

## ГРАЖДАНСКИЙ ПРОЦЕСС / CIVIL PROCEDURE

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### MEDIATION IN ENFORCEMENT PROCEEDINGS: APPLICATION IN THE EUROPEAN COUNTRIES AND PROSPECTS OF APPLICATION IN THE RUSSIAN FEDERATION

**Objective:** to explore the possibilities of mediation as a method of conflict resolution at the stage of enforcement proceedings in the Russian Federation taking into account foreign experience.

**Methods:** comparative legal method as the main method, also used formal-legal, systemic-structural methods, method of interpretation of legal norms.

**Results:** analysis of the use of mediation at the stage of enforcement proceedings in foreign countries held. The possibility of mediation at the stage of enforcement proceedings in Russia is confirmed. Conditions for effective use of mediation in the field of enforcement proceedings are listed. Proposals for legal regulation of the use of mediation at the stage of enforcement proceedings in Russia are formulated.

**Scientific novelty:** comprehensive study of foreign experience of mediation at the stage of enforcement proceedings on the example of member States of the European Union and the member States of the Eurasian Economic Union, as well as analysis of Russian legislation allow to assess the prospects of mediation in the stage of enforcement proceedings and to identify risks of its use in Russia.

**Practical significance:** the main provisions and conclusions of the article can be used by experts to formulate proposals for the further revision of the State program of the Russian Federation "Justice", approved by Resolution of the Government of the Russian Federation, 15 April 2014 No. 312.

**Keywords:** Civil procedure; Mediation; Alternative dispute resolution; Enforcement proceedings; Bailiff

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#### Introduction

Mediation is one procedure for reconciliation of the parties of the dispute through their entry into voluntary negotiations with the assistance of a third party (mediator), who facilitates settlement of the dispute. The parties retain the control of the decision-making process during the disputes resolving with mediation. There is a possibility to resolve the conflict without "losing face" and

keep the prospects for cooperation between the parties of this conflict.

Mediation emerged in the United States, when frequent conflicts between unions and employers led to the threat of mass layoffs and strikes. The first mediator (Federal Mediation Conciliation Service) was created in 1947. Its goal was to resolve conflicts between workers and employers. This service is still in effect.

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Filipova I. A., Filipov V. V. Mediation in enforcement proceedings: Application in the European countries and prospects...

By the end of XX century mediation "infiltrated" into the legislation of almost all European countries. Mediation is used widely in resolving of commercial, family, employment and other disputes. Mediation replaces the court usually. In recent years, mediation began to be used at the stage of enforcement proceedings when the issue of law has been completed.

Interest in mediation arises in Russia. Federal law of 27 July 2010 No. 193 "On alternative procedure of dispute settlement with participation of mediator (mediation procedure)" is the first law on mediation (Law on mediation). Mediation can be applied in the resolving of civil disputes. At present, the Russian legislation does not provide the possibility of mediation at the stage of enforcement proceedings, but this legislation does not contain direct prohibition on mediation after the adjudication.

Discussions about the possibilities of mediation in enforcement proceedings are conducted at international conferences of judicial officers, in specialized legal publications. Among the supporters of the introduction of mediation in the enforcement proceedings are President of the International Union of Judicial Officers F. Andrieux and Chief Bailiff of the Russian Federation A. Parfenchikov. The comparative analysis of European experience will help to answer the question: is it necessary to introduce mediation at the stage of enforcement proceedings in the legal field in Russia?

### Research results

#### Mediation at the Stage of Enforcement Proceedings

There are four types of mediation: extrajudicial, pre-trial, trial and post-trial. Mediation at the stage of enforcement proceedings refers to the last type. Enforcement proceedings is the final stage of the civil process. This is aimed to enforcement the executive documents, if the debtor does not execute it on a voluntary basis. Bailiffs must implement compulsory execution of judicial acts.

Mediation procedure replaces the trial normally, but it can be used at the stage of enforcement proceedings, if disputes arise in the execution of the court decision. The entry into legal force of the court decision does not mean that the parties have no disagreement [1, p. 3]. The debtor does not always properly execute the judgment. Enforcement measures do not help to fix it. The debtor tries often to prevent actual execution of the court decision. The alternative to enforcement is voluntary agreement of the parties of enforcement proceedings. It allows to observe the interests of both parties.

