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MEDIATION IN CIVIL AND ADMINISTRATIVE PROCEEDINGS IN 2020-2025 – BETWEEN EFFICIENCY AND ACCESS TO JUSTICE

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Abstract. Mediation is one of the most effective forms of dispute resolution, classified as an Alternative Dispute Resolution method and referred to as the "queen of ADR." The process of adopting mediation into the Polish legal system began on July 26, 1991, when the Act of May 23, 1991, on the Resolution of Collective Disputes entered into force, and ended on June 1, 2017, when an amendment to the Act of June 14, 1960, the Code of Administrative Procedure, entered into force, introducing, among other things, a new Chapter 5a entitled "Mediation." The subject of this article is to review legislative changes concerning mediation in civil and administrative proceedings in the years 2020-2025 and to assess whether these changes meet the fundamental objectives of mediation, which are to pursue the idea of restorative justice and the effectiveness of mediation as a form of out-of-court dispute resolution. The analyses carried out will allow for the drawing of general conclusions and *de lege ferenda* conclusions.

Keywords: mediation in civil proceedings; mediation in administrative proceedings; Alternative Dispute Resolution (ADR); restorative justice.

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1. MEDIATION AS A FORM OF ALTERNATIVE DISPUTE RESOLUTION

Conflict resolution is a fundamental element of the functioning of the legal and social system. In the traditional approach, court proceedings remain the dominant form of dispute resolution, but the development of alternative dispute resolution (ADR) methods allows for the search for more flexible and less formalised mechanisms for reaching agreement. In this context, mediation is an important and increasingly used institution, which aim is not only to resolve disputes, but also to rebuild relations between the parties and relieve the burden on the common courts.

Mediation is defined as a voluntary and confidential process in which a neutral and impartial mediator assists the parties in reaching a mutually acceptable agreement.[1] Its characteristic features are: no decision imposed by a third party, the possibility for the parties to actively participate in creating a solution, and an emphasis on communication and understanding of interests, rather than just the legal positions of the participants; its results depend on the professionalism of the mediator [Korybski 2019]. Unlike arbitration or classic court proceedings, mediation is non-confrontational, which makes it more appropriate in cases requiring the preservation of relations between the parties, e.g. in family or commercial disputes.

Within ADR, mediation occupies a special place as a consensual method focused on cooperation and developing solutions based on the needs of the participants. ADR also includes, among other things, negotiation and arbitration, but mediation is considered the 'softest' of these procedures ('the queen of ADR') because it does not lead to a binding decision by a third party, but to a voluntary settlement between the parties [Gmurzyńska and Morek 2024]. In the Polish legal system, mediation was introduced into civil procedure by the Act of 28 July 2005, and its importance has grown with subsequent amendments to the Code of Civil Procedure and specific acts (e.g. in criminal, family and administrative matters). The legislator has also taken steps to promote mediation, including introducing the possibility for the court to refer the parties to mediation at any stage of the proceedings and providing for a reduction in court fees in the event of a mediation settlement.[2]

The importance of mediation in the context of improving the efficiency of the judicial system in Poland is multipronged. Firstly, mediation reduces the number of cases heard by common courts, which is significant in the context of the Polish justice system being overburdened and court proceedings being protracted. According to data from the Ministry of Justice, the

[1] See *Standardy prowadzenia mediacji i postępowania mediatora* (26.06.2006).

[2] Journal of Laws of 1964, No. 43, item 296 as amended.

average duration of civil proceedings in Poland exceeds seven months, while mediation can lead to the resolution of a dispute in as little as a few weeks.[3] Secondly, mediation supports the implementation of the constitutional principle of the right to a court, enabling quick and accessible resolution of conflicts at lower costs for the parties and the state budget. Thirdly, settlements reached in mediation are characterised by a higher level of durability and satisfaction of the parties than court decisions, as they are the result of voluntary agreements between the participants, rather than a judgement imposed on the parties [Gmurzyńska and Morek 2024].

Another important aspect is the impact of mediation on shaping the legal and social culture in Poland. Increased public awareness of ADR and the popularisation of mediation contribute to a change in the perception of conflict resolution – from a confrontational model to a dialogue-based model. The mediator acts as a communication facilitator, which allows emotional tensions to be defused and increases the chances of long-term reconciliation between the parties. This approach promotes trust in the justice system and increases the public's sense of procedural justice. It can be noted that: "the tendency for mediation to spread and be applied in new areas will not only continue unabated, but thanks to appropriate legal regulations, mediation will have the opportunity to reach people who find themselves in difficult life situations (including those in conflict with the law), who until now have only been aware of the court route as the only way to pursue their claims and minimise the effects of life events" [Artymiak, Mółka, and Wicher 2015, 139-54].

In summary, mediation is a key element of the ADR system, offering an effective, flexible and less costly alternative to traditional court proceedings. Its development in Poland contributes to increasing the efficiency of the justice system by shortening the time needed to resolve disputes, reducing costs and improving the quality and durability of the agreements reached. Further promotion of mediation, legislative and educational support, and strengthening the role of mediators can be an important step towards modernising the Polish legal system and building a culture of dialogue in society.

