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BALKAN JOURNALS

A Legal Overview of Mediation Procedures in Former Yugoslavian Countries (R. Croatia, R. Slovenia, and R. Serbia)

Fjolla Kaprolli Ismaili

Abstract

Mediation is a mechanism known for its efficiency, economy, and flexibility, characteristics that enable the constructive resolution of a dispute between parties. This method offers an extended range of contributions, especially regarding its influence on the state itself and on that state's citizens. The successful practice of legal mediation seen in different states, starting from the USA, known for resolving 90% of its civil cases through this extrajudicial method. Afterward, the rest of the world began introducing this legal tool into their national legislations. Establishing mediation in countries' legal systems are also been conditioned by the need to make a country's laws and legal standards compatible and in harmony with those of the European Union. This, in addition to the goals desired to achieve with this action, namely reducing the number of unresolved cases in court, reducing procedural costs and duration, and increasing the quality of dispute resolution and parties' involvement in the dispute resolution process, resulted in judicial involvement regarding contemporary reforms and in particular increasing citizens' trust in the judiciary. This process started at the same time for a considerable number of Balkan states, whose main aim was integration and membership in the European Union. The paper will focus on a legal analysis of the mediation procedure through the method of content analysis for the laws of a selected number of states in the region (i.e., Republic of Croatia, Republic of Slovenia, Republic of Serbia), as well on finding the similarities and differences for several elements of this procedure in these states compared to those in the Republic of North Macedonia.

Keywords: mediation, alternative dispute resolution methods, mediation in Croatia, mediation in Slovenia, mediation in Serbia, mediation in Balkan states

Introduction

When making a comparison in terms of the historical development of peaceful dispute resolution and alternative dispute resolution (ADR) in the sense in which used today, the historical development of ADR methods are consider much more contemporary than the historical development of peaceful dispute resolution, which has been present since the first stages of social communities. An opinion exists among historians that cases had occurred where mediation was been used in disputes arising in trade with the ancient Phoenicians and ancient Babylonians. Mediation in ancient Greece mostly was used in marital and family disputes. On the other hand, the ancient Romans used certain procedures similar to mediation, where the use of peaceful resolution as a way of resolving a dispute in this period able to be found in the book *Digesta*, Justinian's compendium of juristic writings. In creating the basic concept of alternative dispute resolution (ADR), a similarity exists with historical efforts to create and define the concept of peaceful dispute resolution. When talking about mediation or ADR methods, these are much different than the dispute resolution in court procedure as well as in arbitration where a neutral third party helps the parties reach a common resolution. When comparing the mediation procedures of the past with those applied today, the difference lies in the techniques used in mediation, which have been systematized based not only on American practices but also on those of European countries as well as of other continents. Mediation as an alternative way of resolving disputes is accepted and implemented both in the Republic of North Macedonia and in many different countries of the world.

Mediation Procedures in the Republic of Croatia

In the legal system of the Republic of Croatia, alternative ways of resolving disputes have no great ancient tradition; even though mediation occasionally was used in different forms such as reconciliation in marital disputes, it was not a pure form of mediation. Before the introduction of the law that would regulate mediation, one of the issues that arose as a matter of discussion in almost all the projects that had been organized to promote mediation in the Republic of Croatia was the legal regulation of mediation as well as the possibility that even without having a legal framework for mediation, this matter should be regulated by implementing pilot projects (i.e., Law No. 89/14 on Contentious Procedure in the *Official Gazette of the Republic of Croatia*), as was the example in the Netherlands (i.e., the project

"Many roads to justice: Document on the Policy of Alternative Dispute Resolution 2000-2002"). As a result of the lack of national experience in the Republic of Croatia, several international models regarding mediation were compiled in comparative law, such as the Green Paper on Alternative Dispute Resolution in Civil and Commercial Matters (Commission of the European Communities, 2002) and the United Nations Commission on International Trade Law's (UNCITRAL) Model Law on International Commercial Conciliation (UNCITRAL, 2018), and the Singapore Convention on Mediation, formerly United Nations Convention on International Settlement Agreements Resulting from Mediation. Serious steps to establish mediation in the legal system of the Republic of Croatia were taken while amending the Law on Contentious Procedure, which involved a proposal for the Law on Contentious Procedure to contain more legal provisions on mediation being submitted before the working bodies of the Government and the Parliament of the Republic of Croatia. However, due to the increased volume of work for these groups that were dealing with the amendments and additions to the Law on Contentious Procedure, especially the large number of proposals that were given in that period, following all the proposals one by one and implementing them in the Law on Contentious Procedure became impossible, resulting in the drafting of a special law that would regulate mediation being seen as a better solution to this chaotic work and overloading the text of the Law on Contentious Procedure. Thus, efforts were made to draft a law that would regulate mediation, wherein mediation finally took its first steps as a way of resolving disputes in 2003 with the adoption of Law No. 163/03 on Mediation. "With this law, mediation was regulated in legal-civil disputes such as commercial, legal-property, and labor disputes, as well as in all other disputes in which parties can freely dispose of their rights" (Šimac, 2004, pp 121–126). The purpose of bringing this law was to simplify the approach to mediation as a way to resolve disputes between the parties, to speed access to mediation, and to raise awareness among citizens about choosing the mediation procedure to resolve their disputes.

