁾

g) Registry shall mean the Registry of Mediators.⁽¹⁾

⁽¹⁾ *As set forth with the article 17 of 12/10/2017 dated and 7036 numbered Law, following the expression "negotiate" in subparagraph (b) of the first paragraph of this article, the expression "who can also bring a solution proposal in case the parties are unable to produce solutions," and following the subparagraph (d), (e) subparagraph has been added and other subparagraphs have been succeeded 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 terminate the process, or to waive such process. **(Added sentence: 6/12/2018-7155/Art. 22)** However, the provision of article 18/A regarding mediation is reserved as a cause of action.

(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 her/him in the framework of the mediation activity or obtained otherwise, and the records kept by her/him.

(2) Unless agreed otherwise, the parties and other persons attending the negotiations shall also abide by this principle of confidentiality.¹

Nonuser of statements and documents

ARTICLE 5 – (1) In case a lawsuit is filed or the course of arbitration is applied, 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:

¹ *With Article 18 of the Law No. 7036 of 12/10/2017, the expression "also the parties" in this paragraph has been amended as "the parties and other persons attending the negotiations".*

a) Invitation for mediation by the parties, or the request of a party to participate in the mediation activity.

b) The opinions or proposals put forward by the parties for the resolution of the dispute by means of mediation.

c) During the course of the mediation activity, acceptance of the proposals put forward by the parties or of any fact or claim.

ç) The documents prepared solely for the purpose of the mediation activity.

(2) The provision of the first paragraph shall be applied regardless of the form of the statement or document.

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

(4) The above paragraphs of this article shall be applied in lawsuits and arbitration, without regard to their relevance with the matter of arbitration.

(5) Without prejudice to the restraints specified in the first paragraph, the licit evidence set forth in the lawsuit or arbitration shall not become inadmissible evidence solely due to being presented in mediation.

CHAPTER THREE

The Rights and Obligations of Mediators

Use of title

ARTICLE 6 - (1) The mediators registered in the mediators' registry are entitled to use the title 'mediator', and to use the powers granted by this title.

(2) The mediator is obliged to indicate this title during the mediation activity.

(3) **(Added: 12/10/2017-7036/Art. 19)** The Department is authorised to determine the areas of expertise of the mediators and the procedures and principles regarding expertise.

Claiming wages and expenses

ARTICLE 7- (1) The mediator has the right to claim wages and expenses in return for the activity s/he carried out. The mediator may also claim an advance payment of the wages and expenses.

(2) Unless agreed otherwise, the wage of the mediator shall be determined according to the 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 may not claim any wages for referring the parties to certain persons or liaising between the parties and such persons during the mediation process. Any actions in violation of this principle will be invalid.

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 sentence 12/10/2017–7036/Art. 20**) (...)

Diligent and impartial performance of the duty

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

(2) In the presence of substantial circumstances and conditions casting doubt on the impartiality of the mediator, the person assigned as the mediator shall be obliged to inform the parties in this respect. Should the parties mutually request that the mediator undertakes or continues the duty of mediation, the mediator may then continue or undertake the mediation duty.

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

(4) The mediator cannot assume later the duty of an attorney-at-law of any of the parties in a lawsuit filed in relation to the dispute for which s/he acted as a mediator.

Prohibition of advertisement

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

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 registry fee and contribution

ARTICLE 12– (1) An entrance fee at the time of registry and a yearly contribution shall be collected from the mediators.

(2) The entrance fees and the yearly contributions shall be registered as income in the general budget.

CHAPTER FOUR

Mediation Activity

Resorting to the mediator

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

(2) Unless agreed otherwise, should the proposal of one of the parties to resort to a mediator be not replied in affirmative within thirty days, such proposal shall be considered to be declined.

3) (**Added: 12/10/2017-7036/Art. 21**) The party that needs judicial assistance to cover the mediation fee can benefit from judicial assistance with the decision of the civil court of peace where the mediation bureau is located. Articles 334 and 340 of the Civil Procedure Code dated 12/1/2011 and numbered 6100 are applied by analogy.

Selecting the mediator

ARTICLE 14 - (1) Unless agreed on another procedure, the mediator or mediators shall be selected by the parties.

Performing 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 not conflicting with the mandatory legal rules.

