

LAW NO. 192/2006 ON MEDIATION AND ORGANIZING THE MEDIATOR PROFESSION, AS MODIFIED AND ADDED BY THE LAW NO. 370/2009 AND BY GOVERNMENT ORDINANCE NO. 13/2010 REGARDING THE TRANSPOSING THE DIRECTIVE FOR SERVICES

CHAPTER I

General Dispositions

Art. 1. - (1) Mediation represents an amicably settlement modality of conflicts / disputes, with the support of a third person specialized as a mediator, under neutrality, impartiality and confidentiality conditions and based on the free consent of the involved parties.

(2) Mediation is based on the trust parties invest in the mediator, as the person capable to facilitate negotiations among them and to support the same for conflict settlement purposes, by mutually reaching a convenient, efficient and sustainable solution.

Art. 2. - (1) Unless the laws state otherwise, the Parties, legal or natural entities, can voluntarily resort to mediation, including after a trial has been initiated in front of competent courts of instance, by mutually agreeing to settle by mediation any conflicts / disputes occurred on civil, commercial, family, penal matters, as well as in any other matters, under the conditions stated in this Law.

(2) The provisions of this Law shall also be applicable in the consumer protection sector, in case the consumer invokes the existence of a prejudice as a result of purchasing certain deficient services or products, in case of failure in observing contract provisions or granted warranties, in case of existence of certain abusive clauses included in the contracts concluded between consumers and the economic agents or in case of infringements of certain rights stated in the national or European Union legislation regarding the consumer protection sector.

(3) Legal or natural entities have the right to settle their conflicts / disputes by mediation both beyond and within the compulsory legal procedures for amicable settlement of conflicts / disputes purposes, as stated by the laws.

(4) The strictly personal rights, such as the rights related to the statute of the person, as well as any other rights which the Parties can not, according to the law, dispose of in any convention or in any other way allowed by the laws, can not be subject to mediation.

(5) In any convention regarding the rights which the Parties can dispose on, the Parties may include a mediation clause, whose validity shall be independent from the validity of the contract it is included in.

Art. 3. - The mediation activity shall be accomplished equally for any and all persons, regardless their race, color, nationality, ethnic origin, language, sex, opinion, political affiliation, wealth or social origin.

Art. 4. - (1) Mediation represents a public interest activity.

(2) In exercising its competences, the mediator shall not have decision power in terms of the contents of the agreement the parties may reach, but can provide guiding as for the Parties to verify the lawfulness of their agreement, in accordance with the provisions in Art. 59.

Art. 5. - (1) Mediation can take place between two or more Parties.

(2) The Parties shall have the right to freely choose their mediator.

(3) Mediation can be performed by one or more mediators.

Art. 6. - The judicial and arbitral bodies, as well as other authorities with jurisdictional competences, shall inform the Parties on the possibilities and advantages of using mediation procedure and shall advice them to use this modality to settle the existing conflicts / disputes among them.

CHAPTER II

MEDIATOR PROFESSION

SECTION 1

Acquiring, Suspension and Ceasing of Mediator Capacity

Art. 7. - A mediator can be any individual / person if meeting the requirements as below stated:

- a) has full exercise capacity;
- b) has University education;
- c) has at least a 3-year work experience;
- d) is medically able to perform this activity;
- e) enjoys a good reputation and has not been finally convicted for an intended offence, likely to affect the mediator profession prestige;
- f) has graduated mediator training courses, as provided by the laws, or a relevant master degree level post-university program, accredited in accordance with the laws and approved by the Mediation Council;
- g) has been authorized as a mediator, under the conditions stated in this law.

Art. 8. - (1) The individuals / persons fully meeting the requirements stated under Art. 7 above shall be authorized by the Mediation Council, after payment of the authorization fee, in an amount to be defined in accordance with the regulations provided under Art. 17, paragraph (2).

(2) Citizens of European Union Member States, of the European Economic Community or of the Swiss Confederation, holders of a document certifying their capacity / qualification as a mediator, obtained in any of the above states, shall – under the right to residence context - have access to this profession in Romania, after such qualification documents shall be acknowledged by the Mediation Council, in accordance with the Law no. 200/2004 on the acknowledgement of professional diplomas and qualifications for the professions regulated in Romania, as later on modified and added.

(3) The qualification documents obtained for mediator profession in any other state but Romania or in an European Union member state, or the European Economic Community or Swiss Confederation by the citizens listed under paragraph (2) above shall be acknowledged in accordance with the provisions under paragraph (5), applicable accordingly. In case the abilities and knowledge do not meet the qualification requirements as stated in the Romanian laws, the Mediation Council shall consider the professional experience of the applicant and can ask the applicant to demonstrate that he / she meets all such professional requirements.

(4) The provisions under paragraph (2) and (3) above shall be also applicable to the Romanian citizens, holders of mediator profession qualification documents obtained in a member state of

European Union, European Economic Community or Swiss Confederation, as the case, or in a third country.

