

**CONSTRUCTION MEDIATION: GLOBAL EXPERIENCE FOR ALTERNATIVE  
DISPUTE RESOLUTION IN THE MODERNISATION  
OF MULTI-APARTMENT RESIDENTIAL BUILDINGS**

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**Abstract.** Modernisation of multi-apartment buildings is one of the steps towards achieving the goals of sustainable urban development. Modernisation of buildings and construction in general causes many disputes between the condominium, co-owners and other stakeholders, especially approval and financial issues. Such disputes are usually interpersonal rather than legal or legislative. In this regard, litigation is impractical or not at all within the competence of the courts. Modernisation, as an architectural, engineering, constructing and the process of urban development in general, is not an obligation and is a manifestation of desire of communities and a goal of the country, therefore the dispute resolution on this issue requires a special and innovative approach. Mediation is almost the only one way to resolve disputes between condominiums and co-owners on issues of modernisation and further operation and maintenance. If for many countries in the world construction mediation, although a relatively new concept, is already widely used in practice, then in Ukraine this method of dispute resolution is little known and not widespread. This method has proven its effectiveness in practice, because it is quick and simple in contrast to the litigation, which can suspend or delay construction for a very long time. Mediation helps parties reach agreement on any issue. Modernisation is an important and necessary step, at the same time controversial and difficult, due to the need for co-financing of the project by the co-owners of the house. Disputes between the parties are not only obstacles for project implementation and development but also endangers the achievement of achieving the goals of urban sustainable development. The larger project the more controversial issues arise that need to be resolved: not only financial, coordination and legislation but also compliance of norms and rules of non-government organisations or foundations that finance the program. Implementation of global mediation experience in modernisation and urban planning will help to more effectively and easily develop construction processes and dispute resolution between stakeholders of the project. The research and implementation of this issue is an important step on the way to improving the processes of modernisation of multi-apartment building, construction and urban planning.

**Keywords:** construction, mediation, modernisation, alternative dispute resolution, multi-apartment buildings, sustainable urban development.

**Introduction.** According to the set goals of sustainable urban development, the issue of modernisation of residential buildings is an important topic [1]. Given that modernisation is part of construction, in this context, condominiums and co-owners of multi-apartment buildings are among the stakeholders. Between the condominium, as the initiator and organiser of the modernisation, and the co-owners, there is a controversial issue of co-financing the project of modernisation of the building. Considering that the majority of the low-income population lives in the houses most in need of modernisation, the granting of consent on the modernisation project is controversial, because the financing requires costs that some co-owners cannot afford. Non-compliance of this issue makes it impossible to implement the project, which jeopardises the achievement of some of the goals of sustainable urban development. Given that participation in the modernisation of the house is only a desire and a manifestation of will, and not an obligation, dispute resolution is more interpersonal than legal. Therefore, it is hardly possible to resolve the dispute in court. Mediation,

as an alternative dispute resolution (ADR), is almost the only way for this issue.

Given that modernisation is part of the construction process, it is possible that other controversial issues may arise, which should be resolved by mediation. Construction mediation is widely used in countries around the world, especially in conditions of rapid development of architectural solutions, the construction industry and modernisation. Alternative dispute resolution may have other names besides mediation, such as: negotiation, adjudication, conciliation, dispute resolution council. But this is just the use of other terms and does not affect the essence of the process in this mediation context. The issue of mediation in the construction sector is an integral part of resolving construction disputes.

Conflict situations in construction are a big problem because decisions depend on realisation of the project. Construction, architecture and design are some of the most profitable areas of business. And at the same time one of the most risky. The construction of new facilities involves large financial investments and also takes a lot of time. In addition, the industry depends on economic stability in the country and immediately reacts to any changes. During the period of economic growth, we observe its rapid development, and during the recession – stagnation.

An economic crisis, environmental disasters, changes in legislation, other force-majeure circumstances can affect a significant increase in the cost of the project, for which the developer company and its partners may not be ready. This is the reason for poor-quality work, incomplete construction, and half-empty buildings standing idle for years. And as a result – conflicts that often arise in this area.

Disputes in the field of construction and design can also arise due to the imperfection of the contracts signed by the parties and the low level of compliance by the parties with the terms of the signed contracts.

