

Judicial and Legal Reform as an Element of Implementation of the EU-Ukraine Association Agreement in the Field of Justice

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The article considers distinctive features of the judicial and legal reform in Ukraine in the context of European integration processes, determines the key elements of the institutional mechanism in the implementation of the EU–Ukraine Association Agreement, outlines the main achievements and prospects in the reform of the judiciary in Ukraine.

Keywords: justice, judicial and legal reform, implementation, EU–Ukraine Association Agreement, European integration.

Teismų ir teisinė reforma kaip ES ir Ukrainos asociacijos susitarimo įgyvendinimo teisingumo vykdymo srityje elementas

Straipsnyje nagrinėjami Ukrainos teismų ir teisinės reformos skiriamieji bruožai Europos integracijos procesų kontekste, nustatomi pagrindiniai institucinio mechanizmo elementai įgyvendinant ES ir Ukrainos asociacijos susitarimą, išdėstomi pagrindiniai laimėjimai ir perspektyvos vykdant teismų sistemos reformą Ukrainoje.

Pagrindiniai žodžiai: teisingumas, teismų ir teisinė reforma, įgyvendinimas, ES ir Ukrainos asociacijos susitarimas, Europos integracija.

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Introduction

Ukraine's integration into the European space stands for securing gradual economic integration and enhancement of political association through political, social and economic, legal and institutional reforms and harmonization of the Ukrainian legislation.

The main aspects of the European integration are related to the development of new, reliable mechanisms of political stability and security, modernization of Ukraine's economy, foreign investment attraction and development of advanced technologies, increasing of the competitive ability of the national producer, securing of entry into the global markets, including the market of the European Union (hereinafter referred to as the EU).

The Association Agreement between Ukraine, as one party, and the European Union, European Atomic Energy Community and their Member States, as the other party (hereinafter referred to as the Association Agreement), that was signed in 2014 and fully came into effect on September 1, 2017, introduced an innovative stage in the EU–Ukraine cooperation. The Association Agreement fixes the main intentions of the parties to ensure gradual harmonization of the Ukrainian legislation with the EU *acquis* in accordance with the directions of cooperation, to create conditions for enhancing economic and trade relations leading to Ukraine's integration in the European Union's domestic market, to enhance international peace and safety as well as to join in effective multilateral and peaceful settlement of disputes, to strengthen cooperation in the fields of justice, freedom, and security, etc. One of the core goals of the association, declared in the Association Agreement, – enhanced cooperation in the field of justice, freedom and security, – aims to ensure the rule of law and respect for human rights and fundamental freedoms.

According to the first President of the European Council Herman Van Rompuy, Ukraine and the EU have signed 'a most advanced agreement of this sort the European Union has even concluded', aimed at 'gradual integration of Ukraine in the EU's domestic market'. Hence, the comprehensive nature of the Association Agreement concluded by Ukraine and the EU presupposes substantial challenges for its effective implementation, – both from the point of view of implementation policy, and from the point of view of development and implementation of an adequate mechanism of the Association performance coordination¹.

1. Institutional mechanism for the implementation of the EU-Ukraine Association Agreement

In order to achieve the goals declared in the Association Agreement Ukraine has established an institutional mechanism of the European integration process coordination. At the national level the above processes are coordinated by the Vice Prime Minister for European and Euro-Atlantic Integration of Ukraine. The Governmental Committee on European, Euro-Atlantic Integration, International Cooperation and Regional Development constitutes the platform for discussing decisions in the field of European integration. One of the core institutional structures involved in the implementation of the Association Agreement in terms of organizational, expert and analytical and information provision of the activity of the Cabinet of Ministers of Ukraine in the field of European and Euro-Atlantic integration is the Governmental Office for Coordination of European and Euro-Atlantic Integration, upgraded under Resolution of the Cabinet of Ministers of Ukraine No. 759 as of October 4, 2017 (amended)².

¹ The report on the implementation of the EU–Ukraine Association Agreement (for 2018). Electronic resource: <<https://eu-ua.org/sites/default/files/inline/files/association-agreement-implementation-report-2018.pdf>>.

² Resolution of the Cabinet of Ministers of Ukraine *On the Governmental Office for Coordination of European and Euro-Atlantic Integration* as of October 4, 2017, No. 759. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/759-2017-%D0%BF>>.

The core tasks of the Governmental Office for Coordination of European and Euro-Atlantic Integration include: coordination of the activities of executive authorities in the development and implementation of measures aimed at the implementation of the Association Agreement, control over the Association implementation and coordination of the process of harmonization of the Ukrainian legislation with the law of the European Union (EU *acquis*) as well as NATO's standards and recommendations.

