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Alternative consumer protection methods in the context of civil law recodification

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Abstract

Modern challenges require innovative approaches to understanding law and its individual institutions. A person with their rights and interests requires special legal 'attention' in matters of their protection, including consumer protection. The purpose of this study was to define the legal and research-to-practice foundations of alternative methods of consumer protection (mediation) and to investigate the international practices of using mediation in resolving disputes involving consumers. The study employed the methods of hermeneutics, modelling, forecasting, comparative legal, and formal legal methods. The study identified modern national and international approaches to understanding such categories as "protection of civil rights and interests", "protection of consumer rights", and "alternative ways of protecting civil rights and interests". The study outlined the scientific and regulatory positions in the use of mediation for consumer protection. The study analysed international practices of consumer dispute resolution which are alternative to court procedures as well as the possibilities of effective application of such practices after the entry into force of new provisions of national consumer protection legislation. Innovations of consumer protection legislation in Ukraine were covered, along with the prospects for their operation in the

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post-war period, and the ways of integrating mediation into the judicial system. The study examined the European Union legislation governing the issues of alternative dispute resolution involving consumers. The court practice of applying the procedure for suspension of proceedings in cases involving the transfer of a dispute to mediation was covered. The materials presented and the findings of this study will be useful for representatives of public authorities and local self-government bodies

Keywords: protection of civil rights and interests; reconsideration of civil legislation; alternative ways of civil rights and interests' protection; dispute resolution; mediation

Introduction

The epistemology of the issues related to the protection of civil rights and human interests is mediated by the category of subjective civil law and protection of such rights, which largely depend on the state of civil law doctrine, certain forms and areas of understanding of law, and the conceptual foundations of the right to protection as an indispensable component of the exercise of subjective human rights. In modern conditions, the exercise of subjective rights and their protection, and, above all, the form of their exercise, is becoming increasingly relevant. A significant factor indicating the proper level of exercise of civil rights and interests by a person is the possibility of using judicial and extrajudicial (alternative) forms of protection. Since 2019, when the process of recodification of civil legislation was launched, approaches to the limits of subjective civil rights and methods of their protection have been clarified, specifically those not expressly stipulated by law or treaty (Resolution of the Cabinet of Ministers of Ukraine No. 650, 2019), which is crucial for further European integration (Hnativ *et al.*, 2023). Mediation stands out among the relevant methods. For a society in the context of full-scale armed aggression and limited access to the judicial system, alternative ways of protecting consumer rights are a vital component of the legal regulation mechanism.

The contributions of Ukrainian and foreign researchers on the forms and methods of

protection of civil rights and interests, including alternative ones, including mediation as one of the most effective methods of non-jurisdictional forms of protection, are characterised by their thoroughness. M.M. Velykanova (2024) studied the issue of updating civil legislation in the context of the introduction of European standards, including updating the principles of civil liability. The researcher reflected on the issue of correlation between risk and civil liability and proposed to expand the range of ways to ensure the performance of civil obligations. Namely, to stipulate other legal consequences along with incentives and liability measures.

N.S. Kuznetsova (2019) noted that “the institution of legal liability (including the institution of civil liability) has always been not only a powerful means of protecting subjective rights, but also a certain “indicator” of the effectiveness of the impact of law on social relations”. The researcher supported the consideration of European standards in the field of civil rights protection, specifically the judicial practice of the European Court of Human Rights. The researcher suggested adapting civil legislation to the *acquis communautaire* (Kuznetsova, 2021).

Investigating the issue of the correlation between the protection of rights and civil liability, O.O. Kot (2019) concluded that the idea of introducing a “functional-purpose criterion for distinguishing between liability measures and other

measures to protect subjective civil rights, considering that the purpose of liability is not to punish the offender” is viable. In addition, O.O. Kot (2024) analysed the conditions for the exercise of subjective civil rights and emphasised that the exercise of the relevant rights through free expression of will and at one’s own discretion requires the participant to be aware of the goal and ways to achieve it. However, the researcher did not specify the concrete ways of exercising subjective civil rights. Exploring the non-jurisdictional ways of protecting civil rights and interests, O.P. Rudnytska (2022) made the following conclusion: “the use of alternative (non-jurisdictional) methods of resolving civil law disputes is determined by the objective needs and interests of society”; among such alternative methods, the most common are arbitration, mediation, and self-defence of civil rights. The researcher called alternative dispute resolution an effective mechanism to protect civil rights and one of the ways to relieve the judicial system. Still, the question persists as to how these methods of civil rights protection relate to each other. O. Kostyuchenko *et al.* (2022) investigated mediation as a form of civil rights protection and found that “legal opportunities of mediation can be used by legal entities and individuals as a form of protection of subjective civil rights”. The researchers proposed changes to the legal status of a mediator depending on the categories of cases in which they would take part. This proposal is controversial, as it is not consistent with the basic principles of mediation.

