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Efficient enforcement of international mediation settlement agreements as a component of an effective business environment: The Georgian legal framework in a global context

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Abstract

Efficient enforcement of international mediation settlement agreements constitutes a cornerstone of an effective and attractive business environment. A clear, predictable legal framework enhances legal certainty for commercial entities and promotes alternative dispute resolution as a credible substitute for traditional litigation. While mediation supports the preservation of long-term business relationships through consensus, its practical utility depends heavily on the enforceability of outcomes, particularly in cross-border contexts. In this regard, Georgia has developed a relatively new regulatory model for the recognition and enforcement of international mediation settlements, significantly influenced by international standards and foreign legal experience. This study examines the effectiveness of the Georgian legal framework and evaluates its role in fostering an investor-friendly climate. The research analyses the institutional evolution of the Georgian model, focusing on regulatory scope, procedural simplicity and legal predictability. Special emphasis is placed on identifying existing procedural and substantive gaps, such as issues concerning non-commercial mediation settlements and the specific criteria for enforceable agreements. Utilising doctrinal and comparative analysis, the paper highlights critical challenges within the current framework. Ultimately, it assesses Georgia's capacity to provide the legal certainty necessary to enhance its competitive standing and overall attractiveness within the global business environment.

Keywords

mediation • cross-border disputes • enforcement • legal environment

INTRODUCTION

The term 'business environment' lacks a normative legal definition; however, according to the World Bank, it may be understood as the set of conditions beyond a firm's control that significantly influence business behaviour throughout its life cycle (World Bank, 2024). As the business environment encompasses multiple dimensions, primarily economic and legal, it is equally important to conceptualise the legal environment of business. In this regard, the World Bank emphasises that regulations and institutions governing the entry, growth and exit of firms, including registration and licensing procedures, play a crucial role in creating contestable markets and fostering productivity and economic growth (Business Regulatory Environment, 2021).

The legal order constitutes one of the core components of the business environment and substantially determines the attractiveness of a particular economic space for investors and business entities. While licensing and tax policies are traditionally regarded as central elements of the legal environment, the system of dispute resolution also represents a matter of considerable importance. From the perspective of business actors, resolving commercial disputes through judicial proceedings is often perceived as less desirable, leading parties to increasingly rely on alternative dispute resolution mechanisms, such as mediation and arbitration.

These mechanisms offer a higher degree of flexibility, confidentiality and procedural efficiency, which are crucial for maintaining ongoing business relationships. Ultimately,

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a robust framework for alternative dispute resolution serves as a key indicator of a mature legal system, fostering a more predictable and secure investment climate (Weeramantry et al., 2023).

Mediation, as a consensus-oriented form of dispute resolution, offers significant advantages by facilitating amicable settlements and supporting the long-term continuation of business relationships. Nevertheless, like any legal institution, mediation is accompanied by certain challenges. One of the most critical issues in the context of modern cross-border business disputes concerns the enforcement of international mediation settlement agreements.

Modern international commercial relations increasingly rely on efficient dispute resolution mechanisms capable of addressing the complex and transnational nature of business conflicts. Traditional litigation, while providing formal judicial protection, is often associated with lengthy procedures, procedural rigidity and considerable financial costs (Cortés, 2022). In contrast, mediation offers a flexible and cooperative framework that allows parties to resolve disputes in a more efficient and mutually beneficial manner (Melenko, 2020).

The importance of mediation in international commercial practice has significantly increased following the adoption of the United Nations Convention on International Settlement Agreements Resulting from Mediation, commonly known as the Singapore Convention on Mediation (Sherman and Momani, 2025). The Convention introduced an international legal framework facilitating the recognition and enforcement of mediated settlement agreements across jurisdictions, thereby strengthening legal certainty in cross-border dispute resolution (Schnabel, 2019).

For emerging economies, the establishment of a reliable mediation framework is particularly important in improving the overall investment climate. Foreign investors frequently assess the effectiveness and predictability of dispute resolution mechanisms before entering a new market. A legal system capable of ensuring the efficient enforcement of mediation settlements therefore contributes to the development of a stable and investor-friendly business environment.

In this context, the Georgian legal framework governing mediation and the enforcement of international mediation settlement agreements represents an important institutional development. By incorporating international standards into domestic legislation, Georgia seeks to strengthen the legal infrastructure necessary for modern international economic relations. The purpose of this article is to assess the effectiveness of the Georgian legal framework governing the enforcement of international mediation settlement agreements, with particular attention to its role in ensuring legal predictability and supporting an investor-friendly business environment.

