

# **Regulations Governing the Status of Mediators and Arbitrations**

## **Ministerial Decree 12636/30-72001 Regulations Governing the Status of Mediators and Arbitrations of the Organisation for Mediation and Arbitration**

Article 1 - Objective of the Regulation

Article 2 - Special Body of Mediators-Arbitrators

Article 3 - Engagement of Mediators and Arbitrators

Article 4 - Qualifications required and conditions precluding candidates

Article 5 - Code of Conduct for Mediators and Arbitrators

Article 6 - Selection procedure for Mediators-Arbitrators

Article 7 - Mediation procedure

Article 8 - Arbitration Procedure

Article 9 - Remuneration of Mediators and Arbitrators

Article 10 - Assessment of Mediators and Arbitrators

Article 11 - Disciplinary Offenses - Disciplinary Proceedings


Article 12 - Disciplinary Penalties

Article 13 - Final Provisions



### **Article 1 - Objective of the Regulation**

The present Regulation stipulates the status of Mediators and Arbitrators, their rights and obligations as well as the rules and conditions under which they shall operate.



### **Article 2 - Special Body of Mediators-Arbitrators**

1. To provide the service of mediation and arbitration for the solution of collective labor disputes, according to the stipulations of the law, a special body of Mediators and Arbitrators is set up in the framework of the Organisation for Mediation and Arbitration, manned by persons to be hired by the Organisation's Board of Directors.
2. The Arbitrators are selected from among the mediators following a decision by the Organisation's Board of Directors. The arbitrators may act as mediators.
3. The maximum number of positions for mediators, full or part-time, is fifty (50) for the whole country, of whom up to twenty (20) can be arbitrators at the same time.

4. Following a decision by the Organisation's Board of Directors a geographical distribution of mediators and arbitrators throughout the country can be provided for. The appointment of mediators and arbitrators as in principle competent for cases at a specific geographical region is of a clearly indicative character and does not restrict the parties in the selection or the drawing of lots for the person of the mediator-arbitrator.
5. The special Body of Mediators and Arbitrators meets to discuss issues which concern the exercise of the social function of its members and submits its opinion either on its own initiative or following a request by the Organisation's Board of Directors.

## **Article 3 - Engagement of Mediators and Arbitrators**

1. The engagement of Mediators and Arbitrators is done on the basis of the provisions of Law 1876//90, other relevant provisions, the provisions of the present Regulations and the decision of the Organisation's Board of Directors in each separate case.
2. The Organisation's Board of Directors decides, according to its own judgement as to the exact number of positions of Mediators and Arbitrators which will be filled with every announcement of a competition according to the law, the relevant decrees and other provisions of the present Regulation.
3. The selection and engagement of Mediators and Arbitrators is done by the Board of Directors following public announcement of a competition.
4. The Organisation's Board of Directors:
  - a. Determines the content and the method of the announcement.
  - b. Examines the candidates' dossiers.
  - c. Invites for an interview those it deems necessary and selects the most qualified according to its free judgement and taking into consideration the provisions of the present Regulation.
5. The decisions of the Board of Directors for the engagement or the renewal of contract of Mediators and Arbitrators are made with a special majority of three fourths (3/4) of the total members.
6. The engagement of Mediators and Arbitrators is done through the signing of a written contract with the Organization for the provision of independent services. The contract, which may stipulate full or part-time employment is of a 3-year duration and may be renewed, if in the opinion of the Organisation's Board of Directors the service of the Mediator-Arbitrator in question has been successful according to the special stipulations made in the present Regulation. The same decision determines the number of runners-up.

## **Article 4 - Qualifications required and**

# conditions precluding candidates

1. Mediators and Arbitrators must:
  - a. Be over 30 years old and if male must have served their military service or have been legally exempt.
  - b. Hold a University Degree (in Law or Economics).
  - c. Have proof of their experience on issues of labor relations.
  - d. Not be members of the Administrative Boards of trade unions or employers' associations.
  - e. Not have disciplinary penalties issued against them by their professional or scientific association or their trade union.
2. During the selection procedure for Mediators-Arbitrators special importance is attributed to their experience in solving collective labor disputes, organising labour relations in companies and holding collective negotiations. Also, postgraduate degrees or publications relevant to the field will tip the balance in their favour.