(3) Should it be not decided by the parties, the mediator shall perform the mediation activity considering the nature of the dispute, the demands of the parties and the procedures and principles necessary for the 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, cannot be carried out by the mediator.

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

(6) **(Amended: 12/10/2017-7036/Art. 22)** Parties may attend mediation negotiations personally, through their legal representatives or their lawyers. Experts who can contribute to the resolution of the dispute may also be present during the negotiations.

(7) **(Added: 12/10/2017-7036/Art. 22)** If it is revealed that the parties cannot produce a solution, the mediator may propose a solution.

(8) **(Added: 12/10/2017-7036/Art. 22)** In the mediation negotiations, the administration is represented by a commission consisting of two members determined by the top manager and the chief of legal unit or a lawyer or legal advisor to be determined by the top manager. The commission prepares a reasoned report at the end of mediation negotiations and keeps it for five years.

(9) **(Added: 12/10/2017-7036/Art. 22)** The lawsuits for damages to be filed due to the actions and decisions taken by the members of the commission within the scope of mediation activities can only be brought against the State. The State recovers the compensation it paid from the members who abused their duties by acting against the requirements of their duties within one year from the date of payment.

(10) **(Added: 12/10/2017-7036/Art. 22)** The procedures and principles regarding the application of this article are regulated by the regulation put into force by the Ministry.

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

ARTICLE 16- (1) In case of resort to a mediator before a lawsuit is filed, then 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 resort to a mediator after a lawsuit is filed, then this process shall commence as of the date on which the court's referral the parties to mediation is accepted by the parties, or the parties declare the court in writing outside the course of the hearings about their agreement on resort to the mediator, 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 lapses of time or foreclosures.

Termination of mediation

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

- 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/Art. 23**) Determination that the dispute is not applicable for mediation.

(2) The 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, their legal representatives or lawyers. If the document does not be signed by by the parties, their legal representatives or their lawyers, it will be signed by the mediator only, indicating the reason of this.¹

(3) The parties shall decide on which matters to include, apart from the 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 with this minute and its outcomes.

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

Agreement of the parties²

ARTICLE 18 - (1) The scope of the agreement reached as the 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) If the parties reach an agreement at the end of the mediation activity, they may request a commentary regarding the enforceability of this agreement document. If mediation is applied before the lawsuit is filed, a commentary regarding the enforceability of the agreement may be requested from the civil court of peace where the mediator performs her/his duty. If mediation is applied during the trial, a commentary regarding the enforceability of the agreement may be requested from the court where the case is heard. The agreement containing such commentary shall be considered as a document with the force of a verdict.²

(3) The issuance of the commentary of enforceability is an undisputed judgment affair, and the examination concerning this is done over the file. However, the examination concerning family law disputes suitable for mediation shall be held with a hearing. The scope of such examination is limited to whether the content of the agreement is suitable for mediation and compulsory enforcement. In case that an application is made to the court for the issuance of commentary of enforceability for the agreement document, and in case that the concerned party

¹ With Article 23 of the Law No. 7036 dated 12/10/2017, the expression "by the parties or their lawyers" in this paragraph has been amended as "by the parties, their legal representatives or their lawyers".

² As stipulated in the article 24 of 12/10/2017 dated and 7036 numbered Law, in the second paragraph of this article, the expression "from the court to be determined according to the rules of duty and jurisdiction regarding the actual dispute" means "from the civil court of peace where the mediator carries out her/his duty" and in the same article, the expression "can also be done over" in the third paragraph has been amended as "is done over".

appeals decisions given upon such application, the 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.²

(4) **(Added: 12/10/2017-7036/Art. 24)** The agreement document signed by the parties and their lawyers and the mediator is deemed a document in the quality of a verdict without seeking an enforceability statement.

(5) **(Added: 12/10/2017-7036/Art. 24)** In case an agreement is reached at the end of the mediation activity, the parties cannot be sued for the matters agreed upon.

CHAPTER FIVE¹

Mediation as Cause of Action

Mediation as cause of action

ARTICLE 18/A- (Added: 6/12/2018-7155 /Art. 23)

(1) If the application to the mediator in the relevant laws is adopted as a cause of action, the following provisions shall be applied to the mediation process.

