

# Mediation in Iran: Current Status and Future Challenges

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## Abstract:

Mediation is an alternative dispute resolution (ADR) mechanism that is gaining momentum in different jurisdictions.

In Iran, the current domestic legal framework lacks comprehensive legislation but contains several articles providing for ADR mechanisms that apply in specific circumstances. Although these mechanisms do not amount to mediation construed *stricto sensu*, they bear some similarities thereto.

Despite the current state of the legislative framework in Iran, a pro-mediation trend can be observed in the country, as Iranian arbitration centres have started to offer mediation services and to issue institutional mediation rules. In recent years, concerns voiced by practitioners regarding the efficiency of arbitration in terms of time and cost, have accelerated the rising success of mediation.<sup>1</sup> Moreover, Iran's signature of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Convention on Mediation" or the "Singapore Convention") is an encouraging step towards the promotion of mediation in the country. This article addresses the uncertainties that remain, together with a few guidelines for promoting the use of mediation in Iran as an effective tool to resolve disputes.

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1. See Robert. A Baruch Bush, "Substituting mediation for arbitration: The growing market for evaluative mediation, and what it means for the ADR field", *Pepperdine Dispute Resolution Law Journal*, Vol. 3, Issue 1, 2002, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/pepds3&div=12&id=&page=>.

## Introduction:

Mediation can be defined as an alternative dispute resolution (ADR) mechanism that ultimately leads to the settlement of disputes outside state courts through the intervention of a neutral third party (i.e. the mediator). The mediator is not empowered by the parties to settle the dispute by rendering a binding decision. The role of the mediator is to facilitate the re-establishment of a dialogue between the parties by assisting them in drafting a settlement agreement.

More precisely, mediation is a fast-track procedure (often carried out within a fairly short period of time, ranging from a few hours to a few months), during which the solution is crafted by the parties themselves. As such, mediation helps preserving the parties' commercial relationship and promotes a pro-business climate. The process is confidential, i.e. documents and information exchanged during the mediation cannot be subsequently submitted before a court or an arbitral tribunal.

There are different types of mediation

- *Judicial* (initiated by the judge, before which the dispute is already submitted, who will suggest a mediation process to the parties), in contrast with conventional (initiated by the parties outside judicial proceedings).
- *Institutional* (supervised and managed by an institution, offering services in relation to the appointment of mediators and detailed mediation rules), in contrast with *ad hoc* (organized by the parties themselves outside any institution).
- *Compulsory* (a prerequisite to the referral of the dispute to the judge, as expressly set out in legislation.), in contrast with *consensual* (where the parties choose to resort to mediation, even though they are not compelled to do so).<sup>2</sup>

In light of the high number of pending cases before Iranian courts, the judiciary has put in place a series of measures aiming to remedy this situation, including the promotion of ADR. As such, on 7 August 2019, the Islamic Republic of Iran ("Iran") signed the United Nations Convention on International Settlement Agreements Resulting from Mediation (the "**Singapore Convention on Mediation**" or the "**Convention**").

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2. David Lutrán, Josephine Hage Chahine, "Mediation: A culturally well-established dispute resolution mechanism in the MENA region, gaining momentum", *International Journal of Arab Arbitration*, Volume 12, 2020, p. 25.

This article analyses the status of mediation in Iran, first by determining the domestic legal framework relating to ADR mechanisms (Section 1), followed by local mediation institutions and institutional rules (Section 2). The consequences of signing the Singapore Convention on Mediation will also be analysed (Section 3), before addressing several solutions to promote mediation in practice (Section 4).

## 1. Alternative dispute resolution mechanisms under Iranian domestic law:

In Iran, there are no general provisions of law providing for mediation in all types of disputes. Some of the historical roots of ADR mechanisms, however, can be found in traditional Islamic concepts, and the resolution of disputes through mediation is encouraged by the *Shari'a*.<sup>3</sup>

For instance, a *Sulh*, which is a legally binding settlement agreement concluded outside legal proceedings, as provided for in Chapter 17 of the Iranian Civil Code, aims to end a dispute between the parties in civil and commercial matters. The conclusion of a *Sulh* does not entail the intervention of a third party who attempts to mediate the dispute.

