

THE ROLE OF MEDIATION IN THE CRIMINAL JUSTICE SYSTEM: A COMPARISON OF INTERNATIONAL APPROACHES AND ISSUES OF LEGAL LIABILITY OF LAWYERS

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Abstract

Under current conditions, the role of mediation in the criminal justice system is becoming particularly important from both a scientific and practical perspective, as it contributes to the optimization of judicial resources, serves as a tool for improving the efficiency of judicial procedures, and reduces the duration of proceedings. The relevance of the study is determined by the need to identify international approaches and issues of legal liability of lawyers to ensure the effective integration of mediation mechanisms into the criminal justice system. The purpose of the study is to conduct a comprehensive analysis of the role of mediation in the criminal justice system, focusing on its impact on the efficiency of court proceedings, compliance with procedural guarantees, and optimization of the use of judicial resources. Research methods: regression analysis; correlation analysis; systematization; generalization. Results. Based on the regression analysis, a moderate but statistically significant positive correlation was found between the number of pending cases and the duration of proceedings, while the impact of the pace of case resolution showed a relatively weak correlation. An analysis of the dynamics of the rule of law index and its sub-indices in 2015–2025 showed that countries of the Anglo-Saxon legal family have high synergy between the effectiveness



of criminal proceedings and alternative dispute resolution institutions ($r > 0.8$). It was found that Germany and Norway show a moderate negative correlation, while Ukraine has a stable negative correlation ($r = -0.619$), which indicates an institutional gap between the formal establishment of mediation procedures and the practical effectiveness of criminal justice, in particular due to the low level of disciplinary responsibility of lawyers. Based on the comparative analysis, it was found that mediation in criminal justice is effectively implemented in Norway and the United States, moderately in Germany and the United Kingdom, while in Ukraine its practical effectiveness is quite limited due to the lack of mandatory control mechanisms.

Keywords

Mediation, justice, criminal justice, legal responsibility, lawyer.

Resumo

Nas condições atuais, o papel da mediação no sistema de justiça criminal está a tornar-se particularmente importante, tanto do ponto de vista científico como prático, uma vez que contribui para a otimização dos recursos judiciais, serve como ferramenta para melhorar a eficiência dos procedimentos judiciais e reduz a duração dos processos. A relevância do estudo é determinada pela necessidade de identificar abordagens internacionais e questões de responsabilidade jurídica dos advogados para garantir a integração eficaz dos mecanismos de mediação no sistema de justiça criminal. O objetivo do estudo é realizar uma análise abrangente do papel da mediação no sistema de justiça criminal, com foco no seu impacto na eficiência dos processos judiciais, no cumprimento das garantias processuais e na otimização do uso dos recursos judiciais. Métodos de investigação: análise de regressão; análise de correlação; sistematização; generalização. Resultados. Com base na análise de regressão, foi encontrada uma correlação positiva moderada, mas estatisticamente significativa, entre o número de processos pendentes e a duração dos processos, enquanto o impacto do ritmo de resolução dos processos mostrou uma correlação relativamente fraca. Uma análise da dinâmica do índice do Estado de direito e dos seus subíndices em 2015-2025 mostrou que os países da família jurídica anglo-saxónica têm uma elevada sinergia entre a eficácia dos processos penais e as instituições alternativas de resolução de litígios ($r > 0,8$). Verificou-se que a Alemanha e a Noruega apresentam uma correlação negativa moderada, enquanto a Ucrânia apresenta uma correlação negativa estável ($r = -0,619$), o que indica uma lacuna institucional entre o estabelecimento formal de procedimentos de mediação e a eficácia prática da justiça penal, em particular devido ao baixo nível de responsabilidade disciplinar dos advogados. Com base na análise comparativa, verificou-se que a mediação na justiça penal é implementada de forma eficaz na Noruega e nos Estados Unidos, moderadamente na Alemanha e no Reino Unido, enquanto na Ucrânia a sua eficácia prática é bastante limitada devido à falta de mecanismos de controlo obrigatórios.

Palavras-chave

Mediação, justiça, justiça penal, responsabilidade jurídica, advogado.

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Introduction

In the current context of European integration processes and the transformation of the national judicial system, mediation is becoming particularly important as an alternative mechanism for resolving conflicts in the criminal justice system. The relevance of mediation is due to the need to ensure the accessibility, effectiveness, and efficiency of procedures for protecting the rights and legitimate interests of individuals and legal entities, since the use of traditional judicial mechanisms complicates the timely protection of rights, places a heavy burden on the judicial authorities, and leads to lengthy case processing times (Arseniuk, 2016).

Despite the proven effectiveness of alternative procedures in international practice, where up to 80% of disputes are settled out of court (Toikin, 2022), these mechanisms are not widely used in Ukraine, which in turn is due to a number of factors: limited institutional support from public authorities and fragmented regulatory and legal regulation. Under these circumstances, the effectiveness of the implementation of mediation and other alternative procedures largely depends on the interaction of institutional capacity, regulatory and legal instruments, the accountability of lawyers, and public trust in the criminal justice system (Deineha, 2022).

International experience shows that mediation can have a positive impact on the judicial system by reducing its workload and improving the quality of justice. Differentiated models of alternative dispute resolution have developed in the legal systems of the United



States, continental Europe, and the Middle East, which explains their variability, adaptability in application, and potential for integration into national criminal justice systems (Toikin, 2022). At the same time, practice also shows that the effectiveness of such procedures is directly related to the appropriate level of legal responsibility of lawyers who carry out mediation and strict adherence to ethical and professional standards (Khovpun et al., 2024).

