

UDC: 321

DOI <https://doi.org/10.24144/2307-3322.2023.79.1.33>

HISTORICAL ASPECT OF INTERNATIONAL MEDIATION AND CURRENT TRENDS IN ITS DEVELOPMENT

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Zhomartkyzy M., Historical aspect of international mediation and current trends in its development.

The article «Historical aspect of international mediation and modern trends of its development» explores the evolution and role of international mediation throughout history and analyzes the current trends of its development in the modern world. The article examines the role of mediation in conflict resolution in different eras, starting from ancient civilizations to the present. Particular attention is paid to key stages in the development of international mediation, such as the Renaissance, the 19th and 20th centuries, and modernity, with a focus on the influence of international organizations and technological innovations. Current trends are also analyzed, including the expansion of actors, the use of modern technology, the increasing role of regional organizations, and cultural sensitivity. The article emphasizes that contemporary international mediation is becoming a more complex and multidimensional phenomenon, playing an important role in conflict resolution and maintaining stability on the world stage.

The article considers international mediation as one of the alternative ways of resolving legal conflicts. The historical aspect of the emergence of international mediation is analyzed, the main trends of its development are highlighted.

The historical aspect of the development of international mediation and modern trends of its development reflect significant progress in the field of international conflict resolution. Since ancient times, people and groups have sought to use mediation to resolve disputes and prevent wars. In the modern world, international mediation has become an increasingly recognized and effective tool for conflict resolution and peacekeeping.

Current trends in the institution of international mediation encompass a number of important aspects that reflect changes in world politics, technological advances, and cultural preferences.

Here are the key ones:

✓ As the role of various regional players, such as regional organizations, has strengthened, their influence on international mediation has grown. They are becoming important mediators of conflicts in their regions and can play a crucial role in maintaining stability.

✓ Information and communication technologies are opening up new avenues for mediation, including virtual platforms and cyber-mediation. They facilitate the exchange of information and enable remote interaction between parties to a conflict.

✓ In addition to States and international organizations, non-governmental organizations, academic institutions and private companies are increasingly involved in international mediation. Their expertise and neutrality can make a significant contribution to conflict resolution.

✓ Modern mediators are increasingly paying attention to the cultural, religious and social dimensions of conflicts. Understanding local customs and values can contribute to effective mediation.

✓ Mediation is increasingly linked to economic motives and measures to stimulate peace and cooperation. Economic support can be a means of encouraging constructive solutions.

✓ An important aspect of current trends is the development of standards and ethics for mediators. Professionally trained and competent mediators contribute to successful conflict resolution.

✓ Modern mediation increasingly focuses on conflict prevention and avoidance, as well as on rapid response to initial tensions.

✓ Media and public opinion play an important role in creating an atmosphere of trust and support for successful mediation. Modern mediators are increasingly engaging with the public and using media platforms for communication and influence.

The combination of these trends points to the evolution of the institution of international mediation towards a more flexible, integrated and adaptive system that can better meet the challenges of contemporary international conflicts.

Current trends in the development of the institution of international mediation include the growing interest in the use of mediation in international disputes, the establishment of specialized international mediation centers and the development of professional standards for international mediators.

Key words: historical aspect, international mediation, modern trends, development, conflictology, diplomacy, international relations, peaceful conflict resolution, mediation, international organizations, regional stability, cultural aspects, technological innovations.

Жомаркизи М., Історичний аспект міжнародної медіації та сучасні тенденції її розвитку.

У статті «Історичний аспект міжнародної медіації та сучасні тенденції її розвитку» досліджується еволюція та роль міжнародної медіації протягом історії та аналізуються актуальні тенденції її розвитку в сучасному світі. У статті розглядається роль медіації у врегулюванні конфліктів у різні епохи, починаючи від стародавніх цивілізацій і закінчуючи сьогоденням. Особливу увагу приділено ключовим етапам розвитку міжнародної медіації, таким як епоха Відродження, Ренесанс, 19-20 століття та сучасність, з акцентом на вплив міжнародних організацій та технологічних інновацій. Також проаналізовано сучасні тенденції, серед яких розширення кола учасників, використання сучасних технологій, зростання ролі регіональних організацій та врахування культурних особливостей. Підкреслюється, що сучасна міжнародна медіація стає все більш складним і багатовимірним явищем, відіграючи важливу роль у врегулюванні конфліктів і підтримці стабільності на світовій арені.

