



**MEDIATION IN DISPUTE RESOLUTION, LAW**

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**LAW**

No 10 385, dated 24.2.2011

**ON MEDIATION IN DISPUTE RESOLUTION<sup>1</sup>**

Pursuant to articles 78 and 83 point 1 of the Constitution, on proposal of the Council of Ministers,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

**GENERAL PROVISIONS**

**Article 1**

**Meaning of mediation**

*(amended by law no. 26/2018, article 1)*

1. Mediation is an extrajudicial whereby the parties seek resolution of a dispute with the assistance of a third neutral party (mediator) in order to reach an acceptable agreement on the resolution of the dispute, which is not contrary to the law.
2. Mediation for amicable resolution of disputes is an independent activity which is exercised in line with this law and under **the monitoring and oversight** of the Ministry of Justice.
3. The mediators are not entitled to order or to oblige the parties to accept the resolution of the dispute.

<sup>1</sup> Approximated with Directive 2008/52/EC "On certain aspects of mediation in civil and commercial matters", CELEX 3200810052

[Amended by law no. 81/2013, dated 14.02.2013](#)

[Amended by law no. 26/2018, dated 17.05.2018](#)

**Article 1/1**

**Scope of the law**

*(added by law no. 26/2018, article 2)*

This law sets out:

- a) general principles of mediation;
- b) disputes where mediation is applicable;
- c) organization and functioning of bodies provided for by this law;
- d) the rights, obligations and responsibilities of the mediator.

**Article 1/2**

**Definitions**

*(added by law no. 26/2018, article 3)*

In this law, the following terms shall have these meanings:

- a) "*Mediation*" is the procedure of out-of-court dispute resolution, whereby two or more parties to a dispute, on a voluntary basis, attempt by themselves to settle their dispute with the assistance of a mediator.
- b) "*Mediation delegated by the court or prosecutor*" is a mediation procedure initiated after the litigant parties have been made aware by the court on the possibility of resolving the dispute through mediation, acceptance of the parties, and transfer by the court of the case for mediation, in accordance with this law, the Code of Civil Procedure and the Code of Criminal Justice for Children;
- c) "*Mediator*" is the person licensed and registered in the Register of Mediators, voluntarily chosen by the parties among the mediators included in the list of licensed mediators, who is asked to conduct a mediation in an impartial, appropriate and effective way, in accordance with the provisions of this law;
- ç) "*Mediation fees*" are the remuneration fees for the work of the mediator during the course of the mediation procedure;
- d) "*Mediation expenses*" are the expenses incurred by the mediator in the course of his/her mediation activity;
- e) "*Chamber*", in the meaning of this law, is the National Chamber of Mediators;
- ë) "*Member of the Chamber*" is any individual registered and licensed as a mediator, who exercises the profession individually as a natural person, or as a constituent part of a legal person, and pays the yearly periodic membership fee for the National Chamber of Mediators;
- f) "*Register of Mediators*" is a register containing data on all the licensed mediators, established and administered by the Ministry of Justice in accordance with the provisions of this law;
- g) "*List of licensed mediators*" is an extract of the Register of Mediators, which is administered and updated by the Ministry of Justice in accordance with the provisions of this law.

**Article 2**

**Scope of application**

*(amended by law no. 26/2018, article 4)*

1. Mediation, according to this law, shall apply for the resolution of all disputes foreseen in paragraph 2 and 3 of this article at any moment such mediation is requested and accepted by the parties in their free will,

as an alternative for dispute resolution, notwithstanding the fact that the dispute has been presented to the body assigned by the law to settle it. The provisions of this law apply even in those cases where the court or the respective state body, after being put in motion for the resolution of the dispute, **notifies and invites** the parties towards mediation, according to points 4 and 5 of this article.

2. Mediation applies for the resolution of all the disputes in civil law, **commercial, labour and family law, intellectual property, consumer rights, as well as disputes between public administration organs and private subjects.**
3. Mediation in criminal matters applies to disputes examined by the court at the request of the **accusing victim**, or upon complaint of the injured party, according to article 59 and 284 of the Code of Criminal Procedure, and also to any other cases allowed by special law. **For mediation in criminal cases involving children shall be applied the provisions of the Code of Criminal Justice for Children.**
4. The court, or the respective state body, within the competences foreseen by the law, **shall notify, guide and, as applicable, clearly and understandably inform** the parties to resolve disputes through mediation, in particular, but not limited only, to disputes:
  - a) in civil and family cases, which involve interests of the minors;
  - b) in conciliation cases in the instances of dissolution of marriage, foreseen in article 134 of the Family Code;
  - c) of a pecuniary character **related to the rights of ownership or co-ownership, division of property, lawsuits for soliciting of the thing, denying lawsuits and lawsuits for the cessation of the adverse effect on possession, disputes arising from the breach of contractual obligations, as well as those that have as the subject matter the compensation for non-contractual damages;**
5. In case of disputes in criminal matters, the court, where the criminal proceedings has initiated, **shall notify and invite** the parties to settle through mediation disputes foreseen in point 3 of this article.
6. **If the parties by contract or written agreement have foreseen the condition that mediation will be the preliminary first alternative of conflict resolution, prior to the judicial route, the court shall not take into consideration the case without this contractual condition being fulfilled.**
7. For cases, that concern procedures that are not regulated by this law, in the mediation activity, as far as possible, there shall apply legal provisions that regulate other proceedings, considering the legal nature of the case.
8. The provisions of this law shall apply, to the greatest possible extent, even to the mediation procedure for the resolution of disputes in the cases when at least one of the parties resides outside the Republic of Albania.

