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TOWARDS EFFECTIVE IMPLEMENTATION OF THE EU-UKRAINE ASSOCIATION AGREEMENT: UKRAINIAN PERSPECTIVES

The article is devoted to the analysis of the mechanisms of implementation of Association Agreement between Ukraine and the European Union *in the internal legal order of Ukraine* and determining of the steps for *the improvement of its legal bases*. The effective using of implementation legal tools requires from Ukraine establishing the proper and relevant legal background. Certain prerequisites for application of the EU law into the Ukrainian legal framework have been existed. The article focuses on issues relating implementation EU-Ukraine Association Agreement due to the process of harmonization of Ukrainian legislation. Research of legal foundations to regulate the EU's relations with third countries is important both for national legal science and international legal practice of Ukraine.

Key words: European Union, Ukraine, Association Agreement, implementation, Deep & Comprehensive Free Trade Area

Thematic justification of international legal aspects of Ukraine's European integration consists in the fact that Ukrainian state solves a wide range of problems facing them due to the need of modern geopolitical choice¹. Geopolitical future of the country will depend on how it is oriented in the environment, on interstate relations especially with neighbouring countries, as well as on identified priorities.

The new generation of the EU Association Agreements with the EU's eastern neighbors will substitute outdated partnership agreements which were concluded in 1994–1998². The solemn signing of the AAs between the EU and Ukraine, Moldova and Georgia took place at the EU Summit in Brussels on 27th June 2014, followed by ratifications by national parliaments in Moldova, Georgia and Ukraine³. Towards the signing of EU-Ukraine Association Agreement there were external, as well as internal Ukrainian challenges due to the domestic Ukrainian political reforms and changings of international policy. Even after the signing of Association Agreement and its ratification there are external challenges for Ukraine due to the Netherlands referendum in the nearest future.

In January 2016 Ukraine's Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU came into force. One of the most complex accords since the Treaty of Lisbon, it envisages a reciprocal and gradual opening of the two parties' markets. Implementation requires Kyiv to carry out extensive legal approximation across key economic sectors and many in Ukraine hope the agreement will help transform the country into a modern economy.

The effective using of implementation legal tools requires from Ukraine establishing the proper and relevant legal background. Certain prerequisites for the application of the EU law into the Ukrainian legal framework have been existed. Nevertheless, they require be improving and reforming.

¹ Баклан, О. (2014). Напрями розвитку правової системи Європейського Союзу та держав-членів ЄС: співвідношення, правові та економічні тенденції, вплив Лісабонського договору. *Вісник Центральної виборчої комісії*, 2 (29), 89-92.

² Ott A., Inglis K. (2002). *Handbook on European Enlargement*. Cambridge University Press, 175-194.

³ The Moldovan Parliament expediently ratified the Association Agreement on 2nd July 2014. It was shortly followed by ratification by the Georgian Parliament on 18th July 2014. The final accord was played during the simultaneous ratification of the Association Agreement by the Ukrainian Parliament and the European Parliament (ratified all three agreements) on 16th September 2014. Meanwhile, all three Association Agreements are under a lengthy process of ratification by parliaments of the EU Member States. Therefore, the interim application of the Association Agreements is taking place in accordance with the EU Council's decisions (Council Decision 2014/295/EU of 17th March 2014 and COM(2014)609). Application of Title IV (deep and comprehensive free trade area) of the EU-Ukraine Association Agreement has been postponed till 1st January 2016, due to political and security pressure of the Russian Federation.

The most important instrument of the impact of the EU law on the internal legal order of Ukraine is harmonization of legislation. In relations between the EU and Ukraine the compatibility of the Ukrainian legislation with EU law can be achieved at the level of international obligations and the level of EU obligations. Harmonization of Ukrainian legislation with that of the EU remains the most powerful legal instrument for the expansion of the *acquis* into the internal legal order of Ukraine.

