



SCM and recent developments on Mediation in Greece

Ms. Kalliopi (Kelly) Letsiou & Elena Koltsaki

Date: 29 April 2020 **Time:** 1:00pm CEST

Presentation Summary:

Ms. Kalliopi (Kelly) Letsiou and Ms. Elena Koltsaki gave an interesting presentation together on the topic ‘Singapore Convention on Mediation and Recent Developments on Mediation in Greece’.

Ms. Letsiou began the session by providing a brief overview on mediation, and the Singapore Convention of Mediation¹ (SCM). She explained that mediation, though cost-effective and time-saving as compared to litigation and arbitration, was not a widely accepted dispute resolution mechanism. This was due to commercial parties being sceptical about the binding nature of the settlement agreement. Ms. Letsiou opined that the SCM, being adopted on 20 December 2018, was an answer to the issue of enforceability of international settlement agreements. To date, 52 country states have signed the SCM². Additionally, three Signatory States – Singapore, Fiji, and Qatar – had ratified the SCM thus the SCM will come into force on 12 September 2020.

Under the SCM, international settlement agreements resulting from mediation can be directly enforced in any Signatory State where the assets of the non-compliant party are located. Ms. Letsiou opined that the SCM facilitates and expedites the enforcement of international settlement agreements. She emphasized that the scope of the SCM covers only international

¹ Officially named United Nations Convention on International Settlement Agreements Resulting from Mediation.

² Date of presentation 29 April 2020.

commercial dispute settlement and specifically excludes settlement agreement relate to areas of consumer, family, and employment disputes.

Despite the SCM being widely accepted, some domestic legal systems are still unfamiliar with mediation. Ms. Letsiou cited Iran, as one such example. Despite being one of the initial 46 Signatories to the SCM, Iran has not yet recognized mediation as a mechanism for settlement of disputes in its own legal system. Consequently, she considered that given the novelty of mediation as a dispute settlement mechanism, it is of high concern that competent authorities may face difficulties in proper enforcement under the SCM.

Although Greece is not yet a Signatory to the SCM, the Greek legal system is familiar with mediation because of [EU Directive 2008/52/EC](#)³. Ms. Letsiou pointed out that this EU directive provided a legal framework for cross-border mediation albeit not for direct enforcement of settlement agreements. As a result of familiarity with the directive, Ms. Letsiou is confident and optimistic about the future of mediation in Greece.

Next, Ms. Koltsaki stated that Greece had adopted a law on mediation in 2010 to incorporate EU Directive 2008/52/EC into the national legal system – Law 3898/2010⁴. According to her, Law 3898/2010 was successful in some areas including but not exhaustive to (i) creating an obligation on lawyers to inform their clients about mediation as a form of dispute settlement, (ii) introducing a code of conduct for mediators, and (iii) establishing institutions to train mediators. Despite the successes with Law 3898/2010, Greece failed to achieve the goal of a “balanced relationship” between out-of-court procedures and judicial settlements.

Ms. Koltsaki stated that there was still a need to introduce mandatory mediation for certain types of disputes as voluntary mediation failed to produce the desired result. Therefore, in January 2018, a new law on mediation – Law 4512/2018 – introduced a mandatory element for mediation in several types of dispute and replaced Law 3898/2010⁵. However, due to

³ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. A PDF copy is available [here](#)

⁴ Law 3898/2010 - Mediation in Civil and Commercial Matters. This law came into force on December 16th 2010.

⁵ Mandatory mediation, as introduced by Law 3898/2, simply established mandatory attendance of the parties at a first joint session to be informed about mediation and to explore the possibility of mediating their dispute: no obligation to participate further in the procedure was required.

heavy criticism from the legal industry on accounts of violation of access to justice, the Ministry of Justice suspended the application of the 2018 Law for a year (until September 2019).

Ms. Koltsaki pointed out that this led the working groups to draft new legislation – Law 4640/2019⁶. It was adopted on November 2019 and came into effect 15 January 2020. Law 4640/2019 introduced and reframed what constitutes “mandatory mediation” including:

- An obligation on the lawyers to inform their clients about mediation before seeking recourse to the courts;
- An obligation on the parties to attend the mediation in person except in special circumstances;
- An obligation on the lawyers to assist the parties in mediation;
- Deadlines for when the first joint mediation session ought to take place;
- The consequences of inadmissibility of the case in judicial forums in instances of failure to comply with first joint mediation session; and
- Sanctions such as monetary fines in instances of absence from the first joint mediation session.

Law 4640/2019 also provided for mandatory first joint mediation sessions for family disputes (with the exception of divorce) and commercial disputes from €30,000. This was planned to take effect from 15 January 2020 and 15 March 2020 respectively. However, the new law did not take effect on 15 March 2020 as planned due to COVID-19.

Ms. Koltsaki highlighted other reforms introduced by Law 4640/2019 that were meant to professionalize the field of mediation. However, she envisaged that there will be challenges in the implementation of the new law as more stakeholders endorse this process. Additionally, the situation with COVID-19 also brings new considerations to these challenges as online mediations become the new norm. Ms. Koltsaki is optimistic that Law 4640/2019 will enhance the use of mediation in Greece.

⁶ Law 4640/2019 - Mediation on civil and commercial disputes – Further harmonization of Greek legislation with Directive 2008/52/EC of the European parliament and of the council of 21 May 2008 and other provisions.

Q&A Discussion

Some questions and topics addressed by Ms. Letsiou & Ms. Koltsaki:

- What can be done to change the prevalent view that litigation is the only way to resolve disputes?
- What is the reception to Law 4640/2019?
- When does Law 4640/2019 become applicable? And what are the long-term expectations from it?
- Are private mediations conducted in Greece? How are they regulated?
- Are lawyers obligated to represent clients both in mediation sessions and court proceedings? Or is the law applicable only in mediation sessions?
- How are settlement agreements enforced under the current law?
- What can organizations like the International Mediation Institute and the Singapore International Mediation Institute do to help mediators in their work?

We invite you to listen to Ms. Letsiou's and Ms. Koltsaki's answers from the video record of the session [here](#), as well as to catch up of their responses to other questions not listed above.

Links to other requested resources that came up during the session are provided below:

- [United Nations Convention on International Settlement Agreements Resulting from Mediation](#) also known as the 'Singapore Convention on Mediation'
- [Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters](#)

The team at SIMI and IMI would like to express our gratitude to Ms. Letsiou and Ms. Koltsaki for sharing their time to be speakers at the Singapore Convention Seminar Series and to participants for joining us live for the session. Do join us for our next seminar on '*India and the Singapore Convention*'!