

# RULES ON MEDIATION PROCEDURES IN DOMESTIC AND CROSS-BORDER CONSUMER DISPUTES OF THE MEDIATION CENTRE OF THE SLOVENIAN INSURANCE ASSOCIATION

## I. GENERAL PROVISIONS

### Article 1 Subject of these Rules

These Rules govern the procedure of mediation in domestic and cross-border consumer disputes of the Mediation Centre (hereinafter: the MC) of the Slovenian Insurance Association (hereinafter: the SIA).

### Article 2 Definitions

The terms used in these Rules shall have the following meanings:

1. **Mediation** means a form of alternative dispute resolution with the assistance of an independent expert third person who cannot issue a binding decision but acts in an informal procedure, assisting the parties in reaching an agreement that resolves the dispute or newly regulates their mutual rights and obligations.
2. **Mediator** means an independent expert third person who does not make decisions in the dispute but acts in an informal procedure, assisting the parties in reaching an agreement that resolves the dispute or newly regulates their mutual rights and obligations.
3. **Consumer** means a natural person who acquires or uses goods and services for purposes outside of their professional or gainful activities. For insurance purposes, a consumer also means an injured party that is a natural person. For the purpose of mediation, consumer also means a consumer association.
4. **Parties to a procedure** means the consumers and the providers.
5. **Providers** means members of the SIA, other insurance service providers and insurance brokerage companies that have recognised the MC as competent for dispute resolution and signed an enrolment declaration.
6. **Domestic consumer dispute** means a dispute arising from a contractual relationship between a provider and a consumer, whereby at the time of ordering goods or services the consumer resided and the provider was established within the Republic of Slovenia.
7. **Cross-border consumer dispute** means a dispute arising from a contractual relationship between a provider and a consumer, whereby at the time of ordering goods or services the consumer resided within an EU member state and the provider was established within the Republic of Slovenia.

Terms used in the masculine grammatical form apply neutrally to both male and female genders.

### Article 3 Powers

Mediation according to these Rules is possible in domestic and cross-border consumer disputes between the parties to insurance and compensation relationships based on insurance contracts or brokerage contracts (contractual relationships).

Article 4  
The parties and their capacity

The parties must have full legal capacity and be capable of performing procedural acts independently.

Parties without procedural capacity are represented by a legal representative.

A minor without full legal capacity has procedural capacity within the limits of his legal capacity or is represented by a person in accordance with the law regulating family relationships.

The parties may perform procedural acts personally, with the assistance of a third person or through an attorney that presents a power of attorney for mediation.

## II. THE MEDIATION PROCEDURE

Article 5  
Type of procedure

Mediation at the MC is a mediation procedure conducted with the assistance of an independent expert third person who cannot issue binding decisions.

Article 6  
Request to initiate the procedure

The consumer files a request to the MC to initiate the mediation procedure (hereinafter: the request). The request must comprise:

- the consumer's personal name, address of residence, and e-mail address,
- the provider's details,
- facts on infringements allegedly committed by the provider,
- evidence substantiating the request, if existing,
- a declaration that there are no pending judicial or administrative proceedings or any other proceedings in front of another provider of out-of-court dispute resolution, and that the case has not been adjudicated in any other judicial or administrative proceedings or any other proceedings in front of another provider of out-of-court dispute resolution,
- the final answer of the provider in an internal complaints handling procedure, or evidence that thirty days have passed since a complaint has been lodged with the provider within an internal complaints handling procedure,
- a proposal on the appointment of a mediator from the list of mediators, or a declaration that a mediator may be appointed by the MC Secretary.

The request must be accompanied by a proof of a payment of a fee in an amount of 20,00 EUR (twenty euros).

The consumer may file the request by sending it by post or e-mail, or by filing it on the SIA website.

A procedural precondition to commence mediation is that a complaint has been previously lodged with the provider within an internal complaints handling procedure.

The final deadline to file a complaint is one year from the date of the final answer given by the provider in an internal complaints procedure.