(5) The citizen of a third country, who graduated mediator training courses abroad or who acquired mediator capacity abroad and wishes to permanently perform mediation activity in Romania, shall get access to this profession provided that:

a) He / she presents the education titles, accompanied by the validation certificate issued by the Ministry of Education and Research;

b) He / she presents the contents of the went-through training curriculum, including the training duration, and, as the case might be, the documents demonstrating his/her acquired capacity as a mediator. The Mediation Council shall evaluate the contents of the presented training curriculum, including the training duration, comparing the knowledge and abilities certified by such documents in accordance with the Romanian legislation and shall decide, if the case, the access to this profession. The validation or compensation requirements of the applicant qualification in case his / her certified knowledge and abilities do not correspond to the qualification requirements, as stated in the Romanian legislation, shall be defined based on the regulations stated under Art. 17 - paragraph (2).

(6) The foreign citizen mediator may perform mediation activity in Romania occasionally, under the form of service providing activity, based on the document certifying that he/she legally performs this profession in the country he/she is originated in or comes from, thus being exempted from the authorization and listing on requirements, as stated in the laws; nevertheless, in such a case, the concerned person / citizen shall have the obligation to notify in writing the Mediation Council about carrying out this activity in Romania.

(7) The citizens of other European Union member states, European Economic Community or Swiss Confederation, holders of a mediator qualification document obtained in such states or in Romania shall acquire the mediator capacity in accordance with the provisions under paragraphs (2) to (6).

(8) The citizens mentioned under paragraph (7) above, who have acquired mediator capacity in Romania, shall be able to permanently perform mediation activity in one of the European Union member states or of the European Economic Community states based on the document certifying that the respective citizen legally performs mediation profession in Romania, if in such countries acquiring mediator capacity is not regulated.

(9) For the authorized mediators under the conditions stated in Art. 7 and Art. 72 paragraph (2), the qualification document certifying acquiring mediator professional

competences shall be issued by the Mediation Council in accordance with the requirements in the mediation training standards.

(10) In case the verification of submitted documents required for authorization is needed, such verification is likely to be achieved through the Information System within the domestic market as well, in accordance with the legal provisions.

Art. 8¹ - (1) The authorization shall be issued to the applicant in maximum 30(thirty) calendar days from the date when it is found that the respective applicant meets all the legal requirements and the regulations under Art. 17 paragraph (2).

(2) This period can be extended for another period of maximum 15(fifteen) calendar days. The validity of the documents initially submitted shall not be affected by this extension period. The extension of the authorization period, as well as the duration of this extension, shall be

appropriately justified and the applicant shall be sent written notification before the initial deadline expires.

(3) In case the applicant does not meet the requirements stated under this law or his application is not accompanied by the demonstrating relevant documents, the Mediation Council shall inform the concerned applicant with the justified denial of the requested authorization or, as the case may be, with the necessity to submit additional demonstrating documents as required by the laws.

(4) The decision on the denial and, respectively, withdrawing of the mediation authorization can be attacked through the competent court of instance, in accordance with the procedure in the Law no. 554/2004 on the Administrative Legal Department, as later on modified and added.

Art. 9. - (1) The professional training of mediators shall be ensured by professional training courses organized by training providers and by the accredited universities.

(2) The professional training courses and curricula of mediators shall be authorized by the Mediation Council under the strict observation of the related professional training standards, elaborated by Mediation Council.

(3) The structure of the professional training courses shall be in accordance with the adult training requirements.

(4) The Mediation Council shall issue the documents certifying the professional competence of the mediators.

Art. 10. - The Mediation Council shall make a list with the institutions and other legal entities which provide training programs for mediators in accordance with Art. 9, a list made available for those interested at the main office of the Mediation Council, in the Courts of instance, and local administration public authorities, as well as at the Ministry of Justice head-office and on its website.

Art. 11. - (1) The Mediation Council has the right to check how such courses are planned and organized and how the initial and on-service / continuous training standards are applied and may request, if the case, the withdrawal of the authorization, in accordance with the mediation training standards and procedures elaborated by the Mediation Council.

(2) Withdrawal of the authorization or expiration of the period the authorization had been issued for shall mean the removal of the respective provider from the List mentioned at art.10 above.

Art. 12. - (1) The authorized mediators are Listed in the Panel of Mediators, made up by the Mediation Council and published in the Romanian Official Journal, Part I.

(2) The panel mentioned at paragraph (1) above, provides the following data:

- a) surname and first name of the mediator;
- b) main professional office;
- c) main education background of the mediator, training institutions attended and obtained graduation titles;
- d) mediation area he/she is specialized for;
- e) duration of his/her practical experience in mediation activities;
- f) the foreign language he / she can use to perform mediation;
- g) his/her membership to a professional association in the area of mediation, as well as, to other organizations, as the case might be;
- h) existence of a suspension case.

(3) The Mediation Council has the obligation to periodically update the Panel of Mediators, at least once a year, and to make it available of those interested at the main office of the Mediation Council, in the Courts of instance, and the local administration public authorities, as well as at the Ministry of Justice head-office and on its website.

(4) The mediator profession shall be practiced only by the individual / person who has acquired the capacity of authorized mediator, in compliance with the provisions in this law.

