

*Materials of Conferences***FRAME ANALYSIS
OF THE MEDIATION TERMINOLOGY**

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Mediation as a form of alternative dispute resolution was introduced in response to the necessity of unloading courts from a huge amount of civil (non-criminal) cases. In comparison to a judge, a mediator does not issue a decision but helps the parties reduce differences and find their own solution in a way that meets their unique interests. Mediation is gaining more and more popularity as it promotes confidentiality, "detailed" negotiations. Moreover, it is a time-saving and completely voluntary procedure that allows parties to compose a mediation agreement themselves.

As content harmonization is one of the priorities of the terminology science, the most significant issue to address is the standardization of terminological principles and methods. Thus, the purpose of the present paper is to prepare a full-scale description of the mediation terminology (MT) by modeling its cognitive frame and considering it in terms of content and structure. The focus of the research on the analysis of cognitive features of the MT is, in the first place, due to the lack of an in-depth study of any linguistic aspects of this relatively new and rapidly growing terminology.

Modeling of the MT-frame was based on the proposition that mediation is a well-developed field of knowledge, which implies the secure foundation – a theory that uses a set of special terms to formulate the principles of the procedure, to maintain sessions as well as mediation documentation. Cognitive framing of the MT is founded on the semantic ties between the main groups of mediation terms. The result of this work is the construction of a cognitive level [1] that incorporates special words (used in different types of mediation, mediation documents, agreements etc.) grouped according to cognitive relations between them, which reflect both the outer (semantic) and the inner ties between the concepts (motivation, possibility of an opposition). The MT can be described as a collection of terms that are grouped on the basis of certain structural and conceptual-semantic relationships that form a functional structure, which correlates closely with the mediation referential sphere. The set of terms of the field of mediation does not arise spontaneously but is systematically constructed by specialists, therefore, the MT is characterized by such properties as consistency, dynamic character; relative stability.

The parameter that specifies the frame is the dynamical growth of this young terminology which

determines the arrival of new terms into the system. Besides, penetration of the named procedure into various aspects of social and legal life, as well as expansion of the functions of a mediator is reflected in numerous updated definitions, which trace out additional information about the procedure.

In the context of the MT-frame modeling, basic concepts were tracked down, procedure terms were divided into topic-groups and the main tendencies within the named terminology were described.

- One of the specific tendencies applicable to the MT is the "terminological boom" which is basically a phenomenon that implies the process of multiple term sets entering a certain terminology in a relatively short period of time under the influence of the development of the information society. Thus, mediation is becoming more popular in the XXI-th century, new kinds of procedures appear (including online-mediation and peer mediation at school), which is certainly a factor in the formation of new terms. Mediation as a formal procedure appeared in the 1990s, and back then mediators were mainly engaged in commercial disputes. In the 2000 the MT acquires new terms which reflect concepts used in the process aimed at the settlement of family disputes, medical conflicts etc. The terms "*peer mediation*", "*area-wide bargaining*", "*binding arbitration*", "*elder care mediation*" appeared only after 2005, when the public and government initiatives got focused on the popularization of non-judicial means of dispute resolution and implementation of mediation procedures.

- The next characteristic of the MT that was taken into account for the MT-framing is relative stability of the MT. Mediation is just beginning to be implemented in the life of society, and therefore, its terminology continues to grow steadily. However, it is worth noting that the tendency to preserve traditional terms (that is typical of the legal language) can be seen quite clearly in the MT. Despite the fact that the mediation decision is made on the basis of mutual agreement, it is expected that the terms, fixing agreement between the parties should be as accessible as possible, "traditional", and should not confuse participants of mediation session. It can be concluded that the terms which are the "building blocks" for the deployment of the main stages of the mediation discourse are primarily actively used words and phrases, known to the majority of people (e.g. *interest*, *neutral*, *persuasion*, *threat* have clear, almost transparent, motivation).

