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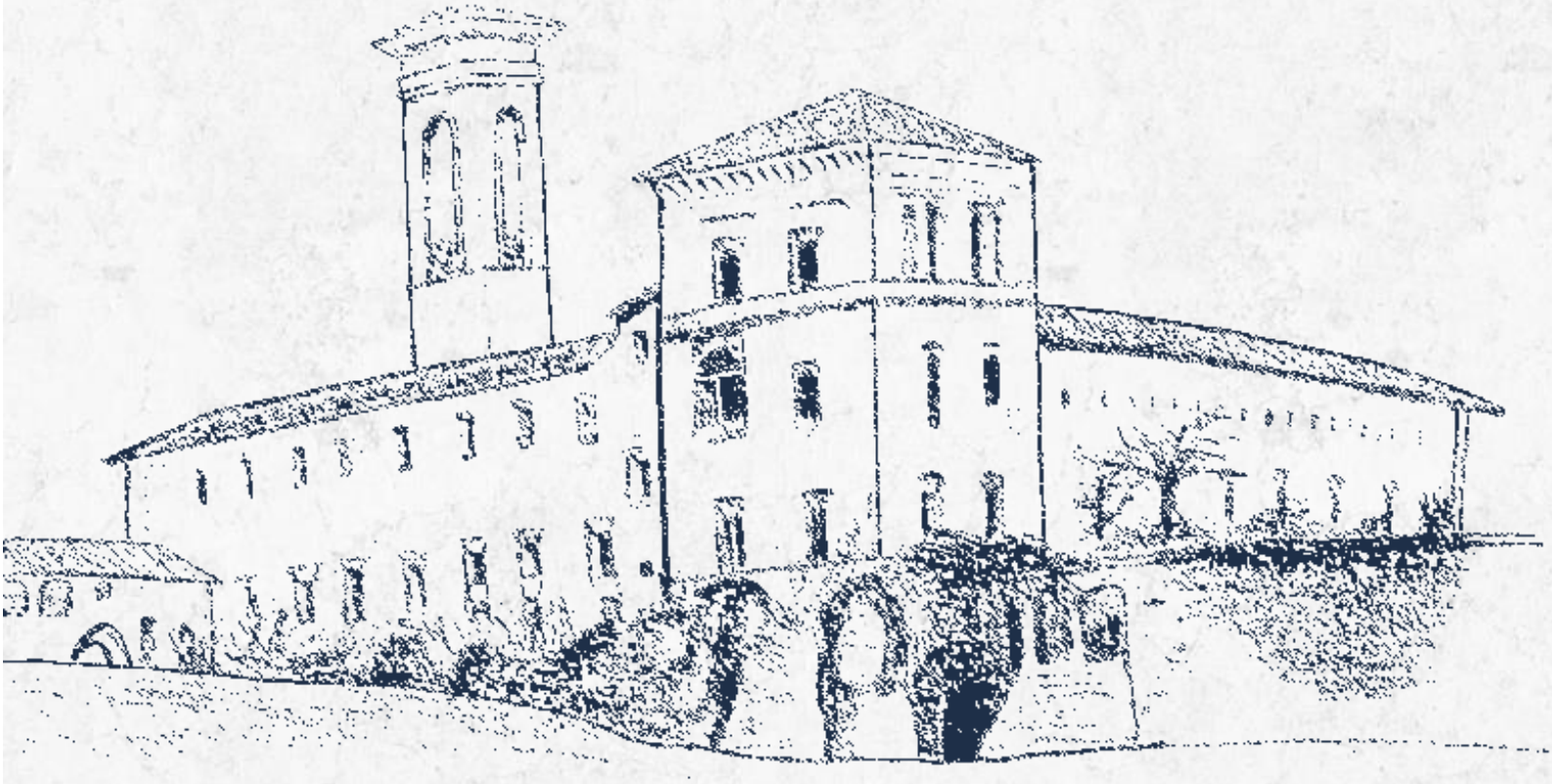

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Mediation in Labour Disputes: its Implementation in Ukraine and the International Experience

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Abstract

The aim of the paper is to study and compare the experience of implementing mediation in individual and collective labour disputes in the United States and in some countries of the European Union (Italy, France). Both quantitative and qualitative approach is implemented, supported by historical-legal and comparative methods. The Government of Ukraine is attempting to implement mediation, particularly in labour disputes. The implementation of mediation is a necessary decision in which legislative, executive and judicial branches of power are interested. This paper focuses on issues of quicker labour dispute resolution in Ukraine, on the improvement of collective labour dispute resolution and it examines the idea of bringing the protection of labour rights in Ukraine closer to the EU standards.

