

SUMMARY

Key Words: mediation, self-regulating organizations, dispute resolution

Subject matter: Mediation as an alternative way to settle civil disputes

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The supervising organization: -

The relevance of the research topic: In the modern world, self-regulation mechanisms are of particular importance, when subjects of social relations have the opportunity to independently establish rules of conduct and monitor their compliance. The growing activity and responsibility of civil society participants allows the state to delegate some of its powers in certain areas to civil society institutions. Foreign experience shows that the resolution and settlement of conflict situations is one of these areas. Even a cursory analysis of the procedural reforms of the end of the last century that took place in continental Europe shows that the direction is taken to abandon the exclusively state-paternalistic approach to the settlement of legal conflicts with the participation of private law entities and move to a pluralistic approach by recognizing the feasibility of creating an alternative dispute settlement system using conciliation procedures.

The idea of introducing conciliation procedures as one of the priority areas for improving the judicial system has been consolidated both in state policy documents and in legislative acts that lay the Foundation for the development of mediation in Russia.

Thus, there are several directions for the development of mediation in the field of civil jurisdiction in Russia. At the same time, the science-based concept of applying an alternative procedure with the participation of a mediator in the Russian legal field has not been finalized.

To date, considerable experience has been gained in integrating mediation procedures into the legal systems of various States. In many foreign countries, mediation exists and is used as a special form of dispute resolution along with and in conjunction with judicial proceedings. Unfortunately, this practice remains poorly studied in Russian jurisprudence.

The purpose of the work: The purpose of the study is to study the regularities of the organization and application of mediation as an independent method of settling legal disputes and integrating it into the activities of judicial bodies of civil jurisdiction.

Objective:

- 1) analyze the concept of mediation;
- 2) identify the system of principles on which mediation is based;
- 3) analyze organizational and procedural aspects of judicial mediation;
- 4) determine the prospects for the development of a mediation form of dispute resolution in the framework of judicial activity;
- 5) offer recommendations for further development of mediation in the field of civil jurisdiction.

The theoretical and practical significance of the research: The theoretical significance of the research results is seen in the substantiation of the concept of mediation as an independent method of settling civil disputes.

The practical significance of the work lies in the fact that certain provisions, conclusions and recommendations can be used in further scientific research on the organization and application of mediation.

Results of the study:

1. Modern trends in the resolution of legal cases and the increased importance of private law mechanisms for the settlement of civil (in the broad sense) and other legal disputes make it necessary. doctrinal development of a unified system for resolving and settling legal disputes, consisting of jurisdictional and non-jurisdictional subsystems. Within the framework of this approach, the non-jurisdictional subsystem should include mediation as an independent method of settling legal disputes, which is a specially organized negotiation procedure with the participation of a neutral intermediary (mediator), which helps the parties to discuss the terms of

settlement of a legal dispute and make a mutually beneficial decision.

2. Mediation as a procedure aimed at reconciliation of the disputing parties should be based on the system of principles on which the activity on settlement of legal disputes within the mediation procedure is based. For the most important functional purpose, organizational principles should be distinguished: (voluntary and neutral) and procedural principles (independence of the parties; confidentiality, cooperation and equality).

3. in the activities of jurisdictional bodies, mediation procedures can serve as an auxiliary mechanism that contributes to the effective exercise of their powers by these bodies and ensures the undisputed civil turnover and, ultimately, conflict-free legal relations in General.

Recommendations:

1. Analyzing the possibility of including mediation in notarial activities, the activities of judicial and other jurisdictional bodies that resolve civil, labor, family disputes, disputes arising from public legal relations, we come to a reasonable conclusion about the need for a special type of mediation - integrated mediation. This type of mediation should be regulated by industry legislation and take into account the specifics of jurisdictional procedures.

2. support should be given to the idea of implementing the concept of "private mediation in the judicial process" in Russia, which is based on the existing approaches to transferring a dispute from the court to professional mediators and / or specialized organizations for its settlement.

3. Noting the purely contractual basis of mediation relations, we believe that the agreement on the application of mediation should be considered as the will of the parties to apply the mandatory pre-trial procedure for its settlement in the event of a dispute. If the parties do not comply with the pre-trial dispute settlement procedure provided for by the agreement through mediation, or do not provide the court with documents confirming compliance with the pre-trial procedure, then this fact should be considered by the court as the basis for returning the claim or leaving it without consideration.

4. Taking into account the need to stimulate and activate the practice of out-of-court dispute settlement, we consider it appropriate to offer the court, in the course of preparing the case for trial, the authority to refer participants in a legal dispute to a professional mediator for an informational meeting, during which they will receive explanations of the essence and advantages of mediation in comparison with the trial of the case, and a proposal to settle the dispute in mediation. Referral of the parties to a legal dispute to an informational meeting with the mediator can be carried out not only at the stage of preparing the case for trial, but also, if necessary, at other stages of consideration of the case in the framework of law enforcement cycles of civil and arbitration processes, and in the future also in other types of legal proceedings.

5. the idea of including the conclusion of a mediation agreement by the parties to the dispute as an independent basis for the termination of the proceedings in the case is considered worthy of attention. In this case, the mediator is obliged to send to the court in handling the case, notice of mediation and concluding the mediation agreement on the basis of which the court will make a ruling on the termination of the proceedings.