

Anna Kalisz

Report from the Scientific Conference "Mediation in Polish Legal Order: Doctrine - Legal Regulations - Practice"

Roczniki Administracji i Prawa 17/1, 343-345

2017

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

REPORT FROM THE SCIENTIFIC CONFERENCE “MEDIATION IN POLISH LEGAL ORDER: DOCTRINE – LEGAL REGULATIONS – PRACTICE”

On May 22, 2017, the Faculty of Law and Administration at UMCS in Lublin held a scientific conference entitled “Mediation in Polish legal order: doctrine - legal regulations - practice”. The honorary presidency was held by the Ministry of Justice, represented by dr Aneta Jakubiak-Mirończuk. The conference was opened by Dean of the Faculty of Law and Administration UMCS, Prof. dr hab. Anna Przyborowska-Klimczak. The opening speeches were also delivered by:

- Prof. dr hab. Leszek Leszczyński, Director of the Institute of History and Theory of State and Law WPiA UMCS;
- Dr hab., prof. UMCS Andrzej Korybski, chairman of the scientific committee of the conference;
- Stanisław Estreich, Dean of the District Bar Association in Lublin;
- Director of the Department of Strategy and European Funds of the Ministry of Justice, dr Aneta Jakubiak-Mirończuk and on behalf of the President of the District Court in Lublin, Eleonora Porębiak-Tymecka, District Court Judge.

The debate began with a plenary session entitled “Mediation in legal doctrine and judicial practice” moderated by dr hab Andrzej Korybski, Associate Prof. It was attended by:

1. Eleonora Porębiak-Tymecka, District Court Judge, with the paper entitled: *Mediation in court practice (an example of the Lublin court district)*, presenting the beginnings of the development of mediation in the Lubelskie District;
2. Prof. dr hab. Leszek Leszczyński (Department of Theory and Philosophy of Law, UMCS) with the paper entitled *Mediation and a judicial type of the application of law*, in which the models of both processes have been compared;
3. Dr Aneta Jakubiak-Mirończuk (Ministry of Justice and the Faculty of Law and Administration UKSW in Warsaw) with a speech entitled *The effectiveness of mediation and access to justice* – presenting the Ministry of Justice’s ongoing efforts in promoting and developing mediation;
4. Dr Barbara J. Pawlak (Regional Bar Association in Łódź, mediator, member of the Social Council for Alternative Methods of Resolution of Conflicts and Arguments) with the paper entitled *Mediation in the field of domestic violence*, concerning the perspective of corrective justice from the victim’s point of view;
5. Mgr Robert Kaszczyszyn (mediator, Polish Mediation Centre) with the paper *The decision-making processes of mediators during the mediation process*, in

which he referred to the most “mysterious” mediation issue, namely the course of mediation and what is going on between the participants.

The plenary session finished with a discussion. After the coffee break, the conference was continued in three panels.

The first panel entitled “Mediation in Polish private law” was moderated by Prof. dr hab. Leszek Leszczyński. The panel was attended by:

1. Dr hab., prof. WSH Anna Kalisz (Office of Jurisprudence of the Chief Administrative Court in Warsaw, Humanitas University in Sosnowiec) with the paper entitled *Mediator’s status in civil cases in the light of the inclusion of common courts in the system*, in which the most recent changes in civilian mediation were analysed;

2. Dr hab., Associate Prof. WSEI Katarzyna Popik (Faculty of Administration and Economics at the University of Economics and Innovation in Lublin) and Marta Gierczak (District Court Judge at rest) with the speech entitled *Mediation in family law: obligatory or facultative nature?*, where the role of plenipotentiaries was discussed and *de lege ferenda* postulates on mandatory referral to family mediation were discussed;

3. Dr Adam Zienkiewicz (Center for Economic Mediation at OIRP in Olsztyn, Department of Philosophy and Law Policy at the University of Warmia and Mazury in Olsztyn) with the paper entitled *Conciliatory settlement of economic disputes (reflections on the prospects of the Centre for Business Mediation at OIRP in Olsztyn)*, where the role of legal counsel is discussed in encouraging and supporting clients in economic mediation;

4. Dr Wojciech Graliński (UMCS) with the presentation entitled *Guarantees of impartiality of the permanent mediator in civil cases*, which discussed impartiality in the context of entities other than the deciding ones;

5. Dr Piotr Szczekocki with the paper entitled *Mediation and enforcement proceedings*, which presented the dependence between these institutions;

6. Mgr Katarzyna Hanas (UMCS) with the presentation entitled *Mediation and the good of the child*, where the clause of the wellbeing of the child is understood as a “weighted” rule with the rule of neutrality of mediation;

7. Mgr Paweł Kłos (Polish Mediation Centre, Lublin Branch, UMCS) with the speech entitled *Confidentiality of mediation proceedings in civil cases against the concept of conjugated norms*, concerning the mystery of mediation as a legal duty and an ethical mediator.

The second panel entitled “Public law aspects of mediation in Polish legal order” was moderated by dr hab. Małgorzata Stefaniuk, Associate Prof. The participants in this panel were:

1. Dr hab. Ewa Kruk (UMCS) with the speech entitled *Criminal mediation as a form of conflict resolution in criminal cases*, where the title issue was presented from the perspective of preparatory proceedings;

2. Dr Jakub Kosowski (UMCS) with the paper entitled *Mediation in sports disputes*, concerning the criminal, civil and administrative aspects and the Sports Act;

3. Mgr Katarzyna Luty (Leon Koźmiński Academy in Warsaw) with the paper entitled *The principles of impartiality and neutrality of the mediator (example of the law on medical chambers)*, where analogies to the Code of Criminal Procedure are shown;

4. Mgr Natalia Kurek (UMCS) with the paper *Reasons for non-use of mediation by the courts in administrative court proceedings*;

5. Dr hab. Bartosz Liżewski (UMCS) and barr Michał Liżewski (Regional Bar Association in Warsaw) with the paper *Public-private partnership and the institution of mediation (theoretical and legal aspects)*, showing the elements of contractual and judicial social mediation within the title institution.

The last, third panel entitled “The issues of mediation in theoretical and legal perspective” was moderated by dr hab. Anna Kalisz, Associate Prof. The following attendees presented their papers:

1. Dr hab. Wojciech Dziedziak (UMCS) – *Mediation and justice of the decision resolving a dispute*, presenting a classic approach to justice as a contraindication to mediation;

2. Dr Marzena Myślińska (UMCS) – *Mediation functions implemented by the mediator in mediation*, ordering indirect and direct goals of mediation;

3. Dr hab., Prof. UMCS Andrzej Korybski (UMCS) – *The requirement for professional vocational preparation and legal responsibility of the mediator*, emphasising the need for a regulatory framework for mediation and mediators.

Each of the above panels ended with a discussion which was participated mainly by: dr hab. Ewa Kruk, dr hab. Anna Kalisz, dr Adam Zienkiewicz, dr hab. Wojciech Dziedziak, District Court Judge Wojciech Wolski, District Court Judge Eleonora Porębiak-Tymecka, mediator Robert Kaszczyszyn and mgr Paweł Kłos. The conference summary, including the parallel student-doctoral panel organised by the Student Scientific Club of Mediation and Negotiation at UMCS in Lublin, was made by Professors Andrzej Korybski and Leszek Leszczyński.

Anna Kalisz