Keywords – *mediation; labour disputes; ECJ case law; individual labour disputes; collective labour disputes.*

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1. General Remarks

In Ukraine, mediation has been a well-known and thoroughly studied form of alternative dispute resolution for a long time. In this respect, there is no need to give a lengthy explanation of the tools and goals of mediation. In general, mediation in Ukraine can be described with two synonymous words, which however might have some differences: a *bazaar* (a spontaneous, disorganized and unregulated trade) and a *market* (a system of regulated relations in different areas, in particular trade). Ukrainian mediation is more reminiscent of the bazaar, since it exists *de facto* and this form of ADR (alternative dispute resolution) is in the stage of active development. There has been some progress in some areas of mediation, such as the provision of mediation services, training of mediators and development of professional associations. However, until recently mediation practice *de jure* has been actively ignored at the government level. Despite the fact that many draft laws on mediation were submitted to the parliament, all the attempts to establish a legal framework were futile and the legislative process did not progress further than the registration stage. Accordingly, the mediation sector is a self-regulating system at this moment, and it is characterized by a chaotic state of things. As of today, there is hope that the law will be enacted in the near future. Draft law (№ 3504) "On Mediation" was registered in the Verkhovna Rada of Ukraine on 19 May 2020, and it passed the first reading on 15 July 2020. The adoption of this act can lead to a major development of mediation services in different areas.

2. *Ad Fontes*

Mediation in the United States has its roots in the colonial period. The early colonists had a strong need to avoid any conflict that would undermine the stability of their community. In the late 1800s, the growing unrest between labour and management in the railway industry forced the federal government to intervene. The congress first passed the Arbitration Act of 1888, which provided for mediation and arbitration of railway labour disputes. The Erdman Act of 1898 followed in an attempt to strengthen the Arbitration Act. The Newlands Act of 1913 led to the establishment of the Board of Mediation and Conciliation, and in 1926, the congress passed the Railway Labour Act, which created the Board of Mediation, later renamed the National Mediation Board. In 1947, the Taft-Hartley Act created the Federal Mediation and Conciliation Service "to prevent or minimize interruptions in the free flow of commerce

growing out of labour disputes, to assist parties to labour disputes in industries affecting commerce, to settle such disputes through conciliation mediation."[2]

In view of the above, we can conclude that mediation as a form of ADR originated in labour disputes, and therefore, it is natural that mediation procedures will be enshrined in labour legislation.

3. Court Statistics on Labour Disputes

Statistics indicate that the number of cases regarding individual labour disputes is still significant. There were 20,593 labour disputes in 2018 and 21,133 labour disputes in 2019 before courts of general jurisdiction. Among them, the following categories should be highlighted:

- reinstatement claims – 2,756 cases in 2018 and 2,650 cases in 2019;
- claims for unpaid salary – 11,762 cases in 2018 and 11,880 cases in 2019;
- compensation for material damage caused to state enterprises and organizations by employees – 334 cases in 2018 and 406 cases in 2019.

The total number of cases heard in courts was 14,400 in 2018 and 14,418 in 2019, among which a final decision was made in 12,327 cases in 2018 and 12,424 cases in 2019. The compensation awarded by courts amounts to 482,548,638 UAH in 2018 and 370,815,058 UAH in 2019, in which moral damage was estimated at 4,378,106 UAH in 2018 and 21,501,095 UAH in 2019. In reinstatement cases, courts awarded 34,261,552 UAH (2018) and 25,748,751 UAH (2019) including moral damage that amounts to 466,816 UAH (2018) and 898,471 UAH (2019); unpaid salary cases – 390,877,525 UAH (2018) and 269,510,022 UAH (2019); cases regarding compensation for material damage caused to state enterprises and organizations by employees – 2,159,970 UAH (2018) and 7,969,407 UAH (2019). In general, courts of first instance upheld claims in 68% of cases in 2018 and 84.2% of cases in 2019.

