

THE ROLE OF FULFILLING THE OBLIGATIONS BY UKRAINE UNDER THE EU-UKRAINE ASSOCIATION AGREEMENT WITHIN ITS NEW STATUS OF A CANDIDATE STATE FOR EU MEMBERSHIP

Alla Fedorova*

Abstract: This article reviews the ability of the EU-Ukraine Association Agreement to remain the basic comprehensive document that regulates relations between Ukraine and the EU after Ukraine's obtaining the status of a candidate country for EU membership. The current role of the Association Agreement has been analysed through the lens of its dynamic character and Ukraine's obligations under it, including the implementation of a significant part of the EU *acquis* to Ukraine's national legal order.

Special focus has been given to the fulfilment of obligations under the Agreement and its effectiveness, especially through examples of comparing the potential results vs. the actual applicability of the implemented EU *acquis* which are listed in the annexes to the Agreement. Suggestions to increase the effectiveness of the implementation of the Agreement have also been made.

Keywords: EU-Ukraine Association Agreement, a candidate status for EU membership, EU *acquis*, obligations of Ukraine under the Association Agreement

INTRODUCTION

Ukraine has chosen the European path of development following its independence in 1991, enshrining European integration as the main foreign policy direction in various national legal acts, the culmination of which is EU membership. In 2019, amendments to the Constitution of Ukraine regarding “the strategic course of the state to acquire full membership of Ukraine in the European Union and the North Atlantic Treaty Organization”¹ were adopted, including the amendments of the Preamble with the statement of “the European identity of the Ukrainian people and the irreversibility of the European and Euro-Atlantic course of Ukraine,”² which reflected the aspirations of the people of Ukraine to be part of the EU and their readiness to fight for European values.

On June 23 2022, four months after the beginning of the Russian full-scale military aggression, Ukraine was granted the candidate status for EU membership as a reply to its official application submitted in the first days of the war. In the Opinion about Ukraine's

* Associate Professor, Alla Fedorova, Ph.D., Institute of International Relations of Taras Shevchenko National University of Kyiv, Kyiv, Ukraine, researcher in the Faculty of Law of the Charles University, Prague, Czech Republic during 2022. ORCID 0000-0003-3050-3146. The article was created with the support from the Faculty of Law of Charles University, Prague. The author would like to thank the Faculty of Law of Charles University for the opportunity to prepare the present article.

¹ 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 7.02.2019, № 2680–VIII. [The Law of Ukraine On Amendments to the Constitution of Ukraine (regarding the state's strategic course towards full membership of Ukraine in the European Union and the North Atlantic Treaty Organization)]. In: *zakon.rada.gov.ua* [online]. 7. 2. 2019 [2022-12-10]. Available at:

<<https://zakon.rada.gov.ua/laws/show/2680-19/ed20190221#n2>>.

² Constitution of Ukraine, 28 June 1996 with amendments. The Official Bulletin of the Verkhovna Rada of Ukraine, 1996, No. 30, Art. 141, Preamble.

perspective to become a member of the EU, the European Commission stressed the assessment of the Copenhagen and Madrid criteria for joining the EU, including “the ability of the country to assume the obligations of EU membership (EU *acquis*).”³ Replying to Ukraine’s application, the Commission also noted that fulfilment of obligations under the EU – Ukraine Association Agreement and Deep and Comprehensive Free Trade Area (DCFTA) by Ukraine was taken into account for the assessment of the current situation. Accordingly, two parts of the questionnaire on the application for membership were prepared for Ukraine: on the political and economic criteria and on the EU *acquis* chapters, which were transmitted to Ukraine on the 8th and 13th of April 2022 respectively. Ukraine managed to complete the questionnaire within a month, largely due to implementation of the Association Agreement,⁴ which covers many aspects of the questionnaire.

The Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (hereinafter – Association Agreement, Agreement) was signed in 2014 and entered into force in full in 2017. To date it is considered the main and the most significant document that regulates relations between Ukraine and the EU. Considering Article 1 of the Agreement, one of its aims is to establish conditions for “Ukraine’s gradual integration in the EU Internal Market...by...the progressive approximation of its legislation to that of the Union,”⁵ which “can lead to far-reaching integration into specific sections of the EU Internal Market.”⁶ Undoubtedly, the potential of the Agreement on approximation of Ukrainian legislation to EU *acquis* has been obvious, despite the different mechanisms of approximation enshrined in the Agreement and the lack of perspectives for EU membership.

