Table of Contents

Preface

Ádám	Rixer	
СНАР	TER 1. Court Mediation within Administrative Court	
Proce	edings in Hungary	11
1.1.	Introduction	11
1.2.	Theoretical framework. Some preliminary remarks on the	
	relation between mediation and good governance	13
	1.2.1. Good governance	13
	1.2.2. Good governance and (court) mediation	14
1.3.	Method of the research	15
	1.3.1. Methods and techniques used	15
	1.3.2. What are the good research questions? Moreover,	
	what could be the novelty and the contribution	
	of the research?	18
	1.3.3. Research schedule	21
1.4.	Contemporary rules of reaching settlements	
	and mediation	23
	1.4.1. Introduction of the main rules on settlement	
	and mediation in administrative procedures	23
	1.4.2. Comparison of mediation in administrative,	
	civil and criminal court procedures in Hungary	29
1.5.	Further plans concerning interviews with judges and	
	international comparison	34
REFER	RENCES	36

Barbara Janusz-Pohl		
CHAPTER 2. Theoretical and Praxeological Aspects		
of VOM in Criminal Cases – Polish Perspective		
2.1. Introduction	39	
2.2. Conflict Resolution Theory and Criminal Law -		
general remarks	43	
2.3. Retributivism v. restorativism. Foundations		
and philosophical aspects. Compatibility approach	50	
2.4. Methodological approach to VOM and its essence –		
dogmatic aspects	54	
2.5. Place of mediation in the penal system	59	
2.6. VOM – Polish perspective	60	
REFERENCES	69	
Ferenc Sántha		
CHAPTER 3. Victim-Offender Mediation		
as a Form of Restorative Justice in the Hungarian		
Criminal Justice System		
3.1. Introduction	71	
3.2. The criminal justice system of Hungary	72	
3.3. The role of the prosecutor and forms		
of diversion in Hungary	74	
3.4. The role of the victim in the criminal procedure	77	
3.5. The concept of restorative justice	81	
3.5.1. Definitions, elements and ranges		
of interpretation of restorative justice	81	
3.5.2. Restorative justice versus retributive justice	85	
3.6. Victim-offender mediation in Hungary	87	
3.6.1. General questions	87	
3.6.2. Legal regulation and the types of mediation	89	
3.6.3. Conditions of victim-offender mediation	91	
3.6.4. Initiation and conduct of the mediation process	97	
3.6.5. The mediator	101	
3.7. Closing remarks: is mediation a success story		
in Hungary?	103	
REFERENCES		

TABLE OF CONTENTS 7

Katarz	zyna Zombory		
CHAP	TER 4. Integrating Cross-Border Family Mediation		
into P	olish Court Proceedings for the Return		
of a C	hild under the 1980 Hague Convention	109	
4.1.	Introduction	109	
4.2.	International framework for mediation		
	in cross-border child abduction	111	
	4.2.1. 1980 Hague Convention	112	
	4.2.2. Brussels II ter Regulation	115	
	4.2.3. Timeframe and scope of mediation		
	in cross-border child abduction proceedings	117	
	4.2.4. Examples of integrating mediation		
	into the Hague proceedings	120	
4.3.	Mediation in cross-border child abduction		
	proceedings in Poland	122	
	4.3.1. General overview of Polish proceedings		
	for the return of a child	122	
	4.3.2. Mediation in cross-border child abduction		
	proceedings in Poland	125	
	4.3.3. Main challenges of mediation in Polish		
	proceedings under the 1980 Hague Convention	129	
4.4.	De lege lata and de lege ferenda recommendations	132	
4.5.	Conclusions	138	
REFERENCES			
Magde	alena Kowalewska-Łukuć		
CHAP	TER 5. Mediation in Polish Criminal Proceedings –		
De Leg	ge Lata Reflections and Crucial Problems	143	
5.1.	Introduction	143	
5.2.	Mediation in Polish Code of Criminal Procedure		
	and Regulation of the Minister of Justice	144	
5.3.	Mediation in practice	148	
5.4.	Consensual modes and mediation	150	
5.5.	Potential opportunities to counter crucial problems		
	with mediation in Polish proceedings	151	
5.6.	Conclusion	154	
REFER	ENCES	155	

Michał Peno

1/11/11/11/11 1 01/10	
CHAPTER 6. Axiology of Mediation	
and Restorative Justice. Legislative Theory Perspective	
6.1. Introduction	157
6.2. Rational legal policy and restorative justice	165
6.3. Objectives and values	166
6.4. Means to an end	171
6.5. Legal regulation method	173
6.6. Conclusions and de lege ferenda propositions	173
REFERENCES	