Since signing of the Association Agreement Ukraine has begun a new phase of European integration process. Thus, in spring of 2014 the EU unilaterally imposed trade preferences for Ukraine¹. A daily preference eliminates 94.7% tariffs on Ukrainian industrial goods and over 80% on Ukrainian agricultural exports. In October 23, 2014 the European Parliament decided to extend unilateral cancellation and reduction of EU tariffs on goods originating from Ukraine within the autonomous preferential trade regime for Ukraine for the period from termination beginning of Agreement provisional application relating to the establishment of free trade area.

It must be noted that also for the provisional application of (parts of) the DCFTA, the assent of the European Parliament is required (Art. 207(2), TFEU and Art. 218(6)(a)(v) TFEU).

Nevertheless, this agreement was not immediately signed due to demands on behalf of the EU to abandon the practice of selective justice and to align the Ukrainian judiciary and law enforcement systems with European standards. Eventually, on the eve of the EaP Summit in Vilnius, the Ukrainian Government decided to suspend the process of preparation for signature of the EU-Ukraine AA in order “to ensure the national security of Ukraine and to recover trade and economic relations with the Russian Federation.” Following this news, hundreds of thousands of Ukrainians went to the streets. The ensuing Euromaidan Revolution led to the dismissal of President Viktor Yanukovich on 22 February 2014 and the establishment of an Interim Government under the leadership of Arseniy Yatsenyuk. Proceeding with the signature of the EU-Ukraine AA was a clear short-term objective for the new authorities in Kyiv².

The agreement was a key element in the Ukraine crisis: when pro-Russian president Viktor Yanukovich refused to sign it in 2013, pro-European citizens protested in Kyiv (the movement later being dubbed ‘Euromaidan’). These protests led to the impeachment of president Yanukovich, but also triggered the Russian annexation of Crimea.

Hence, the Association Agreement is a stimulus for Ukraine and the core of complex program for large scale internal reforms in all spheres of political, economic and social life of our state.

In March 2007, negotiations on the Association Agreement between Ukraine and the EU began and ended in December 2011, that provide Ukraine’s political association and economic integration with the EU. Against the political background of the Orange Revolution, Ukraine was the first ENP country to start negotiations on a new Association Agreement in March 2007 as part of a general revision of the bilateral legal framework. Negotiations on the DCFTA were only launched in February 2008 after Ukraine’s accession to the WTO. The EU-Ukraine AA was initialed in March 2012. In December 10, 2012 the European Council confirmed the EU's intention to sign the Association Agreement as soon as the Ukrainian authorities demonstrate decisive actions and real progress in three important areas: legal reforms, issues related to elections and politically motivated justice.

On 15 May 2013, the Commission adopted the proposals for a Council Decision on the signing and conclusion of the EU-Ukraine AA. Nevertheless, this agreement was not immediately signed due to demands on behalf of the EU to abandon the practice of selective justice and to align the Ukrainian judiciary and law enforcement systems with European standards.

The signature of the political provisions of the EU-Ukraine AA effectively took place on 21 March 2014 and on 14 April 2014, after a “fast track” approval process, the European Parliament and the Council adopted a Regulation “on the reduction or elimination of customs duties on goods originating in Ukraine.” It is noteworthy that the political and economic parts of the EU-Ukraine AA remain part of a single legal instrument³ In other words, the partial signature of the agreement on 21 March 2014 may essentially be regarded as a political gesture underlining the parties’ commitment to shared values and the objectives of

¹ Regulation (EU) No. 374/2014 of the European Parliament and of the Council of 16 April 2014 on the reduction or elimination of customs duties on goods originating in Ukraine (*OJ*, 2014, L 118/1).

² Petrov, R. Guillaume, Van der Loo, Elsuwege, Peter Van (2015). The EU-Ukraine Association Agreement: a new legal instrument of integration without Membership? *Kyiv-Mohyla Law and Politics Journal*, 1, 6.

³ Final Act of the Summit between the EU and its Member States, of the one part, and Ukraine, of the other part, as regards the Association Agreement, accessed December 30, 2014.

