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Srđan Šimac, Ph.D. Judge of the High Commercial Court of the Republic of Croatia and President of the Croatian Mediation Association

## **How can mediation improve the justice system?**

Law and society have changed dramatically, whereas the legal institutions remain almost unchanged. The purpose of law is to ensure order, not justice, but people are obsessed with misperception of courts as places which are going to guarantee them justice. Unfortunately, nowadays the purposes of lawsuits are not truth and justice, but imposing peace onto the conflicted sides, proclaiming the winner and submitting the loser. However, every imposition causes dissatisfaction, and as a result the imposed decisions are not considered just and are not willingly executed.

## **What kind of justice disputants expect?**

Therefore disputants cannot expect justice from the government and courts, but can only give it to each other. The blindfold over the eyes of the goddess of Justice should not be just a fashion accessory any more. Modern societies must provide their citizens with mechanisms for approaching and realizing the highest level of justice. In order for a society to function, it is of great importance that its citizens have trust in its institutions. The easiest way to regain that trust is by introducing democracy into litigation. This implies the elements of clients' participation in legal affairs which gives them the right to choose the way their cases are being solved as well as the right to directly take part and control the dispute.

Civil courts have become legal arenas where the disputants fight each other with all the legitimate means. Their initial confrontation escalates beyond the expected proportions and as a result, they lose control over the case and the outcome. The litigation leads by lawyers and the disputants simply become passive observers. The litigation procedure becomes difficult to understand, expensive, long and unpredictable. The disputants' destiny is being decided by somebody else, rather than by themselves. As a result the courts become swamped, litigations endless and unpredictable, life and humanity get lost inside the legal maze: dysfunctional system, frustration, dissatisfaction and the lack of trust in the legal system and the legal profession follow.

## **Legal profession resistance and inertia to changes**

What shocks is the inertia as well as the persistence of government and the legal profession to ignore this state and preserve the status quo. Reaction to such inertia is searching for more efficient ways of solving disputes. Courts are no longer the only places to handle disputes, nor are they the best places to do that. Also, legal solutions are not necessarily the best ones. Lawyers should not insist exclusively on legal ways of handling disputes, but should master new skills and help their clients primarily outside the courts. Lawyers should resist the feeling that they know what is best for their clients, because nobody knows that better than the clients themselves. Lawyers should return the disputes to the clients and allow them to take active roles in them.

The system that relies exclusively on law and lawyers satisfies no one. Therefore legal profession should not seize the opportunity to be the centre of the most creative social experiment of modern times through which it will contribute to direct inclusion of clients in di-

spute settlements and replace confrontation with cooperation. No system can survive in its monolithness. If the legal profession wants to preserve its relevance within society, it should adjust to changes made by the technological revolution, globalization and the new demands and needs of the users of legal services.

### **Regaining public trust to justice system by introducing democracy in disputing**

Mediation has the capacity as a generator of positive changes in the legal system and the potential to release legal system and the legal profession from imperfections and problems that burden them. The disputants should take greater control in litigation and complete control in the process of mediation. These are two different systems of public and private justice that have complementary social roles. Modern society needs those equally important parts of the unique system of dispute resolution system. Such a new system with the help of the legal professionals gets much closer to the real needs of its users. Neither law nor the legal institutions can realize its social role or justify its existence if they are detached from the citizens and the society. No society can afford litigation as the norm.

Mediation is based on disputants' compliance and agreement concerning the result of a dispute. It promotes the self-definition of disputants and their co-operation instead of the solution imposed on them by the court. Therefore, litigation should be the last solution after the disputants have unsuccessfully tried all the consensual ways of solving their dispute.

### **Conclusion**

The disputants should no longer be just producers of disputes, but active participants in solving them. By introducing democracy into dispute resolution system, the institutions of the legal system are renouncing their own monopoly in solving civil disputes to extents determined by disputants' autonomy and giving parts of those disputes away to judicial, public or private bodies, which are the complementary parts of the system. This way the traditional system of dispute resolution is not being questioned, just improved and fulfilled. It enlarges the access to justice, reduces the costs and time of litigations, advances negotiations and settlements in and outside the courts, unburdens the courts and improves the satisfaction of disputants and the public with legal and judicial system as well as the legal profession.