Міжнародна медіація розглядається як один з альтернативних способів вирішення правових конфліктів. Проаналізовано історичний аспект виникнення міжнародної медіації, виокремлено основні тенденції її розвитку.

Історичний аспект розвитку міжнародної медіації та сучасні тенденції її розвитку відображають значний прогрес у вирішенні міжнародних конфліктів. З давніх часів окремі особи та групи осіб прагнули використовувати медіацію для вирішення спорів та запобігання війнам. У сучасному світі міжнародна медіація стає все більш визнаним та ефективним інструментом врегулювання конфліктів та підтримання миру.

Сучасні тенденції розвитку інституту міжнародної медіації охоплюють низку важливих аспектів, які відображають зміни у світовій політиці, технологічний прогрес та культурні уподобання.

Ось ключові з них:

✓ З посиленням ролі різних регіональних гравців, таких як регіональні організації, зростає їхній вплив на міжнародну медіацію. Вони стають важливими посередниками у врегулюванні конфліктів у своїх регіонах і можуть відігравати вирішальну роль у підтримці стабільності.

✓ Інформаційно-комунікаційні технології відкривають нові можливості для медіації, включаючи віртуальні платформи та кібер-медіацію. Вони полегшують обмін інформацією та уможливають дистанційну взаємодію між сторонами конфлікту.

✓ Окрім держав та міжнародних організацій, неурядові організації, наукові установи та приватні компанії все частіше беруть участь у міжнародній медіації. Їхній досвід і нейтралітет можуть зробити значний внесок у врегулювання конфліктів.

✓ Сучасні медіатори все частіше звертають увагу на культурні, релігійні та соціальні аспекти конфлікту. Розуміння місцевих звичаїв і цінностей може сприяти ефективній медіації.

✓ Медіація все частіше пов'язана з економічними мотивами та заходами зі стимулювання миру та співпраці. Економічна підтримка може бути засобом заохочення конструктивних рішень.

✓ Важливим аспектом сучасних тенденцій є розробка стандартів та етики для медіаторів. Професійно підготовлені та компетентні медіатори сприяють успішному вирішенню конфліктів.

✓ Сучасна медіація все більше акцентує увагу на запобіганні та уникненні конфліктів, а також швидкому реагуванні на початкову напруженість.

✓ Засоби масової інформації та громадська думка відіграють важливу роль у побудові довіри та підтримці успішної медіації. Сучасні медіатори все більше взаємодіють з громадськістю та використовують медіа-платформи для комунікації та інформаційного впливу.

Поєднання цих тенденцій вказує на еволюцію інституту міжнародної медіації в бік більш гнучкої, інтегрованої та адаптивної системи, здатної краще відповідати на виклики сучасних міжнародних конфліктів.

Серед сучасних тенденцій розвитку інституту міжнародної медіації - зростання інтересу до використання медіації в міжнародних спорах, створення спеціалізованих центрів міжнародної медіації та розробка професійних стандартів для міжнародних медіаторів.

Ключові слова: історичний аспект, міжнародне посередництво, сучасні тенденції, розвиток, конфліктологія, дипломатія, міжнародні відносини, мирне вирішення конфліктів, медіація, міжнародні організації, регіональна стабільність, культурні аспекти, технологічні інновації.

Problem Statement. Since disputes are an integral part of human nature, people have been using international mediation in one form or another since ancient times. Many features of the conciliation procedure, which are known to modern law and international practice, were formed at the early stages of the emergence of human civilization, so historical analysis of the

The institution of international mediation plays an important role in conflict resolution at the international level. However, despite its importance, there is a need for a better understanding of the historical aspect of its development and current trends in order to effectively use mediation in the modern context.

The elaboration of the problems of the topic «Historical aspect of international mediation and modern tendencies of its development» consists of the research of the roots of international mediation and the connection with the current development of the international community and the influence of mediation. The object of conflict is always the cause, the reason for the conflict. This is the side of the object, the contradiction, because of which the interests of different subjects collide. One of the essential features of a conflict is the nature and characteristics of the parties involved in it. The current classification of conflicts experts consider incomplete and inconclusive, due to the changing nature of the conflict phenomenon and its lack of study.

