

THE PARLIAMENT OF ROMANIA

Law

Regarding mediation and organizing the profession of mediator

The Parliament of Romania adopts the present law.

Chapter I

General frame

Art.1. – (1) Mediation represents an optional modality to settle the conflicts in a conciliatory way, with the assistance of a third person specialized as a mediator, under the conditions of neutrality, fairness and confidentiality.

(2) Mediation is based on the trust that parties give to mediator, as a person able to facilitate negotiations between them and to support them to settle the conflict through a mutual convenient, efficient and lasting solution.

Art. 2. – (1) If the law doesn't stipulate otherwise, the parties, individuals or companies, could voluntarily resort to mediation, including after beginning a trial in court, agreeing to settle, in this way, any conflicts: civil conflicts, commercial conflicts, conflicts regarding family, criminal conflicts, as well as others, under the conditions stipulated by the present law.

(2) The stipulations of the present law may also be applied to conflicts concerning consumer protection, if the consumer invokes the existence of a prejudice following the acquisition of some faulty products or services, the non-observance of riders stipulated by contract or of given guarantees, the existence of some abusive riders in the contracts signed by the consumers and the economic agents or the non-observance of other rights stipulated by the national legislation or that of the European Union regarding consumers' protection.

(3) Natural persons or legal entities have the right to settle their conflicts through mediation, both outside and inside the frame of compulsory procedures of conciliatory settlement of litigations stipulated by law.

(4) Strictly personal rights like those regarding the status of the person, as well as any other rights which the parties, according to the law, cannot possess through convention or any other way admitted by the law, cannot be the object of mediation.

(5) In case of any convention regarding rights that the parties can have, they can introduce a mediation rider whose validity is independent from the validity of the contract to which it belongs.

Art.3. – The activity of mediation is equally made for every person, disregarding of race, color, nationality, ethnical origin, language, religion, sex, opinion, political affiliation, fortune or social origin.

Art.4 .– (1) Mediation represents a public interest service.

(2) In exerting his task, the mediator doesn't have power of decision regarding the content of settlement the parties reach at, but he can guide them towards checking its legality, pursuant to art.59.

Art. 5.– (1) Mediation could be developed between two or several parties.

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

(3) Mediation may be done by one or several mediators.

Art.6 – The judicial and arbitration authorities as well as other jurisdictional authorities will inform the parties about the possibilities and advantages of using mediation procedures and will guide them to resort to it to settle their conflicts.

Chapter II

The profession of mediator

Section1

Acquiring, suspending and ceasing the quality of mediator

Art.7 – A mediator could be any person who satisfies the following conditions:

has complete capacity of exercise

has higher education

has work experience of at least 3 years or graduated a post-university programme that is tantamount to a master in the field, accredited pursuant to the law and approved by the Mediation Council.

is able to exert this activity from the medical point of view

has a good reputation and has never been incontestably convicted for any deliberate offence, able to bring prejudice to the prestige of this profession

graduated the mediators training, under legal conditions, except for the graduates of post-university programmes that are tantamount to a master in the field, accredited pursuant to the law and approved by the Mediation Council.

was authorized as a mediator, under the conditions of the present law.

Art.8. – (1) The persons who fulfil the conditions stipulated in art. 7 will be authorized as mediators by the Mediation Council, after paying the authorization duty, whose amount will be established through the regulations stipulated in art. 17 paragraph (2).

(2) The citizens of the states belonging to the European Union or to the Economic European Space, who possess a document of qualification as a mediator – obtained in one of these states – achieve, in the context of the right of settlement, access to the profession in Romania, after the acknowledgement of these documents by the Mediation Council, pursuant to Law no. 200/2004 regarding the acknowledgement of diplomas and professional qualifications for the settled professions in Romania, with the subsequent modifications.

(3) The documents of qualification obtained, for the profession of mediator, in a state other than Romania or in a state belonging to the European Union or to the European Economic Space, by the persons stipulated at paragr. (2), will be acknowledged under the conditions stipulated at paragr. (5), which will be applied in a suitable manner. If the abilities and the knowledge do not correspond to the demands of qualification stipulated by the Romanian law, the Mediation Council will also take into account the professional experience gained by the applicant and he/she can be asked to prove the fact that he/she fulfils all these requirements.

