

REGULATION OF LAW ON MEDIATION IN CIVIL DISPUTES

SECTION ONE General Provisions

CHAPTER ONE Purpose, Scope, Basis and Definitions

Purpose

ARTICLE 1-(1) The purpose of this Regulation is to regulate the procedures and principles on mediation as well as all kinds of mediation activities for the resolution of civil disputes through mediation.

Scope

ARTICLE 2-(1) This Regulation shall include all kinds of mediation activities for the resolution of civil disputes through mediation, the representation of the administration in private law disputes of which the administration is a party, the procedures and principles of mediation process regulated as cause of action and training of mediators, holding the examinations on mediation, regulating registers of mediators, the inspection of the mediators and institutions in charge of mediation training and the working procedures and rules of the Mediation Department and of the Mediation Board.

Basis

ARTICLE 3-(1) This Regulation has been issued on the basis of the tenth paragraph of article 15, second paragraph of article 19, article 22, eighth paragraph of article 31, article 36 of the Law No. 6325 on Mediation in Civil Disputes dated 7/6/2012 and twenty-second paragraph of article 3 of the Law No. 7036 on Labour Courts dated 12/10/2017.

Definitions

ARTICLE 4 - (1) The terms in this Regulation shall mean as follows;

- a) Courthouse meditation bureau: A unit established in courthouses by the Ministry to inform the mediation applicants, assign mediators and fulfil other duties assigned by the law,
- b) Mediator: A natural person carrying out the mediation activity, who has been registered to the registry of mediators maintained by the Ministry,
- c) Mediation: A dispute resolution method, which is carried out voluntarily and with the participation of an impartial and independent third person with specialised 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,
- ç) Mediator Information System: The system enabling to execute all kinds of works and activities concerning mediation in electronic media,
- d) Mediation bureau: The bureau where the mediator carries out her/his activities,
- e) Ministry: The Ministry of Justice,
- f) Department: The Mediation Department established under the Directorate General for Legal Affairs of the Ministry of Justice,
- g) Registry of Training Institutions: The registry on which the training institutions are registered which are authorised to give mediation training,
- ğ) Training module: Training and education materials prepared by the Department and distributed to training institutions to be used in mediation training,
- h) Electronic media: The overall media consisting of information system and information network,
- ı) Directorate General: the Directorate General for Legal Affairs of the Ministry of Justice,
- i) Administration: 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 organizations 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,

- j) Law: The Law on Mediation in civil disputes,
- k) Commission: The commission representing the administration in mediation negotiations,
- l) Board: The Mediation Board,
- m) Registry: The Mediation Registry,
- n) Tariff: The Mediation Minimum Fee Tariff prepared annually by the Mediation Department and approved by the Board,
- o) Top manager: The undersecretary in ministries, the governor in special provincial administrations, the mayor in municipalities, the top level manager or board in other public administrations as stipulated by their legislations,
- ö) Written Examination: Written examination to be held by the Ministry for those completing the basic mediation training.

CHAPTER TWO

Basic Principles of Mediation

Voluntariness and Equality

ARTICLE 5 - The parties shall be free to resort to a mediator, to continue or terminate the process, or to waive such process and they firstly agree on resolving the dispute through mediation. The parties cannot be forcibly included in this process, and they can also waive from resolving the dispute through mediation at every stage. However, the special provisions regarding mediation are reserved as cause of action.

(2) The parties shall have equal rights, both in resorting to the mediator and throughout the whole process. Either party cannot be excluded from mediation process or his right to speak cannot be restricted compared to the other party.

Confidentiality

ARTICLE 6 - (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 other records kept by her/him.

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

(3) The obligation for abiding by the confidentiality principle shall also include the persons working with the mediator, the ones serving internship in the framework of regulations related to inspection and supervision and the officers of the Ministry and Board.

(4) The mediator acting contrary to confidentiality principle shall reserve the civil and criminal liability and a decision might be made for deleting the mediator from the registry.

Nonuser of statements and documents

ARTICLE 7 —(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:

a) Invitation for meditation 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 first, second and third paragraphs 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

Rights and Obligations of Mediators

Use of Title

ARTICLE 8 - (1) Only the mediators entered in the mediators' registry are entitled to use the title 'mediator', and to use the powers granted by this title. Except for mediators in legal disputes, no third party can be appointed to carry out the communication and negotiation process between the parties under any name.

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

(3) The Department shall determine the areas of expertise of the mediators and the procedures and principles regarding expertise.

Claiming wages and expenses

ARTICLE 9 - (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 a pre-payment of the wages and expenses.

(2) The mediator may also claim a pre-payment of the wages and expenses before the mediation activity starts from the party or parties having resorted to the mediation. As per this paragraph, the collected payment shall be deducted from the mediation wage to be claimed at the end of the mediation process. This wage shall not be refunded unless the mediation process starts. The amount not used in the expenses shall be refunded at the end of the mediation process.

(3) 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.

(4) 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 shall be invalid.

Negotiating and communicating with the parties

ARTICLE 10 - (1) The mediator may negotiate or communicate with each party separately or with both parties at the same time. S/he may use all kinds of communication means for this purpose.

(2) The mediator documents the important aspects of the process from the beginning to the end that the transactions and actions related to the mediation activity are implemented correctly. The document is signed by the mediator, the parties and, if any, the legal representatives or lawyers of the parties. If the document is not signed by the parties, their legal representatives or lawyers, it is signed only by the mediator, stating the reason.