The different aspects of this Agreement and its ambitious Deep and Comprehensive Free Trade Area have been scrutinised by Ukrainians and foreign scholars since the period of the negotiations of its elaboration in 2007, including the process of its implementation. However, Ukraine’s obtaining status of a candidate for EU membership raised questions about the role of the Association Agreement in Ukraine’s road toward EU membership as well as the necessity to discuss the issue of compliance with obligations, enshrined in the Agreement, along with the ways to increase the effectiveness of the Agreement’s implementation.

Consequently, the purpose of this article is to analyse if the Association Agreement continues to play the role of the framework that regulates EU-Ukraine relations as it had been before Ukraine obtained candidate status. Besides this, it focuses on the Agreement’s

³ European Commission, The European Commission recommends to Council confirming Ukraine, Moldova and Georgia’s perspective to become members of the EU and provides its opinion on granting them candidate status. Brussels. Press release. In: *European Commission* [online]. 17. 6. 2022 [2022-12-15]. Available at: <https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3790>.

⁴ The replies to the first part of the questionnaire have been presented on 17 April and to the second part on 9 May. See further details at European integration web portal. EU questionnaire to Ukraine and answers to it. In: *eu-ua.kmu.gov.ua* [online]. 17. 6. 2022 [2022-12-10]. Available at: <<https://eu-ua.kmu.gov.ua/istorii-uspi-khu/opytuvalnyk-yes-ta-vidpovidi-na-nogo-dlya-nabuttya-ukrayinoyu-statusu-kandydata-v>>.

⁵ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29.5.2014, p. 3–2137, Article 1 (d).

⁶ VAN DER LOO, G., VAN ELSUWEGE, P. The EU–Ukraine Association Agreement after Ukraine’s EU membership application: Still fit for purpose. In: *European Policy Centre* [online]. 14. 3. 2022 [2022-12-20]. Available at: <https://www.epc.eu/content/PDF/2022/Ukraine_DP.pdf>.

further possibility to play a crucial role during the process of fulfilling a candidate country's commitments and for the opening of negotiations on EU accession in conjunction with finding solutions on how to make implementation more effective.

I. THE EUROPEAN COMMISSION REQUIREMENTS FOR UKRAINE AS A CANDIDATE COUNTRY FOR EU MEMBERSHIP

The European Commission formulated seven key groups of requirements for Ukraine that should be fulfilled under candidate status: the reform of procedure of selection judges of the Constitution Court of Ukraine; finalisation of judiciary reform, inclusive of establishment of the High Qualification Commission of Judges of Ukraine; further fighting against corruption, selection and appointment of the Director of the National Anti-Corruption Bureau and head of the Specialised Anti-Corruption Prosecutor's Office; combat money laundering; implementation of Anti-Oligarch law; bringing Ukrainian legislation into accordance with EU audio-visual media standards; finalisation of legal reform on national minorities.⁷ Some of them seem to have debatable importance, e.g. the requirement on national minority legislation, but the vast majority of required steps have been prior communicated by the EU to Ukraine, such as judiciary reform and fighting corruption. At the same time all of them are necessary to be complied with to proceed to the next step – official negotiations.

Despite the obviously unfavourable conditions, Ukrainian government sets extremely ambitious goals for the fulfilment of its obligations till the end of 2022 for launching the process of preparations for the negotiations. This is a very valid approach, due to the statement in the Commission Opinion on Ukraine's application for membership of the European Union about evaluation of the status and the possibility to move towards EU membership based on the achievements, but it indicates that the EU can review the decision on the granting of candidate status taking into account the steps taken by the state in case the conditions for this status are no longer met.

Even if we were to presume that Ukraine quickly meets the requirements and receives the positive feedback from the Venice Commission on developed legislative amendments, would this mean the readiness of Ukraine for the negotiations with the EU?

The time period between obtaining the status of a candidate country for EU membership and the actual start of negotiations is normally quite long, not measured in months. For example, Montenegro applied for accession in 2006 and received candidate status two years later, had to wait for two more years till 2010 for the launch of the negotiation process; North Macedonia and Albania were granted the candidate status in 2005 and 2009 respectively, but the start of negotiations took place only in July 2022.⁸ Bosnia and Herzegovina submitted the official application to the EU membership in 2016, but had not obtained the Commission Opinion until 2019 and was granted the candidate status only in

⁷ European Commission, Commission Opinion on Ukraine's application for membership of the European Union. Communication from the Commission to the European Parliament, the European Council and the Council. Brussels, 17.6.2022 COM (2022) 407 final.

⁸ TIDEY, A. "Historic moment:" EU opens accession negotiations with Albania and North Macedonia. In: *Euronews* [online]. 19. 7. 2022 [2022-11-23]. Available at: <<https://www.euronews.com/my-europe/2022/07/19/historic-moment-eu-opens-accession-negotiations-with-albania-and-north-macedonia>>.