<http://eeas.europa.eu/delegations/ukraine/documents/association_agreement/final_act_text_en.pdf>.

the envisaged association¹. The direct legal implications are fairly limited because the political provisions are rather general in nature.

In September 16, 2014 the Association Agreement was ratified by both the Verkhovna Rada and the European Parliament. Considering the peculiarity of this Agreement in terms of political association and integration of European and Ukrainian markets, its signing had great political importance, since it means Ukrainian authority's conscious choice in favour of Ukrainian development within the European civilization model. A cursory reading of the agreement, counting around 2,140 pages in the Official Journal including 46 annexes, 3 protocols and a joint declaration, already reveals that it is unprecedented both in terms of scope and level of detail.

As of January 2016 the Agreement has been applied provisionally (Titles III, V, VI and VII, and the related Annexes and Protocols have been provisionally applied since 1 November 2014, while Title IV has been applied from 1 January 2016), as far as the provisions concern EU competences. Provisions shall formally come into force upon ratification of the Agreement by all signatories. As of today Ukraine continues to take steps towards European integration.

The Association Agreement is a two-way international public agreement by its legal nature that defines the mode of international cooperation between Ukraine and the EU and its Member States. This type of treaties referred to as "mixed agreements" in European law theory, because their subject is not fully covered by exclusive competence of the Union, and therefore, number of regulations are relating to joint competence of the EU and the Member States². This is what causes the features of the consent expression of the Agreement as binding, which would be binding both at the level of the Union and each Member States by their constitutional law.

So, the EU-Ukraine AA replaces the PCA as the basic legal framework of EU-Ukraine relations (Art. 479 EU-Ukraine AA). Upon its entry into force the Association Agreement is considered as a part of national legislation (ch. 1, Art. 9 of the Constitution of Ukraine³) and in case of conflict with the norms of current legislation is subject to priority application (ch. 2, Art. 19 of the Law of Ukraine "On international agreements of Ukraine"). However, it is EU Law source and its Member States.

EU-Ukraine AA belongs to the selected group of "integration-oriented agreements", i. e., agreements including principles, concepts and provisions of EU law that are to be interpreted and applied as if the third State is part of the EU⁴. Most importantly, this Agreement will provide the outer framework for implanting the European standards and for urgent internal systemic reforms in Ukraine⁵. There should be a thorough and systematic approach to the implementation mechanism of the most ambitious bilateral international treaty in Ukraine's history. Taking into account the best practices developed in the new EU member states, national implementation mechanism for the Association Agreement shall consist of two parts: National system for coordinating the Agreement implementation (government authorities responsible for the Agreement implementation), and the National Agreement Implementation Program.

Association Agreements are comprehensive mixed agreements based on *lex specialis* Article 217 TFEU and Articles 31(1) and 37 TEU (EU action in area of Common Foreign and Security Policy). Of particular significance in the AAs is the ambition to set up a Deep and Comprehensive Free Trade Areas (DCFTA), leading to gradual and partial integration of Ukraine into the EU Internal Market. Accordingly, the AA belongs to the selected group of "integration-oriented agreements", i.e. agreement including principles, concepts and provisions which are to be interpreted and applied as if the third country is part of

¹ Petrov, R. Guillaume, Van der Loo, Elsuwege, Peter Van (2015). The EU-Ukraine Association Agreement: a new legal instrument of integration without Membership? *Kyiv-Mohyla Law and Politics Journal*, 1, 7.

² Муравйов, В.І. (2015). *Європейське право. Право Європейського союзу. Кн. 1: Інституційне право Європейського союзу*. Київ, Ін-Юре, 458.

³ Article 9 of the Ukrainian Constitution of 1996 provides that: "International treaties in force, consented by the Verkhovna Rada of Ukraine [Ukrainian Parliament] as binding, shall be an integral part of the national legislation of Ukraine. Conclusion of international treaties, contravening the Constitution of Ukraine, shall be possible only after introducing relevant amendments to the Constitution of Ukraine".

