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Guram Barnabishvili*

Sophiko Tsiklauri*

Enforcement of the Mediation Settlement in Georgia

The present article reviews the various types of the mediation like court mediation, notary mediation and private mediation and their enforcement mechanisms according to the existing laws and as of the anticipated alterations in the existing legislation of Georgia. At this crucial moment of commencement of judicial regulation of the mediation in Georgia, some recommendations relying on the practices, notary acts, doctrines and researches of the United States, EU countries including the post-Soviet Union countries, are already drafted. The article points out, what may at the first glance seem as a minor issue - the significance of the judicial regulation of the enforcements of the mediation settlements, its role in a prevention of the infringement of the mediation settlement by the parties and growing reliance of society towards the mediation, as a mean of alternative dispute resolution.

Key Words: *court mediation, notary mediation, private mediation, mediation settlement, the mechanism of enforcement of the mediation settlement, legislative initiative, accredited/not accredited mediator, the settlement reached through court/notary mediation, settlement act of court.*

1. Introduction

The mediation is the alternative dispute resolution mechanism which fundamentally differs from other dispute resolution mechanisms like courts

* BA Student at Ivane Javakhishvili Tbilisi State University, Faculty of Law, Intern at TSU National Centre of Alternative Dispute Resolution.

* BA Student at Ivane Javakhishvili Tbilisi State University, Faculty of Law, Intern at TSU National Centre of Alternative Dispute Resolution.

and arbitrations.¹ It stands for the structured negotiation process led by the Mediator – the neutral person chosen by the mutual agreement of the parties.²

The mediation has many advantages compared to the other dispute resolution instruments,³ In particular: confidentiality, economy, time saving, involvement of the parties in the decision-making, consideration of interests of both parties, opportunity of maintaining the relationship between the parties, well-informed decision-making on the basis of self-determination of the parties etc.⁴ These advantages make it more attractive for the conflicting parties. Yes, relying on the principle of voluntariness, the decision achieved through the mediation is more enforceable than the ruling of the court, however, it cannot be excluded that the party may not fulfill the mediation settlement even though it was concluded voluntarily by him/her.⁵ Therefore, if there are no guarantees for enforcing settlements reached through the mediation, every significance of the mediation will be lost. The enforcement mechanism is the main assurance by which a person can defend its rights.⁶

¹ *Zalar A.*, Managing judicial change through mediation - part 1, ADR bulletin, Vol. 6, number 8, art. 3, 02.01.2004, 2, <<http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1267&context=adr>>, [15.12.2017].

² National Center for Alternative Dispute Resolution, Legal Regulations Perspectives of Mediation in Georgia, Tbilisi, 2013, 13 (in Georgian).

³ *Fotiadis I.*, Enforceability of Mediation Agreements in European Union, LLM in Transnational and European Commercial Law and Alternative Dispute Resolution, Thessaloniki, 2013, Abstract, 6, <https://repository.ihu.edu.gr/xmlui/bitstream/handle/11544/269/Leonidas%20Fotiadis_3645_assignsubmission_file_Foitiadis.Leonidas.Dissertation.pdf?sequence=1>, [15.12.2017].

⁴ *Orlando A.*, Advantages and Disadvantages of Dispute Resolution Processes, Blaney McMurtry LLP, <https://www.blaney.com/sites/default/files/other/adr_advantages.pdf>, [15.12.2017].

⁵ *Alfini J.J., McCabe C.G.*, Mediating in the Shadow of the Courts: A Survey of the Emerging Case Law, 2001, Arkansas Law Review, Vol. 54, №2, 2001, 196.

⁶ *Freeman A.*, The importance of being earnest: enforceability of mediation agreements, International Law Office, Australia, 06.11.2012, <<http://www.internationallawoffice.com/Newsletters/Litigation/Australia/Piper-Alderman/The-importance-of-being-earnest-enforceability-of-mediation-agreements>>, [15.12.2017].

For the purposes of accessibility and efficiency of the justice, the mediation, as a new institute⁷, the formation of which is yet to be finished, is been actively implemented in Georgia for the last several years. In our opinion, reasonable definition of enforcement mechanisms considering the existing judicial reality and the worldwide practices, will be one of the main preconditions for the success of this institution.