As for statistics on judgments passed by appeal courts in 2018/19, the overall number of judgments made by lower courts that were reviewed by appeal courts was 3,408, and this number increased to 4,341 in 2019. Among them, mention should be made of judgments regarding

[2] W. J. Barry, *Appropriate Dispute Resolution*, Wolters Kluwer Law & Business, New York, 2017, p. 81.

reinstatement claims – 768 (2018) and 683 (2019), recovery of unpaid salary – 1,116 (2018) and 1,563 (2019), compensation for material damage caused to state enterprises and organizations by employees – 40 (2018) and 39 (2019).

Appeal courts upheld 2,127 decisions made by lower courts in 2018 and 2,579 decisions in 2019, specifically: judgments regarding reinstatement claims – 435 (2018) and 378 (2019), collection of unpaid salary – 744 (2018) and 109 (2019), compensation for material damage caused to state enterprises and organizations by employees – 26 (2018) and 19 (2019).

The number of overturned decisions amounts to 916 in 2018 and 1,202 in 2019, specifically: judgments regarding reinstatement claims – 244 (2018) and 240 (2019), recovery of unpaid salary – 249 (2018) and 305 (2019), compensation for material damage caused to state enterprises and organizations by employees – 11 (2018) and 20 (2019).

The number of amended decisions is 303 in 2018 and 532 in 2019, namely: judgments regarding reinstatement claims – 87 (2018) and 58 (2019), recovery of unpaid salary – 114 (2018) and 243 (2019), compensation for material damage caused to state enterprises and organizations by employees – 3 (2018) and 0 (2019).

To sum up, appeal courts upheld 62.4% of appeals in 2018 and 59.4% of appeals in 2019, overturned 28.2% of decisions in 2018 and 27.7% of decisions in 2019, modified 8.9% of decisions in 2018 and 12.3% of decisions in 2019.

The third-largest category of cases received by the Civil Court of Cassation is "labour disputes" (2,138 in 2018 and 2,276 in 2019) surpassed only by contract-related disputes (8,940 in 2018 and 2,869 in 2019) and disputes concerning the collection of damages (2,687 in 2018 and 2,869 in 2019), with this tendency which is still visible nowadays.

Throughout 2018, the Civil Court of Cassation issued a judgment in 1,542 cases regarding labour issues. Within this category, the Court upheld 1,187 lower courts' decisions, that is 77% of all labour cases; 343 decisions (22,2%) were overturned.

In 2019, the Civil Court of Cassation handed down a judgment in 1,841 cases regarding labour issues. The Court upheld 1,459 lower courts' decisions. i.e. 79.3% of all labour cases; 355 (19.3%) decisions were overturned.

Due to the enormous workload of the Civil Court of Cassation, there is a high probability that cases relating to labour disputes will be delayed, and this may lead to a breach of the reasonable time requirement.

4. Status Quo

The current Labour Code still contains the old provisions (Chapter XV) that govern the activities of the Labour Dispute Committee (one of the bodies established within a company, organization, or institution) that is responsible for the resolution of individual disputes between an employee and an employer. The adoption of the Constitution of Ukraine in 1996, which states that everyone has the right to appeal directly to a court and the jurisdiction of the courts extends to all legal relations that arise in the State, has resulted in the dismantling of the Labour Dispute Committees.

In this context, it is necessary to remember that the law should not be a compilation of statutory provisions covered with dust but it must be a compilation of frequently-used and effective legal norms. In case of inefficiency and conflict of legal norms that arise during their application, the legislature is required to fix this problem by updating and improving relevant provisions. It would be unreasonable to revive legal provisions that govern Labour Dispute Committees, given that these forms of dispute resolution have become a thing of the past. Yet the implementation of mediation services in the future has to bring a positive impact.

Due to the fact that the parliament did not adopt the law on mediation, new changes to the civil procedure law were made as an alternative strategy. The amendments to the Civil Procedure Code in 2017 stipulated that the dispute could be settled with the involvement of the judge. However, the implementation practice of the new instrument has been ineffective, and, as a result, there have been only a few cases regarding family matters. Also, there is no specific data that would indicate the reduction of labour disputes before courts of general jurisdiction after the amendments.

