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Editorial Board

CONTENT

DEMOCRATIC GOVERNANCE
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Mediation in preventing litigation in land conflicts: A comparison of the legislation of Ukraine and the EU

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Abstract. The relevance of the research topic lies in the growing need to develop an effective system for protecting the rights and interests of parties involved in land relations in Ukraine, particularly in the agricultural sector. The aim of the article was to analyse the legal basis and practices of mediation in resolving land disputes in Ukraine and European Union countries in order to determine the possibilities for their adaptation in the context of European integration. The study used systematic, comparative legal, dogmatic and narrative methods. As a result, it was established that mediation is an effective alternative mechanism for preventing lengthy court proceedings in land conflicts, which helps to reduce the burden on the courts and improve the quality of state management of land resources. The study analysed the peculiarities of the legal regulation of mediation in Ukraine and the EU and identified key problems in its practical application, in particular low awareness, the limited role of courts in directing parties to mediation, and the underdevelopment of institutional infrastructure. The feasibility of introducing a mandatory initial mediation session as an element of state policy in the field of land dispute resolution is justified. Particular attention was paid to the development of online mediation, ODR platforms and the prospects for using artificial intelligence tools within the concept of "augmented

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justice", as well as the associated ethical and legal risks. A mediation effectiveness matrix is proposed, and the need to take into account the experience of European countries in the process of developing the institution of land dispute mediation in the legal field of Ukraine is justified. The results of the study may be useful for state authorities and local self-government bodies in resolving issues related to the integration of mediation into the system of land conflict resolution in Ukraine

Keywords: public governance; land disputes; legal certainty; out-of-court dispute resolution; state management of land resources

Introduction

In modern Ukraine, conflicts and disputes in the field of land relations have become an integral part of public life. Resolving issues related to land plots is often complicated by their diversity and multifaceted nature, which, in the absence of proper regulation, can become a source of serious problems – economic losses, social tensions and even environmental crises. The lack of clarity and ambiguity of the legislative framework in this area frequently lead to difficulties and inconsistency in the dispute resolution process.

In a democratic society, an important element is the ability to independently resolve legal conflicts within one's own environment, minimising the need for state judicial intervention. That is why creating conditions for the implementation of alternative dispute resolution methods is particularly relevant. As noted by T. Valyanska (2024), the importance of such approaches lies in strengthening the self-regulatory mechanisms of civil society, which contribute to the protection of rights and legitimate interests by offering effective alternatives to traditional court proceedings. Traditional methods of dispute resolution, in particular court proceedings, are often characterised by their length, high costs and do not always lead to a mutually beneficial outcome. In situations where one or even both parties remain dissatisfied with the court's decision, the conflict may only escalate or take on a more complex form. In this regard, the use of alternative methods of land dispute resolution is becoming a relevant and promising practice. In many countries around the world, such methods have long been established as an effective tool for conflict resolution (Deineha, 2022). Ukraine's focus on adapting European approaches in its legal system also includes the integration of such alternative methods. Such methods are still relatively new to the Ukrainian legal system and have not been sufficiently researched, particularly in specific categories of disputes such as land conflicts.

Land disputes are a complex category of cases in many jurisdictions, as they usually involve issues of land ownership, use and management. D.V. Fedchyshyn (2024) pointed out in his work that such conflicts most often arise due to disputes over property rights, territorial boundaries, rules of use and other aspects of land-related relations. An additional complicating factor is the limited availability and high value of land resources, which often exacerbate conflicts between interested parties. Land disputes can be resolved through various legal instruments that take into account the specific nature of conflicts in the field of land relations. The most common methods of such settlement are mediation, the conclusion of amicable agreements, and combined methods of dispute resolution.

In contemporary legal environment, mediation is becoming increasingly popular as an effective tool for alternative dispute resolution. Given the overload of the judicial system and the length of proceedings, particularly in the field of land relations, mediation is becoming a valuable mechanism for rapid, effective and peaceful conflict resolution. According to T. Whatling (2021), this approach allows parties to reach mutually beneficial agreements, avoid protracted court proceedings, unnecessary costs and damage to relationships. Mediation is particularly important in the context of resolving land conflicts, as such disputes are often complex in nature and can affect both private interests and public needs. This was emphasised by S.K. Agegnehu *et al.* (2021). They pointed out that land disputes often arise between neighbours, family members or communities, making it extremely important to maintain positive relations between the parties. In such situations, mediation helps to find a compromise solution that takes into account the interests of all parties, promotes social peace and prevents the escalation of conflict.

L. Kanivets (2024) noted that mediation is an effective means of resolving land disputes through mutual agreement, as participation in this process is entirely voluntary for both parties. It is based on an agreement between the parties on how to resolve the conflict, which includes agreeing on the terms of participation, selecting a mediator, and determining the procedure and substance of the agreement. Thanks to this, mediation offers a dispute resolution mechanism based on the principles of voluntariness, mutual agreement on the process and its outcome, and provides the parties with flexibility and autonomy in establishing the terms of conflict resolution. In EU countries, mediation in land disputes is developing very actively as an alternative to court proceedings, offering the parties (farmers, landowners, the state) the opportunity to find a mutually acceptable solution through an independent intermediary. According to G. De Palo (2025), this is particularly relevant in the context of complex issues of land use, inheritance, demarcation and compensation, which have their own specific difficulties and require legal adaptation.

Based on a review of the literature, it can be argued that mediation, as a method of alternative dispute resolution in land disputes, is an extremely promising tool for the effective and rapid resolution of conflicts in Ukraine. However, despite its recognised effectiveness in international practice, the Ukrainian legal system still lacks sufficiently

developed mechanisms for applying mediation in land disputes, which creates a need for more in-depth research and adaptation of international standards to the Ukrainian context. Issues of legal adaptation of mediation to the specifics of land relations, in particular regarding the resolution of conflicts involving both private and public interests, as well as the lack of regulatory support for mediation in such cases, remain insufficiently studied and require further research and legislative initiatives. Based on this, the aim of the study was to analyse the legal basis and effectiveness of mediation in the settlement of land disputes in Ukraine and EU countries and to develop recommendations for improving the regulatory framework for this institution, taking into account European experience and digital tools.

Materials and Methods

The methodological basis of the study was a set of general scientific and special legal methods of cognition, the application of which is determined by the complex interdisciplinary nature of the issue of mediation in the field of land relations and its significance for the system of public administration. The basic methodological approach was the dialectical method, which allowed to consider the institution of mediation as a dynamic legal phenomenon that develops under the influence of socio-economic, political and legal factors, as well as in connection with the evolution of land relations and public authority. Methods of formal logic, analysis and synthesis were used for the consistent processing of normative material, doctrinal positions and practical approaches to alternative dispute resolution in land disputes.

The method of systematic analysis played an important role in the research, allowing for the assessment of the legal regulation of mediation as a holistic system that includes norms of substantive and procedural law, institutional mechanisms, and the role of courts, local self-government bodies, and other public administration entities. Within the framework of this method, the state and trends of the use of mediation in the resolution of land disputes in Ukraine and the European Union countries, as well as the relationship between state policy in the field of alternative dispute resolution and the effectiveness of land rights protection, were analysed.

Using methods of abstraction and generalisation, doctrinal scientific approaches to the legal regulation of mediation were systematised, and key concepts, models and problematic aspects of its application in land conflicts were identified. The dogmatic (formal-legal) method was used to study the content of the legislation of Ukraine, the European Union and individual EU member states regulating mediation, alternative dispute resolution and land relations. This made it possible to identify regulatory gaps, conflicts and potential for improving legal regulation, taking into account European experience. The systemic-structural method was used to analyse the stages, forms and procedures of mediation, in particular in the context of contractual settlement of land disputes, online mediation and the use of digital tools, taking into account their functioning within the public law environment. The use of a mediation effectiveness matrix was also proposed to assess its effectiveness based on two main indices: the success index and the index of balance between the number of mediations and court cases, which allows for a comprehensive assessment of the effectiveness of this practice at the macro level.

