

**FUNDATIA PENTRU
SCHIMBARI
DEMOCRATICE**

**FOUNDATION FOR
DEMOCRATIC CHANGE**



**RETEAUA DE
MEDIATORI DIN
ROMÂNIA**

**ROMANIAN
MEDIATION NETWORK**

**DECLARATION OF PRINCIPLES, CODE OF CONDUCT
AND QUALITIES OF PRACTITIONERS IN
DISPUTE RESOLUTION REGISTERED AS MEMBERS OF THE
*ROMANIAN MEDIATORS' NETWORK***

**DECLARATION OF PRINCIPLES,
CODE OF CONDUCT
AND
QUALITIES
OF PRACTITIONERS IN DISPUTE RESOLUTION,
REGISTERED AS MEMBERS OF THE
*ROMANIAN MEDIATORS' NETWORK***

PREFACE

This document, first published in 1998 by Foundation for Democratic Change (FDC) with the support of the Canadian International Institute of Applied Negotiation (CIIAN), represents the Declaration of Principles, Code of Conduct and the Qualities of Practitioners in Dispute Resolution, registered as member of the **ROMANIAN MEDIATORS' NETWORK**.

The Declaration represents a set of fundamental statement of „standards” through which the statute of a practitioner in dispute resolution is recognized and is addressed only to the members of the Romanian Mediators' Network. The Declaration is a „living” document and an advocacy statement for the promotion of Alternative Dispute Resolution methods (ADR). Signing this document is an important and responsible step towards the development of the profession of mediator and shows to the local and national authorities that everyone who desires to practice mediation, and more generally the techniques of Alternative Dispute Resolution (ADR), has to accept a code of ethical principles and to possess certain professional abilities.

This Declaration shall be reviewed at least once every 4 years by a committee formed of members of the Romanian Mediators' Network.

PRINCIPLES

- **Alternatives for Dispute Resolution (ADR)** refers to a growing number of techniques and processes that support the search for win-win consensus-based outcomes, including interest-based negotiation, interest-based mediation, neutral and joint fact-finding, collaborative decision-making as well as conflict analysis and process design
- **ADR** seeks to empower individuals in dispute to negotiate their own resolution through processes which place value on relationships, the restoration of harm done, healing, and reconciliation.
- Any specific **ADR** technique or process may be more, or less appropriate as a means of resolving a dispute, depending on a number of factors peculiar to the dispute, those in dispute and the cultural context in which **ADR** is being used
- .
- **ADR** techniques could be used in a much broader range of applications (from „front end” preventive and collaborative processes to mediation of disputes) than is conventionally recognized
- Participation in a process of dispute resolution through **ADR** has to be voluntary, although mandatory referral to consider mediation as one option for resolving a dispute is acceptable, providing that those who are expected to use mediation see the need for, and value of it, and proceed voluntarily after a mandatory first session
- **All** legitimate stakeholders in a dispute must be allowed to participate in **ADR** processes
- Flexibility of the process is an essential feature of **ADR**; the focus is on designing an appropriate process that meets the needs of parties and has their endorsement throughout
- **ADR** efforts should be conducted in a manner to ensure that no party’s legal rights are neglected
- **ADR** efforts should address any potential power imbalances between or among the parties resulting from unequal personal or group resources, information or skills
- The **ADR** practitioner must be acceptable to all the parties involved in the process
- Impartiality of, and trust in, the **ADR** practitioner is requisite, allowing for the cultural interpretations of these terms, such that acceptability of and trust in the **ADR** practitioner(s) by the people involved is paramount.
- Evaluation of the use of **ADR** is essential in order to learn from experience

**CODE OF CONDUCT
FOR
PRACTITIONERS
IN
CONFLICT RESOLUTION,
REGISTERED AS
MEMBERS OF THE
*ROMANIAN MEDIATORS' NETWORK***

Application of the Standards

Adherence to this code of conduct is basic to professional responsibility. Registered Practitioners in Dispute Resolution commit themselves to be guided in their professional conduct by these standards.

A. General

Registered Practitioners in Dispute Resolution should be honest and unbiased, act in good faith, be diligent, and not seek to advance their own interests at the expense of the parties.