We can state that the number of labour disputes does not decrease and the practice of dispute resolution with the involvement of the judge did not become widely used. Thus, there is a strong need to establish mediation procedures as an out-of-court instrument for settling labour disputes.

5. *Quo Vadis?*

The draft law «On Labour» contains Chapter VIII, titled «Individual Labour Disputes». Article 86 of the draft law provides that mediation in labour relations is a pre-trial and out-of-court dispute resolution procedure, whereby the parties assisted by one or more mediators settle a

dispute through negotiation. In order to resolve a dispute, the parties to the labour relations have the right to initiate a mediation procedure and invite a mediator (mediators). The mediation procedure is based on the parties' mutual consent. If the parties decide to settle a dispute, they will conclude a settlement agreement in a written form signed by the parties and the mediator. In case of a breach of the settlement agreement by one of the parties, the other party will be entitled to take legal action. In the event of a labour dispute, the parties have the right to initiate a mediation process before filing a lawsuit or during the judicial proceedings.

Moreover, the draft law introduces an incentive to mediate in the form of an exemption of court fees for submitting a claim, and the provision applies to these relations regardless of the result of mediation. On the one hand, this initiative would be approved by the parties to civil litigation, but on the other hand, it is inconsistent with Draft law № 2427 «On Amendments to Certain Laws of Ukraine on Court Fees» dated 13 November 2019. According to the draft law, section 5(1)(1) of the Law of Ukraine «On Court Fees» states that, if a labour dispute arises, employees (former employees), who filed a lawsuit, are exempt from payment of court fees. If the legislature approves the draft law, the parties' motivation to start mediation will disappear because they are no longer under the obligation to pay court fees.

The draft article on the exemption of parties who concluded the mediation procedure is consistent with clause 16 of Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties dated 7 December 2007. All states have to promote mandatory participation in ADR procedures as a prerequisite to start judicial proceedings.

6. Mediation and Collective Labour Conflict

Particular attention should be given to collective labour disputes. Current legislation provides for the out-of-court settlement of collective labour disputes, and some judicial practice exists that confirms the application of the relevant legal norms (Decision of the Civil Court of Cassation of 29 May 2019, case no. 479/58/19; Decision of the Grand Chamber of the Supreme Court of 1 October 2019, case no. 916/2721/18). Provisions of the previous draft laws on mediation were not applied to collective labour disputes, an aspect which generated confusion within the legal community. The analysis of the draft law «On Mediation» no. 2706 indicates that it does not contain similar restrictions in comparison with the former proposals, and this approach is justified. However, the draft

law «On Labour» defines mediation as a tool for resolving individual labour disputes. In our view, it would be also appropriate to apply mediation to collective labour disputes. At present, these relations are governed by the Law «On Resolution of Collective Labour Disputes (Conflicts)» (1998). This law establishes the legal and organizational basis to resolve collective labour disputes, and it seeks to encourage cooperation between the parties during the settlement of collective labour disputes. Under the Law «On Resolution of Collective Labour Disputes (Conflicts)», a collective labour dispute is defined as a disagreement between the parties to the social and labour relations regarding the following issues: a) establishment or changing of working conditions; b) conclusion or modification of a collective agreement; c) performance of a collective agreement or its certain provisions; d) failure to comply with the requirements of the legislation on labour.

A collective labour dispute can be resolved by 1) *a conciliation commission* made up by representatives of parties, the aim of which is to make a decision that would be satisfactory to all parties engaged in a collective labour dispute. It is stipulated that an independent representative may be involved in order to facilitate cooperation between the parties, and this person also assists the conciliation commission in decision-making; 2) *an arbitration body* authorized to make a decision. It is comprised of experts invited by the parties.

Also, there is the National Mediation and Conciliation Service (hereinafter referred to as «the NMCS»), which was established by the President of Ukraine and has a specific role in resolving collective labour disputes. Its main objectives are to improve labour relations, prevent collective labour disputes and encourage decision-making within a reasonable time. The decisions of the NMCS are recommendatory and should be taken into account by the parties to the collective labour dispute (conflict), government agencies and local authorities. In fact, the NMCS, which is financed by the state budget, acts as a mediator that is not directly involved in a dispute resolution. These procedures could be characterized as mediation, but the current law does not stipulate the resolution of collective labour disputes without the involvement of a conciliation commission or an arbitration body.

