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HISTORICAL ORIGINS OF MEDIATION

The mediation in its modern form was formed only in the second half of the XX century, but its foundations were born much earlier. The mankind constantly seemed to walk around it, but for a long time did not dare to apply. The first ideas about mediation in the state in which we are accustomed to seeing it were voiced in 1976 in the United States, when a historic conference named after R. Pound entitled "Causes of public dissatisfaction with the administration of the US justice system", which made a real breakthrough in mediation. It was at the Pound Conference that two documents were published, which became the foundation for the most famous alternative way of resolving disputes.

If we turn to the historical origins, it is worth mentioning the works of ancient Greek philosophers, namely their philosophical dialogues. The most famous representatives were Socrates, Plato, Heraclitus. They found the truth, dug into the essence of things through a logical discussion between interlocutors who hold opposing views on the same issue. on one issue. It is this method and gave the name "dialectics" [2, p. 167]. Here you can find similarities, as the method of mediation - asking questions help opponents get to the heart of the problem, find the causes of the conflict and build a common model for resolving the situation.

The first specific mention of the institution of reconciliation, as a full-fledged part of jurisprudence, can be traced back to the 20s of the twelfth century. One of the textbooks of English law, namely the Laws of Henry I, enshrines an interesting principle, which reads as follows: "Pactum legem vincit et amor iudicium" - "Agreement transcends law, and peace - a court decision." This principle applies to the so-called "conciliation procedures", which were designed to resolve the dispute by concluding peace between the conflicting parties. They provided that if one person compensated another and then offered him peace and promised to do no more harm, the person to whom it was offered was encouraged to accept such an offer and forgive the offender. Moreover, such "peace agreements" in their legal force were equated to court decisions [2, p. 167].

Mediation was also used in the cities and especially in the villages of medieval France. There the parties could turn to a representative of the clergy,

nobles or notables (a member of the meeting convened by the King of France to discuss important state issues) and resolve their conflict. The procedure took place orally and was voluntary. And since the XVII century. Mediation has become a virtually mandatory procedure prior to recourse to the courts. A similar algorithm existed before and was enshrined in the Law of the Twelfth Tables. Most third parties were involved in resolving disputes over the infliction of harm and violent offenses. The result was the conclusion of peace agreements between the parties. But this type of mediation has more influence on the formation of arbitration than mediation [1, p. 32].

In the XVIII century. Ukrainian writer and cultural figure Konisky G.I. developed an interesting algorithm for resolving disputes. It is called "Laws of proper dispute with others". According to him, the person conducting such a dispute must know the subject of the dispute, clearly follow the established procedure of discussion, follow the rules of conduct and be friendly to the opponent, seek to reach a joint solution to the conflict and consensus [2, p. 167]. That is, we see that in Ukraine the origins of mediation began to take shape long ago.

The importance of all these historical events is difficult to overestimate, because they gave a constant impetus to the development of alternative methods of dispute resolution, but the direct formation of the institution of mediation did not happen. Mankind seems to have revolved around the idea of mediation, but could not come to it directly until the second half of the XX century.

After Black Thursday in 1929, the world entered a long and severe economic crisis. This blow was especially felt by people in the United States and Western Europe. During the Great Depression, businesses closed en masse and people lost their jobs. It was not until the late 1930s that the situation gradually began to improve. In the next 20 years, people return to work and, for the first time, unions are formed to protect workers. It was in the late 1940s that a new kind of conflict emerged in the economy - between trade unions and employers. Their number reaches such proportions that the judicial system was simply not ready. As a result, the US government decides that there should be a kind of impartial arbitrator between the conflicting parties who will be interested in resolving the dispute so that opponents are satisfied. It was made by the US Department of Labor, and in 1947 a special state body was established - the US Federal Mediation and Conciliation Service, which still operates today. This was the first use of the word "mediation". And although it has not yet acquired the characteristics of an independent institution, the foundation has been laid.

The success of mediation lies in its essence, which is that the conflict is resolved directly by the conflicting parties with the involvement of a mediator who has no competence to provide any recommendations on the appropriateness of a decision. It only directs the participants to a mutually beneficial outcome that will satisfy the true interests of the parties. Another

important factor is that mediation, compared to litigation, is faster, easier, cheaper and more efficient and more credible. That is why most people prefer the mediation procedure.

Literature

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КОНЦЕПТУАЛЬНІ ЗАСАДИ РОЗВИТКУ ЮРИДИЧНОЇ ОСВІТИ В УКРАЇНІ

За період незалежності в Україні триває поступовий підхід щодо реформування юридичних інститутів, які повинні гарантувати забезпечення ствердження та захисних функцій стосовно прав людини. Особливо актуальним є оновлення законодавчого поля, що має бути відповідним до європейських стандартів. Ефективність діяльності цих інститутів в більшості залежить від фахової підготовки спеціалістів та дієвості законодавчих норм у сьогоденні.

У правничих школах України зміст та методика викладання юридичних дисциплін дещо змінюється, а реформування освітньої мережі проходить із наявністю певних змін. Хоча в системі юридичної освіти поки що відчувається залишок радянських часів, де юрист був покликаний в значній мірі служити державі, а не забезпечувати гарантію захисту прав людини чи ефективно здійснювати публічне обвинувачення. Тому цей спадок в діяльності юридичних інститутів є рудиментом, бо не дозволяє йти в ногу із часом, оскільки реформуючи законодавство, треба наближатись до європейського рівня. Отже, нині фахівці не завжди спроможні впроваджувати нові закони, які стоять на сторожі захисту прав людини.

Про роль вищої юридичної освіти у нашій державі засвідчує згадування про неї в розділі VIII Конституції України, бо вона слугує необхідною вимогою для зайняття посади судді з ціллю справедливого