Diligent and impartial performance of the duty

ARTICLE 11 - (1) The mediator shall personally carry out her/his duty in a diligent, impartial and personal manner and, cannot hand over even a part of his duty to any third party.

(2) The mediator shall carry out the mediation activity impartially and shall not act in a way that may cast any doubt on her/his impartiality.

(3) In the presence of substantial circumstances and conditions casting doubt on the impartiality of

the mediator or subsequent occurrence of such circumstances and conditions, 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 despite informing the parties of such situations, the mediator may then continue or undertake the mediation duty.

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

(5) 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 12 - (1) 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', 'lawyer' and their academic titles on their signboards and printed papers as well their registry numbers, for the purpose of attracting business.

Informing the parties

ARTICLE 13-(1) The mediator shall be liable for duly and properly informing the parties on the principles, process and legal outcomes of mediation at the beginning of the mediation activity.

(2) The mediator shall inform the parties about the legal disputes resolved through mediation and the nature and legal consequences of enforceability with the agreement document to be issued in case the parties reach an agreement as a result of the mediation activity.

Payment of monthly contribution

ARTICLE 14 – (1) An entrance fee at the time of registry and an annual contribution shall be collected from the mediators. Such contributions shall be paid to the Ministry of Finance.

2. The amount of monthly contribution shall be determined by the Board for each year.

3. The entrance fees and annual contributions shall be registered as income in the general budget.

4. Due date for paying the annual contributions shall be end of June each year.

SECTION TWO

Special Provisions

CHAPTER ONE

Mediation Activity

Resorting to the mediator

ARTICLE 15 - (1) The parties may agree on resorting to the mediator, before filing a lawsuit or during the course of a case. The court can also encourage the parties to resort to the mediator by informing them about the principles, process and legal consequences of mediation, and reminding them that the resolution of the dispute through mediation can have social, economic and psychological benefits. The regulations concerning the preliminary examination in the Civil Procedure Code No. 6100 dated 12/1/2011 are reserved.

(2) Unless otherwise agreed, 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) 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.

(4) If the mediation service is provided within the scope of the third paragraph, the fee of the mediator is determined according to the Tariff.

(5) In the mediation process, articles 176 and 181 of the Advocacy Act No. 1136 dated 19/3/1969 are applied for the parties to benefit from judicial assistance in terms of advocacy service.

Selecting the mediator

ARTICLE 16 - (1) Unless agreed on another procedure, the mediator or mediators shall be selected by the parties.

Conducting the mediation activity

ARTICLE 17 - (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) The mediator cannot give legal advice to the parties during the execution of the process.

(6) While performing the mediation process, the mediator endeavours to reveal the basic interests and needs of the parties and to reach an interest-based settlement in this direction. The mediator cannot offer a solution at this stage. However, if it turns out that the parties cannot produce a solution, the mediator may propose an interest-based solution. Besides, the mediator cannot force the parties to accept a solution proposal or a set of recommendations. However, the communication of a proposal submitted by one of the parties in the context of the resolution of the dispute to the other party by the mediator and receiving his statement on this issue cannot be considered within this scope.

(7) After the lawsuit is filed, if the parties declare that they will resort to the mediator together, the trial is postponed by the court for a maximum of three months. Following the joint application of the parties, this period may be extended up to three months for once only.

(8) The parties may participate in mediation negotiations personally, through their legal representatives or their lawyers. The experts who can contribute to the resolution of the dispute with the direct consent of the parties may also be present during the negotiations.

(9) The mediators can carry out their activities through the Mediator Information System.

(10) The mediators can exchange information and documents electronically with judicial bodies and public institutions and organizations that have completed their electronic infrastructure.

Representation of the administration

ARTICLE 18 - (1) In mediation negotiations, the administration is represented by a commission consisting of two members determined by the top manager and the chief of the legal unit or a lawyer or legal advisor to be designated by the top manager. In the absence of a legal unit or an in-house lawyer, all the commission members are determined by the top manager. Substitute commission members are also selected in the same manner. The commission cannot be represented by a proxy.

(2) The Administration publishes the address, registered e-mail address and telephone number to which mediation invitations will be made on its website within one month as of the effective date of this Regulation. Mediators primarily take this information as the basis for invitations to be made within the scope of interviews.

(3) Permanent and substitute members are determined to serve for 2 years in the commission. The administration may establish commissions in the headquarters or field services.

(4) The member whose term has expired can be re-elected. Substitute member attends the meeting where the permanent member cannot attend. The commission takes its decisions unanimously.

(5) The designated commission members are fully authorized to take decisions in the mediation process.

(6) The Commission prepares a reasoned report at the end of the mediation negotiations and keeps it for five years. Necessary measures are taken by the unit that carries out the secretariat services of the commission to keep the reasoned reports.

(7) The members of the Commission cannot be held financially and administratively responsible, except that it is determined by a court decision that they have acted against the requirements of their duties due to the decisions they took and the transactions they made pursuant to their duties within the scope of this article.

(8) 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 revokes to members who abused their duties by acting against the requirements of their duties due to the compensation it has paid within one year from the date of payment.

(9) In case a claim for compensation is filed against the State, the court shall notify the relevant commission members of the case ex officio.

(10) The working procedures and rules of the commission and its secretariat are determined by the administrations.