7. The U.S. Experience

In the interstate private sector, the parties are required by the National Labour Management Relations Act (LMRA) of 1947 to notify the Federal Mediation and Conciliation Service (FMCS) an independent Federal

agency, when they commence bargaining over new or renewed collective agreements. Although disputing parties have the option of finding and employing their own private mediators, the most interesting examples of mediation in the US are provided by the FMCS, which has a roster of approximately 240 mediators located in 10 District Offices and more than 60 Field Offices throughout the United States. In addition to its primary function of mediating labour management collective disputes, the FMCS also provides mediators for rights or grievance disputes.[3]

Mediation in collective labour disputes is also enshrined in specific legislation of the United States. The Railway Labour Act (RLA) was enacted in 1926 to provide dispute resolution services for railways and the thirteen unions representing their employees. Through subsequent amendments, that jurisdiction now concerns parties in the airline industry. The 1934 amendments to the RLA created a government agency, the National Mediation Board (NMB), which provides mediation services for the transportation industry equivalent to those provided to the rest of the private sector by the FMCS.[4] To handle disputes involving the federal government and its own employees, The Civil Service Reform Act was passed in 1978, establishing the Federal Labour Relations Authority (FLRA) to provide two million federal employees with rights comparable to those provided to the private sector in 1935 by the National Labour Relations Act. The Authority provides assistance to federal agencies in developing dispute resolution services including mediation, and through the office of the Federal Service Impasse Panel may seek the assistance of FMCS mediators to help resolve collective bargaining disputes between federal agencies and the unions of their employees.[5]

8. The French Experience

In France, mediation developed during the 1970s out of practical judicial experience, mainly in the field of collective labour disputes and in family

[3] A. M. Zack, T. A. Kochan. *Mediation and Conciliation in Collective Labor Conflicts in the USA* / *Mediation in Collective Labor Conflicts* / M. C. Euwema, F. J. Medina, A. B. García, E. R. Pender (editors), Springer, 2019, p. 310.

[4] A. M. Zack, T. A. Kochan. *Mediation and Conciliation in Collective Labor Conflicts in the USA* / *Mediation in Collective Labor Conflicts* / M. C. Euwema, F. J. Medina, A. B. García, E. R. Pender (editors), p. 311.

[5] A. M. Zack, T. A. Kochan, *Mediation and Conciliation in Collective Labor Conflicts in the USA* / *Mediation in Collective Labor Conflicts* / M. C. Euwema, F. J. Medina, A. B. García, E. R. Pender (editors), p. 311.

law.[6] There are two groups of collective labour disputes: a) *«conflits collectifs de travail»* such as strikes, with their repertoire of symbols and ritual actions; b) *«conflits collectifs au travail»* which concern a whole range of management—employee tensions and hostilities in the workplace. Study of the first type of conflict has traditionally been linked to that of the unions and the *«workers movement»* of course. Analysis of the second *«horizontal»* type of conflict, where neither top management nor unions may be involved, is relatively recent in France. In France *«classical»* union-management conflicts are usually handled – if a third party is needed – by a local labour administration and by local *«Inspecteurs du travail»* (work inspectors): this is called a process of conciliation.[7]
The French Labour Code refers to three legal mechanisms (in Laws L.2522-1, L.2523-1 and L.2524-1): conciliation, mediation and arbitration.[8] Mediation in individual and mediation in collective labour disputes need to be established in parallel with each other, and these procedures have to involve mediators. With regard to collective labour disputes, the conciliation commission and arbitration body should be preserved.

