ADR Register

Official response to the DiSAC-NABFAM Steering Committee and the forming of a SAQA professional body

All references in this document are made against the approved (valid) version of the applicable document.

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Introduction

- ADR Register is invited to attend the meeting with members of the DiSAC-NABFAM Steering Committee on 12.11.2020.
- This meeting was organized and facilitated by the board of SAAM.
- ADR Register chooses to formalize its response by filing this document.
- This document is to be considered as a public document and will be shared with our certified practitioners and stakeholders.
- ADR Register appreciates the invitation.
- The way forward as intended by the Steering Committee brings questions and concerns.
- ADR Register believes in Alternative Dispute Resolution and its position in and contribution to South Africa and all South Africans.
- ADR Register wants to contribute with a future-orientated approach to changes in the mediation landscape in South Africa.

Conclusion

The steering committee working process is not transparent and not inclusive. The invitation policy on participation seems selective as it is noticed that relevant organizations, including ADR Register, are not invited spontaneously. The communicated timeframe is not realistic as the intended new body does not yet meet the SAQA criterion '3-year constitutional status', so an application can't be filed with SAQA.

The result of the 'steering process' is uncertain as the board of directors of the intended body seems to be free to reject – fully or partially - the constitutional agreement reached by the participating organizations. Upfront is indicated that commercial considerations might prevail over quality elements. This all seriously questions the commitment towards impartiality, effectiveness, and quality.

The intended outcome aims on obtaining the SAQA professional body status only. SAQA only monitors competencies, and not necessarily other common quality elements. A SAQA professional body is not automatically a quality body and framework as regulated by IAF, ISO, and SANAS and does not align with international standards. The SAQA only approach is a relevant factor to failing as the South African mediators ask for a 'system' connected nationally as well as internationally.

The presented costs for the SAQA accreditation are outrageous. The invoice will be presented to the mediators. The non-profit approach is not implemented. Voluntary professional participation is not investigated. ADR Register believes are all relevant knowledge is present within the sector, and that the sector is prepared to contribute without costs, or against fair and moderate costs.

ADR Register states that is <u>not</u> to be expected that the steering committee is on the right course to deliver what is asked for by the South African mediators, and what will benefit South Africa, its mediators, and their clients.

ADR Register politely asks the Steering Committee to reconsider the process and to set course alternatively to a quality system that meets the South African <u>and</u> international criteria and processes, including SANAS and SAQA accreditation and ISO/IMI standards. Therefore, it is necessary to include all relevant stakeholders, not only organizations for mediators, but also training providers, certification bodies, and mediator-client-group representatives.

ADR Register offers full assistance and cooperation.

Meanwhile, ADR Register, as a sole certification body, proceeds as indicated in this memorandum.

ADR Register aims to realize a South African ADR umbrella body with its focus on Africa.

The body should be ISO 17024 accredited by SANAS. Additionally, the body can be accredited as SAQA professional body. Within the body, 4 groups are represented,
- Practitioners represented by professional bodies; SAAM should represent the South African mediators
- Client-groups represented by client-representative bodies
- Training providers
- Certification bodies

Global Network Group – ADR Register is a subsidiary of Global Network Group - has prepared a qualifying application for the SAQA professional body status. Global Network Group intends to file in Q1.2021 and is prepared to merge its body with or to integrate its body in the South African ADR umbrella body.

Mediators and mediation in South Africa

General

- In South Africa, mediators have no obligation to accredit themselves. No regulatory requirements thereto exist.
- Currently, a statutory or regulatory body for mediators, described anywhere in South Africa law, does not exist.
- Although we don't have official numbers, ADR Register believes the majority of South African ADR professionals, mediators included, isn't certified and isn't a member of a professional body.
- Based on the monthly online chats with our certified practitioners, we learned South African ADR professionals, mediators included,
  o have a national and international perspective and ambition. As South Africans, the group wants to remain associated with the South African 'system'. And, as an answer to uncertain times and political issues in South Africa, the group also wants to be associated with the international 'system' and
  o experience not or not enough added-value from existing professional bodies and other membership-based organizations (associations), so they don't connect and
  o experience a commercial disbalance (too many mediators versus the number of mediations).