M.V. Plotnikova *et al.* (2023) studied out-of-court ways to protect consumer rights in the financial services sector using the EU practices and found that “an essential feature of the EU financial services consumer protection system is out-of-court mechanisms that enable consumers to receive relevant advice, file a complaint that would be considered by an independent entity, and do so directly or remotely”. Despite the detailed study,

the researchers did not draw any conclusions on the possibility of implementing the corresponding practices in Ukrainian legislation.

O.O. Karmaza (2024) examined mediation as an extrajudicial form of protection of citizens’ rights under martial law and identified the positive aspects of this procedure – “optimisation of the judicial process and ‘unloading’ of judges; reduction of the number of appeals and cassation appeals filed; prevention of public hearing of the case in the course of mediation; extraterritoriality of the conflict (dispute), absence of jurisdictional restrictions”, and negative aspects – “mediation is not a panacea, it may not be effective for certain categories of conflicts (disputes)”. P.M. Gómez and I.A. Tremolosa (2024) found that “conflict mediation has been proposed as an alternative and/or complementary voluntary process to the judicial system, and depending on its use, it can prevent, resolve, or limit many conflicts”. In this regard, there is a need to further elaborate on the mechanism of parallel coexistence of these two processes. N. Ye and Z. Zhao (2024) studied the reform of consumer protection of mobile payment services in China at the legislative level and ways to resolve relevant disputes. Based on the findings of the study, the researchers concluded that banking legislation needs to be amended to better protect consumer rights.

The purpose of the study was to investigate the theoretical legal basis for the use of alternative methods of consumer protection in the context of recodification of civil legislation of Ukraine, using international practices in resolving disputes involving consumers.

Materials and Methods

The sources used in this study mainly included the provisions of Ukrainian legislation, specifically the Civil Code of Ukraine (2003), the Civil Procedural Code of Ukraine (2004), the Law of Ukraine “On Mediation” (2021), the Law of Ukraine

“On Protection of Consumer Rights” (2023), the Law of Ukraine “On Citizens’ Appeals” (1996), the Law of Ukraine “On Electronic Commerce” (2015), the Law of Ukraine “On Payment Services” (2021). The study was also based on international regulations, such as Directive of the European Parliament and of the Council No. 2008/52/EC “On Certain Aspects of Mediation in Civil and Commercial Matters” (2008), United Nations Convention on International Settlement Agreements Resulting from Mediation (2019), Directive of the European Parliament and of the Council No. 2013/11 EU “On Alternative Dispute Resolution for Consumer Disputes and Amending Regulation (EC) No. 2006/2004 and Directive 2009/22/EC (Directive on Consumer ADR)” (2013) and Regulation of the European Parliament and of the Council No. 524/2013 “On Online Dispute Resolution for Consumer Disputes (2013), SCC Arbitration Institute (2023) “Rules for Express Dispute Assessment”.

When exploring the legal categories and definitions to understand civil law and consumer protection, the study employed the methods of analysis and generalisation. The synthesis method was further used to formulate the conclusions of the present study. The national legislative acts and international regulations governing consumer protection procedures, including alternative methods, were analysed using the formal legal method. A comprehensive analysis of alternative methods of consumer protection in Ukraine was carried out. Accordingly, using this method, the study identified the substantive component of the regulatory framework mandating the use of alternative methods (mediation) of consumer protection. The formal legal method was useful for identifying inconsistencies in national consumer protection legislation. The comparative legal method was chosen to compare the relevant scientific positions and sources of law, which were crucial for achieving the purpose of the present

study, and to clarify the content of regulations on consumer protection. The hermeneutic method was employed to analyse the concept of civil law protection, its forms and methods, and alternative ways of consumer protection. The same method was used to establish the role and significance of mediation in consumer protection as an alternative way of protecting civil rights and interests. The methods of praxeology, prognostication and modelling helped to outline the prospects for the use of alternative methods of consumer protection (mediation) in various areas (e-commerce, financial services, etc.).

