

The Role of Mediation in the Process of Resolving Criminal Cases: Impact on Reducing the Burden on the Judicial System

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Abstract

The aim of the article is to analyse the use of mediation in criminal procedures in different countries, including the European Union and Azerbaijan. The results are based on the analysis of data from government portal documents and the objective determination of the impact of mediation on the number of criminal cases and the effectiveness of conflict resolution. The practical significance is the developed recommendations and strategies for further improvement of mediation in criminal cases and optimization of the work of judicial bodies. The experience of European countries with regard to the use of mediation in the process of solving criminal cases and its impact on reducing the burden on the judicial system is the subject of active research in modern legal science. The practical significance is the comparative analysis of data on the effectiveness of mediation in the objective determination of the advantages of the appropriate regulatory approach to reduce the burden on the judicial system.

Keywords: Crime Index, mediation, judicial system, criminal cases, justice, rehabilitation.

Introduction

The problem of the burden on the judicial system is one of the most urgent and complex problems faced by modern legal systems in many countries. In recent years, there has been a growing trend in the number of court cases, which puts significant pressure on judicial institutions and causes a number of negative consequences for society. As Kalisz (2023) noted, the overload of the judicial system increases the time of consideration of cases, which makes it difficult for

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citizens to access fair justice and reduces trust in the judiciary. Long processing times lead to delays in the resolution of legal issues, which poses a threat to the rights of individual freedom, public safety and economic development. Solving the problem of the burden on the judicial system requires a comprehensive approach and the implementation of effective strategies aimed at optimizing the work of courts and improving access to justice for all citizens.

The role of mediation in reducing the burden on the judicial system is extremely important and promising. Mediation is an alternative dispute resolution mechanism that allows the parties to independently find mutually beneficial solutions under the guidance of a neutral mediator. The main advantage of mediation is that it enables avoiding long and complicated court processes, contributing to a quick and effective resolution of conflicts. According to Adi (2021), this frees up judicial resources that can be directed to more complex and unresolved cases, as well as reducing queues and waiting times for court hearings. Mediation is usually less expensive for all parties because it can be conducted more quickly and at less cost than litigation. Effective use of mediation can significantly reduce the financial costs of judicial institutions and, accordingly, reduce the costs of the state budget for administering justice. Mediation helps to preserve the relationship between the parties to the conflict because it allows them to find a mutually acceptable solution and avoid the feelings of resentment or defeat that often arise after litigation. So, mediation is not only a means of reducing the burden on the judicial system, but also a tool for improving access to fair justice and maintaining harmonious relations in society.

Digitization of the judicial system is an important tool for optimizing the process of solving criminal cases and reducing the burden on the judicial system. The use of digital technologies in judicial activity automates and optimizes a significant number of court procedures. Wulandari et al. (2022) emphasize the reduction of the burden on the use of human and time resources. Digital solutions provide quick access to court information, which simplifies the process of document exchange between participants in the court process and provides convenient online access to case materials. Digital tools can provide platforms for conducting virtual meetings and exchanging documents between participants in the process, making the mediation process more efficient and convenient for all parties. Digitalization of the judicial system creates the problem of the effectiveness of ensuring confidentiality and data security. In European countries, the key principle is the availability of technologies for all participants in the process, regardless of their location.

Literature review

The issue of mediation in resolving criminal cases and its impact on reducing the burden on the judicial system is the subject of numerous studies and academic debates. Hajairin et al. (2023) claims that mediation reduces the time and costs of litigation, giving the parties the opportunity to reach a mutually acceptable agreement without lengthy litigation. The findings of Nawisa and Razak (2022) indicate the significant potential of mediation in improving the effectiveness and fairness of criminal justice. According to Akram et al. (2023), the study of mediation in criminal cases is an effective means of achieving humane justice. The study conducted by Tahir (2022) focuses on analysing the effectiveness of criminal processes in minimizing recidivism among young people. The research conducted by Mitskaya (2020) shows that the integration of mediation into judicial practice requires significant changes in legislation and the procedural code. According to Bougadoum (2021), a transparent judicial system is required to ensure the proper legal framework for the use of mediation. The issue of mediation in criminal cases is also covered by Husin et al. (2024), who emphasizes the importance of mediation as a means of reducing costs in criminal justice.

