

Rules of the Settlement Program at the Regional Court of Sofia

1. Goal of the Program

1.1. The program was initiated by the Project "MEDIATION - YOUR DECISION", financed by "Bulgaria" Fund of the United States Agency for International Development, the German Marshal Fund, and the Balkan Trust for Democracy. The project was accomplished by the Regional Court of Sofia (RCS) and the Professional Association of Mediators in Bulgaria (PAMB). Their partners were: the European Association of Judges for Mediation (GEMME) and the Bulgarian American Commission for Educational Exchange "Fulbright". The implementation of the program has involved RCS, PAMB, and the National Association of Mediators (NAM).

1.2. The goal of the program is to provide to the parties of cases a possibility to resolve their dispute voluntarily through using mediation, by:

- obtaining information about the opportunity to settle their dispute using mediation;
- choosing a volunteer mediator or a judge, trained to use mediation techniques (trained judge), to help them settle their dispute;
- receiving administrative assistance from a court coordinator to help them arrange the time and the place of the mediation meetings.

1.3. The assistance rendered to parties through the Program is entirely free of charge.

2. Participants in the Program

2.1. The Program shall involve judges and volunteer mediators.

2.2. Judges shall participate in the Program in several ways:

- all judges shall be entitled to refer their cases to: trained judges who shall fulfil the duty of the court to invite the parties to reach an agreement; volunteer mediators;
- trained judges shall perform the duty of the court to invite the parties to reach an agreement in cases tried before their colleagues and referred by them. The judge, whom the cases is referred to, shall not perform any procedural steps in the referred case;

2.3. SRC shall announce the names of the trained judges on its website.

3. Management of the Program

3.1. The Program shall be managed by a Commission to the Program (The Commission). The Commission shall be responsible for the overall accomplishment of the Program in an effective and legal manner. It shall select the volunteer mediators, and it shall also observe and keep under control the activities carried out by the Program.

3.2. The Commission shall consist of five members - three judges and two mediators. The judges shall be elected among the trained judges. One of the mediators shall be a representative of the National Association of Mediators, and the other mediator shall be a representative of the Professional Association of Mediators in Bulgaria.

3.3. The members of the Commission shall be elected for a two-year term.

3.4. The Commission shall adopt its resolutions with the unanimous votes of the three members-judges.

4. Selection of Volunteer Mediators. Termination of the Participation of the Volunteer Mediators in the Program

4.1. Role and obligations of volunteer mediators

4.1.1. Volunteer mediators are legally capable mediators who shall render mediation services free of charge within the scope and under the rules of the Program.

4.1.2. Volunteer mediators shall be selected for a one-year term.

4.1.3. As far as the mediation process is concerned, volunteer mediators shall be obliged to observe the provisions of the law and these Rules and they shall be available for carrying out mediations according to the Schedule specified in the present Rules.

4.2. Requirements for mediators willing to participate in the Program

4.2.1. Each candidate for the position of a volunteer mediator shall:

4.2.1.1. be registered in the Uniform Register of Mediators at the Minister of Justice. The Register is available at www.mjeli.government.bg;

4.2.1.2. have professional experience in resolving disputes;

4.2.1.3. have the following qualities and skills:

- communication ability;
- self-control;
- patience;
- calmness and ability to listen;
- consistency;
- be rational and well-balanced;

- ability to identify the interests of the parties and to distinguish them from the problems;
- creativity;
- ability to win parties' confidence;
- ability to encourage and help the parties to make their own choice and to take independent decisions.

4.3. How candidates can prove that they meet the requirements and they possess the qualities and the skills required

4.3.1. Candidates for the position of a volunteer mediator shall submit:

- a cover letter (where the candidate shall specify the reasons for applying for participation in the Program, how long she will be able to participate in the Program, how many hours per month she will spend in order to participate in the Program);
- a copy of the Certificate of the Register of Mediators at the Ministry of Justice;
- copies of all certificates and diplomas, certifying their trainings in mediation, negotiations, dispute resolution, and communication;
- CV in a standard form;
- declaration in a standard form.

4.3.2. For the purposes of election the Commission may contact the mediation organization whose member the candidate is or where she has been trained.

4.3.3. If necessary, the candidates for a volunteer mediator shall be interviewed.

4.4. Procedure for selecting volunteer mediators

4.4.1. All mediation organizations in Sofia can propose volunteer mediators. In order to do so, they shall present a list of volunteer mediators who they nominate. The documents described in section 3.3.1 for each mediator from the list shall be enclosed thereto.

4.4.2. Each mediator who is not a member of a mediation organization can apply for the position of a volunteer mediator. She shall submit with the Regional Court of Sofia all documents described in section 4.3.1. by the means specified in section 4.5.1.

4.4.3. The RCS announces the beginning and the end of the application period on its website, via letters to mediation organizations and the members of the National Association of Mediators as well as via written notices put at the relevant places in the building of the RCS. The final date for submitting documents shall be at least one month following the beginning of the application period.

4.4.4. The Commission shall do the selection of volunteer mediators. For the purposes of selection the Commission may get into contact with a contact person designated by the candidate.

