THE WIN-WIN PHILOSOPHY OR THE INSTITUTION OF JUDICIAL MEDIATION IN UKRAINE AND THE WORLD

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Introduction

The win-win philosophy reflects the ideology of mutual benefits, the satisfaction of mutual interests, and the conclusion of strategic alliances that is inherent to the mediation institution.

Efforts are being made to provide the legislative regulation of mediation in Ukraine.

The author's position is in the need for a comprehensive study of judicial mediation under the judicial reform implementation in Ukraine and the development of the conceptual standpoints of "natural imbedding" of this institution in the national legal system.

Thus, in 2015 alone, four draft laws on mediation were registered in the Verkhovna Rada of Ukraine. At the same, three procedural codes, providing for the establishment of the institution of judicial mediation, were developed in Ukraine. It is understood that any mediation model, especially mediation in the judicial process, shall be prepared in a proper manner and with due care, otherwise there is a risk of negating the image of mediation, and failure to live up to the citizens' expectations, accordingly, irreparable harm may be inflicted on the whole process of the mediation implementation in Ukraine.

In most cases, we are aware of the win-win philosophy of mutual benefit as the satisfaction of mutual interests, the commitment and conclusion of strategic alliances. Most people know nothing of the possibility to introduce this institution to the legal branch, or the provision of the superficial information results in the appearance of some proponents of this theory or its vociferous opponents.

The win-win philosophy or the institution of judicial mediation in Ukraine and the world

In the national legal framework mediation as a phenomenon has not only a close relationship with win-win, but the common essence. Indeed, *mediation* is the procedure for the dispute settlement through negotiations between the parties to dispute with the help of one or more neutral intermediaries (mediators),

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which is recognized by best practice. Mediation is part of the alternative dispute resolution system.

The applied methodology in this research is in accordance with the subject and consists mailnly of comparative analyze.

Ukraine has declared the European integration path of its development, and is rapidly approaching the standards of the European Union and the world. The alternative methods of dispute resolution are part of the global experience in resolving disputes. For example, 90 percent of disputes are solved through mediation in the United States. The process of the legislative enshrinement of mediation in European countries has taken a quantum leap since the entry into force of the EU Directive 2008/52, and is ongoing until now. For now, the national acts on mediation have been adopted in more than 20 countries, particularly in Germany, Italy, Sweden, Switzerland, Poland and many others.

Having regard to Resolution No. 1 concerning the administration of justice in the twenty-first century, adopted by the European Ministers of Justice at their 23rd Conference (London, June 8-9, 2000), and especially the call of the European Ministers of Justice to the Committee of Ministers of the Council of Europe for the development, particularly in cooperation with the European Union, of the program of actions aimed at wider application of the out-of-court dispute resolution methods as applicable, the following international standards of mediation have been developed, and are in force: Recommendation No. R (81)7 of the Committee of Ministers of the Council of Europe to member states on measures facilitating access to justice dated May 14, 1981, Recommendation REC (98) 1E of the Committee of Ministers to the member states of the Council of Europe on family mediation dated January 21, 1998, Recommendation REC (2001) 9 of the Committee of Ministers to the member states of the Council of Europe on alternatives to litigation between administrative authorities and private parties (administrative cases) dated September 05, 2001, Recommendation REC (2002) 10 of the Committee of Ministers to the member states of the Council of Europe on mediation in civil cases dated September 18, 2002, Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law (UNCITRAL), 2002 etc.

Among the above international regulatory legal acts, special mentions should go to the provisions of Recommendation No. R (81)7 of the Committee of Ministers of the Council of Europe to member states on measures facilitating access to justice, which provide for special procedures. Recommendation REC(2002) 10 of the Committee of Ministers to the member states of the Council of Europe dated September 18, 2002 (hereinafter – Recommendation REC(2002)10), particularly, emphasizes the need to develop the dispute resolution means alternative to judicial decisions, and contains the assertion that it is advisable to have the provisions that would provide for guarantees when using such means. The alternative procedure

for the administration of justice in the form of mediation in Recommendation REC (2002)10 is one of the "dispute resolution methods" provided for by "the peculiarities of each system of the administration of justice".