December 2022.⁹ Hence, this process is complicated enough and includes much “home-work” to be done by the candidate state before official launch of the negotiations.

In this context, it needs to be made clear that besides the fulfilment of the 7 blocks of requirements, which are being discussed a lot in Ukraine now, the implementation of the Copenhagen criteria also remains a key task. Moreover, one of the components of the Copenhagen requirements for EU membership is the implementation of EU acquis by the candidate state. Within negotiations, EU would determine the implementation and the ability of the state candidate to apply the entire scope of the EU acquis, and assess their compliance sector-by-sector in their national legal order. For the purpose of beginning negotiations, all EU acquis have been divided into 35 chapters,¹⁰ with each chapter being screened by the Commission, which can recommend to open negotiations for a chapter or indicate opening benchmarks that must be met by the state.¹¹ In 2020, a new methodology of the EU enlargement policy that prescribed the division of EU acquis in six thematic clusters with combination of several chapters was elaborated. This methodology was used by the European Commission in its Opinion on Ukraine’s application for membership in the EU, where the extensive coverage of EU acquis by the Agreement was highlighted.

1.2. The Association Agreement in the Commission Opinion on Ukraine’s application for EU membership

The European Commission underlined in its Opinion that alongside the assessment of Ukraine’s ability to meet the Copenhagen and the Madrid criteria, implementation of the EU-Ukraine Association Agreement has to be considered. Furthermore, the third part of its Opinion on Ukraine’s application for membership of the EU was devoted to the ability to achieve the obligations of membership, based on 2 elements: obligations under the Association Agreement, including Deep and Comprehensive Free Trade Area and its implementation, as well as “adoption, implementation and enforcement of the acquis outside” the Agreement.¹² In the conclusions, the Commission underlined that Ukraine has already begun the fulfilment of EU membership commitments within the Association Agreement that covered an “unprecedented amount of the EU acquis”.¹³

In this context, it is crucial to realise the real scope of obligations of Ukraine and compare the entire EU acquis with the obligations that Ukraine has already taken under the Association Agreement and, above that, has already complied with.

⁹ Candidate Status – Message of Head of EU Delegation to BiH and EU Special Representative in BiH, Ambassador Johann Sattler. In: *eeas.europa.eu* [online]. 15. 12. 2022 [2022-12-23]. Available at: <https://www.eeas.europa.eu/delegations/bosnia-and-herzegovina/candidate-status-%E2%80%93-message-head-eu-delegation-bih-and-eu-special_en?s=219>.

¹⁰ European Neighbourhood Policy and Enlargement Negotiations. In: *European Commission* [online]. [2022-12-20]. Available at: <https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en>.

¹¹ European Commission, Steps towards joining. Membership negotiations – in detail. In: *European Commission* [online]. [2022-12-21]. Available at: <https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/steps-towards-joining_en>.

¹² European Commission, Commission Opinion on Ukraine’s application for membership of the European Union. Communication from the Commission to the European Parliament, the European Council and the Council. Brussels, 17. 6. 2022 COM(2022) 407 final.

¹³ *Ibid.*

Roman Petrov underlined the correlation and near adequacy of Ukraine's legal obligations under the Association Agreement and extension of requirements for candidate states for accession.¹⁴ He notes that obligations under the EU-Ukraine Association Agreement are a part of Ukraine's current obligations as a candidate state and the effective implementation of those reasonably gives the opportunity to positively pass the screening process for a lot of chapters. According to Ukrainian specialists, the Agreement with its annexes encompasses from one-half to almost three-fourths of the whole EU acquis.¹⁵

Therefore, even before receiving the candidate status, due to the Association Agreement, Ukraine has already had the opportunity to start transposing a sufficient amount of the EU acquis in its national legal order.

II. THE NECESSITY OF THE UPDATING OF THE ASSOCIATION AGREEMENT ANNEXES

The role of the Association Agreement as the main document regulating Ukraine's relations with the EU is emphasised by the living, dynamic character of this document considering the possibility to amend its annexes. This is especially important considering the time of adoption of the Agreement, the text of which with all annexes was developed back in 2011. The numerous changes of the EU law that have been made since that time underline the obvious expediency of annexes review.