4.4.5. The Commission can reject the nomination of a candidate for a volunteer mediator made by a mediation organization, only if it has invited a representative of the nominating

organization to participate in the consideration of the nomination. The invitation shall be sent by any means of communication.

4.4.6. The Commission shall notify all candidates whether they have been approved to be included in the list. This notification shall be made within a month following the final date for application. The notification shall be made by any means of communication.

4.4.7. Judges who participate in the Program shall acquaint the volunteer mediators newly selected with the first-instance proceedings at an information meeting.

4.5. Submission of application documents

4.5.1. Application documents shall be submitted to Judge Tsveta Zhelyazkova:

- via e-mail: s-040@src-bg.org;
- via ordinary mail, to the address: SRC, Sofia 1164, 6 Dragan Tsankov Blvd.;
- in the RCS building, at the Information Desk.

4.6. List of volunteer mediators

4.6.1. After accomplishing the selection, the Commission shall make a list of the candidates approved. This list shall be published on the web pages of the Court, the Professional Association of Mediators, the National Association of Mediators, and on the web pages of other organizations which have agreed.

4.6.2. Next to the name of each volunteer mediator the list shall include information about her:

- profession;
- professional experience as a mediator as well as other professions;
- fields in which she has rendered mediation services;
- education;
- where, when, and who trained her to be a mediator;
- mediation organization which has nominated her (if any);
- period for which she will serve as volunteer mediator.

4.6.3. By applying for participation in the Program each mediator shall be deemed to have granted her consent the information mentioned above to be published.

4.6.4. By a resolution adopted unanimously the Commission shall have the right to invite personally and to include in the list of volunteer mediators reputable professionals, such as retired judges, law professors, and other well-known people willing to participate in the Program as volunteers.

4.7. Termination of the Participation of a Volunteer Mediator in the Program

4.7.1. Termination of the participation of a volunteer mediator in the Program may occur:

- at her own free will expressed in a written notice to the Commission at any time;

- upon her removal from the Program by the Commission pursuant to section 7 of the present Rules;
- upon expiration of the period she is volunteering.

4.7.2. Before terminating their participation in the Program volunteer mediators shall finish their work on cases referred to them. When the termination of the participation in the Program of a volunteer mediator is due to her removal from the Program by the Commission, the volunteer mediator may finish her work on the cases referred only with the consent of the parties to the dispute. Otherwise, another volunteer mediator or trained judge will replace her.

5. Procedure for Referrals

5.1. Schedule

5.1.1. Once the list of volunteer mediators is done, the trained judges and the volunteer mediators shall draw a schedule. This Schedule shall contain the names of the volunteer mediators and the trained judges, their business contacts (email and phone), dates and hours in which they shall work on cases referred to them.

5.1.2. The Schedule shall be published on the website of the RCS.

5.2. General rules for Referral

5.2.1. The judge may decide whether the case is appropriate for referral from the time she receives the complaint until the final disposition of the case.

5.2.2. The parties can choose a volunteer mediator or a qualified judge. The judge who hears the case shall not participate in the selection.

5.2.3. The parties may choose the time at which the meeting with the volunteer mediator or the trained judge (meeting) be held in accordance with Schedule. The meeting shall be held before the next court hearing.

5.2.4. The judge shall inform the parties that their refusal to participate in the meeting or the conclusion of the meeting without settlement will not influence the outcome of the proceedings.

5.2.5. Participation of the parties in the meeting will not disinterest them in the pursuit of the case, including the collection of evidence.

5.3. Stages of referral

5.3.1. In case that, upon examining the complaint and the written reply, the judge finds that the case is appropriate for referral, she shall notify the parties about the opportunity to use mediation in or outside the Program (by using a mediator outside the Program). The judge may send an information form about the Program to the parties. The judge may send them information about the mediation centers in Sofia.

5.3.2. When the parties decide to use the Program before the first hearing, they should contact the court coordinator of the Program (court coordinator) for assistance in scheduling and holding a meeting with a volunteer mediator or a trained judge.

5.3.3. When, in the course of the first or the subsequent hearing, the judge finds that the case is suitable for resolving through mediation, she may briefly explain to the parties what mediation is and then, ask them whether they wish the dispute to be resolved through mediation.

5.3.4. In case that, in the course of the hearing all parties express their willingness to try to resolve the dispute through mediation, the judge shall inform them about the available dates for holding the meeting and the names of qualified judges and volunteer mediators. In this case the judge will use the Schedule.

5.3.5. When the parties and the judge specify when the meeting shall be held and who will be the volunteer mediator or the trained judge to assist them, the parties shall complete and submit a form (Annex 1) to the judge. The judge shall then give the form to the court coordinator to include the information from the form in the Schedule in case the judge or her judicial secretary has not done it.

5.3.6. Good faith requires that parties notify the court coordinator at least one day in advance in case they are unable to attend the meeting with the trained judge or the volunteer mediator. The court coordinator shall notify the selected trained judge or the volunteer mediator and the other party. When a party does not attend a meeting without first notifying the court coordinator or the volunteer mediator, respectively the trained judge, for inability to attend, later she will not be able to benefit from the program on the same case.