(5) Practicing mediator profession by individuals / persons who have not acquired the capacity of authorized mediator in compliance with the provisions in this law shall be considered a transgression and shall be subject to sanctions in accordance with the penal laws.

Art. 13. – Practicing mediator profession is compatible with practicing any other activity or profession, except for the incompatibilities as stated in the special laws.

Art. 14. - (1) Exercising the capacity as a mediator shall be suspended in the following situations:

a) in the case of certain incompatibility stated in the laws; in such a case, the mediator is bound to inform the Mediation Council about such occurred incompatibility within a 3-day period;

b) on the request of the mediator, submitted in writing;

c) as a sanction for disciplinary reasons, in accordance with the clauses under Art. 39 paragraph (1) letter c).

(2) Exercising the capacity as a mediator shall be lawfully suspended when the mediator is subject to a preventive imprisonment sentence, until the penal trial is completed, in accordance with the legal provisions.

Art. 15. – Capacity as a mediator shall cease:

a) on the request of the mediator, by written waiving statement;

b) in case of decease;

c) in case the requirements under Art. 7 letter a) and d) are no longer met;

d) as a sanction for disciplinary reasons, in accordance with the clauses under Art. 39 paragraph (1) letter d);

e) in case of final conviction for intentional crime, which makes the mediator unworthy of practicing this profession.

Art. 16. - (1) Suspension, as well as ceasing of the capacity as a mediator shall be decided or, as the case, shall be ascertained by the Mediation Council.

(2) In case of ceasing the capacity as a mediator, the name of the respective mediator shall be removed from the panel of mediators.

Art. 16¹. In terms of the authorization procedures and formalities, as well as practicing mediator profession, the provisions of this law shall be added with the dispositions of the Government Emergency Ordinance no. 49/2009 regarding the liberty to establish the service providers and the liberty to provide services in Romania.

SECTION 2

The Mediation Council

Art. 17. - (1) For organizing purposes of the mediation activity, the Mediation Council has been set up, which is an autonomous body, legal entity, of public interest, with its main head office in the city of Bucharest.

(2) The Mediation Council is organized and operates in accordance with the provisions in this Law, as well as in accordance with its own Organization and Operation Regulations.

(3) The Mediation Council has 9 full members and 3 deputy / substitute members, elected by vote or by representation, by the authorized mediators, in accordance with the Organization and Operation Regulations of the Mediation Council.

(4) The mandate of the members of the Mediation Council is of (2) two years.

(4¹) The Mediation Council or any of its members can be revoked at the initiative of 1/4 (one fourth) of the number of the authorized mediators, while the revoking decision shall be adopted with a half plus one vote majority from the number of the authorized mediators.

(5) The situations when the membership of the Mediation Council ceases during the mandate, as well as the revoking procedures are defined through the regulations under paragraph (2).

(6) The Mediation Council can include as members only authorized mediators who clearly meet the requirements stated in the Organization and Operation Regulations of the Mediation Council.

(7) The Mediation Council shall exercise its mandate until the new Mediation Council shall take over the mandate.

Art. 18. - (1) The Mediation Council shall elect a president and a vice-president and shall, from its members, appoint a commission with permanent activity which shall prepare the works of the Mediation Council. The mandate of the said commission is of 1(one) year.

(2) The Mediation Council includes a Technical Secretariat, formed by a number of persons as defined in the Organizational Chart and approved by the Mediation Council.

Art. 19. - (1) The Mediation Council shall meet on monthly basis or at any time as considered necessary, summoned by its President.

(2) The meetings of the Mediation Council shall be public, except for the cases when its members decide otherwise.

(3) Abrogated

(4) In exercising its powers, the Mediation Council shall adopt decisions based on the votes of the majority of its members.

(5) Persons from any other institutions or professional organizations whose consultation is necessary to take certain measures or to adopt certain decisions of the Mediation Council can be invited to participate in the works of the Mediation Council.

Art. 20. - The Mediation Council has the following main powers:

a) to promote the mediation activity and to represent the interests of the authorized mediators in respect of ensuring the quality of services in the field of mediation in accordance with the provisions in this law;

b) to elaborate the training standards in the mediation area, based on the best international practices;

c) to authorize the initial and on-service / continuous professional training curricula / programs, as well as those for the specialization of the mediators;

- d) to prepare and update the list of the training providers who have obtained their required authorization;
- e) to authorize the mediators, in compliance with the provisions in this law and with the procedure defined through the Organization and Operation Regulations of the Mediation Council;
- e¹) to cooperate, through the information System within the domestic market, with the competent authorities in the other member states of the European Union, of the European Economic Community and of the Swiss Confederation, so that to ensure the control of the mediators and services they provide, in accordance with the provisions in the Emergency Government Ordinance no. 49/2009;
- f) to prepare and update the Panel of authorized mediators;
- g) to have / keep the clear picture of the offices of the authorized mediators;
- h) to supervise the observance of the mediation training standards;
- i) to issue the documents certifying the professional qualification of the mediators;
- j) to adopt the Professional Ethics and Deontology Code of the authorized mediators, as well the disciplinary liability norms applicable to the same;
- k) to take measures for the observation of the provisions included in the Professional Ethics and Deontology Code of the authorized mediators and to apply the disciplinary liability norms of the same;
- l) to make propositions to add or, as the case, to correlate the legislation on mediation;
- m) to adopt the Regulations on its organization and operation;
- m¹) to organize the election of the next Mediation Council, according to the relevant legal provisions;
- n) to fulfill any other competences as stated by the laws.

