

UDC 340: (477)+(4)
doi: 10.15330/jpnu.4.3-4.95-102

UKRAINE – EU: HISTORICAL AND LEGAL ANALYSIS OF EUROPEAN INTEGRATION

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Abstract. This article analyzes the European integration of Ukraine in the context of the processes of integration and globalization. The main attention is paid to the European Union law and laws of Ukraine and the interaction between them. Two processes have been distinguished: the integration of the legislation in the European Union and the adaptation of the Ukrainian legislation to the EU legislation.

Keywords: European Union, Ukraine, European integration, EU law, the law of Ukraine, integration, adaptation.

1. INTRODUCTION

European integration of Ukraine with the European Union is a historical and legal process and therefore requires professional historical and legal analysis. But by this time such an analysis was not carried out. The aim of this article is to fix this situation. This is the novelty, importance and significance of this historical and legal research.

Integration processes in modern society are the globalization processes. They appear in the spread implementation of common standards of life for a significant part of the world. Certain tools for integration process is the formation of the European Union (EU) and European integration political Ukraine (EIPU).

The European Union is a consolidated multinational formation; intergovernmental union of Europe, which with the help of the creation of a common market, economic and monetary union and by implementing common policies and activities intended to ensure social development and cohesion of member states. The EU is a dominant integration group in Europe, which consists of a supranational European Community and intergovernmental institutions that ensure cooperation in justice, internal affairs, development and implementation of the common foreign and security policy [1, p. 39].

At the same time the European Union has some typical features of both federation and confederation. Its nature can not be seen clearly because, on one hand, it is a global integrated entity resulting from coordinated activities of its member states, and on the other - the union that has federal features as it partly assumes certain areas belonging to the sovereign jurisdiction of countries [2, p. 11].

2. RESULTS OF INVESTIGATION

The author of the Concept of the United States of Europe is W. Churchill. In September 1946 he offered to create the union of European countries led by France and Germany, at the same time specifying his country to stay out of the union and take on the role of the observer. In May 1948 at the congress in the Hague Political Declaration was adopted, all European countries left the United States of Europe before to unite. For the implementation of this document on May 5, 1949 the Council of Europe was created - the first European organization of cooperation. The countries-founders of the Council of Europe were: Belgium, the United Kingdom, the Netherlands, Italy, Luxembourg, France and the Scandinavian countries. The objective of the Council of Europe was determined to strengthen democracy, human rights protection and maintenance of European cultural identity.

The beginning of European integration is considered to be May 9, 1950, when French Minister of Foreign Affairs Robert Schumann offered to create the common market of coal and steel production of France, Germany and other Western European countries ("Schumann Plan").

Schumann Plan aimed to create a new form of organization of countries in Europe as a "supra-national community". After the experience of two World Wars, France concluded that certain values such as justice and the rule of law can not be determined by only one state apparatus. This led to the creation of the organization of much more than just technical cooperation Community for coal and steel industries of France, West Germany, Italy, the Netherlands, Belgium and Luxembourg under the joint supreme authority. This offer led to the creation of European Coal and Steel Community. It also became the basis for the creation of several other European communities and what is now the European Union. This event is celebrated each year as Europe Day and Robert Schumann is considered one of the founders of the European Union.

April 18, 1951 "Schumann Plan" was implemented by signing the Treaty of Paris about the establishment of the European Coal and Steel Community (ECSC). The structure of the ECSC included: Belgium, Italy, Luxembourg, the Netherlands, Germany and France ("European Six"), which subsequently became the driving force of European integration. ECSC Treaty was enacted on 23 July 1952 [3, p. 45].

At the end of 1955 at the conference in Messina the countries of "European Six" have agreed on establishing the European Community of Atomic Energy (Euratom), and in early 1957 – on European Environmental Community (EEC). The purpose of the EEC defined sequential removal of internal trade barriers in the community. In 1968 there was completed the formation of a free trade area and custom union (the first two stages of integration) of EEC and at the end of 1969 – the formation of the common market (third stage of integration) EEC. In the early 70-ies of XX century the process of enlargement of the EEC started, and in 1973 members of the EEC were also the UK, Denmark, Ireland, in 1981 – Greece, in 1986 – Spain and Portugal [3, p. 46].