Results

The nature of civil remedies and alternative remedies in modern legal doctrine. The legal foundation for the application of methods of protection of civil rights and interests is established at the level of the Civil Code of Ukraine (2003). Under the current conditions in Ukraine, the right to not only judicial protection, but also an out-of-court (alternative) form of protection is of significant relevance. The philosophy of law based on the principle of human centrism suggests that the principal function of law is to protect subjective civil rights and interests of a person – a consumer. T.V. Bodnar (2020) analysed various legal positions on the right to defence and concluded that “the right to defence in the general theory of law and in the science of civil law is considered by most researchers as one of the powers that is part of subjective law”. While there are enough established positions on the term ‘civil law protection of rights and interests’ (Kuznetsova, 2019; Velykanova, 2024; Kot, 2024), there is no unambiguity in the definition of ‘alternative dispute resolution’. T. Shynkar (2017) defined alternative dispute resolution as ‘the termination of legal conflicts (disputes) without issuing an act based on the results of consideration of the case on the merits in a judicial or administrative procedure,

which consists in reaching a mutually acceptable or mutually beneficial agreement by the parties to resolve existing differences or making a binding arbitral award, usually based on the voluntary will of the parties and according to the rules independently established by the parties or applied by their consent". A. Sharaya (2022), studying the issue of alternative dispute resolution methods, concluded that "the key feature of these methods is the settlement of a dispute by reaching a compromise between the parties with the involvement of an intermediary".

Researchers have also focused on the criteria for classifying such alternative remedies, for example, M. Bilak *et al.* (2019) defined it as "the grouping of individual remedies into groups based on certain common features that are essential when deciding whether to apply a particular method of alternative dispute resolution to achieve a concrete legal purpose in resolving a legal dispute. The classification is conducted by identifying certain shared features, properties that allow combining the objects of research into separate groups, i.e., this refers to classification criteria that are quite diverse". The types of alternative remedies identified by researchers include negotiation, mediation, and arbitration, as well as their subtypes, with mediation standing out for its versatility. In the United States, the Institute of Legal Information uses the following wording to define alternative dispute resolution: "the definition refers to any method of dispute resolution without litigation".

Analysing the theoretical and practical aspects of alternative dispute resolution, Y.O. Fidrya (2024) proposed to distinguish three types of dispute resolution. The researcher included negotiations, mediation, and arbitration as basic; conciliation, independent expert opinions, ombudsman institutions, dispute resolution involving a judge and others as derivative; and hybrid methods as a combination of mediation and

derivative methods. N.O. Petrenko (2022) studied the distinction between such terms as "conciliation procedures", "pre-trial dispute resolution", and "alternative dispute resolution" and concluded that the national legal doctrine does not have clear criteria for their distinction. Based on the practices of European countries, specifically Italy, the researcher pointed out that conciliation procedures and pre-trial dispute resolution are ways (types) of alternative dispute resolution.

According to Article 1 of the Law of Ukraine No. 1875-IX (2021), mediation is "an out-of-court voluntary, confidential, structured procedure where the parties, through the mediator(s), try to prevent the occurrence of a conflict (dispute) or resolve it through negotiations". To improve access to justice, the European Parliament recommends establishing a framework for alternative dispute resolution. They believe that mediation is a cost-effective and efficient way to resolve civil and commercial disputes (Directive of the European Parliament and of the Council No. 2008/52/EC, 2008). According to O. Okudan and M. Çevikbaş (2022) and B.V. Derevyanko *et al.* (2023), the choice of a particular alternative remedy depends on the type of dispute. According to P. Raman *et al.* (2022), "alternative dispute resolution (ADR) procedures will generally become more widespread and formalised". E. Linares-Bernabéu (2023) conducted a thorough study and established the role of questions in discussing epistemic positions in the context of diffuse mediation that occurs in informal situations (family conflicts, conflicts between relatives, partners) and concluded that mediation helps constructive initiatives to restore relations between parties with polarised positions.

