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## **DYNAMICS OF IMPLEMENTATION OF THE ASSOCIATION AGREEMENT BETWEEN UKRAINE AND THE EU: PROSPECTS AND NEW CHALLENGES**

### **ДИНАМІКА ІМПЛЕМЕНТАЦІЇ УГОДИ ПРО АСОЦІАЦІЮ УКРАЇНИ З ЄС: ПЕРСПЕКТИВИ ТА НОВІ ВИКЛИКИ**

### **ДИНАМИКА ИМПЛЕМЕНТАЦИИ СОГЛАШЕНИЯ ОБ АССОЦИИИ УКРАИНЫ С ЕС: ПЕРСПЕКТИВЫ И НОВЫЕ ВЫЗОВЫ**

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**Abstract.** *The entry into force of the Association Agreement with the European Union was a fateful event for the contemporary history of Ukraine. Currently, both components of the association: political one, which consists in spreading European values to Ukraine, and economic one, which involves Ukraine's integration into the EU internal market in exchange for legislation approximation, are without exaggeration fundamental factors for further development of Ukraine.*

*The results of the previous years of the Association Agreement implementation testify to both significant achievements and a number of problems in Ukraine's fulfillment of its association with the EU "homework". The article is devoted to the analysis of dynamics and the recent trends in the process of the Agreement implementation.*

*As a result of the political changes that took place in Ukraine in 2019, including the election of a new president, parliament and government, European integration work on the implementation of the Association Agreement began in the new conditions.*

*The improvement of the national institutional mechanism designed to ensure better coordination of work on the implementation of the Agreement between the competent authorities is among the positive trends in the process of its implementation. The fundamental legal principles and basic directions of work on Agreement updating are analyzed. It is proved that the prospect of updating has become an effective impetus to improve implementation processes. By initiating such an update, in order to strengthen its position in the negotiations with the EU, the Ukrainian side is forced to objectively assess the effectiveness of the Agreement implementation in certain areas and to intensify the completion of processes that are significantly behind.*

*A new challenge in the process of implementing the Association Agreement was the emergence of the pandemic factor in 2020. The introduction of national quarantine and the incidence rate have significantly shifted priorities and affected European integration processes, both within Ukraine and at the EU level.*

*At the same time, it was stressed that the situation to ensure the Rule of law, in particular, the fight against corruption is the main challenge not only to obligations fulfillment under the agreement, but also to the entire European integration policy of Ukraine. It is noted that the*

*decision of the Constitutional Court of Ukraine to repeal a significant part of anti-corruption legislation threatens the further integration of Ukraine with the EU.*

*It was stressed that the future of not only Ukraine but also the region as a whole depends on whether the Association Agreement with the European Union will continue to serve as a transformational force capable of overcoming the weakness of the Rule of law within the country.*

**Keywords:** *European Union, Association Agreement, implementation of association agreement, legislation approximation, rule of law, anti-corruption policy.*

**Анотація.** *Набрання чинності Угодою про асоціацію з Євросоюзом стало доленосною подією для новітньої історії України. На сьогодні обидві складові асоціації: політична, що полягає в поширенні на Україну європейських цінностей, та економічна, що передбачає інтеграцію України до внутрішнього ринку ЄС в обмін на наближення законодавства, без перебільшення є основоположними чинниками для подальшого розвитку України.*

*Результати попередніх років імплементації Угоди про асоціацію свідчать як про вагомні здобутки, так і про низку проблем у виконанні Україною свого “домашнього завдання” асоціації з ЄС. Статтю присвячено аналізу динаміки та останніх тенденцій в процесі імплементації Угоди про асоціацію.*

*Внаслідок політичних змін, що відбулися в Україні в 2019 році, включно з обранням нового президента, парламенту та уряду, євроінтеграційна робота з імплементації Угоди про асоціацію почала здійснюватися в нових умовах.*

*Серед позитивних тенденцій процесу імплементації угоди відзначено вдосконалення національного інституційного механізму, покликане забезпечити кращу координацію роботи з виконання угоди між компетентними органами. Проаналізовано правові засади та основні напрямки роботи з оновлення угоди. При цьому доведено, що перспектива оновлення стала дієвим стимулом до вдосконалення процесів імплементації. Ініціюючи таке оновлення українська сторона для зміцнення своїх позицій на переговорах з ЄС змушена об'єктивно оцінити ефективність виконання угоди за окремими сферами та активізувати завершення процесів, по яким є суттєве відставання.*