The specificity of mediation is its focus not on finding the truth of one of the parties on the dispute, but on the search of consensus for the parties. This is true for the stage of execution of judicial acts, the right of one of the parties is already legally confirmed with the court decision. The objective conditions for the achievement of agreement by the parties are presented in the field of enforcement proceedings. For example, the claimant has wish to consider different options for satisfaction of his claim and the debtor may agree under the threat of application of enforcement measures. The procedure of mediation at the stage of enforcement proceedings demands debt restructuring.

Analysis of the possibilities of mediation in enforcement proceedings raises scientific interest due to the following reasons:

- growing number of enforcement proceedings;
- excessive workload of the judicial bailiffs;
- impossibility of application of compulsory execution in some cases;
- presence of positive foreign experience of mediation.

One of the most basic foundations of mediation is the parties' cooperation. The Committee of Ministers of the Council of Europe indicates the importance of cooperation in Recommendation (2003) 17<sup>1</sup>. This recommendation requires the cooperation of the parties during the procedure of compulsory execution, particularly in family law disputes. Authorities should facilitate this cooperation. The reference to the procedure of mediation will ensure consistent implementation of the cooperation of the parties of enforcement proceedings [2, p. 32].

#### Mediation in Europe: Experience of Use in Enforcement Proceedings

Member States of the European Union were supposed to enact regulations under Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial

<sup>1</sup> Recommendation Rec (2003) 17 of the Committee of Ministers to member states on enforcement, adopted by the Committee of Ministers of the Council of Europe on 9 Sept. 2003, available at: [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=Rec\(2003\)17&Sector=ecCM&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cb6&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=Rec(2003)17&Sector=ecCM&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cb6&direct=true) (access date: 21.11.2016).

matters<sup>2</sup>. The Directive provides for the dissemination of mediation procedures to facilitate the achievement of justice and although this document refers exclusively to mediation in disputes of an international character, it welcomes the establishment of legislation on mediation in each country of the European Union.

Mediation in enforcement proceedings is most common in France. Enforcement proceedings in France is transferred to private companies. The law encourages debtors to execute voluntarily the duties with *astreinte* (increasing penalty), which is applied by the court [3, p. 136].

The Mediation bailiffs' centre (CMHJ) operates under the National chamber of bailiffs of France [4]. The ability to use mediation appeared after publication of the Decree n° 2011–1173 by the French Government<sup>3</sup>. This Decree provides the right of a bailiff to carry out mediation as additional activity. It is recognized that the bailiff is the person with high status and he has the qualities to perform the functions of the mediator (neutrality, independence, impartiality and confidentiality), he can conduct the mediation procedure. The legislator believes that bailiff can resolve the conflict between the debtor and the creditor, he can take into account the interests of both parties. The bailiff can be a mediator in disputes of civil, corporate, commercial, employment, family branches of law. The bailiff has no right to be a mediator if he is already involved in the dispute in any quality. French bailiff and mediator C. Leca believes that the potential of mediation in enforcement proceedings is great, the main advantages are speed, efficiency and satisfaction of both parties by the result [5].

In 2015 the online platform Médicys was created in France in the field of dispute resolution by mediation, including disputes at the stage of enforcement proceedings (<http://www.medicys.fr>)<sup>4</sup>.

<sup>2</sup> Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52016DC0542> (access date: 21.11.2016).

<sup>3</sup> Décret n° 2011-1173 du 23 septembre 2011 portant diverses dispositions relatives à certaines professions judiciaires et juridiques réglementées, available at: <https://www.legifrance.gouv.fr/eli/decree/2011/9/23/JUSC1111356D/jo/texte> (access date: 21.11.2016).

<sup>4</sup> Première plateforme de médiation agréée par la CECMC, 23 June 2016. Actualites. Les huissiers de la Justice, available at: <http://www.huissier-justice.fr/actualite.aspx?id=298> (access date: 21.11.2016).

Belgian law provides also the ability of bailiffs to be a mediator. For example, bailiffs may be mediated in disputes on debt recovery, labor disputes, etc. Official website of the National chamber of bailiffs of Belgium contains the opinion that the status of the bailiff and the rules of ethics for bailiffs are the guarantees of fair treatment to all claimants and debtors<sup>5</sup>. The bailiff has the knowledge and the information about particular case, he can reconcile the different points of view, opposite interests.

