

Mandatory Mediation in Family Disputes: Limitations and Future Foresight in Kosovo

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Abstract

The aim of this paper relies on defining the dimension of mandatory mediation in Kosovo in family disputes in the aspects of the advantages and limitations. The resolution of a family dispute is a complex process as it carries the legal aspects of the dispute with the emotional and psychological matters. Mediation is considered to be a great fit for family disputes as it is interest-based and it focuses mainly on the future, both of which directly impact the on-going relationships between the family members. Mediation has been supported and encouraged over the last decades, yet its utilization remains scarce. Many countries have regulated mandatory mediation in accordance with the Directive 2008/52/EC in order to increase the use of mediation. Mandatory mediation in family disputes has been debated by many authors, with one side advocating it as proper and beneficial while the other side questions its reliability in the face of power imbalance and domestic violence. Mandatory mediation in Kosovo is used in specific matters in family law and it aims to offer the parties a chance to benefit from mediation as it provides a faster and cheaper alternative to the courts. The usage of mediation in Kosovo remains low which is believed to be due to the lack of recognition and understanding by the parties, lawyers and court professionals.

Keywords: Mandatory, Mediation, Family Disputes, Domestic Violence, Children's Interests.

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