

**DECISION**  
**OF THE HIGH COUNCIL OF JUSTICE OF GEORGIA**

**N 1/366**

**December 27, 2019**

**Tbilisi**

**On approval of the court-annexed mediation program**

„1. Based on subparagraph “a” of the paragraph 1 of the Article 2 of the Law of Georgia on Amendments to the Organic Law of Georgia on Common Courts of September 18, 2019, the court-annexed mediation program shall hereby be approved as attached.

2. The decision N 1/285 of December 30, 2016 of the High Council of Justice on Approval of the procedure for the Administration of the Court Mediation Process shall be declared void.

3. This decision shall enter into force from January 1, 2020.

***Giorgi Mikautadze***

The secretary of the High  
Council of Georgia

**Approved by**  
**The decision of the High Council of Georgia N1/366**  
**Of December 27, 2019**

**Court mediation program**

**Article 1. General provisions**

1. Court-annexed mediation program (hereinafter – program) defines communication standards between the court and LEPL Georgian Association of Mediators (hereinafter – Association), procedural side of court-annexed mediation, as well as other issues necessary for proper functioning of the court-annexed mediation.

2. The purpose of the program is:

- a) To identify needs to implement the court-annexed mediation;
- b) To define as an Action Plan the activities, source of funding, timing and responsible persons/bodies necessary for court-annexed mediation;
- c) Regulation of rights and responsibilities of the subjects involved in the implementation of the program.

3. Court-annexed mediation proceedings are regulated by the rules defined by the Law of Georgia on Mediation, the Civil Procedure Code of Georgia and this program.

**Article 2. The role of the High Council of Justice in the Program implementation process**

1. The High Council of Justice of Georgia shall coordinate the program implementation process.

2. The High Council of Justice of Georgia ensures:

- a) mobilization of material and human resources required for proper functioning of the court-annexed mediation;
- b) Budget/fund allocation for program implementation;
- c) Proper decision making by the LEPL Department of Common Courts under High Council of Justice of Georgia on implementation of activities stipulated by the program;
- d) Implementation of measures to establish common practices within the program, as well as implementation of necessary activities for awareness rising on mediation together with the Association;
- e) Enactment of court-annexed mediation within the system of Common Courts of Georgia within the timeframe defined by the program;
- f) Generalization of statistical data obtained from the Common Courts on the flow of court-annexed mediation cases, mediator workload and mediation completion results; and provision to the Association upon request;
- g) Oversight on the implementation of the program activities by the Common Courts and designating responsible person for that purpose.

### **Article 3. The role of Common Courts in program implementation process**

1. Organizational support for implementation of the program is provided by the Common Courts.
2. The Common Courts shall:
  - a) identify the needs for proper functioning of the court-annexed mediation (in terms of spatial arrangement, human resources and material technical base) and submit the information to the High Council of Justice;
  - b) Communicate with the Association regarding the provision of the information specified in the Unified Register of Mediators;
  - c) Provide proper space for court-annexed mediation and logistical support and in absence of such space – find neutral alternative space and draft a memorandum with educational institutions, organizations, non-governmental and governmental organizations in agreement with the Association for the purpose of using the space free of charge, provide interns and practitioners for the mediators to organize court-annexed mediation;
  - d) Collect and process statistical data on court-annexed mediation cases and submit to the Association upon request;
  - e) Implement the measures to establish common practices within the program, as well as implement necessary activities for awareness rising on mediation together with the Association;

