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COMPARATIVE STUDY OF MEDIATION PRACTICES IN EUROPEAN COUNTRIES

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Abstract

The article «A Comparative Study of Mediation Practices in European Countries» is an analytical review of the effectiveness and features of mediation in the context of different European countries. The authors conduct a comparative analysis of mediation practices in the selected countries, identifying similarities, differences and successful methods, used in conflict resolution. Using case studies from different countries, the article examines aspects, such as mediator selection, procedures, consent practices and enforcement.

The results of the use of mediation in various fields, including family, commercial and socio-political conflicts, are discussed. The authors note the positive impact of mediation on social relations, reducing the workload of judges and increasing confidence in the justice system.

The article provides an in-depth analysis of the effectiveness and features of mediation in the context of different European countries. The article focuses on the structure and organization of mediation processes in different European countries. Case studies are used to examine such aspects as the selection of mediators, mediation procedures, and the importance of the parties' consent.

The analysis emphasizes the positive effects of mediation, such as improving social relations, reducing the burden on the judicial system, and building confidence in dispute resolution mechanisms.

The article also emphasizes the importance of comparative study of mediation practices in European countries in order to enrich the experience and develop more effective methods of conflict resolution. The results of this study are relevant both for mediation professionals and for legislators and decision-makers seeking to optimize mediation practice in their countries.

Keywords: Mediation, conflict resolution, commercial disputes, socio-political conflicts, effectiveness, trust, enforcement.

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1. Introduction

The modern world faces a multitude of complex conflicts that require innovative and peaceful approaches to resolution. In this context, mediation as an effective method of dispute resolution takes an increasingly important place in the global arena. Of particular interest is the practice of mediation in European countries, where the diversity of cultures, histories and legal systems creates a unique field for research. A comparative study of mediation practices in European countries allows us to delve deeper into analyzing the diversity of methods, approaches and outcomes, as well as to identify common trends that contribute to peaceful conflict resolution.

Understanding the differences and similarities in mediation practices across European countries provides an opportunity to expand our knowledge of how different cultural, legal and social factors influence the choice of dispute resolution methods. In order to understand which approaches are most effective in certain contexts, it is necessary to examine and compare mediation practices across Europe. This article aims to make such a comparative analysis by taking as a basis real cases, structures and rules, applied in mediation practice in different European countries. As a result, we will be able to identify valuable lessons and best practices that can be applied to foster peaceful relations and conflict resolution not only in Europe, but also worldwide.

Contemporary European societies are faced with complex challenges and diverse disputes, which can range from family and commercial conflicts to social and international controversies. In such a context, the importance of alternative methods of conflict resolution, especially mediation, is brought to the fore [1]. These methods provide an opportunity for the parties to reach agreement and resolve disputes without the need for lengthy and costly litigation, as well as minimize the negative impact of conflicts on society as a whole.

It is important to note, that alternative methods of conflict resolution, such as mediation, focus on cooperation and dialogue rather than confrontation and victory for one party. This enhances

mutual understanding, preserves relationships and leads to the creation of more balanced and satisfactory solutions for all parties. In modern European societies, where cultural, legal and social diversity plays a key role, the use of alternative methods of conflict resolution makes it possible to accommodate different interests and ensure a fairer and more lasting resolution of disputes.

Mediation plays an enduring role in modern European countries as a powerful tool for dispute resolution. This method, based on cooperation and dialogue, allows the parties to find common understanding and reach an agreement while maintaining a balance between their interests [2, 3]. An important characteristic of mediation is its adaptability – its ability to be applied in a wide variety of contexts, be it family, commercial or international disputes. More and more countries in Europe are recognizing the value of mediation as a means of preventing conflict escalation and reducing the burden on judicial systems.

