

ORGANIZATION FOR MEDIATION AND ARBITRATION (O.M.E.D.)

Profile

A PRACTICAL GUIDE TO COLLECTIVE BARGAINING

Mediation

Arbitration



Profile

O.ME.D. is a private law legal entity incorporated under Greek law 1876/1990 "on Free Collective Bargaining" (article 17).

The purpose of O.M.E.D. is to support collective bargaining by providing independent Mediation and Arbitration services.

Mediation

Mediation consists of collective bargaining involving the Mediator and aiming to reach a Collective Labour Agreement, or some other Agreement between the workers and employers' organizations.

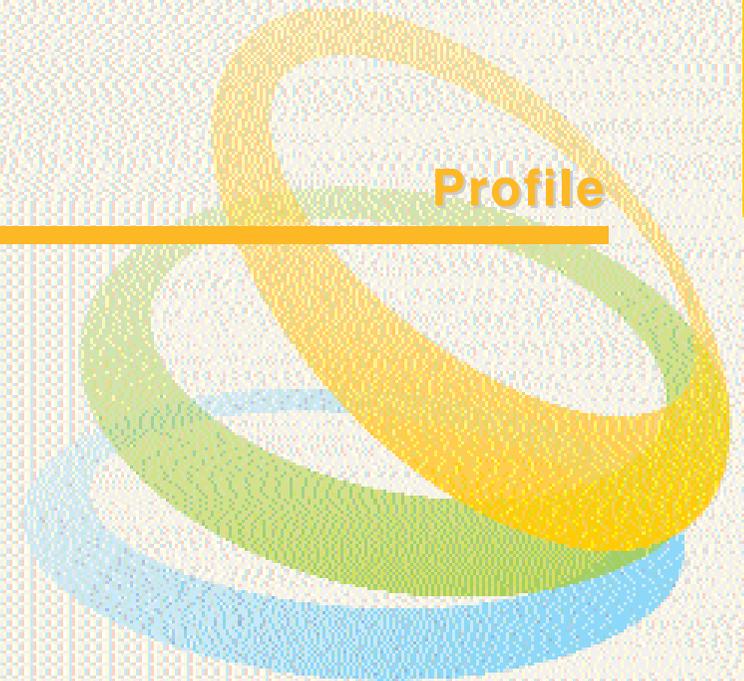
Arbitration

Arbitration is the process of resolving industrial disputes through an Arbitrator's Decision, when workers and employers' organizations have failed to reach a Collective Agreement.



ORGANIZATION FOR MEDIATION AND ARBITRATION (O.M.E.D.)

- Features of O.M.E.D.
- The objectives of O.M.E.D.
- Principal Services
- Other Services
- O.M.E.D. Makeup and Operations
 - ▶ O.M.E.D. Operations
 - ▶ Staff
 - ▶ Financial resources
 - ▶ Board of Directors
 - ▶ Structure and Operations
- O.M.E.D. Organization
- The Corps of Conciliators - Arbitrators



Profile

O.ME.D. is a private law legal entity incorporated under Greeklaw 1876/1990 "concerning free collective bargaining" (article 17).

The **purpose** of O.ME.D. is to support collective bargaining by providing independent **Mediation** and **Arbitration** services.

FEATURES OF O.ME.D.

- Administrative and operational independence.
 - Financial independence.
 - Independence from Public Administration.
 - Objectivity in Mediation and Arbitration services.
- Impartiality and equanimity toward the interests of workers and employers.
- Mediation and Arbitration services are offered only after they have been requested by a workers or employers' organization exercising its right to collective bargaining.
- Scientific documentation in support of all projects.
- No financial charge to the parties* for the Mediation

and Arbitration services.

THE DUTY OF O.ME.D.

The activities of O.ME.D. aim to facilitate free collective bargaining between the Parties in order to resolve possible collective disputes, and to support the Parties in reaching collective labour agreements.

O.ME.D. makes its services available to workers organizations, employers' organizations, and individual employers who want to use its services.

The category of employer is meant to include the Greek State in the case of workers employed under private law in the public services, public law legal entities and local government agencies.

Collective bargaining aiming to reach a collective agreement could apply to all types of salaried employment under private law offered by any employer, including employment in agriculture, animal husbandry, all related work, employment at home, and all other types of labour offered in employment conditions.