(11) The members of the Commission have the authority to correspond with the relevant private and public institutions and organizations through the secretariat in accordance with their duties under this article. The commission is responded immediately by the institutions and organizations.

(12) In the case of private civil disputes to which the administrations are a party, the representation of the administration during the mediation process, the issuance of the agreement document and other issues are subject to the provisions of Law No. 7036 and of this Regulation.

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

ARTICLE 19 - (1) In case of resort 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 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 20 - (1) In following circumstances, the mediation activity shall be terminated:

- a) An agreement reached by the parties on the dispute,
- b) Notification of withdrawal from mediation activity, by one of the parties to the other party or to the mediator,
- c) An agreement reached by the parties to terminate the mediation activity,
- ç) Determination by the mediator, upon consulting the parties, that further efforts for mediation are unnecessary,
- d) 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 minute to be prepared by the mediator shall be signed by the mediator, the parties, their legal representatives or their lawyers. If the minute is not be signed by the parties, their legal representatives or their lawyers, it will be signed by the mediator only, indicating the reason of this.

3. The parties shall decide on which matters to include, apart from the termination 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 termination of the mediation activity, the mediator shall keep the notification made to him/herself 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 at the end of the mediation activity to the Directorate General through the Mediation Information System within one month following termination of the mediation activity.

5. If the mediator is unable to carry out her/his duty for any legal and factual reasons within the mediation process, the process may be resumed with a new mediator on which the parties agree. The previous transactions shall be deemed valid.

Agreement of the Parties

ARTICLE 21 - (1) The scope of the agreement reached at the end 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. The agreement containing such commentary shall be considered as a document with the force of a verdict.

(3) If it was resorted to the mediation before the lawsuit is filed, a commentary on the

enforceability of the agreement may be requested from the civil court of peace where the mediator works in addition to the authorization provisions regarding the ex-parte proceeding.

(4) In the event that mediation is applied during the hearing of the case, a commentary regarding the enforceability of the agreement can be requested from the court where the case is heard.

(5) The issuance of the commentary of enforceability is an ex-parte proceeding, and the examination concerning this is performed on the file. However, the examination concerning family law disputes suitable for mediation shall hold by oral 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 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.

(6) The agreement document signed by the parties and their lawyers and the mediator is deemed a document with the force of a verdict without seeking an enforceability commentary.

(7) In case an agreement is reached at the end of the mediation activity, the parties cannot be sued for the matters agreed upon.

CHAPTER TWO

Mediation as Cause of Action

Mediation as cause of action

ARTICLE 22 - (1) In cases where the application to a mediator is regulated by law as a cause of action, the litigant is obliged to add the original or a copy of the final report, which was approved by the mediator, to the lawsuit petition concerning unsesttlement at the end of the mediation activity.

(2) If this obligation is not complied with, the court will send an invitation to the litigant 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 shall be decided to dismiss the case on procedural grounds, without the lawsuit petition being notified to the other party.

(3) If it is understood from the lawsuit petition that a lawsuit has been filed without applying to the mediator, it shall be decided to dismiss the case on procedural grounds without any action, due to the absence of a case requirement.

Application to mediation as cause of action

ARTICLE 23 - (1) The application is made to the courthouse mediation bureau which is located in the residence area of the other party or one of the other parties if there are more than one other parties, or to the authorised registry of the civil court of peace to be appointed in places where a mediation bureau is not established. In places where a courthouse mediation bureau is not established, the task of the bureau shall be fulfilled by the authorised registry of the court of the civil court of peace.

(2) If more than one application is made in cases where the parties and the subject of the dispute are the same, the first application is taken as basis in terms of the legal consequences of the application.

(3) The application can be made by petition or by filling out the forms available in the bureaus or in the electronic environment.

(4) During the mediation application, the applicant is requested to explain the issues related to the subject of the dispute.

Appointment of the mediator in mediation as cause of action

ARTICLE 24 - (1) The mediator is determined by the courthouse mediation bureau from the list notified to the presidencies of the justice commission of the first instance court by the method of scoring. However, if the parties agree on any mediator on the list at the time of the application, the mediator is appointed if the parties or the mediator on which the parties have agreed on with a minute signed by the parties inform this situation to the courthouse mediation bureau. A mediator

who is not in the list cannot be appointed in the disputes concerning mediation as cause of action.

(2) The applicant party shall submit to the courthouse mediation bureau all kind of contact information belonging to her/him and, if any, of the other party. The courthouse mediation bureau is also authorized to investigate the contact information of the parties in the official records. Relevant institutions and organizations are obliged to provide the contact information requested by the courthouse mediation bureau, limited to the subject of the dispute.

(3) The contact information of the parties is given to the appointed mediator by the courthouse mediation bureau. The mediator takes this contact information as basis and can also conduct research if necessary. The informs the parties about the appointment by using all kinds of communication means with the information s/he has and invites the parties and their lawyers together, if any, to the first meeting. It binds the transactions regarding information and invitation to the document. In case the mediator cannot reach the parties, s/he specifies in the final report which means s/he tried to reach and for what reasons s/he could not reach the parties.

Mediation activity in mediation as cause of action

ARTICLE 25 - (1) The parties may attend mediation interviews personally, through their legal representatives or their lawyers, and the administrations may attend through the commission they will set up. The employee authorized by the employer with an ordinary or official written document can also represent the employer in the interviews and sign the final report.

