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ONLINE MEDIATION IN EDUCATION AS AN OPPORTUNITY ON CONFLICT RESOLUTION IN THE MODERN WORLD

ABSTRACT

The article was devoted to on line mediation as an alternative way to resolve conflicts in education using professional equipment and high-tech links. The author draws attention to the advantages of using online mediation in education in the era of contemporary conflicts of children and adolescents. It also shows online mediation as a way of preventing demoralisation and juvenile delinquency.

KEYWORDS: *conflict, mediation on line, children, adolescents*

INTRODUCTION

Conflicts in the modern world are common in every area of life and in various personal relationships. It is important that when faced with a conflict you are able to confront it and try to resolve it. However, in order for this to happen it is important to familiarize and prepare children and youth for solving various conflicts from the very beginning of education, because conflicts are an inseparable element in everyone's life.

All the more so at a time when electronic harassment, attacks on Internet blogs and the posting of violent videos on the Internet are on the rise. It is important to resolve conflicts as soon as they arise to minimize the far-reaching effects, often threatening to the individual.

One of the alternative ways of solving conflicts is mediation, which is more and more often used and applied at different levels of education, be it at primary school, secondary school or childcare centre. One form of mediation is online mediation, which has become a permanent feature of Covid 19 as a tool for responding to and resolving existing conflicts and is increasingly used by students, alumni and educators.

Online mediation, enabled by the advancement of technological connections, allows for almost instant contact with the other party in a chosen place and time in safe conditions. It gives the conflicted parties an opportunity to talk about their experiences, to apologize for the damage done, to forgive for the harm done, to learn the other party's point of view, and most importantly in raising the young generation is to learn to take responsibility for their own actions.

THE CONCEPT OF CONFLICT

Conflictus is a word derived from Latin meaning collision. During conflict, two conflicting ideas, views, values¹, feelings “collide” with each other. Conflict usually occurs when parties do not understand or accept each other's principles or goals. Every conflict follows a similar pattern: “it has a specific cause, its participants perceive the situation from their own perspective, they react to a specific behavior. Then come the consequences of the conflict–resolution or continuation of the dispute”².

The concept of conflict can be framed in terms of:

- Psychological (as a phenomenon: psychological tension between the parties to an antagonistic relationship),
- behavioral (as a factor: the arrangement of conflicting or divergent actions of the parties),
- and social (an attempt to combine both aspects).

¹ M. Sitek, Human rights in the age of value conflict Selected Issues. In Sitek M, Tafaro L, Indelicato M, eds, *From human rights to essential rights*. WSGE, Józefów; 2018: 14-15.

² I. Wasil, *Child in conflict-psychological conditions, [in:] School mediation, principles, procedures competences school mediation centre* [editorship] ,A. Lukasek, M. Bąkiewicz, Conviventia, Warsaw 2016, s. 14.

- In education, depending on the number of parties, conflicts may involve relationships:
- intergroup, including structured and unstructured forms,
- interpersonal regarding relationships between individuals,

Everyday life in schools and educational institutions also means that various conflicts arise, usually concerning relationships between particular individuals. It should be remembered that apart from conflicts related to verbal or physical aggression in the real world, there are also more and more peer conflicts in the virtual world, often marked by aggressive behaviours, which have multiple consequences. The sooner we become aware of such a situation, the greater the chance of resolving the emerging conflict.

CONCEPT OF MEDIATION, MEDIATION ON LINE, OBJECTIVES, PRINCIPLES AND CONTRAINDICATIONS

Polish legislator does not define mediation proceedings or mediation itself, so it is worth noting the selected definitions presented in the literature on the subject,

in relation to the type of mediation in education discussed.

According to G. Goździewicz, mediation is “one of the methods of dispute elimination that consists in participation of a third entity, whose basic task is to bring about an amicable settlement of disputable issues by means of an agreement (settlement)”.³

According to R. Morka the constitutive features of mediation are, among others, their voluntary and out-of-court character. The second approach, *sensu largo*, is currently dominant according to the author. “It is a collection of heterogeneous proceedings with different names, and their purpose and common feature is the participation of a third party in the resolution of the dispute”.⁴

³ G. Goździewicz, *Mediation and arbitration in Polish labour law, [in:] Arbitration and mediation in labour law. American and Polish experiences*, [editorship] G. Goździewicz, KUL, Lublin 2005, s. 19.

⁴ R. Morek, Introduction. [w:] *Mediation. Theory and practice* ([editorship] E. Gmurzyńska, i R. Morek, Wolters Kluwer Polska., Warsaw 2009, s. 16.