The source base of the study included normative acts, scientific articles, as well as research by European and Ukrainian scientists and practitioners. Key sources include Law of Ukraine No. 1875-IX (2021), Land Code of Ukraine (2001), Directive 2008/52/EC (2008), as well as Recommendation No. R(98)1 (1998), Recommendation No. R(99)19 (1999), Recommendation Rec(2001)9 (2001), Recommendation Rec(2002)10 (2002), and Recommendations for Mediators (2022). Scientific sources included peer-reviewed articles on mediation and land relations. The search for sources was carried out in the scientific databases ScienceDirect, MDPI, Springer and ResearchGate, as well as using the Google search engine. The analysis included publications in English and Ukrainian of at least three pages in length that corresponded to the topic of the study and were of an appropriate scientific level.

The study was based on qualitative methodology and a constructivist paradigm, which involved analysing mediation not only as a formal legal mechanism, but also as a socially conditioned practice of conflict resolution. The logic of the presentation is based on a narrative approach, which allowed for the integration of legal analysis, comparative data and practical examples into a comprehensive concept of the development of mediation in the system of state management of land relations.

Results and Discussion

Legal basis and problems of applying mediation in resolving land disputes in Ukraine

Land disputes can be resolved through a series of legal mechanisms that take into account the specific nature of conflicts in the field of land relations. The main methods of contractual settlement of such disputes are mediation, settlement agreements and the use of combined methods. The law defines mediation as a voluntary and confidential process outside of court proceedings, in which the parties, with the support of a mediator (or several mediators), attempt to avoid or resolve the conflict through negotiation. This procedure is regulated by Law of Ukraine No. 1875-IX (2021). Mediation can be effective in resolving land disputes related to determining plot boundaries, transferring or obtaining land rights, removing obstacles to its use, restoring the violated rights of owners or users, establishing easements and rules for the use of land plots.

N. Mazaraki (2018) classified types of mediation agreements based on the time of their conclusion. In particular, she identified:

- a mediation clause, in which the parties agree to resort to mediation in the event of a dispute;
- a mediation agreement, under which the parties agree to initiate mediation and agree on its terms, including

the selection of a mediator. Such agreements may be concluded both before and after the filing of a lawsuit;

- an agreement concluded following mediation, which records the mutual agreements reached by the parties during the negotiations.

In a dissertation study conducted by H.O. Ogrenchuk (2016), a classification of mediation agreements into two main categories is proposed. The first covers agreements aimed at establishing mediation relations, for example, an agreement between the parties to the dispute on the organisation of mediation and an agreement between the parties to the dispute and the mediator on the conduct of the procedure. The second category includes agreements that are the result of the mediation process, i.e. mediation agreements. When analysing the legislative aspects governing mediation, various types of documents in this area can be identified, including a mediation clause (a separate document), a mediation agreement and an agreement concluded as a result of mediation.

In turn, M. Deineha (2022) divides these documents (agreements) into two main categories: those relating to the organisation and conduct of mediation, and those that consolidate the results of the settlement of the conflict between the parties. According to this classification, mediation agreements are divided into the following types: 1) a standard mediation agreement or a combined agreement containing additional provisions or conditions for the use of other alternative methods of conflict resolution or a mediation clause; 2) an agreement on the organisation of mediation for the purpose of resolving a conflict or dispute; 3) an agreement concluded before the start of court proceedings, as well as an agreement drawn up during court proceedings; 4) an agreement in written or oral form; 5) an agreement with payment for services or one that provides for their free provision.

The main causes of land disputes are: insufficient regulation or incomplete regulation of relevant legal relations by current legislation; internal contradictions in land law provisions relating to the same legal relations; conflicts between the provisions of land legislation and the norms of other branches of law that regulate similar aspects; lack of consistency between the principles and rules in land legislation, etc. (Kanivets, 2024).

The regulation of the process of resolving land disputes is provided for in Chapter 25 of the Land Code of Ukraine (2001), which is devoted to guarantees of land rights. Article 158 of this law defines the list of bodies authorised to consider such disputes. These include courts and local government bodies. Land disputes concerning the ownership, use and disposal of land plots owned by citizens and legal entities, as well as issues of demarcation of territories of villages, settlements, towns, districts and regions, are resolved exclusively by the court in accordance with part 2 of Article 158 of the Land Code of Ukraine. In turn, in accordance with part 3 of the same article, local government bodies are authorised to consider land disputes within the territories of territorial communities. This applies to the determination of the boundaries of land plots owned or used by citizens, issues of restrictions on land use, land easements, compliance with good neighbourliness rules, as well as the demarcation of district boundaries within cities. In general, appeals for the protection of violated rights are made through the relevant state authorities, local self-government bodies or courts within the jurisdiction of protection, which may be judicial or administrative.

Detailed legislative regulation of the procedure for considering cases with the participation of interested parties, ensuring guarantees for the adoption of a lawful decision and adaptability to the resolution of complex disputes create significant advantages in the application of judicial protection of violated rights compared to other forms, increasing its effectiveness. In cases where entities independently defend their violated rights without appealing to the competent authorities, they use a non-jurisdictional form of protection. The main difference between these forms is that jurisdictional protection of rights and interests is carried out by state-authorised bodies that have a clearly defined legal status and operate within the procedural framework regulated by law. In contrast, non-jurisdictional protection of rights takes place within the framework of substantive legal relations, usually directly by the participants in these legal relations themselves.

Despite the existence of various mechanisms for protecting the rights of participants in land legal relations, in practice, priority is given to judicial protection. O.P. Podtserkovny & G.M. Budurova (2023) drew attention to the current problems of multiple jurisdictions facing justice in this area, especially in the context of growing public expectations for the effective resolution of land disputes. In land relations, disputes with the same subject matter are divided between different jurisdictions: public law aspects (appeals against decisions of state authorities and local self-government bodies) fall within the jurisdiction of administrative courts, while issues of property rights to land plots and contractual relations fall within the jurisdiction of civil and commercial courts. According to scholars, this leads to inconsistency in judicial practice, provokes jurisdictional conflicts, and makes it impossible to resolve land disputes within a single court case.

Among the key problems affecting the quality of justice and the establishment of the rule of law are the overload of judges, often unjustified delays in the consideration of cases, the ineffective enforcement of court decisions, and other systemic shortcomings. The Russian invasion in 2014, which was followed by the occupation of territories, caused additional difficulties in resolving court disputes. As noted by O.I. Nastina (2014), the current regulatory procedures for court proceedings do not allow for the effective operation of the legal mechanism for resolving most land disputes due to delays in efficiency and the complexity of conflict resolution.

At the same time, Ukraine has created conditions for the development and implementation of alternative dispute resolution tools, with particular emphasis on the

involvement of mediators. Mediation is considered one of the most effective ways to resolve conflicts, which is rapidly gaining popularity in various spheres of human activity due to its flexibility and versatility (Fedchyshyn & Ignatenko, 2024). It is important that part 3 of Article 124 of the Constitution of Ukraine (1996) provides for the possibility of establishing a mandatory pre-trial dispute resolution procedure by law. Law of Ukraine No. 1875-IX (2021) establishes the organisational and legal basis for the use of mediation as a means of out-of-court conflict and dispute resolution. This law regulates the processes related to mediation aimed at preventing future conflicts and resolving them, regardless of the nature of the dispute – civil, family, labour, economic, or administrative. It also covers cases of administrative offences and criminal proceedings aimed at reconciliation between the victim and the suspect or accused (Article 3). The law provides for the possibility of establishing specific features of mediation for certain categories of conflicts and disputes. Based on its provisions, the main goal of the process is not only to resolve existing disputes, but also to prevent them from arising in the future. This provision does not contain direct references to the possibility of using mediation to resolve land disputes, but allows the use of mediation for "any conflicts (disputes)" with certain exceptions. In particular, this refers to disputes that affect or may affect the rights and legitimate interests of other persons not involved in the mediation process. This gives reason to believe that the mediation procedure can also be used in land disputes. The procedure for settling such disputes through mediation is set out in Article 158-1 of the Land Code of Ukraine (2001), which obliges courts and local authorities to support the reconciliation of parties in land disputes.