#### Article 7

##### Commencing a mediation procedure

If a mediation request is lodged on the SIA website, the mediation procedure is deemed to commence on the day the SIA confirms receiving the request by automatic electronic confirmation.

If the request is filed by ordinary mail, the mediation procedure is deemed to commence on the day the SIA receives the postal delivery, and in the case of registered mail on the date of the post stamp.

If a mediation request is lodged via the SIA e-mail address indicated on the SIA website, the mediation procedure is deemed to commence on the day the SIA confirms receiving the request by automatic electronic confirmation.

#### Article 8

##### The process following receipt of a request

Upon receiving a request, the MC Secretary checks whether the request contains all elements set out in Article 6 of these Rules, and where necessary asks the consumer to supplement it within 14 days of receipt and warns him about the consequences of inappropriate supplementation of the request.

If the consumer, despite the invitation, fails to supplement its request, the latter is deemed withdrawn. In this case, the MC Secretary informs the consumer about the inadequate supplementation of the request and the fact the request is deemed withdrawn.

#### Article 9

##### Grounds for rejecting a request

The MC Secretary rejects a request if:

- the matter does not fall within the powers of the MC,
- judicial or administrative proceedings or any other proceedings in front of another provider of out-of-court resolution of disputes are ongoing, or the case has already been adjudicated in other judicial or administrative proceedings or any other proceedings in front of another provider of out-of-court resolution of disputes,
- the consumer did not previously file a claim with the provider within an internal claims handling procedure,
- the request was not filed at the latest within one year of the date of the final answer given by the provider in an internal claims handling procedure
- it is evident that the consumer does not succeed with the request,

- the request is frivolous or means a clearly misuse of the procedure,
- the dispute falls below 30,00 EUR (thirty euros),
- the request is particularly complex and challenging and would seriously impair the effective operation of the ADR entity.

Where a request is rejected, the MC Secretary sends to the parties, within three weeks from receiving the request, a written explanation of the rejection.

#### Article 10

##### Serving the request on the provider

Within eight days of receiving a complete request, the MC Secretary informs the provider of the request filed, and asks the provider to express its view on the request and the evidence proposed within eight days of receiving the invitation. Along with the invitation, the MC Secretary provides the provider with the request and the evidence it relies on.

The MC Secretary, within eight days of receiving a reply from the provider, informs parties to the procedure about the further steps in the process and the planned timeline. Along with this notice, the MC Secretary provides the consumer with proposed evidence submitted by the provider.

#### Article 11

##### Exchange of information

Information is exchanged between the parties through regular post or e-mail according to the choice of the parties, taking provisions of the legislation governing the protection of personal data into account.

#### Article 12

##### Invitation to a mediation meeting

The parties to a procedure are invited to a meeting orally, by e-mail, telephone, fax or in writing. When determining the place and time of the meeting, the capabilities and wishes of the parties are taken into consideration as well as the principle of speed and economy of the procedure. As a rule, mediation meetings are held on the SIA's premises, or exceptionally and upon agreement between the parties and the mediator at other locations.

The initial mediation meeting is fixed no sooner than eight days and no later than thirty days from the day the MC Secretary informs the parties about the further procedural steps and the planned timeline.

At the initial mediation meeting, the mediator informs the parties about the purpose, characteristics, procedure and conditions of the mediation, the role of the mediator and the parties, and the duty of the mediator and the parties to not disclose confidential data.

When agreed upon the parties and the mediator mediation meeting can be held via videoconference.

Article 13  
Termination of the mediation procedure

The mediation procedure is terminated:

- by the consumer withdrawing the mediation request,
- - on the day a settlement has been reached,
- when the consumer is informed about the declaration of the mediator that further efforts in mediation are no longer needed as the mediation has not been successful.

The MC Secretary informs the parties about the termination of the mediation procedure.