Individuals, who according to the judgement of the Organisation's Board of Directors represent the interests of private companies, trade unions, the public sector and organizations of the wider public sector shall not be selected.
3. Mediators-Arbitrators must not have been handed punishment depriving them of their civil rights or stood charges on theft, misappropriation (ordinary or on the job), fraud, extortion, forgery, disloyalty, bribery, coercion, disloyalty in the service, breach of duty, crimes against morality, slander, perjury, filing false charges, desertion, currency felonies and false statements. Also any individual under trial on a final order of committal, for felony or any of the misdemeanors mentioned in the previous passage will not be hired. Prescription of an offense, reinstatement, amnesty and pardon, despite abrogation of penalties do not invalidate the above mentioned obstacle, as long as the person in question has been committed on a final order. Also any individual under judicial restraint or probation shall not be hired.



## Article 5 - Code of Conduct for Mediators and Arbitrators

1. Mediators and Arbitrators exercise a public function without however being civil servants and enjoy absolute independence in the performance of their duty.
2. During their term of service Mediators and Arbitrators are not allowed to take up mediation or arbitration cases other than those assigned to them by the Organisation.
3. Mediators and Arbitrators have a duty to:
  - a. Safeguard and promote the prestige, reliability and generally the interests of the Organisation for Mediation and Arbitration.
  - b. Exercise their duties with objectivity, consistency and diligence. Remain independent and treat the parties involved with impartiality and equity.

Complete their cases without delay within a reasonable period of time and within the deadlines stipulated by the law.

- c. Undertake the necessary initiative upon exercise of their duties and at the same time comply with the Regulations set by the Organisation's Board of Directors. Avoid arbitrary judgements and render fully justified and scientifically documented decisions.

- d. Observe confidentiality on all the information which comes their way during the exercise of their duties.
- e. Always be ready to take up their duties and attend educational activities.
- f. Declare any conditions precluding them from a case. They should request their exemption from the drawing of lots either because they have a direct interest in the outcome of a specific collective labor dispute or because they judge that owing to special conditions in a specific dispute they cannot exercise their duty with objectivity and independence. The Organisation's Board of Directors will decide on the request for exemption.
- g. Attend training seminars and every other training or educational activity determined by the Board of Directors of the Organisation for Mediation and Arbitration.
- h. Follow, be informed and inspect developments and industrial relations in trade unions and employers' associations as well as company issues.
- i. Keep full records and submit the files of the cases they undertake to the Organisation. Furthermore, in the end of each calendar year they must submit to the Organisation's Board of Directors precise reports on the cases handled, problems encountered, proposals submitted, awards rendered, developments in each case, the experience acquired and possible comments.
- j. Safeguard the good name of their colleagues avoiding criticisms and comments on the performance of their job. Also, avoid any illicit means or activity seeking preference of the parties over their colleagues.
- k. Comply with the terms of contract, the law and the present Regulation.



## **Article 6 - Selection procedure for Mediators-Arbitrators**

1. By joint agreement of the parties.
  - a. Forty-eight (48) hours after submission of the application for the provision of mediation or arbitration services the parties involved are invited to meet at a specific time for the selection of a mediator-arbitrator and his deputy. The parties in dispute which have filed a petition appealing to the Organisation, may name by joint written agreement the Mediator or Arbitrator of their choice from the Special Body of Mediators-Arbitrators. If the parties do not agree on a specific individual they may hold private consultations in a separate room and come up with up to three (3) Mediators-Arbitrators from the Body. The parties announce their choice to the Organisation in the form of a joint written agreement. The aforementioned agreement also mentions the way the decision was reached. A prerequisite for compiling the above mentioned agreements is that the parties can sign collective labor agreements following valid authorization from their respective organisations.
  - b. The written agreement mentioned in the previous passage is submitted to the Secretariat of the Organisation for Mediation and Arbitration and the mediator-arbitrator (or the mediators-arbitrators) specified will not take up the case unless they receive a relevant written order from the Chairman of the Organisation or any other authorized individual.
  - c. The fee for the mediators-arbitrators selected by joint agreement of the parties is set according to the stipulations of the present Regulation. In case more than one mediator-arbitrator are selected, the fee for any mediators-arbitrators in addition to one is fully charged to the parties in dispute, who pay the relevant sum to the Organisation for Mediation and Arbitration.
2. In case there is no joint written agreement as mentioned in paragraph 1, the provisions of the law

come into force and specifically:

a. Drawing of lots.

