



RJRCs Newsletter No.4, January 2022



PRAVO-JUSTICE

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Dear friends,

Please see the newsletter about the activities of Regional Justice Reform Councils (RJRCs).

RJRCs have been established with the support of the EU Project Pravo-Justice and bring together representatives of various legal professions in Chernivtsi, Dnipro, Kharkiv, Lviv, Odesa regions and in Donbas. RJRCs are permanent working groups to promote bottom-up reforms by bringing region-specific challenges and potential solutions to the central government's level.

IMPLEMENTATION OF THE LAW ON MEDIATION



On December 9, the EU Project Pravo-Justice held a press breakfast “The Law on Mediation adopted. How to implement it effectively?” In the course of the event, representatives of the Ministry of Justice of Ukraine, the Parliament, Donbas and Odesa RJRCs, mediation community, legal and judiciary communities, EU Project experts together with legal and business media journalists discussed major provisions of the law adopted in November as well as requisite steps for its successful implementation. [Read more.](#)

“We thank all those who have exerted major intellectual, political and other efforts to have the Law on Mediation adopted. Along with other donors, the Project has provided technical

assistance and facilitated drafting respective bill. We will continue supporting the introduction and promotion of mediation so that people get to know about this dispute resolution option. Moreover, we will share best practices in this area. We will make every effort to make mediation work as an effective dispute resolution tool in Ukraine,” said Eric Svanidze, Acting Team Leader of the EU Project Pravo-Justice.

“Mediation is an alternative way to resolve issues and not let them escalate into conflict as a result of which one party will always be dissatisfied with a court decision. Introducing mediation in Ukraine is about finding common ground and reducing conflicts in society. The main thing is that people start taking responsibility for their lives, and mediators will help them in this,” emphasized Andrii Kostin, Chair of the Parliamentary Committee on Legal Policy.

“The crucial task of all legal institutions is to build the rule of law. We should not determine who is more important. We need to focus on goals together. I have no doubt that an independent judiciary providing effective protection will only help make mediation market and this law work,” mentioned Kostiantyn Kharakoz, judge-speaker of the Commercial Court of Donetsk Region, Member of Donbas RJRC.

“Mediation must be a team effort. The court, the mediator, the lawyer and the prosecutor must work together. It has to do with both pre-trial investigation and court proceedings, especially in first instance courts, so that at this level we can use the mediation procedure as much as possible and close the proceedings,” said Nadiia Stefaniv, judge of the Criminal Cassation Court in the Supreme Court.

HOW TO DRAFT A CLEAR COURT DECISION



On December 16, RJRC launched “90 Minutes on Law” — a new format of communication with interesting and reputable representatives of the legal profession at the central level to discuss current issues in law and justice reform.

At the first meeting, we talked about how to draft a clear court decision with Olena Kibenko, judge of the Joint Chamber of the Commercial Cassation Court. The meeting was moderated by Roman Chumak, lawyer, managing partner of Ares Law Firm, Kharkiv RJRC coordinator.

Here you can watch the [video recording of the session](#).

To learn the main points of the discussion, go to [the Supreme Court website](#).

MEDIATION IN PRIVATE AND PUBLIC DISPUTES



On November 30, Dnipro State University of Internal Affairs hosted an international scientific and practical conference “Mediation as a way to resolve private and public law disputes”. Dnipro RJRC was one of the co-organizers of the event. [Read more](#).

“The adoption of the Law on mediation has raised many issues: what are the further steps, how to implement it effectively? The EU Project Pravo-Justice will actively support the development of mediation in Ukraine. One of such priority tasks is to draft article-by-article information and explanatory commentary on the Law so that lawyers and citizens understand its rationale and apply it properly,” said Oksana Tsymbirivska, Key National Expert of the EU Project Pravo-Justice, Justice Sector Policy and Coordination Component.

“Given the specific nature of authorities’ functions, it is possible to introduce a court-annexed or court model of mediation in administrative disputes. Persons having additional competence in law and who understand how authorities function, or a judge-mediator to whom such a case is to be referred should be involved in the procedure,” emphasized Andrii Ryshchenko, judge of Dnipropetrovsk District Administrative Court, Coordinator of Dnipro RJRC.