The purpose of this article is to research the mechanisms of enforcement of the mediation settlements which is given in the Georgian law or which may be implemented by the legislature in the future. The research is oriented to study the types of enforcements of the mediation settlements and by the analyzes of which, to implement the specific recommendations in process of formation of the mediation legal framework for the purposes of insuring the future popularity of mediation.

2. The Institute of Mediation in Georgia

The legal regulation of mediation is the subject of intense discussions between the practicing lawyers, academics and “customers”.⁸ There is no rule on mediation in the existing laws of Georgia, however, there are special types of mediations given in the various normative acts. For the purposes of this article only the court mediation⁹ and notary mediation¹⁰ will be discussed here. Alongside with the latter, the private mediation which, is as of today, is not regulated by the law, will also be discussed in this article. Therefore, the conflicting parties do not have any legal guarantees in order to defend the positive sides of the mediation. For example, parties are having questions towards the confidentiality principle, they may lapse the limitation period for the claim, since no suspension of running of the limitation is provided by the law during the mediations process (except the court mediation) and decision achieved through the mediation has no enforcement guarantees.

⁷ *Tsuladze A.*, Georgian Model of Court Mediation in Euro-American Prism, Publishing of University, Tbilisi, 2016, 7 (in Georgian).

⁸ National Center for Alternative Dispute Resolution, Legal Regulations Perspectives of Mediation in Georgia, Tbilisi, 2013, 22 (in Georgian).

⁹ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14. 11. 1997, XXI¹.

¹⁰ Law of Georgia on Notary, Legislative Herald of Georgia, 04.12.2009, 38¹.

Taking into the account the abovementioned circumstances, it is highly welcomed, that working on the new “Law on Mediation” began on spring 2016 within the joint project group of European Union/ EU4 Justice and the United Nations Development Program/UNDP, with the active involvement and financial aid of the USAID/PROLoG and German Society for International Cooperation (GIZ). The workgroup consisted of Court authorities, Ministry of Justice, Association of Mediators, academics and the representatives of the international organizations given above. It should be noted that by the request of the Ministry of Justice and with the assistance of the USAID/ PROLoG and GIZ, the expert opinion on the draft law was concluded by the Slovenian expert Alesh Zalar, who has assessed the last version of the draft law as laws corresponding to the European and international standards of the mediation which ensures the existence of the modern platform for the purposes of development of mediation. As a result, as of today, there is a draft law on “Law on Mediation” and the related amendment bill (hereinafter – legislative initiative).

Therefore, we deemed it is highly appropriate to research the enforcement mechanisms of court mediation, notary mediations and private mediation according to the existing law as well as according to the legislative initiatives. In order to demonstrate the findings of the research more precisely the different types of the mediation will be discussed separately.

3. The Definition of Court Mediation and the Enforcement of the Achieved Settlement

3.1 The Definition of the Court Mediation¹¹

“The level and intensity of involvement of the legislative authorities in the process of mediation differs from state to state”.¹² One of such types of mediation is the court mediation which was added to the Civil Procedure Code of Georgia as a Section XXI1 – “Court Mediation” on 20th of December 2011 and came into force on 1st of January 2012. According to the article 1871 after a claim has been filed with the court, a case that falls within the jurisdiction of a judicial mediation may be transferred to a mediator (a natural or legal person) in order to conclude the dispute by a settlement between the parties.

The definition of court mediation is not given in the Civil Procedure Code of Georgia. Only the occasions in which the case is transferred or may be transferred to the court mediation are given in the Code. The court mediation may be mandatory for the parties in case of disputes on family matters (except the exceptions given by the law) inheritance disputes and neighborhood disputes. In this case the court is entitled to transfer the case to the mediation without the prior consent of the parties. Any dispute may be transferred to the mediation in case of mutual consent of the parties.¹³

¹¹ Compare: *Ervo L., Nylund A.*, The Future of Civil Litigation: Acces to Courts and Court-annexed Mediation in the Nordic Countries, Springer International Publishing Switzerland 2014: Chapter 5, *Von Bargen J.M.*, In-Court Mediation in Germany: A basic Function of the Judiciary, 77; Chapter 7, *Ervasti K.*, Court-Connected mediation in Finland: Experiences and Visions, 121; Chapter 8, *Dahlqvist A.*, Mediation in the Swedish Courts: Change by Eu DirecTive?, 137; Chapter 9, *Adrian L.*, Court-Connected Mediation in Danish Civil Justice: A Happy Marriage of a Strained Relationship, 157.

