

Law 192/16.05.2006 regarding mediation and organization of the profession of mediator

Published in the Official Journal number 441 from the date of May, 22nd 2006

Romanian Parliament adopts the present law.

CHAPTER I: General provisions

Art. 1

(1) Mediation means a facultative way of amiably solving conflicts, by the help of a third person specialized as a mediator, under neutrality, impartiality and confidentiality conditions.

(2) Mediation is based on the trust the parties have in the mediator, as person able to facilitate these negotiations between them and to support them in order to solve the conflict, by obtaining a convenient, efficient and durable solution for both parties.

Art. 2

(1) If not otherwise provided by law, the parties, natural or legal persons, may voluntarily turn to mediation, including after proceeding with a suit outside the competent instances, agreeing upon solving this way any conflicts of civil, commercial, family, penal nature, as well as of other nature, under the conditions provided by the present law.

(2) Provisions of the present law are also applicable to conflicts of customer protection nature, in case the customer invokes the existence of a prejudice as result of purchasing damaged products or services, of infringement of contractual clauses or of the guarantees granted, of the existence of abusive clauses contained in the contracts concluded between the customers and economic agents or of infringement of other rights provided by the national or the European Union's legislation in customer protection sector.

(3) Natural or legal persons have the right to solve their disputes by mediation both outside, as well as within compulsory procedures for amiable solving of conflicts provided by law.

(4) The object of mediation can't be strictly personal rights, like the ones concerning the person's status, as well as any other rights the parties, according to the law, can't dispose of by convention or by any other way admitted by law.

(5) In any convention regarding the rights upon which the parties can dispose, they may include a mediation clause, of which validity to be independent of the de validity of the contract a part of which it is.

Art. 3

The mediation activity is carried out equally for all persons involved, without race, color, nationality, ethnical origin, language, religion, gender, opinion, political orientation, wealth or social origin differentiation.

Art. 4

(1) Mediation means a public interest activity.

(2) In the exercise of its attributions, the mediator has no power to decide upon the content of the understanding the parties shall reach, but this one may advise them to verify its legality, according to art. 59.

Art. 5

(1) Mediation can be carried out between two or more parties.

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

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

Art. 6

Judicial and arbitral bodies, as well as other authorities with cu jurisdictional attributions shall inform the parties upon the possibility and the advantages of using the mediation procedure and they can advice them to turn to it in order to solve the conflicts between them le.

CHAPTER II: The profession of mediator

SECTION 1: Acquiring, suspension and termination of the quality of mediator

Art. 7

Mediator can be the person fulfilling the following conditions:

- a)has full capacity of exercise;
- b)has higher education;
- c)has an experience of at least 3 years in the field or has graduated a post-university program of master level in the field, accredited according to the law and signed by the Mediation Council;
- d)is able, form medical point of view, to exercise this activity;
- e)has a good reputation and was not permanently convicted for committing an intentional crime, that would bring touch the prestige of profession;
- f)a graduated mediator training classes, under the conditions of law, except for post-university programs graduates at master level in the field, accredited according to the law and signed by the Mediation Council;
- g)was authorized as mediator, under the conditions of the present law.

Art. 8

(1)Persons fulfilling the conditions provided in art. 7 shall be authorized as mediators by the Mediation Council, after paying up the authorization tax, of which quantum shall be set forth by the regulation provided in art. 17 point (2).

(2)Citizens of European Union Member States or of European Economic Area, holders of a qualification document in mediator profession, obtained within one of these states, gain, in the context of the right of establishment, access to profession in Romania, after recognition of these documents by the Mediation Council, according to Law no 200/2004 regarding recognition of diplomas and professional qualifications for professions regulated in Romania, with its further changes.

(3)The qualification documents obtained in the profession of mediator, within another state than Romania or within a European Union or European Economic Area Member State, by persons provided at point (2), are recognized under the conditions provided at point (5), properly applied. If the abilities and knowledge do not correspond to the qualification requirements provided by the Romanian law, the Mediation Council also takes into consideration the professional experience gained by the applicant and can ask this one to prove the fact that this one fulfills all these requirements.

