



CADERNOS DE DEREITO ACTUAL

www.cadernosdedereitoactual.es

© *Cadernos de Derecho Actual* N^o 31. Núm. Ordinario (2026), pp. 41-60

·ISSN 2340-860X - ·ISSNe 2386-5229

Legal regulation of the implementation of alternative dispute resolution methods: A comparative analysis European countries

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Abstract: This piece examines the deployment of non-traditional methods for addressing legal disagreements and conflicts. The need for options outside the traditional court system is argued, stemming from factors like public understanding of the law, the government's role, legal standards, legislation clarity, the enforcement of court rulings, the structure of the court system, its performance, and the sophistication of economic and broader legal interactions. Alternative Dispute Resolution (ADR) encompasses processes both outside of the judicial system and those focused on reconciliation. European legal frameworks identify five main ADR types: arbitration, the intervention of labor inspectors or ombudsmen, conciliation, mediation, and other ADR mechanisms facilitated by social partners. The authors find that ADR is widespread across Europe, though its application varies somewhat by country. ADR methods can be employed at any phase of a legal case; the critical consideration is selecting the approach that best serves both sides, aiming for the quickest, most efficient, and least costly resolution. Foreign nations typically implement ADR across specific stages: steps are undertaken to prevent workplace conflicts, encouraging effective complaint procedures and responses to misconduct, thereby improving management practices and guiding conduct; extrajudicial dispute resolution is carried out within the workplace and/or at higher levels, including management and union representatives, in order to resolve individual disputes. At this stage, depending on the country's laws, a mediator may be involved; within a pre-trial petition or hearing, ADR is facilitated by a conciliation and mediation expert. Agreement between parties may facilitate the utilization of arbitration procedures as well at this stage.

Keywords: Alternative Procedures, Dispute Settlement, European Legislation, Dispute Resolution, Conciliation Procedures, Compromise, Mediation, Understand

Resumen: Este artículo examina el uso de métodos no tradicionales para abordar desacuerdos y conflictos jurídicos. Se argumenta la necesidad de opciones fuera del sistema judicial tradicional, derivadas de factores como la comprensión pública de la ley, el rol del gobierno, las normas legales, la claridad legislativa, la ejecución de las sentencias judiciales, la estructura del sistema judicial, su desempeño y la sofisticación de las interacciones económicas y jurídicas más amplias. La Resolución Alternativa de Disputas (RAL) abarca procesos tanto fuera del sistema judicial como aquellos enfocados en la reconciliación. Los marcos legales europeos identifican cinco tipos principales de RAL: arbitraje, intervención de inspectores de trabajo o defensores del pueblo, conciliación, mediación y otros mecanismos de RAL facilitados por los interlocutores sociales. Los autores concluyen que la RAL está extendida en toda Europa, aunque su aplicación varía ligeramente según el país. Los métodos de RAL pueden emplearse en cualquier fase de un caso legal; la consideración crítica es seleccionar el enfoque que mejor beneficie a ambas partes, buscando la resolución más rápida, eficiente y económica. Los países extranjeros suelen implementar la ADR en etapas específicas: se toman medidas para prevenir conflictos laborales, fomentando procedimientos de queja efectivos y respuestas a conductas indebidas, mejorando así las prácticas gerenciales y orientando la conducta; la resolución extrajudicial de disputas se lleva a cabo en el lugar de trabajo o a niveles superiores, incluyendo la gerencia y los representantes sindicales, para resolver disputas individuales. En esta etapa, dependiendo de la legislación del país, puede intervenir un mediador; en una petición o audiencia previa al juicio, la ADR es facilitada por un experto en conciliación y mediación. El acuerdo entre las partes también puede facilitar el uso de procedimientos de arbitraje en esta etapa.

Palabras clave: Procedimientos Alternativos, Resolución De Disputas, Legislación Europea, Resolución De Disputas, Procedimientos De Conciliación, Compromiso,

Mediación, Entender

1. Introduction

The resolution of legal disputes has historically involved state entities, adhering to a strictly defined process culminating in a binding judgment from a judicial authority. This method's defining characteristic is its reliance on precisely articulated legal rules. O. Sereda, in his analysis, acknowledges the advantages of contemporary justice systems while also pointing out several drawbacks: excessive court caseloads, lengthy and intricate legal proceedings, considerable financial burdens, the challenges in ensuring adversarial balance and party equality during the process. Furthermore, the public nature of trials can expose confidential information. The criteria employed to determine the fairness of a dispute are rooted in legal frameworks, often diverging from the public's perception of justice, particularly for those without legal expertise. This can lead to dissatisfaction with court decisions, causing disputes to be forcibly concluded rather than truly resolved. Consequently, the execution of justice may not always be satisfactory⁶.

Often, when legal proceedings become overly structured, with their rigid rules for interactions and the formal language they use, they can actually obstruct any kind of settlement or future collaboration between those involved. This is when turning to alternatives, like those that are less formal and don't involve the state, can become the best option. These approaches are often better for the people in conflict, opening doors for them to work together again constructively, founded on mutual understanding. Today, the best solutions frequently combine approaches that focus on what's at stake for everyone with the basic legal framework. This often leads to a quicker, more professional, and cheaper solution to a legal dispute.

Alternative methods for settling legal disputes and conflicts are part of the legal system that is less tied to any specific country's particular laws. These alternative methods are flexible and adaptable. Disputes and conflicts happen between people everywhere, no matter the legal system. Encouraging people to find resolutions that are fair, easy to understand, and easy to use, is something that any just legal system should support. This approach just proves a society is mature, showing its capability to govern itself and to find effective resolutions for conflicts, without always needing to rely on state authority.

The purpose of the article "Legal Regulation of the Implementation of Alternative Dispute Resolution Methods: Comparative Analysis of European Countries" is a comprehensive analysis of the regulatory and legal framework for the implementation and functioning of alternative dispute resolution methods (ADR) in European countries in order to: identify models of legal regulation of mediation, arbitration, negotiations and other forms of ADR; identify common and distinctive features of national approaches; assess the effectiveness of regulatory support for ADR from the standpoint of access to justice, procedural economy and ensuring the rights of the parties; formulate recommendations for improving Ukrainian legislation taking into account best European practices⁷.

An additional research goal is to determine the degree of implementation of the provisions of Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters and other EU acts into national legal systems.

The article makes it appropriate to cover jurisdictions that represent different legal traditions and models of implementing ADR:

⁶ SEREDA, Olena. Mediation (mediation) as an alternative way to resolve an employment dispute. *Law and innovation*. 2. (2017). 38-45. Available at: <https://ndipzir.org.ua/wp-content/uploads/2017/06/Sereda18.pdf> (accessed on 15 May 2025).