¹² National Center for Alternative Dispute Resolution, Legal Regulations Perspectives of Mediation in Georgia, Tbilisi, 2013, 62 (in Georgian).

¹³ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14. 11. 1997, 187³.

3.2. Enforcing Agreement Reached by Court Mediation According to the Existing Legislation

According to Georgian Civil Procedure Code, if a dispute is resolved amicably between the parties within the statutory period established for judicial mediation, the court shall, on the petition of a party, deliver a ruling on the amicable settlement between the parties.¹⁴ As we see, agreement reached by the court mediation is found by the ruling regarding terminating the proceedings where the court in detail and comprehensively determines the settlement terms of the parties.¹⁵ It is evident that agreement reached by court mediation legally equals to court settlement.¹⁶ Therefore, in order to enforce agreement reached by court mediation, we shall use rules established for parties settlement. It is important that the judge confirms the terms established by the settlement of court mediation. Unambiguously, this represents the violation of confidentiality principle in mediation.

If proceedings are terminated, another claim concerning the same parties, the same subject and the same grounds may not be filed with the court¹⁷ which excludes opportunity to refer to court in case of reaching agreement in court mediation. Additionally, if a dispute is resolved amicably between the parties, the ruling of the court shall be final and may not be appealed.¹⁸ This all gives the chance to enforce while maximally saving the time. The debtor will not have any chance to protract time or avoid enforcement.

Due to all above-mentioned, we may say that in case of court mediation, parties' expectations are unambiguously satisfied regarding saving time da minimizing the costs. Such regulation has the preventive role to fulfill

¹⁴ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14. 11. 1997, 187⁷(1).

¹⁵ *Lilushvili T., Khrustali V.*, Commentaries to Georgian Civil Procedure Code, second modified and corrected publication, Tbilisi, 2007, 374 (in Georgian).

¹⁶ Compare: *Zalar A.*, Managing judicial change through mediation - part 1, ADR bulletin, Vol. 6, number 8, art. 3, 02.01.2004, 8, <<http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1267&context=adr>>, [15.12.201].

¹⁷ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14.11. 1997, 273(2).

¹⁸ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14.11. 1997, 187⁷(1).

the agreement – the parties acknowledge that they will not be able to avoid fulfilling obligations.

It should also be noted that the will of the party is not taken into the account while enforcing the court mediation settlement. Latter settlement is confirmed by the ruling of the court (on settlement of the dispute) which makes it automatically enforceable without the will of the parties. This of course represents the limitation of the voluntariness principle of the mediation and is not in line with the EU requirements as well – the state shall ensure the mediation settlement to be enforceable only in case of mutual consent of the parties.¹⁹

3.3. The Definition of Court Mediation under Legislative Initiative and the Enforcement of the Achieved Settlement

The approach towards the court mediation is fundamentally changed according to the legislative initiative. In the first place it should be noted that the definition of the court mediation is given as follows – The court mediation is the type of mediation which is executed only after filing claim and transferring it to the mediation by the court according to the Civil Procedure Code of Georgia. It should be taken into the account that the court mediation is also the type of mediation and the “Law on Mediation” is applicable law considering the peculiarities of the Civil Code of Georgia.

According to the legislative initiative, the agreement achieved through the mediation is called the mediation settlement and it is distinctive from the court settlement.²⁰ This difference causes the creation of the different rule of enforcement of the court mediation settlements. In the first place it should be noted that the enforcement of the court mediation settlement depends on the agreement achieved between the parties.²¹

According to the legislative initiative, in case of achieving the mediation settlement the court terminates the proceedings by its ruling relying on the

¹⁹ Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters, 21.05.2008, Art 6.

²⁰ *Zalar A.*, Managing Judicial Change Through Mediation, part 1, ADR bulletin, Vol. 6, number 8, art. 3, 02.01.2004, 8, <<http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1267&context=adr>>, [15.12. 01].

²¹ Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters, 21.05.2008, Art 6.

mutual petition of the parties or on its own initiative and this forbids the further admission to the court for a dispute between the same parties, on the same subject and on the same grounds.

It would be interesting case if the parties will not consider enforcement in their court mediation settlement. In this case the court proceedings will be terminated, thus, the parties will not be able to have a dispute in the court on the same subject and on the same grounds. In the cases like this, the mediation settlement will be deemed as a written agreement according to the Civil Code of Georgia, therefore, the parties will have a dispute infringement of the terms of the agreement according the Civil code and Civil Procedure Code of Georgia. All this is derived from the teleological definition of the rule. However, it would be better if the above given way of solving the issue would be directly defined by the rule.