### **Article 4. The role of Mediation Center in program implementation process**

1. In order to effectively conduct the court-annexed mediation the consultant on court-annexed mediation issues (hereinafter – the consultant on mediation issues) and in the absence of such position – the Court Manager shall operate within the office of the Common Court. Furthermore, the Office of the Common Courts may include a Mediation Center as an independent structural unit or a subdivision of any structural unit.
2. On the cases of court-annexed mediation the consultant on mediation issues shall:
  - a) organize the mediator selection process and maintain relevant information on mediator's assignment;
  - b) communicate with parties, mediators and association;

c) provide information to citizens and parties on court-annexed mediation; schedule and conduct information meetings with this purpose individually or between the mediators and the parties on cases selected by categories; schedule court-annexed mediation in agreement with the mediator and provide arrangements for the process;

d) record information on number of sessions, non-appearance of parties in the mediation process, securing the terms of the mediation, as well as on its extension (if any);

e) provide the Chair of the Court the information on resources required for mediation process and proper functioning of mediation center;

f) in the absence of proper space for court-annexed mediation coordinate the process for finding neutral alternative space and drafting the memorandum with this purpose;

g) coordination of information exchange between the mediator candidate and the parties, provide information and case materials to the mediator selected/assigned to the case, as well as provide the information for the parties and the mediators on scheduled meetings;

h) maintain special applications and information cards on the case submitted to the mediator;

i) manage the case flow and provide information to the judges and assistants for this purpose;

j) schedule meetings with the court mediators and judges to share experience and discuss important issues;

k) Deliver satisfaction surveys on court mediation to parties to evaluate the satisfaction with the court mediation;

l) Exercise other powers provided for by the job description defined by the relevant court;

3. At least two rooms are required for mediation center's spatial and material technical equipment: one room for joint meetings and the other – for private meetings. The rooms must have solid sound isolation for confidentiality reasons.

#### **Article 5. Procedures for referring the case to court mediation**

1. After claim and counterclaim are filed in, the court shall be authorized to render a ruling on referring the case to mediator, if:

a) Given the specifications of the dispute, the future relations between the parties are inevitable;

b) One of the parties has expressed the consent in claim or the counterclaim to use the mediation;

c) It is clear from the essence of the dispute that the dispute is of personal nature;

d) It is clear that the time and/or reputation is essential for one of the parties;

e) There is an agreement on mediation and the party indicates on it;

f) The costs of a court hearing may ultimately equal or exceed the value of the subject matter in dispute;

g) Implementation of best interests of juvenile requires timely resolution of the issue;

h) The case consideration through mediation is significant for long-term protection of business relationships between the parties and securing legal and economic stability;

i) There are other circumstances that indicate on appropriateness of referring the case to the mediator;

2. The case may be also referred to the mediator during the preparatory hearing, if the case is under the jurisdiction of court-annexed mediation and the court considers that given the specifics of the case, referring the case to the mediator is justified.

3. The case may be referred to the mediator on any stage of the process, with the consent of the parties.

4. The information meetings may be held to inform the parties on benefits of the mediation that does not cause the case to be suspended. During the information meeting the parties and their representatives shall be informed on advantages of mediation, roles of mediator and the parties. If the parties desire the information meeting may transition into mediation process. The court shall be informed about it that renders a ruling on referring the case to the mediator.

5. For the purpose of appointing the mediator on cases under the court-annexed mediation, the consultant shall provide the parties with the list of mediators registered in the Unified Register of Mediators within one day of the referral of the case to him/her and shall define three day time limit for the parties to jointly nominate the candidate.

6. If the parties fail to agree on mediator, on the basis of a court appeal, within three days upon its receipt, an authorized person or the body designated by the Association Statute shall assign as mediator the next person in the Unified Register of Mediators.

7. If during 6 months the mediator refuses three times without a valid reason to be appointed as a mediator, s/he shall not be given any other mediation cases until the end of the year, except the cases when the parties select the mentioned mediator.

8. Refusal on appointment of a mediator is permissible if there is a circumstance that may cast a doubt on mediator's impartiality or prevents the mediator from leading the mediation process.

9. Consultant on mediation issues assists the mediator to prepare the mediation process, that includes setting the date of the meeting in agreement with the mediator and the parties, searching for the space to hold the meeting, help in communication with the parties, preparing the list of meeting attendees, signature of the parties on non-disclosure, supervision of the mediation terms.

