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PERFORMANCE OF THE LAWYER AS A MEDIATOR CONCERNING ASSISTANCE TO THE PARTIES IN SETTLEMENT OF LEGAL DISPUTE

The role of lawyers in mediativnom process of the sanction of legal disputes now is debatable. In this connection pertinent it is represented to give more detailed research of the given question on the basis of the Law on procedure mediation and the Russian legislation on legal profession in view of the foreign experience, expressed in the following.

In the first, according to item 3 of item 2 of the Federal Law «About procedure mediation » the mediator may be an independent physical person (independent physical persons), involved by the parties as the intermediary in settlement of dispute for assistance in development by the parties of the decision on dispute. In this case the mediator must be independent, impartial (item 3 of the mediation procedure) to keep confidentiality of all information concerning specified procedure, except for the cases stipulated by federal laws, and cases if the parties have not agreed about other (item 1 of item 5 of the mediation procedure).

In the second, clause 2 of the Federal law «About lawyer activity and legal profession in the Russian Federation» fixes, that the lawyer is the independent professional adviser on legal questions. Therefore only the lawyer realizes the major function of legal profession as institute of a civil society — education and is capable to introduce most without serious consequences and quickly in legal consciousness of citizens of advantage mediation, over other methods of dispute resolution.

It is necessary to note, that neither the Law on legal profession, nor the Code of a professional etiquette of the lawyer, the Law on mediation procedure does not contain interdictions on participation of the lawyer as a mediator. However there are withdrawals from the general requirements for the mediator, which contain in item 6 of item 15 of the Federal law «About procedure of mediation».

In modern conditions realization of the Law «About procedure of mediation» is possible through professional lawyer community, by creation of associations of mediators-lawyers. Lawyer chambers of subjects of Federation for this purpose possess necessary and sufficient resources: developed in all regions of the Russian Federation structure; the fulfilled forms of interaction with lawyer formations, courts and other law enforcement bodies, state and nongovernmental agencies and organizations; function of quality assurance of a rendered legal aid, etc.

Besides perfection of lawyer activity and motivation of lawyers in use медиации at settlement and the resolution of disputes are impossible without the analysis and studying of foreign experience. Necessity is con-

nected with it to enter in leading legal high schools an obligatory rate of mediation as it is made, for example, in Germany, and to organize training lawyers in mediation training programs for mediators, approved by the Ministry of education and sciences of the Russian Federation in coordination with the Ministry of Justice of the Russian Federation, in particular, at the courses of improvement of qualification spent by lawyer chambers for practicing lawyers.

Today in view of that a number of lawyers are already capable to render legal aid with the use of mediation, lawyer chambers of subjects of the Russian Federation should create messages and place on the sites registers of lawyers-mediators so that this new kind of lawyer activity was accessible to any in it requiring.

Process of settlement of disputes by means of mediation is a short story of the Russian legislation and a short story of lawyer activity. Productivity of an innovation will depend on qualification of mediators, the readiness of partici pants to resolve legal disputes through mediation and the organizational actions lead by lawyer community.

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СУДОВАЕ ПРАДСТАЎНІЦТВА ПА СТАТУТАХ 1566 І 1588 гг.

XVI стагоддзе з'яўляецца адным з самых цікавых і важных перыядаў у жыцці Вялікага княства Літоўскага. У гэты час у грамадстве шырокае распаўсюджванне атрымліваюць гуманістычныя і рэфармацыйныя ідэі, а таксама адбываюцца сацыяльна-эканамічныя змены, ідэйныя вытокі якіх знаходзяцца ў тагачаснай феадальнай рэчаіснасці.

Што датычыцца непасрэдна развіцця прававой культуры, то тут трэба адзначыць, што гэты перыяд характарызуецца паступовым пераходам ад звычаёвага да пісанага права. Прыкладна ў XV стагоддзі пачалося абагульненне ўсяго прававога матэрыялу, які накапіўся да таго часу. Вяршыняй сістэматызатарскай і кадыфікацыйнай дзейнасці сталі распрацоўка і прыняцце сусветна вядомых зводаў законаў ВКЛ — Статутаў 1529, 1566 і 1588 гг.

Адлюстраванне інстытута судовага прадстаўніцтва ў той час знайшло найбольшае праяўленне менавіта ў Статутах 1566 і 1588 гг., тады як у Статуце 1529 г. ен толькі зараджаўся.

Трэба адзначыць, што палажэнні аб судовым прадстаўніцтве ў Статуце 1588 г. амаль што дубліруюць палажэнні Статута 1566 г.

Кожны з гэтых статутаў замацоўвае палажэнні аб судовым прадстаўніцтве. У іх знайшлі адлюстраванне такія асноўныя пытанні, як:

- магчымасць выступаць прадстаўніком (адвакатам) людзей ў судзе;