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Mediation in Higher Education – Aspects of Application in Conditions of Digital Transformation

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Abstract: *Abstract: The paper researches the application of mediation in the management and conflict resolution in higher education, as well as the inclusion of mediation in business schools curriculums and syllabi. In the digitalization era higher schools undergo a transformation which affects all processes and the relationships of the stakeholders participating in them. Broken communication, personality problems of participants in the education process are but a part of the prerequisites for the emergence of new conflicts in higher education. In this aspect the authors study the application of mediation as a possible alternative for resolving the arguments arising in universities. A broader view of mediation is presented, so as to place mediation not only within the narrow legal frameworks of out-of-court procedures, but also as a means of effective academic communication, as a method of building harmonious academic environment and new culture of communication. The study advocates the thesis for the mediation methods applicability in the processes of education and research at various levels – from resolving conflicts between various stakeholders to adopting mediation as a specific method for conflict resolution in the education in different disciplines, including the offers of Master programs in Mediation and Conflict Resolution.*

A model is suggested for introducing mediation in higher schools by building university centres aimed at resolving arguments, fostering communication culture and successful communication. Two interrelated viewpoints are intertwined in the study, so as to analyze mediation through the prism of the regulatory framework and the managerial aspects of mediation. On the basis of the analysis carried out conclusions are made concerning the application of mediation in the higher education sector and recommendations are formulated in view of the creation of international university mediation network.

Keywords: *higher education, mediation, higher schools, types of conflict, digital transformation.*

1. Introduction

Mediation is a notion which stepped into public life a long time ago; it relates to solving problems out of court. In this sense, the mediation procedure found the start of its historical development in the 1930-1980 time span and was applied to various degrees in the different countries which, understandably was due to the type of legal system, established traditions and affirmed trust.

Mediation is such type of notion that underpins European and Bulgarian national legislation in particular; it is part of regulative acts that differ in their own lawful power. In the last couple of decades in Europe, as well as in Bulgarian society, mediation was put on a different ground, one that goes beyond its traditionally set role of an out-of-court procedure for settling arguments. Nowadays it is even more that methods of mediation are used for prevention both in the period of conflict arousal and in activities that do not affect a conflict directly; they rather entail the process of negotiation.

As a phenomenon in modern life digitalization changed dramatically all social processes and their participants as well. This type of transformation is observed in all possible spheres –economy, healthcare, education, labor market and others. Together with the indisputable advantages of the digital era, it aroused also a

number of issues in reference to law and ethics; the times of digitalization are the reason for a new type of conflict, they require adjustment of the traditional means of protecting the particular stakeholders' rights and the mechanisms for resolving conflicts of the new digital reality. Alienation among people, lack of trust, data abuse, leak of information and others are only part of the examples one could mention. This process of digitalization is irrevocable, at the same time society finds itself unprepared and this necessitates a fast and timely reaction, the role of the educational institutions being the leading one in this respect.

Mediation in education is a topic which is crucial in research works [12] and serves as an object of legislative activity – both at the level of particular countries and in acts throughout Europe. At the various educational levels mediation is interpreted and applied in different ways which is explainable, having in mind the compliance with the regulative educational degree, the age of the trained individuals and the need for an approach correspondent with these differences. In the current stage of higher education mediation is not largely present; there are some examples of mediation starting to be implemented within university premises. Most often this refers to creating university centers of mediation in USA and some European countries. The Michigan state university and the Technical University in Darmstadt, Germany were among the first universities to introduce such a practice [6] [8].

Higher education in Europe undergoes a period of reformation which corresponds to the world processes of globalization in education and the need for raising the level of higher education aiming at competitiveness, both in the framework of the European educational space and the world market of education. In the context of this fact the relevance of the topic about mediation in higher education is indisputable.

The goal of this paper is to study and systematize the various aspects of applying mediation in higher education which concern different types of stakeholders in university activities like education, research and administration in conditions of digital transformation. The application of mediation is viewed as a possible alternative for settling arguments that arise in universities as a chance to be included in the process of teaching the students in view of broadening their knowledge and skills for using techniques for resolving arguments and conflicts.

In the paper two interrelated viewpoints are intertwined in order to analyze mediation through the prism of the regulative framework and its managerial aspects. Based on the analysis made, conclusion are brought to in respect to applying mediation in the field of higher education in European universities, in Bulgaria in particular, while analyzing specific good practices. Thus recommendations are made concerning the creation of international university mediation networks.

The paper combines research methods used both in the legal doctrine and in management such as regulative, comparable-lawful, induction and deduction. The subject matter complies with the applied legislation as of 30 March 2020.

