



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government

Ministria e Drejtësisë - Ministarstvo Pravde - Ministry of Justice

ADMINISTRATIVE INSTRUCTION MoJ – No. 16/2023¹
ON AMENDING AND SUPPLEMENTING ADMINISTRATIVE
INSTRUCTION MoJ-NO. 06/2019 ON TRAINING AND
CERTIFICATION OF MEDIATORS

¹ administrative instruction MoJ – No. 16/2023 on amending and supplementing administrative instruction MoJ-
No. 06/2019 on training and certification of mediators signed by the Minister of Justice on 30.11.2023

Minister of the Ministry of Justice

In support of Article 27, paragraph 1, under paragraph 1.1 of Law No. 06/L-009 for Mediation, (GZ No. 14/20 August 2018 Prishtina), in accordance with Article 11, paragraph 1, subsection 1.5 of Law No. 08/L-117 on the Government of the Republic of Kosovo, based in Annex 1, point 3 (paragraph 3.1) of the Regulation (GRK) - NO. 14/2023 on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries as well as Article 38 paragraph 6 of Rules and Procedure of the Government of the Republic of Kosovo No. 09/2011 (Official Gazette No. 15, date 12.09.2011)

Issues:

ADMINISTRATIVE INSTRUCTION MoJ- No. 16/2023 ON AMENDING AND SUPPLEMENTING ADMINISTRATIVE INSTRUCTION MoJ-No. 06/2019 ON TRAINING AND CERTIFICATION OF MEDIATORS

Article 1 Purpose

This Administrative instruction provides amendment and supplement of Administrative Instruction MoJ-No. 06/2019 on Training and Certification of mediators, (hereafter: Basic instruction).

Article 2

1. Paragraph 1 of Article 3 of the Basic Instruction is amended as follows:

1. Ministry of Justice made a public announcement of the competition for the selection of candidates to attend mediator training in the Republic of Kosovo in both official languages, and the same is broadcast on the public broadcaster in both official languages.

2. Paragraph 7 of Article 3 of the Basic Instruction is amended as follows:

7. Against the decision from paragraph 6 of the Basic Instruction, the candidate has the right to submit a complaint to the Minister within fifteen (15) days from the day of acceptance of the decision. The Minister decides on the complaint of applicant within five (5) days from the end of the deadline for complaints. The decision of Minister is final.

Article 3

1. Paragraph 1 of Article 4 of the Basic Instruction is amended as follows:

1. For certification as a mediator in the Republic of Kosovo, the candidate must have completed forty (40) hours of basic training and forty (40) hours of specialized training provided by the Ministry of Justice.

2. Paragraph 4 of Article 4 of the Basic Instruction is amended as follows:

4. Training program for mediators contains theoretical and practical parts on mediation and reflects the subjects defined in Annex 2 which is an integral part of this Administrative Instruction.

Article 4

1. Article 5 of the Basic Instruction is reformulated as follows:

1. After completing the initial training of forty (40) hours, the candidates will be evaluated by the relevant trainers who conducted the training.

2. After completing the specialized training of forty (40) hours, the candidate will be evaluated by the relevant trainers who conducted the training.

3. To be certified as a mediator, the candidate shall have completed four (4) mediation sessions, co-mediated with the trainer, within a period of six (6) months. The candidate will be evaluated by the relevant trainers who have conducted the training.

4. Candidates are evaluated with "Pass" or "Not passed".

Article 5

Annex 2 of the Basic Instruction program for the initial training of mediators is amended and supplemented.

Article 6 **Entry into force**

This Administrative Instruction enters into force seven (7) days after publication in the Official Gazette of the Republic of Kosovo.

