

**TOBB UYUM MEDIATION AND DISPUTE RESOLUTION CENTER
MEDIATION, ETHICS AND MED-ARB RULES**

**ARTICLE 1
PURPOSE**

The purpose of setting forth the TOBB UYUM Mediation and Dispute Resolution Center Mediation, Ethics and Med-Arb Rules (TOBB UYUM Mediation Rules) is to determine the procedures and principles to be followed by TOBB UYUM, mediators and all stakeholders involved in the resolution of legal disputes that may be subject to mediation in the national and international levels.

**ARTICLE 2
APPLICATION OF THE RULES**

1. Unless otherwise agreed by the parties, TOBB UYUM Mediation Rules are accepted and apply from the date of application to TOBB UYUM.
2. TOBB UYUM Mediation Rules are accepted and apply on the condition that they do not violate the rules determined by the Ministry and the Mediation Law, which are in effect during both the voluntary and cause of action mediation process.

**ARTICLE 3
STARTING THE MEDIATION PROCESS**

1. TOBB UYUM mediation process begins with the joint application of the parties, or once the other party or parties agree to proceed with the mediation process following the individual application (written, on website, by e-mail, fax or in person at TOBB UYUM facilities) of one of the parties.
2. In the application form, the applicant(s) provide the parties to the dispute and/or their representatives, along with their contact information and authorization documents, and define the subject and content of the dispute.
3. If the application is in a foreign language, the party/parties submit the original translation obtained from official institutions to the secretariat of TOBB UYUM. TOBB UYUM does not start the mediation process until all the application information and documents are submitted.

4. If one of the parties applies to TOBB UYUM, the TOBB UYUM secretariat shall inform the other party and explain the workings of the process. If the other party is in agreement regarding the mediation process and selection/appointment of the mediator within the specified day, TOBB UYUM secretariat initiates the mediation process, otherwise the process is terminated.

ARTICLE 4

APPOINTMENT OF THE MEDIATOR

1. The parties may jointly select a mediator from the TOBB UYUM Mediator List.
2. If the parties do not jointly nominate a candidate, TOBB UYUM shall appoint a Mediator from the TOBB UYUM Mediator List.
3. The parties may request in writing the appointment of a Mediator from outside the TOBB UYUM Mediator List, in line with their joint decision. The Mediator appointed from outside the TOBB UYUM Mediator List must comply with the TOBB UYUM Mediation Rules.
4. The selection of the Mediator by the parties and/or the appointment of the Mediator by TOBB UYUM shall take place after the signing of the Declaration of Compliance and Impartiality and Independence by the Mediator. The Mediator must disclose any situation that may raise doubts about their independence and impartiality before the process.
5. TOBB UYUM considers criteria such as expertise, competence, experience and eligibility for the appointment of the Mediator.
6. The parties may decide to no longer continue with the appointed Mediator at any point in the process after the selection/appointment of the Mediator; and may jointly select another Mediator or request the appointment of another Mediator by TOBB UYUM. The request of the party or both parties for the appointment of a new mediator is communicated in writing to the TOBB UYUM secretariat. Pursuant to the Paragraph 5 of Article 4, TOBB UYUM appoints a new mediator within 5 working days of receiving the request.
7. Depending on the nature of the dispute, TOBB UYUM may suggest to the parties the appointment of more than one expert Mediator.

ARTICLE 5 THE IMPARTIALITY AND INDEPENDENCE OF THE MEDIATOR

1. The Mediator must be sure that they can remain impartial at every stage of the process. If the Mediator has the slightest suspicion that they can't remain impartial at any stage of the process, they must inform the parties and TOBB UYUM, and withdraw from the mediation process without delay.
2. The Mediator appointed/to be appointed is also obliged to notify TOBB UYUM in the event they have a previous or ongoing commercial, economic, social and other relationship with one and/or more of the parties.