According to Article 3 of the Law on Mediation, mediation is considered as any procedure in which the parties seek an amicable settlement of their dispute with the help of one or more mediators who assist the parties to reach a settlement without the authority to impose that settlement on the parties as binding, regardless of whether it is carried out in court, in any institution, or outside of it. The law also provides the principles of the mediation procedure. These are: the principle of voluntary initiation of the mediation procedure, the principle of procedural efficiency, the principle of parties' procedural equality, the principle of parties' procedural

autonomy, and the principle of procedural confidentiality and impartiality (Art. 4, para. 2, Law on Mediation, No. 18, 2011 and Art. 5, para. 2 No. 67, 2023).

Article 3 of the Law on Mediation defines the mediator as a person who, based on the agreement of the parties, implements the mediation procedure. One procedure may include one or more mediators selected from the list of mediators by the parties themselves. Article 16 of the Law on Mediation also foresees that the mediator cannot be the judge who was competent for making the decision regarding the contentious case in the interrupted contentious proceedings.

One of the first stages of mediation is to appoint the sessions or meetings in which the parties will meet to discuss their needs and interests (Article 10 of the Law on Mediation). During these meetings, the mediator can always propose ways on how to resolve the dispute between the parties (Article 11). The mediation procedure will also depend on the outcome of these meetings (Article 12). A mediation procedure that concludes with agreement between the parties becomes binding only for the parties who sign the agreement (Art. 13, para. 1). This law also has foreseen the issue of enforceability of the agreement, having established an enforcement clause whenever the mediation agreement address any specific obligation. Thus, according to para. 3 of Art. 13, if the mediation agreement contains the enforcement clause, when the time for voluntarily fulfilling the obligation passes without the obliged party fulfilling it, then mandatory enforcement will follow (i.e., enforcement procedure). The parties may decide to draft this agreement as a notarial act, court settlement, or arbitration decision based on the agreement. In order for the conclusion of the mediation agreement to consider it valid, it must be concluded in accordance with para. 4 of Art. 13. Otherwise, mandatory execution cannot be requested. Upon initiating the mediation procedure in accordance with the Law on Mediation, parties will not lose the right to resolve the dispute in court due to prescriptive or preclusive deadlines. "When, by law, the right to claim for the protection of the right - the lawsuit, is limited by preclusive deadlines, the deadline begins from the day when the proposal for the mediation procedure is rejected or considered rejected, respectively when the reconciliation ends without an agreement" (Šimac, p. 124).

As for the issue of the procedural costs of mediation, the parties can agree with the mediator on how the burden of costs will be divided, while if the parties do not agree in advance on how to cover the procedural costs, then according to the law, each party will cover its own expenses, with joint expenses being shared equally (Law on Mediation, Art. 20). The issue of the procedural costs of mediation is also similar regulated in the Republic of North Macedonia.