The power to update and amend the annexes, considering the development of the EU law, was expressly granted by the Agreement to the EU – Ukraine Association Council, which, in its turn, is able to delegate part of this power to the Association Committee. These provisions that regard the possibility to revise annexes and are enshrined, in particular, in Art. 463 of the Agreement, confirm the nature of the “dynamic approximation” of Ukrainian legislation to the EU law. In other words, changes to the EU law must be considered by mentioned structures in the context of the need to reflect them in the annexes and should be done almost automatically in case they are related to DCFTA. The Association Committee in Trade Configuration must be informed by the EU about all amendments to EU legislation in this sphere and decide within three months on the need to amend the relevant Annex.¹⁶ In 2019, the intention to revise the Association Agreement, taking into account “the status of cooperation” was enshrined in para. 4 of the Action Plan for implementation of the State's strategic course towards obtaining by Ukraine of the full

¹⁴ ПЕТРОВ, Р. Acquis ЄС. [Petrov R. Acquis EU]. In: *EDERA* [online]. [2022-12-7]. Available at: <<https://eu-agreement.ed-era.com/b1/p3>>.

¹⁵ СМІРНОВА, К. *Угода про асоціацію між Україною та ЄС : виклик оновлення у контексті статусу країни-кандидата. Тренінг. Україна – кандидат до вступу в ЄС: нові виклики та можливості*. 25-30 липня 2022, м. Київ. [SMYRNOVA, K. *The Association Agreement between Ukraine and the EU: the challenge of renewal in the context of the status of a candidate country. Training. Ukraine is a candidate for joining the EU: new challenges and opportunities*. July 25-30, 2022, Kyiv].

¹⁶ Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським Співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони, Додаток XVII. [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, Annex XVII.]. In: *zakon.rada.gov.ua* [online]. 30. 11. 2015 [2022-12-15]. Available at: <https://zakon.rada.gov.ua/laws/show/984_011/ed20151130#Text>.

membership in the European Union and in the North Atlantic Treaty Organisation that was adopted by the Presidential Decree on European and Euro-Atlantic integration matters.¹⁷

The list of revised annexes “to cover also more recent EU *acquis* than initially included in the Agreement” was also mentioned in the Commission Opinion on Ukraine’s application for membership of the EU.

The issue of revising and updating the Agreement was put on the agenda of the Ukraine-EU summit in 2020, the joint statement of which welcomed progress on updating the annexes to the Association Agreement on telecommunications, environment, climate, financial cooperation and other issues, e.g., Annex 30 to Chapter 6, Title 5 of the Agreement on the Environment stipulated the obligation of Ukraine to gradually adapt its legislation to the EU legislation, including Directive No. 2008/50/EC on ambient air quality and cleaner air for Europe within 3-5 years from the date of Agreement entering into force. The same term was provided for in Directive No. 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.¹⁸ However, in 2015 several Annexes to both Directives were changed by the new Directive¹⁹ that was adopted. Unfortunately, as of the end of 2022, no amendments were made to the relevant Annex of the Agreement. The regulation of some provisions of the EU law, enshrined in the Agreement annexes, has undergone changes several times. For example, according to Appendix 40, Ukraine has been given 3 years to implement Directive 96/34/EC on parental leave into national legislation.²⁰ However, a new Directive that replaced the specified one was adopted in 2010, preliminary to the finalisation of the preparation of the text of the Agreement. Afterward, in 2019, this issue was settled in Directive 2019/1158. To date, no changes were adopted concerning this obligation.

Therefore, despite different implementation mechanisms prescribed in the Agreement for its different parts, without the relevant revision of all Annexes, Ukraine finds itself at a crossroads in the matter of implementation of EU standards in its national legislation. Following the provisions of the Agreement, in some cases Ukraine has to implement EU norms that are no longer in force or, going beyond its obligations under the Agreement, bring its legislation into compliance with those EU standards that are valid at the time of elaboration of relevant national provisions by Ukraine.

¹⁷ Action Plan for implementation of the State’s strategic course towards obtaining by Ukraine of the full membership in the European Union and in the North Atlantic Treaty Organisation adopted by the Decree of the President of Ukraine, 20 April, 2019. No. 155/2019, para. 4.

¹⁸ Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським Співтовариством з атомної енергії і їхніми державами – членами, з іншої сторони, Додатки до розділу V. [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part. Annexes to the Title V]. In: *zakon.rada.gov.ua* [online]. 25. 10. 2022 [2022-12-16]. Available at: <https://zakon.rada.gov.ua/laws/show/984_a11#Text>.

¹⁹ Commission Directive (EU) 2015/1480 amending several annexes to Directives 2004/107/EC and 2008/50/EC of the European Parliament and of the Council laying down the rules concerning reference methods, data validation and location of sampling points for the assessment of ambient air quality.

²⁰ Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони. Додатки. [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part. Annexes]. In: *zakon.rada.gov.ua* [online]. 25. 10. 2022 [2022-12-13]. Available at: <https://zakon.rada.gov.ua/laws/show/en/984_a11?lang=en#Text>.

However, in the second case, the question arises about the possibility of reflecting such actions in the report on the implementation of the Agreement, providing necessary explanations. There is no unequivocal answer to this question, considering that several areas require going through all stages and gradually changing the legislation, while in others there is no need to implement outdated EU norms.

