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The role of mediation in protecting the child’s right to contact with a parent in the situation of a marriage, or an informal relationship, breakdown

Rola mediacji w ochronie prawa dziecka do kontaktu z rodzicem w sytuacji rozpadu małżeństwa lub związku nieformalnego rodziców dziecka

Abstract

Introduction. The socializing influence of parents, the so-called significant others, is essential for shaping a person, the way they function in society, and the proper performance of their social roles (Modrzewski, 2012; Szacka, 2003). This influence is possible thanks to the relationship between parents and children during their performing parental authority, that is, caring for the child, and mutual contact which shapes both sides of the relationship. In the case of a marriage, or informal relationship, breakdown, and a conflict between the parents, it is necessary to properly regulate contacts between the child and the parent leaving home, considering the best interest of the child (Fagan, Churchill, 2012). It is possible thanks to the use of mediation.

Aim. The aim of the work is to show the importance of parent-child contact in the process of the socialization of the child as well as the educational and supportive role of the mediation institution, consisting in the active and responsible participation of parents in regulating contacts with the child.

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Materials and methods. The publications, statistical data, and legal acts regulating the issue of the importance of contacts between parents and the child for the proper course of the child's socialization process, and the role of mediation in the regulation of parental contacts in a situation of parental conflict, were examined.

Results. Previous experience shows that mediation gives conflicted parties (the child's parents) an influence on shaping their situation, facilitates reaching a mutually satisfactory agreement in the field of care and contact with the child, becoming an alternative to formalized court proceedings. Mediation proceedings contain an educational element that teaches the child's parents to actively participate in making decisions about their child and taking responsibility for them, allowing for a joint consensus-based search for the best solutions.

Keywords: protection of the child's welfare, family mediation, educational role of mediation, regulation of child and parent contact.

Abstrakt

Wprowadzenie. Socjalizujący wpływ rodziców, tzw. znaczących innych, ma zasadnicze znaczenie dla kształtowania jednostki, sposobu jej funkcjonowania w społeczeństwie i prawidłowego wykonywania ról społecznych (Modrzewski, 2012; Szacka, 2003). Wpływ ten jest możliwy dzięki styczności występującej między rodzicami a dzieckiem podczas sprawowania pieczy rodzicielskiej - opieki nad dzieckiem i wzajemnego kontaktu, który kształtuje obie strony relacji. W przypadku rozpadu małżeństwa lub związku nieformalnego i konfliktu między rodzicami, konieczne jest właściwe uregulowanie kontaktów dziecka z rodzicem opuszczającym dom, mając na względzie dobro dziecka (Fagan, Churchill 2012). Jest to możliwe dzięki zastosowaniu instytucji mediacji.

Cel. Celem pracy jest ukazanie znaczenia kontaktu między rodzicem a dzieckiem w procesie socjalizacji dziecka oraz edukacyjnej roli instytucji mediacyjnej wspierającej rodziców w aktywnym i odpowiedzialnym kształtowaniu ich kontaktów z dzieckiem.

Material i metody. Analizie poddano publikacje, dane statystyczne oraz akty prawne regulujące problem kontaktów rodziców z dzieckiem dla prawidłowego przebiegu procesu socjalizacji dziecka oraz roli mediacji w regulacji kontaktów rodzicielskich w sytuacji konfliktu między rodzicami dziecka.

Wyniki. Dotychczasowe doświadczenia pokazują, że mediacja daje skonfliktowanym stronom (rodzicowi dziecka) wpływ na kształtowanie ich sytuacji, ponieważ ułatwia osiągnięcie wzajemnie satysfakcjonującego porozumienia w zakresie opieki i kontaktu z dzieckiem, stając się alternatywą dla sformalizowanych postępowań sądowych. Postępowanie mediacyjne zawiera elementy edukacyjne - uczy rodziców aktywnego uczestnictwa w podejmowaniu decyzji dotyczących ich dziecka i brania za nie odpowiedzialności. Pozwala na wspólne, oparte na konsensusie, poszukiwanie najlepszych dla niego rozwiązań.