The object of research in this article is: classification of international conflicts in historical chronology, subject to resolution through mediation.

Subject: development of a comprehensive universal model for creating various role-playing games used in the mediation process, based on a systematic classification of conflicts.

The article, in order to elaborate on the topic in detail, deals with the following aspects of the topic:

- ✓ The historical development of international mediation.
- ✓ Evolution of international law and norms.
- ✓ Organizations and instruments of international mediation.
- ✓ Current Challenges and Trends.
- ✓ The importance of intercultural and intercivilizational dialogue.
- ✓ The role of civil society and non-governmental organizations.
- ✓ Political and economic dimensions of international mediation.
- ✓ Balancing the interests and participation of all parties.

The above-mentioned aspects make up the general picture of the problematics of «Historical aspect of international mediation and modern tendencies of its development».

The purpose of the article is to explore the history of the development of the institution of international mediation and to identify current trends in its development, to understand the evolution of international mediation throughout history and to explore current trends that affect the application of mediation in the modern context.

The article also aims to analyze and explore the current trends and changes that are taking place in the field of international mediation in the modern world. The article aims to identify key aspects of the development of this institution, to consider the impact of new trends and factors on the effectiveness of mediation efforts, and to understand how the institution of international mediation is adapting to the changing realities of global relations.

Presentation of the research material. The definition of the concept of «mediation» (from Latin «mediare» - to be a mediator) in legal texts and publications varies significantly and quite often only certain minimum requirements to the mediation process itself are displayed, defining it as a voluntary, structured process in which the mediator facilitates communication between the parties, allowing them to take responsibility for finding a solution to the conflict [1].

The historical aspect of international mediation has a long and rich history, from ancient times to the present. Mediation, as a way of resolving conflicts and settling differences between states or other parties, is an important component of international relations.

Let us take a look at the main stages in the historical development of international mediation:

Ancient World and Middle Ages: Already in ancient civilizations such as Mesopotamia, Egypt, Greece and Rome, the practice of mediation for conflict resolution existed. During this period, mediators were often neutral parties, often using diplomatic and cultural ties.

Renaissance and Modern Times: In the 17th and 18th centuries, the European system of states laid the foundations for modern international mediation. However, much of the diplomatic effort at the time focused on balances of power and alliances, not so much on mediation.

The twentieth and twentieth centuries: With the development of international law and organizations such as the UN, international mediation became more organized. Examples are the Paris Conference of 1919 and the mediation of international conflicts in the post-war era.

Modernity: With the development of technology and globalization, international mediation has become more complex and multi-layered. It can include states, international organizations, non-governmental organizations, as well as cyber and internet mediation.

The development of international mediation in the twenty-first century already has modern trends:

Increasing the parties involved: Modern international mediation increasingly involves a wide range of actors such as States, international organizations, private companies and non-governmental organizations.

Use of technology: With the development of information and communication technologies, cyber-mediation and mediation via the Internet is now possible. This can facilitate information sharing and dialog between parties to a conflict.

The increasing role of regional organizations: Regional organizations such as the African Union, the European Union and others have become more active in conflict resolution in their regions.

Professionalization of mediation: Modern mediators usually have specialized knowledge and skills in conflict and mediation, which contributes to more effective conflict resolution.

Integrating soft power and economic diplomacy: Mediation increasingly involves not only political aspects but also economic motives and mechanisms.

Cultural sensitivity: Modern mediators pay more attention to the cultural aspects of conflict and local contexts in order to better understand the conflict parties and find sustainable solutions.

Emphasis on prevention: Instead of reacting to conflicts, modern mediation is increasingly focused on preventing them and minimizing risks.

Development of international law and norms: International law and norms play an important role in the maintenance and legalization of international mediation.

Modern international mediation epitomizes the complex and evolving process of resolving conflicts and facilitating cooperation between different parties on the world stage. It is not just an activity of finding compromise solutions, but a wide range of actions and strategies aimed at preventing and resolving conflicts, maintaining stability and facilitating dialogue between states, organizations and other actors.

In this context, modern international mediation epitomizes:

Constructive Dialogue: Modern international mediation involves the ability to create an atmosphere of dialogue in which parties can freely express their interests and concerns, seek common ground and find solutions that take into account the interests of all participants.