(2) The plaintiff shall be obliged to add the original or a copy of the last minute, which is approved by the mediator, to the lawsuit petition concerning unsettlement at the end of the mediation activity. If this obligation is not complied with, the court will send an invitation to the plaintiff with the warning that the final report must be submitted to the court within a certain period of one week, otherwise the case will be dismissed. If the requirement of the warning is not fulfilled, it is decided to dismiss the case on procedural grounds, without the lawsuit petition being notified to the other party. If it is understood that a lawsuit has been filed without applying to the mediator, it is decided to dismiss the case without any action, due to the absence of a case requirement.

(3) The Department lists the registered mediators who wish to mediate pursuant to this article, indicating their expertise, if any, according to the judicial commissions of the first instance court and notifies the relevant commission presidency. The commission presidencies send these lists to the mediation bureaus in their jurisdiction, and to the chief clerk offices of the civil court of peace to be appointed in places where a mediation bureau is not established.

¹ As forth in the Article 23 of the Law No. 7155 dated 6/12/2018, Chapter Five was added to the Law with the title of "Mediation as Cause of Action" following the Fourth Chapter, and the other chapters were succeeded accordingly.

(4) Depending on the subject of the dispute, the application is made to the mediation bureau where the competent court is located, and to the authorised chief clerk offices where a mediation bureau is not established.

(5) The mediator is determined by the bureau from the list notified to the presidencies of the commission. However, if the parties agree on any mediator on the list, this mediator is appointed.

(6) The applicant party shall submit all kind of her/his contact information and, if it is in possession, of the other party to the mediation bureau. The bureau is also authorised to search for the contact information of the parties in the official records. Relevant institutions and organisations are obliged to provide the information and documents requested by the bureau.

(7) The contact information of the parties is submitted to the appointed mediator by the bureau. The mediator takes this contact information as basis and can make ex-officio inquiries if required. S/he informs the parties about the appointment using all kinds of communication means concerning the information s/he has and invites the parties to the first meeting. S/he certifies the transactions regarding the act of informing and invitation.

(8) The mediator cannot make an ex-officio decision whether the bureau making the appointment is authorised or not. The other party may object to the authority of the mediation bureau at the first meeting at the latest by submitting the documents regarding the authorisation. In this case, the mediator immediately submits the file to the bureau to be sent to the relevant civil court of peace. The court, after the examination to be made on the file without charging a fee, will make a final decision regarding the authorised bureau within one week at the latest and return the file to the bureau. The court decision is notified to the parties by the bureau in accordance with the provisions of the Notification Law No. 7201, dated 11/2/1959. If the plea of the jurisdiction is rejected, the same mediator is re-appointed, and the periods specified in the ninth paragraph start from the new appointment date. If the plea of the jurisdiction is adopted, application can be made to the authorised bureau within one week from the notification of the decision. In this case, the date of application to the unauthorised bureau is adopted as the date of application to the authorised bureau. The authorised bureau appoints a mediator in accordance with the fifth paragraph.

(9) The mediator finalises the application within three weeks from the date of assignment. This period can be extended by a maximum of one week by the mediator in compulsory cases.

(10) If the parties cannot be reached or a meeting cannot be held since the parties do not participate, or if the parties reach or cannot reach an agreement, the mediator terminates the mediation activity and prepares the final report and immediately informs the mediation bureau.

(11) If the mediation activity ends due to the failure of one of the parties to attend the first meeting without a valid excuse, the party that does not attend the meeting is specified in the final report and this party is held responsible for the whole litigation expense, even if this party is

partially or completely justified in the case. Additionally, the lawyer fee is not ruled in favour of this party. The litigation expenses incurred by the parties are left to them in the cases to be filed over the mediation activity that was terminated due to the failure of both parties to attend the first meeting.

(12) If the parties reach an agreement at the end of the mediation activity, the mediation fee shall be equally paid by the parties, unless otherwise agreed, according to the Second Part of the Mediation Fee Tariff annexed to the Mediation Minimum Fee Tariff. In this case, the fee may not be less than the two-hour rate specified in Part One of the Tariff.

(13) If the parties cannot be reached at the end of the mediation activity, the parties cannot be interviewed due to the nonattendance of the parties to the meeting, or the parties cannot reach an agreement at the end of the negotiations lasting less than two hours, the two-hour fee is paid from the budget of the Ministry of Justice in accordance with the Part One of the Tariff. In the event that the parties cannot reach any agreement at the end of the negotiations lasting more than two hours, the fee for the part exceeding two hours shall be paid according to the Part One of the Tariff, taking into account the subject of the dispute equally, unless otherwise agreed. The mediation fee paid from the budget of the Ministry of Justice and covered by the parties is counted as the litigation expenses.