An important advantage of mediation is its ability to preserve and improve relations between the parties, even after the dispute has been resolved. The practice of mediation in European countries allows participants to find common ground and sometimes even long-term cooperation. This aspect is particularly important in regions with deep historical, cultural and political differences, where mediation helps to create sustainable ties and build trust. Taken together, the growing interest in mediation and its effectiveness confirm that this method not only contributes to the peaceful resolution of conflicts, but also serves as a cornerstone for sustainable social and economic development in European countries.

Comparative analysis of mediation practices in different European countries is becoming increasingly important in today's world, where globalization and intercultural interaction play a key role. With the diversity of cultures, historical contexts and legal systems, understanding the differences and similarities in mediation practices becomes an indispensable element in developing the best strategies for conflict resolution. The use of mediation in different European countries emphasizes not only the effectiveness of this method, but also its ability to adapt to different contexts.

Comparative analysis of mediation practices helps to identify the most successful and innovative approaches that can be adapted and applied in other countries. This analysis highlights common trends and best practices, as well as unique features that can be taken into account in the development of more effective conflict resolution mechanisms. Ultimately, a comparative study of mediation in European countries contributes to enriching international dispute resolution practices, enhancing peaceful coexistence and contributing to the convergence of cultural, legal and social approaches on the world stage.

The aim of the research of this topic is comparison of methods and approaches to mediation in European countries. It includes the analysis of procedures, techniques from traditions and legislation. Based on the results of the study, recommendations will be provided to improve the practice of mediation in European countries, as well as to promote cooperation and exchange of experience between countries. This will contribute to a more effective use of mediation as a means of conflict resolution in Europe and to the promotion of peace and justice.

2. Materials and methods

The study used databases, such as Sabinet, Sage Publishers, ResearchGate, JSTOR and Scopus, to search for the literature. The study adopted the conceptual approach and heavily relied on secondary data. Secondary data, used in the study, was gathered from relevant books, journals, conference proceedings, published articles. The sources used were books researching mediation practices in European countries and possible solutions for successful mediation. Also used were a number of journals, devoted to research on mediation practice in European countries and mechanisms for its successful implementation.

3. Results and discussion

The mediation process is a structured approach to dispute resolution through a neutral mediator, the mediator. The process involves several steps, aimed at ensuring an open and constructive dialog between the parties to a conflict in order to reach agreement and mutual understanding. Using behavioral theories of interest, rights, and power, Goldberg, Brett, and Brenner explain what

mediators do, what makes a mediator successful, and how best to structure a mediation – essentially, the role of the mediator and the disputing parties at each stage of the process [4]. Here is a description of the key steps in the mediation process:

1. Preparation. At this stage, the mediator familiarizes himself/herself with the nature of the conflict, the parties and their interests. The mediator also conducts an introductory session to explain the mediation process, set the rules and ensure confidentiality. An important part of the preparation is to create an atmosphere of trust where the parties can feel comfortable to express their views.

2. Information gathering. At this stage, each party has the opportunity to present its version of events and its interests. The mediator actively listens to the parties, helping them to structure their arguments and highlight key issues. Gathering information helps to better understand the roots of the conflict and provides a basis for further discussion.

3. Identification of interests and needs. The mediator helps the parties to identify and clarify their real interests and needs behind their positions. This helps to redirect the discussion from points of contention to the creation of mutually beneficial solutions.

4. Generation of solution options. In this phase, the mediator works with the participants to generate a variety of solutions that can satisfy the interests of both parties. This may include compromises, exchanges, and the creation of new options that were not previously considered.

5. Evaluating and selecting a solution. The parties analyze the proposed solution options in the light of their interests and choose the most acceptable option. The mediator can assist in the evaluation process by building bridges between the parties and reminding them of their common goals.

6. Agreement conclusion. Once a solution has been chosen, the parties formulate an agreement that includes details on how the decisions made will be implemented. The agreement can be notarized if necessary.

The mediation process emphasizes cooperation, mutual understanding and the search for mutually beneficial solutions, making it an effective tool for resolving different types of conflicts.