Considering how important reputation is for companies both before investors and partners, and a decrease in trust can lead to serious financial losses, participants in a conflict in the field of construction and design are interested in its resolution taking place as confidentially as possible.

Ukrainian legislation in the field of construction and design is imperfect, therefore the possibilities of effective resolution of conflict situations in court are limited. The litigation takes a long time, during which construction is suspended. Especially when it comes to the modernisation of apartment buildings, which is an integral part of achieving the goals of sustainable development. To resolve controversial issues, which are usually related to the disagreement of co-owners of apartment buildings to undertake co-financing of the project, there is a need to resolve the dispute between association of co-owners of apartment building and co-owners. Solving the issue in court with the involvement of lawyers is impractical, because the modernisation of a multi-storey building is not the responsibility of the co-owners, but is only their manifestation, necessity and relevance in terms of the latest development of the country and the globalisation of the whole world, which requires being oriented not only to the present, but also for the future. And these are just some of the dispute issues that arise in construction. After all, construction is one of the most difficult branches in legal regulation. That is why mediation as alternative dispute resolution (ADR) may be the only possible way to resolve disputes in construction and design and to get out of crisis situations in modernisation of multi-apartment buildings.

Mediation is a modern out-of-court way of resolving disputes and conflicts with the participation of a neutral mediator who helps the parties reach an agreement to make mutually beneficial decisions. The use of mediation in construction is an effective way of settling disputes and conflicts and is relevant and timely, both at the early stages of the emergence of conflicts – pre-trial settlement, and at the stages of consideration of disputes in court. Mediation can not only reduce the number of legal disputes, but also reduce the financial and time costs of dispute resolution.

Mediation is widely used in many countries of the world and is even welcomed, and sometimes it is a legal priority to reduce the burden on the country's legal system. If in many countries of the world this method of dispute resolution has been used for a long time and is not something new, then in Ukraine it is not widely known and is very rarely used. Only in 2021, thanks to the adoption of the Law of Ukraine About mediation, such a method of dispute resolution was legally established as an alternative to the court process [2].

Mediation is a process in civil law relationship also. A significant part of disputes in the field of construction can be attributed to the most complex in terms of proving and predicting their results. Especially when it comes to the modernisation of apartment buildings and the relationship between condominiums and co-owners. After all, disputes can arise on any issue, especially when it comes to financial issues when modernising a building. As a rule, it is difficult to refer such a dispute to a judicial one, because the dispute does not arise due to legal inconsistency and violation of current norms and legislation, but due to the disagreement of the majority of co-owners to co-finance the program of modernisation of the house. Therefore, it is impossible to find a solution to such a dispute in court. And the only way to resolve the dispute is to find a compromise and give consent or to engage a specialist who will act as a mediator in the dispute resolution, without accepting any side, will help to reach an agreement. Mediator is a third party whose task is to help find resolution between the disputing parties.

**Analysis of Recent Research and Publications.** Construction mediation is actively researched and considered in scientific publications. The researchers have recently reviewed the topics such as voluntary participation in construction dispute mediation. The authors N. Cao and S.O. Cheung found that voluntariness is an important feature of successful mediation and an alternative to litigations is also an integral part of a construction contract. Mediation has been encouraged as a primary alternative dispute resolution mechanism to deal with construction disputes in Hong Kong [3-5]. J. Sidoli del Seno asserts that mediation has wide values in a construction and which can lead to significant cultural changes in the industry and related processes and also have a positive impact in this area development [6].

The topic of construction mediation in countries is considered separately. The interest of the parties to dispute resolution with the participation of a mediator is revealed [7]. There is considered the point of view of mediators on processes in construction mediation in Scotland [8]. The topic of mediation in construction disputes in England identified barriers to the greater use of mediation in the English construction industry [9]. Alternative dispute resolution methods in the Kingdom of Saudi Arabia are rarely used because the public work contract prevents the use of methods other than litigation [10]. Mediation of Construction Disputes in the United States, how Alternative Dispute Resolution, including dispute review boards, partnering, arbitration and mediation, have become the primary ways of settling construction disputes [11]. The result of construction disputes in the New Zealand Context suggests that more than 97% of construction disputes are directly related to human factors such as perception, behaviour and performance [12]. Mediation systems in the construction industry in European Countries are composed by authors in research [13]. Mediation is considered by authors in scientific publications in different countries and in different contexts, including separately considered construction mediation on the examples of different countries. Ukrainian authors mainly consider mediation in the general sense without distinguishing it from construction mediation. Mediation compares with litigation and determines the advantages of ADR in the European Union example [14].