Mediation, as defined in Article 1 of Law of Ukraine No. 1875-IX (2021), is an out-of-court procedure based on voluntariness, confidentiality and a clearly defined structure. During mediation, the parties, with the support of a mediator or group of mediators, attempt to avoid conflict or resolve an existing dispute through negotiation. The mediator is a specially trained professional who is neutral, independent and impartial. Their task is to conduct mediation in compliance with legal requirements, the terms of the mediation agreement, the rules for its organisation and professional ethics standards. The use of a professional mediator in resolving land disputes is advisable, as it allows for an individual approach to conflict resolution, builds constructive dialogue between the parties and achieves a balance of their interests.

Following the mediation, an agreement is concluded, the content of which is regulated by Article 21 of Law of Ukraine No. 1875-IX (2021). It specifies the obligations agreed upon by the parties, the methods and terms of their fulfilment, and provides for the consequences of non-fulfilment or improper fulfilment. If the agreement reached as a result of mediation is not performed or is performed improperly, the parties have the right to refer the land dispute to the relevant authorities authorised to consider such issues (part 4 of Article 158-1 of the Land Code of Ukraine (2001)).

Mediation is mentioned not only in the aforementioned law, but also in procedural acts, in particular in the Civil Procedure Code of Ukraine (2004). In particular, during the preparatory hearing, the court determines whether the parties intend to reach a settlement agreement or settle the dispute out of court through mediation. If the parties decide to do so, the court must suspend the proceedings at their request. At the same time, procedural law allows for the possibility of reconciliation between the parties, including through mediation, at any stage of the proceedings. Ukrainian law also provides for a so-called financial incentive for reconciliation between the parties. In particular, if, as a result of mediation, the parties reach an agreement on a settlement, the plaintiff withdraws the claim or the defendant acknowledges the claim, the court considers the possibility of refunding 60% of the court fee paid by the claimant when filing the claim.

In the process of Ukraine's integration into the European Union, the legislator will need to implement Directive 2008/52/EC (2008) into the national legal system, which concerns certain aspects of mediation in civil and commercial disputes. In particular, Article 6 of this Directive obliges Member States to create conditions for the enforcement of written agreements concluded as a result of mediation, with the consent and at the request of the parties. Despite constant attempts by legislators to improve land legislation, the number and complexity of land disputes continues to grow every year. Table 1 presents the main problems that arise when applying mediation in the resolution of land conflicts.

Table 1. *Key problems in the application of mediation in land disputes*

Nature of the problem	Implications
Reservations regarding media coverage and public interest	Some land disputes involve the rights of third parties or public interests, which makes it impossible to resolve them through mediation under the law
Low awareness	Many parties to conflicts are often unaware of the possibility of mediation or do not trust this method of dispute resolution as an alternative to litigation
Emotional barriers	The history of conflicts and the fear of "loss of face" create obstacles to honest and open dialogue between the parties
Imbalance of power	When one party has more influence, for example, due to greater resources or power, this can make it difficult to reach a fair agreement
No guarantee of results	Unlike a court decision, mediation does not guarantee that an agreement will be reached, which may discourage parties from participating

Nature of the problem	Implications
Insufficient legal framework and practice	Mediation standards are not always clear and explicit, and court practice is limited in the application of mediation agreements
Communication barriers	Misunderstandings, mistrust and the inability to engage in constructive dialogue between the parties

***Source**: compiled by the authors based on S.K. Agegnehu et al. (2021), D.M. Danilik et al. (2025)*

Law of Ukraine No. 1875-IX (2021) provides that land disputes cannot be resolved through mediation if they affect or may affect the rights and legitimate interests of third parties who are not involved in the mediation. D.V. Fedchyshyn & I.V. Ignatenko (2024) noted that land disputes involving legal entities often involve significant assets and strategic interests, and litigation in such cases can be protracted, creating risks for business, investment attractiveness and economic stability. Mediation offers a fast, confidential and less costly way to resolve disputes, focusing on protecting the common interests and partnership of all parties. It avoids lengthy formal court proceedings, promoting conflict resolution through compromise and constructive dialogue. Researchers emphasised that in the context of decentralisation and the development of a legal culture in Ukraine, mediation can be a decisive tool for sustainable land management and the creation of a legal environment focused on harmonious coexistence between business and communities.

In addition, one of the main problems in this area is the lack of a sufficient number of qualified mediators, which is critical to the effectiveness of the conflict resolution process. However, the requirements for mediators in Ukraine are currently not very high, especially in specialised areas of law such as land law. This is one of the shortcomings of the law on mediation, as the lack of skills testing after only 90 hours of training and professional development may lead to mediators receiving their certificates formally, while there is a shortage of qualified experts. Land disputes usually involve complex legal issues, the resolution of which requires the mediator to have a deep understanding of housing, land, civil and even urban planning legislation. A mediator without the proper qualifications is not able to effectively resolve such conflicts. They may not take into account all the legal nuances or propose a solution that does not meet the interests of both parties, which in turn undermines confidence in mediation as a means of dispute resolution.

Another problem is the low level of awareness among citizens and even legal entities about the possibilities of using mediation. Many people do not know that there is an alternative to court proceedings that can be not only faster but also more cost-effective. Many participants in housing disputes view the court system as a more reliable and authoritative mechanism. For many citizens, the court is perceived as the only institution capable of protecting their rights. Mediation, on the other hand, which is based on the principles of voluntariness and compromise, is often considered a less effective tool (Danilik *et al.*, 2025).

Currently, judicial authorities in Ukraine do not have the power to require parties to undergo mediation before bringing a case to court. At the same time, as evidenced by research by L. Hola *et al.* (2021), courts in many EU countries actively recommend the use of mediation to resolve disputes. In cases where the parties refuse this option, such refusal may be regarded as opposition to conflict resolution, which sometimes entails the application of certain sanctions. Such measures include fines or the obligation to compensate court costs by the party evading the mediation procedure. In addition, as noted by researchers, according to the Austrian Civil Procedure Code, the judge must, if necessary, advise the parties to use alternative dispute resolution methods, including mediation, and inform them about organisations that specialise in non-violent conflict resolution. A similar position is taken by the German Federal Supreme Court, which, in its decision of 13 February 2007, emphasised the importance of prioritising amicable dispute resolution over litigation. The judge has the right to suggest that the parties resort to mediation and, with their consent, suspend the court proceedings for the duration of the mediation.

At the same time, the situation in this area in Ukraine is becoming more complicated due to the deepening economic, social and food crises, which are intensifying against the backdrop of military action. In this regard, there is a need for a systematic solution to the problem of accumulating and settling land disputes. This has become a powerful factor in intensifying scientific and practical research into alternative methods of resolving land conflicts. At the same time, it is important to understand which land conflicts need to be resolved in the short term and in the long term. In particular, it is noteworthy that military operations on agricultural land, as well as the peculiarities of modern intensive farming, significantly increase the burden on land resources and bring to the fore the problem of their restoration (Kharytonova & Hryhorieva, 2024). At the same time, disputes over the restoration of agricultural areas have their own specific features and require a more careful approach to their resolution, as they combine environmental and property aspects. In the context of contemporary challenges, the relevance of a mediation approach to resolving such conflicts in the sensitive area of land restoration is becoming apparent. The use of mediation could provide the advantages of this alternative dispute resolution method, including efficiency, compromise, minimal resource costs and reduced risk of repeat conflicts.

