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THE MEDIATION AS A CONCILIATION PROCEDURE IN CIVIL LAW LEGISLATION

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Abstract. *The relevance of the topic is explained by the current conditions of development of the rule of law in terms of establishing the traditional form of judicial protection of human and civil rights in conflict resolution. This fact was a consequence of the positive dynamics and growth of citizens' appeals to the court: according to the information provided by the Legal Information Agency, at the end of 2020, a total of 20,773,356 cases were considered in civil proceedings, the share of satisfied of which amounted to 98%. These indicators for the same period of 2019 have undergone a change: the number of cases considered in total for the country increased by 9.5% (18,804,923 cases), the share of satisfied 97%.*

Many legal researchers note the overload of the domestic judicial system, due to the fact that the number of filed lawsuits in courts of general jurisdiction and arbitration courts is so high, the judicial apparatus cannot cope. With the aim of normalizing the activity of courts, the legislator in the Federal Law of 27.07.2010 No. 193-FZ "On alternative dispute resolution procedure with the participation of

a mediator (mediation procedure)" enshrined the institute of mediation, which is able to resolve conflicts out of court.

Keywords: *mediation, civil procedure, arbitration court, settlement agreement, mediator.*

Subsequent modification and evolution of procedural sectors of law have legislated many innovative processes arising in the legal sphere. This also affected the wide spread of mediation procedure in the tenth years of the XXI century — in 2010 the Federal Law of 27.07.2010 No. 193-FZ "On alternative procedure of dispute resolution with the participation of a mediator (mediation procedure)" was adopted, which regulated the issues of dispute resolution with the participation of a mediator. Thus, in accordance with Article 2 of this law, the mediation procedure is understood as "a method of dispute resolution with the assistance of a mediator based on the voluntary consent of the parties with the aim of reaching a mutually acceptable solution"[1].

It is worth noting that the prerequisites for the formation of this sphere of legal relations arose long before its legislative enshrinement. It is known that the beginning of the development of this institution is archaic, as the methods of settlement of relations in society were subject to change in the course of evolution. With the emergence of the judicial form of defense, the mentality of mankind has certainly changed — people have moved from war to peaceful settlement of arising disputes, including international ones. *Appropriate dispute resolution* is a concept that has gained its legal significance in the world on the threshold of the 21st century. First, it became a consequence of the beginning of the activity of international and foreign organizations, first, non-profit ones. The significance of this concept was substantiated by Zeno Sustak within the framework of the study "Philosophy of Mediation"[2]. The philosophy of mediation is not inferior to the philosophy of law, having a more noble character, which puts at the center the act of encouraging the maintenance of harmonious relations between social actors.

The philosophy of mediation is not contradictory, but addresses the topic of philosophy of conflict, which is of low interest to the philosophy of law. Having different objectives, both concepts harmonize interpersonal relations disturbed by

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[1] Federalnyy zakon ot 27 iyulya 2010 g. No. 193-FZ "Ob alternativnoy protsedure uregulirovaniya sporov s uchastiem posrednika (protsedure mediatsii)" [Federal Law No. 193-FZ of July 27, 2010 "On the alternative dispute resolution procedure with the participation of a mediator (mediation procedure)"] // Rossiyskaya gazeta [Russian Newspaper] ot 30 iyulya 2010 g. No. 168.

[2] *Zeno D. S.* Philosophy of Mediation // Mediate. Everything mediation: [Electronic resource]. — URL: https://mediate.com/philosophy-of-mediation/ (date of address: 23.10.2023).

the occurrence of certain disputes. Mediation in civil proceedings is a real solution to the problem of the burden on judges. It is reasonable to support the point of view of O. M. Sviridenko that the institution of mediation represents an important role in several directions, as its practical significance for the justice system and society is to promote anti-corruption campaign, as well as to reduce the workload of judges by 30%[1]. The increase in the workload of judges is substantiated by a comparative analysis of statistical indicators on the work of arbitration courts in the Russian Federation. In 2007, 905,211 cases were heard in first instance[2]. Already in 2022, arbitration courts will hear 1,702,816 cases in first instance, which is twice as many as 15 years ago[3].

The efficiency of dispute resolution through mediation is 50–70%, while the enforceability of decisions reached as a result of the parties' work with the mediator is 90%. Dispute resolution timeframes with the participation of a third party significantly reduce litigation in courts. Dispute resolution timeframe on average is 2–3 months, when the dispute resolution timeframe with the participation of a mediator can be a few days. For example, the Arbitration Court of Moscow issued a decision on the case with a mediation agreement between the parties in 6 days, after the stated requirement[4].

The obvious advantages of the mediation procedure in civil proceedings allow us to express hope that the public approach to mediation agreements will change and the trend of dispute resolution with the participation of a mediator will continue.

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[1] *Zelimov V. N.* Na polzu i pravosudiyu, i grazhdanam… [For the benefit of both justice and citizens...] // Mediatsiya i pravo. Posrednichestvo i primirenie [Mediation and law. Mediation and conciliation]. 2007. No. 3 (5): [Electronic resource]. — URL: https://zelimov.livejournal.com/423179.html?ysclid=lo2jk9geuk521780818 (date of address: 23.10.2023).

[2] Obzor statisticheskikh pokazateley raboty Arbitrazhnykh Sudov Rossiyskoy Federatsii v 2007 godu [Review of statistical indicators of the work of Arbitration Courts of the Russian Federation in 2007] // Arbitrazhnoe pravosudie v Rossii [Arbitration justice in Russia], No. 4 aprel 2008 g.: [Electronic resource]. — URL: https://base.garant.ru/5589471/ (date of address: 23.10.2023).

[3] V 2022 g. uvelichilos chislo arbitrazhnykh sporov s uchastiem grazhdan bez statusa IP [In 2022, the number of arbitration disputes involving citizens without individual entrepreneur status increased] // Advokatskaya gazeta. Organ Federalnoy palaty advokatov RF [Advocates' newspaper. Organ of the Federal Chamber of Lawyers of the Russian Federation]: [Electronic resource]. — URL: https://www.advgazeta.ru/obzory-i-analitika/v-2022-g-uvelichilos-chislo-arbitrazhnykh-sporov-s-uchastiem-grazhdan-bez-statusa-ip/?ysclid=lo2jq2269k774026209 (date of address: 23.10.2023).

[4] Opredelenie ot 10 dekabrya 2013 g. po delu № A40-100034/2013 [Decision of December 10, 2013, in case No. A40-100034/2013] // SudAkt: Sudebnye i normativnye akty RF [SudAkt: Judicial and normative acts of the Russian Federation]: [Electronic resource]. — URL: https://sudact.ru/arbitral/doc/q052UMX9p3ls/?ysclid=lo2jseobc5674304479 (date of address: 23.10.2023).

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