Mediation Procedures in the Republic of Slovenia

Mediation as an alternative way of dispute resolution entered the legal system of the Republic of Slovenia quite late, though it has existed since 2001 in most cases as the practice of annexed judicial mediation. Until the enactment of the first Law on Mediation in the Republic of Slovenia, this alternative method had gone through different stages of development without any special law in force to regulate this matter. During these phases of the development of mediation, even though no legal framework existed for the regulation, pilot projects that had the same goal as in other countries began to make great contributions to promote alternative methods of resolving disputes for the first time that also included mediation. In the Republic of Slovenia, the courts took the first step in establishing mediation, and not the scientific institutions, as had been the case in the USA. The District Court in Ljubljana announced the first mediation pilot program as a court annexed mediation; which then was presented to other district and local courts in the territory of the state. Thus, when the courts saw the need to deal with their overload from cases that were still unresolved, they started using these programs that contained rules for the mediation procedure, with identical principles also being contained in the special laws regulating mediation. Art. 62 of Law No. 16/19 on Courts (Official Gazette of the Republic of Slovenia, 2019) provides that, if a court finds the number of cases left unresolved is too high, then the president of the court has the duty to approve the pilot program for implementing mediation in order to reduce that number of unresolved cases (Law No. 97/09 on Alternative Resolution of Court Disputes, Official Gazette of the Republic of Slovenia, 2009). Immediately after creating court-annexed mediation, extrajudicial mediation also began to develop and was immediately followed by the creation of the Slovenian Association of Mediators (http://www.slo-med.si) and the Association of the Organization of Mediation in Slovenia (MEDIOS; https://www.medios.si).

On February 21, 2008, a group of experts from the Faculty of Law in Ljubljana along with a group of practitioners prepared the Proposal for a Law on Mediation of Civil Disputes, the first draft of which was prepared based on the UNCITRAL Model Law on International Commercial Arbitration. The General Resolution of the United Nations Assembly insists that all countries should be served with the UNCITRAL Model Law, which will greatly help them create a harmonized legal framework for the fair and efficient resolution of disputes, especially those originating from the field of international commercial relations (Jovin Hrastnik, 2011, p. 10). The Law on Mediation in Legal and Commercial Matters was approved on

May 23 and started to be implemented from June 21, 2008. This law was created as a result of the Proposal for the Law on Mediation, which was the continuation of the UNCITRAL Model Law both in terms of structure and content. Mediation in the Republic of Slovenia belongs to the mediation of the UNCITRAL Model Law and as such is presented as a continuation of the court. "The mediators are chosen by the court, while the mediation procedure is implemented in the court premises" (Kis, 2006, p. 8). Although mediation is seen as a procedure that is implemented under the shadow of contentious procedure, these two procedures are different, and the implementation or initiation of the mediation or contentious procedure does not imply any prerequisite for initiating the respective other procedure.

Art. 6 of the Law on Mediation in Civil and Commercial Matters states that the moment when a mediation procedure will be considered initiated is foreseen. Once the parties have agreed in advance regarding the case of presenting a joint dispute, the mediation will begin on the day on which one party accepts the proposal to initiate the mediation procedure from the opposing party (Art. 6, para. 1). The parties themselves select the mediator, unless they cannot choose one that would be suitable for both parties, in which case they have the option of asking help form a third person or institution to select the mediator instead (Art. 7). According to para. 1 of Article 305 of Law No. 16/19 on Contentious Procedure (Official Gazette of the Republic of Slovenia, 2019), the court sets a session for reaching an agreement peacefully, in which the parties are informed about the use of mediation, which the parties have at their disposal as an alternative method for resolving disputes. In these sessions, the judge or judge's assistant can provide information about mediation (Art. 18 of the Law on Alternative Dispute Resolution in Court Cases). If the parties agree to try to resolve their dispute through mediation, then the court will suspend the procedure for up to three months (Art. 305 of the Law on Contentious Procedure). According to the article, the court guarantees the parties that it will give the them up to 3 months of space and opportunity to resolve the dispute in a mediation procedure, a period that starts from the day when the parties agree on mediation. On the other hand, neither the Law on Mediation nor the Law on Contentious Procedure foresees any time limit in terms of the deadline within which a mediation procedure that has started after initiation of the contentious procedure must be completed. No time limits are found even for an initiated mediation procedure regardless of the initiation of the contentious procedure. As such, the mediation procedure lasts as long as is necessary for the parties to resolve their dispute. This aspect differs from the mediation procedure in the Republic of North Macedonia, for according to para. 2 in Art. 20 of North Macedonia's Law

on Mediation, a legal deadline does legally exist within which the parties together with the mediator must complete the mediation procedure, regardless of the procedure's outcome. Whereas in the Republic of Slovenia, if the parties do not accept the court's instruction to resolve their dispute through mediation, then the contentious procedure will not be stopped at all, nor will the mediation procedure be initiated.