*Новим викликом в процесі імплементації Угоди про асоціацію стала поява в 2020 році фактору пандемії. Запровадження національного карантину та ріст захворюваності істотним чином змінили пріоритети та вплинули на євроінтеграційні процеси, як в середині України, так і на рівні Євросоюзу.*

*Поряд з цим підкреслено, що основним викликом не лише виконанню зобов'язань за угодою, а й всій євроінтеграційній політиці України стала ситуація із забезпеченням верховенства права, зокрема, боротьбою з корупцією. Відзначено, що прийняття Конституційним судом України рішення щодо скасування вагової частини антикорупційного законодавства ставить під загрозу подальшу інтеграцію України з ЄС.*

*Підкреслено, що майбутнє не лише України, а й всього регіону залежить від того, чи продовжить Угода про асоціацію з Євросоюзом служити трансформаційною силою, здатною подолати слабкість основ верховенства права всередині країни.*

**Ключові слова:** *Європейський союз, угода про асоціацію, імплементація угоди про асоціацію, наближення законодавства, верховенство права, антикорупційна політика.*

**Аннотация.** *Вступления в силу Соглашения об ассоциации с Евросоюзом стало судьбоносным событием для новейшей истории Украины. На сегодня обе составляющие ассоциации: политическая, включающая распространение на Украину европейских ценностей, и экономическая, предусматривающая интеграцию Украины во внутренний рынок ЕС в обмен на сближение законодательства, без преувеличения являются основополагающими факторами для дальнейшего развития Украины. Результаты предыдущих лет имплементации Соглашения об ассоциации свидетельствуют как о весомых достижениях, так и о ряде проблем в выполнении Украиной своего «домашнего*

задания» ассоциации с ЕС. Статья посвящена анализу динамики и последних тенденций в процессе имплементации СА.

Вследствие политических изменений, произошедших в Украине в 2019 году, включая избрание нового президента, парламента и правительства, евроинтеграционная работа по имплементации Соглашения об ассоциации начала осуществляться в новых условиях.

Среди положительных тенденций процесса имплементации соглашения отмечено усовершенствование национального институционального механизма, направленное на улучшение координации работы по выполнению соглашения между компетентными органами.

Проанализированы правовые основы и основные направления обновления соглашения. При этом доказано, что перспектива обновления стала действенным стимулом к совершенствованию процессов имплементации. Иницируя такое обновление украинская сторона для укрепления своих позиций на переговорах с ЕС вынуждена объективно оценить эффективность выполнения соглашения по отдельным сферам и активизировать завершения процессов, по которым имеет место значительное отставание.

Новым вызовом в процессе имплементации Соглашения об ассоциации стало появление в 2020 году фактора пандемии. Введение национального карантина и рост заболеваемости существенным образом сместили приоритеты и повлияли на евроинтеграционные процессы, как внутри Украины, так и на уровне Евросоюза.

Наряду с этим подчеркнута, что основным вызовом не только выполнению обязательств по соглашению, но и всей евроинтеграционной политике Украины стала ситуация с обеспечением верховенства права, в частности, проблема борьбы с коррупцией.

Отмечено, что принятие Конституционным судом Украины решения об отмене значительной части антикоррупционного законодательства ставит под угрозу дальнейшую интеграцию Украины с ЕС.

Подчеркнуто, что будущее не только Украины, но и всего региона зависит от того, продолжит ли Соглашение об ассоциации с Евросоюзом служить трансформационной силой, способной преодолеть слабость основ верховенства права внутри страны.

**Ключевые слова:** Европейский союз, соглашение об ассоциации, имплементация соглашения об ассоциации, приближение законодательства, верховенство права, антикоррупционная политика.

**Articulation of issue.** 2020 has become a year of new realities. The emergence of a specific factor – the pandemic of the viral disease Covid-19 and the unprecedented measures taken by most countries to combat the disease – changes radically the agenda of modern international relations. Ukraine's relations with the European Union, the legal basis of which is the Association Agreement, are also facing new challenges.

In contrast to the successful EU-Ukraine summit in October 2020, despite the pandemic, the decision of the Constitutional Court of Ukraine to repeal a significant part of anti-corruption legislation [*Constitutional Court of Ukraine, 2020*] led to a constitutional crisis, its developments define the future of Ukraine's European integration path, without exaggeration.

Recent developments in the international arena and inside Ukraine establish the need for the analysis of further prospects and assessment of the latest challenges in the AA implementation process and Europeanization of Ukrainian legislation.