It should be noted that the legislative initiative does not oblige and even does not give the court a right to approve the court mediation settlement. Consequently, the confidentiality of the court mediation is more protected. The court will review the content of settlement only in case if it would be necessary to enforce it. Therefore, relying on the confidentiality it is more likely that the parties will try to voluntarily fulfill the obligations given in the settlement terms. It should also be noted that the court will not enforce the court mediation settlement if the terms of such settlement are contradicting with the laws or the public policy of Georgia or it is impossible to be enforce due to the content of the settlement.

According to the legislative initiative the court is entitled to hear the issues of enforcement of the court mediation settlement in case of petition of one or both parties. The petitioner shall submit the original and the certified copy of the court mediation settlement. The matter of enforcement of the court mediation settlement shall be heard in 10 days from the receiving the petition, by the same court which has transferred the case to the mediator. These matters are heard without the oral hearing, however, for the purposes of examination of the circumstances of the case the court may order the oral hearing.

4. The Definition of Notary Mediation and the Enforcement of the Achieved Settlement

4.1. The Definition of Notary Mediation

Many public notaries around the world combine the role and function of the mediator.²² According to the amendment of 16th of March 2016 in the law of Georgia on Notary System article 381 – “The notary mediation” was added which came into force on 1st of July 2012. The notary mediation is the process of dispute resolution of the private law, where parties voluntarily or, in cases specified by the law, mandatorily are negotiation on the disputed issues with the help of one or more mediators in order to achieve the agreement.²³

The notary mediation may be executed on any kind of dispute if the special rule does not specify the particular terms of execution of the mediation. The exceptions from the above given rule are family disputes (except for disputes related to adoption, annulment of adoption, revocation of adoption, restriction of parental rights) inheritance disputes and neighborhood disputes.²⁴ These are the subject to the court mediation,²⁵ which are permitted by the legislature to be carried out by the notary mediation as well.

The notary mediations shall be carried out by protecting the principles of independence and impartiality of the mediator, self-determination of the parties, voluntariness and equality of the parties.²⁶ Herewith the mediations is confidential – the mediator notary and the parties do not have the right to disclose the information which has become known to them in the process of mediation. This rule does not apply if parties have agreed otherwise or

²² *Schonewille F., Euwema M.*, Mastering Mediation Education, Maklu, Antwerpen/ Apeldoorn/Portland, 2012, *Lesseliers V.*, The value of mediations as a component of the legal education, 82.

²³ Order №71 of Minister of Justice of Georgia, Legislative Herald of Georgia, 31.03.2010, article 100.

²⁴ Law of Georgia on Notary, Legislative Herald of Georgia, 04.12.2009, 38¹ (1).

²⁵ Georgian Civil Procedure Code, Legislative Herald of Georgia, 14. 11. 1997, 187³.

²⁶ Order №71 of Minister of Justice of Georgia, Legislative Herald of Georgia, 31.03.2010, article 100.

if the confidential information or documents is presented to the court by the disclosing party, or the information and/or the document was lawfully obtained by the other party or the information/the document was already at the party's disposal.

The legislative initiative does not include any amendment or the additions with regards to the regulations of the notary mediation. The draft Law of Georgia on Mediation distinguishes the court mediation and the private mediation. Thus, the place of notary mediation is ambiguous in the legal system, in particular, there is no clear answer whether the notary mediation is an independent type of mediation or it one of the types of the private mediation.

4.2. Enforcing Agreement Reached by the Notary Mediation

The EU Law gives the opportunity to enforce the mediation settlement by the court or other competent authority according to the legislation of the state.²⁷ In case of Georgia, similar to many other countries,²⁸ authority of such competence is the public notary.

The law of Georgia on Notary System if the dispute ended up by the agreement during the notary mediation, the notary concludes the settlement act which is certified by the notary. Thus, the agreement reached through the notary mediation is the notary settlement certified by the notary which in the case of infringement of the obligations by the party is a subject to the compulsory enforcement executed by the writ of execution issued by the notary according to the Law of Georgia on Enforcement Proceedings.²⁹

There is no special rule in Georgia for the purposes of issuing writ of execution for the enforcement of the settlement act concluded during the notary mediation. Therefore, in this case the general rule should be used. According to the general rule the writ of execution can be requested from the notary. Therefore, 2 cumulative preconditions should be met:

²⁷ Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters, 21.05.2008, Art 6(2).

