DANUBE • 15(1) • pp. 73–86
DOI: 10.2478/danb-2024-0004

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Danube

Mediation in the Resolution of Tax Disputes: Advantages, Application Experience, Prospects for Implementation in Ukraine

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Abstract

The aim of this article is to analyze the utilization of alternative approaches for resolving tax disputes across various countries worldwide in order to evaluate the feasibility of introducing such approaches in Ukraine. It provides an overview of mediation, which is considered one of the most efficient methods for alternative dispute resolution. The article also presents a classification of mediation mechanisms employed in different countries. Furthermore, it examines the trends in the feasibility of introducing tax mediation in Ukraine. Lastly, the article suggests a roadmap for implementing judicial mediation as the most comprehensible and effective method for resolving tax disputes.

Keywords

Alternative Resolution of Tax Disputes, Arbitrator, Mediation, Optimization of Taxation, Tax Dispute, Taxation

I. Introduction

Tax relations are constantly changing due to the fast-paced development of economic collaboration between businesses and states in the context of globalization. This high level of dynamism can create conflicts in tax relations, particularly in case of a legal collision between taxpayers' activities and tax regulations. Consequently, they can lead to disputes between taxpayers and regulatory authorities, which often develop into tax disputes that need to be resolved.

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The resolution of tax disputes in any country is one of the primary tasks of regulatory authorities (Pickstone, 2019). However, the development of the appropriate regulation mechanisms for resolving tax disputes is certainly an important task for judicial and tax authorities (Juanpere, 2020). In addition, the legislator shall provide procedural support for the activity of persons who resolve tax disputes by introducing modern effective procedures for the settlement of tax-related disputes.

The findings presented in this article can have a positive impact in several ways. Firstly, they can raise awareness among potential mediators about the opportunities for resolving tax disputes. Secondly, the proposed changes could help judicial authorities save time and resolve tax disputes more efficiently. Thirdly, the research results can be utilized to amend procedural legislation with judicial and extrajudicial mediation mechanisms.

II. Materials and Methods

In order to achieve the aim of the research, a number of materials were analyzed. The theoretical basis consisted of articles and monographs by experts in tax legislation from different countries. The analysis of these works helped to define the main characteristics of mediation. Moreover, the recommendations were provided for improving the regulation of this dispute resolution mechanism. Empirical data on the effectiveness of mediation in resolving tax disputes in different countries served as sources of the research.

At the empirical level of the study, the comparative method was used to explore the implementation of mediation technologies in different countries. The observation method was applied to obtain detailed information about the mediation process itself, the impact on its participants, and the dynamics of conflict resolution. Apart from that, this method allowed to analyze the effectiveness of tax dispute resolution through mediation. The experiment of introducing a tax compromise in Ukraine was characterized and its economic impact was determined.

The application of the modeling method helped to explore the practical implementation of mediation mechanisms for resolving tax disputes in the European and American countries. In addition, this method enabled the formulation of several essential principles that governed the implementation of mediation for resolving tax disputes in Ukraine.

III. Results

Mediation characteristics and principles

Although in legal literature, there are various definitions of mediation, it is essential to develop an accurate definition of this concept and define all components of the mediation mechanism. Thus, the mediation is a contemporary method of resolving disputes through the assistance of a mediator. The primary responsibility of the mediator is to guide the parties involved in the conflict through a thorough examination of the disputed situation, enabling them to independently select a resolution option that best aligns with their interests and needs. Nevertheless, despite their participation in the dispute resolution, the mediators cannot make decisions independently at their own discretion.