(4)Provisions from points (2) and (3) also apply to Romanian citizens, holders of qualification documents in the profession of mediator, obtained within an European Union or European Economic Area Member State or, as the case may be, within a third state.

(5)citizen of a third state, who graduated mediators training classes abroad or who gained the quality of mediator abroad and wishes to develop the mediation activity in Romania permanently, gains access to the profession under the following conditions:

a)submits the title of education, accompanied by the equivalency attestation issued by the Ministry of Education and Research;

b)submits the content of the training curricula followed, including the duration of training and, as the case may be, documents attesting the gain of the quality of mediator. The Mediation Council evaluates the content of the submitted training curricula, including the duration of training, comparing the knowledge and abilities attested by these documents with the requirements set

forth according to the Romanian law, and it decides, if case, access in profession. Conditions for qualification equivalency or compensation, in situation attested knowledge and abilities do not correspond the qualification requirements provided by the Romanian law, shall be set forth by the regulation provided in art. 17 point (2).

(6)The foreign mediator can develop in Romania the mediation activity occasionally, as service performance, based on the document attesting legal exercise of this profession within the de origin or provenience state, being exempted from the authorization and registration requirements provided by law, yet having the obligation to inform, in writing, the Mediation Council upon development of this activity.

Art. 9

(1)Mediator professional training is provided by organization of specialty classes by training providers who were authorized according to the legislation regarding professional training for adults and by accredited higher education institutes.

(2)Training programmes in the field of mediation shall be set forth based on criteria comprised in the field training standards, elaborated by the Mediation Council, and shall be signed in prior by it.

Art. 10

Institutions and other legal persons developing, according to art. 9, mediator training programmes are registered with the Mediation Council on a list, to be made available for those concerned at its headquarters, the court instances' and the local public administration authorities', as well as at the headquarters of the Ministry of Justice and on its Internet page.

Art. 11

(1)The Mediation Council has the right to verify the way of organization and development of the classes and application of initial and continuous training standards and may request, if case, withdrawal of authorization, according to the legislation regarding adults professional training.

(2)Withdrawal of authorization or expiry of the period for which it has been granted brings the exclusion from the list provided in art. 10.

Art. 12

(1)Authorized mediators are registered on the Mediators Panel, drawn up by the Mediation Council and published in the Official journal of Romania, Part I.

(2)On the panel provided at point (1) the following information is mentioned:

- a)name and first name of the mediator;
- b)place of work;
- c)mediator's basic training, institutions this one trained at and titles this one graduated by;
- d)field of mediation this one is specialized in;
- e)duration of practice experience in mediation activity;
- f)foreign language this one is able to develop the mediation;
- g)quality of member of a professional association in the field of mediation, as well as, as the case may be, of other organizations;
- h)existence of a suspension reason.

(3)The Mediation Council has the obligation to periodically and at least once a year update the Mediators Panel and to make it available for those concerned at its headquarters, court instances', local public administration authorities', as well as at the headquarters of the Ministry of Justice and on its Internet page.

Art. 13

Exercising the mediator profession is compatible with any other activity or profession, except for the incompatibilities provided by special laws.

Art. 14

(1)Exercising the mediator quality is suspended:

- a)in case of an incompatibility provided by law; in this case, the mediator has the obligation to inform, within 3 days, the Mediation Council, upon this incompatibility;

b) upon request, made in writing by the mediator;

c) as disciplinary sanction, under the conditions set forth in art. 39 paragraph (1) point c).

(2) Exercising the mediator quality is rightfully suspended, in case against the mediator preventive arrest measure is taken, until penal suit is solved, according to the law.

Art. 15

The quality of mediator ends:

a) upon request, by waiver made in writing by the mediator;

b) by death;

c) in case this one no longer fulfils the conditions provided in art. 7 points a) and d);

d) as disciplinary sanction, under the conditions set forth in art. 39 paragraph (1) point d);

e) in case of permanent conviction for intentionally committing a crime, that makes this one no longer worth to exercise this profession.

