

## **II MEDIATION**

### **Article 5**

#### **GENERAL PROVISIONS**

1. A person demanding from a Subscriber renunciation of the infringement of the rights may file an application for mediation with the Court.
2. Mediation may precede the commencement of arbitration proceedings.
3. Mediation may be conducted only upon the agreement of the Subscriber.
4. A Mediator shall be impartial and shall seek to attain agreement by the parties. Exclusions applicable to an Arbitrator, described in the Rules apply to a Mediator. In the event of exclusion of Mediator from proceedings, mediation shall be conducted by a person assigned by the President of the Court..
5. If the parties submit demands exceeding provisions concerning mediation and any costs arise thereof, and are accepted by the Court, the costs shall be paid by the party submitting the demand, or if the other party supports the demand – by the parties jointly. The Court may desist from further activity until the parties pay appropriate receivables.
6. Provisions concerning arbitration proceedings apply accordingly to mediation.
7. Until the appointment of the mediators by the Council of PCITT, the Council of the Court may temporarily entrust the President of the Court with conducting the mediation proceedings.

### **Article 6**

#### **COMMENCING MEDIATION**

1. Commencing mediation is dependent on filing, by the party applying for mediation, of an induction fee in an amount prescribed in the Fee Schedule. The induction fee is non-refundable irrespective of the mediation outcome, even in the event of discontinuance of mediation proceedings.
2. The Court shall convey a proposal to conduct mediation to the Subscriber, delivering him a copy of the application for mediation. Consenting to conduct mediation, the Subscriber may put forward his own proposals aimed at reaching an amicable resolution of the dispute.
3. Absence of the consent to conduct mediation or failure to respond within seven days from the date of delivery to the Subscriber of the proposal to conduct mediation results in discontinuance of mediation proceedings.
4. When mediation is in progress the Mediator shall contact the parties in a manner he considers necessary under the circumstances of a given case.
5. When expressing consent to conduct mediation, the Subscriber shall make the final payment in the amount prescribed in the Fee Schedule. In the event of not paying the final payment within 14 days from delivering a summon to pay to the Subscriber by the Court, the mediation proceedings shall be discontinued.

6. The person applying for mediation, after the Subscriber agrees to conduct thereof, shall pay the final payment in an amount equal to the final fee paid by the Subscriber. The final fee is reduced by the amount of the induction fee.
7. Payment by the parties of the final fees is a condition for commencement of the mediation. The final payment is non-refundable irrespective of the mediation outcome, even in the event of discontinuance of mediation proceedings.
8. If the person applying for mediation pays the induction fee, the Subscriber pays his fee in full amount, and the person applying for mediation fails to pay the fee in full amount equal to the final fee, the mediation shall be discontinued, and the fee paid by the Subscriber shall be returned.
9. Discontinuance of the mediation proceedings in the cases, referred to in section 3, 5 and 8, shall take place on the basis of a decision issued by the President of the Court.

#### **Article 7**

#### **APPLICATION FOR MEDIATION**

1. An application for mediation, filed in a written form, along with its copy, should contain:
  - (i) information about the parties (name / first and last name, postal address, telephone number, fax number or electronic mail address)
  - (ii) the domain name in dispute,
  - (iii) subject of the application,
  - (iv) a brief description of the factual and legal status of the case,
  - (v) listing of evidence showing the factual status.
2. If the application is incomplete, the President of the Court shall set a 7 day time limit to complete the application, on penalty of the application return. Returned application shall have no legal effect. The time limit, described above, may be restored on the justified request of the applicant.

#### **Article 8**

#### **CONDUCTING MEDIATION**

1. A Mediator assigned by the President of the Court will conduct mediation jointly or in caucus with each of the parties, depending on the will of the parties.
2. A Mediator may propose to the parties the text of a settlement concerning the domain name, pursuant to the legal provisions and justified interests of the parties.
3. The parties and the Mediator shall sign the settlement concerning the domain name.
4. The settlement is binding on the parties and shall be conveyed by the President of the Court to NASK for execution.

5. Mediation shall last no longer than thirty days from the filing of the application. The mediator sets time limits during mediation. The parties shall bear the consequences of violating the time limits.
6. If the parties do not come to terms, the Mediator shall declare the lack of agreement in writing and issue a decision on the discontinuance of the mediation proceedings, which shall be immediately notified to NASK by the President of the Court.
7. The conclusion of mediation with a lack of agreement does not foreclose the possibility of arbitration proceedings.