DiSAC and NABFAM

- Although in a way presenting them as such, DiSAC (SA Dispute Settlement Accreditation Council) and (NABFAM (National Accreditation Board for Family Mediators) are not the official statutory or regulatory body for ADR practitioners, mediators included, as described in South Africa law.
- Also, both organizations (DISAC and NABFAM) do not represent the South Africa ADR Industry currently active/present in South Africa as the mandate thereto does not exist and a substantial number of ADR organizations and individual ADR professionals, mediators included, are not connected, in any way, to these organizations.
- Quality standards for mediators are set by the International Mediation Institute (IMI). Implementation of and certification of mediators against these standards are preferable handled in line with the ISO standard 17024, the leading international standard for the certification of professionals. As this framework is proven and available, the relevance of DiSAC and NABFAM is questionable, especially considering the current DiSAC and NABFAM criteria and processes aren't fully aligned with IMI and ISO standards.

South African Association for Mediators (SAAM)

- ADR Register considers SAAM as the professional body for South African Mediators.

- Although now primarily orientated on family mediation, the SAAM statute and regulations don't exclude other mediation scopes and styles. ADR Register truly hopes SAAM will stimulate mediation diversity by internally facilitating more mediation scopes and styles, and creating dedicated divisions, chambers, and/or subgroups.

- SAAM, as a professional body, is authorized by its members to set standards for mediators and mediation procedures, naturally in close cooperation with other stakeholders, such as training providers, certification bodies, and mediator-client representatives, preferable all associated within one South African National Body for ADR. It is strategically smart to develop these standards in addition to the IMI standards, by creating an IMI based subscope for South African Mediators. It delivers to the best of two worlds and meets the expectations of South African mediators as the criteria are effective internationally and national for South Africa.

- The SAAM standards can be implemented in a South African National Body for ADR, and this body thereto accredited with SANAS (South African National Accreditation System) as part of its ISO 17024 accreditation.

Comments on the Steering Committee, its process, and the intended SAQA professional body

SANAS versus SAQA

- SANAS accreditation is not considered.
- SANAS accreditation delivers the connection to both national and international standards and is the gateway to expanding into Africa and connecting to the Global market.
- SAQA is limited to competencies and South African standards.
- A SAQA only approach is not effective

SAQA

- An essential criterion is the proof of the 3-years existence of the NPO. As the steering committee intends to constitute a new NPO, a holding period of 3-years applies.

Mandate

- The steering committee noticed the list of participating organizations. ADR Register doubts if all organizations officially have mandated the committee and/or the documents. Indications are present not all listed organizations have finalized the internal decision-making process. Besides this, ADR Register noticed several organizations are not listed, like ADR Register itself. Furthermore, most South African mediators are not a member of, or otherwise connected to, any professional or representing body.
- Speaking to individual mediators, ADR Register has indications a major group of mediators is not aware of the existence and intentions of the Steering Committee and questions the commitment of this group to the Steering Committee and its plans.
- The mandate of the Steering committee is questionable and its working process is not inclusive.

Financial

- The documents indicate high costs for preparing, filing, and maintaining the SAQA professional body. Finally, in the end, all costs are presented to the listed mediators.
- As SAQA does only charge little costs, all costs seem related to 'overhead and management'. ADR Register believes all knowledge for the project is available in the sector. The sector should be urged and stimulated to contribute without costs, or against fair and moderate fees.
- As ADR Register has prepared a qualifying SAQA application, it is proven not many costs arise.

Commercial elements and considerations

- Hendrik Kotze mentioned during the meeting and his email dated 12.11.2020-11.12 hrs:

   "As I understand it, the model suggested by ADR Register would entail the following:

   - *SAQA would set the NQF Standards*
   - *The Professional Body for mediators registered with SAQA would set the criteria for professional accreditation (which would have to include a NQF qualification)*
   - *The Professional Body should consider appointing certification agencies(such as ADR Register) who would then certify practitioners against the criteria set by the Professional Body.*

   Confirmation that this is a correct understanding of the model proposed by ADR Register would be useful.

   As indicated, we would probably firstly have to establish whether the SAQA framework allows for the certification function to be "outsourced" in this manner, or whether there is a SAQA requirement that the Professional Body must develop such capacity internally.

   Secondly, if such a model is possible, the Professional Body would have to make a business decision on what the preferred approach is. It would have to weigh up all the pro's and con's of developing its own capacity or outsourcing the certification function. These would have to include financial considerations, as well as policy considerations such as those mentioned by Robert and Theresa.

