

PANEL SESSION

“At the turn of arbitration and mediation: mixed forms of dispute resolution and investment mediation”.

**If you have any questions on the topic
of the session, please send them to
fidana.mediator@gmail.com**

SPEAKERS



JAMES CLAXTON (Japan)

**Mediator, arbitrator, attorney,
and academic**



FIDANA ALIEVA (Kyrgyz Republic)

**CAO (World Bank Group) mediator,
ADB mediator, negotiation
consultant**



FRANCISCO ABRIANI (USA)

**Legal Counsel at the International
Centre for Settlement of
Investment Disputes (ICSID)**

RECONSIDERING PRACTICES OF INVESTOR-STATE DISPUTE RESOLUTION IN CENTRAL ASIAN COUNTRIES IN THE ERA OF THE SINGAPORE CONVENTION ON MEDIATION

RATIONALE FOR UTILISING MEDIATION

- High number of investor-state disputes
- Expensive investor-state arbitration
- Easier way to resolve the investor-state disputes with mediation

NUMBER OF CASES

Kazakhstan and Kyrgyzstan are among the CIS countries with the highest numbers of investor-state cases arbitrated between 1996 and June 2020 (24 and 23 cases accordingly).

COSTS

According to Hodgson M., Kryvoi Y., Hrcka D., (2021), average investor costs in investment arbitration reached **USD 4.1 million** and respondent states spent on average **USD 2.3 million**.

DURATION

The least duration of international arbitration is at least **39 months**, maximum is **19 years**.

The average duration of international mediation can take **up to six months**.

BRIEF ANALYSIS OF MEDIATION DEVELOPMENTS

#	COUNTRY	MEDIATION LAW	SINGAPORE CONVENTION ON MEDIATION	MEDIATION IN INVESTMENT ACT
1	Kazakhstan	+	Signed, not ratified	-
2	Turkmenistan	-	Not signed, not ratified	-
3	Uzbekistan	+	Not signed, not ratified	+
4	Kyrgyzstan	+	Not signed, not ratified	-
5	Tajikistan	-	Not signed, not ratified	-

REASONS FOR NOT USING INVESTOR-STATE MEDIATION

- Lack of practical mediation experience on the national level
- Less formal character of investor-state mediation
- The need for states to restore public trust by shifting responsibility for the unacceptable decision to a third-party
- The issues related to state representation in mediation