



**INSTITUTE OF MEDIATION-AS A FAMILY DISPUTE SOLVER**

D. M. Teshayev

Master Student Department of Social work

National University of Uzbekistan

E-mail: doniyorteshayev1994@gmail.com

**Abstract**

This scientific study provides detailed information about the new institution of mediation aimed at preventing family conflicts and divorces, analyzes the historical stages in the development of the use of mediation, the experience and practice of advanced foreign countries in the use of mediation, as well as the benefits of the practice of mediation. The research work describes the content of the Law of the Republic of Uzbekistan "On Mediation". In addition to the priorities of the mediation institute, the tasks that need to be completed in Uzbekistan in order to effectively organize the activities of the institute are also outlined.

**Keywords:** Mediation, family, family conflicts and divorces, voluntariness, confidentiality, foreign experience, mediation law, benefits and tasks.

**Introduction**

If in ancient times there was a dispute in any family, seed, neighborhood, then the age of that seed or neighborhood was great, all respected members of the community tried to reconcile the parties to the conflict, to reform between them, to peacefully resolve the conflict, and this practice has remained to this day.

In a time when mankind, living together and living together, will certainly face controversial, contradictory situations. In this case, a third party will participate in the reconciliation of the parties to the dispute and to some extent will contribute to the restoration of mutual relations. This process is called mediating in the literature of the present period, and this is attracted on the basis of voluntary consent of the parties.

The term mediator - (latin, "mediator"- "mediator") is a term that is characteristic of the field of physiology, chemistry, is distinguished in the effect of nerve impulses, participates in their transition from the nerve end to the working member and from one nerve cell to another. [1]. The term "mediation" in the law of the Republic of Uzbekistan "On mediation" is a method of settlement of the conflict arising from the support of mediators on the basis of their voluntary consent for the parties to reach a mutually acceptable decision; a mediator is a person who is involved by the parties in order to carry out the mediation."[2] Thus, mediation is a technology of out - of-court settlement of disputes with the participation of third parties. The participation of a third party is determined by the activity of the parties to the dispute, which is intended to help find a solution to their controversial issues.



The scope of the use of media in the Republic of Uzbekistan is clearly defined by the law “on Media” adopted on July 3, 2018, which entered into force from January 1, 2019. According to Article 3 of the law, the following applies to the mediation procedures:

- Disputes arising from civil legal relations;
- Disputes arising in connection with the implementation of entrepreneurial activities;
- Individual labor disputes;
- Disputes arising from family legal relations.

Mediatory activity, which arose in the process of eliminating family conflicts, began to develop in the second half of the twentieth century. Originally in the US, it later entered a number of European countries. He also moved from the form of family conflict resolution to conflict situations in other relationships. Today, in the countries of the world, a lot of disputes are solved by this means of roads. If we analyze statistical data, then the reconciliation with the participation of the mediator in most countries of the world is more than 80%. [3]

Mediation is characterized by a number of its advantages over other methods of dispute resolution, in particular, the resolution of disputes in a judicial order:

First, the resolution of disputes through mediation is carried out in a much shorter period of time than the judicial procedure. The problem of the multiplicity of the deadline for the consideration of disputes in the judicial procedure is not relevant only for Uzbekistan. For example, in Italy will take an average of 3 years to review the case in lower-standing courts. If a complaint is filed against the court decision, this period is extended to 10 years. In the UK, 73% of claimants complain that the British judicial system is left out of tradition as well as inefficiency. It will take at least 161 weeks for the courts in London to review the case and 195 weeks for the courts outside the city.

Article 23 of the law "on mediation" stipulates that the mediator and the parties must take all possible measures to ensure that the mediation procedure is completed within a period of not more than thirty days, and, if necessary, the period for the implementation of the mediation procedure can be carried out up to thirty days with the mutual consent of the parties. The longest periods of implementation of this article media are established. International experience shows that in most cases, the duration of the implementation of mediations is one working day, sometimes several hours. In particular, according to the situation on November 30, 2018, more than 90% of the work completed with the structure of a mediative agreement between the parties at the Singapore Media Center was resolved in one working day. [4]

Secondly, the choice is freedom, and the parties to the dispute can apply to an impartial judge (mediator) whom they want on a voluntary basis, in a mutually agreed manner, so that they can compromise. When applying to the court in this case, the civil servant of this territory will consider the issues. However, the fact that the court does not recognize the parties to the dispute when the problem is studied, may not be aware of the real situation. And the mediator may have been a close acquaintance with the problems of the parties, an observer of the conflicting situation. And this aspect helps to solve the problem fairly, to find the root of the problem more. In addition, it is one of the most important characteristics that the mediator takes direct part in the development and adoption of the final decision,



taking acceptable measures on both sides, as well as ensuring that both parties are satisfied with the result.