**Analysis of recent studies and publications.** Due to its innovative nature and unprecedented importance for the development of international relations, the Association Agreement between Ukraine and the EU (AA) [*Uhoda pro asotsiatsiiu mizh Ukrainoiu ta Yevropeiskym Soiuzom i yoho derzhavamy-chlenamy, 2014*] has been the subject of increased scientific interest in both European and Ukrainian legal doctrines in recent years. Among the European lawyers, the legal aspects of association agreements are studied in the works of M.-C. Cadilhac, P. Dengler, D. Hanf, C. Hillion, C. Rapoport, G. Van der Loo, etc. In the national doctrine, the legal principles of the EU association are covered in the works of T. Anakina, T. Komarova, Ya. Kostyuchenko, M. Mykiyevych, V.

Muravyov, R. Petrov, O. Svyatun, K. Smyrnova, I. Yakovyuk, O. Shpakovych. Recently, having in mind the 10th anniversary of the EU's Eastern Partnership policy, Ukrainian experts have been actively analyzing the directions of the Eastern Partnership evolution and association agreements within its framework. There were the works by Z. Makarukha, V. Martyniuk, I. Nagorniak, S. Sydorenko.

**Purpose of the article.** Since the general legal framework and characteristics of the EU-Ukraine association are sufficiently covered in the doctrine, the purpose of this article is to analyze the dynamics and recent trends in the AA implementation. The study focuses on the factors that emerged along with the AA implementation since the last presidential election in Ukraine.

**Findings of the study.** The history of the AA conclusion is often called dramatic in the doctrine [Petrov, 2016: 4]. Indeed, no other country has fought so hard to have the European Union association. Ukraine went through the Revolution of Dignity, Russian aggression, loss of a part of its territory, military actions in the east of the country, an attempt to block the AA entry into force through the referendum in Holland. First steps toward the European Union association were, no exaggeration, a landmark in the recent history of Ukraine. Although the Agreement does not provide for the prospect of Ukraine's accession to the EU, the establishment of the association, including the introduction of a deep and comprehensive free trade area, has launched a new format of relations between the parties, marked by deepening of their interdependence.

Undoubtedly, since its conclusion, the Association Agreement, which according to the accurate description of R. Petrov is characterized by such features as comprehensiveness, complexity and conditionality [Petrov, 2018: 50], changed Ukraine significantly. The introduction of the visa-free regime between Ukraine and the EU, as inextricably linked to the EU's Eastern Partnership policy, has not only opened the door to the EU for ordinary Ukrainians but has also led to key reforms including the public administration corruption prevention ones. So far, both components of the association: the political association, being the expansion of European values of democracy, human rights, the rule of law in Ukraine, and the economic integration into the EU internal market in exchange for approximation to EU *acquis*, are, without exaggeration, fundamental factors for the Ukraine's further development. Since February 2019, the Constitution of Ukraine has got provisions on the state's strategic course toward full membership of Ukraine in the EU and NATO [Verkhovna Rada Ukrainy, 2019a], they are to guarantee the irreversibility of the Ukraine's Eurointegration intentions.

As known, the agreement stipulates further integration by meeting the deadlines, completeness and quality of approximation of Ukrainian legislation to EU legislation including the implementation and enforcement aspects. It is obvious that reforming of the national legislation, due to the AA implementation and the liberalization of access to the EU market, not only affects the development of trade relations with the EU but also leads to the modernization of most areas of public relations within the country. The scope of legal reforms set forth in the AA gives grounds to talk about a significant strengthening of the influence of EU law on the legal system of Ukraine as a result of which the large-scale Europeanization of a number of branches of Ukrainian legislation has already begun [Berezovska, 2017: 53]. Today we can acknowledge that with the AA entry into force the legislation approximation efforts have been launched in all areas of cooperation.

At the same time, the previous years' results show both significant achievements and a few problems in Ukraine's fulfillment of its EU association «home task». The greatest successes have traditionally been associated with the trade. Due to the creation of a free trade area, the European Union has become the largest trading partner of Ukraine, the share of trade in goods and services with the EU in 2019 was 40.1% of Ukraine's total trade [Ministerstvo rozvytku ekonomiky, 2020]. Even in the face of the Russian military aggression and economic pressure, the Ukraine's exports to the EU have grown significantly in recent years. The FTA with the European Union has made it possible to minimize the consequences of trade wars initiated by the Russian Federation. According to experts, the departure from GOST standards inherited from the Soviet Union and the adoption of modern EU technical standards, adaptation of legislation to the EU *acquis* and removal of non-tariff

barriers created long-term prospects for modernization and sustainable economic development of Ukraine [Bloksmans, 2019].

