

The *Saeima*<sup>1</sup> has adopted and the President has proclaimed the following Law:

## **Mediation Law**

### **Chapter I General Provisions**

#### **Section 1. Terms Used in this Law**

The following terms are used in this Law:

- 1) **mediation** – a structured co-operation process on voluntary basis whereby the parties attempt to reach a mutually acceptable agreement on the settlement of their dispute with the assistance of a mediator;
- 2) **parties** – persons who are willing to settle a dispute by using a mediation;
- 3) **participants of mediation** – parties and persons on the participation of which in the mediation the parties have agreed;
- 4) **mediator** – a natural person selected freely by the parties who has agreed to conduct the mediation;
- 5) **certified mediator** – a mediator who in accordance with the procedures laid down in the laws and regulations has acquired mediation and received a certificate which gives the right to be included in the list of certified mediators;
- 6) **mediation contract** – a contract entered into by and between the parties on the use of mediation, which may be drawn up in the form of a separate written document;
- 7) **contract with a mediator** – a contract entered into by and between the parties and mediator on the use of mediation;
- 8) **confirmation regarding result of a mediation** – a written document issued by a mediator in which the parties, the subject-matter of the dispute, the date of terminating the mediation is indicated and which in the cases laid down in this Law confirms termination of the mediation with or without agreement by the parties;
- 9) **agreement** – result of mediation by which the parties settle their disputes and which may be drawn up in the form of a separate written document;

#### **Section 2. Purpose and Scope of Application of This Law**

- (1) The purpose of this Law is to lay down the judicial preconditions to promote the use of mediation as an alternative way for the settlement of disputes by facilitating harmonisation of social relationship.
- (2) Mediation may be used for the settlement of disputes in pre-trial proceedings, as well as in judicial proceedings, if not provided for otherwise in the special legal norms.

### **Chapter II Basic Principles of Mediation**

#### **Section 3. Voluntary Participation**

The parties have the right to decide freely on their participation in mediation, commencement of mediation, selection of a mediator, the course of mediation within limits

<sup>1</sup> The Parliament of the Republic of Latvia

determined by the mediator, discontinuation and termination of mediation with or without entering into an agreement.

#### **Section 4. Confidentiality**

(1) Information that is obtained through mediation or is related thereto shall be confidential, unless the parties have agreed otherwise.

(2) A mediator shall not disclose to a party the information provided by the other party unless the other party has consented to it.

(3) It is prohibited to question a mediator as a witness regarding the facts arising out of or in connection with a mediation process..

(4) This Section shall not apply to cases, when:

1) disclosure of information is required in accordance with laws and regulations in order to ensure public order, particularly the protection of the rights or interests of a child, as well as to prevent danger to the life, health, freedom or sexual inviolability of a person;

2) disclosure of the content of the agreement resulting from mediation is necessary in order to implement or enforce the particular agreement.

#### **Section 5. Equality and Co-operation of Parties**

The parties have equal possibilities and rights in mediation. The parties shall take decisions as a result of co-operation.

#### **Section 6. Neutrality and Disinterest of a Mediator**

(1) A mediator shall have a neutral attitude towards the parties. The mediator shall allow the parties themselves to reach a mutually acceptable agreement. The mediator shall be personally disinterested in the outcome of mediation.

(2) A mediator has a duty to notify the parties regarding all circumstances that may influence his or her neutrality or disinterest. The mediator is entitled to commence or continue an already commenced mediation if the parties agree to it.

### **Chapter III Mediation Process**

#### **Section 7. Mediator in a Mediation Process**

Mediation shall be conducted by one or several mediators or certified mediators. If the parties themselves are not able to agree on the selection of a mediator or have not reached an agreement regarding the principles for selecting a mediator, the Council of Certified Mediators has the right to recommend a mediator from the list of certified mediators.

#### **Section 8. Mediation Contract**

(1) The parties may agree in oral or written form regarding the use of mediation to settle disputes already arisen or which may arise in the future. The referred-to agreement may be contained in any written contract as a separate provision (a mediation clause).

