

CROATIAN CHAMBER OF ECONOMY

2092

Based on Article 12, Paragraph 4 of the Act on the Croatian Chamber of Economy (“Narodne novine” (“The Official Gazette”), No. 144/21) and Article 81 of the Statute of the Croatian Chamber of Economy (“Narodne novine” (“The Official Gazette”), No. 67/22), the Assembly of the Croatian Chamber of Economy on 23rd session held on December 6, 2023 adopted the following

MEDIATION RULES

GENERAL PROVISIONS

Article 1

(1) The Mediation Centre (hereinafter: The Centre) operates at the Croatian Chamber of Economy.

(2) The Centre provides mediation services.

(3) In the mediation procedures referred to in paragraph 2 of this Article, one or more mediators independently and impartially assist the parties to reach a settlement, without the authority to impose a binding solution on them, in civil, commercial, labour and other property law disputes about the rights the parties may freely dispose of.

(4) Domestic and foreign natural and legal persons (hereinafter: parties) may request the implementation of the mediation procedure.

Article 2

The terms used in this Rulebook, which have a gendered meaning, apply equally to all genders.

Article 3

(1) The Centre operates independently.

(2) The Centre’s operations are based on the Act regulating the peaceful resolution of disputes, regulations adopted for implementing that Act, these Rules, and a Decision, i.e. Decisions regulating the mediation costs and other general bylaws.

(3) The Centre’s general bylaws as of paragraph 2 of this Article and the decision on appointing the Centre’s President as of Article 17, paragraph 1 of these Rules are published in the “Narodne novine” (“The Official Gazette”).

Article 4

(1) The headquarters of the Centre is in Zagreb, Rooseveltov trg 2.

(2) The Centre may have regional Mediation Centres in Split, Osijek, Rijeka, Pula, Koprivnica, Varaždin and in the headquarters of other county chambers of the Croatian Chamber of Economy.

(3) The Centre has its seal with the inscription “Mediation Centre at the Croatian Chamber of Economy” and the Centre’s logo.

Article 5

(1) The Centre has a President and a Secretary.

(2) Mediation activities for the Centre are performed by persons in the capacity of mediators registered in the Register of Mediators (hereinafter: mediators).

(3) The register of mediators referred to in paragraph 2 of this Article is maintained, on a public authority basis, by the Centre for Peaceful Dispute Resolution, a public institution established by the decision of the Ministry of Justice and Public Administration dated July 24, 2023, class number: 700-03/23-02/39, registration number: 514-03-02-01/01-23-20.

MEDIATION PROCEDURE

Article 6

(1) Concluding a mediation agreement beforehand is unnecessary to start the mediation procedure.

(2) A proposal for initiation of mediation sent by one party to another (hereinafter: proposal) is considered duly delivered if it is delivered by post to the address of the registered permanent residence, i.e. the headquarters of the counterparty, i.e. the attorney of that party, or to their email address.

(3) If the other party does not respond to the proposal within 15 days from the day it received the proposal or within another deadline set for response, which the proposing party had indicated in the proposal, it is considered that the proposal for mediation has been rejected.

(4) If the parties have not agreed otherwise, the mediation begins when the Centre receives notification in writing or by email that the parties have agreed on conducting the mediation, that is, that the other party has accepted the proposal to initiate the mediation procedure within the Centre.

Article 7

(1) It is considered that the party proposing or agreeing to the mediation procedure within the Centre accepts the provisions of these Rules, general and individual decisions on mediation costs and other relevant general and individual acts and bylaws of the Centre.

(2) The parties are authorized by written agreement to deviate from the application of specific provisions of these Rules if their agreement is not contrary to the mandatory provisions of the Act governing peaceful dispute resolution.

Article 8

(1) If the parties have expressly committed to each other not to initiate or continue court, arbitration or any other proceedings during a precisely specified period or until the occurrence of a precisely specified condition, such an agreement of theirs has a binding effect. In that case, the court, arbitrators or other bodies where proceedings are initiated on the same subject matter of the dispute will reject the claim or other submission by which the proceedings are initiated or continued at the other party's request.

(2) If there is no express agreement of the parties from paragraph 1 of this Article, during the mediation procedure, the parties are obliged to refrain from initiating court,

arbitration or other proceedings to resolve the dispute about which the mediation is being conducted, unless this is necessary to preserve their rights.

Article 9

(1) The parties shall agree by mutual consent whether one or more mediators will conduct the mediation.

(2) The parties shall agree by mutual consent which mediator or mediators will be appointed from the Mediators' List entered in the Register of Mediators from Article 5, Paragraph 3 of this Rules (hereinafter: List of Mediators)

(3) The parties can agree to allow the President of the Centre to appoint the mediator or mediators.

(4) If the parties can not agree on which mediator or mediators to appoint or can not agree to do as in paragraph 3 of this Article, that mediator or mediators shall be appointed ex officio by the President of the Centre.

(5) In the cases referred to in paragraphs 3 and 4 of this Article, the mediator or mediators must be selected from the List of Mediators.