### **Article 3**

#### **Principles**

*(amended by law no. 26/2018, article 5)*

1. Mediation is based on the principle of equality of parties, confidentiality of information and respect for flexibility and transparency of the procedures and will of the parties in the process.

2. The mediator, in exercising his/her function, ensures **that the process for the resolution of the case is implemented** in an effective, fair and impartial way, as well as in a professional manner and without prejudice towards the parties or the case, scope to mediation.
3. Mediation is voluntary and the parties in the dispute are free:
  - a) to choose mediation, as a possibility for the resolution of the disputes provided in this law;
  - b) to define the conditions, the procedure and the time limits, to the extent they are allowed;
  - c) to renounce, at any time, from the resolution of the dispute through mediation.
4. The mediator is not responsible if the parties do not reach an agreement for the settlement of the conflict through mediation, or the agreement is reached, but it is not implemented by the parties.

## CHAPTER II

### **LICENCING OF THE ACTIVITY OF MEDIATION**

*(amended title by law no. 26/2018, article 6)*

#### **Article 4**

#### **Licensing**

*(amended by law no. 26/2018, article 7)*

1. The mediator exercises the activity, as a natural or legal person, after his/her licensing and registration with the Register of Mediators, according to this law.
2. The mediator, upon successful completion of the initial training and the qualifying examination, has the right to present the documentation for being granted the licence of mediator with the Minister of Justice.
3. The Minister of Justice shall licence, within 45 days from the submission of the request for licensing, the subjects interested **that fulfil the criteria of article 5 of this law** for exercising the activity of mediation, which register ~~as natural or legal person, with the competent bodies and~~ at taxation bodies, in line with the legal acts in force. The activity of these subjects is under category XI.3 of the Appendix attached to law no.10081 of 23 February 2009 "On licences, authorizations and permits in the Republic of Albania", amended.
- 3/1. The licence of mediator is granted in an individual nominative manner for each individual that fulfils the criteria to be licenced and registered as mediator.
4. The Register of Mediators exercising mediation activity as a profession and the list of the respective mediators are established at the Ministry of Justice.
5. The Register of Mediators must consist of:
  - a) Identity, residence, licence number, starting date of the activity of the mediator and address of the place where mediation activity takes place, ~~in case of natural persons;~~

- b) Name, type and seat of the legal person created in accordance with the legislation on traders and trading companies, where the mediator exercises his/her activity in the capacity of owner/shareholder, administrator or employee.
6. The form, contents and the rules of administration of the Register of Mediators and of the personal file of mediators are defined by order of the Minister of Justice. The Ministry of Justice updates at least yearly this register and ensures its publication.

## Article 5

### Criteria for licencing

*(amended title and content by law no. 26/2018, article 8)*

1. The Albanian ~~or foreign~~ citizens ~~who seek to exercise the profession of the mediator~~ must fulfil simultaneously these requirements in order to be licenced as mediators:
  - a) to have completed study programmes of the **second** cycle, according to the specifications of the legislation on higher education;
  - b) to be over **28** years of age;
  - b/1) to have work experience of not less than three years;
  - c) to have not been convicted for the intentional commission of criminal acts, by final court decision;
  - ç) to have successfully passed the mediator qualification exam, after completion of the initial training programme.
2. The requirements foreseen in point 1 of this article must be complied with even in the case when the special law imposes additional criteria for the mediators of special mediation procedures.
3. Mediators for cases relating to children, shall have the proper qualification and specialisation in these fields and shall preferably have graduated as psychologists, lawyers or social workers.
4. Mediators for cases of commercial nature shall have the proper qualification and specialisation in these fields and shall preferably have graduated as lawyers, economists or engineers.
5. The license for performing the profession of mediator is granted also to foreign citizens that have been licenced in their countries as mediators. The rules and procedure for recognition of the title of mediator earned in a foreign country, shall be shall be defined by order of the Minister of Justice.

## Article 5/1

### Obligatory training of mediators

*(added by law no. 81/2013, article 1; amended by law no. 26/2018, article 9)*

1. The program of initial and continuous training of mediators is offered, at least once a year, by the National Chamber of Mediators.
2. Initial training may be offered also by higher education institutions, accredited according to law, whose program has been previously approved by the Ministry of Justice.