(2) If the parties have included a mediation clause in a contract or have entered into a separate mediation contract, a claim in case of a dispute may be brought to a court after:

1) one party has informed the other party in writing regarding withdrawal from the agreement included in the contract;

- 2) one party has rejected the proposal of the other party to settle disputes by using mediation;
- 3) a mediation has been terminated without agreement and the mediator has issued a certification regarding the outcome of mediation.

### **Section 9. Rejecting a Proposal for Mediation**

- (1) A proposal of one party to settle disputes by using mediation (hereinafter – proposal for mediation) shall be considered as rejected if the consent by the other party to the use of mediation has not been received. Unless the parties have agreed otherwise, the time period for providing a consent shall be 30 days from the day of sending a proposal for mediation.
- (2) If a consent for mediation is received, but a contract with a mediator is not entered into within 30 days from the day of receipt thereof, then it shall be considered that the proposal for mediation is rejected unless the party has requested the Council of Certified Mediators, during the time period, to recommend a mediator.

### **Section 10. Participation of the Council of Certified Mediators in Selection of a Mediator**

- (1) If a consent for mediation is received, but the parties are not able to reach an agreement on the selection of a mediator or other issues related to mediation and a contract with a mediator is not entered into within 30 days from the day when a consent for mediation has been received or a court decision to postpone the review of the matter has been rendered, the party may request that the Council of Certified Mediators recommends a mediator.
- (2) The Council of Certified Mediators, within 10 days from the day of receipt of the request, shall select a mediator from the list of certified mediators and notify his or her given name, surname, phone number, address and time for entering into a contract with the mediator.
- (3) The Council of Certified Mediators shall determine the time period for entering into the contract referred to in Paragraph two of this Section as not later than the fourteenth day from the day of sending its notification. If the party which cannot arrive within a specified time notifies the mediator regarding justifying reasons for absence in advance, the mediator shall determine a new time within subsequent 14 days for entering into a contract and shall notify the parties thereof.
- (4) If a party fails to arrive unjustifiably or repeatedly for entering into a contract with the mediator or if it is not possible to enter into a contract with the mediator due to other reasons, the mediator shall issue a written certification without delay that it was not possible to enter into a contract with the mediator.
- (5) After issuing the certification referred to in Paragraph four of this Section it shall be considered that the proposal for mediation has been rejected.

### **Section 11. Effect of Mediation on the Time Period for Bringing an Action**

- (1) The running of the time period for bringing of an action laid down in laws and regulations shall be suspended at the time when a proposal for mediation is expressed.
- (2) The running of the time period for bringing of an action shall renew from the day when a proposal for mediation is rejected or mediation in accordance with this Law is terminated.

### **Section 12. Contract with a Mediator**

- (1) Mediation shall be commenced by entering into a contract with a mediator.
- (2) The following shall be indicated in a contract with a mediator:
  - 1) a consent by the parties and the mediator for the use of mediation;
  - 2) the essence of the dispute;

- 3) the rights and obligations of the parties and the mediator;
  - 4) the provisions for payment of mediator services and mediation expenses.
- (3) A contract with a mediator may contain also other information that the parties and mediator consider as necessary.
- (4) The contract with the mediator may be amended during mediation, if the parties and mediator have agreed thereon.

### **Section 13. Obligations and Rights of a Mediator**

- (1) Prior to commencement of mediation a mediator shall explain the procedures of mediation, the mediator's functions, the rights and obligations of the participants of mediation, as well as the basic principles of mediation to the parties.
- (2) A mediator shall conduct mediation in accordance with this Law, the basic principles of mediation and the contract entered into.
- (3) A mediator may meet with the parties jointly or with each party individually.
- (4) A mediator in his or her activities shall observe the norms of professional ethics of the mediator.