Some things the Mediator must avoid:

- a) The Mediator must hold no prejudices regardless of their political, religious and social views. In addition, they must refrain from any behavior or discourse that may reveal prejudice or compromise impartiality regarding matters such as the personal features, backgrounds, values, and behavior in mediation of the respective parties.
 - b) The Mediator, must manage the process while staying aware of the time spent with the respective parties, and his/her behavior in socializing or addressing that may be construed as prejudice or bias, regardless of the goodness of intent.
 - c) As the mediation negotiations progresses in a constructive manner, the Mediator must preemptively study the potential risks, and comments that may be regarded as prejudice or impartiality when the parties ask the Mediator to propose a solution at the final stage.
3. At any point in the process, the parties may notify TOBB UYUM that the impartiality of the Mediator has been compromised and request their replacement.
 4. In the event that a settlement is not reached at the end of the mediation process, should the parties opt for arbitration, they are allowed to select an impartial arbitrator or Arbitrator Council and it is made clear to the parties that the authority in selecting arbitration process and the Arbitrator/Council belongs to them.

ARTICLE 6 OBLIGATIONS OF THE MEDIATOR

1. The principal duties of the Mediator are to enable mutual understanding among the parties by facilitating communication; to identify demands and interests and help parties discover the details and basics of the best solutions by analyzing the problems. In addition, the Mediator encourages the parties to reach a solution using other alternative dispute resolution techniques in case of disagreement in mediation. They also ensure that the parties know that judicial remedy is possible at any time.
2. The Mediator is obliged to manage the mediation process in accordance with the rules of impartiality and independence and TOBB UYUM Mediation Rules.
3. The Mediator is obliged to act fair, honestly and impartially towards the parties while facilitating the generation of sustainable solutions by the parties in the mediation negotiations.
4. The Mediator must not exhibit an attitude or behavior contrary to the Mediation Law and Regulation in effect.
5. Mediation is a dynamic and flexible process in itself. The Mediator is encouraged to manage the process effectively and efficiently to the best of their knowledge and experience, without being affected by any internal or external factors.
6. The Mediator is obliged to provide the parties with equal and sufficient opportunity for resting, sound thinking and reality testing during the decision-making process.
7. The Mediator is obliged to explain all the details of the mediation process to the parties and if they have any, their representatives. In particular, the Mediator is obliged to inform the parties that negotiations for the preparation phase will take place before the mediation process begins; and that they will collect the information necessary for the analysis of the dispute.
8. At the end of the mediation process, the Mediator provides TOBB UYUM with the information related to the dispute, that is limited in scope within the framework of the principle of confidentiality. This information includes:
 - i. The current definition of the dispute,
 - ii. The time spent on the dispute,
 - iii. The negotiated value of the dispute,
 - iv. Whether the dispute ends in agreement or not.

ARTICLE 7

OBLIGATIONS OF THE PARTIES

1. From the preparation until the final minutes stage and after the mediation process, the parties are obliged to abide by the confidentiality provisions.
2. The parties are obliged to treat TOBB UYUM, the Mediator and everyone participating in the process in an honest and respectful manner.
3. The parties are obliged to pay the mediation fees specified in the mediation fee contract within the period specified therein.
4. During the mediation process, the parties are obliged to share the information and documents required for the correct functioning of the process to TOBB UYUM and the Mediator.

ARTICLE 8

PREPARATORY STAGE

1. In order for the mediation process to be carried out effectively and efficiently, the Mediator must have sufficient knowledge and experience. The Mediator is responsible for reviewing any document, statement or other information submitted by the parties, and their review, analysis and preparation before mediation negotiations.
2. After accepting the file assigned, the Mediator starts without delay the preparatory stage by meeting with the parties.
3. During the preparatory stage, in order to help find a sustainable solution, the Mediator conducts detailed analysis of the dispute, collects information and makes a plan by mapping out the dispute.
4. In the preparatory stage, the Mediator works with the parties on how and with whom the process will proceed, and prepares the final plan.

ARTICLE 9

NEGOTIATIONS

1. In the introductory speech, the Mediator explains the process in detail and describes the principle of confidentiality in its entirety.

