

MEDIATIONS AS PART OF RESTORATIVE JUSTICE AND THE POSSIBILITY OF ITS APPLICATION IN CHILD DELINQUENCY IN NORTH MACEDONIA

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Abstract

The purpose of this paper is to analyze the concept of mediation as part of restorative justice, its essential role as a mechanism for restoring damaged relationships, accepting responsibility, and the most effective process for the rehabilitation of children, as well as the possibility of its implementation in child delinquency in North Macedonia. In this review, we focus on the rules, principles, procedures, and benefits of applying mediation in child delinquency. Through the analysis of theoretical approaches, the legal framework, and existing practices in the country, this study aims to highlight the effectiveness of mediation in promoting an approach that focuses on the needs of the child and the repair of damage. The data show that mediation as part of the restorative process has shown effectiveness in reducing recidivism and in helping to rehabilitate delinquent children by providing a fairer approach to children's behaviors that conflict with the law; however, in our country, mediation has not yet been implemented to a satisfactory level. Strengthening professional capacities and increasing awareness of mediation in cases involving children is recommended to ensure its effective implementation.

Keywords: mediation, restorative justice, child delinquency, relationship restoration, conflict resolution.

1. Introduction

According to official data on its prevalence, child delinquency remains a serious concern in our country. The most worrying is the fact that recently, children are getting involved in high-risk criminal offenses, similar to adult ones. Nevertheless, no modern democratic society is keen on immediately sanctioning children who conflict with the law, especially for minor criminal offenses, but in educating them and preventing recidivism.

The reason behind this is that when children make mistakes, there is still hope that they can repent for the actions they have committed, compensate for the damage caused, and become useful members of society in the future.

Due to their psychophysical, emotional, and mental development characteristics, the treatment of children who commit criminal offenses differs significantly from that of adults. In response to the disillusionment with retributive justice, new models have been developed aiming to avoid the negative consequences of judicial proceedings in children (Buzarovska - Lazetik, Nanev & Kosevaliska, 2016).

Consequently, mediation, as part of restorative justice, aims to restore relationships damaged by the criminal offense committed involving the perpetrator, the victim and an impartial third party (the mediator). When the perpetrators of criminal offenses are children, mediation fosters personal responsibility and provides opportunities for education, rehabilitation, and reintegration, avoiding the negative consequences of a judicial process.

In the national legal framework, Mediation as an alternative way of resolving disputes was first promoted with the adoption of the Law on Mediation of 2006, which regulated the principles of mediation as an alternative method for resolving disputes, the conditions for the mediator, the mediation procedure, and the organization of mediators (Article 1 of the Law). This law was

amended and supplemented in 2007 and 2009, aiming at further regulation and clarification of legal provisions, followed by the adoption of the Law on Mediation in 2013¹ and later the current law on Mediation, which was adopted in 2021.

Even after the adoption of the new Law on Mediation in 2013, European Commission reports have observed shortcomings in the functioning of this mechanism. The number of licensed mediators is small due to a complex and inadequate examination. The Mediation Board is inefficient, and the establishment of the Chamber of Mediators has been delayed. Courts endorse mediation both before and during court proceedings, but the Academy for Judges and Public Prosecutors does not organize sufficient training on alternative dispute resolution. Furthermore, there are also discrepancies between cases registered with the Ministry of Justice and those reported by mediators, due to legal uncertainties. Although mediation is provided for by the Law on Justice for Children, it is not implemented due to a lack of funds from the Prosecutor's Office².

Another main reason why mediation was introduced in Macedonia's legal system was to overcome the situation with the backlog and pending cases in courts. This legal framework, which, for the first time, introduced mediation in the legal system of North Macedonia, was prepared through the regional project of the International Finance Corporation, World Bank Group (IFC). Namely, the IFC started the introduction of alternative dispute resolution methods in the territory of the Western Balkans, in the conditions of a dysfunctional domestic legal system, market economies in transition, and uncertainty³

Mediation holds significant importance in the Republic of North Macedonia, as the country's legal framework actively supports its development. Since the enactment of the Law on Mediation in 2006, there has been growing recognition of mediation as an effective method for resolving various types of disputes.

