

REPUBLIC OF LITHUANIA
LAW
ON CONCILIATORY MEDIATION IN CIVIL DISPUTES

15 July 2008 No X-1702

Vilnius

Article 1. Purpose of the Law

1. This Law shall set forth the principal conditions of conciliatory mediation in civil disputes as well as legal consequences of application thereof.

2. This Law shall apply to non-judicial and judicial conciliatory mediation in civil disputes, with the exception of the disputes that arose out of such civil rights and duties the conciliation agreement concluded whereon would be legally void. This Law shall not apply to judicial reconciliation (conciliation) conducted by the judge hearing the case.

3. Other legal acts may provide for peculiarities of conciliatory mediation in civil disputes of specific categories.

Article 2. Definitions

1. **Party to a civil dispute** (hereinafter referred to as a “**party to a dispute**”) means a person involved in a dispute whose rights and duties are affected by the resolution of the dispute.

2. **Civil dispute** (hereinafter referred to as a “**dispute**”) means a dispute that is or may be heard by way of civil procedure by a court of general jurisdiction.

3. **Conciliatory mediation in civil disputes** (hereinafter referred to as “**conciliatory mediation**”) means a procedure of resolution of civil disputes in which one or several mediators in civil disputes assist parties to a civil dispute in reaching a conciliation agreement.

4. **Agency administering the provision of conciliatory mediation in civil disputes** (hereinafter referred to as an “**administrator of conciliatory mediation services**”) means a public or private legal entity which recommends or appoints mediators, proposes or defines rules for conciliatory mediation, administers the costs of conciliatory mediation, provides premises for the procedure to be performed in and/or provides other services related to conciliatory mediation.

5. **Mediator in civil disputes** (hereinafter referred to as a “**mediator**”) means a third impartial natural person who assists in resolving a civil dispute between other persons with a view to reaching a conciliation agreement.

Article 3. Conciliatory Mediation Agreement

1. Conciliatory mediation shall apply on the basis of a written consent of parties to a dispute. The parties to the dispute may agree on conciliatory mediation either after the dispute arises or prior to it.

2. If parties to a dispute agree to resolve the dispute by way of conciliatory mediation, they shall attempt to resolve the dispute by this procedure before they refer to court or arbitration. If a conciliatory mediation agreement sets time limits for termination of conciliatory mediation, the party to the dispute shall refer to court or arbitration only after the time limits expire. If no time limit for termination of conciliatory mediation has been set in the conciliatory mediation agreement, the party to the dispute shall refer to court or arbitration one month after proposing to the other party to the dispute in writing to resolve the dispute by way of conciliatory mediation. The party to the dispute can refer to court disregarding the time limits set in this paragraph if conciliatory mediation terminates in accordance with Article 9 of this Law.

3. A court hearing a civil case may suggest to parties to a dispute that they attempt resolving the dispute by way of conciliatory mediation. If the parties to the dispute accept the court’s suggestion, the court shall adjourn the case.

Article 4. Nomination of Mediators, Impartiality, Professional Conduct and Responsibility

1. A mediator shall be nominated by agreement between parties to a dispute and with consent of the mediator. The mediator’s nomination and consent shall be executed in writing.

2. The number of mediators is set by agreement between parties to a dispute. Where there is no agreement between the parties to the dispute, one mediator shall be nominated.

3. Parties to a dispute can agree that a third party or an administrator of conciliatory mediation services shall select or recommend a mediator for them. Where this is established in a conciliatory mediation agreement or where there is no agreement between the parties to the dispute regarding the selection of a mediator, the mediator can be nominated by a district court in accordance with the summary procedure set forth in Chapter XXXIX of the Code of Civil Procedure of the Republic of Lithuania, following an application from both parties to the dispute. A person shall be appointed mediator only with his written consent.

4. A mediator shall remain impartial towards parties to a dispute. The mediator shall accept a proposal to conduct conciliatory mediation or continue conducting conciliatory mediation already in progress only when he informs the parties to the dispute of the circumstances known to him that could raise doubts regarding his impartiality and when the parties to the dispute give their consent for him to act as mediator.

5. A mediator shall provide parties to a dispute with information on his education and experience.

6. A mediator shall not act as an arbitrator or a judge in the dispute in respect whereof he conducted or is conducting conciliatory mediation, with the exception of the cases where parties to a dispute give their written consent to appoint the mediator as an arbitrator and he has no objections thereto. In addition, the mediator shall not act as a counsel or other representative to any party to the dispute in respect whereof he conducted or is conducting conciliatory mediation.

7. Conciliatory mediation shall be provided for remuneration or free of charge. Where conciliatory mediation is provided for remuneration, the procedure shall commence only after a mediator agrees in writing with both parties to a dispute regarding the amount of remuneration to be paid and method of payment.

Article 5. Conciliatory Mediation Procedure

1. Parties to a dispute shall agree on the nature and procedure of conciliatory mediation by indicating a preferred set of rules or establishing individual rules for conciliatory mediation subject to mutual agreement.

2. Where there is no agreement between parties to a dispute on the nature and procedure of conciliatory mediation or where an agreement between the parties to the dispute does not establish specific actions to be taken by a mediator, the mediator shall duly perform specific actions, taking into consideration the circumstances of the dispute, including a potential strength imbalance between the parties to the dispute, requests from the parties to the dispute and a need of speedy resolution of the dispute, and acting in compliance with legal acts.