Mediators, who play an important role in the mediation process in European countries, are neutral and impartial mediators with specialized skills in dispute resolution. Mediators may have a variety of professional backgrounds, including lawyers, psychologists, sociologists and other specialists. Their role is to manage the dialog process, facilitate communication between the parties, help identify interests, and find mutually beneficial solutions. Mediators do not provide a solution, but help the parties themselves to reach an agreement [5].

The parties to a conflict also play a key role in the mediation process. In European countries, parties include representatives of businesses, citizens, public authorities as well as private individuals, involved in a variety of conflicts. The effectiveness of mediation often depends on the willingness and ability of the parties to cooperate and openly discuss issues [6]. It is important that the parties to mediation feel comfortable and confident in expressing their interests, otherwise the process cannot be successful. The participation of the parties to a conflict in mediation gives them an active role in finding a solution, allowing them to take their interests and needs more fully into account.

Approaches to mediation in different European countries can vary considerably depending on the cultural, legal and social specificities of each country. For example, in Scandinavian countries, such as Norway and Sweden, mediation is closely integrated into the justice system and mediators have a high status, backed by state accreditation. In these countries, mediation can be ordered by the court in the early stages of a dispute, which facilitates its rapid resolution.

While mediation in Germany also has a strong connection to the judicial system, in countries with a continental legal tradition, mediation may be freer and more voluntary. In France, for example, steps are being taken to introduce mandatory mediation in certain categories of cases, indicating a desire to increase the use of this method of dispute resolution.

Cultural differences also play a significant role. In Nordic countries, where a collective approach to decision-making is more common, mediation can support and reinforce this tendency. In countries with a legal emphasis, such as the UK, mediation can be used as an additional dispute resolution tool to reduce the burden on the court system [7]. Thus, approaches to mediation in

European countries are multifaceted and adapted to the context and needs of each country, while seeking to provide more effective dispute resolution in accordance with its specificities.

Let us take a closer look at the areas of application of mediation in European countries.

1. Mediation in family disputes is a significant aspect of the legal systems of many European countries, providing an effective and humane resolution of conflicts within family structures. In most European countries, family mediation involves a wide range of situations, including divorce, property division, child care and alimony. Mediators in this field have specialized knowledge in family law, psychology and communication, enabling them to facilitate dialogue between spouses and parents in the search for agreement and the best interests of the children.

One of the main roles of mediation in family disputes is to maintain mutual respect and reduce confrontation between the parties. The mediator assists spouses or partners in finding compromise solutions that take into account their needs and preferences, helping to create a more harmonious family relationship [8]. This approach is particularly valuable because emotional and long-term interests are often at stake in family disputes. Mediation gives the parties an opportunity to participate in the decision-making process and shape the future, and helps to reduce the negative impact of the breakup on the children. Thus, mediation in family disputes promotes harmony and allows parents to take a more balanced approach to the complex issues surrounding divorce or relationship breakdown.

2. Mediation is becoming an increasingly important tool for resolving corporate conflicts in various European countries. Corporate disputes may arise due to disagreements between shareholders, partners, company management and other stakeholders. The importance of mediation in this area is due not only to the desire to preserve business relationships, but also to the desire to minimize the time and financial costs that are often associated with litigation [9]. Mediation can vary from country to country in Europe, depending on tradition and context.

In some countries, such as the UK and Germany, mediation in corporate conflicts is actively pursued using specialized mediators with expertise in business and legal matters. These mediators help the parties to identify their differences and find ways to reach a compromise that preserves the business relationship. In other countries, such as France or Italy, mediation is also used in corporate disputes, but the level of implementation may vary. The effectiveness of mediation in this area lies in the fact that it allows the parties to participate in the search for a solution, provides confidentiality and flexibility, eliminating the need for lengthy and public trials.