According to Article 1 of the Law on Mediation of 2021, mediation can be applied in several different types of disputes: legal property disputes emerging from inheritance procedures, family, labor, commercial, consumer, insurance, in the field of education, health care, the environment, in relation to discrimination and other disputed relations where mediation is appropriate to the nature of the disputed relations and can help to resolve them. Also, mediation is allowed in criminal cases (the law on Criminal Procedure, the Law on Justice for Children), especially mediation is preferred to be used in child delinquency.

In the Republic of North Macedonia, mediation is generally a voluntary process, initiated solely at the discretion of the parties involved—neither judges nor lawyers can impose it (Kaprolli-Ismaili, 2023). But North Macedonia also recognizes Mandatory mediation, in 2005 with an amendment of the Law on civil procedure. Specifically, Articles 47 and 461 require parties in commercial disputes under 1,000,000 denars to attempt mediation before filing a lawsuit. The future of mandatory mediation in North Macedonia depends on the changes to the Law on Civil Procedure, which are in process. The attorneys are strictly against the mandatory mediation.⁴

Based on the above, this paper aims to provide an analysis of the mediation process in child delinquency as an essential component of restorative justice, an assessment of its effectiveness in practice; an examination of the challenges and prospects of its implementation in our country, as well as its importance in the facilitation it provides to the rehabilitation of delinquent children, the reduction of recidivism and their constructive reintegration in society.

¹ During the period of preparation of this law, new project was implemented: the MATRA which intended to support and improvement implementation mediation in North Macedonia. But there is no official data how this project influenced the improvement of mediation. In 2020, a new project titled "**Mediate, Do Not Hesitate**" was launched, with the overall objective of promoting the use of mediation as an alternative method for resolving disputes.

² Judicial Sector Reform Strategy for 2017-2022 with the Action Plan

³ Telling our ADR Story: giving mediation a chance - Alternative Dispute Resolution Program (ADR) in the Western Balkans, 2010

⁴ The reasons for this are that the lawyers think that if this alternative form of dispute resolution were to be developed, then the profession of lawyers would be at risk, as most of the citizens would choose mediation due to its benefits.

2. The concept of Restorative Justice in the modern criminal law context

Restorative justice is a relatively new concept in North Macedonia and is still in the early stages of development. Unlike traditional retributive justice, which focuses on punishment, restorative justice emphasizes healing and reconciliation.

Retributive justice focuses on the relationship between the state and the perpetrator, where the perpetrator “pays back” to the state for the wrongdoing committed, by equating the crime with an appropriate sentence. It mainly deals with how to sentence the perpetrator, without directly addressing the conflict between the perpetrator and the victim, and can cause new conflicts if the hostility between them continues (Kambovski, 2007). Restorative justice takes its name from its very essence – restore. It aims to restore the damage caused to the victim, reintegrate the perpetrator into a life in agreement with the law, and recover the damage caused to the community by the crime. This concept does not solely focus on the past, but rather aims to build a more just society in the present and the future (Marshall, 1999). The criminal punishment policy towards children shows a tendency that harms their development. Such approach negatively affects the functioning of the justice system for children, contributing to the stigmatization of children and hindering their integration into society (Cahyaningtyas, 2018). Restorative justice establishes a cooperative relationship between the perpetrator, the victim and the state, with the state mediating to restore the balance between the parties. Through restorative actions in favor of the victim, the aim is to restore the previous situation and improve the well-being of both parties. This approach has a preventive and resocializing effect on the child, while providing compensation to the victim and helping to avoid the repetition of criminal offenses (Kambovski, 2007).