The topics of collective bargaining (Collective Labour Agreements or Arbitration Decisions) could include any subject

* The term "Parties" means the workers and employers' organizations.

PRINCIPAL SERVICES

Mediation services aiming to achieve collective settlement concerning the following:

- Industrial relations matters that can be regulated under a collective labour agreement.
- The drafting of labour regulations.
- Arranging for "safety personnel" in the case of industrial action.
- Facilitating "public dialogue" on matters leading to industrial action.
- Arranging working hours.

Arbitration services aiming to achieve a collective settlement by means of an Arbitration Decision concerning the following:

- Industrial relations matters that can be settled in the terms of a collective labour agreement.
- The drafting of labour regulations.
- Arranging working hours.

OTHER SERVICES

- Facilitation of collective bargaining
 - ▶ Briefing and training workers' and employers' delegates on industrial relations matters.
 - ▶ Publication of studies on industrial relations issues.

ORGANIZATION FOR MEDIATION AND ARBITRATION (O.M.E.D.)

- Publication of Codes of Practice on ethics and the process of dealing with industrial relations in practice.
- Surveys and studies on issues of industrial relations at the national, sector or enterprise level.
- Offering expert consultation on industrial relations matters.

O.M.E.D. MAKEUP AND OPERATIONS

O.M.E.D. OPERATIONS

- O.M.E.D. is a private law legal entity not subject to administrative or supervisory control by the Greek State.
- The administrative and financial management of O.M.E.D. is ruled by its Regulations, which are drafted by the O.M.E.D. Board of Directors.

STAFF

- O.M.E.D.'s highly qualified staff covers its management, financial and other activities.

FINANCIAL RESOURCES

- Funded regularly by the Ergatiki Estia with 2% of its revenue from fees paid by employers and workers.
- Extraordinary revenue from grants, subsidies and income from its other activities (publications, surveys etc.).
- The management of O.M.E.D. resources is regulated by its Board of Directors, who assure its financial independence.

BOARD OF DIRECTORS

O.M.E.D. is governed by a Board of Directors which includes the following parties:

- **Three workers' delegates** appointed by the General Confederation of Greek Workers (GSEE).
- **Three employers' delegates** appointed as follows: one by the Confederation of Greek Industry (SEB), one by the General Confederation of Greek Manufacturers and Merchants (GSE-BEE), and one by the National Confederation of Greek Commerce (ESEE).
- **Four delegates** of other agencies as follows:
 - ▶ one delegate of the **Labour Law and Social Insurance Society**,
 - ▶ one **University professor** in either economics or industrial relations,
 - ▶ one **University professor** in Law,
 - ▶ one **delegate of the Greek State**, from the ministry of Labour and Social Security.
- Finally, one individual who is a **broadly recognized expert** with experience in industrial relations, who will be elected by the other ten members of the Board.

The **Chairman of the Board of Directors** will be elected among its members. The deputy chairman is appointed by the Greek minister of Labour, and he or she participates in the meetings but is not entitled to vote.

STRUCTURE AND OPERATIONS

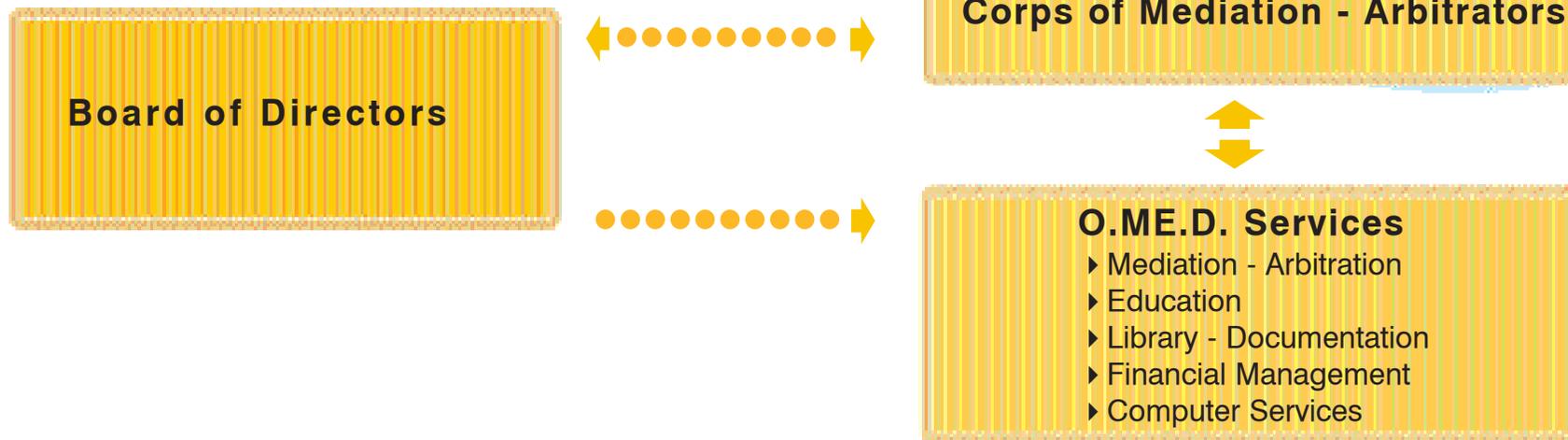
- The Board of Directors is convened by decision of the minister of Labour.
- The regular members of the Board of Directors, along with their substitutes, are each appointed by the agency they represent.
- The term of each Board of Directors is four years.
- The Board of Directors operates according to the regulations it establishes for itself.