   As indicated, the Steering Committee will not make any decisions in this regard, but we are happy to work with ADR Register to gather the relevant information for a later decision. "

- Here, ADR Register raises the red flag.
- It is not acceptable that the result of the work of the Steering Committee (thus: the by all participants negotiated agreement on the constitution of a SAQA accredited professional body) can be rejected or ignored by the board of the body. It is a common practice in such processes that part of the agreement is the appointment of the board, including the instructions and mandate for the board to execute the agreement. What is meaning of a negotiated agreement if the board is free to reject or to ignore?
- SAQA allows accredited bodies to outsource audits and services. No criterion exists that requires this. All ISO processes have specific criteria on outsourcing in order to monitor outsourced processes.
- Hendrik clearly connects outsourcing to the business case and the commercial model of the intended body, and puts quality second.
- We differ on the role and position of the body. We believe the body's only task is to set criteria and to accredit. The actual work will be done by accredited organizations, such as training providers and certification bodies. Practitioners will be invoiced by the accredited organizations for delivered services. The accredited organizations, together with the other stakeholders (practitioners, client-group-representatives), contribute financially towards the body in order to cover the costs. As the task and role of the body is limited as mentioned, limited operational costs exist and are to cover.

The way forward in South Africa

Public/private cooperation

- Establish a public/private cooperation between the ADR Industry and the SA government.

Accreditation body

- Establish one ADR accreditation body for South Africa.

- The body delivers:
    o One national register for ADR practitioners

- The body itself:
    o Gets ISO 17024 accredited with SANAS (option, not necessary)
    o Gets SAQA recognized as a professional Body for the ADR Industry (option, not necessary)
    o Cooperates on norms for ADR (criteria, standards) with SABS (definitely)
    o Implements the IMI criteria for mediators (definitely)

- The body sets criteria for:
    o Appointing and accrediting of certification bodies
    o Accrediting and certification of training providers
    o Certification of training programs and trainers
    o Certification of ADR practitioners
    o Operational ADR processes and procedures, handled by practitioners

- The body identifies 4 stakeholder groups:
    o **Clients**
      Those who assign ADR practitioners, such as individuals, companies, governments.
    o **Practitioners**
      Those who represent practitioners, for instance, professional groups, branch organizations, companies, or individual ADR practitioners and ADR companies. SAAM is the dedicated organization to represent the South African Mediators.
    o **Training providers**
      Those who deliver training programs handled by qualified trainers
    o **Certification bodies**
      Those who handle independent and impartial audit- & certification processes. ADR Register is one of the accredited certification bodies.

The stakeholder's groups are represented in the Body's board and have voting rights.

The government is to be considered as a member of the stakeholder group clients. In addition, specific rights can be granted to the government based on legislation. The term government refers broader than justice only; all ministries, departments, authorities are supposed to participate.

All existing organizations representing practitioners (like SAAM etc.) are likely to join the Body as part of the stakeholder group practitioners. As effect, all efforts done by the industry so far will be respected and implemented. It is advised that representing organizations meets requirements on a minimum number of members, to avoid the membership of not-relevant and marginalized organizations.

ADR Register steps in as a certification body. <u>Important</u>: we do understand other certification bodies can qualify. No exclusive rights or monopoly are required from our site.

Blueprint for Africa

- Optionally, the cooperation is a blueprint for an 'umbrella register' for Africa, formed out of all national registers of the individual countries forming the Africa continent.

About accreditation and certification

ISO organization

ISO is an independent, non-governmental international organization with a membership of 164 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market-relevant International Standards that support innovation and provide solutions to global challenges. The ISO organization is based in Geneva, Switzerland.

ISO standards

International Standards **make things work**. They give world-class specifications for products, services, and systems, to ensure quality, safety, and efficiency. They are instrumental in facilitating **international trade**. ISO standards are globally leading.

Accreditation

Accreditation literally means: giving confidence. To be authorized to certify against ISO standards, the certification body must be accredited by an accreditation body. All accreditation bodies are governed by and members of the International Accreditation Forum (IAF). All IAF members are recognized/accepted by the ISO organization as accreditation bodies. All these accreditation bodies are operating against ISO/IEC 17011:2018.