2. MEDIATION AS A FORM OF IMPLEMENTING THE IDEA OF RESTORATIVE JUSTICE

Restorative justice is a legal and philosophical concept whose essence is to repair the harm done through the active involvement of all parties to the conflict – the perpetrator, the victim and the community. Unlike the traditional model of justice, which is based on punishing the perpetrator

[3] See https://isws.ms.gov.pl/pl/porownania-krajowe/ [accessed: 22.09.2025].

and formally determining guilt, restorative justice focuses on restoring social balance and rebuilding relationships through dialogue, responsibility and reparation [Zehr 2015]. In this context, mediation appears to be a key instrument for implementing this idea, enabling a more humanistic, participatory and constructive approach to conflict resolution.

Mediation is a voluntary process in which a neutral mediator supports the parties in reaching an agreement that takes into account the needs and interests of all participants in the dispute. The essence of mediation in terms of restorative justice is to shift the burden of resolution from the authority of a state institution to dialogue between individuals. This process allows the victim to express their emotions, understand the perpetrator's motivations and obtain real compensation, while the perpetrator can voluntarily take responsibility for their actions and actively participate in repairing the damage caused [Umbreit and Armour 2011].

In the Polish legal system, mediation functions as a tool of restorative justice functions primarily in criminal and family cases. It was introduced into the Code of Criminal Procedure in 1997, and its purpose is not only to resolve legal issues, but also to restore a sense of security and social justice. A mediation settlement may include an apology, compensation for material damage, and commitments regarding the perpetrator's future behaviour, which is in line with the idea of reintegration and resocialisation.[4] It can be noted that mediation in criminal cases increases the sense of satisfaction of victims and reduces the likelihood of perpetrators reoffending [Zielińska and Klimczak 2020].

Restorative justice assumes that conflict has not only a legal dimension, but also a moral and social one. The traditional criminal model often marginalises the victim's voice, reducing them to the role of a witness in a trial against the state. Mediation, on the other hand, restores their subjectivity – it allows them to participate in the decision-making process and co-create a solution that truly responds to their needs [Bazemore and Umbreit 2001]. At the same time, it enables the perpetrator to understand the consequences of their actions, which promotes a genuine sense of responsibility and redress for the harm caused.

From a systemic perspective, mediation as a tool of restorative justice contributes to building a culture of dialogue and reconciliation in society. Involving the community in the restorative process – e.g. through school or local mediation programmes – promotes the development of social capital and conflict prevention. Furthermore, it allows courts to focus on cases requiring repressive intervention, while offering a more personalised and individualised response to crime.

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[4] Journal of Laws of 1997, No. 89, item 555 as amended.

To sum up, mediation is a practical implementation of the idea of restorative justice, enabling dialogue, voluntary acceptance of responsibility and redress for the harm caused in a manner that takes into account the needs of the victim, the perpetrator and the community. Its significance goes beyond the mere procedure of dispute resolution – it contributes to the transformation of social relations, the reduction of recidivism and the development of a more humane justice system in Poland. Supporting and developing the institution of mediation is therefore not only a means of improving the efficiency of the courts, but also an expression of the deeper values of justice, which aims to repair, reconcile and rebuild social bonds.

The authors of this text point out, however, that the concept of restorative justice in the mediation process varies in intensity and nature depending on the type of proceedings, which stems directly from the nature of the relationship between the parties to the dispute [Zienkiewicz 2007; Zalewski 2016]. In civil mediation, restorative justice focuses on repairing relations between parties of equal standing, which most fully reflects its classical understanding. In administrative mediation, on the other hand, it takes an individualised, public-law form. Its aim is to fulfil the restorative function of the administration, manifested in the humanisation of citizen–state relations, building and increasing trust in public authorities, and realising procedural justice. As emphasised in legal doctrine, in administrative law, restorative justice functions as an instrument of social participation and a mechanism for redressing harm caused to a citizen by the state. Understanding this duality is key to a proper assessment of the legislative changes being introduced [Gmurzyńska and Morek 2024; Romanko 2016].

3. MEDIATION PROCEEDINGS IN CIVIL AND ADMINISTRATIVE CASES IN 2020-2025 – ANALYSIS OF THE LEGAL SITUATION

This chapter analyses the legal status of mediation in civil and administrative proceedings in the years 2020-2025.

Firstly, it should be emphasised that the legal framework for mediation in civil proceedings was introduced into the Polish legal system on 10 December 2005, i.e. almost 20 years ago, while the introduction of mediation into administrative proceedings had to wait until 2017, when on 1 June 2017 an amendment to the Act of 14 June 1960 – Code of Administrative Procedure[5] came into force, introducing, among other things, a new Chapter 5a entitled 'Mediation'. Moreover, it was on 1 June 2017 that the process of incorporating mediation into the Polish legal system finished, which began on 26 July 1991 when the Act of 23 May 1991 on the Resolution of Collective

[5] Journal of Laws of 2025, item 769 as amended [hereinafter: CAP].

