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Distinctive Aspects of Settlement Agreements and Mediation Agreements

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Abstract: In the current process of legal reforms, there is a growing focus on alternative methods for resolving civil and economic-legal disputes. Specifically, in the Republic of Uzbekistan, the practice of peacefully settling disputes through mediation and settlement agreements, both before and during court proceedings, is gradually taking shape. Both approaches aim to resolve disputes and disagreements between parties constructively and on a legal basis. While they share some common aspects, they also have significant differences in terms of their legal nature, form, legal force, and application procedures. This article thoroughly examines the regulatory and legal foundations of settlement agreements and mediation institutions, their differences and similarities, practical applications, and legal outcomes. It also explores the opinions and reflections of national and international legal scholars on this topic. The effective application of these institutions is also analyzed through the examples of advanced practices from foreign countries such as the USA, Germany, Russia, and Kazakhstan. The article explores the impact of settlement agreements and mediation agreements on civil and economic court proceedings, highlighting their role in simplifying litigation processes and swiftly restoring the rights and interests of citizens and entrepreneurs. Additionally, the article presents proposals for improving legislation in this area.

Key words: settlement agreement, mediation, mediation settlement, alternative dispute resolution, court, foreign experience.

Introduction

In the context of today's globalization and the increasing complexity of economic and social processes, a rise in the number of conflicts in legal relations is being observed. In particular, emerging contradictions in civil and economic-legal spheres, the need for legal requirements, and the necessity to balance the mutual interests of parties demand new approaches. In such conditions, alternative dispute resolution methods - specifically, the institution of dispute resolution through settlement agreements and mediation - stand out for their relevance.

That is why our people have always preferred the expression "And wolves must be full up and sheep is safe" to resolve disputes through compromise and agreement. In recent years, within the framework of reforms in the legal system of the Republic of Uzbekistan, special attention has been paid to these alternative mechanisms. In particular, the adoption of the Law "On Mediation" and the corresponding amendments and additions made to the Civil and Economic Procedural Codes serve to reduce the workload of courts and provide prompt and effective protection of the legal interests of citizens and entrepreneurs. However, the differences between mediation and settlement agreements, as well as their practical application, are still not fully clarified and are sometimes misunderstood. This article, arising from this need, aims to comprehensively analyze the specific aspects of settlement agreements and mediation agreements, compare them, examine their regulatory and legal foundations, and explore the experience of foreign countries. The article analyzes scientific and theoretical approaches in this field, peculiarities of legislation, and practical implementations, while broadly illuminating the role and significance of these institutions within the judicial system.

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The object of the research is the theoretical foundations of settlement agreements and mediation agreements, the necessity of their legal differentiation, and their effective application. This approach serves, on the one hand, to simplify civil and economic proceedings, and on the other hand, to enhance social stability and legal culture.

Methods in this article uses analytical-analytical, comparative (comparative-legal), system-functional approaches, formal-legal, empirical (practical), and normative-analytical methods.

Results Settlement agreements and mediation agreements play a crucial role in protecting the rights and legitimate interests of citizens and entrepreneurs, as well as in optimizing the caseload in courts by resolving disputes through mutual negotiations. According to the Resolution of the Plenum of the Supreme Economic Court of the Republic of Uzbekistan dated December 18, 2009, "On Certain Issues of the Application of Procedural Law Norms by Economic Courts in Approving Settlement Agreements," a settlement agreement is defined as a written agreement between parties to resolve a dispute, based on mutual compromise, aimed at achieving clarity regarding the claim or claims. The superiority of settlement agreements over court decisions lies in their greater educational impact on the parties involved in the dispute. This is because settlement agreements are based on the parties expressing their own will to resolve the conflict peacefully, which reduces problems associated with enforcing court decisions. Court rulings that approve settlement agreements are typically carried out voluntarily{1}. According to the Law of the Republic of Uzbekistan “On Mediation”, mediation is a method of resolving a dispute with the assistance of a mediator, based on the voluntary agreement of the parties to reach a mutually acceptable solution {2}.

A mediation agreement is an agreement reached by the parties involved in mediation as a result of applying the mediation process. These institutions represent an alternative method of dispute resolution aimed at resolving conflicts through negotiations and conciliation {3}. In accordance with the Economic Procedural Code and the Civil Procedural Code of the Republic of Uzbekistan, a settlement agreement or a mediation agreement may be concluded in any case in a claim procedure.

