

SUMMARY

The Future of Criminal Mediation

Mediation has been included in the provisions of the current Code of Criminal Procedure since its inception. The introduction of this institution into the code adopted in 1997 was justified by its usefulness both for improving the administration of justice in criminal cases, primarily by shortening the duration of proceedings, and for actually resolving conflicts between the injured party and the perpetrator, at the same time assigning it the role of an instrument for the swifter pursuit of claims by injured persons. However, statistical data provided annually by the Ministry of Justice clearly show that there is little interest in criminal mediation in the practice of justice, which calls into question the assumptions and expectations of the legislator towards the institution of mediation.

In order to answer the question posed by the title of the monograph about the future of mediation in Poland, this study attempts to search for and analyze the reasons for such a limited use of mediation in criminal cases, both in preparatory proceedings and in the court process. The authors, recognized theoreticians and excellent practitioners in the field of mediation and criminal proceedings, discuss whether mediation has a place in criminal proceedings. Is it wasted potential or is it an example of a failed experiment by the legislator? The study also attempts to answer whether there is a need to use mediation in the current model of the criminal trial and what conditions are necessary for the effective use of this institution in the criminal trial. It also presents the expectations towards mediation on the part of the judge and the real benefits for people, victims and perpetrators. An attempt is also made to answer the question why mediation is not used at the stage of preparatory proceedings.

At the same time, the book indicates the space within which criminal mediation not only works perfectly, but is even, due to its specificity, a more desirable conflict resolution tool than mediation conducted on the basis of other provisions regulating this institution. This area includes conflicts between a doctor and the injured party or his family in medical malpractice cases, as well as cases involving older people, also in situations where they are victims of violence.