

# Legal Issues of the Professional Skills of a Mediator

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**Annotation:** The article deals with the preparation of mediators, the requirements for a mediator and professional skills. It is concluded that the list of mediators can include a capable person who has a higher professional education and work experience in a specialty that corresponds to the education received for at least two years, who has undergone special training and has received the qualification of a mediator.

**Key words:** mediator, mediation, capable person, negotiations, skills, training.

In accordance with the Law of the Republic of Uzbekistan dated July 3, 2018 No. ZRU-482 “On mediation” and the Decree of the President of the Republic of Uzbekistan dated April 13, 2018 No. PP-3666 “On organizational measures to further improve the activities of the Ministry of Justice of the Republic of Uzbekistan”, a training program for mediators was approved.

The main goal of the Mediators Training Program is to train mediators in the use of mediation in civil law relations, business relations, individual labor disputes and family law disputes, to provide them with basic knowledge of negotiation technologies, stress management and conflict resolution in mediation procedures, as well as to develop practical skills conflict resolution.

However, teaching the basics of mediation should begin already at the educational institution during the training of specialists<sup>1</sup>. The instillation of professional skills is necessary in senior courses on the basis of existing knowledge. In American colleges, when training lawyers, there are courses on negotiation, judicial advocacy, “lawyer-client”, which allows developing professional skills based on trainings<sup>2</sup>.

Moreover, if a lawyer did not participate in court sessions as a representative, then before entering the court session, he undergoes training in the course of judicial advocacy. In the United States, the National Institute of Trial Advocacy (NITA) has been established, which develops textbooks, manuals, books for teachers, legal cases (case book) for teaching judicial advocacy.

There are no professional skills development courses in law schools of the Republic of Uzbekistan. Business games, used as a kind of teaching methodology, are usually aimed at consolidating knowledge of civil, economic, criminal proceedings. As the experience of young lawyers in court shows, they do not have the professional skills to participate in a court session<sup>3</sup>. It is logical to assume that they also have problems in conducting negotiations, which are an integral part of conciliation procedures<sup>4</sup>.

In this regard, it is proposed, along with special courses on advocacy, notaries and litigation, to include a special course on conciliation procedures in the curriculum. In this case, students will already have an idea that it is not necessary to go to court to resolve the dispute<sup>5</sup>.

<sup>1</sup> Гайдаенко-Шер Н. И. Унификация требований к квалификации медиатора: медиатор и медиатор в семейных спорах //Актуальные проблемы российского права. – 2017. – №. 5 (78). – С. 56-60.

<sup>2</sup> Худойкина Т. В., Сайфетдинова А. Ф. Требования, предъявляемые к медиаторам в России и за рубежом //Бюллетень науки и практики. – 2018. – Т. 4. – №. 6. – С. 324-327.

<sup>3</sup> Аллахвердова О. В. Обучение медиаторов и формирование компетенций //Вестник Санкт-Петербургского университета. Психология. – 2012. – №. 3. – С. 51-59.

<sup>4</sup> Ibratova F., Esenbekova F. GENESIS AND EVOLUTION OF LEGISLATION ON CONCEPTIONAL PROCEDURES IN THE REPUBLIC OF UZBEKISTAN //Polish Journal of Science. – 2021. – №. 38-2. – С. 20-24.

<sup>5</sup> Барышова М. В. и др. Социальное предпринимательство: научные исследования и практика. – 2019.

And although it is impossible to develop techniques that will be effective in each specific dispute, each specific situation will have its own characteristics. It seems that the training course for mediators should include the general provisions of the mediation procedure, the concept and resolution of the conflict, the stages of its implementation, the methods used in the course of reconciliation<sup>6</sup>. Such training should necessarily include training sessions. It seems that the final exam could include not only theoretical questions, but also a demonstration of certain reconciliation skills.

