

Announcement Note

ABOUT THE JOINT UKRAINIAN-LITHUANIAN R&D PROJECT 'STRENGTHENING OF ALTERNATIVE DISPUTE RESOLUTION IN LITHUANIA AND UKRAINE: FINDING THE CROSS-BORDER SOLUTION' AND ITS RESULTS FOR THE PERIOD OF 2020-2021

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ABSTRACT

The Joint Ukrainian-Lithuanian R&D Project 'Strengthening of Alternative Dispute Resolution in Lithuania and Ukraine: Finding the Cross-Border Solution' was undertaken during the period of 2020-2021 by teams of scholars from the Taras Shevchenko National University of Kyiv and Vilnius University. The main aim, process, and results (achievements) are discussed in this note.

Keywords: *scholar projects, legal research, alternative dispute resolution, Lithuania, Ukraine*

1 INTRODUCTION AND BACKGROUND

Lithuania and Ukraine have a large amount of history in common, and the population from both states are close in their traditions and views on various issues. Today, Ukrainian society is faced with a new vision of rule of law and interpersonal relationships due to the ongoing integration into the EU, and the state is becoming a genuinely European area of justice. Comprehensive approximation to the EU's idea of justice requires the separation of judicial

and extra-judicial jurisdiction over dispute resolution and comprehensive support for the development of out-of-court dispute resolution. In such a situation, Ukraine needs models of cases and best practices that it can adopt and adapt, and Lithuania may provide some examples of alternative dispute resolution (ADR).

The Ukrainian society's low level of trust in the judicial system as a mechanism for resolving legal disputes is confirmed by sociological research (less than 20% of the population trust the courts¹). This distrust is the basis for the introduction of ADR in Ukraine. The motivation for developing ADR in Ukraine was its wide acceptance by European society as an efficient way of resolving disputes. With this in mind, it seemed relevant to conduct a comprehensive interdisciplinary dialogue and debate to find the most effective models for both internal disputes and cross-border disputes.

The background and rationale of the proposal for the project are the Association Agreement between Ukraine and the EU of 2014 and the establishment of the DCFTA. Based on this agreement, the migration processes between the EU and Ukraine are increasing, as are the number of social relations between various traders, public organisations, state institutions, and individuals. This, in turn, increases the number of potential conflicts. This necessitates a truly effective implementation of the right to legal protection for citizens of Ukraine and the EU member states, as well as an increased level of trust in the judicial systems between them.

The participation of the two best institutions of higher education – Taras Shevchenko National University and Vilnius University – in this project allowed it to provide large-scale support to the ADR development program in Ukraine and in Lithuania as well.

In light of this goal, among the proposals of this project were the following: 1) gathering information on schemes accumulated by the EU in the field of ADR, in particular, the Lithuanian experience, which is one the best, and worth implementing; 2) the exchange of Ukrainian and Lithuanian practices, especially concerning relevant optimal models for resolving cross-border disputes that arise due to social relations within the DCFTA, as judicial protection of the rights of their participants will be complicated significantly; 3) building a basis of knowledge within the proposed project that supports active dialogue between the scholarly community, higher education centres, young researchers, and practitioners from Ukraine and Lithuania in order to exchange best practices and share knowledge with the wide-scale audience, civil servants, and policy-makers.

The objectives of the project were: 1) to establish an effective partnership among the leading higher educational centres of Ukraine and Lithuania in the field of ADR implementation and development; 2) to collect, analyse, summarise, and prepare materials on the best Ukrainian and Lithuanian practices for preserving, disseminating, and discussing this knowledge; 3) to promote the rational application of the European experience of ADR in Ukraine and generate an acquaintance with the most effective models for certain categories of disputes for a wider scale of interested entities; 4) to promote innovation in research-based teaching, support the modernisation, accessibility, and internationalisation of ADR experience relevant to students and their academic and professional lives and enhance their civic skills; 5) to discuss widely effective European models of ADR that are applicable to Ukraine with the representatives of key stakeholders for the promotion, communication, dissemination, and publication of the project outcomes.