Unfortunately, construction mediation in Ukraine is not widely raised and considered. Therefore, the research of construction mediation, as part of the construction process in dispute resolution, is an extremely relevant topic, especially in modernisation projects.

**Objective and Tasks.** The objective of research is to analyse the use of construction mediation in the world. Identifying the level of interest in ADR from states, construction organisations and stakeholders. Determination of the level of using mediation as an alternative dispute resolution in the construction industry. The task is to identify and determine the advantages of resolving disputes through mediation in the modernisation of multi-story buildings.

**Materials and methods.** Mediation at the legislative level has been established in many countries of the world for a long time. An overview of mediation prospects is considered by V. Derkach in the article "Development and perspective of mediation as alternative dispute resolution" [15]. Centres have been established to provide mediation services in many countries. Some countries allocate the mediation process at the court level. The concept of construction mediation as a separate type appeared not so long ago, but it is already widely used.

Singapore Mediation Centre was established to provide mediation services, including for businesses in the field of construction and infrastructure in Singapore [16]. However, the Singapore

Construction Mediation Centre was established only in 2019 to promote mediation as a preferred process for resolving construction disputes [17]. The American Arbitration Association has developed rules for industry arbitration and mediation procedures, including procedures for large, complex construction disputes [18]. Construction Industry Authority of the Philippines provides clarification on alternative dispute resolution in construction [19]. The Hong Kong Institute of Construction Managers (HKICM), as a professional organisation for construction management, has begun to promote, develop and encourage the use of mediation as an effective dispute resolution mechanism of construction disputes by establishing its own mediation scheme and providing mediation services to its members and the general public since 2010 [20]. HKIAC Mediation Services was also established in Hong Kong, which also resolves construction disputes [21]. The Construction Industry Council in the UK has published a standard mediation procedure (CIC MMAP) to help parties to reach a compromise in construction and engineering with mediation [22, 23].

Mediation in Ukraine has been adopted at the legislative level only since 2021 by the Law of Ukraine about mediation [2]. Therefore, the issue of construction mediation to dispute resolution in construction and modernisation projects in Ukraine is a relevant and actual topic. Modernisation is a relevant issue for many countries, especially the post-Soviet countries. Modernisation in Ukraine of residential buildings is extremely important, considering that more than 90% of residential buildings were built in Soviet times without complying with today's energy efficiency standards and have operational wear and tear of many building elements. Dispute resolution in construction and modernisation in many cases is only possible through ADR, as mediation. The results of the research on the renovation of social housing of old buildings that do not have modern needs from the point of view of socio-political, economic goals and sustainable development are highlighted in the report "The Regeneration of Large-Scale Social Housing Estates. Spatial, Territorial, Institutional and Planning Dimensions" [24]. The research was financed by the European Union, so it can be noted that research into the modernisation of residential buildings is carried out not only by scientists in a private manner, but also by organisations commissioned by the government.

According to the latest statistical data of Ukraine, a part of all residential buildings was built in the period from the beginning of the 1950s to the end of the 1980s [25]. Some of them are old and emergency [26]. Detailed information is in Figure 1 and Figure 2.

Post-Soviet countries have heritage "panel houses" apartment buildings including countries of the European Union. Low-income people live mostly in old houses. These houses are most in need of modernisation, the problem of solving the co-financing agreement for modernisation emerges acutely. Between the condominium, as the initiator of the modernisation project, and the co-owners, disputes constantly arise regarding the agreement on co-financing. Disagreement makes the process of modernisation and construction impossible, which leads to the impossibility of achieving the goals of sustainable cities and communities. Therefore, dispute resolution is a very relevant topic.

