

а також здійснювати право просвітницьку роботу серед населення з метою інформування про можливість вирішення конфлікту без допомоги суду, а за допомогою третьої особи – медіатора, який має на меті укласти мирову угоду між сторонами. Окрім цього, в процесі впровадження медіації в українське суспільство виникне проблема відсутності кваліфікованих медіаторів, тому зважаючи на постійне оновлення освіти і науки (зокрема у юридичній сфері) доцільно створити систему підготовки кваліфікованих медіаторів, які будуть компетентними спеціалістами у галузі альтернативного врегулювання спорів.

#### ЛІТЕРАТУРА:

1. Гаврилiшин А. П. Медіація як альтернативний спосiб вирiшення спорiв / А. П. Гаврилiшин // Науковий Вiсн. Херсон. держ. ун-ту. — 2014. — № 5. — Т. 1. — С. 275–278.

2. Мамич М. В. Медіація як технологія врегулювання конфліктів / М. В. Мамич // Актуальні проблеми держави і права. - 2007. - Вип. 34. - С. 338-341.

3. Мемель Фрідріх-Йоахім. Медіація в адміністративному судочинстві України. Електронний ресурс. — Режим доступу: [http://www.voas.gov.ua/upload/337\\_mediac2.pdf](http://www.voas.gov.ua/upload/337_mediac2.pdf)

4. Резнікова В. В. Медіація (посередництво) як спосiб вирiшення господарських спорiв / В. В. Резнікова // Вiсн. КНУ. — 2012. — № 90. — С. 10–15.

5. Типовой Закон ЮНСИТРАЛ о посредничестве. Резолюция, принятая Генеральной Ассамблеей [Електр. ресурс по докладу Шестого комитета (A/57/562 и Corr.1 и 2)]. — Режим доступу : [http://mediators.ru/rus/about\\_mediation/international\\_law/uncitral\\_model\\_law](http://mediators.ru/rus/about_mediation/international_law/uncitral_model_law)

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#### NEW SOLUTIONS IN THE SYSTEM OF IMPROVING THE QUALIFICATIONS OF THE PRISON SERVICE OFFICERS

The issue of improving the qualifications of the Prison Service officers was a long-standing problem. It was discussed in subject literature [e.g. 1, 159] as well as practice has focused its attention on it. In recent years several regulations and orders were issued by authorities responsible for the operation of the Prison Service. The most important ones were: Regulation of Minister of Justice of January 16, 2003 on the requirements for education and professional qualifications to be performed by officers of the Prison Service [2], Regulation of the Minister of Justice of July 26, 2010 on the training and professional development of officers of the Prison Service [3] and Order No 8/2012 of the General Director of the Prison Service of January 2012 on raising professional qualifications by officers of the Prison Service as part of external improvement [4].

After the intense debate Polish parliament is proceeding implementing new solutions by introduction of amendments to the Act on the Prison Service - currently on the Senate stage of legislative work [5]. They contain system changes consisting in: establishing the Prison Service Academy (in the rank of a university), new unified recruitment rules for the Prison Service, principles and stages of training of already serving and new officers.

Firstly, the idea of creation of new, specialised academy dedicated only for the Prison Service needs is worth considering. Generally, in Poland there is a tradition of establishing uniformed higher education institutions. Such ones function to train: policemen - the Police Academy in Szczytno, firemen - the Main School of Fire Service and soldiers - the Military Technical Academy, the Academy of Land Forces, the Naval Academy and the Higher School of Air Force Officers. In official justification of the draft of aforementioned act [6], it is clearly stated that profiling of education for the needs of the penitentiary system and further professionalisation of the staff are goals to be achieved. The Academy will have its headquarters in Warsaw but it can also implement the didactic process outside its headquarters using the infrastructure of the Prison Service. It will be responsible for handling studies, trainings and classes in the field of professional development. The candidate service will be a new element in the training of officers. It involves completing studies in accordance with the education program and performing official tasks in organisational units. The officer in the candidate service performs the service in the barracks system. During the studies at the Academy, depending on the results in science and positive opinion, an officer may be given further degrees in the hierarchy. The officer, after completing the candidate service and passing the relevant exams, is appointed as an officer in the permanent service.

The novelty in the system is not only the establishment of the Academy but also the system of lifelong learning of officers comprising consisting of four stages: initial, vocational, specialist training and in-service professional training. They are developed and implemented in such a way as to be part of the continuous learning process and support the creation of an integrated system of knowledge and professional skills. The training programs in the Prison Service for officers and employees, including the thematic scope and methodology as well as learning outcomes will be defined as well as the knowledge evaluation technics (exams, certificates). They are aimed at shaping officers and employees competence, in particular in the scope of:

- 1) dealing with difficult and extreme situations;
- 2) assertive behaviour and empathy;
- 3) discipline and cooperation;
- 4) creative problem solving;
- 5) ethical conduct;
- 6) proceedings based on and within the limits of the law.

