

A Comparative Analysis of the Factors Determining Improvement and Effectiveness of Mediation in Family Matters Regarding Child Protection in Australia and Poland

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Abstract : Purpose The purpose of this paper is to improve effectiveness of mediation in family matters regarding child protection in Australia and Poland. Design/methodology/approach the methodological approach is phenomenology. Two phenomenological methods of data collection were used in this research 1/ a doctrinal research 2/an interview. The doctrinal research forms the basis for obtaining information on mediation, the date of introduction of this alternative dispute resolution method to the Australian and Polish legal systems. No less important were the analysis of the legislation and legal doctrine in the field of mediation in family matters, especially child protection. In the second method, the data was collected by semi-structured interview. The collected data was translated from Polish to English and analysed using software program. Findings-The rights of children in the context of mediation in Australia and Poland differ from the recommendations of the UN Committee on the Rights of the Child, which require that children be included in all matters that concern them. It is the room for improvement in the mediation process by increasing child rights in mediation between parents in matters related to children. Children should have the right to express their opinion similarly to the case in the court process. The challenge with mediation is also better understanding the role of professionals in mediation as lawyers, mediators. Originality/value-The research is anticipated to be of particular benefit to parents, society as whole, and professionals working in mediation. These results may also be helpful during further legislative initiatives in this area.

Keywords : mediation, family law, children's rights, australian and polish family law

Conference Title : ICFLS 2023 : International Conference on Family Law and Society

Conference Location : Rome, Italy

Conference Dates : November 20-21, 2023