

EUCON-Conciliation Rules

for an extrajudicial settlement of disputes in a conciliation procedure as amended on
15 November 2020

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§ 1 Scope of application

- (1) EUCON has been officially recognised by the President of the Munich Higher Regional Court in accordance with Art. 5 para. 3 BaySchlG, § 22 AGGVG, as a conciliation body within the meaning of § 794 para. 1 No. 1ZPO. These conciliation rules shall be applied exclusively in voluntary proceedings.
- (2) Parties involved within the meaning of these Rules are the applicant (hereinafter referred to as the applicant) and the defendant (hereinafter referred to as the respondent).

§ 2 Initiation of the procedure

- (1) The EUCON quality assurance procedure is initiated upon written request by a party. This written form requirement is also fulfilled by an application by fax. The application must contain the names, the summonable addresses of the parties, a description of the dispute, the object of the request, the probable amount in dispute and the declaration that the applicant agrees to the conciliation and cost regulations. The request may also be submitted in English.
- (2) The applicant shall be responsible for providing evidence that the conciliation request has been submitted in due time.
- (3) The application should be sufficiently specific with regard to the indication of the subject matter and the reason for the claim made.
- (4) The application should be accompanied by the copies required for service.

§ 3 Delivery of the request for conciliation

- (1) The conciliation office shall arrange for the delivery of the unexamined conciliation request to the respondent by registered mail.
- (2) If one of the parties is legally or legally represented by a lawyer, the representative or the authorized representative of the conciliation request must be served against acknowledgement of receipt.
- (3) Service shall be effected only after the applicant has paid the procedural fee.
- (4) Upon service of the application for conciliation the respondent is requested to declare whether he agrees to the conduct of the proceedings in accordance with the conciliation and cost regulations to be attached.

§ 4 Arbitrator and appointment

- (1) After receipt of the procedural fee, the conciliation office shall appoint a conciliator, provided the respondent has given his or her consent in accordance with section 3(4).
- (2) The conciliator shall fix a date for the conciliation hearing.
- (3) The conciliation office shall invite the parties to the hearing by means of a registered letter of objection or legal or legal representatives against acknowledgement of receipt.
- (4) There must be a period of two weeks between the delivery of the summons and the date of the conciliation hearing (summons period).

§ 5 Maintaining impartiality

- (1) The Conciliator is obliged to be impartial.
- (2) The conciliator shall not
 - a. in matters to which the conciliator himself/herself is a party or to which he/she is in a relationship with a party that is a co-entitled, co-obligated or liable to recourse;
 - b. in matters involving the conciliator's spouse or fiancé, even if the marriage or engagement no longer exists;
 - c. in the affairs of a person with whom the conciliator is related in the direct line, by marriage, by affinity, by collateral collateral relationship up to the third degree or by marriage up to the second degree, even if the marriage by which the affinity is established no longer exists;
 - d. in matters in which the Arbitrator or a person with whom he or she is connected for the purpose of exercising a profession or with whom he or she has common business premises is or was appointed as a representative or counsel of a party or is or was entitled to act as a legal representative of a party;
 - e. in matters involving a person with whom the conciliator is employed for remuneration or with whom he is or was a member of the board of directors, the supervisory board or a similar body.
- (3) If the Conciliator is prevented from acting as a conciliation office by a prohibition to cooperate or by prejudice, he/she shall inform the parties involved of this fact with reference to the legal consequences associated with the termination of the proceedings.

§ 6 Conduct of the Conciliation Hearing

- (1) In principle, the conciliation procedure shall be conducted in non-public, oral proceedings.
- (2) At the joint request of the parties, the conduct of written proceedings may be ordered.
- (3) When setting the date and ordering the written procedure, the conciliator shall point out the consequences of a default.
- (4) With the consent of the parties the Conciliator may also conduct discussions with individual parties. At the request of the parties involved, he/she shall propose a settlement for the amicable settlement of the dispute. If the parties fail to reach an agreement, the Arbitrator may issue a conciliation award which is not binding on the parties.
- (5) In all other respects the Conciliator shall determine the procedure at his or her discretion.
- (6) The conciliation shall normally be conducted in one meeting.

§ 7 Switch to mediation

- (1) In the case of complex disputes mediation in accordance with EUCON-MedO offers itself.
- (2) The Parties can at any time jointly change from conciliation to mediation in accordance with EUCON-MedO. In this case the procedural fee will be credited.
- (3) If mediation is to be carried out instead of conciliation the Parties decide whether the conciliator is to act as mediator or whether a mediator is to be appointed in accordance with EUCON-MedO procedures.

§ 8 Certificate of unsuccessfulness

EUCON issues - in cases a. and b. only to the applicant - a certificate of unsuccessful completion upon request, if

- a. the defendant does not give his consent for the conduct of the proceedings in accordance with the Rules for Conciliation and Costs in accordance with § 3 (4),

- b. within a period of three months from service of the request for arbitration on the defendant, the arbitration proceedings have not been conducted,
- c. the conciliator notifies the parties pursuant to sec. 5 para. 3 that he/she is prevented from performing the mediation,
- d. the conciliator declares the proceedings terminated for lack of prospects of success,
- e. a party declares the proceedings to have failed after having conducted an oral hearing or exchanged documents in writing to the conciliator,
- f. the conciliation procedure is transferred by the parties to a mediation procedure,
- g. in case of default of a party (§ 10).