Ch. Moore, on the other hand, adds that “parties must be committed and should voluntarily work towards a mutually acceptable agreement. The author points out that mediation not only resolves conflict once, but it also has an emotional dimension—it can create or strengthen relationships between parties based on respect and trust. “

Electronic mediation (on line mediation) is defined as “a conflict resolution process in which the mediator conducts a mediation session by means of remote communication”⁵.

Mediation is regulated in Articles 1831–18315 of the Civil Procedure Code. Among these provisions there is no regulation concerning the institution of e-mediation. It should be noted, however, that Polish regulations do not preclude the use of electronic mediation in both contractual and judicial mediation.

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On-line mediation in education—is a voluntary and confidential search for a solution to a dispute between conflicting parties in the presence of an impartial and neutral mediator using professional equipment and high-tech links.

Mediation proceedings pursue a number of objectives, which can be divided into two basic catalogues: primary and subordinate objectives.

The catalogue of overarching goals of mediation includes:

1. Goals in the personal dimension (are implemented through three processes, i. e. the process of self-knowledge, self-improvement, the process of inner moral growth)
2. Interpersonal goals relate to:
 - to restore and maintain uninterrupted proper communication and positive relations between the parties,
 - to resolve the dispute by reaching a mutually acceptable and practicable agreement and thus saving time and possible material and immaterial costs,
 - to eliminate the causes of the conflict between the parties,

⁵ <https://www.gov.pl/web/sprawiedliwosc/mediacje> [1 march 2021]

- preparing the ground for effective cooperation between the parties in the future,
3. The objectives in the social dimension are:
- supplementing, relieving and improving the efficiency of the judicial administration of justice,
 - the involvement of individuals and, more broadly, of society, understood as civil society, in the process of administering justice,
 - the implementation of the postulate of pluralism of the forms of justice and respect for the autonomy of the subjects to choose the way of pursuing their claims.

Sub-objectives are:

1. Objectives in the communication dimension that is:
- bringing the parties to an opening of communication based on the principles of speech ethics, i. e. intelligibility, truthfulness, sincerity of rightness,
 - providing the conditions for an ideal speech situation (equality, freedom of parties-fair procedures),
 - creating optimal communication conditions for the participants in the mediation discourse from the point of view of time, place, ways and forms of communication,
 - to bring about a proper understanding and interpretation of each other's messages and their contexts, to listen to each other's statements and to use non-confrontational language,
 - to cause an opening to the arguments, interpretations and claims of the other party.
2. The objectives in the psychological dimension focus on evoking and shaping the characteristics and their attitudes of the disputing parties and on satisfying their internal needs, which include:
- the need to vent negative emotions,
 - the need to be heard and appreciated and to gain a sense of having a role in the decision-making process,
 - an attitude of mutual respect and tolerance,
 - an attitude of cooperation between parties rather than competition,
 - an attitude of forgiving each other for the wrongs and harms suffered,

3. Objectives in the negotiation and information dimension
- to make the parties aware of the key issues concerning the nature, merits and purposes of mediation,
 - proper preparation and planning of the mediation process, optymalny dobór strategii i technik mediacyjnych do danej sytuacji,
 - collecting data on the existing obstacles to communication between the parties in a given situation,
 - getting to the necessary information regarding the psychological and psychological background of the dispute that needs to be addressed when trying to restore and maintain the parties' relationship,
 - collection and appropriate disclosure to both parties to the dispute of data relevant to reaching an agreement,
 - making parties aware of the degree of reality of their expectations,
 - to develop one or more options for resolving the dispute,
 - the conduct of effective negotiations by the parties to the dispute,
 - to make the parties aware of the likely total attitudes in mediation discourse and the consequences of concluding and implementing an agreement⁶.

Participants of online mediation can be both children and adults, in education it can be students, teachers, alumni, educators as well as parents. In the case of conflicts between adults, or adults and children, the mediator is an adult, when the conflict concerns children, the mediators are peers.

On the premises of e. g. a school conflict may have different dimensions and appear in different forms, appear on many levels and interpersonal relations such as;

- pupil – pupil
- pupil – teacher
- teacher – parent
- teacher–adult (e. g. superior, other teacher)
- parent – parent

If the parties in conflict agree to the online mediation process, the following rules apply during the meeting:

⁶ A, Kalisz, A Zienkiewicz, *Judicial and extrajudicial mediation. Lecture outline*, Lex, Warsaw 2014, s. 44-45.

