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MEDIATION AS A MECHANISM OF DISPUTE RESOLUTION BETWEEN EU MEMBER-STATES (INSTITUTIONAL DIMENSION)

Abstract. *Mediation is one of the effective tools that have been used since ancient times in inter-state and intra-state relations for the settlement of public-law and private-law disputes between various subjects, which is carried out by involving a third neutral person or party, which is called to facilitate establishing communication between conflicting parties and reaching an agreement. Today, mediation is increasingly used by the European Union as a means of resolving disputes between its member states through its institutional system. The article focuses on the legal framework of mediation as an alternative means of resolving disputes between the Member States of the European Union. The peculiarities of mediation powers of the European Commission and specialized EU institutions with the competence to consider such disputes (European Labor Agency, European Food Safety Agency, European Insurance and Occupational Pensions Agency, European Banking Agency, European Securities and Markets Agency) are revealed. Based on the results of the study, it was concluded that In practice, member states prefer extrajudicial means, primarily the institution of mediation,*

because they are «soft» forms of dispute resolution and allow to take into account the current state of affairs in their relations more deeply.

Key words: *mediation, EU Law, dispute resolution, alternative dispute resolution, EU member-states, European Labour Authority, European Food Safety Authority, European Insurance and Occupational Pensions Authority.*

Problem statement. A characteristic feature of the late XX– early XXI centuries is a strengthening of the role of international organizations (universal and regional), which, as mediators, participate in the settlement of various international disputes and intrastate conflicts that may threaten international peace and security. Among such organizations, a special place belongs to the European Union, which, striving to strengthen its position in the international arena and positioning itself as a global provider of peace and security, takes a direct part in peace-making processes. At the same time, mediation is used by the Union in conflicts between member states, which in turn contributes to ensuring the stability of intra-Union relations.

The importance of mediation for the EU as a means of resolving international conflicts is confirmed by the adoption by the Council of the European Union on 11.12.2020 of the updated Concept of Peaceful Mediation of the EU [1], according to which mediation is recognized as an integral component of the modern comprehensive EU strategy in the field of conflict prevention and crisis management. Achieving this goal requires increased EU investment in further institutionalization of cooperation with member states in the field of mediation, improvement of communicative mediation practices, development of relevant program documents.

The study of the legal nature of the institution of mediation in EU law is updated in connection with the process of Ukraine’s accession to the EU, the approximation of Ukrainian legislation to the EU acquis, and the study of best practices for resolving conflicts that may arise between member states of this association. In addition, the Association Agreement with Ukraine of 2014 [2] (hereinafter – AA) defines mediation as one of the means of resolving disputes that may arise due to the lack of a unified approach to the interpretation of the provisions of the Agreement or its good faith application, as well as due to improper fulfilment of obligations by one of the Parties under

this Agreement (articles 327–336, Appendix XXV). Thus, establishing the peculiarities of the legal regulation of the application of the institution of mediation in the EU has important theoretical and practical significance.

Analysis of recent research and publications. The mediation as an alternative (out-of-court) mechanism for resolving international disputes between EU member states has not found adequate scientific disclosure in Ukrainian legal doctrine. In the doctrine of EU law, mediation was considered as one of the means of resolving disputes in preferential trade agreements, including association agreements, in the works of Ya. Kostyuchenko, N. Mazaraki, V. Muravyov, and K. Smirnova. Mediation in foreign doctrine was studied mainly in the context of resolving international disputes as a tool of preventive diplomacy and anti-crisis management of the European Union (J. Bergman, J. Berkovich, R. Whiteman, S. Wolff, S. Vulkovich, T. Koibion, L. Mahashvili, A. Herrberg) or within the framework of resolving private legal disputes at the national level based on EU legislation (A. Biard, K. Espluges, P. Cortes, F. Steffek, K. Chereshi).

However, despite the existing significant academic work on the mentioned issues, there are currently no comprehensive studies of the peculiarities of the regulation of the institution of mediation in the law of the European Union, in particular, in terms of the application of this mechanism to resolve disputes between member states.

The purpose of this article is to determine the specifics of mediation as an alternative means of resolving disputes between EU member states and to reveal the specifics of the powers of its specialized institutions empowered to consider such disputes.