According to statistics, in 2020, economic courts reviewed 104,331 economic cases, of which settlement agreements were concluded and approved by the court for 860, and claims were left without consideration due to the conclusion of a mediation agreement for 441 cases {4}. Only in the economic courts of the Republic of Karakalpakstan, claims were dismissed due to the parties reaching a mediation agreement in 132 cases in 2023, 70 cases in 2024, and 3 cases in 1 month of 2025. When analyzing these cases by categories, 71 cases (34.6 percent) are related to credit agreements, 30 cases (14.6 percent) - to contract agreements, 29 cases (14.1 percent) - to contracts for the supply of products, 15 cases (7.3 percent) - to contract agreements, as well as claims arising from contracts for the purchase and sale, leasing, futures, paid services, lease, utilities, loans, insurance, freight transportation, and others. Although statistical data confirm the increase in the use of conciliation procedures in court, alternative dispute resolution methods are still insufficiently popular in economic court proceedings.

Discussion According to Article 130 and Article 166 of the Economic Procedural Code {5} and the Civil Procedure Code {6} of the Republic of Uzbekistan, the court takes measures for the reconciliation of the parties, assists them in resolving the dispute at all stages of economic and civil proceedings. The parties may resolve the dispute by concluding a settlement agreement or a mediation agreement. A settlement agreement or mediation agreement may be concluded in any case in a claim procedure.

A settlement agreement may be concluded by the parties at any stage of economic and civil proceedings and during the execution of a judicial act. A mediation agreement, however, can be concluded in a court of first instance before the court retires to a separate room (deliberation room) to issue the judicial act.

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A settlement agreement is considered concluded after it has been approved by the court. The settlement agreement must be drawn up in writing and signed by the persons who concluded the agreement or their representatives. The settlement agreement must contain provisions on the terms and deadlines for fulfilling the obligations agreed upon by the parties. Fulfillment of obligations assumed by the parties under the terms of the settlement agreement cannot make the parties dependent on each other or on other events (actions). The settlement agreement may specify conditions for the deferral or installment payment of obligations by the defendant, for the assignment of the right of claim, for the full or partial assignment or acknowledgment of debt, for the distribution of court costs, and other conditions not contradicting the law.

According to some legal scholars, a settlement agreement is defined as the termination of legal proceedings based on mutually agreed, acceptable, and specific terms by the parties from an economic process perspective. S. Moiseev opines that a settlement agreement is a procedural action of the parties aimed at terminating judicial proceedings and voluntarily resolving the substantive legal dispute. It is approved in the appropriate manner by the arbitration court and leads to the termination of proceedings.

The settlement agreement must be clear, understandable to all parties, and concluded within the scope of the claim. It should not create any difficulties in the process of its execution. Upon approval of the settlement agreement, the court issues a ruling indicating the termination of the economic case.

The settlement agreement is drawn up and signed in one more copy than the number of persons who concluded it. One of these copies is attached to the case materials.

The operative part of the ruling on the approval of the settlement agreement must indicate:

1. terms of the settlement agreement;
2. conclusion on the approval of the settlement agreement;
3. distribution of court costs;
4. information on the termination of proceedings in the case.

The court refuses to approve a settlement agreement if:

1. its terms contradict the legislation;
2. its terms affect the rights and legitimate interests of third parties;
3. it is formed on the basis of a condition.

The settlement agreement must contain:

- the rights and obligations of the parties within the scope of the dispute;
- amount of the obligation;
- the term for fulfilling obligations to each other or to third parties;
- a provision on the distribution of court costs of the parties in the course of proceedings.

In case of non-fulfillment of the terms of the settlement agreement approved by the court, the decision to approve the specified act is subject to compulsory execution. As a result of his conclusion, time and money are saved for the court and the parties. The parties shall independently resolve the dispute on mutually beneficial terms, and friendly relations shall be maintained between them.

In the Republic of Kazakhstan, a settlement agreement may be concluded at any stage of the process. If a settlement agreement is concluded between the parties and it is approved by the court, the court

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terminates the proceedings in the case. In the event of termination of proceedings in the case, a second appeal to the court on the same parties, on the same subject, and on the same grounds is not permitted.