O . M E . D . ORGANIZATION

O.M.E.D. services are organized in simple and flexible ways centered on the effective operation of its main and auxiliary activities.

FACILITIES

- O.M.E.D. owns its headquarters in Athens (Plateia Victorias 7) and its Thessaloniki annex (Polytechneiu 21).
- A fully computerized system to support its activities.
- A library and the infrastructure for education services.



THE CORPS OF MEDIATORS - ARBITRATORS

Mediation and Arbitration services are offered by the Corps of Mediators - Arbitrators, whose present membership is 21 members, out of which 15 hold the double capacity of Conciliator and Arbitrator.

The Mediators - Arbitrators:

- Are jurists, economists or other related specialists, with expertise in the specific field of industrial relations.
- They are recruited by the O.ME.D. Board of Directors following an open invitation.
- They work for O.ME.D. as freelance associates.
- They offer mediation and arbitration services.
- They participate in the other O.ME.D. activities.
- They perform their duties according to O.ME.D. Regulations and the Code of Practice of Mediators - Arbitrators.
- Their duties in O.ME.D. are incompatible with representing the interest of workers associations, private enterprises of the Greek State, or any public agencies.
- They are remunerated for their services by O.ME.D.

FEATURES OF

THE MEDIATORS' - ARBITRATORS' DUTIES

- They are fully independent in exercising their duties.
- They are impartial and equitable toward the interests of workers and employers.
- They promote a climate of confidence and dialogue between the Parties.
- They contribute creatively to the successful conclusion of labour bargaining.
- They document and explain in scientific terms the conciliation proposals and arbitration decisions.

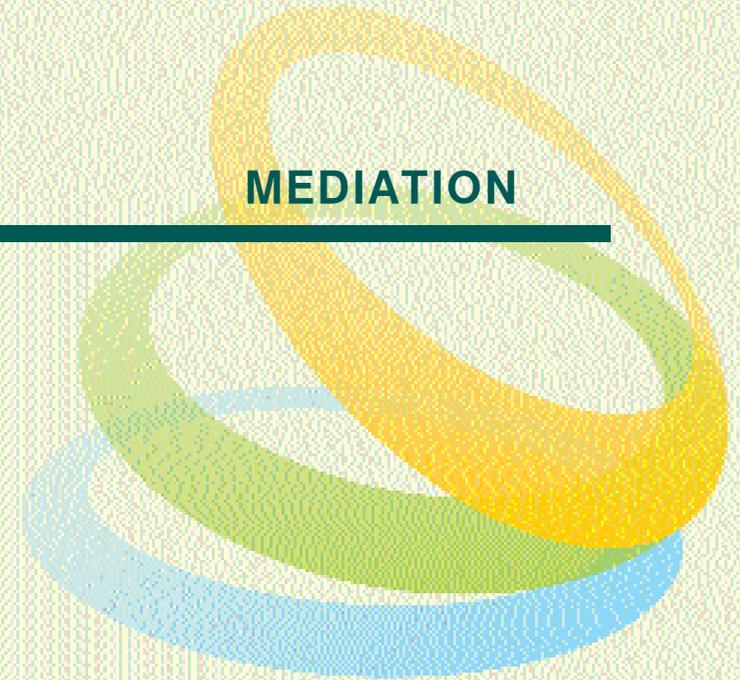
The Parties appealing to O.ME.D. **select by consensus or by drawing lots** the Mediator or Arbitrator who will serve them.



