

## UZBEKISTAN'S LEGAL REFORMS FOR ACCESSING THE SINGAPORE CONVENTION ON MEDIATION: A PATHWAY TO ENHANCED DISPUTE RESOLUTION

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**Abstract:** The United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation), aims to create a legal framework for the cross-border enforcement of mediation settlement agreements. It was adopted for enhancing mediation as an alternative effective way of resolving international commercial disputes. For Uzbekistan, accessing this Convention could catalyze significant legal and economic reforms with an advancement in international trade. This article examines Uzbekistan's current legal framework regarding mediation, the necessary reforms to facilitate access to the Singapore Convention on Mediation, and the implications of such reforms for Uzbekistan's economic growth and international relations.

**Keywords:** Uzbekistan, mediation, professional mediator, international mediator, Singapore Convention, settlement agreement.

## Introduction

Uzbekistan is currently engaged in comprehensive legal reforms aimed at modernizing its legal framework and enhancing its position in the global economy. A significant component of these efforts is the country's endeavor to access to the United Nations Convention on International Settlement Agreements Resulting from Mediation. The Convention provides a set of uniform legal rules for the recognition and enforcement of international settlement agreements resulted from mediation done over only commercial disputes. The Convention's implementation is seen as a landmark development in international dispute resolution, offering a mechanism that supports mediation as a credible and effective alternative to court litigation.

For Uzbekistan, acceding to the Singapore Convention represents a strategic initiative aimed at boosting the country's appeal to foreign investors, improving the business climate, and fostering economic growth. Because, from 2018, when Uzbekistan introduced mediation practices into its legislation, Uzbekistan has ratified or accessed any international treaty in regards with mediation. Therefore, by aligning its dispute resolution framework with international standards, Uzbekistan aims to expedite the resolution of commercial disputes while fostering a domestic culture of mediation. Achieving this goal requires significant legal reforms, including amendments to the economic procedure law, and the development of training programs for professional mediators.

This article explores Uzbekistan's legal reforms in the context of its bid to join the Singapore Convention on Mediation, examining the implications for both domestic dispute resolution and international commercial relations. The discussion begins by assessing the current state of Uzbekistan's mediation legislation. Then, it considers the specific reforms necessary to comply with the Convention's requirements. Furthermore, it analyzes the potential benefits, such as enhanced international trade opportunities, and new training program for preparing international mediators, alongside the challenges in implementing these legal changes. By critically evaluating these factors, the article provides insights into how Uzbekistan's efforts could act as a catalyst for broader legal and economic development.

### **Methodology**

In this paper, the main methodologies used are conceptual analysis, normative legal research and comparative legal research. The conceptual analysis can be seen in enumerating the benefits of Uzbekistan's accession to the Singapore Convention on Mediation. Additionally, normative legal research methodology is used to explore the provisions of the Singapore Convention on Mediation and examine Uzbekistan's current mediation legislation. Finally, the comparative legal research methodology is applied to contrast the accession experiences of other State Parties to the Singapore Convention on Mediation with Uzbekistan's approach.

### **Discussion**

Singapore Convention on Mediation is the only binding international instrument, which focuses on advancing transnational mediation practices. Its primary purposes are "facilitation of international trade and the promotion of mediation as an alternative and effective method of resolving trade disputes." Singapore Convention on Mediation describes its scope of application as governing the enforcement issues of written settlement agreements resulted from mediation, which are directed at resolving cross-border commercial disputes. Apart from enhancing international mediation, the Convention can significantly affect international trade by providing foreign investors and businesspersons with more flexibility and opportunities. It allows them to choose mediation over state court proceedings as an alternative dispute resolution method, potentially saving costs associated with multiple mediation processes across different countries with varying jurisdictions.

I believe, there are several reasons of why Uzbekistan shall access to Singapore Convention on Mediation in the near future: from legal and economic perspectives. First, the biggest issue on the Uzbek legislation is a lack of enforceability of settlement agreements resulting from extrajudicial mediations with done both in and out of Uzbekistan. Currently, Uzbekistan is a party to several international treaties and bilateral agreements on issues related with the enforcement of court decisions. Nevertheless, Uzbekistan is not participating in any such international instruments in regards of settlement agreement resulting from mediation. Thus, mediation settlements conducted in Uzbekistan can be

acknowledged by other states when the competent court approves by these settlements its decision. However, this mechanism works solely in regards of mediations done during court proceedings, neglecting out-of-court mediations. Therefore, out-of-court mediations' settlement agreements signed in Uzbekistan become unenforceable in foreign jurisdictions, and similarly, settlement agreements done in foreign countries can have no legal consequence in Uzbekistan.