Art. 16

(1) Suspension, as well as termination of mediator quality are decided, as the case may be, observed by the Mediation Council.

(2) In case of mediator quality termination, this one's name is excluded from the mediators' panel.

SECTION 2: Mediation Council

Art. 17

(1) In order to organize the mediation activity the Mediation Council is established an autonomous body with legal personality, of public interest, with the headquarters in Bucharest Municipality.

(2) The Mediation Council is organized and it operates according to the provisions of the present law, as well as of its organization and operation regulation.

(3) The Mediation Council is formed of 9 members, chosen by direct vote or by representation by authorized mediators, under the conditions provided by the organization and operation regulation of the Mediation Council.

(4) Members of the Mediation Council are validated by the Minister of Justice, for a 2 years period. Mandate of any of the members of the Mediation Council can be only extended by the same duration once.

(5) Situations where the quality of member of the Mediation Council ends during exercising the mandate, as well as the repealing procedure are set forth by the regulation provided at point. (2).

(6) There can only be part of the Mediation Council persons holding theoretical knowledge and practice experience in the field of mediation. Dispositions of art. 7 apply accordingly.

(7) Mediation Council exercises its mandate until the date of validation of the members of a new Mediation Council.

Art. 18

(1) Mediation Council shall choose a president and a vice president and shall assign among its members a commission with permanent activity, to prepare the works of the Mediation Council. Duration of the mandate of the members of the commission is of one year.

(2) Within the structure of the Mediation Council it operates a technical secretariat, made of no more than 3 persons framed and paid as contractual personnel, according to crt. no 18 at point B in chap. I to annex no I to the Government Emergency Ordinance no 24/2000 regarding the system of basic wages establishment on for the contractual personnel in the budgetary sector, approved by Law no 383/2001, with its further changes and completions.

(3) The structure and the attributions of the commission provided at point (1) and of the technical secretariat provided at point. (2) are set forth by the regulation provided in art. 17 point (2).

(4) For the developed activity, the members of the Mediation Council have the right to a monthly indemnification, under the conditions set forth by the regulation provided in art. 17 point (2).

Art. 19

(1) The Mediation Council meets on a monthly basis or every time necessary, upon the President's call.

(2) The meetings of the Mediation Council are public, except for the case when its members otherwise decide.

(3) The works of the Mediation Council are developed in the presence of at least 7 members.

(4) In exercising its attributions, the Mediation Council adopts the decisions by the vote of the majority of the members included in it. Different opinions are motivated and registered separately in the content of the decision.

(5) At the Mediation Council's works of mediation there can be invited to participate persons within any other professional institutions or bodies, of which consultation is necessary in order to take measures or to adopt the decision of the Mediation Council.

Art. 20

The Mediation council has the following main attributions:

- a) promotes the mediation activity and represents the interests of authorized mediator;
- b) elaborates mediation field training standards, based on the best international practices in the field;
- c) signing mediators professional training programmes, according to art. 9 point (2);
- d) draws up and updates the list of mediators training providers who have obtained the authorization according to the existing legal framework within adults professional training sector;
- e) authorizes mediators, under the conditions provided by the present law;
- f) draws up and updates the authorized mediators panel;
- g) keeps evidence of authorized mediators' offices;
- h) supervises the compliance with the mediation field training standards de;
- i) takes measures for practice application of the provisions of art. 26 point (2);
- j) adopts the Code of professional ethics and deontology of authorized mediators, as well as their disciplinary liability norms;
- k) takes measures for compliance with the provisions comprised in the Code of professional ethics and deontology of authorized mediators and applies the norms regarding their disciplinary liability;
- l) makes proposals for completing or, as the case may be, correlating the legislation regarding mediation;
- m) adopts the regulation regarding its organization and operation;
- n) fulfils any other attributions provided by law and regulation.