Słowa kluczowe: ochrona dobra dziecka, mediacja rodzinna, wychowawcza rola mediacji, regulacja kontaktu dziecka z rodzicem.

Introduction

Each human being is a special and unique individual, whose actions influence the functioning of other members of society, being shaped by them, but at the same time

forming them. The way we approach life, other people, building relations with them, our readiness to take up challenges, overcome difficulties appearing on our way of life, the ability to use our potential and acquired competencies to act, have a significant influence on the course of our lives and depend on many factors of various origin.

One of them, perceived as a factor of great importance, is the socializing influence of the family environment, of those closest to us – parents, siblings, or grandparents involved in bringing up the child. An old Polish proverb used to say: “What a shell soaks in youth, smacks in old age”. In the distant past, the influence of upbringing and models of behaviour prescribed by persons important to the child was observed in the child’s functioning in society. Today, after sociologists, we call those who have a significant influence on the social formation of the child, and its identity, “significant others.”

Of course, we should also bear in mind other factors which are important for social development, for the formation of the person and for his/her entry into certain social roles. These factors include personality factors, health (in terms of mental health), or the influence of the peer environment.

However, due to the topic undertaken in the article, my considerations are directed at the socializing significance of the contact between parent and child and the protection of the child’s right to contact with their parent, through its regulation by mediation, in a situation of conflict and separation of parents, and thus the breakup of the child’s family.

The article also concerns the necessity to teach parents the proper approach to a conflict situation and the benefits of its occurrence. Teach them to use the institution of mediation as giving them an active participation in making decisions about their child and making them aware of the importance of responsibility for decisions.

The importance of parent and child contact and the consequences of its limitation for the course of the child’s socialization

Functioning in society is subject to various modifying influences. The process of forming a person as a social individual begins in very early childhood, among a certain group of people – most often in the family. Wincenty Okoń (2001) defined all changes that take place in an individual under the influence of social interactions, making it possible for him/her to gradually become a full member of society as “socialization”. Socialization helps, through social engagement, to acquire habits that represent certain standards for the community and thus becomes a way of providing society with beliefs, values, habits, skills, and knowledge (Rogalska, 2016).

According to Jan Szczepański (1979), socialization is a change of a psychological nature through which an individual changes and adapts his or her behaviour to

the rules and norms prevalent in the civilized world. In this process, a child gradually becomes a conscious, world-oriented individual, with the ability to move within the framework of the culture in which he or she was born (Giddens, 2004).

Socialization is multilateral, being a complex learning process, as a result of which, a person becomes a social being, a member of a particular community (society).

As a result of the process of socialization, through learning the rules and ideas contained in culture, a person becomes introduced to the way of life of his/her group and the wider society and acquires the features of a social person (Sztompka, 2002). Socialization allows the formation of subjective competencies enabling one to function and to become rooted in the structure of a given social system. It supports the identification of the individual with this system and facilitates his/her expected and accepted social participation (Modrzewski, 2012). In the course of socialization, an individual's personality is also formed, and he or she acquires the skills that underlie social interaction. He/she learns norms, patterns of behaviour and reactions, and values accepted in each community (Szacka, 2003).

Children in the process of primary socialization, through imitation (which is one of its mechanisms), in the intergenerational transmission belt take over patterns of social roles. Often these role models conflict with the rules adopted by a given community, making it difficult for the child to function properly in society in the future. The formation of an individual's personal identity also begins in childhood. The framework of self-image, formed at that time, influences adaptation strategies, and acquired methods of behaviour conditioned by specific properties of the image of the Self, are reproduced in repeated conditions (Krauze-Sikorska, 2007).

The family is called in the literature the basic agenda of socialization (Szlendak, 2012), as it constitutes the primary upbringing environment of the child. In pedagogical terms, it is perceived as an environment and, at the same time, as an educational system, a socializing and educational institution, and an emotional and cultural community (Lalak, Pilch, 1999).