The Ukrainian judicial system is facing a significant workload, delays in the consideration of cases, and a decline in public confidence in the results of justice amid a full-scale military invasion and the exacerbation of social and legal problems. In these circumstances, mediation and other alternative mechanisms can perform a compensatory function, promoting more efficient and effective conflict resolution, particularly in the field of criminal justice. At the same time, the low level of regulatory control over the activities of lawyers who implement mediation can give rise to corruption and ethical risks, which in turn undermine the legitimacy of alternative procedures (Arseniuk, 2016; Toikin, 2022).

In this regard, it is advisable to conduct a systematic analysis of the role of mediation in criminal justice, compare international approaches to its application, and study the issue of legal liability of lawyers, which ensures the proper effectiveness, transparency, and legitimacy of alternative procedures in modern conditions.

The aim of the study is to conduct a comprehensive analysis of the role of mediation in the criminal justice system, focusing on its impact on the effectiveness of court proceedings, compliance with procedural guarantees, and optimization of the use of judicial resources.

Research objectives of the article:

1. Conduct a comparative analysis of international models for the implementation of mediation in criminal justice and identify the specific features of their regulatory and procedural framework.
2. Analyze the procedural indicators of the judicial systems of EU countries in terms of the accumulation of pending cases, the pace of their resolution, and the duration of proceedings.
3. Apply regression analysis to establish the relationship between the volume of pending cases, the rate of case resolution, and the integration of mediation mechanisms on the effectiveness of court proceedings.
4. Conduct research on the level of disciplinary and legal responsibility of lawyers in the context of the application of mediation and its impact on compliance with procedural guarantees.
5. Analyze statistical data on the use of mediation in criminal cases and identify patterns of the impact of mediation procedures on reducing the duration of court proceedings.



6. Analyze practical and institutional barriers that hinder the effective use of mediation in criminal justice and develop recommendations for overcoming them.
7. Apply correlation analysis to determine the functional interdependence between mediation institutions, represented by the Civil Justice sub-index, and the effectiveness of criminal proceedings.

Literature Review

Mediation occupies an important place in scientific discourse, marked not only by its prevalence in law enforcement practice, but also by its ability to provide a more flexible and less conflictual resolution of legal disputes. In scientific research, mediation is seen as an effective tool for resolving civil and commercial disputes, enabling parties to reach mutually acceptable solutions without significant time and procedural costs (Ibiteye & Awomoyi, 2023; Mladenov, 2024; Sherman & Momani, 2025). This aspect has led to the development of a stable interest among scholars in researching the issue of mediation, which in turn has led to the emergence of a significant number of specialized studies.

It should be noted that in a significant number of scientific studies, researchers focus on the procedural features of mediation, in particular on the principles of voluntariness, confidentiality, and neutrality of the mediator, which are defined as key conditions for its effective functioning (He et al., 2023; Aytekin, 2022). Therefore, mediation in this context is largely defined as an alternative means of dispute resolution, which in turn is intended to complement or partially relieve traditional judicial mechanisms (Sloma, 2023; Al- Khafaji, 2021; Odilqoriev, 2022).

Mediation is understood as an alternative form of conflict resolution involving a neutral intermediary – a mediator (Fomina, 2021). However, it should be noted that its essence is not limited to the role of a formalized procedural alternative to court proceedings. First and foremost, it is an institutionalized process aimed at achieving reconciliation between the parties and developing a mutually agreed solution that takes into account the interests of all participants in the conflict, where the implementation of the established goal requires the proper professional training of mediators, strict adherence to ethical principles of conduct, and guarantees of their independence and impartiality (Khovpun et al., 2024).

Mediation in scientific research is defined as a universal tool that can function effectively in various conflict situations and act as a promising alternative mechanism for dispute resolution. Thus, Toikin (2022) emphasizes that the use of mediation promotes the establishment of constructive communication between the parties, provides an opportunity to gain a deeper understanding of the causes of the conflict, the strengths and weaknesses of the relationship, as well as the potential consequences of not reaching a compromise. Al-Khafaji (2021) draws attention to the growing international interest in the development of mediation as a means of peaceful conflict resolution between states, emphasizing its role as an alternative to coercion, force, and violence. In this regard, mediation appears not only as a supplement to judicial mechanisms, but also as an independent tool for resolving international disputes between subjects of international



law. Akram et al. (2023) view mediation as a tool for shaping a more humane model of criminal justice, aimed not only at punishment but also at restoring social ties.

The use of mediation mechanisms not only optimizes court proceedings, but also creates the right conditions for a more flexible and party-oriented resolution of criminal law conflicts. Hajairin et al. (2023) emphasize the ability of mediation to reduce the duration of proceedings and associated costs, which in turn helps the parties to reach agreed decisions without lengthy court proceedings. Sukardin et al. (2023) highlight the potential of mediation to improve the efficiency and fairness of criminal justice.

Husin et al. (2024) view mediation as an effective means of reducing the financial burden on the criminal justice system, while Fajrin and Triwijaya (2020) point to a significant reduction in the time required to hear cases, as well as a reduction in the burden on the judiciary. In a broader context, Bode (2021) links the optimization of budget expenditures for the functioning of the judicial system with digitalization processes, which create additional opportunities for the development of mediation procedures.

After analyzing the specifics of the application of mediation in criminal proceedings, Ozersky (2023) notes the need for a comprehensive approach that takes into account the basic principles of criminal justice, the coordination of mediation procedures with court proceedings, and the development of communication skills in working with participants in criminal proceedings. In this regard, the institution of reconciliation agreements is of priority importance as one of the key mechanisms for implementing mediation in the criminal law sphere. Martinez (2020) considers a reconciliation agreement to be a form of mutual understanding between the victim and the alleged offender, whereby the person subject to criminal liability acknowledges their participation in the act committed and undertakes to compensate for the damage caused. At the same time, Rule (2020) emphasizes that a reconciliation agreement is not determined by the unilateral will of the victim, but is formed on the basis of mutual consent of the parties. Accordingly, the decisive prerequisite for its conclusion is the actual achievement of reconciliation between the victim and the suspect or accused.