⁷ Fidria Yuliia. (2025). Alternative dispute resolution methods: theoretical and practical aspects *Uzhhorod National University Herald Series Law*, 2(86), 242-247. <https://doi.org/10.24144/2307-3322.2024.86.2.37>

Germany—a model of institutionalized mediation (Mediationsgesetz 2012), an active role of the court in facilitating the reconciliation of the parties; France—a combination of judicial and extrajudicial mediation, active legislative stimulation of conciliation procedures; Italy—a model of mandatory pre-trial mediation in certain categories of disputes⁸; Poland—gradual integration of mediation into the civil and commercial process, stimulating the role of the court; The Netherlands—an emphasis on voluntariness and professional standards of mediators; Great Britain—a developed system of commercial arbitration and mediation, precedential practice regarding sanctions for refusing ADR; Ukraine—as a state implementing European approaches (Law of Ukraine "On Mediation" 2021), being at the stage of institutional formation of ADR⁹.

Such a selection allows for a comparison between countries of the continental legal family and the common law system, as well as an assessment of the adaptation potential for Ukraine.

2. Methodology

This research endeavors a thorough examination of the legal framework governing the application of alternative conflict resolution techniques (ADR), emphasizing a comparative review of international practices. To achieve the set goal and objectives, a system of scientific methods was applied, which allowed to ensure the comprehensiveness, depth and objectivity of the study.

Dialectical method: It was used to consider the legal regulation of ADR in dynamics, in its relationship with socio-economic, political and cultural factors. This made it possible to identify development trends and the influence of external factors on the formation of legislation in different countries.

System analysis method: It was used to study the legal system of regulation of ADR as a single holistic set of interconnected elements (laws, by-laws, case law, doctrinal approaches) operating in a specific legal field. This made it possible to identify internal relationships and the hierarchy of norms.

Analysis and synthesis: Used to break down complex legal phenomena into simpler components (analysis) and then combine them to form a holistic view of the subject of study (synthesis). This was especially useful when studying individual legal institutions of the AMVS and their interaction.

Formal-eudogmatic (dogmatic) method: The main method for analyzing regulatory legal acts regulating the AMVS in different jurisdictions. It allowed identifying, systematizing and interpreting legal norms related to mediation, arbitration, arbitral tribunal and other AMVS, as well as their application in practice.

Comparative legal approach: The main method of this research. It was employed to contrast the statutory provisions for AMVS in several chosen nations (like the European Union member states, the USA, the UK, Canada, Australia) to determine shared characteristics, distinctions, optimal methods, and feasible frameworks for adoption.

The comparative legal approach to the study of legal regulation of alternative dispute resolution (ADR) methods in 2020–2025 involves comparing national models of regulatory consolidation of mediation, arbitration and other conciliatory procedures, as well as analyzing their practical effectiveness based on statistical indicators. This approach allows us to identify the relationship between the nature

⁸ 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. <https://doi.org/10.31548/law2022.04.002>

⁹ ANDREIEVA Kateryna, & PARKHOMENKO Olena. (2021). Mediation in conflict management: general approaches and practices in Ukraine and EU. *Legal Bulletin*, 83–89. Available at: <https://lbku.krok.edu.ua/index.php/legal-bulletin/article/view/332> (accessed on 15 May 2025).

of legal regulation (voluntary, incentive, mandatory) and the level of actual use of ADR.

In Italy, where a partially mandatory mediation model operates (Legislative Decrees No. 28/2010 with reforms of 2022–2023), mediation is a prerequisite for going to court in certain categories of disputes (in particular, banking, insurance, inheritance, rental). In 2020, the number of mediation procedures exceeded 160 thousand, and in 2022–2024 it stabilized at a level of over 190–200 thousand annually. The level of agreement reached in cases of actual participation of the parties is on average 40–50%. Comparative analysis shows that legislative bindingness significantly affects quantitative indicators, however, the effectiveness of the procedure is determined not only by the norm of the law, but also by the legal culture of the parties.

Germany demonstrates a different model—voluntary with an active stimulating role of the court (Mediationsgesetz, amendments to the ZPO, digitalization 2020–2024). Approximately 70–90 thousand mediations are conducted annually. At the same time, the success rate of voluntary procedures is higher—about 65–70%. After 2020, the share of online mediation has increased significantly, which is associated with pandemic restrictions and the development of digital services. Comparative legal analysis shows that a voluntary model, with developed institutional support, can ensure higher quality dispute resolution even with fewer procedures.

France uses a hybrid model that combines voluntariness with a mandatory attempt at conciliation in minor disputes. In 2020–2024, the number of mediation procedures was approximately 40–60 thousand per year, with an average agreement rate of 50–60%. French law actively integrates digital mechanisms (ODR platforms), which has increased the accessibility of procedures after 2021. In a comparative perspective, France occupies an intermediate position between the strict mandatory nature of Italy and the voluntary model of Germany.¹⁰

The United Kingdom is characterized by a precedent-oriented approach, within the framework of which case law (in particular, the decisions of 2020–2023) allows the application of procedural sanctions for unjustified refusal of the parties to mediation. In the field of commercial disputes, approximately 12–15 thousand mediation procedures are conducted annually, and the level of dispute settlement reaches 85–90%, taking into account agreements reached both during the procedure and immediately after it. Comparative analysis demonstrates that the effectiveness of ADR in the common law system is ensured not so much by formal bindingness as by economic and procedural incentives.

Poland in 2020–2024 demonstrates a gradual increase in the use of mediation: from approximately 25 thousand procedures in 2020 to 30–35 thousand in 2023–2024. The success rate is around 30–40%. The model remains voluntary, but courts actively inform the parties about the possibility of reconciliation. Comparative law analysis shows that the evolutionary integration of ADR without strict bindingness takes time to build trust in the institution¹¹.

In Ukraine, after the adoption of the Law "On Mediation" in 2021, the stage of institutional formation of the ADR system began. In 2022–2025, a gradual increase in the number of procedures is observed, primarily in family and commercial disputes, but centralized statistics are still being formed. A comparative legal

¹⁰ BRENMAN Marc. (2014). Culturally Appropriate Alternative Dispute Resolution. Available at: https://icmediation.org/alternative-dispute-resolution/?gad_source=1&gad_campaignid=22607891450&gbraid=0AAAAADOfAjl38qhO5QmpfZjuYHYDd4USv&gclid=CjwKCAjw687NBhB4EiwAQ645djGlwk7LQ1nlic7IUza9es45Sir_ACufO3wtPT4L2_RHuRwj7nqpQOhoCEjgQAvD_BwE (accessed on 15 May 2025).