An important stage, in terms of the implementation of the Association Agreement, was the constitutional reform which resulted in the enshrinement of the state's strategic course towards full-fledged membership of Ukraine in the European Union and competences of the core state institutions in the field of integration in the Constitution of Ukraine. Thus, the Law of Ukraine *On Amending the Constitution of Ukraine (on the Strategic Course of the State towards Full-Fledged Membership of Ukraine in the European Union and the North Atlantic Treaty Organization)* as of February 7, 2019 No. 2680-VIII, introduced amendments into the Constitution of Ukraine, that determine the fields of influence and state that the President of Ukraine shall be the guarantor of the implementation of the state's strategic course towards full-fledged membership of Ukraine in the European Union and the North Atlantic Treaty Organization, the Verkhovna Rada of Ukraine shall determine the principles of internal and external policy, implementation of the state's strategic course towards full-fledged membership of Ukraine in the European Union and the North Atlantic Treaty Organization, while the Cabinet of Ministers of Ukraine shall ensure implementation of the state's strategic course towards full-fledged membership of Ukraine in the European Union and the North Atlantic Treaty Organization³.

2. Priorities in the judicial and legal reform implementation

The Association Agreement has enshrined the main aspects of cooperation in the field of justice, freedom and security (Title III 'Justice, Freedom and Security')⁴. Within the above cooperation special attention is paid to the affirmation of the rule of law and solidification of the institutions of all levels in the field of administration in general and law-enforcement and judicial bodies in particular. The main goals of such cooperation between Ukraine and the EU are strengthened judiciary, its increased efficiency, ensuring of its independence and impartiality as well as an anti-corruption campaign.

A primary step for Ukraine was reform of the judiciary, aimed to enhance its efficiency. In 2015 the Decree of the President of Ukraine as of May 20, 2015 No. 276/2015 approved the Strategy of Reform of the Judicature, Justice and Related Legal Institutes for 2015-2020⁵. The above Strategy is supposed to result in the situation when the Ukrainian judiciary and related legal institutes will work being guided by the rule of law principle, efficiently, effectively and in a well-coordinated way, will become accountable to the citizens of Ukraine, free from any political influence as well as will meet the standards and best practices of the European Union. Priority tasks determined in the Strategy are to ensure independence, impartiality and fairness of judges, to optimize judicial governance and the system of judicial career promotion, improved professionalism of judges through ensuring of the functioning of the system of competitive judicial selection in accordance with the new system of staff

³ Law of Ukraine *On Amending the Constitution of Ukraine (on the State's Strategic Course towards Full-Fledged Membership of Ukraine in the European Union and the North Atlantic Treaty Organizations)* as of February 7, 2019 No. 2680-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/2680-19#n2>>.

⁴ The Association Agreement between Ukraine, as one party, and the European Union, European Atomic Energy Community and their Member States, as the other party, 2014, the city of Brussels. Electronic resource: <https://zakon.rada.gov.ua/laws/show/984_011/ed20151130>.

⁵ Decree of the President of Ukraine as of May 20, 2015 No. 276/2015 *The Strategy of Reform of the Judicature, Justice and Related Legal Institutes for 2015-2020*. Electronic resource: <<https://zakon4.rada.gov.ua/laws/show/276/2015>>.

efficiency management, improvement of the system of special training of judicial candidates, improved efficiency of justice and optimization of the competences of courts of different jurisdictions, revision of the structure of the Ukrainian judiciary in general through the establishment of clear criteria and mechanisms for distinguishing between judicial jurisdictions of administrative, commercial and trial (civil and criminal) courts, expansion of the means of alternative (out-of-court) dispute settlement, in particular, by way of practical introduction of the institute of mediation⁶, etc.