(14) The obligatory expenses that must be incurred by the mediation bureau pursuant to this article shall be paid by the parties in accordance with the agreement, if an agreement is reached at the end of the mediation activity and shall be paid from the budget of the Ministry of Justice to be collected from the party turning out to be wrongful in the future if an agreement is not reached.

(15) In the period between the application to the mediation bureau and the date of issuance of the final report, the period of limitation ceases, and the lapse of time does not continue.

(16) The terms of litigation set forth in the first paragraph of Article 397 of Law No. 6100 in the event that an interim measure is imposed before the lawsuit is filed and set forth in the first paragraph of Article 264 of the Enforcement and Bankruptcy Law No. 2004 dated 9/6/1932 in the event that a lien on a property is imposed, does not run until the date of application to the mediation bureau and the final report is issued.

(17) Unless otherwise agreed by the parties, mediation negotiations are conducted within the jurisdiction of the justice commission of the first instance court to which the bureau that appointed the mediator is affiliated.

(18) In cases where there is an obligation to resort to arbitration or other alternative dispute resolution in special laws or where there is an arbitration agreement, the provisions regarding mediation are not applied as a cause of action.

(19) Special provisions regarding mediation adopted as a cause of action in the relevant laws are reserved.

(20) In cases where there are no provisions in this chapter, other provisions of this Law shall be applied to the extent appropriate to their nature.

CHAPTER SIX

Register of Mediators

Keeping the register of mediators

ARTICLE 19 - (1) The Department shall keep the registers of the persons who attained the authority to mediate in private law disputes. The information pertaining to the persons included in this register shall also be announced in electronic media by the Department.

(2) The procedure and principles concerning reserving the register of mediators shall be regulated in the regulations to be prepared by the Ministry.

Conditions for registry in the register of mediators

ARTICLE 20 - (1) The registry in the register is made upon the written application of the relevant person to the Department.

(2) The following conditions are sought for registry in the register of mediators:¹

a) Being a Turkish citizen,

b) Having at least five years of experience and being graduate of faculty of law,

c) Being fully competent,

ç) (**Amended: 12/10/2017 - 7036/Art. 25**) Not having been convicted of the crimes against the security of the State, crimes against the constitutional order and its functioning, embezzlement, extortion, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, rigging the tender, rigging the performance of the act, laundering or smuggling the assets arising from the crime, acting as untrue expert, false witnessing and perjury even if the periods specified in the article 53 of the Turkish Criminal Code No. 5237 dated 26/9/2004 passed.

d) (**Added: 5/6/2017- (Decree Law)-691/Art. 9; Adopted without any change: 31/1/2018-7069/Art. 9**) Not being in association or in connection with terrorist organisations,⁽¹⁾

e) Completing the mediator training and passing the written (...) ² examination carried out by the Ministry,⁽¹⁾⁽²⁾

¹ As set forth in Article 9 of the Decree Law dated 5/6/2017 and numbered 691, subparagraph (d) has been added to this paragraph following the subparagraph (ç) and the present subparagraph (d) has been amended as subparagraph (e), then with Article 9 of the Law No. 7069 of 31/1/2018, this provision was adopted without any change and became law.

² As set forth in Article 25 of the Law No. 7036 of 12/10/2017, the expression "and practical" in this paragraph has been removed from the text of the article.

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

(4) **(Added: 12/10/2017-7036/Art. 25)** Department lists the registered mediators according to the justice commissions of the first instance court where they want to work and sends the lists to the relevant commission presidencies. A mediator can be registered in up to three commission lists.

Deletion from the register of mediators

ARTICLE 21 - (1) Department shall delete the registry 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) Department shall warn in writing the mediators who do not fulfil the liabilities stipulated in this Law; in case of failure to comply with such warning, the Department may, if necessary, demand from the Board the deletion of the mediator's name from the register after getting the mediator's statement.