Flexibility and adaptability: International mediators must be prepared to adapt to changing circumstances and diverse types of conflict, using different methods and approaches depending on the situation.

Cultural and regional sensitivity: International mediation takes into account cultural, historical and regional specificities to ensure better interaction and understanding between the parties.

Use of technology and communication tools: Modern mediators make extensive use of communication tools, including the internet and social media, to share information and keep participants connected.

Supporting international norms and rules: International mediators often operate within the framework of existing international law and norms, which contributes to the legalization and sustainability of the solutions reached.

Partnership and cooperation: Modern international mediation often involves working in partnership with other organizations, states, non-governmental organizations and active engagement with local actors.

Conflict prevention and early response: Mediation focuses on early detection and prevention of conflicts, as well as rapid response to tensions that have erupted.

The totality of these aspects emphasizes that modern international mediation is a complex and dynamic process that seeks to promote peace, stability and cooperation on the world stage.

In general, conciliation procedures, to which international mediation belongs, have undergone a significant evolutionary process and have been enshrined in different ways in various historical senses. However, they have always played a significant stabilizing role in international society, as they have smoothed out significant public disputes as well as disputes between states.

When trying to find a reference to the first position of international mediation in history, most of the authors quote the Bible and also point out that the solution, and also point to the dispute resolution by tribal leaders in Africa, mediation in China, or the system of dispute resolution by rabbis in Jewish culture that has existed for thousands of centuries [2].

Historically, there have been three main approaches to resolving disputes and conflicts in international mediation practice:

- from a position of strength
- legally
- proactively

The solution to international conflicts *from a position of strength* is that one or more parties are oppressed by the superiority of the other party in force. This can be physical force, quantitative advantages, etc.

The second approach, *from the standpoint of law*, provides for the conclusion of law in an international court, normative prescriptions, instructions, regulations, rules.

The third approach to linking conflicts - *from the position of interests*, provides that the parties try to find out and determine what led to the conflict and, if possible, to ensure those interests that have been violated [3].

So, the history of international conflict resolution is the history of changes in its three main forms: violent (anti-legal), judicial (by means of coercive law in the judicial order) and conciliatory.

The history of international conflict resolution is a field of study that examines past events and methods used to manage and resolve conflicts between states and other international actors. It involves analyzing conflicts that have occurred throughout history and the ways in which they have been resolved, including peace negotiations, mediation, diplomatic efforts, and other mechanisms.

The history of international conflict resolution covers a wide period of time, from ancient times to the present day. It examines a variety of cases and situations, including wars, territorial disputes, the collapse of empires, ideological controversies, and other causes of conflict between states.

The study of the history of international conflict resolution provides a better understanding of the causes and dynamics of conflicts, as well as the effectiveness of the various approaches and tools used to resolve them. It also identifies common trends and lessons that can be applied to contemporary efforts.

The history of international conflict resolution provides the basis for the development of strategies and policies for peaceful conflict resolution.

In the ancient period, the violent form prevailed. At the pre-state and pre-legal stages of human society, conflicts were usually resolved in favor of the stronger. At the same time, the situation when any dispute in the tribe predetermined violence, injury, murder and discord became unacceptable, as it undermined the very existence of the tribe. Therefore, chiefs and elders took over the duty of conciliators, unleashing disputes between tribe members by their power based on authority and personal qualities. At this stage, the mediators and arbitrators were the same individuals. The chief, tribal elder were both mediator and arbitrator [4]. In this case, unlike the modern institution of mediation, a neutral third party could impose its decision on the parties. It can be assumed that as a result of applying pressure on the party to the conflict, - it was often possible to end the dispute in peace, but not necessarily on the terms of satisfying the interests of the parties.

In ancient Greece there was such an important social and legal institution as «PROXENETAS», derived from the word «hospitality». It meant the use of an intermediary to establish and maintain ties, negotiations and relationships between individual citizens, families, societies and even countries. Such a mediator was called a proxenetas. He was a person capable of constructive dialog and possessed of common sense, who was considered a trusted person to establish or maintain friendly relations within the family, among relatives and even in the state. He enjoyed hospitality, various privileges, respect and honor. Such a mediator, usually performed duties of conciliation to both the trustor and the receiving party. He had to

look after the interests of both parties and promote them in every possible way. Such a citizen could reach the level of «proxenetas» only with the help of organization of assistance in coordination of interests and reaching an agreement between the parties [4 P. 171]. It is «proxenetas» that presumably can be considered a kind of «predecessor» of the modern mediator.

