

LAW OF GEORGIA

ON MEDIATION

Chapter I – General Provisions

Article 1 – Scope of the Law

1. In order to promote and to create appropriate conditions for alternative dispute resolution, this Law determines the principles of mediation, the rules of organisation and operation of the professional association of mediators, the powers of a mediator and other issues related to the mediation process.
2. This Law shall apply to the mediation conducted on the basis of a mediation agreement and to the judicial mediation conducted in accordance with Chapter XXI¹ of the Civil Procedure Code of Georgia, taking into consideration the peculiarities of the Civil Procedure Code of Georgia.
3. This Law shall not apply to the notarial mediation provided for by the Law of Georgia on Notaries, the mediation and notarial mediation provided for by the Law of Georgia on the Improvement of Cadastral Data and the Procedure for Systematic and Sporadic Registration of Rights to Plots of Land within the Framework of the State Project, the mediation provided for by the Juvenile Justice Code of Georgia and the mediation provided for by the Organic Law of Georgia the Labour Code of Georgia for the purpose of review and resolution of collective disputes.

Article 2 – Definition of terms

The terms used in this Law shall have the following meanings:

- a) mediation – the process, however named or referred to, whereby two or more parties to a dispute attempt to reach an agreement on the settlement of their dispute with the assistance of a mediator, despite whether the process is initiated by the parties or on the grounds and according to the procedure determined by law;
- b) judicial mediation – the mediation that is initiated after a claim has been filed with the court, in accordance with the procedure established by the Civil Procedure Code of Georgia, if the court refers the case to a mediator;
- c) private mediation – the mediation that is initiated by the parties on the basis of a mediation agreement, without referring the case to a mediator by the court;
- d) participants of mediation – a mediator, the parties, the representatives of the parties, a third person;
- e) mediator – a natural person registered with the Unified Register of Mediators who meets the requirements of this Law and agrees to conduct mediation, regardless of his/her status and selection/appointment procedure;
- f) party to mediation – a natural person, a legal person, an organisation, which is not a legal person, participating in the mediation process in order to reach an agreement on the settlement of a dispute with the other party;
- g) third person – a person that is not a party and that participates in the mediation process in the cases determined by a mediation agreement or by law;
- h) mediation agreement – a written agreement between the parties on the referral to mediation in the case of any dispute between them;
- i) agreement resulting from mediation – a binding written document on reaching an agreement on the settlement of a dispute as a result of mediation;



j) The Georgian Association of Mediators – a legal entity under public law established on the basis of this Law that carries out the functions determined by this Law;

k) Unified Register of Mediators – a unified list of the members of The Georgian Association of Mediators administered by the Georgian Association of Mediators.

Article 3 – Principles of mediation

Mediation is based on the principles of voluntariness (except for the cases provided for by law), self-determination, good faith and equality of parties, confidentiality, and independence and impartiality of a mediator. The issues arisen during the mediation process, which are not regulated by this Law, shall be resolved on the basis of the above-mentioned principles.

Chapter II – Mediation Process

Article 4 – Selection/appointment of a mediator

1. Mediation may be conducted simultaneously by one or more mediators.

2. The parties shall agree on the selection of a mediator, except for the cases provided for by law.

3. In the case of judicial mediation, the parties shall select a mediator from the list of candidates of mediators prepared and suggested to the parties by a court on the basis of the Unified Register of Mediators, taking into consideration the area of activities of the mediator; besides, The Georgian Association of Mediators may establish additional requirements (age, service record and/or higher education) for mediators. The requirements may be also established if a mediator is appointed without the agreement between the parties. If the parties fail to agree on the mediator within 3 days after the court suggests a list of candidates of mediators to the parties, an authorised person or body determined by the Statute of The Georgian Association of Mediators shall, upon the request of the court, within 3 days after receiving such request and taking into consideration the circumstances specified in this paragraph, appoint the next person registered with the Unified Register of Mediators as a mediator.