3. At the end of the initial training, a mediator qualification exam is held. The qualification exam is organised at least once a year by the Ministry of Justice, in cooperation with the National Chamber of Mediators.
4. After licencing and registration in the Register of Mediators, the mediator has the obligation of the attendance to continuous training programs.
5. Detailed rules on the duration of the initial and continuous training, the contents and organization of the initial and continuous training, selection of trainers, training of trainers, evaluation of their performance, organisation and evaluation of the exam, shall be determined by order of the Minister of Justice, after the proposal of the Chamber.

## **Article 6**

### **Removal of the licence of mediator**

*(amended by law no. 26/2018, article 10)*

1. The mediator shall be revoked of the licence and deregistered from the register if he/she:
  - a) renounces, at own request, from the exercise of the profession of the mediator;
  - b) loses or is restricted the capacity to act;
  - c) is convicted by a final court decision for an intentionally committed criminal act;
  - ç) violates the provisions of this law or the Code of Ethics;
  - d) does not exercise the activity as mediator for two consecutive years. For the purpose of evaluating the exercise of the activity, consideration is given to the data from the tax authorities, the existence of the cases undertaken as mediators and attendance of continuous training.
2. *Repealed.*
3. *Repealed.*

## **Article 6/1-a**

### **Responsibilities of the Minister of Justice**

*(added by law no. 26/2018, article 11)*

The Minister of Justice exercises the following responsibilities:

- a) issues the licence of mediator;
- b) begins the disciplinary proceeding as per letter “b)”, of article 11/3 of this law, as well as decides regarding the disciplinary measure of removal of the licence for the exercise of the profession of mediator;
- c) supervises, through the structures of the Ministry of Justice, the implementation of this law and the other legal and sub-legal acts, related to the activity of mediators;
- ç) adopts rules and procedures for recognition of the title of mediator acquired in a foreign state.

## **Article 6/1**

### **Appeal**

*(added by law no. 81/2013, article 2; amended by law no. 26/2018, article 12)*

Against the decision for refusal of the licence, as well as the order of the Minister of Justice for taking the disciplinary measure of removal of licence, an appeal may be made to the Administrative Court within 45 days from the date of notification.

The order of the Minister of Justice, after the expiry of the appeal period or when it is left in force by the court, is evidenced in the register of mediators.

## CHAPTER II/1

### **NATIONAL CHAMBER OF MEDIATORS**

*(added chapter title by law no. 26/2018, article 13)*

#### **Article 7**

##### **National Chamber of Mediators**

*(amended by law no. 26/2018, article 14)*

1. The National Chamber of Mediators is a legal entity, which exercises its activity independently from the state.
2. The steering bodies of the National Chamber of Mediators are the general meeting of mediators, the steering council and the chairperson.
3. The National Chamber of Mediators has the following responsibilities:
  - a) takes measures for regulation and control of the exercise of the mediation activity in the Republic of Albania;
  - b) approves the acts governing the mediation activity as a profession and the Code of Ethics of Mediators;
  - c) approves its statute, defining the detailed rules of organisation and functioning of the National Chamber of Mediators;
  - ç) opens and closes local branches, in compliance with the provisions of this law;
  - d) proposes the fees of compensation, for the work of the mediator, which are approved by joint instruction of the Minister of Justice and Minister of Finance.
  - dh) drafts the programme and ensures participation of mediators in the programmes of initial and continuous training;
  - e) monitors the continuous training process of mediators;
  - ë) takes care for awareness-raising and dissemination of the necessary information to the public on the mediation activity in the resolution of disputes and on the possibility of establishing communication with the mediators.
4. The National Chamber of Mediators, in order to run its activity and in the framework of quality and effectiveness of mediation process may conclude cooperation agreements with the Probation Service, the School of Magistrates, the School of Advocates, higher education institutions, national and international non-for-profit organizations, the State Agency for Protection of Child Right, Units for the Protection of Children, specialised services, and other justice system bodies.

## **Article 7/1**

### **General meeting of mediators**

*(added by law no. 26/2018, article 15)*

1. The General meeting of mediators is composed of all the members of the Chamber and is the highest decision-making body of the National Chamber of Mediators.
2. The General meeting is chaired by the Chairperson of the National Chamber of Mediators.
3. The General meeting has the following competences:
  - a) decides on the general policies of the National Chamber of Mediators;
  - b) examines and approves the Statute of the Chamber;
  - c) approves the Code of Ethics of Mediators;
  - ç) proposes to the Minister of Justice for approval, the program of initial training, the regulation on initial training and the programme of continuous training, the rules for selection of trainers, training and performance evaluation of trainers, rules for the organisation and evaluation of the qualifying exam;
  - d) elects, and dismisses, the members of the Steering Council and the Chairperson of the Chamber;
  - dh) adopts the annual budget of the National Chamber of Mediators and the annual financial report prepared by the Steering Council;
  - e) adopts the annual report of the Steering Council on the administration of the Chamber;
  - ë) approves the opening and closing of the local branches of the National Chamber of Mediators;
  - f) decides on other strategic issues connected with the profession of mediator and the activity of the National Chamber of Mediators;
  - g) performs other duties that are expressly imposed on it by this law.
4. More detailed rules on the organization and functioning of the General Meeting shall be set out in the Statute of the National Chamber of Mediators.