### **Section 14. Agreement**

- (1) Agreement is reached and mediation is terminated if the parties have settled their disputes.
- (2) Upon request of the parties, a mediator may participate in drawing up of an agreement in writing.
- (3) The parties shall fulfil an agreement reached through mediation voluntarily and within a mutually co-ordinated time period, if such is provided for.
- (4) If mediation is terminated with an agreement, upon request of a party the mediator shall issue a certification regarding the outcome of mediation.

### **Section 15. Termination of Mediation without Agreement**

- (1) Mediation is terminated without agreement, if:
- 1) at least one party notifies the mediator that he or she objects to further use of mediation;
  - 2) a mediator notifies the parties regarding termination of mediation;
  - 3) the necessity or possibility to use mediation is lost due to other reasons.
- (2) If mediation is terminated without agreement, a mediator shall prepare a certification regarding the outcome of mediation and issue it to the parties.

### **Section 16. Resuming of Mediation**

After termination of mediation the parties have the right to resume mediation regarding the same disputes.

## **Chapter IV Court-Annexed Mediation**

### **Section 17. Court-Annexed Mediation**

- (1) Court-annexed mediation is mediation conducted by a mediator, if during court proceedings while adjudication of a matter on the merits has not been completed, the parties have expressed a willingness to settle the dispute using mediation upon recommendation of a court or a judge.

(2) Court-annexed mediation shall be applicable to settlement of civil disputes that in accordance with the Civil Procedure Law are to be examined in accordance with the claim court proceedings.

(3) General mediation regulation laid down in this Law shall be applied insofar as it is not laid down otherwise in the Civil Procedure Law.

(4) A judge or a court shall invite the parties to select a mediator from the list of certified mediators.

### **Section 18. Outcome of Court-Annexed Mediation**

(1) Upon reaching an agreement as a result of court-annexed mediation, the parties may:

1) enter into amicable agreement that conforms to the norms of the Civil Procedure Law, to submit it to the court and to request the court to approve it;

2) refuse from the claim;

3) recognise the claim fully or partly.

(2) In order to refuse from the claim in relation to an agreement reached through mediation, a party shall submit a certification to the court, issued by the mediator, on the outcome of the mediation.

(3) If an agreement is not reached as a result of court-annexed mediation, the mediator shall prepare a certification on the outcome of mediation and shall issue it to the parties.

## **Chapter V Certified Mediator**

### **Section 19. Requirements to be Set Forth for a Certified Mediator**

(1) A certified mediator may be a natural person who:

1) has reached 25 years of age;

2) has impeccable reputation;

3) has acquired an education document attesting a State recognised higher education;

4) is fluent in the official language at the highest level;

5) has attended a mediator's training course;

6) has obtained a mediator's certificate.

(2) A certified mediator may not be a person who:

1) does not conform to the requirements of Paragraph one of this Section;

2) has been convicted of committing an intentional criminal offence or against whom criminal proceedings for committing an intentional criminal offence have been terminated for reasons other than exoneration;

3) is a suspect or accused in a criminal matter;

4) in accordance with a judgment of a court may not provide mediation services.

### **Section 20. Certification and Attestation Commission of Mediators**

(1) The certification and attestation commission of mediators (hereinafter – Commission) shall:

1) participate in a certification examination of a mediator and an attestation examination of a certified mediator;

2) provide an opinion regarding the outcome of certification or attestation to the Council of Certified Mediators for taking of a decision;

3) provide an opinion to the Council of Certified Mediators in accordance with the procedures laid down in Section 26 of this Law.

- (2) The Council of Certified Mediators shall establish the Commission for three years. The Commission shall consist of:
- 1) a representative of the Ministry of Justice;
  - 2) district (city) court and regional court judges;
  - 3) a representative of the academic staff of institutions of higher education;
  - 4) a representative of the Council of Certified Mediators.
- (3) The chair of the Commission shall be a representative of the Council of Certified Mediators.
- (4) The Cabinet shall determine the activities and the competence of the Commission.
- (5) An opinion of the Commission shall not be subject to appeal.

