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THE LAW OF THE EUROPEAN UNION AND THE LEGAL ORDER OF UKRAINE: MECHANISM OF INTERACTION

Victor Muraviov
Academic, Professor, Doctor Hab., Head of the Chair of Comparative and European Law, Institute of International Relations of Kyiv Taras Shevchenko National University, Kyiv, Ukraine.

Abstract. *The signing of the Association Agreement by Ukraine with the European Union and its member-states provides for the country a perspective of its integration in the Union with possible membership in it upon the creation of the free trade area between both partners. The realization of the Association Agreement is carried out on the international and national levels and is exercised by various means-accessions by Ukraine to international treaties, making national laws consistent with legal acts of EU institutions, recognition by Ukraine of national standards of EU Member States, mutual recognition of rules of the other side etc. 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. The legal mechanism for implementing acts of association is still unsettled. It is related to the Council and the Committee of the association decisions. The corresponding mechanism in Ukraine has not been set up. It has the same concern with the European standards. Ukraine has to transpose the array of technical regulations as national standards with the conformity with EU legislation. However, it is not clear how this will be achieved.*

The article is focused on the analysis of the legal bases of the interaction of the European Union law and the Law of Ukraine. Specially elucidated the questions of the correlation of the EU law and the law of Ukraine, as well as the actual means of the implementation of the EU law in the legal order of Ukraine. The ways of the improvement of the legal mechanism of the realization of the EU law in the internal legal order of Ukraine are determined. There is emphasized that integration of Ukraine into the European Union will require important amendments into Ukrainian Constitution and other national legislation to provide the legal prerequisites for the realization of the EU law in the internal legal order of Ukraine. Special attention is paid to the means of implementation of international legal obligations in Ukraine.

Key words: *Constitution of Ukraine, EU law, Association Treaty, Euro integration article, legal mechanism, realization of law.*

Current problems. The problem of the correlation between International and municipal law has been for many years at the focal point of legal research in Ukraine and abroad. Among the scholars, who fruitfully investigated this problem, one shall designate R. Arnold. His works on Constitutional, European, International law, protection of human rights form the fundamentals for further investigations. His encyclopedic knowledge and talent for foreign languages

allow us to see in depth the essence of legal phenomena. His idea of the Europeanization of Constitutional law reflects the predominant practice in the European states and help us to understand the modern tendencies in the development of Constitutional law in Europe. These problems are extremely pressing for Ukraine.

The aim of the article is to analyze the impact of the EU law on the legal order Ukraine in the light of the European integration of the country.

Important research results. The policy of integrating Ukraine into the European Union, pursued since Ukraine acquired independence, generated the need to crate in the domestic legal order respective legal prescriptions for the effectuation thereof. Although Ukraine is not a candidate for joining the integration structures of the European Union, the state has already established deep legal ties with the European Union by the Association Agreement, concluded in 2014, and new legal instruments are being added to the Association Agreement to regulate the relations of the parties. The development of integration relations with the European Union requires of Ukraine the creation of a legal base for regulating cooperation with the European Union.

The legal prerequisites for realization of the provisions of the law of the European Union within the legal order of Ukraine are created by the Constitution of Ukraine and other legislative acts adopted during the existence of the independent Ukrainian State in which fundamental principles have been established of the operation of norms of international law in its domestic legal order; these have significance in principle for the fulfillment of the Association Agreement.

According to the 1996 Constitution of Ukraine (Article 9), international treaties duly ratified by the Supreme Rada of Ukraine become part of the national legislation of Ukraine [1]. Norms of international treaties approved by the Supreme Rada acquire the status of norms of national law by means of bringing this constitutional mechanism into operation. This means that Article 9 of the Constitution of Ukraine establishes the legal basis for the respective application of norms of international treaties in the national legal order of Ukraine. However, Article 9 of the Constitution formally did not determine the absolute priority of norms of international law relative to norms of national law. The question arises in this connection: do the provisions of Article 9 affect international treaties ratified before the entry of the Constitution into force?