It should be noted that the signs of a reconciliation agreement should be considered in two interrelated dimensions—procedural and socio-psychological (Rima et al., 2019), where the first characterizes the agreement as an institution of criminal procedural law and a corresponding procedural document, while the socio-psychological aspect reflects the internal attitude of the parties to the agreement reached, the level of their conscious consent, and their willingness to fulfill their obligations. Therefore, these aspects give grounds to consider mediation not as an auxiliary procedure, but as a comprehensive mechanism for resolving criminal law conflicts.

Mitskaya (2020) notes that the integration of mediation practices into judicial activity is impossible without a comprehensive review of legislation and procedural rules. Bougadoum (2021), in turn, emphasizes the need to ensure the transparency of the judicial system as a key condition for the formation of an adequate legal basis for the application of mediation in criminal cases. Shytyk and Akimova (2020) analyze the challenges that the justice system may face in the event of large-scale implementation of mediation, in particular in terms of ensuring a balance between the interests of the parties and the public interest, a point of view developed by Budisetyowati et al. (2023),



emphasizing the need to combine the confidentiality of the mediation process with the requirements of public condemnation in cases of serious crimes. Doneva and Gjorgjieva (2023) highlight the complex and multidimensional nature of mediation in criminal justice, while recognizing its significant potential as a tool for reducing the burden on the judicial system. According to Konoras (2023), the role of mediation in the resolution of criminal cases has grown significantly in recent years, particularly due to the active introduction of digital technologies. Similarly to Sitarz et al. (2018), Giezek et al. (2023) show that the use of mediation procedures contributes to faster case processing and shorter waiting times for court hearings.

Therefore, despite a significant amount of scientific research, the issue of mediation in the criminal justice system and related international approaches and issues of legal responsibility of lawyers remain insufficiently systematized and empirically substantiated, which determines the scientific relevance of this study.

Materials and Methods

The research methodology includes the following methods and approaches:

- classification and structural analysis methods were used to systematize indicators of judicial activity and procedural workload in EU countries, as well as to group data on the duration of proceedings in courts of first instance, appeal, and cassation;
- comparative analysis made it possible to study the dynamics of indicators of pending cases, the pace of case resolution, and the average duration of court proceedings in 27 EU countries in 2023, which made it possible to identify the institutional prerequisites for the use of mediation and to investigate the sectoral sources of procedural workload;
- regression analysis was used to quantitatively assess the impact of the operational indicators of judicial systems on the overall duration of case proceedings, which made it possible to assess the significance of the impact of the backlog of cases on delays in judicial proceedings.
- correlation analysis was conducted to determine the functional interdependence of mediation institutions (represented by the Civil Justice sub-index) and the effectiveness of criminal proceedings in different legal systems;
- analysis of international institutional indicators and regulatory documents was used to assess the institutional maturity of justice systems, the stability of the rule of law, and the level of integration of mediation into national legal systems;
- comparative legal analysis was used to identify models of mediation integration in criminal justice in Norway, Germany, Great Britain, the United States, and Ukraine, taking into account procedural standards, disciplinary responsibility of lawyers, and ethical norms.



Results

Table 1 presents a set of quantitative indicators characterizing the procedural capacity of judicial systems in EU countries, including: the number of pending cases, the intensity of their resolution, and the average duration of proceedings. These indicators are relevant for assessing the institutional prerequisites for the use of mediation, as well as for analyzing the professional and legal responsibility of lawyers in the context of ensuring the right to a fair trial.

The indicator of pending cases allows assessing the degree of procedural workload of courts of first instance. The lowest values were recorded in Sweden (0.7), Luxembourg (1.0), Lithuania, and Hungary (1.2 each), which indicates an adequate level of organization of court proceedings and compliance with reasonable time limits for the consideration of cases. In contrast, in Poland (7.0), Croatia (7.6), Italy and Spain (5.1 each), as well as Cyprus (5.8), there is a significant backlog of pending cases, which indicates a systemic violation of the principle of procedural economy and creates risks of non-compliance with the standards set forth in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The differentiation between pending civil cases and pending administrative cases makes it possible to identify the sectoral sources of procedural overload. In Romania, Belgium, Spain, and Italy, pending civil cases dominate, which objectively creates an institutional need to develop alternative forms of dispute resolution, in particular mediation. At the same time, in Greece, Cyprus, Germany, and Portugal, a significant proportion of cases are administrative, which indicates a high level of conflict in public-law relations and the limited application of mediation without specific legislative regulation and clearly defined standards of professional responsibility for participants in the procedure.

The overall case resolution rate indicates the ability of judicial systems to maintain a balance between case intake and case completion. Values exceeding 100% (Italy – 106%, Cyprus – 118%, Slovakia – 105%) indicate an active reduction in the backlog of pending cases. At the same time, from a legal point of view, such indicators cannot be considered exclusively positive, since an excessive focus on quantitative performance can lead to the simplification of procedural procedures, which potentially affects the quality of judicial proceedings and leads to increased requirements for the disciplinary and professional responsibility of judges, lawyers, and other legal professionals. Low values for this indicator (Romania – 87%, Spain – 87%) indicate a chronic mismatch between the number of cases received and resolved, which limits the real accessibility of justice.