## **Section 21. Certification and Attestation**

- (1) A candidate who complies with the requirements of Section 19, Paragraph one, Clauses 1-5 of this Law and to whom the restrictions laid down in Paragraph two of the referred-to Section are not applicable is entitled to take an examination of a certified mediator after lodging a relevant submission to the Council of Certified Mediators.
- (2) A certification examination of a mediator and an attestation examination of a certified mediator shall be organised by the Council of Certified Mediators.
- (3) If a mediator has passed a certification examination, the Council of Certified Mediators shall decide on issuing a certificate on the basis of an opinion of the Commission.
- (4) A sample mediator's certificate shall be approved by the Cabinet.
- (5) Attestation of a certified mediator shall be performed not less than once in five years.
- (6) The procedures for application of a candidate, the content and procedures for a certification examination of a mediator and an attestation examination of a certified mediator, as well as the fee for certification and attestation shall be determined by the Cabinet.
- (7) A decision of the Council of Certified Mediators on the outcome of the certification or attestation examination in relation to infringements of examination procedures made during the certification or attestation examination, which could affect assessment, may be appealed within a month after notification of the outcome of certification or attestation examination by lodging a relevant submission to the Ministry of Justice.
- (8) A decision of the Ministry of Justice may be appealed to a court within a month in accordance with the procedures laid down in the laws and regulations governing the administrative procedure.

## **Section 22. Termination of Validity of the Certificate**

- (1) The validity of a certificate shall be terminated if a certified mediator:
- 1) has provided false information in order to receive a certificate;
  - 2) has been found guilty of committing an intentional criminal offence or against whom criminal proceedings for committing an intentional criminal offence have been terminated for reasons other than exoneration;
  - 3) in accordance with a court judgment he or she may not provide mediation services;
  - 4) has lodged a submission to the Council of Certified Mediators regarding termination of fulfilling the duties of a certified mediator;
  - 5) has infringed the norms of this Law or the norms of professional ethics of a mediator;
  - 6) has not passed or has failed to pass the attestation examination;
  - 7) has died.
- (2) The Council of Certified Mediators shall take a decision to terminate the validity of a certificate on the basis of a submission by a certified mediator or information received from a

court, investigative institution or another competent authority or person, on the basis of an opinion of the Commission in the case referred to in Section 26, Paragraph three of this Law.

(3) A decision of the Council of Certified Mediators to terminate the validity of a certificate may be appealed to a court within a month by lodging a relevant submission to the Ministry of Justice.

(4) A decision of the Ministry of Justice may be appealed to a court within a month in accordance with the procedures laid down in the laws and regulations governing the administrative procedure.

### **Section 23. Suspending the Validity of a Certificate**

(1) If a certified mediator has been recognised as a suspect or an accused in criminal proceedings regarding committing an intentional criminal offence, the operation of his or her certificate shall be suspended from the moment when the Council of Certified Mediators has received the relevant notification (information) of the person directing proceedings, until the final adjustment of criminal legal relationship in criminal proceedings.

(2) The Council of Certified Mediators may suspend the operation of the certification of the mediator also in the case referred to in Section 26, Paragraph one of this Law.

(3) A decision to suspend the operation of the certificate may be contested by lodging a relevant submission to the Ministry of Justice. A decision of the Ministry of Justice may be appealed to the Administrative District Court within a month in accordance with the procedures laid down in the laws and regulations governing administrative procedure. The decision of the Administrative District Court shall not be subject to appeal. Contesting or appeal of the decision to suspend the operation of the certificate shall not suspend the operation of such decision until the day when the final adjudication in the matter enters into effect.

(4) The operation of the certificate of the mediator shall be restored if a decision to terminate criminal proceedings has entered into effect on the basis of circumstances exonerating the person, or the Commission has provided the opinion referred to in Section 26, Paragraph four of this Law to the Council of Certified Mediators.

### **Section 24. General Meeting of Certified Mediators**

(1) A general meeting of certified mediators is a self-governance body of certified mediators, in the work of which certificated mediators with the right to vote participate.