Bailiffs can play the role of mediators in the Netherlands. The authors of the review "Gerechtsdeurwaarder" (translated from Dutch – "Bailiff") believe that only a small proportion of disputes does not have prospects for mediation. Mediation at the stage of enforcement proceedings brings a strong positive effect in resolving family disputes when ex-spouses want to participate in the education of children. Mediation in the payment to repay the debt has prospects too [6, p. 9].

The Swedish legislation provides the mandatory mediation in disputes with transfer of the child from one parent to another. The Mediation Act 2011 (articles 7–12) establishes that the parties can conclude an agreement at any stage of the process [7].

Voluntary judicial mediation is widely used in Finland. Statistical report of the National Institute of Health of Finland for 2011 points to the feasibility of expanding the use of mediation, raising awareness and enhancing the effectiveness of cooperation of official bodies [8, p. 40]. This situation suggests the possibility of further use of mediation at the stage of enforcement proceedings.

Polish law does not provide for bailiffs to be mediators. Nevertheless, there is the possibility to enforce the mediation agreement through bailiffs. Polish lawyer K. Sienkiewicz believes that this provision reinforces the authority of the mediation and makes it more popular and effective. French model bailiff-mediator is interesting for Poland [9].

The French model is being implemented in Lithuania now. The Law on bailiffs 2003 contains a rule that bailiffs are "free professionals" and not public servants. This Law does not speak about the possibility of mediation at the stage of execution, but the bailiffs use mediation in

<sup>5</sup> L'huissier de justice: ses activités. Site Chambre Nationale des Huissiers de Justice. Belgique, available at: <http://www.huissiers-dejustice.be/nkgb-cnjb/lhuissier-de-justice/lhuissier-de-justice-ses-activites> (access date: 21.11.2016).

practice indirectly. The Chamber of bailiffs of Lithuania believes that the law can provide a procedure for bailiffs mediation.

The parties of one dispute can apply mediation before or during court proceedings in Italy. The judge may invite the parties to use the services of a mediator [10, p.157]. The attempt to introduce mediation in enforcement proceedings was made in 2009 [11, p. 103]. The bill was prepared as the "New rules of activities of the bailiff and changes to provisions relating to duties, remuneration and income of bailiffs"<sup>6</sup>. This bill was not adopted.

Mediation at the stage of enforcement proceedings has not yet been applied in other European countries. The introduction of mediation in enforcement proceedings will continue. President of the International Union of Judicial Officers F. Andrieux says about this at the International Congress of Judicial Officers in Madrid (2–5 June 2015) [12].

In Germany, several Federal laws were adopted in 2000. They set the framework for the legislation of laws on mediation. Bavaria was the first land which promulgated the Law on mediation<sup>7</sup>. Federal law "On the development of mediation and other methods of extrajudicial dispute resolution" was adopted in Germany in July 2012<sup>8</sup>. This Law distinguishes three types of mediation: standard extrajudicial mediation; trial mediation at the suggestion of the court; mediation during legal advice. The judge-mediator conducts a mediation procedure in the course of legal advice. There is no legal regulation of mediation in enforcement proceedings in Germany, but disputes about the applicability of mediation continues [13, p. 523].

The courts are obliged to promote the application of mediation in the UK. British law does not establish the obligation of the disputing parties to invite the mediator, but The Court of Appeal denies the right to reimbursement of the costs, if the recommendation to refer to the

mediator has not been executed. This situation contributes to the transformation of judicial mediation in the mandatory procedure. The trend of increased use of mediation presents, but this procedure applies either out of court or through the court prior to the proceedings. We are not talking about post-trial mediation [14, p. 30].

Mediation at the stage of enforcement proceedings does not apply in Spain. However, the Spanish authorities have already started to teach Spanish police how to apply mediation. Spain launched a pioneering project that will provide a new function to agents of the local police, of the national, regional and the civil guard for alleviating the saturation of work in the courts. The aim is to learn the technique of mediation, which allows them to engage in conflict as a mediator [15].