The duration of court proceedings is a key criterion for assessing compliance with the principle of reasonable time for court proceedings. Short durations in Lithuania, the Czech Republic, and Austria indicate proper procedural management. In contrast, the excessive length of proceedings in Greece (771 days), Croatia (533 days), Italy (511 days), and Spain (444 days) indicates a systemic problem, which is a structural violation of the Convention for the Protection of Human Rights and Fundamental Freedoms according to the practice of the European Court of Human Rights (further – ECHR). In such circumstances, mediation effectively becomes compensatory in nature, which increases the risk of its instrumentalisation without adequate procedural safeguards.

**Table 1.** Indicators of procedural workload and effectiveness of court proceedings in European countries (first instance) in 2023

Country	Number of pending civil, commercial, administrative, and other cases (in courts of first instance, per 100 inhabitants)*	Number of pending civil and commercial cases (in courts of first instance, per 100 inhabitants)*	Number of pending administrative cases (in courts of first instance, per 100 inhabitants)*	Rate of resolution of civil, commercial, administrative, and other cases (in courts of first instance, %)*	Rate of resolution of civil and commercial cases (in courts of first instance, %)*	Rate of resolution of administrative cases (in courts of first instance, %)*	Approximate time for consideration of civil and commercial disputes in courts of first instance (in days)*
SE	0.7	0	0	102	97	105	157
LU	1	0.6	0.2	96	93	98	221
LT	1.2	1	0.1	100	100	105	120
HU	1.2	0.5	0.1	100	100	101	135
BG	1.3	1	0.2	101	102	101	186
NL	1.4	0	0.4	100	0	92	0
LV	1.7	0.9	0	101	100	109	204
EE	1.8	0.6	0.1	100	91	95	196
MT	2.5	2.2	0.1	89	95	81	454
DK	2.5	0.6	0	100	93	0	265
SK	2.6	0.8	0	105	105	74	173
FI	2.7	0.1	0.3	95	89	105	349
FR	3	2	0.3	93	96	95	354
CZ	3.3	1.1	0	102	101	111	126
EL	3.6	2.7	0.7	98	92	121	771
BE	4	3.8	0.2	98	98	87	246
SI	4.1	1.3	0.2	100	101	94	344
RO	4.6	4	0.4	87	86	92	218
ES	5.1	3.2	0.4	87	84	98	444
IT	5.1	3.3	0.2	106	110	121	511
AT	5.6	0.3	0.5	101	98	100	141
CY	5.8	0	1.3	118	0	110	100
PL	7	2.4	0.1	102	95	110	357



HR	7.6	4.1	0.2	97	103	88	533
DE	0	0.8	0	0	97	109	249
IE	0	0	0	81	72	0	0
PT	0	1.7	0.5	0	96	120	267

Source: compiled by the author based on data from Council of Europe & European Commission for the Efficiency of Justice (2024), European Commission (2024; 2025)

Notes: SE – Sweden, LU – Luxembourg, LT – Lithuania, HU – Hungary, BG – Bulgaria, NL – Netherlands, LV – Latvia, EE – Estonia, MT – Malta, DK – Denmark, SK – Slovakia, FI – Finland, FR – France, CZ – Czechia, EL – Greece, BE – Belgium, SI – Slovenia, RO – Romania, ES – Spain, IT – Italy, AT – Austria, CY – Cyprus, PL – Poland, HR – Croatia, DE – Germany, IE – Ireland, PT – Portugal

Thus, the results presented in Table 1 confirm that the effectiveness of the judicial system is determined by the basic prerequisite of the legitimate and lawful use of mediation.

To assess the impact of the operational performance indicators of judicial systems, namely the backlog of pending cases and the rate of their resolution, on the overall duration of court proceedings, which was defined as the dependent variable (Y), multivariate regression modeling was performed based on data from 27 European countries. The resulting model is described by the equation:

$$Y = 285,49 + 45,81 \cdot X_1 - 1,72 \cdot X_2.$$

Analysis of the regression model results shows a moderate level of consistency between dependent and independent variables. The correlation coefficient (Multiple R) is 0.512, which indicates a stable moderate linear relationship between the number of cases pending and the time taken to consider them. The coefficient of determination ($R^2 = 0.262$) indicates that the constructed model explains 26.2% of the variation in the “case processing time” indicator due to the selected factors. For socio-legal research, this level of determination is acceptable, since the effectiveness of justice is influenced by a wide range of other institutional and resource factors.

The standard error of the model (Standard Error = 153.48) reflects the variability of time indicators in different legal systems in Europe. The assessment of the statistical significance of the model using ANOVA confirmed its adequacy. The F-statistic value is 4.25 at a Significance F level of 0.026, which is below the critical threshold of 0.05. This allows us to reject the null hypothesis and assert that the selected independent variables statistically significantly determine the dynamics of judicial efficiency. Regarding the impact of individual independent variables, the indicator “Number of unfinished cases” () proved to be a highly significant factor (P-value = 0.0076). The regression coefficient for is 45.81, which proves that an increase in the number of unfinished cases by 1 unit (per 100 inhabitants) leads to an average increase in the duration of case consideration by 45.8 days. At the same time, the indicator “Case resolution rate” () showed a negative coefficient (-1.72), indicating a reverse effect (an increase in the pace of work reduces the time of consideration), but its statistical significance (P-value = 0.176) exceeds the threshold of 0.05. This gives reason to argue that speeding up the work of judges without



systematically reducing the backlog of cases (in particular through mediation tools) does not have a decisive impact on the speed of justice (see Table 2).

