



PRACTICE DIRECTION ON MEDIATION

Adopted at the Sixth Plenary Meeting in New York
pursuant to art. 36.2 of the Rules of Procedure of the Dispute Tribunal

Introduction

1. The purpose of this Practice Direction is to assist the parties in understanding the Dispute Tribunal's procedures concerning referrals of cases to mediation. See arts. 8 and 10 of the Statute of the Tribunal and arts. 7 and 15 of the Rules of Procedure of the Tribunal.
2. The information contained in this Practice Direction is subject to the Dispute Tribunal's Statute and Rules of Procedure, or any direction given by a Judge in a particular case.

Mediation and the time limits for the filing of an application

3. The parties may seek mediation of their dispute prior to the filing of an application with the Dispute Tribunal. Pursuant to art. 8.1(d)(iv) of the Statute of the Tribunal, if the parties have sought mediation within the deadlines for the filing of an application, but did not reach an agreement, the application must be filed within 90 calendar days after the mediation has broken down in accordance with the procedures laid down in the terms of reference of the Mediation Division.¹

Mediation and extensions of time to file an application

4. Attempts to resolve the dispute directly between the parties (including their representatives), without involvement of the Mediation Division, will not amount to an exceptional case warranting suspension, waiver, or extension of the time limits for filing an application.

¹ For the purposes of the present Practice Direction, the term "Mediation Division" shall be understood to include only properly designated mediation offices within the entities falling under the jurisdiction of the Dispute Tribunal.

Requesting mediation

5. The parties may seek mediation of any case before the Dispute Tribunal at any time of the proceedings, either on their own initiative or on proposal of the Tribunal.
6. If the parties decide to seek mediation after an application has been filed before the Tribunal, the parties shall inform the Registry promptly in writing of their decision.

Suspension of proceedings pending mediation

7. Upon receipt of notice by the Mediation Division that it agrees to mediate the case, the Tribunal will issue an order suspending the proceedings pending mediation, for a period normally not exceeding three months.
8. The order suspending the proceedings will be transmitted by the relevant Registry to the parties and the Mediation Division.
9. Following suspension of the proceedings, the Registry will normally send a copy of the application and reply, if any, to the Mediation Division, unless requested otherwise by the parties or the Mediation Division. While respecting the independence and confidentiality of the mediation process, the Tribunal may decide to provide additional material to the Mediation Division, upon the request of the Mediation Division or should the Tribunal find these materials relevant and conducive to the success of the mediation proceedings.
10. Upon request of the parties or the Mediation Division, the Tribunal may extend the period of suspension of the proceedings for an additional period of time.

Outcome of mediation

11. If the mediation is successful and a mediation agreement has been signed by the parties, the applicant or her or his representative shall file with the Tribunal, within seven days, a Notice of Withdrawal of the case.

12. Following receipt of the Notice of Withdrawal, the Tribunal will issue an order closing the case.

13. If the mediation is unsuccessful, the applicant or his or her representative shall notify the Tribunal within seven days.

Confidentiality

14. Should a mention of the content of the mediation efforts, which are privileged and confidential, be made in a subsequent submission before the Tribunal, the Judge will order redaction of the submission as deemed appropriate pursuant to art. 15.7 of the Rules of Procedure of the Tribunal.

Enforcement of mediation agreement

15. Should the Administration fail to implement the mediation agreement, the applicant may file an application to enforce its implementation under art. 8.2 of the Statute of the Tribunal. Such application shall be filed within 90 calendar days after the last day for the implementation as specified in the mediation agreement or, when the mediation agreement is silent on the matter, within 90 calendar days after 30 calendar days from the date of the signing of the agreement.