On February 7, 1992 in Maastricht, Treaty on European Union was signed, which entered into force on November 1, 1993 This agreement proclaimed the introduction of the common currency Euro and EU structure, based on the three pillars. The European Union joined the European Community and the other two foundations of political cooperation, common foreign and security policy and cooperation in justice and home affairs. Also it introduced the position of European Ombudsman, the European Data Protection Inspector, the Committee of the Regions, coherent joint decision-making procedure, and expanded the scope of qualified majority voting procedure.

First regulation within the European Communities mainly concerned problems in economy and trade. Among the government agencies European Commission and the European Court received the broadest powers. They were both formally independent from the governments of this community, with many powers within member countries. The founders of the European Union declared intention to further delegate the organization more authority in foreign policy, military and judiciary, which was reflected in the further evolution of the EU. The declared intentions faced the necessity of long-term agreements with the national governments.

Countries that signed the Maastricht Treaty, highlighted the five criteria for countries aspiring to join the EU (Maastricht criteria), the state budget deficit should not exceed 3% of GDP; public debt should be less than 60% of GDP; state for 2 years should be involved into the mechanism of exchange rates and maintain the exchange rate within a given range; inflation should not exceed 1.5% of the average value of the three EU member states with the most stable prices; long-term interest rates on the government bonds should not exceed 2% of the average value of the corresponding rates in the countries with the lowest inflation [4, p. 410].

Ukraine has declared its desire to join the Council of Europe on July 14, 1992. On September 16, 1992 the Verkhovna Rada of Ukraine was granted the status of “specially invited guest” in Parliamentary Assembly (PA) of Council of Europe, which allowed deputies of Ukraine to participate in PACE. Resolution (92) 29 from September 23, 1992 the Committee of Ministers of Council of Europe instructed PACE to prepare the summary on the readiness of Ukraine to join the Council of Europe under Statutory Resolution (51) 30 and on governmental level the main form of the cooperation was the participation of Ukraine in the working bodies of Committee of Ministers of the Council of Europe. Ukrainian experts were involved in the development of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

Prior to joining the Council of Europe Ukraine became a party to several conventions of this organization, in particular, the European Cultural Convention, the European Framework Convention on Transborder Cooperation between Territorial Communities or Authorities, the European Convention on Information on Foreign Law. In September 1995 Ukraine joined six Conventions of Council of Europe focused on the fight against crime. On September 15, 1995 Ukraine signed the Framework Convention for the Protection of National Minorities. During this period, the Council of Europe, including the European Commission “For Democracy through Law” (Venice Commission), held legal expertise of projects of certain articles of the new Constitution of Ukraine, the projects of the Family and the Administrative Code of Ukraine, the Law of Ukraine on local council elections.

Significant event in terms of completing complex and lengthy procedure of Ukraine's accession to the Council of Europe was the meeting of Committee of Ministers of the Council of Europe, held on October 19, 1995. Basing on the accepted on September 26, 1995 the judgment of the PACE Committee of Ministers of the Council of Europe the resolution to invite Ukraine to become a 37th member and to join its Statute. On October 31, 1995 the Parliament of Ukraine adopted the Law of Ukraine on the accession to the Statute of the Council of Europe.

On November 9, 1995 a solemn ceremony of Ukraine's accession to the Council of Europe was held, in which the delegation of Ukraine was headed by the Prime Minister of Ukraine. At the same time General Secretary of Council of Europe Daniel Tarschys and member of European Commission Hans van den Broek signed a joint program of the Commission of the European Communities and the Council of Europe to reform the legal system, local government and to improve law enforcement in Ukraine.

Having gained membership in the Council of Europe, Ukraine has undertaken a number of commitments in reforming current legislation on the basis of the norms and standards of the Council of Europe, in particular, to take the appropriate laws and to join a number of conventions. Thus the Council of Europe expressed its readiness to provide comprehensive expertise.