(4) The stipulations of paragraphs (2) and (3) also apply to Romanian citizens who possess the documents of qualification for the profession of mediator, obtained in a state belonging to the European Union or the European Economic Space or, according to the case, in a third state.

(5) The citizen of a third state, who graduated the courses for the training of mediators abroad or who obtained the quality of mediator abroad and wishes to practice mediation activity of permanent nature in Romania, gains access to the profession, under the following conditions:

a) he presents the title of education, accompanied by the certificate of validation released by the Ministry of Education and Research;

b) he presents the content of the training curriculum he studied, including the duration of the training, and, according to the case, the documents that certify the fact that he obtained the position of mediator. The Mediation Council assesses the content of the presented training curriculum, including the duration of the training, comparing the knowledge and the abilities established by these documents in conformity with the Romanian law and decides, if necessary, access to the profession. The conditions for the validation or compensation of the qualification, if the certified knowledge and abilities do not correspond to the qualification requirements stipulated by the Romanian law, will be established through the regulations stipulated in art. 17 paragr. (2)

(6) The foreign mediator can practise mediation activity of occasional nature, in the shape of offering his services, on the basis of the document that certifies that he legally practises this profession in the state of origin or his native country, being excepted from the authorization and registration requirements stipulated in the law, but having, however, the obligation of sending a written notice to the Mediation Council, regarding the practising of this activity.

Art. 9 – (1) The professional training of mediators is provided through the organization of specialization courses by trainers who were authorized, in conformity with the legislation regarding professional training of adults, and by accredited offices of higher education.

(2) The training programmes in the field of mediation will be elaborated on the basis of the criteria included in the standards of training in the field, worked out by the Mediation Council who will first give its approval regarding them.

Art. 10 Mediation Centers and other legal entities who develop training courses according with art.no.9, are registered by Mediation Council on a list which will be displayed for the public, either at their own headquarters, at courts, at the premises of the authorities of local public administration, as well as at the headquarters of the Ministry of Justice and on its internet site, to be checked by any interested person.

Art. 11. 1) Mediation Council has the right to check the manner in which training courses are developed and the application of initial and continuous training standards and could ask to the Minister of Justice the withdrawal of the authorization, in conformity with the legislation regarding professional training of adults.

(2) The authorization withdrawal or the expiration of the period for which it was granted involves to be erased from the list written on art. no.10.

Art.12. – (1) Authorized mediators are registered in the mediators list, worked out by Mediation Council and issued in Romanian Official Gazette, Part I.

(2) The following information are written in mediators list stipulated at paragr. (1):

a. first and last name of mediator;

b. professional headquarters;

c. basic training of mediator, the institutions which s/he was educated in and the degrees graduated;

d. the field of mediation which s/he is specialized in;

e. duration of practical experience in mediation activity;

f. foreign language s/he is able to mediate in;

g. quality of membership in one mediation center as well as, if necessary, in other organizations;

h. existence of a suspension cause

(3) Mediation Council must periodically update – at least once a year – the mediators list and to display it for the public at its own headquarters, at courts, at the premises of the authorities of local public administration, as well as at the headquarters of the Ministry of Justice and on its internet site, to be checked by any interested person.

Art.13. The exertion of mediator position is compatible with any other activity or profession, with the exception of incompatibilities stipulated by special laws.

Art.14. - (1) Exertion of mediator quality is suspended:

in case of incompatibility stipulated by the law; in this case, the mediator is compelled to inform Mediation Council about this incompatibility within 3 days;

at the written request of the mediator;

as disciplinary sanction, under the conditions stipulated in art. 39, paragr. (1), letter (c)

(2) The exertion of the mediator position is suspended by right, if the mediator is under preventive arrest, until the solution of the trial, according to the law.