The issue of confidentiality and private storage of data and information's that emerge because of the meetings of the parties in a mediation procedure are regulated in Arts. 10 and 11 of the Law on Mediation. According to Art. 10, the information obtained from the sessions of meetings and talks with one party can be shared by the mediator with the other party unless the initial party requires the mediator to keep the information confidential. While Art. 10 regulates the issue of confidentiality during the mediation procedure, Art. 11 regulates confidentiality outside the mediation procedure by prohibiting the sharing with third parties information that has originated directly from the parties' meetings unless the parties have agreed to share as such or when not sharing is impossible due to the enforcement of the dispute resolution agreement being required. Regarding the evidences related to any information that has been obtained through mediation, they should not be used as evidence in other procedures such as arbitration proceedings or judicial proceedings except when such information is allowed by law to be used before the competent contentious court, arbitration court, or before any other body or authority (Law on Mediation, Art. 12). The Republic of North Macedonia regulates the issue of confidentiality the same way in Art. 9 of its Mediation law.

According to a study conducted from 1995-1998, up to 80% of mediation cases were concluded to have reached an agreement in the early stages of the procedure, with this being the first session in most cases (Betetto, 2007, pp. 219–220). This is a good indicator that the earlier attempts are made to resolve a dispute through mediation, the greater the expectations and chances for a successful result. For this reason, even the pilot projects for mediation had insisted that the courts offer the parties the possibility of alternative solutions to a dispute as soon as they presented a lawsuit in court.

Enforceability of a mediation agreement in the Republic of Slovenia is regulated analogously both by Art. 14 of the Law on Mediation in Civil and Commercial Matters and by Arts. 306 and 309 of the Law on Contentious Procedure, depending on whether the agreement reached in the mediation procedure occurs while the contentious procedure is ongoing (Law on Contentious Procedure, Art. 306) or a court

agreement occurs in cases of out-of-court mediation (Art. 309), or an enforceable notarial act is rendered (Law No. 91/13 on Notary, Official Gazette of the Republic of Slovenia, 2013).

Unlike the Republic of North Macedonia, mediators in the Republic of Slovenia are not organized in a Chamber of Mediators but in Mediator Associations. In relation to the expenses presented in the mediation procedure in the Republic of Slovenia, the same rules apply for the regulation of procedural expenses for mediation in the Republic of North Macedonia. According to para. 1, Art 18 of North Macedonia's Law on Mediation, the mediator has the right to remuneration as well as the coverage of expenses incurred while implementing the mediation procedure. Who is to cover those expenses and how much, depend on the agreement between the parties. In cases where the parties have not agreed on this, each party will bear its own expenses, while both parties will bear equal responsibility for those expenses that are considered general.

Mediation Procedures in the Republic of Serbia

The Republic of Serbia's Law No. 55/14 on Mediation and Solving Disputes (Official Gazette of the Republic of Serbia, 2014) and Law No. 58/03 on Contentious Procedure (Official Gazette of Republic of Serbia, 2003) are closely related and contain common rules for regulating mediation procedures. In Serbia, mediation and its procedures are foreseen in the framework of the principle for peaceful resolution of disputes in the Law on Contentious Procedure. Accordingly, Art. 11 of said law states the parties and the court are to request before and after the initiation of the contentious procedure that the legal-civil disputes are to be resolved through mediation or any other peaceful way.

Going back to the first steps that were taken in order to establish mediation in the Republic of Serbia's legal system, this process is seen to have begun with the introduction of the Law No. 125/04 on Contentious Procedure (Official Gazette of R. Serbia, 2004), with Art. 11 of this law providing for the parties and the court to be obliged to try and resolve the dispute through mediation or any other peaceful method before and after the initiation of the dispute procedure. The introduction of this law in fact only laid the foundation on which mediation would be built as an alternative to the court; it did not exclude the need to introduce a special law that would regulate mediation because the Law on Contentious Procedure could not include the regulation of mediation due to its overloading. Thus, Law No. 18/05

on Mediation (Official Gazette of the Republic of Serbia, 2005) was introduced as *lex specialis*, which only regulated mediation procedures. Art. 2 para. 3 of the Law on Mediation defines mediation as any procedure, regardless of its name, in which the parties wish to resolve their contentious relationship peacefully with the help of one or more mediators who will assist the parties in reaching an agreement. Changes and additions to this law began very soon, because time showed the primary stat of the law's implementation was unable to construct a stable mediation system.

Due to the need to improve and frequently change the previous legal framework of mediation for a short period of time, a need also existed to introduce a new mediation law that would be a more advanced version of the old law by adding new solutions for issues to which the old law did not offer. Thus, the introduction of the new Law No. 55/14 on Mediation (Official Gazette of the Republic of Serbia, 2014) came as a result of the more successful application of mediation in contentious relations. This new law on mediation expanded the scope of mediation, in particular the disputes that can be resolved through mediation. According to para. 1 of Art. 1 of the old 2005 Law on Mediation, mediation could be used in the solving of legal-property, commercial, family, labor, and other legal-civil disputes, as for the new 2014 Law on Mediation added administrative and criminal disputes where the parties can freely dispose their rights, as well as disputes against the environment and consumer disputes. The new law also does not exclude the possibility of mediation for resolving misdemeanors against legal-property claims.