At the 2021 Ukraine-EU summit, the completion of negotiations on the revision of the annexes on financial cooperation (XLIV), telecommunications services, postal and courier services and international maritime transport (XVII) and the expectation of similar progress on a number of other approximation annexes on customs legislation (Annex XV), environment and climate (Annexes XXX-XXXI), audiovisual policy (Annex XXXVII), establishment and activities of companies, corporate governance, accounting and auditing (Annexes XXXIV, XXXV, XXXVI) and protection of consumer rights (Appendix XXXIX) was noted.²¹ Later that year the Ukrainian government announced the finalisation of revision of all annexes to the Association Agreement and preparation of corresponding drafts of updated annexes, which included all changes that have occurred in the EU law since the adoption of the text of the Association Agreement. Considering the situation in Ukraine after the beginning of the war, it should be noted that in 2021–2022 only four annexes were updated by decisions of the EU – Ukraine Association Committee in Trade Configuration: Annex XVII-3 (Rules applicable to telecommunication services), Annex XVII-4 (Rules applicable to postal and courier services), and Annex XVII-5 (Rules applicable to international maritime transport) to the Association Agreement²² in 2021; and Annex XV (Approximation of customs legislation) in 2022.²³ However, the procedure for adoption of amendments to the annexes by the Association Committee in Trade Configuration has its own features, provided for by Article 3 of Annex XVII. This article stipulates that in order to ensure legal certainty, the EU obliges to constantly inform in writing Ukraine and the Committee in Trade Configuration about all amendments to the EU legislation in this area. Then, the Committee has three months to introduce appropriate amendments to the relevant Annex, which Ukraine should enshrine in the national legislation within the period prescribed by the Committee. Alongside the Trade Committee, only a few of such decisions on updating were adopted by the Association Council itself.

Currently the revision process of all other annexes must be completed quickly due to Ukraine's willingness to prove the ability to maintain candidate status and readiness

²¹ Спільна заява за підсумками 23-го Саміту Україна – Європейський Союз від 12 жовтня 2021. [Joint statement based on the results of the 23rd Ukraine-European Union Summit, October 12, 2021]. In: *president.gov.ua* [online]. 12. 10. 2021[2022-11-26]. Available at: <<https://www.president.gov.ua/news/spilna-zayava-za-pidsumkami-23-go-samitu-ukrayina-yevropejsk-71037>>.

²² Decision No 1/2021 of the EU-Ukraine Association Committee in Trade Configuration of 22 November 2021 amending Appendix XVII-3 (Rules applicable to telecommunication services), Appendix XVII-4 (Rules applicable to postal and courier services) and Appendix XVII-5 (Rules applicable to international maritime transport) to Annex XVII to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part. In: *EUR-Lex* [online]. [2023-03-14]. Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A2021D2219>>.

²³ Decision No 1/2022 of the EU-Ukraine Association Committee in Trade Configuration of 25 October 2022 as regards the update of Annex XV (Approximation of customs legislation) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part [2022/2286].

to start the negotiation process without delay. Given the continuity of the process of approximation of Ukrainian legislation to EU standards, changes in EU law should be quickly reflected in the relevant annexes in the context of Ukraine's intention of a quick start of the negotiations.

III. IMPLEMENTATION OF THE EU – UKRAINE ASSOCIATION AGREEMENT

III.1. The current situation of implementation of the Association Agreement

According to the special monitoring of the Association Agreement's implementation, periodical assessment of the approximation process has been provided. Annually, Ukraine prepares and presents a report on the fulfilment of the commitments, including activities and measures taken for the Agreement's implementation and adopted legislative changes.

In this context, the different models of approximation enshrined in the Association Agreement for its different parts ought to be also taken into consideration. For example, in the sphere of DCFTA, implementation of some EU provisions is a prerequisite for further removal of barriers to trade;²⁴ in other words, only in case of complete and entirely positive fulfilment of some commitments, Ukraine would receive the access to the EU market. Another model is used mainly within Chapter V of the Agreement, devoted to sectoral economic cooperation, within which Ukraine itself decides how and to what extent it will carry out approximation, usually by adopting or amending the national legislation. It should be also stressed that in many cases, within the elaboration of changes to the national legislation, case-law of the Court of Justice of the European Union (CJEU), soft law and even the founding treaties of the EU should be taken into account.²⁵

Despite clearly defined time frames (2-10 years) for approximation of Ukrainian legislation to the EU law, prescribed in the Annexes to the Association Agreement, the Agreement does not establish sanctions for failing to meet the deadlines. In case of substantial non-fulfilment of crucial commitments, the Agreement could be terminated.