4. In the case of private mediation, the parties shall select a mediator from the Unified Register of Mediators, who shall be obliged to conduct the mediation process in accordance with the principles and rules determined by this Law. If the parties fail to agree on the mediator, the Executive Board of The Georgian Association of Mediators shall appoint a mediator from the Unified Register of Mediators upon the request of the parties, unless the parties have established other procedure for the appointment of a mediator.

Article 5 – Circumstances to be taken into consideration in the process of selection of a mediator

1. In the process of selection of a mediator the parties shall, and in the cases provided for in Article 4(3) of this Law – The Georgian Association of Mediators shall take into consideration the circumstances that ensure the selection of an independent and impartial mediator.

2. In the process of selection of a mediator the parties may, and in the cases provided for in Article 4(3) of this Law – The Georgian Association of Mediators may take into consideration the following eligibility criteria:

a) the experience of conducting mediation or other negotiations, the content of which does not contradict the law, public order or moral norms;

b) the experience of participation in the court proceedings or an alternative dispute resolution procedure;

c) the experience of working with the legal issues relevant to the content of a dispute;

d) the accreditation by a recognised mediation organisation;



e) the efficient conduct of mediation, alternative dispute resolution mechanisms and other important skills, business reputation and authority of a mediator;

f) other eligibility criteria in accordance with a mediation agreement.

Article 6 – Obligation to provide information and restriction of activities of a mediator

1. In the case of identification of any circumstances before the initiation of mediation and/or at any stage of mediation process after its initiation, that may raise doubts as to the independence and impartiality of a mediator, the mediator shall be obliged to inform the parties in this regard. Despite such circumstances a person may be a mediator if the parties agree thereon in writing. A mediator shall have the right to refuse to proceed the mediation process on the ground determined by this paragraph, despite a written agreement of the parties on him/her to be a mediator.

2. Despite the agreement of the parties a person shall not have the right to be a mediator if, before the initiation of the mediation process, he/she has been a party or a representative of a party to the case or to another case related to that case on the merits before the court, arbitration or similar proceedings, or if he/she has provided other legal and/or audit services to the party to mediation. After the completion of the case, a mediator shall not have the right to act in the interests of any party in the same case or in any other case related to that case on the merits. The above rule shall not apply if a mediator has reviewed the same case, or any other case related to that case on the merits, as an arbitrator and the parties agree in writing to select the same person as a mediator in the case related to the same dispute immediately after the dispute subjected to mediation has arisen.

3. A person shall have the right to be a mediator if he/she was/is a judge, a jury, a prosecutor, an investigator, a secretary of a court session, an arbitrator or an expert to the court, arbitration or similar proceedings in the same case or in any other case related to that case on the merits, or if he/she participated in that case as a state servant, a notary mediator and/or a mediator determined by the Law of Georgia on the Improvement of Cadastral Data and the Procedure for Systematic and Sporadic Registration of Rights to Plots of Land within the Framework of the State Project, the Juvenile Justice Code of Georgia or the Organic Law of Georgia the Labour Code of Georgia. The above rule shall not apply if a mediator has reviewed the same case, or any other case related to that case on the merits, as an arbitrator and the parties agree in writing to select the same person as a mediator in the case related to the same dispute immediately after the dispute subjected to mediation has arisen.

4. A person shall not have the right to be a judge, a jury, a prosecutor, an investigator, a secretary of a court session, an arbitrator or an expert to the court, arbitration or similar proceedings in the case or to participate in the case as a state servant, a notary mediator and/or a mediator determined by the Law of Georgia on the Improvement of Cadastral Data and the Procedure for Systematic and Sporadic Registration of Rights to Plots of Land within the Framework of the State Project, the Juvenile Justice Code of Georgia or the Organic Law of Georgia the Labour Code of Georgia if he/she was a mediator in the same case or in any other case related to that case on the merits. The above rule shall not apply if a person, to be selected/appointed as an arbitrator, was a mediator in the same case or in any other case related to that case on the merits and, after the referral to arbitration, the parties agreed in writing to select/appoint that person as an arbitrator.