Albulena Haxhiu

Minister of Justice

30/11/2023

ANNEX 2

PROGRAM FOR INITIAL AND SPECIALIZED TRAINING OF MEDIATORS

1. The notion of Alternative Dispute Resolution - the notion of Mediation;
2. Legal Framework of Mediation in the Republic of Kosovo;
3. Basic Principles of Mediation;
4. Stages of the Mediation procedure;
5. Efficiency of the Mediation procedure;
6. Difference between the Mediation procedure and the Court procedure;
7. Way to reach an agreement through negotiation;
8. Mediation with a gender approach;
9. Communication Skills;
10. Ways to build and improve relations between the parties;
11. The mediator's analysis of the issues, positions and interests of the parties;
12. Knowledge related to the current models and processes of local and international mediation;
13. Mediation practice standards, ethical and disciplinary issues of mediators;
14. Practical Simulation of Mediation;
15. Viewing and analyzing the Mediation video recordings;
16. Ethics and Discipline of Mediators;
17. Drafting of the mediation agreement

CURRICULUM - FOR INITIAL AND SPECIALIZED TRAINING OF MEDIATORS

OBJECTIVES OF CURRICULUM

The curriculum is designed to ensure the implementation of the Administrative Instruction MJ-No.06/2019 (UA) on training and certification of mediators. The purpose of the curriculum is to ensure that participants can demonstrate proficiency of essential mediator skills and competencies, both through a written exam and through performance-based assessment.

To successfully demonstrate these competencies, participants must complete a forty (40) hour basic mediation training course and forty (40) hours of specialized training and successfully demonstrate proficiency of basic mediation skills during four (4) co-mediation sessions with a certified mediator/coach of the Justice Academy of Kosovo

After completing the forty (40) hour basic training, participants will be able to:

- Implement legal requirements on mediation;
- Distinguish between mediation and explain the difference between mediation and other dispute resolution processes;
- Exercise the role of mediator correctly
- Implement the mediation process according to the eight (8) defined stages
- Recognize the dynamics of conflict in mediation;
- Apply communication skills during the mediation process
- Know the parties and their interests in the mediation process
- Simulate the process of fair mediation according to 8 stages.

After the completion of the specialized training of forty (40) hours, the participants will be able to:

- Implement legal requirements for mandatory mediation;
- Apply mediation according to legal requirements in matters of employment, labor relations, contracts, trade, acquisitions, bankruptcy, inheritance and criminal matters;
- Manage the behavior of the parties in the mediation process
- Demonstrate skill in mediating property, family and commercial issues
- Draft legally enforceable mediation agreements
- Understand the essential competencies of a mediator through intensive practice of simulating mediation cases

After completing four (4) mediation sessions, co-mediated with the trainer, participants will be able to:

- Successfully demonstrate mastery of the core mediator competencies outlined on the final certification assessment sheet.

Training providers

- Mediator training is organized by the Ministry of Justice through certified trainer mediators.

TRAINING CONTENT

Forty (40) hour training for basic mediation

- General knowledge of legislation in the field of mediation;
- Knowledge of the mediator's code of ethics;
- Definition of mediation and alternative dispute resolution;
- Role of mediator and effective mediator behaviors;
- Definition of mediation principles

Basic mediator skills:

- Active listening;
- Asking effective questions;
- Distinguishing attitudes from interests;
- Paraphrasing, formulation and reformulation;
- Exchange of ideas and creation of options.

Mediation process in eight (8) steps:

- First step - Planning the mediation session;
- Second step - Introductory statements of the mediator;
- Third step - Initial statements of the parties;
- Fourth step - Drafting the agenda;
- Step five - Negotiation;
- Sixth step - Meeting of the parties;
- Seventh step - Drafting of agreements;
- Step Eight - Mediator Summary.

Dynamics of mediation:

- Conflict, power, rights and interests;
- Mediator's means of communication;
- Dealing with difficult behaviors and strong emotions;
- Application of content through four (4) simulated cases through role play
- Conflict, power, rights and interests;
- Mediator's means of communication;
- Dealing with difficult behaviors and strong emotions;
- Application of content through four (4) simulated cases through role play.