The family allows the child to acquire competence to act, i.e., to obtain a state of individual capacity to enter into specific interactions with the social and material environment, constructing behavioural and communicative strategies that allow for appropriate action to meet the requirements of a social situation. If the individual lacks adequate action competence, his or her self-conception, which is the basis of identity formation, becomes distorted (Hurrelmann, 1994).

Each parent plays a role in the life of the child. By observing the parents, imitating their activities and behaviour, and at a later stage of life analysing their actions intellectually, the child acquires the aforementioned models of social roles and, under the influence of his/her own experiences and acquired knowledge, modifies them, adapting them to individual conditions of functioning.

The sense of security, love, acceptance, and belonging, which the family should provide to its descendants, facilitates the multifaceted and harmonious inner development of a human being and their competence to function in a group, such as society.

Children experience the breakdown of their family and the separation of their parents in a different way to adults. This is a crisis situation and a very painful experience for them, regardless of their age (Kordasiewicz, Milewski, Rolirad, Tański, Szelągowska, 2017), which often affects their later life and their social roles. The separation of parents affects the child's perception of themselves and their chances of achieving personal happiness. The child feels grief, fear, confusion, and helplessness. Research indicates that children of divorcing parents experience a range of social and emotional impairments because of their parents' separation; they become vulnerable in a sense, and the divorce of their parents often leads to the development of destructive conflict management methods, reduced social competence, and a lowered sense of masculinity and femininity (Fagan, Churchill, 2012). It is also not uncommon for a child to become the object of competition, of a fight between parents. His or her feelings are often overlooked and underestimated. This situation can lead to a regression in the child's development, an unconscious retreat to earlier developmental stages, and a resulting desire to receive unconditional care and love from both parents.

The above shows the importance of the influence of the family, i.e., parents, on the lifelong functioning of an individual. If one of the parents, or at least contact with them, is absent from the child's educational environment – among the “significant others” – this may have an impact on later social life, the performance of particular social roles by the individual, and consequently on the transmission of certain patterns to successive generations in the process of continual socialization. It is, therefore, necessary to draw attention to the importance of the relationship and educational contact between parent and child for the proper formation of the child, on the condition that the child will not be subject to actions that harm him/her, that are based on violence, aggression, or that demoralize the child.

The right to parent-child contact

Legal regulations concerning child custody do not provide a catalogue of duties specific to each parent – mother or father. According to *Kodeks rodzinny i opiekuńczy* [Family and Guardianship Code], both parents, while exercising custody over their child, should raise and guide the child, taking care of his/her physical, emotional, and spiritual development, and prepare the child to function in society (Ustawa, 1964a, art. 96). They have equal rights and duties with regard to exercising parental authority. The division of tasks between parents, results, as already mentioned, from tradition and from their assignment

to specific social roles (mother or father). The law provides that the custody of the child, his/her property and his/her representation should be exercised by the parents with due regard to the best interests of the child and with due diligence

If, on the other hand, the conduct of the parent is detrimental to the child's welfare, material or non-material interests, the provisions of constitutional law and family and guardianship law provide for the possibility of state intervention (*Konstytucja Rzeczypospolitej Polskiej*, 1997, art. 48§2; Ustawa, 1964a, art. 109, 110, 111).

A decision by a competent court can be made to apply a specific formal measure restricting the rights of parents towards their children in various spheres of their life, depending on diagnosed deficiencies in the functioning of the family (Rajewska de Mezer, 2017). A family court, acting based on the provisions of *Kodeks rodzinny i opiekuńczy*, may deprive parents of parental authority, or suspend or restrict it. Decisions on interference in the custody may be taken by a regional court as a result of pending divorce proceedings, but also during proceedings concerning parental authority conducted by district courts, family and juvenile divisions.