#### **Practice of Mediation at the Stage of Enforcement Proceedings in the Countries of Eurasian Economic Union**

Belarus ranks first among the Member States of Eurasian Economic Union according to the experience of mediation at the stage of enforcement proceedings. Since 2004, the Economic Procedure Code of the Republic of Belarus includes Chapter 17 "Conciliation procedure in court proceedings". Chapter 17 provides the possibility of appointment of the mediator during the trial stage and the stage of enforcement proceedings. The initiative must come from one or both parties of the dispute or from the court. The court appoints the mediator at the stage of enforcement proceedings (article 156 of the Economic Procedure Code). The period for conciliation can't be more than 1 month (article 156.1 of the Economic Procedure Code). The bailiff-mediator can't participate in the further execution of the executive document.

Statistics show that in the first year of operation of the rules of the Economic Procedure Code 62 reconciliation agreements were signed in the Brest region only. The parties of the agreement were typically agricultural enterprises and heavy industries' companies on the one hand and banks on the other [16, p. 89].

The Resolution of Plenum of the Supreme Court of the Republic of Belarus, 29 June 2016 No. 3 "On reconciliation of the parties by the courts when considering civil and economic disputes", paragraph 2 contains this provision: "The reconciliation of the parties is allowed in court at any stage of civil or commercial process since the initiation of the proceedings and in enforcement proceed-

<sup>6</sup> Nuove norme in materia di attività dell'ufficiale giudiziario e modifiche alla disciplina concernente le attribuzioni e i compensi e i proventi degli ufficiali giudiziari. Disegno di legge, Ufficiali Giudiziari, available at: <http://www.ufficiogiudiziari.net/cms/images/Documenti/ProgettiDiLegge/2010-03%20ddl%20ufficiali%20giudiziari%20con%20note-nostro%20progetto.pdf> (access date: 21.11.2016).

<sup>7</sup> Bayerisches Gesetz zur obligatorischen außergerichtlichen Streitschlichtung in Zivilsachen (Bayerisches Schlichtungsgesetz – BaySchlG), GVBL, p. 268.

<sup>8</sup> Gesetz zur Förderung der Mediation und anderer Verfahren der außergerichtlichen Konfliktbeilegung, BGBl, I, 2012, p. 1577.

ings. The reconciliation of the parties can be achieved as with the assistance of the court and through mediation"<sup>9</sup>.

The provisions on mediation at the stage of enforcement proceedings was included in the Law on mediation of Kazakhstan in 2014. The parties of enforcement proceedings can use mediation. This is new basis for termination of enforcement proceedings. Bailiffs inform citizens about mediation. Practice of this mediation is not yet developed in Kazakhstan [17].

Mediation in enforcement proceedings does not apply in other countries of Eurasian Economic Union (Armenia, Kyrgyzstan).

### **Prospects for Mediation in Enforcement Proceedings in Russia**

The use of mediation for dispute resolution has positive impact on the development of civil society in Russia. The positive role of mediation is that it acknowledges the culture of peace and non-violence as the highest value. The aim of mediation is "reboot" of public consciousness, departure from the attitude of confrontation to awareness of the interdependence of all members of society and to understanding of the benefits of consensus.

There are the following prerequisites for the use of mediation in the sphere of enforcement proceedings. 1. The presence of the rights for the parties in enforcement proceedings. These rights give the possibility to conclude the agreement. 2. The need to ensure mutual understanding of the parties. The mediator is able to resolve differences that occur because of misunderstanding in the minds of the parties. 3. Mediation brings together the parties' positions and increases the chances of the settlement agreement and the chances of voluntary execution by the debtor of the judgment.

The use of mediation in enforcement proceedings has several advantages.

First, mediation allows to speed up the execution of the judgment. The debtor who finds mutual understanding with the creditor will discharge his duties more willingly.

<sup>9</sup> Postanovlenie Plenuma Verkhovnogo Suda Respubliki Belarus' N 3, 29 June 2016 o primirenii storon pri rassmotrenii sudami grazhdanskih i ekonomicheskikh sporov [Resolution of Plenum of the Supreme Court of the Republic of Belarus, 29 June 2016. No. 3 "On reconciliation of the parties by the courts when considering civil and economic disputes"], available at: <http://www.pravo.by/main.aspx?guid=12551&p0=S21600003&p1=1> (access date: 21.11.2016).