Forty (40) hours of specialized training

Specialized training of the subject module (8 hours)

- Mandatory mediation;
- Labor relations;
- Contracts;
- Trade/acquisitions;
- Bankruptcy and inheritance;
- Criminal cases (with case simulation).

Specialized training practice for property subject eight (8) hours

- Unique aspects of property disputes in Kosovo;
- Access and specific means of mediation of property disputes;
- Two (2) intensive case simulations involving property issues (groups of 4 people, co-mediators and 2 parties, each case simulation lasts 2 hours).

Specialized training practice for the family subject eight (8) hours

- Unique aspects of family law in Kosovo;
- Specific approach and tools of family mediation;
- Two (2) intensive case simulations involving family matters (groups of 4 people, co-mediators and 2 parties, each case simulation lasts 2 hours).

Specialized training practice for the commercial subject eight (8) hours

- Unique aspects of commercial law in Kosovo;
- Access and specific means of mediation in commercial matters;
- Two (2) intensive case simulations involving commercial matters groups of 4 people, co-mediators and 2 parties, each case simulation lasts 2 hours).

Eight (8) hour contract drafting training

- Type of solutions (of disputes);
- Legal requirements for agreements to resolve cases;
- Knowledge of drafting/legal language;
- Demonstrated ability to draft legally sufficient agreements given sample settlement points through practicum.

Completion of four (4) mediation sessions, co-mediated with the certified trainer

- Completion of four (4) mediation sessions, co-mediated with the coach.
- Candidates will go through a trainer assessment process and must successfully

demonstrate mastery of the core mediator competencies outlined in the Certification Final Assessment Sheet.

Group composition

The trainings are organized in groups of no more than 30 candidates, so that there is no less than 1 trainer for every 10 participants.

Training methodology

Mediator skills training courses are focused on preparing candidates to practice mediation. They should be participatory, interactive and candidate-focused. To ensure this, a range of teaching methodologies should be used, including lectures, videos, interactive exercises, individual work, group discussion, pair-talk and role-play. For the practical part of any course that is designed to teach the process and skills of being an effective mediator, the percentage of time that should be spent on these different approaches to providing training is:

- Lectures/knowledge/presentations – 10%;
- Exercises and discussions – 40%;
- Role playing and speaking in pairs -50%.

Materials for participants

Training materials will include:

- The handbook/workbook for the course;
- Supplementary materials such as general instructions for playing the roles;
- Mediation rules and procedures, relevant legislation

Providing feedback (feedback)

- Participants learn not only by practicing mediator skills, but also by receiving feedback from experienced mediators who act as trainers throughout the course.
- In the training, a number of different methods will be used to provide feedback:
- Group exercises during role playing.
- Exchange comments only privately with each other, after the role play.

Performance evaluation and accreditation

- Candidates will be assessed through a written examination and performance-based assessments. Candidates are evaluated with "Pass" or "Not passed".
- After the completion of the initial training of 40 hours and the completion of the specialized training of 40 hours, the candidates will be evaluated by the trainers who have given the training.

- To be certified as a mediator, each candidate must have completed four (4) mediation sessions, co-mediated with the trainer. Candidates will go through an evaluation process by the coach regarding their performance. Candidates must successfully demonstrate mastery of the core mediator competencies outlined in (Certification Final Assessment Worksheet).

Basic training curriculum forty (40) hours per mediator

Objective 1.	Participants can describe the legal requirements for mediation
1.1	Recognize and interpret the Mediation Law and bylaws;
1.2	Explain the brokerage fee;
1.3	Recognize ethical obligations for licensed mediators.
Objective 2.	Participants can define mediation and explain the difference between mediation and other dispute resolution processes
2.1	Define mediation;
2.2	Explain the mediation process and benefits;
2.3	Distinguish between mediation and other dispute resolution processes.
Objective 3	Participants can describe the role of mediator
3.1	Describe the mediator's role, potential challenges and what success means for a mediator;
3.2	Identify effective mediator behaviours;
3.3	Explain confidentiality and neutrality;
3.4	To identify what creates trust and the relationship with the parties.
Objective 4	Participants can define the 8 stages of the mediation process and describe the role of the mediator and the parties in each stage
4.1	Explain the initial stage of planning and setting expectations from the process and describe the role of the mediator and the parties;
4.2	Explain the key elements in the mediators' opening statement and the role of the mediator and the parties during that stage of the process;