Another related main legal issue is the absence of the enforcement mechanism itself in Uzbekistan's legislation. The Law of the Republic of Uzbekistan "On Mediation" and the Economic Procedure Code of the Republic of Uzbekistan regulate mediation conducted in economic relations. According to Article 29 part 4 of the Law "On Mediation", it is established that "The mediation agreement is binding on the parties to it and is executed voluntarily by them in the manner and within the time frame stipulated in it." No compulsory enforcement mechanism of mediation agreements is stipulated by law, but it only states that the party to the mediation agreement may address the competent court in case of the other party's or parties' breach of their contractual obligations resulted from mediation. The Economic Procedure Code state nothing particular about neither mediation agreement's breach consequences nor how parties shall act so that mediation agreement can be enforceable without starting the court litigations. Professor M. Mamasiddiqov explained that mediation agreements become enforceable when the competent court approves them. However, no separate rules of such approval is mentioned in the legislation, except in practice, in-court mediation agreements' are being approved during the court litigation procedures. In consequence, in Uzbekistan, people refrain from conducting mediation and choosing the court litigations, as mediation might result in losing their time and money in vain when the other party cheat by not voluntarily fulfilling obligations agreed in the mediation agreement. Therefore, I contemplate that the motive of accessing to the Singapore Convention will probably nudge Uzbekistan towards establishing a new mechanism of meditation agreements' enforcement, as Article 3 part 1 of the Convention says as follows: "Each Party to the Convention shall enforce a settlement agreement in accordance with its rules of procedure . . . ."

Mediation was introduced in 2018 in Uzbekistan. So far, only two PhD dissertations have been done on mediation at Uzbek national universities: by Sh. Masadikov and S. Masharipova. (Unfortunately, these papers are not available online; there are might be dissertations done overseas or in a foreign languages, but it was not possible to find them online.) Both of these PhD dissertations mainly give basic and general overview of the mediation processes in Uzbekistan that no particular or narrower field of mediation was discussed thoroughly. In addition to these, there are some articles concerning Uzbekistan's accession to the Singapore Convention on Mediation, but similarly, they also lack sufficient academic analysis of why and how Uzbekistan shall become a State party of the Convention. Further studies in this regards are on a very urgent demand and shall not be postponed.

According to news, in 2019, the authorized delegates of Uzbekistan had participated in the international conference dedicated for signing the Singapore Convention on Mediation. It is said that Uzbek delegation was discussing whether to access to the Convention and making further studies in order to make relevant conclusions. Unfortunately, no information is known publicly concerning the later discussions or attempts on Uzbekistan's accession to the Singapore Convention on Mediation.

Whenever Uzbekistan accesses to the Convention, there will be a good demand for international mediators who are specifically taught for mediation cases which involve foreign elements. I consider they must meet international criteria in regards of their educational background and training. Currently, in Uzbekistan, professional mediators are taught at the Tashkent State University of Law by the Order No. 54 of the Minister of Justice of the Republic of Uzbekistan "On Approval of the Mediator Training Program." This is the only program in Uzbekistan which prepares professional mediators. According to its Appendix's section 2, the training shall exceed 72 hours (roughly 11 days), and during this period, mediators-to-be are taught special themes enumerated on section 7. However, section 7 does not include any classes encompassing international mediation's notion or information about its characteristics and peculiarities. This leads to the situation where even professional mediators of the whole country have no clear understanding about how to deal cross-border mediation cases. Because, mediators who are educated overseas must similarly undergo the same program so

that they can get national certification for becoming a professional mediator in Uzbekistan.

Therefore, I highly suggest to create a new program for training professional mediators based on the international standards and practices, or at least, to add a number of classes to the existing educational programs with the support of international organizations or specialized foreign institutions. In order that Uzbek mediators can have sufficient knowledge on mediating international cases based on the Singapore Convention on Mediation or any other treaties concluded between Uzbekistan and foreign countries. This eventually will result in better exchanging international mediation practices, and enhancing national mediation practices due to job market's selection of the most eager and prosperous mediators.

### **Conclusion**

Uzbekistan stands at a pivotal stage in its legal reform journey. Accessing the Singapore Convention on Mediation offers a pathway to modernizing its alternative dispute resolution framework, enhancing its appeal to foreign investors, and promoting economic growth. The proposed legal reforms are not merely procedural changes; they represent a significant shift toward enhancing mediation procedures' effectiveness. By accessing the Singapore Convention on Mediation, investing in education of international mediators, and better exchanging the mediation practices between the State Parties, Uzbekistan can find its place in the global markets of international mediation and alternative dispute resolution.

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