3. Guiding Principles on Business and Human Rights, United Nations, June 16, 2011. https://www.ohchr.org/Documents/Publications/GuidingPrinciples BusinessHR_ EN.pdf

4. Montreal Declaration for the Responsible Development of Artificial Intelligence Launched. https://www.declarationmontreal-iaresponsable.com/la-declaration

5. RoboLaw. Regulating Emerging Technologies in Europe: Robotics Facing Law and Ethics. Official site http://www.robolaw.eu/projectdetails.htm

6. Scherer, Matthew U. Regulating Artificial Intelligence Systems: Risks, Challenges, Competencies, and Strategies.2015. Harvard Journal of Law & Technology. http://dx.doi.org/10.2139/ssrn.260977

7. Soroka, L. and Kurkova, K. Artificial Intelligence and Space Technologies: Legal, Ethical and Technological Issues. Advanced Space Law, Volume 3, 2019: 131-139. https://doi.org/10.29202/asl/2019/3/11

8. Toronto Declaration: Protecting the Rights to Equality and Non-Discrimination in Machine Learning systems, May 2018, https://www.accessnow.org/cms/assets/ uploads/ 2018/05/Toronto-Declaration-D0V2.pdf

УДК 347(043.2)

Tokarieva K., Ph.D. in Law,
National Aviation University, Kyiv, Ukraine

THEORETICAL AND LEGAL ANALYSIS OF PRINCIPLES OF REALIZATION OF MEDIATION PROCEDURE

The modern society develops swiftly. The quantity of population and accordingly amount of conflict situations increase annually. In addition, the index of awareness of citizens grows in relation to their rights, in particular rights on an address to the court after the protection of the legal rights and duties. For this reason, the load of the judicial system increases considerably. There are such amounts of cases in court proceedings, that the last are unable to consider them during the legislatively envisaged terms. As a result, numeral offenders avoid punishment. For example, for the committing of administrative offense, because at the time of the case the procedural deadlines had already passed and the case had to be closed due to expiration of the term for bringing the person to administrative responsibility.

In addition, it should be noted that both rights defenders and attorneys do not take actions that would facilitate reconciliation of the parties, since the overwhelming majority of them prefer their own beneficial interests, as opposed to their clients' real interests. A poll of attorneys confirms that 80% of attorneys believe that their clients could avoid a lengthy and costly court conflict if they tried to find common ground with the other party. Most

attorneys do not try to settle a client's dispute as soon as possible because, in the case of a court, the lawyer will be paid for familiarization with the case file, for each procedural document and for going to court, and in the case of an out-of-court settlement of the dispute only for consultation.

However, in the modern world, the Institute of Mediation is actively developing as a type of out-of-court dispute resolution. In the United States and in the European Union, there is a positive trend in the implementation of out-of-court dispute settlement procedures. Considering Foreign Experience – The Mediation Institute is the most common out-of-court dispute resolution procedure.

The term "mediation" comes from the Latin "mediatio" - mediation; "mediation" (Fr.) have the same meaning. Anyone within their own understanding can define this concept. In social psychology, scholars consider mediation as a specific form of regulation of controversial issues, conflicts, and reconciliation of interests. The scientist Bessemer defined mediation as a technology of conflict resolution with the participation of a neutral third party [1, p. 12].

Compared to the traditional litigation system, mediation has significant advantages. The most important of these are a quick trial and its low cost to the parties. Unfortunately, the domestic legislator has repeatedly assured that the absolute borrowing of a legal institute from foreign countries in Ukraine will not work perfectly. This can be explained by the difference of cultures, mentality, legal education of citizens.

Legislative consolidation of mediation principles requires special attention when drafting mediation legislation. The place of mediation is specified in a number of social and legal phenomena. It is revealed in its principles and functions, in which the subjective perception of mediation is embodied. The mediation procedure should not conflict with citizens' understanding of their rights.

The concept of mediation principles is not provided by law. In addition, most scholars involved in the study of the Institute of Mediation do not reveal this definition.

The principles of mediation are fundamental ideas, moral and ethical rules and procedural foundations of constructive interaction between the parties to the process. General requirements of mediation procedure, the observance and application of which guarantees its participants the resolution of the conflict and the possibility of building further legal relations in the future.