At the same time, along with the growth of Ukraine's exports to the EU, there is significant lagging behind and inefficiency in the AA implementation in many areas. According to government reports and EU estimates, the level of implementation of Ukraine's AA commitments during 2017-2018 was a bit over 50% [Kabinet ministriv Ukrainy, 2019a]. In addition, experts note that the AA implementation process is often accompanied by a kind of «Ukrainization» of the EU law. This means that the developed draft acts do not fully comply with the European legislation and enforcement practice (as certain public bodies interpret the EU acquis at their own discretion, apply regulations in selective way, are reluctant to lose authority, etc.). This leads to systemic errors and inconsistencies with the EU acts [Akulenko, 2018]. Another often and significant problem is the development of high-quality bylaws: the practice shows that the adoption of a Europeanized draft law can be completely neutralized by the ill-timed or poor-quality development of all related bylaws [Berezovska, 2020: 67].

As a result of the political changes that took place in Ukraine in 2019, including the election of the new president, parliament and government, further European integration efforts for the AA implementation happen in the new conditions.

The new parliamentary majority with its «turbo regime» was given an opportunity to make a breakthrough in the AA implementation, ensuring the adoption of respective laws. It should be noted that in a number of industries, due to the approval of new legislation or completion of previous developments, significant progress has been made: electoral legislation, decentralization, agro-industrial complex, energy, banking, public administration, environment and digital economy. The adoption of the Electoral Code of Ukraine, legislation on the land market is worth noting. The launch of the Supreme Anti-Corruption Court of Ukraine and the cancellation of deputies' immunity are major achievements.

Finally, the long preparatory work was completed, and the government opened to the public the long-awaited access to the Pulse of the Agreement, an online system for monitoring of the progress in the implementation of the Action Plan on Implementation of the EU Association Agreement.

However, in 2019, given the presidential and parliamentary elections, the progress of the Association Agreement implementation by the Cabinet of Ministers of Ukraine, the Verkhovna Rada of Ukraine and other interested public authorities was 37% of the planned one [Kabinet ministriv Ukrainy, 2019b].

The plans announced by the new team to activate the AA implementation efforts faced new challenges: the emergence of the pandemic in 2020, the introduction of national quarantine and the increase in morbidity significantly shifted priorities and affected the European integration processes, both within Ukraine and at the EU level.

Describing the dynamics of European integration processes during 2020, it should be noted that even in the pandemic the country is having some improvement in the AA implementation, in particular by strengthening the institutional capacity of responsible authorities. For example, the vast majority of experts welcomed the appointment of a new Deputy Prime Minister for European Integration, whose efforts are expected to make real progress in the European integration processes.

The establishment of the Commission for Coordination of the Association Agreement Implementation and approval of its statute are another encouraging factor in the institutional sphere [Kabinet ministriv Ukrainy, 2020]. The Commission is scheduled to meet quarterly under the chairmanship of the Prime Minister. In addition to the PM and all members of the Ukrainian government, the Commission consists of the first deputy speaker of the Parliament, the deputy head of the President's Office, the chairman of the Parliamentary Committee for European Integration, and Ukraine's representative to the EU.

In our opinion, such composition of the Commission is able to ensure the systematic work and efficient coordination of authorities during the AA implementation, in particular to promote the cooperation between the government, the parliament and the President's Office for the European

integration. As a result of the first meeting of the Commission on October 21, 2020, there was announced an ambition to implement by the end of the year a comprehensive roadmap for the adoption of European integration priority and framework drafts as well as about 100 government bylaws for the AA implementation. Obviously, such an acceleration of the process of development and adoption of the legislation necessary for the AA implementation may be the basis for deepening the Ukraine's European integration.

Analyzing the consequences of the pandemic for Ukraine's European integration plans at the international level, it is worth noting the limitations of physical contacts between the parties. Thus, the Eastern Partnership summit scheduled for June 2020 was to be one of the key events of the year, it was expected to approve the legal framework for the Eastern Partnership policy updating. Due to the pandemic, it was replaced by video conferencing. A full-fledged summit is currently scheduled for March 2021. It is expected to approve the five long-term policy objectives set out in the Joint Communication of the European Commission to the European Parliament, the Council of the EU, the Economic and Social Committee and the Committee of the Regions «Eastern Partnership Policy after 2020» [*Joint Communication, 2020*]. It is expected they will become new areas that will complement the existing instruments of the AA and determine the development of cooperation between Ukraine and the EU in the future.