(2) After the mediator is appointed by the courthouse mediation bureau, s/he first shall conduct a preliminary interview with the main applicants, starting with the applicant party first, and find out the merits of the dispute from the applicant and the other party. The mediator shall inform the main applicants about the principles, process and results of mediation and reminding them that the resolution of the dispute through mediation has economic, social and psychological benefits. S/he shall invite the main applicants to the first session together with their representatives, if any.

(3) When the mediator makes the first session invitation, s/he shall communicate with the parties concerning the determination of the meeting date and place. If an agreement cannot be reached as a result of the meeting with the parties, s/he shall determine the date and place of the meeting.

(4) The mediator cannot take an ex officio decision on whether the courthouse mediation bureau making the appointment is authorized or not. The other party may object to the authority of the courthouse mediation bureau at the first meeting at the latest by submitting documents regarding the place of residence and the place where the work is done. In this case, the mediator shall immediately submit the file to the courthouse mediation bureau to be sent to the relevant civil court of peace. The court shall determine and finalise the authorized courthouse mediation bureau at the end of the immediate examination, without charge, and shall return the file to the courthouse mediation bureau. When examining plea of the jurisdiction, the commission registered in the list of the appointed mediator shall be taken into account instead of the bureau making the appointment through the court. The court decision shall be notified to the parties by the courthouse mediation bureau in accordance with the provisions of the Notification Law No. 7201 dated 11/2/1959, to be covered by the red-handed allowance. The unauthorized courthouse mediation bureau shall also inform the mediator it appointed of the decision. The mediator shall terminate the appointment through the Mediator Information System. The mediator shall be entitled to claim a fee pursuant to the second paragraph of Article 26 for her/his previous services. In the event of the rejection of plea of the jurisdiction, the same mediator is re-appointed, and the periods specified in the first paragraph of Article 27 start from the date of the new appointment. In the event of the acceptance of plea of the jurisdiction, an application can be made to the authorized courthouse mediation bureau within one week from the notification of the decision. In this case, the date of applying to the unauthorized courthouse mediation bureau shall be accepted as the date of application to the authorized courthouse mediation bureau. The authorized courthouse mediation bureau shall appoint a mediator in accordance with the first paragraph of Article 24.

(5) The mediator shall finalise the application within three weeks from the date of appointment. This period can be extended by a maximum of one week by the mediator in compulsory situations. At the end of the period, the mediator shall prepare ex officio the final report of disagreement.

(6) If the parties agree or partially agree on the dispute, the process shall be finalised with the final report of the settlement. In all cases other than these, the parties shall be deemed to have not agreed and a final report of the disagreement shall be drawn up.

(7) In the event that the parties agree on some of the demands put forward during the mediation process, the matters on which a settlement has been reached or cannot be reached shall be clearly stated in the final report and the fee shall be collected from the parties equally unless otherwise agreed.

(8) In cases where the parties cannot be reached, the parties cannot be interviewed because they have not attended the interviews, or if a settlement is not reached at the end of the interviews or within the period specified in the law, the mediator shall terminate the mediation activity and immediately notify the situation to the courthouse mediation bureau by drafting the final report

(9) In the event that the mediation activity finalises due to the failure of one of the parties to attend the first meeting without a valid excuse, the party that not attending the meeting shall be specified in the final report and this party shall be held responsible for the whole of the litigation expense, even if s/he is partially or completely justified in the case. In addition, the power of attorney fee shall not be 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 finalised due to the failure of both parties to attend the first meeting. The mediator shall certify that s/he invited the parties to the first meeting by any means of communication. Documents drafted by the mediator shall be taken as a basis for the evaluation of valid excuse.

Mediation fee and expenses in mediation as cause of action

ARTICLE 26 – (1) In the event that the parties reach a settlement fully or partially at the end of the mediation activity, the mediation fee shall be paid equally by the parties, unless otherwise agreed according to the Part Two of the Mediation Fee Tariff annexed to the Mediation Minimum Fee Tariff. In this case, the fee cannot be less than the two-hour rate specified in Part One of the Tariff. If the parties agree during the negotiations with the request for reemployment, the sum of the amount of compensation to be paid to the worker in case of not starting work and the wage and other rights to be paid for the period of non-employment in determining the wage to be paid to the mediator shall be accepted as the amount agreed in accordance with the Part Two of the Tariff.

(2) In the event that the parties cannot reach a settlement at the end of the mediation activity, the two-hour fee is paid from the Ministry budget according to the Part One of the Tariff. If the parties do not reach a settlement at the end of the negotiations lasting more than two hours, the fee for the part exceeding two hours shall be paid equally by the parties according to the Part One of the Tariff, unless otherwise agreed. The mediation fee paid from the budget of the Ministry and covered by the parties is counted among the litigation expenses. If a lawsuit is filed, the receipt of the mediation fees paid by the court before the trial is attached to the file. The amount ruled as litigation expenses is collected in accordance with Law No. 6183.

(3) In the event that the process is terminated due to inadvertent registration, duplicate registration or inapplicability to mediation, the mediator shall not be paid in accordance with the second paragraph.

(4) In accordance with this article, the compulsory expenses to be incurred by the courthouse mediation bureau shall be covered from the budget of the Ministry to be paid by the parties in accordance with the agreement if a settlement is reached at the end of the mediation activity, and to be collected from the party who will turn out to be unrightful. If a lawsuit is filed, the receipt for the compulsory expenses incurred by the court is attached to the file. The amount ruled as litigation expenses is collected in accordance with Law No. 6183.