²⁸ See: *De Palo G., Trevor M.T.*, EU Mediation Law and Practice, Oxford University Press, 2012, 63(6.26), 137(11.31), 320(24.20).

²⁹ Law of Georgia on Notary, Legislative Herald of Georgia, 04.12.2009, 38¹.

1. The agreement between the parties on enforcement of the notary act concluded during the notary mediation; 2. The legal definition and the legal consequences of issuing the writ of execution.³⁰ At the same time in case of notary mediation settlement act parties may even not consider the enforcement issue. In such case parties retain the right to apply for the court in order to request the execution writ. The enforcement mechanism in the notary mediation, unlike from the court mediation, does not limit the voluntariness principle of the parties and corresponds with the European Union standards.³¹

5. Private Mediation

5.1. Private Mediation According to the Existing Legislation

Private mediation is not regulated by the existing legislation of Georgia leaving the mechanisms of private mediation beyond the legal framework. Hence, agreement reached by private mediation represents the ordinary contract and rules under legislation regarding agreements are used. With respect to private mediation process, there are not legal guarantees for protecting general principles of mediation. They shall be directly reflected in the agreement. It is even much to say about any kind of enforcement mechanism. The creditor brings lawsuit to court against the debtor for violating the obligations and claims protection of rights with judicial procedure. Therefore, private mediation with existing regulation may not guarantee meeting expectations of the parties to save money and time which is one of main advantages of mediation.

5.2. Definition, Types and Enforcement of Private Mediation Determined under Legislative Initiative

Legislative initiative calls private mediation the mediation realized by the initiative of the parties, based on the agreement on mediation, without transferring the case to the mediator by the court.

³⁰ Law of Georgia on Notary, Legislative Herald of Georgia, 04.12.2009, 38⁵.

³¹ Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters, 21.05.2008, Art 6.

Legislative initiative states creating legal entity of public law – Georgian association of mediators (hereinafter – association of mediators). Members of the association of mediators are mediators listed in the uniform registry of mediators. Therefore, we can define 2 kinds of private mediation: 1. Private mediation led by the mediator listed in the uniform registry (hereinafter – accredited mediator) and 2. Private mediation led by the mediator not listed in the uniform registry (hereinafter – non-accredited mediator).³² Differentiating mediation in these ways are common in several countries and have big importance with respect to using enforcement mechanisms.³³

According to legislative initiative, mediation settlement reached by private mediation lead by accredited mediator is enforced in the same way as it is enforced according to legislative initiative by court mediation. The difference is that in case of private mediation, the creditor shall apply to district (city) courts by the place of the applicant.

According to legislative initiative, mediation settlement reached by private mediation lead by non-accredited mediator is considered as the written agreement concluding according to Georgian Civil Code. In case of violating terms of such agreement, rules for violation of contract terms under Georgian Civil and Georgian Civil Procedure codes are used.

It shall be stated that existence of mediation settlement by legislative initiative does not represent the ground to withdraw the claim. In case of reaching mediation settlement by non-accredited mediation, this is logical and justified. In case of reaching mediation settlement by court mediation, according to legislative initiative, applying to court is excluded by the ruling – about termination of the case due to such mediation settlement – and there is no problem. However, legislative initiative becomes vague – what happens when mediation settlement is the outcome of mediation led

³² Compare: *De Palo G., Trevor M.T.*, EU Mediation Law and Practice, Oxford University Press, 2012, 512; see: *Schauer M., Verschraegen B.*, General Reports of the XIXth Congress of the International Academy of Comparative Law, Springer Science + Business Media B.V. 2017, *Espulgues C.*, Civil and Commercial Mediation and National Courts: Towards a New Concept of Justice for the XXI Century?, 10.5.1.3., 238.

³³ *Espulgues C.*, General Report, New Developments in Civil and Commercial Mediation – Global Comparative Perspectives, Vol. 6, International Academy of Comparative Law, 46.

by the accredited mediator. In such case, there is easier mechanism for enforcement but bringing claim to the court is not excluded which creates vagueness. Due to the discussion, we think that legislative initiative shall define one more ground for refusing to the claim: existence of mediation settlement excluding mediation led by non-accredited mediator.