4.3	Explain the initial stage of the process where the parties' statements are given and describe the role of the mediator and the parties;
4.4	Explain the stage of the process where the agenda is drawn up and issues are identified and describe the role of the mediator and the parties;
4.5	Explain the stage of the process where negotiations take place and agreements are reached and describe the role of the mediator and the parties;
4.6	To explain the phase of the process where one party talks with the mediator and describe the role of the mediator and the role of the party;
4.7	Explain the drafting of agreements and the final stage of the process and describe the role of the mediator and the parties;
4.8	Explain the stage of the process where the mediator makes the summary.
Objective 5	Participants can explain the dynamics of conflict in mediation
5.1	To define the conflict;
5.2	Describe potential sources of conflict in a dispute (competencies, rights and interests);
5.3	To identify the reasons why the parties, choose to stay in the conflict and the options of how they can get out of the conflict.
Objective 6	Participants can explain the mediator's basic communication skills and demonstrate the capacity to use each skill
6.1	Define active listening;
6.2	Demonstrate the ability to listen to attitudes, interests as well as needs and emotions on which they are based;
6.3	Use active listening skills to demonstrate that they understand and do not judge the needs, interests and perspectives of other parties;
6.4	Define effective mediator questions;
6.5	Demonstrate the ability to ask open-ended questions, solution-focused questions, and purposeful questions;
6.6	Define paraphrasing, formulation and reformulation;

6.7	Demonstrate the ability to paraphrase to consolidate and highlight the main points, to formulate ideas to enable the parties to look at the issue from different perspectives and to reformulate statements from negative statements to positive statements;
6.8	Distinguish empathy from pity and demonstrate the ability to use empathy.
Objective 7	Participants can distinguish attitudes from interests and demonstrate the ability to help parties use interests to create options for resolution
7.1	Define the difference between adversarial (attitude) negotiation and interest-based negotiation;
7.2	Define attitudes and interests;
7.3	Demonstrate the ability to distinguish an interest from an attitude;
7.4	Demonstrate the ability to help parties break down positions and discover underlying interests.
7.5	Participants demonstrate the ability to help parties use interests to exchange valuable ideas to create options for solutions
7.6	Help the parties evaluate options based on mutually agreed standards, such as whether it is feasible, fair, affordable, practical and acceptable to all parties
Objective 8	Participants can demonstrate the ability to perform each of the 8 stages of the mediation process in simulated mediations
8.1	Demonstrate the ability to conduct the pre-mediation phase including providing clear instructions on the logistics of the mediation session, answering the parties' questions or concerns about the mediation process, and setting expectations for the parties regarding the mediation;
8.2	Demonstrate the ability to make an introductory statement which covers the main elements, including the introduction, the definition of mediation and the stages of the process, the role of the mediator, the roles of the parties, confidentiality, ground rules, agreement to mediate, fees, time limits mediation time and logistics;
8.3	Demonstrate the ability to set the stage for the parties' opening statements, encourage each side to share their view of the case and listen actively when they speak;
8.4	Demonstrate the ability to identify the main issues heard from each side's opening statements and use those issues to create a written agenda that presents the issues in a neutral manner;

8.5	Demonstrate the ability to help parties negotiate by helping them explore interests, construct options, evaluate and narrow the issue to determine terms of settlement;
8.6	Demonstrate the ability to explain expectations of the parties' individual conversations with the mediator, confidentiality and logistics, and use specific techniques of the parties' conversation with the mediator, such as asking clarifying or probing questions about perception and helping parties generate ideas on how to proceed;
8.7	Demonstrate the ability to draft legally sufficient agreements that include terms that are specific, measurable, achievable, relevant and time-based;
8.8	Demonstrate the ability to summarize any mediation.