Foreign scholars such as Roy and Sherman define mediation as a process in which an independent third party helps the parties clarify their views, explore alternative options for resolving the dispute, and find compromises (Rau, 2002). At the same time, Westbrook, Guthrie, Raiskin, Robenoult, Reuben, and Heinsch note that the mediator helps the parties to negotiate in order to reach a resolution of the dispute and an agreement (Riskin et al., 2006). Kovach (2004) considers mediation a process in which a neutral third party contributes to the resolution of the conflict. Bashnyak (2005) defines mediation as a negotiation process with the participation of a neutral mediator who helps conflicting parties to evaluate possible compromises and make an independent decision acceptable to both parties. Golan and Klopenberg determine mediation as a procedural activity when a neutral third party, a mediator, helps the parties to reach a consensus in a dispute (Folberg et al., 2005). Bobrovnyk (2011) and Polishchuk (2014) note that mediation is a specific procedural activity that restores mutual respect and trust between the parties to the dispute. Belinska (2011) defines mediation as a structured and confidential procedure for resolving a dispute through direct negotiations between the mediator and the parties. Lysenko (1998) defines mediation as a technology for resolving a legal dispute with the involvement of a third active person, i.e., a mediator. Bortniak (2007) and Prytyka (2006) describes mediation as negotiations between two conflicting parties with the participation of a mediator who has the necessary experience, education, and skills to help the parties reach an agreement.

Currently, there is no proper regulation of alternative dispute resolution in the tax field between the controlling body and the obliged party in Ukraine. Therefore, it would be appropriate to rely on foreign experience when analyzing the prospects for introducing mediation mechanisms in tax relations. In Ukraine, by-laws define mediation as a process in which professional mediators help the parties to a dispute reach a compromise and resolve the dispute independently (Order of the State Service of Special Communication and Information Protection of Ukraine, No. 320…, 2016). In this regard, we will consider the Ukrainian aspect of the definition of "mediation" according to the Law of Ukraine "On Mediation". Thus, mediation is an out-of-court voluntary, confidential, structured procedure in which the parties try to prevent or resolve a conflict (dispute) through negotiations with the help of a mediator (mediators) (Law of Ukraine, No. 1875-IX, 2021).

Given the diversity in interpretations of the notion of mediation, it is possible to summarize that mediation is a process of resolving conflicts and disputes that requires the involvement of a third neutral party, i.e., a mediator, whose main task is to help the participants find a mutually acceptable solution. This process is based on active listening, communication and joint search for an optimal solution that takes into account the interests and needs of all participants. Mediation can be aimed at resolving the conflict or preventing it, depending on the circumstances of a particular case.

It is important to note that the mediator is responsible for ensuring a comfortable, safe, and impartial environment for effective cooperation between the parties, with the ability to freely express their opinions and needs. Such an environment should stimulate the search for an effective solution to the problem that has arisen, taking into account the interests of the parties. Furthermore, as an alternative dispute resolution mechanism, mediation reduces tension and conflict that allows participants to take an active part in the decision-making process while maintaining control over the situation. The mediation components are the participants, the mediator, the dispute or existing conflict and the so-called negotiation process. In addition, mediation shall be based on the following principles and foundations:

* Voluntariness – no party can be forced to participate in mediation. The free choice and consent of the participants is the basis for successful conflict resolution through mediation.
* Confidentiality – the participants and the mediator are obliged not to disclose information obtained during mediation. This allows the participants to be open and relaxed in expressing their opinions and needs.
* Impartiality – the mediator should be a neutral party and not influence decision-making. The mediator is interested in helping the participants reach a mutually acceptable solution that meets their needs and interests.

It is worth noting that mediation has a number of advantages over court proceedings and direct resolution of the case. Thus, participation in mediation is voluntary, and the participants themselves exercise control over the process and decide how the conflict should be resolved. In doing so, they take into account everyone's interests when making the decision. Moreover, unlike litigation, which can take years, mediation is a fast process due to direct communication and active cooperation. Besides, mediation is aimed at satisfying the interests of both parties and helping them reach a mutual understanding while avoiding further escalation of the conflict. In terms of economic benefits, mediation is financially more advantageous (The benefits of mediation: Why going to court is often not in your best interests, 2020).