## **Article 7/2**

### **Steering Council**

*(added by law no. 26/2018, article 15)*

1. The Steering Council is composed of the Chairperson of the Chamber, as well as 6 members elected by secret ballot from the General meeting of mediators.
2. The member of the Steering Council carries out a 3-year term, with the right to successive re-election.
3. The Steering Council is the executive body of the National Chamber of Mediators.



4. For the annual audit of the financial statements of the Chamber, the Steering Council appoints registered auditing expert(s) or an audit firm, duly licensed in the relevant field.
5. The Steering Council shall have the following competences:
  - a) executes the decisions of the General meeting;
  - b) administers the funds and assets of the National Chamber of Mediators;
  - c) drafts the Statute of the National Chamber of Mediators, and its amendments;
  - ç) drafts the Code of Ethics of the Mediator, drafts acts for the exercise of the mediator profession, and present them before the General meeting for approval;
  - d) prepares and proposes the draft programme for initial training program, the draft regulation on initial training and the draft programme for continuous training, the rules for selection of trainers, training and performance evaluation of trainers, rules for the organisation and evaluation of the qualifying exam;
  - dh) prepares the annual budget of the Chamber and the annual financial report, and presents them to the General meeting for approval;
  - e) prepares its annual report on the administration of the National Chamber of Mediators, and presents it before the General meeting for approval;
  - ë) decides on the annual membership fee of the National Chamber of Mediators;
  - f) proposes rules for remuneration fees for the work of the mediator and submits them to the Minister of Justice and the Minister of Finance for approval;
  - g) performs other duties that are expressly imposed on it by this law.
6. The Steering Council shall convene at least four times per year. The meeting of the Steering Council is convened by request of the Chairperson, or of one third of the members of the Steering Council.
7. More detailed rules on the organization and functioning of the Steering Council shall be set out in the Statute of the National Chamber of Mediators.

### **Article 7/3**

#### **Chairperson of the Chamber**

*(added by law no. 26/2018, article 15)*

1. The Chairperson represents the National Chamber of Mediators in all relations with third persons, inside and outside the country.
2. The Chairperson shall be elected from among members of the General meeting of the Chamber, through secret ballot, for a term of 4 years, with the right of re-election only once.
3. The Chairperson has the following competences:
  - a) signs all the acts of the National Chamber of Mediators;

- b) delegates by writing the representation function of the National Chamber of Mediators in relationships with third parties within or outside the state, a designated individual, or a representative delegation, whenever deemed appropriate;
  - c) ensures the administrative and financial economic functioning of the activities of the National Chamber of Mediators.
4. More detailed rules on the exercise of the functions of the Chairperson shall be provided in the Statute of the National Chamber of Mediators.

## **Article 8**

### **Local branches**

*(added by law no. 26/2018, article 16)*

1. The local branches of the National Chamber of Mediators do not have independent legal personality. They act in coordination with the National Chamber of Mediators.
2. The organization, functioning, structure and minimum number of mediators that may establish a local branch shall be defined in the Statute of the National Chamber of Mediators.

## CHAPTER II/2

### **RIGHTS AND OBLIGATIONS OF MEDIATORS**

*(added chapter title by law no. 26/2018, article 17)*

## **Article 9**

### **Rights of the mediator**

*(amended title and content by law no. 26/2018, article 18)*

1. The mediators, that exercise this activity as a profession, are entitled to seek and to be remunerated for their work, as well as for the expenses incurred during the procedure of mediation, pursuant to the terms of the mediation agreement, signed by the parties.
2. The mediator chosen by the parties to a dispute is not obliged to sign a mediation agreement. In this case, he/she is not obliged to reason his/her decision.

## **Article 10**

### **Obligations of the mediator**

*(amended title and content by law no. 26/2018, article 19)*

1. The mediator shall exercise his/her profession, with impartiality, fairness and professionalism, shall observe the rules of professional ethics and use all the legal means for the firm resolution of disputes.
2. The mediator does not provide legal consultation.
3. The mediator maintains confidentiality of data of which he/she has become aware due to a mediation procedure, in relation with any of the parties or other persons outside the mediation procedures, exempt from the case when the party, which data become public or processed under the meaning of the legislation on protection of personal data, has given its written approval.
4. The mediator keeps professional secret and may not be obliged to testify on facts and circumstances of which he may be aware during the exercise of the mediation activity, **unless it is given written consent of all parties in the mediation.**
5. The mediator, unless otherwise agreed by the parties, must not act as an arbitrator for the resolution of a dispute which has been or is subject to mediation proceedings, **where has been mediator** or for the resolution of another dispute, which derives from the same relationship that is subject to mediation proceedings.
6. The mediator, upon completion of the mediation procedure, shall notify in writing within the time limits specified in this law, the court, the prosecutor's office or arbitration aiming at the initiation of the suspended procedures for the effect of mediation.