9. The Italian Experience

Of particular interest is the Italian experience in the mediation field. Its history of development and transformations can serve as a role model for the implementation of mandatory mediation for certain types of cases in Ukraine. Mediation in Italy has gone through five key phases during its lifetime so far, being characterized by:
1) voluntary mediation with no regulation (the 1990s to 2004);
2) voluntary mediation before accredited mediation service providers (2005 to 2010);
3) mandatory mediation in certain civil and commercial disputes following Decree no. 28/2010 (March 2011 to October 2012);
4) cessation of mandatory mediation following the decision of the Italian Constitutional Court holding that the prior legislative decree was

[6] K. J. Hopt, F. Steffek (editors), *Mediation: Principles and Regulation in Comparative Perspective*, Oxford University Press, Oxford, 2013, p. 457.
[7] A. Jenkins, C. Thuderoz, A. Colson, *Mediation and Conciliation in Collective Labor Conflicts in France* / *Mediation in Collective Labor Conflicts* / M. C. Euwema, F. J. Medina, A. B. García, E. R. Pender (editors), Springer, 2019, p. 86.
[8] A. Jenkins, C. Thuderoz, A. Colson, *Mediation and Conciliation in Collective Labor Conflicts in France* / *Mediation in Collective Labor Conflicts* / M. C. Euwema, F. J. Medina, A. B. García, E. R. Pender (editors), p. 89.

unconstitutional for procedural reasons, voluntary mediation remained (October 2012 to September 2013);
5) required initial mediation session for limited categories of cases following law decree 69/2013 (2013 to present).[9]

On 4 March 2010 the Government issued Legislative Decree n. 28 having regard, *inter alia*, to Directives 2008/52/EC of the European Parliament and 21/2008 of the Council concerning mediation in civil and commercial matters. This Legislative Decree 28/2010 introduced, among other provisions, *«mandatory mediation»* obliging parties to attempt mediation before commencing proceedings concerning certain civil and commercial subject matters. Preparatory discussion clearly indicates that the objective of introducing *«mandatory»* mediation for a number of listed disputes was to secure an effective *«deflationary»* measure to deal with the enormous backlog of cases pending before the Italian courts, as well as to contribute to the promotion of a culture of alternative dispute resolution.[10] In that context, it must be noted that there are still excessive delays in the examination of civil cases and it led to a large number of applications submitted to the European Court of Human Rights.
Besides, it is worth mentioning that the Italian legislation contains provisions on conciliation which is performed before judicial proceedings. The conciliation is prescribed by article 410 of the Italian Code of Civil Procedure. It is performed by the commission established within the Provincial Labour Directorate. The conciliation has been voluntary since 2010.

10. The Case Law of the Court of Justice of the European Union

It is necessary to mention the judgment of the ECJ in *Rosalba Alassini and Others v Telecom Italia SpA and Others* (C- 317/08-C- 320/08) of 18 March 2010.[11] The judgment answered the question of whether pre-trial

[9] F. Maiorana, *Mediation in Italy, how does it differ?*, London School of Mediation, 2019, https://www.londonschoolofmediation.com/story/2019/02/06/mediation-in-italy-how-does-it-differ-/107/ (accessed April 23, 2020).
[10] C. Mastellone, L. Ristori, *Italy / EU Mediation Law Handbook: Regulatory Robustness Ratings for Mediation Regimes*, N. Alexander, S. Walsh, M. Svatos (editors), Wolters Kluwer, 2017, p. 471.
[11] *Rosalba Alassini and Others v Telecom Italia SpA and Others* (C- 317/08-C- 320/08) of 18 March 2010, EUR-Lex, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0317 (accessed May 6, 2020).

mandatory mediation was consistent with the Charter of Fundamental Rights of the European Union.

The ECJ ruled in *Alassini v Telecom Italia SpA* that a domestic provision requiring litigants in Italy to attend mandatory mediation before being able to enter legal proceedings did not contravene Article 47 of the EU Charter. The clause, which requires providers and end-users to try to solve their dispute by using mediation first, derives from Directive 2002/22/EC on Universal Service and users' rights relating to electronic communications networks and services. Telecom Italia argued before the ECJ that the plaintiffs were not admissible because they had not used mediation first, before taking their case to the court, which is mandatory under the national law. The plaintiffs argued that mandatory mediation unlawfully restricts their right of access to the court. According to the court, mandatory mediation (this includes mediation stimulating measures) can be sought by the courts and the government. This indeed restricts access to the court, but the court also ruled that there are limitations to these restrictions, which are needed to protect litigants.[12]