§ 9 Advisors and representatives of the parties involved

- (1) Any party may call upon legal or other assistance.
- (2) The Conciliator may order the parties to appear in person at a scheduled date. The representation of a party by a person who is capable of clarifying the facts of the dispute and who is authorized to conclude an unconditional settlement is permissible.

§ 10 Default of participants

- (1) Delay occurs if one of the parties fails to appear at the oral proceedings. Persons present by telephone or video line shall be deemed to have appeared. If the applicant fails to appear, the request for conciliation is deemed to be withdrawn.
- (2) The proceedings can be continued despite the default if all the parties concerned so wish. In such cases the conciliator shall go to a new appointment store.
- (3) Paragraphs 1 and 2 shall apply mutatis mutandis if one of the parties to the proceedings fails to express his or her views in the written procedure despite being set a deadline by the Conciliator.

§ 11 Confidentiality of the proceedings

The conciliator shall exercise an existing right to refuse to testify, unless the parties release him/her from this right. The parties may not introduce unknown facts in a subsequent court proceeding outside the arbitration proceedings.

§ 12 Conclusion of a settlement

- (1) If the parties conclude a settlement in oral proceedings, the declarations of the parties shall be recorded by the Conciliator in corresponding application of the provisions of the ZPO on the recording of court settlements (sections 159 et seq. ZPO). The provisions on the involvement of the clerk of the court shall not be applied in this context.
- (2) A settlement may also be concluded by the parties accepting a formal settlement proposal made by the Conciliator in writing to the Conciliator.
- (3) If the settlement contains agreements for which the law provides a different form, the latter must be complied with.
- (4) The Conciliator shall issue copies of the settlement to the parties upon request.
- (5) The settlement shall contain an agreement on the costs of the proceedings. If claims for reimbursement are justified among the parties, they shall be shown in their amount.

§ 13 Protocol

- (1) Minutes shall be taken of the conciliation hearing.
- (2) The minutes shall contain
 - a. the place and date of the hearing,
 - b. the names and addresses of the participants who appeared,
 - c. Information about the subject of the dispute, the amount in dispute, in particular the applications,
 - d. the wording of a settlement between the parties or the finding that an agreement between the parties has not been reached,
 - e. in the event of a disagreement, its determination.
- (3) Any power of attorney submitted shall be attached to the protocol as an annex.
- (4) The protocol shall be signed by the conciliator and, in the event of a settlement, by the parties themselves.

§ 14 Cost bearing

- (1) If the defendant does not agree to conduct the proceedings in accordance with these Rules within one month after service of the application, the applicant shall bear the expenses and costs incurred.
- (2) If the proceedings end due to the absence of a party who is not sufficiently excused, that party shall bear the costs of the proceedings alone.
- (3) Unless otherwise agreed, each party shall otherwise bear its own costs and shall share equally the costs of the conciliation proceedings. The parties are jointly and severally liable to EUCON.

§ 15 Liability

- (1) The liability of the conciliation office, its organs and employees and the conciliator is limited to intentional and grossly negligent breaches of duty. This does not apply if the damage is due to injury to life, body or health.
- (2) If essential contractual obligations are violated, the exclusion of liability shall also not apply if negligence has occurred; in such cases liability shall be limited to foreseeable damages typical for the contract.

§ 16 Severability Clause

Should individual provisions of the arbitration rules be or become void or ineffective in whole or in part, the effectiveness of the remaining provisions shall not be affected.

The invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effects come as close as possible to the economic objective which the contracting parties pursued with the invalid or unenforceable provision. The above provisions shall apply accordingly in the event that the contract proves to be incomplete.

§ 17 Prevailing version

Both the English and the German version of this contract are binding. In case of deviations in the interpretation, the German version shall prevail.

Fee regulations

As amended on November 15, 2020

§ 1 Scope of application

- (1) These regulations determine the fees in conciliation proceedings.
- (2) In addition to fees and charges, the statutory value-added tax has to be paid.

§ 2 Fees

- (1) The conciliation office charges a fixed fee for its services.
- (2) The fixed fee becomes due with the filing of the application. Its amount depends on the value of the matter in dispute as determined by EUCON, after hearing the participants, as follows:

Value of the matter in dispute in Euro up to	Fixed fee in Euro
100.000	550
250.000	1.200
500.000	1.800
1.000.000	2.500

If the amount in dispute exceeds EUR 1,000,000, the procedural fee shall be increased by EUR 1,000 for each additional EUR 1,000,000 or part thereof in the amount in dispute. The procedural fee shall amount to a maximum of 11,500 euros.

- (3) The conciliator's fee shall be calculated on the basis of the time spent on the conciliation. If the amount in dispute is up to EUR 100,000, the hourly rate shall be EUR 250; if the amount in dispute exceeds EUR 100,000, the hourly rate shall be EUR 350. The conciliator may request an appropriate advance payment from the parties before commencing his work.

§ 3 Debtor for costs

- (1) The costs of the conciliatory petition shall initially be borne by the petitioner. This shall also apply in the event of withdrawal of the application.
- (2) If the parties in the conciliation proceedings reach a settlement agreement, the question of bearing the costs shall be settled by mutual agreement.

between the parties. If no agreement is reached on the question of costs, the parties shall bear the costs of the proceedings as joint and several debtors.

(3) If the conciliation hearing fails, the parties shall bear the costs of the proceedings as joint and several debtors.

§ 4 Maturity

The fixed fee is due upon filing the application.