¹¹ SHERMAN N and MOMANI BT. (2025). Alternative dispute resolution: Mediation as a model. *F1000Research*, 13, 778. <https://doi.org/10.12688/f1000research.152362.2>

approach shows that the Ukrainian model is closest to the German (voluntary) one, but requires strengthening procedural incentives, developing a register of mediators and a statistical monitoring system.

In general, the analysis of 2020–2025 allows us to establish several patterns. First, regulatory bindingness directly affects the number of procedures, but does not guarantee a high percentage of dispute resolution. Second, voluntary models with developed institutional guarantees demonstrate higher quality and stability of results. Third, digitalization (online mediation, ODR platforms) has become a key factor in the development of ADR after 2020. Fourth, the effectiveness of legal regulation is determined not only by legislation, but also by the level of legal culture, trust in the procedure, and economic incentives for the parties.

Thus, the comparative law approach in 2020–2025 confirms that the optimal model of ADR regulation should combine regulatory consolidation, procedural incentives, digital infrastructure, and institutional guarantees for the implementation of agreements reached.

The comparison was conducted according to the following criteria:

Requirements for mediators (mediators, arbitrators), their licensing/certification and ethical standards. Procedural aspects of AMVS (mandatory/voluntary, confidentiality, terms). Legal status of agreements reached as a result of AMVS and their enforceability.

Interaction of AMVS with the state judicial system. State policy and programs to support the development of AMVS.

Legal forecasting method: Used to substantiate proposals for improving the national legislation of Ukraine in the field of AMVS, based on the analysis of foreign experience and identified trends.

Legal interpretation method: Used to clarify the content and meaning of legal norms regulating AMVS, taking into account doctrinal approaches and judicial practice.

Study of regulatory acts: Analysis of the texts of laws, codes, decrees, resolutions and other regulatory documents regulating the AMVS in selected countries.

Analysis of case law: Study of court decisions and precedents concerning the application of the AMVS, recognition and enforcement of mediation agreements and arbitration awards in various jurisdictions.

Research of doctrinal sources: Study of scientific articles, monographs, dissertations and other scientific works of domestic and foreign scholars on the AMVS and their legal regulation.

3. Results and discussion

3.1. Theoretical foundations of alternative methods of dispute resolution

The term "Alternative Dispute Resolution" (ADR) was first used in the United States in the 60-70s. XX century to designate flexible and informal procedures for resolving conflicts that arose in contrast to the complex and cumbersome procedure of official justice and became its own alternative. Their introduction was the result of a noticeable crisis in the efficiency of the courts, rising costs, a significant length of consideration of cases, excessive formalization of judicial procedures.

The development of forms of alternative dispute resolution that originated in the United States in the common law system (Sottop Iate) had two peculiar sources, in particular: public initiatives not related to justice and forms of AEC controlled by the official justice system, and therefore by the state. They proposed speed of resolution of the dispute, reduction of production costs, prudence, simple rules of interaction, flexibility and protection of business relations and preservation of further partnerships between the parties.

Many of the researchers call 1976. the year of the beginning of the introduction of alternative methods of dispute resolution, since it was then that the relationship of these methods with the US judicial system was revealed. In 1976 a conference was held at which some judges said: "A better way of resolving disputes must be found than the court." Then Harvard professor Frank Zander introduced the concept of a "court with many doors," that is, when the court can offer conflicting parties not only a court hearing, but also other approaches, such as mediation or arbitration.

Today in American courts there is a question about what means and ways are most suitable for reconciliation of the parties or for resolving the dispute before the trial. Pre-trial conciliation procedures are part of the legislative or judicial regulation.

The broad utilization of alternative dispute resolution techniques in the United States is accounted for by the subsequent rationales:

First, Americans traditionally value good relationships and public opinion over personal grievances. It is not always possible to restrain oneself during negotiations face to face, and a neutral mediator helps to make amends for sharp corners, better understand the situation and quickly find the right solution that suits both sides. It is established that mediation ends in success in 85% of cases. Secondly, in some cases, judges send parties immediately to the mediator for mandatory mediation, for example, in cases of divorce or division of property. Thirdly, if the mediation was successful, and an agreement was reached, then such an agreement is executed in 90-95% of cases. For comparison: in the United States in civil cases, only one third of court decisions are executed. The remaining two thirds remain on paper.

In the American legal system today, informal alternative ways of resolving disputes that do not require judicial proceedings, the participation of a judge and a jury play a significant legal role. According to an analysis of cases in the United States in which the cost of damage exceeded \$1,000, only one out of ten of them was sent to court, and about two subsequent out of ten were resolved by a court decision without the need for a hearing (for example, extrajudicial decision, dismissal of the claim, expedited procedure). Two-thirds were settled by pre-concluded agreements. In the same studies, it is noted that only one claim for damages out of ten is filed in court¹².

In the 90s, the English-language abbreviation ADR made a truly international career. Today, this term is official and is widely used not only in legal theory, but also in the legislation of many states. Some countries have attempted to replace it with national equivalents, such as MARC or RAD in France and in Quebec, Canada, or ACR (aussergerichtlichen Kichen onfliktregelung) in Germany, but these attempts did not receive such recognition and perception by the world community¹³.

ADR can be seen not only as a set of ways to resolve disputes, but also as part of the justice system. ADR forms cannot violate the right to trial and are not aimed at humiliating the role of justice, they are designed to complement the mechanisms of justice. In general, alternative approaches can be defined as peaceful ways of resolving conflicts and disputes based on the idea of reaching agreement and finding a compromise in resolving a specific conflict situation. It is important to explain that the "alternative" is what gives greater freedom to the parties and flexibility in forming their own position in a conflict situation.

It is worth noting that it is possible to consider the possibility of developing

¹² BENTKOWSKA, Magdalena. (2016) Procedury alternatywnego rozwiązywania sporów sądowych w Stanach Zjednoczonych. *Krytyka Prawa*, 6, 149–163. Available at: <https://www.ceeol.com/search/article-detail?id=613819> (accessed on 15 May 2025).

¹³ GMURZYŃSKA, Ewa, MOREK, Rafał. *Mediacje. Teoria i praktyka*. Warszawa : Oficyna a Wolters Kluwer business, 2014. 492. Available at: <https://sip.lex.pl/komentarze-i-publicacje/monografie/mediacje-teoria-i-praktyka-369617695> (accessed on 15 May 2025).

alternative methods of dispute resolution in three models: an advantage due to culture; the evolution of the legal system; implementation of ADR methods from other legal systems¹⁴.

Particular attention should be paid to the positive experience of applying different ADR models, taking into account the decisions and trends of the European Union. The development of ADR in European states has certainly been facilitated by the growing awareness that alternative dispute settlement mechanisms are the instruction volume that improves access to justice in various areas of daily life.