ORGANIZATION FOR MEDIATION AND ARBITRATION (O.M.E.D.)

- **CONCEPT**
- **CONTENT**
- **FEATURES**
- **BASIC PROCEDURAL RULES**
- **PROCEDURAL STAGES OF MEDIATION**
 - ▶ Preliminary proceedings
 - ▶ Core proceedings
 - ▶ The Mediator's Proposal
- **ANALYSIS OF THE MEDIATION PROCESS**
 - ▶ Right to apply
 - ▶ Requirements for application
 - ▶ Manner of application
 - ▶ Contents of application
 - ▶ Selection of a Mediator from the O.M.E.D. list of conciliators
 - ▶ Appointment of Mediator
 - ▶ The Mediator's duties
 - ▶ Completion of procedure
 - ▶ Time frame

MEDIATION



The Concept

Mediation consists of collective bargaining involving a Mediator and aiming to conclude a Collective Labour Agreement, or some other Agreement between the Parties.

Content

The object of collective bargaining at the Mediation stage could consist of any of the following:

- Any matter that can be settled by means of a collective labour agreement (article 2 of Law 1876/1990, article 8 of Law 2224/1994 and article 5 of Law 2874/2000) such as:
 - ▶ Matters relating to the execution, the terms and the termination of individual work contracts (including working hours, leave, pay etc.).
 - ▶ Matters relating to the exercise of trade union rights within the business etc.
 - ▶ Matters relating to the exercise of business policy, to the extent that it affects industrial relations.
 - ▶ Drafting work regulations.
 - ▶ Drafting health and safety regulations.
 - ▶ Arrangement of work time.
- Establishing safety personnel in the case of industrial action (article 2 of Law 2224/1994).
- Public dialogue on matters constituting reasons for industrial action (article 3 of Law 2224/1994).

Features

Mediation has the following fundamental features:

- It is a form of collective bargaining with the creative contribution of the Mediator.
- It is the expression in practice of **the right and obligation to collective bargaining** and the principle of **dialogue in good faith**.
- It supports the convergence of opinion between the Parties toward the goal of drafting a collective labour agreement.
- Negotiations during the mediation process aim at reaching a collective labour agreement.
- When the Parties or the Mediator realize that a collective agreement is impossible to reach, the Mediator is entitled to submit to them his or her own Proposal.
- The Mediator Proposal is not binding for the Parties, but it can serve as the basis for drafting a collective labour agreement or another type of agreement.
- When the Mediator Proposal is acceptable to one side only, that may generate a right to appeal to Arbitration.

The goal of Mediation is to reach agreement between the Parties. When that is not possible and only then can the Mediator file a Proposal, and in the case of public dialogue a **Report** concerning the goals of industrial action.

BASIC PROCEDURAL RULES

Mediation must adhere to the following procedural rules:

- The initiation of Mediation **must be requested by the Parties**, either jointly or unilaterally.
- O.M.E.D. never takes the initiative to provide Mediation services.
- **The Mediation process is ruled by Law 1876/1990, article 15.**
- **The services of O.M.E.D.** provide an administrative framework for the Mediation process without intervening in the issues brought to collective bargaining. Their duty is restricted in the application of procedures to appoint a Mediator and in clerical support for the Mediation process.
- **The Mediation process is conducted according to the principles of good faith and substantiated dialogue.** Both the Parties and the Mediator are obliged to substantiate their views with evidence derived from the exercise of their right to information.
- **The Mediator's Proposal is not binding.** If it is accepted by both Parties it may form the basis for drafting a Collective Labour Agreement or other type of agreement. If it is accepted by one side (Party) only, it can then lead to Arbitration.

PROCEDURAL STAGES OF MEDIATION

The Mediation procedure has two distinct stages, preliminary proceedings and core proceedings.

Preliminary Proceedings

- They start** when an application for Mediation is submitted to the O.M.E.D. secretariat,
they are concluded when the Mediator assumes his duties.