(3) Mediator may ask for the deletion of her/his record from 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 the completion of faculty of law, and which covers the basic knowledge, communication techniques, negotiation and dispute resolution methods and behavioural psychology related with the execution of mediation activity, and the 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, Turkish Bar Associations and Justice Academy of Turkey. These institutions may provide training by obtaining permission from the Ministry. The list of the training institutions shall be promulgated in electronic media.

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

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

Prolongation of the permission period

ARTICLE 24 - (1) A training institution recorded in the register may demand in writing the prolongation 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 in place, the validity period of the granted permission may be prolonged for three years each time. The training institution is kept registered in the list until a decision is made on its timely made application.

Mediation authorisation certificate

ARTICLE 25 - (1) The training institutions shall issue a certificate about the 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 cases, the permission granted to the training institution shall be cancelled by the Board upon the demand of the Ministry:

- a) Determination of losing or absence of one of the conditions sought for granting the permission.
- b) Insufficient delivery of the training.
- c) Forgery or significant errors in the issuance of mediation authorisation certificates.
- ç) Failure to fulfil the obligation to submit reports as specified in article 26, despite the warning given.
- d) Determination of the discontinuity of the training activity.

CHAPTER EIGHT

Establishment and Duties

Establishment and organisation

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

(2) In order to fulfil the duties specified in this Law in relation with the mediation services, a Mediation Board shall be formed within the structure of the Ministry.

(3) **(Added: 12/10/2017-7036/Art. 26)** Mediation bureaux are established in courthouses deemed appropriate by the Ministry in order to inform those who apply for mediation, to assign mediators and to fulfil other duties assigned by law. A chief clerk and a sufficient number of personnel are assigned by the justice commission of the first instance court to work exclusively in these bureaux. Mediation bureaux operate under the supervision and control of the civil court of peace judge determined by the Council of Judges and Prosecutors. In places where mediation bureaux are not established, the duties of these bureaux are carried out by the chief clerk office of the civil court of peace assigned by the justice commission of the first instance court under the supervision and control of the relevant judge.

The Department

ARTICLE 29 - (1) Department shall consist of a head of department, sufficient number of rapporteur judges, and other staff.

Duties of the Department

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

- a) To provide for the orderly and efficient execution of mediation services.
- b) To make publications related to mediation, to encourage and support the scientific studies on this matter.
- c) To carry out all kinds of decisions and transactions related to the functioning of the Board, and to co-operate with the relevant ministries, other public institutions and agencies, universities, professional organisations having the nature of public institutions, non-profit foundations and associations and the appropriate real and corporate persons in relation with its duties.
- ç) To publicise the mediation institution, to inform the public on this matter, to organise or support the scientific organisations such as national and international congresses, symposiums and seminars.
- d) To monitor the country-wide mediation practices, to keep and publish the related statistics.

e) To resolve on the applications made by the institutions aiming to provide mediation training and on demands for prolongation of the validity period in the register, to list the training institutions aiming to provide mediation training, and to publish this list in electronic media.

f) To maintain the register of mediators, to resolve on the demands for inclusion in the register, to resolve on the deletion of the mediator from the register in the scope of the first and third paragraphs of article 21 and to promulgate in electronic media the information related with the persons included in the said register.

g) To maintain the records and keep one copy of the documents prepared by the mediators as the result of the mediation services.

ğ) To carry out inspections and researches and make suggestions to the Directorate General concerning the 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 Board's information.

i) To prepare the Annual Mediation Minimum Wage Tariff.

The Board¹

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

a) Director General for Legal Affairs.

b) Head of Department.

c) Two judges, to be selected by the Council of Judges and Public Prosecutors, from among the first degree judges carrying out their duties at civil courts.⁽¹⁾

ç) Two representatives from the Union of Turkish Bar Associations.

d) One representative from the Union of Turkish Public Notaries.

e) One academician in the field of private law, to be selected by the Council of Higher Education.

f) Three mediators to be selected by the Minister of Justice.

g) One representative from Union of Chambers and Commodity Exchanges of Turkey.

¹ As set forth in article 27 of 12/10/2017 dated and 7036 numbered Law, the expression "High Council of Judges and Prosecutors" in subparagraph (c) of the first paragraph of this article has been amended as "Council of Judges and Prosecutors" following paragraph (g), the subparagraphs (ğ) and (h) have been added, other subparagraphs have been succeeded accordingly and the expression "Director" in the current subparagraph (h) has been amended as "Head".

