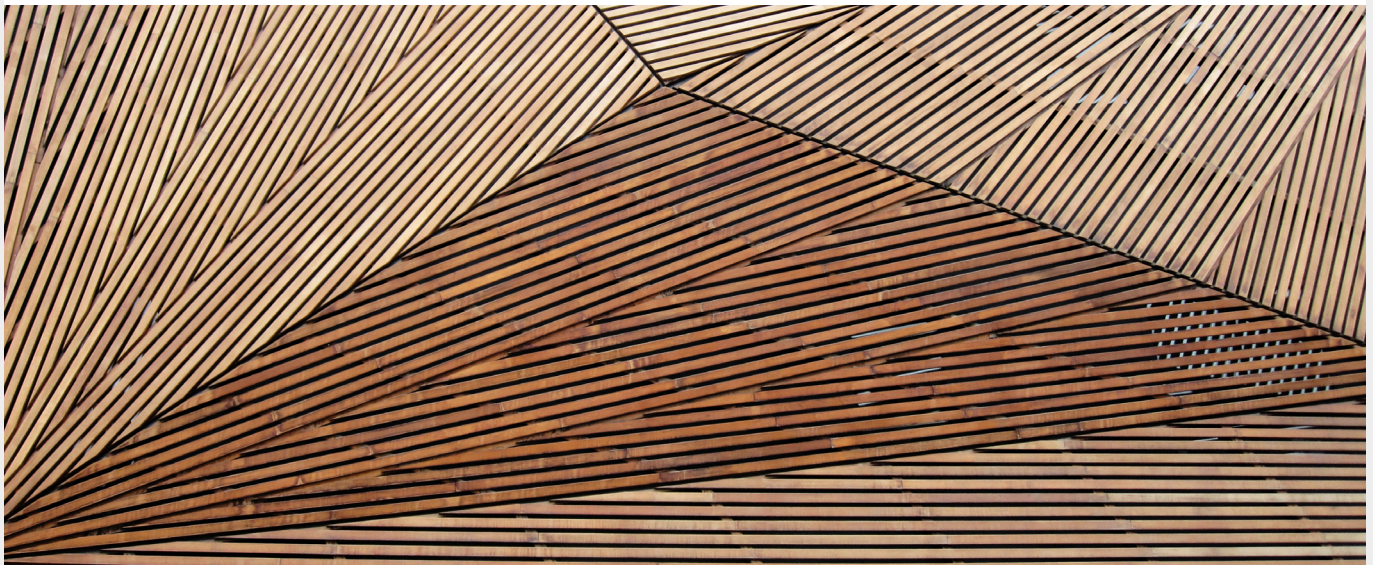


The Singapore Convention Entered Into Force

April 2022



United Nations Convention on International Settlement Agreements Resulting from Mediation (“**Singapore Convention**”), signed by Turkey on 7 August 2019, entered into force upon being published in the Official Gazette dated 22 April 2021 and numbered 31462. Pursuant to Article 90 of the Constitution of the Republic of Turkey, the Singapore Convention has also become a part of Turkish legislation since international treaties duly put into effect possess the force of law.

Similar to the fact that the 1958 New York Convention (“**NYC**”) allows an arbitral award rendered in one signatory country to be easily recognised and enforced in another signatory country, the entry into force of the Singapore Convention, which provides a mechanism for the cross-border enforcement of settlement agreements resolving international commercial disputes by mediation, has significant importance in terms of paving the way for settlement agreements to become enforceable.

The Scope of Singapore Convention

The Singapore Convention applies to settlement agreements resulting from mediation and concluded in writing by parties to resolve a commercial dispute, which, at the time of its conclusion, has international feature with the following conditions:

- (a) at least two parties to the settlement agreement have their places of business in different States or,
- (b) the State in which the parties to the settlement agreement have their places of business is different from either: (i) the State in which a substantial part of the obligations under the settlement agreement is performed or, (ii) the State which the subject matter of the settlement agreement is most closely connected.

That said, the Singapore Convention does not apply to settlement agreements concluded to resolve a dispute arising from transactions engaged in by one of the parties for personal (as a consumer), family or household purposes as well as settlement agreements relating to family, inheritance and employment law. Moreover, it does not apply to settlement agreements approved by a court or concluded during court proceedings and enforced as judgement in the State of that court or to settlement agreements that are recorded and enforced as arbitral awards.

Procedural Conditions for the Enforcement of the Settlement Agreement

The party seeking to enforce a settlement agreement falling within the scope of the Singapore Convention must meet a limited number of procedural requirements. In this regard, the party requesting enforcement must submit to the competent authority of the relevant State: (i) the settlement agreement signed by the parties, (ii) evidence that the settlement agreement resulted from mediation, (iii) the translation of the settlement agreement if the agreement is in a language other than the official language of the relevant State and upon the

request of the relevant State, and (iv) other documents which may be requested by the competent authority that the conditions set forth in the Singapore Convention have been met.

Grounds for Refusal of the Execution of Settlement Agreement

The competent authorities of the contracting parties may refuse enforcement of the settlement agreement at the request of the party against whom the legal relief is sought and on the condition that it proves the following:

- a) The incapacity of one of the parties,
- b) The settlement agreement is null and void, inoperative or incapable of being performed; not binding or not final according to its terms or subsequently modified,
- c) The obligation subject to the settlement agreement has been performed or is not clear or comprehensible,
- d) Acceptance of the relief is contrary to the terms of the settlement agreement,
- e) Material breach of mediation standards or,
- f) The failure by the mediator to disclose the matters that may jeopardise their independence and impartiality and that the undisclosed matters may seriously affect the intent of the parties to execute the settlement agreement.

Additionally, the request for the execution of the settlement agreement may be refused ex officio in the following cases:

- a) The request is contrary to the public policy of the State to which the application is made or,
- b) The subject matter of the dispute is not capable of settlement by mediation under the law of the State to which the application is made.

Conclusion:

Awareness of mediation, an alternative method of viable dispute resolution that has been implemented in Turkey since 2013, has rapidly increased in recent years and mediation has now become a significant feature of the legal landscape in Turkey. This is clearly demonstrated both in terms of the legal framework in which Turkey has positioned mediation in its domestic law and by being one of the first signatories to the Singapore Convention. With the entry into force of the Singapore Convention, an important step has been taken to strengthen the international cooperation in terms of the enforcement of international settlement agreements resulting from commercial mediation in line with the progress made in the field of mediation in recent years.



Simel Sarialioğlu

Partner

ssarialioglu@paksoy.av.tr



Özge Güller

Senior Associate

oguller@paksoy.av.tr

This briefing is for information purposes; it is not legal advice. If you have questions, please call us. All rights are reserved.

Paksoy is an independent full-service law firm in Istanbul, Turkey focused on helping clients in a wide range of legal areas including cross-border investments, acquisitions, international business transactions, banking and finance, projects, infrastructure, investigations, compliance, disputes, litigation and arbitration.