10. Based on consultation with the parties the consultant on mediation issues shall define the mediation conduct language and if necessary, ensure the organizational issues of involving the interpreter and/or expert in the mediation process. In the event of reaching the mediation agreement, the agreement text shall be drawn up in Georgian.

11. In the event of a settlement by the parties to the dispute within the time limits provided for by law for court mediation, the mediator submits to the consultant on mediation issues the mediation settlement act, who transfers the act to the judge for approval.

12. If the dispute is not resolved by the parties within the time limit set by the law for court mediation, the court shall resume the proceedings on the basis of appeal of the consultant on mediation issues.

#### **Article 6. Standard of communication with the Association**

1. Communication between the Court and the Association may be conducted via electronic as well as written forms.

2. The person responsible for communication with the Association shall be the Consultant on mediation issues. S/he shall be entitled to request any information that facilitates effective conduct of the mediation process.

3. Within the communication process with the Association the Consultant on mediation issues shall:

- a) Have communication regarding provision of information defined by the Unified Register of Mediators;
- b) Provide statistical and analytical data on court mediation issues to the Association;
- c) Apply to the Association with request to assign the mediator if the parties fail to reach agreement on mediator's candidacy;
- d) Request the information on additional requirements set for the mediator, if any;

e) Maintain the hourly records of activities carried out by the mediator and submit it to the Association upon request;

f) On the request of the Association, involve a newly certified mediator as an unpaid co-mediator (Pro bono) except the cases when the mediation party is against it (unless supported by the mediation party).

#### **Article 7. Procedures for remuneration of the mediator's activities**

1. The mediator who participates in court-annexed mediation process shall mediate two cases free of charge (Pro bono) per year.

2. The mediator's activities are remunerated in accordance with the rule set by the High Council of Justice.

#### **Article 8. Terms of enforcement of court mediation**

1. Until April 1, 2020 the Common Courts shall provide the High Council of Justice of Georgia with information regarding the needs for enforcing court-annexed mediation with attached proper cost-estimates.

2. Until December 31, 2020 the mediation shall be enforced in accordance with the requirements set forth in this program and in the courts where it is enacted, it shall comply with the requirements of this program in the following courts:

- a) Tbilisi Court of Appeals;
- b) Kutaisi Court of Appeals;
- c) Akhaltsikhe Regional Court;
- d) Batumi City Court;
- e) Bolnisi Regional Court;
- f) Gori Regional Court;
- g) Zugdidi Regional Court;
- h) Tbilisi City Court;
- i) Telavi Regional Court;
- j) Mtskheta Regional Court.
- k) Rustavi City Court;
- l) Kutaisi City Court.

3. The court-annexed mediation shall be enacted in the following courts

- a) Ambrolauri Regional Court;
- b) Akhalkalaki Regional Court;
- c) Gurjaani Regional Court;
- d) Zestaponi Regional Court;
- e) Tetrtskaro Regional Court;
- f) Ozurgeti Regional Court;
- g) Samtredia Regional Court;
- h) Sachkhere Regional Court;
- i) Senaki Regional Court;
- j) Signagi Regional Court;
- k) Poti City Court;
- l) Tsageri Regional Court;
- m) Khasuri Regional Court;
- n) Khelvachauri Regional Court.

4. The measures defined by this program on cases under jurisdiction of Sokhumi and Gagra-Gudauta Regional Court are carried out by the consultant on mediation issues of the Tbilisi City Court.

5. The measures defined by this program on cases under jurisdiction of Gali-Gulripshi and Ochamchire-Tkvarcheli Regional Court are carried out by the consultant on mediation issues of the Zugdidi Regional Court.

