

## THE ROLE OF A LAWYER IN MEDIATION

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### ANNOTATION.

The implementation of mediator activities by a lawyer on a professional basis, that is, by a person who is formally recognized for providing skilled legal aid, is the subject of this article. Today, this strategy appears to be effective and promising.

**Keywords:** advocacy activity, mediator activity, mediation, law, mediator, lawyer, dispute, lawyer-mediator, parties, professional.

### INTRODUCTION

For decades, mediation has been utilized successfully in interstate relations, between families, neighbors, political parties, professional, religious, and other community groups, and in resolving parliamentary issues.

The creation of a new institution of mediation is one of the most serious legal challenges in Uzbekistan today. This procedure is acknowledged as an alternative to litigation and entails the parties to a dispute negotiating with each other to resolve their differences with the help of an independent and impartial mediator in order to establish a mutually advantageous or mutually acceptable solution. As the number of cases outstanding in the courts grows, society seeks out new ways to resolve disagreements.

State courts, in general, give extensive assistance in the development of alternative conflict resolution methods, as they help to normalize the number of cases in state courts and create the essential conditions for effective justice administration. The successful integration of mediation into the legal system of Uzbekistan is an important job for state and civil society institutions, given the clear need to broaden the dispositive boundaries of the subjects of disputed relations and reduce the overall degree of conflict.

In this regard, we should consider the Law of the Republic of Uzbekistan "On Mediation" ZRU-482 (hereinafter referred to as the "Law "On Mediation"), which was passed on July 3, 2018, and took effect on January 1, 2019 [1]. A mediator's activities may be carried out on a professional or non-professional basis, according to Article 12 of this law. That is, the law stipulates that the parties to the dispute may invite a professional mediator to assist in resolving their disputes. The activities of professional mediators are considered by the developers of the Law on Mediation as the main driving force of mediation, and it is reasonable to assume that the fate of mediation in Uzbekistan largely depends on professional mediators, their availability and quality of work.

The goal of mediation is to assist conflicting parties in resolving their conflicts on their own, meeting their mutual demands, and reaching an agreement that benefits both parties equally. The demand for mediation in society has resulted in the creation of a new profession in the world: mediator. Simultaneously, the question of whose specialties and areas of activity fit under the category of professional mediators arises. There are no limitations in the Law on Mediation in this regard. A person who has completed a special training course on the training program of mediators approved by the Ministry of Justice of the Republic of Uzbekistan can carry out the activities of a professional mediator, according to the second part of Article 12 of the Law.

It is in this context that a lawyer, a professionally acknowledged topic of qualified legal help, acting as a professional mediator is of interest, both conceptually and practically. The activity of a mediator is not a business activity, according to the sixth section of Article 12 of the Law on Mediation. There is no conflict of interest in the operations of a lawyer-mediator because the mediator acts concurrently in the interests of all parties to the dispute and does not undermine the parties' interests. However, the lawyer-mediator must be completely impartial in this regard, meaning that he must not provide any legal or other aid to any of the parties individually.

The Republic of Uzbekistan's legislation does not prohibit lawyers from engaging in mediation activities. A lawyer has the authority to operate as a patent attorney and mediator, according to the third paragraph of the third part of Article 3 of the Law of the Republic of Uzbekistan "On Advocacy," which was adopted on December 27, 1996. As a result, the lawyer's mediation efforts are only permitted in the context of advocacy [3]. Based on this concept, it should be underlined that, because advocacy is a lawyer's professional activity, a lawyer's role as a mediator can only be performed on a professional basis. Professional mediators in the legal community - experienced lawyers with high standards of business ethics - are especially important in today's world.

As a representative or advisor, a lawyer's role as a mediator has the following characteristics: a separate area of advocacy is related to an in-depth analysis of the contradictions and relationships of disputes on various topics; the special role of the lawyer as an independent and impartial mediator who assists the parties in finding mutually beneficial or mutually acceptable conditions for resolving the dispute; the special role of the lawyer as an independent and impartial mediator who assists the parties in finding mutually beneficial or mutually acceptable conditions for resolving

Given these characteristics, the lawyer's job as a mediator can be defined as a completely new type of lawyer [4].