In the pre-Christian society of the early Middle Ages, disputes between individuals, as before, were settled for the most part by the right of the strong and by the personal authority of the chief. An offense inflicted on one member of a kin was regarded as an offense to his entire kin and entailed blood feuds. Consequently, the parties to disputes were first of all families, which at their own will started negotiations among themselves regarding the settlement of the dispute.

An important step in the development of conciliation procedures was the introduction of monetary sanctions for the offense. Since sanctions were applied not only to punish the offender and take revenge, but also to facilitate the possibility of effective negotiations aimed at peaceful settlement of the dispute [4 P. 153].

In medieval France, conciliation was the main way of settling disputes. Mediation was widely used in towns and especially in villages. This procedure was entirely oral. Representatives of the clergy and nobility acted as mediators. As the role of the state in public life increased and the «legal occultation» of the population increased, the practice of mediation changed. In the 17th century, mediation became a preliminary procedure before going to court and had the widest application. In particular, amicable agreement with the involvement of a third party was used in disputes over harm, violent offenses (one third of cases of serious crimes in cities by amicable agreement).

It should be noted that throughout the history of development, conciliation has been closely linked to the development of arbitration, with the early stages forming a single process.

Non-judicial dispute resolution methods such as mediation, arbitration and consensual approaches are becoming increasingly popular in Kazakhstan. They allow disputes to be resolved faster and more efficiently, reducing the time and cost of litigation.

Mediation for Kazakhstan is a historically established institution, with centuries of law enforcement experience. In the course of its historical development, mediation as a dispute resolution procedure has undergone many changes to what it is today.

The resolution of clan disputes and conflicts according to unwritten law has traditionally been inherent in Kazakh society. The institution of biys, which existed for several centuries in the 18th century, is considered to be the historical prerequisite for the use of mediation in Kazakhstan.

Historically, Kazakh society is characterized by traditional customary law, expressed in oral form, transmitted from generation to generation. The Kazakh customary law itself consisted of three sources: custom (adat or zan); practice of the court of biys; provisions of the Congress of biys (erezhe). All these three sources are closely related to each other. The practice of the court of biys or the so-called judicial precedent, as well as the provisions of the court of biys, the so-called «erezhe», constantly supplemented and changed the existing legal customs. All settlements of disputes, including criminal ones, were of conciliatory and compensatory nature, such as kun (ransom), aip (fine), remuneration for losses and others.

The court of biys, as a court of high morality, was built and based on such fundamental principles that constitute its inviolable foundations as incorruptibility of the judge, justice as the essence and moral orientation of judicial decisions, accessibility and publicity of the court, the judge's mastery of oratory as a means of proving and justifying a judicial decision, the court's focus on reconciliation of the parties and full compensation for the damage caused by the offense.

The court of biys is a historically established and successfully formed institution of mediation. The peculiarity of the court of biys was democratic, and Kazakh law (in the objective sense) provided a dispositive possibility in choosing a judge. The bi, in turn, was elected from a number of highly authoritative, respected and experienced aksakals, whose competence was not doubted by the participants of these relations. Hence, the self-sufficient independence of the «judge», because violation of this principle could entail disputability of the candidacy in the future, and as a consequence, doubt in the authority and competence of the decisions made. Therefore, the activity of biys was accompanied by a very responsible approach to dispute resolution.

As noted by academician of the National Academy of Sciences of the Republic of Kazakhstan Zimanov S.Z. in the monograph «The court of biys - a unique judicial system», published in 2009, the main criteria for a high level of moral and moral-ethical qualities of courts - biys were: «independence, professionalism, philosophical reflection, oratory, extreme fairness and honesty, freethinking and folk ideals, mastering the

richness of the turn and style of folk eloquence, polemical abilities, prudence and ingenuity in finding a way out of conflict situations under consideration» [5 C. 23]. [5 C. 233].

It is no coincidence that in Article 15 of the Law of RK «On Mediation» dated January 28, 2011 the legislator stipulated requirements for non-professional mediators: having extensive life experience, authority and impeccable reputation [6].