### Article 9. Action plan for implementation of court-annexed mediation

The following action plan shall be determined for court-annexed mediation:

Purpose	Activities	Indicators	Terms	Responsible person/agency
<b>1.1. Study the needs for enforcing court-annexed mediation</b>	1.1.1. Study material-technical resources necessary for enforcing the court-annexed mediation	The document providing necessary material-technical base according to courts	01.04.2020	Common Courts HCoJ
	1.1.2. Identify the measures to meet the needs		01.04.2020	Common Courts HCoJ Department of Common Courts
<b>1.2. Provide the Mediation Center with the material-technical base</b>	1.2.1. Equip the mediation rooms or find alternative space	1.2.1.a Mediation room(s)  1.2.1.b. Material-technical equipment of the mediation rooms  1.2.1.c. Memoranda on space allocation	1.2.1.a. 30.08.2020 – No less than 12 in the area of the court mediation center  1.2.1.b. 30.03.2021 – no less than 26 in the area of the court mediation center	Common Courts HCoJ Department of Common Courts International Organizations
<b>1.3. Provide human resources</b>	1.3.1. Appoint responsible person for program supervision	1.3.1. Program supervision responsible person is appointed	01.03.2020	HCoJ
	1.3.2. Appoint consultant on mediation issues	1.3.2. Consultants on mediation issues is appointed	1.3.2. a. 30.10.2020 – no less than 12 consultants on mediation issues  1.3.2. b. 30.10.2021 – no less than 26 consultants on mediation issues	Common Courts HCoJ
	1.3.3. Retrain of consultants on mediation issues and responsible person for program supervision in mediation	1.3.3. Number of consultants on mediation issues that have received proper training	1.3.3.a 30.11.2020 – no less than 12 consultants on mediation issues  1.3.3.b. 30.11.2021 – no less than 26 consultants on mediation issues	High School of Justice Common Courts HCoJ Association
	1.3.4. Availability of court mediators in every court-annexed mediation center	1.3.4. At least one mediator is available in every court-annexed mediation center	1.3.4.a. 30.10.2020 - No less than 12 in the area of the court mediation center  1.3.4.b. 30.10.2021 - no less than 26 in the area of	Common Courts HCoJ Association

			the court mediation center	
<b>1.4. Raise awareness on the court-annexed mediation</b>	1.4.1. Conduct quarterly information sessions in court with the involvement of Judges and Mediation Center consultants/mediators	1.4.1.a. Number of conducted information meetings  1.4.1.b. Number of participants of the information meetings	Annual	Common Courts  Consultant on Mediation Issues
	1.4.2. Provide a platform for professional experience between judges and mediators twice a year	1.4.2. Number of meetings held for professional experience sharing		Common Courts  Consultant on Mediation Issues  International Organizations
<b>1.5. Elaborate the court-annexed mediation program monitoring and evaluation system</b>	1.5.1. Elaboration of court-annexed mediation program monitoring and evaluation system	1.5.1. Monitoring and evaluation plan	30.03.2020	High Council of Justice
<b>1.6. Mediation program monitoring</b>	1.6.1. Find and log in the system the materials necessary for monitoring by the consultants on the mediation issues	1.6.1. Data accumulated in the data collection base	1.6.1.a. 31.12.2020 – no less than in 12 court-annexed mediation centers  1.6.1.b. 31.12.2021 – no less than in 26 court-annexed mediation centers	Consultant on mediation issues
	1.6.2. Conduct central monitoring of the mediation program by the person responsible on program supervision	1.6.2. Filled in database and analyzed data of the monitoring and evaluation		Person responsible on program supervision
	1.6.3. Submit an annual analytical-statistical report on the mediation program to the Council	1.6.3. Annual report document of the monitoring and evaluation		

### **Article 10. Program monitoring and reporting**

1. The time limit for implementation of the program activities shall be 5 years.
2. Interim evaluation of the program performance shall be conducted no later than 3 years after the program commences. Detailed action plan of the remained period shall be defined in accordance with the evaluation results.
3. The final evaluation of the program shall be conducted no later than 6 months before the expiry of the period provided for in paragraph 1 of this Article.
4. The program shall be administered by the responsible person assigned by the High Council of Justice, who receives detailed information from the common courts on the status of the enactment of judicial mediation and the current needs.