The successful holding of the 22nd annual EU-Ukraine summit in Brussels on October 6, 2020 was a certain compensation for the postponed Eastern Partnership summit. It is worth noting that the meeting with the President of Ukraine was the first «live» summit between the EU and the partner country since the pandemic outburst. The Joint Declaration adopted after the summit was assessed by Ukrainian officials as one of the most successful in the last 5 years, this was also recognized by the representatives of the European Commission [*Uspikh samitu Ukraina-YeS, 2020*]. The provisions of this declaration reflect further development plans of the EU-Ukraine association [*Spilna zaiava za pidsumkamy 22-ho Samitu Ukraina – YeS, 2020*].

The readiness of the European Union to carry out in 2021 a comprehensive review of the achievement of the objectives of the Agreement, as provided for in the Agreement, should be emphasized. It should be noted that the issue of AA revision is a priority for the Ukrainian party who is trying to give a new impetus to the association turning the trade with the European Union into economic integration [*Kachka, 2020*].

The point is that, given the constant development of the EU law, the AA has the prospect for revision. It can be done both in order to update the annexes containing the list of EU acts that the legislation of Ukraine should be harmonized with, and in order to move to further stages of integration deepening which becomes possible as a result of meeting of the harmonization commitments.

Thus, in accordance with Article 463 of AA, the Association Council may take decisions aimed at achieving the objectives of the Agreement. For example, it may update or amend the annexes to the Agreement to take into account the developments in the EU law and applicable standards set out in international instruments, as the Parties deem appropriate. In addition, Article 481 of AA provides that the Parties shall conduct a comprehensive review of the achievement of the objectives of this Agreement five years after the date of its entry into force as well as at any other time by mutual agreement of the Parties.

The AA revision efforts have already begun. The first example was the ratification by the Verkhovna Rada in June 2019 of the revised «energy» Annex 27 to the AA; it provides for new energy standards and rules, compliance with which will ensure Ukraine's integration into the EU internal energy markets [*Verkhovna Rada Ukrainy, 2019b*].

During the summit, the Ukrainian party presented its concept of the AA revision and the trade and sectoral cooperation deepening; it is to be considered at the meeting of the Association Council scheduled for December 2020 [*Uspikh samitu Ukraina-YeS, 2020*]. Thus, in the near future, Ukraine and the EU shall determine which annexes (i.e. in which areas) are subject to the revision, in particular, the scale of the duty-free quotas revision.

Today it can be stated that the prospect of the AA revision and the preparatory efforts have become an efficient incentive to improve the implementation processes. Initiating such revision, the Ukrainian party, in order to strengthen its position in the negotiations with the EU, has to assess objectively the efficiency of the AA implementation in certain areas and to intensify the completion of processes that are remarkably behind. Active consultations with business and the involvement of experts in the formation of new priorities for possible AA revision and promising areas for integration strengthening are the positive signals.

The conclusion on October 8, 2020 of the Agreement on Political Cooperation, Free Trade and Strategic Partnership of Ukraine with the United Kingdom aiming to continue bilateral cooperation between the parties and the FTA based on the AA after the UK finally leaves the EU is among the Ukraine's latest European integration achievements at the international level. At the same time, the Ukrainian party took advantage of the current situation quite quickly. The signing of the agreement with the UK guarantees Ukraine a preferential access to the UK market and creates conditions for the revival of bilateral trade. Of course, no less important is the political component of the new agreement with an emphasis on security arrangements that may contribute to the implementation of Ukraine's foreign policy priorities.

In contrast to these positive trends in Ukraine's European integration policy and generally positive opinions of the AA implementation progress stated at the Ukraine-EU summit, the main criticism of Ukraine from the European side was the issue of the rule of law in Ukraine especially the anti-corruption problem. In this regard, the summit declaration has a separate emphasis on the importance of reform efforts amplifying, including the judicial reform (including the High Council of Justice reform and the independent selection of bona fide judges) and the anti-corruption efforts, ensuring strong and independent anti-corruption institutions. In addition, the renewed commitment of Ukraine to combat the influence of private interests (“de-oligarchization”) is mentioned [*Spilna zaiava za pidsumkamy 22-ho samitu Ukraina-YeS, 2020*].

However, the decision of the Constitutional Court of Ukraine, made shortly after the summit, made the issue of the rule of law and the fight against corruption a major challenge to the further rapprochement between Ukraine and the EU.

On October 27, 2020, the Constitutional Court ruled on the constitutional submission of deputies regarding the compliance of a number of anti-corruption legislation provisions with the Fundamental Law and declared some provisions unconstitutional [*Constitutional Court of Ukraine, 2020*]. In particular, the Constitutional Court declared unconstitutional Article 366-1 of the Criminal Code providing for penalties for false declarations by persons authorized to perform the functions of the state or local self-government. In addition, the Constitutional Court declared unconstitutional the powers of the National Agency on Corruption Prevention to verify declarations of public officers, to monitor the way of life of declarants, to establish the timeliness of declaration submission, and the provisions on open access to declarations in the Unified State Register.