Art.15. – The quality of mediator ceases:

at written request of renunciation made by the mediator;

in case of death;

in case when s/he doesn't satisfy the conditions mentioned to art.7 letters a) and d) anymore;

as disciplinary sanction, in case mentioned by art.39,paragraph (1) letter d).

in the case of permanent sentencing for a deliberate crime, which makes him/her unworthy of practising this profession.

Art.16 – (1) The suspension, as well as the cessation of mediator quality is disposed or according to the case, established, by the Mediation Council

(2) In case of cessation of mediator quality, his/her name is erased from mediators list.

Section 2

Mediation Council

Art.17.– (1) With the purpose of organizing the profession of mediator, the Mediation Council is founded, as legal entity with public utility, with its headquarters in Bucharest.

(2) Mediation Council is organized and works pursuant to the stipulations of the present law, as well as its own regulations of organization and work.

(3) Mediation Council is made up of 9 members, elected through direct vote or through representation, by the authorized mediators, under the conditions stipulated in the regulations of organization and work of the Mediation Council.

(4) The members of Mediation Council are validated by the Minister of Justice for a period of 2 years. Any mandate of the members of the Council may be prolonged for the same duration, only one time.

(5) The situations in which the quality of member of the Mediation Council ceases during the exercise of the mandate, as well as the procedure of the dismissal are decided upon through the regulations stipulated at paragraph (2).

(6) Only persons who have theoretical knowledge and practical experience in the field of mediation can be part of the Mediation Council The provisions of art. 7 are accordingly applied.

(7) Mediation Council will exercise its mandate until the date of the validation of the members of a new Mediation Council

Art.18. – (1) Mediation Council will elect a president and a vice-president and will assign, from among its members, a committee with permanent activity, which prepares the proceedings of Mediation Council. The length of the mandate of the committee's members is one year.

(2) Inside the structure of Mediation Council there is a technical office, made up of no more than 3 persons, appointed and paid as contractual personnel, in conformity with Annex no. I, chapter I, no. 18 of letter B from the Emergency Decree of the Government no. 24/2000 regarding the way of establishing the basis salaries for the contractual personnel from the budgetary sector, approved by Law no. 383/2001, with the subsequent changes and completions.

(3) The committee's structure and attributions, stipulated at paragraph (1) and those of the technical secretariat stipulated at paragraph (2) are established through the regulations in art. 17 paragraph (2)

(4) For their activity, the members of Mediation Council have the right to a monthly indemnity, under the conditions established in the regulations stipulated in art. 17 paragraph (2)

Art. 19.

Mediation Council comes together every month or whenever necessary, when convoked by the president.

Mediation Council's sessions are public, excepting the case when its members decide otherwise.

Mediation Council's proceedings unfold in the presence of at least 7 members.

When exercising its attributions, Mediation Council makes decisions with the vote of the majority of the constitutive members. Different opinions are explained and registered separately in the content of the decision.

At Mediation Council's proceedings other persons from any other offices or professional organisms may be invited, whose consultation is necessary to take action or to adopt the decisions of Mediation Council

Art. 20. The Congress of the Union has the following main attributions:

It promotes the mediation activity and it represents the interests of authorized mediators.

It elaborates the training standards in the field of mediation, on the basis of the best international practices

It approves the professional training programmes of mediators, in conformity with art. 9, paragraph (2);

It elaborates and brings up-to-date the list of mediators' trainers who obtained authorization in conformity with the existing legal frame in the field of professional training of adults.

It authorizes mediators, under the conditions stipulated in the present law;

It elaborates and brings up-to-date the list of authorized mediators;

It keeps record of the authorized mediator's offices;

It watches over the observance of training standards in the field of mediation;

It takes the necessary measures for the practical enforcement of the stipulations in art. 26, paragraph (2);

It adopts the Code of Ethics and Professional Deontology of authorized mediators, as well as their norms of disciplinary responsibility;

It takes action for the observance of the provisions stipulated in the Code of Ethics and Professional Deontology of authorized mediators and enforces the norms regarding their disciplinary responsibility;

It proposes the completion, or, if necessary, the correlation of the legislation regarding the mediation;

It adopts the regulations regarding its structure and working.