Core Proceedings

- They start** when the Mediator assumes his duties,
they are concluded when the Mediator is no longer necessary for the coordination of collective bargaining, namely:
- ▶ When the application for Mediation is withdrawn.
 - ▶ When either workers or employer/s refuse to participate in the Mediation.
 - ▶ When a Collective Labour Agreement is signed.

Once the Mediator has exercised his/her right to submit a Proposal

The Mediator's Proposal

- Is not binding to the parties.
- Can serve as the basis of agreement between the Parties.

ANALYSIS OF THE MEDIATION PROCEDURE (article 15)

1 Right to Apply

- ◆ The right to apply may be exercised by the most representative workers' association within the field of the Collective Labour Agreement or other agreement sought.
- ◆ The right to apply may be exercised by one or more employers' associations or by an individual employer within the field of the Collective Labour Agreement or other agreement sought.

2 Requirements for application

Collective bargaining must have started between the Parties, and must have reached a stalemate.

3 Manner of application

- ◆ **Jointly** by the workers' and the employers' side after direct collective bargaining has been discontinued.
- ◆ **Unilaterally** by the workers' or the employers' side once direct collective bargaining has failed.

4 Application contents

- A.** Full details of the party applying and the party summoned:
- ◆ Name,
 - ◆ Headquarters,
 - ◆ Appointment of delegate *(of applying party only)*.
- B.** Matters brought forth for Mediation
- C.** Other information that could facilitate Mediation.

1. Written application to the O.M.E.D.
2. Notification to the side summoned to Mediation *(when the application is not filed jointly)*

ANALYSIS OF THE MEDIATION PROCEDURE (continued)

5
Selection of a Mediation from the O.M.E.D. list of mediators

- A.** Directly by consensus between the Parties
- B.** By drawing lots
(O.M.E.D. initiates the procedure within 48 hours after the application has been submitted - the time is indicative only.)

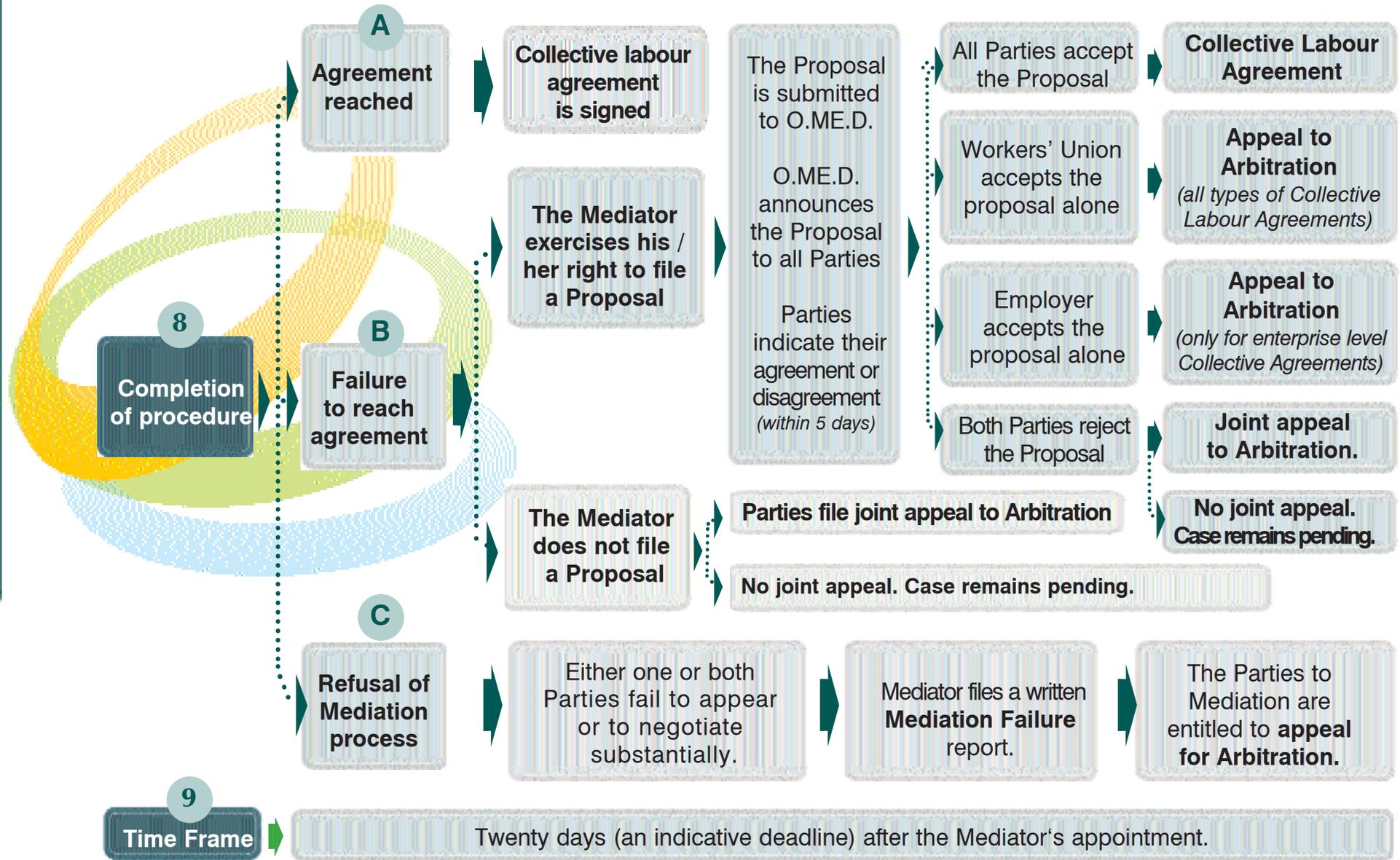
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Appointment of Mediation

