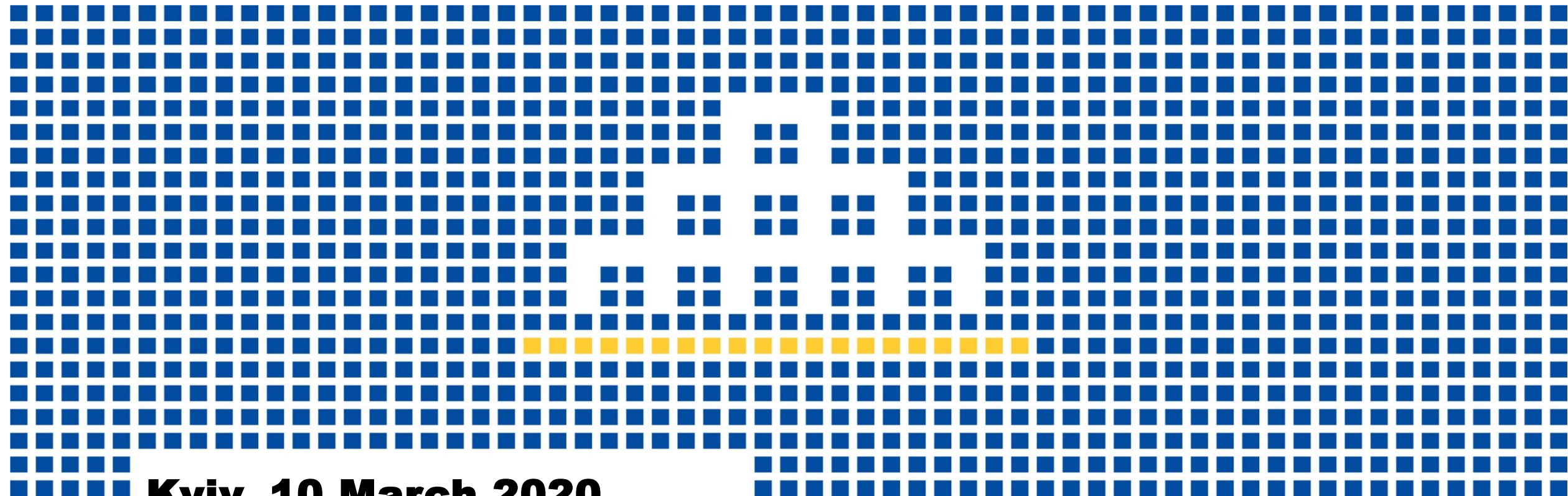


Mediation – Overview, best practices, way forward



Kyiv, 10 March 2020
BERT MAAN, International
Expert, EU Project “PRAVO-
Justice”



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Background

- Trainee Judiciary The Netherlands 1969-1976
- (Senior) judge first instance court Breda 1976-1992
- President first instance court Zwolle – Lelystad 1992-2006
- Pt judge court of appeal Amsterdam 2007-2014
- 1993 to date Expert court organisation, judiciary for Council of Europe, EU, USAID, GIZ, CILC et al.



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Overview

- **Developments re. mediation in Ukraine**
- **European perspective**
- **Actions and next steps**



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Developments in Ukraine

- Many activities, pilots, reports, meetings
- Reports inter alia:
 - Tatiana Kyselova 2017 - CoE - Integration of Mediation in Ukraine
 - Ales Zalar 2019 – USAID - Developing mediation with recommendations how to promote and implement mediation in Ukraine



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Some experiences in Ukraine

- 1994-1997 – mediation pilots in Odessa
- 1998 - mediation promotion through USAID – National Mediation and Conciliation Service
- 2001 Ukrainian Center for Common Ground
 - Ukrainian Mediation Centre
- 2014 National Association of Mediators
- 2015 – MediatEUr – UNDP – Dialogue Support Platform



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Current draft Law Ukraine 2019

- Follows roughly suggestions by Tatiana Kyselova – create the framework
- Mediation
 - Key elements:
 - Based on agreement
 - Independent and impartial mediator
 - Orderly procedure – active involvement of parties
 - Confidentiality
 - Enforceability



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European Perspective

- Recommendations Council of Ministers Council of Europe (for instance Rec 2002(10) mediation in civil procedures; Rec 98(1) mediation in family disputes)
- EU – Regulation 2008/52 on mediation in international transactions
- CEPEJ Guidelines 2007



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Mediation in non-judicial areas

- **Ukraine - Ministry of Social Policy – accepted practice**
- **Netherlands – conflicts between neighbours – municipality level**
- **Ukraine Obolon district – mediation in family matters**



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Summing up:

- **Mediation is well known in Ukraine**
- **Need to institutionalise**
- **Benefit –**
 - **For society as a whole**
 - **For the mediators themselves**
 - **For the area of conflict resolution**



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Mediator

- Independent expert
- Registration
- Quality control – continuous education
- Disciplinary proceedings



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Experience in other countries

- Romania – Mediation Council
- Austria – Advisory Mediation Council
- Malta – Mediation Centre
- Portugal – Mediation Council
- Netherlands – Mediation Federation MfN



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What is next?

- Decision which official body is responsible
- Creation of a sort of Mediation Council/Mediation Centre in framework of that body
- Determine its tasks
- Inventory of what already exists
- Takes measures to make mediation accessible for the public at large



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Actions

- **Council/centre - supervising quality:**
 - education,
 - registration,
 - Complaints - disciplinary body
- **Create supporting facilities at courthouses and municipalities as information and service points**
- **Make free “legal aid” in the form of mediation possible**
- **Organise enforceability of mediated settlements**



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Thank you!

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