



a non-profit organisation
500 Avenue Louise
1050 Brussels
BELGIUM
Tel. 32 2 373 08 76
Fax 32 2 375 59 69

RULES OF ETHICS

Having regard to the mediation rules established by the Board of directors of bMediation ("the Center") during its meeting of 6 January 1999 and, in particular to article 2 of the rules;

Whereas rules of ethics must be adopted that shall apply to all persons who act as a mediator or who intend to act as such;

Whereas the Center shall not approve as a mediator a person who does not strictly comply with the rules of ethics adopted by the Center;

Whereas the Center will remain strictly neutral in the disputes that may arise and in the search for solutions to disputes in which its intervention may be called upon; that the Center shall never favour its members, towards whom it shall remain strictly impartial;

Whereas the same obligations apply to mediators who would be approved by the Center for all mediation missions they would accept, whether they have been appointed by the Center;

Whereas these rules of ethics aim at being both a model and a guide in connection with mediation ethics;

Whereas departure from these rules shall be possible with the agreement of all the parties to a dispute; however, the mediator shall have the duty to ensure that any party accepting such departure from these rules will have been fully informed of the possible consequences of their waiver prior to accepting such waiver.

**NOW THEREFORE THE FOLLOWING RULES OF ETHICS
HAVE BEEN ADOPTED**

Article 1 – Scope of the rules

Every person approved as a mediator by the Center shall comply strictly with the present rules for all mediations he accepts, whether or not that mediation has been referred to him/her by the Center.

Article 2 – Search for solution by the parties - Neutrality

2.1. The mediators acknowledge that a mediation process is, in essence, based on the principle of the search for a solution by the parties themselves.

2.2. The mediator shall refrain from unduly influencing the parties in order to get them to approve a solution that he perceives as being the best.

2.3. However, nothing shall prevent the mediator from commenting as he deems appropriate about a solution that the parties have in mind, to the extent that such comments aims at favouring the search by the parties of the solution that they prefer.

Article 3 – Impartiality

3.1. In any mediation process, and in any discussion regarding his/her appointment as a mediator, the mediator shall observe total impartiality.

3.2. The mediator shall not accept any mediation he/she is unable, for whatever reason, to guarantee that he/she will at all times be able to act impartially and independently from the parties or the persons who, in whatever capacity, are related to such mediation or the dispute at hand.

3.3. The mediator who, during the course of a mediation, believes he/she is no longer able to guarantee his/her independence and impartiality, has the duty to inform the parties thereof and to terminate the mediation (without having to state the reasons thereof if he/she believes this could have a negative influence on the parties).

3.4. The mediator shall at all times see to it that his/her interventions are those of an independent and impartial person.

Article 4 – Conflicts of interests

4.1. A mediator shall refuse a mediation if such intervention would be incompatible with his/her own interests.

4.2. A person may not act as a mediator in disputes for which he/she acts, in whatever capacity, for the account of one of the parties or for persons close to the parties or when he/she has acted, in whatever capacity, for any of such persons if, he/she has thus obtained confidential information relating to the dispute.

4.3. Subject to rules of professional discretion that may apply to him/her, the mediator shall inform the parties about the reasons that prevent him/her from acting as a mediator when he/she is prevented under the principles indicated above. The mediator has the duty to inform the parties if he/she believes that any situations in which he/she has taken part may create a situation that could be perceived as a justification for his/her exclusion for reasons of conflict of interests. In such case, the mediator will inform the Center about such situations and about the position adopted by the parties.

4.4. When the mediator exercises his/her profession together with other persons, in whatever form, any cause for conflicts of interest shall extend to such other persons.

4.5. Provided they have been fully and completely informed about the causes that are considered to give rise to a conflict of interest, the parties may waive any such conflict that have been brought to their attention and may accept the mediator to assist them in trying to resolve the dispute. However, the mediator shall accept mediation in such circumstances only if he/she believes he/she will be able to fulfil it without compromising his impartiality.

4.6. A person who has had to refuse to accept a mediation may provide names to the parties of other persons that might act in the mediation, provided he/she knows that such other persons accept the principles of the present rules. When appointed by the Center, the mediator shall inform the Center of the situation so that the latter may, if necessary, organise a replacement.