The process of fulfilling the obligations under the Agreement had commenced almost immediately after its official ratification by the Parliament of Ukraine and the European Parliament with the special Action plan of its implementation.²⁶ In addition to the Action plan, the Government of Ukraine has adopted a number of other specific legal acts for the

²⁴ EU-Ukraine Association Agreement. Guide to the Association Agreement. European Union External relation. In: *eeas.europa.eu* [online]. [2022-12-21]. Available at: <http://eeas.europa.eu/images/top_stories/140912_eu-ukraine-association-agreement-quick_guide.pdf>.

²⁵ Асоціація між Європейським Союзом і третіми країнами: сучасний стан і динамізм в умовах інтеграції та деінтеграції: монографія / К. В. Смирнова, О. В. Святун, І. А. Березовська та ін. – Київ: Київський університет. [Association between the European Union and third countries: current situation and dynamism under the conditions of integration and disintegration: monograph / K. V. Smyrnova, O. V. Sviatun, I. A. Berezovska and others. – Kyiv: Kyiv University] 2021, p. 221.

²⁶ Постанова Кабінету Міністрів України Про імплементацію Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським Співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони №847 – р від 17 вересня 2014 р. [Resolution of the Cabinet of Ministers of Ukraine on implementation the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, 847 – р, 17 September, 2014]. In: *zakon.rada.gov.ua* [online]. 17. 3. 2018 [2022-12-9]. Available at: <<https://zakon.rada.gov.ua/laws/show/847-2014-%D1%80#Text>>.

purpose of implementing different parts of the Agreement due to the various mechanisms and procedures of approximation of Ukrainian legislation with the EU law, according to their different goals.

Since 2017, all information about the status of the Agreement implementation updated quarterly is displayed on a special information portal “Pulse of the Agreement”. This data system has been developed by the Government of Ukraine in cooperation with the EU and is open to public access.²⁷ The system includes three types of indicators that encompass all 24 spheres of the Agreement: fulfilled obligations, overdue obligations, fulfilment at risk. Moreover, “the Pulse of the Agreement” includes the assessment of progress and number of commitments under another independent expert system of monitoring of the Agreement implementation – “Navigator”. Navigator system has been developed by the NGO “Ukrainian Center for European Policy” to display the quantitative and qualitative results of the implementation of the Agreement. This system has divided fulfilment of the commitments into 5 groups: implementation not started, perfect execution, early implementation, advanced implementation, critical discrepancy.²⁸ Considering the different methodology of assessment, the results may vary. For example, commitments in the sphere of intellectual property have an indicator of 61% in the Pulse system compared to 52% in the Navigator system; in the sphere of public procurements, commitments during all years are fulfilled at 88% according to the Pulse system and 81,4% under the Navigator system; in the taxation sphere 85% and 78,7% respectively etc. Such results could be easily explained by the fact that, in accordance with the Navigator system, monitoring is based on the status quo in July 2021²⁹ and further progress since the middle of 2021, even despite the war, has not been counted. On the contrary, in the social and employment sphere the results were opposite, with a score of 67,9% under the Navigator system and 50% according to the Pulse system.

Considering the governmental report in 2021, Ukraine completed 63% of its commitments on implementation of the Association Agreement and half a year later, in August 2022, the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine Olha Stefanishyna declared that almost 70% of all obligations under the Association Agreement are covered.³⁰

III.2. Implementation of the Association Agreement in practice

Sometimes rather positive indicators of assessment are disputable enough. Firstly, some minimal changes in national legislation that allowed implementation of several provisions of relevant EU legal acts could not be assessed as a positive result of approximation of

²⁷ Пульс Угоди. Моніторинг реалізації плану заходів з виконання Угоди. [Pulse of the Agreement. Monitoring of the implementation of plan for the implementation of the Agreement.]. In: *pulse.kmu.gov.ua* [online]. [2022-12-15]. Available at: <<https://pulse.kmu.gov.ua/>>.

²⁸ AA Navigator. How many obligations has Ukraine to fulfil according to the Association Agreement? In: *navigator.eurointegration.com.ua* [online]. [2022-12-15]. Available at: <<https://navigator.eurointegration.com.ua/>>.

²⁹ Ibid.

³⁰ Ukraine fulfilled almost 70% of its obligations under the Association Agreement with the European Union – Stefanishyna. In: *Ukrinform* [online]. 21. 8. 2022 [2022-12-16]. Available at: <<https://www.ukrinform.net/rubric-politics/3555222-ukraine-fulfilled-70-of-its-obligations-under-association-agreement-with-eu-stefanishyna.html>>.

national legislation to the relevant EU legal act, and neither could the inclusion of necessary amendments to the draft law that awaits adoption. Secondly, the actual application of the implemented EU standards to Ukrainian legislation is sometimes dubious in practice.