Table 2. Regression modeling results

Regression Statistics								
Multiple R	0.51							
R Square	0.26							
Adjusted R Square	0.20							
Standard Error	153.48							
Observations	27							
ANOVA								
	df	SS	MS	F	Significance F			
Regression	2	200353.48	100176.74	4.25	0.03			
Residual	24	565337.71	23555.74					
Total	26	765691.19						
	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
Intercept	285.49	105.21	2.71	0.01	68.34	502.63	68.34	502.63
X ₁ (Criminal Justice)	45.81	15.72	2.91	0	13.36	78.26	13.36	78.26
X ₂ (Constraints on Government Powers)	-1.72	1.23	-1.39	0	-4.26	0.83	-4.26	0.8

Source: author's own calculations based on data from Council of Europe & European Commission for the Efficiency of Justice (2024), European Commission (2024; 2025)

Thus, the results of the regression analysis confirm the hypothesis that the accumulation of backlogs is a critical determinant of court delays, which justifies the need to move from a model of increasing court resources to a model of preventive court relief through mandatory mediation and increased accountability of lawyers for abuse of procedural rights.

Table 3 shows the estimated time required to resolve civil and commercial disputes in courts of first instance, appeal, and cassation in EU countries in 2023. Empirical data show that the most critical delays occur at the level of courts of first instance, which effectively act as the primary filter for court disputes. In particular, in Greece, Italy, Croatia, Malta, and Spain, the average duration of proceedings in courts of first instance exceeds one calendar year, and in some cases approaches two years, where this situation indicates not only the overload of the judiciary, but also the limited use of preventive and alternative dispute resolution mechanisms that could significantly reduce the number of cases reaching court proceedings.



An analysis of the appellate and cassation instances demonstrates the effect of cumulative prolongation of proceedings, whereby the right to review court decisions, which is intended to ensure procedural guarantees and the unity of judicial practice, is in fact transformed into an additional factor delaying justice. This trend is particularly evident in France, Italy, Greece, Cyprus, and Spain, where the duration of proceedings in the second and third instances is comparable to or even exceeds the time taken to hear cases in the courts of first instance, indicating structural dysfunctions in the multi-level judicial control system.

At the same time, a number of countries, including the Czech Republic, Hungary, Austria, Lithuania, and Estonia, demonstrate relatively stable and predictable case processing times at all court levels. Such procedural efficiency correlates with more developed practices of court management, digitization of court proceedings, and institutional integration of alternative dispute resolution methods. In these legal systems, courts perform less of a universal conflict resolution function and instead focus on cases that truly require authoritative judicial intervention.

Table 3. Estimated time needed to resolve litigious civil and commercial cases at all court instances in 2023 (in days)

Member State	First instance	Second instance	Third instance
HU	135	107	108
CZ	126	64	140
AT	141	87	111
SE	157	108	150
EE	196	169	104
SK	173	203	n.a.
LV	204	134	114
RO	218	204	234
BG	186	138	249
IE	0	0	251
DK	265	220	194
PT	267	91	77
NL	0	0	287
LT	120	71	329



SI	344	97	78
FI	349	211	178
PL	357	312	386
DE	249	406	n.a.
MT	454	427	n.a.
LU	221	497	427
FR	354	507	510
HR	533	0	211
CY	0	0	683
ES	444	0	691
BE	246	0	394
EL	771	694	n.a.
IT	511	673	1

Source: compiled by the author based on data from Council of Europe & European Commission for the Efficiency of Justice (2024), European Commission (2024; 2025)

Notes: The order of Member States is determined by the court instance with the longest proceedings in each Member State. No data are available for first and second instance courts in CY, NL, and IE; for second instance courts in HR and ES; and for third instance courts in EL and SK. There is no third instance court in DE and MT. Access to a third instance court may be limited in some Member States

Analysis of Council of Europe & European Commission for the Efficiency of Justice (further – CEPEJ) data shows that even in countries with high levels of judicial efficiency, the number of pending cases and the length of their consideration remain significant, indicating the need for structural changes in the judicial system.

The selection of countries for comparative legal analysis within the study of the role of mediation in the criminal justice system and the legal responsibility of lawyers was based on the institutional maturity of the judicial system, the degree of regulatory integration of alternative dispute resolution methods, and the stability of rule of law indicators according to internationally recognized indicators (see Table 4).

The highest values of the Rule of Law Index (further – WJP RoLI) are consistently observed in Norway (0.88–0.90) and the United Kingdom (0.78–0.81), indicating the sustained effectiveness of legal institutions and a high level of compliance with the principles of the rule of law. The United States demonstrates average WJP RoLI values (0.68–0.74), while Ukraine maintains a lower index level (0.47–0.51) throughout the entire period under review, reflecting existing structural problems in the legal system, especially in the area of criminal justice (0.36–0.40).



An examination of individual sub-indices allows us to highlight the specific features of national justice systems. Criminal justice (further – CJ) shows the greatest fluctuations in Ukraine, while in countries with a high level of rule of law (Norway, Germany, the United Kingdom), CJ indicators remain consistently high and almost unchanged during 2015–2025. The fundamental rights (further – FR) sector is characterized by less variability, particularly in Norway and the United Kingdom, where it reaches values above 0.90, indicating a high degree of protection of citizens’ fundamental rights and freedoms. Civil Justice (further – CiJ) shows comparatively lower and more dynamic values in the United States and Ukraine, which may reflect the length of court proceedings and the existence of systemic barriers to access to justice. The dynamics of Ukraine’s indicators show a slight improvement in WJP RoLI in 2016–2019, followed by stabilization at 0.49–0.50. This stability, along with low CJ and CiJ component values, points to a systemic need to reform criminal and civil justice, strengthen the protection of fundamental rights, and introduce effective alternative dispute resolution tools. In countries with a high level of rule of law, such as Norway and the United Kingdom, the stability of all WJP RoLI components during the period under review reflects the effectiveness of judicial institutions, the high predictability of legal procedures, and the integration of international standards into national legislation.