(5) The list of the mediation fee paid by the Ministry by the registry of the civil court of peace where there is no courthouse mediation bureau shall be sent to the chief public prosecutor's office for payment.

(6) The mediation fee, which is agreed by the parties as a result of mediation activities carried out by public officials or which will be accrued according to the Tariff, shall be notified by the mediator to the registry of the court, where there is no courthouse mediation bureau or courthouse mediation bureau affiliated to the commission on the list of the mediator. The parties shall pay the fee of the mediator to the courthouse mediation bureau cashier on the specified date. After the courthouse mediation bureau makes legal deductions, it transfers it to the bank account notified by the mediator. In case of disagreement in mediation as cause of action, the fee is deposited into the mediator's bank account by the Public Prosecutor's Office as outlay decision.

The effect of mediation on time periods as cause of action

ARTICLE 27 - (1) In the period between the application to the courthouse mediation bureau and the date when the final report is drafted, the statute of limitations ceases, and the lapse of time does not apply.

Authority and procedure of appointment in mediation as cause of action

ARTICLE 28 - (1) Mediation interviews shall be conducted within the jurisdiction of the justice commission of the first instance court to which the courthouse mediation bureau that appointed the mediator is affiliated, unless otherwise agreed by the parties.

(2) Serial disputes shall be submitted to the same mediator appointed by the courthouse mediation bureau. The number of serial disputes and the scoring procedure shall be determined by the Department.

(3) In the appointments made by the courthouse mediation bureau, the mediator shall be awarded points for each file, the scoring and appointment procedure and performance criteria shall be determined by the Department.

CHAPTER THREE

Register of Mediators

Keeping the register of mediators

ARTICLE 29 - (1) The registers of the persons awarded with authority of mediation in private law disputes shall be kept by the Department by giving them registry numbers.

(2) The registry includes personal information such as the person's name and surname, specialty, other profession, if any, work address and academic title. This information is announced on the website of the Department.

(3) The mediator shall be obliged to inform the Directorate General of any kind of change occurred concerning her/his information, together with supporting documents, if available, at the latest within one month. In relation to such changes, necessary amendments shall be made by the Department.

(4) The Department shall keep a personal register file of the mediators. The personal register file shall contain documents such as the mediator's identity, education and profession, foreign languages, professional works and articles, disciplinary and criminal proceedings and the services provided in other duties.

Conditions for Recording to Mediator's Registry

ARTICLE 30 - (1) Recording to register shall be done after resorting to the Department through the Mediation Information System and after it has become clear that the relevant person meets necessary conditions.

(2) The following criteria shall be sought for the registry:

- a) Being a Turkish citizen,
- b) Graduated from Law Faculty, professional experience of minimum five years,
- c) Being fully competent,
- ç) 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) Not being in association or in connection with terrorist organisations,
- e) Having completed the mediation training and passing the written examination held by the Ministry.

(3) During the application, the relevant person shall submit the documents electronically containing the personal information specified in the second paragraph of Article 29 and the documents showing that they meet the conditions in the second paragraph of this article.

(4) Applicants who do not actually work as a lawyer or a public service as of the date of application must certify with the reports which they shall receive from health institutions that they do not have a mental and physical obstacle to carry out the mediation profession.

(5) The person who applies for registration in the registry must prove that s/he meets the requirement in paragraph (b) of the second paragraph and her/his health condition mentioned in the fourth paragraph with documents that have been received within six months at the latest as of the date of application.

(6) As for the matter that the one having recourse for recording on register, who have been understood to meet the registry conditions for register enlisted on the third paragraph and as for the matter that the ones having recourse for registry on register who have been understood not to meet the stated conditions or who have not submitted their missing documents despite one month time given , the Department shall make a decision within two months as from application date or as from replenishment date of missing documents. Such decision shall be notified to the relevant person. When such persons have completed such document deficiencies, they may renovate their application for recording to register.

(7) The mediator may begin her/his activity as from the date of recording to register.

(8) The mediator shall be obliged to notify to the Directorate General of any kinds of change occurring in the documents belonging to her/him with regard to the conditions enlisted on the third paragraph, together with the supporting document (if any), within one month. In relation to such changes, the Department shall make the necessary amendments on the register and in electronic media.

(9) The Department shall list the registered mediators according to the justice commissions of the judicial first instance courts where the mediators want to carry out their activities and submit the lists to the relevant commission presidencies. One mediator can be registered within up to three lists.

Deletion from the Register

ARTICLE 31 - (1) Any mediator recorded to the register even if /she did not bear the conditions necessary for mediation or the one having lost such properties later on shall be deleted from the mediators' register by the Department. The same procedure shall also be followed in case of the mediator's death.

(2) The Department shall warn the mediator in written if it has detected that s/he has not carried out his obligations predicted by the Law significantly or continuously; if s/he does not abide by such warning then, the Department shall demand a defence statement from the mediator. The mediator is obliged to submit her/his defence statement within ten days starting from the notification of the request. The mediator declining the notification or not submitting the defence statement within this period shall be deemed to waived from her/his right of defence. Following these transactions, the Department may request the Board to delete the name of the mediator from the register, if necessary. If the Board decides the deletion from the register, the Department shall inform the relevant person of this decision.

(3) The mediator may demand to be deleted from the register at any time. Those whose names were deleted from the register in this way may be registered again without seeking for examination condition if they hold other conditions.