Legal regulation of mediation in the EU and problems with its implementation

At the EU level, mediation is regulated by Recommendation Rec(2002)10 (2002), which defines it as a dispute resolution procedure in which the parties to a conflict discuss problematic issues through professional mediators in order to reach a compromise. Separate legal acts of the Council of Europe define the specifics of the application of alternative dispute resolution methods in certain areas of law. This group of acts includes recommendations in the field of criminal law (Recommendation No. R(99)19, 1999), family law (Recommendation No. R(98)1, 1998) and administrative law (Recommendation Rec(2001)9, 2001). The concept of "mediation" has also been enshrined in Directive 2008/52/EC (2008), in accordance with Article 3 of which it is defined as a structured procedure in which the parties to a dispute voluntarily and on their own initiative seek to reach a mutually acceptable settlement of the conflict with the assistance of a mediator – an independent and neutral third party. This procedure may be initiated either by agreement of the parties or on the recommendation of the court. In order to summarise the main provisions of the legal regulation of mediation at the European Union level, it is advisable to systematise the basic provisions of the relevant normative act (Table 2).

Table 2. *Key aspects of legal regulation of mediation in the EU*

Aspect	Explanation
Voluntary basis	Mediation is generally a voluntary process, although national legislation may sometimes require a mandatory initial mediation session
Confidentiality	The process is confidential, and mediators cannot generally be compelled to testify in court
Applicability	The parties may request that agreements reached through mediation be enforced by a competent national court or authority (e.g. a notary)
Suspension of time limits	The time limits for bringing legal proceedings are suspended during mediation, ensuring that the parties do not lose their right to go to court

Source: *compiled by the authors based on Directive 2008/52/EC (2008)*

In accordance with Directive 2008/52/EC (2008), Member States are required to ensure that agreements reached in mediation, in particular pre-trial mediation agreements, are enforceable. Such agreements reached through mediation are binding on the parties and can be enforced through the courts. At the same time, a mediation agreement allows the parties to resolve conflicts through mutual compromise, thus ensuring a quick and peaceful settlement of disputes (Whatling, 2021). The parties entering into such agreements seek their prompt and simplified enforcement, including the possibility of compulsory enforcement. Various approaches may be used for this purpose. In particular, legal practice indicates that a mediation agreement or its individual provisions may be approved by a court in accordance with applicable law. In addition, it is also possible to have agreements concluded in the mediation process certified by a notary (Busuyok, 2020).

Most European countries have adopted national regulations on mediation. In particular, in Germany, as reported by N. Alexander *et al.* (2017), the relevant law establishes procedures for out-of-court dispute resolution and provides for their detailed integration into the provisions of the country's Civil Procedure Code. In accordance with the requirements of this regulatory act, the parties to the dispute are required to indicate in the procedural documents initiating court proceedings information about the mediation measures taken and their results. If mediation is successful, the parties conclude an agreement, which is certified by a mediator (lawyer or notary) and given the force of an enforceable document.

As follows from a retrospective study by A. Tvaronavičienė *et al.* (2022), the institutionalisation of mediation in most European countries took place in stages. The first stage was characterised by the formation of national mediation institutions with the active participation of professional mediator organisations, starting in the 1980s. The second stage was associated with the development of international cooperation and joint initiatives aimed at unifying approaches to alternative dispute resolution. At the same time, this model was not typical for the Baltic countries, which regained their independence only in the early 1990s. Lithuania, Latvia and Estonia did not have the necessary institutional prerequisites for the development of mediation for a long time and only recently began its national institutionalisation. The Council of Europe's initiatives aimed at promoting and implementing mediation played an important role in accelerating this process, which was subsequently reflected in European Union legislation. The adoption of Directive 2008/52/EC (2008) was a key impetus for EU Member States to introduce or revise national legislation in the field of mediation. The Directive was based on the principle of "soft regulation", which allowed for the specific features of national legal systems to be taken into account without imposing a unified model. This approach ensured the minimum level of harmonisation necessary primarily for the settlement of cross-border disputes, while not restricting states in expanding the scope of mediation within domestic legal relations. At the same time, the consequences of liberal regulation proved to be ambiguous. In countries that already had a well-established culture of alternative dispute resolution, the provisions of the Directive contributed to the rapid development of mediation. In contrast, in a number of countries, including Lithuania and Estonia, the introduction of mediation remained fragmented for a long time, and its development was based mainly on the principle of non-interference by the state ("laissez-faire"), which led to a lack of systematic progress in this area.

The issue of proper implementation of the Mediation Directive remains relevant, as this act continues to be the only supranational instrument aimed at harmonising mediation standards within the European Union. In 2017, the European Parliament noted that the objectives of the Directive had not been fully implemented in many Member States, which negatively affects the accessibility of mediation and limits the potential for reducing public expenditure on the functioning of the judicial system (Broński *et al.,* 2024). The experience of Lithuania, which began implementing the Directive by adopting the Law on Conciliatory Mediation in Civil Disputes in 2008 and extending uniform rules for mediation to both cross-border and domestic disputes, is illustrative in this context. At the same time, the implementation process was mainly formal and gradual, without the introduction of additional mechanisms capable of stimulating the development of mediation. For almost ten years, its application remained limited, which can be explained to a large extent by the focus on a court-related model of mediation in civil cases, the lack of uniform and clear requirements for the professional training of mediators (with the exception of court mediators), insufficient funding, weak information support and low public awareness of the advantages of this tool. The combination of these factors necessitated a shift towards a more active state policy in the field of mediation, which became the basis for reforms initiated in 2017 and continuing to this day.

Estonia, in turn, implemented the provisions of the Directive by adopting the Conciliation Act in early 2010. However, as research shows, the introduction of this regulatory act did not lead to significant changes in the country's mediation practice. According to the conclusions of A. Tvaronavičienė *et al.* (2022), one of the key reasons was the limited scope of legal regulation, as the law applied exclusively to civil cases and did not cover administrative proceedings. Additional constraints included the lack of clearly defined mechanisms for supervising mediation activities, regulating the professional certification of mediators, and establishing the profession itself in law. Although the legislation formally defined the mediation procedure and imposed an obligation on the state to promote its use, further attempts to improve legal regulation and bring it into line with EU standards in Estonia proved ineffective.

Latvia implemented the Mediation Directive by adopting the Mediation Law in 2014, which established uniform rules for all types of mediation procedures and made corresponding amendments to the Civil Procedure Law. Although this legislation was adopted somewhat later than required by the Directive, it has proven to be a balanced and stable instrument of legal regulation, which has not undergone any significant changes since then. The law comprehensively regulates the basic principles of mediation, the procedure for conducting it, the specifics of court-oriented mediation, the legal status of certified mediators, and the procedure for considering complaints about their activities. Shortly after it came into force, a resolution "On the certification and attestation of mediators" was adopted, which detailed the mechanism for professional certification and further attestation of mediators (Tvaronavičienė *et al.*, 2022). Thus, even EU member states experienced difficulties in implementing mediation. However, this experience can serve as a powerful benchmark for Ukraine in implementing truly effective and applicable mediation procedures and practices. This applies, in particular, to the qualification of mediators.

An analysis of the development of mediation in the European Union between 2008 and 2012 revealed the so-called "EU mediation paradox", which consists of an apparent discrepancy between the declared advantages of this tool and its practical application. Despite the fact that wider use of mediation provides significant savings in time and financial resources for both the parties to the dispute and the judicial system and taxpayers, the level of recourse to mediation in Member States remained extremely low. This has raised questions about the reasons for this disproportion and the difficulty of achieving a balanced model of interaction between judicial and alternative dispute resolution methods. At first glance, this situation may appear to be a manifestation of irrational behaviour on the part of both the parties to the conflict and the states themselves. At the same time, the results of a study on the impact of the Mediation Directive conducted by G. De Palo (2025) revealed a much more complex nature to this phenomenon. The decision to use mediation is influenced by a combination of numerous factors, among which the regulatory environment, the presence or absence of effective incentives, the quality of mediation services and the professional level of mediators, as well as the degree of awareness of potential participants play a leading role. Thus, although arguments about saving time and money are an important basis for promoting mediation, they are not sufficient on their own to overcome both objective and subjective barriers that prevent its real and systematic application.