The mediation agreement is submitted to the court as a separate document and is attached to the case, which is indicated in the minutes of the court session. Before accepting the plaintiff's withdrawal of the stated claims or approving the settlement agreement of the parties, the court explains to the plaintiff or the parties the consequences of performing the relevant procedural actions. On accepting the plaintiff's withdrawal of the stated claims or on approving the settlement agreement of the parties, the court issues a ruling {7}, simultaneously terminating the proceedings with this ruling. If the claimed claims are recognized by the defendant and accepted by the court, a decision is made to satisfy them. In the event that the court does not accept the defendant's acknowledgment of the stated claims or refuses to approve the settlement agreement of the parties, the court issues a ruling on this and considers the case on the merits. A mediation agreement is a written agreement concluded with the assistance of a mediator, as a result of the mediation procedure, and aimed at resolving the dispute based on the interests of the parties. Also, attention should be paid to the fact that a claim cannot be withdrawn through a mediation agreement, that an agreement on the implementation of the mediation procedure is necessary for the conclusion of a mediation agreement, and that a mediation agreement cannot be signed with a facsimile signature.

Sh. Masadikov defines mediation as a method of resolving a dispute between the parties with the help of a neutral mediator, who contributes to reaching a mutually acceptable agreement for the parties and does not have the right to make a decision. According to legal scholar F. Otakhonov, mediation is the principle of resolving a dispute through free negotiations between parties with the participation of an impartial person - a mediator (intermediary) in order to achieve mutual understanding and conclude an agreement that resolves the disputed situation. V. Lisisin argues that mediation, by its legal nature, does not lead to the resolution of the dispute; the purpose of mediation is different, that is, the resolution of the dispute. H. Zillessen defined mediation as "a social tool that can be used in any conflict of interest between several opposing parties." The researcher attaches great importance to the use of trained mediation specialists for neutral dispute resolution.

According to lawyer K. Khaptala, "in mediation, the most important thing is that power over the dispute is given to conflicting individuals." The purpose of mediation is to help the disputing parties find an opportunity to resolve their disputes independently, on mutually beneficial terms, and its main principles include equality of the parties, voluntariness, impartiality of the mediator, confidentiality, and neutrality. The mediation process consists mainly of negotiations, the success of which depends not only on the desire and will of the parties to resolve the disagreements, but also on the experience and skills of the mediator.

Therefore, we will analyze the differences between these two institutions separately as follows:

firstly, a settlement agreement can be concluded by the parties at any stage of court proceedings (even at the stages of consideration of cases in appellate and cassation instances) and during the execution of a judicial act, and a mediation agreement in the court of first instance before the court retires to a separate room (deliberation room) to accept the judicial act;

secondly, the settlement agreement is considered concluded after its approval by the court{12}, and the mediation agreement does not require approval;

thirdly, the approval of a settlement agreement by the court is grounds for termination of proceedings in the case, therefore, repeated appeals to the court on a dispute between the same persons, on the same subject, and on the same grounds are not allowed. If a mediation agreement is concluded between the parties, the statement of claim is left without consideration, in which case the plaintiff has the right to reapply to the court with a statement of claim in the general procedure;

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Fourthly, failure to fulfill the obligations stipulated by the settlement agreement between the parties entails legal consequences. Therefore, the settlement agreement must specify the conditions and terms for the fulfillment of obligations, and the settlement agreement may also specify conditions for the deferral or installment payment of obligations by the defendant, for the assignment of the right of claim, for the full or partial assignment of debt (penalty) or for the recognition of debt, for the distribution of court costs, and other conditions not contradicting the law. Failure to execute the settlement agreement in the manner and within the time limits established therein is grounds for the court to issue a writ of execution upon the application of the interested party. In a mediation agreement, however, although the parties agreed to fulfill certain obligations, it does not entail any legal consequences. Accordingly, in case of non-fulfillment of the terms of the mediation agreement, the parties have the right to reapply to the court{13};

fifthly, if the settlement agreement does not contain a condition on the distribution of court costs, the court, when approving the settlement agreement, resolves this issue in the general procedure. If a mediation agreement is concluded between the parties, and the statement of claim is left without consideration, the state duty paid in advance upon filing the statement of claim is returned to the plaintiff;

sixth, the settlement agreement is considered concluded after its approval by the court, that is, upon the issuance of a court ruling on the approval of the settlement agreement. The mediation agreement does not require court approval{14}.

seventh, in the event of a mediation agreement between the parties and the dismissal of the statement of claim without consideration, the state duty paid in advance upon filing the statement of claim is returned to the plaintiff, and if the state duty was exempted upon filing the statement of claim, and the payment of the state duty was delayed, the state duty is not collected from the parties. Upon termination of proceedings in court due to the conclusion of a settlement agreement by the parties, business entities and citizens are refunded 70% of the state duty paid in the court of first instance and 30% of the state duty paid in court on appeals and cassation complaints.

