

**A certified translation from the Polish language
The basis of translation: copy of the document**

Annex no. 3

Sample

**Information concerning the rules and mode of mediation
procedure conducted by Trade Inspection, aiming at amicable
settlement of a civil law dispute between the consumer and the
entrepreneur.**

1. Mediation procedure is a procedure instituted and conducted by an authorised mediator, aiming at amicable settlement of a civil law dispute between the consumer and the entrepreneur.
2. Mediation is conducted according to the rules of impartiality, transparency, effectiveness and honesty stipulated in Committee Recommendation (2001/310/WE) of 4th April 2001, concerning the rules regarding extra-judicial bodies taking part in arbitration of consumer disputes, and in the procedure guidelines in the cases concerning amicable settlement of consumer disputes by means of mediation issued by the Chief Inspector of Trade Inspection, and also with the application of stipulations of Art. 36 of the Act of 15th December 2000, concerning Trade Inspection (Journal of Laws 2001, No. 4, entry 25, with further changes) ¹⁾.
3. The mediator is entitled to conduct mediation in the cases concerning civil law disputes between the consumer and the entrepreneur, excluding disputes concerning the purchase of energy, banking, insurance, postal and telecommunications services, financial intermediation, information technology, scientific analysis and education services, as well as services within the field of health care and social welfare.
4. Mediation procedure is conducted in Polish.
5. Mediation is instituted on the consumer's application. Mediation can be instituted *ex officio*, if it is in the consumer's interest.
6. Proceedings within mediation procedure can be conducted at the entrepreneur's registered office, or the place where his business activity is

performed, at the voivodeship inspectorate of Trade Inspection or its branches, or by correspondence, including email.

¹⁾ *Footnotes can be found on pages 5 and 6 of Information*

7. Mediations should be conducted efficiently, and, if possible, they should not disturb the entrepreneur's course of activity.
8. Application for instituting mediation can be submitted in a written form, but also orally with protocol. The application should include at least indication of the consumer who submits it, his address and claim, indication of the entrepreneur who is the party in a dispute and his address or his registered office, as well as the applicant's signature.
9. If the application does not indicate the address of the claimant and there is no possibility of establishing this address on the basis of given data, the application shall not be examined.
10. If the application does not fulfil other requirements stipulated by legal articles, the mediator summons the claimant to remove the defects within seven days with the instruction that failing to remove the defects results in non-examination of the application.
11. In the case of lodging an application for instituting mediation by telegraph, telex, fax, email or by means of application forms placed on the Internet sites of the Office of Competition and Consumer Protection, or European Consumer Centre, which enable introducing data into data communications system of these institutions, mediation procedure is instituted *ex officio*.
12. In order to guarantee impartiality of mediation procedure, mediators responsible for conducting it are appointed for a definite period of time.
13. Mediators cannot be in conflict of interests with any party in the dispute; regulations of Art. 24 of Code of Administrative Procedure²⁾, concerning the exclusion of an employee, apply respectively.
14. Mediators are obliged to inform the parties in the dispute, prior to instituting mediation procedure, of their impartiality and powers to conduct mediation. In particular, they are obliged to show their official identity card and authorisation to conduct mediation.

15. The mediator registers in a mediation protocol, the course of mediation procedure conducted at the entrepreneur's registered office or at the place where his business activity is performed, at the voivodeship inspectorate of Trade Inspection or its branches with the participation of the entrepreneur or his representative, or with the participation of the consumer or his proxy.
16. In the course of mediation proceedings, the mediator acquaints the entrepreneur with the consumer's claim, and presents to the parties in the dispute legal regulations applicable in the case, as well as possible proposals of amicable settlement of the dispute.
17. If the consumer does not object to amicable settlement of the dispute proposed by the mediator or the entrepreneur, it is presumed that he agrees to it. The consumer should be instructed about the effects of raising no objection.
18. The mediator registers the settlement of the dispute agreed upon by the parties in a mediation protocol, in a separate document, or by drawing up an annotation in the files of the case, which is dated and personally signed.
19. The mediator draws up three copies of a mediation protocol, one of which he delivers to the consumer, the second – to the entrepreneur, and the third remains in the files of the case.
20. The parties in the dispute taking part in mediation procedure can lodge applications and other documents in all legally acceptable forms, including email.
21. Mediation procedure conducted by inspectors is free of charge, both for the consumer and the entrepreneur.
22. The costs of expert opinion regarding the quality of a product or service conducted on the consumer's or entrepreneur's demand by an expert of the quality of goods and services registered in the record of experts kept by the voivodeship inspector of Trade Inspection, are incurred by the ordering party, unless the parties stipulate otherwise.
23. The mediation parties have access to the procedure without the obligation to use a legal representative (public attorney, legal adviser or tax adviser).
24. The mediation parties can be represented or supported by a proxy being a natural person at every stage of the procedure.