The grounds for restricting parental authority are that the welfare of the child is at risk, whereas the aim of the measures taken is to correct the situation in the family (Andrzejewski, 2014). The restriction of parental authority consists in its reduction, or depletion, by depriving the parents of certain powers in relation to the child, depending on the diagnosed need. The restriction of parental authority may concern the custody of the child, the administration of the child's property or representation. The measures listed in Article 109 of *Kodeks rodzinny i opiekuńczy* indicate various levels of interference in the parents' decision-making with regard to their children, from obliging the parents to exercise their parental functions in an appropriate manner verified by the court, through the obligation for the parents to cooperate with a family assistant, or to undergo treatment or therapy, to placing the child in family or institutional foster care (Rajewska de Mezer, 2018).

Termination of parental authority is the most serious form of interference with parental responsibility for the child, with restrictive effects. This measure is adopted as a measure of last resort when there is a permanently constituted legal obstacle to exercising custody of the child, abuse of parental authority by physical or psychological violence, or gross negligence of duties towards the children (Ustawa, 1964a, art. 111).

The aim of these measures is to protect the child from abuse in the broad sense of the term by those closest to the child, i.e., the use of violence, neglect of emotional and physical needs, or actions aimed at demoralization. During their application, the regulations require the obligation to work with the child's parents and to assist them in the proper exercise of parental functions with a view to regaining full parental authority.

Interference in the exercise of parental authority should be distinguished from child protection measures aimed at limiting or terminating a parent's contact with his or her child.

Pursuant to Article 113 of *Kodeks rodzinny i opiekuńczy*, irrespective of parental authority, parents and their children have not only the right but also the obligation to maintain contact. This regulation arose resulting from the awareness of the importance of the parental presence in the life of the child and the child in the life of the parent, building a relationship between them, influencing both subjects, changing them, providing them with experience, and shaping their behaviour.

Analysing the quoted regulation, we notice that the right to contact is granted to the entities mentioned therein regardless of the scope of parental authority. Thus, the restriction of parental authority over a child cannot be equated with the restriction of a parent's contact with the child. The limitation or termination of contact in a parent-child relationship may result only *expressis verbis* from a court judgment. A parent against whom a restriction of parental authority has been ordered may have an unlimited right to contact with the child.

Of course, it is necessary to remember about the cases in which the contact between a parent and a child will be undesirable because it will pose a threat to the well-being of the child, to the proper course of his or her socialization, due to the actions of the parent shaping inappropriate social attitudes of the child, causing harm to the child because of violence, or negligence. The above constitutes a premise for the restriction or deprivation of the parent's contact with the child. Situations constituting grounds for the restriction of the parent-child contact are regulated by the competent state authorities and result in certain decisions of protective nature.

However, in most cases, the conflict between spouses or partners in a relationship that has broken down makes it necessary to regulate the situation between the child and the other parent who, in the new arrangement modified by the parties' breakdown, lives separately.

Family conflict and its consequences

At this point, it should be noted that family conflict is characterized by a high degree of multifacetedness and a long period of build-up, while touching on a close relationship of fundamental social and psychological importance. Practical and concrete issues with a certain complexity and ambiguity coexist with intangible, symbolic, emotional needs, and important values. As a result, strong emotions arise, which make it difficult to rationally analyse the present state and focus on future planning (Gójska, 2011).

The essence of conflict involves the clash of interests and aspirations of the parties in dispute, each of which pursues a set goal. Each of the parting partners strives to secure his or her own interests and to take care of a particular need. The struggle to achieve the goal is often accompanied by feelings of injustice and a desire to pun-

ish the other party for the complicated situation that has arisen. There is a feeling of grief related to the loss of the previous order and the necessity of arranging one's life again. This does not facilitate reconciliation, and it directly affects the situation of the parties' children.

The conflict which entails predominantly negative effects, is destructive, as opposed to constructive conflict, which makes it possible to reduce or eliminate existing tensions created by the dispute (Białyszewski, 1983).