This study is not to analyze the legal aspects of this decision, though we would like to note its enormous impact on the future of the Ukraine-EU relations. The European Union representatives have already expressed hard opinions on the decision and consider it a strong ground for the European Commission to launch a visa-free regime suspension mechanism.

It is worth noting that the political association implies the spread of European values to Ukraine above all [*Petrov, 2018: 50*]. In the light of the current EU practice of promoting its values in foreign relations, the AA declares that the basis of home and foreign policy of the EU and Ukraine shall be formed by common democratic principles, there are “basic elements” of the agreement including the respect for democratic principles, human rights and fundamental freedoms and the respect for the rule of law (Article 2 AA) [*Uhoda pro asotsiatsiiu mizh Ukrainoiu ta Yevropeiskym Soiuzom i yoho derzhavamy-chlenamy, 2014*].

And the AA has a special mechanism to hold parties liable in case of violation of these basic elements, this may include the suspension of any rights or obligations under Section IV of the AA regulating the FTA between the parties (point 3 of Article 478 of the AA). The existence of such a mechanism is an efficient guarantee of the Ukrainian authorities’ commitment to European values.

Thus, it should not be forgotten that a breach of obligations under the political part of the AA, in particular, regarding the respect for the basic elements of the Agreement, may result in the termination of economic preferences.

It should be noted that compared to the AA trade provisions that clearly establish the Ukraine's obligations to harmonize the respective national law with the EU law, neither the AA itself nor its annexes have detailed obligations of Ukraine in the field of rule of law. To some extent, this gap has been filled by relevant provisions of the EU-Ukraine Association Agenda, the Justice and Home Affairs Action Plan, and the working documents developed under the Eastern Partnership policy. In particular, in 2016, with the EU funding and technical assistance, the project "Pravo-Justice" was launched, in recent years it contributed to tremendous changes in the judicial system of Ukraine aimed at ensuring the rule of law [*Proekt YeS "Pravo-Justice"*, 2020].

Therefore, based on the experience of EU member states from the Eastern Europe, and given the prospect of review of the Eastern Partnership and the AA, the European Union and Ukraine should rather update the proposed AA instruments to strengthen the EU influence on Ukraine's internal reforms for the rule of law. This is about the possible adoption of a special annex to the AA as well as possible involvement of Ukraine in the work of EU rule of law bodies (EU Justice Scoreboard). Defining the commitments in the political and legal sphere in an annex to the AA should be the optimal response to existing threats and challenges in Ukraine, and implementation plans for these commitments may be, if necessary, in the form of appropriate "action plans" or "road maps" [*Shulha*, 2020]. It should be noted that, although the EU does not have common legislation on anti-corruption and judicial reform, it has developed the best tools to measure Member States' progress in these areas. For example, as experts rightly point out, the condition of Ukraine's judicial system may be regularly assessed according to the EU Justice Scoreboard methodology, and the anti-corruption performance – in accordance with the EU Anti-Corruption Report [*Shulha*, 2020].

Recent developments in Ukraine are likely to prompt the EU to define in a clearer way the Ukraine's commitments to the political component of the association. Thus, in the Report of the Foreign Affairs Committee of the European Parliament of November 10, 2020 on the AA implementation, the deputies urged the European Commission to develop "qualitative and quantitative mechanisms to monitor Ukraine's implementation of reforms, including clear benchmarks, recommendations and principles of conditionality" [*Ukraine: MEPs call for results in fight against corruption and dismantled oligarchies*, 2020]. It is expected that this Implementation Report will be submitted to the plenary session of the European Parliament this December. Along with the prospect of holding a meeting of the Association Council, the Ukrainian authorities shall urgently take measures to restore the basic principles of anti-corruption legislation.

**Conclusions.** Therefore, over the last year, the Ukraine's European integration policy, based on the AA implementation, has faced new challenges. At the international level, the pandemic factor has a substantial impact on the European integration processes. At the national level, there are positive trends to strengthen the fulfillment of AA obligations: improvement of the internal institutional mechanism and compliance monitoring by competent authorities and an intention to accelerate the implementation of obligations to harmonize the legislation under the trade section of the AA. The prospect of AA review was an important motivator for improving the implementation process. In contrast to positive trends, the rule of law situation, in particular the corruption combating issue, has become the main challenge not only to the AA implementation but to the entire national European integration policy. The decision of the Constitutional Court of Ukraine to repeal a significant part of anti-corruption legislation threatens the Ukraine's further EU integration. The future of not only the country but also of the region, without exaggeration, depends on how Ukraine will observe the political part of the association and whether the Agreement will continue to be a transformational force able to overcome the weakness of the rule of law.