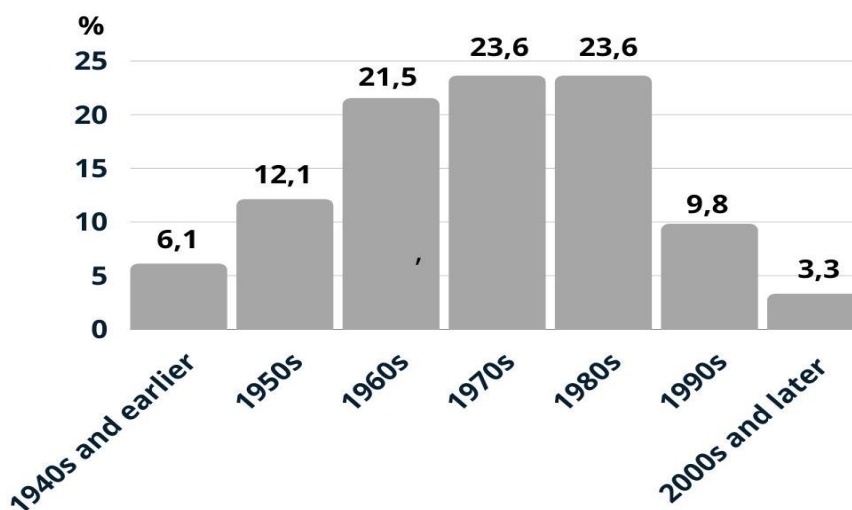


Fig. 1. Percentage of residential buildings by years of construction

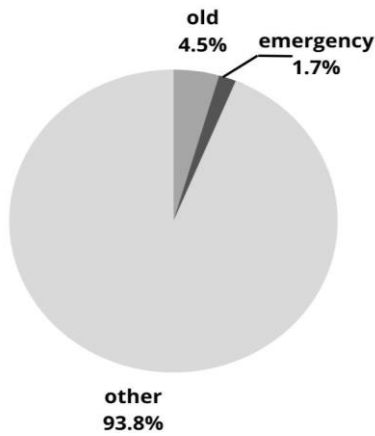


Fig. 2. Percentage of old and emergency buildings

The research is built with a descriptive method based on the analysis method. The research used a quantitative and qualitative analysis of the world experience of construction mediation to identify the effectiveness and prevalence of using this method as an alternative dispute resolution. The survey method revealed the level of interest of co-owners of multi-apartment buildings and their possibilities of co-financing in the modernisation of multi-apartment buildings, as well as controversial issues arising between interested parties. Thanks to this, the main controversial issues between condominiums and co-owners and other stakeholders in the project for the modernisation of multi-story buildings were identified and analysed. Comparative analysis revealed the advantages of mediation in comparison with litigation. The method of generalisation analyses the possibility of implementing the global experience of construction mediation to use alternative disputes resolution between

condominiums and co-owners and other interested parties in the modernisation of multi-apartment buildings. The research includes a qualitative analysis of the legislative framework for the use of mediation in Ukraine and other countries. Quantitative and qualitative analysis of the recommendations of international organisations related to construction and encouraging and developing construction mediation gave an answer to the community's interest in using this method. This made it possible to find practical experience for using the method in Ukraine. Using the method of statistical analysis, the need for modernisation of multi-apartment buildings in Ukraine and the problems that arise due to unresolved disputes have been revealed. Data analysis was accomplished using both descriptive and statistical methods.

**The main material.** *Advantages of construction mediation.* Disputes from legal and personal relations arising in construction projects are an inevitable phenomenon. This is due to the fact that the relations of the parties are formed within the limits of a huge number of technical requirements and legislation – state building regulations and legislative acts regulating legal relations in construction, with which one of the parties is most often not familiar. In addition, everyone has different views on the definition of the result of such activities. Therefore, more and more often, to resolve such conflicts, the parties involve the services of mediators, who help a quick and efficient reach of dispute resolution. Comparative characteristic of litigation and mediation is in Figure 3.

Litigation	VS	Mediation
initiative one of the party		initiative by consent of the parties
appointment of a judge		choice of the mediator
decision is made in according to legislation		decision is made in according to interests of parties
the court makes a decision		the mediator only facilitates the resolution of the dispute
long and formalized procedure		accelerated and non-formalized procedure
contest between parties		cooperation of parties
process is publicity		process is privacy

Fig. 3. Litigation vs mediation

All construction disputes conventionally can be divided into several categories, which are shown in Figure 4.