SECTION THREE

Training, Examination and Inspection

CHAPTER ONE

Mediation Training and Training Institutions

Mediation training

ARTICLE 32 - (1) The mediation training means the education covering the necessary knowledge and skills to carry out mediation activity awarded with professional experience of five years and graduated from the faculty of law, aiming at obtaining knowledge and skills necessary for carrying out such a mediation service.

(2) A candidate mediator shall be given a training of minimum eighty-four hours in total, of which sixty-eight hours are theoretical and sixteen hours are applied training.

(3) The theoretical and applied trainings shall be based on the training module.

(4) The trainees are obliged to attend the lessons and studies given during the mediation training period unless they have a ground of excuse based on document and that might be accepted by training

institutions. The training institutions issue a list showing the attendance status of candidates into the lessons and dismiss from the education programme, the one not attended into lessons at rate of 1/12 without putting forward any rightful ground of excuse that could be accepted.

(5) The Department is entitled to determine the areas of expertise and rules and procedures of expertise for mediators.

(6) The mediators shall receive a refresher training from the institutions entitled to give mediation training, at least once every three years, not less than 8 hours. The mediators are obliged to attend the refresher training within the third year starting from the date of registry.

(7) The refresher training shall include legislation and jurisprudence amendments on mediation as well as training for enhancing mediation skills.

Certificate of Participation for Mediation Training

ARTICLE 33 - (1) The training institutions award a certificate of participation, at the latest within one month, after completion of the mediation training, a document confirming that they have accomplished their mediation training.

Granting of permission to training institutions

ARTICLE 34 - (1) The mediation training shall be given by the law faculties of universities, Union of Turkish Bar Associations or Justice Academy of Turkey. These institutions may provide training after obtaining permission from the Ministry. The list of the permitted training institutions shall be published in electronic media.

(2) A written application is required for getting a permission. The application shall include reasoned and sufficient information such as the training programme, the number of trainers, their titles and expertise and qualifications as well as the venues and financial resources of the training programmes.

(3) Depending on the documents submitted during application period, if it is determined that the venues where the training shall be provided are suitable and that the continuation of training activity in the training institution shall be enabled, the relevant training institution shall be entitled to provide training maximum for three years. The permitted training institution shall be recorded in the training institutions register.

(4) The application of the training institution not bearing the conditions indicated on the second and third paragraph shall be refused after inspection within two months as from the submission date of the demand to the Ministry and the decision shall be communicated to the relevant person. If a decision could not be made within two months by the Ministry, the demand shall be deemed as refused.

(5) The training institution whose permission period has not been prolonged or cancelled shall be deleted from the training institutions register and from the list in electronic media. Any documents belonging to such training institution shall be stored in its file.

Prolongation of the permission period

ARTICLE 35 - (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 36 – that the mediation training continues successfully and that the reasons specified in article 37 are not present, the validity period of the granted permission may be prolonged for three years at each time. The training institution is kept registered in the list until a decision is made about its timely made application.

(2) Any demands for prolonging of validity period shall be concluded after inspection within two months as from the submission date of such demand to the Ministry and the decision shall be communicated to the relevant person.

Obligation to inform the Department

ARTICLE 36 - (1) Each year 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.

(2) The training institution failing to submit the report shall be warned in written and given one-month period. It shall be indicated in the written warning that the permission for providing training shall be cancelled in case the report could not be submitted within the period given.

Cancellation of Permission granted to the Training Institution

ARTICLE 37 - (1) In following cases, the permission granted to the training institution is 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 training.
- c) Forgery or significant errors in the issuance of mediation authorization certificates.
- ç) Failure to fulfil the obligation to submit reports as specified in article 36, despite the warning given.
- d) Determination of the discontinuity of the training activity.

2. Upon written request of the training institution, the permission of training may be cancelled by the Department at any time.

CHAPTER TWO

Principles and Rules of Examination

Examination

ARTICLE 38 - (1) Those completing their mediation trainings are obliged to pass the written examination to be held in accordance with this Regulation to be registered in the registry.

(2) The examination results of the successful attendees shall keep their validity until completion of their registration in the registry.

Place and day of the examination

ARTICLE 39 - (1) The examination shall be held in accordance with the number of mediators needed which shall be determined by the Ministry. The venue, date and time of the examination shall be determined by the Department.

(2) The place, date and time of the examination shall be announced on the official web page of the Directorate General.

Subject of the Examination

ARTICLE 40 - (1) The examination shall cover the subjects given in course of mediation training pursuant to article 32.

Execution of the Examination

ARTICLE 41 - (1) The Department shall enable the preparation of questions, announcement, duration, and organisation of the minutes of the examination as well as other matters concerning the execution of the examinations.

Application to the examination

ARTICLE 42 - (1) Those who want to take the examination shall have the qualifications specified in (a), (b), (c), (ç) and (d) subparagraphs of the second paragraph of article 30 and shall complete the mediation training.

(2) The applications to the examination shall be made through the Mediation Information System with electronic signature or e-State password by uploading the documents on the system till the end of the last day of the application, namely the document showing TR identity number, criminal record notification or certificate, certificate of participation showing the completion of the mediation training, the document showing that the applicant is a graduate of law faculty and has a minimum five-year experience in the profession.

(3) Other procedures and principles concerning the application shall be specified in the examination announcement.

Examining the application

ARTICLE 43 - (1) The application is examined to determine whether the relevant person meets the requirements for taking the examination.