One of the striking features of the court of biys - in its spirituality and was its social purpose, which was reduced to the conciliatory function in the resolution of disputes, thereby having a positive impact on maintaining the stability of relations in society. The court of biys was based, first of all, not so much on the norms of legal custom, but more on moral and ethical and moral attitudes that had developed in the society, because of the decisions of the court of biys had a humanistic orientation.

Modern scientists have proved that the law of the Kazakh people is a cultural heritage created over many centuries in the form of short and capacious sayings, norms of customary law based on democratic traditions. The uniqueness of the law of the Kazakh people is that it expressed the spirit of the people, their aspirations and aspirations for freedom and justice [7].

Academician Zimanov S.Z. noted: «Nothing in Kazakh society was valued higher than the kingdom of the Word and the kingdom of the Law». The kingdom of the word was manifested in the fact that in the Great Steppe the power of eloquence and truthful word were demanded and valued. Especially it was manifested in Biysk justice» [5 C. 23].

Dat - this short word denoted the requirement of a person to be listened to, to express his claims, his opinion. The kingdom of justice was ensured by the unquestionable authority of biys. Justice in the Kazakh law was carried out in compliance with the principles of adversarial proceedings, publicity, clarity, as well as by means of eloquent presentation and proving the circumstances of the case equally by the parties.

Kazakh law in the life of nomadic society performed the following functions: regulatory, managerial, unifying, protective and humanistic. Kazakh law is the achievement of the Kazakh people, the level of legal culture. It emerged and developed synchronously, dynamically. «Kazakh law, as noted academician Zimanov S.Z, is the law and power, the source of social existence and morality, art and spiritual value». That is, Kazakh law was the foundation, the core, the mechanism for the development of social relations. Also Kazakh law is unique in that it was not based on the norms of religion. Its main sources were customs, khan-bi legal statutes and collections, cultural traditions of the Great Steppe [8].

Some norms of Kazakh customary law have survived and exist to this day. It is a public domain, a heritage of historical value in the life of modern society of Kazakhstan.

The institution of the court of biys fulfilled various functions - it carried out justice, sought to reconcile the parties, formed the ideas of law in Kazakh society. The biys possessed special savvy and resourcefulness, were able to express their thoughts succinctly and accurately, could find a way out of the most confusing and complicated situations, and had a gift of eloquence. Legal decisions adopted by the courts of biys were based on judicial precedents, khan's legislation, as well as on the customs of nomadic society and social and administrative relations in it. These legal decisions had not only formally imperative characters, but also moral and ethical qualities. This was highly valued in nomadic society.

According to A.S. Ibrayeva, there were many requirements for an applicant for the status of a bi. The future biys had to know not only the norms of Kazakh customary law, but also to have unquestionable authority. This criterion was especially valued in nomadic society, as the court of biys was an intermediary between representatives of nomadic nobility (khan, sultans) and the people [7].

Courts of biys also played a great role in the formation of Kazakh nomadic legal culture. They were the creators, builders of legal culture. On this issue in relation to them from generation to generation passed such aphorisms as: «Tura bide tungan zhok, tugandy bide iman zhok», «A fair judge has no bias, everyone is equal before him. An unjust judge has no honor and authority among the people». Decisions made by biys should not only correspond to the norms of customary law, but also induce and form in the minds of society ideas, views on humanity.

According to A.S. Ibrayeva, the main function of the court of biys was not in material compensation of damage, but in ensuring the triumph of justice. By its nature, this institution is democratic and humane. This was especially pronounced in the resolution of disputes regarding kun, i.e. payment of compensation for deprivation of life. In resolving these categories of cases, the biy used legal means aimed at reconciliation of the parties [7 C.19].

At the present stage of society development, various methods of dispute (conflict) resolution are used. Such legal institutions, which are humane and democratic in nature, are especially valued. Such is the

institute of mediation as an alternative way to resolve disputes out of court. This institution is presented in Kazakh legal science as a result of the existence and development of Kazakh customary law and the institution of biys. The biys were the persons who carried out the function of mediator in the Kazakh people in the ancient times.

B. Beknazarov notes the similarity of the institution of mediation with the court of biys. «I would like to note that there are historical prerequisites for turning to the institution of mediation in Kazakhstan. One can draw an analogy between mediation and the court of biys, who resolved disputes in the Kazakh steppe for many centuries. Like mediators, biys acted as mediators in disputes, and there was no formal appointment to this position» [9] [9].