As mentioned previously, there is no specific provision providing for mediation in the current regulations in Iran. Nonetheless, several provisions can be identified in different domestic codes [such as the Iranian Civil Code, the Iranian Civil Procedure Code (the "ICPC"), and the Criminal Code], which provide for mechanisms that are more or less similar to mediation in specific matters.

The closest mechanism to mediation is *Sazesh*, which is a settlement agreement concluded in the context of legal proceedings. Articles 178 to 193 of the ICPC provide that a judge shall try to resolve disputes through *Sazesh*, failing which the judicial proceedings shall resume. The parties can also resort to *Sazesh* at all stages of the proceedings, including at the stage of appeal, further to a request by one of the parties and the payment of the corresponding fee by the party requesting *Sazesh*.<sup>4</sup> Thereafter, the court will suggest to the opposing party that the parties attempt to settle the dispute through *Sazesh* rather than litigation. Nonetheless, the other party is not compelled to proceed with *Sazesh* and can refuse to settle the dispute through *Sazesh*. If the parties succeed in settling their dispute through *Sazesh*, then the court or the notary public will issue a settlement agreement. Otherwise, the dispute will be adjudicated through litigation.

3. Negin Fattahi, "The history of mediation in the Middle East and its prospects for the future", *Kluwer Mediation Blog*, 23 January 2018.

4. The fees are equal to those paid in the context of legal proceedings for non-monetary disputes (less than 10 USD, as of June 2022).

The ICPC does not expressly define *Sazesh* and does not refer to any neutral third party, such as a conciliator or a mediator, that will intervene in the process to help the parties reach an agreement. The absence of a neutral third party clearly differentiates *Sazesh* from mediation. Hence, a conservative interpretation would entail limiting *Sazesh* to a process in which only the parties are involved, without the intervention of any third-party neutral, thus excluding mediation.

In addition, the legislation does not expressly require that the process of *Sazesh* be confidential, whereas confidentiality is considered, in all other jurisdictions, as a key component of the definition of mediation.

On another note, Article 27 of the Iranian Family Protection Act provides for compulsory judicial "arbitration" in divorce matters. Even though the legislation refers to "arbitration", the process is closer to mediation.

The possibility for the parties to refer their dispute to settlement (*Sulh* and *Sazesh*) has also recently been introduced before the Dispute Resolution Council, which reflects the promotion of ADR mechanisms. The Dispute Resolution Council is a judicial entity that cooperates with the state courts in adjudicating cases of less complexity.<sup>5</sup> The Dispute Resolution Council is competent to settle the following disputes through *Sazesh* and amicable solutions: those related to family and civil law cases, some types of *Taaziri*<sup>6</sup> crimes, and the civil law aspects of criminal cases (such as the issues related to damages).<sup>7</sup>

If the parties succeed in reaching an agreement, the Dispute Resolution Council will issue a settlement agreement and submit it to the court. In fact, the Council was established to reduce backlogs in the court and the court's workload.

It is worth noting that the intervention of a neutral third party is not mentioned in the process of settlement before the Dispute Resolution Council, and the process is not confidential. These marked differences are indicators of the fact that this mechanism is different from mediation, as defined in the present article. Notably, the latest draft bill related to the statutes of the Dispute Resolution Council provides that mediation centres

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5. The Dispute Resolution Council is also competent to hear monetary disputes related to movable property up to 200 million Iranian rials. However, as for the settlement of disputes through *Sazesh* and amicable solutions, there is no limit on the value.

6. According to the Iranian Penal Code, the type and amount of *Taaziri* punishments are based on the discretion of the judge, while other types of punishments such as *Had* or *Qisas* are clearly provided for in the *Shari'a*. Unlike *Taaziri* punishments, *Had* and *Qisas* punishments are established in Quran and *Shari'a* law and the judge cannot change the punishment. Unlike *Had* and *Qisas*, the judge has the discretion to forgive *Taaziri* crimes.

