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Mediation in Georgia: an Interview with Irakli Kandashvili

Nadja Alexander (Editor) (Singapore International Dispute Resolution Academy) · Friday, October 11th, 2024

Nadja: Irakli, thanks for making the time for this chat. Before we start, can you say a little bit about your role in mediation in Georgia and the region?

Irakli: Thank you for inviting me and expressing interest towards Georgian mediation. I hold several roles in the development of mediation in Georgia: as the Chairman of the Mediators Association of Georgia and a member of the Association's Board, a practicing mediator, and a Lawyer. In my capacity as Chairman, I try to implement various activities that will promote and Facilitate cooperation between legal professionals and mediators. It is necessary to emphasize the importance of mediation, and how mediation complements legal processes. Fostering awareness, refining the legal framework, and promoting collaboration between legal professionals and mediators are key steps toward advancing mediation in Georgia. At the same time am a co-author of Law on Mediation of Georgia and author of several university manuals as well as hold a Ph.D degree in mediation from Tbilisi State University.

Nadja: I understand that Georgia has a well-developed eco-system for mediation. Can you briefly outline the main elements of the eco-system.

Irakli: Georgia's mediation ecosystem involves collaboration between legal professionals, mediators, and various institutions. The major elements of the mediation eco-system are:

- a) A comprehensive mediation law, which deals with responsibilities, rights procedures related to the mediation process.
- b) Ratification of the Singapore Convention (with corresponding provisions incorporated into our revised law).
- c) Mediators Association of Georgia serves as the central authority overseeing mediation in Georgia, providing training CPD (Continuing Professional Development), certification, registration, and support for mediators.
- d) Other organisations, which variously offer mediation services and/or conduct mediator training, for example the bar association.
- e) Courts, which recommend mediation, facilitate court-annexed programs and decide cases about mediation issues, e.g. enforcement of mediated settlement agreements.

Nadja: Let's focus on the mediators. I'd like to know more about how one becomes a mediator in Georgia. For example, can any one become a mediator? Are there any limits on who can mediate?

Irakli: According to the Law on Mediation and Statute of the Mediators Association of Georgia, a competent natural person, a Georgian citizen, who has not been convicted and who, following the provisions of the certification program, possesses a document confirming completion of the three-step program issued by the Mediators Association of Georgia can be registered in the unified register (roster) of mediators based on a written application.

Per the Certification program for Mediators approved by the Mediators Association of Georgia, to qualify as a mediator, successful completion of the following three stages is mandatory:

A. Participation in at least a 60-hour training program: This training must be organized by a certified provider (accreditation issued by the Mediators Association of Georgia).

B. Assessment of mediators' professional skills and competencies: This assessment occurs during simulation sessions initiated by the Association and supervised by its experts.

C. Development of professional skills and abilities to preside over real mediation: Mediators gain practical experience by handling actual mediation cases.

The approach in Georgia allows professionals from various backgrounds to become mediators. Whether you're a doctor, engineer, lawyer, or teacher, as long as you meet the specified requirements, you can become a mediator. The three-step program ensures that aspiring mediators receive comprehensive training, demonstrate their skills, and gain practical experience. This openness enriches the field with different perspectives and expertise.

Nadja: So only Georgian citizens can be recognized as mediators in Georgia?

Irakli: Yes, correct, only Georgian citizens can receive such a status, meaning the status of the Mediator, although in special circumstances foreign mediators' status holders can be accepted into practice in Georgia in case of application to the Board of Professional Association who decides on each case individually.

Nadja: You mentioned the 60-hour training. Can you say more about that?

Irakli: Yes, the mediation training must be organized by a certified provider, with accreditation issued by the Mediators Association of Georgia. The training program must include both practical and theoretical components. The training must cover theoretical aspects of mediation, such as conflict resolution principles, communication techniques, ethical considerations, and legal frameworks. Practical components are equally important and must be included in mediation training. Participants engage in role-playing exercises, simulations, and case studies. These practical sessions allow them to apply theoretical knowledge in realistic scenarios.

Nadja: And the assessment? This is conducted by a different body than the training providers, I believe.

Irakli: Assessment of practical skills of the persons wishing to become a mediator is focused on testing the skills envisaged in the mediators' training, following the Mediators' Certification Program. This step is organized and conducted by the Association. You are right, it is not conducted by the training body. Testing of practical skills, as a rule, shall take place in two groups on an annual basis. Testing of the first group starts in May-June (spring group), and the second – in October-December (autumn group). Admission for the program is provided based on preliminary registration, announced in advance. For purposes of testing the practical skills of the Mediators' Certification Program, the number of participants per session shall not exceed 200.

Nadja: One of the biggest challenges facing most newly-minted mediators is finding real cases to mediate or co-mediate. How is this handled in Georgia?

Irakli: We have two forms of mediation in Georgia as per current legislation, namely : Court-Annexed and Private / out of court mediation. The Civil Procedure Code prescribes a list of civil category court cases that are a subject of mandatory reference from the judge to the mediation when the case is accepted into court consideration, therefore this format of court-annexed mediation generates the case flow from court to mediation and yearly the amount of court referred cases to mediation is raising, that as well on the other hand guarantees mediators with cases to mediate. As well as based on a well developed court-annexed mediation system we hope that the

private mediation will be step by step developing and many disputants will choose the latter form rather than applying to court directly, but try to mediate from the very beginning of the dispute.

Nadja: Can mediators lose their accredited status? How does that work?

Irakli: Maintaining accreditation requires adherence to professional standards, ethical conduct, and ongoing professional development. Losing accreditation serves as a safeguard to uphold quality and trust in the mediation field.

When a mediator violates the norms of the professional ethics code of the Mediators Association of Georgia, the Ethics Commission of the Association has the authority to conduct disciplinary proceedings and impose disciplinary responsibility on the mediator. This process ensures accountability and upholds ethical standards within the mediation profession.

In case of violation of the code, the Commission applies the following disciplinary measures: Warning, Suspension of association membership for up to one year, expulsion from the association with the right to re-apply after 3 years; Expulsion from the Association without the right to reapply. When imposing a disciplinary penalty, it is essential to consider several factors: Nature of the Misconduct, Impact on the Profession, Previous Misconduct, Mediator's Attitude, and Any additional context or circumstances that align with the goals of the ethical code.

Nadja: To the best of your knowledge have there ever been any complaints about mediators in Georgia that may have activated disciplinary proceedings?

Irakli: Yes, there are some such applications already with complaints towards the mediators. This is a sign of the practical development of mediation – the more mediations, the greater the likelihood of some disgruntled clients. I do, however, recall the sanctioning of any mediators so far.

Nadja: Irakli, thanks so much for your time and for your insights on what's happening in mediation in Georgia.

Irakli: You're very welcome.

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