Example: ADR Register

ADR Register is a private certification body, thereto certified by the accredited body Lloyds Register.
- *ISO 9001:2015 and ISO 17024:2012 are official standards of the ISO organization.*
- *ADR Register is ISO 9001:2015 certified for the scope 'Handling worldwide certification against document GNG.PD.001 Rules for audits, registration, and complaint & dispute resolution for professional groups, bodies and individuals, legal entities, foundations, associations and (non) governmental organizations, services, according to document GNG.MS.001 General statute Global Network Group'. This statute states/regulates that ISO 17024 is binding/leading for the certification of professionals i.c. the issuing of certificates of (professional) competence.*
- *The ISO 9001: 2015 certification of ADR Register is issued by Lloyds Register and registered with UKAS.*
- *Lloyds Register is accredited by the United Kingdom Accreditation Services (UKAS) for issuing ISO 9001:2015 certificates.*
- *UKAS is IAF member and officially appointed by the UK government (UKAS).*

Accreditation versus certification

Globally, it is accepted that accreditation comes first to certification.

This principle is accepted in and outside the ISO 'world'.

Example: education and training

In general, governments, or by government-appointed organizations, accredit educational and training organizations, such as universities, academies, schools etcetera. These organizations certify their students.

- *The NVAO (Accreditation Organization of the Netherlands and Flanders) is appointed by the Dutch and Flanders governments. NVAO holds solely the right of accreditation of all higher education and training organizations in the Netherlands and Flanders and the recognition of degrees and titles and the public funding of programs.*
- *A higher education or training organization offering programs with access to degrees and titles or qualifying for public funding must be NVOA accredited.*
- *A student of an NVOA accredited organization is certified i.c. gets a certificate (degree) of education on completion of the program.*

International Mediation Institute (IMI)

IMI is the global leading body for the quality assurance and promotion of the mediation process and the mediators and sets standards for competencies of mediators.

White paper open source ADR framework

ADR Register has a clear vision on how to realize a solid, future-proof and inclusive framework and quality mechanism for ADR.

Read our white paper:

https://adrplatform.com/resources/uploads/ADR-Platform-Concept-program-outline-Initial-phase-V.0.1-FINAL-incl-flowcharts.pdf

Our whitepaper is hereby considered as inserted and repeated.

About ADR Register

General

- Global Network Group (GNG) is proud to be active in South Africa and to serve several branches/industries. GNG has registered offices in The Netherlands, United Kingdom, and South Africa. In South Africa, GNG is officially registered with CIPC as Pty Ltd.
- ADR Register, as a subsidiary of GNG, serves the branch Alternative Dispute Resolution by certifying arbitrators, conflict coaches, mediators, and negotiators.
- Our competence criteria for mediators are following the criteria set by the International Mediation Institute (IMI). Currently, the IMI criteria are globally adopted by numerous organizations and countries.
- Our process criteria for certifying professionals are based on the ISO 9001 and 17024 norms set by the International Standardization Organization (ISO).
- The ISO 17024 is a conformity assessment against the general requirements for bodies operating certification of persons.
- The ISO 9001 sets the criteria and requirements for quality management systems.
- The ISO criteria guarantee the market, interested parties, and stakeholders a solid monitored and sustainable process.
- In South Africa, ADR Register is represented by Mrs. Theresa du Preez (born March 23rd, 1965, South Africa, and a South African passport holder).

Registration and certification body

- ADR Register is a registration/certification body and operates impartially and independently. Consequently, we are not a branch organization, a representing body for professionals or their clients, or a training provider.
- ADR Register holds the certification scheme ADR International Certified Conflictnavigator®.
- The certification scheme distinguishes main- & sub scopes, subtypes, and levels.
- The main scopes are arbitrator, conflict coach, mediator, and negotiator.
- Sub scopes are court mediator, family mediator, and inheritance coach.
- Several subtypes and levels exist.

Accredited, appointed and certified

- ADR Register is accredited by International Mediation Institute as Qualifying Assessment Program (QAP).
- Global Network Group is ISO 9001 certified by Lloyds Register Netherlands and has registered its ISO 9001 certification with UKAS London. As Global Network Group is certified under the so-called multi-site regime, all branches and subsidiaries are ISO 9001 certified.
- Global Network Group is appointed by the Dutch Minister for Health, Welfare, and Sport as an official dispute handling organization for the Health Industry. The appointment is ruled by the WKKGZ law.
- EMCI Register is ISO 17065 (product certification) accredited by the Dutch Accreditation Council and appointed by the Dutch Minister of Water management & Infrastructure as an official EU Notified Body for the Recreational Craft Industry, which is ruled by EU directive RCD 2013/53/EU (accreditation number C660 with the Dutch Accreditation Council and NANDO number 2832).