The officer and employee immediately after the admission to service or work undergo initial training, which consists of initial professional adaptation, preparatory course and professional practice. Initial training is intended to enable the officer and the employee to acquire the knowledge and practical skills necessary to carry out official tasks on the occupied position or position and to promote his professional adaptation. The initial training ends with an official exam. An officer or employee may start vocational training after completing initial training. Vocational training is a continuation and extension of the curriculum

content of the initial training and serves to deepen the knowledge and professional skills of the officer necessary for the proper performance of professional tasks in the higher corps or knowledge and professional skills of the employee on the position held. Recruitment criteria are set for vocational training taking into account the needs of specific sections of the Prison Service. The recruitment procedure for vocational training is run by the recruitment committee. The procedure includes the assessment of candidates proposed by the heads of the Prison Service units in the electronic system of training service in accordance with the established criteria for recruitment for vocational training. The condition for completing vocational training is obtaining credits and passing the exams specified in the training program. The officer or employee after completing vocational training receives a certificate of completion of the vocational training. Specialist training is a supplement to the initial training or vocational training in the field of preparing an officer or an employee for independent service or work on a professional post and carrying out tasks related to:

- 1) conducting penitentiary, rehabilitation and therapeutic interactions;
- 2) protection and defence of organisational units and techniques of interventions;
- 3) managing a team and managing organisational units;
- 4) legal, personnel, registration, financial and quartermaster issues regarding employment of prisoners, information technology, protection of classified information, prison health care, occupational medicine, fire protection and occupational health and safety;
- 5) implementation of other tasks resulting from the applicable regulations, in particular in the field of protection of human rights and fundamental freedoms.

In-service professional training is part of improving the professional skills of officers and employees, in particular in the form of courses, workshops, training and conferences. Professional development of officers and employees is organised as: central improvement; district improvement, in-service unit training and external improvement. Officers and employees participate, at least once every three years, in at least one of the organised forms of professional development consistent with the scope of their professional duties.

The proposed changes in the professionalisation of the improvement of the Prison Service officers and the transparency of the education system should be assessed positively. The clear structure of the promotion path and the system of evaluation of individual trainings favours motivating to work and performing assigned tasks. The new system can be assessed after its implementation and analysis of the impact on the functioning of the entire penitentiary system.

## REFERENCES:

1. *Kalaman M., Szkolenie i doskonalenie zawodowe funkcjonariuszy służby więziennej w kontekście całościowego uczenia się, Edukacja ustawiczna dorosłych 2014, 4 (87), p. 159-172.*

2. *Regulation of Minister of Justice of January 16, 2003 on the requirements for education and professional qualifications to be performed by officers of the Prison Service, access: [http://www.nszzfipw.org.pl/vademecum/r\\_w\\_sprawie\\_wymagan\\_wyksztalcenia.pdf](http://www.nszzfipw.org.pl/vademecum/r_w_sprawie_wymagan_wyksztalcenia.pdf)*

3. Regulation of the Minister of Justice of July 26, 2010 on the training and professional development of officers of the Prison Service, access: [http://www.bip.sw.gov.pl/Dokumenty/17\\_SzkolenieorazdoskonalenieDzU2010144970.pdf](http://www.bip.sw.gov.pl/Dokumenty/17_SzkolenieorazdoskonalenieDzU2010144970.pdf)

4. Order No 8/2012 of the General Director of the Prison Service of January 2012 on raising professional qualifications by officers of the Prison Service as part of external improvement, access: <http://www.coss.w.pl/file/redirect.php?id=5760>

5. The Act of 22 March, 2018 on the amendment of the Act on the Prison Service and some other acts, access: [http://orka.sejm.gov.pl/opinie8.nsf/nazwa/2155\\_u/\\$file/2155\\_u.pdf](http://orka.sejm.gov.pl/opinie8.nsf/nazwa/2155_u/$file/2155_u.pdf)

6. Justification of the draft of amendments to the Act on the Prison Service, access: <http://orka.sejm.gov.pl/Druki8ka.nsf/0/76FD6A17AAD3B8C9C1258210003B3F3C/%24File/2155-uzasadnienie.docx>

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## **СУДОВЕ ЕКСПЕРТОЗНАВСТВО ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ ЕРИ ЦИФРОВИХ КОМУНІКАЦІЙ: ПОНЯТТЯ, ХАРАКТЕРИСТИКА, ДОКТРИНАЛЬНІ ЗАСАДИ**

1. Поняття і сутність судового експертознавства інтелектуальної власності

Судове експертознавство інтелектуальної власності - це вчення про загальні теоретичні, методологічні і праксеологічні проблеми судової експертизи інтелектуальної власності, тобто виділення як її предмету, так і того загального, що об'єднує методологічно і методично всі види судових експертиз інтелектуальної власності і не є предметом інших наук [2, с. 9].

Конкретний зміст предмету судової експертології інтелектуальної власності, загальні принципи, завдання, методи і засоби поки що тільки зазначені і потребують подальшого наукового дослідження [1, с. 3].

Разом з тим, якби не розвивалась теорія судової експертизи інтелектуальної власності повинна залишитись у рамках загальної теорії науки криміналістики.

Це обумовлено тим, що експертиза - це форма застосування спеціальних знань. Судова експертиза - це процесуальна форма дослідження джерел доказової інформації.

Судова експертиза - це слідча дія з організації, техніки, методики та тактики використання спеціальних знань з метою здобуття доказової інформації методами наукового дослідження, яка виконується за дорученням слідчих і судових органів і відображається у висновку експерта.

М.Г. Щербаковський справедливо зазначає, що судова експертиза - багатозначне поняття, яке в практичному плані означає судово-експертну діяльність, науковому - галузь знань, процесуальному - джерело доказів, у доказуванні - засіб доказування, правозастосовному - процес та результати застосування спеціальних знань [7, с. 5].