

Mediation in Criminal Matters: A Perspective from Kosovo

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Abstract : As a new alternative, mediation is integrated in the legislation of both developed and developing countries in Europe. Various researches in member states of the Council of Europe revealed obstacles, particularly related to the implementation of mediation in criminal matters. They are addressed through several recommendations and non-binding guidelines. However, there is limited empirical research on how the mediation in criminal matters is being implemented in the contexts of developing countries in South-Eastern Europe. Hence, the purpose of this qualitative study is to assess mediation in criminal matters in Kosovo by exploring how the main stakeholders describe the legal basis and implementation process and what it indicates for future practices. The data were gathered through 11 semi-structured interviews with judges, prosecutors, mediation clerks and mediators. Results show that laws and other guidelines that have been introduced since 2008 constitute a solid legal ground that facilitates mediation in criminal matters. The stakeholders are well aware of benefits mediation brings and express their willingness to advance its application to criminal matters. Results also indicate uncertainty among judges and prosecutors regarding the assessment and referral of certain criminal offences to mediation. To address it, specialized trainings, exchange programs and continuous monitoring and evaluation of the process could be supportive.

Keywords : mediation in criminal matters, legislation, implementation of mediation

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