Disputes[6] came into force, which in Chapter 3 defined mediation and arbitration proceedings and defined the mediator as a person guaranteeing impartiality (Article 10 of the Act).

The provisions governing mediation in civil cases are set out in Article 10, Article 98^2, Article 103, Article 104^1, Article $183^{1\text{-}15}$, Article 202^1, Article 205^6, Article 205^7, Article 210, Article 259^1, Article 355, Article 436, Article 445^2 and Article 570^2 of the Act of 17 November 1964 – Code of Civil Procedure.[7] The legal framework for mediation in civil matters also includes the provisions of Article 121 and Article 568 of the Act of 23 April 1964, The Civil Code,[8] amendments were made to Articles 98^1, 183^5, 183^6, 183^8, 183^9, 183^{11}, 183^{12}, 183^{13} and 183^{14} of the CCP and Article 121(5) of the CC were amended. The above changes concerned: the rules for determining the costs of mediation proceedings, the mediator's remuneration, the initiation of mediation proceedings, mediation meetings, the rules for submitting a report on the course of mediation to the court and the approval of a settlement concluded before a mediator by the court.

The amendment to Article 98^1(1) of CCP made by the Act of 9 March 2023 amending the Act – Code of Civil Procedure and certain other acts,[9] which entered into force on 1 July 2023, clarified the rules for determining the maximum amount of mediation costs, indicating that the necessary costs of the proceedings include the costs of mediation conducted as a result of a referral by the court, but not exceeding the sum of the mediator's remuneration and reimbursable expenses related to the mediation, as specified in the provisions issued on the basis of para. 4. The explanatory memorandum to the draft amendment to the CCP also states that „The current wording of the provision does not specify a limit on the reimbursement of mediation costs for the parties to the proceedings, but only refers to the amount of remuneration due to the mediator. Thus, the new wording of the provision corrects the existing solutions."[10]

The above Act also amended Articles 183^5, 183^{13} and 183^{14} of the CCP. The amendment to Article 183^5 of the CCP., concerning the repeal of the second sentence of para. 2, introduced an important solution, according to which the mediator's remuneration and reimbursement of expenses related to the mediation are collected directly from the parties. The above amendment was supplemented by adding para. 3 and para. 4 with the following wording: „§ 3. The amounts referred to in § 1, in the part not paid by the parties, shall

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6 Journal of Laws No. 55, item 236 as amended.

7 Journal of Laws of 1964, No. 43, item 296 as amended [hereinafter: CCP].

8 Journal of Laws of 2024, item 1061 as amended [hereinafter: CC].

9 Journal of Laws of 2023, item 614.

10 See https://orka.sejm.gov.pl/Druki9ka.nsf/0/4E1187E1F1916D16C12588CC0058D95A/%24File/2650.pdf [accessed: 29.07.2025].

be determined and awarded to the mediator by the court at the mediator's request. In the request, the mediator shall indicate the amount of unpaid fees and include a statement of non-payment. § 4. Before commencing mediation proceedings, the mediator shall instruct the parties on the costs of mediation proceedings and the method of collecting the mediator's fees."

The amendment to Article 183^{13} of the CCP, consisting in a change to the content of para. 2, aims to enable mediation proceedings to cover other claims that were not included in the statement of claim and on the basis of which the case was referred to mediation, with a view to encouraging the settlement of cases through mediation [Romanko 2016]. The provision now reads as follows: "§ 2. If the court refers the case to mediation, the mediator shall submit a report to the court hearing the case, indicating whether the court hearing the case is the court designated by the parties in accordance with the procedure specified in Article 183^{14} § 2^1. The parties may also include claims not covered by the statement of claim in the settlement."

Subsequently, the amendment to Article 183^{14} of the CCP, which consisted in adding para. 2^1 is a consequence of the possibility of conducting mediation proceedings also in respect of claims not covered by the statement of claim on the basis of which the case was referred to mediation. In such a situation, the question arises as to which court will be competent to approve such a settlement and whether separate settlements should be drawn up for each of the cases covered by a given mediation procedure. A rule has been introduced whereby a single settlement is drawn up and sent to the court that referred the case to mediation, which then forwards the settlement to the other courts mentioned in its content, unless this would lead to a violation of the provisions on subject-matter jurisdiction, which could result in the invalidity of the proceedings or exclusive jurisdiction and then it will not be possible to draw up a single settlement agreement for several cases.

The provision reads as follows: "§ 2^1. If the settlement concerns claims covered by different court proceedings, the parties shall list these proceedings in the settlement and indicate the court which will take the actions provided for in § 1 and 2, unless this would lead to a violation of the provisions on subject-matter jurisdiction, which could result in the invalidity of the proceedings, or exclusive jurisdiction. The court shall deliver a copy of the decision approving the settlement or declaring it enforceable to the other courts listed in the settlement. A copy of the decision approving the settlement or declaring it enforceable shall constitute the basis for discontinuing the proceedings to the extent that they concern claims covered by the settlement."