Table 4. Dynamics of the rule of law index and its institutional components

	Ukraine				Norway				USA				Germany				United Kingdom			
Yr	WJP RoLI	CJ	FR	CiJ	WJP RoLI	CJ	FR	CiJ	WJP RoLI	CJ	FR	CiJ	WJP RoLI	CJ	FR	CiJ	WJP RoLI	CJ	FR	CiJ
2015	0.47	0.36	0.62	0.5	0.88	0.83	0.91	0.87	0.74	0.64	0.73	0.67	0.83	0.76	0.87	0.84	0.8	0.76	0.79	0.76
2016	0.49	0.4	0.63	0.48	0.88	0.84	0.89	0.86	0.74	0.67	0.75	0.66	0.84	0.77	0.86	0.87	0.81	0.76	0.81	0.76
2017	0.5	0.37	0.59	0.52	0.89	0.83	0.88	0.86	0.73	0.65	0.72	0.68	0.84	0.77	0.85	0.86	0.81	0.74	0.81	0.76
2018	0.5	0.37	0.59	0.52	0.89	0.83	0.88	0.86	0.73	0.65	0.72	0.68	0.84	0.77	0.85	0.86	0.81	0.74	0.81	0.76
2019	0.51	0.37	0.61	0.54	0.89	0.83	0.9	0.85	0.72	0.63	0.72	0.64	0.84	0.78	0.85	0.86	0.8	0.75	0.82	0.73
2020	0.51	0.36	0.61	0.54	0.89	0.83	0.91	0.85	0.72	0.63	0.72	0.62	0.84	0.79	0.85	0.85	0.79	0.72	0.79	0.71



2021	0.5	0.37	0.61	0.54	0.9	0.85	0.91	0.85	0.69	0.6	0.66	0.62	0.84	0.79	0.85	0.84	0.79	0.71	0.8	0.71
2022	0.49	0.37	0.6	0.54	0.89	0.84	0.91	0.84	0.71	0.61	0.68	0.63	0.83	0.78	0.85	0.83	0.79	0.7	0.81	0.7
2023	0.49	0.36	0.59	0.53	0.89	0.83	0.91	0.86	0.7	0.6	0.68	0.62	0.83	0.78	0.86	0.83	0.78	0.7	0.8	0.71
2024	0.48	0.37	0.59	0.53	0.89	0.83	0.9	0.87	0.7	0.59	0.68	0.63	0.83	0.78	0.86	0.82	0.78	0.7	0.8	0.71
2025	0.48	0.37	0.57	0.53	0.89	0.82	0.9	0.86	0.68	0.58	0.65	0.62	0.83	0.79	0.86	0.82	0.78	0.7	0.8	0.7

Source: compiled by the author based on World Justice Project (2025)

Notes: WJP RoLI – World Justice Project Rule of Law Index, CJ – Criminal Justice, FR – Fundamental Rights, CiJ – Civil Justice

Pearson’s correlation analysis was used to verify the hypothesis of functional interdependence between mediation institutions (represented by the Civil Justice sub-index) and the effectiveness of criminal proceedings (Criminal Justice). The results show a significant difference in legal models between different legal families, which allows the countries under study to be classified by type of institutional convergence (see Table 5).

The study shows that Anglo-Saxon legal family countries (the United Kingdom, the United States) have the highest level of synergy between justice institutions and alternative dispute resolution ($r > 0.8$). This confirms the concept that the development of mediation procedures and other forms of ADR directly correlates with improvements in criminal justice performance. In these jurisdictions, mediation not only serves to relieve the burden on the courts, but also acts as a fundamental element of the legal culture, where the professional responsibility of lawyers is focused on achieving reconciliation rather than procedural confrontation between the parties.

In contrast, in continental European countries (Germany, Norway), there is a moderate negative correlation, indicating a state of “institutional plateau.” The high autonomy and maturity of individual branches of justice ensures their independent development. In this context, mediation is already integrated into the system and functions as an organic component of justice, which negates the direct statistical dependence between fluctuations in individual indices.

In Ukraine, a stable negative correlation ($r = -0.619$) has been recorded. Unlike European leaders, this indicator indicates a significant institutional gap. The growth of formal indicators of civil justice, in particular the legislative consolidation of mediation, is accompanied by stagnation or regression in criminal justice, which indicates a lack of mechanisms for the legal accountability of lawyers: in practice, new procedural tools are



often used by the parties not to reach consensus, but as a means of delaying the consideration of cases.

Table 5. Linear correlation coefficients of civil and criminal justice indicators (2015–2025)

Country	Correlation coefficient (r)	Level of statistical correlation
United Kingdom	0.89	High positive
USA	0	High positive
Germany	-0.424	Moderate negative
Norway	-0.447	Moderately negative
Ukraine	-0.619	Moderate negative

Source: calculated by the author based on World Justice Project (2025)

Therefore, without comprehensive reform of the institution of disciplinary responsibility of lawyers and prosecutors, mediation in Ukraine risks remaining a declarative element that does not significantly improve the efficiency of justice and does not contribute to the implementation of the principle of reasonable time for consideration of cases.