2. The Mediator uses communication and negotiation techniques in order to reach the underlying interests and concerns of the parties, and dispose of their fixed demands/positions with their cooperation.
3. The Mediator makes the utmost effort for the parties to empathize with and understand each other.
4. The Mediator may engage in shuttle diplomacy (private meeting) within the process or conduct the entire process this way, as they deem necessary.
5. From the preparatory stage to the termination of the process, the Mediator observes with their knowledge and experience any kind of situation such as deception, unethical guidance, abuse of power motivated by interest, misleading statements etc., and intervene as necessary.
6. If the Mediator perceives that one of the parties is incapable of making a healthy decision due to a mental or physical complication, they must put the process on hold until they are convinced otherwise. In this case, the Mediator may continue the process with duly authorized representatives.
7. The Mediator may propose the involvement of experts in the mediation process within the framework of the confidentiality principle as they deem necessary, or involve them in the process if the parties request as such.

ARTICLE 10 CONTRACT

1. At the end of the negotiations, the parties may reach an agreement on all or some of the negotiation subjects, or terminate the process without any agreement.
2. In the event that there is partial or full agreement by the parties, the Mediator helps the parties to prepare a Document of Agreement where the agreed upon subjects are explained in detail, to which both parties give their agreement. If there is partial agreement, the Mediator may suggest the parties to go back mediation proses for the subjects that cannot be agreed upon and/or try other alternative dispute resolution methods.
3. The parties have the right to expert opinion before signing the agreement documents.

ARTICLE 11

TERMINATION OF MEDIATION

In the event that the conditions in the articles below are fulfilled, the mediation process initiated in accordance with the rules shall be terminated by the written notification of TOBB UYUM to the parties and the Mediator:

- a) One or all of the parties sign the final minutes on terminating the mediation process,
- b) There is no agreement as a result of the negotiations,
- c) The Mediator informs in writing that they will not themselves continue the mediation process,
- d) The Mediator finds that the negotiations between the parties are progressing towards an unreasonable or illegal conclusion,
- e) The legal periods determined by the Law and Regulation are exceeded.

ARTICLE 12

TRANSITION TO MED – ARB AND APPLICATION

1. Definition: Med – Arb is when the parties seeking a resolution through mediation by joint consent find that they can't settle their disputes this way, and as such they opt for arbitration to reach the final judgment – made by the appointed arbitrator – their disputes.
2. TOBB UYUM provides the parties with detailed information regarding Med – Arb at the beginning of the mediation process and if requested, during the mediation process.
3. After the briefing at the beginning of the mediation process or at any point during mediation, the parties may jointly choose to resolve their disputes using the Med - Arb method.
4. For transition into Med – Arb process, it is essential that the dispute is subject to arbitration.
5. TOBB UYUM is in collaboration with TOBB Arbitration and Istanbul Arbitration Center (ISTAC). As such, the processes of the parties having applied for Med - Arb by joint consent or those parties who have opted for arbitration during the mediation process, are finally resolved in TOBB Arbitration and ISTAC according to the nature of the dispute.

6. The TOBB Arbitration Rules and/or the ISTAC Arbitration Rules apply to all mediation files referred to arbitration.
7. The TOBB UYUM Mediator may be appointed as Med – Arb Arbitrator by the relevant Arbitration Center Arbitrator Council, if they fulfill the TOBB Arbitration and ISTAC Arbitrator Criteria and the parties so decide.
8. Information disclosed in mediation, documents and solution proposals created for the mediation process, cannot be used as evidence in the arbitration proceedings.
9. In case there is a suspicion or complaint that the information or documents presented during arbitration proceedings have been used in the mediation process, the process is managed by the relevant Arbitration Center Arbitrator Council.
10. The Mediator, parties, arbitrator and all stakeholders participating in the two processes must comply with the confidentiality provisions during and after the Med – Arb process.

ARTICLE 13

CONFIDENTIALITY

1. The Mediator shall explain to the parties, before or if necessary during the Mediation meetings, that the proposals, statements and information revealed during the mediation meetings may not be disclosed or exposed in the course of other alternative dispute solutions or court processes after mediation.
2. In accordance with the current Mediation Law and Regulation, anyone who participates and gets involved in the mediation process must comply with the provisions of confidentiality.
3. Confidentiality can only be lifted if the parties agree otherwise or, when necessary, on the basis of any Law.
4. Unless otherwise agreed, in person or online mediation meetings shall not be recorded.

ARTICLE 14

FEES AND EXPENSES

Unless otherwise agreed by TOBB UYUM and the parties, Ministry of Justice Mediation Tariff shall be valid for the pricing in any field.