- voluntariness, which implies freedom for the parties to decide whether to participate in mediation. At any point during the mediation, no matter what stage the discussions are at, either party may withdraw from the mediation without any consequences. It also involves entering mediation in good faith and voluntarily abiding by the rules adopted for the mediation),
- impartiality (parties in mediation have equal rights and are treated the same. The mediator cannot take sides and does not judge or settle disputes),
- neutrality (the mediator does not propose ready solutions, even if he would consider them better, does not propose any solutions to the parties, does not impose his own system of values, does not give advice, he does not assess the solutions adopted by the parties),
- confidentiality (all matters discussed during the mediation meeting are confidential. The mediator and the parties shall not disclose to anyone what they have heard during the mediation),
- acceptance (mediators should be accepted by the parties. Either party may request a change of mediator. Principle acceptance also refers to the principles and rules of procedure, which should be agreed at the beginning of the meetings and accepted by both parties.

All conflicts that do not have the characteristics of an organized crime, have not caused serious harm or we cannot find the perpetrator can be referred to online mediation.

On-line mediation in schools and educational institutions is used to solve minor conflicts such as: ridiculing peers because of their appearance, clothing, background or behavior; it should be remembered that these situations also concern the virtual space.

However, not all conflicts can be resolved through online mediation, as there are circumstances that make it impossible to resolve conflicts this way, such as the following situations:

- either party does not have an internet connection, or equipment that allows constant connection and video participation.
- one of the parties does not have the conditions, a place where they could peacefully connect and talk freely
- one of the parties to the conflict is addicted to e. g. alcohol, drugs, medication, computer games etc.

- it is likely that mediation can be used to escalate conflicts or to achieve hidden agendas,
- either party to the conflict is a victim of violence, or a perpetrator of violence,
- one of the conflicting parties has recently experienced a traumatic event, which makes it impossible to properly participate in mediation proceedings, e. g. : death of a close person
- if the balance of power between the conflicting parties makes joint decision-making impracticable.

If the above circumstances arise, you should then choose a way of resolving the conflicts that will enable you to settle the dispute, and mediation is not it.

BENEFITS OF CONFLICT RESOLUTION THROUGH ONLINE MEDIATION

On-line mediation enables in education primarily:

- on line conflict resolution
- working out an agreement,
- saving time, efficiency and speed of proceedings,
- connecting from different places and times,
- videoconference as the optimal form of contact in on line mediation, as it provides personal contact between the parties,
- adjusting the conditions, getting used to the glass screen,
- meeting and arranging participants at the same time.

The benefits of on line mediation for the conflict victim:

- the unwinding of emotions allows you to be directly involved in the solution, your own issues, provides quick redress,
- allows let go of your fear of the perpetrator,
- gives the comfort of forgiveness,
- the opportunity to talk about sensations, annoyances.

The benefits of on line mediation for the perpetrator of the conflict:

- understanding the harm done,
- taking responsibility for your own actions,
- the possibility of apology or reparation,
- the opportunity to look at conflicts from the other side's perspective,

The benefits of online mediation for the educational environment of children and young people.

- increases a sense of security in school, in the institution, in the peer environment,
- teaches children and young people a sense of responsibility,
- facilitates dialogue and communication,
- develops skills to express emotions while respecting the dignity of another person,
- improves the relationship between the conflicting parties.

In addition, through the use of online mediation

1. By teaching non-violent conflict resolution, we develop communication skills needed in adult life.
2. An opportunity arises to stop the development of the conflict already in its initial phase, so it will not spread to other situations.
3. Students learn to recognize and deal with emotions. They develop skills related to identifying needs, finding ways to cope with stress, and being able to express respect for others.
4. The communication skills they learn can carry over beyond school and into the family environment.
5. Prevents escalation of conflict that may be caused by traditional punishments, contracts, or fear of consequences.
6. A mediation meeting allows you to take a broader look at the conflict and recognize class and group relationships, which will make it easier to implement remedial programs.
7. Students as mediators help to repair relationship irregularities. The teacher-mediator only supports them and watches over the formal side of the process. If the students themselves resolve the conflict among themselves, they automatically improve the educational process in a given class team. At the same time they learn responsibility and new pro-social behaviors⁷.

Peer mediation also supports building a sense of safety by repairing interpersonal relationships. It is a way that counteracts aggressive and violent behavior. Pupils and pupils learn acceptance, tolerance, noticing and understanding the

⁷ http://strefamediacji.pl/mediacje/post/dlaczego_warto_mediowac_w_szkole [22 march 2021]

needs of another human being as well as they gain understanding for social, cultural and religious differences which are so important in the contemporary world. On-line mediation is also an effective tool in preventing demoralization and juvenile delinquency.