It is known that the mediation services may be provided to resolve any dispute and even if the case for dispute resolution is in court, as mediation may be applied in the pre-trial dispute resolution procedure, during or instead of litigation, after dispute settlement in court. Mediation is conducted by a mediator, the specially trained neutral and independent intermediary, who, adhering to certain procedures, provides the parties to dispute with assistance in its settlement, arranges and conducts mediation. The mediator shall be responsible for the following: the negotiation process management; the conflict analysis, the identification of the parties' interests and needs; work with emotions, actionable feedback; stydy of new aspects of the relations and dispute resolution options; verification of the reality of desires and the agreement performance; provision of assistance to parties in assuming responsibility for a decision.

The international practice provides for the principles of mediation. Considering the European integration policy of Ukraine and having regard to the importance and thoroughness of the above principles, we believe that they have an immanent character in relation to the national law, and should be implemented in the Ukrainian labour dispute resolution system. In particular, the provisions of Recommendation Rec (2002) 10 of the Committee of Ministers to the member states of the Council of Europe on mediation in civil cases contain the observation for the member states regarding the gradual implementation of the Guiding Principles of Mediation in Civil Cases: *independence and impartiality of mediator*, *equality of parties, confidentiality*. The European Code of Conduct for Mediators provides for such principles as *competence of mediator, independence and impartiality of mediator, fairness, confidentiality* [1]. Furthermore, the generally recognized principles of international law in private relations are the principle of *universal respect for human rights* and the principle of *faithful fulfillment of obligations (pacta sunt servanda*) [2].

In Ukraine, the National Association of Mediators of Ukraine (NAMU) highlights the three main principles of mediation: *voluntary participation, confidentiality and neutrality, impartiality, independence of mediator.* Let us discuss these principles in more detail.

The first principle of this group is the principle of *voluntary participation in extrajudicial proceeding.* This principle provides for exceptionally voluntary nature of the participation of parties in the conciliation procedures. In formal terms, the principle of voluntary participation involves the conclusion of a special agreement on the dispute resolution procedure. This principle is a kind of factor of the harmonization of judicial and extrajudicial resolution of the disputes for

rights. This is because extrajudicial procedure may be carried out only voluntarily, on the basis of the concluded agreement.

Interestingly, the report of the Ministry of Justice of England and Wales contains one of the conclusions made on the basis of the results of the experiment in implementing two different programs of judicial mediation (mandatory and voluntary) that mandatory mediation is less effective than voluntary [3].

The second principle deserving our attention is the principle of *confidentiality*. The above principle has been enshrined in Recommendation Rec (2002) 10 of the Committee of Ministers to the member states of the Council of Europe on mediation in civil cases containing the observation for the member states regarding the gradual implementation of the Guiding Principles of Mediation in Civil Cases, the European Code of Conduct for Mediators and UNCITRAL Legal Guides [4], many national laws of foreign countries. As noted in the Green Book [5], confidentiality is a key factor of success of the alternative dispute resolution due to the fact that this principle ensures openness in communication between parties during the procedures.

As noted by E. I. Nosyreva in the study of alternative dispute resolution in the United States, the Uniform Mediation Act of the United States is almost entirely devoted to the rules of confidentiality during mediation [6].

The third principle *is the principle of dispute resolution on the basis of independence and impartiality of mediators*. The European Code of Conduct for Mediators [7] provides for a distinction between neutrality (independence) and impartiality. According to article 2.1. of the above Code, the mediator must not act, or, having started to do so, continue to act, before having disclosed any circumstances that may, or may be seen to, affect his or her independence or conflict of interests. According to the Code, such circumstances shall include any personal or business relationship of the mediator with one of the parties, any financial or other interest, direct or indirect, in the outcome of the mediation, or the mediator, or a member of his or her firm, having acted in any capacity other than mediator for one of the parties. Determining impartiality of the mediator, Article 2.2 obliges him or her to act, and to endeavor to be seen to act, with impartiality towards the parties and be committed to serve all parties equally with respect to the process of mediation. Additionally, we are of the opinion that this group of the principles should include competence of the mediator, because the mediator, except that he or she shall adhere to independence and impartiality in resolving a dispute, (while trying to maintain the equal partnership relations with both parties to the dispute and avoiding any dependence on them) must have sufficient competence (have knowledge, experience, and undergo appropriate training).