⁴ The expression "integration-oriented agreements" is borrowed from Marc Maresceau. See: Maresceau, M. (2013). *Les accords d'intégration dans les relations de proximité de l'Union européenne. Les frontières de l'Union européenne*. Bruxelles: Bruylant, 151-192.

⁵ Макаруха, З. (2010). Правове регулювання розвитку простору свободи, безпеки та юстиції в рамках ЄС: реформи Лісабонського договору 2007 року. *Право України*, 11, 188-193.

the EU¹. Elsuwege stressed that the EaP AAs are one of the largest bilateral agreements ever concluded by the EU². It is argued that the AA is unique in many respects and, therefore, provides a new model of integration without membership.

The objective of deeper political association and economic integration requires comprehensive legislative and regulatory approximation, including advanced mechanisms to secure the uniform interpretation and effective implementation of relevant EU legislation into national legal orders of Ukraine³. In order to achieve this objective, the AA is equipped with multiple specific provisions on legislative and regulatory approximation, including detailed annexes specifying the procedure and the pace of the approximation process for different policy areas in more than 40 annexes and based on specific commitments and mechanisms identified in both the annexes and specific titles to the agreement.

Prof. Van Elsuwege described EU-Ukraine AA as an innovative legal instrument which is characterized by three specific features: comprehensiveness, complexity and conditionality⁴. The AA is a comprehensive framework agreement which embraces the whole spectrum of EU activities, from setting up deep and comprehensive free trade areas (DCFTA)⁵ to cooperation and convergence in the field of foreign and security policy, as well as cooperation in the area of freedom, security and justice (AFSJ) (Official Journal 2014; Title II and III of the AAs)⁶.

Regarding the political sphere, according to Art. 4 of respective document political dialogue between the Parties shall be developed and strengthened, the objectives of which are: association to deepen and strengthen political and security convergence and efficiency; to promote international stability and security based on effective multilateralism; to strengthen cooperation and dialogue between the Parties on international security and crisis management, especially concerning the global and regional challenges and key threats; to accelerate result-oriented and practical cooperation between the Parties for achieving peace, security and stability on the European continent; to strengthen respect for democratic principles and rule of law and good governance, human rights and fundamental freedoms, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, as well as to contribute to the consolidation of internal political reforms; to develop dialogue and deepen cooperation between the Parties in security and defense; to promote the independence, sovereignty, territorial integrity and inviolability of borders.

Considering the afore, the Association Agreement induces to implementation of measures on administrative modernization in the system of law enforcement and judicial authorities in order to improve their effectiveness, to guarantee the independence and impartiality, as well as to develop measures on fight against corruption.

Furthermore, the AA is founded on a strict conditionality⁷ approach, which links the third country's

¹ Petrov, R. Guillaume, Van der Loo, Elsuwege, Peter Van (2015). The EU-Ukraine Association Agreement: a new legal instrument of integration without Membership? *Kyiv-Mohyla Law and Politics Journal*, 1, 6.

² Van Elsuwege, P., Van der Loo, G., Van Elsuwege, P., Petrov, R. (2009). The EU-Ukraine Association Agreement: Assessment of an Innovative Legal Instrument. *EUI Working Papers (Law)*, 09, 5.

³ Petrov R. (2015). The new Generation of the European Union Association Agreement with Ukraine, Moldova and Georgia. *Facing the Challenges in the European Union. Re-thinking EU Education and Research for Smart and Inclusive Growth (EuInteg)*. Warsaw, 133-144.

⁴ Van Elsuwege, P., Van der Loo, G., Van Elsuwege, P., Petrov, R. (2009). The EU-Ukraine Association Agreement: Assessment of an Innovative Legal Instrument. *EUI Working Papers (Law)*, 09, 7.

⁵ Van der Loo, G. (2014). The EU-Ukraine Deep and Comprehensive Free Trade Area: a coherent mechanism for legislative approximation? Van Elsuwege, P., Petrov, R. (eds.). *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union. Towards a Common Regulatory Space?* Routledge, Oxon, 63-88.

