

MEDIATION IN CRIMINAL MATTERS

Abstract

The subject of this thesis is mediation between the victim and the offender and its setting in the framework of criminal proceedings. Mediation in criminal matters is one of the programs of restorative justice, which emphasizes meeting the needs of the victim and holding the offender accountable for the consequences caused by the crime. It also involves other affected persons and the relevant community in the consideration of the solution. Mediation is a voluntary and confidential alternative dispute resolution of the conflict and consequences of a crime between the offender and the victim with the participation of an impartial third party mediator.

The thesis elaborates the legal regulation of mediation in criminal cases, which falls under the competence of the Probation and Mediation Service. In criminal proceedings mediation is most often used in the context of special procedures, the so-called diversion, especially in the case of conditional suspension of criminal prosecution, settlement and, additionally withdrawal from criminal prosecution in the case of a juvenile offender.

The thesis deals with criminal mediation from the practical point of view and presents its process from the moment of evaluation of cases suitable for mediation by the Probation and Mediation Service and individual consultation with the participants, through the joint mediation meeting, to the execution of the eventual mediation agreement.

The thesis focuses not only on the general level but also on the differences in legislation and practice for juvenile offenders, where more emphasis is placed on the rehabilitation of the offender and compensation for damages. Mediation may therefore provide a wider application in their case.

The aim of the thesis is to provide a comprehensive view of mediation in criminal proceedings in terms of legislation and practice in the Czech Republic and to highlight the specifics in the cases of juvenile offenders. This view is complemented by statistical data from the Probation and Mediation Service on conducted mediations and further accompanied by the results of criminological research focused mainly on the experience of participants and mediators and consequently the success rate in reaching a mediation agreement and meeting the needs of the participants.