7. Articles 8 and 11 of the Iranian Dispute Resolution Council Act (2016).

be established to assist parties in settling their disputes through mediation in the future, which clearly indicates that mediation (construed *stricto sensu*) does not currently exist before the Dispute Resolution Council.

Despite seemingly different contexts, in criminal law cases, Article 82 of the Iranian Criminal Procedural Code provides for a mediation process for certain types of criminal offenses to which *Taaziri* punishments are applicable.<sup>8</sup> Each year, the judiciary makes a call for mediators, and offers training, for the mediation of criminal cases.

Regarding the enforcement of settlement agreements, and according to the provisions of the ICPC, it is conditioned on the settlement agreements being issued by the court,<sup>9</sup> a notary public<sup>10</sup> or an arbitral tribunal.<sup>11</sup>

As such, a settlement agreement reached through *Sazesh* or the Dispute Resolution Council (and outside any international convention) cannot be enforced unless issued by a state judge, a notary public or encompassed in an award by consent.

As to the mediation mechanism *stricto sensu*, and in the absence of a structured and established enforcement mechanism applicable to mediated settlements (which are

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8. The increasing number of criminal cases has led to a new ADR initiative by the judiciary. The victims and offenders can negotiate the reasons of the judgement, the consequences of the offence at stake and the most suitable remedies. With the prior consent of the parties, the court can direct them to mediate their claim and accordingly refer the case to the Dispute Resolution Council, a mediator or a mediation institution for a 3 month-period. Mediators should be Iranian citizens, at least 25 years old and be trained in criminal law and mediation. In addition, they must be graduates of psychology, social work, educational sciences, sociology or law in order to be eligible to sit for the exam to be certified as mediators in criminal law. The certificate is valid for 3 years and can be renewed.

9. See in this respect: Law on the Enforcement of Civil Awards (1977) for the enforcement of a settlement rendered by a court in a domestic dispute and Article 169 of the aforesaid law applicable to the enforcement of a settlement rendered by a court, in an international dispute.

10. See, in this respect: Amendments of the bylaws on the Enforcement of Official Deeds (25 February 2020) for the enforcement of a settlement signed before a notary public, in a domestic dispute and Article 177 of the Law on the Enforcement of Civil Awards and Article 1285 of the Iranian Civil Code applicable to the enforcement of a settlement signed before a notary public, in an international dispute.

11. See, in this respect: Articles 483 and 488 of the ICPC for the enforcement of a settlement rendered by arbitrators in a domestic dispute, Article 34 of the Law for International Commercial Arbitration (LICA) and Article 5.2 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 applicable to the enforcement of a settlement rendered by arbitrators, in an international dispute. Article 483 of the ICPC provides that the arbitrators can settle the disputes through *Sulh* if they have been granted a mandate to do so by the parties. The settlement agreement issued by the arbitrators will be valid and enforceable. Article 488 of the ICPC provides that if the arbitral award is not voluntarily executed within 20 days after notification of the award to the parties, the court will issue an order of enforcement of the award at the request of the prevailing party. The enforcement will be subject to the Iranian Law on the Enforcement of Civil Awards (1977).

considered as binding agreements) in the Iranian legal system, if one party refuses to perform the mediated settlement agreement, the other party can request the court to compel the defaulting party to perform the contractual undertakings resulting from settlement agreements.

In light of the signature by Iran of the Singapore Convention, it may be advisable to amend the legislation to include some specific and detailed provisions as to the commercial mediation process, both at the domestic and international level, in order to facilitate the enforcement of mediated settlement agreements.

Despite the absence of clear and specific provisions regarding the mediation process, in practice, parties are currently resorting to mediation in Iran, mainly through various mediation and arbitration centres.

## **2. Mediation centres and mediation institutional rules in Iran:**

### **2.1. The Arbitration Centre of Iran's Chamber of Commerce (ACIC)**

The Arbitration Centre of Iran's Chamber of Commerce (ACIC), established in 2002, issued arbitration rules in 2015 and mediation rules on 24 September 2017,<sup>12</sup> which are very much in line with the 2014 ICC Mediation Rules.