Article 18 of the Constitution of Ukraine, which provides that Ukraine shall be guided in its foreign policy activity by generally-recognized principles and norms of international law, also does not resolve the problem of the primacy of international law: on one hand this provision contains a clear reference to the priority of international-legal norms; on the other, this priority concerns only generally-recognized principles and norms of international law. Thus, a certain contradiction exists between Articles 9 and 18 of the Constitution: the first does not contain a provision on the incorporation of generally-recognized principles and norms of international law in the domestic legal order of Ukraine. The inadequacy of this constitutional mechanism is that neither the Constitution of Ukraine nor other legislative acts say anything about customary norms of international law or acts of intergovernmental organizations; that is, do not determine their status in the domestic legal order, although the significance of these acts in the legal regulation of international relations is constantly growing and cannot be ignored by the international legal practice of any State.

Endowing international treaties with the status of norms of national legislation causes numerous problems connected with the application of these norms into the domestic legal order of Ukraine. One of them, in particular, may arise in connection with granting norms of international treaties the status of national norms: the adoption of a national norms of law which is contrary to obligations assumed that entails the suspension of the fulfillment of particular treaty

provisions and, consequently, may be a violation of international legal obligations. All countries adhering to a dualist approach to the correlation of international and domestic law, including the members of the European Union, encounter this problem in practice. In order to resolve the question of the operation of norms of European Union law in their national legal orders, as European integration law requires, the great majority of these countries have been forced to insert in their constitutions respective changes establishing the priority of European Union law with respect to norms of international law [2]. Such international legal practice is extensively applied in countries applying to join the European integration structures [3].

As noted above, granting norms of international law the status of norms of domestic law creates the legal foundation for the direct application of such norms in the domestic legal order of Ukraine. This legal approach may be regarded as de facto monism in resolving problems of the interaction of international law with domestic law, on condition of the existence in the country of a stable tradition of the direct application of norms of international treaties in the domestic legal order with the granting of priority significance to such norms relative to norms of national law which are adopted after their ratification [4].

Such a tradition did not exist in Ukraine previously because the doctrine and practice of the USSR excluded the direct operation of norms of international law in the domestic legal order of the country. This position existed despite the incorporation in the fundamental legislative acts of the USSR providing that if an international treaty or international agreement in which the USSR or a union republic takes part establishes other rules than those which are contained in Union legislation or union republic legislation regulating the determined sphere of legal relations, the rules of the international treaty or international agreement apply (Article 129, Fundamental Principles of Legislation of the USSR and Union Republics; Article 64, Fundamental Principles of Civil Procedure of the USSR and Union Republics; Article 3, Statute on Diplomatic and Consular Representations of the Union of Soviet Socialist Republics; Article 425, Code of Civil Procedure of Ukraine, and others).

In view of this, the provisions concerning the priority of international-legal norms in the event of a conflict with norms of municipal law were treated in a limited meaning: this rule might be applied within the framework of the domestic legal order as a means of the fulfillment by the State of its international obligations, the grounds for which was the right of the State to exercise jurisdiction on its own territory, being the sovereign right of any State irrespective of whether it recognized or did not recognize the primacy of international law [5].

As the international-legal practice of many States with regard to the application of norms of international law in domestic legal order shows, the very fact of the recognition of the priority of international legal norms in regard to norms of national law still does not guarantee the effectuation of this principle in reality. Often resolved is the question of determining the legal status of norms of an international treaty, especially whether these norms become domestic law with all the legal consequences arising or whether they operate ad hoc, retaining the legal significance of a norm of international law [6]. Thus, the proclamation of the primacy of international law in and of itself does not guarantee the effective fulfillment of international legal norms as international obligations of the State so require.