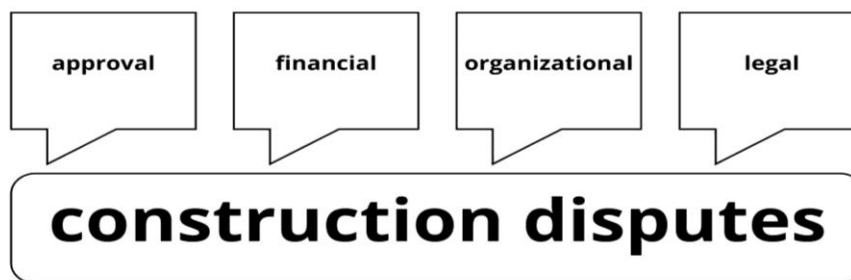


Fig. 4. Construction disputes

Most of the disputes belong to the approval and financial categories, since, although the activity is technical, it is often impossible to accurately determine the scope of the necessary work, the amount of materials, the terms and even the final result. All these categories are "framework", while the parties often try to establish them quite precisely by agreement of the parties, which leads to conflicts.

This is especially evident in the case of implementation of a project to modernise multi-apartment buildings. Disputes between the condominium and co-owners are a very common phenomenon. Mediation is the preferred procedure before litigation. The advantages are shown in Figure 5.

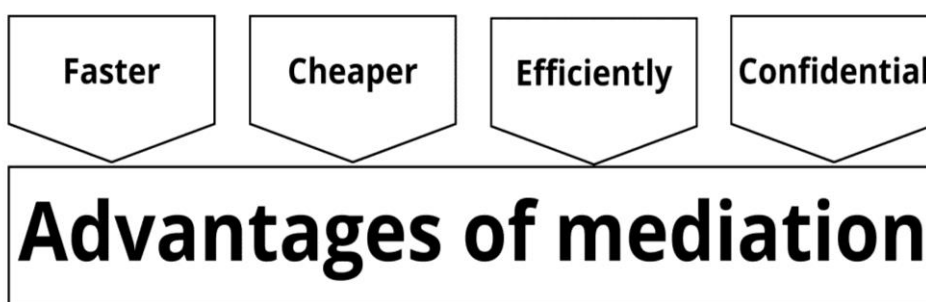


Fig. 5. Advantages of mediation

*Faster.* The litigation is held with the procedure of preparation for the court session, in which the date of the hearing is set, the parties are notified, during the first court hearing the parties are rarely completely ready for it, so the trial is postponed. All these and other aspects slow down the process of resolving the conflict, moreover, disputes of this kind rarely end in the first instance, as a result, litigation is so long. There are also disputes that are not within the jurisdiction of the courts, such as obtaining consent for co-financing of the modernisation project by the condominium from the co-owners. In some cases, the mediator can help solve the problem literally in one day during one meeting with the parties.

*Cheaper.* Regular increase in the services of lawyers and advocates, state duty and other hidden costs – all this makes court proceedings extremely expensive. In the case of mediation – it is enough to pay for the services of a specialist.

*Efficiently.* The main problem of construction disputes is an interpersonal conflict, which at the time of the court session turns into an economic dispute. Judicial bodies are not designed to resolve interpersonal conflicts, which significantly complicates the resolution of an economic issue. A mediator, on the contrary, initially acts as a negotiator in the resolution of all related issues, so that the parties can conduct dialogue regarding the main dispute as effectively and openly as possible.

*Confidential.* Without involvement of witnesses, experts and other third parties. The dispute resolution is resolved during personal meetings of the parties who are interested in finding a solution to the problem.

In Western countries, a new mediation technique is gaining momentum: the mediator is used by the parties at the entire stage of construction work. That is at the slightest hint of a conflict, it is immediately eliminated with the help of a mediator. Thus, the probability of conflict situations is reduced to very low values, which in the long run allows significantly reducing financial and time costs and improving the quality of services.

*Global experience of construction mediation.* Mediation was started in the 20th century in the United States of America (USA), United Kingdom (UK), Australia and then in Europe, Asia, Africa and others. Mediation is applied and regulated by legal norms depending on the country's legislation. Mediation in Ukraine as an alternative dispute resolution is a relatively new phenomenon and is almost never used by the courts as the main process before and during the trial. Although, according to the Mediation Law of Ukraine, mediation can be applied as an alternative in the process of resolving a dispute in court with the participation of the mediator – a specially trained neutral, independent and impartial individual who conducts mediation [2].

In contrast to Ukraine:

– The United States adopted the Uniform Mediation Act – the lawyer's duty is to inform the client about the possibilities and advantages of mediation, and also to confirm in court that they considered the option of mediation. At the same time, the judicial system is not obligated to consider the dispute through mediation, but can only recommend it [27].