The percentage of executed court decisions will increase and indicators of effective enforcement will increase too.

Second, the "unloading" of bailiffs will happen. Bailiffs are overloaded. The number of enforcement proceedings has increased dramatically over the past 10 years. 45.6 million execution proceedings were instituted in 2015 (approximately 40 million in 2014). The quality of work of judicial officers will increase as a result of "unloading".

Third, budgetary costs for compulsory execution of judicial decisions will be reduced.

Fourthly, the parties of enforcement proceedings will have the choice between resolving dispute by another person or by agreement among themselves.

Fifth, it will do profit for the civil turnover, the country's economy. It will give another chance for the contractors, the business partners.

The claimant often can't obtain debt for a long time, because the debtor sought to use all means to delay of the calculation. The court decision does not "quench" the conflict, it is just at a new stage. Mediation will increase the percentage of settlement agreements at the stage of enforcement proceedings. In turn, the conclusion of a mediation agreement is beneficial to both parties: the claimant accelerates the receipt of the debt, the debtor gets rid of his status, fines, seizure of property, other negative legal consequences.

The decision about the settlement is difficult for the debtor. The amount of the debt may be paid during many years in enforcement proceedings and he will need to pay his debt immediately (possible) after mediation, but the total amount will decrease. The agreement will allow the real possibility of paying the debt. The debtor-organization can avoid bankruptcy.

### **Problems of the Use of Mediation in Enforcement Proceedings in Russia and Way of the Solution**

Disadvantage of mediation includes the lack of public awareness about mediation, misunderstanding its essence, significant financial costs for the formation of qualified mediators' corps and the psychological characteristics of the statistically average Russian: the desire to "punish" the offender and to resolve the conflict by force the public authorities.

The main "cons" of mediation as a phenomenon are:

1) Mediation is not universal. Experts believe that mediation should not be used in bad faith of the debtor,

in the absence of the parties desire to settle the dispute and when they lack focus on the business relationship in the future.

2) If the settlement process is delayed, mediation becomes an additional obstacle instead of being a tool for quick and flexible dispute resolution.

3) Disparity appears when one party is a person and second party is a large organization. The organization has qualified lawyers as its representatives. In this case, the parties are in unequal conditions for legal awareness and economic status. However, the mediator is obliged to ensure equality of the parties, to prevent the pressure of one side to the other. In practice, this disadvantage needs to be considered.

There are problems for the potential use of mediation in enforcement proceedings in Russia. First, the lack of a common global practice, which would allow to speak of the undoubted benefits of mediation at the stage of enforcement proceedings.

Second, there is a small number of experienced mediators only. Who should be a mediator at the stage of enforcement proceedings? If the bailiffs will conduct the mediation procedure, it will be necessary to set additional requirements to persons who apply for the position of bailiff. If the bailiffs will not take mediation, then the process will require a large number of professional mediators. Today in Russia there is no sufficient number of professional mediators for the needs of enforcement proceedings.

Third, there are shortcomings of legislative regulation of mediation in enforcement proceedings, the lack of mechanisms for the protection of the parties. For example, there is no legal mechanism to push the unfair party to the execution of the mediation agreement. The Russian Law on mediation talks about the good faith of the parties and discretion in the execution only (article 12 part 2 of the Law on mediation).

Fourth, there is the problem of payment of the mediator. The parties spent the money for a lawyer in the process before. There is the "public service" on the application of the law, when a judgment includes the mechanism of enforcement proceedings. This mechanism is not associated with the cost of the claimant and it is under the control of the court. The actions of the bailiff may be appealed and the actions of the mediator can't be appealed. Why the creditor will waive his right to demand enforcement of the judicial decision?

Fifth, this procedure does not apply in disputes which affect the rights of third parties not participating in mediation. There is a possibility of violation of such rights in enforcement proceedings.

Most of the problems on the use of mediation in enforcement proceedings can be resolved. For example, the issue of payment for mediation will be removed, if the service is free for the creditor. The debtor has the motivation to conclude a mediation agreement due to the fact that the expense for the execution of the judgment will be reduced. The motivation for the use of mediation will increase if the use of measures of compulsory execution becomes unprofitable for the debtor [18, p. 20]. It is necessary to include in the law the guarantee for the enforcement of a mediation agreement. The problem of guarantees for the execution of a mediation agreement can be solved through the consolidation in law the notary approval of this agreement.

