Review of the monograph of [D.L. Davydenko](http://www.rospravo.ru/info/articles/52146.html/), "Amicable Dispute Resolution in the European Legal Tradition"

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In his monograph, D.L. Davydenko, a specialist in alternative dispute resolution, LL.M. in Law, and Associate Professor of the Higher School of Economics, thoroughly analyzes the history and significance of conciliation procedures for the settlement of private conflicts in the European legal tradition.

In European law, conciliation has distinctive features as compared to other jurisdictions. In spite of the growing significance of conciliation procedures in the resolution of commercial and other disputes in Russia, the history of conciliation (amicable dispute resolution – ADR) has been scarcely studied in legal doctrine. These factors make this work all the more valuable for the reader.

In his book D.L. Davydenko continues his research of ADR, including mediation, arbitration and related procedures, this time in the European legal tradition. From a comparative studies standpoint, he traces its historical and genetic connections and parallels in different countries and periods. The author shows the role and place of conciliation procedures in civil and common law, their correlation with state justice and the significance for the development of civilization.

The main focus of the research is on western European countries. The author explores the origin and development of extrajudicial resolution of conflicts, in particular with the involvement of neutral third parties, from the times of primitive society to events taking place in 2013 (when the monograph was finished).

The first chapter is of a general methodological nature. The author creatively analyzes the existing approaches to the basic notions used in the book as reflected in the literature: in the first instance, to conciliation procedures and alternative dispute resolution, and their correlation with the notion of “amicable agreement”.

The second chapter deals with the appearance and development of the idea and practice of amicable settlement of conflicts in primitive societies still existing today in various parts of the globe. Similarly to the famous researcher E. Anners, he offers a hypothesis for a key role of conciliatory negotiations and agreement in the appearance of the law and demonstrates that the ideas, formed in human society in primeval times, still remain the cornerstone of ADR techniques in modern law and practice.

The next chapter is about conciliation procedures, chiefly in Ancient Greece. Readers are told about the approaches to resolution of conflicts in Greek mythology, about the input of the ancient philosophers into the ideology of amicable settlement of conflicts involving neutral third parties (its modern analogues being amalgamation of mediation and arbitration). Such procedures combined a “dialogue” and, where it was unsuccessful, a “crisis” (an arbitral award). By this reference the author specifically stresses the conciliatory function which has always been peculiar to arbitration proceedings from the earliest times.

In the fourth chapter Dr. Davydenko concentrates on the practice of dispute resolution in Roman law. As early as in the Archaic period, Roman law established that an amicable settlement between an offender and an injured party was an exception to the effect of the *talio* principle. The author stresses that the legal system of Ancient Rome encouraged the reconciliation of the contestants and disapproved of unjustified (frivolous) claims and court proceedings.

Chapter five portrays the law and practice of extrajudicial resolution of disputes in Europe in the Middle Ages when the law ceased to be mostly a tool for restoration of consensus in society and started ensuring punishment for violation of public policy. At the same time, in the Middle Ages, an individual, and not social groups (as was often the case in the preceding historical periods), became a member of the disputes. The author deems it the basis for the formation of the modern concept and methodology of conciliation procedures, including mediation.

The sixth and seventh chapters cover the practice of conciliation procedures in industrial and post-industrial Europe. Given the increasing complexity of private disputes, state courts realized that it was necessary to encourage the parties to reach amicable agreements. Thus in the early 20th century extrajudicial procedures of dispute resolution were institutionalized.

During the post-industrial period conciliation procedures, including mediation, reached a completely new level. The author gives reasons for the formation of a new concept of interaction between the law, the state and conciliation procedures (encouragement of consensual settlement of disputes as a crucial function of the court and other bodies and dispute resolution institutions) and offers a thesis on the principal characteristics of European legal systems and importance for their steadiness, which he formulates as *favor conciliationis* or *favor paci* (a legal principle encouraging amicable settlement between the parties in dispute).

Therefore, the book studies the tendencies, contradictions and prospects of the development of the legal regulation of ADR procedures through research into European civilization in the course of its historical evolution. As a result, the author crystallizes a concept of the legal principle *favor conciliationis* — a principle encouraging amicable settlement between the contestants.

The reviewed book is interesting by virtue of the author’s interdisciplinary approach and analysis of a vast array of foreign and Russian academic and other sources. Readers from different backgrounds – lawyers, mediators with various professions and persons interested in this sphere – will learn a lot of new things and find numerous and notable historical examples of dispute resolution.