Mediation as a method of dispute resolution originated in the USA in the 60–70s of the 20th century due to the judicial system crisis. Over time, the advantages of mediation over litigation led to its widespread use in Great Britain, Canada, Australia and most of the European Union. The practice of different countries shows that it is possible to achieve a mutually beneficial solution to the dispute through mediation. In addition, agreements reached as a result of mediation are more faithfully enforced than court decisions (Polishchuk, 2014).

For example, in the Netherlands, tax disputes can be resolved through mediation, as demonstrated by an experiment involving four tax districts. The Dutch Ministry of Finance reported that 75 disputes were successfully resolved through mediation during the year, representing 80% of cases. If disagreements cannot be resolved through mediation, the parties always have the option to sue. However, unlike the court, there is no losing party in mediation, eliminating the associated risks.

One of these risks is the existence of an unequal balance of power, meaning that one of the parties has more power, authority or control. This, in turn, can create obstacles to reaching a fair solution for both parties. To avoid such a problematic situation, the mediator must ensure that the process is balanced and the negotiations between the parties are balanced. The lack of trust in the mediator or between the parties is also a significant risk. As a result, the parties will not be able to openly express their opinions, propose solutions, and reach compromises to resolve the case. That is why the mediator should work to build trust and create a safe atmosphere for the participants. Problems also arise when one party has significantly more information than the other, which can lead to an unequal power dynamic in the negotiations. Therefore, the mediator should help regulate access to information and ensure a level playing field for all participants.

Furthermore, in litigation, a settlement may be reached incidentally, whereas in mediation it is the main goal that the parties wish to achieve. During mediation, the parties must not initiate any judicial or administrative proceedings related to the dispute resolution. After the completion of the mediation procedure, a protocol is drawn up, which states issues the parties have reached an agreement on and which issues are subject to the judicial review (Kurilo, 2016a).

It is also appropriate to study the practice of tax mediation in Belgium. Since the 1990s, relations between taxpayers and tax authorities in Belgium have improved significantly. The creation of the Tax Mediation Service by the Law of April 25, 2007 played a significant role in improving their previously antagonistic relationship. Thus, in 2010 alone, the Tax Mediation Service received 1,200 applications from taxpayers seeking to resolve a tax dispute with the Belgian tax authorities. Prior to that, from 2007 to 2010, 197 taxpayers' applications were considered through mediation, which indicates that the alternative way of resolving tax disputes was not fully operational at that time. The Tax Mediation Service operates as an independent division of the Belgian tax authorities and is autonomous from the activities of the tax authorities, limited to the administration of mandatory payments. This Service was created following the adoption of Royal Decrees in 2007 and 2009 (Kurilo, 2016b).

Therefore, it is possible to single out three models of mediation that have been developed in European countries:

* The external mediation takes place outside the judicial system and depends only on the voluntariness of the parties. In this case, when the parties have conflicts or disputes, they may decide to use the services of a private mediator who is independent from the court. This type of mediation is confidential and private, while the results of the agreement between the parties are legally binding. However, it is not considered the best option for resolving public legal disputes because the authorities do not want to spend public funds on private mediators.
* The judicial mediation takes place within the court system, where the court provides the parties with the opportunity to use the services of a mediator. Accordingly, the mediator is appointed by the court or with its approval, or the judge acts as a mediator. This type of mediation can occur before or during court proceedings, depending on the procedural rules of each country.
* The court-ordered mediation takes place after a court decision is rendered or during its execution. For example, when the parties to a proceeding have difficulties in enforcing a judgement and new disputes arise, the court may refer them to mediation in order to reach a compromise and avoid the need for further judicial intervention (Sergeeva et al., 2021).