The electronic information base on the mediation needs to be created. This database will contain information materials, analytical references on the use of mediation at the stage of enforcement proceedings. This will allow bailiffs to accumulate the whole experience.

The most important question: who will be the mediator? There are skilled professionals among the bailiffs. These employees are able to learn. Their preparation for the role of bailiffs-mediators is possible. The task for the rest of the bailiffs will be to explain the possibility of mediation to the parties of enforcement proceedings. It will be necessary to develop a methodology for clarification of this program for the bailiffs. Experts in the field of enforcement proceedings believe that this will lead to the establishment of the post of the bailiff-mediator in each department. The main activity for this bailiff will be the use of mediation [19, p. 19].

There is another option: creation of the rooms of reconciliation in the structure of the services of bailiffs with mediators who are not police officers. Similar rooms of reconciliation are created in courts in some regions of Russia. However, foreign experience testifies in favor of the first option (bailiff-mediator). The French lawyers call the reasons for this decision on the one hand the public status of the bailiff and on the other hand the restrictions imposed by this status [20, p. 156].

Establishment of a special abbreviated period for mediation and the laying costs of the debtor are main points that the legislator should take into account for mediation in enforcement proceedings.

### Conclusions

Mediation is not the universal procedure. The use of mediation will be productive when the desire of the parties and the threat of large losses for both parties push for agreement. Mediation should give more opportunity to the parties. The right of the parties of the dispute is to seize these opportunities or not.

Legislative consolidation of mandatory mediation will be a false step. Efficiency of the protection of rights will fall. The advantage of the Russian legislation on mediation before the practice of some other countries, such as Italy and the UK, is the recognition of the principle of voluntary nature of mediation. Thus, the basis of mediation as the social phenomenon is not disturbed. The forcibly imposing of mediation is wrong. The consistent description of

the convenience of mediation is the way of "extinction" of the conflicts between members of society.

The offer of some Russian lawyers to improve the efficiency of bailiffs through the payment the percent of the debt by creditor does not correspond to the tasks of enforcement proceedings. These tasks are specified in article 2 of the Russian Law on enforcement proceedings.

Undoubtedly, mediation technology can be useful in resolving disputes at the stage of enforcement proceedings. There are disputes between business entities. Rapid debt repayment is profitable for them, even the total amount of payments is reduced. The use of mediation for the resolution of family and labor conflicts can also enhance people's confidence in the system of enforcement proceedings.

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### МЕДИАЦИЯ В ИСПОЛНИТЕЛЬНОМ ПРОИЗВОДСТВЕ: ПРИМЕНЕНИЕ В ЕВРОПЕЙСКИХ СТРАНАХ И ПЕРСПЕКТИВЫ ИСПОЛЬЗОВАНИЯ В РОССИЙСКОЙ ФЕДЕРАЦИИ

**Цель:** изучение возможности использования медиации как способа урегулирования конфликта на стадии исполнительного производства в Российской Федерации с учетом имеющегося зарубежного опыта.

**Методы:** сравнительно-правовой метод в качестве основного, также использованы формально-юридический, системно-структурный методы и метод толкования правовых норм.

**Результаты:** проведен анализ применения медиации на стадии исполнительного производства в зарубежных странах. Подтверждена объективная возможность применения медиации на стадии исполнительного производства в России. Перечислены условия для эффективного использования медиации на стадии исполнительного производства, сформулированы предложения по правовому регулированию медиации в России.

**Научная новизна:** комплексное исследование зарубежного опыта применения медиации на стадии исполнительного производства на примере государств – членов Европейского союза и Евразийского экономического союза, а также анализ российского законодательства о медиации и об исполнительном производстве позволяют оценить перспективы внедрения медиации в исполнительное производство и определить риски в ее использовании на данной стадии гражданского процесса в России.

**Практическая значимость:** основные положения и выводы статьи могут быть использованы специалистами для разработки предложений по дальнейшей корректировке государственной программы Российской Федерации «Юстиция», утвержденной Постановлением Правительства РФ № 312 от 15.04.2014.

**Ключевые слова:** гражданский процесс; медиация; альтернативное разрешение споров; исполнительное производство; судебный пристав

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