Thirdly, when mediating procedures are applied, all the information about the operation is kept absolutely secret. Only the parties and their representatives, as well as the mediator, may be aware of the dispute between them and the parties, and they are obliged by law not to disclose this information. In particular, Article 6 of the law of the Republic of Uzbekistan "on Mediation" states that the participants of the mediation do not have the right to disclose the information known to them during the mediation process without the written consent of the mediating party, its legal successor or representative, that the participants of the mediation cannot be questioned as witnesses about the, Article 25 provides that the mediator does not have the right to make transparent statements on the essence of the dispute without the consent of the parties during the application of the mediation, Article 27 stipulates that if the mediator receives information from one of the parties to the mediation, he can disclose this information only with the consent of the party the principle of confidentiality is especially important in family disputes and disputes arising from relations with entrepreneurial activity.

Fourth, in disputes resolved through mediation, an acceptable agreement is reached for both parties. The decision in favor of one party to the dispute, which is seen in the judicial procedure, serves to the detriment of the second party. As a result, seeing a job can stretch for months or even years with appeal, cassation, control procedures. In the application of mediation, the parties may, on a voluntary basis, determine the ways and methods of resolving the dispute through the conclusion of a mediative agreement, the terms of the fulfillment of the obligations established by the agreement, as well as the consequences of non-fulfillment of these obligations. In particular, article 29 of the law "on Mediation" provides that in case the parties reach a mutually acceptable decision on the terms and conditions of execution of the dispute or obligations arising from the results of the implementation of the mediation procedure, the structure of the mediative agreement in written form between the parties, the mediative agreement shall have the force, in the event of non-fulfillment of the mediative agreement, it is established that the parties have the right to appeal to the court asking for the protection of their rights, the consequences of the non-fulfillment of the mediative agreement may be determined by the parties by this agreement itself.

Fifth, the wide spread of the use of media in dispute resolution will be of no benefit to the courts either. The increase in the work volume at the noreal level is a common problem for the courts of all states. In particular, in India, each judge receives 2147 cases. The total number of jobs that need to be considered is 31,280,000 units. The consideration of these cases by the courts of India can be completed by 2330-th year. In the people's Republic of China in 2012, there were more than 200 000 cases in court proceedings. In South Africa, during the 2004-2005-ies, 128 000 claims were brought to the courts, of which 62% were resolved within the same period. In Germany, there are 4771 cases of lower-ranking judges, while 1416 cases of higher-ranking judges are considered in the appellate order. The resolution of disputes through mediation will lead to a significant reduction in the volume of work of the courts. This is also proved by international experience. In particular, 95% in the US, 90% in Germany. In the UK, 90-95% of the disputed cases are resolved before the judicial process. At the time of the



establishment of the Delhi and Bangalore media centers in India, 39 969 cases were considered for two months, while the Dubai Media Center considered 1/3 of the cases in the courts' proceedings for a month using the mediation procedures. It seems that the use of media has a positive impact not only for the parties to the conflict, but also for the courts. [4]

In the Republic of Uzbekistan, the activities of the mediator are organized on a professional and unprofessional basis. In Article 12 of the law "on mediation" it is established that as a professional mediator, a person who has passed a special training course on the program of training mediators, approved by the Ministry of Justice of the Republic of Uzbekistan, and, secondly, is included in the Register of Professional mediators, can operate. On an unprofessional basis, the activities of the mediator can be carried out by a person who is twenty-five years old and agrees to perform the functions of the mediator. Even in the Russian Federation for benchmarking, mediatory activities are carried out on a professional and unprofessional basis. Unlike the Republic of Uzbekistan, Russian legislation sets age requirements for mediators engaged in activities on both bases. In particular, in order for a person in the Russian Federation to be a professional mediator, he must be 25 years of age, have reached the age of 18 to carry out unprofessional mediatory activities and have the full treatment capacity.

In conclusion, as an alternative way of resolving disputes, mediation has been tested in international practice and, with a number of its advantages, has gained a worthy place from the national legislation of the countries of the world. Many countries have adopted their own laws on Mediation and established mediatory centers both within the country and internationally. This can be cited as an example of such countries as Singapore, Great Britain, India. But today, it is making effective use of the opportunities of this new institution in strengthening the family, preventing conflict situations and divorce. About 30 mediators are included in the Register of professional mediators in some regions. also, there is no public awareness of this method of conflict resolution, using mediators.