(2) A general meeting of certified mediators shall:

1) approve the by-law of the general meeting of certified mediators;  
2) elect members of the Council of Certified Mediators from amongst certified mediators;

3) approve the by-law of the Council of Certified Mediators;

4) approve the Code of Ethics of Certified Mediators;

5) examine other issues related to the work organisation of certified mediators;

6) hear reports on the work of the Council of Certified Mediators.

(3) A general meeting of certified mediators shall be convened by the Council of Certified Mediators not less than once a year.

(4) A general meeting of certified mediators is entitled to take decision, if more than half of the total number of certified mediators participate therein on the day when the general meeting takes place.

(5) If it is not possible to elect the Council of Certified Mediators in a general meeting of certified mediators due to the lack of quorum, the Chair of the Council of Certified Mediators shall convene a new general meeting of certified mediators not later than within a month. If less than half of all certified mediators arrive to the meeting, new election shall not be

organised and the Council of Certified Mediators shall retain its authorisation until the general meeting of the next year.

## **Section 25. Council of Certified Mediators**

(1) The Council of Certified Mediators shall have five members elected for three years by the general meeting of certified mediators.

(2) The Council of Certified Mediators is an autonomous self-governance body subject to public law.

(3) The Council of Certified Mediators shall carry out the following tasks:

1) ensure the issuance of a certificate to the mediator who has passed the certification examination;

2) organise certification examinations of mediators and attestation examinations of certified mediators;

3) keep a list of certified mediators;

4) supervise the mediation quality, examining complaints regarding activities of certified mediators;

5) represent certified mediators and express an opinion in relationship with State and local government institutions, other institutions and officials, as well as provide opinions on legislative issues related to mediations and on issues related to mediation practice;

6) perform other functions laid down in this Law.

(4) In carrying out the tasks referred to in Paragraph three of this Section, the Council of Certified Mediators has the right to request and receive the information and documents determined in this Law from a certified mediator, a person who wishes to become a certified mediators, and State institutions.

## **Section 26. Examination of a Complaint Lodged Regarding Certified Mediators**

(1) Having received a complaint regarding violations of the laws and regulations regulating the activities of certified mediators or the norms of professional ethics of a mediator in activities of certified mediators, the Council of Certified Mediators in case when the indicated violations in accordance with Section 22, Paragraph one, Clause 5 of this Law might be the grounds for terminating the operation of the certificate of the mediator, shall lodge such complaint to the Commission for provision of an opinion.

(2) The Commission shall evaluate the circumstances indicated in the complaint and provide an opinion to the Council of Certified Mediators.

(3) If the Commission has recognised that a certified mediator has significantly violated the laws and regulations regulating the activities of certified mediators or the norms of professional ethics of a mediator, the Council of Certified Mediators shall take a decision to terminate the operation of the certificate of the mediator.

(4) If the Commission has recognised that there is not violation or the violation detected is insignificant, the Council of Certified Mediators may explain the error of the actions of the certified mediator to him or her.

## **Transitional Provisions**

1. The mediators whose certificates have been issued until the day of coming into force of this Law shall be included in the list of certified mediators only after certification in accordance with Cabinet regulations issued in accordance with this Law.

2. Provisions of Chapter IV of this Law on court-annexed mediation shall come into force on 1 January 2015.

3. The Cabinet shall issue the regulations referred to in Section 20, Paragraph four and Section 21, Paragraphs four and six of this Law until 1 August 2014.

4. The association “Mediation Council” shall organise the first certification examination of mediators not later than until 1 October 2014 and request the Minister for Justice to convene the first general meeting of certified mediators not later than until 1 November 2014.

5. The Minister for Justice shall convene the first general meeting of certified mediators not later than until 1 December 2014.

#### **Informative Reference to the European Union Directive**

This Law contains legal norms arising from Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.

This Law has been adopted by the *Saeima* on 22 May 2014.

Acting for the President – Chairperson of the *Saeima*

S. Āboltiņa

Rīga, 4 June 2014