The drawing of lots takes place at the headquarters or regional offices of the Organisation before the parties involved and the Chairman of the Organisation or an authorized member of the Board of Directors and one employee of the Organisation acting as secretary.

b. The names of all mediators-arbitrators are inside the ballot-box when the lots are drawn for a mediator-arbitrator and their deputy, except for:

- the names of mediators-arbitrators who submitted a request for exemption according to article 5 paragraph 3 passage (f) of the present regulation and their request was accepted by the Board of Directors of the Organisation for Mediation and Arbitration,
- in the case of a second (2) or third (3) drawing the names of mediators and arbitrators drawn but not accepted by the parties, according to the next passage (c).
- the names of mediators who handled the same case in the process of mediation.

c. After the drawing of lots the Chairman of the Organisation or the authorized member of the Board of Directors asks each of the interested parties, separately, whether they accept the mediator-arbitrator drawn. If one of the parties rejects the mediator-arbitrator drawn, then the process is repeated.

After the second drawing of lots the Chairman of the Organisation or the authorized member of the Board of Directors asks the party which did not reject the mediator-arbitrator the first time if the mediator-arbitrator drawn the second time is acceptable. If the party rejects the mediator-arbitrator, then the drawing of lots is repeated for the third and last time. The result from the third drawing of lots is binding for both parties.

d. Lottery report.

Upon completion of the lottery procedure, a report is compiled mentioning the date, names of those attending the drawing of lots, whether a second or third drawing was carried out, the names of the mediators-arbitrators drawn, the names of the mediators-arbitrators accepted from the first or second drawing of lots or which resulted from the third drawing of lots as well as the assumption of duties by the mediator-arbitrator.



## Article 7 - Mediation procedure

1. The mediator should assume his (her) duties as soon as instructed to do so by the Board of Director or the person authorized by it. He (she) must also immediately draft and submit a written report of his (her) assumption of duties to the Organization.
2. It rests upon the mediator to decide whether to invite the parties for consultations, hold separate hearings, question individuals, ask for expert opinions, or undertake any investigation concerning working conditions or the financial standing of the company, sector, etc. aided by experts of his own choice, among those working for the Organisation.
3. If the parties do not reach agreement within twenty (20) calendar days, the mediator has the right to submit to them his own proposal, which he also simultaneously communicates to the Organisation.

If the parties do not notify their acceptance of the mediator's proposal within five (5) days from its communication, it will be considered rejected. Acceptance or rejection of the proposal is announced to the mediator and made known to the other party.

The mediator himself may make public his (her) proposal. If the proposal is accepted, the

mediator asks the interested parties to sign it, which makes it tantamount to a collective labor agreement and all provisions pertaining to collective labor agreements are implemented accordingly.

4. When a case is closed the mediator is obliged to submit a complete file on the case and an analytical report on its development to the competent department of the Organisation.

## Article 8 - Arbitration Procedure

1. The Arbitrator must assume his (her) duties no later than five (5) days from the drafting of the selection and assumption of duties report.
2. The arbitrator inspects all data and conclusions gathered at the mediation stage. Also, it rests upon him to decide whether to invite the parties for consultations, hold separate hearings, question individuals, ask for expert opinions or undertake any investigation concerning working conditions or the financial, standing of the company, sector, etc., aided by experts of his choice from among those working for the Organisation.
3. The arbitration ruling is rendered within ten (10) days from the assumption of duty by the arbitrator, if there has been previous mediation and within thirty (30) days if no mediation procedure preceded it. The arbitrator's ruling is equivalent to a collective labor agreement and is in force one day after submission of the request for mediation.

## Article 9 - Remuneration of Mediators and Arbitrators

1. Mediators and Arbitrators shall be remunerated by OMED on a case-by-case basis. Their remuneration shall escalate according to the subject of the collective dispute as follows:
  - a. Payment and work conditions (arranged by collective labour agreements or arbitration awards).
  - b. Work regulation (arranged by collective labour agreements or arbitration awards).
  - c. Emergency staff during strikes.
  - d. Public dialogue.

A decision of the Board of Directors of OMED may determine that complexity criteria apply to a certain case owing to its peculiarity, on a proposal by the Chairman of the Board of Directors stating that these criteria are met. These criteria may apply alternatively or cumulatively and include, by way of illustration:

- a. First settlement of a collective labour dispute.
- b. Long procedure, provided that the parties have consented to its prolongation and it is proved that negotiations were carried out regularly during the crucial period.
- c. Cases in periods of conflicts or mergers, provided that they have a direct impact.
- d. Cases involving codification of provisions, provided that such codification has not yet been undertaken by OMED.



- e. Creation of new payroll scales through the incorporation of amounts or percentage increases.
- f. Cases involving large organisations or firms with various systems and institutional arrangements in place, as well as special agreements between the parties to the collective labour dispute.
- g. Difficult legal or economic issues.