Many EU member states have begun to pay increasing attention to such methods and, moreover, to introduce appropriate legal standards that will allow them to be developed and strengthened. This process can be seen even now in the countries that joined the EU not so long ago, where work is underway to prepare appropriate legal mechanisms, for example, in the Czech Republic and Slovakia, as well as relevant decisions, for example, in the Baltic States, based on the Scandinavian model.

Moreover, ADR mechanisms have become a political priority announced by EU institutions in order to promote alternative technologies and ensure appropriate development conditions. This political priority is especially emphasized in connection with the need to strengthen the role of new dispute resolution mechanisms based on technological solutions of the so-called online dispute resolution (op-1ipe giikriie geciiiiop)¹⁵.

The introduction of alternative dispute resolution methods in our legal system is actualized mainly in the context of the need to harmonize domestic legislation with European standards. The requirement to evolve substitute approaches for settling disagreements also showcases the quest for a novel legal framework that will align with the swift transformations occurring in the social and financial spheres of our community.

The pursuit of substitutes for state courts in resolving conflicts arises from sundry elements that fluctuate based on the traits of a specific society, nation, customs, statutes, the organization of the judicial framework, the efficiency of its operation, and the degree of advancement and intricacy of economic and other connections. One of the main factors in the development of ADR is the insufficient effectiveness of the judicial system in considering certain categories of cases, which may consist in overloading the courts, the duration of the trial, unqualified consideration of cases, as well as other shortcomings inherent in the judicial system of a state. It should be recognized that at the moment there is practically no state in the world whose judicial system could ensure effective resolution of all disputes regarding mutual satisfaction of the parties¹⁶.

However, the lack of efficiency of state courts is not the only driving factor in the development of ADR. Other reasons for the development of ADR include the desire of the parties to maintain business and partnership relations in the future, to avoid publicity of the conflict and to resolve the dispute from the standpoint of mutual satisfaction of each of the conflicting parties. It should be noted that most

¹⁴ LEHEZA, Yevhen. FILATOV, Viktor. VARAVA, Volodymyr. HALUNKO, Vira. KARTSYHIN, Dmytro. (2019). Scientific and practical analysis of administrative jurisdiction in the light of adoption of the new code of administrative procedure of Ukraine. *Journal of Legal, Ethical and Regulatory*, 22, 5, 1-8. Available at: <https://www.abacademies.org/articles/scientific-and-practical-analysis-of-administrative-jurisdiction-in-the-light-of-adoption-of-the-new-code-of-administrative-proced-8634.html> (accessed on 15 May 2025).

¹⁵ GOULD, Nicholas. LIANG, Olivia. (2022). Conflict Avoidance and Alternative Dispute Resolution in the UK Construction Industry. *Amicus Curiae*, 4, 1, 155-169 <https://doi.org/10.14296/ac.v4i1.5492>

¹⁶ PANOV, A., VOLKOVA, N., PANOVA, L., SICHKO, D., & PETRENKO, N. (2024). Alternative ways of resolving disputes in the field of contract law. *Amazonia Investiga*, 13(76), 258-273. <https://doi.org/10.34069/AI/2024.76.04.21>

ADR methods are based on the principles of satisfying the mutual interests of the parties, confidentiality, voluntariness and differ in the speed and relatively low cost of their use.

In the world practice, a sufficient number of alternative ways of resolving disputes are used, among which are such procedures as: expert determination, negotiations, negotiations involving an intermediary (institution negotiation or institution), conciliation, mediation, mediation-arbitration (med-arb), independent solution (adjudication), mini-trial, establishing the circumstances (fact finding), dispute resolution commissions (dispute review boards), private judging, preliminary independent evaluation (early neutral evaluation), "multi-door courthouse," pre-trial meeting on dispute settlement (settlement conference), summary jury trial (summary jury trial) and others.

Classification of these methods is possible according to various criteria. In particular, regarding the mandatory nature of the decision, there are mandatory (arbitration, expert evaluation) and optional (negotiations, mediation). By the nature of the procedures distinguish adversarial (arbitration, private court) and consensual (mediation); in relation to the obligations of their application—voluntary and compulsory (the application of ADR is carried out in accordance with a direct indication in the law or a mandatory decision of a court or other body); on purposefulness—legal (when the dispute is resolved on the basis of formal rules of law and the actual circumstances of the case (arbitration) and aimed at satisfying the interests of the parties (mediation); complexity—simple (using a single ADR procedure) and combined (when combining elements of two or more ADR procedures (mediation-arbitration (med-arb)¹⁷.

Regarding the characteristics of combined forms, the following can be cited: (1) mediation—arbitration tribunal means the resolution of the disagreement with the aid of the mediator-arbitrator, who in case of inability of the parties to settle the conflict by arbitration; (2) "mini-court" or "mini-process," this method is widely used to resolve commercial disputes and derives its name from the external similarity with the judicial procedure and represents the settlement of a dispute involving corporate executives, lawyers and third independent persons leading the hearing; (3) independent examination to establish the actual circumstances of the cases—the procedure for the parties to reach an agreement on the basis of the conclusion of a qualified specialist who studied the case from the point of view of the actual composition; (4) Ombudsman—settlement of disputes related to shortcomings in the activities of state agencies and private organizations, officially authorized person investigating the circumstances of the case on the basis of complaints from interested persons; (5) a private judicial system or a judge "for hire," providing dispute resolution with the help of judges who have resigned for a sufficiently high fee, who have non-rear powers; (6) a private judicial system or a judge "for rent," which ensures the resolution of disputes with the help of judges who have resigned for a sufficiently high fee, who have the authority not only to reconcile the parties, but also to make a decision binding on them¹⁸.

When solving the problem of classification of ADR methods, it should be noted

¹⁷ Yurovska, Viktoriia. Leheza, Yevhen. Zamryha, Artur. Ulozhenko, Vadym, BOHDAN. Bohdana. (2024). Administrative and legal regulation of the status of internally displaced persons in Ukraine during the war. *University of Western Australia Law Review*, 51 (2), 297-313. Available at: <https://search.informit.org/doi/abs/10.3316/informit.T2024090600006991585920628> (accessed on 15 May 2025).