For lawyers, mediation is vastly different from traditional litigation. Judges resolve disputes in court by issuing judgements that are binding on the parties and can be enforced. The lawyer should not only consider the specifics of the legal regulation of the parties' relationship and their legal status in the dispute when performing mediation activities, but also assist the parties in finding appropriate legal solutions to resolve disputes in terms of coordination of interests. Negotiations reflect the essence of mediation. The ability and experience of the lawyer-mediator, as well as the willingness and will of the parties to resolve the conflict, are

critical to their success. The role of mediators is to assist in the resolution of difficulties, conflicts, and disputes that have developed. The lawyer-major mediator's role is to ensure mutual understanding between the parties, to find and aid in realizing the potential of settling the problem under conditions that are acceptable to all participants. The attorney-mediator makes every effort to make the situation, as well as the parties' interests, wishes, sentiments, and demands, first stated, then heard, and lastly understood by all parties. Only then, at the request of a lawyer-mediator, would the evidence be reviewed and a joint decision, i.e., a solution to the conflict that is acceptable to all parties, be produced. This procedure not only aids in the resolution of conflict and the unpleasant feelings that accompany it, but it also aids in the formation of new agreements based on future trust.

The mediator does not make any decisions on the merits of the dispute, which is the main distinction between mediation and the judicial approach of protecting the parties' rights in state courts. All choices are made by mutual agreement of the parties during mediation, and both parties are required to voluntarily comply with the decisions made jointly by them, i.e. the parties are responsible for the final agreement. As a mediator, a lawyer provides broad mediation guidelines and encourages the parties' reconciliation, but does not identify the problems being discussed, indicate the direction of conversation, or describe the parameters of conflict resolution.

There is now international experience with lawyers undertaking alternative methods, such as lawyer mediation. Lawyers and attorneys in nations where the direction of conciliation is well developed regard assistance in the resolution of legal conflicts to be their right, and they are actively expanding this new legal practice [5]. As a result, instead of litigating, some of them focus on negotiation, mediation, and other alternative procedures. Lawyers' engagement in the resolution of legal disputes is widely seen as a natural component of their job.

The spread of mediation in the Republic of Uzbekistan, as well as lawyers' acquisition of mediation skills and the professional implementation of mediation operations, is unavoidable. The speed with which these events occur is critical. As previously said, a lawyer's performance as a mediator is a very promising type of advocacy action.

The participation of a lawyer as a mediator in resolving a dispute, in addition to performing the general duties of a mediator, also means providing them with qualified legal assistance. However, the peculiarity of this case is that legal assistance is provided by a lawyer-mediator as an independent and impartially qualified lawyer to all parties to the dispute.

In carrying out the activities of a mediator, the professional knowledge and skills of a lawyer shall be exercised in a radically different way from the practice of advocacy in favor of one of the parties.

The lawyer-mediator as a subject of qualified legal assistance - provides the parties with the legal nature of the mediation procedure, its difference from other alternative procedures and litigation, the mediation process, the legal consequences of reaching a conclusion on mediation, concluding or not concluding a mediation agreement; explains the procedure for execution of the mediation agreement, including the procedure for enforcement.

The main difference between the mediation process and the judicial form of protection of the rights of the parties in state courts is that the mediator does not make any decisions on the

merits of the dispute. During mediation, all decisions are made by mutual agreement of the parties and both parties are obliged to voluntarily comply with the decisions taken jointly by them, i.e. the parties themselves are responsible for the final agreement. As a mediator, a lawyer provides general guidance on mediation, facilitates reconciliation of the parties, but does not define the issues under consideration, does not indicate the direction of discussion, and does not specify the terms of dispute resolution.

Today, there is a foreign experience of lawyers performing alternative procedures, including mediation by lawyers. In countries where the direction of conciliation is significantly developed, assisting in the resolution of legal disputes is usually considered by lawyers and attorneys as their right, and they are actively developing this new legal practice [5]. As a result, some of them specialize in negotiations, mediation, and other alternative procedures instead of litigation. The participation of lawyers in the resolution of legal disputes is recognized as a natural element of their professional activity.

The spread of mediation in the Republic of Uzbekistan, the acquisition of mediation skills by lawyers and the implementation of mediation activities on a professional basis are inevitable. How fast these events happen is very important. As noted above, a lawyer's performance as a mediator should be assessed as a very promising type of advocacy activity.

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Finally, it's worth noting that a lawyer's job as a mediator is a relatively new and promising sort of advocacy action. As a result of this responsibility, mediation entails a completely different type of help supplied by a lawyer, taking into account the new function that the lawyer may play as well as the procedure and norms of involvement of the lawyer-mediator. However, a lawyer-aid mediator's is typically legal, and it is advised that a lawyer take an assignment to assist in the resolution of conflicts as a mediator only in legal issues. Today, a lawyer with the professional authorization to operate as a mediator on a professional basis, as provided by the Law "On Mediation," conducts mediation activities in an effective and promising manner.

**FOOTNOTES / QUOTES / REFERENCES**

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