It fulfils any other attributions stipulated in the law and in the regulations.

Art. 21. - Mediation Council covers its organization and working expenses from its own income, as follows:

duties coming from the authorization of mediators;

donations, sponsorship, financings, and other sources of income, obtained under the conditions of the law;

returns from the selling of its own publications;

sums coming from fines enforced as disciplinary sanctions;

other sums resulted from N.U.M.R's activity, established by regulations.

Chapter III

The organization and practice of the mediators' activity

Art. 22. – (1) Mediators can unfold their activity within a professional civil society, in an office where one or more associate mediators can work, with the adequate auxiliary staff, or within a non-governmental organization, with the observance of the conditions stipulated by the law.

(2) The mediator or the associate mediators, holders of an office, may hire translators, jurists, other specialized personnel, as well as administrative and service personnel, necessary for the mediation activity.

(3) Authorized mediators may be hired with an individual work contract, under the conditions stipulated in the Work Code.

Art. 23. – When exercising his/her activity, the authorized mediator must keep an archive and personal registers, as well as a financial book-keeping.

Art. 24. - Mediators can form local or national professional associations, having as a purpose the promotion of professional interests and the protection of their statute and can join international professional associations, under the conditions of the law.

Chapter IV

The rights and duties of the mediator

Section I

The rights of the mediator

Art. 25. – The mediator has the right to inform the public regarding the exercise of his/her activity, with the observance of the confidentiality principle. The conditions under which the profession of mediator can be advertised are established in the regulations.

Art. 26. - (1) The mediator is entitled to receive the payment of a fee, established through negotiation with the parties, as well as to the restoration of the expenses caused by the mediation.

(2) The fee must be acceptable and take into account the nature and the object of the conflict.

Art. 27. - Every mediator has the right to apply his/her own pattern of organization of the mediation procedure, with the observance of the provisions and principles stated in the present law.

Art. 28. - (1) The mediator's professional headquarters is inviolable.

(2) The search of the mediator's professional headquarters can be ordered only by the judge and it can be done by the public prosecutor or the criminal investigation authorities, under the conditions stipulated by the Code of Criminal Procedure.

Section 2

The mediator's duties

Art. 29. – (1) The mediator has the obligation to give any kind of explanations to the parties regarding the mediation activity so that they can understand the purpose, the limits and the effects of mediation, especially over the relations that form the object of the conflict.

(2) The mediator has to make sure the mediation takes place with the observance of the parties' freedom, dignity and private life.

Art. 30. – (1) The mediator has the obligation to make all diligences so that the parties arrive to a convenient mutual agreement, within a reasonable period of time.

(2) The mediator has to lead the process of mediation in an impartial way and to ensure a permanent balance between the parties.

Art. 31. – The mediator must refuse to take over a case if s/he is aware of any circumstance that would prevent him/her from being impartial; it is the same if s/he establishes that the respective rights cannot be the object of mediation, in conformity with art.2.

Art.32. – The mediator has the duty to keep the confidentiality of the information he acknowledges during the mediation activity and of the drafted documents handed to him by the parties throughout the mediation even after his duty ended.

Art.33. (1) The mediator has the duty to observe the ethical and moral professional norms and to respond, accordingly to the dispositions of art.32 to the demands stated by the judicial authorities.

(2) The mediator has to communicate to the Mediation Council any change in conditions that will make necessary the up-dating of the mentions stated at art. 12 (2).

Art.34. – The mediator has to permanently improve his/her theoretical knowledge and mediation skills, taking, for this purpose, courses of training and professional perfecting, under the conditions established by the Council of Mediation.

Art.35. – The mediator has the duty to give back all documents that he has been entrusted with by the parties during the mediation procedure.

Art.36. – The mediator cannot represent or assist any of the parties in a judicial or arbitration procedure having as object the conflict which is the subject of the mediation. Art.37. (1) The mediator cannot be called as a witness regarding the facts and acts of which he has been aware of during the mediation procedure. In the case of criminal causes, the mediator can be called as a witness only if he has the preliminary express and written absolution of the parties and, if necessary, that of the other interested persons.