One of the most notable trends in Kazakhstan is the use of alternative dispute resolution methods in business. Corporations and companies are increasingly resolving their conflicts through arbitration and mediation, which allows them to save time and resources.

Another trend related to non-judicial means of dispute resolution is the development of mediation in public life. Organizations engaged in mediation as a means of conflict resolution in various spheres of public life, such as family and labor disputes, are actively developing in Kazakhstan.

Finally, another trend related to the use of non-judicial methods of dispute resolution is the gradual development of legal culture in Kazakhstan. With the growing legal awareness of the population and the strengthening of the rule of law, more and more people are turning to non-judicial methods of dispute resolution as a more effective and peaceful way of resolving conflicts.

Thus, retrospective analysis has shown that the institution of mediation for modern Kazakhstan has its historical roots. And for further development of this institution can be used the experience, principles, ideas, values of nomadic society. The revival of the mediation institute in the rule of law is called to ensure law and order, justice, consent and tranquility in society.

In the history of Ukraine one can also find tendencies related to non-judicial methods of dispute resolution. Yes, in the Zaporizhian Sich important meetings, in particular military councils, were held in the form of a stake. Discussion of issues on the circle continued until the society came to a consensus acceptable to all its members [11].

In the XV-XVI centuries in the territory of Kievan Rus were widespread procedures of «amicable reconciliation» with the participation of the super arbitrator, which were used to resolve conflicts between nobles [12].

Consequently, the institution of mediation for Ukraine is acceptable and has been used for a long time, which is confirmed by historical facts.

In its modern sense, mediation began to develop in the second half of the 20th century, primarily in the countries of the Anglo-Saxon system of law - the USA, Australia, the UK, and later it gradually began to spread in other countries.

The alternative dispute resolution movement has a specific birthplace - the United States of America, and perhaps even a birth date - 1976, the time of the P. Pound National Conference on «Causes of Public Dissatisfaction with the Administration of Justice in the United States,» known as the Pound Conference. Two papers from the Pound Conference constitute the policy platform of the alternative dispute resolution movement in the United States and elsewhere in the world. In his remarks, Chief Justice W. Beggera noted that American society «has reached the point where our justice system - at both the state and federal levels - could literally fall apart before the end of this century, despite a significant increase in the number of judges and administrators and huge financial infusions.» He identified the most serious problems of the judicial system - very high court costs, long case processing times, over-legalization and formalization of procedures, costly legal services for citizens - and suggested turning to informal alternatives.

The second foundational document was the opinion of Professor F. Sander, who introduced the idea of a «house of justice with many doors», for which he subsequently received a special award in the United States for his outstanding contribution to alternative dispute resolution. Under this concept, the U.S. court is seen as an institution that provides an opportunity to resolve disputes by opening various «doors.» A person applying to the court first sets out all the circumstances to the counselor to the court, who conducts a thorough analysis of the case and recommends the most appropriate option for resolving the dispute («next doors»), one of which may be the conclusion of a conciliation agreement [2 C. 230].

The next 30 years were marked by an irreparable increase in the number of mediations, arbitration procedures, mini-trials, expert examination procedures and other alternative dispute resolution schemes in virtually all branches of law in the United States, including in the sphere of public legal relations.

In 2001, a unified US law «On Mediation» was developed and adopted. At the beginning of the XXI century in the USA there was already a serious legislative base for mediation, hundreds of organizations providing alternative dispute resolution services were operating, thousands of professional mediators were practicing. In all states without exception, judicial mediation programs were established, which provided for a range of mediation models, from bona fide to strictly mandatory.

The first attempts to apply mediation, as a rule, took place only in the resolution of disputes arising in the sphere of family, family relations. Over time, mediation was also recognized in resolving a wider range of disputes, from family conflicts to complex multilateral conflicts in civil and public spheres [12 C.45].

Since the end of the 20th century, mediation and other alternative dispute resolution procedures have been actively spreading around the world. Case law countries such as Canada, the United Kingdom, Australia and New Zealand quickly picked up the movement and established alternative dispute resolution institutions similar to those in the United States.