2. Mediation as an alternative tool for resolving conflicts

The start of mediation in the European regulative framework refers to the Recommendation of the Council of Europe No (98)1 from 1998 concerning family mediation [4], followed by Recommendation No (99) 19 about mediation in criminal issues from 1999 [3] and Recommendation (2001) 9 about mediation between administrative authorities and private individuals from 2001 [2]. A year later there came into force Recommendation R (2002)10 about civil issues. Thus, the institute of mediation on European level was arranged as an alternative way for resolving conflicts.

The regulative framework of the EU member countries has been accepted in various time periods, specifically in Bulgaria its start occurred with passing the Act of mediation in 2004. The subject of mediation in Bulgarian national legislation is stipulated in article 3 of the Act and boils down to: a) civil, trade, labour, family and administrative arguments which concern the rights of users, and other types of arguments between individuals and/or legal entities, incl. at border crossing; b) the provisional cases in the Code for criminal proceedings. The criminal regulative framework in the sphere of mediation is dynamic and strives to respond to

the changed public relations and, respectively, to the needs for enlarging the applied field of mediation, as well as harmonizing Bulgarian regulations with the European ones (Directive 2008/52/EO).82 [1].

In the Bulgarian act there is a lawful definition of the notion “mediation” as a “voluntary and confidential procedure for out-of-court conflict resolution, in which a third party – a mediating individual supports the arguing parties to reach an agreement” [11]. In order to have an insight into the spirit of the mediation procedure, one should bear in mind the significance of the principles that underpin mediation, namely: volunteering and equality, neutrality and impartiality, confidentiality.

A crucial moment in the mediation procedure is the allocation of roles, namely: the arguing parties themselves in their position of equal participants choose a mediator who takes in to be neutral. In this way, an ultimately favorable chance is created for the arguing parties to reach conflict resolution in a mutually acceptable manner. Mediation stimulates dialogue between the parties, whereas the role of the mediator in the process is mainly to guide and support them. The strength of a mediation process, compared with a court trial, rests in reaching the feeling of satisfaction within both parties on the ground of a decision they themselves have reached, based on mutual compromising.

3. Opportunities for applying mediation in higher schools for resolving conflicts and in the activities for research and education in conditions of digitalization

The mission of education refers to acquiring a particular set of knowledge and skills that set the ground of one’s consecutive career development [10]. Higher education combines activities that correspond with those assigned to universities by regulation – education and research. In compliance to this fact, public relations, which emerge and develop in higher schools, have their own specifics highlighting this particular activity – one that is controlled and managed by the state (the Ministry of education and science in particular). By large, one could summarize the subject of the regulation like this:

- Public relations in reference to the process of education (for acquiring bachelor, master and PhD degree).
- Public relations concerning the researches.
- Public relations directly related to the process of education and research and directed to servicing it; control and others. This category includes also the administrative services for students, PhD students and trainees, labor relations with the academic staff, and control – internal and external.

In accordance with these groups of public relations, one could classify also the types of conflicts that are possible to occur and to which efforts need to be directed with the goal of management and prevention.

The educational process includes group interaction of people who are united in a common space and participate in various types of joint activities. In them the educational institutions do not only carry out the initial professional socialization, but intercultural communication as well. In the course of this interaction a great number of conflict situations emerge and it is the educational institutions trying to solve them in various manners [9].

As known in the literature on management, from the various stakeholders participating in the organizations’ activities, incl. higher schools, one expects contradictions between their interests rather than consensus [5]. That is why it is useful to apply as many means as possible for balancing the contradictory interests of stakeholders in higher schools. Mediation is one of these means. The contradictory interests lead to arguments and conflicts, incl. in higher schools, between lecturers and employees, students and lecturers or employees.

Higher schools in Bulgaria have some independence, whereas the process of education is subordinate to the principle of academic autonomy [7]. On this ground and in view of the specialization of the respective university, in its broad definition mediation may be included in the internal regulation, thus providing a chance for using it for:

- An alternative way for settling arguments between stakeholders involved in various processes in higher schools.

- A preventive mechanism for handling and managing conflicts.
- Techniques for managing conflicts included as part of the academic disciplines (lawful or managerial) taught in various educational degrees, both as independent disciplines or thorough educational curricula (for ex. in the master degree).
- Method of building communication skills among teaching and administrative staff – in this sense mediation also serves as a method for improving the quality of the educational product.

Taken in its entirety, the various aspects of the application of mediation in the sphere of higher education are aimed at the common goal of creating a harmonious academic environment for science and education.

The paper presents the model for introducing mediation methods in higher education in the first university mediation centre created in Bulgaria, established in the University of Economics – Varna. Initially, the accent there was placed upon the creation of organizational facilities and capacity for using mediation in conflict resolution, but the next step is using mediation in the process of teaching students. The ultimate goal is turning the higher school into a university mediation hub at a national level, and in the long run – into a centre for dissemination of good practices in and outside Europe.