Destructive conflicts adversely affect interpersonal relations and the quality of communication, preventing the parties from taking a real, objective approach to the problem, seeking a satisfactory resolution of the situation. Functioning in a relationship based on conflict results in disrupting the performance of social roles, affects the individual's creativity, and lowers the sense of satisfaction with life. The conflict between separating partners – parents of children, makes it difficult to talk about the realization of the parties' right to contact with the child. It results in the limitation of contact of one of the parents with the child, and this, apart from the influence on the course of his/her socialization process, causes suffering and longing of persons close to each other.

The research by Patrick F. Fagan and Aaron Churchill (2012), mentioned above, indicates that children whose parents separate, experience a range of emotional and social harm while developing destructive ways of managing conflict. The crisis of family breakdown can have effects on the child's mental health causing depression and anxiety neuroses.

Divorce sometimes leads to the child moving from one place to another, transferring to another school, and thus losing friends, acquaintances – the peer group with which the child has built and maintained satisfying relationships and from which he or she has received support. The reaction of the child to the separation of the parents may entail difficulties in functioning at school, poorer grades, and the development of socially unacceptable behaviour. Sometimes the child intentionally changes his/her manners into inappropriate ones, so that his/her problems at school or with peers focus the parents' attention on him/her. The child treats this action as a means of reuniting the parents and protecting the family from disintegration (Rajewska de Mezer, 2020).

Conflict, as has been mentioned, apart from a number of negative effects can bring benefits to the parties. Diagnosing the conflict and trying to look at it from the other party's perspective gives the possibility to increase the individual's awareness about the origin of the problem, but it also has an educational meaning. It helps to objectivize the problem that is the subject of the conflict and to reveal the needs and desires of the conflicted parties (Cybulko, 2009; Grudziewska, Lewicka-Zelent, 2015).

A constructive approach to a conflict, an attempt to find a solution satisfactory to both parties through cooperation, conversation, and, as a result, taking care of the

psychological well-being and the widely understood good of the child/children of the separating parents is possible thanks to the institution of mediation.

The role of mediation proceedings in protecting the right of contact between children and parents in the event of a parental relationship breakdown

Most often the problem of exercising custody over a minor child, or children, of spouses who decide to divorce, is resolved by a court in a divorce ruling, acting based on the provisions of civil procedure and family and guardianship law. If the children come from an informal union, the parents, when separating in conflict and unable to establish the rules of custody and contact with the children, may obtain judicial assistance in this respect by applying to the guardianship court (district court, family and juvenile division).

Both the district court, which rules on divorce cases, and the regional court, family and juvenile division, which rules on parental authority and contact with the child, can, with the consent of the parties to the proceedings, refer the case to mediation, thus giving the conflicted parties the chance to participate more closely in the decision-making in their case. Each party may also request that the case be referred to mediation proceedings. The decision of the court to refer the parties to mediation includes the appointment of a mediator by name (unless the parties have chosen the mediator themselves), a time limit of up to three months for the duration of the mediation and an authorization for the mediator to familiarize himself/herself with the case files, provided that the parties have made a joint request to that effect.

The parties to the proceedings may also choose a mediator other than the one appointed by the court and request a longer period than that set aside for mediation (Ustawa, 1964b, art. 183§1).

Mediation may also be conducted on the basis of both a court order and a mediation agreement concluded between the parties without the intervention of a court if the parties seek to resolve the conflict out of court (Ustawa, 1964b, art. 183§2).

Mediation is a form of nonjudicial resolution of conflicts arising between parties with conflicting interests. A characteristic feature of this procedure is that it is voluntary and confidential. The parties cannot be compelled to participate in mediation at any stage of the proceedings. They may benefit from a proposal for an alternative dispute resolution made to them after the benefits of mediation have been presented to them at an information meeting. Confidentiality of mediation ensures that no information obtained during the work with the mediator shall be disclosed without the consent of both parties and will be used, for example, in court proceedings in the event of failure to reach an agreement through mediation.