– The European Union (EU) adopted Directive 2008/52/EC of the European Parliament and the Council of May 21, 2008 on certain aspects of mediation in civil and commercial matters. This Directive should apply to cases where the court directs the parties to mediation or where national law provides mediation. Furthermore, as a judge may act as a mediator under national law, this Directive should also apply to mediation conducted by a judge who is not responsible for any judicial proceedings relating to the case or cases in dispute. However this Directive should not apply to attempts by a court or a judge hearing a case to resolve a dispute in the context of a judicial proceeding in relation to the dispute in question, or to cases where a court or judge hearing a case seeks assistance or advice from a competent person [28]. On the basis of this Directive and on the initiative of each a member of the European Union, their own regulatory documents were later adopted. Depending on the legislation of the participating country, the mediation process is regulated and the persons who can be mediators are determined. Also, depending on the legislation of each country, mediation with the participation of the court may differ. If in some countries the mediation process may be mandatory before litigation, in other countries this process is not obligated by the authorities.

– In Ireland, the courts have the power to order the parties to apply for mediation or another form of alternative dispute resolution and to interrupt (stop) the proceedings in this connection. Court encourages parties to use an alternative dispute resolution procedure if the court deems it appropriate and facilitates the use of such a procedure. If the party refuses such a proposal, a penalty may be applied on the party that refused [29].

– In Australia, one of the services of the Federal Court of Australia is the mediation service. All cases are mediation, regardless of their complexity and number of parties such as commercial and corporate law, intellectual property, industrial law, consumer law, human rights, admiralty and tax law [30].

– In New Zealand the Building Disputes Tribunal, Authorised Nominating Authority under section 65 of the Construction Contracts Act 2002, which provides alternative dispute resolution [31].

– Under Singapore law, if a dispute is resolved through mediation, each party to the dispute is protected from litigation for a similar dispute [32].

Statistics data in USA and UK [33, 34], and International Chamber of Commerce [35] also confirmed popularity mediation.

Organisations such as the International Chamber of Commerce, the International Federation of Consulting Engineers (FIDIC) have adopted mediation rules according to commercial companies' needs. FIDIC developed its own provisions on methods for resolving disputes and recommends supporting the development of Alternative Dispute Resolution (ADR) and prescribing ADR methods such as mediation or others in the contract in the event of a conflict situation [36, 37]. Construction and engineering disputes can have high financial costs and damage business relationships and be very debilitating. Mediation plays an important role in resolving construction and engineering disputes. Construction Industry Council (CIC) has published the CIC Model Mediation Agreement and Procedure (CIC MMAP) to help parties reach a compromise in a construction and engineering dispute through mediation [22, 23].

State institutions, organisations and associations in different countries of the world not only implement mediation in resolving commercial disputes, but also directly in construction. The Construction Industry Authority of the Philippines (CIAP) is a government agency attached to the Department of Trade and Industry (DTI) for policy and program coordination, licensing and registration and, among other things, takes part in ADR like mediation in the construction industry [19]. The construction industry has grown rapidly in recent years and continues to grow, especially in Singapore and Hong Kong.

The issue of mediation in the construction sector is an integral part of resolving construction disputes. Institutions deal with mediation in the construction industry, such as Hong Kong Institute of Construction Managers ('HKICM'), being a professional institution in construction management, has started to promote, develop and encourage the use of mediation as an effective dispute resolution mechanism in settling construction disputes by setting up its own Mediation Scheme and providing mediation services to its members and the general public since 2010 [20]. The construction industry is interested in quick and efficient resolution of issues and protection of their interests and avoiding obstacles that cause stand idle construction. To this end, the Singapore Construction Mediation Centre was set up in 2019 with the aim to encourage mediation as a preferred process for resolving construction disputes and facilitating and reducing time and financial costs in order to avoid an unwanted stoppage in the development of the construction industry [17]. For the sake of structuring and transparency and systematisation in the resolution of construction disputes of any complexity without litigation and simplifying the understanding of the ADR procedure in the construction field, the American Arbitration Association has developed regulations for industry arbitration and mediation procedures [38].

International Chamber of Commerce is an international organisation that unites chambers of commerce, commercial organisations and companies for the development of international trade standards, the joint protection of interests in international organisations and the resolution of commercial disputes, publishes the Mediation Rules [39].