Art. 21. - The Mediation Council shall cover its organization and operation expenses from its own incomes, as follows:

- a) fees coming from authorizing mediators;

- b) donations, sponsorships, funding and other income sources, in accordance with the legal provisions;
- c) income from selling its own publications;
- d) amounts coming from applying fines for disciplinary sanctions;
- e) other amounts resulted from the activity of the Mediation Council, as defined in its Regulations.

CHAPTER III

Organizing and Practicing the Activity of Mediators

Art. 22. - (1) The mediators shall carry out their activity within a professional civil entity, within an office where two or more authorized mediators can work together as associates and ancillary staff as required, or within a non-governmental organization, provided that all legal provisions are observed.

(2) The mediator or the associated mediators, holders of an office, can hire translators, jurists or other specialized personnel, as well as administrative and auxiliary staff as needed for the mediation activity.

(3) In performing their profession, the authorized mediators can be hired on individual labor contract basis but only under the forms stated under Art. 22 paragraph (1).

Art. 23. - Throughout performing his/her activity, the authorized mediator is bound to keep his/her own archives and registers, as well as own bookkeeping.

Art. 24. - Mediators shall form local and national professional associations aiming to represent their professional interests and to protect their statute and can join international professional organizations, as stated in the relevant legal provisions.

CHAPTER IV

Rights and Obligations of the Mediator

SECTION 1

Rights of the Mediator

Art. 25. - The Mediator has the right to inform the public on his / her practicing activity, under the observance of the confidentiality principle. The conditions required to make publicity for the mediator profession are defined by the regulations.

Art. 26. - (1) The Mediator has the right to receive a fee, decided by negotiation with the parties, as well as to the reimbursement of the expenses done with the mediation process.

(2) The fee should be in a reasonable amount and should consider the nature and the subject of the conflict / dispute.

Art. 27. - (1) Each mediator shall have the right to use his/her own model to organize the mediation procedure, by observing the dispositions and principles stated in this Law.

(2) The Mediator has the right to refuse to take a certain case, with the obligation to recommend and guide the parties to choose another mediator.

Art. 28. - (1) The professional office of the Mediator is inviolable.

(2) Searching of the professional office of the Mediator can be decided only by the judge and can be done only by the prosecutor or by the penal investigation body, in accordance with the conditions stipulated in the Penal Procedure Code.

SECTION 2

Obligations of the Mediator

Art. 29. - (1) The Mediator has the obligation to deliver any explanations to the parties related to the mediation activity, so that the parties clearly understand the purpose, limits

and effects of mediation, especially in terms of the relations which represent the subject of the conflict / dispute.

(2) The Mediator should ensure that mediation is achieved in full respect of the freedom, dignity and private lives of the parties.

Art. 30. - (1) The Mediator has the duty to make all efforts so that the parties reach a mutually convenient agreement, within a reasonable period of time.

(2) The Mediator should conduct the mediation process impartially and ensure a constant balance among the parties.

Art. 31. - The Mediator has the obligation to refuse to take over a case, if he/she is aware of any circumstance which might prevent him / her from being impartial and neutral, as well as if he/she finds that the concerned rights can not be subject to mediation, in accordance with Art. 2.

Art. 32. - The Mediator is bound to keep confidentiality over the information obtained throughout his / her the mediation activity, as well as over the prepared documents or the documents submitted by the parties during the mediation, even after he/she ceases to act as a mediator.

Art. 33. - (1) The Mediator is bound to observe the deontology norms and to respond to the requests coming from the judicial authorities, in accordance with the provisions under Art. 32.

(2) The Mediator is bound to inform the Mediation Council with any modifications which concern the updating of the necessary data and information as stated under Art. 12 paragraph (2).

Art. 34. - The Mediator is bound to constantly improve his/her academic knowledge and mediation techniques, by attending on-service / continuous training courses, under the conditions and requirements as defined by the Mediation Council.

Art. 35. - The Mediator is bound to return to the parties all the documents entrusted to the same by the parties throughout the mediation process.

Art. 36. - The Mediator is not allowed to represent or assist any of the parties in a judicial or arbitral procedure if such procedure concerns the conflict / dispute under his/her mediation.

Art. 37. - (1) The Mediator can not act as a witness in a hearing concerning the facts or documents he/she is aware of from the mediation procedure. As concerns the penal cases, the mediator can act as a witness in a hearing unless the mediator obtained, expressly and in writing, a previous release from the parties and, if the case, from other interested persons.

(2) In terms of facts and circumstances the mediator is likely to have known before acting as a mediator for a certain case, his/her capacity as a witness comes first.