The new Law on Justice for Children 2024 has incorporated the relevant EU directives and meets the necessary standards for improving the justice system for children, protecting child victims and witnesses, and emphasizing the prevention of child delinquency (Лажетик, Петровска & Кикерекова, 2024). The law aims to strengthen the principle of the best interest of the child in any decision related to justice for children. It underscores the significance of restorative justice, guaranteeing the child’s right to be heard and promoting his or her rehabilitation as the primary goal. Thus, the law supports the protection of the child’s rights and his or her healthy integration into society.

The term "restorative" relates to the idea of restoring the offender’s behavior and supporting their resocialization. It focuses on eliminating the negative aspects of the offender’s conduct while preserving their physical, intellectual, and positive social identity. Restorative justice serves as a form of tertiary prevention, aiming to reduce the harm caused and to prevent the offender from repeating committing crimes (Атанасова, 2025).

Restorative justice is intended to address the material, emotional, financial, and social needs of the victim, to encourage taking responsibility by the perpetrators, to support their reintegration, and to strengthen the role of the community in rehabilitation and prevention. It provides an effective alternative to avoid the escalation of legal proceedings, their associated costs and delays (Marshall, 1999). Non-judicial procedures are envisioned to avoid stigmatization of children by repressive bodies and balance the interests of society, the child, parents, and the victim, thus contributing to the attainment of restorative justice (Велкова, 2016). According to the UN Basic Principles (2002), restorative justice in criminal matters includes programs that aim to achieve restorative objectives through the active participation of the victim, the perpetrator, and the community in resolving the consequences of the crime. This is achieved through agreements that include compensation, community service, and other programs intended to indemnify and reintegrate the victim and the offender (Лажетик-Бужаровска, Нанев & Кошевалиска, 2012). Restorative justice offers more space to the victims’ needs so they are fully considered during the criminal justice process (Murhula & Tolla, 2021).

3. Mediation towards children in conflict with the law

Mediation is an alternative approach to intermediation and reconciliation between the victim and the perpetrator of a crime or misdemeanor, based on the principles of restorative justice. Through direct communication, the parties try to reach an agreement to overcome the consequences of the crime. The perpetrator recognizes the damage caused, and the victim learns the reasons behind the act. In the end, the method of compensation for the damage by the perpetrator is agreed upon.

Mediation is a key component of restorative justice, which will be further discussed in the following sections of this paper. It is grounded in a mutual agreement between the offender and the victim, aiming to resolve the conflict through reconciliation and thus avoiding formal court proceedings. This approach offers children offenders a more constructive way to remedy the consequences and reintegrate into the community (Bode, 2021).

Mediation is a confidential and voluntary form of alternative dispute resolution, and according to the law in North Macedonia, it can be applied in different fields of law. A mediator is a third, impartial party, licensed by the Ministry of Justice, chosen to mediate between parties to resolve the disputes or cases they have in accordance with principles of mediation. As well as the overall legislation in the Republic of North Macedonia. In the past 19 years, the law has been amended several times.⁵ Mediation in children's justice focuses primarily on the child's future, not on punishment and isolation, giving them the opportunity for a new start and social integration (Majhoshev et al., 2014). It aims to avoid criminal justice as much as possible, using minimal intervention, while punishing children is only applied in cases where their actions cause serious harm (Flora, 2015). Mediation in criminal proceedings is also applied in cases where the crime was committed by a child in conflict with the law, and for which a prison sentence of up to five years is provided. In our country, the restorative approach is regulated by the Law on Mediation and the Law on Justice for Children, which regulates mediation as a specific area, for criminal offenses committed by a child in conflict with the law, based on which all appropriate procedures are carried out, which will be explained below.

As part of restorative justice, mediation seeks to actively involve the offender in repairing the harm caused by the criminal act and to restore a relationship of reconciliation between the victim and the perpetrator. In this context, mediation plays a significant role within criminal law, as it encourages dialogue, mutual understanding, and peaceful resolution, offering alternatives to traditional criminal sanctions. When applied in cases involving child offenders, mediation provides numerous benefits by focusing on the offender's rehabilitation and reintegration, which are central goals of children's justice. Moreover, the use of mediation contributes to a better understanding of children's justice legislation and raises awareness about its potential as an effective intervention tool in addressing child delinquency (Bode, 2021).