The experience of Italy is illustrative in this context, where until 2011, despite the existence of legislative provisions supporting mediation since 1993, the practice of commercial mediation was virtually non-existent. As noted in a study by G. De Palo (2018), the situation changed after the adoption of a government decree in 2011, which introduced mediation as a mandatory prerequisite for court proceedings in a number of categories of cases, including banking and insurance contracts, real estate and medical liability. This led to a sharp increase in the number of mediation procedures – to several hundred thousand per year, of which about a fifth were voluntary. At the same time, in 2012, the Italian Constitutional Court ruled that the introduction of mandatory mediation by government decree was unconstitutional, pointing to the need for parliamentary regulation, which led to a sharp decline in the number of mediation procedures. In 2013, the Italian legislature reintroduced mandatory mediation at the legislative level, while significantly softening its content. The new regulation only required the parties to participate in an initial informational meeting with the mediator, leaving open the

possibility of terminating the procedure after that meeting for a minimal fee. This model has ensured a stable level of mediation use, which has since exceeded 150,000 procedures annually, despite the fact that mandatory mediation covers less than 10% of civil cases.

Thus, the Italian experience confirms that combining a mandatory element with the possibility of quick and inexpensive withdrawal from further participation in the procedure can significantly increase the use of mediation. Moreover, the introduction of mandatory mediation also has a positive effect on the number of voluntary procedures, which indicates the formation of a sustainable culture of alternative dispute resolution. At the same time, empirical research by K. Blankley & M. Weston (2017) has shown that in countries where mediation remains exclusively voluntary, even with incentives in place, its practical application remains limited. Thus, the experience of the European Union shows that the effectiveness of mediation depends not only on the formal enshrinement of its principles in legislation, but also on a comprehensive combination of regulatory incentives, institutional support and an adequate level of professionalism among mediators. The problems identified and the successful practices of EU Member States form a valuable basis for adapting a balanced and effective model of mediation in national legal systems, in particular in Ukraine.

Online mediation and artificial intelligence in the alternative dispute resolution system

In the contemporary context of the rapid development of digital technologies, online mediation is becoming increasingly widespread as a form of alternative dispute resolution. The use of electronic means of communication has significantly transformed the nature of interaction between the parties to a conflict and the neutral third party, affecting not only the way information is exchanged and agreements are reached, but also how participants perceive one another, the role of the mediator and the dispute resolution procedure itself. Under these conditions, the issue of trust formation becomes particularly significant, as in the online environment it cannot be based exclusively on traditional mechanisms of interpersonal interaction. An additional challenge is the insufficient level of regulatory framework in this area, since, despite the introduction of certain instruments at the EU level, online mediation remains little known and insufficiently understood by lawyers, business entities, consumers and national regulators. At the same time, online dispute resolution (ODR) is not merely a simple transfer of traditional alternative procedures into a digital environment. Technologies play an independent and active role in this process, significantly influencing the substance and dynamics of conflict resolution. As noted by V. Terekhov (2019), digital tools can not only facilitate communication, but also support or partially replace the functions of a third party, which has led to the emergence of the concept of the so-called "fourth party" – technology as an independent participant in the dispute resolution process. The use of specialised software allows for the automation of mediation sessions, the systematisation and analysis of information, the provision of relevant materials to the parties at a convenient time, the monitoring of procedural deadlines, and even the formulation of recommendations on possible options for resolving the dispute based on previous practice. Thus, within the framework of ODR, technologies not only complement the activities of the mediator, but also perform their own functional tasks, which significantly changes the traditional view of alternative dispute resolution mechanisms.

The practical application of online mediation demonstrates its ability to effectively use various digital tools, from asynchronous communication (e-mail, messengers) to synchronous formats, including video conferencing and specialised online platforms. In practice, the most effective are comprehensive digital platforms designed with the specifics of alternative dispute resolution in mind, which ensure a structured procedure and procedural convenience for the parties. A notable example is the European Union's platform for online consumer dispute resolution, created by the European Commission on the basis of Regulation (EU) No. 524/2013 (2013) with the aim of simplifying access to out-of-court dispute resolution in the field of e-commerce. Despite its significant potential, the practical effectiveness of this platform has been limited due to low seller participation and a significant proportion of complaints remaining unanswered. Statistics showed that in 2022, this figure was 80-85%; only 6% of consumers who encountered a problem used the platform, and less than 2% of visits resulted in the completion of a complaint form. In fact, 17,012 complaints were submitted, of which only 318 were referred to alternative dispute resolution, and 107 were successfully resolved (Giacalone & Saleh, 2022).

Collectively, online mediation technologies should facilitate effective communication between the mediator and the parties, create an atmosphere conducive to settlement, and provide the information and support needed by the participants. Online mediation in land disputes uses digital platforms (video calls, secure portals) for neutral third-party assistance in resolving property disputes, offering cost savings, convenience and speed, avoiding court, which is ideal for geographically separated parties or complex issues that require effective resolution, although establishing trust and ensuring proper legal documentation (e.g., notarisation) are key considerations.

With the rapid development of artificial intelligence technologies, mediation is undergoing a significant conceptual rethinking. In particular, an "augmented justice" approach is emerging, which involves the use of digital tools to support the work of mediators and arbitrators without eliminating the decisive role of humans in the decision-making process (Rodríguez-Salcedo *et al.*, 2025). The integration of artificial intelligence into mediation and arbitration procedures is seen as a factor in the transformation of traditional dispute resolution models, as such tools create the conditions for optimising procedural

procedures, improving the soundness of decisions and strengthening the principles of fairness and efficiency in the relevant legal processes.

The integration of artificial intelligence into traditionally human-oriented mediation procedures is considered one of the most innovative and, at the same time, problematic trends in modern alternative dispute resolution. The use of AI has the potential to increase the speed, efficiency and accessibility of mediation procedures, particularly in an online environment, but at the same time raises a number of ethical, legal and practical challenges that require careful consideration. From a practical point of view, AI-based tools can be used to analyse the positions of the parties, model possible settlement scenarios taking into account previous practice and applicable regulatory rules, and support communication between the parties to the dispute. Such technologies can offer automated solutions, reducing the need for the physical presence of the parties and cutting costs, which in turn expands access to mediation for remote or vulnerable groups. The use of algorithmic approaches is also associated with a potential reduction in the influence of subjective biases, since, when properly designed, AI can process large amounts of data without emotional or personal influence, providing a more consistent and formally unbiased analysis (Sharma *et al.,* 2025).

However, the use of artificial intelligence in mediation has significant limitations. One of the key risks is the reduction of the role of interpersonal interaction, which is fundamental to classical mediation. The effectiveness of this procedure largely depends on the mediator's ability to establish trust, interpret emotional signals, identify the hidden interests of the parties, and creatively adapt approaches to a specific conflict situation. Unlike algorithmic systems, a human mediator is not limited to a formal analysis of positions, but directs the process towards achieving a mutually beneficial compromise that may go beyond purely legal arguments. It is this empathetic and creative component that remains irreplaceable and constitutes one of the key limitations of the use of artificial intelligence in mediation procedures.

Despite the potential of artificial intelligence to ensure formal impartiality, its use in mediation is not without significant risks. Algorithmic systems are developed and trained on historical data, which may reproduce existing biases embedded in previous decisions or caused by structural inequality in society. When using unrepresentative or biased data, automated mediation tools can produce unfair results or even reinforce discriminatory practices. Under such conditions, excessive reliance on artificial intelligence may not eliminate systemic problems of fairness, but rather reproduce them. In addition, the use of AI in mediation procedures may encounter low levels of trust from the parties to the dispute. Some individuals, especially those who lack sufficient digital skills, perceive automated systems as opaque and difficult to understand, which raises doubts about the reliability and relevance of the proposed solutions. There is also a risk that algorithmic recommendations will not take into account the individual needs of the parties and the emotional context of the conflict, which is essential for the successful resolution of the dispute. In this regard, the introduction of digital and algorithmically supported mediation requires a balanced approach, combining technological tools with human control and ensuring the transparency and accountability of the relevant procedures.