(3) In all cases, after heard as a witness, the mediator shall not be allowed to carry on with his/her mediator activity for the respective case.

SECTION 3

Liability of the Mediator

Art. 38. - From disciplinary point of view, the mediator shall be held liable for the following transgressions:

- a) failure to observe the confidentiality, impartiality and neutrality obligations;
- b) refusal to respond to the requests coming from the judicial authorities, for the cases stipulated in the laws;
- c) refusal to return the documents entrusted to him / her by the parties under conflict / dispute;
- d) representation or assistance of one of the parties in a judicial or arbitral procedure, if such procedure concerns the conflict / dispute under his/her mediation;
- e) other deeds which negatively affect the professional integrity.

Art. 39. - (1) The disciplinary sanctions shall be applied depending on the seriousness of the transgression and shall consist in:

- a) written notice;
 - b) fine in an amount from RON 50 to RON 500;
 - c) suspension from his/her capacity as a mediator for a period from 1(one) to 6 (six) months.
 - d) ceasing his capacity as a mediator.
- (2) The limits of the amounts for the fines as stated above at paragraph (1) letter b) shall be periodically updated by the Mediation Council, depending on the inflation rate.

Art. 40. - (1) Any interested person can report to the Mediation Council, in writing under signature, about occurrence of any of the transgressions mentioned under Art. 38 above.

(2) Investigation of such transgression shall be performed in maximum 60 (sixty) days from the date of the submitted report on it, by a disciplinary commission formed by a member of the Mediation Council and 2 representatives of mediators, randomly elected from the Panel of Mediators. The members of the disciplinary commission shall be appointed by a decision of the Mediation Council. It is compulsory to invite the mediator under investigation for hearing. The investigated mediator shall be entitled to be informed with the contents of his case and to formulate his/her defense. In case the concerned mediator does not show up at the hearing, the members of the commission shall sign a Minutes stating that the concerned mediator has been invited but he/she did not show up at the agreed deadline.

(3) The investigation file containing the proposed sanction or the proposal not to apply any disciplinary sanctions shall be submitted to the Mediation Council who shall issue a decision, within a 30 day period, regarding the disciplinary liability of the concerned mediator.

Art. 41. - (1) The decision of the Mediation Council on the application of the sanctions as stated at Art. 39 paragraph (1) can be attacked in front of the competent Administrative Legal Department within 15 days from the date of its being communicated.

(2) The action taken in accordance with the provision under paragraph (1) above shall suspend the execution of the attacked decision.

(3) The decision on applying the fine, as stated under Art. 39-paragraph (1) letter b), as remained final in accordance with the laws, shall have executory title. Fail to pay the said fine within 30 days from the final sanction decision date shall entail the lawful suspension of the mediator capacity, until the payment of the concerned amount.

Art. 42. – The civil liability of the mediator can be undertaken, in accordance with the civil laws, for bringing prejudice, by infringement of his/her professional obligations.

CHAPTER V

THE MEDIATION PROCEDURE

SECTION 1

The procedure prior to the mediation contract

Art. 43. - (1) The parties under conflict / dispute can present together in front of the mediator. In case only one party presents in front of the mediator, the mediator shall, on the request of the presented party, send a written invitation to the other party to inform upon and accept mediation, indicating a maximum 15 day period to respond. The invitation shall be send using any delivery means likely to confirm receipt of the text. The applicant party shall provide the mediator all the necessary information needed to contact the other party.

(2) In case one of the parties is impossible to present in front of the mediator when summoned, the mediator, on the request of the other party, can decide on a new deadline to inform upon and accept the mediation to the other party. In case mediation is accepted, the parties under conflict / dispute shall sign a contract with the mediator.

(2[^]1) As concerns the civil and commercial matters, the parties can try to settle the existing conflict / dispute by mediation, before bringing the case to justice / trial.

(3) If one of the parties gives explicit written refusal for mediation or does not respond to the sent invitation, as stated at paragraph (1) above, or fails to present two times in a row in front of the mediator at the stated deadlines for signing the mediation contract, then mediation shall be considered unaccepted.

(4) The Mediator can undertake other legal measures as considered necessary to invite the parties for mediation, in accordance with the provisions in this law.

Art. 44. - (1) It is forbidden to hold mediation sessions before signing the mediation contract.

(2) The mediation contract shall be concluded between the mediator, on the one hand and the parties under conflict / dispute, on the other hand.

SECTION 2

The Mediation Contract

Art. 45. – The mediation contract should include, under the sanction of absolute nullity, the following clauses:

- a) identity of the parties under the conflict / dispute or of their representatives, as the case;
- b) description of the type or subject of the conflict / dispute;
- c) statement of the parties showing that the parties have been informed by the mediator about mediation, its effects and applicable rules;
- d) obligation of the mediator to keep confidentiality and the decision of the parties to keep confidentiality, as the case might be;
- e) the commitment of the parties under conflict / dispute to observe the rules applicable to mediation;
- f) obligation of the parties under conflict / dispute to pay the due fee to the mediator and the expenses made by the same during mediation for the interest of the parties, as well as the down payment and payment modalities of such amounts, including the situation when mediation procedure is waived or fails, as well as the share to be borne by each party,
considering – if the case – the social situation of the parties. Unless otherwise agreed, such amounts shall be borne by the parties in equal shares.
- g) Agreement of the parties regarding the language mediation is to be performed in;
- h) The number of copies the agreement is to be prepared, in case such agreement shall be in written form, depending on the number of the signing parties of the mediation contract;
- i) The obligation of the parties to sign the Minutes prepared by the Mediator, regardless how mediation process shall end.