Mediation is conducted by an impartial and neutral mediator whose task is to help the parties reach an agreement by facilitating their communication. The mediator is not a judge in the case and does not make an order. He or she supports the conflicting parties in their search for solutions and facilitates their communication, which is disrupted and impeded by accumulated emotions. His aim is also to take care of the legal side and the validity of the proceedings. When conducting the mediation, he/she does not impose his/her solutions, allows the parties to talk and consider various possibilities and effects of the decisions made. He/she wisely and discreetly moderates the exchange of views and opinions. During mediation, it is also important to respect the principle of acceptance, i.e., that the parties accept the mediator and his/her assistance as well as the agreement reached (Gójska, 2011; Rekas, 2011).

Mediation enables the parties to develop their capacity for informed decision-making and allows for social participation in the decision-making process. It fosters the protection of individual rights (Zienkiewicz, 2007).

A great value of mediation is the possibility for its parties to actively participate in shaping the legal and social aspects of their personal situation. The active participation of the parties in mediation, the exchange of their views, the disclosure of their aspirations, and their justification allows them to get to know and understand each other, making it possible to reach a consensus taking into account their mutual rights and interests, with the support of a professional, impartial, and neutral mediator. This is extremely important for the conflicted parties to be aware of their influence on each other's lives and their course.

Frustrated by the conflict and the high intensity of emotions, spouses do not have the will to talk, and sometimes their contact with the other party is painful (e.g., in the case of marital infidelity, abandonment). As a result, decisions on such important matters as the fate of their children – custody and contact, the question of their maintenance, the division of joint property – are handed over to the court in order to obtain an arbitrary decision. The court, ruling pursuant to the binding law, and with a view to the good of the child, and the protection of his or her rights, often has no knowledge of the factual situation of the divorcing couple, the relationship between them and their children, the nuances of family life, customs, rules, and values that govern a particular family. Court actions based on the principle of legality may, without knowledge of the specifics of family psychological relations or bonds, lead to emotional harm to children and parents by not taking into account the actual needs of minors and the possibility of exercising certain rights by individual parents. The court in its decisions is guided by the collected evidence and decides within the limits of the law. Therefore, it may be illusory to believe that the court deciding the case will design an objectively ideal solution to the problems resulting from the breakdown of a relationship outside of the spouses.

Mediation in matters connected with the regulation of relations between parents and children – both proprietary (the problem of maintenance) and non-proprietary (the question of persons exercising custody over the child, determination of contact – its frequency, form etc.), whether contractual in nature or directed by a court order, offers a chance to avoid arbitrary decisions made by the court only on the basis of evidence gathered in the case while allowing parents – the persons closest to the child – to participate in shaping their situation.

Parents, being a kind of “specialists in their children’s affairs”, knowing their children’s characters, personalities, preferences, being aware of the existing emotional bonds in the family, can determine the best solutions to the problem of the children’s functioning after the actual termination of their relationship. Of course, this decision must consider the professional situation of the parents, the time they are available outside work to spend it with their children. Also important is the previous educational situation of the child or children, i.e., the stage of education, the necessity to change the place of residence due to changes in the family situation, and therefore the choice of a different school for the child. Attending a new school relates to the necessity to exist in a new educational and peer environment, to find a place in the already formed structure of interpersonal relations, to develop a position in the peer group. For a child, the change can be highly stressful and lead to a crisis. This is because it overlaps with the disruption of the stability of the functioning of the child’s family environment caused by the modification of its composition and the need to cope with the difficulties connected with entering a new peer environment. That is why all decisions concerning children – changes of their place of residence, the way in which custody is exercised, participation in the care of both parents, and contact with them, will undoubtedly influence the child’s further life.