For example, all standards of EU antidiscrimination and equal opportunities legislation were included for approximation in Annex 40 to the Association Agreement, including Directives 2000/43/EC and 2000/78/EC. In 2018, the appropriate amendments were elaborated and adopted; consequently, it has been stated that implementation of these Directives to Ukrainian legislation has been provided to full extent. However, in 2021, analysing the fulfilment of commitments under Article 1 of the European Social Charter revised, the European Committee of Social Rights has found that the situation with the prohibition of discrimination in employment in Ukraine was not in conformity with para 2 Article 1 of the Charter. This negative assessment was made despite the indication in the national report 2020 that in 2015 the special act – the Law of Ukraine “On Amendments to the Code of Labour Laws of Ukraine on the Harmonization of Legislation in the Field of Prevention and Counteraction of Discrimination with the Law of the European Union” was adopted and any discrimination in the field of employment was thereby prohibited. The European Committee concluded that as it had already stressed before, Ukraine’s report had not provided information that the prohibition of discrimination in employment, including recruitment, was effectively applied in practice and only contained a description of the legislative provisions.³¹ Moreover, the Committee reminded Ukraine about its lack of amendments for the transfer of the burden of proof in discrimination cases and total lack of information about Ukrainian judicial practice in this matter, which could not amount to proof of absence of discrimination in the employment sphere. It should be stated that the aforementioned Directives have specific articles devoted to burden of proof,³² while there are no corresponding provisions in Ukrainian legislation. Nevertheless, the Pulse system of monitoring the process of Association Agreement implementation showed 100% fulfilment of this commitment.

Therefore, the question is whether the technical implementation of the Agreement and approximation to the EU *acquis* without mechanisms of application of these norms in practice would be grounds to consider the respective commitment fulfilled? Even if such amendments have neither resulted in application in practice, nor real changes?

In the end of 2016, a number of amendments were adopted to the concept of minimum wage³³ in the Law of Ukraine “On remuneration of labour” and the Labour Code of Ukraine. Among other changes, the provision on non-inclusion of the possible additional payments to the calculation of the minimum wage was cancelled and the minimum basic salary or tariff rate was set at an amount not less than the living wage established for per-

³¹ European Committee of Social Rights, Conclusions 2020. Ukraine. In: *rm.coe.int* [online]. March 2021 [2022-12-20]. Available at: <<https://rm.coe.int/ecsr-conclusions-2020-ukraine/1680a2dbec>>.

³² See Article 10 of Directive 2000/78/EC, Article 8 of Directive 2000/43/EC.

³³ See Law of Ukraine On remuneration of labour, adopted 24 March, 1995 No. 108/95-BP with amendments. In: *zakon.rada.gov.ua* [online]. 19. 8. 2022 [2023-03-14]. Available at: <<https://zakon.rada.gov.ua/laws/show/en/108/95-%D0%B2%D1%80?lang=en#Text>>; Labour Code of Ukraine No. 322-08, adopted 10 December 1971 with amendments, Art. 96. In: *zakon.rada.gov.ua* [online]. 14. 6. 2021 [2023-03-14]. Available at: <<https://zakon.rada.gov.ua/laws/show/en/322-08#Text>>.

sons who are able to work on January 1 of every calendar year (which is more than two times less than the minimum wage). Considering the prohibition of payment less than minimum wage, such provisions led to the same payments to employees of different qualifications (doctor and nurse, for example) and the possibility of manipulation by employers. Nevertheless, in 2017, according to the Pulse system and governmental report the concept of minimum wage was brought “into accordance with international norms and European practice”.

The two above mentioned examples could open serious debates about the practical realisation and consequences of application norms or legal acts which were adopted for fulfilment of Agreement obligations.

New drafts of the laws or legislative amendments elaborated and submitted to the Parliament are often considered to be 70–85% fulfilment of commitments of relevant EU standards and may remain unreviewed by the Parliament for years. It means that the 85% of obligations fulfilment score may mean much less in practice due to the drafts’ inclusion in such percentage.

Accordingly, if the indicated percentage of implementation of the Association Agreement could be checked easily, the situation of their application in practice would need a far more detailed scrutiny of both legislation and practice. Unfortunately, the current available monitoring systems include nothing but the status of the elaboration and adoption of legislative acts.