⁶ There are different Chapters of the DCFTA: Chapter 1: National Treatment and Market Access for Goods, 2: Trade Remedies, 3: Technical Barriers to Trade, 4: Sanitary and Phytosanitary Measures, 5: Customs and Trade Facilitation, 6: Establishment, Trade in Services and Electronic Commerce, 7: Current Payments and Movement of Capital, 8: Public Procurement, 9: Intellectual Property, 10: Competition, 11: Trade-Related Energy, 12: Transparency and 13: Trade and Sustainable Development.

⁷ Petrov R. (2015). The new Generation of the European Union Association Agreement with Ukraine, Moldova and Georgia. *Facing the Challenges in the European Union. Re-thinking EU Education and Research for Smart and Inclusive Growth (EuInteg)*. Warsaw, 133-144.

performance and the deepening of its integration with the EU¹.

Apart from the more general “common values” conditionality, the EU-Ukraine AA contains a specific form of “market access” conditionality, which is explicitly linked to the process of legislative approximation². Hence, it is one of the specific mechanisms introduced to tackle the challenges of integration without membership. Of particular significance is the far-reaching monitoring of Ukraine’s efforts to approximate national legislation to the EU law, including aspects of implementation and enforcement.

The AAs are not just ordinary international agreements, but complex framework legal structures that contain not only specific norms that govern the functioning of the association relations and DCFTA between the EU and Ukraine, but also envisage a possibility of application of a vast scope of the pre-signature and post-signature EU acquis within the legal system of the eastern neighbouring countries, in particular Ukraine. The scope of the EU acquis to be applied by Ukraine covers not only primary and secondary EU laws, but also EU legal principles, common values, and even case law of the ECJ, as well as specific methods of interpretation of the relevant EU acquis within legal system. Hitherto, the Ukrainian legal system has not faced the necessity to implement and effectively apply a dynamic legal heritage of an international supranational organisation. Subsequently, adherence of Ukraine, to the dynamic EU acquis via the AA will encapsulate a plethora of challenges to national legal order³.

Implementation and application of the EU-Ukraine AA within the legal system of Ukraine will be governed by national constitutional laws. Ukraine has to develop its own solutions to the problem of legislation harmonizing with EU law⁴, because realization of this mechanism provides opportunities for EU law action under national legal order. This applies primarily cases of EU directives transposition into Ukrainian internal legislation under the Agreement on Association, and direct application of EU law’s certain provisions at national level. However, it should be taken into account that the legislation harmonizing process of Ukraine with the right of European integration organizations has its own characteristics due to level of relations between partners. The fact that the Association Agreement does not provide preparation for Ukraine’s accession to the European Union defines the boundaries of cooperation in legal field and particularly in legislation harmonizing⁵. On the other hand, as practice shows harmonizing implementation at EU level as well as in community relations with other countries (especially with those, which are under the Association Agreement), it is almost impossible to clear definition of process boundaries. Therefore, Ukraine has enough opportunities for forcing or, alternatively, suspending the legislation harmonizing process with EU law. This relates directly to goals, means and organizational and legal mechanism for harmonizing.

In September 17, 2014 the Resolution of the CMU approved an action plan for implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, on 2014-2017⁶. According to this document also sectoral action plans have been approved. In November, 2014 the Resolution of the CMU defined list of EU legal acts, implementation of which is carried out in accordance with approved plans.

Legislation adaptation is priority component of the Ukraine’s integration process into the EU, which

¹ For example, the preamble to the EU-Ukraine AA explicitly states that “political association and economic integration of Ukraine within the European Union will depend on progress in the implementation of the current agreement as well as “Ukraine’s track record in ensuring respect for common values, and progress in achieving convergence with the EU in political, economic and legal areas” [emphasis added]

² Van der Loo, G., Van Elsuwege, P., Petrov, R. (2014). The EU-Ukraine Association Agreement. Assessment of an Innovative Legal Instrument. *EUI Working Papers, Law*, 19, 17.