Ukraine is a young country as to the implementation of mediation procedures, however, over several decades it has managed to gain the required experience in

implementing the institution of mediation on the legislative level. According to the data of the National Association of Mediators of Ukraine (NAMU), mediation in Ukraine has been implemented since the nineties, and includes the experience of more than 50 projects in various fields. More than 2,500 mediators have been trained, more than 20 centers have been created, the pattern of interaction with government agencies – local authorities, courts, police, prosecutor's office, social services, educational institutions, commercial, public, and even religious organizations has been officially approved. In particular, for the period 2014-2016, 16 courts of the civil and administrative jurisdiction have been involved in various programs in Volyn, Ivano-Frankivsk and Kyiv Regions [8]. These programs have provided for involving both independent mediators and professional judges in the conciliation of the parties. All programs have shown a positive dynamics in the dispute resolution and the conclusion of amicable agreements. The experience gained has been enshrined in the legislative initiative.

Thus, in 2015 alone, four draft laws on mediation were registered in the Verkhovna Rada of Ukraine. In relation to the last two draft laws, on May 17, 2016, the Verkhovna Rada Committee on Legal Policy and Justice adopted the decision on recommending that the draft law No.3665 be taken as a basis, and all reasonable provisions of the draft law No. 3665-1 be considered. Both draft laws provide for the introduction of mediation to the legal field as a separate institution, which may be used to solve all types of disputes, define the basic requirements for training mediators, the fundamental principles of mediation and guidelines for professional regulation. The Ordinance of the Cabinet of Ministers No. 1406-r "On approval of the Action Plan on implementation of the best practices of quality and effective regulation as reflected in the World Bank Group's methodology of the "Doing Business" 2016 ranking" dated December 16, 2015, provides for "regulating the mechanism of mediation and creating the opportunity to refund court fees in case of successful mediation" through "the development of draft Law of Ukraine "On Mediation" and its submission to the Cabinet of Ministers of Ukraine for consideration" by the end of 2016 [9].

At the same time, the procedure codes were developed under the announced judicial reform in Ukraine. Recently, the Chairman of the High Council of Justice has noted that " the judicial reform being implemented in Ukraine includes both legislative amendments and the measures aimed at the practical implementation of legislative innovations, the "reset" of the structure and principles of the organisation of the justice system" [10]. It should be noted that the High Council of Justice has introduced the three draft procedure codes of Ukraine: *the Civil Procedure Code, Criminal Procedure Code and Economic Procedure Code*. The Chapter Four in all three draft procedure codes is entitled *"Dispute Settlement with Participation of the Judge*". This means that instead of adopting a special law on imbedding the institution of mediation in the Ukrainian legal system, it has

been decided to proceed with the formation of ***judicial mediation***. This approach involves the development of mediation under the civil process that makes it part of the civil, criminal, economic processes (in the context of alternative resolution of private-law disputes), but not a component of substantive law.

The above decision has its drawbacks, because it generates the deficit of the in-depth substantive rules of internal regulation, but contributes to the accumulation of legal practice and its generalization in the future, the standards of mediation law enforcement in resolving a dispute in court. In addition, this approach emphasizes the importance of court in the context of avoiding abuse in this sphere.

Unfortunately, the "mutual interaction" of the legislative initiative of the developers of the draft procedure codes and special law on mediation has not occurred in Ukraine. After all, the experience gained and legislative initiative, through their combination, could offer a more balanced result of a beneficial action.

All in all, the prospects of judicial mediation as the alternative method of dispute resolution should be welcomed. There is all the more reason for this as the global experience works in favor of the alternative means of dispute resolution, as mentioned above. Obviously, Ukraine has followed suit of Georgia, where the Civil Procedure Code is supplemented with article 22 "Judicial Mediation", which regulates the categories of cases, terms, decisions adopted by results of mediation.

Undoubtedly, this is a step towards the judicial process humanization, but some points of the draft procedure codes of Ukraine are the matter of considerable debate and warning even now. In particular, we are talking about the settlement of disputes (civil, criminal, economic) with participation of the judge who administers justice in a dispute. For example, according to the content of articles 202-203 of the Draft Civil Procedure Code of Ukraine (hereinafter - the Draft CPC), the dispute settlement with participation of the judge is carried out by consent of the parties prior to the consideration of a case on the merits. Dispute settlement with participation of the judge is not permitted, if any third party, asserting independent claims concerning the subject-matter of a dispute, intervenes in the court case. The court makes the order on the procedure of dispute settlement with participation of the judge, by which simultaneously suspends the proceedings. In case of the parties' failure to settle dispute in an amicable manner, the dispute resettlement with participation of the judge is not permitted on the results of the dispute settlement.

