



ევროკავშირი
საქართველოსთვის
The European Union for Georgia



WORKSHOP ON ALTERNATIVE DISPUTE RESOLUTION

Principles of the mediation process

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EU Georgia project, funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)

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Principles of the mediation process

- Confidentiality of the process
- Voluntariness and flexibility
- Independence of the mediator
- Impartiality of the mediator
- No additional fees

Confidentiality

- Articles 5 of the BoA Presidium decision and 7 of the BoA Rules on Mediation
- The discussions and negotiations conducted within the framework of mediation are **confidential for all persons involved in the mediation** and without prejudice to any party's legal position
- No disclosure of such information in any judicial, arbitration or other proceedings
- Mediator can not be a witness, or produce in evidence any records, in any litigation, arbitration or other formal process in connection with the dispute and the mediation

Confidential Information

Information includes :

- the request for mediation
- the entire mediation process
- the outcome of the mediation
- Any opinion, suggestion, to anybody

- Prohibition of dissemination of **any information** relating to mediation

- **Destruction or deletion of materials** obtained for the purpose of mediation after the termination

Voluntariness and flexibility

- Participation in the process is **voluntary**
- The parties **choose the mediator and the language of the mediation, no strict procedural rules**
- The parties decide on the **outcome**, the settlement of the dispute
- Mediator helps parties in reaching a **voluntary and mutually satisfactory settlement**

Independence and neutrality of the mediator (1/2)

- Examiners and members of the Opposition Divisions, the Cancellation Divisions, the Invalidation Divisions, the BoA or any other person may not be designated as mediator if :
he/she has any personal interest OR previously been involved in the case under appeal.

Article 3.2 of the BoA Presidium Decision

- The mediator should not be involved as an examiner, member of the Opposition Divisions, the Cancellation Divisions, the Invalidation Divisions or the BoA in **any further proceedings** of the case or any related case.

Article 3.5 of the BoA Presidium Decision

Independence and neutrality of the mediator (2/2)

- **Continuing obligation throughout the process of mediation**, Article 4 of Boa Rules on Mediation

- The mediator must disclose **any circumstances that give rise to a conflict of interest**:
 - any personal or business relationship with one or more of the parties;
 - as a representative, legal advisor or decision taker of the contested decision or
 - as an assistant or member of the appeal in dispute

- **No disqualification**, if the parties have been notified in writing and have expressly consented in writing to the designation of the mediator.

Impartiality of the mediator

- **Article 4.5 of the BoA Rules on Mediation**
- Mediators must at all times act with impartiality towards the parties and be committed to serve all parties equally with respect to the process of mediation.

No additional fees

- If the mediation is held at **EUIPO premises in Alicante**, no additional fees other than the appeal proceedings fees are requested
- If the mediation is held at **EUIPO premises in Brussels**, an administrative fee has to be paid **to cover the travel, lodging and subsistence expenses of the mediators.**



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