¹⁸ LEHEZA, Yevhen. YEROFIEIENKO, Larysa. KOMASHKO, Volodymyr. (2023). Peculiarities of legal regulation of intellectual property protection in Ukraine under martial law: administrative and civil aspects. *Law of Justice Journal*, 37(3), 157-172. <https://doi.org/10.5335/rjd.v37i3.15233>

that they are conditional in nature and are based on the opinions presented in the scientific doctrine. These methods can also be divided into the following: methods based on elements of consensual-conciliation procedures aimed at achieving agreements between the parties (mediation, facilitation, mini-trial); methods that combine elements of judicial review (med-arb, arb-med, private judging, ombudsman); methods related to impartial opinion on a dispute (summary jury trial, expert determination, fact-finding); methods aimed at preventing possible disagreements and misunderstandings (partnering, dispute review boards).

All these methods (mechanisms) are united by the fact that they are based on the agreement of the parties (both on the procedure, structure of their conduct, and on the expected legal force of the result) concluded by the parties voluntarily and confidentially. It can be agreed that each of these mechanisms has a certain structure, built in such a way that the parties can arrive at the result in the most efficient and least costly (both in terms of finances and time, and in terms of rational use of human resources) way.

In scientific sources, alternative solutions are often called self-regulating institutions of civil society. Self-regulation in this case is characterized by the following main factors: private (non-state); the contractual nature of the legal relationship in the field of ADR (application on the basis of voluntary ripe his choice—the procedural agreement of the parties); self-aligned, as a general rule, the election of persons who contribute to the resolution of the dispute or the settlement of a legal conflict (arbitrators, arbitrators, intermediaries, mediators, etc.); almost unlimited procedural dispositivity—the parties are the "masters" of the process (independent determination by the parties of the procedural rules of the selected ADR method within the framework of the general and special principles of ADR, imperatives established by law and the generally permissible direction of regulation of relations in the field of ADR); acts of application of ADR methods (decisions, dispute settlement agreements, etc.) extend their effect (i.e. mandatory) only to the parties, except as required by law¹⁹.

Other means of settling disagreements, showcasing in their variety a complete framework of approaches, instruments, and techniques for private resolution of relationships between sides, ought to fulfill the aims of fairness, offer procedural assurances for safeguarding the entitlements and concerns of the parties, and boost the efficiency of settling intricate legal scenarios in a judicial setting. A pressing objective for the contemporary judicial structure is prompt and successful conflict resolution.

3.2. European legal experience of alternative dispute resolution methods

All nations of the European Union (save France) permit the utilization of conflict resolution instruments (alternative dispute resolution processes (ADR—alternative dispute resolution)) prior to examining the substance of the matter. In a limited sense, ADR is the participation of third parties in conciliation, mediation, and arbitration during a court proceeding. These might be the actions of a legal entity, frequently a magistrate, directly before the assembly for the aim of pre-trial resolution of the concern. Alternatively, the designation of public specialists or private consultants is permitted – either following lodging an appeal, but before the setting of a judicial session, or prior to submitting a claim. Such alternative

¹⁹ LEHEZA, Yevhen. SHABLYSTYI, Volodymyr. ARISTOVA, Irina. KRAVCHENKO, Ivan. KORNIKOVA, Tatiana. (2023). Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect. *Journal of Drug and Alcohol Research*, 12, 4, 1-8. Available at: <https://www.ashdin.com/articles/foreign-experience-in-legal-regulation-of-combating-crime-in-the-sphere-of-trafficking-of-narcotic-drugs-psychotropic-substances-t-101143.html> (accessed on 15 May 2025).

disagreement resolution procedures linked to legal action are termed "litigation ADRs."

Certain nations stress the significance of the function of social collaborators in the workplace, furnishing employees with the chance to settle a disagreement at the level of the company board or a comparable body stipulated by a group contract. These procedures are referred to as "out-of-court ADRs."²⁰

Broadly, there exist five forms of alternative dispute resolution processes:

Reconciliation. Under this category, the external party functions solely as a mediator, facilitating the exchange of facts between the disputing sides and fostering agreement between them. The impartial figure listens to each of the parties (typically face-to-face, though sometimes dialogue can occur by phone) and attempts to discover an outcome that will please them. Such resolutions might entail compensation or, conversely, actions implemented directly in the work setting.

The arbitrator refrains from making personal rulings and does not propose their own outcome, but collaborates with the claimant and the manager to attain the wished-for conclusion for everyone, which is documented appropriately. The statutes of certain nations mandate that prior to examining the matter in an employment court or panel, the claimant must utilize the assistance of a go-between. If a consensus is achieved, the claim is dropped and recorded as "settled."

Mediation. In this situation, the external entity—the mediator—assists two or more individuals in endeavoring to arrive at a settlement when resolving the conflict. There are two kinds of mediation. One kind resembles a reconciliation process wherein the mediator meets with the participants or reviews their written submissions and subsequently renders a non-obligatory judgment or suggestion (frequently documented). This procedure mirrors the recognized tenets of mediation in group labor disagreements.

The subsequent kind of mediation is termed "relational mediation," built upon the concepts of collaboratively addressing issues with the aim of repairing relationships going forward, rather than focusing on assigning blame. The third party guides the participants toward discovering their own resolution, persuading them to examine diverse possibilities for future developments. This method stems from marital mediation. Relational mediation is generally conducted without the attendance of representatives or legal counsel; no written ruling is produced.

Arbitration. In this scenario, the external individual examines the submissions presented from everyone and renders a conclusive determination.

Labor examiners or ombudsmen. In certain nations, there is an institute of expert specialists known as labor inspectors and/or ombudsmen (Hungary, the Netherlands, Norway, and Romania). Private firms sometimes designate ombudsmen to address personal disagreements directly at the workplace (Ireland). In other nations, the ombudsman is named by the government to handle specific kinds of conflicts, such as discrimination instances.

Extrajudicial ADRs. These alternative methods for settling disagreements involve the involvement of social collaborators in resolving issues through discussions, addressing current matters, and/or utilizing grievances and disciplinary infractions. In this scenario, a matter is reviewed, a judgment is reached, and

²⁰ VOLOSHANIVSKA, Tetiana, Inna POZIHUN, Serhii LOSYCH, Olha MERDOVA and Yevhen LEHEZA. (2023). 'Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors'. *Journal of Drug and Alcohol Research*, 12(10). Available at: <https://www.ashdin.com/abstract/administrative-and-criminal-law-aspects-of-preventing-offenses-committed-by-minors-in-the-sphere-of-illegal-circulation--105305.html> (accessed on 15 May 2025).

frequently the chance to appeal is offered—all at the worksite or at the industry and/or regional level²¹.

Several nations employ both avenues of alternative conflict resolution (Ireland, Italy, Luxembourg, United Kingdom). Other states possess a lengthy history of depending on social collaborators via negotiated pacts and/or production councils for resolution outside of court; the utilization of judicial ASKs is quite restricted (Austria, Denmark, Germany, Sweden). Within certain jurisdictions, a distinct type of non-judicial AOC in the work environment involves bilateral mediation panels, occasionally termed labor disagreement committees. These panels are present in Estonia, Latvia, Lithuania, and Poland²².