Article 10

(1) The person offered the appointment as a mediator must disclose all circumstances that might cast doubt on their impartiality. After the appointment, the mediator must inform the parties of such circumstances as soon as s/he becomes aware of them if s/he has not already done so before.

(2) If the parties have not agreed otherwise, the appointed mediator cannot be a judge or arbitrator in a dispute that was or is the subject of mediation or in any other dispute that arose from or is connected to that legal relationship.

(3) As an exception to paragraph 2 of this Article, the parties may authorize a mediator to pass an arbitral award as an arbitrator based on a settlement.

Article 11

(1) The mediator undertakes to act professionally, impartially and equally towards each party and to conduct the mediation process fairly.

(2) Within the framework of the parties' agreement, the mediator is authorized to conduct the procedure as s/he deems appropriate, taking into account the facts and circumstances of the specific case, the expressed wishes and expectations of the parties, and the interest in ending the dispute between the parties quickly and permanently.

Article 12

(1) The mediator can examine the statements and proposals of the parties and, if necessary, collect certain information and hear the parties.

(2) The mediator can hold meetings with both parties simultaneously or with each party separately.

(3) The mediator may participate in drafting the settlement and propose its content.

(4) If the parties have not agreed otherwise, the mediator may transfer the information and data received from one party to the other party only with their consent.

(5) The parties shall determine by agreement the extent of the mediator's specific powers from paragraphs 1 to 4 of this Article.

Article 13

(1) The settlement concluded in the mediation procedure before the Centre is binding on the parties that concluded it. If the parties have undertaken certain obligations through the settlement, they undertake to fulfil them on time.

(2) The settlement referred to in paragraph 1 of this Article is an enforceable document if it establishes a specific performance obligation on which the parties can agree and if it contains a declaration by the obligee about immediate permission for enforcement (enforceability clause). The enforceability clause can also be contained in a separate document.

(3) The settlement and the specific document on enforceability, if adopted, shall be concluded in writing and attached to the minutes drawn up by the mediator. The parties and the mediator sign the settlement and minutes.

(4) The parties may also agree that the settlement be drawn up as a notarial deed or in another form provided by the law governing the peaceful resolution of disputes.

Article 14

(1) If the parties have not agreed otherwise, the mediator must keep all information about the mediation process confidential concerning third parties unless the law prescribes otherwise or if it is necessary to provide information to implement settlement or its enforcement.

(2) The mediator is responsible for the damage s/he caused by violating the obligation from paragraph 1 of this Article.

(3) Paragraphs 1 and 2 of this Article shall be applied accordingly to the parties, other persons who participated in the mediation process in any capacity, and the employees of the Centre.

Article 15

(1) Mediation is deemed completed:

1. if one party has sent the other party and the mediator, by mail or in electronic form, a written statement of withdrawal from the mediation, unless two or more parties who intend to continue the mediation participate in the procedure even after the withdrawal of one party,

2. if the parties sent the mediator, by mail or in electronic form, a written statement about the completion of the mediation,

3. by the mediator's decision that the mediation procedure is suspended because further efforts to reach a peaceful resolution of the dispute are not purposeful, and which decision the mediator usually makes after allowing the parties to express their views,

4. if the settlement is not concluded within the deadline for completing the mediation previously determined by the parties; within 60 days from the mediation

starting date if the parties had not previously determined the deadline; or within another deadline that the parties have subsequently agreed upon,

5. by concluding a settlement.

(2) In the minutes as of Article 13, paragraph 3 of these Rules, it is established in which of the ways prescribed in paragraph 1 of this Article the mediation procedure was completed in a specific case.

(3) The mediator shall inform the Centre about the duration and method of completing the mediation.

(4) After receiving the notification from paragraph 3 of this Article or after learning about the completion of the mediation procedure from other credible sources, the Secretary of the Centre draws up a special written note stating that the mediation procedure has been completed.

Article 16

(1) The Centre and mediators have the right to reimbursement of costs under the rules on costs of mediation procedures conducted within the Centre.

(2) The rules on costs referred to in paragraph 1 of this Article shall be determined by the Board of Directors of the Croatian Chamber of Economy.

INTERNAL ORGANIZATION OF THE CENTRE

Article 17

(1) The President of The Centre is appointed by the Board of Directors of the Croatian Chamber of Economy for four years.

(2) The President represents the Centre.

(3) The President appoints mediators in the cases provided for in these Rules, monitors the application of the general bylaws of the Centre and prepares and proposes amendments, i.e. the adoption of new general bylaws to harmonize them with the legislation and the development of practice in that area, organizes expert meetings, consultations and expert interviews to promote the Centre and the institute of mediation, participates in scientific and professional meetings, information about the rules and practices of the Centre publishes in scientific and professional literature, undertakes activities to establish cooperation with other Croatian and foreign organizations and European Union bodies whose activities are of interest to the activities of the Centre, signs cooperation agreements and performs other tasks determined by these Rules and other bylaws of the Centre.