According to Fajrin and Triwijaya (2020), mediation significantly reduces the time needed to resolve cases and reduces the burden on judges. Bode (2021) claims that digitalization optimizes budgetary costs for the maintenance of the judicial system. Shytyk and Akimova (2020) raise the issue of the challenges that the justice system may face with the wider implementation of mediation. This thesis is confirmed in the article by Taufiq (2017) regarding the need for a balance between the confidentiality of the process and the need for public condemnation of serious crimes. Doneva and Gjorgjieva (2023) point to the complex process of mediation in criminal justice, emphasizing its potential as an effective tool to reduce the burden on the judicial system. According to Konoras (2023), the importance of mediation in the process of solving criminal cases has increased significantly in recent years due to its potential of digital technologies. Sitarz (2018) analyses how mediation contributes to the quick resolution of cases and reducing the waiting time for a court hearing.

Reznik et al. (2022) examine the financial aspects of reducing the costs of maintaining prisoners while ensuring that solutions are more relevant to the needs of all parties to the conflict. As Budisetyowati et al. (2023) note, mediation promotes further socialization and reduces the risks of reoffending. The author Hakimi (2020) emphasizes that mediation in criminal cases improves the relationship between society and law enforcement agencies by ensuring an open and transparent process. Hajdari et al. (2023) point to the need to structure the

mediation process in such a way that it corresponds to the cultural and social contexts of each country. Nursin and Fitriati (2019) claim that the practice of mediation should be integrated into the legal system in accordance with the citizens' expectations regarding the humanization of the criminal process. So, the researchers hold an opinion that the introduction of mediation will contribute to increasing citizens' trust in the judicial system, as it provides a more flexible and humane approach to conflict resolution.

Research objectives

The aim of the study is to analyse the impact of mediation on the process of resolving criminal cases and its impact on reducing the burden on the judicial system.

The research objectives are defined as follows:

1. Analyse the crime rate in the countries of Europe and Azerbaijan, determine the peculiarities of the practice of criminal procedures.
2. Study the peculiarities of mediation in solving criminal cases through a comparative analysis of regulatory and legal approaches.
3. Develop recommendations for improving mediation in criminal cases to reduce the burden on the judicial system.

Materials and methods

The research methodology provides a comprehensive approach to the study of the role of mediation in criminal justice with an emphasis on the analysis of crime and the burden on the judicial system. The first stage involved assessing crime indices by using open data from international human rights organizations and national statistical services. At the second stage, the specifics of crime in European countries were identified and legal procedures were evaluated. The third stage of the study provided for determining the specifics of crime in Azerbaijan, including types and spread. The final stage examined the impact of mediation on reducing the burden on the judicial system, which involved the analysis of qualitative data on the burden of court proceedings.

For the methodology, the method of statistical data analysis was used to determine the number of criminal cases. A comparative analysis of the trend of the effectiveness of mediation in reducing the burden on the court and increasing the speed of procedural proceedings was conducted. The method of context analysis was applied to review and compare the legislation regulating the implementation of mediation in criminal justice in Azerbaijan with the legislation of European countries. The method of deductive analysis was used to assess the effectiveness of mediation in different legal systems and its impact on the overall effectiveness of criminal justice.

For the objectivity of the role of mediation in the resolution of criminal cases and the impact on reducing the burden on the judicial system, a sample of the countries of the European Union (EU) and Azerbaijan was made. The criteria are determined by the representation of different cultural and legal traditions, but are generally marked by a high level of awareness of the importance of mediation as a tool for resolving conflicts in criminal cases and actively implement it in practice.

The research employed a statistical analysis of government portal documents to systematize and analyze information on the use of mediation in the process of resolving criminal cases. The method of systematization made it possible to collect a large amount of data from statistical sources of government portals of the studied countries. Appropriate analysis ensured the objectivity and reliability of the research results.