Art. 46. - (1) The mediation contract can include other clauses as well, as provided by the concerned laws.

(2) Under the sanction of absolute nullity, the mediation contract shall not include causes to act contrary to the legal provision or public order.

(3) If, during the mediation procedure, unexpected expenses occur and are made for the interest and with the consent of the parties, an Addendum shall be enclosed to the mediation contract.

Art. 47. - (1) The mediation contract shall be concluded in written form, under the sanction of absolute nullity. The mediation contract shall be signed by the parties under conflict / dispute and by the mediator, in a number of original copies equal to the number of the signing parties.

(2) The parties under conflict / dispute can delegate by Special Proxy / Power of Attorney another person to conclude and sign the Mediation contract, in accordance with the legal provisions.

Art. 48. - The Mediation Contract represents an executory title as concerns the obligations of the parties to pay for the due fee to the mediator at the due dates.

Art. 49. - The prescription of the right to action over the litigious right shall be suspended starting on the signature date of the mediation contract, until the mediation procedure is closed, in any of the modalities as stated in this law.

SECTION 3

Conducting mediation

Art. 50. - (1) Mediation relies on the cooperation among parties and on the use, by a mediator, of certain specific methods and techniques, based on communication and negotiation.

(2) The methods and techniques used by the mediator should exclusively serve the legitimate interests and aims of the parties under conflict / dispute.

(3) The mediator can not impose the parties a solution related to the conflict / dispute subject to mediation.

Art. 51. - Mediation is, usually, conducted at the office of the mediator. If the case, mediation can be conducted in other locations, agreed between the mediator and the parties under conflict / dispute.

Art. 52. - (1) The Parties under conflict / dispute have the right to be assisted by a lawyer or other persons, under mutually agreed conditions.

(2) During the mediation process, the parties can be represented by other persons, who can make acts of disposal, in accordance with the legal provisions.

Art. 53. - The entire support provided during the mediation to the parties under conflict / dispute, by the persons stated under the provisions of Art. 52 and Art. 55 - paragraph (1), as well as by the mediator, shall have confidential character to third parties and shall not be used as evidence for judicial and arbitral procedures, except for the case when the parties agree otherwise or the law states the contrary. The Mediator shall draw the attention of the persons participating in mediation, in respect to the provisions of Art. 52 above, on their obligation to keep total confidentiality and, for such a purpose, he / she may require them to sign a confidentiality agreement.

Art. 54. - (1) If, during the mediation process, a certain situation occurs likely to affect the purpose of mediation, the neutrality and impartiality of the mediator, then the mediator shall be bound to inform the parties about such a situation, while the parties shall decide whether to keep or to cancel the mediation contract.

(2) The Mediator has the right to close the mediation procedure, acting in accordance with the provisions under Art. 56, which shall apply accordingly. In such a situation, the mediator shall partially return the fee he/she received, in accordance with the clauses included in the mediation contract.

Art. 55. - (1) In case when the conflict subject to mediation presents difficult or controversial legal / juridical aspects or aspects related to any other specialized fields, the

mediator may, based on the consent of the involved parties, to ask for the opinion / standpoint of an external specialist in the respective field.

(2) When asking for the standpoint of an external specialist, the mediator shall present only the controversial issues, without revealing the identity of the parties.

SECTION 4

Closing the mediation procedure

Art. 56. - (1) The mediation procedure shall be closed, as the case might be, by:

- a) Concluding an agreement among parties after the settlement of the conflict;
- b) Mediator finding that the mediation procedure failed;
- c) Tabling the mediation contract by one of the parties.

(2) In cases when the parties have concluded only a partial agreement, such as the cases stated under paragraph (1) letter b) and c), any of the involved parties may address to the competent Court of instance or of arbitration.

Art. 57. - When closing the mediation procedure, by any of the procedures stated under Art. 56 paragraph (1), the Mediator shall draw up a Minutes which shall be signed by the parties, in person or by their representatives, and by the Mediator. The parties shall receive one original copy of the said Minutes.

Art. 58. - (1) When the parties under the conflict / dispute have reached an agreement, a written Agreement shall be formulated, which shall include all the clauses the parties agreed on and which shall have the power of a written document under private signature. Usually, such an Agreement is formulated by the Mediator, except for the situations when both the parties and the Mediator agree otherwise.

(2) The above mentioned agreement shall not include provisions likely to affect the laws and the public order, the dispositions of Art. 2 being applicable.

(3) The said agreement among the parties can be affected, in accordance with the legal provisions, by certain terms and conditions.