The amendment to Article 183^6 of the CCP and Article 121(5) of the CC was made by the Act of 2 December 2021 amending the Civil Code, the

Code of Civil Procedure and certain other acts,[11] which entered into force on 30 June 2022. Pursuant to the amended Article 121(5) of the CC, the limitation period does not commence, and if it has already commenced, it is suspended with regard to claims covered by a mediation agreement for the duration of the mediation. The consequence of the above change is the amendment of Article 183[6] of the CCP. The explanatory memorandum to the draft amending act emphasises that the amendment leads "to the preservation of the effects provided for the initiation of mediation (suspension of the limitation period) with regard to a claim covered by a request for mediation, for which a party brings an action within three months, even in a situation where the parties have not concluded a mediation agreement and the other party has not consented to mediation. Thus, even if the opponent does not consent to mediation, the party will have an additional three months to bring an action for the claim covered by the request for mediation. If the action is not brought within the above time limit, the effects provided for the initiation of mediation will not occur."[12]

The provision reads as follows: "§ 3. If, in the cases referred to in § 2, a party brings an action for a claim that was covered by a request for mediation within three months from the date: 1) on which the mediator or the other party made a statement that mediation had not been initiated, or 2) the day following the expiry of one week from the date of delivery of the request for mediation, if the mediator or the other party did not make the statement referred to in point 1 – until the action is brought, the effects provided for the duration of the mediation shall be maintained in relation to that claim."

Another amendment to the CCP concerns Article183[11] and was made by the Act of 7 July 2023 amending the Code of Civil Procedure, the Law on the Organisation of Common Courts, the Code of Criminal Procedure and certain other acts,[13] which entered into force on 14 March 2024. The amendment in question was fundamental in nature and met the expectations of both mediators and parties to mediation proceedings in terms of allowing mediation sessions to be conducted using technical devices enabling them to be conducted remotely (including online), provided that the parties agree to this.

The provision reads as follows: "Article 183[11] The mediator shall immediately set the date and place of the mediation meeting. It is not necessary to set a mediation meeting if the parties agree to conduct mediation without a mediation meeting. The mediator may conduct the mediation meeting using technical devices enabling it to be conducted remotely, if the parties agree to this."

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[11] Journal of Laws of 2021, item 2459.

[12] See https://orka.sejm.gov.pl/Druki9ka.nsf/0/2CA9B3E5A474682EC125870400399EFD/%24File/1344.pdf [accessed: 29.07.2025].

[13] Journal of Laws of 2023, item 1860.

On 10 September 2025, another amendment to the CCP came into force, concerning mediation[14] (Articles 183^{8}, 183^{9}, 183^{12}, 183^{13}, 183^{14} of the CCP). The amendments concern both the procedure for referring a case to mediation by way of a decision (which may be issued by a court clerk); streamlining the procedure for referring cases to mediation in the context of the parties' consent to mediation before a decision to refer the parties to mediation is issued; the possibility of drawing up a protocol or settlement in electronic form; the jurisdiction of the court in the event of approval of a settlement under mediation conducted on the basis of a mediation agreement, and the procedure for approval of a settlement concluded before a mediator by the court. The above provisions have been worded as follows.

Article 183^{8}: "§ 1 Decisions to refer the parties to mediation, change the mediator or extend the time limit for conducting mediation may be issued by a court clerk. § 2. Mediation shall not be conducted if a party objects to it within one week of the date of announcement or delivery of the decision referring the parties to mediation, unless the party consented to mediation before the decision was issued. § 4. The presiding judge or court clerk may summon the parties to participate in an information meeting on amicable dispute resolution methods, in particular mediation. The information meeting may be conducted by a judge, court clerk, court official, judge's assistant or permanent mediator."

Article 183^{9}: "§ 3. The presiding judge shall immediately provide the mediator with the contact details of the parties and their representatives in the agreed manner, including their correspondence address, telephone number or e-mail address, if these are included in the court files."

Article 183^{12}: "§ 2^{2}. A protocol or settlement in electronic form may be signed with a qualified electronic signature."

Article 183^{13}: "§ 1. After concluding a settlement agreement in mediation conducted on the basis of a mediation agreement, a party may apply for approval of the settlement agreement to the district court having jurisdiction over the place where the settlement agreement was concluded, unless the parties indicate another district court in the settlement agreement. In the absence of such grounds, the district court of the applicant's place of residence or registered office shall have jurisdiction. § 1^{1}. The application referred to in § 1 shall be accompanied by the mediation report and the settlement agreement, unless it has been included in the mediation report, and in the case of an application submitted via the information portal – documents in electronic form signed with a qualified electronic signature, or electronically certified copies of these documents. § 1^{2}. Where a barrister, solicitor, patent attorney, the General Prosecutor's Office of the

[14] Print no. 1304.