Article 14  
Settlement

When the parties to a mediation reach an agreement on resolution of the dispute and are prepared to end the dispute, they reach an agreement on the dispute's resolution and sign a written settlement. Before signing the settlement, the parties must be given reasonable time for reflection. The parties may agree to draw up a settlement agreement in the form of a directly enforceable notarial deed or a settlement in front of a court.

Before entering into a written settlement, the mediator informs the parties about the legal consequences of entering into a settlement.

Article 15  
Language of the procedure

The mediation procedure in domestic consumer disputes is held in the Slovenian language, whilst mediation in cross-border consumer disputes is held in the English language.

Article 16  
Mediation costs

The costs of mediation procedure comprise:

- the mediator's fee,
- administrative costs,
- costs of taking evidence.

Administrative costs are covered by the SIA through flat-rate contributions of the providers.

The mediator's fee is covered by the opposing parties.

The provider is responsible for the costs of his own attorney and the costs of taking evidence.

The consumer is responsible for the costs of his own attorney or, where applicable, a third party as well as the costs of expert opinion requested by him even if the mediator is of the opinion that the dispute could also be resolved without it. Consumer has to pay a required fee in an amount of 20,00 EUR (twenty euros).

Article 17

## Effect of the procedure on limitation and prescription periods

Regarding the effect of the mediation procedure on limitation and prescription periods, the provisions of the act regulating mediation in civil and commercial matters apply.

### III. FUNDAMENTAL PRINCIPLES OF THE MEDIATION PROCESS

#### Article 18

##### The principle of confidentiality

The mediator, the parties to the procedure, the MC Secretary, and the Administrator are obliged to protect the confidentiality of data about or in connection with the mediation process. Confidentiality also applies to the settlement, except for the implementation or enforcement of a settlement.

The parties undertake that in any judicial, arbitration or any other similar proceedings they will not present as evidence, refer to or give testimony about:

- the fact that the other party to the procedure was willing to take part in mediation,
- documents drawn up solely for the purpose of mediation,
- opinions or proposals of the other party in respect of reaching a settlement,
- statements or admissions made by the other party in the course of mediation,
- proposals presented by the mediator,
- the other party's willingness to accept a proposed solution.

The mediator undertakes that in any judicial, arbitration or any other similar proceedings he will not present as evidence, refer to or give testimony on any of the following:

- the fact that a party to the procedure was willing to take part in mediation,
- documents drawn up solely for the purpose of mediation,
- opinions or proposals of the parties in respect of reaching a settlement,
- statements or admissions made by the parties in the course of mediation,
- proposals presented by the mediator,
- a party's willingness to accept a proposed solution.

Information referred to in the third and fourth paragraphs of this Article may only be disclosed or used in arbitration or judicial proceedings or proceedings before any other state body for the purpose of evidence under the conditions and to the extent required by law (Criminal Procedure Act, Civil Procedure Act, General Administrative Procedure Act, Act on Arbitration, Act on Mediation in Civil and Commercial Matters) in particular on grounds of public policy or insofar as necessary for the implementation or enforcement of an agreement on the settlement; otherwise, such information is treated as an inadmissible fact or evidence.

#### Article 19

##### The principle of oral procedure

The mediation procedure is oral, therefore no minutes are taken.

#### Article 20

##### The principle of speed and economy of the procedure

The mediation procedure is carried out as rapidly as possible, normally at no more than three meetings, without delay and with minimum possible costs.

#### Article 21

##### Cooperation of the parties to the procedure with the mediator and disclosure of facts

The parties are obliged to participate in the mediation procedure in good faith. The parties are obliged to apply their rights in the mediation process in a fair manner.

The parties are obliged to attend mediation meetings in person or through a legal representative or attorney.

The mediator can meet with the parties at joint meetings, or at a separate meeting with each party individually.

In case the mediator learns from a party to the procedure about a fact referring to the dispute at hand, he can inform the other party about this fact in order for the latter to express its opinion about it.

If the mediator learns about this fact from one of the parties on the condition that the fact not be provided to the other party, he may not disclose this fact to the other party.