According to Article 18 of the 2014 Law on Mediation, the mediation procedure is considered initiated when the parties conclude an agreement to initiate mediation. This occurs when the parties request to initiate a mediation procedure before having filed a lawsuit in the competent court. Meanwhile, in cases where the mediation procedure is initiated as a result of the suspension of the dispute procedure due to the court instructing the parties to try and resolve their dispute through mediation, the mediation procedure will then be considered to have been initiated once the mediation agreement between the parties is submitted before the court. The parties agree to select the mediator through mutual agreement. The parties also decide on the number of mediators who will help them through the mediation procedure through mutual agreement. If no mutual agreement can be reached on the appointment of the mediator, then the court that has stopped the dispute procedure until completion of the mediation procedure makes the appointment (Art. 20, para. 2). During the implementation of the mediation procedure, the media-

tor will also schedule meetings with the parties, and similar to in the Republic of North Macedonia, these can be organized as joint meetings where both parties can participate or they can be held separately for each party. Having separate meetings does not exclude the mediator from sharing the information received from one party with the other opposing party (Art. 23, para. 3). In the Republic of Serbia, the initiation of the mediation procedure does not interrupt the limitation period, nor does it affect the preclusive periods for the initiation of the contentious procedure, except in cases where mediation has been presented as a procedural condition for the initiation of the contentious procedure (Art. 25). As for the deadline within which the mediation procedure must be completed, Article 26 para. 1 of the 2014 Law on Mediation provides a deadline of 60 days, which is shorter than the deadline of 90 days for the Republic of North Macedonia (Art. 16, para. 1 of North Macedonia's Law on Mediation). The deadline of 60 days is foreseen as a deadline, which if exceeded, will cause the procedure to end. Legislators have set this as the optimal deadline for reaching an agreement regarding a specific dispute. However, legislators have left open the possibility that, even in case this deadline will exceed, the procedure can continue if the parties agree to this according to the fourth point in para.1 of Art. 24 of the new 2014 Law on Mediation. The law also foresees the ways in which a mediation procedure is completed (Art. 24, para. 1). One of those ways is through the conclusion of a mediation agreement through which the parties have managed to resolve their dispute. Such agreements will acquire the power of an executive document if certain conditions are met, if it contains the clause for enforcement, and if the signatures on the agreement have been certified by the court or a notary. In this way, the parties can request enforcement in an enforcement procedure without having to initiate a contentious procedure. This provision is not binding for the parties regarding any agreement reached in the mediation procedure. However, this does represent a secure option for the parties because such an opportunity exists and this frees them from not having to initiate a contentious procedure in the future when the other party fails to fulfill its obligation. In terms of procedural expenses, each party must to cover its own expenses, with joint expenses including the mediator's remuneration for the work performed to be jointly and equally covered by the parties barring any other agreement made in this regard (Art. 29).

Comparative Overview of the Mediation Procedures for North Macedonia and the Mediation Procedures for Croatia, Slovenia, and Serbia

Mediation as an alternative way of resolving disputes has been accepted and implemented in the Republic of North Macedonia as well as in countries cohabiting in the Socialist Federal Republic of Yugoslavia, such as Croatia, Slovenia, and Serbia. These countries' mediation legislations have been the object of the research in this paper. Because these states had shared the same legislation when they were part of the federation of Yugoslavia, despite currently being separated and independent, the fact that these states share their legal tradition in the same or similar intensity can neither be ignored nor denied.