(2) The quality of witness comes before that of mediator regarding the facts and circumstances known before becoming a mediator in that case.

(3) In all cases, after having been heard as a witness, the mediator cannot develop the activity of mediation for that cause.

Section 3

The mediator's responsibility

Art.38. — The disciplinary responsibility of the mediator is for the following infringements:

the infringement of the obligation of confidentiality, impartiality and neutrality;

the refusal to answer to the demands made by the judicial authorities, in the cases stipulated by the law;

the refuse to give back the documents entrusted by the parties involved in a conflict;

the representation or the assistance of one of the parties in a judicial or arbitrary procedure, having as object the conflict subjected to mediation;

e) the perpetration of other actions which bring damage to the professional integrity.

Art.39.– (1) the disciplinary sanctions are applied according to the gravity of the infringement and consist in:

written observation;

b) a fine between 50 lei (RON) and 500 lei(RON);

the suspension of the quality of mediator for a period between one month and six months;

the cessation of the quality of mediator.

(2) The quantum of the fine stated by (1) b) is up-dated periodically by the Council of Mediation, taking the inflation into account.

Art.40.- (1) Any interested person may inform the Mediation Council, in written and under signature, on any committing of an infringement stated by art.38.

(2) The investigation of the infringement may be effected within 60 days from the date of the registration of the intimation, by a committee of discipline, made up of one member of the Mediation Council and 2 representatives of the mediators, assigned arbitrarily from the mediators' list. The members of the committee are appointed by the order of the Council of Mediation. The calling of the person in cause for the hearing is compulsory. The investigated mediator has the right to become aware of the content of the file and to formulate his/her defence. In case of default, a report will be made and signed by the members of the committee, from which it will result that the mediator was invited and did not come on the established date.

(3). The investigation file with the penalizing proposal or the lack of enforcement of a disciplinary sanction is submitted to the Council of Mediation, who makes a decision, within 30 days, regarding the mediator's disciplinary responsibility.

Art.41 –(1) The decision of the Mediation Council or the order of the minister of justice of applying the sanctions stated by art. 39, paragraph (1) may be attacked by any interested person, before the contentions business falling within the competence of the administrative courts, within 15 days from their communication.

(2) The action performed according to (1) suspends the execution of the attacked decision.

(3) The decision of applying the fine established by art. 39, paragraph (1) letter (b), which remained final according to the law, consists in a writ of execution. If this fine is not paid within 30 days from the date of the remaining final of the decision of sanction one can no longer be a mediator until the fine is paid.

Art.42. – The civil responsibility of the mediator may be engaged, under the conditions of the civil law, for causing damages by infringement of his/her professional duties.

Chapter V

The mediation procedure

Section 1

The preliminary procedure of the mediation contract

Art.43. – (1) The parties in conflict shall come together to the mediator. If there's only one party present at the mediation, the mediator shall send to the other party a written invitation as the first mentioned required so that they accept to come to mediation and sign the mediation contract, and then settling a term of at most 15 days. The invitation shall be sent by any means that confirms its reception.

(2) If it is still impossible for the party to come to mediation, the mediator can set out a new mediation session, by mutual agreement of the parties.

(3) If the other party refuses explicitly to come to mediation or does not come to sign the mediation contract twice in a row, the mediation shall be considered as unaccepted.

(4) The mediator may also resort to other legal procedures that s/he considers necessary for inviting the parties to the mediation, with the observance of the provisions of the present law.

Art.44. – 1) It is not allowed to have mediation sessions before signing the mediation contract.

(2) The mediation contract shall be closed between mediator and the parties, after they had come together to the mediator or after the invited party had accepted mediation.