In the course of acquiring independence Ukraine took certain steps which changed to a great extent the traditional Soviet approach to international law as an instrument of the regulation of relations between States, the use of which requires sanctions on the part of the State. Accordingly, a number of legal acts were adopted directed towards affirmation of the priority of international law and the creation of legal foundations for the application of norms of international law in the domestic legal order, especially with regard to the principles of international law. The Declaration on the State Sovereignty of Ukraine of 16 July 1990 recognized the priority of uni-

versal human values over class values and the priority of generally-recognized principles and norms of international law over norms of municipal law. As was indicated, the priority of generally-recognized principles and norms of international law is regulated more precisely in the 1996 Constitution of Ukraine (Article 18). However, unlike the provisions of many constitutions of European States concerning the status of generally-recognized principles and norms of international law (Article 24, Constitution of Germany; Article 11, Constitution of Italy, and others), there is no express indication in the legislation of Ukraine to the incorporation of these principles and norms in domestic law.

The provisions concerning the primacy of norms of international law relative to national law were elaborated in the Law of Ukraine «On the Operation of International Treaties on the Territory of Ukraine» of 10 December 1992. The preamble of the Law established the general principle of the primary of international law over domestic legislation set out as follows: «Proceeding from the priority of universal human values and generally-recognized principles of international law, endeavoring to ensure the inevitability of the rights and freedoms of man, and to become involved in the system of legal relations between States on the basis of mutual respect for State sovereignty and democratic foundations of international cooperation, the Supreme Rada of Ukraine decrees to establish that international treaties concluded and duly ratified by Ukraine shall comprise an integral part of the national legislation of Ukraine and shall be applied in the procedure provided for norms of national legislation»[7].

This status of international treaties was confirmed in national legislation in the 2004 Law of Ukraine «On International Treaties of Ukraine» [8]. This Law precisely formulated the provisions with regard to the primacy of international law:

1. International treaties of Ukraine concluded and duly ratified shall comprise an integral part of the national legislation of Ukraine and shall be applied in the procedure provided for norms of national legislation.
2. If other rules have been established by an international treaty of Ukraine whose conclusion occurred in the form of a law than those which have been provided by legislation of Ukraine, the rules of the international treaty of Ukraine shall apply.

It seems that the provision recognizing the primacy of international norms over national legislation are relegated to fundamental provisions and should not be limited by regulation at the level of an ordinary law and have the legal force of an ordinary law.

The Constitution of Ukraine consolidated merely a provision to include part of international agreement in national legislation, and says nothing about the primacy of international norms with respect to norms of national law in the national legal order of Ukraine.

Provisions exist in other laws of Ukraine which refer to the operation of certain international treaties in the domestic legal order thereof. The Law «On the Police» (Article 4), adopted 20 December 1990, relegated to the legal foundations of police activity the Universal Declaration of Human Rights and international agreements ratified in the established procedure. Nonetheless, it does not follow from Article 4 of the said Law that the provisions of these international legal acts will have priority significance if contradictions arise between them and the provisions of national legislation.

In other legislative acts Ukraine uses the formulate traditional for many Soviet normative acts concerning the application of norms of an international treaty in the event of a conflict with norms of national law (for example, Article 17, 1991 Law of Ukraine «On International Treaties»; Article 27.4, 2014 Law of Ukraine «On Standardization» [9] and others). However, one should bear in mind that these conflicts concern only specific laws; they do not resolve problems of the interaction of norms of international law with the national law of Ukraine as a whole.

As regards the status of acts of international organizations in the domestic legal order of Ukraine, the Law of Ukraine «On Postal Communication» (Article 27), adopted 4 October 2001, provides as follows: «The national operator in the procedure determined by legislation of Ukraine shall support cooperation with operators of postal communications of other States and ensure the fulfillment of decisions determined by normative acts of the Universal Postal Union, consent to the bindingness of which is granted by the Supreme Rada of Ukraine» [10]. It follows from this that reference is being made to ensuring the fulfillment of acts of the Universal Postal Union adopted in the form of decisions. However, the question arises with respect to these decisions: which legal basis determines the powers of the Supreme Rada with respect to consent and bindingness of such acts, because the Constitution of Ukraine only regulates the status of international treaties. On the other hand, this formulation of the Law of Ukraine «On Postal Communication» (Article 27) testifies to changes in the approaches to determining the status of decisions of organs of international organizations in the national legal order of Ukraine; that is, the possibility of their application by national agencies in the procedure established by legislation of Ukraine.