Further on, for the effective implementation of the Association Agreement the Action Plan on implementation of the Association Agreement with Ukraine, as one party, and the European Union, European Atomic Energy Community and their Member States, as the other party, has been developed, and it was approved by the Cabinet of Ministers of Ukraine as of October 25, 2017 No. 1106⁷. As the key priorities in the field of justice the following tasks and activities were determined: development of the new composition of the Supreme Court (ensuring of commencement of performance of their duties by the new composition of the Supreme Court of Ukraine); approval of the legislation on the High Anti-Corruption Court of Ukraine (ensuring participation in the development of the draft law on anti-corruption courts by the Council on the Judicial Reform as a consultative and advisory body affiliated with the President of Ukraine; elaboration of the draft law with the EU experts; ensuring of support of the draft law consideration by the Verkhovna Rada of Ukraine), holding of qualification assessment of the judicial staff (holding of qualification assessment of judges appointed for their office for a five-year term, whose mandate expired when their term of appointment was over, judges appointed for an indefinite term as well as judges who filed applications for the qualification assessment) before the Law of Ukraine *On Amending the Constitution of Ukraine (on Justice)* comes into effect; establishment and ensuring of the functioning of the Court Guard Service (establishment of the state institution ‘Court Guard Service’ and approval of a regulation on it), establishment and ensuring of the functioning of the State Investigation Bureau (development of draft regulatory acts related to the activities of the State Investigations Bureau); ratification of the Rome Statute of the International Criminal Court, etc. The Action Plan fixed clear indicators that will enable to exercise effective control over the process of implementation of the Association Agreement.

These were the first steps towards implementation of the Association Agreement in the field of justice.

3. The main achievements of the judicial and legal reform

Over the recent years the core activities related to the structure of the Ukrainian judiciary have been implemented by way of differentiation of judicial jurisdictions of administrative, commercial and trial courts. As far as the need to improve the structure of the Ukrainian judiciary is concerned, many researchers dealing with the problem have been expressing their opinions. In particular, S. Koroyed, I. Kresina, S. Prylutskyi indicated that the reform of the Ukrainian judiciary must be based on the idea of decentralization, according to which justice must be administered and performed locally, with due account of the maximum proximity to residents, as well as internal court specialization of its subsystems⁸.

⁶ Decree of the President of Ukraine as of May 20, 2015 No. 276/2015 *The Strategy of Reform of the Judiciary, Justice and Related Legal Institutes for 2015–2020*. Electronic resource: <<https://zakon4.rada.gov.ua/laws/show/276/2015>>.

⁷ Resolution of the Cabinet of Ministers of Ukraine as of October 25, 2017 No. 1106 *On the Action Plan on the Implementation of the Association Agreement with Ukraine, as one party, and the European Union, European Atomic Energy Community and their Member States, as the other party*. Electronic resource: <<https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>>.

⁸ KOROYED, S.; KRESINA, I.; PRYLUTSKYI, S. The Concept of the Reform of the Ukrainian Judiciary. *Court Appeal*, 2015, No. 3 (40), p. 15.

The main aspects of the instance nature of the judiciary were analyzed by O. Khotynska-Nor in the context of the judicial excellence concept⁹. Thus, the revised version of the Law of Ukraine *On the Judiciary and Status of Judges* as of June 2, 2016 No. 1402-VIII introduces transition to a three-tier system of courts: local courts, appellate courts and the Supreme Court, as well as fixes establishment of a new Supreme Court that would consider cases as a cassation court, and in cases envisaged by procedural legislation – as a trial court and a court of appellate instance¹⁰. In 2016 the Verkhovna Rada of Ukraine also passed the Law of Ukraine *On Amending the Constitution of Ukraine (on Justice)* as of June 2, 2016 No. 1401-VIII¹¹, that cancels the term of judicial appointment, introduces a termless office, increases age and professional census for judicial candidates, establishes a new procedure for the development of the High Council of Justice, according to which the majority in its composition will be made of judges elected by judges, establishes the procedure under which courts will be established and liquidated by the law, etc.

The Law of Ukraine *On Higher Anti-Corruption Court* No. 2447-VIII was adopted on June 07, 2018, and already in August 2018 there took place the stage of judicial staff development through placement of announcements about the competition for taking up the vacancies in the High Anti-Corruption Court and the Appellate Chamber of the Court. Since November 2018 the Public Board of International Experts started its activity. An important aspect is the financial independence of the High Anti-Corruption Court that will be able to independently plan its activity. In September 2017 a High Court on Intellectual Property Matters was established, and judges were selected. The High Qualifications Commission of Judges of Ukraine in October 2018 held the qualification assessment of the judicial candidates for 21 vacancies. Since November 2018 the State Investigation Bureau started its activities. The central office was developed on a competitive basis (126 investigators and 54 civil servants), the first criminal proceeding were initiated¹².