Integration of mediation into the system of land conflict resolution in Ukraine

Mediation practices are being actively implemented in Ukraine in the field of land relations for effective conflict resolution and improvement of the legal environment. One of the main problems remains the significant number of disputes related to the ownership, use and management of land plots (Valyanska, 2024). The National Association of Mediators of Ukraine is making a significant contribution to the development of mediation services in this area, promoting awareness of the principles and benefits of mediation among stakeholders. In turn, some regional authorities and local community organisations are actively implementing mediation support programmes to resolve land conflicts. A significant advantage of using mediation in land issues is the possibility of prompt and peaceful resolution of disputes, which contributes to the stability of economic relations and creates a favourable climate for attracting investment in the development of the land and agricultural sectors. Along with these positive developments, further promotion of mediation in this area remains an important task. This involves ensuring the accessibility of services for all parties, raising awareness of its advantages, and strengthening institutional support for the sustainable development of this practice.

Scholars emphasise the importance of mediation as an independent extrajudicial procedure or as a component integrated into civil, commercial, administrative, and criminal proceedings, especially in the modern and post-war periods. In particular, D.I. Piddubnyi (2022) noted that the functioning of the justice system during martial law faces serious challenges, many of which are caused by armed aggression. Mediation helps to avoid these difficulties and enables the parties to choose the most effective and mutually acceptable way to resolve conflicts. It should be considered an important element of the legal system that contributes to strengthening the principle of the rule of law and ensuring justice.

Mediation can take various forms, depending on the level of participation of the parties and the nature of legal regulation. In particular, it can be voluntary, mandatory at certain stages, or combined, combining elements of voluntariness and sanctions to encourage participation. According to the results of a study by J.L. Schulz (2025), four basic models of mediation organisation are distinguished in the scientific literature:

1. The first model based on complete voluntariness and provides for the possibility of the parties turning to a

mediator to settle any dispute that has not been resolved through direct negotiations. With this approach, the existence of special regulatory provisions for mediation is not a prerequisite.

2. The second model is characterised by voluntary participation with the use of incentives or sanctions, where the parties are recommended to use mediation and the state creates the legal and institutional conditions to encourage such practice. The implementation of this model requires legislative regulation and is often referred to as the voluntary participation model.

3. The third model provides for a mandatory initial mediation session, during which the parties are required to participate in the first meeting with the mediator (free of charge or for a minimal fee) in order to assess the feasibility of continuing the procedure. This approach also requires a legislative basis and is known as the "opt-out" model, as the parties may terminate the procedure after the initial session.

4. The fourth model based on fully mandatory mediation, whereby the parties' participation in the entire mediation process and its financing is a prerequisite for access to court proceedings. At the same time, the obligation applies only to participation in the procedure, while reaching a settlement agreement remains an exclusively voluntary decision of the parties.

Many EU Member States have more than one mediation model depending on the nature of the dispute, and different countries use different combinations of these models in different situations. However, given Italy's experience described above and the critically insufficient use of mediation in land disputes in Ukraine, the introduction of a mandatory element – an initial mediation meeting – seems appropriate.

The effectiveness of mediation is an important criterion for assessing its role in alternative dispute resolution and ensuring access to justice. Several indicators are used to determine the effectiveness of mediation, including the balanced relations index, which reflects the ratio between the number of mediations and the number of court cases, as well as the mediation success rate, which assesses the effectiveness of the mediation process. The assessment of these indicators allows not only to determine the intensity of mediation use, but also to evaluate its real contribution to reducing the court workload and improving the effectiveness of legal dispute resolution. The balanced relations index (Mediation/Court Cases) is determined by the formula:

$$\text{Balanced relations index} = \frac{\text{Number of mediations}}{\text{Number of court proceedings}} \text{ x } 100. \quad (1)$$

In an ideal effective model, this ratio would be at least 50%, with one mediation for every two court cases. However, a more effective public policy goal could be to resolve most disputes out of court, with this ratio exceeding 100% to ensure that the limited resources of judges and courts are directed only to disputes that require a court decision (Simon & West, 2022).

The second important indicator is the mediation success rate:

$$\text{Mediation success rate} = \frac{\text{Number of successful mediations}}{\text{Number of mediations}} \text{ x } 100. \quad (2)$$

The number of mediations conducted cannot serve as a sufficient criterion for assessing the effectiveness of the relevant system. At the macro level, an effective mediation policy must also take into account the fact that unsuccessful procedures create an additional burden for the parties and effectively delay their access to judicial protection. Thus, it is advisable to analyse the effectiveness of the system according to two parameters simultaneously: the intensity of mediation use and its success rate. These indicators can be summarised in a matrix that allows the functioning of the system to be assessed both in terms of the number of cases referred to mediation and the proportion of disputes successfully settled. Given the current low level of mediation and the cautious approach, an effective mediation model should meet the parameters of the second quadrant of such a matrix: at least 50 mediations per 100 court cases, provided that at least 50% of mediation procedures result in a successful settlement of the dispute (Fig. 1).

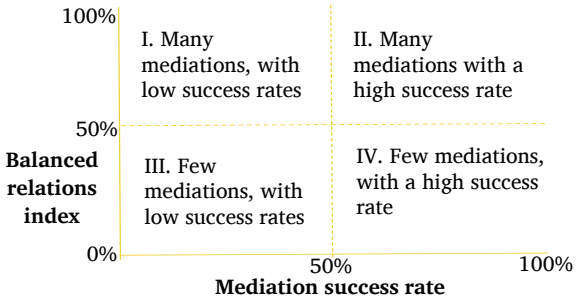

Figure 1. *Mediation effectiveness matrix*
Source: *D. Simon & T. West (2022)*

The matrix constitutes a useful visual tool for understanding the effectiveness of mediation. The X-axis is an index of mediation success, and the Y-axis is an index of the balance between mediation and litigation. Thus, the matrix forms four quadrants of effectiveness.

Quadrant I: high number of mediations with low effectiveness. This segment illustrates the typical problems of mandatory mediation systems. The formal referral of parties to mediation with the aim of increasing its quantitative indicators is often not accompanied by adequate quality assurance and prior selection of cases suitable for mediation. As a result, the emphasis is placed on the volume of procedures conducted without corresponding investment in professional standards and quality control mechanisms, which can lead to ineffective mediations and an imbalance between alternative dispute resolution and the right to access justice.

Quadrant II: high number of mediations with a high success rate. This quadrant reflects the optimal model of mediation system functioning, where a significant number of procedures is combined with a high proportion of

successfully settled disputes. Achieving such indicators is usually accompanied by a noticeable reduction in the court workload. In an ideal jurisdiction, both indicators should exceed 100%, i.e. the number of mediations exceeds the number of court cases, and the average success rate is at least 50%.

Quadrant III: low number of mediations with low effectiveness. The indicators in this quadrant represent the least effective model. The limited number of mediations indicates a low level of awareness and interest among the parties, while the low percentage of successful procedures reflects the system's weak ability to provide quality mediation services. In such conditions, there is usually a minimal level of investment in the development of mediation infrastructure, both on the part of the state and on the part of market participants.

Quadrant IV: low number of mediations with a high success rate. This result is characteristic of fully voluntary or consensual mediation models, in which procedures demonstrate high effectiveness – often over 70% of successful cases – but are used in a limited number of cases.