Despite the absence in the Constitution of Ukraine of precise provisions concerning the priority of international law with respect to norms of domestic law, the Constitution and the Law of Ukraine «On the Operation of International Treaties on the Territory of Ukraine» and other legislative acts created the legal basis for the operation of norms of international treaties and norms of international customary law in its domestic legal order, which serves as evidence of the fundamental revision of the doctrine and practice of the problem of the correlation of international and domestic law, bringing Ukraine closer in this respect to European rule-of-law States.

But not all questions of the interaction of international and domestic law have been resolved in the said legal acts, which under certain circumstances may complicate the proper fulfillment by Ukraine of its international obligations. Evintov justly emphasized that under the existing formulations of his problem the question remains unresolved in legislative acts of Ukraine as to on what grounds preference may be given to one of two norms of national law in the event of their being in contradiction [11].

In member countries of the European Union which adhere to a dualist approach to the correlation of international and national law, doctrine refers to the general principle of law, *lex posterior*. In Ukraine, as noted, a dualist approach applies to the correlation of international and domestic law, but no legislative acts, judicial decisions, or generally-recognized doctrine exist indicating the means of resolving conflicts between norms of international agreements which have become part of national legislation and norms of national law which should be resolved by means of applying the rule *lex posterior*.

One effective means of ensuring the fulfillment by Ukraine of its international legal obligations may become the direct application of international legal norms by national courts of the country.

One argument in favor of including national judicial institutions in the process of applying international agreements in the national legal order may be that the European choice of Ukraine should be based on taking into account the doctrines and practices of national courts of members of the European Union, which have a key role in the effective functioning of European integration structures. Recognition of the primacy of law of the European Union with respect to the national law of member countries and the direction operation of its provisions in the national legal orders of these countries means taking measures ensuring the operation of the norms thereof. It should be pointed out that the doctrine of the direct operation of the law of the European Union extends to international agreements. This especially concerns international agreements which are concluded by the European Union with nonmembers if, proceeding from the

content of such an agreement, the purposes and tasks thereof contain a precise and clear duty to fulfill it and for this the adoption is not required of any implementation measures, including special legal acts [12].

Doctrines of the primacy and direct operation of the law of European integration structures of the European Union are directed towards effectively ensuring the operation of this law by all agencies of member States, but the principal role in this process belongs to national courts because they chiefly and not the judicial institutions of the European Union effectuate the defense of the rights of natural and judicial persons, relying on the means of direct application of European law. National courts thereby act as one of the legal guarantors of the realization of the tasks and purposes of European integration within the framework of European Union structures. A result of such extensive use of national judicial agencies called upon to ensure the fulfillment of European law as a law of direct operation is the high degree of legal certainty and legal stability of the functioning and development of the European Union integration structures [13].

The question arises to what extent the legal order of the European Union, for which the practice of applying the law of European integration structures by national courts of member countries is characteristic, may influence the legal order of Ukraine. One of the most effective instruments of the influence of European Union law on the domestic law of Ukraine is the said Association Agreement, which, on one hand, is an integral part of European Union law and, on the other, is part of the legislation of Ukraine operating on the principles established in the Constitution of Ukraine (Article 9).

Given that certain provisions of this Agreement influence the movement of persons, freedom of the provision of services, and the development of entrepreneurial and investment activity in Ukraine by means of the clear consolidation of the rights and duties of natural and juridical persons with respect to their rights, such as the right to employment (Articles 17, 18, 19); nondiscrimination against companies, including those providing services through a commercial presence (Articles 87, 8, 92, 93, and 94), right of companies to hire key personnel (Article 98); right of access to the market of sea and air carriage and carriages on a commercial basis (Article 87), the problem inevitably arises of ensuring these rights in the domestic legal order of Ukraine, especially in the courts.