Parties wishing to refer to the ACIC mediation rules are encouraged to incorporate the ACIC Mediation Model Clause, provided for in the ACIC's mediation rules, into their agreements. They can also incorporate a two-tier clause (i.e. a clause that provides for the settlement of a dispute through mediation, failing which arbitration can be initiated). To date, only three cases have been registered with the ACIC.

### **2.2. Tehran Regional Arbitration Centre (TRAC)**

Tehran Regional Arbitration Centre (TRAC) provides management services for domestic and international arbitration proceedings since 2005. It also published the first version of the TRAC Arbitration Rules (2005), based on the UNCITRAL Rules of Arbitration, which were revised in March 2018.<sup>13</sup> TRAC was recently in the process of drafting its own mediation rules. After long discussions in different working groups within TRAC, the final draft of the TRAC Mediation Rules became available on the TRAC website on June 2021

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12. ACIC Arbitration Rules (English version) can be found at <https://arbitration.ir/rules/arbitration-rules/>. ACIC Mediation Rules (Persian version) can be found at <https://arbitration.ir/rules/mediation-rules/>.

13. TRAC Arbitration Rules (English version) can be found at: <https://trac.ir/rules-of-arbitration/>.

for public consultation and entered into force on 15 July 2021.<sup>14</sup> The TRAC Mediation Rules were drafted on the basis of the most recent trends and needs of its users.

### 2.3. Ashtin Mediation Institution

The Ashtin Mediation Institution, founded in 2019,<sup>15</sup> is the first institution which is exclusively dedicated to mediation services in Iran.<sup>16</sup>

Ashtin's mediation services include disputes related to corporations, family, investment and business. To date, the institution has been working on online family mediation cases, regarding child custody when the parents are of different nationalities. The institution cooperates with MiKK e.V. International Mediation Centre for Family Conflict and Child Abduction, which is a non-profit organization based in Germany.<sup>17</sup>

Ashtin also provides professional mediation training for individuals and organizations. Its code of ethics for mediators reflects international standards and Iranian cultural features.

### 2.4. Mediation in practice

In practice, multi-tiered and med-arb clauses (providing that the parties shall first seek to settle their disputes through mechanisms such as negotiation, mediation or conciliation, prior to commencing arbitration) are very frequent in commercial contracts in Iran.

For instance, according to Article 14 of the Iranian law regarding exploration, discovery and extraction of oil in all regions of Iran and Continental Shelf (Oil Act, 1957), disputes will be resolved through *Sazesh* and arbitration if they have not been resolved through amicable negotiations. In the Iranian petroleum contract<sup>18</sup> (IPC), amicable settlement through negotiation and arbitration are expressly provided for as the methods of dispute resolution. It is also expected to have med-arb clauses in oil contracts in near future.<sup>19</sup> However, given the confidential nature of mediation, statistics are not readily

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14. TRAC Mediation Rules (English version) can be found at: <https://trac.ir/mediation-rules/>.

15. See Ashtin's official website at: <https://ashtin.ir/en/>.

16. In ancient Persia, Ashtin means "Peace and settlement".

17. The website of MiKK e.V. is available at: <https://www.mikk-ev.de/en/>.

18. The IPC is a model contract that was issued by the Iranian government in 2017, offering a framework to foreign investors to encourage them to develop oil and gas fields in Iran and to hand them over, at a pre-negotiated price, to the National Iranian Oil Company at the start of production.

19. See Javadpour Naghmeh, Oloumi Yazdi Hamidreza and Ebrahimi Seyed Nasrollah, "Med-Arb in

available, notably as to the number of mediation cases registered with different centres, and to the number of successful mediations (i.e. having led to settlement agreements).

### 3. Singapore Convention on Mediation and the challenges faced in Iran:<sup>20</sup>

Under Iranian law (and as detailed above), a settlement agreement reached through amicable dispute resolution mechanisms having similarities with mediation (including *Sazesh*) cannot be enforced *per se* (unless the settlement is approved by a state judge, a notary public or encompassed in an award by consent). As for a mediated settlement agreement (reached through a mediation process, construed *stricto sensu*), in practice, the aggrieved party must file a lawsuit for breach of contract before the competent authorities.