- The MT services rather a specific sphere of professional activity, since, despite the fact that mediation is a more informal prototype of the trial, the inherent characteristic of mediation is the absence of strict proceedings, and as a result, more informal language means which are used within the discursive

model. This accounts for the presence of some cultural terms used to designate of the principles and strategies of conflict resolution.

- Today, mediation is becoming more popular in the world, but first time the procedure was introduced in the USA and it is in America where the first school for mediators and professional associations were founded. Until 2005, the main countries which officially practiced and promoted mediation were America, Australia, Canada and Britain. The initial geographical and linguistic isolation of mediation and, therefore, of the MT caused formation of some "cultural" procedure-related terms which were linked to American (Australian, Canadian and British) historical and cultural realities (*logrolling*: originally – national pastime; in mediation – the practice of mutual support) or specific cultural image (*Kangaroo court* – a term coined by the Australian Association of mediators, a parody of the trial; the court, flouting the principles of justice).

- The MT is an open set of technical words or expressions which denote the core concepts of the mediation practice and are used in mediative texts, documents, during the process of discussion of the case with the parties involved, in the legal dispute and decision making and different mediation styles use different terms for denoting official request for providing mediation services (*claim, application, appeal*). Mediation texts are also characterized by specific terminology used for designating the participants of the mediation process.

- The MT has multiple intersections with terminologies of the adjoining fields of knowledge. Those intersections first concern terminologies which serve to the related discursive models of alternative dispute resolution (ADR): negotiation (negotiate with the participation of a mediator), arbitration (arbitration) and conciliation (conciliation, reconciliation).

- The mediation discourse, though being a part of the legal discourse (LD), differs from other legal discourse practices in respect of terminological density. The language of the LD is extremely precise, technical and defies misinterpretation, so terminology is an essential part of legal texts and it is hardly possible to paraphrase or omit terms in LD. By contrast, the process of alternative dispute resolution is less formal than a standard process in the courtroom because of the variety of informal verbal means implemented in mediation procedures – from conflict discussion at a mediator's office to on-line negotiations which do not include strict official regulations for statements and speech formulae. Therefore quantitatively terms are more frequently found in traditional legal texts.

- It must be noted that the MT does not only borrow terminological units from the related terminologies, but also acts as a "donor" [2]. Considering that mediation is a part of ADR (Alternative Dispute Resolution) which at the same time belongs to legal discourse, we can presuppose a possibility of mutual term exchange, and borrowings within these terminologies (the processes that we will further refer to as "content interaction"). In addition, informal

style of mediation sessions and pragmatic orientations of the parties stipulate penetration of specific psychological terms into MT. Forming multiple intersections with related terminologies, MT does not only borrow terminological units, but also behaves as content "donor". ADR terminology is a complex system that unites terminologies which ensure the functioning of the four most common out-of-court practices – mediation, arbitration, negotiation, and conciliation. Although these procedures are similar, they do not only use different methods (e.g. arbitrator makes the final decision himself but mediator just facilitates negotiations) but also specific terms (NADRAC, 2002). Since ADR in general and mediation in particular are considered in the legal context, general legal terms are widely used in processes of alternative conflict resolution. Moreover, linguistic requirements for MT, providing its informative quality, resemble the characteristics of legal terminology with some reservations concerning the "stability" of MT. It can be called just relatively stable, primarily because the procedure is relatively new and, consequently, its terminology is evolving, being replenished with new elements. Besides, the idea of abandoning traditional terms used in the legal field, can be traced quite clearly in MT. Despite the fact that any mediation decision is made on the basis of mutual consent but not a regulatory act, it is assumed that the terms fixing agreements between the parties, should be as "accessible" as possible. It can be concluded that the terms that serve as "building blocks" for the deployment of the mediation discourse are primarily words and phrases known to most people who decide to enter mediation.

Thus, having analyzed the immanent features of the MT, it is possible to draw a conclusion that the MT-frame is a inhomogeneous formation that has numerous intersections with other areas of professional activity which are related to the conflict resolution. The main characteristics the MT is its dynamic character, a tendency to accept new terms as well as to borrow the terms of the related industries and the relative stability.

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