As regards the Association Agreement, it makes provision for the creation of an international-legal mechanism to settle disputes between Ukraine and the European Union; the basis for this is Article 477, establishing a Council for Cooperation, within whose competence is the consideration of appeals of natural and juridical persons. The Council, however, may consider only appeals if one of the parties raises a particular question during a meeting of their representatives. As practice of fulfilling the Agreement on Partnership and Cooperation shows, the overwhelming majority of recourses concerning violations of the obligations of the parties assumed in accordance with the Agreement were appropriate for the said mechanism of resolving disputes between Ukraine and the European Union. At the same time, the Agreement contained provisions which, proceeding from the practice of the Court of the European Union, might be interpreted as conforming to the requirements of acts of European Union Law of direct operation. During the operation of the Agreement, however, neither party to the Agreement had recourse to the Court of the European Union concerning the application of certain of its provisions as having direct operation.

The Association Agreement, however, contains provisions which potentially make it possible for natural and juridical persons participating in the fulfillment thereof to apply to the courts of Ukraine in order to defend the aforesaid rights. Article 471 of the Association Agreement provides.

Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access that is free of discrimination in relation to its own national to its competent courts and administrative organs, to defend their individual rights and property rights.

As a consequence of this, although the aforesaid cautious approach of the European Union to the direct operation of the provisions of the Agreement continues to exist, in principle one cannot exclude the possibility of the defense of the said rights of natural and juridical persons in the national courts of Ukraine.

Consequently, one may say that the incorporation of the Agreement on Partnership and Cooperation in the domestic legal order of Ukraine created merely the prerequisites for the consideration by courts of Ukraine of its provisions, and for this a special implementation act was not required. However, the realization of these possibilities depends directly on an understanding by the courts of Ukraine of the importance and necessity from a legal point of view of accepting for consideration this kind of recourse. In addition, one cannot exclude the adoption by Ukraine of a special implementation act establishing mechanisms for the application of international treaties, including the said Agreement of Ukraine with the European Union, in the national courts of Ukraine. There are certain legal grounds for this already in the present legal order of Ukraine, especially the 1991 Law of Ukraine «On Foreign Economic Activity» (Article 6), which provides that a foreign economic contract may be deemed to be invalid in a judicial or arbitrazh proceeding unless it meets the requirements of a law or international treaties of Ukraine. It is necessary to stress that Soviet doctrine and practice permitted the possibility of the application by national judicial agencies of norms of international law when resolving disputes in a judicial proceeding, in particular, in such spheres as ensuring the operation of international agreements concerning the carriage of passengers and cargo [14].

The possibility of the application by courts of the provisions of international agreement is contained in the Constitution of Ukraine (Article 9), proceeding from the recognition of international treaties in force, consent to the bindingness of which was given by the Supreme Rada of Ukraine, as a part of the national legislation of Ukraine. In addition, the direct operation of constitutional norms (Article 8) is consolidated in the Constitution, which should be interpreted in connection with Article 9 as a direct application of norms of international law in the event of their being contrary to norms of national law. It would be desirable to precisely determine the mechanism for the application of such treaty obligations of Ukraine in a law or to affirm this by judicial practice. Judges should receive the right and duty consolidated by a procedural law to turn to and apply international law. The conditions and procedure for such application should be elaborated. No less important is the task of providing the judge, the central figure in the application of law, with all the necessary sources of law, instructing him in international law, and inculcating in him the habit of the realization thereof. When deciding the question of the application by courts of Ukraine of international agreements, including the Association Agreement, criteria should be established relating particular provisions thereof to norms of direct operation which may be applied directly by courts.

The creation of legal prerequisites for the integration of Ukraine into the European Union require the resolution in its domestic legal order of the problem of choice of the means of the realization by Ukraine of its international obligations. It should be noted that Soviet doctrine and practice on matters of the application of international legal norms always delimited the sphere of operation of international and national law. It was believed that norms of international law create rights and duties for States, whereas norms of national law regulate the behavior of natural and juridical persons. Therefore, in order to enhance the effectiveness of the fulfillment by Ukraine of its international obligations it is necessary to transform norms of international law

into norms of national law. In so doing, the transformation is regarded as a «means of the fulfillment of international law by means of the issuance by the State of domestic normative acts (laws, acts of ratification and publication of international treaties, administrative decrees, regulations, and so on) with a view to ensuring the fulfillment by the State of its international obligation or in the interests of the use by it of its international power»[15]. This conception proceeds from an understanding that transformation includes any means of implementation and does not distinguish between transformation and national legal implementation.