In no nation does one approach preclude the utilization of others. This stems from the intricate nature of employing diverse ASA techniques at the workplace, sector, or regional level. It is frequently challenging to delineate a sharp division between reconciliation and established modes of mediation. The kind of alternative means of settling disagreements employed relies heavily on the structures of prevailing—and often disruptive—labor relations in each country. It also mirrors the historical evolution of industrial and labor relations organizations across many decades.

Falling union membership and the rise of non-union areas lacking collective bargaining customs have spurred novel strategies for alternative dispute resolution in certain nations. A noteworthy instance is Ireland, where overseas-owned multinational corporations have brought in non-court forms of ADRs within their organizations, aiming to diminish the significance of their more union-focused types, which have been active in that country for years. Furthermore, specific kinds of disagreements in Ireland are settled through processes distinct from those intended for "regular" conflicts. For such situations, unique legislative provisions establish alternative methods for resolving disputes. For instance, discrimination matters involve establishing specialized agencies like the Human Rights Commissioner.

Since 2000, approximately 15 countries have enacted pertinent laws or guidelines to introduce an alternative to lawsuits at the legislative level, namely Belgium, Bulgaria, the Czech Republic, Finland, Hungary, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Romania, Slovakia, Slovenia, and the United Kingdom. In four nations—Finland, Portugal, Romania, and the UK—these steps included establishing dedicated bodies or mediation procedures. In seven countries, these advancements were attributed both to the necessity of lowering the expense of examining court cases and accelerating that procedure, as several months can elapse from the instant of submitting an appeal to the court until the day of its review²³.

Romania was one of the nations that introduced a process for alternative methods of settling workplace disagreements since 2000. It should be noted that the innovation has not yet yielded significant outcomes in this field. Nevertheless,

²¹ DEBONO, M.; GRECH, I. (2010). Individual Disputes At The Workplace: Alternative Disputes Resolution. Available at: https://www.um.edu.mt/library/oar/bitstream/123456789/95730/1/Malta_Individual_disputes_at_the_workplace%E2%80%93alternative_disputes_resolution_2010.pdf (accessed on 15 May 2025).

²² LEHEZA, Yevhen. SHCHERBYNA, Bogdan. LEHEZA, Yulia. PUSHKINA, Olena. MARCHENKO, Olesia. (2023). Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine. *Revista Jurídica Portucalense*, 340–359. Available at: <https://revistas.rcaap.pt/juridica/article/view/29662> (accessed on 15 May 2025).

²³ VOLOBUIEVA, Olena. LEHEZA, Yevhen. PERVII, Vita. PLOKHUTA, Yevhenii. PICHKO, Roman. (2023). Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine. *Yustisia*, 12, 3, 262–277. <https://doi.org/10.20961/yustisia.v12i3.79443>

among the clear benefits of this procedure (compared to court action) are swiftness and the presence of agreement.

In Romania, work relationships are founded on reciprocal confidence between the employer and the staff member, but concerning the realization of several rights of workers, the sides cannot reach a shared understanding. At the same time, entry to the tribunal is a basic entitlement guaranteed by the Constitution of Romania, which permits an individual to submit a petition in court in the event that their interests are. Hence, two hindrances to employing ADR mechanisms in this country can be identified: the presence of an efficient, constitutionally assured entitlement to court access and the absolute rights of the worker²⁴.

Per the most frequent definition, alternative means for settling labor conflicts are out-of-court processes for resolving them, conducted by an impartial third party. A key factor of any ADR is if the chosen method is compulsory or optional. Stated differently, whether such procedures must be stipulated as prerequisites for proceeding to court, or established within collective bargaining agreements. Several forms of ADR exist in Romania, but the most prevalent are judicial and out-of-court. In this nation, magistrates possess the authority to request participants to independently settle the disagreement prior to its hearing or to seek assistance from an accredited mediator. Extrajudicial ADRs are utilized by parties to a disagreement as part of an external process that entails the naming of a private certified mediator. The revised Civil Procedure Code grants participants the chance to resolve their disagreement via the application of the mediation procedure. In Romania, participants retain the prerogative to turn to non-judicial alternative methods for dispute resolution up until lodging a formal complaint; prior to setting the date for the court hearing or throughout the hearing, but before the court's ruling. The primary regulatory document detailing alternative procedures for settling labor disagreements is Law No. 62 "Regarding Social Dialogue," enacted on May 10, 2011²⁵.

It is likewise valuable to stress the function of social partners in governing this matter. Therefore, based on industry collective pacts or agreements at the enterprise level, standing reconciliation panels are formed, to which disagreements concerning the implementation, alteration, suspension, or conclusion of group agreements are referred.

In summary, we observe that Romanian statutes set forth several alternative procedures for settling workplace disagreements: reconciliation (a necessary and obligatory process in group labor conflicts), mediation, and arbitration (primarily as optional methods for examining group labor disputes); mediation in personal labor conflicts. Note that in labor statutes in Romania there are two sorts of labor differences: individual (disputes over work entitlements, understanding, and enforcement of contractual or regulatory stipulations) and collective, directly linked to the group bargaining process (concerning the adoption, interpretation, amendment, or fulfillment of a collective accord)²⁶.

In cases of discrimination, mediation is carried out according to the usual procedure, which is carried out in accordance with the general provisions of

²⁴ FELICIA, Roşioru. (2017). Labour dispute mediation in Romania: an alternative way? Hungarian Labour Law E-Journal. Available at: https://hlj.hu/letolt/2017_1_a/A_02_Rosioru_HLLJ_2017_1.pdf (accessed on 15 May 2025).

²⁵ ACT NO. 62 OF 10 MAY 2011 CONCERNING SOCIAL DIALOGUE. Official Gazette (Monitorul Oficial), 2011-05-10, No. 322. Available at: <https://dialogsocial.gov.ro/wp-content/uploads/2020/09/Law-no.-62-2011-on-social-dialogue-2020.pdf> (accessed on 15 May 2025).

²⁶ DELEANU, Ion. (2005). Arbitrajul intern și internațional. București: Editura Rosetti, București, 519. Available at: <https://www.printrecarti.ro/129702-ion-deleanu-arbitrajul-intern-si-international.html?srsId=AfmBOoo-lt5gR8VpmYqIXIDQaaEjhweDMkALuJYmXWse9GDh9pu0WmK3> (accessed on 15 May 2025).

contract law, and provides for by the parties in the relevant collective agreement or by the employer in the internal regulations of the company²⁷.