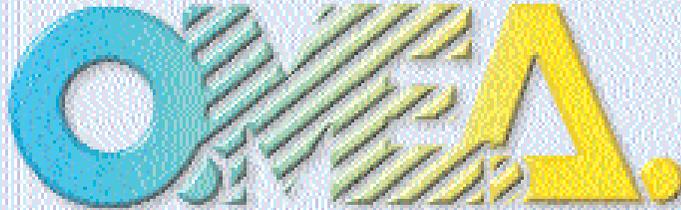
The appointment is performed by means of a written document.
(no deadlines are stipulated, the Mediator is usually appointed within five days following the selection)

7
The Mediator's duties

- ♦ He / she invites the Parties to separate conferences with the Mediator.
- ♦ He / she examines persons, performs investigations or secures expert opinions.
- ♦ He / she initiates and participates in negotiations aiming to reach a Collective Labour Agreement or other type of agreement.

1. O.M.E.D. summons the Parties to select a Mediator.
2. Selection by consensus or by drawing lots.
3. Each Party has the right to veto, to be exercised only once.
4. An alternate Mediator is selected following the same procedure.

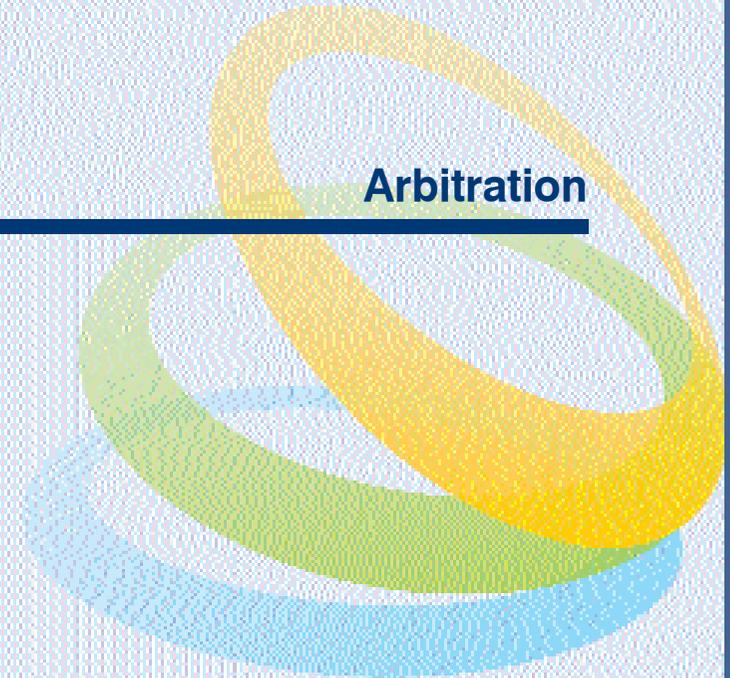




ORGANIZATION FOR MEDIATION AND ARBITRATION (O.M.E.D.)