“To merely adopt the law on mediation is not enough to truly decrease cases backlog in the judiciary. We need comprehensive changes and a huge awareness-raising campaign for the people because they simply do not know that such a procedure exists and the opportunities it provides,” said Luiza Romanadze, advocate, mediator, PhD in Law, President of the Ukrainian Academy of Mediation, expert of the EU Project Pravo-Justice.

“The fact that there exists a conflict (dispute) among business founders negatively affects business and can lead not only to reduced profits, but also to the business itself destructed in the future. In addition, the dissemination of information that there is such a dispute can be used by competitors. That is why a confidential mediation procedure is a reputable and a real alternative to litigation for business. Introducing mediation information and assessment meetings in this category of disputes before going to court is a good way to shape a culture of out-of-court settlement of corporate disputes,” said Svitlana Serhieieva, advocate, mediator, Ukrainian Bar Association board member, expert of the EU Project Pravo-Justice and Odesa RJRC member.

FUNDAMENTALS OF MEDIATION



On November 23-24, the EU Project Pravo-Justice and Dnipro RJRC conducted training on the fundamentals of mediation for judges and court staff of the Dnipropetrovsk District Administrative Court. The training focused on basic principles of mediation, practical aspects and guidelines on how to inform court users at the stage of submitting legal action and trial. [Read more.](#)

“The adoption of the Law on Mediation on November 16, 2021, made it necessary to provide training on mediation to various legal professionals, including judges. This shall include them acquiring necessary and sufficient general knowledge about mediation on how to inform about and offer mediation to the parties to a conflict. Such training will help judges better understand the nature of the procedure, as well as its benefits and effectiveness,” said Oksana Tsymbriwska, Key National Expert of the EU Project Pravo-Justice.

“The Law on mediation will naturally give a new impetus to the development of alternative dispute resolution. Administrative disputes constitute the most controversial area for applying mediation, but at the same time, it is among the most strategic ones as this is a real chance for public administrations to increase their reputation and public trust through focusing on partnership rather than control,” said Alina Serhieieva, internationally-certified mediator, expert of the EU Project Pravo-Justice.

“Until recently, the legal community was quite sceptical about the opportunities of alternative dispute resolution. With the adoption of the laws “On Mediation” and “On Administrative Procedure”, there is room for mediation even in administrative disputes. After all, the new laws establish a new operation principle for a public authority – acting effectively. The training held in the Dnipropetrovsk District Administrative Court by the EU Project Pravo-Justice has been the first stage of launching a pilot project on mediation in administrative disputes and has provided some basic knowledge about the principles and fundamentals of mediation,” said Andriy Ryshchenko, Judge at Dnipropetrovsk District Administrative Court, Dnipro RJRC Coordinator.

UNIFIED JUDICIAL PRACTICE IN LAND DISPUTES



On November 19, a round table discussion entitled “Land Market: Jurisprudence and State Registration Issues” was organized by Lviv RJRC and the EU Project Pravo-Justice, together with the Western Commercial Court of Appeal. The discussion was attended by the EU Project Pravo-Justice experts, the Supreme Court justices, the Western Commercial Court of Appeal judges, the Commercial Court of Lviv region, representatives of the Notary Chamber of Ukraine, the Western Interregional Department of the Ministry of Justice of Ukraine and Lviv RJRC members. [Read more.](#)

“Lviv Regional Justice Reform Council was established by the EU Project Pravo-Justice three years ago to bring information about the region’s legal problems up to the central authorities. So, today we managed to bring together various professionals to discuss the future of the open land market and highlight the problems that we can solve today,” said Marta Mochulska, Lviv RJRC coordinator, opening the round table.

“A dispute must be resolved by a court only once so as to prevent a situation when the plaintiff files a case first with an administrative court in order to quash the order of the State Geocadastr, and then with a commercial or a civil court,” said Vitalii Urkevich, Judge of the Cassation Commercial Court of the Supreme Court.

Roman Savchuk, national expert of the EU Project Pravo-Justice, focused on the challenges of ensuring control over the concentration of agricultural land: “One of the promising areas for further engagement of the Project is to initiate and implement measures to improve and integrate the state electronic registers within one platform”.

BANKRUPTCY



On October 29, Kharkiv hosted the East Ukrainian Forum dedicated to the bankruptcy-related issues arising in Ukraine. The event was attended by the EU Project Pravo-Justice experts and RJRCs representatives. [Read more.](#)

“The EU Project Pravo-Justice has supported the establishment of Regional Justice Reform Councils so that the regions could take an active role in policymaking and provide feedback to central level stakeholders. For instance, RJRCs members have drawn up amendments to the Code of Bankruptcy Procedures. The EU Pravo-Justice Project has also been promoting the development of self-regulation in Ukraine by supporting private enforcement officers, notaries, and bankruptcy trustees,” said Roman Chumak, coordinator of Kharkiv RJRC.

“The latest preferential bankruptcy procedure is much more interesting for foreign currency borrowers. It is free of charge, fast, provides bonuses for owners of “social residential property” and other benefits. At the same time, a number of procedural shortcomings make it virtually unfeasible. While participating in the Working Group on Improving Bankruptcy Legislation,

RJRCs members and the Project Experts developed proposals to improve this procedure which were included in the draft law No. 5739,” said Olena Fonova, coordinator of Donbas RJRC, judge of the Commercial Court of Luhansk region.

STATE POLICY DURING TRANSITION PERIOD



On October 12, a discussion was held in Kharkiv about the draft law ‘On the principles of the state policy during the transition period’ registered in the Verkhovna Rada. Donbas RJRC initiated the discussion. The event was attended by the drafters of the bill from the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, the EU Project Pravo-Justice national and international experts, the legal community of Luhansk and Donetsk regions as well as members of the public. [Read more.](#)

“Almost 3.5 years back, the EU Project Pravo-Justice initiated creating Regional Justice Reform Councils to improve communication between the regions and the centre in the policymaking process. And today it is extremely pleasant to state that we have this cooperation with key stakeholders and that the central authorities are open to dialogue and are looking forward to responses from the regions,” said Oksana Tsymbriivska, Key National Expert of the EU Project Pravo-Justice to thank the representatives of the Government and the Verkhovna Rada.

“In fact, this bill is being drafted for the post-conflict period. We understand that we need to draft the legal framework now, not after the conflict is over. [...] With this law, we are doing everything to speed it up,” said Dmytro Lubinets, Member of Parliament of Ukraine, Chair of the Verkhovna Rada Committee on Human Rights, Deoccupation and Reintegration of the Temporarily Occupied Territories in Donetsk, Luhansk regions and the Autonomous Republic Crimea, the cities of Sevastopol.

“This draft Law is the first attempt of the state to at least outline the framework and find a solution to a large number of sensitive issues that cannot be postponed. Donbas RJRC is to become the

region's voice which is also important to hear. These discussions and explanations of the bill are important for proper perception of the provisions of the bill and avoiding speculations on certain issues in question in the future," said Olena Fonova, PhD, Judge of the Commercial Court of Luhansk region, coordinator of Donbas RJRC.

Olena Skovorodina, Chair of the Commercial Court of Donetsk Region, Member of Donbas RJRC, noted that it is necessary to draft the purpose of the bill in the preamble more clearly and to put therein messages which would be clear and directed to the citizens staying in the occupied territory: "We do not approve of the actions of the so-called government, but we can recognize the actions of people who are forced to do something [...] We must right now act and promote Ukraine as a state that understands what people do at the legislative, judicial and other levels."

RJRS EVENTS IN JANUARY-MARCH 2022

In January-March, RJRCs will hold discussions on such topics as:

1. Joint Donbas RJRC meeting with the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine "State policy on the transition period as a basis for reintegration of the temporarily occupied territories of Ukraine" to be held on January 21 in Kharkiv.
2. RJRC IRWG on Civil Procedure Code optimization to be held on January 28 in Kyiv.
3. Dnipro RJRC Meeting on Code on Administrative Justice optimization to be held on February 4 in Dnipro.

For more information, please follow the Project's [Facebook page](#).

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For additional information, please contact info@pravojustice.eu