

Bulycheva Nataliia,

Candidate of Juridical Sciences,
Docent, associate professor of the
Department of the Public International
Law of the Kyiv National University of
Trade and Economics, Kyiv, Ukraine
ORCID ID 0000-0002-7902-6646

Bulychev Andrii,

Candidate of Juridical Sciences, Head
of the Department of the Research Lab
of the State Research Institute MIA
Ukraine, Kyiv, Ukraine
ORCID ID 0000-0003-2734-7066

Dolia Liudmyla,

Candidate of Juridical Sciences, Senior
Researcher, Head of the Department of
the Research Lab of the State Research
Institute MIA Ukraine, Kyiv, Ukraine
ORCID ID 0000-0001-8491-0535

**DEVELOPMENT OF INTERNATIONAL COOPERATION OF UKRAINE IN
THE FIELD OF MEDIATION**

Paper studies the nature and benefits of using the mediation procedure in the settlement of commercial disputes in international trade. Due to the fact that the concept of "mediation" is relatively new in the domestic economic and legal relations, attention is drawn to the principles of international legal regulation of the mediation procedure, practical experience of its application in developed countries. The urgency

of introducing such a legal institution as mediation is justified by the need to create opportunities for the development of alternative (extrajudicial) ways of resolving disputes. The state should promote the development of non-state institutions such as arbitration courts, mediators, etc., which help to settle the dispute without bringing it to court.

The purpose of the paper is to reveal the conditions, which serve to develop the mediation procedure in domestic legal practice, as well as to characterize the ways, in which the basic principles of the implementation of this alternative (extrajudicial) way of resolving disputes can be fixed. The object of the study is the procedural legal relationships that arise, develop and terminate during the preparation and conduct of mediation. The methodological basis of the study were general scientific and special legal methods of cognition.

As a result of the research, based on the analysis of international legal documents, foreign practice, the Constitution of Ukraine, strategic documents of judicial reform, judiciary and related legal institutions in Ukraine, proposals covered in scientific publications, the need of laying the foundations of quality, effectiveness and confidentiality of mediation, ensuring its connection with litigation, is substantiated. It is argued, that the introduction of a mediation institution will serve the formation of the principles of restitutionary justice, which is based on the so-called “win-win” concept, where not only punishment, but reconciliation of parties occurs, which not only benefits both parties but also destroys economic ties. Foreign practice of formation and development of legal regulation of mediation procedure is analyzed, some specific issues of its implementation are carried out, including, in particular, determination of the mediator's legal status, requirements for the candidate and basic principles of activity, use of mediation both at the stage of pre-trial dispute settlement and during court proceedings, the role of the courts in the implementation of the agreement reached in the context of mediation, etc. Modern approaches to the implementation of mediation and other alternative (extrajudicial) dispute resolution procedures have been highlighted in the national legislation, and the position of systematic adoption of separate laws regarding different types of alternative

(extrajudicial) dispute resolution methods has been stated as the most acceptable for Ukraine.

Keywords: mediation, commercial disputes, alternative (out-of-court) dispute resolution, arbitration, mediation, party reconciliation, implementation.

REFERENCES

1. *Mazaraki N.* (2019) Singapurska konventsia: teoretyko-pravovyi analiz. “Singapore Convention: Theoretical and Legal Analysis. Foreign Trade: Economics, Finance, Law” 1, P. 26–34 [in Ukrainian].
2. *Demkiv R.Ya.* (2017) Mediacya yak suchasnyi sposib vyrishennia yurydychnykh sporiv u tsyvilnomu procesi Ukrainy. “Mediation as a Modern Way of Resolving Legal Disputes in the Civil Process of Ukraine”. *Comparative and Analytical Law* 1, P. 58–60 [in Ukrainian].
3. *Yeriomenko H.* Mediacya yak sposib vyrishennia superechok. “Mediation as a Modern Way of Resolving Legal Disputes in the Civil Process of Ukraine”. URL: http://www.training.com.ua/live/interview/Mediatsiya_yak_sposib_virishennya_superechok (date of application: 20.10.19) [in Ukrainian].
4. *Nesyнова S.V.* (2017) Instytut mediatsii yak suchasnyi pravovyi instytut efektyvnoho pozasudovoho vrehuliuvannia hospodarskykh sporiv. “Mediation Institution as a Modern Legal Institution of Effective Out-of-Court Settlement of Economic Disputes”. *Electronic Scientific Professional Edition «Comparative Analytical Law»* 5. URL: http://www.pap.in.ua/5_2017/44.pdf. (date of application: 20.10.19) [in Ukrainian].
5. *Tisnohuz B.* Mediatsiia – odyń z alternatyvnykh metodiv vyrishennia sporiv. “Mediation as One of the Alternative Methods of Dispute Resolution”. URL: <http://legalweekly.com.ua/index.php?id=16061&show=news&newsid=122934> (date of application: 20.10.19) [in Ukrainian].
6. *Filonenko S.* (2010) Ukrainsko-nimetszka perspektyva mediatsii: dopomohty znaity shliaks do prymyrennia. “Ukrainian-German Mediation

Perspective: Helping Find the Way to Reconciliation”. *Viche: Theoretical and Social and Political Journal* 23, P. 14–15 [in Ukrainian].

7. *Tsereteli L.* Mediatsiia yak alternatyvne vyrishennia podatkovykh sporiv *Visnyk. Ofitsiino pro podatky*. “Mediation as an Alternative Solution of Tax Disputes”. *Bulletin. Officially about Taxes*. URL: <http://www.visnuk.com.ua/ua/news/id/3283>. – 25.08.2016 (date of application: 20.10.19) [in Ukrainian].

8. *Yakovliev V.V.* (2018) Prysudova ta pozasudova mediatsiia: osnovni oznaky. “Trial and Extrajudicial Mediation: Main Features. Collection of scientific works of KhNPU named after H.S Skovoroda "Law". No 26. URL: <http://journals.hnpu.edu.ua/index.php/law/article/view/56> [in Ukrainian].

9. *Lyubchenko Ya.P.* (2018) Alternatyvni sposoby vyrishennia pravovykh sporiv: teoretyko-pravovyi aspekt. “Alternative Ways to Resolve Legal Disputes: Theoretical and Legal Aspect”: thesis ... Ph.D. (Law). Kharkiv, 2018. 249 p. [in Ukrainian].

10. Vidnosno deyakykh aspektiv mediatsiyi v tsyvilnykh ta komercijnykh sporakh: Dyrektyva 2008/52/YeS Yevropejskogo parlamentu ta Rady vid 21 travnya 2008 roku. “Concerning Certain Aspects of Mediation in Civil and Commercial Cases”: Directive 2008/52 / EC of the European Parliament and of the Council of 21 May 2008. URL: <https://ukrmediation.com.ua/images/DOCS/Model-documents/mediation-directive-ukr.pdf> (date of application: 20.10.19) [in Ukrainian].