Priority measures for Ukraine in respect to implementation of the Association Agreement were the anti-corruption campaign and regulatory enshrinement of its mechanisms. Adoption of anti-corruption laws in October 2014 became a milestone that ensured development of the Anti-Corruption Strategy for 2014–2017 and the Action Plan as well as establishment of specialized anti-corruption bodies, viz.: the National Corruption Prevention Agency (NAZK), the National Anti-Corruption Bureau of Ukraine (NABU), the Specialized Anti-Corruption Prosecutor's Office (SAP), and the National Agency for the Detection, Search and Management of the Assets Obtained through Corrupt and Other Crimes (Agency for Asset Search/Return, ARPA). To ensure an effective anti-corruption campaign there is a need for independence of the above specialized institutions from political intervention, high professional competence and adequate material resources. Anti-corruption laws also presuppose amending of the Law of Ukraine *On the Prosecutor's Office*, the Civil Code, the Code of Ukraine on Administrative Offences, the Commercial Code, the Law of Ukraine *On the State Registration of Legal Entities and Sole Proprietors*, the Law of Ukraine *On Anti-Corruption*, the Law of Ukraine *On Civil Service* and the Code of Criminal Procedure of Ukraine. In particular, a considerable progress has been made in the criminalization of corrupt activity under the Criminal Code (unlike recognition of those issues as

⁹ KHOTYNSKA-NOR, O. The Concept of Judiciary Excellence for the Affirmation of Fair Justice in Ukraine in Accordance with the European Standards in the Overall Context of the Judicial Reform. *Court Appeal*, 2016, No. 4 (45), p. 9–10.

¹⁰ The Law of Ukraine *On the Judiciary and Status of Judges* as of June 2, 2016 No. 1402-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/1402-19#n1587>>.

¹¹ The Law of Ukraine *On Amending the Constitution of Ukraine (on Justice)* as of June 2, 2016 No. 1401-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/1401-19>>.

¹² Report on the implementation of the EU-Ukraine Association Agreement (for 2018). Electronic resource: <<https://eu-ua.org/sites/default/files/inline/files/association-agreement-implementation-report-2018.pdf>>.

administrative offences), recognition of the responsibility of legal entities for corruption, procedures of seizure and expropriation, access to information, public procurement, etc.¹³.

At the beginning of 2017 the EU in cooperation with Denmark launched a new program to overcome corruption in Ukraine. The budget of that three-year anti-corruption initiative makes up 16 mln. Euros. It consists of four components: establishment and development of institutions to fight corruption; strengthening of the parliamentary control; work with local authorities; support of public organizations and investigative reporters. Anti-corruption activities are also recorded in the Action Plan of the Council of Europe for Ukraine (2018–2021)¹⁴, that presupposes activities aimed at the enhancement of the capacity of the Ukrainian authorities to prevent corruption and to develop institutional capacities of law-enforcement bodies in holding investigations and bringing those guilty of corrupt crimes to account, as well as to reinforce current activities, for example, the ones related to training in the issues of responsibility of legal entities for corrupt crimes, as well as at the reinforcement of the current activities, for example, the ones related to trainings in the issues of responsibility of legal entities for corruption crimes, reinforcement of the system of asset declaration, foundation of transparent and responsible institutions, etc.

Resolution 2145 (2017) of the Parliamentary Assembly of the Council of Europe (PACE) *The Functioning of Democratic Institutions in Ukraine*¹⁵ points out an ambitious anti-corruption reform, but it also indicates that its implementation is slow. The above act sets the need for taking action in several different fields, viz.: holding monitoring of the e-declaration system, ensuring full-fledged work of the Specialized Anti-Corruption Prosecutor's Office, ensuring the functioning of the specialized anti-corruption court.

4. The prospects for the reform in the field of justice as the task within the framework of the Association Agreement implementation

The judicial and legal reform carried out over the recent years has left a number of unsolved issues in its wake, in particular the ones related to ensuring citizens' access to justice, their right to fair justice, real independence of judges. This is confirmed by an extremely low level of trust in the judiciary in Ukraine, illegal decisions of courts of all instances, absence of judges in courts of some regions of Ukraine, this preventing from securing the right of citizens to judicial protection. Researchers dealing with the study of problems in the field are of the opinion that adoption of the Law of Ukraine *On the Judiciary and Status of Judges* and introduction of respective amendments into the Constitution of Ukraine have not solved all the problems of justice in Ukraine, therefore it is necessary to establish primary measures of reforming the above domain¹⁶.

In the survey most (94%) respondents have mentioned corruption among judges as the main factor undermining trust in the judiciary. Other factors mentioned include dependence of judges on politicians

¹³ FOURTH EVALUATION ROUND. Corruption prevention in respect of members of parliament, judges and prosecutors. EVALUATION REPORT UKRAINE. Adopted by GRECO at its 76th Plenary Meeting (Strasbourg, 19-23 June 2017). Electronic resource: <<https://rm.coe.int/grecoeval4rep-2016-9-p3-76-greco-19-23-2017-/1680737206>>.