Results

Mediation in criminal cases is an alternative method of conflict resolution that is gaining popularity around the world due to its advantages over traditional judicial proceedings. The use of mediation in the EU criminal justice allows parties to a crime to reach a mutually acceptable solution, which may include restitution or other forms of compensation. A key advantage of mediation is its ability to ensure a quick resolution of a court case, which increases the efficiency of the court system. Germany and France are actively introducing mediation into their criminal justice systems through legislative initiatives within the mutual cooperation framework. The difference with other European countries is that the use of mediation must comply with the directives on the types of crimes and contain procedural processes. The crime rate significantly affects the potential participation of mediators who have special training to work in the field of criminal justice. Table 1 presents the corresponding crime rate and safety level, which can further apply mediation to improve the quality of justice.

Table 1. Crime rate, 2023

Rank	Country	Crime Index	Safety Index
1	Belarus	56.4	43.6
2	France	55.3	44.7
3	Belgium	49.1	50.9
4	Sweden	48.5	51.5
5	Moldova	47.1	52.9
6	Greece	47.0	53.0
7	United Kingdom	46.9	53.1

8	Italy	46.9	53.1
9	Ukraine	46.7	53.3
10	Ireland	45.9	54.1

Source: tabled on the basis of Numbeo (2023)

To improve the judicial system between countries and reduce the potential of transnational crime, mediation is used as a tool to reduce bureaucratic procedures. International cooperation and data exchange is a consequence of the growth of globalization and the increased international crime rates, which requires improving cooperation between countries. According to Table 1, countries with a high crime rate have a high level of international cooperation. In particular, the difference of 20.48% between Ireland and Belgium contributes to the strengthening of agreements on cooperation in criminal prosecutions and the exchange of information. Effective sharing helps countries to investigate and prevent crimes that occur in one country but have international implications, such as cybercrime and transnational organized crime.

Transnational criminal mediation is a complex and innovative field that requires a deep understanding of both the legal and cultural aspects of different countries. The great diversity of legal systems and procedures around the world presents unique challenges to mediation, as each country has its own specific rules regarding what can be resolved through mediation and how these processes should be organized. One of the key factors is the need to ensure mutual legal assistance and mutual recognition of mediation decisions between European and Asian countries. For example, issues of privacy and personal protection are significantly different in the European Union compared to Asian or African countries, which requires additional guarantees and adaptations on the part of mediators and legal advisers involved in the process.

Mediation is an effective solution to criminal disputes and is actively used in countries where its application is related to administrative and criminal offences. In Norway, mediation is used to solve crimes involving small and medium damage, where the parties have the opportunity to discuss what has been done and reach a consensus on compensation. In the United States, community mediation programmes are used to resolve existing conflicts and are widely used in criminal law, which reduces the number of cases that require judicial resolution. In Australia, mediation services are used for community reconciliation in criminal cases where cultural differences affect mutual understanding. In Ukraine, mediation has become a means of resolving disputes related to internal displacement of the population and conflicts between the military since the

beginning of the war. Azerbaijan actively uses mediation in its judicial system. General statistics are systematized in Table 2.

Table 2. Main indicators of crime in Azerbaijan

	2018	2019	2020	2021	2022
Number of registered crimes – total	26,381	26,672	26,004	31,131	36,494
of which					
grave and more grave	2,921	3,192	3,636	4,941	6,047
Number of crimes persons 100 000 population *)	265	269	260	310	361
Number of persons committed crimes - total, person	16,727	17,823	17,482	21,206	24,432
including:					
Men	15,705	16,784	16,613	20,038	23,205
Women	1,022	1,039	869	1,168	1,227
children aged 14-17 from total persons committed crime	471	387	388	349	433
Number of convicts - total person	12,433	12,945	9,946	15,649	16,426
including:					
Men	11,864	12,374	9,547	15,049	15,868
Women	569	571	399	600	558
from total number of convicts:					
Confined	6,381	6,007	5,138	8,974	9,499
children aged 14-17	301	288	207	259	258