## Article 11

### Conflict of interest

1. The mediator shall make sure that there is no conflict of interest between him/her and the parties to a mediation procedure. In case of doubts concerning its independence and impartiality, the mediator renounces from the mediation proceedings.
2. Conflict of interest shall be considered in case:
  - a) the mediator has a personal interest directly linked with him/her or his/her relatives in the case over which mediation is requested;
  - b) the mediator is guardian or representative of one of the parties;
  - c) the mediator him/herself, his/her spouse or relatives of the second degree are in a judicial conflict, in a loan or borrowing agreement with one of the parties;
  - ç) there is in place a serious and sufficient reason which indicates the situation of the conflict of interest.
3. When a person is given the possibility to be selected as mediator, he/she must declare and inform the parties of any circumstances which may damage or raise doubts concerning his/her impartiality and independence over the case which is subject to mediation.
4. The mediator, starting from the moment of appointment to this position and during the mediation procedure, must declare immediately to the parties any circumstances which may constitute a violation or suspicion of his/her impartiality and independence.

CHAPTER II/3

**OVERSIGHT AND DISCIPLINARY PROCEEDINGS**

*(added chapter title by law no. 26/2018, article 20)*

**Article 11/1**

**Control of the activity of mediators by the Ministry of Justice**

*(amended by law no. 26/2018, article 21)*

The activity of mediators is subject to control for the verification of compliance of legal requirements by the Ministry of Justice, in accordance with this law and the legislation in force on inspections in the Republic of Albania, while guaranteeing in any instance the right to be informed, to seek clarification on the facts, to be heard and to be defended.

**Article 11/2**

**Disciplinary Board**

*(amended by law no. 26/2018, article 21)*

1. The Disciplinary Board of Mediation shall consist of five 5 (five) members, where 4 (four) members are selected by the General meeting of mediators and one (1) are selected from the Minister of Justice. The decisions of the general meeting for the selection of the members of the Disciplinary Board are valid when more than half of all members are present. The Chairperson shall be elected by majority of all the members of the Disciplinary Board, from among the members selected by the general meeting.
2. The term of office of the members of the Disciplinary Board is 5 (five) years. The members of the Disciplinary Board of Mediation may not at the same time be members of other governing bodies of the National Chamber of Mediation.
3. In case of a tie vote in the Disciplinary Board of Mediation, the vote of the head of the meeting shall be the defining one.
4. Members of the Disciplinary Board of Mediation must meet high standards of professionalism, integrity and personality. They are independent and impartial in their decision.
5. Members of the Disciplinary Board of Mediation should withdraw from consideration of the cases, when they have a conflict of interest, or there are doubts about their impartiality.
6. More detailed rules on the functioning the Disciplinary Board, on the selection and remuneration of its members, shall be defined in the Statute of the Chamber.

**Article 11/3**

**Commencement of disciplinary proceedings**

*(amended by law no. 26/2018, article 21)*

1. The disciplinary proceeding against a mediator shall begin on the basis of a complaint filed before the Disciplinary Board, by:
  - a) steering bodies of the National Chamber of Mediators;
  - b) the Minister of Justice;
  - c) parties that have taken part in the mediation carried out by the mediator in question;
  - ç) other state bodies as provided by special laws.
2. Complaints may be filed within 30 days from the day that the party has become aware of the misconduct, but not later than 2 years from moment the misconduct occurred.

#### **Article 11/4**

##### **Causes for disciplinary proceedings**

*(amended by law no. 26/2018, article 21)*

A disciplinary proceeding against a mediator shall commence on a complaint made against him/her by the subjects described in article 11/3 of the law, classified as:

- a) "unprofessional conduct", which include actions contrary to legal and sub-legal provisions, the Statute and the Code of Ethics of Mediators;
- b) "inappropriate professional services", which include actions or omissions toward the parties to the mediation, which are non-compliant with this law.

#### **Article 11/5**

##### **Disciplinary proceedings**

*(amended by law no. 26/2018, article 21)*

1. The Disciplinary Board shall commence the disciplinary proceedings through selecting by lot one of the members elected by the general meeting, as investigator of the case. The investigating member begins the administrative investigation and, within 30 (thirty) days from the date of filing of the complaint, submits to the Disciplinary Board a final report on the administrative investigation, together with the proposal for the disciplinary measure. The investigating member shall not take part in the final vote of the Disciplinary Board with regard to the disciplinary proceeding.
2. The investigating member, when evaluating that there are no legal grounds under the provisions of Articles 11/3 and 11/4 of this law, prepares a report with regard to the grounds for refusal of the complaint and within 7 days forwards this Report to the Disciplinary Board.
3. The Disciplinary Board, when evaluating that there are not enough facts to justify initiation of the investigation, shall decide refusal of examination of the complaint.

