

Legal Alert

MEDIATION IN RUSSIA

August 2010

On 26 July 2010, President Dmitry Medvedev signed into law an alternative procedure to settle disputes (i.e. mediation). Previously, mediation was not envisaged by Russian legislation, and the procedure lacked a detailed description in legal acts. The adoption of the law clarifies the status for mediation and creates a framework for its rules and procedure.

The definition and the purpose of mediation

Mediation is used to resolve disputes via amicable agreement or other agreement intended to settle the dispute. In many cases, mediation may produce a better and more mutually beneficial compromise between parties that does not require the involvement of the state judicial bodies and does not detract from the settlement process.

Contents of the law

The new law sets out detailed legal steps to be followed for mediation, as well as several amendments and additions to the civil law, civil procedural law and arbitration procedural law.

An agreement between the parties is required to initiate the mediation process. A mediator is requested to arrange joint or separate meetings with the parties to the dispute. The final stage is the conclusion of a mediation agreement, which can be in the form of an amicable agreement or other agreement settling the dispute.

Those participating in the process are not permitted to disclose any information on the proposals made to the respective parties to settle the dispute or on their intentions to do so. In addition, the participants are bound not to disclose the details of the arguments or proposals presented by the parties during the process, and are bound not to disclose information on the preparedness of the parties to accept the proposals. The mediator is not authorised to provide the parties with legal advice or other legal assistance.

A mediator and/or an organisation providing mediation services can not disclose any information on the mediation procedure if the parties to the dispute do not expressly permit a disclosure.

The law sets out requirements for the standard of mediation services as well as their procedure. The law also covers some areas of mediation during proceedings initiated in the arbitration tribunals and courts of general jurisdiction.

Comments

The new law will allow for the harmonising of the mediation procedure in Russia, and is expected to affect the dynamics of dispute settlement positively as well as decrease the workload of the Russian arbitration courts.

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If you have any questions on the matters referred to in this Alert, please do not hesitate to contact CMS Partner *Sergey Yuryev* at +7 (495) 786 4000 or your regular contact at CMS.

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SERGEY YURYEV
SERGEY.YURYEV@CMSLEGAL.RU



CMS, RUSSIA

Gogolevsky Blvd, 11
119019, Moscow
Russia
T +7 495 786 4000
F +7 495 786 4001
www.cmslegal.ru