¹⁴ Action Plan for Ukraine for 2018-2021. Council of Europe, approved by the Committee of Ministers of the Council of Europe as of February 21, 2018 (CM/Del/Dec(2018)1308/2.1bisc). Electronic resource: <<https://rm.coe.int/coe-action-plan-for-ukraine-2018-2021-ukr/1680925bec>>.

¹⁵ Resolution 2145 (2017) of the Parliamentary Assembly of the Council of Europe (PACE) *The Functioning of Democratic Institutions in Ukraine*. Electronic resource: <<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23453&lang=en>>.

¹⁶ ORLEAN, A. Problematic Aspects of the Domestic Judicial Reform in the Context of European Standards. *The Journal of Eastern European Law*, 2018, No. 57, p.11.

(81%) and oligarchs (80%); judging in court case for money (77%); as well as mutual non-disclosure in the judiciary (73%)¹⁷.

The study conducted in May-June 2016 by *GFK Ukraine* within the USAID *Fair Justice* Project testifies to an extremely low level of trust in the judiciary (10% of the respondents) and prosecution bodies (11%). According to the study made by *Dragon Capital* and the European Business Association in September 2016, international investors consider mass corruption (the average figure being 8.5 points out of 10 possible) and insufficient trust in the judiciary (7.5 point) to be the most serious obstacles for investing into Ukraine.

The most positive steps the Ukrainian authorities should take to involve international investment, in investors' opinions, are re-loading of the judiciary through lustration of its current representatives and engagement of new judges (the average figure is 7.6 points out of 10 possible) as well as bringing of many officials and judges to account for corruption (7.4 points)¹⁸.

The High Qualifications Commission of Judges of Ukraine has been unable to complete the process of competitive selection of judges and their qualification assessment for more than two years. The qualification assessment procedure launched by the High Qualifications Commission of Judges of Ukraine in 2016 has not been completed yet, and only a half of judges of the whole judicial staff are considered to be the ones who have passed qualification assessment. The procedure of judicial selection to fill the vacancies, launched in 2017, is still ongoing. It is not clear for the society, experts, judges why the above processes last for so long and result in untimely fair judgments, long-lasting case consideration. The members of the High Council of Justice tend to delay the consideration of disciplinary complaints against actions of judges.

For the sake of solving the above problems that became evident in the course of the judicial reforms, amendments in the legislation have been declared¹⁹, and the following main activities are suggested: to develop the new composition of the High Qualifications Commission of Judges in accordance with the new rules; to establish the Commission on Integrity and Ethics affiliated with the High Council of Justice as a controlling authority for the members of the High Council of Justice, the High Qualifications Commission of Judges and judges themselves; to accelerate the consideration of disciplinary cases on judges; to reduce the composition of the Supreme Court by at least two times; to reduce the remuneration for judges of the Supreme Court, members of the High Council of Justice, the High Qualifications Commission of Judges; to lustrate the heads of the High Qualifications Commission and the State Judicial Administration.

The above developments may be referred to positive ones, however, there are some corrections to be made. Updating or so called reloading of the High Qualifications Commission, involving international experts, must be taking place simultaneously with updating of the current composition of the High Council of Justice. Development of the new composition of the High Qualifications Commission shall be performed in accordance with international legal standards, and the Commission should include not just lawyers but also other persons having an impeccable reputation and authority. Strict deadlines for the stages of judicial selection must be established. Changes related to increased transparency of decision-making during qualification assessment should be envisaged. Besides that, further implementation of the Association Agreement between Ukraine and the European Union shall be ensured, and further activities aimed at its implementation shall be secured, in particular, full-fledged functioning of the

¹⁷ FOURTH EVALUATION ROUND. Corruption prevention in respect of members of parliament, judges and prosecutors. EVALUATION REPORT UKRAINE. Adopted by GRECO at its 76th Plenary Meeting (Strasbourg, 19–23 June 2017). Electronic resource: <<https://rm.coe.int/grecoeval4rep-2016-9-p3-76-greco-19-23-2017-/1680737206>>.

¹⁸ *Ibid.*

¹⁹ Draft Law on Amending Some Laws of Ukraine on the Activities of Judicial Governance Bodies. Electronic resource: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66251>.

High Anti-Corruption Court, Judicial Guard Service, ratification of the Rome Statute of the International Criminal Court, implementation of the Strategy of Reform in the Judicature, Judiciary and Related Legal Institutes for 2015–2020.