Arbitration

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 - ▶ Contents of application
 - ▶ Selection of an Arbitrator from the O.M.E.D. list of arbitrators
 - ▶ Appointment of Arbitrator
 - ▶ The Arbitrator's duties
 - ▶ Completion of procedure
 - ▶ Time frame



THE ARBITRATION PROCESS AT O.ME.D.

The Concept

Arbitration is a process for resolving industrial disputes by decision of the Arbitrator (Arbitration Decision) in those cases where the Parties have not agreed on a Collective Labour Agreement.

Content

The object of collective bargaining at the Arbitration stage could include any of the following:

- Any matter that can be settled by means of a collective labour agreement (article 2 of Law 1876 / 1990, and article 5 of Law 2874 / 2000) including:
 - ▶ Matters relating to the execution, the terms and the termination of individual work contracts (such as working hours, leave, pay etc.).
 - ▶ Matters relating to the exercise of trade union rights within the business etc.
 - ▶ Matters relating to the exercise of business policy, to the extent that it directly affects industrial relations.
 - ▶ Drafting work regulations.
 - ▶ Drafting health and safety regulations.
 - ▶ Arrangement of work time.

Features

Arbitration has the following fundamental features:

- When collective bargaining has failed to produce a settlement, arbitration may substitute an agreement between the Parties, and for that reason it is legally equivalent to a Collective Labour Agreement.
- **The Arbitration Decision is binding for the Parties.**
- The terms of the Arbitration Decision are based:
 - ▶ On points of convergence in the positions of the Parties.
 - ▶ On the evidence and views presented during the collective bargaining concerning the matters under dispute.

***When Arbitration is called in,
pressure is put on parties for concluding an agreement.
Therefore, Arbitration is an essential **method**
in the context of collective bargaining.***

BASIC PROCEDURAL RULES

Arbitration must adhere to the following procedural rules:

- The initiation of Arbitration **must be requested by the Parties**, either jointly or unilaterally.
- O.M.E.D. never initiates Arbitration services.
- The Arbitration process is ruled by Law 1876 / 1990, article 16.
- The services of O.M.E.D. provide an administrative framework for the Arbitration process without intervening in the issues brought to collective bargaining. Their duty is confined in the application of procedures to appoint an Arbitrator and in clerical support for the Arbitration process.
- **The Arbitration process is conducted according to the principles of good faith and substantiated dialogue.** Both the Parties and the Arbitrator are obliged to substantiate their views with evidence derived from the exercise of their right to information.
- **The objective of the Arbitration process is to resolve industrial disputes by awarding an Arbitration Decision** when there is a documented failure of the Parties to reach a Collective Agreement.

PROCEDURAL STAGES OF ARBITRATION

The Arbitration process is followed when the Parties consent to it in the course of collective bargaining, or when the Mediation process fails to produce a Collective Agreement. Arbitration has two distinct stages, preliminary proceedings and core proceedings.

Preliminary Proceedings

They start when an application for Arbitration services is submitted to the O.M.E.D. secretariat.

They are concluded when the Arbitrator assumes his / her duties.

Core Proceedings

They start when the Arbitrator assumes his / her duties.

They are concluded when the collective dispute is settled, namely:

- ▶ When the application for Arbitration is withdrawn.
- ▶ When a Collective Agreement is signed.
- ▶ Once the Arbitrator has issued an Arbitration Decision.