Presentation of the main research material. According to Art. 344 of the Treaty on the Functioning of the European Union of 1957 (hereinafter – TFEU) [3] the member-states undertake not to submit disputes regarding the interpretation or application of the founding treaties of the Union to any other methods of settlement, except those provided for in the Treaties. At the same time, neither the Treaty on the European Union [4], nor the TFEU has a separate section directly devoted to means of resolving disputes between member states. The text clearly traces the reference only to legal remedies presented by

the Court of Justice and the General Court of the EU (Part 3 of Article 19 of the TEU, Articles 256, 259, 273 of the TFEU, etc.).

At the same time, as noted by T. V. Komarova, consideration of interstate disputes in the entire history of the EU takes place only a few times, after which, for political reasons, the countries do not intend to enter into open opposition between themselves and turn to the court for the presence of serious meetings [5, p. 96]. So, to date, only 8 interstate cases have been considered[1].

Despite the clear regulation in the founding treaties of only judicial mechanisms for the resolution of interstate disputes, the list of such means is not exhausted only by supranational judicial institutions. Moreover, R. Khorolskyi, commenting on Art. 344 of the TFEU (former Article 292 of the Treaty on the European Community), concludes the «openness» of the dispute resolution system in the EU, which does not prohibit member states from resorting to means of dispute resolution even outside the borders of the Union, for example, to «external» mediation or even to another international court or arbitration [6, p. 70].

According to acts of secondary law, a number of specialized institutions have been created within the EU, which can perform mediation functions in disputes between member states. These are the European Labor Agency, the European Food Safety Agency, the European Insurance and Occupational Pensions Agency, the European Banking Agency, and the European Securities and Markets Agency. In addition, in cases defined by the relevant regulations, the European Commission can act as a mediator. In this case, the EU, represented by its institutions, turns *per se* into a mediator between states that have a relevant dispute.

Thus, the European Labor Authority (hereinafter – ELA), one of the newest agencies of the EU, is a specialized institution of the

[1] Case 58/77 «Ireland v France» (on import of lamb); Case 141/78 «France v. United Kingdom» (dispute in the field of fisheries); Case C-349/92 «Spain v. United Kingdom» (wine taxation); C-388/95 «Belgium v. Spain» (determination of wine origin); C-145/04 «Spain v. United Kingdom» (regarding the right to vote in the elections to the European Parliament in Gibraltar); C-364/10 «Hungary v. Slovakia» (on refusal of entry of the President of Hungary); C-591/17 «Austria v. Germany» (about road tax); C-457/18 «Slovenia v. Croatia» (on the maritime border).

Union designed to coordinate and support measures to comply with the labor acquis, in particular, in the field of freedom of movement of workers. According to art. 2(c) of the Regulation 2019/1149 of 20.06.2019 [7] among its tasks is to mediate and facilitate the resolution of cross-border disputes between member states within the scope of its activities. Such disputes may concern the social security of workers who are not citizens of the host state, payment of their labor, taxes, etc. According to Art. 13 of Regulation 2019/1149 ELA is empowered to act as a mediator in disputes between two or more Member States concerning private individuals (employees and employers). The purpose of such a procedure is to reconcile diverse positions between the respective member states by adopting a recommendation opinion. Although the mediation procedure can be initiated by one of the member states or directly by the ELA, it takes place only with the consent of all parties.

There are two stages of the mediation procedure. At the first stage, the member states that are parties to the dispute, the mediator (ELA), as well as experts from the member states and the European Commission, who perform purely advisory functions, participate in the negotiation process. This stage ends with the adoption of a legally non-binding decision approved by the joint consent of the states. If it is not possible to reach such a decision, the ELA starts the second stage, which takes place with the involvement of the Mediation Board, the composition of which is approved by all states – parties to the dispute. Only experts from member states who are not parties to the dispute may be included in the composition. Experts from the European Commission and ELA can be involved in an advisory capacity. The rules of procedure of the Mediation Commission are usually adopted ad hoc and approved by the ELA Board. The task of the Mediation Commission is to facilitate the achievement of a mutually agreed solution. Within 3 months from the moment of adoption of the advisory decision at the first or second stage, the member states are obliged to inform the ELA about the measures taken for its implementation, or about the reasons for non-implementation of the agreed decision. Thus, the implementation of the agreement reached by the parties to the dispute is being monitored at the EU level. In turn, ELA is obliged to report twice a year to the European

Commission on the mediation cases considered by it and disputes that were initiated, but not considered by it.

It should be noted that each of the mentioned stages takes place exclusively at the will of the respective member states (Part 3, Article 13 of Regulation 2019/1149). At the same time, if the dispute is the subject of consideration by national or supranational judicial institutions, it cannot be considered in the mediation procedure under the ELA. In addition, at any stage of the mediation procedure, Member States are given the right to refer the dispute to judicial authorities. In this case, the specified procedure is terminated.