Republic of Poland or a prosecutor, after concluding a settlement as part of mediation conducted on the basis of a mediation agreement, applies for its approval, the application and further pleadings in these proceedings shall be submitted via the information portal. § 2 „If the court refers the case to mediation, the mediator shall submit the minutes and the settlement agreement, if concluded, to the court hearing the case."

Article 183[14]: "§ 1. If a settlement has been reached before a mediator, the court shall immediately conduct proceedings to approve the settlement. § 2[1]. If the settlement concerns claims covered by different court proceedings, the parties shall list these proceedings in the settlement and indicate the court which will take the actions provided for in § 1 and 2. If the proceedings are conducted by courts of different levels, the higher court shall have jurisdiction. The court shall deliver a copy of the decision approving the settlement or declaring the settlement enforceable to the other courts listed in the settlement."

It should be emphasised that the direction of these changes (including digitalisation and online mediation, direct payment of fees, a single settlement covering several cases, and the possibility for a court clerk to refer a case to mediation) in civil proceedings is strongly focused on simplifying procedures and increasing the practical efficiency of the system. The aim is to directly speed up proceedings and relieve the burden on the ordinary courts. At the same time, the reduction of formal barriers, the broadening of the scope of settlements and digitisation support restorative justice in the traditional sense, making it easier for the parties to engage in dialogue more quickly and rebuild their relationship [Marciniak 2020].

Mediation proceedings in administrative law are regulated in Chapter 5a of the Act of 14 June 1960 – the Code of Administrative Procedure (CAP): Articles 96a-96n. The above regulation was amended once on the basis of the Act of 21 May 2025 amending certain acts in order to deregulate economic and administrative law and improve the rules for drafting economic law,[15] which entered into force on 13 July 2025 and concerned Articles 96a and 96b of The Code of Administrative Procedure.

The amendment to Article 96a of the CAP is fundamental in nature, as it provides an answer to the fundamental question of the types/categories of administrative cases in which mediation proceedings may be conducted (modelled, inter alia, on the catalogue of administrative cases covered by para. 2(2) of the Regulation of the Minister of Internal Affairs and Administration of 2 June 2017 on the amount of remuneration and reimbursable expenses of a mediator in administrative proceedings[16] and recognising that these may be cases decided by administrative discretion, thus facilitating

[15] Journal of Laws of 2025, item 769.

[16] Journal of Laws of 2017, item 1088.

the assessment of whether the nature of the case allows it to be referred to mediation, which may contribute to an increase in the popularity of this form of mediation. The above also results in an obligation for the public administration body to make a note as to whether it is possible to conduct mediation proceedings in a given case. In the authors' opinion, the lack of even a framework catalogue of cases that could be referred to mediation in administrative proceedings was a key barrier from the perspective of public administration bodies to referring administrative cases to mediation, which may have significant application in administrative proceedings, and whose potential has not been exploited so far. The provision reads as follows: "Article 96a. § 1. Mediation may be conducted during the proceedings if the nature of the case allows it. § 1a.[2] A matter whose nature allows for mediation is, in particular, a matter decided within the framework of administrative discretion or concerning: 1) a licence or permit to conduct business activity, or an entry in the register of regulated activities; 2) construction and architecture; 3) spatial planning; 4) environmental and nature protection; 5) real estate; 6) agriculture; 7) forestry; 8) fisheries; 9) industrial property. § 1b. [3] A public administration body is obliged to draw up and record in the case file a note containing information on whether: 1) the nature of the case allows for mediation, and 2) there are circumstances for waiving the notification of the possibility of mediation, even though the nature of the case allows for mediation. § 2. Mediation is voluntary. § 3. The purpose of mediation is to clarify and consider the factual and legal circumstances of the case and to reach an agreement on its resolution within the limits of applicable law, including by issuing a decision or concluding a settlement. § 4. The participants in mediation may be: 1) the authority conducting the proceedings and the party or parties to those proceedings, or 2) the parties to the proceedings."

He amendment to Article 96b of the CAP concerns the issue of notifying the parties of the possibility of conducting mediation proceedings, which may be initiated at any stage of the proceedings and repeated several times, which the authority must inform the party/parties to the proceedings of in the content of the notification. In addition, the provision introduces grounds for refraining from issuing a notification of the possibility of mediation. The provision reads as follows: "Article 96b § 1. [4] A public administration body shall, *ex officio* or at the request of a party, notify the parties and the body referred to in Article 106 § 1, if that body has not taken a position, of the possibility of mediation. Notifications of the possibility of mediation may be made more than once and at any stage of the proceedings. § 2. In its request, a party may indicate a mediator. § 3. In the notification of the possibility of mediation, the public administration body shall request the parties to: 1) consent to mediation, 2) select a mediator – within fourteen

days of the date of delivery of the notification. § 4. [5] The notification of the possibility of mediation shall include information on the rules, benefits and costs of mediation, as well as the possibility of renewing the notification at any stage of the proceedings. § 5 [6]. The public administration body shall refrain from notifying the parties of the possibility of mediation if the factual and legal circumstances indicate that: 1) the case should be dealt with immediately, including if it is required by an important public interest, or 2) mediation would only serve to prolong the proceedings."