Source: tabled on the basis of The State Statistical Committee of the Republic Azerbaijan (2024) report

From 2018 to 2022, there is a 39.7% increase in the total number of registered crimes, which indicates an increase in criminal activity. Grave and particularly grave crimes increased by 73.1%, which indicates an increase in the seriousness of criminal cases. Mediation can reduce litigation burden by offering an alternative to lengthy litigation. The use of mediation in Azerbaijan, following the example of the EU, allows the involved parties to reach a resolution of

conflicts efficiently and with lower costs. As a result, the judicial system will be able to reduce the number of cases that require trial. Effective e-governance in criminal case management in Estonia significantly reduces the burden on the judicial system. The use of modern technologies to automate the process of collecting and analysing evidence accelerates the trial process by more than 1.5 times. The implementation of electronic document circulation in criminal cases provides faster access to cases and facilitates their circulation between the participants in the process. An additional benefit is a reduced opportunity for corrupt practices, as the digital process can be more transparent and controlled.

The implementation of preventive programmes is a basic tool for solving criminal cases, which consists in their investigation, prevention, and occurrence. Advanced monitoring and analysis systems used in Sweden and the Netherlands allow for the detection of potential criminal activities before they occur. Existing effective programmes of rehabilitation and social adaptation reduce the number of repeated crimes and, accordingly, the burden on the judicial system. Table 3 shows the general practice of mediation among countries.

Table 3. Application of mediation in solving criminal cases in different countries

Country	Legislation on mediation in criminal cases	Impact on the judicial system
USA	The Victim Offender Mediation Association sets standards and practices for victim-offender mediation.	Reducing the number of court proceedings, reducing the time of consideration of cases, reducing expenses for maintenance of prisoners.
Germany	The Law on Criminal Mediation (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit) allows the use of mediation as an alternative to court proceedings.	Strengthening the possibilities of restorative justice, reducing the time for consideration of cases and the costs of court proceedings.
Japan	The Law on Criminal Mediation («犯罪被害者等基本法»), which promotes the consideration of the interests of victims and includes mediation procedures between victims	Reducing the burden on the courts, improving the restoration of victims' rights, reducing recidivism.

	and criminals.	
Canada	The Law on Criminal Mediation (Criminal Code) allows courts to refer cases to mediation for consideration in court.	Improving the reintegration of criminals, reducing the judicial burden and costs of court proceedings.
Australia	The National Policy on the use of mediation in criminal justice, including programmes for youth and adults.	Increasing the efficiency of the judicial system, reducing the time for processing cases, improving outcomes for victims and criminals.
Azerbaijan	Mediation Law (2019), which includes criminal cases where permitted by law.	Contributing to the resolution of conflicts without judicial intervention, reducing the time and costs of criminal cases, reducing the judicial burden.

Source: developed by the authors

The effectiveness of mediation at the international level is limited by language barriers and cultural differences. Mediation requires the parties to understand each other and work together to reach a consensus in court decisions. Traditional approaches to mediation in Western Europe involve direct discussion and agreement, which does not correspond to the cultural practices of East Asian countries, where indirect communication and harmony are more valued. Existing differences make it difficult to achieve sustainable conflict resolution, especially in cases with a significant cross-cultural component.

The impact of mediation on the judicial system is significant due to the effective use of digital e-judicial platforms. Due to the digital circulation of cases that require a full consideration in court, the registry speeds up the bureaucratic procedure and ensures transparency. In Estonia and Azerbaijan, the use of digital technologies increases the efficiency of the judicial system and ensures a fair, personalized approach to each case. The advantage of mediation is the reduction of recidivism, as it focuses on the social reintegration of the offenders and the restoration of relations between the parties.

So, global trends point to growing acceptance and support for mediation as a tool for criminal justice. International organizations, such as the UN, actively support the development of mediation programmes that help countries to optimize their justice systems. Positive results from the use of mediation in criminal cases

may stimulate other countries to revise their legal frameworks. The introduction of similar practices to the EU countries will contribute to the creation of flexible and effective judicial systems at the international level.