In order to better understand the next issue, we would like to emphasize on norms determined under legislative initiative:

According to article 2(i) of the draft of the Law of Georgia “On Mediation”, mediation settlement is „binding written document regarding finishing the dispute by mutual agreement in mediation”.

According to article 363²⁶(2) of Georgian Civil Procedure Code, “the issue of enforcing mediation settlement shall be discussed by the district (city) court in 10 days from receiving the application...”.

Article 13(5) of the draft of the Law of Georgia “On Mediation” excludes enforcement of mediation settlement made at the private mediation led by non-accredited mediator.

According to these norms, we may say that written agreement of private mediation led by non-accredited mediator represents mediation settlement. Hence, article 363²⁶(2) of Georgian Civil Procedure Code somehow contradicts with article 13(5) of the draft Law of Georgia “On Mediation”. We understand that due to specificity of law, we shall use norms of the Law of Georgia “On Mediation”. However, rules of Georgian Civil Procedure Code may mislead the customer of mediation. So, in order to avoid potential vagueness, we think that these rules shall be examined one more time. There are several ways to solve the problem. Including if article 363²⁶(2) of Georgian Civil Procedure Code will be specified that this part does not refer to mediation conducted by the mediator who is not listed in uniform registry of mediators.

6. Conclusion

It may be stated that the issues researched in the article once more proved need to examine general legal regulations of mediation and existing norms linked to mediation. EU4Justice and UNDP during their mutual projects with active support of USAID/PROLoG and GIZ serve this aim

and legislative initiative created with their financial support. While legally regulating mediation, two main aspects shall be balanced: creation of the process and maximally keeping its informality.³⁴ It may be said that from theoretical perspective, legislative initiative complies with this mission, but objective reality will be shown by practice.

Based on existing legislation of Georgia and abovementioned legislative initiative, we have assigned three main types of mediation: court mediation, notary mediation and private mediation which itself is divided in two different types based on who is the leading mediator. Each type of mediation has different enforcement mechanism. Wisely chosen enforcement mechanism is guarantee of success of mediation as alternative dispute resolution.

It shall be noted one more time that with the existing regulation of court mediation, in our opinion, main principles of mediation are unfairly limited: voluntariness of the parties,³⁵ as the agreement reached at court mediation is approved by the ruling and is subject to compulsory enforcement besides the will of the parties and confidentiality,³⁶ as the judge in details and exhaustively determined the terms of parties' settlement while approving the agreement reached at court mediation. Limiting these two principles is conditioned by legally equalizing agreement reached at court settlement and court mediation. It is welcomed that legislative initiative differs them and takes into consideration different regulations for each of them.³⁷

³⁴ *Cortes P.*, Online Dispute Resolution for Consumers in the European Union, Routledge Taylor & Francis Group, London and New York, 2011, 159.

³⁵ *Doherty N., Guylor M.*, The Essential Guide to Workplace Mediation and Conflict Resolution: Rebuilding Working Relationships, KOGAN PAGE, 1st ed., London and Philadelphia, 2008, 12; *Hopt K.J., Steffek F.*, Mediation: Principles and Regulation in Comparative Perspective, Oxford University Press, United Kingdom, 2013, Chapter 1, *Hopt K.J., Steffek F.*, Mediation: Comparison of Laws, Regulatory Models, Fundamental Issues, 109.

³⁶ *Van Schijndel R.A.M.*, Confidentiality and Victim-Offender Mediation, Maklu, Antwerpen/Apeldoorn/Portland, 2009, 182; *Hopt K.J., Steffek F.*, Mediation: Principles and Regulation in Comparative Perspective, Oxford University Press, United Kingdom, 2013, Chapter 1, *Hopt K.J., Steffek F.*, Mediation: Comparison of Laws, Regulatory Models, Fundamental Issues, 49.

³⁷ *Zalar A.*, Managing Judicial Change Through Mediation, part 1, ADR bulletin, Vol. 6, number 8, art. 3, 02.01.2004, 8, <<http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1267&context=adr>>.

In short, it may be said that the article revealed how much importance enforcement rule in mediation settlement has in legislative regulations while determining all its details. Reflecting enforcement mechanism of mediation settlement in legislation may cause discretization of mediation institute and failure in Georgia. Therefore, we hope that conceptual findings of this article will be reflected in legislative initiative which may soon be presented in the changed manner in Georgian legislation.

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