This being said, Iran has signed the Singapore Convention on Mediation on 7 August 2019, and the Convention entered into force on 12 September 2020. However, Iran has not yet ratified the Convention in the Iranian Parliament (*Majles*).

To date, 55 states have signed the Convention, including Iran, Israel, Jordan, Qatar, Saudi Arabia, and Turkey. Australia is the latest country to have signed the Convention on 10 September 2021. Some of Iran's main trading partners such as the United States, China, South Korea and India have signed the Convention; however, the European Union and the United Kingdom have not yet signed the Convention. In the same vein, as of June 2022, the following ten (out of 55) states have ratified the Singapore Convention: Belarus, Ecuador, Fiji, Georgia, Honduras, Kazakhstan, Qatar,<sup>21</sup> Saudi Arabia,<sup>22</sup> Singapore, and Turkey.<sup>23</sup>

The Convention ensures the enforceability of a settlement agreement resulting from mediation and concluded in writing by parties through a simplified and streamlined procedure.

More precisely, Article 3 of the Convention provides that "*each Party to the Convention shall enforce a settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention*". In other words, the Convention

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International Commercial Contracts (with Focus on Iran's Legal System)", *Private Law Journal*, Volume 8, 2020.

20. Ali Moghaddam Abrishami, "Singapore Convention on Mediation: Should Iran Follow the Position of Qatar?", *Arab Law Quarterly*, eISSN: 1573-0255, 2020, p. 23.

21. Qatar ratified the Convention on 12 March 2020.

22. Saudi Arabia ratified the Convention on 5 May 2020.

23. To check the latest status of the Singapore Convention on Mediation, see:

[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXII-4&chapter=22&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-4&chapter=22&clang=_en).



confers a binding status to the mediated settlement agreement, which can be immediately enforced in the Signatory States.

In this respect, some argued that the Convention entails "*a promising start and an uncertain future*".<sup>24</sup>

The first uncertainty relates to the application of Article 5.2(a) of the Convention pursuant to which enforcement of the mediated settlement can be denied on the grounds of a violation of public policy.<sup>25</sup>

In countries that apply the *Shari'a*, such as Iran (Article 4 of the Iranian Constitution provides that all laws and regulations shall adhere to Islamic requirements), compliance with the requirements of *Shari'a* should be taken into consideration when enforcement is sought.<sup>26</sup> For instance, *Riba* (interest), *Gharar* (uncertainty) and *Maysar* (gambling) are expressly prohibited.<sup>27</sup>

Articles 215 and 216 of the Iranian Civil Code provide that there should be no uncertainty (*Gharan*) as regards the fundamental terms of a contract, including the subject matter, price, consideration or the deadline for performance or delivery.

*Riba* is also explicitly forbidden by Article 49 of the Constitution and dealing with *Riba* is a criminal offence as per Article 595 of the Iranian Penal Code.

As such, the application by Iranian judges of Article 5.2(a) of the Convention can jeopardize the enforceability of mediated settlement agreements on the basis of the public policy requirement.<sup>28</sup>

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24. Hassan Faraj Mehrabi, Hosna Sheikhattar, "The Singapore Mediation Convention: a promising start, an uncertain future", Leidenlawblog, 2019.

25. Article 5.2(a) of the Singapore Convention on Mediation provides that: "*The competent authority of the Party to the Convention where relief is sought under article 4 may also refuse to grant relief if it finds that: (a) Granting relief would be contrary to the public policy of that Party.*"

26. David Lutran, Josephine Hage Chahine, "Singapore Convention Series: The 'Sharia-Compliance' Requirement to Safeguard Enforcement of Mediated Settlements in The MENA Region", 30 September 2020, available at: <http://mediationblog.kluwerarbitration.com/2020/09/30/singapore-convention-series-the-sharia-compliance-requirement-to-safeguard-enforcement-of-mediated-settlements-in-the-mena-region/>.

27. See Principles of Islamic Finance: Prohibition of Riba, Gharar and Maysir, Uddin, Md Akther, MPRA Paper, 2015.

28. See Ali Moghaddam Abrishami, "Singapore Convention on Mediation: Should Iran Follow the Position of Qatar?", Arab Law Quarterly 36, eISSN: 1573-0255, 2020.