The teams from the Ukrainian and Lithuanian universities consisted of leading scholars from both states in the areas of civil justice and ADR. The co-heads of this project were Professor

1 See M Stefanchuk, O Hladun, R Stefanchuk, 'Establishing Trust in the Court in Ukraine as a Strategic Task for Judicial Reform' 2021 3 (11) *Access to Justice in Eastern Europe* 101-116. DOI: 10.33327/AJEE-18-4.3-n000073

Iryna Izarova from the Law School of Taras Shevchenko National University and Professor Vytautas Nekrošius from Vilnius University. Among the Ukrainian team members were Yurii Prytyka, Dr. of Science in Law, professor, head of the Civil Procedure Department, Oleh Zaiarnyi, Dr. of Science in Law, associate professor of the Department of Intellectual Property law, and Olena Terekh, Cand. of Science in Law, associate professor of the Civil Procedure Department. Among the Lithuanian team members were Dr Vigita Vėbraitė and Dr Jurgita Paužaitė-Kulvinskienė, professors of the Vilnius University Faculty of Law, and Miglė Žukauskaitė, PhD candidate of Vilnius University Faculty of Law (who defended her thesis during the period of this project).

2 PROCESS AND CHALLENGES

The beginning of this project occurred at the start of the COVID-19 pandemic, and this became the most challenging aspect of implementing this project.

The project plan included study visits, covered by the budget, to facilitate study and strengthen the relations between the team members, stimulate discussion, and disseminate the results. Nevertheless, during the first year of this project, these visits could not be carried out due to the pandemic.

The only one study visit of the Ukrainian team to Lithuania was implemented at the end of the second year of this project. Yet even this single visit helped the team member to share the best ADR practices from Lithuania, thoroughly discuss their experience, and suggest future development among team members.

Regardless of these challenges, students and teachers interested in ADR were able to join this discussion through a seminar, which was organised on Zoom at the end of the first year of the project. More than 30 persons from both states were engaged in this seminar, 12 presentations were given, and the collection of papers was published in Ukraine for the wide dissemination of the project results.²

The final conference was held in Lithuania at the end of the second year of this project, with substantial participation from the representatives of the judiciary, students, and academics from both states.

During the Ukrainian team's visit to Lithuania, meetings were organised with the representatives of the Lithuanian Supreme Administrative Court, with the enforcement officer Donatas Kisielius, with the representatives of Vilnius Commercial Court of Arbitration (the chairman of this arbitration court is Professor Nekrošius, and the secretary is Vitalija Baranovienė). The discussion allowed all the participants to look deeply into the practical issues, to exchange opinions, and to look for the best solutions for the ADR methods together.

Lithuanian team members gave two lectures for the Ukrainian representatives of students and academics: 'Arbitrary Development in Lithuania' by Professor Vytautas Nekrošius and 'Novels of the Service of Documents and Taking of Evidence in the EU Civil Procedure' by Dr Vigita Vėbraitė. These helped to share new experiences in arbitrary development and shed light on the EU tools of inter-state cooperation in judicial and extra-judicial matters.

Project team members announced the results of this project at their own project events and more broadly. We should underline the success of the participation in and sharing of the

2 Collection of papers of the international webinar 'Sharing Lithuanian best practice of alternative dispute resolution in Ukraine', Iryna Izarova and Vytautas Nekrošius (eds) (VD Dakor 2020) (In Ukrainian).

results of this project at the International Congress of Civil Procedural Law, 'The Challenges of Global and Digital Sustainable Development', hosted by Universidade Portucalense and its Research Center – Instituto Jurídico Portucalense and IJP IPLeiria, in collaboration with the University of Vigo, the University of Malaga, the University of Salamanca, the University of Granada, and the Federal University of Rio de Janeiro, held 20-21 May 2021. Dr Olena Terekh and Dr Miglė Žukauskaitė gave a presentation about ADR experience in labour cases in Ukraine and in Lithuania.