Given that in the modernisation of multi-apartment buildings, financing usually occurs at the expense of non-profit organisations and partner funds, the entire process must comply with the project management methodology of non-governmental organisations – transparency and compliance between all stakeholders.

Project management requires the following:

1. Project management should be carried out in a balanced way, with an equal degree of responsibility in relation to each stakeholder.
2. Project management methods should apply consistently to all actions in each phase of a "life" project.
3. All aspects of project management must be coordinated and harmonised to ensure the effectiveness of all elements (components) of the project at the stages of its development, planning, monitoring and implementation.
4. Project management should be collegial – the management process involves the participation of all stakeholders in the identification, development, planning, implementation and monitoring of the project. This ensures its transparency and compliance, improves quality, strengthens human resources and provides guarantees for project implementation at all levels.



5. Review and reassessment management processes are needed throughout the life of the project in order to ensure that the development process, project implementation plans and intended results have not lost their significance and relevance to the current situation. This practice improves the accuracy of estimates and plan next steps.

Given this methodology, condominiums and co-owners are faced with a complex procedure when modernising a house and the occurrence of disputes is an integral part of the process. Mediation is an extremely effective way to dispute and resolve such controversial issues. But, unfortunately, this method is rarely used in Ukraine, which causes obstacles to improve living conditions.

**Conclusions.** Mediation is widely used in practice in countries on all continents. In most countries of the world, mediation is quite common and is often used as an alternative to litigation. In Ukraine, mediation still needs development and could become a very effective and efficient tool for dispute resolution in construction, and especially in disputes between condominiums and co-owners, because, as a rule, these disputes are not the competence of the courts.

The construction industry is interested in the quick dispute resolution and protection of its interests, such as the development of construction reconstruction and modernisation contracts with an indication of ADR through mediation in cases of disputes, because misunderstandings, conflicts and downtime in construction not only create obstacles to the implementation of the project, but also stand on the way to achieving the goals of sustainable urban development.

In countries where the construction industry is developing at a rapid pace, mediation is widely used to construction disputes resolution, norms and rules are established, and advice is provided at the level of state institutions, institutes and associations. Special centres, in addition to other legal organisations and companies, provide mediation services in construction, separating disputes on other issues and sectors. Every year, mediation in construction gains momentum and proves its effectiveness. Therefore, it is not surprising that professional associations and federations develop and implement standard contracts that include mediation in case of dispute resolution. The introduction of a mediator service at all stages of construction to avoid disputes confirms the effectiveness of mediation in construction. In Ukraine, mediation as a phenomenon is not widely used, and even more so, it is not separated as construction mediation. Given the complexity of construction processes and negotiations between condominiums and co-owners regarding the modernisation of multi-apartment buildings, many controversial issues arise, the resolution of which usually cannot be attributed to the competence of the courts in Ukraine. It is necessary to use the experience of foreign countries and the experience of foreign and international institutes, foundations and associations specialising in construction. Modern trends require the development of mediation in the construction sector not only in disputes resolution between condominiums and co-owners, but also in construction. International experience can help in drawing up construction contracts including the mediation process in case of disputes resolution.

It is necessary to pay attention to the peculiarities and specifics of the conflicts in construction that arise in this industry and consider in dispute resolution. Changes in legislation, construction regulations, new programs that did not exist before, such as, for example, the modernisation of multi-apartment buildings, the appearance of new project participants, disputes become more complicated every year and, as a rule, become multilateral character, which requires a long time and large financial costs for litigation. Litigation is not appropriate at all in some cases. Therefore, mediation support for each large construction project and object is objectively requested. If mediation is used from the early stages of construction relations between all stakeholders that can prevent conflicts developing into multi-year litigation.

Construction disputes resolution in court each of the disputing parties spends the main time either proving the guilt of the other party or justifying themselves. The relations of the parties sometimes take on a shade of confrontation, rivalry and enmity instead of a partnership in such a hard competition of the litigation. The construction industry should be aimed at creating and maintaining good business relations and this is what mediation is aimed at.

For the litigation of all construction disputes, as a rule, and sometimes this is a requirement of the law, are necessary to conduct one or more judicial expertise (construction and technical, examination of design and estimate documentation, environmental, energy efficiency examination, accounting, examination of the market value of materials) and many others. These are significant additional time and financial costs. Mediation is a real helper in this case because the need for examinations may disappear. Mediation is the practice in many countries of the world.