4. In the cases when the report does not contain clear information, by a written and reasoned decision, the Disciplinary Board shall return the case to the investigating member for continuing with the administrative investigation.
5. The investigating member and the Disciplinary Board, during the examination of the case, applies *mutatis mutandis* the rules of the Code of Administrative Procedures. The mediator has the right to be heard, to seek clarification of the facts and circumstances, and to be defended by himself, or through a legal representative appointed by him/her.
6. The Disciplinary Board concludes the examination of a disciplinary proceeding within 60 (sixty) days from the moment of filing of the complaint. Exceptionally, in justified cases this period may be extended for further 30 days, by a reasoned decision of the Disciplinary Board.

#### **Article 11/6**

##### **Disciplinary measures**

*(amended by law no. 26/2018, article 21)*

1. The Disciplinary Board, in proportion with the nature and gravity of the offence, imposes one of the following disciplinary measures:
  - a) a written warning;
  - b) ordering the mediator to undertake additional continuous training, including training in professional ethics and/or training in a particular field of mediation as well as the duration of the training;
  - c) a fine of 50,000 (fifty thousand) to 300,000 (three hundred thousand);
  - ç) temporary suspension of the exercise activity for a period of up to 1 (one) year;
2. The fine may be associated cumulatively with other disciplinary measures, foreseen in letters 'b' and 'ç' of paragraph 1 of this Article.
3. For the infractions foreseen in article 6 of this law, the Disciplinary Board recommends to the Minister of Justice the removal of the licence for exercise of the profession of mediator.

#### **Article 11/7**

##### **Conclusion of the disciplinary proceeding**

*(amended by law no. 26/2018, article 21)*

1. At the conclusion of the disciplinary proceeding, the Disciplinary Board shall take a decision by a majority vote of members with the right to vote.
2. For the disciplinary measures foreseen in letters 'b' and 'ç' of paragraph 1, of article 11/6, their execution shall be followed up by the National Chamber of Mediators. In any instance, the Chamber shall notify the Minister of Justice in connection with the execution of disciplinary measures.

3. Final decisions of the Disciplinary Board shall be made public in the official website of the National Chamber of Mediators, while ensuring protection of personal data, in accordance with the applicable legislation.
4. Against the decisions of the Disciplinary Board of Mediation may be made an appeal within 45 days to the competent court for administrative matters.

### **Article 11/8**

#### **Termination of previous disciplinary measures**

*(amended by law no. 26/2018, article 21)*

1. The disciplinary measures provided in this law are considered not issued where since the date of their issue:
  - a) has passed one (1) year from the issuance of disciplinary measure of written reprimand;
  - b) has passed one (1) year and 6 (months) from the moment of completion of the additional continuous training, for the disciplinary measures according to letter 'b)', of article 11/6;
  - c) has passed two (2) years from issuance disciplinary measure, a fine of 50,000 (fifty thousand) to 300,000 (three hundred thousand);
  - ç) has passed three (3) years from the moment of completion of the time limits of temporary suspension of exercise of the activity for disciplinary measures given according to letter 'ç', of article 11/6.
  - d) has passed five (5) years from the date of withdrawal of the licence.

## CHAPTER III

### **MEDIATION PROCEDURE**

#### **Article 12**

##### **Mediation procedure**

*(amended by law no. 26/2018, article 22)*

1. The mediation procedure shall commence after the date of submission of the invitation for mediation by at least one party to the dispute, according to this law, or from the date of referral of the case by the court, **the prosecution office or other competent state organs**, for its settlement by mediation.
2. If a party in the dispute requires by another party to follow the mediation procedures according to this law, and the latter fails to reply to this request within 30 days from the date the invitation is sent or within the time limit defined in the invitation, the requesting party may consider this as refusal of the invitation to mediate.

The invitation for mediation submitted by one party to the dispute does not stop this party automatically from the initiation of judicial proceedings or arbitration concerning this dispute because of the expiry of the time limits of filing of the lawsuit/action.

### Article 13

#### Procedure for mediation in civil proceedings

*(amended by law no. 26/2018, article 23)*

1. The court, in line with **the provisions** of the Code of Civil Procedure shall **notify and guide** the parties to settle through mediation the dispute which is subject to proceedings, foreseen in article 2, point 2 of this law and when the parties agree, it suspends trial, by setting a deadline to the parties in line with the nature of the dispute, **up to a time limit of 30 days**.
2. Either party has the right to ask for re-institution of proceedings at any time.

### Article 14

#### Procedure for mediation in criminal proceedings

*(amended by law no. 26/2018, article 24)*

1. The court, in line with articles 333 and 338 of the Code of Criminal Procedure shall invite the parties to settle through mediation the dispute which is subject to proceedings, foreseen in article 2, point 3 of this law and by setting a deadline to the parties in line with the nature of the dispute.
2. Either party has the right to ask for re-institution of proceedings at any time.
3. **Mediation in criminal cases involving the interests of children shall be carried out in compliance with the provisions of the Code of Criminal Justice for Children and the provisions of this law.**

### Article 15

#### Freedom of parties for the rules and manner of mediation

*(amended by law no. 26/2018, article 25)*

1. The parties **together with the mediator**, in line with this law, are free to set the rules and the manner of conduction of the mediation.
2. The parties shall choose voluntarily one or more mediators from the Register of Mediators in the Ministry of Justice.