5.4. Place of the Mediation Meeting

5.4.1. Meetings are held in one of the buildings RCS uses, or other place the Chief Judge of the RCS designates.

5.4.2. At the hearing, at which the parties have decided to use mediation, the judge shall inform them of the place where the meeting with the trained judge or the volunteer mediator will be held.

5.4.3. Notice about the place of the meeting shall be displayed on the information board of the RCS.

5.4.4. In case that the place of the meeting be changed, the court coordinator shall promptly notify the parties about the change.

5.4.5. The court coordinator shall inform the parties who have chosen to use the Program before the first hearing about the place of the meeting.

5.5. Assistance from the Court Coordinator

5.5.1. For all questions concerning the conduct of the meetings, the parties shall refer to the court coordinator. The referring judge shall give to the parties the business phone number and

the e-mail address of the court coordinator with the information form sent before or at the first court hearing.

5.5.2. The court coordinator shall check the Schedule daily and notify the trained judge or the volunteer mediator that there is a case referred to her at least one day earlier.

5.6. Holding the Mediation Meeting

5.6.1. At the meeting, the trained judge or the volunteer mediator may converse with both parties in a joint meeting or individually with each of the parties.

5.6.2. After the meeting, the volunteer mediator or the trained judge shall complete a form (Annex 2), which shall include:

- the case number and the type of the case;
- the names of the people attending the meeting and their position in the case;
- the outcome of the meeting;
- the place, the date and the duration of the meeting.

5.6.3. The volunteer mediator or the trained judge shall submit the completed form on paper and electronically to the court coordinator. The court coordinator maintains and arranges the forms on paper and electronically in chronological order.

5.6.4. The court coordinator shall notify the judge who has referred the case about the outcome of the meeting.

5.6.5. When the parties do not settle the case at the first meeting but the volunteer mediator or the trained judge considers that the dispute could be resolved through a subsequent meeting with the parties, she may propose a subsequent meeting to them. In case the parties agree, the volunteer mediator or the trained judge will give them a date for the meeting. The volunteer mediator or the trained judge shall notify the parties of the place of the meeting immediately or upon consulting with the court coordinator.

5.6.6. The subsequent meeting is to be held before the second court hearing. It may be held after the second hearing only if:

- the parties explicitly express their wish to the judge before whom the case is pending;
- the volunteer mediator or the trained judge informs the judge through the court coordinator that a meeting is necessary;
- the judge hearing the case determines that the procedure will not be unreasonably delayed due to the meeting.

5.6.7. The volunteer mediator or the trained judge shall write down the outcome of the meeting in the form under section 5.6.2. and submit the form on paper and electronically to

the court coordinator. The court coordinator shall add this form to the form prepared for the first meeting.

5.6.8. In case a third meeting is necessary, sections 5.6.5-5.6.7 shall apply.

6. Monitoring of the Program

6.1. The Commission shall implement the monitoring of the Program. Based on observations on the activities and the results of the Program, the Commission may suggest to the judges and the volunteer mediators participating in the Program some activities to improve the performance of the Program.

6.2. The Commission will monitor the Program through summarizing the data collected through section 5.6.2. forms and the Schedule. To do so, the Commission may use the court statistic person, as it pre-sets the criteria for summarizing the information.

6.3. The Commission may collect additional information about the Program through surveys among the judges participating in the Program, the volunteer mediators, and the parties. These surveys will not collect information which disclosure would violate the secrecy of the mediation meeting.

6.4. Based on the summary of the information the Commission makes a report with proposals. The Commission will prepare this report twice a year. The first report includes the period from September to January of each year. The second report includes the period from February to July of each year.

6.5. The Commission itself determines how often to meet, and whose of its members to prepare the report with the proposals. The Commission itself determines the content of the report, but it should include:

- number and type of cases referred;
- number and type of disputes, resolved by the Program;
- number of meetings held per case.

6.6. After preparing each report, the Commission presents it before the judges participating in the Program and the volunteer mediators at a common meeting.

6.7. After the common meeting the Commission publishes the report on the court website, as it takes into account any proposals made at the meeting.

7. Internal Control of the Program

The Commission shall conduct an overall monitoring of the Program, while ensuring compliance with the Law of mediation and the Procedural and ethical rules of conduct for mediators in the Ordinance under Art. 8 of the Law of mediation. The Commission shall monitor considering all complaints received in connection with the Program and if necessary may remove volunteer mediators from the Program. The Commission shall decide on every complaint within one month with a reasoned decision. The decision shall be announced to the complainants and the volunteer mediator, against whom is the complaint.

8. Informing the Legal Community and the Citizens about the Activities of the Program and Its Results

8.1. At the beginning of each year, the judges involved in the Program, and the volunteer mediators shall prepare a plan which will determine the way the legal community and the citizens will be informed about the activities of the Program and its results. They shall seek the assistance of the mediation organizations, the bar, the professional associations of lawyers in Bulgaria.

8.2. The plan will also define how those actions will be financed.