Another challenge relates to the reservation of rights under Article 8 of the Convention. To date, Iran,<sup>29</sup> Saudi Arabia, Belarus, Georgia, and Kazakhstan have included reservations. Iran is the only state which has invoked both reservations of rights provided for in Article 8. As a reminder, Article 8 provides as follows:

*"A Party to the Convention may declare that: (a) It shall not apply this 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; (b) It shall apply this Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention".*

This double reservation of rights might be a threat to the development of mediation in investor-State disputes (reservation 8(a)) and shall leave the enforcement of the mediated settlement agreement to the good will of the parties, who can freely choose to depart from the application of the Convention (reservation 8(b)).

This being said, leaving room for reservations helps in reaching a wider participation of states in signing the Convention.<sup>30</sup>

An additional challenge relates to the issue of the "mediatability" of the dispute addressed in Article 5.2(b) of the Convention with the following terms: *"the competent authority of the Party to the Convention where relief is sought under Article 4 may also refuse to grant relief if it finds that: [...] the subject matter of the dispute is not capable of settlement by mediation under the law of that Party"*.

In contrast with the arbitrability of disputes, there is no definition of "mediatability", whether in the rules and regulations related to mediation, case law or the doctrine. As such, there is a lingering concern over the scope of disputes that can be settled by mediation and the courts may fail to adequately define the scope of mediatability.

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29. Upon signature, the Islamic Republic of Iran declared the following as its '*understanding*' in relation to provisions of the Convention" and its reservations: "[...] (i) [Iran] has no obligation to apply this 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; (ii) [Iran] will apply this Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention; (iii) [Iran] may have the choice to make reservations upon ratification; (iv) [Iran], in accordance with the relevant provisions of the Convention, reserves the right to adopt laws and regulations to co-operate with the States." See:

[https://uncitral.un.org/en/texts/mediation/conventions/international\\_settlement\\_agreements/status](https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements/status).

30. See Itai Apter & Coral Henig Muchnik, "Reservations in the Singapore Convention - Helping to make the 'New York dream' Come True", Singapore Mediation Convention Reference Book, 2019, p. 1267.

However, one may argue that the criteria to be used in determining whether or not a dispute can be settled by mediation is more flexible than the one applied in arbitration.<sup>31</sup>

Another requirement that could jeopardize the enforcement of mediated settlements to which a governmental entity is a signatory is provided for under Article 139 of the Iran Constitution. This Article requires the authorization of the Iran Council of Ministers and/or Parliament<sup>32</sup> in order to settle disputes pertaining to public and state-owned assets through arbitration and *Sulh* (i.e. settlement). A broad interpretation of the term "*Sulh*", to the extent that it is considered to encompass mediation, will have an adverse impact on the enforcement of mediated settlement agreements concluded without the above-mentioned authorization.

In light of the existing legal framework, the local courts' attitude when implementing mediation clauses and mediated settlements,<sup>33</sup> the lack of awareness, notably with respect to the remaining confusion between conciliation and mediation,<sup>34</sup> it can be argued that Iran is not, for the time being, considered as a mediation-friendly jurisdiction.

#### 4. Promoting Mediation in Iran:

First, Iranian legislation could include a law on Commercial Mediation by adopting the 2018 UNCITRAL Model Law on International Commercial Mediation,<sup>35</sup> which details the entire mediation process, just like it has adopted the Law on International Commercial Arbitration (LICA) in 1997, based on the 1985 UNCITRAL Model Law on International Commercial Arbitration.

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31. Bruce H. Aydt, "Mediation - The Alternative for 'Win-Win'", ABR, ABRM, CRB, 2001, available at: [http://coar.com/files/pdf/Mediation\\_Win-Win\\_Article.pdf](http://coar.com/files/pdf/Mediation_Win-Win_Article.pdf).