Article 5 – Qualifications of the mediators

5.1. A mediator may only accept a mediation if he/she knows he/she is able to carry it out with professional competence, together with experience in the subject matter of the dispute.

5.2. Mediators appointed by the Center shall comply with the directives issued by the Center. If they believe they are unable to do so, they shall inform the Center immediately.

5.3. Mediators shall take all appropriate measures to update their knowledge and competence of mediation.

5.4. Mediators shall not present themselves to persons who consider hiring them as having qualifications, or experience they do not have. Mediators are aware of the fact that any absence of candor may adversely reflect on mediation in general.

Article 6 – Confidentiality

6.1. At all times, the mediator should respect all the principles of confidentiality related to a mediation. Unless the parties give agreement, he shall not discuss the mediation process assigned to him nor the contents of any discussion held in the context thereof with anyone.

6.2. The mediator must always secure the agreement of one party to transmit to the other party documents or information provided to him by that party.

6.3. The mediator shall ensure these principles of confidentiality are applied by his personnel and by any person who works with him.

Article 7 – Course of the mediation

7.1. The mediator only initiates a mediation after the mediation agreement is signed. The mediator ensures that the document contains all the elements of the agreement between the parties and himself necessary to conduct a mediation properly. This agreement must contain an undertaking by the parties and by the mediator to abide by the confidentiality rules of mediation.

7.2. The mediator shall at all times ensure that the mediation is carried out in compliance with the principles of balance of communication between the parties, of mutual respect, of impartiality and of diligence on his behalf.

7.3. The mediator shall not accept a mediation if he is not certain of being capable of accomplishing the mediation in a reasonably diligent manner, devoting to it the necessary attention and time.

7.4. The mediator always informs the parties, in principle in plenary session, as to the aim and reason, for causes he may decide to hold with one party or the other , as well as to the operating rules he will observe during such causes. The mediator must abide by these rules, unless he has received the agreement of the parties to depart from them.

7.5. The mediator shall abstain from giving personal opinions on the respective rights and duties of the parties and on the merits of any proposed agreements or of any proposals made. The mediator will, however, ensure that the parties have

thoroughly considered the possible implications of any proposals. The mediator may recommend to the parties to obtain expert advice, and, if necessary, suspend or interrupt the mediation.

7.6. The mediator shall not let himself be guided by a desire to see a mediation result in an agreement at any price. He will place the interests of the parties above all in the search for a balanced solution which is agreeable to the parties and which they can freely accept.

7.7. Co-mediators are individually subject to the present rules. They must inform the parties as to the terms of their co-mediation. When more than one mediator participates in the mediation of a particular case, each mediator must inform the others of any development that is essential to the process. Any disagreement between the co-mediators must be settled outside the presence of the parties and with only the interests of the parties in mind.

7.8. The mediator shall cooperate with the other professionals and experts appointed by the parties. The mediator sees to it that a proper balance between the various intervening parties is maintained. He may encourage the parties to seek additional professional opinion, and eventually suspend or interrupt the mediation..

7.9. The mediator shall take all appropriate measures to ensure that any understanding that has been reached at the end of the mediation process is understood in the same way by all parties and that such measures are executed correctly by the parties. The mediator should not terminate a mediation before ensuring that the parties have taken the necessary measures so that the understanding may be carried out correctly.

Article 8 – Remuneration of a mediator

8.1. The mediator must always supply the parties with complete information on the mode of remuneration which he intends to apply. He shall not accept a mediation before the principles of his remuneration have not been accepted by all parties concerned.

8.2. The remuneration of a mediator shall not exceed the limits of a just remuneration for the work he carries out. In all mediations referred to him by the Center, he will apply the Center's tariffs.

8.3. The mediator shall never base his remuneration on the results of the mediation.

8.4. The mediator may request the parties to make a down-payment on fees and disbursements. He shall immediately reimburse the amounts that are not used.

8.5. The mediators shall not remunerate in any form the persons who recommend them as mediator.