For example, in Bulgaria, in order to obtain the right to engage in the activities of a mediator, it is necessary to undergo special training. The mediator training standards approved by the Minister of Justice establish the conditions and procedure for obtaining the necessary minimum of theoretical knowledge and practical skills in conducting the mediation procedure<sup>7</sup>.

Training courses for mediators should be conducted not only by private organizations, centers and educational institutions, but also by state educational institutions. Those who graduate from them should be awarded the qualification of a mediator<sup>8</sup>.

However, the list of requirements for a mediator will be incomplete if you do not define cases where a person cannot be a mediator<sup>9</sup>.

According to Article 12 of the Law of the Republic of Uzbekistan dated July 3, 2018 No. ZRU-482 "On Mediation", a mediator cannot be a person: authorized to perform public functions or equivalent to it, with the exception of notaries; in relation to whom there is a court decision that has entered into legal force on recognizing him as having limited legal capacity or legal incompetence; having an outstanding or unexpunged conviction; who is being prosecuted<sup>10</sup>.

Meanwhile, it seems, taking into account the experience of the United States, Germany, etc., that retired judges can be considered as candidates for mediators<sup>11</sup>. Such citizens, in principle, can cope with the performance of the functions of a mediator, as they have sufficient legal knowledge and experience in resolving economic disputes in particular<sup>12</sup>.

The Ministry of Justice of the Republic of Karakalpakstan, the departments of justice of the regions and the city of Tashkent maintain a Register of professional mediators, which is posted on their official websites, as well as the official website of the Ministry of Justice of the Republic of Uzbekistan.

The basis for entering a person into the Register of professional mediators is the passage of a special course of study under the training program for mediators<sup>13</sup>.

The register of professional mediators must contain:

surname and name of the mediator;

location and contact details of the mediator;

the area of mediation in which the mediator specializes;

information about the language in which the mediator is able to conduct mediation procedures<sup>14</sup>.

<sup>6</sup> Ibratova F. Legal Problems of the Concepts Legality, Justification and Justice by Judicial Acts //Middle European Scientific Bulletin. – 2021. – Т. 16.

<sup>7</sup> Усманова Е. Ф. Зарубежный опыт работы в области семейной медиации и требования, предъявляемые к медиаторам //Вопросы российского и международного права. – 2019. – Т. 9. – №. 9-1. – С. 24-30.

<sup>8</sup> Ibratova F. B. The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity //Middle European Scientific Bulletin. – 2022. – Т. 20. – С. 143-147.

<sup>9</sup> Лахметкина Ю. С. Проблема эффективности подготовки профессионального медиатора //Перспективы становления и развития медиации в регионах: сб. материалов I Всерос. науч.-практ. конф. с международным участием. Саратов. ИЦ «Наука. – 2016. – С. 68-70.

<sup>10</sup> [https://nrm.uz/contentf?doc=548500\\_&products=1\\_vse\\_zakonodatelstvo\\_uzbekistana](https://nrm.uz/contentf?doc=548500_&products=1_vse_zakonodatelstvo_uzbekistana)

<sup>11</sup> Герасимова Ю. В., Нагорная М. С. Медиаторы в России и за рубежом: социальные ожидания и профессиональные требования //Вестник Совета молодых учёных и специалистов Челябинской области. – 2018. – Т. 1. – №. 3 (22). – С. 46-50.

<sup>12</sup> Ibratova F. B. et al. Special features of modern legal systems: cases and collisions. – 2017.

<sup>13</sup> Довлатова, Г. П., Ибратова, Ф. Б., Карашенко, В. В., Макеева, Е. И., Мирославская, М. Д., Пайкович, П. Р., & Харлампенков, Е. И. (2021). Инновации, тенденции и проблемы в области экономики, управления и бизнеса.

Thus, the list of mediators may include a capable person who has a higher professional education and work experience in a specialty that corresponds to the education received for at least two years, who has undergone special training and has received the qualification of a mediator.

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