An analysis of international experience shows that the institutional implementation of mediation in criminal justice varies depending on the jurisdiction. Norway has implemented a mandatory diversion model with a mandatory assessment of the possibility of mediation at the pre-trial stage and disciplinary liability of the prosecutor. Germany applies judicial initiative in the Täter-Opfer-Ausgleich model with professional and material liability of the lawyer. The United Kingdom integrates mediation through a presumption of mediability and applies procedural sanctions for unjustified refusal. The United States implements a hybrid model with a priority on confidentiality and ABA ethical standards, which requires lawyers to take social and moral factors into account. Ukraine is in a transitional phase: the right to mediation is enshrined in law, but there are no mandatory mechanisms for lawyer accountability, which limits the effectiveness of the procedures.

Table 7 shows the key determinants of lawyers' responsibility in the field of mediation and possible directions for adapting international standards to the Ukrainian legal system. For Ukraine, these practices allow for the formulation of strategic vectors for implementation: mandatory written justification for refusal of mediation by the prosecutor, consolidation of civil and procedural liability of lawyers, and integration of ethical standards into professional codes. Such a comprehensive approach will contribute to increasing the effectiveness of mediation procedures, reducing the judicial workload, and forming a culture of reconciliation in the criminal and civil justice systems of Ukraine.



Table 6. Regulatory institutionalization of mediation: comparative legal analysis of foreign and domestic experience

Jurisdiction	Legislative acts	Procedural status of mediation and content of conceptual principles	Institutional basis of liability and legal consequences
Norway	Criminal Procedure Act (1981, § 71a); Conflict Resolution Boards Act (2014)	Imperative-diversion model: Mandatory consideration of mediation (<i>Konfliktrådet</i>) at the pre-trial stages. Emphasis on restorative justice.	Disciplinary obligation of the prosecutor to assess the advisability of referring the case to the Conflict Council. High level of public trust in extrajudicial institutions.
Germany	Strafprozessordnung (2012, § 155a); Mediationsgesetz (2012)	Institutionalisation of Täter-Opfer-Ausgleich (TOA): Obligation of the court to initiate reconciliation at any stage. Harmonisation with Directive 2008/52/EC.	Material and professional liability of lawyers for improper advice on ADR (Mediationsgesetz, 2012). Mediation as a tool for minimizing the court workload.
Great Britain	Legal Aid, Sentencing and Punishment of Offenders Act (2012); SRA Code of Conduct	Presumption of mediability: Use of <i>Conditional Cautions</i> and diversion strategies. Mediation as an integrated part of the culture of justice.	Procedural abuse: Refusal to mediate without justification is considered a violation of the <i>SRA Code of Conduct</i> , resulting in court fines or disciplinary measures.
USA	ADR Act (1998); Uniform Mediation Act (2001); Model Rules of Professional Conduct (ABA)	Hybrid and unified model: Priority of confidentiality as an imperative of procedural integrity.	Rule 2.1 (ABA): Ethical duty of lawyers to consider non-legal factors (moral, social). High effectiveness: up to 70% success rate in EEOC cases (2020).
Ukraine	Law "On Mediation" (On Mediation, 2021); CPC of Ukraine; Presidential Decree (2015)	Transitional period: Transition from "settlement of legal disputes with the participation of a judge" to classical mediation. Declarative recognition of settlement agreements.	Limited liability: No mandatory sanctions in the Rules of Professional Conduct (hereinafter – RPC) for evading peaceful settlement. Need to implement mechanisms of "positive liability."

Source: compiled by the author based on the Conflict Resolution Boards Act (2014), Criminal Procedure Act (1981), Mediationsgesetz (2012), Strafprozessordnung (2012), Solicitors Regulation Authority (2019), U.S. Congress (1998), American Bar Association (2020), Uniform Law Commission (2001), Criminal Procedure Code of Ukraine (2012), On Mediation (2021), On the Strategy of Reforming the Judicial System (2015), European Union (2008)

Table 7. Determinants of lawyers' responsibility in the field of mediation and strategic vectors for adapting international standards to Ukraine's legal system

Jurisdiction	Procedural status and institutional foundations	Determinants of lawyers' responsibility	Recommendations for implementation in Ukraine's legal system
Norway Strategy	Mandatory diversion: Mandatory assessment of the possibility of	Disciplinary obligation of the prosecutor to justify the	Introduction into the Criminal Procedure Code of Ukraine of the prosecutor's obligation to justify in



	mediation (<i>Konfliktrådet</i>) at the pre-trial stages.	referral of a case to court instead of mediation.	writing the refusal to refer a case to mediation in cases of misdemeanors and minor crimes.
Germany	Judicial initiative (TOA): Active role of the court in proposing reconciliation at any stage of the proceedings.	Material liability of lawyers for failure to provide information about ADR (<i>Mediationsgesetz</i> , 2012).	Legislative establishment of civil liability of lawyers for "loss of opportunity" for peaceful settlement due to improper advice to clients.
United Kingdom	Presumption of mediability: Refusal to mediate without good reason is considered an obstruction of justice.	Recognition of unjustified refusal of ADR as procedural abuse with the imposition of court costs on the party.	Granting courts the power to impose fines on a party that has unreasonably rejected a mediation proposal, regardless of the outcome of the case on its merits.
USA	Ethical choice model: Integration of mediation through professional ethics standards (ABA Rule 2.1).	The duty of lawyers to be "advisors" who take moral and social factors into account, not just the law.	Modernization of the Ukrainian Bar Association: transition from declarative "promotion" to mandatory explanation of the advantages of mediation as an ethical standard.

Source: compiled by the author based on the Conflict Resolution Boards Act (2014), Criminal Procedure Act (1981), *Mediationsgesetz* (2012), *Strafprozessordnung* (2012), Solicitors Regulation Authority (2019), U.S. Congress (1998), American Bar Association (2020), Uniform Law Commission (2001), European Union (2008)

Discussion

Based on the study, it was found that the institutional integration of mediation in criminal justice varies in effectiveness depending on the legal tradition and the level of development of mechanisms for the legal liability of lawyers. On this basis, several key points should be highlighted.