On January 1, 1995 the Finland, Austria and Sweden became the members of the European Union, and on October 2, 1997 the Amsterdam Treaty was signed (it came into force on 1 May 1999). Especially important was the consolidation in the Amsterdam Treaty of the so-called “general principles of European law”. Unlike the pre-existing principles of law (direct effect and priority of European law, subsidiarity), “general principles” had only doctrinal character. In the text of the Treaty of Amsterdam, they were treated as “principles which are common to the Member States”. The meaning of “general principles” was also quite versatile. They included the principles of liberty, democracy, respect for human rights and fundamental freedoms, the rule of law. But to justify their decisions the Court of Justice soon began to formulate new “general principles” - the principle of proportionality (government actions have to be strictly proportionate to the purposes and no more), the principle of legal certainty

(inadmissibility of retroactivity of the law), procedural principles (in the modality of “rights”: the right to legal help, the right to the confidentiality of information provided to the lawyers, the right to express your opinion) [5, p. 416].

The Amsterdam Treaty introduced the changes and amendments to Maastricht Treaty on European Union, the Rome Treaty on European Union EEC and Euratom, the ECSC Treaty. These changes concerned the powers and activities, as well as institutional mechanisms to ensure implementation of the goals set by the Maastricht Treaty. A special role in this was played by making the 1997 Schengen agreement on visa-free movement of citizens within the European Union. On February 26, 2001 the Treaty of Nice was signed, which made changes in the institutional mechanisms of the EU from the perspectives of its expansion. On January 1, 2002 common EU currency - the euro was introduced to cash flow, and ensured the transition to the formation of economic and monetary union of the EU - the highest stage of integration. The UK and Denmark refused to use the euro on its territory, and Sweden failed to recognize the necessary criteria for introducing the euro as defined by the Maastricht Treaty. Now the euro zone includes Germany, France, Italy, Spain, Belgium, Cyprus, Greece, Austria, Ireland, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia and Finland [3, p. 46–47].

Another manifestation of the integration processes in Europe, in addition to the formation of EU policy is the European integration policy of Ukraine. We can distinguish three main periods in the evolution of relations between Ukraine and the EU.

I period - before signing the Agreement on Partnership and Cooperation between Ukraine and the European Communities and their Member States – 1931–1994;

II period - from signing the Agreement on Partnership and Cooperation between Ukraine and the European Communities and their Member States - by adopting the agenda of the association - 1994 - 2009;

III period - preparing for initialing, signing, repatriation and implementation of the Association Agreement between Ukraine and the European Union - from 2009 to the present [6, p. 32].

For Ukraine, European integration is a way to modernize the economy, overcoming technological backwardness, attracting foreign investments and new technologies, create new jobs, improve the competitiveness of domestic producers, access to global markets, especially the EU market. Ukraine's intention to build relations with the EU principles of integration was first proclaimed in Parliament Resolution of 2 July 1993 “On the main directions of foreign policy of Ukraine”. It noted that “the prerequisite for successful implementation by Ukraine of its capabilities is its active and full-scale entry into the world community. Overcoming the crisis in society and paving their way in the world, Ukraine relies on its fundamental national interests, which are determined according to the principles, directions, priorities and functions of its foreign policy” [7, p. 379].

Current relations between Ukraine and the EU are based on broad political and international legal basis - the Partnership and Cooperation Agreement (PCA) between Ukraine and the EU signed on June 14, 1994. This agreement established partnership between the Community and its Member States on the one side and Ukraine on the other side. The objectives of this partnership are:

- to provide an appropriate framework for the political dialogue between the Parties, ensuring the development of close political relations;
- to promote trade, investment and harmonious economic relations between the Parties and thus to accelerate their sustainable development;
- to provide a basis for mutually advantageous economic, social, financial, civil, scientific, technological and cultural cooperation;
- to support the efforts of Ukraine to strengthen democracy and to develop its economy and complete the transition to a market economy.

The main principles of this agreement is respect for democratic principles and human rights as defined, in particular, in the Helsinki Final Act and the Paris Charter, as well as the principles of market economy, including those that were declared in the documents of the CSCE Bonn Conference, is the foundation of internal and external policies of the Parties and constitute an essential element of partnership and of this Agreement.