Mediation places the will of the parties at the center of the process, based on their principle and autonomy to reach a common solution. The mediator does not make decisions; he simply formalizes the agreement reached between the parties in a written document. Contrary to this, in a judicial process, the decision is made by the court, without always reflecting the will of the parties, and usually one party remains dissatisfied with the result. In mediation, the parties usually reach a mutually acceptable agreement because they themselves play the main role in decision-making.

The Law on Mediation (2021) in Article 1 defines the notion of *mediation* as a way of resolving disputes in certain areas that occur between two or more parties in the dispute, enabling them to resolve the dispute peacefully, with the mediation of a neutral third-party *mediator* to reach a mutually acceptable agreement in writing. Whereas the mediator is a natural person licensed

⁵ Official Gazette of the Republic of Macedonia no. 22/2007, 114/2009, 188/2013, 148/2015, 192/2015 and 55/2016.

to exercise the activity of mediation, in accordance with the law in force, the acts of the Chamber of Mediators of the Republic of North Macedonia, and the basic principles of this process.

According to the law of mediations, a licensed mediator can become a person who has graduated from the faculty of education⁶, has three years of working experience, has passed psychological and integrity tests, has attended 70 hours of accredited training, passed the exam before the Mediation Board, and obtained a license from the same (CEPEJ, 2021).

The conditions for mediator and the performance of mediator's duties are regulated in Article 51 of the Law on Mediation, namely: a mediator may be any person capable of work who holds a license to perform mediation issued by the Council upon submission of the certificate for the mediation examination by the Ministry of Justice and the submission of an application for a license. The license validity has no time limit, but the mediator is evaluated at least once a year for the quality and compliance of the work with the law, according to the regulation adopted by the Council with the Government's consent. The license is terminated in cases of death of the mediator, limitation or loss of his/her business capacity, request by the mediator himself/herself, loss of citizenship of the Republic of North Macedonia, or if he/she is declared unsuitable by a legal or judicial verdict. A mediator for children is a qualified, trained, professionally apt individual providing help for the parties to reach an agreement, without the right to impose a settlement of the dispute. He/she acts in accordance with the principles of voluntarism, equality, neutrality, confidentiality, exclusion of the public, providing parties' access to information, efficiency, and fairness. The mediator should be a professional graduated in law, social work, psychology, pedagogy, or other human and social sciences, with specialized training in mediation for children. He/she is obliged to attend continuous training, at least five days a year, in the field of children's rights or child delinquency (Article 86 of the Law on Justice for Children).

Specialized mediators for the implementation of procedures for children should be highly specialized in the field of communication, possess conflict resolution skills, have an appropriate approach to the victim and the perpetrator, and show empathy and understanding for the victim. They should know the local culture, traditional values, and customs (Атанасова, 2025). Judges show low interest in using mediation as an alternative form of dispute resolution. Organizing educational programs for judges and prosecutors to raise awareness about the role and benefits of this process is necessary. Unlike the practice in the Netherlands, where judges systematically encourage parties to use mediation, in our country, neither judges, lawyers, nor prosecutors show any interest in this matter. Even the Chamber of Advocates opposes the expansion of mediation, arguing that it would reduce the number of cases they represent, and lobbies against⁷. The insufficient implementation of restorative justice as provided for in the Law on Justice for Children has also been noted in previous reports (Lažetić, 2021). Below, we will focus more extensively on the mediation procedure under the domestic legal framework.

3.1 Mediation procedure in conflict with the law: Mediation is a peaceable procedure for conflict resolution aided by one or more licensed mediators, with the aim of reaching a written agreement acceptable to all parties (Kambovski et al., 2018). In cases involving children, the main goal is not punishment, but dialogue that helps the child understand his or her actions, feel responsibility and remorse, and understand the victim's pain. This procedure enables the child to correct the mistake and re-educate without opening a criminal file (Buzarovska - Lazetik, Nanev & Kosevaliska, 2016).