These restrictions cannot infringe on the very substance of the right guaranteed, they must be proportional and they must pursue a legitimate aim. In this case, these restrictions had a legitimate aim, which was the general public interest. Italian courts dealt for years with excessively long proceedings, which undermined the judicial system as a whole. By legislating mandatory mediation, which is faster and cheaper than a judicial procedure, Italy is actually protecting the rights of its citizens. The principle of proportionality is not violated as long as mediation does not cause a substantial delay in legal proceedings and it does not give rise to significant costs. Regarding the facts of the case, the court stated that all litigants still have the possibility to bring their case before the court, as access to the court was only delayed by 30 days and no fees were incurred.[13]

11. The Mandatory Mediation Dilemma

The draft law «On Labour» enshrines voluntary mediation and encourages pre-trial procedure by repealing court fees. As was mentioned above, if the parliament repeals court fees in labour disputes, this incentive will be

[12] L. Ramović, *'Compulsory' mediation and article 6 ECHR*, 2018, p. 32, http://scriptiesonline.uba.uva.nl/document/655099 (accessed April 24, 2020)
[13] L. Ramović, *'Compulsory' mediation and article 6 ECHR*, p. 33.

meaningless. Therefore, we believe that mandatory mediation should be applied to labour disputes.

Paragraph 3 of article 124 of the Constitution of Ukraine (as amended in 2016) states that a mandatory pre-trial settlement of disputes may be prescribed by the law. If the mediation process fails, the person retains the right to apply to a court that will resolve a labour dispute. It means that the right to a fair trial prescribed by article 6 of the European Convention on Human Rights is not a subject to any limitations.

The Constitutional Court of Ukraine in its Decision No. 1-2/2002 of 9 July 2002 stated that a mandatory pre-trial settlement of disputes, which excludes filing a lawsuit in the relevant court, violates the right to a fair trial.

The recourse to ADR can enhance the parties' legal protection, and it does not undermine the principle that only courts are empowered to dispense justice. In response to a need for strengthening legal protection, the government can incentivise parties to use alternative dispute resolution, and in this context, it is worth mentioning that the application of ADR is the right of a person who seeks legal protection, not an obligation.

12. The Alternative to Mandatory Mediation

The draft law «On Labour» states that employment contracts must be concluded in writing. One of the essential elements of the employment contract could be a mediation clause that is similar to arbitration clauses in commercial contracts. By including the mediation clause, the parties to the labour relations decide to make mediation mandatory. At the same time, this practice would contribute to the promotion of mediation in labour disputes. Also, the mediation clause may be included in the collective agreement, in which employees acknowledge mandatory mediation in individual labour disputes.

Since the government plans to lay the foundations for mediation in Ukraine, it needs to make amendments to the provisions of the draft law «On Labour» regarding the period for bringing a case to court. These amendments have to prescribe the suspension of limitation periods during the mediation process, but there must be restrictions concerning the suspension period (from one to three months) in order to prevent the violation of the right of access to a court.

The significant shortcoming of the draft law «On Labour» is a lack of the provision concerning the legal aid for parties who meet eligibility

criteria to receive legal assistance and decided to resort to the mediation procedure.
If mediation remains voluntary, it makes sense to establish full or partial reimbursement of mediation costs within the legal aid programme. It could play the same encouraging role as the exemption from court fees mentioned above.
In case of legal action following the breach of obligations stipulated in a mediation settlement, the court may order the party who acted in violation of the provisions of the settlement to pay litigation costs.

13. Conclusions

While appreciating the efforts of the Government to enshrine mediation in the draft law «On Labour», we can conclude the following.

1) In Ukraine, mediation should be established in the form of a mandatory pre-trial procedure, which in turn will allow parties to settle individual labour disputes quicker and more effectively, and, moreover, it will reduce the court workload.

2) Also, it would be appropriate to extend the scope of the legal aid to parties who meet eligibility criteria to get legal assistance and decided to participate in the mediation process. These legal aid programmes may offer full or partial reimbursement of mediation costs.

3) In case of engaging in mediation before the start of judicial proceedings, it is important to have appropriate rules that define the moment when the limitation period should be suspended or resumed.

4) If mediation remains voluntary, it makes sense to discuss the issue of whether an employment contract or collective labour agreement has to include the clause concerning mandatory mediation in individual labour disputes.