Art. 21

The Mediation Council covers its organization and operation expenses from own incomes, as follows:

- a) taxes from mediators' authorization;
- b) donations, sponsorships, financing and other sources of income, interests under the conditions of law;
- c) receipts from of own publications sale;
- d) amounts from the fines applied as disciplinary sanctions;
- e) other amounts resulted from the activity of the Mediation Council, set forth by regulation.

CHAPTER III: Organization and exercise of the mediators' activity

Art. 22

(1) Mediators can carry out their activity within a civil professional company, an office where one or more associated mediators can operate, with corresponding additional personnel, or within a nongovernmental organization, by complying with the conditions provided by law.

(2) Mediator or associated mediators, holders of an office, can employ translators, jurists, other specialty personnel, as well as administrative and service personnel necessary for the activity of mediation.

(3) Authorized mediators can be employed by individual labor contract, under the conditions provided by Law no 53/2003 – Labor Code.

Art. 23

In developing the activity, the authorized mediator has the obligation to maintain an archive and own records, as well as financial-accounting evidence.

Art. 24

Mediators can constitute local and national professional associations, for the purpose of promoting professional interests and protecting their status and can address to professional international associations under the conditions of law.

CHAPTER IV: Rights and obligations of the mediator

SECTION 1: Right of the mediator

Art. 25

The mediator has the right to inform the public concerning the exercise of its activity, taking into account the respectability of the confidentiality. The conditions for promoting the profession of mediator are established within the regulation.

Art. 26

(1) The Mediator is entitled to fees established within the negotiations with the parties, as well as to the refund of the expenses arising from the mediation.

(2) The fees shall be reasonable and take into account the nature and object of the conflict.

Art. 27

All mediators are entitled to apply their own organization model of the mediation procedures, complying with the disposals and principles stated within this law.

Art. 28

(1) Mediator's workplace is inviolable.

(2) The search of the mediator's workplace may be disposed only by a judge and executed by a public prosecutor or a criminal law authority within the conditions stipulated in the Criminal Code.

SECTION 1: Right of the mediator

Art. 29

(1) the mediator has the obligation to provide all the explanations required by the parties concerning the mediation activities, in order that the last ones understand the aim, limits and effects of the mediation, especially on the relations which constitute the object of the conflict.

(2) The mediator shall make sure that the mediation is executed taking into account the observation of the parties freedom, dignity and private lives.

Art. 30

(1) The mediator has the duty of making all the necessary efforts in order for the parties to get to a satisfactory mutual agreement within a reasonable time.

(2) The mediator shall conduct the mediation process impartially and permanently assure a balance between the parties.

Art. 31

The mediator shall refuse the taking over of a case, if he has some knowledge about any circumstance that would force him/her not to act neutrally and impartially, as well as he/she finds that the rights discussed within the debates can not be a mediation object, as stipulated by art. 2.

Art. 32

The mediator has the obligation to preserve the confidentiality of the information he/she receives during the mediation activity, as well as concerning the drawn up documentation he/she was handled by or he/she has received from the parties during the mediation, even after the termination of his/her mediator activity.

Art. 33

- (1) The mediator has the obligation of observing the deontological standards and, complying with the provisions of art. 32, to respond to the claims formulated by the judiciary authorities.
- (2) The mediator has the obligation to inform the Mediation Council concerning all modifications of conditions that make the updating of the stipulations of the art. 12, point (2).

Art. 34

The mediator has the obligation of permanently improving his/her theoretical and technical mediation knowledge by attending continuous training within the conditions established by the Mediation Council.

Art. 35

The mediator has the obligation of giving back the deeds that he/she has been entrusted by the parties all along the mediation procedures.

Art. 36

The mediator may not represent or assist any of the parties within a judicial or arbitrary procedure concerning the conflict of the mediation.

Art. 37

- (1) The mediator may not be heard as a witness concerning the facts or deeds that he/she has come through during the mediation procedure. For criminal suits the mediator may be heard as a witness only with prior on purpose written approval of the parties and of the other interested persons, if it is the case.
- (2) Concerning the facts and deeds known before he/she became mediator for the cause, the capacity of witness comes before the capacity of mediator.
- (3) The mediator may not perform the mediation activity concerning that lawsuit in all the cases after he/she has been heard as a witness.