The possibilities for using mediation as an alternative tool for the settlement of disputes and conflicts at present do not feature in the Business and Management curriculums of Bulgarian students. Incorporating mediation in the curriculum is appropriate for a large number of managerial disciplines, where students acquire knowledge, skills and competences for conflict management in the working environment, disciplines like Organization Behavior, Organizational Culture, Human Recourse Management, Business Ethics, Corporate Social Responsibility. Thus the model is focused on the introduction of an innovative method of teaching and training students by the development of new-competence-orientated education, which complies with the European reference framework for key competences for lifelong learning [13].

The model aims to:

1. Improve the educational environment by enhanced use of mediation for conflict prevention and conflict management and for more effective management of the relationships with internal and external stakeholders.
2. Improve the quality of education by adapting mediator techniques, developing skills and using them as an innovative approach to teaching and developing students' soft skills.
3. Integrate mediation in the study process by developing teaching materials, compliant with the specific of the subject being taught and by stimulating innovative teaching and learning practices.

In order to achieve the objectives, the following activities are performed:

1. Preparation of a document containing instructions and suggestions for the creation of appropriate conditions for the introduction of the mediation methods as a specific university discipline, as well as study materials as a component of other disciplines taught and using particular methods and techniques in the teaching work of academic staff (so called "Mediation roadmap").
2. Building an online portal for joining mediation resources in a common digital space, an easy-to-use and accessible network among professional mediators and individuals wishing to specialize/be certified in mediation; providing equal opportunities for access to online mediation training, webinars for people from small or remote towns and thus create conditions for informal education outside the academic environment, and for overcoming social isolation. This online mediation portal may initially be applied in just one university and later spread to various universities in different countries. The process is facilitated by implementation of a partnership project which could be funded by European programs such as Horizon Europe.
3. Developing training courses for lecturers, employees, doctoral students and undergraduates and adapting the said courses to the needs of other universities (including international ones), where mediation is less

popular, or entirely missing.

The described model supports the implementation of the European Commission Inclusion and Diversity Strategy, as well as the digital transformation of Europe by means of the online portal built. This enables the creation of an international network of universities which apply various aspects of mediation in order to achieve resource sharing, digital mediation, exchange of experience and good practices. This in turn results in improving the quality of activities, developing and strengthening the partnership networks, raising their capacity for collaborative work at a transnational level, enhancing internationalization of activities and exchange, as well as developing new methods and practices, sharing and debating ideas, new approaches to better support of employment and competitiveness, particularly at a regional and local level.

The model also provides an opportunity for the introduction of modern conflict management in higher schools, for flexible, voluntary, quick and cost-efficient conflict resolution. On the other hand, through the training of students, administrative staff and lecturers, the model helps for the improvement of these parties' soft skills and for enhancing their competitiveness.

However, mediation is not only an alternative tool for conflict resolution; it is also a culture of communication – mediation training programs would help the development of a number of skills students need [12]: effective communication, which contributes to improving the dialogue between the parties, and respectively, better expression of one's own ideas and endeavoring to understand others, which in turn results in stronger involvement and productivity; team work – participants actively cooperate in order to achieve a result; problem solving – should problems occur, employees are expected to act quickly in order to eliminate them. Mediation training programs facilitate the development of all these skills, so badly needed by managers and employers, as well as employees, regardless of the sphere they are employed in. The European legal framework, set by Directive 2008/52/EO of the European Parliament and the Council of 21 May 2008 allows for all that to be carried out transnationally. It allows the partners to exchange good practices and experience, to organize online training, to share resources in the creation of partnership network aiming to improve quality of education and apply new methods of conflict resolution in higher schools by wider adoption of mediation in the educational process and in the stakeholder relationship management.

The described model for use of mediation in higher schools suggests a multidisciplinary approach in preparing learning materials and methods of teaching and training, combining techniques from the domain of psychology, court practice, management, sociology and other sciences. Similarly, the model is based on multisectoral collaboration in the selection of participants and in the expected future dissemination of results as direct benefits and as multiplication effects among academia, business, public sector and non- governmental organizations.

4. Conclusion

Resulting from the study performed, certain conclusions and recommendations can be made.

In the first place, mediation in the educational sphere is a notion that exceeds the legal definition of the term in Bulgarian legislation. In this sense, it is the authors' suggestion to expand the legal definition and add certain content that accounts for the role of mediation as an instrument for both preventing conflicts and enriching education.

Secondly, in view of the processes of higher education globalization, as well as those of digitalization, the authors suggest building an international network of European universities which apply various aspects of mediation. Resource sharing, digital mediation, exchange of experience and good practices are but a part of the benefits of such an international network.

Mediation has gone beyond a country's national borders and is successfully applied worldwide, in compliance with the ethnic and cultural traditions of the respective population.

This is a sufficient prerequisite for mediation, making good use of the achievements of digitalization, to take its rightful place in universities not only in a particular country, but to be popularized in the European educational space, as well as internationally.

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