First, the results of the correlation analysis confirm that in countries of the Anglo-Saxon legal family (the United Kingdom, the United States), there is a high positive correlation between criminal and civil proceedings ($r = 0.894$ and $r = 0.8$, respectively), which indicates functional consistency between ADR procedures and the functioning of criminal institutions. This confirms the hypothesis that the integration of mediation into such systems not only relieves the burden on the courts, but also promotes the establishment of a legal culture where priority is given to dispute resolution and the ethical responsibility of lawyers.

Second, in continental European countries (Germany, Norway), there is a moderate negative correlation ($r = -0.424$; $r = -0.447$), which indicates a state of "institutional plateau," and the direct correlation between variations in individual indicators is less pronounced, which indicates a higher level of formalized and structured procedures for lawyers and prosecutors, which increases legal predictability and minimizes the risk of abuse.

Third, the Ukrainian model shows a stable negative correlation ($r = -0.619$), indicating a significant institutional imbalance. Despite the legal enshrinement of the right to mediation, the lack of effective mechanisms for holding lawyers accountable means that new procedural tools are often used by the parties as a means of delaying the process



rather than for consensual settlement, which limits the potential of mediation as a preventive mechanism for reducing the court workload.

Fourth, a comparative analysis of international experience reflects varying approaches to the integration of mediation and the responsibility of lawyers. In Norway, the imperative-diversionary model provides for mandatory assessment of the possibility of mediation at the pre-trial stage and disciplinary responsibility of the prosecutor. In Germany, the judicial initiative (Täter-Opfer-Ausgleich) is combined with the material responsibility of the lawyer for not providing information about ADR. The UK applies a presumption of mediability, where an unjustified refusal to mediate results in procedural sanctions. The US integrates ABA ethical standards, which require lawyers to consider social and moral factors when advising clients. In Ukraine, the absence of mandatory liability rules limits the effectiveness of procedures, confirming the need for legislative and procedural reforms.

The results of the analysis confirm that in countries with developed mediation practices, such as Lithuania, the Czech Republic, and Austria, the low level of pending cases and the adequate pace of court proceedings correlate with a reduction in the average duration of proceedings in the first instance and the stability of the appeal and cassation process. These data are consistent with the findings of Hajairin et al. (2023) and Sukardin et al. (2023), who note the ability of mediation to increase the efficiency of criminal proceedings and ensure fairness in proceedings.

It is worth noting that in countries with a high workload on the judicial systems (Greece, Italy, Croatia, Malta, Spain), the average time for consideration of cases exceeds one calendar year, which is confirmed by the studies of Shytyk & Akimova (2020) and Budisetyowati et al. (2023) on the need to integrate procedural confidentiality of mediation with public control instruments in cases of serious crimes.

Regression analysis of the impact of the judicial system's operational indicators on the duration of case processing has established that the main determinant is the accumulation of pending cases (X_1), while increasing the pace of case resolution (X_2) without comprehensive court relief has a limited effect, with these results confirming the research of Mitskaya (2020) and Bougadoum (2021), who note that the effectiveness of mediation mainly depends on the regulatory integration of alternative dispute resolution mechanisms and the transparency of the judicial system.

An analysis of the WJP Rule of Law Index indicators found that the stability and high quality of criminal justice in countries with high rule of law scores (Norway, United Kingdom) creates conditions for the effective integration of mediation as a tool for reducing conflict in legal processes. The results correspond with the works of Ibiteye and Awomoyi (2023), Mladenov (2024), and Sherman and Momani (2025), which emphasize the universality of mediation as an alternative means of dispute resolution and improving the effectiveness of criminal justice.

Thus, the results of the study are due to the fact that the effectiveness of mediation as a tool for optimizing criminal proceedings depends not only on the legislative consolidation of the procedure, but also on the existence of clear standards of legal and



ethical responsibility of lawyers and the implementation of foreign approaches of international models into the national system.

Conclusions

Based on the analysis, it was established that the role of mediation in the criminal justice system mainly depends on the level of procedural capacity of judicial systems and the existence of effective mechanisms of legal liability of lawyers. It has been found that the accumulation of pending cases in courts of first instance leads to longer case processing times and creates additional risks of violating the right to a fair trial. However, indicators of the rate of case resolution without systematic court relief through preventive or alternative mechanisms (in particular, mediation) do not lead to a significant reduction in the duration of court proceedings.

Based on the regression analysis, it was determined that an increase in the number of pending cases leads to an increase in the time taken to resolve cases by an average of 45.8 days per 100 inhabitants, while the rate of case resolution has the opposite, but statistically insignificant, effect. An international comparison shows that in countries with Anglo-Saxon legal systems (the United Kingdom, the United States), there is a high level of interaction between criminal justice and mediation institutions, confirming the effectiveness of their comprehensive approach. In this regard, we consider it necessary to note that the absence of similar mechanisms in Ukraine leads to the development of the risk of instrumentalizing mediation as a formal tool rather than a real means of increasing the accessibility and speed of justice.

The practical significance of the results obtained is evident in the ability to apply international experience to modernize the Ukrainian legal system: the implementation of mandatory procedures for justifying the refusal of mediation, civil liability of lawyers for failure to provide adequate advice, and the integration of ethical standards of professional activity of lawyers. Further research should focus on developing a comprehensive model of legal responsibility and preventive use of mediation, which will facilitate the work of judicial authorities, increase the effectiveness of criminal proceedings, and guarantee the actual observance of the right to a fair trial.

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