In scientific sources, the prospects for the application of the mediation procedure within the framework of ELA are mostly highly evaluated, since the number of migrant workers has doubled over the last decade (according to the Agency, as of 01.12.2022, there are more than 17 million people [8]) and, accordingly, the number of disputes concerning their status in the host country is increasing. At the same time, some researchers point to the need to improve the existing mediation procedure due to certain legal gaps in Regulation 2019/1149. Thus, J. Cremers draws attention to the need to develop a Code of Conduct for ELA mediators; adoption of norms that would determine the procedure for private individuals to apply to national competent bodies authorized to apply to the Agency to initiate a mediation procedure; determining the principles on which the decision agreed by the parties to the dispute should be based – such a decision should contribute to the termination or prevention of violations of the rights and legitimate interests of employees and employers[9].

The role of the European Food Safety Authority (hereinafter – EFSA) in the mediation process is somewhat different. According to Art. 60 («Mediation procedure») of Regulation 178/2002 dated 28.01.2002 [10] EFSA acts as an independent expert body in disputes between member states. So, if an EU member state believes that the measures taken by another member state in the field of food safety are incompatible with the requirements of this Regulation or negatively affect the functioning of the EU internal market, it can apply to the European Commission. The latter shall immediately inform the relevant Member State thereof. Unlike the «quasi-judicial powers» of the European Commission, provided for in Art. 258 of the FSEU, in

the process of consideration of the dispute in the mediation procedure, it takes a neutral, mediating position and does not provide its own substantiated conclusion on the merits of the case. Regulation 178/2002 only provides that both the States concerned and the Commission are obliged to make efforts to resolve the dispute. If the agreed decision on the dispute is not adopted by the parties, the Commission itself can apply for a scientific (expert) opinion to EFSA. At the same time, the conditions and deadlines for applying to the Agency are determined by the joint agreement of the Commission and EFSA after consultations with the relevant member states.

Regulation 178/2002 does not clearly define the legal nature of the scientific conclusions of the European Food Safety Agency. Taking into account their essence, it can be stated that they belong to acts of «soft» law and are not legally binding. However, as noted by T. Anakina and Ya. Benedyk, due to their significant practical importance, they are capable or potentially capable of indirectly causing certain legal consequences [11, p. 191]. Therefore, EFSA's opinion can form the basis of a decision agreed upon by the parties to the dispute, influencing their choice of course of action.

Mediation functions of the European Insurance and Occupational Pensions Authority (hereinafter – EIOPA), the European Banking Authority (hereinafter – EBA) and the European Securities and Markets Agency Securities and Markets Authority (hereinafter – ESMA) are similar to each other. In the joint art. 21 of the Regulations 1093/2010 [12], 1094/2010 [13], 1095/2010 [14] dated 24.11.2010 provides that each of the specified agencies, within the limits of its subject competence, may assist the competent authorities of the member states in resolving the dispute as at the request of one of countries, as well as on their own initiative.

A dispute may arise due to the actions or inaction of a Member State in connection with the implementation of legally binding acts of the Union. At the same time, in the event of a dispute, the relevant member states must immediately notify the Agency of the impossibility of reaching an agreed solution.If a legally binding act requires joint action by member states, the existence of a dispute is presumed in the absence of an agreed decision adopted for its implementation within the time period specified in such an act. In addition, in the absence

of clearly defined terms for the implementation of the decision, the states can independently recognize the existence of a dispute between them based on objective reasons or with the expiration of 2 months from the date of sending a request by the competent authority of a member state, addressed to another member state, regarding the need to take the necessary measures to implement a legally binding decision.

After the phase of acknowledging the existence of a dispute, the actual mediation procedure is applied. At the same time, it is the Agency, not the parties to the dispute, that determines the time necessary for the reconciliation of the parties, taking into account the complexity of the dispute and the urgency of its resolution. However, in the negotiation process, the Agency maintains a neutral position, helping to find the optimal solution for them, performing the function of a «classic» mediator.

In the event that the parties have not been able to reach a mutually agreed solution, unlike the procedure provided for in the European Labor Agency and the European Food Safety Agency, EIOPA, EBA and ESMA can adopt a legally binding decision for the Member States. Such a decision may require taking certain actions or refraining from such actions to ensure compliance with EU law, including repealing or amending national acts. Therefore, the powers of these agencies at this stage are not mediational and have a pronounced supranational character and represent a coercive mechanism for dispute resolution.

