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Introduction

Wstęp

We present to you this publication comprising articles written based on papers that were delivered at the nationwide conference on mediation in the Polish legal order held on 22 May 2017 at the Faculty of Law and Administration of the Maria Curie-Skłodowska University in Lublin[1]. The conference, organized by the research team of the UMCS Mediation Work Group under the title "Mediation in the Polish legal order: doctrine – legal regulations – practice", was attended by over 60 scholars and legal professionals specialised in mediation (including academics from five academic centres and representatives of the judiciary, Ministry of Justice, communities of attorneys and legal counsels, and mediation centres as well). It would not be possible to hold the conference and publish the conference material if not the support granted both by the Rectors of the Maria Curie-Skłodowska University and the governing bodies of the Faculty of Law and Administration of the UMCS. The organizers of the conference were provided with considerable support (including financial support) by the authorities of both the Lublin District Bar Council and the Regional Chamber of Legal Counsels in Lublin. The organizers would like to thank all these institutions and individuals.

The aim of the conference was to establish a platform for the exchange of views and opinions among the academic community and mediation and legal practitioners on the current state of applicable law in the basic branches of law to which the institution of mediation was introduced by the Polish legislature. This goal was achieved, and both the in-depth analysis of the institution of mediation and the conclusions of the discussion were largely taken into account by the authors. The extent of research in-

[1] Apart from the scholars, academic teachers, representatives of the judiciary, attorneys and legal counsels, the conference was also attended by students and doctoral students. A total of 31 papers were presented, including 20 papers during the plenary session, 3 during panels, as well as 11 at the doctoral-student panel.

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terests of the authors covered the legal regulation of mediation in both the private law and the public law, as well as selected multidisciplinary regulatory areas. Theoretical studies were also presented based on research work of Polish and foreign scholars specialized in alternative dispute resolution and using the existing experience in applying mediation in the Polish legal order, including the assessment of the accuracy and effectiveness of solutions contained in the Polish legal order currently in force.

The papers by Aneta Jakubiak-Mirończuk, Leszek Leszczyński, Wojciech Dziedziak, and Marzena Myślińska provide doctrinal reflection on the institution of mediation and the significance thereof in the legal order and the judiciary of contemporary states. These authors tackled the matter of conditions and factors that affect the proceedings and scope of activities to be taken by a mediator, types of mediation and mediation strategies, as well as the model of judicial mediation – considering the effect of 'opening up' the legal order by incorporation of mediation in the process of application of the law. They also undertook a discussion on the axiological context of mediation, especially referring to the importance of the values of justice, equity and the effectiveness of mediation. Polish legal and institutional solutions which constitute the basic reference for doctrinal findings have been presented in the wider perspective of European legal regulations.

The problem of justice as a factor underlying the social significance of mediation also appeared in the articles by Ewa Kruk and Barbara Pawlak who discussed the model of mediation in criminal matters and in connection with the idea of restorative justice. These authors assessed the current status of the applicable law governing mediation in criminal matters, especially by stressing the effectiveness of mediation as a way to remedy the personal injury incurred by a crime victim and normalize future relations between the victim and the perpetrator, as well as preventing the secondary victimization.

Doctrinal aspects have also been discussed in the articles on mediation in civil matters in the broad sense. Namely, the basic types of roles, functions and activities of the mediator in mediation proceedings have been characterised, including the concept of so-called permanent mediator, introduced to the judicial system by the recent, extensive amendment to the Law on the System of Common Courts of Law and Civil Procedure (Anna Kalisz, Andrzej Korybski). Adam Zienkiewicz gives in his paper an insight into the construct of obligatory mediation and the possibility of its application in the system of statutory law (especially as regards mediation in commercial matters and mediation in some family matters). The analysis covers also the principle of confidentiality which is of paramount importance for mediation, studied based on the currently applicable regulation of mediation in civil matters, but using the analytical patterns of the Jerzy Lande's legal theory (in the article by Paweł Kłos).

The last group of the articles contains various topics of legal branch-specific analysis of the presence of mediation in selected branches that are subject to com-

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bined legal regulation, including primarily civil-administrative legal regulation (in medical law – by Katarzyna Luty and in sports law – by Jakub Kosowski). This group also comprises the following articles: by Piotr Szczekocki (on the significance and legal effects of a settlement concluded before a mediator on the application of enforcement law) and by Bartosz Liżewski and Michał Liżewski (on the possibility of using the institution of mediation in the private partner selection procedures and the role of that partner under public-private partnership scheme).

The broad extent of the issues discussed therein, as well as the fact that they refer both to the state of modern mediation doctrine and the current mediation solutions, may form a significant source of information about mediation in the contemporary Polish legal order for readers of the volume presented hereby. The editors hope that it will also become an important source of scholarly inspiration and further studies on the institution of mediation and the mediator's role in the legal order.

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Lublin, April 2018