Thus, consumer protection is a prominent element of the overall system of civil legal protection, which exceeds the scope of civil legislation alone. It includes various legal mechanisms and instruments aimed at ensuring fairness and

balance of interests between consumers and suppliers of goods, works, and services. Apart from conventional court procedures, alternative dispute resolution methods play a key role in this system. They enable a compromise between the parties, filling the gap between state justice and informal conflict resolution. These approaches facilitate fast, flexible, and less costly dispute resolution, ensuring effective consumer protection.

Legal developments in the field of consumer protection. Consumer protection is one of the crucial types of protection of civil rights and interests, it is a distinctive feature of the rule of law and is aimed at ensuring that all consumer rights are respected when purchasing goods, works, and services. It is worth agreeing with the opinion of L.D. Meniv and A.A. Dinyuk (2024) that “the theoretical basis of this concept is based on a set of principles and legal mechanisms established at both international and national levels to ensure consumer safety, access to quality goods and services, and the ability to protect one’s rights in case of violation”.

Since the introduction of martial law in Ukraine, the Ukrainian Parliament Commissioner for Human Rights has received 2,580 (including 1,744 in 2022 and 836 in 2023) reports from citizens about violations of their rights as consumers of goods and services by business entities. In 2023, most of these complaints came from pensioners and family members of military personnel and concerned the provision of housing and communal services and financial/banking services under martial law (Annual reports of the Commissioner..., 2022; 2023). This situation is caused by the fact that for the period of martial law, the procedure for consumers to appeal in case of violation of their rights is carried out following the Law of Ukraine No. 393/96-BP “On Citizens’ Appeals” (1996), which stipulates consideration of such appeals without verification of compliance with consumer protection

legislation. However, since March 2022, the government has stipulated, according to L.D. Meniv and A.A. Dinyuk (2024), “in the presence of a threat that negatively affects the rights, legitimate interests, human life and health, environmental protection, and security of the state, as well as to perform Ukraine’s international obligations during the period of martial law, to allow unscheduled measures of state supervision (control) based on decisions of central executive authorities that ensure the formation of state policy in the relevant areas, including consumer protection”.

According to Item 18, Part 1, Article 16 of the Law of Ukraine No. 3153-IX “On Protection of Consumer Rights” (2023), among the principles of consumer protection, it establishes the priority of consumer rights and interests over any other interests and goals of business entities. Among the innovations, the Law includes a section on the specifics of consumer protection in case of agreements outside the commercial or office premises or remote agreements and prescribes the inclusion in such agreements of information on the possibility of applying the out-of-court dispute resolution mechanisms to which the business entity has joined, as well as the ways in which the consumer can apply to the out-of-court dispute resolution body. Such provisions of the Law of Ukraine No. 3153-IX (2023) should be effective in exercising the rights of consumers entering into electronic contracts following the Law of Ukraine No. 675-VIII “On Electronic Commerce” (2015), payment service agreements according to Articles 30 and 31 of the Law of Ukraine No. 1591-IX (2021) in terms of consumer protection, including the provision of information before entering into a payment service agreement. The Law of Ukraine No. 3153-IX (2023) introduced a new term for national legislation, the “e-buyer portal”, which “is created to ensure interaction between e-commerce entities, consumers, the competent authority and other state bodies that protect

consumer rights in the relevant areas within their competence". The portal's tasks include "enabling consumers to file complaints about violations of their rights when purchasing products from e-commerce entities, as well as sending commercial messages and informing them about the progress and results of consideration of complaints".

According to Article 40 of the Law of Ukraine No. 3153-IX (2023), the system of consumer protection includes out-of-court dispute resolution bodies and defines the procedure for out-of-court dispute resolution, the subject of consideration by the out-of-court dispute resolution body may include cases relating to products purchased for an amount not exceeding UAH 50 thousand; cases of violation of the procedure for warranty repair or replacement of products; cases of violation of the terms of delivery of goods purchased under contracts concluded outside the office or commercial premises. The decisions of such bodies will be binding on the business entity. While the issue of the functioning of an out-of-court dispute resolution body is a somewhat distant prospect (according to the Final Provisions, a relevant regulation must be adopted), the issue of "mechanisms for out-of-court dispute resolution" may be resolved through mediation. This was confirmed by the conclusion of the Committee on Ukraine's Integration into the European Union, namely, that the draft law on the subject of legal regulation complies with Ukraine's international legal obligations in the field of European integration and the scope of the European Union law (Directive of the European Parliament and of the Council No. 2013/11/EU, 2013).