If a child, after the age of 13, commits an act contrary to the norms in force, he/she is subject to the Juvenile Justice Act of 26 October 1982.

Under the previously applicable legislation, in addition to the catalogue of upbringing measures provided for in the Juvenile Proceedings Act of 26 October 1982 (hereinafter u. p. n.), the family judge had the possibility of referring the juvenile's case to the school which the juvenile attended if he considered that the upbringing measures available to the school were sufficient.

However, it was difficult to verify the effectiveness of the feasibility.

After the amendment of the Act, since January 2, 2014, the family court indicates the directions of the educational influence as necessary. The court shall evaluate whether the school attended by the juvenile has adequate educational resources.

In particular, it is important to know if your school has a peer mediation program. If the intention of the court is to have an educational impact in the form of peer mediation, the consent of the victim should also be taken into account. Placing trust in juveniles and enabling them to carry out restorative justice may have better educational effects than applying measures under Article 6 of the above-mentioned Act.

What is new is the obligation of the school to inform the family court about the educational activities undertaken in relation to the case of a minor and about the effects achieved (at least every six months, and immediately—about their ineffectiveness). Despite the completion of the exploratory proceedings, in view of the order of transfer of the case to the school, the family court has the possibility to take legal action in case the measures taken by the school are ineffective.

The provision of art. 79 §1 of the Act on educational upbringing, applied accordingly, makes it possible, among others, to change the educational measure, if educational reasons speak for it. „The law makes it possible to use mediation to solve conflicts in the school environment, and agreements concluded in this procedure may end a dispute without the need to resort to other legal means of

intervention (the authority running the school, the supervisory authority over the school, the Police, the family court, the Children's Rights Ombudsman)"⁸.

What is particularly important is that in the mediation process the juvenile offender has the opportunity to "learn responsibility, acquire certain social skills and avoid stigmatization. He also increases his chance of returning to normalcy by avoiding severe legal sanctions. It is also important that he gets a chance to get forgiveness from the victim. The learning of responsibility that a juvenile offender undergoes through mediation is undeniably of greater rehabilitative value than many individual rehabilitation programs in solitary confinement"⁹.

SUMMARY

What supports the use of mediation as a form of restorative justice is that it is not based on fear but on respect for others, and conflicts should be resolved in a way that provides children and young people with a sense of safety, respect, understanding and justice. Saving time, efficiency and speed of proceedings as well as the possibility of connecting from different places and times are the undoubted advantages of online mediation, which gives both health security and comfort in meeting with the conflicting party as well as often being an effective tool in preventing demoralisation and juvenile delinquency.

⁸ Cyt. za Standards of Peer and School Mediation in Schools and Other Educational Institutions, Children's Rights Ombudsman, Warsaw, listopad 2017, s. 2–3.

⁹ Uljasz T., Mediation as prevention of crime prevention among children and youth, in: [School mediation, principles, procedures competences school mediation centre [editorship], A. Lukasek, M. Bąkiewicz, Conviventia, Warsaw 2016, s. 30.

REFERENCES

- Goździewicz, G. (2005). *Mediation and arbitration in Polish labour law. [in:] Arbitration and mediation in labour law. American and Polish experiences.* [ed.] G. Goździewicz. KUL. Lublin.
- Kalisz, A., Zienkiewicz. A., (2014). *Judicial and extrajudicial mediation. Lecture outline.* Lex. Warsaw.
- Morek, R. (2009). *Introduction. [in:] Mediation. Theory and practice.* [ed.] E. Gmurzyńska, R. Morek. Wolters Kluwer Poland. Warszawa.
- Moore, W. Ch. (2003). *Mediation. Practical conflict resolution strategies.* Wolters Kluwer Poland. Warsaw.
- Uljasz, T. (2016). *Mediation as prevention of crime prevention among children and youth, [in:] School mediation, principles, procedures competences school mediation centre.* [ed.] A. Lukasek, M, Bąkiewicz. Conviventia. Warsaw.
- Wasil, I. (2016). *Child in conflict-psychological conditions. [in:] School mediation, principles, procedures competences school mediation centre* [ed.] A. Lukasek, M, Bąkiewicz. Conviventia. Warsaw.

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- Children's Rights Ombudsman. (2017). *Standards of Peer and School Mediation in Schools and Other Educational Institutions November 2017.* Warsaw.

NETOLOGIA

<https://www.gov.pl/web/sprawiedliwosc/mediacje> [1 march 2021]

http://strefamediacji.pl/mediacje/post/dlaczego_warto_mediowac_w_szkole [22 march 2021]