

Summary of the introduction to the doctoral dissertation

Mediation in Polish criminal law

Doctoral dissertation under the supervision of

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The idea of consensualism and restorative justice has been greatly influenced in criminal proceedings. The means used in criminal law, apart from being ineffective, only include changes in the paradigm of criminal law, and thus new, deeper alternative methods began to be sought. It was postulated that the model of retributive justice and restorative justice should be a model of restorative justice. Victimology, the study of the victim of crime, turned out to be the impetus. The role of mediation in criminal justice stipulates that it must directly influence the party in making procedural decisions, allowing for the inclusion of criminal proceedings, and thus contributing to relieving the judiciary from significant participation in social matters. Mediation is constantly being improved, it helps from mediator tools, ending with special additional solutions and applications with the SARS COV 2 pandemic.

Two components were the inspiration for the research analysis of this topic :

- taking into account the important role of mediation in shaping social peace and recognizing its impact on the culture of civil society supported by consensus, not comments,
- a small number of comprehensive studies on mediation in criminal matters

The thesis of the following considerations is an attempt to show the role of mediation in solving a criminal conflict and ending a criminal trial, as well as examining the degree of its effectiveness and efficiency and assessing this effectiveness in Poland and selected countries in Europe and the world. The author has made a detailed analysis of legal and institutional solutions in Poland and abroad, including Directive 2012/29/EU of the European Parliament and of the Council of 25

October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing the Council Framework Decision 2001/220/JHA

The source base of the doctoral dissertation is based on the following documents;

- legal acts,
- monographs,
- collective works,
- scientific articles,
- research material in the form of statistics and data obtained through surveys.

The research intention of the author is to verify the main thesis (supported by research hypotheses in relation to individual chapters), which boils down to the claim that mediation is the most commonly used means of consensual termination of criminal proceedings of a remedial nature as well as an effective tool for extinguishing criminal conflicts between the victim and the perpetrator of the crime with the participation of a neutral third party, which is a professional mediator. The work contains a number of relatively extensive comparative legal remarks, the aim of which is to show the potential of mediation institutions for society and the judiciary. The work provides an answer to an important question: what is the state of mediation in criminal cases, how often and effectively is this method used in the current legal situation and finally what is the assessment of this effectiveness and what should be done to improve the existing state of affairs.

Chapter I: The History and Development of the Contemporary Alternative Dispute Resolution (ADR) Movement

presents the history of mediation and the development of the ADR (Alternative Dispute Resolution) movement

Chapter II: Restorative justice in criminal matters

resents the genesis, essence and development of restorative justice against the backdrop of criticism of the traditional model of criminal justice. It reviews the

critical arguments against the idea of retributivism, as well as presents the views of the leading representatives of the doctrine on the role and growing importance of restorative justice in the modern restorative process. The issues of relations between retributive and restorative justice were subjected to a detailed analysis.

Chapter III: Mediation in the criminal law system in selected countries

shows a recapitulation of the functioning of mediation in four selected countries, i.e. the USA, Canada, Great Britain and Norway. It analyzes the legal basis for the functioning of this institution in a specific country and shows the differences between them. The variety of procedures that can be used and the theoretical basis for the functioning of individual experiments on the introduction of mediation in individual countries are shown.

Chapter IV: Mediation as a means of consensual termination of criminal proceedings

is devoted exclusively to the use of mediation in the Polish justice system, contains an analysis of the changes that have taken place in the legal regulations concerning the institution in question, introduced by the amendment of the Code of Criminal Procedure. of January 10, 2003, including later regulations. The principles of introducing mediation to the Polish penal system, the qualifications of persons authorized to practice the profession of mediator, the course of mediation proceedings are presented here. The author has signaled the problem of mediation after the judgment and juvenile proceedings. It also does not omit the issue of e-mediation and the future of online mediation as a new, commonly used form, the development of which was related to the SARS COV 2 pandemic and the total lockdown introduced in the Republic of Poland in March 2020

Chapter V: The effectiveness of mediation in the Polish criminal process

The research problem discussed in the chapter can be summarized in the question: what is the issue of the effectiveness and efficiency of mediation in the years 1998-2021? This part of the work will present the opinions expressed in the survey, which, by courtesy of the Polish Mediation Center in Warsaw, was addressed to mediators. The author also presented research conducted by experts on the subject

and took into account statistical data prepared by the Statistical Management Information Department of the Department of Strategy and European Funds of the Ministry of Justice, prepared original charts and diagrams and made a detailed analysis of the entire issue covering the years 2018 - H1 2021.

The summary of the dissertation contains conclusions drawn from the content of the previous chapters as well as *de lege lata* conclusions and *de lege ferenda* postulates regarding the way mediation functions in the Polish legal system.

In addition to the analysis of scientific literature, the method of analyzing statistical material published by the Ministry of Justice in the form of annual reports was used. To a limited extent, the historical method was also used, useful to show the origins of mediation and restorative justice.