25. After instituting mediation procedure, the dispute should be settled in the shortest time possible, depending on its character and degree of complexity. The following regulations apply in mediation procedure: Art. 35 § 1 – 3 and 5 Kpa (Code of Administrative Procedure) ³⁾ concerning the time limits of handling matters by administrative bodies.
26. The honesty of mediation procedure is guaranteed by the right of the parties in the dispute to:
- 1) refuse to participate or to withdraw from the procedure at any time,
 - 2) file a suit in a common court of law and the right to lodge an application to examine a dispute by a standing arbitration consumer court at every stage of the procedure, if they are not satisfied with the course or results of mediation procedure,
 - 3) free and easy presenting of any arguments, information or evidence significant for the case,
 - 4) reservation of confidentiality of certain arguments, information, and evidence presented; giving access to the other party to arguments, information, and evidence the confidentiality of which has been reserved, requires a written consent of the party which restricted confidentiality,
 - 5) present one's stance towards any information or evidence presented by the other party in every case in which the inspector suggests a possible settlement of the dispute to the parties,
 - 6) consider within a reasonable time limit the suggested solution for the settlement of the dispute prior to its arrangement. If any party in the dispute refuses to take part in the dispute, mediation procedure is not instituted, or further mediation instituted *ex officio* is renounced.
23. In the course of the procedure, the parties are encouraged to full cooperation, in particular, by submitting any information indispensable for honest settlement of the dispute.
24. If any of the parties in the dispute refuses to take part in mediation, or withdraws from mediation procedure, the mediator withdraws from conducting mediation procedure.
25. If any of the parties in the dispute does not reply to the correspondence addressed to it by the mediator, it is presumed that this party does not agree to take part in mediation procedure, or to the suggested way of settling the dispute. In such a case, the mediator withdraws from conducting mediation procedure.
26. The mediator can designate a time limit to the parties for amicable settlement of the dispute. This time limit can be extended if the

circumstances of the case indicate thus. If the dispute has not been settled amicably within a time limit, the mediator withdraws from conducting mediation procedure.

27. The consumer may give his consent, or refuse to accept a proposed solution.
28. The proposed solution may be less advantageous than a possible result adjudicated by the court applying general provisions.
29. Prior to agreement or rejection of the suggested solution, the consumer has the right to receive independent advice from a third party within a reasonable time limit.
30. Making use of mediation procedure does not influence the possibility of submitting the case into court, or application for examination of the dispute by the standing arbitration consumer court at the voivodeship inspectorate of Trade Inspection.
31. The settlement of the dispute agreed upon by the parties through mediation procedure is of voluntary character and is subject to neither administrative nor court execution, nor can it be appealed against.

¹⁾ *Art. 36. of the Act*

„1. If the character of the case indicates thus, the voivodeship inspector institutes mediation proceedings aiming at amicable settlement of a civil law dispute between the consumer and the entrepreneur.

2. Mediation procedure is instituted on the application of the consumer or ex officio if it is required by the protection of the consumer's interest.

3. In the course of mediation procedure, the voivodeship inspector acquaints the entrepreneur with the consumer's claim, and presents to the parties in the dispute legal regulations applicable in the case, as well as possible proposals of amicable settlement of the dispute.

4. The voivodeship inspector can designate to the parties a time limit for amicable settlement of a dispute.

5. The voivodeship inspector withdraws from mediation procedure if the dispute has not been amicably settled within a given time limit, or in the case when at least one party states that it does not give consent to amicable settlement of the dispute.”

²⁾ *Art. 24. of KPA (Code of Administrative Procedure):*

„§ 1. A civil servant is subject to exclusion from the proceedings of the case:

1) in which he is the party, or he remains in such a legal relation with one of the parties that the result of the case may influence his rights or duties,
2) of his/her spouse or relatives and related by affinity up to the second degree,
3) of a person related to him by way of adoption, care or guardianship,
4) in which he was a witness or expert witness, or he was, or still is a representative of one of the parties, or in which the representative of one party is one of the persons mentioned in points 2 and 3,
5) in which he took part in the lower instance in issuing the appealed decision,
6) because of which an official inquiry has been launched, or disciplinary or criminal proceedings have been instituted,
7) in which one of the parties is a person remaining in the relation of official superiority towards him.

§ 2. The reasons for excluding a civil servant from taking part in the proceedings also last after termination of marriage (§ 1 point 2), adoption, care or guardianship (§ 1 point 3).

§ 3. A direct superior of a civil servant is obliged to exclude him from taking part in the proceedings on his demand, or on demand of the party, or ex officio, if the existence of circumstances not mentioned in § 1 is substantiated, which may cast doubt on the impartiality of a civil servant.

§ 4. The excluded civil servant should only undertake activities of utmost urgency on account of public interest or important interest of the parties .”

³⁾ Art. 35 § 1-3 and 5 Kpa (Code of Administrative Procedure):

„§ 1. The civil service bodies are obliged to handle matters without unnecessary delay.

§ 2. Matters which can be examined on the basis of evidence presented by the party including the claim to institute proceedings, or on the basis of well-known facts and evidence, or known ex officio to the organ before which the proceedings are pending, or possible to establish on the basis of data the organ disposes of, should be handled forthwith.

§ 3. Handling a matter requiring explanatory proceedings should take place no later than within a month, and in the case of a particularly complicated matter – no later than within two months from the day of instituting proceedings (...).

§ 5. Time limits provided in legal articles for conducting specific activities, periods of stay of proceedings, and periods of delay caused due to the fault of the party or due to the cause independent of the organ, are not included in the time limits stipulated in preceding provisions.”

I, Aleksandra Laskowska, a sworn translator of the English language, hereby confirm that this translation is consistent with the document given to me.

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