In today's modern society, along with the development of our lifestyle, family conflicts and conflicts, divorces are also increasing. In the process, it is considered important to increase the role of alternative ways of resolving disputes, in particular, the institution of mediation. In order to increase the effectiveness of work in the direction, it is necessary to perform the following tasks:

- It is necessary to promote the essence and advantages of the institute of media among the population, the general public;
- Who deserves to be mediated on the basis of his specialty, age, work experience and other criteria is not specified in the legislation;
- It is necessary to form the category "Mediator-Judge", which will consider family disputes before the court and in this regard it is necessary to make changes to the Civil Procedure Code of the Republic of Uzbekistan, the Family Code, the law "on courts" and other legal and regulatory documents.

## References

1. O'zbekiston Milliy Ensiklopediyasi, Davlat ilmiy nashriyoti. Toshkent. M harfi, 384-bet.
2. Qonunchilik ma'lumotlari milliy bazasi: "Mediatsiya to'g'risida"gi 2018-yil 3-iyuldagi O'RQ-482-son Qonuni: <https://lex.uz/uz/docs/-3805227>





3. “Медиация как способ разрешения конфликтов”, Электронный вестник Ростовского социально-экономического института. Выпуск № 2 (апрель - июнь) 2016. Лысенко К.Н., магистрант Южно-Российского института управления– филиала РАНХиГС
4. “Mediatsiya nizolarni sudgacha hal qilishning milliy va xorijiy davlatlar tajribasi”- internet nashri: <http://hudud24.uz/mediatsiya-nizolarni-sudgacha-%d2%b3al-%d2%9bilishning-milliy-va-hal%d2%9baro-tajribasi/>
5. Zaitov E. K., Teshayev D. M. Family Conflict and Divorce as A Social Problem //Eurasian Journal of Humanities and Social Sciences. – 2022. – Т. 5. – С. 1-5.
6. ZAITOV E. Retrospective Approach to Scientific Researches on “Orphan hood” at Different Periods //ECLSS Online 2020a. – 2020. – С. 103.
7. Zaitov E. K., Abdukhalilov A. A. Opportunities to improve the system of social protection of graduates of institutional institutions in Uzbekistan //ACADEMICIA: AN INTERNATIONAL MULTIDISCIPLINARY RESEARCH JOURNAL. – 2021. – Т. 11. – №. 1. – С. 1349-1360.
8. Zaitov E. X., Isaxonov J. A. The Main Directions Of Solving The Main Problems Of Young Families In Modern Conditions //The American Journal of Interdisciplinary Innovations Research. – 2021. – Т. 3. – №. 03. – С. 70-74.
9. ZAITOV E. K. THEORETICAL AND METHODOLOGICAL APPROACHES TO SOCIAL WORK WITH DEVIANT YOUTH PRONE TO HARMFUL HABITS //THEORETICAL & APPLIED SCIENCE Учредители: Теоретическая и прикладная наука. – 2021. – №. 12. – С. 1067-1069.
10. Zaitov E. K., Chorieva D. A. Employees of Social Services in Uzbekistan and Their Functions //Eurasian Journal of Research, Development and Innovation. – 2022. – Т. 6. – С. 1-5.
11. Zaitov E. X. et al. "Social monitoring" as a component of the social protection system in the postinstitutional adaptation period //Journal of Critical Reviews. – 2020. – Т. 7. – №. 5. – С. 827-831.
12. Kholmamatovich Z. E. et al. THE ROLE OF GUARDIANSHIP AND TRUSTEESHIP IN THE SOCIAL PROTECTION OF THE INTERESTS OF SOCIALLY ORPHANED CHILDREN //International Engineering Journal For Research & Development. – 2021. – Т. 6. – №. 2. – С. 2-2.
13. Зайтов Э. Х. ИНСТИТУЦИОНАЛ МУАССАСА БИТИРУВЧИЛАРИНИ ЖАМИЯТГА ИЖТИМОЙЛАШУВИНИНГ УСТУВОР ЙЎНАЛИШЛАРИ //Журнал Социальных Исследований. – 2020. – №. SPECIAL 1.
14. Xolmamatovich Z. E., Vaxodirqizi Z. S. The Socio-Economic Essence of the Pension Provision System and its Role in the System of Social Protection of the Population //CENTRAL ASIAN JOURNAL OF LITERATURE, PHILOSOPHY AND CULTURE. – 2021. – Т. 2. – №. 7. – С. 74-76.
15. Zaitov E. K., Fayzullaeva V. A. Theoretical basis of employment of population in Uzbekistan //Asian Journal of Multidimensional Research. – 2022. – Т. 11. – №. 2. – С. 133-138.