Section 2

The mediation contract

Art.45. – The mediation contract must contain the following stipulations, otherwise it shall be considered null and void:

a) the identity of the parties in conflict, or, as the case may be, of their representatives';

b) the object of the conflict;

c) the mediator's obligation to offer explanations to the parties regarding the principles of mediation, their effects and the applicable rules;

d) the parties' statements that they accept mediation and that they shall be cooperative;

e) the engagement of the parties who are in conflict that they shall observe the rules of the mediation;

f) the parties who are in conflict shall undertake to pay the mediator the fee and the expenses he had for their own interest, as well as paying in advance or the whole sum, including if they give up mediation or if they do not find a resolution, and also how much the parties must pay, and if

there is the case, to take into account their social status. Unless otherwise stipulated, the sums shall be paid by the parties in equal shares.

g) the parties' agreement regarding the language used during the mediation.

Art.46. – (1) In the mediation contract some other conditions can also be stipulated, according to the law.

(2) The mediation contract shall not contain any stipulation that breaks the law or the public order otherwise, the mediation contract shall be considered null and void.

(3) If, during the mediation procedure, there are some unexpected expenses, made in the interest of the parties and with their agreement, an annex will be added to the contract of mediation.

Art.47. - (1) The mediation contract shall be done in a written form, otherwise it shall be considered null and void. It shall be signed by both parties having a conflict and by the mediator as well, and one original sample shall be given to each of them.

(2) The parties in conflict can name someone to act by proxy, under the conditions of the law, in order to close the mediation contract.

Art.48. –The mediation contract consists in a writ of execution regarding the parties' obligation to pay the mediator's fee.

Art.49. – The right to take action shall be suspended beginning with the date of the signing of the contract, until the mediation process is closed in any of the ways stipulated by the law in force.

Section 3

The mediation process

Art.50 – (1) Mediation is based on the cooperation of the parties and the use by the mediator of some specific methods and techniques, based on communication and negotiation.

(2) The methods and techniques used by the mediator must serve entirely the legal interests and objectives followed by the parties in conflict.

(3) The mediator shall not impose a solution on the parties regarding the conflict subjected to mediation.

Art.51. – Usually, the mediation shall take place at the mediator's headquarters. If the case requires, mediation can also take place in other locations, agreed both by the mediator and the parties in conflict.

Art.52. – (1) The parties in conflict have the right to be assisted by a lawyer or by other persons, under the conditions accepted by all the participants.

(2) During the mediation, the parts can be represented by other persons who can make decisions, under the conditions of the law.

Art.53. – The statements made during the mediation by the parties in conflict, by the persons stipulated in art. 52 and art. 55 paragraph (1), as well as those made by the mediator have a confidential character in relation to the third parties and cannot be used as evidence within a judicial or arbitration procedure, except for the case where the parties agree otherwise or the law stipulates the opposite. The mediator will inform the persons that take part in the mediation, under the conditions of art. 52, on their obligation to keep the secret and will ask them to sign an agreement of confidentiality.

Art.54. – (1) If, during the mediation, a certain situation comes up and it is likely to affect the goal of the mediation, the neutrality or the impartiality of the mediator, the last mentioned shall have the obligation to bring it to the parties' awareness who shall decide whether to maintain or to terminate the mediation contract.

(2) The mediator shall be entitled to abstain from any opinion and to put an end to the mediation process, according to the stipulations of art.56, which applies in a suitable manner. In this situation, the mediator has to return the fee for the stages of mediation that were not covered, or, as the case may be, to ensure the continuation of the mediation procedure, under the conditions established in the mediation contract.

Art.55. – (1) If the conflict to be mediated shall have difficult judicial aspects, or difficulties connected to other specialized fields, the mediator, by agreement of the parties, is allowed to ask the opinion of some expert in the matter.

(2) When the mediator shall ask the opinion of an expert outside his office, the first mentioned shall reveal only the legal issue, without the identity of the parties.

Section 4

Closing the mediation

Art.56. – (1) The mediation process shall be closed, as the case may require, as follows:

- a) by an agreement of the parties, as consequence of settling their conflict;
- b) the mediator acknowledges the fact that the mediation failed;
- c) by denunciation of the mediation contract by one of the parties;

(2) If the parties close only a partial agreement, and as (1) b) and c) stipulates, any of the parties can address to the competent court or arbitration.