³ Petrov R. (2015). The new Generation of the European Union Association Agreement with Ukraine, Moldova and Georgia. Facing the Challenges in the European Union. Re-thinking EU Education and Research for Smart and Inclusive Growth (EuInteg). Warsaw, 23.

⁴ Муравйов, В., Мушак, Н. (2013). Гармонізація внутрішнього права асоційованих країн із правом Європейського Союзу. *Віче*, 17, 52.

⁵ Arts 114(1), 124(1), 133(1) of the EU-Ukraine AA state that ‘Ukraine shall ensure that its existing laws and future legislation will be gradually made compatible with the EU *acquis*.’

⁶ Implementation of the Association Agreement between the EU and Ukraine: results as of 5 February 2015.

Офіційний сайт Кабінету Міністрів України.

<http://www.kmu.gov.ua/document/247996928/Decree_847_170914_Action%20Plan%20on%20AAg.pdf>.

in turn is priority direction of Ukrainian foreign policy¹. Institutional responsibility for legislative adaptation is divided between the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine and the Ministry of Justice of Ukraine. Verification of draft legislative acts on compliance with *acquis communautaire* is carried out both on parliamentary and governmental levels.

One of the serious challenges to be faced by the eastern neighbouring countries is the reluctance of the judiciaries in the eastern neighbouring countries to apply and effectively implement international law sources in their own judgments^{2 3}. Taking into account the wide range of issues governed by the EU-Ukraine Association Agreement, its provisions will affect almost all the spheres of Ukrainian society⁴. Most importantly, this Agreement will provide the outer framework for implanting the European standards and for urgent internal systemic reforms in Ukraine. There should be a thorough and systematic approach to the implementation mechanism of the most ambitious bilateral international treaty in Ukraine's history. Taking into account the best practices developed in the new EU member states, national implementation mechanism for the Association Agreement shall consist of two parts: National system for coordinating the Agreement implementation (government authorities responsible for the Agreement implementation), and the National Agreement Implementation Program.

One key provision underpinning the Association Agreement sets out the concept of gradual approximation of Ukraine's legislation to EU norms and standards. Specific timelines are set within which Ukraine should approximate its legislations to the relevant EU legislation. These timelines vary between 2 and 10 years after the entry into force of the Agreement⁵.

The objective of effective implementation and application of the EU-Ukraine AA may be achieved by issuing a special implementation law that will clarify all potential conflicts of provisions of this agreement with Ukrainian legislative acts. For example Petrov stressed on the comparison of the mechanism of implementation of EU-Ukraine AA with the application of European Convention of Human Rights (ECHR), which Ukraine ratified in 1997. The situation was the following that the ratification of the ECHR by Ukraine took place by means of two laws. The first law was the law on ratification of the ECHR, wherein Ukraine recognized the jurisdiction of the European Court on Human Rights (ECtHR)⁶. The second law was a special one about the strict legal mechanism of application of case law of the ECtHR in Ukraine⁷. In accordance with the art. 17 of the Law On Execution of Judgments and Application of Case Law of the ECtHR, judgments of the latter become the source of law in Ukrainian legal order. Nevertheless, as Petrov stressed and practice shows that, the rate of effective application of the ECtHR case law in Ukraine is considered as unsatisfactory and lags far behind other European countries⁸.

The special law on implementation of the AAs may solve much more complicated issues than the Ukrainian law on ratification of the ECHR in 1997. For instance, this law will face the necessity to clarify how binding decisions of the Association Councils should be applied in Ukraine. Direct applicability of the Association Councils' decisions will depend on their undisputed acceptance by national judiciaries. The special law on implementation of the AA must clarify whether the ECJ case law constitutes a part of the EU sectoral *acquis* contained in the AAs' annexes. Nowadays this draft law is elaborating by expert,

¹ Муравйов, В., Мушак, Н. (2013). Гармонізація внутрішнього права асоційованих країн із правом Європейського Союзу. *Віче*, 17,45-46.

² Petrov, R., Kalinichenko, P. (2011). The Europeanization of Third Country Judiciaries through the Application of the EU *Acquis*: The Cases of Russia and Ukraine'. *International & Comparative Law Quarterly*, 60, 325–353.