According to the Law on Mediation (Article 1), this procedure represents an alternative, voluntary, efficient, fast, and low-cost way to resolve disputes, through meetings of the involved

⁶ In many countries licensed mediator can be only a person who has graduated from a law faculty.

⁷ The first author of this paper is a licensed mediator in North Macedonia and certified by UNICEF as a mediator for children delinquencies. It is worth noting that during 2021-2024, in the Basic Court of Tetovo, there were no obliged mediations.

parties with a licensed mediator, outside of court proceedings. The Law on Justice for Children regulates the mediation procedure in Articles 82–89, where it is defined as an alternative dispute resolution process defined by this law, which arise between two or more parties, and is carried out through the intervention of an impartial third party – the mediator/mediators, to reach a written agreement, mutually acceptable to all parties. The child at risk, in conflict with the law or victim may participate in this process, together with the legal representative and, if it is in the best interest of the child, also the defense lawyer, professional social worker, and representative from the Center for Social Work.

The role and the duty of the mediator is solely to facilitate the process, without any right to make decisions. Initially, mediation was conducted exclusively outside the judicial system, but in recent years, it has become increasingly common within the legal framework, particularly through court-annexed mediation (Kaprolli-Ismaili, 2023).

A criminal offense punishable by imprisonment for up to five years constitutes a condition for the public prosecutor to propose to the parties a referral to mediation, regardless of the child's previous contact with the law. The parties should provide their written consent within three days. If court proceedings have commenced, the children's court may propose mediation, and the parties should also provide consent within three days. Upon receipt of the consent, the court proceedings are terminated and the parties are referred to mediation. If consent is not submitted within the deadline, mediation is considered rejected. Mediation is not permitted for criminal offenses of violence, against gender freedom and morality, or gender-based violence, according to international agreements ratified in accordance with the Constitution of the Republic of North Macedonia (Article 83 Law on Justice for Children).

The mediation procedure begins when the parties agree to determine a mediator from the Directory of mediators, which is managed by the competent court for children, and notify the public prosecutor, i.e., the children's court. If the parties cannot reach an agreement, the public prosecutor or the court for children shall be obliged to appoint a mediator and notify the parties within 3 days from the day the parties have not agreed on the appointment of the mediator. (Article 84 of the Law on Justice for Children).

The mediation procedure can end successfully or unsuccessfully. It is considered completed when the parties and the mediator reach a written agreement on material compensation and moral satisfaction; the mediator, after consultations, assesses that the mediation cannot be successful and declares this in writing; the legal deadline for the procedure expires (Kambovski et al., 2018).

The official data presented in Chart 1, regarding the implementation of mediation in our country, namely, the number of children who have been referred to the mediation procedure. In 2023, public prosecutors did not refer any children to mediation. Meanwhile, in 2022, they referred seven, and mediation was completed for all of them. In 2021, again, no referrals were made by public prosecutors (Масникоса, 2024). In 2020, 11 children were referred to mediation, and the procedure was completed for all of them. In 2019, out of a total of 11 children referred, mediation was successful for 7 of them. In 2018, out of 3 cases, only 1 was completed. In 2017, no referrals were made for mediation. In 2016, both referred cases were completed. In 2015, out of 8 children involved, mediation was successful for 5 of them, and in 2014, out of 15 children, success was achieved in 12 cases.