The parties consider important for the future prosperity and stability in the former Soviet Union that the newly independent states that emerged from the collapse of the Union of Soviet Socialist Republics (hereinafter called “Independent States”) to support and develop cooperation among themselves according to the principles of the Helsinki Final act of international law and in the spirit of good neighborly relations and will make every effort to support this process.

Taking into consideration what was mentioned above, the parties believe that the development of their relations should take into account the wish of Ukraine to maintain cooperative relations with other Independent States.

The Parties undertake to consider, especially after the further progress of Ukraine towards economic reforms, the additions of the relevant sections of this Agreement. The Cooperation Council may make recommendations to the Parties for such additions. The relevant amendments come into force only by agreement between the parties in accordance with their respective procedures. In 1998, the parties jointly consider whether circumstances allow and, in particular Ukraine's progress in implementing market economic reforms and existing economic conditions to start negotiations on a free trade zone.

The Parties undertake to examine together, by mutual consent, amendments that may be made to any part of the Agreement, taking into account changing circumstances, particularly in connection with Ukraine's accession to the GATT. The first such review will take place three years after the entry into force of the Agreement or when Ukraine becomes a Contracting Party to the GATT, depending on which of these events occurs first.

Parties establish among themselves a regular political dialogue that they intend to develop and intensify. This dialogue will accompany and consolidate the rapprochement between the Community and Ukraine, support the political and economic changes in this country and contribute to establish new forms of cooperation. Political dialogue:

- to strengthen the relations of Ukraine with the Community and thus with the community of democratic states. The economic convergence achieved through this Agreement will lead to more intense political relations;
- to bring together the positions of the international issues of mutual interest and thus enhance security and stability;
- to foresee that the Parties will try to cooperate on matters relating to the strengthening of stability and security in Europe, the observance of democratic principles, respect and promotion of human rights, particularly the rights of national minorities and, where appropriate, to hold consulting on relevant issues.

If necessary, the Parties will consult each other at the highest political level. At ministerial level political dialogue is conducted within the framework of the Cooperation Council referred to in Article 85, by mutual agreement and on other occasions.

Other procedures and mechanisms for political dialogue are created by Parties by establishing appropriate contacts, exchanges and consultations, particularly in the following forms:

- regular meetings at the level of senior officials between representatives of Ukraine and representatives of the Union;
- maximum use of diplomatic channels between the Parties including appropriate contacts in the bilateral as well as multilateral field, such as United Nations, OSCE meetings, etc.;
- a regular exchange of information on matters of mutual interest concerning political cooperation in Europe;
- any other measures that contribute to the strengthening and development of political dialogue.

Political dialogue at parliamentary level is within the Parliamentary Cooperation Committee, created under Article 90 of the Agreement [8, p. 203].

It is made for the initial period of 10 years and included cooperation in political, economic and humanitarian spheres, it is the legal basis for the gradual inclusion of Ukraine into the European integration process. Realization of the Partnership and Cooperation Agreement between the EU and Ukraine were complicated by almost four years process of its ratification by the parliaments of

European countries. The agreement officially came into force on March 1, 1998 when it was ratified by Portugal [9, p. 47].

The next step for Ukraine towards European integration aspirations was the Decree of the President of Ukraine on June 11, 1998 approving the strategy of Ukraine's integration into the EU, which defined the priorities of the executive power in the period up to 2007 in order to create the necessary conditions for Ukraine's membership in EU, on February 21, 2005 in Brussels at a special meeting of the Council focused on cooperation between Ukraine and the EU signed an action plan Ukraine - EU. Adaptation of Ukraine's legislation to the EU is getting closer to the modern Europe-an system of law that will ensure the development of political, business, social and cultural activities of citizens of Ukraine, the economic development of the country within the EU and contribute to the gradual growth of welfare of citizens, bringing it to the level prevailing in countries - EU members. Adaptation of the laws of Ukraine foresees reforming of its legal system and gradually bringing it in line with European standards and includes private, custom, labor, financial, tax laws, intellectual property laws, health and safety, protection of life and health, the environment, protection of customer rights, technical rules and standards, transport and other areas defined by the Agreement on partnership and cooperation. An important factor in reforming the legal system of Ukraine should be considered Ukraine's participation in the Council of Europe conventions that establish common for this organization and EU standards. Stages of the legal adaptation is the implementation of the Partnership and Cooperation Agreement, the conclusion of sectoral agreements, bringing the current legislation of Ukraine in line with EU standards, establishing a mechanism to adapt the draft acts of the Ukrainian legislation into line with EU norms [10, p. 3].