Without negotiations (that is without mediation), it is almost impossible to resolve individual construction disputes in courts, where condominiums or co-owners are one of the disputing parties.

Disputes by mediation, in particular construction disputes, in some countries, such as Australia, Finland, are considered directly by the courts. Mediation is one of the most common means of dispute resolution in the Hong Kong construction industry for example.

Construction with all its subspecies related to the economy and human activity, unites a large number of people involved in construction and related to it as stakeholders. Issues of financing, calculations, timeliness and quality of completion lead to conflicts often. Therefore, this area is the most conflictual and has the potential for alternative dispute resolution by mediation.

The process of mediation is not new and already has its successful history in most countries of the world. Countries are interested in alternative dispute resolution, such as mediation, in connection with which legislative acts were developed. This has led to the establishment of relevant organisations, federations, associations, institutions and centres in most countries, which set rules, regulations and procedures and encourage mediation and provide advice, including in the field of construction.

Mediation in Ukraine has not yet developed and is not widely considered for the dispute resolution in construction. Therefore, legislative authorities (institutes), organisations, agencies, associations in the construction industry, based on foreign experience, have to develop and provide recommendations regarding alternative dispute resolution in Ukraine. The creation of a mediation centre, including construction mediation centre, would significantly increase the demand for the use of this method in resolving disputes, as well as contribute to a more effective and faster dispute resolution between stakeholders in construction, especially in resolving complex issues regarding the coordination of co-financing of the modernisation of multi-apartment building between condominium and co-owners.

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**БУДІВЕЛЬНА МЕДІАЦІЯ: СВІТОВИЙ ДОСВІД  
АЛЬТЕРНАТИВНОГО ВИРІШЕННЯ СПОРІВ  
ПРИ МОДЕРНІЗАЦІЇ БАГАТОКВАРТИРНИХ ЖИТЛОВИХ БУДИНКІВ**

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**Анотація.** Модернізація багатоквартирних будинків є одним із кроків до досягнення цілей сталого розвитку міст. Модернізація будинків та будівництво загалом викликає багато суперечок між ОСББ, співвласниками та іншими зацікавленими сторонами, особливо щодо погодження та фінансових питань. Такі суперечки зазвичай є міжособистісними, а не правовими чи законодавчими. У зв'язку з цим розгляд справ є недоцільним або взагалі не входить до компетенції судів. Модернізація, як архітектурний, інженерний, будівельний та процес містобудування загалом, не є зобов'язанням, а є проявом бажання громад і метою країни, тому вирішення спору з цього питання потребує особливого та інноваційного підходу. Медіація – чи не єдиний спосіб вирішення спорів між ОСББ та співвласниками з питань модернізації та подальшої експлуатації та обслуговування. Якщо для багатьох країн світу будівельна медіація хоч і є відносно новим поняттям, але вже широко використовується на практиці, то в Україні цей спосіб вирішення спорів є маловідомим і малопоширеним. Цей спосіб довів свою ефективність на практиці, адже він швидкий і простий на відміну від судового розгляду, який може призупинити або затягнути будівництво на дуже тривалий час. Медіація допомагає сторонам досягти згоди з будь-якого питання. Модернізація – важливий і необхідний крок, водночас суперечливий і складний, через необхідність співфінансування проекту співвласниками будинку. Суперечки між сторонами є не лише перешкодою для впровадження та розвитку проекту, але й ставлять під загрозу досягнення цілей сталого розвитку міст. Чим більший проект, тим більше виникає суперечливих питань, які потребують вирішення: не лише фінансові, координаційні та законодавчі, а й дотримання норм і правил неурядових організацій чи фондів, які фінансують програму. Впровадження світового досвіду медіації в модернізації та містобудуванні допоможе більш ефективно та легко розвивати процеси будівництва та вирішення спорів між зацікавленими сторонами проекту. Дослідження та реалізація даного питання є важливим кроком на шляху вдосконалення процесів модернізації багатоквартирної забудови, будівництва та містобудування.

**Ключові слова:** будівництво, медіація, модернізація, альтернативне вирішення спорів, багатоквартирні будинки, сталий розвиток міст.

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