Article 7 – Initiation of mediation

1. A precondition for initiating mediation is a mediation agreement and/or a referral of the case to a mediator by a court or other authorised body on the grounds determined by law or upon the request of the parties.

2. Mediation shall be initiated upon the application of the parties, or one of the parties, to a mediator and/or, in the cases provided for by law, as a result of the referral of a case to a mediator by a court or by other authorised body upon the request of the parties.

3. Mediation shall be deemed initiated from the moment of application to a mediator or referral of a case to a mediator as provided for in paragraph 2 of this article. Upon the request of a party, a mediator shall issue a document certifying the initiation of mediation.

4. In the case of a mediation agreement, in which the parties agree not to apply to the court or arbitration until the expiration of a certain time frame or until the occurrence of certain circumstances, the court or arbitration shall not review the dispute until the fulfilment of the conditions of the mediation agreement, unless a claimant confirms that



the claimant will suffer an irreparable damage without the court or arbitration proceedings. A respondent shall submit an application on the mediation agreement before the expiration of the time frame established for filing a statement of defence. The application of a party to the court or arbitration shall not be considered as a waiver of a mediation agreement or a termination of initiated mediation.

5. A party shall have the right to refuse to participate in mediation at any stage of the mediation process, unless otherwise provided for by law or by a mediation agreement.

Article 8 – Conduct of mediation

1. Before the initiation of mediation, a mediator shall explain to the parties the principles of conducting the mediation, the role of a mediator, the rights of the parties, including the right of participation in the mediation process through the representatives, the obligations of the parties, the possible outcomes of mediation and the procedure of enforcement of an agreement resulting from mediation drawn up by the parties as a result of reaching an agreement, as well as the procedure and conditions of payment of remuneration of a mediator.

2. The parties may agree on the procedure of conducting mediation that is not determined by this Law.

3. In the case of absence of agreement between the parties, the procedure for conducting mediation shall be determined by a mediator in order to settle a dispute efficiently, taking into consideration the circumstances of the dispute and the opinions of the parties.

4. The duration of mediation shall not be limited, unless otherwise provided for by a mediation agreement or by law. During the mediation process the parties shall be provided with sufficient time and possibilities in order to reach an agreement on the issue under review.

5. A party may participate in the mediation process directly or through a representative. A mediator shall have the right to require direct participation of the party or parties in the mediation process, taking into consideration the circumstances of the case.

6. A mediator shall ensure equality of the parties during the mediation process.

7. A mediator may conduct mediation through joint as well as individual communication with the parties.

8. In order to conduct mediation efficiently, a mediator shall have the right to suggest the parties submitting any additional information during the mediation process.

9. A mediator shall assist the parties in reaching an agreement for the purpose of settlement of a dispute, taking into consideration the principle of free, independent and informed decision-making by the parties in relation to the mediation process and the final outcomes of mediation. A mediator shall have the right to make a decision by himself/herself on a dispute between the parties.

10. Upon the consent of the parties, a mediator may propose to the parties the conditions of an agreement resulting from mediation, taking into consideration their interests and their positions stated during the mediation process.

Article 9 – Completion of mediation

1. Mediation shall be considered completed:

a) if the parties agree in writing on reaching an agreement on the settlement of a dispute – on the date the parties reach an agreement;

b) if the parties agree in writing on the termination of mediation – on the date the parties reach an agreement;

c) if a party refuses in writing to continue participation in the mediation procedure – on the date the party refuses to do so;

d) if the time frame determined for mediation expires – on the date the time frame expires;



e) if, after the consultation with the parties, a mediator states that further continuation of mediation would be unreasonable and unjustifiable – on the date the mediator makes such statement.

2. The parties and/or the representatives of the parties shall draw up an agreement resulting from mediation. A mediator may assist the parties in drawing up an agreement resulting from mediation.