(2) The applications of those who have uploaded the required documents to the system

incompletely or incorrectly or those who are found not to meet the requirements for taking the examination shall be rejected and this situation shall be notified to them.

(3) Necessary information about those who meet the requirements to take the examination shall be sent to the institution that will hold the exam.

Conducting Examinations

ARTICLE 44 - (1) The examination shall be conducted in classical or test method.

(2) This examination can be administered by the Student Selection and Placement Centre, the Institute of Public Administration for Turkey and the Middle East or an institution to be designated by the Ministry from among the higher education institutions.

Success criteria in the examination

ARTICLE 45 - (1) In the examination, the candidate who gets at least seventy points out of one hundred points, starting from the candidate with the highest score, is considered successful in the exam as many as the number of necessary mediators specified in the examination announcement. Candidates who get the same score as the candidate with the lowest score who is deemed successful shall also be considered successful.

Announcing the examination results and objection

ARTICLE 46 - (1) The Department shall announce the examination results within one month from the date the examination results are submitted to the Department.

(2) The concerned persons may object in written to the Department within seven days from the announcement date of the examination results.

(3) Objections related to the examination shall be notified by the Department within seven days to the institution conducting the examination. The results of the objection shall also be notified in writing to the concerned persons within the same period of time by the Department.

(4) Objections to the examination shall be finalised by the institution conducting the examination.

(5) The points corresponding to the wrong questions in the examination shall equally be distributed among the other questions. However, if it is determined that more than five percent of the questions are wrong within the period specified in the second paragraph, the examination shall be cancelled and a new examination shall be conducted as soon as possible.

Nullification of the Examinations

ARTICLE 47 - (1) The examinations of the participants who do the following shall be deemed invalid upon the written report to be prepared about them,

- a. Those who leave the examination hall or place without permission,
- b. Those who cheat or attempt to cheat in the examination,
- c. Those who allow someone else to cheat or attempt to cheat in the examination,
- ç. Those who allow someone else to take the examination for themselves,
- d. Those who behave against the examination rules.

(2) The examination of those who are found to have made false statements in the application, among those who have passed the examination, shall also be deemed invalid. Those who are in this situation cannot make any claims. In addition, administrative and legal actions shall be taken against those who are found to have made false statements.

Being deemed unsuccessful in examinations

ARTICLE 48 - (1) In case of the following situations, the participants of the examination shall be deemed unsuccessful;

- a. Those who do not meet the examination success criteria set forth in Article 45,
- b. Those whose examination is deemed invalid,
- c. Those who do not attend the examination.

Right to retake the examination

ARTICLE 49 - (1) Those whose examinations are deemed invalid in accordance with subparagraph (a) of the first paragraph of Article 47 and those who are deemed unsuccessful in the

examinations in accordance with subparagraphs (a) and (c) of the first paragraph of Article 48 have the right to retake the examinations.

CHAPTER THREE

Supervision

Supervision mandate

ARTICLE 50 - (1) Mediators, mediation bureaux and institutions that have been granted mediation training permission shall be under the supervision of the Department.

Scope of the supervision

ARTICLE 51 - (1) Training institutions, mediators and mediation bureaux shall be audited for their compliance with the Law, Regulation and other regulatory procedures issued pursuant to the relevant legislation.

(2) The deficiencies determined as a result of the audit shall be notified in writing to the relevant persons and organizations by the Department, depending on the situation, and a suitable period of time shall be given according to the nature of the deficiency to correct these deficiencies. In the event that the deficiencies are not corrected at the end of the given period, or when the criminal practices are determined as a result of the audit, the mediator or training institutions shall be subject to action in accordance with the Law, Regulation and other regulatory procedures issued in accordance with this legislation, and if necessary, a notification shall be made to the judicial authorities.

SECTION FOUR

Organisation

CHAPTER ONE

Department

Department

ARTICLE 52 - (1) The Department shall consist of one head of department, sufficient number of rapporteur judges and other staff.

(2) In order to fulfil the mediation activities given by the Law and this Regulation under the Department, a sufficient number of bureaux shall be established in accordance with the requirements of the service, such as the Mediation Services Bureau, the Registry Bureau and the Education Bureau.

Duties of the Department

ARTICLE 53 - (1) The duties of the Department are as follows:

- a. To enable the mediation services to be conducted regularly and efficiently,
- b. To exert publication regarding mediation, to encourage and support scientific studies in this regard,
- c. To conduct all kinds of decisions and procedures regarding the work of the Board and to co-operate with the relevant ministries, other public institutions and organizations, universities, professional organizations that qualify as public institutions, foundations and associations working for the public benefit and volunteer natural and legal persons,
- ç. To publicise of the mediation institution, to inform the public on this subject, to organise or support scientific events such as international congress, symposium and seminar,
- d) To follow up the mediation practices across country and keep and publish relevant statistics,
- e) To submit to the approval of the Ministry for the decision of the application made by the institutions that will provide mediation training for this purpose to extend the validity period of the registration in the registry of training institutions, to list the training institutions that will provide mediation training and to publish them in electronic environment,

- f) To keep the registry of mediators, to decide on the registration requests, to decide on the deletion of the mediator from the registry within the scope of the first and second paragraphs of Article 31, and to announce the information about the persons included in this registry electronically,
- g) To keep records of the final reports prepared by the mediators at the end of the mediation activity and to keep each copy of them,
- ğ) To make suggestions to the Directorate General by making examinations and researches on the laws and regulatory procedures within its mandate,
- h) To prepare and submit the annual activity report and the activity plan of the next year to the information of the Board,
- k) To prepare the Mediation Minimum Fee Tariff.