RESEARCH RESULTS AND DISCUSSION

The present study employs a qualitative research methodology based on doctrinal legal analysis, complemented by comparative and analytical approaches. The research focuses on the enforcement of international mediation settlement agreements as a legal mechanism influencing the effectiveness and attractiveness of the business environment, with particular emphasis on the Georgian legal framework in a global context.

At the first stage, a doctrinal analysis was conducted to examine the normative foundations of mediation and the enforcement of international mediation settlement agreements under Georgian law. This analysis focused primarily on the Law of Georgia on Mediation and the Civil Procedure Code of Georgia (CPC), assessing their regulatory scope, internal coherence and interaction in the recognition and enforcement process. Particular attention was paid to the institutional design of the Georgian model, the allocation of judicial competence and the substantive and procedural grounds for recognition and refusal of enforcement.

At the second stage, the study applied an analytical method to evaluate the effectiveness of the existing legal framework in terms of procedural simplicity, legal certainty and predictability. This stage involved the identification and examination of regulatory gaps and ambiguities, including issues related to the enforcement of non-commercial international mediation settlement agreements, the asymmetry between substantive and procedural regulation and the application of principles such as revision *au fond* and analogy of statute and law.

Relevant judicial practice and doctrinal commentaries were used to assess the practical implications of these issues for business actors and foreign investors.

At the third stage, a comparative legal method was employed to place the Georgian model within a broader international context. The Georgian framework was assessed in light of international standards and foreign legal experience, including instruments and practices developed under the United Nations Convention on International Settlement Agreements Resulting from Mediation and selected approaches from European and common law jurisdictions.

The combined use of doctrinal, analytical and comparative methods enabled a comprehensive evaluation of the Georgian enforcement model, integrating normative analysis with practical considerations relevant to cross-border business disputes.

Establishment of the Georgian model under the influence of global experience

Compared to judicial proceedings and arbitration, mediation represents a relatively recent legal institution within the Georgian legal system. Its institutional establishment and the

development of a corresponding legal framework resulted from the 2019 legal reforms, though several regulatory provisions remain at an early stage of practical implementation (Kikilashvili et al., 2024).

The adoption of the substantive framework, specifically, the Law of Georgia on Mediation (2019), alongside strategic amendments to the Civil Procedure Code, constitutes the primary legal basis for the recognition and enforcement of international mediation settlement agreements (Civil Procedure Code of Georgia, 1997). Consequently, the Georgian system of out-of-court dispute resolution has evolved from a model of restrained regulation to one of extensive oversight (Kandashvili, 2020). This formal framework comprises multiple normative acts and policy instruments governing mediation and its enforceability (Alexander, 2008).

Under Georgian legislation, international mediation settlement agreements are not automatically enforceable; they are subject to judicial recognition. This procedure excludes any substantive review aimed at modifying the settlement's content, reflecting the principle of non-revision *au fond* (Kikilashvili, 2025). This principle precludes a review of the merits of decisions rendered by foreign courts or arbitral tribunals (Supreme Court of Georgia [SCG], Case No. A-952-Sh-23-2016; Case No. A-264-Sh-11-2025; Case No. A-2135-Sh-46-2015).

Even in this context, the court's scope of assessment remains narrow. Judicial competence is strictly confined to verifying the absence of grounds for refusal and issuing a decision accordingly (Kikilashvili et al., 2024). While the Law on Mediation sets out the substantive grounds for recognition, the Civil Procedure Code regulates the procedural mechanisms (United Nations Commission on International Trade Law, 2021).

Notably, the Georgian framework demonstrates conceptual alignment with the Singapore Convention and relevant UNCITRAL instruments, particularly regarding the limited scope of judicial review (Malaguti, 2025). While German legislation has influenced Georgia's emphasis on formal judicial control, US practices have contributed to the broader acceptance of mediation in commercial relations. Ultimately, the Georgian model is not a mere legal transplant; it is a selective adaptation of international standards to domestic civil procedure, impacting the predictability and efficiency of enforcement mechanisms examined in the following section.

Efficiency of the current model: Simplicity and predictability

The efficiency of a legal model is assessed through several factors: simplicity of application, minimal bureaucratic barriers, legal certainty, cost-effectiveness and stakeholder satisfaction. In international mediation, enforcement mechanisms are a decisive element influencing the overall effectiveness of the dispute resolution framework (Weiss, 2015). In addition, the level of a democratic and law-based state is primarily measured by the effectiveness of its legal framework and procedural mechanisms for the protection of human rights (Abuseridze and Kikilashvili, 2025).