This approach raises concerns first of all among judges, as the procedure codes provide for only five articles regulating this procedure. Therefore, imperfection of the procedural regulation of the conciliation of parties with participation of the judge is exacerbated by the fact that the judge (especially during the current reform period and hardship) has low confidence in the procedure of personal

participation in the conciliation of parties outside the court process (because the court makes the order, by which simultaneously suspends the proceedings). Thus, there is a dual status of judge-mediator. The proposed procedure lacks the experience in performing the functions of mediator (which is different from the mission usual for the judge), as well as guarantees for the judge, if the parties have not reached an agreement, and one party is not satisfied with the result of the judge's activities. Perhaps, the involvement of another judge, or, more appropriate, *the involvement of a professional mediator* would be more reasonable for this stage of the process.

The experience of Georgia, which, as already mentioned, has implemented the institution of judicial mediation in the national legal system, is extremely valuable in this context [11]. Let us focus on the provisions of this Chapter in more detail. According to the general provisions on the enforcement of these rules, the claims subject to mediation after the institution of proceedings in the court by agreement of the parties may be referred to the mediator (an individual or a legal entity) by the court order. The order to refer a case to the mediator is final and not subject to appeal. At the same time, the court shall issue a ruling on the suspension of the proceedings prior to expiry of the period stipulated by law for the exercise of judicial mediation. Either party may make a motion for the case non-referral to the mediator that entails the resumption of the proceedings according to the general rule.

Among other innovations of the Civil Procedure Code of Georgia, which deserve attention given the context of our study, we should mention the following. According to the content of the Civil Civil Procedure Code of Georgia, the disputes subject to mediation include: 1. Family property disputes, except for disputes concerning the adoption involving the deprivation or restriction of parental rights, the recognition of adoption illegal; 2. Disputes of hereditary nature; 3. Disputes between neighbors; 4. Any private-law disputes by agreement of the parties. By the way, according to the Georgian legislation, in general legal disputes, a dispute may be referred for mediation at any stage of its consideration.

The mediator challenge is permitted by the general rules of judge rejection. This is possible, if the mediator: 1. is a party to the case, or he or she has the general obligations or rights to any party; 2. has previously participated in the dispute consideration as a witness, expert, specialist, translator of the representative of the party to a dispute or as a secretary of the court session; 3. is a relative of the party to a dispute or his or her representative; 4. has directly or indirectly a concern in the case, or there is other reasonable information regarding his or her impartiality. The term of judicial mediation is 45 calendar days. If necessary, this period may be extended for another 45 days by agreement of the parties.

The parties shall appear in the place and time specified by the mediator to participate in the judicial mediation process. In case of failure of the party to

a dispute to appear without legitimate excuse, it shall bear all legal costs and pay a penalty in the amount of approximately 150 US dollars. However, if the mediation results in signing an agreement, the party concerned shall be exempted from any penalties, and the costs between the parties shall be distributed in a standard way. If the judicial mediation results in signing a joint agreement within the prescribed period, the court shall issue a ruling on the case resumption and the approval of the petition of the party (parties) concerned on approval of the agreement of the parties. This agreement is final and not subject to appeal. If the parties have not reached an agreement within the prescribed statutory period, the plaintiff may continue the proceedings in court according to the rules of action proceedings.

It should be noted that the judicial mediation in Georgia provides for other rules of the reimbursement of court costs, stipulated by the ordinary action proceedings. In particular, one percent of the amount of the claim, instead of the usual three percent, is paid in disputes subject to judicial mediation, when filing a claim. If under the mediation procedure the dispute results in the parties's failure to reach an agreement, the plaintiff shall pay additional 2% of the amount claimed to the sum in dispute in order to continue the proceedings. In case when the court fee has been paid in full (3% of the amount claimed) and provided that the process of judicial mediation is successful, 70% of the paid amount of the court fee shall be returned to the plaintiff.