Thus, the innovations of legal regulation in the field of consumer protection contain both positive changes and challenges related to their implementation. Despite the mechanisms for out-of-court dispute resolution and state control, their effectiveness will depend on their practical implementation and accessibility to consumers.

In the context of martial law, ensuring real protection of rights continues to be a challenging task that requires further legislative and organisational solutions.

International experience of using mediation in consumer disputes. The term "online dispute resolution" (ODR) emerged in the early 1990s as a form of "alternative dispute resolution" (ADR) driven by the spread of the World Wide Web (Kurkova & Shkarupa, 2024). This tool became widespread in the EU countries after the adoption of Directive of the European Parliament and of the Council No. 2008/52/EC "On Certain Aspects of Mediation in Civil and Commercial Matters" (2008) and Regulation of the European Parliament and of the Council No. 524/2013 "On Online Dispute Resolution for Consumer Disputes" (2013). Since 2016, the European Commission has launched an online platform for ODR between consumers and EU companies. With ODR, consumers can get a solution for free or for a small fee, while sellers can avoid legal costs and maintain good standing with customers (Izbash, 2022). In the United States, ODR operates through a platform where a mediator can be found, and if the desired result and understanding are not achieved, there is an opportunity to proceed to another alternative method of consumer protection – arbitration; USA&M is an ADR company that offers a qualified panel of mediators and arbitrators to clients from the legal, business, and insurance communities in the United States (United States Arbitration & Mediation..., 2025).

The Civil Mediation Council (2021) has considerable experience in using alternative dispute resolution involving consumers. For instance, if the value of a consumer's claim does not exceed £10,000, a confidential telephone mediation service offered by the Court Service can be used. A court fee is charged when filing any claim, but there is no separate fee for mediation. The activities of the Centre for Effective Dispute Resolution (2024)

in the field of consumer protection deserve special attention. The centre currently uses mediation procedures in 18 areas (from educational services, transport, medical, and even ceremonial services). The activities of the CEDR imply that it is the “body” that is proposed to be established in Ukraine in the future (“the body for out-of-court dispute resolution that determines the procedure for out-of-court dispute resolution”) (Law of Ukraine No. 3153-IX, 2023). For example, passengers of airlines or users of airports cooperating with CEDR can apply to this organisation. An independent arbitrator will review the evidence of both parties and issue a decision that the airline or airport must comply with within 20 business days, unless the arbitrator sets a different deadline (Centre for Effective Dispute..., 2025). An analogous scheme exists in the field of healthcare consumer protection (the Care Quality Commission (CQC) encourages all independent healthcare providers to offer an independent external review stage that can provide patients with a pathway to resolve a complaint if it is not resolved through the provider itself. The independent complaints pathway for private healthcare providers is the Independent Sector Complaints Advisory Service (ISCAS), which is housed at the CEDR and operates on a contractual basis with private healthcare providers (Centre for Effective Dispute..., 2025). Complaints to the Solicitors Regulation Authority (SRA) are also covered by the alternative consumer protection method; a sufficient range of alternative consumer dispute resolution services (including those involving CEDR arbitrators) has been developed in the construction sector.

The experience of alternative methods of protection of rights established in the Scandinavian countries, which was studied by A. Popova and A. Turgeneva (2021), can be used in consumer dispute resolution. The researchers found a fairly extensive scope of mediation procedures in these countries, namely: court mediation in civil

proceedings, which is based on a managed mediation procedure conducted by a judge without using the tactics and principles of mediation itself; commercial mediation is developed in Finland, with the Finnish Institute of the Chamber of Commerce as its centre. Having analysed the Rules for express dispute assessment of the SCC Arbitration Institute (2023), which stipulate the possibility for the parties to apply for an expert opinion on the advisability of choosing a certain alternative method of protecting their rights, it is advisable to introduce such a tool in Ukrainian legislation, primarily for business entities that provide services, goods, and works to consumers. This will help to reduce commercial and reputational risks and optimise time and financial costs. To protect the rights and interests of the Ukrainian consumer, the practices of France, as studied by M. S. Dolynska (2020), may be useful, as the costs of the mediation procedure are financed from the state budget, while it is free for the consumer.