According to statistics, the United States of America and the countries of the Anglo-Saxon legal system surpass other nations in the number of disputes that can be resolved out of court [13].

In addition, in modern African, Islamic, Chinese or Japanese societies, unlike in Western culture, conciliatory non-judicial methods of dispute resolution are mainstream, while courts are perceived as an alternative to them.

The modern stage of development of mediation procedures is characterized by a number of features associated with the scientific and technological revolution, population growth and, as a consequence, the complication of social relations. Therefore, the following main trends in the development of mediation can be distinguished at present:

1. Mediation has become a profession in its own right. Whereas in the past mediators were persons who, first of all, had a high social status and, as a consequence, authority, and were usually empowered to render a decision binding on the parties, at the present stage mediators are neutral persons whose task is to ensure that the parties who participate in good faith in the mediation procedure find a mutually acceptable solution that would reflect their interests and needs.

2. The scope of application of mediation has expanded considerably. For example, it is not limited to certain types of conflicts, but can be used in any disputes. As a method of alternative dispute resolution, mediation can be applied in various branches of law, primarily in the settlement of disputes, the essence of which is regulated by dispositive norms of law. Civil law, family law, financial and commercial law, environmental law, labor law are the most common areas of normative acts concerning mediation. Mediation is also often used in the resolution of cooperative disputes. In recent years, also in the world there has been a tendency to apply mediation procedures in criminal proceedings, which are embodied in the institution of amicable agreements.

3. New effective models of international mediation are emerging. The terms of dispute resolution are now based on the interests of the parties. A pragmatic approach prevails: most researchers and practitioners believe that the goal of mediation procedures is not justice or material truth, but expediency and benefit for the parties to the dispute.

4. Modern international mediation is a rather structured process with certain rules. Mediation is a procedure where a mediator, who does not have the authority of a judicial authority, facilitates interaction between the parties to a conflict in order to create conditions for the parties to resolve their conflict. Additional characteristics of mediation are confidentiality and neutrality of the mediator. At the same time, whereas litigation is a formalized process whose outcome is binding, mediation provides a flexible approach where all aspects of the conflict can be addressed regardless of their legal significance.

5. Legislation regulating mediation procedures has emerged in many countries. Currently, mediation laws have been adopted in such countries as the USA, Austria, Great Britain, Germany, France, Poland, Bulgaria, etc. In general sectoral legislation mediation is regulated, for example, in Poland and Italy, Slovenia, etc.

Mediation in the Republic of Kazakhstan is an important part of the country's legal system. Mediation is a process in which a neutral third party, known as a mediator, helps the parties to resolve disputes through constructive dialog and the search for agreement.

Mediation in Kazakhstan is regulated by the Law of the Republic of Kazakhstan dated January 28, 2011 № 401-IV «On Mediation» [6]. It defines the legal framework for the organization and implementation of mediation and the activities of mediators and mediation in the Republic of Kazakhstan. According to this law, mediation can be applied in civil, family, labor and administrative disputes, as well as in other situations provided for by law.

Mediators in Kazakhstan must be accredited by a special body responsible for mediation, as well as undergo mandatory training and certification. They must comply with ethical standards and ensure confidentiality of the mediation process.

The main purpose of mediation in Kazakhstan is to reach an agreement between the parties to a dispute and conclude a mediation agreement. A mediation agreement has the force of an executive document and may be appealed in court.

Mediation in Kazakhstan is widely used to resolve disputes in various areas such as family law, commercial disputes, labor disputes and others. It offers parties a more flexible, faster and cheaper way to resolve conflicts, and helps to reduce the burden on the judicial system.

In general, mediation in the Republic of Kazakhstan is an effective tool for dispute resolution, promoting fairness and cooperation between the parties.

Conclusions. Mediation is a favorable special non-coercive flexible and, as a rule, closed mechanism to reduce the level of uncertainty and risks between the parties to a dispute and, if possible, to resolve the conflict. Having passed through an evolutionary path, mediation has gradually formed into such a way of overcoming contradictions, which empowers and influences the participants of relations, gives them the opportunity to realize their own needs and, what is important in mediation, not at the expense of the opponent, but by providing the parties to the dispute with equal opportunities to realize their own rights and interests.

Mediation works well in modern conditions and can be successfully applied in resolving controversies and conflicts in various branches of law.

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