The enforcement of international mediation settlement agreements generally takes two forms: those resulting from commercial mediation and those arising from non-commercial disputes (Zeller and Trakman, 2019). Although non-commercial mediation is not the primary focus of business entities, its efficient organisation remains vital for individual civil law disputes. Consequently, both categories significantly impact the quality of the business environment and the overall effectiveness of dispute resolution (Titi, 2025).

Turning to the national context, the efficacy of the Georgian framework warrants evaluation against three primary criteria: regulatory scope, procedural simplicity and legal predictability. Currently, a 'regulatory asymmetry' exists: while the Law of Georgia on Mediation substantively covers both commercial and non-commercial international settlements, the CPC regulates only those falling within the scope of the Singapore Convention. This gap creates procedural uncertainty for international mediation settlement agreements that fall outside the Convention's scope, thereby requiring stakeholders to either rely on analogical interpretation or anticipate the development of relevant case law.

This issue is particularly pressing given Georgia's nascent mediation framework and the lack of consolidated case law. As noted in the Commentaries on the Law of Georgia on Mediation, a potential solution lies in the application of the analogy of statute and law. Where specific procedural norms are absent, courts should apply norms regulating similar relationships (analogy of statute) or general principles of procedural law (analogy of law), an approach firmly rooted in civil procedural doctrine (Kikilashvili et al., 2024).

The Supreme Court of Georgia supports this logic, recognising that foreign judgements and arbitral awards become enforceable only following judicial recognition. By extension, applying the analogy of statute to non-commercial mediation settlements appears to be the most appropriate solution. In such cases, judicial competence remains limited to verifying the settlement's compatibility with public order and the absence of grounds for refusal, aligning with international standards (SCG, Case No. A-5086-Sh-104-2025; Case No. A-6055-Sh-183-2023).

Furthermore, the application of the revision *au fond* principle is critical. While a formal review model requires judicial diligence, for disputing parties, especially foreign investors, the primary advantage of international mediation is the ability to enforce a settlement across jurisdictions where investments are located (Scherer, 2013). Contemporary scholarship emphasises that limited judicial review is essential for

maintaining legal certainty and investor confidence (OECD, 2023; Strong, 2022).

An additional challenge involves the ambiguity regarding 'household purposes.' Under Articles 131 and 132 of the Law on Mediation, the Supreme Court holds jurisdiction over enforcement but leaves certain terms undefined. European and US case laws (e.g. CJEU, 2023; US Supreme Court, 1986) typically interpret 'household purposes' in the context of consumer contracts, i.e. agreements for personal needs unrelated to entrepreneurial activity. The CJEU applies both subjective (natural person) and functional (objective purpose of the transaction) criteria (CJEU, 2020), rather than the individual's personal perception (Weatherill, 2023).

From this perspective, international mediation settlements arising from civil-law disputes (outside personal or family consumption) should, in principle, be enforceable; however, the absence of explicit statutory clarification or consistent judicial practice necessitates individual assessment and undermines legal predictability within the Georgian model.

CONCLUSION

A clear legal framework and efficient dispute resolution mechanisms constitute essential components of an effective business environment. In this context, the recognition and enforcement of judicial decisions, arbitral awards and mediation settlement agreements should be structured in a manner that ensures legal predictability and accessibility for business entities, which remain key contributors to economic development.

The research demonstrates that the Georgian model for the recognition and enforcement of international mediation settlement agreements is a relatively recent legal framework that continues to evolve in practice. While further challenges may arise during its implementation, the analysis identifies two principal shortcomings at the current stage, both related to gaps in procedural and substantive regulation.

The first challenge concerns the absence of explicit procedural rules governing the recognition and enforcement of international non-commercial mediation settlement agreements. In the absence of legislative amendments to the CPC, the application of the principle of analogy of statute represents a pragmatic interim solution capable of preventing delays in enforcement proceedings. However, judicial practice should serve only as a supplementary mechanism and cannot replace clear and predictable statutory regulation. From the perspective of foreign business entities, reliance on case law alone does not provide a sufficient level of legal certainty for investment decisions.

The second challenge relates to the lack of clear statutory provisions concerning the enforceability of international mediation settlement agreements arising from private-law disputes that do not fall within either commercial or household categories. Legislative clarification would contribute to defining the scope of enforceable agreements and enhance both legal predictability and user confidence in mediation as a dispute resolution mechanism.

Finally, the scope of exclusions from enforceability requires reconsideration. In certain cases, rigid exclusion rules may undermine the legitimate interests of the parties, indicating the need for a more balanced legislative approach that reconciles procedural safeguards with the practical demands of cross-border dispute resolution.

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