In summary, the international practices of ODR demonstrate a variety of approaches to resolving consumer disputes, from online platforms to conventional methods of mediation and arbitration. The use of ODR enables consumers to effectively protect their rights, minimising costs and time, and helps to maintain positive relations between consumers and businesses. The introduction of such instruments in Ukraine could greatly improve consumer protection and contribute to the development of an effective dispute resolution system.

Discussion

The above position on the “integration” of consumer protection into the system of protection of civil rights and interests implies the existence of mechanisms for practical resolution of issues, specifically, through the judicial system. Researchers and practitioners have conducted a research-to-practice investigation of the issues

related to the “embedding” of mediation in the judicial system. Y. Prytyka and Y. Levina (2023), in their study of the principle of voluntariness of mediation, expressed the opinion that “absolutisation of the voluntariness of mediation in practice does not always lead to its desired promotion and reduction of the burden on the judicial system”. The EU Court of Justice, in the case of *Livio Menini and Maria Antonia Rampanelli v Banco Popolare – Società Cooperativa* (2017), found that “Directive 2013/11/EU should be interpreted as excluding national legislation, such as that at issue in the main proceedings, which stipulates that in the context of such mediation consumers must be assisted by a lawyer and that they may only withdraw from the mediation procedure if they demonstrate a valid reason to support such a decision”.

The policy document prepared by T. Kyselova (2017) with conclusions on the gradual integration of mediation into the judicial system and the establishment of the significance of mediation for the protection of rights will be of great value, namely: “the task of integrating mediation into the judicial system is to enable citizens to choose the most suitable mechanism for resolving a particular dispute from a wide range of various mechanisms. This will motivate citizens and increase their personal responsibility for resolving their disputes”. The position of N. Mazarakis (2018), set out in her monograph, that “the use by the parties of a particular method of dispute resolution, such as mediation, does not deprive them of the right to apply to the state court”, is reasonable. The researcher’s opinion that “legal science and legislation recognise legitimate interests as independent objects of legal protection and defence, and alternative dispute resolution procedures aimed at reconciling interests are ultimately aimed at protecting the interests of the parties from their diminution, restriction, or violation, i.e., can also be considered as forms of defence” is also noteworthy.

It is also worth noting the position of O.P. Rudnytska (2022) that jurisdictional and non-jurisdictional forms of protection of civil rights and interests and their methods of implementation should “coexist as complementary to each other”, with the simultaneous understanding that non-judicial forms of conflict resolution serve to minimise complaints regarding the improper performance of its role by the judiciary. The opinion of I. Dzera (2022), who analysed the application of Article 16 of the Civil Code of Ukraine (2003) and Article 5 of the Civil Procedural Code of Ukraine (2004) regarding the possibility of using ‘other’ ways of protecting civil rights and interests by the court, is significant in terms of the law enforcement system. O.O. Kot (2019) provided a thorough position on the understanding of the legal nature of civil remedies for the protection of rights and interests, specifically, on the correlation between the institution of civil liability and the institution of protection of rights. Noteworthy are the positions of M.V. Plotnikova *et al.* (2023) regarding the criteria for the effectiveness of the financial services consumer protection system, namely: “it depends on the level of ensuring the consumer’s ability to protect their rights, transparent and fair consideration of complaints and factual settlement of the dispute. The positions of P.M. Gómez and I.A. Tremolosa (2024) are those that can be used for consumer protection not only in the field of medical services, namely: “mediation allows the use of open discussion, peaceful dialogue, and negotiation to manage changes that occur in social, cultural, relational, and personal environments”. Civil cases from 01.01.2019 by contextual search “on approval of a settlement agreement” (Register of court decisions, n.d.) amounted to 49,855 as of 27 January 2025, including 29,896 after the adoption of the Law of Ukraine on Mediation No. 1875-IX (2021). There are grounds for an “encouraging” conclusion about the gradual spread and effectiveness of alternative

procedures for the protection of civil rights and interests and consumer protection in Ukraine.

Thus, there is a broad consensus on the need to integrate alternative dispute resolution methods into the consumer protection system. Researchers emphasise the significance of balancing the voluntariness and effectiveness of mediation, as well as the need for its gradual integration into the judicial system. They also emphasise that alternative methods do not replace judicial protection, but complement it, providing consumers with more opportunities to protect their rights. It is necessary to continue developing the legal framework and practical mechanisms to ensure that alternative methods of consumer protection are accessible and effective, thereby helping to relieve the burden on the judicial system and increase the level of protection of citizens' rights.