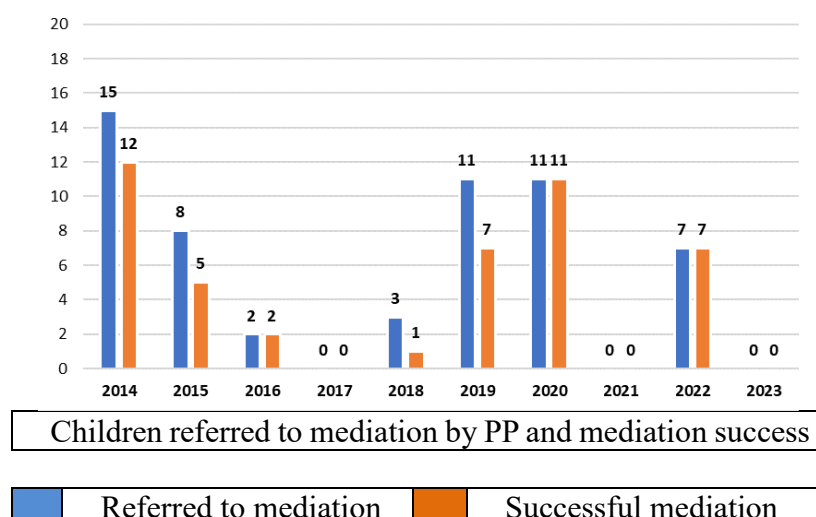


Chart 1: Children referred to mediation by the Public Prosecutor's Office and mediation success (Source: Annual Report of the State Council for delinquency prevention for 2023)

Data for the period 2014–2023 show an inconsistent practice of referring children to mediation procedures by public prosecutors. There are years when no referrals were made (2017, 2021, 2023), and other years with a limited number of cases, but with a high success rate (2020, 2022). In 2016, 2020, and 2022, all children referred completed the procedure, and based on these data, we conclude that when mediation is used, it functions as an effective and appropriate tool for resolving cases of children in conflict with the law. Despite success in several years, mediation has not been implemented sustainably. Three out of the nine years analyzed have not had any referrals. In 2018, only one out of three cases ended successfully, while in 2019, 4 out of 11 cases did not achieve a positive result. After 2020, the number of referrals has dropped significantly, reaching zero in 2023.

According to a focus group study on mediation for children, 45% of judges believe that this procedure can yield positive results, while 35% are skeptical. However, 75% of judges have not referred any cases in the last five years, and only 20% have applied it in specific cases. The reasons for the failure of the procedure are the expiration of the 45-day deadline and the withdrawal of the parties. Meanwhile, 35% of prosecutors stated that they have referred cases for mediation. The main obstacles to the limited employment of mediation are: lack of interest from the parties, lack of information, and insufficient promotion of the benefits of this mechanism.⁸

The mediation procedure lasts up to 30 days from the moment the written consent is received. If it is not completed within this time, the case is returned to the public prosecutor and the judicial procedure continues from the point where it was interrupted (Article 85, Law on Justice for Children). The mediation deadlines are set jointly by the mediator and the parties. Presence of the parties in the mediation procedure is mandatory, and the mediator shall communicate with both parties at the same time or separately. Before commencement of the mediation procedure, the mediator is obliged to introduce the principles and rules of the procedure to the parties. During the conduct of the mediation procedure, the mediator shall adhere to the principles of mediation, taking into consideration the interests of the parties and the need of quick and permanent settlement of the case. The parties and the mediator, unless otherwise agreed, may at any time during the procedure propose a settlement that would resolve the dispute (Article 86, Law on Justice for Children).

⁸ This policy brief was prepared within the framework of the project “Mediate, don’t hesitate!”, implemented by the European Policy Institute (EPI) – Skopje, in cooperation with the Academy of Judges and Prosecutors “Pavel Shatev”, the Chamber of Mediators of the Republic of North Macedonia and the Federation of Mediators of the Netherlands

Given the flexibility and solution-oriented approach of mediation in criminal matters, the Council of Europe, through its Committee of Ministers, on 15 September 1999, adopted the Recommendation No. (99)19 on mediation in criminal matters. Member States were encouraged to take its principles into account when developing this procedure. In many European countries and some Balkan countries, mediation with child offenders has found widespread application and has yielded positive results (Атанасова, 2025).