## References

1. *Uhoda pro asotsiatsiiu mizh Ukrainoiu ta Yevropeiskym Soiuzom i yoho derzhavamy-chlenatu* (2014), *Угода про асоціацію між Україною та Європейським Союзом і його державами-членами* (2014) [Association Agreement between the European Union and its Member States, of the one part, and Ukraine of the other part], *Офіційний вісник України* від 26.09.2014, № 75, том 1, стор. 83, стаття 2125.
2. *Verkhovna Rada Ukrainy. Verkhovna Rada Ukrainy* (2019a) Закон України «Про внесення змін до Конституції України (щодо стратегічного курсу держави на набуття повноправного членства України в Європейському Союзі та в Організації Північноатлантичного договору)» (2019) [Law of Ukraine «On Amendments to the Constitution of Ukraine (on the strategic course of the state to gain full membership of Ukraine in the European Union and the North Atlantic Treaty Organization)»] від 7 лютого 2019 року, № 2680-VIII, *Відомості Верховної Ради*, 2019, № 9, С.50.
3. *Verkhovna Rada Ukrainy. Verkhovna Rada Ukrainy* (2019b) Закон України «Про Рішення Ради асоціації між Україною та ЄС про внесення змін і доповнень до Додатка XXVII до Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони» (2019) [Law of Ukraine «On the Decision of the EU-Ukraine Association Council amending Annex XXVII to the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part»] від 6 червня 2019 року, № 2739-VIII, *Відомості Верховної Ради*, 2019, № 27, С.112.
4. *Constitutional Court of Ukraine* (2020) Рішення Конституційного Суду України від 27 жовтня 2020 року № 13-р/2020 [Decision of the Constitutional Court of Ukraine of October 27, 2020 № 13-p/ 2020] у справі за конституційним поданням 47 народних депутатів України щодо відповідності Конституції України (конституційності) окремих положень Закону України «Про запобігання корупції», Кримінального кодексу України, *Офіційний вісник України* від 24.11.2020 — 2020 р., № 92, С. 55, стаття 2976.
5. *Kabinet ministriv Ukrainy* (2020), *Кабінет міністрів України* (2020) *Постанова «Про утворення Комісії з питань координації виконання Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським Співтовариством з атомної енергії і їхніми державами - членами, з іншої сторони»* [Resolution of the Cabinet of Ministers of Ukraine «On the establishment of the Commission for Coordination of the 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»] № 851 від 02.09.2020, *Урядовий кур'єр* від 23.09.2020. № 185.
6. *Ministerstvo rozvytku ekonomiky* (2020), *Міністерство розвитку економіки, торгівлі та сільського господарства України* *Довідка «Зовнішня торгівля України товарами та послугами у 2019 році»* [Reference of the Ministry of Economic Development, Trade and Agriculture of Ukraine "Foreign trade of Ukraine in goods and services in 2019], Available at: <<https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=30d3074d-6882-4aac-bc4f-f4af8a30b221&title=DovidkazovnishniaTorgivliaUkrainiTovaramiTaPoslugamiU2019-Rotsi>>.
7. *Kabinet ministriv Ukrainy* (2019a), *Кабінет міністрів України* *Звіт про виконання угоди про асоціацію між Україною та Європейським Союзом за 2018 рік* [Report on the implementation of the Association Agreement between Ukraine and the European Union for 2018], Available at: <<https://www.kmu.gov.ua/ua/diyalnist/yevropejska-integraciya/vikonannya-ugodi-pro-asociaciyu/zviti-pro-vikonannya-ugodi-pro-asociaciyu>>.
8. *Kabinet ministriv Ukrainy* (2019b), *Кабінет міністрів України* (2019b) *Звіт про виконання Угоди про асоціацію між Україною та Європейським Союзом за 2019 рік*, (2020) підготовлений Урядовим офісом координації європейської та євроатлантичної інтеграції Секретаріату Кабінету Міністрів України за сприяння проекту ЄС «Association4U» [Report on the implementation of the Association Agreement between Ukraine and the European Union for