The following court cases outline situations where settlement agreements and mediation agreements cannot be concluded:

Settlement agreements or mediation agreements are not permitted in cases concerning the application of legal enforcement measures.

Settlement agreements or mediation agreements are not allowed in cases involving the return of arbitrarily occupied state-owned land plots or the demolition of unauthorized constructions.

It should be particularly emphasized that these methods of dispute resolution are rarely used in practice. Developing a legal mechanism that encourages the formation of settlement agreements and mediation agreements should help expedite dispute resolution and facilitate the implementation of such agreements. Courts should also suggest these options to the parties and explain their advantages.

When covering this article, it is also appropriate to analyze the experience of foreign countries.

In England, mediation is considered the strongest form of effective incentive for the parties, and the rules provide for broad freedoms in sending a payment order to the person to whom the court refused, if one party unreasonably refuses mediation.

In England, mediation is not regulated by any legal norms, it is an initiative of theorists-lawyers, law enforcement agencies, and the public, who are inclined to experiment in this way. Therefore, there are many types of mediation here, depending on local characteristics.

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When analyzing the areas of application of mediation **in Spain,** it is found that in this country, mediation is used only in civil and commercial disputes (including family and small claims cases), as well as in administrative, labor, consumer-related disputes, and criminal cases{17}.

As a result of mediation, the parties draw up a mediation agreement and a protocol, which are then signed by the parties and the mediator.

In Japan, the system itself (alternative dispute resolution) is classified into judicial, administrative, and private ADR procedures. This classification was made depending on the organizations implementing ADR{18}.

In Japan, there are institutions of mediation (assen, mediation), arbitration (chusay, arbitration), and conciliation (choutey, conciliation).

In Singapore, all disputes related to a child are subject to mandatory mediation. In particular, in cases of divorce disputes, if the spouses have children under the age of 21, mandatory mediation is required. Mediation can be carried out free of charge in court and for a fee in a private center. Mediators were allocated based on the register's specialization for labor disputes, family, construction, and other matters.

In Georgia, a mediation court has been established, which covers civil disputes. If the dispute relates to family matters (except for disputes on adoption, deprivation of parental rights, violence against women), inheritance disputes, and disputes between neighbors, the judge may refer the dispute to mediation with the consent of the parties or by force. After the mediation process, the parties have the right to appeal to the court.

In France, mediation is voluntary, since the parties must give consent to mediation, and if consent is given, the court will make a decision, and in the future, the parties will participate in the mandatory mediation process. At the same time, in France, claims received by the court are first submitted to the conciliation department in a mandatory manner, and this dispute is resolved in a closed court session on the basis of an agreement. Representatives elected from both sides participate in the conciliation department, directing their activities towards the termination of the case on the basis of an agreement. In this process, a simplified method of formalizing the reached settlement agreement is used, that is, the settlement agreement of the parties is formalized by a protocol that has the same force as a court decision, witnesses are not involved in the case at this stage, and the evidence available in the case is not examined and evaluated by the court.

Conclusion

In conclusion, the settlement agreement and the mediation agreement represent a certain social value as a legal institution, therefore, its study is of both theoretical and practical importance in order to identify errors made by the courts and improve the legislation regulating this institution. The institution of a settlement agreement and a mediation agreement serves as a legal basis for resolving disputes arising between the parties through mutual agreement, diplomatic means, and serves to resolve the disputed situation through compromise. In addition, one of the most optimal ways to widely involve the institution of mediation in the resolution of disputes for the further development of these institutions is the need for large-scale advocacy work. It is necessary to conduct extensive promotional work in the media about this institution, that is, to prepare a video revealing the positive aspects of the settlement agreement and mediation agreement, and through this video, to increase confidence in mediation in the minds of the parties to the conflict. These events should be widely covered on local television, radio, in newspapers, and online publications.

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