Thus, the main thing is that the Ukrainian society has understood that the establishment of an independent judiciary constitutes a key priority for the successful implementation of all the reforms in the process of implementation of the EU–Ukraine Association Agreement.

References

National Legal Acts

1. Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони, 2014 року, м. Брюссель. Електронний ресурс [Ugoda pro asociatsiiu mizh Ukrainoiu, z odniei storoni, ta Evropeiskim Soiuzom, Evropeiskim spivtovaristvom z atomnoi energii i ikhnimi derzhavami-chlenami, z inshoi storoni, 2014 roku, m. Brussel. Elektronii resurs]: <https://zakon.rada.gov.ua/laws/show/984_011/ed20151130>. [The Association Agreement between Ukraine, as one party, and the European Union, the European Atomic Energy Community and their Member States, as the other party, 2014, the city of Brussels. Electronic resource: <https://zakon.rada.gov.ua/laws/show/984_011/ed20151130>].
2. 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)» від 7 лютого 2019 року № 2680-VIII. Електронний ресурс [Zakon Ukraini «Pro vnesennia zmin do Konstitutsii Ukraini (shchodo strategichnogo kursu derzhavi na nabuttia povnopravnogo chlenstva Ukraini v Evropeiskomu Soiuzi ta v Organizatsii Pivnichnoatlantichnogo dogovoru)» vid 7 liutogo 2019 roku № 2680-VIII. Elektronii resurs]: <<https://zakon.rada.gov.ua/laws/show/2680-19#n2>>. [Law of Ukraine *On Amending the Constitution of Ukraine (on the State's Strategic Course towards Full-Fledged Membership of Ukraine in the European Union and the North Atlantic Treaty Organizations)* as of February 7, 2019 No. 2680-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/2680-19#n2>>].
3. Закон України «Про судоустрій і статус суддів» від 2 червня 2016 року № 1402-VIII. Електронний ресурс [Zakon Ukraini «Pro sudoustrii i status suddiv» vid 2 chervnia 2016 roku № 1402-VIII. Elektronii resurs]: <<https://zakon.rada.gov.ua/laws/show/1402-19#n1587>>. [The Law of Ukraine *On the Judiciary and Status of Judges* as of June 2, 2016 No. 1402-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/1402-19#n1587>>].
4. Закон України «Про внесення змін до Конституції України (щодо правосуддя)» від 2 червня 2016 року № 1401-VIII. Електронний ресурс [Zakon Ukraini «Pro vnesennia zmin do Konstitutsii Ukraini (shchodo pravosuiddia)» vid 2 chervnia 2016 roku № 1401-VIII. Elektronii resurs]: <<https://zakon.rada.gov.ua/laws/show/1401-19>>. [The Law of Ukraine *On Amending the Constitution of Ukraine (on Justice)* as of June 2, 2016 No. 1401-VIII. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/1401-19>>].
5. Указ Президента України від 20 травня 2015 року № 276/2015 «Стратегія реформування судоустрою, судочинства та суміжних правових інститутів на 2015–2020 роки». Електронний ресурс [Ukaz Prezidenta Ukraini vid 20 travnia 2015 roku № 276/2015 «Strategiia reformuvannia sudoustroiu, sudochinstva ta sumizhnikh pravovikh institutiv na 2015–2020 roki». Elektronii resurs]: <<https://zakon4.rada.gov.ua/laws/show/276/2015>>. [Decree of the President of Ukraine as of May 20, 2015 No. 276/2015 *The Strategy of Reform of the Judicature, Justice and Related Legal Institutes for 2015–2020*. Electronic resource: <<https://zakon4.rada.gov.ua/laws/show/276/2015>>].
6. Постанова Кабінету Міністрів України «Про Урядовий офіс координації європейської та євроатлантичної інтеграції» від 4 жовтня 2017 р. № 759. Електронний ресурс [Postanova Kabinetu Ministriv Ukraini «Pro Uriadovii ofis koordinatsii evropeiskoi ta evroatlantichnoi integratsii» vid 4 zhovtnia 2017 r. № 759. Elektronii resurs]: <<https://zakon.rada.gov.ua/laws/show/759-2017-%D0%BF>>. [Resolution of the Cabinet of Ministers of Ukraine *On the Governmental Office for Coordination of European and Euro-Atlantic Integration* as of October 4, 2017 No. 759. Electronic resource: <<https://zakon.rada.gov.ua/laws/show/759-2017-%D0%BF>>].
7. Постанова Кабінету Міністрів України від 25 жовтня 2017 р. № 1106 «Про План заходів з виконання Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони». Електронний ресурс [Postanova Kabinetu Ministriv Ukraini vid 25 zhovtnia 2017 r. № 1106 «Pro Plan zakhodiv z vikonannia Ugodi pro asociatsiiu mizh Ukrainoiu, z odniei storoni, ta Evropeiskim Soiuzom, Evropeiskim spivtovaristvom z atomnoi energii i ikhnimi

