

## **Report on Activities as UAA President and Board Member Olena Perepelynska**

As a founding member of the Ukrainian Arbitration Association (UAA), a member of two UAA Boards (2012-2015, 2015-2016) and the second UAA President (2016-2020, 2020-2024), I have been involved in almost all the activities of the Association since its creation in 2012. Over the past twelve years I have dedicated significant time and efforts to coordinate and implement various initiatives of the UAA, working alongside the UAA Board Members, the UAA Secretary Generals and the UAA members. So, this report recaps the major UAA activities under my leadership.

I am particularly proud that during my second term as the UAA President, despite the COVID-19 and full-scale aggression of russia against Ukraine, the UAA has successfully implemented several important projects aimed to make Ukraine a better place of arbitration, to improve Ukrainian arbitration legislation and court-practice, to promote Ukrainian arbitrators and to educate Ukrainian business and new generation of the Ukrainian arbitration community. I am happy that the UAA has become one of the most active arbitration associations in the region and that Ukraine has become an attractive seat of arbitration even during the wartime.

### **I. Improvement of Ukrainian arbitration legislation**

I have led the work of the UAA Working Group on improvement of the Ukrainian arbitration-related legislation since 2013.

The Group activities included elaboration of several draft laws and comments to various legislative initiatives related to arbitration and russian aggression (e.g. see [UAA proposal on judicial control over arbitration](#), [draft law 2014](#), [UAA proposal on judicial assistance to arbitration](#), [draft law 2015](#), [UAA comments and suggestions on provisions of draft Commercial and draft Civil Codes of Ukraine during the Judiciary Reform in 2017](#); [comments and suggestions in respect of the draft law No.6540 in 2017](#), [proposals and amendments in respect of the draft law № 3411 in 2021](#), [comments on draft law № 5347 in 2021](#), [comments on draft laws №7520, №7520-1 and №7520-2 on various aspects of consideration of court cases in connection with the russian armed aggression in 2022](#)).

The most important results of the Group's activity are reflected in the current provisions of the restated Civil Procedure Code and Commercial Procedure Code regarding enforcement and setting aside of the arbitral awards as well as arbitrability rules, largely based on the UAA suggestions described above.

In the end of 2019, the UAA [sent its new proposals](#) to the Commission on Legal Reform, which work was later disrupted by the the COVID-19 and the war. In 2024 the UAA proceeded to update and finalize its proposals.

On 07 May 2024 the UAA sent its [draft](#) to the Ukrainian Parliament, and later discussed the draft with various stakeholders.

### **II. Improvement of the court practice and related publications**

I have led/was involved in the work on several Amicus Curiae Briefs submitted to the Ukrainian courts in cases regarding the issues, which are of importance to the Ukrainian arbitration community, work on research of the Ukrainian court practice as well as the working group for elaboration of recommendations for litigations against russia.

One of the important UAA's activities is research and improvement of the court practice in the field of international arbitration in Ukraine and in Ukrainian litigations against russia.

(1) [Recommendations for litigations against russia](#). The UAA has decided to contribute to improvement of Ukrainian legislation and court practice in cases against russia after the beginning of the full-scale invasion in 2022. Many of the problematic issues in this area have an international legal component and can potentially have consequences for legal proceedings in other jurisdictions, in particular, regarding the enforcement of court judgements, or, even for international investment treaty arbitrations against Ukraine. And since UAA members have a lot of experience in these issues, because they also regularly arise in the context of arbitration and court cases regarding the enforcement of arbitral awards, the UAA has decided to contribute to this area as well.

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In 2023-2024, the UAA working group together with the Institute of Legislative Initiatives have elaborated **Recommendations for litigations against russia** presented on 20 September 2024 during the Supreme Court event in Kyiv. The UAA/ILI Recommendations were very well perceived by many Ukrainian judges.

- (2) **Amicus Curiae Briefs**. Starting from 2017, working groups of the UAA as independent experts regularly prepare legal opinions in court cases that will have an impact on the development of arbitration in Ukraine (**Amicus Curiae Briefs** or **ACB**). To date, five such ACB have been prepared for various Ukrainian courts, including the Grand Chamber of the Supreme Court:

- Amicus Curiae Brief 1 in the case of LG Electronics v. ANT YAPI
- Amicus Curiae Brief 2 in the case of Nibulon v. Rise PJSC
- Amicus Curiae Brief 3 in the case of Alcodis v. AGAT-A
- Amicus Curiae Brief 4 in the case of Berezansky Processing Plant v. Grain Power
- Amicus Curiae Brief 5 in the case of AHIT SOLUTIONS v. Ministry of Defence of Ukraine

One of them – in Berezansky Processing Plant v. Grain Power – is of particular importance, as it was prepared upon the first ever request of the Supreme Court (Grand Chamber). Previously, the UAA had already submitted its opinions in amici curiae briefs format to the Supreme Court in other cases, but exclusively on its own initiative, independently choosing important for the UAA members cases and determining the issues for analysis. Hopefully, the Supreme Court will use this tool more actively in the future, which will contribute to further formation of pro-arbitration case law in Ukraine, taking into account the best practices in this area.