3. Mediation is used not only in civil but also in criminal cases in various European countries, contributing to a more effective and harmonious resolution of conflicts. In criminal cases, mediation can be used to resolve minor offenses or torts that do not require severe punishment. For example, in the Netherlands and Germany, courts can refer cases to mediation, so that the parties can reach an agreement on damages or take measures to restore justice.

In civil cases, mediation is also actively used to resolve disputes between parties without the need to go to court. In countries, such as the UK, France and Switzerland, mediation can be used in a wide range of civil cases, from contractual disputes to real estate and family disputes [10]. Benefits include faster and cheaper dispute resolution, preservation of the relationship between the parties and the ability to control the outcome. Importantly, in these cases, mediators often have specialized knowledge in the relevant field to effectively manage the dispute resolution process.

Examining the results and benefits of European mediation, the following good practices can be cited.

Mediation in various European countries shows impressive success rates in resolving disputes. For example, in the Netherlands, statistics show that about 70% of civil cases, referred to mediation, end with an agreement between the parties. Similarly, in Switzerland, mediation shows a high success rate, where more than 80% of disputes are successfully resolved with the help of mediators. Importantly, these figures point to the significant role of mediation in reducing the burden on the judicial system and ensuring faster and more satisfactory resolution of disputes.

An example of successful use of mediation is Finland, where about 70% of family cases are resolved through mediation. This demonstrates that mediators are effective in dealing with complex family conflicts by giving the parties the opportunity to participate in the resolution process.

In the UK, mediation has also proven effective in resolving disputes. For example, in family disputes in the UK, up to 70 % of cases are successfully resolved through mediation. This confirms the growing confidence in this method and its ability to resolve even the most complex and emotional conflicts fairly.

The use of mediation in dispute resolution brings notable economic and psychological benefits for the parties to a conflict in various European countries. In terms of economic benefits, mediation is usually cheaper and faster than lengthy litigation [11]. Construction and commercial disputes that can take years to resolve in the courts can be resolved by mediators in a relatively short period of time, reducing the cost of lawyers' fees and court costs.

The psychological benefits of mediation also play a significant role. The mediation process ensures that the parties are more involved and actively engaged in the resolution of the dispute, which promotes a better understanding of each other and the search for agreement. The stresses and emotional strains, associated with litigation, can be alleviated by the confidential and friendlier atmosphere of mediation. An example is Spain, where mediation in family cases allows the parties to maintain a more positive relationship, which is particularly important if the parties will continue to be in contact in the future, for example because of shared custody of children.

The use of mediation in dispute resolution has had a significant impact on the judicial system in various European countries, helping to relieve pressure on it and make it function more efficiently. One of the main reasons for this impact is the ability to resolve disputes outside the courtroom, which reduces the workload of the courts and allows them to better focus on complex and important cases. An example is the Netherlands, where mediation in family and civil cases is actively used to prevent court workload and speed up dispute resolution, allowing courts to focus on larger and more complex cases [12, 13].

An additional aspect of mediation's impact on the judicial system is the reduction of time and financial costs for the parties to the conflict. Faster resolution of disputes through mediators reduces the time, spent waiting for court hearings and paperwork. Such an approach, as in Germany, where mediation in civil dispute resolution can significantly shorten the process, contributes to satisfying the interests of the parties and reducing the time costs of the judiciary [14].

The practice of mediation in different European countries reveals several common trends that demonstrate the importance and effectiveness of this method of conflict resolution. First, mediation is becoming an increasingly recognized and trusted tool for dispute resolution in civil, family and corporate law. Many European countries are increasing their efforts to introduce and expand mediation in various fields, recognizing its ability to resolve disputes more quickly, cheaply and satisfactorily.

Example: In Holland, mediation is widely used to resolve family conflicts, such as divorce or child arrangements. The Dutch mediation system allows spouses to reach an agreement on property division, child custody and other aspects of divorce with the help of experienced mediators. This not only facilitates a more harmonious resolution of family conflicts, but also reduces the burden on the courts.