Specific features of mediation in tax dispute resolution

Currently, the use of mediation in tax disputes in Ukraine is not properly regulated, which complicates its implementation. However, the absence of regulation does not mean that parties cannot engage in dialogue to resolve disputes. In fact, the mechanisms proposed by the legal system indicate that economic entities and tax authorities can cooperate to reach mutually beneficial agreements. For example, the tax compromise experiment of 2015 allowed taxpayers to submit clarifying calculations of tax liabilities, as a result of which UAH 7 billion of tax liabilities were repaid and 449 criminal proceedings were closed (Sokolov, 2018). This three-month dialogue reduced the number of administrative complaints and lawsuits, provided additional tax revenues to the budget and improved the country's economy.

Thus, the judicial mediation provides for the settlement of disputes that are already the subject of court proceedings and takes place with the participation of a judge-mediator. This model of mediation is widely practiced in such countries as Germany, the Netherlands, and Finland. In Finland, for example, according to the Finnish Mediation Act, only a judge of the court where the case was initiated can act as a mediator (Sergeeva et al., 2021). In addition, the judicial model provides for the creation of a judicial mediation centers with external mediators accredited by the court, which is considered the best option for resolving public legal disputes.

It is important to note that the establishment of judicial mediation centers will be appropriate and will not hinder attempts to introduce effective mediation in Ukraine. Moreover, the creation of these centers will be a step towards the promotion and institutionalization of mediation in the Ukrainian legal system. Judicial mediation centers can provide a structured framework for mediation practice, increase trust in mediation, improve its perception as a meaningful alternative to litigation by the public, and ensure appropriate quality standards.

It is worth noting that mediation can easily substitute judges in some cases, removing them from formal court proceedings and facilitating the resolution of disputes on a voluntary and consensual basis. As a result, judges will be able to focus on more complex cases that require more attention. This will reduce the number of hearings, thus relieving the judicial system and accelerating court hearings. Mediation also facilitates the reduction in the number of appeals since it minimizes the need for such appeals due to the voluntary nature of the process. Thus, mediation can lead to faster dispute resolution than traditional litigation.

The use of mediation in public law disputes was once a matter of debate. However, with the approval of Recommendation (2001) 9 of the Committee of Ministers of the Council of Europe on alternatives to judicial proceedings, mediation in administrative legal relations was legally recognized (Recommendations of the Committee of Ministers of the Council of Europe, 2001). Later, the European Commission on the Efficiency of Justice adopted Guidelines No. 15 to implement this recommendation more effectively (European Commission for the Efficiency of Justice, 2007). In Ukraine, the Law of Ukraine "On Mediation" was adopted, and changes to the Code of Administrative Procedure of Ukraine were made to introduce mediation in the domestic legislation (Biluga, 2015).

It is also worth emphasizing that certain legislative barriers currently prevent the implementation of alternative dispute resolution methods in Ukraine, particularly in tax disputes. For example, the Law of Ukraine "On Arbitration Courts" explicitly prohibits the use of an arbitration court and any arbitration award to resolve public legal disputes that involve authorities, officials or other entities that perform public administration functions. Since this prohibition can cause misunderstanding in cases involving large taxpayers and multimillion-dollar taxes, it is incompatible with public-private partnerships.

Ukraine introduced a judicial mediation model through pilot projects. The first project was implemented by the Vinnytsia District Administrative Court in 2010–2011, with 31 procedures conducted by mediator judges. 20 of these procedures ended in successful deals. The judge's authority is an advantage of this model. However, it does not solve the problem of reducing the number of pending cases (Mediation: effective conflict resolution, n.d.).

The Code of Administrative Proceedings of Ukraine promotes the use of mediation, but its use in administrative proceedings is limited due to the following reasons: the lack of appropriate powers among public authorities, the presence of liability risks, the innovative nature of mediation, and a special composition of the parties, when one party is the subject of the authorities. Although there are norms in the Code of Administrative Procedure of Ukraine that support mediation (part 6 of Art. 122 and Part 5 of Art. 47 of the Civil Code of Ukraine), it is rarely used in administrative proceedings.