The procedure may be concluded with a written agreement for material compensation and moral satisfaction, or the mediator may stop it if the agreement is illegal or unenforceable, or the mediator may stop the mediation procedure if he/she find that an agreement is reached that is illegal or inadequate for execution. The procedure may also be concluded without an agreement, with a declaration by the mediator that there is no longer any chance of success, while the parties may withdraw at any time without giving reasons therefore (Article 88). The mediator's expenses are covered by the Budget of the Republic of North Macedonia according to the established fees and the decision of the prosecutor or court that referred the case (Article 89). From the practice in North Macedonia, mediation with children has been implemented in Tetovo, initially in 2019 by the first author of this paper. Fifteen cases were processed, of which 14 ended with an agreement, while one case failed due to the child's inability to compensate the victim's medical expenses, amounting to 200 euros. Most cases are related to violent crimes. In 2021 and 2022, mediation in Tetovo was applied in cases of violence and other crimes, such as traffic endangerment and theft, with mostly positive results and agreements between the parties. While in the actual practice of child delinquency, the child involved in the criminal offense is first taken to the police, then to the prosecutor's office, and finally to the court, a process that takes months and brings a huge financial burden to the child and the family. Meanwhile, mediation provides an alternative opportunity. Mediation allows cases to be resolved quickly and informally, helping to avoid formal institutional processes that could leave lasting psychological effects on the child. It enables the child to continue attending school, eliminates the need for legal representation, and reduces both financial costs and delays associated with court proceedings. Agreements reached during mediation hold legal validity and are submitted to the Public Prosecutor's Office, which has the discretion to terminate the case, though it is not legally required to do so, and the matter may still proceed to court if deemed necessary. Notably, mediation often leads to reconciliation, with many children managing to forgive one another and even remain friends after the process concludes. Children and their representatives are often unaware of mediation, especially in small communities where there is a lack of trained professionals. Parents who have experienced mediation describe it as a simple, quick, and effective process.

3.2 The benefits of mediations in Child Delinquency : The benefits of mediation as an alternative form of dispute resolution are numerous: flexibility, efficiency, low costs, and confidentiality. The dispute is resolved within a short period of time, making the procedure efficient and economical. According to Article 14 of the Law on Mediation, this procedure is economical, efficient, and fast, where the parties have equal and simple opportunities to be involved. Flexibility is manifested in the possibility for the parties to agree on the time, place, and rules for conducting the talks.

In a study by Skripchenko and Korneeva (2020), judges believe that mediation has a significant preventive potential. They believe that, taking into account the circumstances of the offense and the identity of the perpetrator, mediation can be used not only for minor and medium-level criminal offenses, but also for serious criminal offenses. In our society, many people seek justice in court, believing that justice is on their side. But the proceedings are long, stressful, and expensive, while free communication is limited by the rules and the role of the judge. Mediation offers a simpler, faster, and more efficient alternative, focusing on solutions through

compromise and understanding, confidentiality, and without pressure. The parties have an active role, while the mediator helps, but does not make decisions. Many cases are successfully resolved within 2-3 hours (Avziu & Osmani, 2015). Mediation provides formal and material advantages to the child. The formal includes suspension of the procedure, and the criminal case is not recorded, which means that the child remains unconvinced. The material includes improving relations with parents through dialogue, constructive contact with the victim, developing regret and responsibility, as well as preserving self-esteem. Participants should approach with empathy and understanding, without judgment, allowing the child an active role in its correction⁹. According to researchers Dragne and Tranca, a successful mediation process can affect the restoration of the victim's emotional balance, an effect that cannot be achieved in criminal proceedings (Reznik et al., 2022). Studies show that restorative justice reduces recidivism more than the traditional criminal system. Participants are less likely to reoffend, while the judicial system is relieved by reducing the number of cases and speeding up procedures. After successful mediation, the case can be closed without a trial (Stefanovska, 2014).