Discussion

Discussions of the problems of using mediation in criminal cases contain variable approaches, which indicates the confirmation of the research hypothesis regarding the effectiveness of mediation. According to Syaafi (2023), mediation contributes to quick resolution of cases, which coincides with the results obtained regarding the practice of European countries. There are differences in the results of a study conducted by Kaawoan (2020), who emphasizes the reduction in costs of incarceration through mediation. As Tiurdina et al. (2022) noted, mediation improves the relationship between the community and law enforcement agencies, confirming the hypothesis of increased trust in justice. The article by Nahdiyanti and Qamar (2021) confirm the ability of mediation to adapt to different legal and social systems without significant changes in their structure. The findings of Pereira and Correia (2021) emphasize the need to integrate mediation into existing legal systems and introduce appropriate legislation. The author (Zienkiewicz, 2022) points to an increase in citizens' trust in the judicial system through mediation and a significant reduction in bureaucracy. According to Dewi et al. (2023), digital justice through mediation in criminal cases contributes to conflict resolution and improves mutual understanding between different cultural and ethical groups. The research conducted by Rochaeti et al. (2023) confirm that the use of mediation among young people reduces their involvement in criminal activities. The thesis of Hasibuan and Nurratih (2022) about the effectiveness of humane principles of criminal prosecution corresponds to the socialization of offenders. According to an analysis of Zondrafia et al. (2022) and Popovych et al. (2021), the level of crime can be reduced through the integration of European directives, which is consistent with the observation of the improvement of the legal system through mediation. The practical use of mediation will contribute to the improvement of criminal justice and requires further research and changes in legal practice.

Conclusions

Mediation in criminal cases as an instrument of justice has undergone significant changes, and its role has expanded in recent years. Analysis of the literature and conducted research indicate its effectiveness in reducing the burden on the judicial system. The advantage is the improvement of the conflict resolution processes and the reduction of the time required for consideration of cases. Mediation allows for achieving mutually acceptable solutions, reducing

recidivism among offenders, which is an important factor in ensuring long-term safety and stability in society. The obtained research results can be applied to countries that are EU membership candidates or that seek to reduce the burden on the judicial system. In countries with a high crime rate, mediation can serve as a way to resolve individual cases. The results indicate that mediation contributes to the restoration of relations, reducing mistrust between the community and law enforcement agencies. Considering the positive aspects, mediation becomes a necessary tool in modern criminal justice to ensure effective and humane conflict resolution. A promising direction is the analysis of available digital platforms and tools for the online application of mediation.

The application of mediation in criminal cases has a number of transnational that need to be solved at the global level. One of the main problems is the heterogeneity of the legal framework for mediation, which can differ significantly between countries. This creates difficulties in its implementation in transnational criminal cases, where the involved parties have different expectations and requirements for the mediation process. The lack of effective practice between countries in different regions of the world has complicated the process of mediation in criminal cases. Cultural and language barriers are also one of the obstacles to successful conflict resolution. In view of globalization and the effectiveness of mediation in reducing the burden on the judicial system, its implementation will be promising.

Recommendations

Based on the analysis of the role of mediation in resolving criminal cases and its impact on reducing the burden on the judicial system, the following measures are recommended.

1. Develop and implement standardized mediation procedures in criminal cases that will ensure the principle of humane treatment.
2. Conduct systematic training and education of judges, prosecutors and lawyers on the principles and methods of mediation.
3. Provide broad access to mediation services for participants in criminal cases, including free or affordable mediation for low-income individuals.
4. Create mechanisms for monitoring and evaluating the effectiveness of mediation in criminal cases in order to determine the success of this method and make the necessary changes for its further improvement.
5. Involve the public and representatives of public organizations in the promotion and support of mediation as an effective tool for solving criminal cases, which will contribute to its wide acceptance and successful implementation.

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