The main concern is the requirement that the terms of reconciliation cannot contradict the law or go beyond the competence of the subject of power, which is referred to in Part 1 of Art. 190 Code of Administrative Procedure of Ukraine, which is based on the following reasons. First of all, there will be a certain restriction on the freedom of agreement itself. If the conciliation terms are prohibited or incompatible with the law, this may create inconvenience for the parties and limit their ability to reach a fair resolution. Another reason is the situation in which one of the parties is an entity with power. In this regard, when mediation is aimed at resolving an issue in the context of power structures, there is a risk of bias in the process.

The provisions of the administrative legislation of Ukraine limit the use of reconciliation procedures, such as mediation, because they are perceived as exceeding the powers of public authorities (Maan et al., 2020). On the contrary, the Code of Administrative Justice of Poland has a separate section on mediation, which allows public administration authorities to initiate the procedure and regulates its application in detail (Kodeks postpowania administrativnego, 1960).

Thus, in order to introduce arbitration as a means of resolving tax disputes, it is necessary to amend the arbitration legislation and develop appropriate mechanisms. Accreditation of arbitration institutions by fiscal authorities can facilitate the resolution of such disputes, without diminishing the role of state courts. The introduction of voluntary mediation as an alternative method can be achieved without legislative changes, by issuing a departmental regulatory act by the State Fiscal Service and creating mediation centers in each territorial tax authority (Holoyadova, 2016). These centers could monitor reputable professionals in business and the public sector, and create open lists of specialist mediators, giving the parties freedom of choice. This can be achieved by changing the procedures for administrative review and handling complaints by tax authorities through the issuance of a relevant departmental order.

Furthermore, in order to reduce the number of tax and customs disputes and ease the burden on the courts in Ukraine, it is recommended to consider the possibility of implementing the model of mandatory pre-trial mediation, which is used in developed countries. Therefore, it is necessary to make amendments to the relevant procedural codes and laws to introduce the pre-trial mediation procedure in tax and customs disputes between taxpayers and the State Fiscal Service of Ukraine. Such a procedure would increase tax revenues by encouraging reconciliation, while reducing pressure on businesses during the tax assessment process. The process of amending and supplementing existing legislation is quite lengthy and requires further adaptation to the current realities. Undoubtedly, such changes will have a positive impact, but the current war conditions complicate their realization.

According to Art. 190 of the Code of Administrative Proceedings of Ukraine, reconciliation of the parties is possible in administrative proceedings and may include conditions that go beyond the scope of the dispute if they do not violate the rights or legally protected interests of third parties, do not contradict the law or exceed the competence of the subject of authority (Administrative Judicial Code of Ukraine, No. 2747-IV, 2018). The court approves the terms of the settlement, while this approval serves as the closing of the proceedings. In this regard, despite restrictions on reaching a compromise in tax disputes, it appears that a significant number of cases in Ukraine were resolved through conciliation, constituting almost 42% of cases involving tax authorities in 2015–2017.

In the updated version of the Code of Administrative Proceedings of Ukraine of January 15, 2017, a new mechanism was introduced (Administrative Judicial Code of Ukraine, No. 2747-IV, 2018). This mechanism, called "adjudication dispute resolution", allows the parties to reach an agreement before the preliminary proceedings are completed. The judge facilitates the dispute resolution process to help the parties reach a settlement. Any information received by the judge or any of the parties during the settlement of the dispute shall be kept confidential.

Although mediation is a part of the administrative and/or judicial dispute resolution process, the procedural tools such as the pre-mediation stage, gathering and exchanging information and proposals, the mediation session, and the settlement agreement formulation are mainly aimed at resolving disputes through contracts. Thus, this model can be potentially implemented in tax disputes mediation in Ukraine. However, due to the limited jurisdiction of tax and revenue authorities and the lack of mutual understanding, certain inequality of the parties to mediation does not always enable the parties to negotiate and reach a mutually beneficial compromise based on common interests. This highlights the need to review existing approaches to resolving tax disputes and introduce mediation as an alternative resolution method.