Conclusions

The current state of national legislation on consumer protection is characterised by a focus on European norms and practices, and at the same time, its "capabilities" are complicated by the martial law in our country. The mediation procedure is one of the most popular forms of legal conflict resolution in European countries, due to its nature as a social phenomenon of modernity, which combines legal, psychological, and sociological aspects. Mediation, unlike formal legal proceedings and the methods of protection of civil rights and interests provided for by them, involves a neutral facilitator (mediator) who "guards" the interests of the parties by developing an algorithm for communication between the parties, facilitating its constructiveness and identifying the possibility for the parties to independently find the best option for resolving a disputed (conflict) situation.

The present study established the legal nature of such terms as "civil law protection of rights and interests" and "consumer protection", and their interconnection, which is mediated by

the conclusion that consumer protection is part of a complex system of civil law protection of rights and interests which is not limited to the provisions of civil legislation. The study determined the role and place of alternative methods of protection of civil rights and interests. Accordingly, it can be assumed that alternative methods of consumer protection may "fill the niche" between state justice and informal dispute resolution between consumers of goods, works, and services and entities providing them based on consensus. This meets the current needs of Ukrainian society in the context of full-scale aggression and a crisis of confidence in the conventional judicial system. The spread of mediation reflects a general trend towards restorative, understanding-oriented practices.

The present study analysed the innovations of the national consumer protection legislation based on the best European practices, such as the referral of consumer disputes to out-of-court dispute resolution bodies. Although these innovations have been "put on hold" due to the martial law and the failure to bring all regulations into compliance with them, the prospect of their implementation for consumer protection is clear, considering the international practices and judgments of the European Union Court of Justice, and the analysis of national court practice showing that court rulings and decisions approving settlement agreements are widespread.

Admittedly, the issue of implementing mediation and other alternative ways of protecting civil rights and interests in the judicial system of Ukraine requires further research. This issue is intricately related to the balancing between observance of the principle of voluntary mediation and the need to reduce the burden on the judicial system through "compulsory" mediation mechanisms. A challenging and significant area for further research should be the search for the best mechanisms for introducing mediation as an

independent phenomenon into the consumer protection system, which will substantially bring Ukrainian legal system closer to European standards and ensure effective out-of-court resolution of consumer disputes and simplify access to justice.

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Conflict of Interest

None.

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Альтернативні способи захисту прав споживачі в умовах рекодифікації цивільного законодавства

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Анотація

Виклики сьогодення потребують нових підходів у розумінні права та його окремих інститутів. Людина з її правами та інтересами потребує особливої правової «уваги» у питаннях їх захисту, зокрема і у питаннях захисту прав споживачів. Метою статті було визначити правові та науково-практичні основи альтернативних способів захисту прав споживачів (медіації) та дослідити міжнародний досвід використання медіації у вирішенні спорів за участю споживачів. Для дослідження використано методи герменевтики, моделювання, прогнозування, порівняльно-правовий та формально-юридичний. Визначено сучасні національні та міжнародні підходи у розумінні категорій: «захист цивільних прав та інтересів», «захист прав споживачів» та «альтернативні способи захисту цивільних прав та інтересів». Окреслено наукові та нормативні позиції у застосуванні медіації для захисту прав споживачів. Проаналізовано міжнародні, альтернативні судовим практики у вирішенні спорів за участю споживачів та можливості їх ефективного застосування після вступу в силу нових положень національного законодавства про захист прав споживачів. Розкрито новели законодавства про захист прав споживачів в Україні, перспективи їх дії у післявоєнний період а способи інтеграції медіації у судову систему. Досліджено законодавство Європейського Союзу, що врегульовує питання альтернативного вирішення спорів за участю споживачів. Зроблено дослідження судової практики застосування процедури зупинення провадження у справах з передачею спору на медіацію. Представлені матеріали та результати дослідження будуть корисними для представникам органів державної влади та місцевого самоврядування

Ключові слова: захист цивільних прав та інтересів; переосмислення цивільного законодавства; альтернативні способи захисту цивільних прав та інтересів; вирішення спорів; медіація