(4) The President of the Centre approves the work programme and the annual report on the Centre's activities.

Article 18

(1) The Croatian Chamber of Economy's President appoints the Secretary of the Centre. The Croatian Chamber of Economy concludes an employment contract with the Secretary of the Centre.

(2) The Secretary of the Centre performs all administrative tasks related to individual mediation procedures and works with the parties.

(3) The Secretary of the Centre prepares the work programme for the current year and the annual report on the Centre's activities from Article 17, Paragraph 4 of these Rules.

(4) The Secretary of the Centre undertakes and implements the actions and activities necessary for the proper functioning of the Centre, ensures the proper execution of the conclusions and orders of the President of the Centre, and performs other tasks determined by these Rules and other bylaws of the Centre.

(5) The Secretary represents the Centre at domestic and international events related to the mediation institute. If the President of the Centre cannot attend them or as ordered by the President.

Article 19

(1) If s/he has not concluded an employment contract with the Croatian Chamber of Economy, the President of the Centre is entitled to a flat monthly fee for their work, the amount determined by the President of the Croatian Chamber of Economy at the end of the current year for the following calendar year.

(2) If s/he has concluded an employment contract with the Croatian Chamber of Economy, the President of the Centre is entitled to a separate monthly salary bonus, the amount of which is determined by the President of the Croatian Chamber of Economy.

(3) During one calendar year, the Secretary of the Centre is entitled to one or more special allowances due to the increased responsibility and complexity of the work s/he performs, which is approved by the President of the Croatian Chamber of Economy upon a reasoned proposal by the President of the Centre.

Article 20

The Croatian Chamber of Economy ensures the material and financial conditions for the operation of the Centre and supervises its administrative, material, and financial operations.

TRANSITIONAL AND FINAL PROVISIONS

Article 21

(1) The Board of Directors of the Croatian Chamber of Economy shall, within six months from the date of entry into force of these Rules, issue a decision establishing that the Mediators' List of the Centre referred to in Article 22, paragraph 2, item 15 of the Act on the Croatian Chamber of Economy ("The Official Gazette"), No. 144/21) consists of mediators registered in the Register of Mediators as of Article 5, Paragraph 3 of these Rules. The decision is published in "Narodne novine" ("The Official Gazette").

(2) On the date of entry into force of the decision referred to in paragraph 1 of this Article, the Mediators' List of the Mediation Centre at the Croatian Chamber of Economy dated March 15, 2010 ("Narodne novine" / "The Official Gazette", No. 34/10), Supplement to the Mediators' List of the Mediation Centre at the Croatian Chamber of Economy dated April 14, 2011 ("Narodne novine" / "The Official Gazette", No. 48/11)

and the Supplement to the Mediators' List of the Mediation Centre at the Croatian Chamber of Economy dated December 18, 2013 ("Narodne novine"/"The Official Gazette", No. 155/13) cease to be valid.

Article 22

(1) The Board of Directors of the Croatian Chamber of Economy will decide on costs in mediation proceedings conducted before the Centre within six months from the date of entry into force of these Rules. The decision is published in "Narodne novine" ("The Official Gazette").

(2) Until the date of entry into force of the decision referred to in paragraph 1 of this Article, the following shall apply:

– Decision on Costs of Mediation Procedures (The Official Gazette, No. 142/11) and Decision on Amending the Decision on Costs of Mediation Procedures (The Official Gazette, No. 67/17)

- Decision on the costs of mediation before the Mediation Centre at the Croatian Chamber of Economy in disputes related to the application of the Act on Consumer Credit ("The Official Gazette", No. 75/09), the Act on Payment Transactions ("The Official Gazette", No. 133 /09) and the Act on Credit Institutions ("The Official Gazette", Nos. 117/08, 74/09, 153/09), which was published in "The Official Gazette", No. 32/11

- Decision on the costs of mediation before the Mediation Centre at the Croatian Chamber of Economy in disputes related to the application of the Act on the Implementation of European Union Regulations in the Area of Payment Transactions ("Narodne novine"/("The Official Gazette") No. 54/13), which was published in "Narodne novine"/("The Official Gazette"), No. 84/13

- Decision on mediation costs before the Mediation Centre at the Croatian Chamber of Economy in disputes between payment service users who are payees and their payment service providers regarding the rights and obligations from Regulation (EU) 2015/751 and/or the Act on the Implementation of Regulations of the European Union in the Area of Payment Transactions ("Narodne novine"/("The Official Gazette"), No. 50/16), which was published in "Narodne novine"/("The Official Gazette"), No. 67/17.

(3) On the date of entry into force of the decisions from paragraph 1 of this Article, the decisions from paragraph 2 of this Article cease to be valid.

Article 23

With the entry into force of these Rules, the Rules on Mediation (Official Gazette, No. 142/11) cease to be valid.

Article 24

These Rules enter into force on the eighth day from the day of its publication in "Narodne novine" ("The Official Gazette").

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President
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m.p.