Mediation is usually defined as a process of negotiation, facilitated by a mediator, with the aim of resolving a dispute (or disputes) between the parties by producing a mutually acceptable solution. The parties themselves determine the way to resolve the conflict, and the mediator's role is to organize the negotiation process. This approach is widely recognized in the world as a means of dispute resolution and confirmed by the following studies in this area: “The Role of Mediation: A Critical Analysis of the Changing Nature of Dispute Resolution in the Workplace” (Bennett, 2012), “The Negative Impact of Attorneys on Mediation Outcomes” (Poitras et al., 2010).

In general, it has been proven that mediation does indeed speed up dispute resolution compared to traditional court procedures. It can be assumed that the involvement of a mediator as a neutral professional party in the resolution of tax disputes can increase the negotiations effectiveness by determining the priority of the parties’ common interests over their principles. Therefore, it is possible to prevent the risk of undue overestimation of funds, while ensuring revenue to the budget and compliance with tax legislation.

Compared to the existing model of long administrative and judicial procedures for resolving tax disputes, where the final decision is left to the revenue authority or the judge, mediation allows the parties to independently develop and agree on the final decision, which increases the likelihood of its voluntary implementation. Mediation in tax disputes is valuable primarily in terms of maintaining confidentiality and reducing costs. Considering that tax disputes have their own unique features and complexities, mediation allows the parties to customize the process to their needs, consider the specific circumstances and individual characteristics of the dispute, which helps to find a more balanced solution (Sokolov, 2018).

In the context of building a competitive economy and creating favorable conditions for doing business, the need to introduce mediation as an alternative way of resolving tax disputes has become increasingly urgent. This topic has become the subject of discussions not only among scientists and business stakeholders, but also among legislators, emphasizing the importance of solving the problem at the legislative level.

In November 2014, the Agreement on the coalition of parliamentary factions “European Ukraine” declared the introduction of the institute of financial mediation as a means of promoting the transparency and predictability of the tax system (Agreement on the Coalition of Deputy Factions “European Ukraine”, 2014). Subsequently, in December 2014, the Verkhovna Rada of Ukraine registered a draft of the Law “On Amendments to the Tax Code of Ukraine” (No. 1666 dated 28.12.2014), which proposed changes to the Tax Code of Ukraine (Law of Ukraine, No. 63-VIII, 2014). These changes included the addition of the definition of “mediation procedure” and the establishment of this procedure in a new article, Article 56-1. The mediation procedure involves a negotiation process between the taxpayer and the supervisory body with the participation of an authorized person of the supervisory body (mediator) to reach an agreement on tax obligations.

According to Sokolov (2018), in Ukraine the mediation procedure model proposed for the tax disputes resolution is imperfect and duplicates the existing administrative appeal procedure, which raises doubts about the independence of the decision-making process. Moreover, the procedural issues do not clarify how the rights and duties of the controlling (tax) authorities will be implemented during the procedure. As a result, the prospects of applying the procedure in its current form in practice are questionable from the point of view of compliance with the recommendations of Rec (2001) 9 of the Committee of

Ministers of the Council of Europe on alternative judicial proceedings for the resolution of disputes between holders of power and other subjects of tax relations.

It is also worth noting that there are a number of barriers that prevent the introduction of mediation in tax dispute resolution. The main ones include the fear of losing control on the part of the parties. The reason is that they may believe that litigation gives them more confidence in protecting their interests, while mediation may lead to a loss of control over the process, the outcome and the implementation of the agreement. Another significant barrier is the lack of awareness of the parties and the lack of adequate preparation, which can lead to the inability of the parties to cooperate effectively and reach a mutually beneficial solution. Legal restrictions may also complicate the implementation of mediation in tax disputes. For example, the absence of regulation of the mandatory nature of mediation, confidentiality and enforceability of the agreement may pose an obstacle to the widespread use of mediation.