Although the scope of the changes to administrative procedure was narrower than that of civil procedure during the period under review, their significance in terms of values remains immense. The introduction of a framework catalogue of administrative cases in which mediation is possible, and the obligation to inform the parties (amendment to Article 96b of the Code of Administrative Procedure), is a milestone step towards the aforementioned humanisation of citizen-state relations. These changes give effect to the public-law dimension of restorative justice, creating tools for partnership-based cooperation with the administration and increasing trust in public institutions [Adamiak and Borkowski 2024; Jaśkowska, Wilbrandt-Gotowicz, and Wróbel 2026].

It is worth taking this opportunity to examine the axiological assessment of the changes introduced. As aptly noted in the relevant literature, the development of mediation within the scope of state authorities' activities responds to current social needs by increasing citizens' participation in shaping public authorities' decisions. The introduction of a framework list of matters suitable for mediation (including in Article 96a of the Code of Administrative Procedure) constitutes a direct implementation of the principles of the common good and subsidiarity. The use of mediation eliminates the traditional, superior position of the administrative body over the citizen, leading to an equal footing between them in negotiations. As a result, authorities gain an opportunity to overcome communication barriers, which effectively translates into building trust and putting the idea of civil society into practice [Tabernacka 2018].

To fully assess the effectiveness of the amendments in question from 2020 to 2025, it is advisable to refer to hard empirical data.

Achieving the research objectives would not have been possible without an analysis of the available statistical data within the scope of this article. The authors note that it is objectively impossible to analyze data on mediation in administrative proceedings, given that such data is not collected by public administration bodies nor made publicly available. In light of the above, the authors will focus on analyzing data on mediation in civil proceedings from 2020 to 2025, conducted as part of first-instance court proceedings and out-of-court proceedings, as made available in the Statistical Guide of Justice. The relevant data is presented in the table below:

Mediation proceedings in civil cases at the trial court level from 2020 to 2025

Year	COURT PROCEEDINGS					OUT-OF-COURT PROCEEDINGS				
	The number of cases in which the parties were referred to mediation pursuant to a court order (Article 183 [8] § 1 of the CCP)	Total number of mediations	Number of protocols submitted by mediators (Article 183 [13] § 2 of the CCP)	Proceedings dismissed following the approval of the settlement reached before a mediator (Article 183 [14] § 1 and 2 of the CCP)	Approval of the settlement was denied pursuant to Article 183 [14] § 3 of the CCP	Number of protocols submitted by mediators (Article 183 [13] § 1 of the CCP)	Number of settlement requests filed by the party	Settlements approved		Approval of the settlement was denied pursuant to Article 183 [14] § 3 of the CCP)
								total	by issuing a enforcement clause (Article 183 [14] § 2 of the CCP)	
REGIONAL COURTS										
2020	4 635	4 729	4 251	275	2	25	21	8	3	1
2021	4 580	4 670	4 864	287	1	34	32	17	5	-
2022	4 762	4 848	4 580	270	3	30	44	26	13	1
2023	4 893	4 975	4 617	239	-	134	192	124	7	2
2024	5 370	5 503	4 894	254	-	511	632	439	18	24
2025	12 783	12 933	9 114	384	-	1 254	1 308	889	18	20
DISTRICT COURTS										
2020	4 751	4 833	3 616	724	20	244	442	307	77	21
2021	4 541	4 633	3 802	711	18	204	394	301	86	30
2022	4 655	4 749	3 524	673	11	265	627	332	78	22
2023	4 751	4 841	3 698	692	16	981	2 397	1 459	216	86
2024	5 292	5 371	3 905	697	15	1 171	2 372	1 811	191	105
2025	5 669	5 782	4 450	765	39	5 555	8 125	4 350	371	231

Source: Compiled based on https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/

The data analysis allows us to draw several important conclusions:

1) a significant increase in interest in mediation as part of court proceedings at the first instance in Regional Courts in 2025 compared to 2024 and previous years (in 2024, 5,370 cases were referred to mediation by court order, and in 2025 12,783 cases),
2) a significant increase in the number of motions for approval of settlements filed by the parties in Regional Courts as courts of first instance (21 applications in 2020 and 1,308 applications in 2025) and their success rate, as measured by the number of orders approving settlements (from 8 approved settlements in 2020 to 889 approved settlements in 2025),
3) A moderate increase in interest in mediation as part of court proceedings in the first instance in District Courts in 2025 compared to 2024 and previous years (in 2024, 4,751 cases were referred to mediation by court order, and in 2025 5,669 cases),
4) a significant increase in the number of motions for approval of settlements filed by the parties in District Courts as courts of first instance (442 motions in 2020 and 8,125 motions) and in their success rate, as measured by orders approving settlements (from 307 approved settlements in 2020 to 4,350 approved settlements in 2025).