Second, a common trend is the desire to regulate mediation in a normative way that standardizes the process and protects the interests of the parties. Many countries are developing laws and rules regulating the activities of mediators and defining the conditions for the application of mediation in various areas of law.

Example: In Italy, legislation grants mediators the status of neutral and independent mediators, providing them immunity from prosecution if they perform their duties in good faith. This fosters trust in mediators and promotes mediation as a recognized and effective method of dispute resolution.

Thus, general trends in the practice of mediation in European countries emphasize its growing popularity and influence on the judicial system, as well as the desire to legislate this method to ensure the stability and reliability of the conflict resolution process.

Mediation has developed in countries with diverse cultural and legal traditions, resulting in unique features in its practice. For example, in northern European countries, such as Sweden and Finland, mediation in family disputes is widespread due to a cultural bias toward cooperation

and collaborative problem solving. Here, mediators emphasize the establishment of long-term and sustainable solutions, taking into account the interests of the children and the overall well-being of the family [15, 16].

In Mediterranean countries, such as Italy and Greece, mediation is often used in commercial and family disputes, based on a cultural tradition of long discussions and compromise. In these countries, mediators play the role of facilitators of discussions, encouraging the parties to actively participate and find mutually acceptable solutions.

Compared to the British Isles, the approach of the United Kingdom, where mediation is being actively introduced in civil law, corporate disputes and family cases. Here, emphasis is placed on the freedom of choice of mediator by the parties, as well as on the high level of professionalism and specialization of mediators.

The diversity of cultural and legal traditions, argue Klaus J. Hopt & Felix Steffek [17], influences the peculiarities of mediation development in different European countries, creating unique approaches to its application and taking into account the peculiarities of local contexts.

The experience of various European countries in the field of mediation leads to the identification of best practices and lessons that may be valuable for other countries. One of the key lessons is the importance of introducing mediation into different areas of law. For example, Switzerland has successfully used mediation in commercial disputes, providing faster and more effective resolution of conflicts between businesses. This experience may be useful for other countries seeking to improve their business climate and reduce litigation burdens.

Another important practice is the push for standardization and certification of mediators. For example, in the Netherlands, mediators are required to undergo special accreditation and certification, which ensures a high level of quality of service. This approach could be adapted in other countries to improve professional standards and trust in mediators.

In addition, many countries are actively developing training and professional development systems for mediators. For example, Germany provides special training programs, focused on different areas of mediation, including family, civil and corporate disputes. This experience may be important for ensuring high competence of mediators in other countries.

Thus, a comparative analysis of best practices and lessons, learned in mediation in different European countries, reveals effective approaches that can be applied in other contexts to improve mediation practice and achieve more successful results in conflict resolution.

Limitations of the study:

1. Limited geographical area: The study is limited to European countries only, which may exclude important aspects of mediation in other parts of the world where cultural, political and legal contexts are very different.

2. Limited time period: The research may be limited to a specific time period. It is important to keep in mind, that mediation practices may evolve over time and historical dynamics should be considered to get a more complete picture.

3. Language barriers: The large number of languages, spoken in Europe, can make it difficult to access primary sources and analyze data qualitatively, especially if the research is limited to certain languages.

4. limited resources: Limited budgetary and time resources may affect the scope and depth of the study, which may lead to partial representation of data and practices.

Prospects for further research:

1. Expanding geographical coverage: Further research could include analyzing mediation in other regions of the world to provide a broader picture and comparative data.

2. Exploring dynamics over time: Studies covering longer time periods will provide insight into changes in mediation practices and their impact on conflict resolution.

3. Cultural and contextual research: A deeper analysis of the cultural, social and legal contexts of mediation's impact on conflict resolution will provide a better understanding of which techniques may be more effective in different cultural settings.

4. Analyzing Effectiveness and Evaluating Outcomes: Additional research could focus on evaluating the effectiveness of different mediation approaches and their impact on conflict resolution outcomes.