IV. Discussion

Empirical studies examining the outcomes of resolving tax disputes indicate that traditional methods such as administrative and judicial appeals are not entirely effective. Currently, there is a huge number of scientific articles and studies focused on this issue, in particular, the works of Juanpere (2020), Mann (2022), Whitehead, Farmer, Schachner, Wittmann, Derouin, Cordewener, Łuczak, Eckert, Jinyan Li, Nathan Jin Bao, Shanghua Hu, Wei Hu, Matias Zerbino and others (Li et al., 2020). At the same time, a large number of authors emphasize the identical shortcomings of the two specified ways of resolving tax disputes such as a large burden on the judicial system and long periods of time for resolving tax disputes.

However, during the last decade, the implementation of tax dispute resolution mechanisms using independent professional arbitrators has been gaining momentum in the developed countries of the world. Thus, mediation is now actively used not only in economic disputes, but also in tax disputes. Carl Islam, Pistone, Lightman, Cullen, Beeri Kasser-Tee, Afiyati, Koeswahyono, and Irish made a significant contribution to the study of the experience of using mediation in the countries of the world (Carl Islam Mediation of tax disputes, 2014; Pistone and De Goede, 2021; Lightman and Cullen, 2016; Beeri Kasser-Tee, 2015; Afiyati et al., 2022; Irish, 2011). Such scientists as Holoyadova (2016), Kurilo (2016a), Dyadechko and Reznik (2017), Sokolov (2018) paid attention to the mediation issues in Ukraine. It is important to note that these empirical studies primarily focused on several key aspects, namely: a) the legal nature of mediation, b) the features of its different types, and c) the analysis of the effectiveness of mediation procedures in various countries.

Undoubtedly, the works of these authors provide an understanding of the essence of the mediation mechanism and they allow to determine the effectiveness of its introduction in the European countries. However, the forms of mediation that could be introduced on the territory of Ukraine are insufficiently developed. In addition, there are almost no studies on the potential effectiveness of mediation in Ukrainian realities. Ukrainian scientists have not paid enough attention to the possibility of implementing judicial mediation mechanisms in Ukraine, which is successfully functioning in several European countries. These conclusions are significant for further research and serve as a basis for the improvement of the current legislation and addressing gaps in the judicial system. This article is dedicated to the analysis of these aspects.

V. Conclusion

One of the most promising forms of mediation, which is advisable to use on the territory of Ukraine when resolving tax disputes, is the judicial model. Its implementation involves the creation of a judicial mediation center with external mediators accredited by the court. This is considered the best option for resolving public legal disputes. This model makes it possible to conduct mediation in the courtroom, increasing confidence in the procedure, reducing the burden on judges and involving professional mediators.

Several steps must be taken to implement the judicial mediation model. First, it is necessary to develop a regulatory framework for the functioning of the judicial mediation center, including the criteria and mechanisms for the selection of external mediators. Secondly, it is necessary to prepare judges and court employees for mediation, the mediatability of cases must be determined. In view of the above, the procedure for introducing mediation is a likely and promising step, though a long one. We cannot ignore the fact that the "old-style" judges will not understand this step at first, as they will believe that they are losing their power of the court decision. However, this does not mean that they will not change their minds in the course of their adaptation for the new realities.

The experience of European countries and the analysis of the current legislation of Ukraine indicates that administrative courts may consider disputes over the following issues through mediation procedures: a) tax debt collection; b) appointment to the civil service and dismissal from office; c) appeals against decisions of local governments on tariffs and transfer of municipal property; d) the provision of land plots by local governments for ownership or lease; e) access to public information. In this regard, more stable practices and delineation of discretionary powers are necessary to implement disputes resolution via mediation.

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