Despite the limitations imposed by the pandemic, the project outputs benefited the target groups, a process that was aided by the fact that the lead applicant is a representative of civil society in Ukraine and in Lithuania. The outcomes are the result of deep engagement from the universities from Ukraine and Lithuania, which will bring further stable and fruitful cooperation.

3 FINAL RESULTS, RECOMMENDATIONS, AND FUTURE PERSPECTIVES

Engagement in joint research helped to strengthen relations and facilitated cooperation between both states.

The dissemination of the project results was done in a few ways. Throughout the project, a Facebook page was maintained that included all the information. This helped engage a broad audience interested in the project results and discussion. Publications of the project results are fully open access, including the collection of papers from the seminar³ and the articles.⁴ The final studies were published in a collection of articles in Ukrainian at the end of the second year of this project.⁵

The following main outputs were achieved during the implementation of this project: 1) an effective international EU-Lithuania Project on ADR development; 2) the selection of the most effective models of ADR for resolving disputes that arise at the national (Ukraine or Lithuania), cross-border (Ukraine and Lithuania) and pan-European (Ukraine and EU Member States) levels; 3) deepening of knowledge about effective models of Lithuanian ADR and their applicability in Ukraine.

As another outcome of the project, we may highlight creating a real discussion and sharing ADR with the use of modern information and communication technologies, which will ensure the efficient collection and dissemination of information on ADRs in Ukraine and in the EU, as well as quick and easy access to required ADR information. This will allow others to make substantiated proposals on the interaction and integration of the ADR system of Ukraine and the EU.

The following impacts were achieved: 1) raising awareness about the ADR of the target audience (number of beneficiaries involved in the network communication and dissemination

3 Collection of papers of the international webinar 'Sharing Lithuanian best practice of alternative dispute resolution in Ukraine', Iryna Izarova and Vytautas Nekrošius (eds) (VD Dakor 2020) (In Ukrainian).

4 Iryna Izarova, Vytautas Nekrošius, Vigita Vėbraite, Yurii Prytyka 'Legal, Social and Cultural Prerequisites for the Development of ADR Forms in Lithuania and Ukraine' (2020) 116 Teise (Law) 8-23. <https://doi.org/10.15388/Teise.2020.116.1>; O Terekh Alternative Resolution of Labor Disputes: Practice of Ukraine and the EU in Bulletin of Taras Shevchenko National University of Kyiv . Legal Studies, №2 (113), 2020, Pp. 61-66. <https://doi.org/10.17721/1728-2195/2020/2.113-12>

5 *Access to Justice Within Sustainable Development: on the occasion of 30 years of Ukraine' Independence*, Yurii Prytyka and Iryna Izarova (eds) (VD Dakor 2021) (In Ukrainian). See part 3 Vytautas Nekrošius, Vėbraite Vigita, Modern Civil Procedure of the Lithuania Evolution, part 4 Terekh Olena, Miglė Zukauskaite-Tatore, Alternative Resolution of Labor Disputes in Ukraine and Lithuania.

activities); 2) the development of tolerance, the increase of self-regulation of subjects of interaction, the reduction of social tension, and intensity of social and interpersonal conflicts (according to the results of sociological research); 3) increasing the mutual trust in Ukrainian and member states rights protection as an added value of the development of the network at an international level.

The project helped to enhance the visibility of scientific resources and academic work in the field of ADR development through a variety of activities (lectures, seminars, conferences, information campaigns, etc.), publications (in scientific open access journals, on the websites of the both of the universities, and in social networks, such as on the Facebook page of the project), and public debates at the conference (with the participation of the international scholarly community and practitioners).

We should say something about results and conclusions, proposals, for instance:

- Researchers concluded that ADR methods in both countries have much in common and many similarities can be traditionally found.
- Courts of arbitration have even more cases in Ukraine in comparison with Lithuania.
- Mediation must be advertised more in both countries and online dispute resolution methods can be included and developed during mediation services;
- Electronic systems for ADR are much more developed in Lithuania and Ukraine can take example how to develop such systems.