Other conceptual means of implementing international-legal obligations respectively are renvoi, incorporation (reception), and transformation. Renvoi occurs when a State includes in its legislation a norm sanctioning the application of international legal provision in order to regulate municipal relations. Incorporation (reception) is the incorporation of international legal norms into the national legal order without a change of their content. Information (reception) may be general, if international law is incorporated into the national legal order as a whole, or special, if one refers to the incorporation of individual international-legal norms. Transformation means that norms of international law are transformed into norms of national law by means of the publication of a special law or other normative act which regulates the same question as the respective norms of international law. But both conceptions in essence differ little one from the other because they deny the possibility of the direct operation of international-legal norms as an integral part of national law.

Ukrainian doctrine and practice as a whole on the question of the implementation of international-legal norms in the national legal order understandably did not differ from all-union, although Ukrainian scholars expressed original ideas relative to resolving this question [16].

After Ukraine became an independent State, conditions emerged autonomously and on the basis of democratic principles of a rule-of-law State to resolve the problems connected with the implementation of norms of international law in the domestic legal order, comprehending in so doing the many years of experience of other States in the international community as a whole. The logical step after recognition of the priority of international law with respect to national legislation, which marked a certain departure from the approach traditional for Soviet doctrine and practice to the means of implementing international law in the national legal order in the form of transformation became the general incorporation (reception) of norms of international treaties by means of the inclusion of respective provisions in the Constitution and legislative acts, especially the laws of Ukraine «On International Treaties of Ukraine» and «On the Operation of International Treaties on the Territory of Ukraine», where provided that duly ratified international treaties are deemed to be part of national legislation. We refer not only to international treaties primarily in the sphere of private international law, as occurred in the Soviet Union, where certain legislative acts (Fundamental Principles of Civil Legislation of the USSR and Union Republics, Fundamental Principles of Civil Procedure of the USSR and Union Republics, and others) included a conflicts norm on the application in the event of a conflict with the rules of Soviet legislation of the rules of the international treaty, and this concerned all international treaties duly ratified. On the basis of incorporation with the adoption of a special law the norms of European Union law were introduced into the domestic legal order of European Union member States who adhered to the dualist conception of the correlation of international and municipal law.

One may therefore say that in Ukraine certain legislative activity is being carried out that is directed towards resolving the problem of the interaction of international law with domestic law, and in so doing priority is accorded to the operation of norms of treaty international law in national legislation, the means of which, however, require further improvement and universalization. However, the problem least resolved remains the application of generally-recognized

principles and norms of international law in the domestic legal order of Ukraine and especially in its judicial practice. Possibly here too it is necessary to adopt a special law guaranteeing the application of this category of norms of international law in law enforcement agencies. It is essential to fill the gap in the legislation of Ukraine and include within it provisions relating to the operation of norms of customary international law in the legislation of Ukraine [17].

What has been said relates entirely to the application of norms of European Union law in the domestic legal order of Ukraine. Norms of European Union law, just as the Association Agreement, have not acquired priority significance over norms of domestic law because the application of these norms depends partially upon the position of the Ukrainian legislator and completely on the practice of national courts. The further development of integration processes of Ukraine with the European Union require changes to be made in national legislation in order to create in its domestic legal order conditions for the operation of therein of legislation of the integration structures of the European Union.

The material gap in the legislation of Ukraine, including in the Constitution, is the lack of a solution to the status of acts (or decisions) of intergovernmental organizations. However, the further development of the integration of Ukraine into the European Union necessarily requires the making of respective changes in domestic legislation with a view to the creation of the legal prerequisites for the operation of secondary European Union legislation in the domestic legal order of Ukraine because such operation is provided for by the Association Agreement (Articles 56, 96, 153).

