

Short overview of Law no. 192/2006 on mediation and the mediator profession

On the 16th of May 2006 the Romanian Parliament issued Law no.192 on mediation and the mediator profession. Its legal provisions define mediation as an optional way to amiably settle conflicts, through the services of a third party - the mediator, who acts in neutrality, impartiality and confidentiality.

The interested parties may voluntarily use mediation, either prior to initiating litigation procedures in front of judicial courts, or as such procedures are pending, in order to solve a broad range of conflicts (civil, commercial, family, criminal or arising from consumer protection). In this respect, a mediation agreement shall be concluded between the mediator and the involved parties.

Law no.192 provides the conditions for becoming a mediator. In this respect, mentioned is to be made that European Union member states' citizens have access to the mediation profession if they settle in Romania and their qualification is recognized by the Mediation Council. Foreign mediators may occasionally act in Romania, as they are not subject to admission and authorization requirements, but still have an obligation to inform the Mediation Council in writing.

Mediators have the right to inform the public on their activity, the right to receive a negotiated fee and to be reimbursed for any mediation expenses. As to their obligations, mediators have to present the objective, limitations and effects of mediation as well as to respect parties' freedom, dignity and private life.

Mediators also have the duty to endeavor all efforts for reaching an agreement in a reasonable time. Cases concerning rights excepted from mediation shall be refused.

Given the fact that a significant number of mediators are likely to be at the same time attorneys-at-law, Law no.192 forbids mediators to assist or represent any of the parties in judicial or arbitral procedures concerning the conflict brought to mediation. Breaches of the mediator's legal obligations are sanctioned with written warning, up to exclusion from the profession.

Law no. 192 also stipulates the procedure to be followed during debates. As such, the interested parties have the right to be assisted or represented by an attorney or other person under the conditions agreed. The debates are confidential and cannot be used as evidence during a judicial or arbitral procedure. With parties' prior authorization, if necessary, specialized opinions may be used.