Art. 38

Disciplinary responsibility of the mediator becomes valid for the following infringements:

- a)infringement of the obligation of confidentiality, impartiality and neutrality;
- b)refusal of responding to the claims formulated by the judicial authorities, in cases stipulated by the law;
- c)refusal of giving back the deeds entrusted by the parties in conflict;
- d)representation or assistance of one of the parties within a judicial or arbitrary procedure concerning the conflict of the mediation;
- e)other facts of malpractice.

Art. 39

(1)Disciplinary sanctions apply in relation to the gravity of deviation and include:

- a)written observation;
- b)fine from 50 RON to 500 RON;
- c)suspension from the mediator quality for a period from 1 to 6 months;
- d)termination of the mediator quality .

(2)Limits of the fines provided in paragraph (1) point b) are periodically updated by the Mediation Council, depending on the rate of inflation.

Art. 40

(1)Any interested person can notify the Mediation Council, in writing and under signature, upon a deviation committing from the ones provided in art. 38.

(2)The investigation of the deviation is carried out within no longer than 60 days from the date of the notification registration, by a discipline commission including one member of the Mediation Council and two representatives of the mediators, assigned by draw from the mediators' panel. Members of discipline commission are named by decision by the Mediation Council. The invitation of the one in question for hearing is mandatory. The investigated mediator has the right to acknowledge the content of the case and to express his opinion. In case of absence, a minute signed by the members of the commission shall be drawn up, out of which the fact that the mediator was invited and did not present to the term set forth to be shown.

(3)The investigation case with the proposal for sanction or non-application of a disciplinary sanction is submitted to the Mediation Council, which decides, within 30 days, upon the mediator's disciplinary liability.

Art. 41

(1)The decision of the Mediation Council regarding the application of the sanctions provided in art. 39 paragraph (1) can be contested at the competent administrative contentious instance, within 15 days from its communication.

(2)Action exercised according to paragraph (1) suspends the execution of the contested decision.

(3)The decision regarding the application of the fine provided in art. 39 paragraph (1) point b), remains permanent according to the law, it constitutes executorial title. Nonpayment of this fine within 30 days from the date of the sanction decision's remaining permanent brings rightful suspension from the quality of mediator, until payment of the amount.

Art. 42

The mediator's civil liability can be engaged, under the conditions of the civil law, for prejudice causing, by infringement of his professional obligations.

CHAPTER V: The mediation procedure

SECTION 1: Procedure prior to the conclusion of the mediation contract

Art. 43

(1)The parties in conflict present together at the mediator. In case only one of the parties presents, the mediator, upon this one's request, shall address to the other party the written invitation, in order to accept the mediation and the conclusion of the mediation contract, setting forth a term of no longer than 15 days. Invitation is transmitted by any means providing the confirmation of the text's receiving.

(2)In case of impossibility to present of the convoked party, the mediator can establish, upon request, a new date for presentation at mediation, by both parties' approval.

(3)If the other party explicitly refuses the mediation or it doesn't present twice in a row no the dates set forth for signing the mediation contract, the mediation is considered unaccepted.

(4)Mediator can make other legal arrangements considered necessary for inviting the parties to mediation, by complying with the provisions of the present law.

Art. 44

(1)It is forbidden the development of the mediation meetings before the conclusion of the mediation contract.

(2)The mediation contract is concluded between the mediator, on one hand, and the parties in conflict, on the other hand, after the later presenting together before the mediator or after the invited party has accepted the mediation.