Forty (40) hours of specialized training

Objective 1	Participants can describe the basic knowledge needed to mediate in compulsory mediation, employment/employment, contract, trade/purchase, criminal, bankruptcy/inheritance, commercial, family and property matters
1.1	Describe the basic principles and legal components for each subject area.
Objective 2	Participants can describe at a basic level the unique mediation approaches and tools required in family, property and commercial matters
2.1	Explain the unique aspects and distinguish which approaches and tools are appropriate for each area.
Objective 3	Participants can demonstrate effective application of these unique approaches and tools in family, property and commercial matters
3.1	Demonstrate in practice mediation simulations and the appropriate use of these unique approaches and tools
Objective 4	Participants can explain and demonstrate proficiency in writing settlement agreements
4.1	To define the essential elements for different agreements
4.2	Draft mediation agreements that include the necessary legal components
4.3	To draft S.M.A.R.T. agreements.

Performance requirements for certification

Objective 1	Demonstrating mastery of the mediator core competencies outlined in the Final Assessment Worksheet for Certification
	Mediator objective
1.1	Mediator candidate will conduct four (4) co-mediation sessions with KJA licensed mediators/trainers
1.2	KJA licensed mediator trainer certifies that the mediator candidate demonstrates a mastery of the basic mediation described in the Final Assessment Worksheet for Certification

Worksheet for final assessment for certification

Please provide constructive feedback for the roleplay moderator		
OPENING BY MEDIATOR		
TASK	YES/NO	NOTE
Setting of the mediation session	Y/N	
Party greeting/introduction	Y/N	
Congratulating the parties for participation	Y/N	
Explanation of the voluntary aspect	Y/N	
Explaining neutrality and roles	Y/N	
Confidentiality Statement	Y/N	
Explanation of the process (and the parties' conversation with the mediator)	Y/N	
Explanation of work rules	Y/N	
Asking if there are questions	Y/N	
Effective tone of voice and speaking cadence	Y/N	
Building trust in relationship with the parties	Y/N	
Moving in the opening statements of the parties	Y/N	

OPENING STATEMENTS OF THE PARTIES AND CONSTRUCTION OF THE AGENDA

TASK	YES/NO	NOTE
Asking the right open-ended questions	Y/N	
Reframing/rewriting appropriately	Y/N	
Summary of interests and highlights	Y/N	
Identifying the main issues on the agenda	Y/N	
Properly worded agenda items in a neutral manner	Y/N	

JOINT SESSION, NEGOTIATION OF THE PARTIES WITH THE MEDIATOR AND CLOSING

TASK	YES/NO	NOTE
Keeping the process in control	Y/N	
Addressing interruptions	Y/N	
Using effective listening patterns	Y/N	
Using effective questions	Y/N	
Facilitating the conversation between the parties	Y/N	
Helping parties distinguish attitudes from interest	Y/N	
Negotiation with parties (timely holidays, handling of confidentiality)	Y/N	
Helping parties come up with ideas and create options	Y/N	
Using effective questions to test reality and speculation	Y/N	
The settlement agreement is SMART (Specific, Measurable, Attainable, Relevant and Time-Based)	Y/N	
Using effective listening patterns	Y/N	

Using effective questions	Y/N	
Facilitating the conversation between the parties	Y/N	
Helping parties distinguish attitudes from interest	Y/N	
Negotiation with parties (timely holidays, handling of confidentiality)	Y/N	

Additional comments:

Things to discuss in summary

- What are you most proud of?
- What could you have done differently?
- Praise for specific action or inaction.
- Identifying personal mediation styles and options for future mediation.