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ABSTRACT OF THE DOCTORAL DISSERTATION ENTITLED

"Mediation in civil cases in court practice"

The subject of the dissertation is the institution of mediation in civil cases, and in particular its normative foundations as well as the analysis and evaluation of its functioning so far. Mediation as an alternative dispute resolution method is the best-known amicable way for parties to reach an agreement and end a conflict in a way that differs from the judicial route. This is evidenced by the rich literature and jurisprudence on the history, legal basis, and use of mediation. Although mediation has been the subject of scientific research and studies in the literature for a long time, normative changes, new jurisprudence, as well as the changing political, social, and economic environment justify reviewing the current state of knowledge about mediation and mediation proceedings, verifying the adopted legal solutions and possibly formulating postulates legislation, as well as an analysis of legal and non-legal factors that influence the mediation use.

In addition to mediation itself, the literature on the subject often discusses issues related to other ADR methods, against which mediation is shown as the most informal, being the guarantor of the voluntary principle. The dissertation presented here is a voice in the discourse on the perception of this ADR method found in science and practice. It indicates that it is necessary to define it more precisely in the law, implement it more widely in the proceedings, and make mediation an obligatory element preceding court proceedings. The author has attempted to verify the following claims: mediation in civil cases is an important alternative method of dispute resolution and can be used with due respect to the right to court and the principle of judicial administration of justice; although the legislator reacts to the postulates of changes in the law on mediation in civil cases, the introduced amendments did not significantly increase the number of mediation proceedings; the use of mediation is influenced by information about this institution and the dissemination of knowledge about it, also through specific information obligations resulting from legal provisions; an important element of mediation proceedings is the person of the mediator, who must have substantive and ethical qualifications to conduct mediation; insufficient rules on the training of mediators and the status of the mediator profession may negatively affect the use of mediation by the parties to the dispute; in order to strengthen the authority of the mediator, it is reasonable to consider making it a profession of public trust; inspirations taken from the legal systems of foreign countries,

e.g. regarding mandatory mediation, should be considered by the legislator for the development and dissemination of this institution's use.

The indicated statements were verified primarily using the dogmatic method, as well as by analyzing statistical data obtained from external sources and from our own calculations. The need to introduce legislative changes in the field of mandatory mediation has been demonstrated by means of a statistical analysis of the judicial practice and the actual use of the institution of mediation in common courts from a global perspective - all courts in Poland and from the perspective of a single court - the District Court in Warsaw. Statistical analysis was used to verify, among others, what percentage of cases are referred to mediation by courts in all types of cases, and separately what the situation is for civil cases. The analysis also brought answers to questions about the number of settlements concluded, and therefore decided about the mediation effectiveness. Other elements related to mediation were also verified, such as the impact of information meetings on the number of cases referred to mediation. It was established in which cases settlements are reached most often. In addition, it was also shown that the number of cases mediated varies by county and district courts. It also looks different for individual departments of the same court. The comparative method was also used as an aid to compare legal systems in selected countries other than Poland, but only to show the common and different features of these systems and to discuss the solutions introduced by these countries regarding mediation in civil cases.

The analysis discussed above has led to the conclusion that, despite the many advantages of mediation, in Poland, the number of cases actually referred to mediation proceedings is so low that it cannot be considered that it has a significant impact on the reduction of cases examined in court proceedings. In the field of civil cases, a thesis was put forward that it does not cause any impact, although it would seem that due to the nature of civil law, the idea of mediation should be fully implemented.

The presented hearing is also an attempt to answer the natural question about the reasons for such a low percentage of cases in which an attempt was made to resolve the dispute using ADR methods.

The result of the research was the formulation of de lege ferenda conclusions because the findings made in this dissertation can also help shape the legislative policy regarding mediation in civil cases, set directions for changes in the law, and disseminate knowledge about this institution of dispute resolution that is important for society.