As mediation develops globally and interest in the field grows, further research into comparative mediation practices in different regions and contexts will be important for the development of effective conflict resolution strategies.

4. Conclusions

A comparative study of mediation practices in European countries allows us to look at the rich diversity of methods and approaches that are used to resolve conflicts in different cultural and legal contexts. This analysis demonstrates that mediation is indeed becoming a universal tool capable of adapting to different needs and objectives, as recognized in countries with very different traditions and approaches.

Mediation in modern European countries is gaining importance as an important element of the justice system. This is not only due to the desire for more effective conflict resolution, but also due to the recognition of mediation as a way to build trust between the parties, reduce the judicial burden and ensure a fairer and more consistent outcome. Mediation gives participants a more active role in the dispute resolution process, allowing them to find their own solutions and maintain a more positive relationship even after the conflict has been resolved.

It is noteworthy that mediation acts as an additional tool of the modern justice system, helping to relieve the burden on the courts and preventing the need for lengthy and costly trials. In many European countries, such as Germany and Sweden, mediation has become the norm in civil and family disputes, which not only speeds up the process but also reduces costs for all participants. Thus, mediation demonstrates its importance as a powerful complement to the traditional justice system, contributing to a more harmonious and trusting society.

The future of mediation in European countries seems encouraging, as its role and importance in modern societies is only increasing. The continuing growth in the popularity of mediation and its integration into various spheres of life and justice indicates that this tool is increasingly recognized as an effective means of conflict resolution. The economic and time benefits, as well as the preservation of the relationship between the parties after dispute resolution, are becoming strong arguments in favor of mediation, suggesting that its practice will only increase.

In the future, we can expect a deeper integration of mediation into the judicial system, the establishment of mediation standards and certification of mediators, as well as a further diversity of methods and approaches to be used in different contexts. Technological developments may also open up new possibilities for conducting mediation remotely or via telecommunications, increasing its accessibility. It is also important to continue training and professional development of mediators in order to ensure a high level of professionalism and quality of services. Thus, the future prospects for mediation in European countries promise to further improve and strengthen this tool as an indispensable part of modern conflict resolution.

The exchange of experience between European countries in the practice of mediation plays an important role in improving the effectiveness and quality of this conflict resolution tool. Each country has its own set of best practices, lessons and innovations that can be valuable for others. For example, the Dutch experience in integrating mediation into family disputes may be useful for other countries where such practices are just beginning to develop. This kind of interaction avoids repeating mistakes and saves research time, and helps to tailor best practices to specific contexts.

The exchange of experience also contributes to the strengthening of the European mediation network and supports the process of standardization of mediation. Creating platforms for dialogue between mediators from different countries, sharing information on events, seminars and new techniques promotes the dissemination of best practices and contributes to the enrichment of the mediation community. As a result, other countries are able to benefit from the collective experience and develop more sustainable and adapted mediation practices, contributing to the further development of this important tool in other global countries.

An important conclusion is that successful mediation practices in European countries are largely based on the support of the state, the active work of professional mediators and the standardization of the process. It is also worth emphasizing, that the effectiveness of mediation is often manifested in the reduction of the burden on the courts, saving time and resources, and increasing the satisfaction of the parties.

To summarize, a comparative study of mediation in European countries confirms that mediation can indeed mitigate conflicts, preserve trust between parties and promote sustainable dispute resolution. By exploring the diversity of practices and lessons learned, we can enrich our approaches to mediation and move towards a more harmonious society, where differences are resolved in partnership and with respect for the interests of each party.

Conflict of interest

The authors declare that there is no conflict of interest in relation to this paper, as well as the published research results, including the financial aspects of conducting the research, obtaining and using its results, as well as any non-financial personal relationships.

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Data availability

Data will be made available on reasonable request.

Use of artificial intelligence

The authors confirm that they did not use artificial intelligence technologies when creating the currrent work.

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