It should be noted that some researchers (J. Kremers, S. Kraatz) have made proposals regarding the need to expand the powers of ELA and EFSA in the process of resolving disputes between member states. In their opinion, in order to improve the efficiency of the dispute resolution process, it is necessary to consider the regulatory prescriptions of other agencies, which relate to the possibility of adopting a legally binding decision that can end the dispute between the respective member states [9; 15]. We believe that such proposals are debatable, since the absence of a mandatory settlement procedure to end the dispute «at any cost» is the attractive possibility that exists in ELA and EFSA. In addition, applying to the specified agencies in the mediation procedure does not deprive the interested state of the right to apply to the European Commission and the European Court

of Justice for the protection of its rights and legitimate interests on the basis of Art. 259 of the TFEU.

Summing up, it is worth pointing out that in addition to traditional judicial means of resolving interstate disputes, EU law provides for alternative dispute resolution mechanisms. The application of the latter is not directly regulated by the founding treaties of the EU, while a number of acts of secondary law provide for the functioning of specialized institutions that can perform mediation functions in disputes between member states (the European Labor Agency, the European Food Safety Agency, the European Agency for Insurance and Occupational Pensions, European Banking Agency, European Securities and Markets Agency). In addition, in cases defined by the relevant regulations, the European Commission can act as a mediator. In this case, the EU, represented by its institutions, turns per se into a mediator between the states that are parties to the dispute. In practice, member states prefer extrajudicial means, primarily the institution of mediation, because they are «soft»” forms of dispute resolution and allow to take into account the current state of affairs in their relations more deeply. The submission of an interstate claim to the Court of Justice of the EU occurs in exceptional cases and may indicate the presence of sharp contradictions between the member states.

Список використаних джерел

1. Concept on EU Peace Mediation of 11.12.2020. URL: https://eeas.europa.eu/sites/eeas/files/st13951.en20.pdf
2. Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським Співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони, 2014 р. *Офіц. вісн. України*. 2014. № 75. Ст. 212.
3. Treaty on Functioning of the European Union of 25.03.1957. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT
4. Treaty on the European Union of 07.02.1992. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A11992M%2FTXT
5. Комарова Т. В. Юрисдикція Суду Європейського Союзу: монографія. Х.: Право, 2010. 360 с.
6. Хорольський Р. Б. Правові засоби вирішення міжнародних спорів у рамках Європейського Союзу : дис. ... канд. юрид. наук: 12.00.11 – міжнародне право. Харків, 2001. 201 с.

7. Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1149
8. European Labour Authority. About. URL: https://www.ela.europa.eu/
9. Cremers J. (2020). The European Labour Authority and rights-based labour mobility. *ERA Forum*. URL: https://link.springer.com/article/10.1007/s12027-020-00601-1#citeas
10. Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02002R0178–20190726
11. Право Європейського Союзу: основи теорії : підручник / [Т. М. Анакіна, Т. В. Комарова, О. Я. Трагнюк, І. В. Яковюк та ін.] ; за ред. І. В. Яковюка. Харків :Право, 2019. 360 с.
12. Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1093–20200101
13. Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1094–20200101
14. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1095–20200101
15. Kraatz S. (2018). European Labour Authority: Workshop summary report / European Parliament. Policy Department for Economic, Scientific and Quality of Life Policies. URL: https://www.europarl.europa.eu/cmsdata/194360/WORKSHOP%20SUMMARY%20REPORT-original.pdf

References

1. Concept on EU Peace Mediation of 11.12.2020. URL: https://eeas.europa.eu/sites/eeas/files/st13951.en20.pdf
2. Association Agreement between Ukraine, from one part, and the European Union, Europen Community of Atomic Energy and their member states, from the other part, 2014. *Ofitsiinyi Visnyk Ukraini*. 2014. № 75. Ст. 212.
3. Treaty on Functioning of the European Union of 25.03.1957. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT
4. Treaty on the European Union of 07.02.1992. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A11992M%2FTXT
5. Komarova T. (2010). Jurisdiction of the Court of the European Union: monograph. Kharkiv : Pravo. 360 p.
6. Khorolskyi R. (2001). Legal means of international disputes settlement in the frames of the European Union. Dissertation under speciality 12.00.11 – International Law. 201 c.
7. Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1149
8. European Labour Authority. About. URL: https://www.ela.europa.eu/
9. Cremers J. (2020). The European Labour Authority and rights-based labour mobility. *ERA Forum*. URL: https://link.springer.com/article/10.1007/s12027-020-00601-1#citeas
10. Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02002R0178–20190726
11. Law of the European Union: basics of theory: textbook. Ed. I. Yakoviuk. 2019. 360 c.
12. Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1093–20200101
13. Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory

Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1094–20200101
14. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R1095–20200101
15. Kraatz S. (2018) European Labour Authority: Workshop summary report / European Parliament. Policy Department for Economic, Scientific and Quality of Life Policies. URL: https://www.europarl.europa.eu/cmsdata/194360/WORKSHOP%20SUMMARY%20REPORT-original.pdf

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Медіація як засіб вирішення спорів між державами-членами ЄС (інституційний вимір)

Анотація. *Медіація є одним із ефективних інструментів, які з давніх часів використовуються у міждержавних та внутрішньодержавних відносинах, для врегулювання публічно-правових і приватно-правових спорів між різноманітними суб’єктами, що здійснюється шляхом залученням третьої нейтральної особи чи сторони, яка покликана сприяти налагодженню комунікації між конфліктуючими сторонами та досягненню угоди. Важливість медіації для ЄС як засобу вирішення міжнародних конфліктів підтверджується ухваленням 11.12.2020 р. Радою Європейського Союзу оновленої Концепції мирної медіації ЄС, відповідно до якої медіація визнана невід’ємною складовою сучасної всеохоплюючої стратегії ЄС у сфері попередження конфліктів і антикризового управління. Застосування такого механізму через створену інституційну систему Європейського Союзу дозволяє державам-членам знаходити компроміс щодо наявних у них спорів, що у свою чергу сприяє забезпеченню стабільності внутрішньосоюзних відносин.*

Стаття присвячена правовим засадам медіації як альтернативного засобу розв’язання спорів між державами-членами Європейського Союзу. У статті розглядаються особливості інституційно-правових механізмів

Європейського Союзу, за допомогою яких ЄС в особі своїх спеціалізованих установ, наділений повноваженнями реалізовувати функції медіатора у спорах між державами-членами. Зокрема, детально розкрита специфіка медіаційних повноважень Європейської Комісії, а також спеціалізованих установ ЄС, що наділені компетенцією розглядати такі спори: Європейської агенції праці, Європейської агенції з безпеки харчових продуктів, Європейської агенції зі страхування та трудових пенсій, Європейської банківської агенції, Європейської агенції з цінних паперів і ринків.

Європейська агенція праці, одна із найновіших агенцій ЄС, є спеціалізованою установою Союзу, що покликана координувати і підтримувати заходи із дотримання трудового acquis, зокрема,у сфері свободи руху працівників. Серед її завдань – здійснення медіації і сприяння розв'язанню транскордонних спорів між державами-членами у межах предмету її діяльності. Такі спори можуть стосуватися соціального забезпечення працівників, які не є громадянами приймаючої держави, оплати їхньої праці, податків тощо.

Європейська агенція із безпеки харчових продуктів виступає незалежним експертним органом у спорі між державами-членами. Так, якщо держава-член ЄС вважає, що заходи, що вживаються іншою державою-членом у сфері безпеки харчової продукції є несумісними з вимогами цього Регламенту або негативно впливають на функціонування внутрішнього ринку ЄС, вона може звернутися до Європейської Комісії.На відміну від «квазисудових повноважень» Європейської Комісії, передбачених ст. 258 ДФЄС, у процесі розгляду спору у порядку медіації вона займає нейтральну, посередницьку позицію та не надає власного обґрунтованого висновку по суті справи.

Медіаційні функції Європейської агенції зі страхування та трудових пенсій, Європейської банківської агенції та Європейської агенції із цінних паперів і ринків є схожими між собою. Кожна із вказаних агенцій у межах своєї предметної компетенції може сприяти компетентним органам держав-членів у вирішенні спору як за запитом однієї із країн, так і за власною ініціативою.

Продемонстровано, що на практиці держави-члени надають перевагу саме позасудовим засобам, передусім інституту медіації, оскільки вони є «м'якими» формами вирішення спорів та дозволяють більш глибоко

врахувати поточний стан справ у їхніх відносинах. Подання міждержавного позову до Суду Справедливості ЄС відбувається у виключних випадках та може свідчити про наявність гострих протиріч між державами-членами.

Ключові слова: *медіація, право ЄС, розв’язання спорів, альтернативні засоби розв’язання спорів, держави-члени ЄС, Європейська агенція праці, Європейська агенція із безпеки харчових продуктів, Європейська агенція зі страхування та трудових пенсій.*