- 2018], Available at: <<https://www.kmu.gov.ua/storage/app/sites/1/55-GOEEI/ar-aa-implementation-2019-4.pdf>>.
9. *Joint Communication* to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Eastern Partnership Policy beyond 2020 Brussels, 18.3.2020 Join (2020) 7 Final. Available at: <[https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/joint\\_communication\\_on\\_the\\_eap\\_policy\\_beyond\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/joint_communication_on_the_eap_policy_beyond_2020.pdf)>.
10. *Petrov R., Van Elsuwege P. What Does the Association Agreement Mean for Ukraine, the EU and Its Member States?* (2016) A Legal Appraisal (March 01, 2016). Het eerste raadgevend referendum. Het EU-Oekraïne Associatieakkoord (Montesquieu Institute, Den Haag), pp. 71-88, 2016, Available at: <SSRN: <https://ssrn.com/abstract=2779920>>.
11. *Petrov R. EU Common Values in the EU-Ukraine Association Agreement: Anchor to Democracy?* (2018) Baltic Journal of European Studies Tallinn University of Technology, 2018, Vol. 8, No. 1 (24) p.49-62.
12. *Akulenko (2018) Акуленко Л., Бовкун Н., Потапенко К. Непомітна асоціація: як Україна виконує Угоду з ЄС (2018) [An inconspicuous association: how Ukraine is implementing the Agreement with the EU]*, Available at: <<https://www.eurointegration.com.ua/articles/report-2018/>>.
13. *Berezovska I. (2017), Березовська І.А. Зона вільної торгівлі з ЄС як рушій європеїзації українського законодавства (2017) [Free trade zone with the EU as a driver of Europeanization of Ukrainian legislation]*, Журнал європейського і порівняльного права. № 5 / 1 (2017). С.41-58, Available at: <<http://journals.iir.kiev.ua/index.php/pravo/issue/current/showToc>>.
14. *Berezovska I. (2020), Березовська І. А. Практичні аспекти застосування норм права ЄС в законодавстві України на виконання угоди про асоціацію (2020) [Practical aspects of application of EU law in Ukrainian legislation to implement the association agreement]*, Журнал європейського і порівняльного права № 12 (1-2), 2020, С. 66-69, Available at: <<http://journals.iir.kiev.ua/index.php/pravo/issue/current/showToc>>.
15. *Blokman S. (2019), Блокманс С. 10-річчя Східного партнерства: три поразки ЄС та шанс на оновлення (2019) [10th Anniversary of the Eastern Partnership: three EU defeats and a chance for renewal]*, Available at: <<https://www.eurointegration.com.ua/articles/2019/05/13/7096046/>>.
16. *Shulha D. (2020), Шульга Д. Євроінтеграція-2020: що має стати пріоритетом у виконанні Угоди з ЄС. (2020) Європейська правда. – [European integration 2020: what should be a priority in the implementation of the Agreement with the EU]*, Available at: <<https://www.eurointegration.com.ua/articles/2020/01/13/7104931/>>.
17. *Proekt YeS “Pravo-Justice” (2020) Проект ЄС «Право-Justice» сприяє розвитку верховенства права в Україні у відповідності до європейських стандартів та кращого порівнюваного практичного досвіду (2020) [The EU Law-Justice Project promotes the rule of law in Ukraine in line with European standards and best comparable practical experience]*, Available at: <<https://www.pravojustice.eu/what-we-do>>.
18. *Spilna zaiava za pidsumkamy 22-ho Samitu Ukraina – YeS (2020), Спільна заява за підсумками 22-го Саміту Україна – ЄС (2020) [Joint statement following the 22nd Ukraine-EU Summit]* Офіційне інтернет-представництво Президента України, Available at: <<https://www.president.gov.ua/news/spilna-zayava-za-pidsumkami-22-go-samitu-ukrayina-yes-64321>>.
19. *Kachka T. (2019), Качка Тарас: Україна має перейти від торгівлі до економічної інтеграції з Євросоюзом (2019) [Ukraine must move from trade to economic integration with the European Union]*. Європейська правда, Available at: <<https://www.eurointegration.com.ua/interview/2019/09/16/7100792/>>.
20. *Uspikh samitu Ukraina-YeS (2020), Успіх Саміту Україна-ЄС вимагає подальшої активної роботи Уряду і Парламенту (2020) [The success of the EU-Ukraine Summit requires further active work by the Government and Parliament]*. Урядовий портал, Available at:

<<https://www.kmu.gov.ua/news/uspah-samitu-ukrayina-yes-vimagaye-podalshoyi-aktivnoyi-roboti-uryadu-i-parlamentu>>.

21. *Ukraine: MEPs call for results in fight against corruption and dismantled oligarchies*, (2020) Available at: <<https://www.europarl.europa.eu/news/en/press-room/20201105IPR90916/ukraine-meps-call-for-fight-against-corruption-and-dismantled-oligarchies>>.