The above data also allow us to draw a general conclusion regarding the persistent underutilization of mediation's potential as an alternative dispute resolution method, which reinforces the argument that ongoing educational efforts are necessary. Notwithstanding the above, in the authors' assessment, favorable legislative changes regarding mediation in civil proceedings between 2020 and 2025 certainly contributed to the increased popularity of mediation during the period under review, as reflected in the statistical data presented.

In summary, between 2020 and 2025, significant amendments were made to the laws governing mediation in civil and administrative proceedings. These changes were both the result of the implementation of proposals made by mediators, courts, and administrative bodies, but were also a real response to changes in the social and legal environment, including after the Covid-19 pandemic. In view of the above, these changes will certainly have a positive impact on the development of the idea of mediation and its popularity, which is so much needed today.

4. GENERAL CONCLUSION AND CONCLUSIONS *DE LEGE FERENDA*

Referring to the findings made by the authors, especially in the context of assessing legislative changes concerning mediation proceedings in civil and administrative cases in 2020-2025, it is reasonable to draw a general

conclusion that the legislator rightly recognises the urgent need for change in the legal environment in order to increase the popularity of mediation, which is not without reason referred to as the queen of ADRs, and that the legislative changes introduced are beneficial both for potential participants in mediation and for mediators. Mediation offers a unique opportunity for parties with differing interests, who are often in dispute, to reach an agreement that not only resolves the conflict, but also achieves a win-win situation for each party to the mediation, which is why mediation is referred to in the literature as a social phenomenon [Gmurzyńska and Morek 2024]. The legal environment surrounding mediation, particularly mediation in civil and administrative proceedings, must also respond to changing social and economic conditions, and therefore the idea of 'law in action' should serve as a guide for legislators. This approach was reflected in the organisation of a scientific seminar entitled *Mediacja cywilna w sądach – diagnoza i perspektywy* ["Civil mediation in courts – diagnosis and perspectives"],[17] which was based on a report by the Institute of Justice entitled "Differences in the rate of civil cases settled through mediation in individual common courts. Reasons for the differences, data analysis and an attempt to develop an optimal organisational model" by P. Waszkiewicz and J. Klimczak.[18] In the conclusion to this article, the authors (who are also permanent court mediators) refer to specific conclusions of a *de lege ferenda* nature drawn in the above-mentioned report and expert debate. These conclusions are as follows:[19]

1) It is effective to ask the parties for their consent to participate in mediation before the case is referred to it. This ensures that cases in which there is no willingness to reach an agreement from the outset are not referred to mediation. Developing the above conclusion, the authors of the article propose the introduction of a solution whereby, after a case has been filed with the court, without the need to hold an information meeting, a decision to refer the case to mediation can be issued in closed session (of course, in cases where mediation is possible), and then await the parties' declarations of intent to consent to mediation.
2) It works well for the court to set a date for the next hearing at the stage of referring the case to mediation. This prevents the proceedings from being prolonged and motivates the parties to engage in the mediation process. In the opinion of the authors of the article, this proposal should

[17] See https://iws.gov.pl/mediacja-w-sprawach-cywilnych-jak-jest-i-co-robic-zeby-bylo-lepiej/ [accessed: 30.07.2025].

[18] See https://iws.gov.pl/wp-content/uploads/2025/05/2025_AWS_P_Waszkiewicz_J_Klimczak_Zroznicowanie_wskaznika_zalatwienia_spraw_cywilnych_w_drodze_mediacji.pdf [accessed: 30.07.2025].

[19] See https://iws.gov.pl/mediacja-w-sprawach-cywilnych-jak-jest-i-co-robic-zeby-bylo-lepiej/ [accessed: 30.07.2025].

be accepted positively, as under the current legal framework, only after the mediation proceedings have been completed without a settlement, i.e. after the court has received the minutes of the mediation proceedings, can the court set a date for the hearing.

3) It helps if the judge sends the parties a personalised invitation to participate in mediation, explaining why it may be beneficial for everyone. In the opinion of the authors of the article, the above instructions on the content of legal provisions and the benefits of mediation may constitute an instruction in the decision to refer the case to mediation, referred to in point 1.
4) Mediators believe that more training for judges is necessary. They propose that this training be conducted, among others, by other judges who are willing to refer cases to mediation and could talk about the benefits of doing so. In the opinion of the authors of the article, due to the untapped potential of mediation, training is necessary not only for judges, but also for court clerks, court employees, public administration employees and representatives of the legal profession. In addition, it seems necessary to organise a nationwide social campaign dedicated to mediation in order to raise public awareness.
5) It is worth promoting pre-trial mediation, which would help to avoid some cases in court. Usually, once a case has reached court, the parties are less willing to reach an agreement. The incentive to mediate should be provided before the lawsuit is filed, not after. In the opinion of the authors of the article, ad hoc mediation, i.e. mediation organised on the basis of a mediation agreement, is an effective means of alternative dispute resolution, but it is necessary to take the information measures presented in point 4, as very often the potential parties to court proceedings do not have sufficient knowledge about the possibility of settling the case through mediation and the benefits of doing so.
6) Some mediators believe that certain types of cases should be referred to mediation on a mandatory basis. This would mean that the judge would have to propose mediation to the parties. The parties would still be able to refuse. The implementation of this proposal would require a legislative change. In the opinion of the authors of the article, the introduction of a legislative solution under which certain categories of cases would be mandatorily referred to mediation is a fair solution, while fully preserving the principle of voluntary mediation, which has no exceptions.
7) Some mediators propose making the costs of legal representation more realistic. The idea is that the parties should know that losing a case will be more expensive than it is now. This should encourage at least some of them to seek a settlement. In the opinion of the authors of the article,

