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**Entrepreneur and Mediation in the Context of Access to Justice – Polish example**

**(Abstract)**

Mediation belongs to one of many Alternative Dispute Resolution Methods, so-called ADR (Alternative Dispute Resolution), which is understood as a voluntary and confidential communication process of parties in conflict in the presence of an impartial and neutral third-mediator.

Contemporary mediation is about more than 50 years old and comes from the United States of America, but the prototype of the institution was formed over 2000 years ago. Mediation was already used as a means of solving problems, for example between Sparta and Athens, where princes and kings were mediators. However, the largest movement in reaching mediation as an effective alternative method of resolving disputes outside the courtroom began in the 1970s in the United States. The reason for the institution's development was, among others: excessive court workload with a large number of cases, high costs of court proceedings and excessive length of proceedings. Mediation has thus become a remedy enabling the citizen to benefit from his legal protection.

In the course of the conducted research, after analyzing the materials collected so far - foreign language articles and legal acts, I have determined that mediation has been present for many years, including in countries such as: Belgium, Germany, France, Italy, Great Britain, Sweden, Norway, Portugal, Greece, Finland, Luxembourg, Australia, USA and Canada. In addition, the European Union also issued a "Green Book" on alternative methods for solving civil law and commercial disputes. It has the meaning of non-binding demands to initiate broad consultations on the use of ADR in Europe. A directive on certain aspects of mediation in civil and commercial matters has also been issued and implemented, although it does not work effectively creating so called “Mediation Paradox”.

Mediation is also known to the Polish legal system. However, even the analysis of statistics referring to the annual number of cases examined by common courts and the number of cases referred by mediation courts points to a negligible (on average on a national scale 1-2%) use of the said institution as a method of resolving the dispute outside the court room. It is different in other countries, even in the United States of America.

In recent years, there has been a slight and steady increase in the number of cases referred to mediation by the courts. It seems that one of the reasons for this state of affairs is, in addition to other activities, the initiative taken and implemented in 2014-2015 by the Ministry of Economy (currently Ministry of Development), consisting in a pilot project - "Arbitration and Mediation Centers". As part of the project, unified Arbitration and Mediation Centers were set up in 6 selected cities of the country, whose task was first of all to promote the idea of ​​mediation, in addition to conducting mediation proceedings primarily in commercial disputes. The second factor influencing the increase in the number of cases referred to mediation by civil and commercial courts was postulated for a long time by the environment related to the idea of ​​mediation an amendment to the provisions of the Code of Civil Procedure in the field of mediation proceedings.

Unfortunately, the introduced changes, despite the fact that they are the first, right step towards reversing the situation in favor of the mediation proceedings, do not reflect all expectations of persons and entities interested in the indicated issues, especially in relation to entrepreneurs (for whom confidentiality, time and money are the most important) and facilitating their access to justice.

The aim of the paper is first of all to present conducted research on the development of mediation in commercial law cases both in Poland as well as in the EU. Furthermore, it is to analyze the idea of commercial mediation in the context of facilitating Access to Justice for entrepreneurs.