When children come into contact with the law, court proceedings should be avoided by offering the possibility of mediation. This process creates a dialogue between the victim and the child, aims at reconciliation and restoration of damage, raises awareness of the consequences, and gives children a second chance without a criminal record. By this, children avoid the stressful experiences and long and costly expenses of court proceedings.

Mediation in criminal disputes with children in our country is underdeveloped and implemented to a low degree, despite its benefits. It has a positive impact on the rehabilitation of children, reduces the recidivism of criminal offenses, and strengthens personal responsibility. The procedure is voluntary (Article 7), where any party, including the child and the legal representative, may withdraw at any stage. The child does not have the status of a defendant, but participates as an equal party in the process. The mediation procedure guarantees confidentiality for the participants, except for the cases provided for in Article 10, paragraph 7 of the Law on Mediation, when the disclosure of information is necessary for the protection of children or the physical/mental integrity of the parties.

From what has been said above, we see that mediation is a fair and voluntary process, where the parties have an equal right to express their opinions and decide on the final agreement themselves, without imposition. It saves time and money, avoids more costly court proceedings, and provides a neutral environment for free communication. It also allows the parties to draft their own solution with the help of a neutral mediator, addressing not only legal issues, but also personal ones that are important to them.

4. Conclusion

This paper highlights the benefits and effectiveness of restorative justice and mediation as an alternative to traditional punitive models in criminal justice. Although our legislation has progressed, the implementation of mediation for child delinquency remains insufficient. The adoption of the law on mediation and the law on children justice has provided the legal basis, but challenges remain numerous, including the lack of specialized resources, lack of awareness of justice bodies, institutional confidence, inter-institutional cooperation, and insufficient information of the parties involved.

Regardless of the fact that mediation has produced positive outcomes when applied, the lack of consistency and its limited use in recent years highlight the urgent need for its further institutionalization. Public prosecutors need to promote greater use of mediation,

⁹ Institute for European Policy - Skopje, Resolve the Dispute - Yes, with Mediation, MATRA Project, "Support for the Implementation of Mediation in Macedonia", Skopje, 2013

acknowledging its value as a key mechanism for rehabilitating minors and preventing unnecessary criminal sanctions. To strengthen this mechanism, further training of professionals and promotion of mediation as an integral part of restorative justice for children are also needed. Mediation in cases involving children is hampered by social prejudices, a lack of education on restorative justice, and a punitive approach to child delinquency. Additional challenges include a lack of information and awareness of the parties, prejudices towards its effectiveness, a lack of specialized mediators to work with children, considering their specific psychological and emotional needs, weak inter-institutional cooperation, insufficient financial and infrastructural resources, and the low level of culture of dialogue in society. Further, implementation remains limited due to the lack of continuous training of professionals and the lack of enforcement of existing laws supporting mediation.

The state should provide support mechanisms for children who have come into conflict with the law, so that they can participate in restorative processes such as mediation. The creation of a fund for financial support would help ensure that these children do not end up in court solely due to the lack of means to compensate the victim. According to the data of the Ombudsman, the majority of children in correctional institutions come from families with low income or no income at all. Therefore, financial support is essential for them to be able to participate in mediation and fulfill agreements with the victim. Currently, the public prosecution focuses mainly on the interest of the victim, especially on compensation from the perpetrator.

Further education, training, and commitment of judges and prosecutors to implement mediation in cases involving minors is recommended, as prosecutors and judges for children, when overloaded with cases and informed about the possibility of mediation, do not refer the case to mediation, preferring to follow the judicial procedure with all the negative consequences that it encompasses. It is necessary to provide ongoing training for mediators, to create a database of mediation cases involving children in conflict with the law, to take measures to raise awareness among citizens about the benefits of mediation, especially in criminal cases involving children, such as avoiding victimization and avoiding a criminal record, and to strengthen their professional capacities. The broader promotion of this mediation approach, especially among judges and prosecutors, and the implementation of the law in practice are essential to guarantee the rehabilitation and real integration of children into society.

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