



# Early response to potential commercial disputes triggered by COVID19



## The Background

COVID19 has caused a disruption in almost all parts of social and economic life. Most small, medium and large business entities will sooner or later face a situation when they are no longer able to:

- deliver goods they undertook to deliver
- pay the rent
- pay the salaries
- provide service
- etc.

Situations like these are surrounded by legal uncertainty. But most importantly, they are surrounded by practical uncertainty. Nobody can predict what will happen next with the COVID19.

This anxiety, uncertainty and fear, coupled with economic loss and inability to honor commitments, create too big room for disputes. Pursuing these disputes in a “usual” adversarial manner will be counter-productive and may damage something that will be difficult to recover later - relationships.

## Who can benefit from this Project?

- 📁 Any Georgian or foreign-based company, a Georgian citizen or a Government entity who has a commercial dealing with Georgian registered enterprise, and
- Who deem that their dealings have been affected by COVID19, and
- Who
  - want to have a discussion or negotiation with a counterparty on the possibility of performance or adaptation of the contract **(facilitation)**, or
  - is in dispute with the counterparty and wants timely, long-term and low cost resolution of the dispute **(mediation)**

## The PROJECT

RESOLVE and GIAC have joined resources and offer an intervention which will help prevent, manage and if necessary, resolve these disputes in a collaborative manner. Namely, with the assistance of EU-UNDP joint project, they offer the businesses, affected by COVID19, engagement of an experienced third party neutral (facilitator or mediator) who will help them have a productive negotiation. Engagement of an experienced neutral will help the businesses:

- remove the impulse to blame and concentrate on the future
- create environment so that they can work together to find solutions
- structure and guide the negotiations
- agree on next procedural and practical steps
- help maintain business relationships during these difficult times

## What type of issues can be addressed under the Project?

- Disputes of commercial nature

## Which processes are available?

Project beneficiaries can request either of the following processes:

### Facilitation

**Facilitation** is a process where the third party neutral – a facilitator – helps the parties conduct a productive dialogue and/or a discussion. Facilitation is suited for situations when parties are not yet in dispute, rather both of them acknowledge the difficulty of the situation and understand the importance of adaptation and finding of solutions. The facilitator will help the parties use their time efficiently and focus on finding potential solutions.

#### Characteristics of facilitation:

- Facilitation will be conducted pursuant to GIAC Facilitation Rules;
- The result of parties' discussion or negotiations may be an action plan, a renegotiated contract, or another type of solution which they manage to achieve.

### Mediation

**Mediation** is a process where a third party neutral – a mediator – helps parties, who are in dispute, find an outcome which will be acceptable for both of them. Mediation is suited when parties are opposing each other, their relationships are tensed, they find it difficult to listen to each other or when they take each other as adversaries. The mediator will help them uncover their needs and interests, create and consider options, assess risks and find a solution which may be acceptable for both of the parties.

#### Characteristics of mediation:

- Mediation will be conducted pursuant to GIAC Mediation Rules and Law of Georgia on Mediation;
- The settlement reached as a result of mediation may be subject to confirmation by the court.

## Who are mediators and facilitators?

Mediators and Facilitators are appointed from GIAC list of facilitators and mediators. A facilitator/mediator may be appointed by agreement of the parties, or, when parties do not agree by GIAC itself. List of facilitators/mediators is available at: [www.giac.ge](http://www.giac.ge)

## The process

The process shall be conducted in line with GIAC Mediation or Facilitation Rules. In addition, when the process is to be conducted by distance, GIAC ODR Protocol shall apply.

## How to apply?

Fill out the respective application form available at [www.giac.ge](http://www.giac.ge)

## Costs

Within the scope of the present Project, GIAC has waived its administrative fee for all the parties.

In addition, EU/UNDP will cover the 1 day fee of the mediator/facilitator. Beyond this one day the fees shall be covered by the parties pursuant to the GIAC fee schedule.

For full information about the Project please visit

<http://www.giac.ge>