### Article 16

#### Assignment of the mediator

*(amended by law no. 26/2018, article 26)*

1. Where the parties agree on the resolution of the dispute through mediation, they assign jointly the mediator from the list of the licensed mediators, **taking into account the nature of the dispute**.
2. **The list of the licenced mediators must be made known to the public and posted at the official website of the Ministry of Justice, at the National Chamber of Mediators and local branches, mediators' offices exercising mediation, as legal or natural subjects, and also near other institutions.**

### Article 17

#### Conduct of mediation



*(amended by law no. 26/2018, article 27)*

1. The mediator, prior to the initiation of the mediation procedure, is obliged to inform the parties as regards the aims and general principles, role of the mediator and parties in the process, expenses of the mediation process and effects of the mediation agreement.
2. The parties and the mediator shall sign jointly an agreement on the conduction of the mediation process. This agreement shall be made in writing and it must contain:
  - a) personal data of the parties to this agreement and their representatives;
  - b) description of the subject matter of the dispute
  - c) acknowledgement of the principles of mediation according to this law and of the assigned mediator;
  - ç) place of mediation;
  - d) mediation costs and remuneration of the mediator.
3. The mediators, in absence of an agreement on the manner of conduction of the mediation, may conduct mediation in the most proper way for the parties, based on the circumstances of the case, on any requests that may be submitted by the parties and any needs for a fast settlement of the dispute.
4. In any case, the mediator, in implementing the mediation procedures, must ensure **fair and impartial** treatment of parties considering all the circumstances of the case.
5. **Unless otherwise agreed preliminarily by the parties, at any phase of implementation of the procedures of mediation, at the request of or with the consent of the parties, the mediator may propose an amicable resolution of the dispute. Such proposal is not mandatory to be implemented by the parties, unless they both agree.**

## **Article 18**

### **Communication with the parties**

*(amended by law no. 26/2018, article 28)*

1. The mediator, unless otherwise agreed by the parties, may meet or communicate together or separately with the parties.
2. The mediator, after becoming aware of the circumstances and of the data provided by one party in the dispute, may present to the other party the main issues which result from these circumstances, **unless a party has disclosed information to the mediator, which have expressly been stated to be confidential.**
3. **In cases of confidential information, as per paragraph 2 of this Article, disclosure of the information to the other party shall only be made with the consent of the first party.**

## **Article 19**

### **Confidentiality**

1. Unless otherwise agreed by the parties, the entirety of the data and circumstances for the mediation procedure must remain confidential.
2. With the exemption of the rule of maintenance of confidentiality, the data and the content of the reached agreement shall become public if:
  - a) it is necessary because of the violation of fundamental interests of the state and/or public interest
  - b) it is necessary to prevent or stop maltreatment, physical or psychological violence against any person, especially children of disabled persons;
  - c) it is necessary to prevent or stop maltreatment, physical or psychological violence against disabled persons
  - ç) enforcement of this agreement is ensured through the disclosure of data and/or mediation agreement.

## **Article 20**

### **Prohibition to using the data**

1. Unless the parties have agreed otherwise, one party participating in the mediation procedure or a third person, including the mediator, may not ask for or use in judicial proceedings, arbitration or any other similar procedure, evidence or testimony, notwithstanding their form, in the following cases:
  - a) invitation of a party to participate in a mediation procedure or action through which one of the parties has expressed the reluctance to participate in the mediation procedure;
  - b) expressed opinions or suggestions of one party during mediation or by the mediator for the possible resolution of the dispute;
  - c) statements or assertions made by one party during the conduction of a mediation procedure;
  - ç) proposals made by the mediator;
  - d) the fact that one of the parties to the mediation procedure has expressed the will to accept the proposal made by the mediator or settlement of dispute;
  - dh) document prepared only for the purpose of mediation procedure.
2. The rules foreseen in paragraph 1 of this article shall be applied by the court, arbitration and in similar procedures, despite the fact that these bodies consider a dispute that has been or is subject to mediation procedure.

## **Article 21**

### **Termination of the mediation procedure**

The mediation procedure is terminated:

- a) on the day of signing of the agreement for the resolution of the dispute;

- b) on the day of signing of the written statement by the mediator, after consultation with the parties that are mediated, on the reasons why the efforts for further mediation are not justified;
- c) on the day of signing of the written statement by the mediating parties, addressed to the mediator which notifies that the mediation procedure has terminated;
- ç) on the day of signing of the written statement of one party addressed to the other party, the mediator which notifies them of the termination of the mediation procedure;
- d) upon the death of one of the parties in the process;
- dh) upon liquidation of the legal person in the process.

## **Article 22**

### **Act-agreement**

1. When the parties agree on the acceptable resolution of the dispute between them and, together with the mediator, they sign the respective agreement, under the meaning and in implementing the terms, cases, and procedures foreseen by the law. This agreement shall be binding and enforceable similarly as the arbitration decisions.
2. The act-agreement shall define:
  - a) the parties,
  - b) description of the dispute,
  - c) obligations and conditions that the parties impose on each-other, manner and deadline of their fulfilment
  - ç) signature of the parties and the mediator.