5) The scope of mediation needs to be extended to collective labour disputes in order to eliminate the conflict between the law on mediation, which doesn't include any limitations on mediation in collective labour disputes, and the specific legislation on collective labour disputes that doesn't say anything about the application of this ADR tool.

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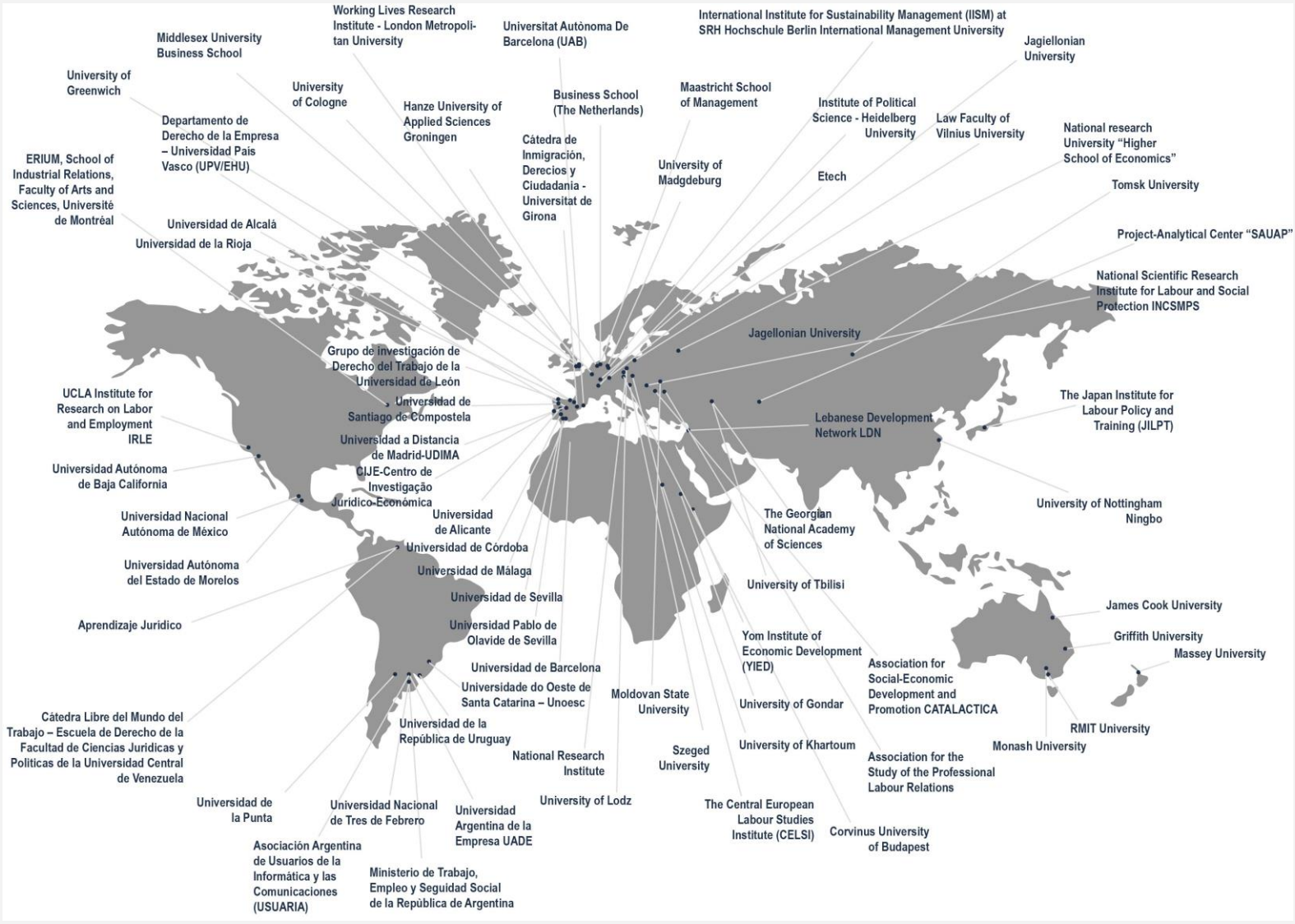

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