Each quadrant of the matrix reflects different aspects of the success of mediation procedures, in particular their number and effectiveness, which directly depends on quality organisation and control. However, the practice of EU Member States confirms that in the absence of active public policy instruments aimed at encouraging or obliging the parties to at least consider mediation, its practical use remains insignificant. At the same time, the role of the mediator is important and is not limited to organising the procedure: the mediator is the professional who ensures the proper conduct of negotiations and facilitates the achievement of compromise between the parties. It should be noted that although the mediator does not make decisions on the settlement of the conflict and does not influence the parties' decision-making, they must understand the possible scenarios of negotiation development. In addition, together with the parties to the conflict, the mediator should discuss the strengths and weaknesses of the proposed solutions. Land disputes are distinguished by their complexity due to multifaceted legal aspects, including issues of ownership, land use, tenants' rights, boundary delimitation and other elements of land legislation. In this regard, the participation of a mediator with knowledge of land law is advisable, as it contributes to a more informed, impartial and effective resolution of the conflict, taking into account the specific legal nuances of land relations. A high level of competence of the mediator in land law is an important factor in protecting the parties from manipulation or undue influence on any participant in the conflict. It is also necessary for both the mediator and the parties to make efforts to avoid situations that could lead to the emergence of new disputes.

The concepts of online mediation are actively discussed in Ukraine. An important step in the implementation of online mediation was the approval by the board of the public organisation "National Association of Mediators of Ukraine" of Recommendations for mediators (2022). The content of these recommendations suggests that online mediation is a way of resolving conflicts between parties with the help of a third neutral party – a mediator. This process is aimed at finding solutions that take into account the interests of all participants and takes place in the form of negotiations using information and communication technologies in remote synchronous (simultaneous) or asynchronous (non-simultaneous) mode.

Online mediation is recognised as an important component of ODR. Among its advantages is a reduction in the level of stress for the parties, as they do not meet in person, which allows to better control their emotions. This contributes to faster and more effective conflict resolution. Research by S. Sharma *et al.* (2025) confirms that users of online mediation feel calmer, less hostile and more confident than participants in traditional face-to-face meetings. This format helps to focus on the essence of the problem and the search for mutually beneficial solutions, rather than on confrontation or disputes between the parties.

One of the disadvantages of online mediation is that in this format it is impossible to fully apply the mediator's skills related to the analysis of non-verbal communication. In particular, the mediator is unable to assess the facial expressions, gestures, or body language of the participants, which limits the use of a number of techniques and methods. The issue of confidentiality remains particularly relevant. On the one hand, this concerns protection from outside interference, such as hacker attacks or data interception. On the other hand, there is a risk that the participants themselves may save recordings of video meetings or copy chats for further use in court cases. In the context of the rapid development of the IT sector and digital technologies in Ukraine, there is also a threat of premature implementation of artificial intelligence-based solutions in online mediation processes without proper testing and preparation.

The introduction of mediation procedures in the resolution of land disputes is a modern approach that meets the requirements and challenges of society. This method offers a number of important advantages, among which the following can be highlighted: focus on the needs and interests of the parties; expanded opportunities to influence the outcome of conflict resolution, allowing for a mutually acceptable solution to be reached, taking into account key issues; saving time and financial resources by avoiding costly and lengthy litigation; and facilitating effective communication between the parties.

In Ukraine's land relations system, further improvement of mediation approaches, procedures and tools is of particular importance not only for the agricultural sector, but also for the sphere of state management of land resources. Agricultural relations are characterised by multi-level interaction between farmers, landowners and tenants, suppliers, investors, local communities and public authorities, which objectively increases the potential for conflict. Land disputes related to the use and disposal of land, the fulfilment of contractual obligations or the implementation of administrative decisions by public authorities can have

significant socio-economic consequences. The judicial resolution of such conflicts is often accompanied by significant time and financial costs, reduces the level of trust in public institutions and complicates the implementation of state land policy. In this context, the development of effective mediation ecosystems integrated into public administration mechanisms can contribute to the preventive settlement of land conflicts, improve the quality of administrative decisions, and ensure a balance between public and private interests.

Conclusions

The article analysed the legal basis, practices and prospects for the development of mediation as an alternative method of resolving land disputes in Ukraine, taking into account the experience of the European Union and the role of mediation in the system of state management of land resources. The study examined theoretical approaches to mediation, current legislation in Ukraine and the EU, and the practice of institutionalising mediation in EU member states. The relationship between judicial and extrajudicial forms of protection of rights in land relations was examined, the main factors contributing to the low level of mediation in Ukraine were identified, and European experience in the regulatory and practical implementation of mediation procedures was summarised. Particular attention is paid to the role of courts and public authorities in promoting mediation, analysing models of its implementation, effectiveness of application, as well as the possibilities of integrating online mediation and digital tools, including elements of artificial intelligence, into the mechanisms of public administration of land relations.

A summary of the results obtained gives grounds to assert that mediation can be considered not only as an alternative method of resolving private land disputes, but also as a tool of modern public administration aimed at preventive conflict resolution, improving the quality of management decisions and reducing social tensions in the field of land use. The effectiveness of this institution is determined by a complex of factors, in particular the existence of a clear regulatory framework, balanced incentives for participation in mediation, an adequate level of professional training for mediators, as well as institutional support from courts, local self-government bodies and other public authorities. The introduction of a mandatory initial mediation session in certain categories of land disputes and the development of online mediation ecosystems can increase the effectiveness of state land policy implementation and optimise administrative and judicial procedures. Promising areas for further research include the development of models for integrating mediation into the state land management system, the definition of procedures for interaction between mediators and public authorities, the improvement of standards for the training and certification of mediators in the field of land law, and a comprehensive analysis of the legal, ethical and managerial aspects of the use of online mediation and artificial intelligence tools in the settlement of land conflicts.

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Conflict of Interest

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References

[1] Agegnehu, S.K., Dires, T., Nega, W., & Mansberger, R. (2021). Land tenure disputes and resolution mechanisms: Evidence from peri-urban and nearby rural kebeles of Debre Markos Town, Ethiopia. *Land,* 10(10), article number 1071. doi: 10.3390/land10101071.

[2] Alexander, N., Walsh, S., & Svatos, M. (2017). *EU mediation law pandbook: Regulatory robustness ratings for mediation regimes*. Alphen aan den Rijn: Wolters Kluwer.

[3] Blankley, K., & Weston, M. (2017). *Understanding alternative dispute resolution*. Durham: Carolina Academic Press.

[4] Broński, W., Dąbrowski, M., Sławicki, P., & Wiechetek, M. (2024). Readiness to use mediation – judges' and entrepreneurs' perspective. *Utrecht Law Review*, 20(4), 20-33. doi: 10.36633/ulr.1020.

[5] Busuyok, D. (2020). Types of mediation as forms of resolving land disputes. *Journal of the Kyiv University of Law,* 1(3), 268-272.

[6] Civil Procedure Code of Ukraine. (2004, March). Retrieved from https://zakon.rada.gov.ua/laws/show/1618-15#Text.

[7] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.

[8] Danilik, D.M., Myronyuk, E.G., & Hutsul, S.R. (2025). Mediation as a method of resolving land conflicts regarding citizens' compliance with the rules of good neighborliness: Legal mechanisms and effectiveness. *Analytical and Comparative Jurisprudence,* 6(2), 120-124. doi: 10.24144/2788-6018.2025.06.2.19.

[9] De Palo, G. (2018). *A ten-year-long "EU mediation paradox": When an EU directive needs to be more …directive*. Brussels: European Parliament.

[10] De Palo, G. (2025). From promise to practice: Resolving the mediation paradox in Europe. *Brazilian Journal of Labor, Law and Justice*, 3(3), 182-201. doi: 10.37497/RevistaTDJ.TRT9PR.3.2025.143.

[11] Deineha, M. (2022). Mediation as an alternative method of dispute resolution: International and national practices in legal regulation. *Law. Human. Environment,* 13(4), 16-25. doi: 10.31548/law2022.04.002.
[12] Directive 2008/52/EC of the European Parliament and of the Council "On Certain Aspects of Mediation in Civil and Commercial Matters". (2008, May). Retrieved from https://eur-lex.europa.eu/eli/dir/2008/52/oj/eng.
[13] Fedchyshyn, D.V. (2024). Land-legal aspects of the use of mediation in Ukraine. *Scientific Bulletin of Uzhhorod National University*, 85(2), 201-205. doi: 10.24144/2307-3322.2024.85.2.29.
[14] Fedchyshyn, D.V., & Ignatenko, I.V. (2024). Mediation as an alternative method of resolving land disputes with the participation of legal entities. *Scientific journal of the Mykhailo Dragomanov Ukrainian State University*, 43(18), 82-88. doi: 10.31392/NPU-nc.series18.2024.43.12.
[15] Giacalone, M., & Saleh, S. (2022). An empirical study of mediation in civil and commercial disputes in Europe: The mediation service providers perspective. *Revista Ítalo-Española de Derecho Procesal,* 2, 11-54. doi: 10.37417/rivitsproc/802.
[16] Hola, L., Večeřa, M., Urbanová, M., Holas, J., & Fiedor, D. (2021). *Mediation in the reflection of law and society: European perspectives*. Alphen aan den Rijn: Wolters Kluwer.
[17] Kanivets, L. (2024). On the effectiveness of the use of mediation in land disputes. *Law and Society,* 2(1), 337-343. doi: 10.32842/2078-3736/2024.1.2.50.
[18] Kharytonova, T., & Hryhorieva, H. (2024). Mediability of land disputes on the example of disputes over the restoration of agricultural lands. *Scientific Bulletin of the International Humanitarian University. Series: Jurisprudence,* 70, 62-66. doi: 10.32782/2307-1745.2024.70.12.
[19] Land Code of Ukraine. (2001, October). Retrieved from https://zakon.rada.gov.ua/laws/show/2768-14#Text.
[20] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-IX#Text.
[21] Mazaraki, N. (2018). General characteristics of contracts concluded in the field of mediation. *Enterprise, Economy and Law*, 2, 171-175.
[22] Nastina, O.I. (2014). Mediation as an alternative and effective way to resolve border land disputes. *Bulletin of the Ministry of Justice of Ukraine*, 3, 129-134.
[23] Ogrenchuk, H.O. (2016). *Legal regulation of the use of mediation in resolving civil disputes*. (Doctoral dissertation, National Academy of Internal Affairs, Kyiv, Ukraine).
[24] Piddubnyi, D.I. (2022). Development of the institute of mediation under martial law in Ukraine. *Juris Europensis Scientia*, 3, 130-134. doi: 10.32782/chern.v3.2022.24.
[25] Podtserkovny, O.P., & Budurova, G.M. (2023). On the needs of introducing specialization of commercial courts in land and investment disputes. *Precarpathian Legal Bulletin*, 5(52), 36-41. doi: 10.32782/pyuv.v5.2023.7.
[26] Recommendation No. R(98)1 of the Committee of Ministers to Member States of the Council of Europe "On Family Mediation". (1998, January). Retrieved from https://rm.coe.int/1680747b77.
[27] Recommendation No. R(99)19 of the Committee of Ministers to Member States of the Council of Europe "Concerning Mediation in Penal Matters". (1999, September). Retrieved from https://search.coe.int/cm?i=090000168062e02b.
[28] Recommendation Rec(2001)9 of the Committee of Ministers to Member States "On Alternatives to Litigation between Administrative Authorities and Private Parties". (2001, September). Retrieved from https://rm.coe.int/16805e2b59.
[29] Recommendation Rec(2002)10 of the Committee of Ministers to Member States "On Mediation in Civil Matters". (2002, September). Retrieved from https://search.coe.int/cm?i=09000016805e1f76.
[30] Recommendations for Mediators "On Preparing for and Conducting Online Mediation". (2022, January).Retrieved from https://namu.com.ua/ua/info/mediators/uyenspyereashchkl-ses-sroamr-pyeekashchkl-.
[31] Regulation (EU) No. 524/2013 of the European Parliament and of the Council "On Online Dispute Resolution for Consumer Disputes and Amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR)". (2013, May). Retrieved from https://eur-lex.europa.eu/eli/reg/2013/524/oj/eng.
[32] Rodríguez-Salcedo, E., Molina-Torres, M., Chagcha-Solís, C., Naranjo-Ruiz, V., & Naranjo-Llerena, L. (2025). Rethinking mediation and arbitration in the age of artificial intelligence: A systematic review. *Salud, Ciencia y Tecnología,* 5, 2316. doi: 10.56294/saludcyt20252316.
[33] Schulz, J.L. (2025). Mediation. In L.E. Reimer & R. Jochelson (Eds.), *The other side of the bar* (pp. 91-108). Singapore: Palgrave Macmillan. doi: 10.1007/978-981-96-9748-9 5.
[34] Sharma, S., Mishra, Y., Sharma, R., Kumar, R., Ranjan, R., & Kumari, S. (2025). Artificial intelligence and online dispute resolution in consumer tribunals. *Advances in Consumer Research,* 4, 4561-4567.
[35] Simon, D., & West, T. (2022). *Self-determination in mediation: The art and science of mirrors and lights.* Eagle: Association for Conflict Resolution.
[36] Terekhov, V. (2019). Online mediation: A game changer or much ado about nothing? *Access to Justice in Eastern Europe,* 3(4), 33-50. doi: 10.33327/AJEE-18-2.4-a000018.

[37] Tvaronavičienė, A., Kaminskienė, N., Rone, D., & Uudeküll, R. (2022). Mediation in the Baltic states: Developments and challenges of implementation. *Access to Justice in Eastern Europe,* 16*,* 68-86. doi: 10.33327/AJEE-18-5.4-a000427.
[38] Valyanska, T. (2024). *Alternative resolution of conflicts in the sphere of land relations: Legal aspects*. (Doctoral dissertation, Lesya Ukrainka Volyn National University, Lutsk, Ukraine).
[39] Whatling, T. (2021). *Mediation and dispute resolution: Contemporary issues and developments.* Jessica Kingsley Publishers. doi: 10.5040/9781805015031.

Медіація у запобіганні судовим процесам у земельних конфліктах: порівняння законодавства України та ЄС

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Анотація. Актуальність теми дослідження визначається зростаючою потребою у формуванні дієвої системи захисту прав та інтересів суб'єктів земельних відносин в Україні, зокрема в аграрному секторі. Метою статті був аналіз правових засад і практик застосування медіації у вирішенні земельних спорів в Україні та країнах Європейського Союзу для визначення можливостей їх адаптації в умовах євроінтеграції. У дослідженні використано системний, порівняльно-правовий, догматичний та наративний методи. У результаті встановлено, що медіація є ефективним альтернативним механізмом запобігання тривалим судовим провадженням у земельних конфліктах, який сприяє зниженню навантаження на суди та підвищенню якості державного управління земельними ресурсами. Проаналізовано особливості правового регулювання медіації в Україні та ЄС, виокремлено ключові проблеми її практичного застосування, зокрема низький рівень обізнаності, обмежену роль судів у спрямуванні сторін до медіації та недостатній розвиток інституційної інфраструктури. Обґрунтовано доцільність запровадження обов'язкової початкової медіаційної сесії як елементу державної політики у сфері вирішення земельних спорів. Окрему увагу приділено розвитку онлайн-медіації, ODR-платформ і перспективам використання інструментів штучного інтелекту в межах концепції «доповненого правосуддя», а також пов'язаним із цим етичним і правовим ризикам. Запропоновано матрицю ефективності медіації, а також обґрунтовано необхідність врахування досвіду європейських країн в процесі розвитку інституту медіації земельних спорів у правовому полі України. Результати дослідження можуть бути корисними для органів державної влади та місцевого самоврядування при розв'язані питань щодо інтеграції медіації у систему врегулювання земельних конфліктів в Україні

Ключові слова: публічне врядування; земельні спори; правова визначеність; позасудове вирішення спорів; державне управління земельними ресурсами

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