Art.57. – (1) In any case of closing the mediation process, stipulated in art.56 paragraph (1), the mediator shall draw up a report, signed by both parties, personally or by mandate with special proxy, and by the mediator. The parties shall receive one original sample of the report.

Art.58. (1) When the parties in conflict come to an agreement, a mediation agreement shall be drawn up and shall contain all the stipulations consented by the parties and has the value of a document under private signature.

(2) The agreement of the parties shall not contain stipulations that break the law or the public order, the provisions of art. 2 being applicable.

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

Art.59. – The agreement of the parties can be subjected to the checking of the notary public in order to be authenticated or, as the case requires, to the consent of the court, under the conditions stipulated in art. 63.

Art.60. – (1) In any stage of the mediation process, any of the parties in conflict shall have the right to denounce the mediation contract, giving written notice to the other party and to the mediator.

(2) The mediator shall take notice of the unilateral denouncing of the contract and, in at the most 48 hours from the date of the receiving of the written notice, he shall draw up a report regarding the termination of the mediation process.

(3) If one of the parties in conflict shall not come to mediation without first denouncing the mediation contract as (1) stipulates, the mediator shall have the obligation to take all necessary steps to set out the real intention of the party and, as the case may be, s/he shall continue or terminate the mediation process.

Section 5

Mediation in case of court litigation

Art.61. – (1) If the case is first referred to court, its settlement by mediation shall be possible, either out of the parties' will or referred by the court, by agreement of the parties, regarding the rights the parties can have, according to the law. Mediation can have as object the partial or the complete resolution of the litigation.

(2) When closing the mediation, the mediator shall have the obligation, in each and every case, to give written notice to the court about the fact that the parties settled or not in the mediation process.

Art.62. – (1) In order to have the mediation process going on, the judging of the civil cases by the court or by arbitration can be suspended at the parties' request, according to the stipulations of art. 242, (1), item1 of the Code of Civil Procedure.

(2) The becoming of out of the date shall be suspended all along the mediation process, but not for more than 3 months from the date of the signing of the mediation contract.

(3) The request of referring the case to the court again shall be exempted of the stamp judicial taxes.

Art.63. – (1) If the case is settled by mediation, the court shall make a decision, at the parties' request, according to the stipulations of art. 271 from the Code of Civil Procedure.

(2) Once the decision is made, if the party in cause requires, the court shall refund the stamp judicial taxes paid for by the party.

Chapter VI

Special provisions regarding the mediation of some conflicts

Section 1

Special provisions regarding family conflicts

Art.64. – (1) Mediation can also settle conflicts between husband and wife regarding the continuation of marriage, the exercise of parental rights, the establishment of the children's residence, the parents' contribution to child support, as well as any other conflicts that come up within a married couple regarding rights they can exercise according to the law.

(2) The couple's agreement regarding the dissolution of the marriage and the settlement of the aspects related to the divorce is submitted, by the parties, to the competent court, in order to pronounce the divorce.

Art.65. – The mediator will see to the fact that the result of the mediation does not run counter to the child's superior interest, will encourage parents to focus mainly on the child's needs, and the assumption of parental responsibility, the actual separation or divorce do not encroach upon his/her upbringing and development.

Art.66. –(1) – Before the closing 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 relationship between the parties, and if the effects of such a situation are able to influence the mediation and will decide if, under such circumstances, the settlement through mediation is suitable. Accordingly, the provisions of art. 54 are applicable.

(2) If, during the mediation, the mediator finds out facts that endanger the upbringing or the normal development of the child or brings serious damage to the child's superior interest, s/he is asked to inform the competent authority.

Section 2

Special provisions regarding mediation for criminal cases

Art.67. – (1) The provisions of the present law are also enforced in the case of penal causes regarding offences for which, according to the law, the withdrawal of the preliminary complaint or the reconciliation of the parties remove penal responsibility.

(2) Neither the victim, nor the perpetrator can be forced to accept the mediation procedure.