3. A mediator may hold a consultation meeting with one party to a dispute without the other party to the dispute attending the meeting.

4. Only parties to a dispute, their representatives and a mediator may attend conciliatory mediation. On request or with consent of the parties to the dispute, other persons may also attend conciliatory mediation. Having established that there are more parties involved in the dispute, the

mediator shall propose to the parties participating in the dispute resolution procedure to agree with the other parties involved in the dispute to resolve the dispute by way of conciliatory mediation.

5. Any party to a dispute can withdraw from conciliatory mediation without indicating reasons for withdrawal. This shall not prevent the parties to the dispute from repeatedly agreeing to resolve the dispute by way of conciliatory mediation.

6. A mediator shall inform parties to a dispute and terminate conciliatory mediation if the conciliation agreement to be entered into by the parties to the dispute is, in the mediator's opinion, and taking into consideration the circumstances of the dispute and the competence of the mediator, unattainable or illegal or if the mediator acknowledges that the dispute is unlikely to be peacefully resolved despite continuing conciliatory mediation.

Article 6. Conciliation Agreement

1. A conciliation agreement entered into in the course of conciliatory mediation shall be subject to the requirements set forth in the Civil Code of the Republic of Lithuania and other legal acts.

2. A conciliation agreement entered into by parties to a dispute in the course of conciliatory mediation shall have a statutory effect on the parties to the dispute.

3. Where a dispute being resolved by way of conciliatory mediation is not simultaneously heard in court, a conciliation agreement may be submitted to court for endorsement in accordance with the summary procedure set forth in Chapter XXXIX of the Code of Civil Procedure of the Republic of Lithuania, following an application from both parties to the dispute. The application for endorsement of the conciliation agreement shall be submitted at the choice of the parties to the dispute to a district court at the place of residence or registered office of one of the parties to the dispute. An effective conciliation agreement endorsed by a court decision shall be treated as a final judgement (*res judicata*) by the parties to the dispute and its execution may be enforced.

Article 7. Confidentiality

1. Unless parties to a dispute agree otherwise, the parties to the dispute, mediators and administrators of conciliatory mediation services shall hold all information regarding conciliatory mediation and related issues in strict confidentiality, with the exception of the information required to endorse or impose a conciliation agreement concluded in the course of conciliatory mediation and the information a failure to disclose which would contravene the public interest (particularly where a child's interests need to be safeguarded or where risk of damage to the health or life of a natural person

needs to be prevented). The same provision shall apply to court, arbitration and other dispute resolution procedures, relevant or irrelevant to the dispute being resolved by way of conciliatory mediation.

2. A mediator shall not disclose any confidential information provided to him by one party to a dispute to the other party to the dispute without consent of the party that provided the information.

3. In the event of nonfeasance or misfeasance of the obligations set in paragraphs 1 and 2 of this Article, mediators and administrators of conciliatory mediation services shall be held liable under the law.

Article 8. Suspension of Reduced Periods of Limitation

1. Upon commencement of conciliatory mediation, reduced periods of limitation shall be suspended.

2. For the purpose of suspension of reduced periods of limitation, commencement of conciliatory mediation shall be considered the day when one party to a dispute directly or through another person (representative, mediator, administrator of conciliatory mediation services or any other authorised person) sends out a written proposal to the other party to the dispute to resolve the dispute by way of conciliatory mediation.

3. Where conciliatory mediation terminates without entering into a conciliation agreement, a reduced period of limitation shall continue. In this case, the remaining period of limitation shall be extended in accordance with paragraph 3 of Article 1.129 of the Civil Code of the Republic of Lithuania.

Article 9. Termination of Conciliatory Mediation

Termination of conciliatory mediation shall be considered:

1) the day when one party to a dispute sends out to the other party to the dispute a written statement objecting to the dispute being resolved by way of conciliatory mediation. Where the parties to the dispute have not concluded an agreement on conciliatory mediation and one party to the dispute presents a proposal specified in paragraph 2 of Article 8 of this Law to the other party to the dispute, it shall be considered that conciliatory mediation terminates at the earliest of the following: on the day the party to the dispute, upon receiving a proposal from the other party to the dispute, sends out a written statement objecting to the dispute being resolved by way of conciliatory mediation or one month after the day of sending out of the proposal if within that period of time the other party to the dispute has not given written consent to resolve the dispute by way of conciliatory mediation;

2) the day when a mediator presents to all parties to a dispute a written notification of termination of conciliatory mediation;

3) the day when a party to a dispute presents to a mediator and the other party to the dispute a written notification of withdrawal from conciliatory mediation;

4) the day when all parties to a dispute present to a mediator a written notification of termination of conciliatory mediation;

5) the day when parties to a dispute enter into a conciliation agreement.

Article 10. State Support for Development of Conciliatory Mediation

The State shall support development of conciliatory mediation in accordance with the procedure laid down by the Government.

Article 11. Final Provisions

1. Article 10 of this Law shall come into force on 1 January 2010.

2. This Law shall apply solely to the agreements on conciliatory mediation concluded and the conciliatory mediation procedures commenced following the entry into force of this Law.

3. The Government shall, by 1 June 2009, prepare and endorse a description of the procedure for providing the state support for conciliatory mediation as set forth in Article 10 of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS