



RJRCs Newsletter No.3, September 2021



PRAVO-JUSTICE



Dear friends,

Please see the newsletter about 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, Dnipropetrovsk, Kharkiv, Lviv, Odesa regions and in Donbas. RJRCs are permanent working groups that promote bottom-up reforms by bringing region-specific challenges and potential solutions to the central government's level.

LAW ON TRANSITIONAL PERIOD



On July 27, Donbas RJRC took part in an open discussion “Law on Transitional Period — a Step Towards Safe Reintegration?”. [Read more.](#)

Olena Fonova, PhD, judge of the Commercial Court of Luhansk region, coordinator of the Donbas RJRC, stressed the importance of restoring postal services, which will greatly simplify access to Ukrainian courts and administrative services for residents of the occupied territories, and legislative regulation of other procedures defined in the draft law “On the State Policy on Transitional Period”. “We welcome the Draft Law on Transitional Period, because for the first time in seven years, the state is trying to legislate the painful problems existing since the Russian Federation occupied Crimea and certain areas of Donetsk and Luhansk regions,” she said.

MEDIATION IN COMMERCIAL AND CIVIL DISPUTES



On July 23, two meetings of the RJRC Interregional Group on application of mediation in commercial and civil disputes took place in Odesa. Judges from different regions of Ukraine, representatives of the High Council of Justice, Civil Court of Cassation of the Supreme Court, together with EU Project Pravo-Justice experts, analysed statistics on civil and commercial cases and identified potential categories of cases in which it could be recommended to introduce mandatory meetings with a mediator. [Read more.](#)

“Mediation has been in place in Ukraine for over 20 years. However, it is still not widespread and so far has not become a part of the dispute resolution culture. Yet, for example, in the Nordic countries, the lion's share of disputes is resolved through mediation or other alternative dispute resolution methods,” emphasised Dovydas Vitkauskas, EU Project Pravo-Justice Team Leader.

IMPLEMENTING MEDIATION COMPETENCE IN HIGHER LEGAL EDUCATION



On June 24, EU Project Pravo-Justice national experts presented draft Guidelines for Developing Mediation Competence under the Master Standard for Higher Education (speciality no. 081 “Law”) for discussion. There were Representatives of Lviv, Chernivtsi, Odesa, Kharkiv, Dnipropetrovsk, Donetsk

and Luhansk regions law schools, as well as RJRCs members, took part in the discussion and endorsed the Guidelines. [Read more](#).

Dovydas Vitkauskas, EU Project Pravo-Justice Team Leader, welcomed the fact that mediation is included in law school curricula: “It is essential to understand that a graduate does not automatically become a mediator. They should gain basic knowledge as to this type of dispute resolution so that to give informed advice to clients and litigants later on.”

“Active introduction of mediation in curricula will undoubtedly contribute to making sure that lawyers in their professional activities utilise the culture of mediation, the necessary knowledge and practical skills,” said Andrii Boiko, Chair of the “Law” Sub-committee of the Scientific and Methodological Council of the Ministry of Education and Science of Ukraine, and a national expert of EU Project Pravo-Justice.

“Suggested recommendations are really helpful for law schools from a practical perspective. [...] We need to actively shape mediation culture, consolidate efforts, and as much as possible promote even a little practical experience in teaching mediation and its implementation,” emphasised Petro Patsurkivskyi, Dean of Legal Department, Doctor Habilitatus, Professor of Public Law Department at Chernivtsi Yurii Fedkovych National University, representative of Chernivtsi RJRC.

“More and more legal professions tend to use mediation. Therefore, we must strive for this to be not a voluntary, but a compulsory discipline so that any law student can gain basic knowledge of such an opportunity”, added Alina Serhieieva, lawyer, mediator, EU Project Pravo-Justice national expert.

BANKRUPTCY PROCEDURE FOR FOREIGN BORROWERS



On June 18, an expert discussion “Foreign Currency Borrowers. New Rules” was held with involvement of RJRCs. National experts of EU-Project Pravo-Justice, judges, lawyers, bankruptcy trustees, private

enforcement officers and other participants discussed recent legislative changes as well as practical experience in applying bankruptcy procedure under the new rules. [Read more.](#)

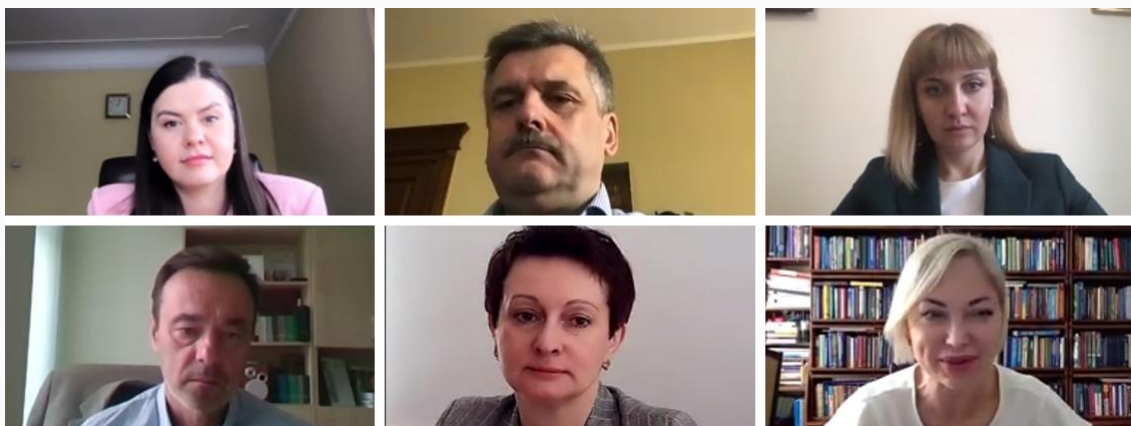
Olena Fonova, PhD in Law, judge of the Commercial Court of Luhansk Region, Donbas RJRC Coordinator, drew attention to procedural issues related to reducing the deadline for approval of the restructuring plan to 15 days: “The advantages of the new procedure for foreign currency borrowers are that it is free, efficient, preferential. However, at present, this procedure is virtually impossible. [...] By interfering in the review process and trying to make it faster, the legislator did not take into account all the points left from the old procedure, in particular, the need to provide an assessment of the market value of property by an assessment expert appointed by the creditor, but it is impossible to make it work in the framework of the new procedure given its promptness”.

“The rules governing the closure of bankruptcy proceedings in general and insolvency in particular need to be improved as soon as possible to ensure more transparent and unambiguous review of the relevant cases”, emphasised Iryna Butyrska, lawyer, PhD in Law, Chernivtsi RJRC Coordinator.

Oleksandr Sivokozov, Deputy Chair of the Council of Private Enforcement Officers of Ukraine, Member of Dnipro RJRC, cited the grounds on which the sale of the only accommodation of foreign currency borrowers is possible. Among other things, this applies to residential real estate that is actually used for commercial activities, or is being leased: “In fact, the debtor having an outstanding debt receives income from the property protected by law.”

“We need to use, promote and boost the bankruptcy procedure. After all, a fresh financial start is an important step for any citizen who finds himself in a tight corner”, emphasised Roman Chumak, Kharkiv RJRC Coordinator, lawyer, bankruptcy trustee.

DEVELOPMENT OF LEGAL EDUCATION IN UKRAINE



On June 11, an interregional expert discussion on implementation of Master and Bachelor Standards for higher legal education (speciality no. 081 “Law”) was held. Experts of the EU Project Pravo-Justice and RJRCs members discussed the reform of legal education in Ukraine. [Read more.](#)

Andrii Boiko, Chairman of the Legal Subcommittee of the Scientific and Methodological Council of the Ministry of Education and Science of Ukraine, National Expert of the EU Project Pravo-Justice, stressed the need to form practical skills and knowledge among the students: “The graduate’s ability to carry out professional activities should be the cornerstone of the training curricula.”

“It is important not just to formally approach the introduction and implementation of educational standards, but to develop a proper culture of their application. And here communication measures and awareness campaign are needed to explain to higher educational establishments what their interest in having an internal quality assurance system is,” said Marta Mochulska, Deputy Dean of the Law Department at the Ivan Franko National University of Lviv, Coordinator of Lviv RJRC.

Iryna Butyrskaya, Associate Professor, Assistant Professor of Procedural Law at Yuriy Fedkovych Chernivtsi National University, Managing Partner of Lex Advance Law Firm, and Coordinator of the Chernivtsi RJRC, stressed the need to develop students’ practical and communication skills: “A lawyer should not only work well, but also to convey information to their clients, to be able to explain in simple language some complex legal issues, and even sell their services. Therefore soft skills are also important in the work of future lawyers.”

Gintaras Švedas, International Expert of the EU Project Pravo-Justice, Professor at Vilnius University and former Deputy Minister of Justice of Lithuania, pointed out the importance of proper academic training of master students: “Master Degree is the first academic degree. Therefore, when it comes to Master programmes, we need to also think about academic skills and student’s ability to conduct research.”

SIMPLIFYING PROCEEDINGS IN MINOR DISPUTES IN UKRAINE



On June 10, the expert discussion “How the improvement of writ and simplified proceedings under the Civil and Commercial Procedural Codes will affect the financial sector and the relationship between creditors and debtors?” took place. National and international experts of the EU Project Pravo-Justice, judges, representatives of RJRCs, banks and other participants discussed how improving court proceedings affects the financial sector and the creditor-debtor relations. [Read more.](#)

Dovydas Vitkauskas, Team Leader of the EU Project Pravo-Justice, stressed the importance of monitoring of the legislative implementation conducted by the Ministry of Justice of Ukraine: “We hope to prepare, together with the Ministry of Justice, a new legal framework, which will make procedural regulation more simple and clear, with less of unnecessary formal rights and more of real rights for the parties, depending on the context, circumstances and behaviour of the parties”.

“Small disputes do not mean non-important disputes. When they accumulate, they may have a significant financial impact. Therefore, existence of a court order that can be initiated by a creditor and challenged by a debtor is an effective mechanism for resolving the existing problem with an accumulated debt,” said Bert Maan, International Expert of the EU Project Pravo-Justice.

“In order to make simplified proceedings more attractive, court fees need to be reduced, case consideration needs to be speeded up, and trials need to be conducted without summoning parties. This would be a real simplified procedure, and people will have an opportunity to obtain a decision and have their rights protected quickly and at no extra cost,” pointed out Andrii Butyrskyi, judge of Chernivtsi Regional Commercial Court and representative of Chernivtsi RJRC.

RJRCs IN UKRAINIAN MEDIA



[New legal education: lawyers are not for the state machine, but the protection of human rights](#)



[Bury the axe of war: Why is mediation at the cassation stage a strategy, and in which cases should reconciliation not be insisted on?](#)



[Closing the insolvency proceedings of individuals: is there a way out of the maze?](#)



RJRS EVENTS IN SEPTEMBER-OCTOBER

In September-October, RJRCs will hold discussions on such topics as:

1. Presentation of the Final Report on Mediation in Civil and Commercial Cases (September 30, Kyiv)
2. Expert discussion on the Draft Law On Administrative Procedure (October 22)
3. Donbas RJRC Meeting on Transitional Justice Bill (October 12)
4. Lviv RJRC meeting on Land market (judicial practice issues and registration), (October 29)
5. A series of events with RJRCs on preparation of the Action Plan to the Strategy for the Development of the Justice System and Constitutional Proceedings for 2021-2023 (October-November)

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

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For additional information, please contact info@pravojustice.eu