ğ) (**Added: 12/10/2017-7036/Art. 27**) One representative from each of the three trade union confederations with the highest number of employees to be selected by the said confederations.

h) (**Added: 12/10/2017-7036/Art. 27**) One representative from the confederation of employers' association with the highest number of members to be selected by the said confederation.

1) One representative from the Union of Chambers of Turkish Tradesmen and Craftsmen. ⁽¹⁾

i) Director of Justice Academy of Turkey Training Centre. ⁽¹⁾

(2) If required, the chairman may invite specialists to the meetings of the Board.

(3) The chairman of the board is the Director General. The Head of Department shall assume the duty of Chairman of Board at the meetings held in the absence of the Director General.

(4) The Board shall meet at least twice a year, in March and September. In addition, the Board may be convoked at any time upon the demand of the Chairman or of at least five members.

(5) The Board shall make decisions with the 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 Board assigned from outside the Ministry is three years. The members, whose terms of office are complete, may be reassigned.

(7) The transportation, accommodation and other compulsory expenses of the Board members shall be met by the Ministry according to the provisions of the Allowance Law No. 6245 dated 10/2/1954.

(8) The working procedure and principles of the Board are regulated in accordance with the regulation.

Duties of the Board

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

a) To determine the basic principles concerning the mediation services and the codes of practice of mediation.

b) To determine the basic principles and standards concerning the mediation training, and the examination to be made at the end of such training.

c) To determine the rules concerning the supervision of the mediators.

ç) To finalise the drafts of the regulations, which have to be issued in accordance with this Law and which are prepared by Directorate the General, by making amendments if necessary.

d) To cancel the training permissions of the training institutions.

e) To decide on the deletion of a mediator from the register in the scope of the second paragraph of article 21.

f) To determine the admission fees and annual 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 the efficiency of the activities to be carried out by the Department.

h) To deliver opinions on the annual activity report and plan of the Department.

ı) To the 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 in article 4 of this Law and who infringes the legally protected rights of an individual, shall be sentenced to an imprisonment up to six months.

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

CHAPTER TEN

Final and Transitional Provisions

Cadres¹

ARTICLE 34 - (1) The cadres covered in the attached lists (1) and (2) have been formed 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

¹ See the Official Gazette dated 22/6/2012 and numbered 28331 concerning the cadres specified in this article.

ARTICLE 35 - (1) The expression “mediation” following the expression “arbitration” has been added to the subparagraph (d) of the first paragraph of Article 12 of the Advocacy Law No. 1136 dated 19/3/1969.

(2) In the Civil Procedure Code No. 6100 dated 12/1/2011,

a) The phrase “or to mediation” following the phrase “to peace” in the first paragraph of Article 137,

b) The phrase “or to mediation” following the phrase “to peace” in the second paragraph of the article 140, and the phrase "or to mediate" following the phrase "peace" in the third paragraph,

c) The phrase “or to mediation” following the phrase “the parties to peace” in the second paragraph of Article 320,

have been added.

Regulations¹

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

PROVISIONAL ARTICLE 1 - (1) The establishment and organisation shall be completed within two months beginning from 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 Directorate General of their representatives to be appointed to the Board within two months beginning from the date that the Law is published in the Official Gazette. The institutions in sub-clauses (ç), (g) and (ğ) 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 Board of the representatives appointed by the related institutions in substitution for the mediators shall be one year. The Ministry of Justice shall notify the Board the names of three mediators to be selected at the end of this period. The mediators selected in this way shall complete the term of office of the Board members on behalf of whom they were appointed.

¹ As set forth in Article 28 of the Law dated 12/10/2017 and numbered 7036, the expression “and practical” was removed from the first paragraph of this article.

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

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

Entry into Force

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 Journal,

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

Execution

ARTICLE 38 - (1) The provisions of the Law shall be executed by the Council of Ministers.

LIST INDICATING THE ENFORCEMENT DATES OF THE LEGISLATION WHICH IS THE ANNEX OF OR WHICH AMENDS THE LAW NO. 6325 OR THE ANNULMENT DECISIONS MADE BY THE CONSTITUTIONAL COURT

Number of the Amending Law/Decree-law or of the Annulment Decision of the Constitutional Court	Amended or Annulled Articles of the Law No. 6325	Date of Entry into Force
KHK(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