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 in conflict or, as the case may be, of their representatives;
- b)mentioning the conflict's objective;

c) obligation of the mediator to give explanations to the parties regarding the principles of mediation, its effects and applicable rules;

d) the statements of the parties, regarding their wish to begin the mediation and their determination to cooperate in this regard;

e) the commitment of the parties in conflict to comply with the rules applicable for the mediation;

f) obligation of the parties in conflict to pay the fee deserved by the mediator and the expenses incurred by this one during mediation for the parties' interest, as well as the ways of advancing and payment of these amounts, including in case of waver to mediation or procedure failure, as well as the share to be born by the parties, taking into account, if case, their social situation. If not otherwise provided, these amounts shall be equally born by the parties;

g) the parties understanding regarding the language for mediation development.

Art. 46

(1) In the mediation contract other clauses can also be provided, under the conditions of law.

(2) Under the sanction of absolute nullity, the mediation contract may not include clauses which contradict the law or public order.

(3) In case, during the mediation procedure, unforeseen expenses occur, made in the interest of the parties and by their approval, an annex to the mediation contract shall be drawn up.

Art. 47

(1) The mediation contract is concluded in writing, under the sanction of absolute nullity. This one is signed by the parties in conflict and the mediator and it is drawn up in as many original copies as signatories.

(2) The parties in conflict can give special power of attorney to another person, under the conditions of law, in order to conclude the mediation contract.

Art. 48

The mediation contract constitutes executorial title regarding the obligation of the parties to pay the outstanding fee deserved by the mediator.

Art. 49

The prescription term for the right to act for the litigation right submitted to mediation is suspended starting from the date of signing the mediation contract, until conclusion of the mediation procedure by any of the ways provided by the present law.

SECTION 3: Mediation development

Art. 50

(1) Mediation is based on the parties' cooperation and use, by the mediator, of specific methods and techniques, based on communication and negotiation.

(2) The methods and techniques used by the mediator should exclusively serve the legit and aimed interests and objectives of the parties in conflict.

(3) Mediator cannot impose the parties a solution regarding the conflict subjected to mediation.

Art. 51

Mediation usually takes place, at the mediator's office. If case, the mediation can also take place in other places agreed by the mediator and the parties in conflict.

Art. 52

(1) The parties in conflict have the right to be assisted by an attorney or other persons, under the conditions set forth by common agreement.

(2) During mediation the parties can be represented by other persons, who are able to take decision acts, under the conditions of law.

Art. 53

Sustaining made during mediation by the parties in conflict, by the persons provided in art. 52 and art. 55 point (1), as well as by the mediator is confidential to third parties and cannot be used as evidence during a judicial or arbitral procedure, except for the case where the parties otherwise

agree or the law provides the opposite. Mediator shall inform the persons' participation in the mediation, under the conditions of art. 52, upon the obligation to confidentiality and shall have the right to ask them to sign a confidentiality agreement.

Art. 54

(1) In case, during mediation, a situation affecting its purpose, neutrality or impartiality of the mediator occurs, this one has the obligation to notify it to the parties, who will decide upon maintenance or denunciation of the mediation contract.

(2) Mediator has the right to withhold himself and close the mediation procedure, proceeding according to the provisions of art. 56, which properly apply. In this situation the mediator has the obligation to return the fee proportionally to the undeveloped steps of the mediation or, as the case may be, to provide continuance of the mediation procedure, under the conditions set forth by the mediation contract.

Art. 55

(1) In case the conflict subjected to mediation presents difficult or controversial aspects of judicial nature or of any other specialized field, the mediator, by the parties' approval, can request the opinion of a specialist in that respective field.

(2) When requesting the opinion of a specialist outside his office, the mediator will only underline the controversial problems, without revealing the parties' identity.

SECȚIUNEA 4: Conclusion of the mediation procedure

Art. 56

(1) the mediation procedure is concluded, as the case may be:

- a) by conclusion of an understanding between the parties as result of the conflict's solving;
- b) by observation by the mediator of the mediation failure;
- c) by submission of the mediation contract by one of the parties.

(2) In case the parties have only concluded a partial understanding, as well as in cases provided in paragraph (1) points b) and c), any party can address to the competent court or arbitral instance.

Art. 57

Upon conclusion of the mediation procedure, in any of the cases provided in art. 56 point (1), the mediator shall draw up a minute that is signed by the parties, personally or by representative, and by the mediator. The parties receive one original copy of the minute.