3. An agreement resulting from mediation shall be drawn up in writing and shall be signed by the parties and a mediator.

4. Upon the request of a party, a mediator shall issue a document certifying the completion of mediation.

Article 10 – Obligation to maintain confidentiality

1. The mediation process is confidential. The information, which became known during the mediation process or which essentially derives from the mediation process, shall be also confidential, unless otherwise provided for by a written agreement between the person disclosing the information and the party/parties, or by law, and unless the disclosure of information is necessary for determining the moment of suspension of the period of limitation of a claim.

2. The participants of mediation may not use the information determined by this article during the court or arbitration proceedings or in the process of review of a dispute by any other means, unless otherwise provided for by law.

3. A mediator shall not have the right to disclose to the party the information provided to the mediator by the other party during individual communication, except if the mediator has received an express consent from the other party for the disclosure of such information to the party.

4. Paragraphs 1-3 of this article shall not apply if:

a) it is necessary to protect the life or health of a person, or to ensure the freedom of a person, and/or to protect the best interests of a minor;

b) the information has been provided in order to prove the fact of drawing up an agreement resulting from mediation if the other party disputes or denies that fact;

c) the party is obliged to fulfil the legal obligation undertaken before the initiation of mediation, to disclose the information that became known to the other party during the mediation process, taking into consideration the fact that the disclosed information shall be limited to the maximum extent;

d) the disclosure of information is determined by a court decision or by other legally binding decision. In this case the disclosed information shall be limited to the maximum extent and the respective party shall be preliminarily notified thereof;

e) the disclosure of information is necessary for the investigation of a particularly serious crime. In this case the disclosed information shall be limited to the maximum extent and the respective party shall be preliminarily notified thereof;

f) the disclosure of the content of an agreement resulting from mediation is necessary for its voluntary fulfilment or its enforcement;

g) a legal or disciplinary dispute has been raised against the person disclosing information and it has derived from the mediation process and, at the same time, the disclosure of such information is necessary for the protection of the legal interests of that person;

h) the information, disclosed during the mediation process on condition of maintaining confidentiality, had been known to the party before the initiation of mediation, or the party had obtained such information by other means determined by law, or the information had become public otherwise so that the party has not violated, either directly or indirectly, the obligation of confidentiality determined by this article.

5. In the cases determined by paragraph 4 of this article, confidential information may be disclosed to an authorised person or body only to the extent that is adequate and proportional to the legitimate purpose, so that the confidentiality



of the information from a third person is maintained to the maximum extent.

6. Before the initiation of mediation, a mediator shall be obliged to inform the parties about the obligation to maintain confidentiality and the scope of confidentiality.

7. The obligation to maintain confidentiality shall also apply after the completion of mediation, unless otherwise provided for by a written agreement concluded between the parties and a mediator.

8. In the case of disclosure of confidential information as provided for in paragraph 4 of this article, the person receiving the information is obliged to protect the information from dissemination.

Article 11 – Procedure and conditions of payment of remuneration of a mediator

1. The procedure and conditions of payment of remuneration of a mediator participating in the private mediation process shall be determined by an agreement concluded between the parties and the mediator.

2. Unless otherwise provided for by a mediation agreement, the expenses incurred by a party shall be born by that party, while the joint expenses related to the mediation process shall be equally distributed between the parties.

3. A mediator participating in the judicial mediation process shall be obliged to conduct judicial mediation on the number of cases, annually determined by a judicial mediation programme, free of charge (Pro Bono Mediation).

4. Except for the case determined by paragraph 3 of this article, the remuneration of a mediator participating in the judicial mediation process shall be paid from the funds allocated from the State Budget of Georgia for the common courts of Georgia for financing judicial mediation programmes, unless the High Council of Justice of Georgia establishes a different procedure of payment of remuneration of a mediator participating in the judicial mediation process according to the cost of the subject matter of a dispute. The procedure of payment of remuneration of a mediator participating in the judicial mediation process shall be approved by the High Council of Justice of Georgia.