32. Article 139 of the Constitution provides that "*the settlement of claims relating to public and state property or the referral thereof to arbitration and conciliation is in every case dependent on the approval of the Council of Ministers, and the Parliament must be informed of these matters. In cases where one party to the dispute is a foreigner, as well as in important cases that are purely domestic, the approval of the Assembly must also be obtained. A decree will specify the important cases intended here*". This Article is vague as to concepts of arbitrability and mediability. Its wording gives rise to doubts as to whether or not the disputes at stake are arbitrable and mediatable. Iranian courts have interpreted the wording in divergent ways.

33. Nadja Alexander, "What's your country's mediation-friendly ranking?", *Kluwer Mediation Blog*, 11 March 2015, available at: <http://mediationblog.kluwerarbitration.com/2015/03/11/whats-your-countrys-mediation-friendly-ranking/>.

34. In fact, a conciliator, unlike a mediator, assumes an active role and is entitled to suggest a solution to the parties. Habib Kazzi, Mediation in the MENA Region: Challenges and Opportunities of the UN's International Regime on Mediation, *IJRSFP*, p. 37331. DOI: <http://dx.doi.org/10.24327/ijrsr.2020.1102.5089>.

35. UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018.

Moreover, establishing a specialized state court (or chamber) favouring ADR methods in the settlement of the disputes could help promote mediation in Iran. It is worth noting that pursuant to the recent initiative of the Iranian judiciary and the Guidelines as to the Organisation of Commercial Courts, specialized courts were established in Tehran in November 2020 to exclusively hear business disputes<sup>36</sup> and arbitration-related matters. It is expected that these courts will also handle the majority of cases dealing with the enforcement of mediated settlement agreements by applying the Singapore Convention.

Iranian arbitration and mediation centres can also play an important role in promoting mediation and raising public awareness through the organisation of webinars, conferences and trainings (for judges, lawyers, public institutions and the business community), and the enactment of ethical codes of conducts for mediators. The Iranian Bar Association can also have a constructive role in training lawyers and shifting their approach to the dispute from one that is adversarial to one that is more amicable.

Universities should also contribute to this promotion by including mediation trainings and degrees in their programs. Judges also play an important role in promoting mediation, by compelling the parties to attempt a mediation process before examining the case. In addition, interactions between mediators and judges through seminars and workshops should occur so that the latter can have a better understanding of the mediation process.

Recently, more initiatives were taken to promote mediation in Iran. For instance, in 2021, the Iranian Association for United Nations Studies provided the opportunity for scholars and legal practitioners to submit articles on mediation and the Singapore Convention on Mediation in Iran.<sup>37</sup> Additionally, and for the first time, a team from Allameh Tabataba'i University of Tehran participated in the ICC Mediation Moot Court 2022 and won an award entitled *"Distinction for the Performance of a Team from a University Participating in the Competition for the First Time"*.

## 5. Concluding remarks:

The Singapore Convention on Mediation having been signed, Iran ought now to ratify it in order for mediated settlement agreements to be immediately enforced without the need to file a lawsuit or to seek the approval of the settlement by a state judge, a notary public or an arbitrator.

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36. "Business disputes specialized court opened in Tehran", Newsroom - Iran Chamber of Commerce, Industries, Mines and Agriculture, 22 November 2020, available at: <http://en.otaghiranonline.ir/news/22656>.

37. See website of the Iranian Association for United Nations Studies, available at: <https://unstudies.ir/en/>.

It is also recommended that Iranian legislation amend its current legal framework in order to include explicit provisions regarding mediation (construed *stricto sensu*) and provide a more flexible approach when defining the concept of mediatability. This same flexibility could also be adopted by judges when interpreting the requirements of *Shari'a* in order to facilitate the enforcement of such settlements, in a manner that is both respectful of tradition and religion and enhances the country's business opportunities with foreign partners.

Promoting mediation can help preserve good business relations in view of future collaboration, contrary to other forms of dispute resolution such as litigation and arbitration where there are so-called "winners" and "losers". As such, mediation can help safeguard the stability of the Islamic financial industry, the construction industry and significantly contribute to the attraction of foreign investments in Iran, insofar as the process allows parties to avoid legal uncertainty and reach enforceable tailor-made solutions in a time and cost-effective manner.