(4) In case the conflict under mediation concerns the transfer of private property right for real estate property, the parties shall present the Agreement as formulated and edited by the Mediator in front of the notary public or the Court of instance to fulfill the content and form requirements as imposed by the laws, under the sanction of absolute nullity.

(5) The obligation under paragraph (4) above shall apply for all the situations requiring the fulfillment of contents and form requirements, in accordance with the laws, under the sanction of absolute nullity.

(6) In case the laws require fulfilling publicity conditions, the notary public or the court of instance shall request the registration of the authenticated contract and, respectively of the Court decision, in the Land Register.

Art. 59. - The Agreement document among the parties may be subject to notary public authentication or, as the case might be, to the approval of the Court of Instance, in accordance with the provisions stated under Art. 63.

Art. 60. - (1) In any stage of the mediation process, any of the involved parties is entitled to denounce the mediation contract, by giving written notice to the other party and to the mediator. (2) The Mediator shall consider the unilateral denunciation and shall, in maximum 48 hours from the receipt of the written notice, draw up a Mediation Procedure Closing Minutes.

(3) If one of the parties under conflict / dispute ceases to show up for mediation without denouncing the Mediation contract as stated in paragraph (1) above, the mediator is bound to take all necessary measures to identify the real intention of the respective party and, he/she shall continue or shall close the mediation procedure, as the case might be.

SECTION 5

Mediation in case of a litigation which is on the list of Courts of Instance

Art. 61. - (1) In case the conflict has already been submitted to a Court of Instance, the settlement by mediation of such a case can be possible at the initiative of the involved parties or at the recommendation of the Court of Instance and accepted by the parties, concerning rights the parties can dispose over in accordance with the legal provisions. Mediation can deal with the total or partial settlement of the concerned litigation.

(2) After closing the mediation procedure, the mediator is, in all cases, bound to inform the Court of Instance in writing whether the parties reached or not an agreement as a result of mediation.

Art. 62. - (1) In order to conduct the mediation procedure, the trial of the civil cases by the courts of instance or arbitration shall be suspended, on the request of the parties, in accordance with the provisions under Art. 242 paragraph 1, item 1 in the Civil Procedure Code.

(2) During the mediation procedure, the out-of-date deadline shall be suspended, but it shall not exceed more than 3(three) months from the date of the Mediation Contract signature.

(3) The application for retrying shall be exempted from the payment of the judicial stamp charges.

Art. 63. - (1) In case the conflict / dispute are settled by mediation, the instance shall, on the request of the parties, issue a decision in accordance with the provisions under Art. 271 in the Civil Procedure Code.

(2) At the same time with the issuance of the decision, the Court of Instance shall dispose, on the request of the interested party, on the reimbursement of the judicial stamp charges paid to the court to deal with the case.

(3) The expedient decision, pronounced in accordance with the provisions in this law shall have executory / enforceable title.

CHAPTER VI

Special dispositions on the mediation of certain conflicts / disputes

SECTION 1

Special disposition concerning family conflicts / disputes

Art. 64. - (1) Mediation can be a solution to settle the disagreements / disputes between spouses as concerns continuation of their marriage, parental rights pursuing, deciding the residence of the children, contribution share for children's care, as well as any other

disagreements likely to occur in the relations between the spouses and concerning rights they can dispose on in accordance with the legal provisions.

(2) The agreement between spouses in terms of dissolution of their marriage and to settlement of the divorce-related aspects shall be submitted by the parties to the competent court of instance to have their divorce pronounced.

Art. 65. - The Mediator shall take care so that the result of mediation should not be contrary to the best interest of the child, shall encourage the parents to mainly consider the needs of the child while the assuming of their parental responsibilities, the in-fact separation or the divorce should not impede the growth and development of the child.

Art. 66. - (1) Before signing a mediation Contract, or - if the case - during the mediation process, the Mediator shall make all efforts to check whether any abusive or violent relation exists between parties and whether the consequences of such a relation are likely to influence the mediation and - if such circumstances exist, the Mediator shall decide whether settlement by mediation is the proper and adequate alternative. The dispositions of Art. 54 shall be applicable accordingly.

(2) If, during the mediation process, the Mediator takes notice of the existence of certain facts / deeds likely to jeopardize the normal growth and development of the child or brings serious damage the best interest of the child, then the Mediator is bound to report such circumstances to the competent authority.

SECTION 2

Special dispositions on the mediation of penal cases

Art. 67. - (1) The disposition in this Law shall be as well applied accordingly to the penal cases which concern transgressions for which, in accordance with the laws, the withdrawal of the prior pressed charges or conciliation of the parties eliminates the penal liability.

(2) Neither the injured, nor the guilty party shall be constrained to accept the mediation procedure.

Art. 68. - (1) As concerns the penal cases, the mediation should be conducted in such a way so that to guarantee the right to legal assistance for each involved party and, if the case, the right to have an interpreter. The Minutes, elaborated in accordance with the provisions of this law, by which mediation procedure is closed, should indicate whether the parties benefited from the assistance of a lawyer or interpreter or, as the case might be, to state that the parties have expressly renounced to such assistance.