The Arbitration Decision

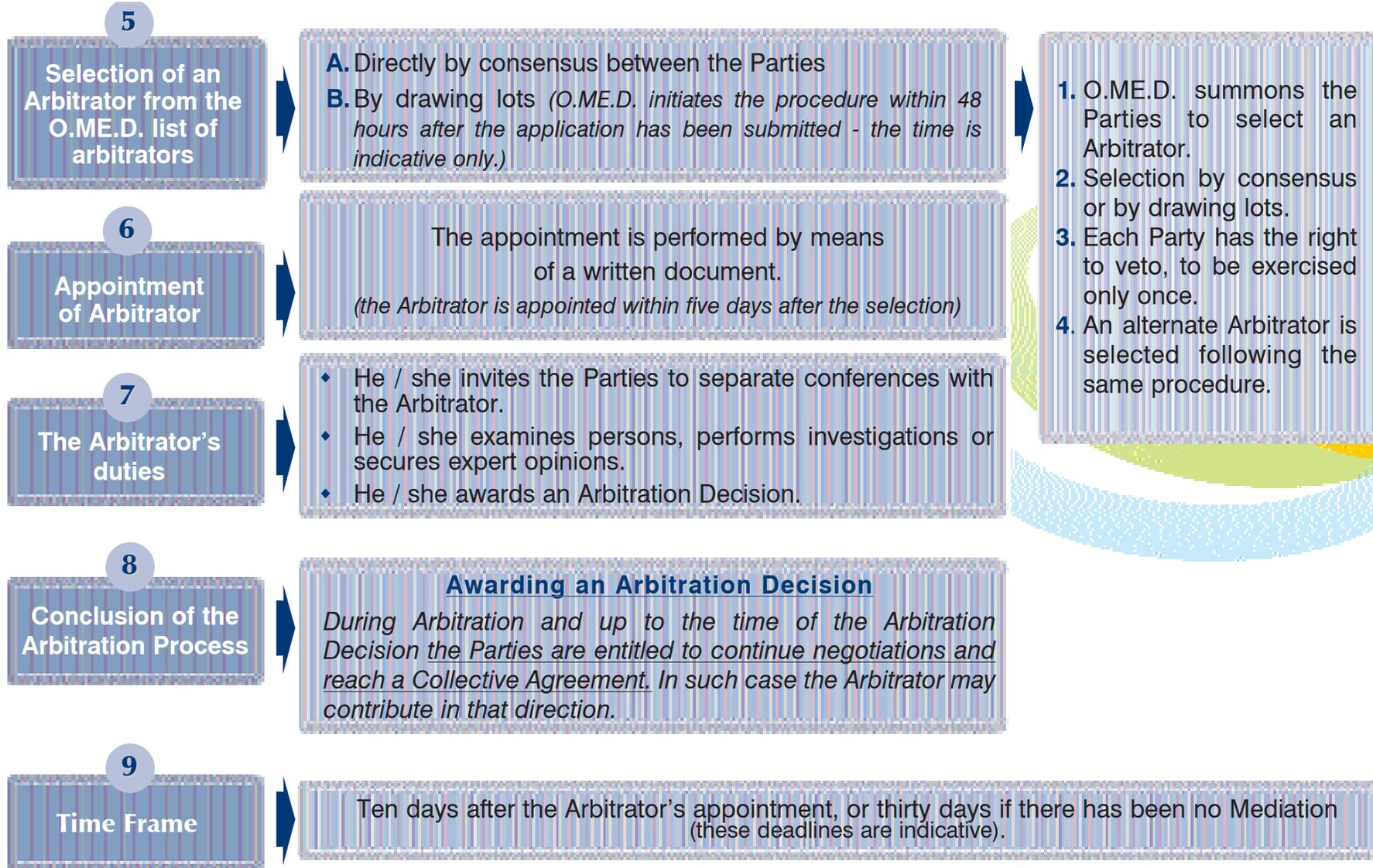
- It assures the settlement of industrial relations.
- It compensates for any imbalance in the negotiating abilities of the Parties.
- It falls within the guidelines of collective autonomy, since it is the conclusion of free collective bargaining and is awarded only when the Parties have clearly failed to reach an agreement.

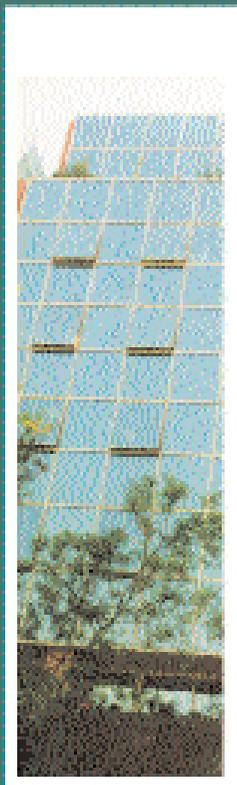
ANALYSIS OF THE ARBITRATION PROCESS (article 16)



1. Written application to O.M.E.D.
2. Notification to the side summoned to Arbitration (*when the application is not filed jointly*).

ANALYSIS OF THE ARBITRATION PROCEDURE (article 16)





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