

MEDIATION RULES

OF THE COURT OF ARBITRATION
AT THE POLISH CHAMBER
OF COMMERCE



Sąd Arbitrażowy

przy Krajowej Izbie Gospodarczej w Warszawie

§ 1 Introductory provisions

1. Prior to commencement of proceedings before an arbitration court or common court, or during the course of the proceedings, a party to the dispute may apply to the Court of Arbitration at the Polish Chamber of Commerce (the “Court of Arbitration”) to conduct a proceeding seeking amicable settlement of the dispute presented in the application (“Mediation Proceeding”).
2. If the parties to the dispute do not mutually specify other rules for proceeding, the proceeding shall be conducted in accordance with these Mediation Rules of the Court of Arbitration (the “Mediation Rules”).
3. In the event of an order by the court directing the parties to mediation at the Court of Arbitration, the Mediation Rules shall apply in matters not covered by the provisions of the Civil Procedure Code on the court’s directing the parties to mediation.

§ 2 Commencement of Mediation Proceeding

1. A Mediation Proceeding is commenced on the basis of an application for mediation, which shall contain:
 - 1) identification of the parties and their attorneys, if appointed, with their addresses and other contact details;
 - 2) a description of the circumstances of the dispute that has arisen between the parties;
 - 3) proof of payment of the registration fee and half of the mediation fee in the amount specified in the Tariff of Fees in force on the date of filing of the application;
 - 4) a list of enclosures; and
 - 5) a copy of the mediation agreement, if the parties have made such an agreement in writing, and if an order was issued by the court directing the parties to mediation at the Court of Arbitration, a copy of the court order.
2. If the application for mediation is filed by both parties,

it shall also contain proof of payment of the registration fee and the entire mediation fee in the amount specified in the Tariff of Fees in force on the date of filing of the application. The application may also include designation of a mediator from the List of Mediators.

3. If the application does not meet the requirements set forth in par. 1 or 2 above, the Director General of the Court of Arbitration (the “Director General”) shall summon the applicant to cure the deficiencies within a specified period of no less than 14 days.
4. An application for mediation corrected or supplemented by the time specified pursuant to par. 3 above shall be effective from the date of filing of the application.
5. The Mediation Proceeding is commenced on the date of filing of an application for mediation. However, if the parties did not make a mediation agreement, or there is no court order directing the parties to mediation at the Court of Arbitration, the Mediation Proceeding is deemed to be commenced at the time the other party consents to mediation.
6. An application for mediation is deemed served on the date it is filed with the Court of Arbitration or dispatched by certified post, courier post or other method enabling documentation of dispatch.

§ 3 Summons to other party to participate in mediation

1. The Director General shall serve a copy of the application on the other party and summon it to submit a statement in writing on whether it consents to mediation and to pay half of the mediation fee within a specified period of no less than 14 days.
2. If the other party does not consent to mediation or the mediation fee is not fully paid on time, no Mediation Proceeding is deemed to have been commenced. The Director General shall notify the parties of the inability to conduct the mediation and return to the applicant the mediation fee it has paid.

§ 4 Mediator

1. The Mediation Proceeding shall be conducted by one mediator, unless the parties have agreed to appoint a group of two or more mediators. In that case, the provisions of the Mediation Rules concerning the mediator shall apply to each of the mediators.
2. After the mediation fee has been paid in full, the Director General shall summon the parties to mutually appoint a mediator within a period of no less than 14 days, at the same time sending them the List of Mediators.
3. If the parties do not mutually appoint a mediator, the mediator shall be appointed by the President of the Court of Arbitration from among the persons included in the List of Mediators.
4. The Director General shall promptly notify the person appointed to serve as mediator, summoning the person to submit the statement referred to in par. 5 within a specified time.
5. The mediator shall accept appointment by submitting a written statement to the Director General on acceptance of the appointment, the mediator's independence and impartiality, and availability of the time necessary to perform the duties of mediator. In the statement, the mediator shall undertake to properly perform the duties of mediator. The Director General shall promptly serve a copy of the statement on the parties.
6. The Director General shall promptly notify the parties of refusal to accept the appointment as mediator. Failure to submit the statement referred to in par. 5 within the period specified by the Director General shall be deemed to be refusal to accept the appointment.
7. The mediator must be independent and impartial for the entire duration of the mediation proceeding and must promptly disclose to the parties any circumstances which may raise doubts as to his or her independence or impartiality.
8. The Director General, the Assistant Director General

and staff of the Court of Arbitration may not serve as a mediator in a Mediation Proceeding conducted on the basis of the Mediation Rules.

§ 5 List of Mediators

1. The Court of Arbitration maintains the List of Mediators Recommended by the Court of Arbitration at the Polish Chamber of Commerce (the "List of Mediators").
2. The rules and procedure for establishment of the List of Mediators are specified by the Statute of the Court of Arbitration.
3. The parties shall mutually appoint a mediator from the List of Mediators.

§ 6 Mediation Proceeding

1. The mediator shall conduct the mediation as he or she deems proper, guided by the principles of impartiality, neutrality and the voluntary nature of mediation. The parties and the mediator may together determine the most appropriate method for resolving their dispute.
2. The parties have a duty to cooperate in good faith with the mediator.
3. The mediator may communicate with the parties together, during mediation sessions or otherwise, or communicate with each party separately.
4. The mediator shall make efforts to ensure that the Mediation Proceeding is completed at the first session, unless otherwise agreed by the parties and the mediator.
5. The Mediation Proceeding is confidential. The parties and the mediator are required in particular to maintain the confidentiality of settlement proposals or other statements made during the Mediation Proceeding, and not to refer to them in arbitration or judicial proceedings.
6. The mediator shall prepare and sign minutes indicating:

- 1) the place and time the mediation was conducted,
 - 2) the names and addresses of the parties and the mediator, and
 - 3) the result of the mediation.
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7. If the parties reach a settlement before the mediator, the settlement shall be included in the minutes or annexed thereto, with the signatures of the parties.
 8. A copy of the minutes shall be served on the parties.

§ 7 Completion of Mediation Proceeding

1. The Mediation Proceeding should be completed within 30 days after submission by the mediator of the statement referred to in §4(5), unless the parties consent to conduct the mediation longer.
2. The Mediation Proceeding shall end upon:
 - 1) signing by the parties of a settlement before the mediator, or
 - 2) the mediator's confirmation in the minutes that the mediation did not lead to a settlement.

§ 8 Appointment of mediator as arbitrator

1. Upon mutual application of the parties, the Arbitral Council may appoint the mediator as an arbitrator empowered to resolve the dispute or to give the settlement the form of an award. In that case the limitations pursuant to the first sentence of §16(3) and the first sentence of §20(2) of the Arbitration Rules shall not apply to the appointment of the arbitrator.
2. The Director General shall summon the parties to pay the arbitration fee, taking into account the mediation fees already paid, within a specified period of no less than 14 days. The amount of the arbitration fee is specified in the Tariff of Fees in force on the date of filing of the application.

§ 9 Costs of Mediation Proceeding

The costs of the Mediation Proceeding are specified by the Tariff of Fees.

§ 10 Adoption and effective date of Mediation Rules

1. These Mediation Rules were adopted by resolution of the Arbitral Council on 16 December 2014.
2. The Mediation Rules shall enter into force on 1 January 2015.