On June 16, 2009 in Luxembourg by the Cooperation Council between Ukraine and the EU there was approved Agenda Association (AA), which was designed to replace the action plan Ukraine - EU. It entered into force on November 24, 2009 by the procedure of mutual exchange of notes.

Twice (2012 and 2013) the document was amended with the aim to make the optimization.

During the 2007–2012 there were held 21 rounds of negotiations on the preparation of the Association Agreement between Ukraine and the EU. On November 11, 2011 in Brussels the final 21 round of negotiations on the Association Agreement was hosted, when all points of the Agreement were agreed. However, on November 21, 2013 the Government of Ukraine decided to suspend the process of preparation for the Association Agreement between Ukraine and the EU. At the Eastern Partnership Summit on November 28-29, 2013 the President of that time Viktor Yanukovich did not sign an agreement, what caused the appearance of Euromaidan. On March 6, 2014 in Brussels an emergency EU summit was held, which was devoted to Ukrainian political crisis, on which it was discussed the request of post-revolutionary authorities to sign the agreement as soon as possible.

There was found the compromise, which all participants of the summit agreed to support - the separation of the agreement into political and economic parts and to sign first the political part and then the economic part. After signing the political part of the Association Agreement between the EU and Ukraine on the Ukraine - EU Summit, which was hold on March 21, 2014, both sides signed an economic agreement on June 27, 2014 In some way the relations between Ukraine and the EU are based on the principle of "partial integration". This model does not include membership, but only progressive integration in which Ukraine voluntarily adapting its legislation to EU norms and standards. In the legal sphere of integration processes there are two main forms of integration - harmonization and adaptation. For EU members harmonization is inherent, while to Ukraine, the adaptation is inherent. Adaptation of Ukraine to the EU legislation is a priority component of Ukraine's integration into the EU. In the context of European integration the legislation of Ukraine is divided into primary and secondary. The first category includes laws that make the foundation and promote relations with the EU, the second - the law that develops and supports such cooperation or aimed at its implementation. Primary legislation is integration, so that should define common "rules of the game", and second - adaptation, aimed at achieving compatibility of legal systems [2, p. 14]. Having Agreement on Partnership and Cooperation, Ukraine undertook to adopt legislation in the 16 priority sectors. To do

this, Ukraine has adopted a number of legal documents, including the law “On State Program of Adaptation of Ukraine to the European Union”.

3. CONCLUSIONS

In order to create background for training legal framework for Ukraine's accession to the EU, on November 21, 2002 by Law of Ukraine the Concept of National Program of Ukraine's legislation to EU legislation was approved. Due to the offered concept on March 18, 2004 the Law of Ukraine approved the National Program of Adaptation of Ukraine to the EU legislation. On October 15, 2004 by the Cabinet of Ministers of Ukraine Coordination Council for Adaptation of Ukraine to the EU was established and on December 24, 2004 in the Ministry the State Department for Legal Adaptation was formed [1, p. 84–89].

Currently, the legal rules governing the legal framework of European integration are as follows; international instruments and agreements signed and ratified due to the legal procedure of Ukraine, laws of Ukraine, subordinate regulations, which include regulations, signed by the President of Ukraine etc. local level regulations.

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Received: 17.10.2017; **revised:** 14.11.2017.

У статті аналізується євроінтеграція України в контексті інтеграційних та глобалізаційних процесів. Головна увага звертається на право Євросоюзу і законодавство України та взаємодію між ними. Виокремлюються два процеси: інтеграція законодавства в межах Європейського Союзу і адаптація законодавства України до законодавства ЄС.

Ключові слова: Європейський Союз, Україна, євроінтеграція, право Євросоюзу, законодавство України, інтеграція, адаптація.