If any complexity criteria are met, the total remuneration shall be increased accordingly.

1. Mediators and Arbitrators shall be paid a readiness compensation, which shall be reduced proportionally by a decision of the Board of Directors if a Mediator or Arbitrator fails to perform his annual readiness obligations. "Readiness" shall be understood as OMED's requirement on self-employed professionals, in addition to their main tasks, to attend and participate actively in OMED's internal training programme specifically designed for the Body, in meetings with the Board of Directors of OMED and the governing bodies of the social partners' associations, as well as meetings for the exchange of views and concerns on crucial legal and economic issues.  
Compensation shall be fixed in an annual lump-sum payment by the Board of Directors. This compensation shall incorporate the Mediators' and Arbitrators' fee paid so far for their participation in OMED's training programme, as well as the fixed compensation they currently receive regardless of the cases assigned to them.
2. Mediators and Arbitrators that travel on duty in Greece or abroad shall be entitled to travel expenses and an allowance, the amount of which shall be fixed by a decision of the Board of Directors of OMED.
3. Mediators and Arbitrators that, pursuant to a decision by the Board of Directors of OMED, attend education and development seminars (whether thematic, specialised or otherwise) relevant to their function, where OMED is the organising agency or a participant, shall receive a compensation, the amount and payment conditions of which shall be fixed by a decision of the Board of Directors of OMED.



## Article 10 - Assessment of Mediators and Arbitrators

1. Individual assessment reports are compiled each year by the Board of Directors of the Organisation for Mediation and Arbitration in order to assess the work, abilities and training of the mediators and arbitrators. The criteria, gravity factors, procedure and every other detail pertaining to the drafting of these reports is decided by the Organisation's Board of Directors.
2. To compile the annual assessment report for each mediator and arbitrator the following information is taken into consideration: files of the cases handled, annual concise reports, readiness and response to the call for the assumption of a case, attendance of educational seminars, any initiative undertaken in connection with the Organisation's pursuit and any other information deemed necessary by the Board of Directors of the Organisation for Mediation and Arbitration.
3. Decisions of the Organisation's Board of Directors on the annual assessment of the performance of Mediators and Arbitrators are taken with a majority of at least seven (7) positive votes.



# Article 11 - Disciplinary Offenses - Disciplinary Proceedings

1. Every culpable act or omission violating the Code of Conduct and the present Regulation constitutes a disciplinary offense. The Organisation's Board of Directors examines the mediators'-arbitrators' disciplinary offenses either on its own initiative or after a written report by at least one of the parties in dispute. The Board of Directors names a reporting officer or officers from among its members who submit a written report.
2. The Organisation's Board of Directors invites the mediator-arbitrator, against whom disciplinary proceedings are initiated, to explain himself (herself) within ten (10) days and on a specific day and time, supplying any information pertaining to his (her) act or omission under investigation.
3. During examination of the case, the Organisation's Board of Directors inspects the report submitted by the reporting officer or officers, questions witnesses, inspects documents or other proof, may order the rendering of expert opinion and anything else they deem necessary.

## Article 12 - Disciplinary Penalties

1. The disciplinary penalties are the following:
  - a. oral or written reproof.
  - b. temporary suspension up to six (6) months.
  - c. final severance of the working relationship for the provision of independent services.
2.
  - a. The disciplinary penalty corresponds to the severity of the disciplinary offense and the degree of accountability of the mediator-arbitrator. A repetition of the same disciplinary offense will be considered to aggravate his (her) position.
  - b. The penalty of the oral or written reproof is inflicted with a majority of at least seven (7) members of the Organisation's Board of Directors. The penalty of temporary suspension and the final severance of the working relationship is inflicted with a majority of three fourths (3/4) of the total members of the Organisation's Board of Directors.
  - c. A book of disciplinary penalties imposed is kept at the Organisation. Each entry includes a brief description of the disciplinary offense and the decision of the Organisation's Board of Directors, while reference is made to the opinion of the majority and the possible minority of members of the Organisation's Board of Directors.

## Article 13 - Final Provisions

1. The present Regulation may be amended by decision of the three fourths (3/4) of the total members of the Organisation's Board of Directors. In case of a partial revision or amendment of the Regulation, a new one is published with a uniform text including the revised provisions.



2. The present Regulation comes into force on the day of its publication on the Government Gazette.

THE BOARD OF DIRECTORS

THE PRESIDENT

THE DEPUTY PRESIDENT

THE MEMBERS