(2) As concerns the minors, all the guarantees as stated by the laws in terms of conducting penal trial should be ensured accordingly in the mediation procedure as well.

Art. 69. - (1) In case the mediation procedure takes place before the penal trial starts and such mediation procedure closes with the reconciliation of the parties, the injured party shall not be possible to report the same deed to the penal authority or, as the case, to the court of instance.

(2) If the mediation procedure has been started at the legal deadline established for submitting the prior claim, such deadline shall be suspended throughout the mediation process. If the parties under conflict / dispute did not reach any reconciliation through mediation, then the injured party may file the prior claim within the same deadline, which shall be restarted on the date of the Minutes formulated for closing the mediation procedure, including the period before suspension.

Art. 70. - (1) In case mediation is conducted after the penal trial has started, then the criminal prosecution or the trial, as the case, shall be suspended based on the Mediation Contract presented by the involved parties in front of such authorities.

(2) Suspension shall last until the mediation procedure is closed by any of the ways as stated under in this Law, but not exceeding maximum 3 months from the date of the Mediation Contract signature.

(3) The Mediator has the obligation to submit to the judicial body a copy of the closing the mediation procedure Minutes.

(4) The penal trial shall be restarted ex officio immediately after the receipt of the Minutes ascertaining that the parties reached no reconciliation or, if the said Minutes is not submitted, the penal trial shall be restarted at the deadline as stated under paragraph (2).

(5) In order to settle the penal matters based on the signed agreement as a result of mediation, the parties are bound to submit the Agreement under its authentic form to the judicial body or to present in front of the judicial body to record and acknowledge their volition.

(6) The dispositions under Art. 61 paragraph (2) shall be applicable accordingly in the case when mediation is recommended by the judicial bodies.

CHAPTER VII

Transitional and final dispositions

Art. 71. - (1) Within 4(four) months from the coming into force of this law, the Mediation Council shall be set-up, who is to elaborate the regulations on the organization and operation of the same, as well as the training standards in the area of mediation, which shall be published in the Romanian Official Journal, Part I..

(2) For the set up of the first Mediation Council purposes, its members shall be appointed, on mutual agreement basis, by the legally set up mediation organizations, considering the cumulative criteria on the number of years of experience in mediation in accordance with the provisions in their by-laws, the number of its specialized members, as well as the practical training and expertise in mediation of the representatives of such organizations.

(3) For the organization and operation of the first Mediation Council, the first year of activities shall be funded by the State budget, through the budget of the Ministry of Justice, for the following categories of expenses:

a) overhead and operation expenses;

b) salaries of the staff of its technical secretariat.

(4) After the 1-year period expiring from the set-up date of the first Mediation Council, funding shall be ensures as stated under the provisions of Art. 21.

Art. 72. - (1) Within 1(one) month from the date of the publishing of the Regulations for the Organization and Operation of the Mediation Council in the Romanian Official Journal, Part I, the procedure for authorizing the mediators shall start.

(2) The persons / individuals who, on the date of this Law coming into force, have graduated or are attending a mediator training course, in the country or abroad, provided that such persons / individuals meet the requirements stated under Art. 7 letter a) - e), may apply for the mediator authorization, under the provisions of this law, with the obligation to present the documents ascertaining the undertaken training curriculum. The Mediation Council shall decide to authorize the applicants after evaluating the contents of

the undertaken training curriculum, including the duration of the respective training. The dispositions of Art. 8 paragraph (5) shall apply accordingly.

Art. 73. - (1) The dispositions of this law on the mediation of the conflicts / disputes shall become applicable within 1(one) month from the date of setting up the panel of authorized mediators.

(2) The dispositions of this law shall be also applicable in the mediation of the conflicts concerning the rights the parties can dispose of within the labor conflicts.

Art. 74. - (1) The institutions and the other legal persons who, on the date of this law coming into force, have on going training courses for mediators, such institutions can complete such courses in accordance with the regulations in force at the time when such courses started.

(2) Granting the approval by the Mediation Council, as stated under the provisions of Art. 9, shall become applicable on the date of publishing the training standards for mediation in the Romanian Official Journal, Part I.

Art. 75. - The lawyers, public notaries and legal advisers who acquire the capacity as a mediator in accordance with the provisions in this law, may perform mediator activity within the practicing forms of their profession, at the main office where their activity is carried out.

Art. III in the Law no. 370/2009

Within 1(one) month from the coming into force date of this law, elections for the Mediation Council shall be held. Any authorized mediator who finds him / herself in the Panel of Authorized mediators may candidate, provided that the dispositions under Art. 17 paragraph (6) in the Law no. 192/2006 are met, as modified and added through this law.

Art. IV in Law no. 370/2009

The Law no. 192/2006 on mediation and organization of the mediator profession, published in the Romanian Official Journal, Part I, no. 441 on May 22, 2006, as modified and added through this law, shall be republished in the Romanian Official Journal, Part I, by assigning new numbers to the law texts.

This law has been adopted by the Romanian Parliament, with the observance of the provisions under Art. 75 and under Art. 76 paragraph (2) in the Romanian Constitution, as republished