B. Responsibility of the parties

1. A Dispute Resolution professional (mediator) should accept responsibility only in cases where she/he has sufficient knowledge regarding the appropriate process and subject matter to be effective. A Recognized Practitioner in Dispute Resolution has a responsibility to maintain and improve his or her professional skills.
2. It is the duty of the mediator to explain to the parties at the outset of the process, the bases of compensation, fees and charges, if any.
3. ***Impartiality***. When active as a neutral, the mediator must maintain impartiality towards all parties. Impartiality means freedom from favourism or bias either by word or by action, and it represents a commitment to serve all parties as opposed to a single party.
4. ***Informed Consent***. The mediator has an obligation to assure that all parties understand the nature of the process, the procedures, the particular role of the dispute resolution practitioner and the parties relationship to the dispute resolution practitioner.

5. ***Confidentiality***. Maintaining confidentiality is critical to the dispute resolution process. Confidentiality encourages candour, a full exploration of the issues, and a practitioner's acceptability. There may be some types of cases, however, in which confidentiality is not protected. In such cases, the dispute resolution practitioner must advise the parties, when appropriate in the dispute resolution process, that the confidentiality of the proceedings cannot necessarily be maintained. Except such instances, the practitioner must resist all attempts to cause him or her to reveal any information outside the process. A commitment by the practitioner to hold information in confidence within the process also must be honored.
6. ***Conflict of Interest***. The dispute resolution practitioner must refrain from entering or continuing in any dispute if she/he believes or perceives that participation would be a clear conflict of interest. The dispute resolution practitioner also must disclose any circumstances that may create or give the appearance of a conflict of interest.
7. ***Promptness***. The dispute resolution practitioner shall exert every reasonable effort to expedite the process.
8. ***The Settlement and its Consequences***. The dispute resolution process belongs to the parties. The dispute resolution practitioner has no vested interest in the terms of a settlement, but must be satisfied that agreements in which he/she has participated will not impugn the integrity of the process. The dispute resolution practitioner is concerned about the possible consequences of a proposed agreement, and the needs of the parties dictate, the dispute resolution practitioner must inform the parties in concern. In adhering to this standard the dispute resolution practitioner may find it advisable to educate the parties, to refer one or more parties for specialized advice or to withdraw from the case. In no case, however, shall the dispute resolution practitioner violate section 5 above, Confidentiality.
9. The experienced Registered Practitioner in Dispute Resolution should participate in the development of a new practice in the field of mediation and engage in efforts to educate the public about the value and use of ADR.

QUALITIES OF A PRACTITIONER IN DISPUTE RESOLUTION

Personal Qualities

Recognizing the fact that

-different cultures place different value on particular personal qualities, and that
-much remains to be learned about the effectiveness and appropriateness of personal style,

practical experience of a dispute resolution practitioner, specifically in what concerns ADR techniques, and the degree of importance attached to a dispute resolution practitioner's knowledge of the subject matter or the substantive matters in dispute, the following personal qualities are presented as a **general body of qualities that have been identified as those which are desirable to a dispute resolution practitioner:**

- Demonstrate integrity and impartiality
- Belief in knowledge of and skilled in the principles and processes of ADR
- Ability to assess personal weaknesses and strengths in self and in others
- is empathetic
- is analytical, possessing problem solving abilities
- is patient
- has a sense of humour
- is trustworthy
- is assertive
- has sufficient personal drive and ego strength, qualified by a willingness to be self-effacing
- is an effective communicator
- demonstrates wisdom
- is self-reflective

FUNDATIA PENTRU
SCHIMBARI
DEMOCRATICE

FOUNDATION FOR
DEMOCRATIC CHANGE



RETEAUA DE
MEDIATORI DIN
ROMÂNIA

ROMANIAN
MEDIATION NETWORK

DECLARATION

I have read and do subscribe to the Declaration of Principles, the Code of Conduct and the Qualities of Practitioners in Dispute Resolution, as they were laid down by Foundation for Democratic Change (FDC), as the fundamental principles of the activities of the members of the Romanian Mediators' Network.

Signature

Signature Witness

Please Print Name

Please Print Name

Date and Place

LIST OF DOCUMENTS REQUIRED
FOR REGISTRATION
AS A MEMBER
OF THE
ROMANIAN MEDIATORS' NETWORK

- Copy after the Certificate of Graduation in Mediation, organized by FDC
- Curriculum Vitae
- Declaration regarding the Principles, The Code of Conduct and the Qualities of Practitioners in Dispute Resolution, signed and dated

* The documents required for registration will be periodically updated with certificates of specialization obtained after registration