derzhavami-chlenami, z inshoi storoni». Elektronni resurs]: <<https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>>. [Resolution of the Cabinet of Ministers of Ukraine as of October 25, 2017 No. 1106 *On the Action Plan to Implement the Association Agreement between Ukraine, as one party, and the European Atomic Energy Community and Their Member States, as the other party*. Electronic resource: <<https://www.kmu.gov.ua/ua/npas/pro-vikonannya-ugodi-pro-asociaciyu-mizh-ukrayinoyu-z-odniyeyi-storoni-ta-yevropejskim-soyuzom-yevropejskim-spivtovaristvom-z-atomnoyi-energiyi-i-yihnimi-derzhavami-chlenami-z-inshoyi-storoni>>].

8. Проект Закону про внесення змін до деяких законів України щодо діяльності органів суддівського врядування. Електронний ресурс [Projekt Zakonu pro vnesennia zmin do deiakikh zakoniv Ukraini shchodo diialnosti organiv suddivskogo vriaduvannia. Elektronni resurs]: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66251>. [Draft Law on Amending Some Laws of Ukraine on Activities of Judicial Governance Bodies. Electronic resource: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66251>].

International Legal Acts

9. Резолюція 2145 (2017) Парламентської асамблеї Ради Європи (ПАРЄ) “Функціонування демократичних інститутів в Україні”. Електронний ресурс [Rezoliutsiia 2145 (2017) Parlamentskoï asamblei Radi Evropi (PARC) “Funktsionuvannia demokratichnikh institutiv v Ukraini”. Elektronni resurs]: <<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23453&lang=en>>. [Resolution 2145 (2017) of the Parliamentary Assembly of the Council of Europe (PACE) *The Functioning of Democratic Institutions in Ukraine*. Electronic resource: <<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23453&lang=en>>].
10. План дій для України на 2018–2021 роки. Рада Європи, ухвалено Комітетом міністрів Ради Європи 21 лютого 2018 року (CM/Del/Dec(2018)1308/2.1bisc). Електронний ресурс [Plan dii dlia Ukraini na 2018–2021 roki. Rada Evropi, ukhvaleno Komitetom ministriv Radi Evropi 21 liutogo 2018 roku (CM/Del/Dec(2018)1308/2.1bisc). Elektronni resurs]: <<https://rm.coe.int/coe-action-plan-for-ukraine-2018-2021-ukr/1680925bec>>. [Action Plan for Ukraine for 2018–2021. Council of Europe, approved by the Committee of Ministers of the Council of Europe as of February 21, 2018 (CM/Del/Dec(2018)1308/2.1bisc). Electronic resource: <<https://rm.coe.int/coe-action-plan-for-ukraine-2018-2021-ukr/1680925bec>>].

Scientific Literature

11. КОРОЄД, С.; КРЕСІНА, І.; ПРИЛУЦЬКИЙ, С. Концепція реформування судової влади України. *Судова апеляція*, 2015, № 3 (40), с. 6–34. [KOROED, S.; KRESINA, I.; PRILUTSKII, S. Kontsepsiia reformuvannia sudovoi vladi Ukraini. *Sudova apeliatiiia*, 2015, № 3 (40), с. 6–34] [KOROYED, S.; KRESINA, I.; PRYLUTSKYI, S. The Concept of the Reform of the Ukrainian Judiciary. *Court Appeal*, 2015, No. 3 (40), p. 6–34].
12. ХОТИНСЬКА-НОР, О. Концепція вдосконалення судівництва для утвердження справедливого судочинства в Україні відповідно до європейських стандартів в загальному контексті судової реформи. *Судова апеляція*, 2016, № 4 (45), с. 6–16. [KHOTINSKA-NOR, O. Kontsepsiia vdoskonalennia sudivnitstva dlia utverdzhennia spravedlivogo sudochinstva v Ukraini vidpovidno do evropeiskikh standartiv v zagalnomu konteksti sudovoi reformi. *Sudova apeliatiiia*, 2016, № 4 (45), с. 6–16] [KHOTYNSKA-NOR, O. The Concept of Judiciary Excellence for the Affirmation of Fair Justice in Ukraine in Accordance with the European Standards in the Overall Context of the Judicial Reform. *Court Appeal*, 2016, No. 4 (45), p. 6–16].
13. ОРЛЕАН, А. Проблемні аспекти вітчизняної судової реформи в контексті Європейських стандартів. *Журнал східноєвропейського права*, 2018, № 57, с. 11–16. [ORLEAN, A. Problemni aspekti vitchiznianoï sudovoi reformi v konteksti Evropeiskikh standartiv. *Zhurnal skhidnoevropeiskogo prava*, 2018, № 57, с. 11–16]. [ORLEAN, A. Problematic Aspects of the Domestic Judicial Reform in the Context of European Standards. *The Journal of Eastern European Law*, 2018, No. 57, p. 11–16].