The important position of judicial mediation is the provision on confidentiality. The mediator may not disclose the information obtained during the performance of the obligations, unless otherwise provided for by the parties to a dispute. The court is limited in the right to summon the judicial mediator for questioning as a witness in relation to the circumstances becoming known during the execution of the duties as the mediator. The document declared during the judicial mediation may not be accepted as a proof, unless otherwise provided for by agreement of the parties. The above restriction is not applied to the information (documentation) which has been previously filed with the court, or if the party, subject to the confidentiality obligation, has had the opportunity to obtain and submit to the court the specified document (information) in a lawful way that does not contradict the established procedure for the presentation of evidence.

The court may, independently or at the request of the parties, cancel the interim remedies, unless, within ten days from the date of the judicial mediation completion, the plaintiff fails to lodge a new claim with the court regarding the same subject-matter of the dispute according to the standard procedure. The purpose of this rule is to maintain the existing arrangements, including the provisional measures on the first stage even after the formal completion of the dispute consideration procedure. The above restriction serves as a guarantee for voluntary performance of the agreed items by the party concerned.

Among other powers of the court we should mention the following. At any stage of the litigation proceedings the court makes every effort and contributes to the dispute completion by agreement, including the proposal for the parties to refer the dispute to the mediator. The law delegates the maximum powers to the judges in terms of providing the parties with assistance in the conclusion of an amicable agreement. Thus, according to article 218 of the Civil Civil Procedure Code of Georgia, the court shall, by using all possible means, contribute and take all the measures prescribed by law to settle amicably any dispute. For this purpose, the court shall be entitled, on its own initiative or at the request of the parties to dispute, to put off the proceedings, to declare an extraordinary break, or to hear the parties or their representatives without the presence of third persons, including a secretary of the judicial session. The court shall be entitled to indicate the possible outcomes, prospects for the dispute resolution in general terms or to offer the specific terms and conditions of the agreement to the parties.

The positive experience of Georgia enables to make the conclusion that the judicial mediation procedure in Ukraine, proposed in the draft procedure codes, may be supplemented with the additional opportunity to resolve a dispute, that is to involve a professional mediator.

Mediation is increasingly referred to effective dispute resolution (EDR) than alternative dispute resolution (ADR). The effectiveness of mediation has been proved not only by research, but also in practice, therefore, it is becoming increasingly common in the world. For example, the EU member states shall comply with the Directive of the European Parliament "On Certain Aspects of Mediation in Civil and Commercial Matters" dated May 21, 2008 and report on its application. Ukraine as a member of the Council of Europe also has the liabilities regarding the mediation application.

Each state, which has chosen to implement mediation, decides on its own what mediation model will best meet its legal system and cultural traditions. In particular, we are talking about the mandatory procedure of mediation for disputing parties. The principle of voluntariness may be determined from the moment of the mediation initiation – by the decision of the parties, recommendations of the judge or the requirement for mandatory recourse to mediation in respect of certain categories of disputes (e.g., family disputes), but remains regarding the possibility to terminate the participation in the mediation process at any time.

During 2015 and 2016, under the project "Support to the Practical Implementation of Mediation in Ukraine and the Establishment of Cooperation with the Judiciary", implemented with the support of the American people through the United States Agency for International Development (USAID) under the project "Fair Justice", a series of expert meetings and round tables were held with the representatives of different institutions interested in the development of mediation. Mediators, lawyers, judges, professors and students of the law

schools, the representatives of social services and other professionals participated in those events. These discussions have been resulted in the development of the Recommendations [12] on the legislative regulation of mediation in Ukraine.

1.1. *Consideration of the international standards*. The legislation in the field of mediation should be based on the provisions of the international acts of advisory nature, particularly, on the provisions of the UNCITRAL Model Law on international conciliation procedure of 2004, the EU Directive "On Certain Aspects of Mediation in Civil and Commercial Matter" of 2008, the documents of the Council of Europe, as well as the foreign and national experience in the implementation of mediation.

1.2. *Natural imbedding of mediation in the existing legal system* that will not change the existing legal institutions as mediation in the judicial process and may be used as one of the options of the pre-trial, extrajudicial procedure for dispute settlement or as a form of the conciliation between the parties in the judicial proceedings subject to the so-called "limited integration" of mediation in the system of court proceedings. In the long term, the above mentioned aspect will also facilitate the constitutional reform implementation in terms of justice, revealing the constitutional provision on the pretrial dispute settlement.

