

State of Mediation in Russia

In the Russian Federation mediation has been supported and developing since 2004 – 2005, but there was no legal regulations for these activities. Situation changed with the adoption of the [Law on Mediation](#), which came into force on January 1, 2011. This law resulted from the enduring attempts of the Russian authorities to reform the country's judicial system and make it more suitable for the needs of the fast developing modern society. The Law on Mediation became a kind of a signal from the government to the people, encouraging them to show more social activity and providing them much more freedom from the state in resolution of conflicts.

The Russian Law on Mediation established a facilitative model of mediation. Pursuant to this law, the mediator is not entitled to hand down any decisions; he cannot even suggest any options for conflict settlement or act as legal consultant to the parties. That means that the parties maintain full control not only over the content of the settlement but also over the process of seeking settlement options and preparing agreements on the resolution of their dispute. This approach based on voluntary participation and full involvement of the parties appears reasonable in view of corruption, which is considered one of the most serious diseases of contemporary Russian society, and in light of the fact that the judicial system is still not fully developed nor yet fully independent. A detailed analysis of the Law on Mediation impact is given in the briefing note which has been prepared by Professor [Tsisana Shamlkashvili](#), pioneer of mediation in Russia, before she addressed the European Parliament on the state of mediation in the Russian Federation in 2011:

http://www.europarl.europa.eu/RegData/etudes/note/join/2011/453170/IPOL-JURI_NT%282011%29453170_EN.pdf

According to the Law a mediation agreement is subject to execution in line with the principles of voluntary participation and good faith of the parties. The mediation settlement of a dispute resulting from a civil law relationship is

considered a civil law settlement. An agreement reached by the parties through mediation after having filed a lawsuit in court may be approved as an amicable settlement. If a dispute is already being considered by a regular court of law or an arbitration court, the parties are at any time entitled (also if invited by the judge or arbitrator) to apply the procedure of mediation provided that the given court of law or arbitration court has not yet delivered a judgment. If the parties have agreed on mediation and decided not to take any legal action to resolve their dispute during the specified period for performing this procedure, the court of law or arbitration court shall accept the legal effect of such agreement. Duration of the mediation procedure is limited to 60 days. In extraordinary cases it may, by agreement between the parties and with the mediator's consent, be extended up to 180 days (except mediation after a case has been brought to court).

Mediator may act on a professional or non-professional basis. Mediation activities on a non-professional basis may be performed by persons aged 18 or above with full legal capacity and no previous convictions. Mediation on a professional basis may be performed by persons aged 25 or above with a degree from a higher education institution who have completed a special mediation course. If a dispute has already been referred to a court of arbitration, only professional mediators may be appointed to perform the mediation procedure.

One of the obvious advantages of mediation in Russian context is a very high level of the parties' freedom in terms of organizational details of the procedure, such as the time and place as well as the form of presentation of the material. Due to this level of flexibility, mediation significantly differs from traditional litigation, which involves binding requirements as to the time and place of the court sessions, the procedure for presenting evidence, and the form of statements and petitions to the court. Besides, as judges themselves acknowledge, the length of court proceedings in Russia is a problem that is just as acute as in other countries. Due to the short time required and the informal nature of mediation, its procedures offer a beneficial alternative to court proceedings.

In the last decade, immense efforts have been made in terms of education, including introductory courses and lectures for legal professionals, managers, psychologists, and other professionals, and organization of regional and international events aimed at popularizing mediation and promoting the pooling of experience between mediation specialists.

A non-commercial partnership [National Organization of Mediators](#) (NOM) has been founded in order to facilitate the establishment of mediators' professional community.

With a view to successfully introducing mediation and providing high-quality mediation services (which is extremely important, especially in the initial stage of development of a new institution, when unprofessional action may have a negative impact on its image among the public), the government, public institutions, and the legal community in Russia continue to make joint efforts to shape an informed demand for mediation and offer a competent supply to meet that demand. These efforts include addressing the business community as well as other professional and social groups. In line with this, active efforts are being made to introduce mediation into the school education system in order to promote the culture of constructive conflict-related behavior starting at school age.

Contemporary Russian society, however, is still not sufficiently familiar with this new institution. Due to this lack of awareness would-be consumers of mediation services continue to resolve their conflicts in courts or in some cases even outside the legal terrain. In general it is possible to argue that the market of mediation services in Russia despite its great potential is still in rudimentary condition.

Pioneering role in promotion of professional mediation services in Russia belongs to [The Scientific and Methodological Center for Mediation and Law](#), Moscow. Established in 2005, the Center launched multiple educational programs ranging from training of mediators to translating and publishing books by leading foreign experts and Russian specialists, as well as publishing a quarterly magazine

[Mediation and Law. Intermediation and Conciliation](#), the only Russian language magazine dedicated to mediation. The Center also offers services related to dispute resolution in different fields from commercial and family conflicts to those in the field of environment protection and education. The activities of the Center are supported by public bodies as well as by representatives of Russia's legislative and judicial systems. Among the partners of the Center are such institutions as The Russian Union of Industrialists and Entrepreneurs, The Chamber of Commerce and Industry of the Russian Federation, The Federal Chamber of Lawyers of the Russian Federation and others.

In 2013 [The Federal Institute of Mediation](#) was established by a Decree of Ministry of Education and Science of the Russian Federation as a unique national research center for academic research in the field of mediation and other forms of alternative dispute resolution for the purpose of promoting an effective government policy aimed at wide scale integration of mediation and ADR into different spheres of life. The Institute's activities include development and implementation of modern technologies into the system of mediators' professional training and provision of services which ensures execution of powers by State authorities according the country's law, such as mediation in cases under 1996 Hague convention on International Child Abduction managed by the Ministry for Education and Science as the Central Authority.

Adoption of National Concept for development of mediation services network in order to implement restorative justice in respect of children for the period till 2017 is a part of Russian National Children's Strategy for 2012–2017. The Concept defines the main goals, tasks and steps to be taken in order to establish a mediation services network, to ensure its effective functioning and to train professional mediators. In the two-level structure designed to become instrumental in the implementation of the Concept, the central place belongs to a division of the Federal Institute of Mediation whose responsibility is to supply trainers and methodological guidance to the local cells of mediation services network which constitute the second level.

One of the significant steps towards nation-wide recognition of mediation as a profession in its own right is state approval of the Professional Standard for Mediators in December 2014. The draft Professional Standard for Mediators has been prepared by the Center for Mediation and Law.