Art. 58

(1) When the parties in conflict have reached an understanding, an agreement including all clauses agreed upon by them and having the value of a writ under private signature shall be drawn up.

(2) The parties' understanding should not include the provisions bringing touch to the law and public order, the provisions of art. 2 being applicable.

(3) The parties' understanding can be affected, under the conditions of law, by terms and conditions.

Art. 59

The parties' understanding can be subjected to the verification by the public notary for authentication or, as the case may be, the court instance's approval, under the conditions provided in art. 63.

Art. 60

(1) In any step of the mediation procedure, any of the parties in conflict has the right to denunciate the mediation contract, notifying, in writing, the other party and the mediator.

(2) Mediator takes act of the unilateral denunciation of the mediation contract and, within no longer than 48 hours from the date of receiving the notification, this one draws up a minute of conclusion of the mediation procedure.

(3) In case one of the parties in conflict is not present at the mediation, without denouncing the mediation contract under the conditions of point (1), the mediator has the obligation to make

all necessary arrangements for establishing the real intention of that respective party and, as the case may be, shall continue or conclude the mediation procedure.

SECTION 5: Mediation in case of a civil litigation on roll of the court instances

Art. 61

(1) In case the conflict deduced for judgment, its solving by mediation can take place at the parties' initiative or upon the instance's recommendation, accepted by the parties, regarding the rights upon which the parties may have according to the law. Mediation can have as object total or partial solving of the litigation.

(2) Upon conclusion of the mediation procedure, the mediator had the obligation, in all cases, to inform the judgment instances in writing if the parties have reached or not an understanding as result of the mediation process.

Art. 62

(1) For the development of the mediation procedure, judgment of the civil cases by the court or arbitral instances shall be suspended upon the parties' request, under the conditions provided by art. 242 paragraph 1 point 1 from the Civil Procedure Code.

(2) The course of the superseding term is suspended during development of the mediation procedure, but not longer than 3 months from the date of signing the mediation contract.

(3) The request for setting back on roll is exempted from the judicial stamp tax.

Art. 63

(1) In case the conflict is solved by mediation, the instance shall decide, upon the parties' request, according to the provisions of art. 271 from the Civil Procedure Code.

(2) Along with the decision, the instance shall dispose, upon the interested parties' request, the return of the judicial stamp tax paid up for its investment.

CHAPTER VI: Special provisions regarding mediation of conflicts

SECTION 1: Special provisions regarding family conflicts

Art. 64

(1) There can be solved by mediation the misunderstandings between supposes regarding continuation of marriage, exercise of parental rights, establishment of children's domicile, contribution of parents in children's support, as well as any other problems occurring in the relations of parents regarding the rights they may have according to the law.

(2) The agreement of supposes upon marriage development and solution of aspects concerning the divorce is submitted by the parties with the competent instance for dissolution of marriage decision.

Art. 65

Mediator shall see that the result of mediation does not contradict the superior interest of the child, shall encourage the parents to concentrate first of all on the child's needs, and to assume parental responsibility, the actual separation or divorce not to affect the child's growth and development.

Art. 66

(1) Before conclusion of the mediation contract or, as the case may be, during the procedure, the mediator shall make all efforts to verify if there is an abusive or violent relation between the parties, and the effects of such relation can influence the mediation and shall decide whether, under the circumstances, the solution by mediation is proper or not. The provisions of art. 54 are accordingly applicable.

(2) In case, during the mediation, the mediator acknowledge the existence of acts endangering normal growth or development of the child or prejudicing this one's superior interest, the mediator has the obligation to notify the competent authority.

SECTION 2: Special provisions regarding mediation in penal cases

Art. 67

(1)The provisions of the present law also apply accordingly and in penal cases concerning infractions for which, according to the law, withdrawal of prior complaint or parties' reconciliation exonerates penal liability.

(2)Neither the affected party or the party in fault may be constraint to accept the mediation procedure.