1.3. *Framework character of the law*. Mediation as a legal institution has not been developed and well-established in Ukraine. It is important to remember that every state has formed its own mediation model. Given the need to give space for the development and formation of the mediation model adapted to Ukraine, the volume and nature of the rules of law should be of a framework nature, that is, the law should be confined to the provisions that would provide for the opportunity to lanch the market mechanisms of this institution regulation in Ukraine.

1.4. *The principle of the legislation smooth progress*– from general to branch. In all developed foreign countries the time lag between the first mentioning of the term "mediation" in the general regulatory act and the adoption of the special regulatory acts providing, for example, for various schemes of mediation in the courts, was at least ten years. Mediation in Ukraine is a rather young and underdeveloped institution, and requires time for its natural development, therefore, a gradual approach and some reasonableness are required in the legislative initiatives.

1.5. *The principle of pre-testing and piloting of special, branch and judicial mediation*. In all the EU countries the judicial mediation scheme was introduced after thorough pilot studies and experiments conducted in individual courts. For the effective operation of any schemes of mandatory mediation in litigation it is essential to involve a lot of equally well trained and experienced mediators who have to work in all, even geographically distant, courts of Ukraine, subject to the provided funding of the payment of mediators and administrative judicial personnel, the provision of free legal assistance in the mediation process for low-

income persons, the development of the mechanisms of monitoring the activity of the mediators in the courts etc., otherwise it may cause irreparable harm to the image of mediation and the process of its implementation

Finally, pilot projects will enable to identify the categories of cases where the application of mediation leads to better outcomes, to reveal the citizens' perception of mediation, to establish information and coordinating cooperation between courts and mediation community. The regulation of the pilot project implementation at the legislative level is considered irrelevant, but the above perspective is important for understanding the entire vision of introducing mediation in Ukraine.

1.6. *The principle of combining the legislative regulation with efforts to promote mediation.* Any mediation model, especially mandatory mediation in litigation, may relieve the court system, but only formally, because the introduction of such models in the absence of the citizens' habits to resolve their disputes on their own and responsibly may result in a risk of negating the image of mediation, and failure to live up to the citizens' expectations, accordingly, irreparable harm on the whole process of the mediation implementation in Ukraine. Ukraine actually requires a Law on mediation to perform the following functions: *to implement mediation in the legal field and to ensure the recognition of mediation among the citizens; to provide protection from corruption charge for any state officials, the representatives of the judiciary who use mediation or encourage the parties to use mediation in resolving administrative or other types of disputes; to protect the mediator by banning to call him or her in question as a witness; to provide uniform understanding of confidentiality in mediation; to contribute to the establishment of the profession of mediator and the market development of mediation.*

Conclusion

Mediation is not called the heart of the alternative dispute resolution system, which has proved its effectiveness for both parties to a particular dispute and society in general in many states for nothing.

At present, the attempts to introduce the alternative dispute resolution institution are already observed in the Ukrainian legal arena. In particular, in Ukraine there is the judicial reform, providing for the implementation of the institution of judicial mediation in the national legal system, and several draft laws on mediation have been developed. However, unfortunately, the joining of the efforts at the level of legislative initiatives regarding the harmonization of the draft laws on mediation and procedural acts has not occurred. From our point of view, it is considered appropriate to include the section "Judicial Mediation" in the framework law on mediation, and the possibility to involve professional

mediators in the Ukrainian draft procedure codes. The consolidation of legislative initiative may have a positive effect on the development of the Ukrainian legal system as a whole. Ukraine has accumulated enough potential, human resources for the implementation of the extrajudicial dispute settlement system based on consent of the parties, but requires a legislative impetus for the development of a comprehensive system of alternative dispute resolution that will enable to achieve the goals of judicial reform.

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THE WIN-WIN PHILOSOPHY OR THE INSTITUTION OF JUDICIAL MEDIATION IN UKRAINE AND THE WORLD

Svitlana Zapara

Abstract

The win-win philosophy reflects the ideology of mutual benefits, the satisfaction of mutual interests, and the conclusion of strategic alliances that is inherent to the mediation institution.
Efforts are being made to provide the legislative regulation of mediation in Ukraine.
The author's position is in the need for a comprehensive study of judicial mediation under the judicial reform implementation in Ukraine and the development of the conceptual standpoints of "natural imbedding" of this institution in the national legal system.

Key words: mediation, judicial mediation, judicial reform.

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