At present, there is an urgent need to develop a scientifically sound system of principles for the mediation procedure, as well as recommendations for consolidating mediation procedures in the current legislation, interpreting and applying rules that consolidate the principles of mediation based on their complex theoretical and legal analysis, which allows optimizing the application of the mediation procedure. participation of a mediator in Ukraine.

The principles of mediation are the initial, fundamental ideas, moral and ethical rules and procedural foundations of constructive interaction between the parties to the mediation process, the general requirements of the mediation procedure, the observance and application of which guarantees its participants the resolution of the conflict and the possibility of building further legal relations.

The system of mediation principles should be considered through the prism of criteria for the effective implementation of the mediation procedure with the participation of a highly qualified mediator.

Successful mediation is possible between only those parties who, in the course of its mediation, become open to interaction. It is important that the parties show a degree of trust to the mediator and are able to carry out the mediation procedure on a voluntary basis. The correlation and interaction of the imperative principle, voluntariness, legitimacy is a decisive factor in the success of mediation and true adherence to its principles.

To improve the efficiency of mediation legal relations, it is necessary to systematize the principles of its implementation. In the dissertation research we have proposed a system of principles on which the activity of settling legal disputes in the framework of mediation procedure is based

The basic principles in the scientific literature include:

– equality of parties in the mediation process;
– voluntariness;
– confidentiality;
– dispositiveness in the process of mediation;
– exhaustive powers of the mediator;
– professionalism of the mediator;
– cooperation of the parties.

However, special attention needs to be paid to the parties' confidence in the mediator. This depends on the possibility of reaching an agreement between the parties and a subjective perception of the question of the legality of the mediation procedure.

The legality of the mediation procedure depends directly on the professionalism of the mediator, his impartiality and neutrality.

It should be noted that the legislator should set clear criteria for the mediator. The urgent issue now is the need to provide a higher legal education for the mediator as one of the effective mechanisms for adhering to the principle of legality in the mediation process. But research conducted in preparation for the dissertation finds that having only a college degree is not sufficient to ensure the principle of legality and equality of parties in the mediation process. That is why, according to the author, it is necessary to additionally stipulate the requirement for the presence of two higher degrees for persons who wish to become mediators:

the first - legal;

the second - psychological.

It’s the combination of professional knowledge in these two areas that will provide a truly highly skilled mediator service for citizens.

We emphasize that the legislator should avoid the risk that persons with low professional skills may become a mediator. The goal is not to make the mediation profession accessible to anyone who has attended 60-90 hours of lectures and passed the exams. An institution of highly skilled mediators is needed to help Ukrainian citizens resolve conflict situations while respecting mediation principles and ensuring fundamental human rights.

Undoubtedly, the implementation of the mediation procedure in the domestic legislation is an extremely important task. However, at the stage of borrowing foreign experience and further implementation of Ukrainian legislation, it is necessary to take into account the differences of legal education and culture of citizens. That is why special attention is needed to develop a mechanism for monitoring the activity of the mediator, the possibility of bringing him to administrative responsibility, depriving him of the right to engage in the activities of the mediator.

References

1. Materials for the training of mediators from a range of officials holding executive positions in the executive, legislative and judicial bodies. Joint Program of the European Commission and the Council of Europe «Transparency and Efficiency of the Judicial System of Ukraine». Kiev, 2010.

УДК 342.924(043.2)

Усенко А.А., аспірант,
Бєлкін Л.М., к.т.н., ст. науковий співробітник, адвокат,
Юринець Ю.Л., д.ю.н., доцент,
Національний авіаційний університет, м. Київ, Україна

АДМІНІСТРАТИВНО-ГОСПОДАРСЬКІ САНКЦІЇ У СФЕРІ ДЕРЖАВНОГО КОНТРОЛЮ ЗА ДОТРИМАННЯМ ЗАКОНОДАВСТВА ПРО ХАРЧОВІ ПРОДУКТИ

Стурбованість щодо безпечності та якості харчових продуктів відчувається значною мірою в усьому світі [1, с. 3]. Відповідно до п. 1 ст. 3 Директиви Ради ЄС 93/43/ЕЕС від 14.07.1993 р. «Про гігієну харчових продуктів»[10], приготування, перероблення, виготовлення, пакування, складування, транспортування, розподілення, поводження або продаж чи надання у розпорядження харчових продуктів здійснюються так, щоб виконувалися правила гігієни. Дотримання суб’єктами

[10] Цитується за довідником [1, с. 166].