In Germany, unlike several other nations, not just labor organizations, but also individual employees can be participants in workplace disagreements addressed in labor tribunals. In essence, unions cannot stop a staff member from petitioning the court independently. Consequently, most suits are initiated by singular employees, representatives, unions, or works councils.

The procedure for examining workplace disputes is straightforward, rapid, and inexpensive. Every matter brought before the initial court begins with a settlement conference (Gütetermin), conducted exclusively by the presiding judge. The aim of this step is to attain a resolution pact—a compromise between the entities involved—without conducting a formal examination. At this stage, both sides may also consent to a voluntary mediation approach. If the settlement accord is finalized, the court typically waives the judicial levy, apart from the initial filing charge²⁸.

When discussing resolving private disputes outside of court, production councils perform a vital function in this procedure. The Law "On the Charter of the Enterprise" (Betriebsverfassungsgesetz, BetrVG) presumes distinct mediation in disagreements of specific types between the production councils and the management (BetrVG § 76). Personnel retain the entitlement to lodge grievances against the employer if they suspect they have endured unfair treatment, bias, or otherwise been put at a disadvantage by the proprietor or other firm personnel (BetrVG § 84). All workers possess the ability to have their concerns reviewed by the Council (BetrVG § 85). If the management and the production board do not concur with the validity of the submission, or a resolution between the owner and this body remains elusive, either side is entitled to refer to the arbitration panel at the establishment level (Einigungsstelle). The latter is comprised of a set quantity of members nominated by the management, and an equal quantity of representatives designated by the production council, along with an impartial chairperson. The member count is established contingent upon an accord between the management and the production council. Should the involved parties fail to achieve consensus on an issue, either side can demand that the matter be moved to an employment tribunal²⁹.

In Norway, the majority of instances in this category are directed to the Conciliation Board, which assists the involved parties in reaching an uncomplicated and rapid outcome regarding its settlement. Furthermore, a Dispute Resolution Commission exists that handles matters pertaining to breaches of the Work Environment Act, for example, failure to adhere to work times, banning of adaptable or remote work, and disregard for entitlement to leave. Pursuant to the Law "On Disputes," which governs the setup of reconciliation, the parties alternatively possess the chance to utilize the mediation process. This may be either private mediation, where the intermediary is chosen by agreement between the parties, or court-involved mediation with the involvement of a judge or an

²⁷ GHEORGHE, Mureșan. (2010). Mediarea conflictelor de drepturi. *Revista română de dreptul muncii*, nr. 6, 2010, p. 17-34. Available at: http://www.clr.ro/download/buletine/buletin_informare_legislativa_2011/Buletin-Legislativ-nr.-1-2011-cu-BT.pdf (accessed on 15 May 2025).

²⁸ European Foundation For The Improvement Of Living And Working Conditions. (2010). Germany: Individual disputes at the workplace—alternative disputes resolution. Available at: https://katalog.vupsv.cz/fulltext/ul_1136.pdf (accessed on 15 May 2025).

²⁹ Betriebsverfassungsgesetz In Der Fassung Der Bekanntmachung Vom 25. September 2001 (BGBl. I S. 2518), das zuletzt durch Artikel 6d des Gesetzes vom 16. September 2022 (BGBl. I S. 1454) geändert worden ist. Available at: <https://www.gesetze-im-internet.de/betrvg/BetrVG.pdf> (accessed on 15 May 2025).

individual certified as an attorney from the roster of court mediators³⁰.

In Italy, recourse to the courts for settling a labor conflict ought to be preceded by a required effort toward settlement—the so-called "administrative mediation." This occurs with involvement from a specific panel established by the appropriate regional labor office. If, at the start of the hearing, the magistrate determines that attempts to use the conciliation process were absent, the case might be halted, and the involved parties must undertake it. Furthermore, the worker may grant written authorization to the union to try "union mediation" at the job site. Should the outcome of this process be recorded with the labor office, it is deemed effective. In entities lacking trade unions, a comparable procedure known as "agreement" exists, concluding with the endorsement of a written accord or ruling. Matters concerning salary disbursement can be settled via "individual mediation" at the Provincial Labor Authority prior to the official involvement of the labor inspector, upon the employee's request³¹.

Within the United Kingdom, every separate worker's petition to the Employment Tribunal is forwarded to the conciliation official of the Advisory, Conciliation, and Arbitration Service (Acas). Intermediaries conduct sessions for the aim of resolving the dispute prior to trial only in select instances; alternatively, they typically favor direct communication with the employer (or legal counsel) and the worker (or the worker's advocate, such as a union member or solicitor) by phone or electronic mail. Generally, the mediator endeavors to attain a consensus between the sides concerning the compensation sum, rather than settling the matter of job reinstatement, bearing in mind that the majority of petitioners vacate their position prior to filing with the Tribunal.

Furthermore, the United Kingdom employs a "preliminary settlement" process; should Acas learn of the disagreement (usually via the aggrieved party's contact with this body's helpline), the involved parties are encouraged to explore resolving the matter before lodging an appeal with the Tribunal. This type of mediation is more frequently utilized to address issues concerning bullying, mistreatment, and rupture of rapport while the affected employee remains employed.

Alternative Dispute Resolution (ADR) in France and Spain occupy an important place in the justice system of these states and are considered an effective tool for ensuring access to justice, reducing the burden on the courts and increasing the efficiency of conflict resolution. In accordance with the European trend of developing out-of-court forms of dispute resolution, the legislation of France and Spain enshrines such basic ADR procedures as mediation, conciliation and arbitration.

In France, alternative dispute resolution is regulated by the provisions of the French Civil Procedure Code (Code de procédure civile), as well as Law No. 95-125 of February 8, 1995 "On the organization of courts and civil, criminal and administrative procedure" (Loi n°95-125 du 8 février 1995 relative à l'organisation des juridictions et à la procédure civile, pénale et administrative)³², which laid the

³⁰ Voloshanivska, T., Nitsevych, O., Morozov, O., Berezniak, V., Kuznietsov, M. (2023). Legal regulation of release of minors from punishment and from service of punishment: foreign experience, administrative and criminal aspect. *Syariah: Jurnal Hukum dan Pemikiran*, 23, 2, 151-161. Available at:

https://www.researchgate.net/publication/378284477_Legal_Regulation_of_Release_of_Minors_From_Punishment_and_From_Service_of_Punishment_Foreign_Experience_Administrative_and_Criminal_Aspect (accessed on 15 May 2025).