A «Eurointegration» article in the Constitution of Ukraine would be very advisable. The 1990 Declaration on the State Sovereignty of Ukraine contains provisions that the «Ukrainian SSR shall act as an equal participant of the international community, actively promote the strengthening of world peace and international security, and directly take part in the all-European process and European structures». Although in general form, certain foundations are established for foreign policy activity which are not present in the version of the Constitution of Ukraine in force. The provisions on the European choice of Ukraine should be underpinned in the Preamble or in Section I of the Constitution, which would facilitate consistency in its foreign and domestic policies irrespective of the changes of political forces in power and the consistent and gradual development of Ukraine.

Conclusions. As a result of the analysis of the interaction of norms of international law and national law of Ukraine, one may suggest that the formulas proposed in Ukrainian legislative acts in and of themselves do not contain solutions for the major legal problems which will arise in the process of applying the law. However, it would be incorrect to believe that Ukrainian legislation on this matter is abstract and impractical. Rather one may say that the introduction of such norms is the laying of the first bricks in the foundation of a new international-legal position of Ukraine. The creation of an elaborated system of the application of international law makes it possible to transform general declaratory prerequisites into legal reality [11].

The further development of integration processes between Ukraine and the European Union conditions the need to improve the legal mechanisms of this integration, called upon to ensure the realization by Ukraine of its international legal obligations to the European Union. The basic orientations of reforming the legislation of Ukraine should include: a more precise consolidation of the priority of norms of international law with respect to norms of national law; the creation of a mechanism of the operation of norms of international law; the improvement of the legal technique of the application of international legal norms with the use of the experience of members of the European Union in the sphere of the general reception of European Union law and practice of its application in the domestic law thereof. All this will enable an effective national mechanism to be created for the implementation of norms of international law in the domestic

legal order of Ukraine, which may bring it closer to achieving the strategic purpose – integration into the European Union.

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ПРАВО ЄВРОПЕЙСЬКОГО СОЮЗУ ТА ПРАВОПОРЯДОК УКРАЇНИ: МЕХАНІЗМ ВЗАЄМОДІЇ

Муравйов В. І.

Академік, професор, доктор юридичних наук, завідувач кафедри порівняльного і європейського права, інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Анотація. *Підписання Угоди про асоціацію між Україною та Європейським союзом та його державами-членами відкриває для країни перспективу інтеграції у Союз з можли-*

вим членством у ньому після створення зони вільної торгівлі між партнерами. Реалізація угоди про асоціацію здійснюється на міжнародному та національному рівнях шляхом використання різних правових заходів: приєднання України до міжнародних договорів, приведення національного законодавства у відповідність до правових актів інститутів ЄС, визнання Україною національних стандартів держав-членів ЄС, взаємного визнання правил сторін тощо. Ефективне використання правових інструментів імплементації вимагає від України запровадження відповідної правової основи. Певні передумови для застосування права ЄС у правовій системі України вже існують. Однак вони вимагають свого поліпшення та реформування. Правовий механізм імплементації актів органів асоціації поки що відсутній. Це стосується рішень таких органів асоціації, як Рада та Комітет. Відповідний механізм в Україні поки що не створений. Те саме стосується європейських стандартів. Україна має транспонувати велику кількість технічних правил в якості національних стандартів, які відповідають законодавству ЄС. Однак, поки що не ясно, як це буде зроблено.

У статті аналізуються правові засади взаємодії права Європейського союзу та законодавства України. Детально висвітлююся питання взаємодії права ЄС та права України, а також існуючі засоби імплементації норм права ЄС у правопорядку України. Визначені шляхи удосконалення правового механізму реалізації права ЄС у внутрішньому правопорядку України. Зазначається, що інтеграція України у Європейський Союз вимагатиме внесення значних змін до Конституції України та іншого національного законодавства з метою створення правових передумов для реалізації права ЄС у внутрішньому правопорядку України. Спеціальна увага приділена засобам імплементації міжнародних правових зобов'язань в Україні.

Ключові слова: *Конституція України, право ЄС, угода про асоціацію, євроінтеграційна стаття, правовий механізм, реалізація права.*

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