The deadline for fulfilment of obligations defined in the agreement shall be set by the parties upon their understanding. The act agreement must contain clearly defined obligations.

3. The act agreement shall be concluded in writing, except for when the mediator and the parties consider it to be concluded verbally given the nature of the dispute and when this is not prohibited by the law.
4. The act agreement is drafted in three copies, one for each party and a copy is deposited with the mediator. The latter is obliged to administer any act-agreement and related documentation according to the rules set by the National Chamber of Mediators.

## **Article 23**

### **Enforcement of the mediation agreement**

*(amended by law no. 26/2018, article 29)*

1. Where the case is referred for mediation by the court **or the prosecutor**, the mediator, upon the **conclusion** of the mediation procedure, or within time limit **as provided in this law**, shall notify them of the resolution or non-resolution of the dispute, through the submission of the respective acts.
2. If the case is settled through mediation, the judicial bodies shall decide, accordingly, the approval of the amicable agreement on the civil case or the cessation of the criminal case, or non-institution of the criminal proceedings, except for the case when it is found invalidity.
- 2/1. If the case is settled through mediation in criminal cases involving children in conflict with the law, the prosecutor/judge will decide to dismiss the case.**
3. The act-agreement, if it complies with the terms of article 22 of this law, shall constitute an executive title and in such case, the bailiff service is responsible for its execution.
4. **Repealed.**

#### **Article 24**

##### **Invalidity of mediation**

1. The resolution of dispute through mediation, under the meaning of this law, is invalid if:
  - a) It is done by persons who are not mediators licences and registered according to this law;
  - b) The dispute, according to the law, must be settled only judicially;
  - c) It contains obligations that have monetary value and it is not drafted in writing.
  - ç) It contains obligations on subjects who are not party to the mediation;
  - d) There has been a simulation and there are causes of invalidity affecting the real conflict.
2. The court except for the cases foreseen in the Civil Code concerning the invalidity of legal acts may consider the settlement reached by mediation to be invalid even if it comes to the conclusion that it does not respect public order in the Republic of Albania.
3. Invalidity of the mediation agreement, according to this law, does not prevent the parties in the conflict from applying the reached agreement, by exercising the rights entitled to them by other laws.

#### **Article 24/1**

##### **Mediation expenses**

*(amended by law no. 26/2018, article 30)*

**The expensed of the mediation procedure shall be paid by the parties proportionally, if in the agreement between them has not been agreed otherwise.**

CHAPTER IV  
**FINAL PROVISIONS<sup>2</sup>**

**Article 25**

**Subordinate legal acts**

1. The Council of Ministers, within 45 from the entry into force of this law shall approve:
  - a) decision foreseen in article 4 point 2 of this law, based on the principle of lawfulness and transparency;
  - b) decision foreseen in article 6 point 4 of this law, based on the principle of lawfulness, equality and non-discrimination, proportionality and transparency.
2. Ministry of Justice, within 45 from the entry into force of this law shall approve the order foreseen in article 4 point 6 of this law, based on the principle of lawfulness.
3. The chamber shall approve the acts governing the activity of mediation as profession and the Code of Ethics of the Mediator, within three months of its setting up.

**Article 26**

**Transitory provisions**

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<sup>2</sup> *Amending law 26/2018, dated 17.05.2018, contains also the following final provisions:*

**Article 31**

**Sublegal acts**

1. The Minister of Justice is tasked to approve the rules and procedures provided for in articles 4, 5 and 5/1, within 3 months from the entry into force of this law.
2. The Minister of Justice and the Minister of Finance are shall approve the sub-legal acts referred in Article 7 and 7/2 of this Law, within 3 months of entry into force of this law.

**Article 32**

**Transitional provisions**

1. Requests for licensing, submitted to the Commission of Licencing of Mediators prior to the entry into force of this law, shall be processed in accordance with the provisions of the law in force at the moment of submission of the request.
2. The Commission of Licencing of Mediators, shall terminate its activity, with the examination of the requests cited in paragraph 1, of this article.

**Article 33**

**Entry into force**

This law comes into force 15 days after its publication in the Official Gazette.

1. Within 6 months from the entry into force of this law, the subjects that have acquired the right to exercise the profession of the mediator, in line with the provisions of law no. 9090 of 26 June 2003 "On mediation in dispute resolution" shall submit the request to the Ministry of Justice for their registration in the Register of Mediators.
2. Where the Ministry of Justice finds that the subjects having submitted the request according to point 1 of this article are registered with the court as natural or legal persons and with the tax authorities according to the law no. 9090 of 26 June 2003 "On mediation in dispute resolution", registers them in the Register of Mediators.

#### **Article 27**

##### **Repeals**

Law no.9090, of 26 June 2003 "On mediation in dispute resolution", shall be repealed.

#### **Article 28**

##### **Entry into force**

This law enters into force 15 days following publication in the Official Gazette.