Art. 68

(1)In penal cases mediation should develop such as to guarantee the right of each party to legal counseling and, if case, to the services of an interpreter. The minute drawn up in compliance with the present law, by which the mediation procedure is concluded, should show that the parties have benefited from the assistance of an attorney-at-law and from the services of an interpreter or, as the case may be, to mention the fact that they have expressly waved to these.

(2)In case of under aged, the guarantees provided by law for development of the penal suit should also be provided, accordingly, within the mediation procedure.

Art. 69

(1)In case the mediation procedure takes place before beginning of the penal suit and in concludes by parties; reconciliation, the affected party no longer can notify, for this action, the penal pursuit body or, as the case may be, the court instance.

(2) In case the mediation procedure is started within the term provided by law for the submission of the initial complaint, this term is suspended for the period of the mediation development. If the parties in conflict do not reconcile, the affected party may submit the initial complaint within the same term, which will retake its course since the date of draw up of the mediation procedure conclusion minute, also taking into account the short term before the suspension.

Art. 70

(1) In case the mediation procedure takes place after beginning of the penal suit, the penal pursuit or, as the case may be, the judgment is suspended, during the term of presentation by the parties of the mediation contract.

(2)Suspension lasts till the mediation procedure concludes by any of the ways provided by the present law, but no later than 3 months from the date of signing the mediation contract.

(3)Mediator has the obligation to provide the legal body a copy of the minute of the mediation procedure conclusion.

(4)The penal suit is ex ... restarted, immediately after receiving the minute by which it is observed that the parties have not reconciled, or, if this one is not provided, upon expiry of the term provided in point (2).

CHAPTER VII: Temporary and final provisions

Art. 71

(1)Within 4 months from the date of the present law coming into force, the Mediation Council is established, which shall elaborate the regulation regarding its organization and operation, as well as the establishment standards in the mediation field, to be published in the Official Journal of Romania, Part I.

(2)In order to constitute the first mediation council, its members shall be assigned by common agreement by the legal organizations established from the mediation field, taking into account cumulative criteria regarding the duration of the organization's activity in this field according to the provisions of the articles of incorporation, the number of specialized members, as well as practical training and experience in mediation of the representatives of these organizations.

(3)For the organization and operation of the first mediation council, in the first year of activity the funds afferent to the following categories of expenses are allotted from the state budget, through the budget of the Ministry of Justice:

a)administration and operation expenses;

b)wages for its technical secretariat.

(4)After expiry of the one year period from the date of incorporation of the Mediation Council, its financing is provided under the conditions of art. 21.

Art. 72

(1)Within one month from the date of publication in the Official Journal of Romania, Part I, of the Regulation regarding the organization and operation of the Mediation Council, the procedure of mediators' authorization begins.

(2)Persons who graduated or who, upon entering into force of the present law, are attending a mediator training class in the country or abroad, in case they fulfill the conditions provided in art. 7 points a)-e), can request the authorization as mediator, under the conditions of the present law, having the obligation to submit documents attesting the attended training curricula. The Mediation Council shall decide the authorization after evaluation of the submitted training curricula's content, including the training duration. Provisions of art. 8 point (5) apply accordingly.

Art. 73

(1)Provisions of the present law regarding the mediation of conflicts become applicable within one month from the date of draw up of authorized mediators' panel.

(2)Mediation of labor conflicts remain subject to the provisions provided by special laws.

Art. 74

(1)Institutions and other legal persons who, on the date of the present law's coming into force, are attending mediators training classes, they can complete them in compliance with the regulations in force at the time of classes beginning.

(2)Granting of the permit provided in art. 9 by the Mediation Council becomes applicable on the date of publication into the Official Journal of Romania, Part I, of the training standards in the mediation field.

Art. 75

The attorneys-at-law, public notaries and legal councilors who gain the quality of mediator according to the present law can develop the mediation activity within under forms of exercising their profession.

This law was adopted by the Romanian Parliament, by complying with the provisions of art. 75 and of art. 76 paragraph (2) from the Romanian Constitution, republished.