



**SINGAPORE
CONVENTION
ON MEDIATION**



**SINGAPORE
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IS NOW OPEN FOR SIGNATURES**

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JANKOVIĆ POPOVIĆ MITIĆ

SINGAPORE CONVENTION ON MEDIATION OPENED FOR SIGNATURES

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Therefore readers are urged to seek specialist advice on the individual issues emphasized herein and to verify the presented information before taking any action thereupon.

UN CONVENTION ON INTERNATIONAL SETTLEMENT AGREEMENTS RESULTING FROM MEDIATION OPEN FOR SIGNATURES

Adopted by the United Nations General Assembly on 20 December 2018, the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the “Singapore Convention on Mediation” (“the Convention”) opened for signatures at a signing ceremony in Singapore, held on 7 August 2019. On this occasion the Convention was signed by 46 countries, including Serbia.

The Convention is an instrument for the facilitation of international trade and promotion of mediation as an alternative and effective method of resolving trade disputes. Until the adoption of the Convention, the often-cited challenge to the use of mediation was the lack of an efficient and harmonized framework for cross-border enforcement of settlement agreements resulting from mediation. In response to this need, the Convention has been developed and adopted by the UN General Assembly.

The Convention ensures that a settlement reached by parties becomes binding and enforceable in accordance with a simplified and streamlined procedure. The Convention provides a uniform and efficient international framework for mediation, akin to the framework that the New York Convention provided over the past 60 years for the recognition and enforcement of foreign arbitral awards.

Article 1 provides that the Convention applies to international settlement agreements resulting from mediation, concluded in writing by parties to resolve a commercial dispute. The international nature of a settlement agreement shall be determined on the basis of the place of business of the parties as well as the place where a substantial part of the obligations under the settlement agreement are performed or the place where the subject matter of the settlement agreement is most closely connected. Article 1 also lists the exclusions from the scope of the Convention, namely, settlement agreements concluded by a consumer for personal, family or household purposes, or settlement agreements relating to family, inheritance or employment law. The Convention further restricts its scope by excluding settlement agreements that have been court approved, that are enforceable as judgements and that are enforceable as arbitral awards.

Article 4 lays down the requirements for a settlement to be reliable, namely, the disputing party shall supply to the competent authority the settlement agreement signed by them and evidence that the settlement agreement results from mediation. The competent authority may require any necessary document in order to verify that the requirements of the Convention have been complied with.

The Convention then, in its Article 5, defines the grounds upon which a competent authority may refuse to grant relief at the request of the party against whom the relief is sought. Those grounds include, inter alia, incapacity of a party, null and void, non-binding or subsequently modified settlement agreement, the fact that obligations in the settlement agreement have been performed or are not clear or comprehensible, a relief that would be contrary to the public policy and the subject matter of the dispute not being capable of settlement by mediation.

Pursuant to Article 6, the competent authority may adjourn the decision, in case the application or a claim relating to a settlement agreement has been made to a court, an arbitral tribunal or any other competent authority, and this may affect the relief being sought under the Convention.

Article 8 provides a list of reservations that a Party to the Convention may declare. Thus, a Contracting party may exclude application of the Convention to settlement agreements to which it is a party, or to which any governmental agencies or any person acting on behalf of a governmental agency is a party, to the extent specified in the declaration. A Contracting party may further declare that it shall apply the Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention. Reservations, declared under the Convention, may at any time be withdrawn.

As foreseen in Article 9, the Convention and any thereto declared reservations shall be applicable only to settlement agreements concluded after the date when the Convention or reservation thereto enters into force for the Party to the Convention concerned.

As per Article 12, the Convention stipulates also participation by regional economic integration organizations, provided that such organization is constituted by sovereign States and has competence over certain matters governed by the Convention. On these conditions a regional economic integration organization may similarly sign and ratify the Convention, in which case it shall have the rights and obligations of a Party to the Convention.

The Convention shall enter into force six months after deposit of the third instrument of ratification by a Contracting Party.



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