#### Article 22

##### The principle of voluntary for the consumer and binding of the participation for the provider

The consumer participate in the mediation procedure on a voluntary basis in all phases. The consumer may at any time withdraw from the mediation process. A consumer may not waive the right to administrative or legal protection by determining, before a dispute arises, that he would file a request. For the provider participation in the mediation procedure is binding.

The mediator is obliged to mediate in a dispute for as long as the parties make progress towards concluding a settlement and whilst the process is rapid and without delay. In the opposite case, the mediator may terminate the mediation procedure without giving any grounds.

#### Article 23

##### The principle of efficiency

When the mediator finds that the parties, through mutual concessions, are willing to end the dispute and fix their rights and obligations, the mediator can prepare a draft settlement and present it to the parties.

#### Article 24

##### The principle of equality of the parties

The parties must have equal possibilities of participating in the procedure, co-design it, freely

express their will and proposals, and especially to freely enter into a settlement.

Article 25  
The principle of legality

Mediation procedures are conducted in compliance with the Constitution, binding international treaties, laws (in particular the Act on Out-of-Court Resolution of Consumer Disputes and the Act on Mediation in Civil and Commercial Matters) and secondary legislation, these Rules, and the Code of Rules on Mediation in Domestic and Cross-Border Consumer Disputes of the Mediation Centre of the Slovenian Insurance Association. For issues not regulated by these Rules or the Code of Rules on Mediation in Domestic and Cross-Border Consumer Disputes of the Mediation Centre of the Slovenian Insurance Association, provisions of the Act on Out-of-Court Resolution of Consumer Disputes and the Act on Mediation in Civil and Commercial Matters apply directly. By participating in a mediation procedure in a domestic consumer dispute, a consumer may not be deprived of protection arising from mandatory provisions on consumer protection. By participating in a mediation procedure in a cross-border consumer dispute, a consumer may not be deprived of protection arising from mandatory provisions on consumer protection in the country of its residence at the time of entering into a contract.

Article 26  
The principle of independence and impartiality

The mediator must act neutrally, independently and impartially, and make efforts for the equal treatment of all the parties, taking the circumstances of the case into consideration.

## V. FINAL PROVISIONS

Article 27  
Information

The SIA ensures that information about the existence of the MC, the manner of its organisation, financing, powers and main characteristics of the mediation procedure is available to the widest possible circle of consumers.

The SIA is obliged to present in clear and comprehensible language on its website and at its business premises as well as, on request, via a durable medium all information referred to in the first paragraph of Article 29 of the Act on Out-of-Court Resolution of Consumer Disputes. In addition to the information referred to in the preceding sentence, the SIA is obliged to publish on its website and at its business premises these Rules, the Code of Rules on Mediation in Domestic and Cross-Border Consumer Disputes of the Mediation Centre of the Slovenian Insurance Association, and the Articles of Association and Organisation of the Mediation Centre of the Slovenian Insurance Association.

Article 28  
Information



Members of the SIA, other providers of insurance services and insurance brokerage companies that have recognised the MC as competent for dispute resolution and signed an enrolment declaration publish on their websites and in their general terms and conditions information about the MC in a clear, simple and comprehensible manner. Members of the SIA, other providers of insurance services and insurance brokerage companies that have recognised the MC as competent for dispute resolution and signed an enrolment declaration publish at least the MC's official name, e-mail address and telephone number. They also provide information about the MC in the final reply within an internal claims handling procedure.

#### Article 29 Validity of these Rules

These Rules are adopted by the Council of the SIA.

These Rules enter into force on 12 April 2021.

On the date these Rules enter into force, the Rules on the Work of the Mediation Centre and the Mediation Procedure of the SIA of 10 February 2016, as amended on 15 June 2016, 11 August 2016 and 11 March 2019, cease to apply, but continue to apply to the completion of mediation procedures for which mediation requests were filed prior to the date of their expiry.

Ljubljana, 12 April 2021

President of the SIA Council  
Andrej Slapar