Reports of International Organizations and State Agencies

14. Звіт про виконання Угоди про асоціацію між Україною та ЄС (за 2018 рік). Електронний ресурс [Zvit pro vikonannya Ugodi pro asotsiatsiiu mizh Ukrainoiu ta ES (za 2018 rik). Elektronni resurs]: <<https://eu-ua.org/sites/default/files/inline/files/association-agreement-implementation-report-2018.pdf>>. [The report on the implementation

of the EU-Ukraine Association Agreement (for 2018). Electronic resource: <<https://eu-ua.org/sites/default/files/inline/files/association-agreement-implementation-report-2018.pdf>>].

15. FOURTH EVALUATION ROUND. Corruption prevention in respect of members of parliament, judges and prosecutors. EVALUATION REPORT UKRAINE. Adopted by GRECO at its 76th Plenary Meeting (Strasbourg, 19–23 June 2017). Electronic resource: <<https://rm.coe.int/grecoeval4rep-2016-9-p3-76-greco-19-23-2017-/1680737206>>.

Judicial and Legal Reform as an Element of Implementation of the EU-Ukraine Association Agreement in the Field of Justice

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S u m m a r y

The EU–Ukraine Association Agreement constitutes one of the strategic directions of transformations in the country, the aim of which is, in particular, to ensure the rule of law and respect for human rights and fundamental freedoms. The judicial and legal reform within the framework of the European integration processes is designed to secure the right of every citizen to fair trial. The determined priorities in the implementation of the judicial and legal reform are to ensure independence, impartiality and fairness of judges. An important achievement of the judicial and legal reform is establishment of the Supreme Court, the High Anti-Corruption Court as well as anti-corruption bodies like the National Anti-Corruption Bureau, the Specialized Anti-Corruption Prosecutor's Office, the State Investigation Bureau. The prospects of reform in the field of justice set the main tasks in the implementation of the Association Agreement related to the development of the new composition of the High Qualifications Commission of Judges in accordance with the international standards, increased transparency of decision-making in the qualification assessment of judges, setting of clear deadlines for selection of judges for their offices.

Teismų ir teisinė reforma kaip ES ir Ukrainos asociacijos susitarimo įgyvendinimo teisingumo vykdymo srityje elementas

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ES ir Ukrainos asociacijos susitarimas yra viena iš strateginių pertvarkos kryptų šalyje, kuria visų pirma siekiama užtikrinti teisinę valstybę ir pagarbą žmogaus teisėms ir pagrindinėms laisvėms. Atsižvelgiant į Europos integraciją, teismų ir teisinė reforma siekiama užtikrinti kiekvieno piliečio teisę į teisingą bylos nagrinėjimą. Įgyvendinant teismų ir teisės reformą, nustatyti prioritetai užtikrinti teisėjų nepriklausomumą, nešališkumą ir sąžiningumą. Svarbus teismų ir teisinės reformos laimėjimas yra Aukščiausiojo teismo, Aukštojo antikorupcijos teismo, taip pat antikorupcijos institucijų, tokių kaip antai Nacionalinis antikorupcijos biuras, Specializuota kovos su korupcija prokuratūra, Valstybinis tyrimų biuras, įsteigimas. Reformos teisingumo srityje perspektyvos nustatė pagrindinius uždavinius įgyvendinant Asociacijos susitarimą, susijusius su naujos sudėties Aukštosios teisėjų kvalifikacijos komisijos sukūrimu pagal tarptautinius standartus, didesniu sprendimų priėmimo skaidrumu įvertinant teisėjų kvalifikaciją, aiškių teisėjų atrankos (į jų pareigas) terminų nustatymas.