Some other ACB were referred to / submitted by the parties in other unrelated cases and had positive impact on the development of the Ukrainian court practice in cases related to setting aside and enforcement of arbitral awards.

- (3) **Research of the Ukrainian court practice**. Another important activity of the UAA in this direction is research of the Ukrainian court practice with an ambitious task to collect and review all cases on recognition and enforcement of arbitral awards that came before Ukrainian courts since 2006. The first stage of the group activity was finalized in 2021 with the final aggregated and peer-reviewed dataset containing more than 600 judgements. Among other things, the research confirmed general 'pro-arbitration' stance of Ukrainian courts. The presentation of the first report for the period of 2006-2020 and other materials are published on the UAA website. Currently the UAA works on the second report for the period of 2021-2023, which will confirm even higher enforcement rate (around 95%) of arbitral awards in Ukraine, despite the challenges of the wartime.
- (4) **Partnership with Jus Mundi**. The UAA partnered with Jus Mundi. This allowed to publish hundreds of the Ukrainian court judgments in arbitration-related cases (identified by the UAA during the first stage of its research for the period from 2006 to 2020 and from 2021 to 2023) on the Jus Mundi platform. In addition, all the UAA ACB are also published there. Now all these materials are freely accessible and publicly available through Jus Mundi's AI-powered search engine, helping practitioners and researchers improve legal understanding and decision-making.

### **III. UAA List of Arbitrators**

In 2020, the UAA has launched its database of arbitrators suitable to sit in Ukraine-related international arbitrations (e.g. involving Ukrainian party(ies), Ukrainian law, relating to the Ukrainian assets or businesses etc.). The list was updated several times and is publicly available on the UAA website, featuring advanced search functionality.

I have offered the UAA List of arbitrators to various international arbitration centers for the purposes of institutional appointments and have shared information about this list at various arbitration events trying to promote Ukrainian arbitrators.

I know that the list has been successfully used by some institutions and I sincerely hope that this will further allow to enhance visibility of the Ukrainian arbitrators, irrespective of their inclusion into the lists of particular institutions, and to improve statistics of appointment of the Ukrainian arbitrators in the Ukraine-related (and not only) international arbitrations.

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**IV. UAA Arbitration Schools and Academies**

The UAA used to hold arbitration schools for students and young lawyers on an annual basis and I was involved in organization of all of them. In total, we organized seven offline schools (2013-2019) for over 200 Ukrainian and foreign participants and one online arbitration school in 2021 for over 90 participants from 24 jurisdictions.

In 2023-2024, UAA held its First Arbitration Academy designed for Ukrainians of different age and background willing to learn more about arbitration. It attracted 129 participants and included over 30 hours of learning hours with the most prominent international arbitration lawyers. I was also a member of the organization committee.

Our Second Arbitration Academy is planned for the beginning of 2025 and I am actively involved in its organization together with Olexander Droug, Anna Guillard Sazhko, Oleksiy Maslov and Serhii Uvarov.

**V. UAA Events**

I was actively involved in organizing many UAA events during these years, including First UAA Arbitration Conference, 26-27 May 2021, and several side events during the Paris Arbitration Weeks 2018-2024, including this year's event "Enforcement and recovery of damages arising out of the Russia's war on Ukraine", co-hosted by Clifford Chance and the the UAA, 20 March 2024.

In May 2020, the UAA has launched its YouTube channel where the Association streams its online events on various topics of international arbitration and russia's liability. The UAA also organizes joint online events with various organizations, institutions, law firms and platforms.

During these 4,5 years, despite the COVID-19 and the ongoing war the UAA has organized online discussions on important topics related to arbitration and russia's liability for the damages caused by its aggression against Ukraine:

- 1) UAA webinar "Register of Damage: interview with Yuliia Kyrpa", 15.10.2024;
- 2) UAA & ASA webinar "How to become a good arbitrator?", 31.10.2024;
- 3) Joint webinar with UNBA and ArbCEE "Ukraine as a Seat of Arbitration during the Wartime", 24.09.2024;
- 4) Joint webinar with the ICC Ukraine "Energy Construction Disputes: How to Avoid or Resolve them Efficiently", 15.02.2024;
- 5) Joint webinar with the ICC Ukraine "Compensation of War Damage Through Confiscation of the Russian Companies' Frozen Assets", 01.02.2024;
- 6) Joint UAA & ASA webinar "Enforcement of Ukrainian judgments in Switzerland", 20.11.2023;
- 7) UAA webinar "From freezing to seizing: legislative initiatives and hurdles in the US, EU, UK and Canada", 17.07.2023;
- 8) Joint webinar with the ICC Ukraine "Cases in the ECHR in Connection with Russia's Aggression against Ukraine", 25.05.2023;
- 9) Joint webinar with the ICC Ukraine and the UNBA ADR Committee "Treasure Hunt: Asset Tracing and Recovery in a Cross-Border Context", 19.05.2023
- 10) UAA webinar "Draft Bill for the Seizure of Russian State Assets in Support of Ukraine", 02.05.2023;
- 11) UAA webinar "Ukrainian Arbitration Association 10-year Anniversary", 20.12.2022;
- 12) UAA webinar "French Supreme Court Decision on Oschadbank: What's next?", 16.12.2022;
- 13) Joint webinar with the ICC Ukraine on "Dispute Resolution Through Arbitration and Mediation: Possibilities and Experience of ICC", 09.11.2022;
- 14) UAA webinar "Career during full-scale war: Ukrainian lawyers and overseas opportunities", 28.09.2022;
- 15) Joint webinar with the ICC Ukraine on "Third Party Funding in Arbitration: Classics and Innovation", 16.06.2022;
- 16) Joint webinar with the ICC Ukraine "Interview with Gary Born" on reparations or how to make Russia pay compensation to Ukraine, 18.05.2022;

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- 17) Joint webinar with the ICC Ukraine “Assessment of Damages Inflicted on Ukrainian Businesses by Russian Aggression”, 28.04.2022;
- 18) UAA event during the PAW 2022 “International Law and the War in Ukraine The Paths to Reparations”, 07.04.2022;
- 19) UAA webinar “Art Disputes”, 22.02.2022;
- 20) UAA webinar “Communication skills in arbitration: when, why and how?”, 01.12.2021;
- 21) UAA webinar “Master It! Why you should obtain an LLM Abroad”, 30.09.2021;
- 22) Joint round table with UNBA ADR Committee “Draft Law № 5347: What to Expect for the Arbitration Community?”, 30.04.2021;
- 23) UAA Round Table Building a Career in International Arbitration, 29.04.2021;
- 24) UAA webinar “Career in International Arbitration - How to Succeed?”, 24.03.2021;
- 25) UAA webinar “Interview with Emmanuel Gaillard and Yas Banifatemi”, 03.03.2021;
- 26) UAA webinar “Is Transparency Transparent in Arbitration?”, 25.02.2021;
- 27) UAA webinar “ICC 2021 Rules of Arbitration – Launch in Ukraine”, 12.02.2021;
- 28) UAA webinar “How ISDS Can be Made More Accessible for Smaller Claims/Investors”, 20.01.2021;
- 29) UAA webinar “Investment Agreements of Ukraine: Issues and Challenges”, 20.12.2020;
- 30) UAA webinar “Impact of insolvency proceedings on international commercial arbitration”, 16.12.2020;
- 31) UAA and SCC webinar “ECT disputes”, 26.11.2020;
- 32) UAA webinar “Developments in Investment Arbitration”, 12.11.2020;
- 33) UAA webinar “Enforcement of arbitral awards against the states and state entities”, 07.10.2020;
- 34) UAA Webinar “Changes in legal business development in arbitration / litigation areas”, 17.06.2020;
- 35) UAA webinar “World is quickly changing and how is changing arbitration?”, 10.06.2020;
- 36) UAA Webinar “Young and ingenious arbitration centers in Eurasia: talk with GIAC, IAC at AIFC, ISTAC”, 03.06.2020;
- 37) UAA webinar “How to conduct the hearing successfully and to convey your position to the arbitrators (online vs offline)”, 27.05.2020; and
- 38) UAA webinar “Guerrilla tactics in online hearings”, 20.05.2020.

## **VI. UAA Arbitration library**

The UAA has created an arbitration library on its website, featuring useful information for arbitration practitioners, students, researchers and business.

BITs collection. The UAA approached the Ministry of Foreign Affairs with the request to furnish information concerning the effectiveness of all bilateral treaties on promotion and mutual protection of investments, concluded by Ukraine, since there was a conflicting information concerning even the fact of conclusion or the fact/date of entry into force/of termination of some of the treaties (for example, with Italy, Romania, Serbia and Montenegro). The information received from the Ministry of Foreign Affairs is now published on the UAA website. So, now the UAA website contains the most comprehensive and publicly accessible information about the BITs of Ukraine in all the official languages of the BITs.

Case Digest. The UAA launched subsection - Case Digest - a base of Ukrainian courts’ decisions on arbitration issues in the section “Library” on the UAA website.

Members’ publications. The UAA has devoted a special section of its website to publishing the articles of its members. This collection might be particularly useful for arbitration users, researchers and young arbitration practitioners.

Sincerely yours,

**Olena Perepelynska**  
Partner, Head of Arbitration Practice  
INTEGRITES

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