

Proposal

IAM Ad Hoc Committee on Ukrainian Initiatives

Submitted by: Hal Abramson

This is a proposal for the IAM Board to constitute an Ad Hoc Committee on Ukrainian Initiatives. This proposal covers four subjects: Background for Proposal, Purpose of Ad Hoc Committee, Composition, and Timetable.

Background for Proposal

I offer this brief background to inform this proposal. I am not going to address why IAM should engage in initiatives in Ukraine on the assumption that it is self-evident. This proposal is based on my understanding of the possible value-added of IAM as an organization of private commercial mediators.

I began to engage in six to seven modest negotiation/mediation related projects in the Ukraine over six weeks in August and September, after sending out some feelers during the summer. These meaningful efforts got me thinking that there may be some worthwhile opportunities for IAM and IAM members for helping out in Ukraine if interested in doing so.

I have learned that there is a well-developed, trained, and active mediation community in Ukraine. My guide has been a new friend that I met a couple months ago, Professor Christopher Kelley at the University of Arkansas, Fayetteville, who has deep continuing contacts in Ukraine after serving as a Fullbright there in 2005. Thanks to Chrisopher's lead, I reached out to one of the leading academics and mediators in Ukraine, Professor Tetiana Kyselov from the National University of Kyiv-Moyhla Academy in Kyiv. She has an impressive resume. Others at IAM might know her personally. She sent me a link to this thoughtful and sobering May, 2022 statement published by more than twenty-five mediation organizations in Ukraine about mediation and dialogue at time of war. The sections on when to dialogue and when not are worth reading and contemplating.

https://md.ukma.edu.ua/wp-content/uploads/2022/05/Public_Statement_War_and_Dialogue_Ukraine_ENG.pdf

Consistent with the advice in the statement, I have been approaching these initiatives with a full realization that I am an outsider and the importance of doing what the mediation organizations are advocating in the statement. I am following a bottom-up perspective including seeking guidance of Ukrainian experts on the ground. Incidentally, I published a short law review article in 2009 consistent with these principles entitled *Outward Bound to Other Cultures: Seven Guidelines for U.S. Dispute Resolution Trainers*.

At the moment, each of my projects are at a different stage of development and each one is helping to educate me on what is happening and useful in the country. These opportunities opened up after I participated in a USAID organized meeting between US and Ukrainian Law

Professors. I was the only dispute resolution person in attendance. After making these initial contacts, I presented to the mediation club at the Odesa State University of Internal Affairs (trains police officers), met with two professors from an internally displaced law school (Donetsk National University), and met with the Chair of the Mediation Section of the Ukrainian Bar Association, Luiza Romanadez. She is now setting up several more meetings including with Ukrainian Department of Justice about ratifying the Singapore Convention (I participated in the three-year drafting process) and with Ukrainian mediators to discuss the obstacles that they are encountering when mediating internally displaced people issues.

I am learning through these new contacts that there may be opportunities to contribute even when in the middle of a war as people and organizations are trying to survive traumatic disruptions. The disruptions include disputes generated by the large number of internally displaced people and organizations. There may be several ways IAM and its members might be able to help out, including contributing expertise and financially to local mediation organizations and initiatives.

In the purpose of the Ad hoc committee, I offer my preliminary thoughts of what the Committee might do, although I am still learning what is possible and what would be useful.

Purpose of Ad Hoc Committee

The Ad Hoc Committee would investigate and initiate initiatives in the Ukraine that comport with the goals of IAM as a private association of commercial mediators. Any initiatives would be selected based on the needs of people and organizations in Ukraine and with guidance from experts on the ground in Ukraine. The work of the committee would be done pro bono.

Although the Ad Hoc Committee would need to further investigate and refine an understanding of local needs, so far they might include three:

1. Current Disputes. Advising or helping to mediate disputes involving movements by internally displaced people and organizations who are relocating to safer areas of Ukraine or nearby countries. In our world, these disputes might be similar to refugee, immigration, and civil rights disputes although I am still learning.
2. Future Disputes. Training mediators to handle construction disputes and mediating construction disputes. These disputes are likely to arise during the post-war recovery when the rebuilding process commences with a flood of reconstruction funds from donor states and a rush to restore destroyed infrastructure and rebuild physical communities.
3. Speakers. I also am learning that many locals appreciate collaborating with others outside of Ukraine in an effort to maintain some sense of normalcy during a time when so little is normal. Just meeting with local mediators or inviting them to IAM training programs may be welcomed. IAM might offer a waiver of charges to any Ukrainian Mediator.

Composition

I suggest forming a small IAM Committee of around six members including at least 2 people from Ukraine who have first-hand and on-going experiences with what is happening on the ground and can help ensure that what IAM might contribute would be useful and welcomed. The Ukrainian members might serve as members or ex officio members. I have some ideas for candidates but need to do more research before recommending who to contact.

Given the nature of the likely disputes in Ukraine, IAM should appoint IAM members with relevant expertise especially with expertise on construction disputes or displaced people/organizations disputes. For construction issues, I would recommend Bruce Edwards, who has both substantive and international experiences. For the expertise relevant to displaced people/organizations, I am unsure who to recommend although candidates like Jeff Krivis, John Sturrock, and Bill Marsh who have already expressed more than passing interest in what is happening in Ukraine would be excellent candidates. Of course, members of the Board would know of other qualified candidates who would be prepared to devote the time.

Keeping the Ad Hoc Committee small may be challenging but I consider that choice important in order to reduce the likelihood of the committee becoming unwieldy when trying to meet and act in an environment that is rapidly changing.

I am available to chair the Ad Hoc committee if IAM decides to create the committee and thinks I would be suitable, assuming my status as an honorary member (via as the first Scholar-in-Residence) would not disqualify me from offering this level of service. Otherwise, I would be pleased to serve as a member as I pursue my separate initiatives.

Timetable

If the IAM Board thinks this a worthy and appropriate initiative, I recommend that the Board set up the committee as soon as possible. As we all know, the situation in Ukraine is complicated, unpredictable, and mercurial. IAM should start investigating now what it can contribute if it wants to be relevant and ready when an opportunity to contribute is ripe. That is what I am learning as I commence the initiatives referenced in the Background section.

If IAM proceeds, I also would like to alert my new contacts at USAID (US Agency for International Development-primary federal agency for administering civilian foreign aid) in order to reduce the risk of duplicating efforts and explore opportunities for coordination.

I realize that this is an ambitious project as we try to navigate uncharted terrain not only for IAM but the world, but I hope others will agree that it is worth at least trying to do something that might be meaningful.

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