As part of the research study, these three countries have regulated mediation through legal acts and Laws as *lex specialis* that regulate every issue regarding this procedure. Secondly, the usage of mediation within contentious or judicial procedures as well as outside of these procedures' scope as an extrajudicial procedure is also common to all of these countries. In all four countries, mediation can be organized in two forms: 1) agreed mediation, in which the parties voluntary decide to initiate mediation to find a mutual resolution to their dispute and in which the decision they mutually agree in their agreement for every possible dispute that might occur in the future between the two contractual parties, and 2) court-annexed mediation, in which the judge instructs the parties to try and resolve their issue through mediation. Thirdly, the parties to the procedure have similar roles in the four countries, which is possible not only due to their similar legal tradition but also because of the similar structures and procedures for mediation that allow mediation to be conducted in different part of the world and in countries that are have different legal systems and traditions. In addition, these ex-Yugoslavian countries are all very similar to the Republic of North Macedonia regarding the legal nature of a concluded mediation agreement. Of the three countries this research paper has examined, the Republic of Serbia has the most similar procedure regarding the final mediation agreement. The legislation of the Republic of North Macedonia is the same as the Serbian legislation in that an agreement reached between the parties in a mediation procedure can be announced in minutes in front of the competent court that instructed the parties to initiate the mediation procedure in place of a contentious procedure. In this way, the agreement is transformed into the judge's final decision and from that moment gains the power of an enforceable document. The mediation agreement can also be transformed into an enforceable document by a notarial act in a notary office. The point where

these two countries differ is the nature of the agreement regarding the existence of the enforcement clause that makes the mediation agreement enforceable in case it is not fulfilled voluntarily by the party. In Serbian legislation, enforcement of the agreement is permitted with an enforcement clause, whereas in North Macedonia, the legislators have not foreseen such a possibility. The Republic of Slovenia's and the Republic of North Macedonia's laws on mediation have the same solution regarding the legal nature of the mediation agreement. The power to enforce a mediation agreement in these two countries is given through the announcement of the agreement in the minutes of the case in front of the judge where the mediation procedure had been initiated as a court-annexed procedure or through the certification of the agreement by a notary when the mediation procedure is conducted outside the scope of contentious procedure. As for enforcement through a special enforcement clause within an agreement, the laws of both Slovenia and North Macedonia have not foreseen such a possibility for the parties. The Republic of Croatia is a different case and not as similar to the Republic of North Macedonia when addressing how a mediation agreement is enforced. What makes Croatia different in this respect is that the power to enforce a mediation agreement is given only through an enforcement clause in an agreement and not by announcing the agreement in the minutes of a contentious procedure or by having a notary notarize the contents of the agreement and the parties' signatures, as is the case in North Macedonia. Based on the above, mediation procedures are clearly unique and as such are presented in the same or similar light in the legislation of every country in the world, including the countries this article has analyzed. They share a large number of similarities. Based on the small number of differences, sometimes mediation is a very logical choice for finding a good resolution to a situation that is considered imperfect and that affects the efficiency of the court's procedures or as a less expensive option compared to the contentious procedure. According to my opinion, by always emphasizing the non-formality of this procedure, mediation is considered the best option for greater efficiency regarding its outcome and its ability to increase citizens' confidence related the successfulness of this procedure. How we can touch to the citizen's conscience for raising the awareness of the success of the mediation? One of the most successful ways is with the intervention of by lawmakers in our country by stipulating in its Law on Mediation the possibility of legally enforcing mediation procedures through the presence of an enforcement clause in a mediation agreement reached between the two parties to a dispute. This is the perfect way to avoid the formalities of the contentious procedure and the procedure for solemnization conducted in front of the public notary.

Conclusion

Mediation as an alternative method for resolving a dispute offers the parties to a dispute a way to reach a mutual resolution with the help of a mediator who is positioned in the middle as a facilitator and negotiator helping to bring the dispute to an end. A unique element in this way of resolving disputes definitely is opportunity that allows for the parties themselves to find the best resolution with the mediator acting as a third neutral party in this procedure. The parties are the ones who have the last word in this procedure. The moment they realize that the resolution to all their problems lies in their own hands creates an indescribable satisfaction for them. This also positively affects the legal system of a stat by enabling better and easier functioning, with everyone coming out satisfied in the end. That the parties are the ones who are satisfied is especially true, because at the end of the day, they have decided on their future problems. Mediation is based on the idea of not burdening the judiciary while at the same time resolving disputes between parties who in the end will continue to maintain their relations.

From the legal perspective and analyses, the mediation procedures in these three countries and their similarities to the mediation procedures used in the Republic of North Macedonia are able to show many points, starting from the legal regulations, its usage within contentious and judicial procedures as well as outside the scope of these as an extra judicial procedure, the position and authority of the mediator in the procedure, the parties' roles in the procedure, and also the legal nature of a mediation agreement that is concluded at the end of a successful mediation. Another relevant factor that has contributes to the presence of these similarities among different countries with independent legal systems is the fact that they all follow the principles of different international instruments that have been drafted for the purpose of unifying and standardizing the mediation procedures for every country in the world.

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