³ This happens mainly due to: 1) the belief that international case law is not relevant to civil law systems; 2) the translation of case law and jurisprudence; 3) the lack of translation of case law into Ukrainian to help judges adjust their decisions to best European standards. Furthermore, the Verkhovna Rada of Ukraine is not always expedient in solving conflicts between ratified international agreements and national legislation.

⁴ Petrov, R., Kalinichenko, P. (2011). The Europeanization of Third Country Judiciaries through the Application of the EU *Acquis*: The Cases of Russia and Ukraine'. *International & Comparative Law Quarterly*, 60, 353.

⁵ "Guide to the Association Agreement. < http://eeas.europa.eu/images/top_stories/140912_eu-ukraine-association-agreement-quick_guide.pdf>.

⁶ Law of Ukraine (1997) of 17th July 1997, No. 475/97-BP, *On Ratification of the European Convention on Human Rights 1950*, First Protocol and protocols No. 2, 4, 7 and 11

⁷ Law of Ukraine (2006). *On Execution of Judgments and Application of Case Law of the European Court of Human Rights*, No. 3477-IV

⁸ Committee of Ministers (2014). *7th Annual Report of the 'Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights' in 2013*. <http://www.coe.int/t/dghl/monitoring/execution/Source/Publications/CM_annreport2013_en.pdf>.

government civilians & parliament members.

In comparison with this we can stress on another practical problematic issue of the AA implementation that comes from the application of the EU case law while interpretation of some provisions of the treaty. We can confidently stress that the application of EU jurisprudence in the decisions of Ukrainian courts is controversial and ambiguous. One thing that has become unique, from our point of view, is that the application of EU law case law can be added only while the interpretation of the principles of fair mutual trade between parties.

On this example Petrov predicted that the similar law on the EU-Ukraine AA implementation may solve problems of its application, especially due to the fact of supranationality of the EU law. The most important question in the process of AA implementation is the legal force of decisions of the Association Councils and the way how they should be applied in Ukrainian legal order. Direct applicability of the Association Councils' decisions will depend on their undisputed acceptance by national judiciaries¹.

Analysis of the EU-Ukraine AA allowed to define advantages and possibilities of the Agreement ratification for Ukraine as well as challenges and risks, such as rising prices of some categories of goods, possible bankruptcy of some non-competitive Ukrainian producers that can cause unemployment in the relevant fields; difficulties related to achievement of compliance with the standards of technical trade barriers (TTB) and sanitary and phyto-sanitary measures (SPM), need in financial expenses (both by state and business) to fulfill reforms and achieve compliance; need in training and obtaining the required qualification by Ukrainian workers.

Overall, implementation of the Association Agreement will bring Ukraine closer to the EU, European living standards and it requires adapting our legislation to that of the EU. Implementation of the Agreement is important not only to approach Ukraine to the EU, but for the Eastern Partnership as well, in which Ukraine has long been a positive example of a democratic country.

EU-Ukraine Association Agreement provides for establishment of an institutional mechanism to adopt the resolutions aimed at the Agreement implementation. The EU-Ukraine Association Council, Association Committee and Parliamentary Committee operate within the framework of the Association Agreement. The platform of the civil society is a forum for the members of the EU Economic and Social Committee and representatives of the civil society of Ukraine, which meets with the aim of exchanging views on the Association Agreement implementation.

Looking at the pattern of future implementation and application of the EU-Ukraine AA and its impact on the Ukrainian legal system it may be concluded with a suggestion that the success of this process is threefold. First, the efficient implementation and application of the AA implies considerable constitutional reforms in Ukraine in order to enhance the direct enforceability of international agreements.

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¹ Petrov R. (2015). The new Generation of the European Union Association Agreement with Ukraine, Moldova and Georgia. *Facing the Challenges in the European Union. Re-thinking EU Education and Research for Smart and Inclusive Growth (EuInteg)*. Warsaw, 139.

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