Article 12 – Period of limitation of a claim

1. The period of limitation of a claim, determined by the Civil Code of Georgia, shall be suspended from the moment of initiation of private mediation.

2. The period of limitation of a claim shall be considered suspended until the completion of private mediation, but until not more than two years after the initiation of private mediation. If private mediation is unsuccessful, the time, during which the period of limitation of a claim has been suspended, shall not be included in that period.

Article 13 – Enforcement of an agreement resulting from mediation

1. Upon the agreement between the parties, an agreement resulting from mediation may be enforced by a court.

2. One or both of the parties may apply to a court with the request to enforce an agreement resulting from mediation.

3. A court shall review the issue of enforcement of an agreement resulting from mediation according to the procedures established by this Law and the Civil Procedure Code of Georgia.

Chapter III – The Georgian Association of Mediators

Article 14 – Composition and functions of The Georgian Association of Mediators, the Unified Register of Mediators

1. The Georgian Association of Mediators (hereinafter ‘the Association of Mediators’) is a membership-based legal entity under public law established under this Law that ensures the self-regulation of mediators.

2. Article 11 of the Law of Georgia on Legal Entities under Public Law shall not apply to the Association of Mediators.



3. The members of the Association of Mediators are the mediators registered with the Unified Register of Mediators.
4. A legally competent natural person with no criminal record, who has completed a mediation training/training for mediators in accordance with a certification programme for mediators and who holds a certificate issued by the Association of Mediators, may be registered with the Unified Register of Mediators.
5. A certification programme for mediators shall establish the minimum standards for a mediation training/training for mediators and shall determine the content and duration of the trainings, the qualification of the trainers, the procedure for testing the knowledge acquired as a result of the trainings and other issues related to the trainings. A certification programme for mediators shall be approved by the Association of Mediators.
6. Upon the consent of the Association of Mediators, the right to organise and provide a mediation training/training for mediators shall be granted to an institution/organisation, the standard of the mediation training/training for mediators offered by which meets the conditions established by a certification programme for mediators. The Association of Mediators shall determine the list of international programmes, the mediation training/training for mediators offered/provided by which meets the conditions established by a certification programme for mediators.
7. The Unified Register of Mediators shall be published on the website of the Association of Mediators. The Unified Register of Mediators shall include at least the following data:
 - a) name and surname of a mediator;
 - b) date of birth of a mediator;
 - c) qualification and/or academic status of a mediator;
 - d) date of registration of a mediator with the Unified Register of Mediators.
8. The supreme body of the Association of Mediators is the General Meeting of the Association of Mediators, which comprises the mediators registered with the Unified Register of Mediators. The frequency of holding and the legal capacity of the General Meeting of the Association of Mediators as well as the procedure of making decisions by the General Meeting shall be determined by the Statute of the Association of Mediators.
9. The functions of the General Meeting of the Association of Mediators are as follows:
 - a) to approve and make amendments to the Statute of the Association of Mediators;
 - b) to elect and dismiss the Chairperson of the Association of Mediators;
 - c) to establish the Executive Board and, if necessary, other bodies of the Association of Mediators according to the procedure determined by the Statute of the Association of Mediators;
 - d) to approve a certification programme for mediators;
 - e) to approve the common ethical standards of mediators registered with the Unified Register of Mediators and the procedure for carrying out disciplinary proceedings against them;
 - f) to hear an annual report of the Executive Board of the Association of Mediators;
 - g) to determine a standard membership fee of the Association of Mediators.
10. The main principles and areas of activities of the Association of Mediators, the grounds and conditions for becoming a member of or terminating the membership of the Association of Mediators, and other issues related to the activities of the Association of Mediators shall be determined by the Statute of the Association of Mediators.

Article 15 – Executive Board of the Association of Mediators

1. The Executive Board of the Association of Mediators (hereinafter ‘the Executive Board’) shall ensure certification of



mediators and administration of the Unified Register of Mediators.