for the development of the idea of mediation from the perspective of the mediators themselves, it is necessary not only to make the costs of legal representation more realistic, but also to make the costs of mediation more realistic, i.e. to amend the regulations: the Minister of Justice of 18 June 2003 on the amount and method of calculating State Treasury expenses in criminal proceedings; the Minister of Internal Affairs and Administration of 2 June 2017 on the amount of remuneration and reimbursable expenses of a mediator in administrative proceedings, and the Minister of Justice of 20 June 2016 on the amount of remuneration and reimbursable expenses of a mediator in civil proceedings. In most cases referred to mediation, the current rates for: a mediation session (e.g. PLN 150 or PLN 100); the entire mediation session (e.g. PLN 450 regardless of the number of mediation sessions) or for the parties' failure to enter into mediation (PLN 70) are significantly different from the market realities of providing such services and therefore cannot motivate future mediators. The authors of the article propose replacing remuneration for individual mediation sessions with a lump sum for conducting the entire mediation proceedings.

Regardless of the above conclusions, the authors of the article draw the following conclusions *de lege ferenda*:

1) Introduction of a new Polish Classification of Activities (PKD) code dedicated exclusively to the activities of mediators, including court mediators. Currently, court mediators operate under PKD code 69.10.Z Legal activities, which may suggest that a mediator is a legal profession (which is not true), and, moreover, that it is only possible to conduct business activity as a court mediator (permanently entered on the list kept by the President of the Regional Court or on the list submitted to the President of the Regional Court by non-governmental organisations and universities), and not as a mediator conducting even ad hoc mediation and not having the above-mentioned entry.
2) The introduction into the Polish legal system of a law on mediation and the profession of mediator, including the definition of requirements for mediators, the introduction of a training system, the obligation to take out civil liability insurance in the case of mediators conducting business activity in the field of mediation, and the creation of a professional self-government of mediators.
3) Preparation and implementation of an internet portal dedicated to mediation, including one enabling online mediation;
4) Expansion of the information portal of common courts to include a module dedicated to mediation proceedings.

5) Conducting educational activities promoting Alternative Dispute Resolution Methods, including mediation among pupils and students as part of educational campaigns or civic classes.
6) A Broader Institutional Perspective and the Development of ADR: When projecting the future legal framework for mediation, it is worth noting the concepts of judicial reform currently being discussed in the public sphere. In Poland, the reform of justices of the peace has not yet been implemented – the proposal remains only in the planning stage and has not become law. It should be noted, however, that if such a mechanism – or a similar one – were to be implemented in the future for the most minor cases, it would create a natural, highly desirable environment for integration with the system of general pre-trial and neighborhood mediation, which would further alleviate the burden on district courts.

In the authors' opinion, the implementation of even some of the conclusions drawn *de lege ferenda* will contribute to making mediation more attractive as a form of out-of-court dispute resolution and to the parties to the mediation achieving a sense of justice, which in doctrine is referred to as restorative justice (the above conclusion applies primarily to mediation in administrative proceedings, as the doctrine raised the issue of the need to amend this procedure several years ago [Mółka and Wicher 2018]. Furthermore, the legislative changes in question would contribute significantly to reducing the burden on the justice system, implementing the principle of efficiency, which is so intrinsically linked to civil and administrative proceedings. Regardless of the above, the development of the idea of mediation is an action in the interest of the parties to the mediation and the common good, and an important element shaping a democratic state governed by the rule of law and the development of the idea of civil society, which should be a guide for legislators and a benchmark for further legislative action.

When evaluating the changes in question through the lens of the objectives stated in the introduction, it must be noted that, during this period, the legislature focused almost exclusively on the pragmatic goal of efficiency (reducing the courts' workload and simplifying proceedings). The axiological dimension (restorative justice) is, so to speak, being pursued in the background. However, as demonstrated in the analysis, while in civil cases these simplifications facilitate the traditional restoration of relations between individuals, in administrative cases they lay the groundwork for the state's restorative function toward the citizen. Administrative mediation allows for a form of mutual, negotiated oversight between the party and the state authority. The burden of ensuring the legality of the decision rests with the authority, but it is the parties and the mediator who work toward a substantive and satisfactory consensus. This is a clear step toward so-called procedural justice, in which the citizen gains a sense of being genuinely heard.

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