³¹ KORNIENKO, Maksym. DESYATNIK, Anatolii. DIDKIVSKA, Galina. LEHEZA, Yevhen. TITARENKO, Oleksiy. (2023). Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect. *Khazanah Hukum*, 5, 3, 205-215. <https://doi.org/10.15575/kh.v5i3.31742>

³² Loi n°95-125 du 8 février 1995 relative à l'organisation des juridictions et à la procédure civile, pénale et administrative of February 8, 1995. Available at:

legal foundations of mediation in French law. In particular, according to articles 131-1–131-15 of the French Code of Civil Procedure, the judge has the right, with the consent of the parties, to appoint a mediator to facilitate the resolution of the dispute. Mediation is considered a voluntary, confidential procedure in which a neutral third party helps the parties reach a mutually acceptable solution without a court decision. In this case, the mediation agreement may be approved by the court and acquire the legal force of an enforceable document³³.

A special place in the French ADR system is occupied by conciliation, which is provided for in articles 127–131 of the French Code of Civil Procedure. Conciliation is carried out by special judicial conciliators (*conciliateurs de justice*), who are appointed by the presidents of the courts and act on a voluntary basis. The main purpose of their activities is to facilitate the voluntary resolution of conflicts, mainly in minor civil disputes. In some cases, French law even requires a conciliation attempt before filing a lawsuit, which is aimed at reducing the number of court proceedings.

Another important institution for alternative dispute resolution in France is arbitration, which is regulated by Book IV of the French Code of Civil Procedure (Articles 1442–1527 of the Code de procédure civile). Arbitration involves the submission of a dispute to an independent arbitrator or arbitral tribunal, whose decision is binding on the parties. French law provides the parties with significant autonomy in determining the arbitration procedure, which complies with international standards, in particular with the provisions of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Paris is one of the leading centers of international commercial arbitration, where the International Court of Arbitration of the International Chamber of Commerce (ICC International Court of Arbitration) operates.

In turn, the system of alternative dispute resolution in Spain is also actively developing within the framework of European legal integration. The main regulatory act in the field of mediation is the Spanish Law No. 5/2012 of 6 July “On Mediation in Civil and Commercial Matters” (*Ley 5/2012, de mediación en asuntos civiles y mercantiles*)³⁴, which implements the provisions of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. According to Article 1 of the aforementioned law, mediation is defined as a voluntary method of dispute resolution in which two or more parties attempt to reach an agreement on their own with the help of a mediator. The law establishes such basic principles of mediation as voluntariness, equality of the parties, neutrality of the mediator and confidentiality of the procedure.

A feature of the Spanish mediation model is that the mediation agreement concluded by the parties can be notarized and, in accordance with Article 25 of Law No. 5/2012, acquires the force of an enforceable document. This significantly increases the effectiveness and practical value of mediation as an alternative to litigation.

In addition, arbitration is widely used in Spain, the legal regulation of which is carried out in accordance with Law No. 60/2003 of 23 December “On Arbitration” (*Ley 60/2003 de Arbitraje*)³⁵. This law is largely based on the provisions of the

<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000350926> (accessed on 15 May 2025).

³³ Code de procédure civile. Available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070716/ (accessed on 15 May 2025).

³⁴ Ley 5/2012, de mediación en asuntos civiles y mercantiles. Available at: <https://www.iberley.es/legislacion/ley-5-2012-6-jul-mediacion-asuntos-civiles-mercantiles-9935347> (accessed on 15 May 2025).

³⁵ Ley 60/2003 de Arbitraje. Available at: <https://www.boe.es/eli/es/l/2003/12/23/60/con> (accessed on 15 May 2025).

UNCITRAL Model Law on International Commercial Arbitration, which ensures its compliance with international standards. Arbitration awards, in accordance with Article 43 of Law No. 60/2003, have the force of a court decision and are subject to compulsory execution.

The conciliation procedure in labor disputes, which is provided for in the Spanish Law on Labor Jurisdiction (Ley 36/2011 reguladora de la jurisdicción social), is also of particular importance in the Spanish legal system. According to the provisions of this law, in most labor disputes, before going to court, the parties are required to undergo a preliminary administrative conciliation procedure before the relevant mediation and arbitration bodies (SMAC – Servicio de Mediación, Arbitraje y Conciliación).

4. Conclusion

In the contemporary context of judicial system reform, the incorporation of conciliation processes, acting as a key priority within current dispute resolution frameworks and tools safeguarding subjective rights and freedoms, could introduce innovative and effective strategies for our domestic justice system. Mirroring a global trend, Ukraine presently displays a rising interest in alternative methods for resolving legal disputes. This trend suggests a means to potentially alleviate the strain on courts and resolve issues where standard legal procedures may fall short (ethnic, religious, familial, etc.) in achieving amicable resolutions.

Alternative methods shouldn't be seen as isolated mechanisms. Rather, they are components of a broader alternative system used in the resolution of legal disputes and conflicts overall. This system, though still in its early development phases, demonstrates a clear trajectory and considerable potential for advancement. Fundamentally, all alternative processes aim to address and resolve a legal conflict. Their core features hinge on voluntary participation and the involvement of an impartial, neutral third party. Moreover, any alternative means of settling legal conflicts must adhere to the concept of relative formality, dependent on the autonomy of the parties.

International standards must guide the framework of alternative dispute resolution. The principle of collaboration is central, fostering the identification of shared interests among the involved parties and relying on mutual concessions to arrive at understanding. The principle of differentiation further allows those involved in legal conflicts to employ alternative methods individually, collectively, or in a specific sequential order. The principle of confidentiality, implying the private nature of any alternative process, is also crucial. Amidst the extensive variety of alternative methods, the selection of a particular approach must be considered carefully, prioritizing the individual interests of all participants. The successful employment of alternative dispute resolution requires continuous and collaborative interaction with civil society institutions.

Therefore, in its broadest sense, the concept of alternative dispute resolution encapsulates both extrajudicial and judicial types.

Foreign nations typically implement ADR across specific stages: (1) Steps are undertaken to prevent workplace conflicts, encouraging effective complaint procedures and responses to misconduct, thereby improving management practices and guiding conduct; (2) Extrajudicial dispute resolution is carried out within the workplace and/or at higher levels, including management and union representatives, in order to resolve individual disputes. At this stage, depending on the country's laws, a mediator may be involved; (3) Within a pre-trial petition or hearing, ADR is facilitated by a conciliation and mediation expert. Agreement between parties may facilitate the utilization of arbitration procedures as well at this stage; (4) Alternative dispute resolution takes place immediately before or during the trial; judges or legal professionals usually administer mediation or reconciliation

procedures.

ADRs are utilized across numerous European nations, although the implementation details differ between countries. The use of ADR can happen at any point in a case. It's crucial to select a process that caters to both parties' interests, facilitating swift, efficient, and cost-effective conflict resolution.

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