Research conducted all over the world points to the positive effects of joint and balanced custody/care, emphasizing that consistent and frequent access to both parents may mitigate the potential effects of the absence, caused by divorce, of either parent in the child’s life. This type of care reduces the financial implications of divorce for the child (Bauserman, 2002), giving both parents an opportunity to participate in the child maintenance.

However, it should be noted that when there is a high degree of conflict between the separating parties, there is no agreement between them on custody of and contact with the child.

If the child resides with one parent because the parties have not agreed, or the court has not ruled on joint or balanced custody, it is important to establish contact arrangements with the non-custodial parent. A schedule of meetings between the child and the other parent is established. The frequency and length of the meetings, the possibility of spending the night at the other parent’s residence, and the vacation period with the non-custodial parent all depend on a variety of factors, such as the child’s

age, health, emotional attachments to the other parent, the stage of education and the number of extracurricular activities, the distance between the parents' homes, the type and timing of their work, the amount of free time, etc.

Very specific and explicit provisions are made in the parenting plan meeting schedule to avoid conflicts related to under-regulation. The plan is built based on the principle of the child's welfare and with the active participation of the child's parents versed in his or her world, familiar with the child's preferences and life bonds. The schedule establishes the child's pick-up and drop-off times and meeting place. In the case of younger children, the meetings may initially take place at their place of residence, which ensures a sense of security. In the parenting plan, in addition to the working week and weekends, the parents also determine the child's way of spending holidays, as well as winter and summer vacations.

The parenting plan also addresses the issue of the child's right to communicate with his/her parent while spending time with the other parent (such as using the telephone to talk to each other or using the Internet).

The parenting plan includes arrangements for the child's contact with other members of the parents' family (celebrations of birthdays, anniversaries, visits to grandparents, etc.).

Regardless of whether the child lives with only one parent, or whether custody is joint or balanced, rules should be established regarding decision-making in important matters concerning the child. This is particularly necessary if the child is not yet capable of making his or her own decisions because of insufficient maturity, knowledge, and awareness. Issues that require decision-making and representing the child include school matters related to the educational process, trips and outings, medical examinations at school, attendance at optional classes (e.g., religion, family life preparation) etc. The parents may agree in the plan that one parent, in consultation with the other parent, will make decisions regarding the child, his or her education and medical care in matters of importance (which may be specified in the plan). If the child has sole ownership of property, a decision should be made as to who, with the approval of the guardianship court, will act on behalf of the child in managing the child's property. In matters which require the consent of both parents by law, the mother and father must act accordingly.

Conclusion

The above considerations have attempted to show the significance of contact between parents/parent and the child for the child's development and formation as well as the importance of mediation in establishing the rules of custody and contact with the child in the case of family breakdown caused by parental divorce or the dissolution of an informal

relationship. If society becomes aware of the existence of an out-of-court form of conflict resolution, also in such important matters as family issues, its use will be intensified. Both contractual mediation and mediation conducted pursuant to the court decision will make it possible to realize the importance of the individual's own actions in pursuing solutions to problems and conflicts that we encounter in our lives, and to gain responsibility for one's decisions concerning the care of children and contact with them. Mediation facilitates realization of the rule "help to self-help," giving a chance to influence decisions concerning a person and his/her functioning in family relations. A joint search for the best solution in terms of establishing rules of functioning of the child in the family after divorce, based on a voluntary conversation and reaching a consensus, makes it possible to take into account the child's will and desires, and remove doubts and fears related to the leaving of one of the parents. It allows the conflicting parties to focus on a common goal, which is the well-being of their child, and his or her psychological and physical welfare. For the child, mediation offers a chance to socialize with both parents sharing time, getting the best from them, and gaining life experience with a sense of security and care without feeling rejected.

Considering the above, the numerous benefits of mediation in supporting parents in regulating the legal and emotional situation of their children in the event of family breakdown, one should try to promote this form of alternative dispute resolution in society, to teach society members how to take an active part in solving their problems, with the awareness of responsibility for the decisions taken and their consequences for the protection of the child's welfare.

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