Art.68. – (1) in the case of penal causes, the mediation must develop in such a way so that every party is guaranteed the right to judicial assistance and, if necessary, to the services of a interpreter. The report drawn up according to the present law, through which the mediation procedure is closed, must indicate if the parties benefited by the assistance of a lawyer or by the services of an interpreter, or, as the case may be, to mention the fact that they explicitly given them up.

(2) In the case of minors, the guarantees stipulated by the law for the development of the trial must also be ensured, in a suitable manner, within the mediation procedure.

Art.69. – (1) If the mediation procedure unfolds before the beginning of the trial and this ends by the reconciliation of the parties, the victim can no longer inform, for the same offence, the competent authorities, or, as the case may be, the court.

(2) If the mediation procedure was started within the period stipulated by the law for the introduction of the preliminary complaint, this term is suspended for the duration of the mediation. If the parties in conflict did not reconcile, the victim may submit the preliminary complaint within the same term, which will resume its course from the date of the elaboration of the report of ending the process of mediation, taking into account the time passed before the suspension.

Art.70. – (1) If the mediation unfolds after the beginning of the trial, the penal investigation or, as the case may be, the trial is suspended, on the basis of the presentation of the mediation contract by the parties.

(2) The suspension lasts until the mediation procedure ends by any of the ways stipulated by the present law, but not for more than 3 months from the date of the signing of the mediation contract.

(3) The mediator has to send to the judiciary authorities a copy of the report elaborated for the closing of the mediation procedure.

(4) The trial is resumed ex-officio, immediately after the reception of the report through which it is established that the parties did not reconcile, or, if this is not communicated, at the expiration of the period stipulated at paragraph (2).

Chapter VII

Final and provisional stipulations

Art.71. - (1) Within 4 months from the date of entering in force of the present law, the N.U.M.R Council will be founded and will draw up the regulations regarding its structure and the way it works, as well as the training standards in the field of mediation, which will be published in Romanian Official Gazette, Part I.

(2) In order to constitute the first Council of mediation, its members will be assigned by mutual agreement by the organizations legally constituted from the field of mediation, taking into account the cumulative criteria regarding the work experience of the organization in this field in conformity to the stipulations of the state, the number of specialized members, as well as the training and practical experience regarding mediation of the representatives of these organizations.

(3) For the organization and functioning of the first Council of mediation, during the first year from the beginning of its activity, the funds due to the following categories of expenses will be allotted from the state budget, through the budget of the Ministry of Justice:

a) maintenance and functioning expenses;

b) the salaries of its technical secretariat.

(4) After the expiration of the one-year period from the date of the constitution of the Mediation Council Council, its financing is ensured under the conditions of art. 21.

Art.72.– (1) Within a month from the publishing in Romanian Official Gazette, Part I, of the Regulations regarding the organization and the functioning of the Council of Mediation, the procedure of authorization of mediators begins.

(2) The persons who graduated or those who, at the date of entering in force of the present law, are taking a training course for mediators in this country or abroad and fulfil the conditions stipulated at art. 7 letters a)-e), may request the authorization as mediator, under the conditions of the present law, having the obligation to present the documents that certify the training curriculum they graduated. The Mediation Council Council will resolve the authorization after having assessed the content of the presented training curriculum, including the duration of the training. The provisions of art. 8 paragraph (5) are accordingly enforced.

Art.73. – (1) The provisions of the present law regarding the mediation of conflicts become applicable within a month from the date of the elaboration of the authorized mediators' list.

(2) The mediation of work conflicts remains subjected to the provisions stipulated by the special laws.

Art.74. – (1) The offices and the other corporate bodies that, at the date of entering in force of the present law, are unfolding mediation training courses can complete them pursuant to the settlements in force at the moment of the beginning of the courses.

(2) The granting of the approval stipulated at art. 9 by the members of the Council of Mediation becomes applicable from the date of the publishing in Romanian Official Gazette, Part I, of the training standards in the field of mediation.

Art.75. – Lawyers, notaries public and judicial advisors who gain the quality of mediator pursuant to the present law may unfold the mediation activity within the forms of exercise of their profession.

This law was adopted by the Parliament of Romania, with the observance of the provisions of article 75 and article 76, from the Constitution of Romania, republished.