CHAPTER TWO

Mediation Board and its Duties

ARTICLE 54 - (1) The Board shall consist of the following members:

- a) Director General for Legal Affairs,
- b) Head of Mediation Department,
- c) Two judges to be selected by the Council of Judges and Prosecutors from among the first-degree judges serving in the civil courts,
- ç) Three representatives from the Union of Turkish Bar Associations,
- d) One representative from the Notaries Union of Turkey,
- e) One academician from private law field to be selected by the Council of Higher Education,
- f) Three mediators to be selected by the Minister of Justice,
- g) One representative from the Turkish Union of Chambers and Exchange Commodities,
- ğ) Three representatives each to be selected by the three confederations of labour unions with the highest number of member workers,
- h) One representative to be selected by the confederation of employer unions with the highest number of employer members,
- i) One representative from the Turkish Confederation of Unions of Chambers of Merchants and Craftsmen,
- ı) Head of Training Centre of the Justice Academy of Turkey.

(2) The Chair of the Board may invite experts to the Board meetings if necessary.

(3) The Chair of the Board shall be the Director General for Legal Affairs. In the absence of the Director General in the meetings, the Head of Mediation Department shall act as the Chair in the meetings.

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

(5) The Board shall gather with at least ten persons.

(6) The Board shall make decision with absolute majority of the total member number. The members opposing to the decision shall have the right to present their opinions in written. The members opposing the decision shall submit their opposition grounds to the Board, within ten days at the latest.

(7) The membership of a member not attending successive two meetings without ground of excuse shall become void. In place of such a member, a new member shall be designated by her/his organisation or institution so as to complete the remaining term of office. In case of resignation or death of a member, the same provision shall be valid.

(8) The term of service of the members assigned by the Board from outside the Ministry shall be three years. The members whose terms of office have expired may be reassigned. The term of the previous Board shall continue until the establishment of the new Board.

(9) The agenda of the Board shall be determined by the Department and sent by e-mail to the contact address of the Board members five days before the Board meeting. The topics outside the agenda may be discussed in the Board meeting.

(10) The secretariat works of the Board shall be conducted by the Department.

(11) The per-diems, travel expenses, accommodation and other compulsory expenses of the Board

members attending the Mediation Board from elsewhere shall be covered by the Ministry in accordance with the provisions of the Travel Allowance Law No. 6245, dated 10/2/1954.

Duties of the Board

ARTICLE 55 - (1) The duties of the Board shall be as follows:

- a) To determine fundamental principles related to mediation services and code of practices for mediation.
- b) To fix the qualifications of the mediation training and of educational institutions and the principles and standards directed to working procedures and principals and, the fundamental principles and standards related to examination to be held following the mediation training.
- c) To determine the rules related to the inspection of the mediators.
- ç) To give a final form to the draft regulations which are required to be issued in accordance with the law and prepared by the Directorate General, also by exerting some modifications when necessary.
- d) To annul training permissions of educational institutions.
- e) To decide on erasing the mediator from the register, under the third paragraph of the article 31.
- f) To fix the entrance fees and the annual contribution fees for mediators.
- g) To approve the Mediation Minimum Wage Tariff in a way to make modifications if necessary.
- ğ) To make recommendations in order to increase the efficiency of the activities to be conducted by the Department.
- h) To deliver opinion about annual activity report and plan of the Department.
- ı) To determine the contributions that the organisations and institutions related to subject taking place in the activity plan that the Department can apply.
- i) To discuss the general and important issues reported by the Department and learned ex officio regarding the execution of mediation services and to offer solutions.

CHAPTER THREE

Courthouse Mediation Bureau

Courthouse Mediation Bureau

ARTICLE 56 – (1) Courthouse mediation bureaux shall be established in courthouses deemed appropriate by the Ministry in order to inform the applicants for mediation, to appoint mediators and to fulfil other duties assigned by law.

Courthouse mediation bureau staff

ARTICLE 57 – (1) A chief of the registry office and a sufficient number of staff shall be appointed by the justice commission of the first instance court to work exclusively in these bureaux.

Supervision of the courthouse mediation bureaux

ARTICLE 58 – (1) Courthouse mediation bureaux work under the supervision and control of the magistrates of the civil court of peace appointed by the Council of Judges and Prosecutors. In places where a courthouse mediation bureau is not established, the duties of these bureaux shall be carried out, under the supervision and control of the relevant judge, by the registry office of the civil court of peace appointed by the justice commission of the first instance court.

SECTION FIVE

Miscellaneous and Final Provisions

Repealed regulation

ARTICLE 59 -(1) The Regulation of Law on Mediation in Civil Disputes published in the Official Gazette dated 26/1/2013 and numbered 28540 has been repealed.

Registration date for the refresher training

PROVISIONAL ARTICLE (1) For those registered before 1/1/2018, the date of promulgation of this Regulation in the Official Gazette is considered as the date of registration in accordance with the sixth paragraph of Article 32.

Entry into Force

ARTICLE 60 - (1) This regulation shall enter into force on the date of promulgation.

Execution

ARTICLE 61 - (1) The provisions of this regulation shall be executed by the Minister of Justice.