2. The functions of the Executive Board are as follows:

- a) managing the Association of Mediators in a collegiate manner;
- b) approving the staff list of the Association of Mediators;
- c) planning and implementing trainings and educational programmes for upgrading the mediators' qualifications;
- d) drawing up and providing to the mediators the recommendations on the introduction and development in Georgia of the best practices established in the area of mediation;
- e) facilitating the universal accessibility of mediation and cooperating with the state bodies and non-governmental organisations for that purpose;
- f) examining the compliance of the standard of a mediation training/training for mediators offered by an institution/organisation with the conditions of a certification programme for mediators, and approving the organisation and provision of such trainings;
- g) determining the list of international programmes, the mediation training/training for mediators offered/provided by which meets the conditions established by a certification programme for mediators;
- h) ensuring, within its competence, the uniform application by the mediators participating in the judicial mediation process of the common ethical standards of mediators registered with the Unified Register of Mediators;
- i) carrying out disciplinary proceedings against and imposing disciplinary liabilities on the mediators registered with the Unified Register of Mediators, who violate the common ethical standards of mediators registered with the Unified Register of Mediators, if the respective powers are not delegated to other body under the Statute of the Association of Mediators;
- j) protecting, within its competence, the rights of the mediators;
- k) preparing and submitting to the General Meeting of the Association of Mediators an annual report on the development of judicial mediation and on the situation in the area of mediation.

3. The work of the Executive Board shall not be remunerated.

4. The administration and organisational and analytical support of the activities of the Executive Board shall be provided by the secretariat of the Executive Board.

5. The main principles and areas of activities of the Executive Board as well as other issues related to the activities of the Executive Board shall be determined by the Statute of the Association of Mediators.

Article 16 – Chairperson of the Association of Mediators

1. The General Meeting of the Association of Mediators shall elect the chairperson of the Association of Mediators from the members of the Association of Mediators for a term of 4 years.

2. The chairperson of the Association of Mediators shall be at the same time the chairperson of the Executive Board, and shall represent the Association of Mediators.

Article 17 – Sources of financing of the Association of Mediators

The sources of financing of the Association of Mediators are as follows:

- a) membership fee of the Association of Mediators;



- b) grants and donations;
- c) special-purpose funds allocated from the State Budget of Georgia;
- d) revenues from the services provided under an agreement;
- e) other revenues earned as a result of operation of the Association of Mediators that are permitted by the legislation of Georgia.

Chapter IV – Transitional and Final Provisions

Article 18 – Transitional provisions

1. The High Council of Justice of Georgia shall approve a form of the Unified Register of Mediators before 1 October 2019.
2. Before 1 December 2019, the High Council of Justice of Georgia shall register with the Unified Register of Mediators a legally competent natural person with no criminal record, who holds a document certifying the completion of at least 40 hours of mediation training/training for mediators and who has conducted at least one judicial mediation for the past two years before the entry into force of this Law.
3. Before 15 December 2019, the High Council of Justice of Georgia shall hold the first meeting of the persons registered with the Unified Register of Mediators, which shall approve the Statute of the Association of Mediators and shall elect the bodies and officials determined by this Law and the Statute. The first meeting shall make a decision by the majority of the attendants. The first meeting shall be authorised if attended by at least half of the persons registered with the Unified Register of Mediators. If the first meeting fails to make the decisions determined by this paragraph, the High Council of Justice of Georgia shall hold the following meeting within 10 days after the date of the first meeting.
4. Any mediation initiated before 1 January 2020 shall be completed according to the procedure applicable before 1 January 2020.

Article 19 – Entry into force of this Law

1. This Law, except for Articles 1-17 and Article 18(4) of this Law, shall enter into force upon its promulgation.
2. Articles 1-17 and Article Article 18(4) of this Law shall enter into force on 1 January 2020.

President of Georgia Salome Zourabichvili

Tbilisi

18 September 2019

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