Nonetheless, the progress of implementation of the Association Agreement and, consequently, approximation of Ukrainian legislation to the EU *acquis* showed the entire readiness of Ukraine to obtain the status of a candidate for EU membership in the European Union; at the same time however, such a result is not enough for actual EU membership.³⁴

The European Commission stated in its Opinion on Ukraine’s application, that EU countries as well as Ukrainian civil society (through Association institutional mechanisms) are involved in the process of the Agreement implementation and, in general, Ukraine has reached different results: satisfactory progress of approximation in some areas, despite unevenness and often delays; while minimum achievements have been reached in others. Some areas have not been mentioned at all in the Commission Opinion. At the same time, the Commission stressed further comprehensive analyses of approximation of Ukrainian legislation to each chapter of the EU *acquis*, according to the process.³⁵ Certainly, proper implementation of the EU *acquis* into the national legislation is the first step in preparation for EU membership and related negotiations.

As Kseniia Smyrnova noted, there should be a thorough and systematic approach to the implementation mechanism of the Association Agreement as the most ambitious bi-

³⁴ КУРЕНКОВА, О. Статус кандидата до ЄС: що це змінить для України та чи допоможе закінчити війну. 17 червня 2022. [KURENKOVA, O. EU candidate status: what will it change for Ukraine and will it help end the war. June 17, 2022]. In: *suspilne.media* [online]. [2022-12-07]. Available at: <<https://suspilne.media/250831-status-kandidata-do-es-so-ce-zminit-dla-ukraini-ta-ci-dopomoze-zakinciti-vijnu/>>.

³⁵ European Commission, Commission Opinion on Ukraine’s application for membership of the European Union. Communication from the Commission to the European Parliament, the European Council and the Council. Brussels, 17. 6. 2022 COM(2022) 407 final, pp. 16–17.

lateral international treaty in Ukraine's history due to the potential effect its provisions may have for almost all spheres of Ukrainian society.³⁶

In the process of screening, the EU and member states do not necessarily have to agree with Ukraine's conclusions regarding estimation of fulfillment of commitments that have been made prior, especially taking into account their actual application.

In this context, Ukrainian judiciary is able to play a significant role in the increasing importance of the Association Agreement implementation in practice.

III.3. Association Agreement implementation by national judiciary

According to Article 9 of the Constitution of Ukraine, all international treaties ratified by the Parliament of Ukraine become part of the national legislation.³⁷ Moreover, despite the lack of direct recognition of the priority of international treaties in the Constitution, Article 19 of the Law of Ukraine “On the International treaties of Ukraine” stipulates that in case of collision, the norms of the relevant international treaty shall be applied.³⁸ Therefore, the Agreement, on one hand, became part of Ukrainian legislation and could be applied by Ukrainian judges, but, its character and direct force is still disputable due to the lack of specific provision about direct effect in the Agreement as well as the relevant provisions in Ukrainian legislation.

Ukraine has mostly fulfilled its commitments under the Agreement through legislative approximation according to EU acts listed in the Annexes, i.e., by adopting national legislation: laws, governmental resolutions etc. Delays of fulfilment of commitments under the Agreement, in particular timeframes for those listed in the Annexes of EU legal acts, do not change the status or character of these EU acts for Ukraine and hardly anyone would compare this situation with, for example, delays of transposition of Directives in EU countries. At the same time, some EU standards, provisions of Directives and Regulations have been incorporated in the text of the Agreement and could be freely applied by Ukrainian judges. Ukrainian judges have begun to apply the norms of the Agreement as norms of direct effect almost immediately after it entered into force. For example, in the judgement of the Supreme Court of Ukraine, adopted 4 July 2019, the Court highlighted that “...Article 198 of the Association Agreement can be applied as a norm of direct effect, as it establishes new standards for the protection of intellectual property rights. In addition, Chapter 9 “Intellectual Property” of Title 4 “Trade and Trade-Related Matters” of the Association Agreement does not provide a list of legislation and implementation timelines... The complainant's statement regarding the “uncertainty” of Article 198 of the

³⁶ Асоціація між Європейським Союзом і третіми країнами: сучасний стан і динамізм в умовах інтеграції та дезинтеграції: монографія / К. В. Смирнова, О. В. Святун, І. А. Березовська та ін. – К.: ВПЦ “Київський університет.” [Association between the European Union and third countries: current situation and dynamism under the conditions of integration and disintegration: monograph / K. V. Smyrnova, O. V. Sviatun, I. A. Berezovska and others. – K.: “Kyiv University”], 2021, p. 239.

³⁷ Constitution of Ukraine, 28 June, 1996, *The Official Bulletin of the Verkhovna Rada of Ukraine*, 1996, No. 30, Article 141, Article 9. In: *zakon.rada.gov.ua* [online]. 28. 6. 1996 [2022-12-07]. Available at: <<https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text>>.

³⁸ Law of Ukraine on the International treaties of Ukraine, No. 1906-IV, adopted 29 June, 2004. *The Official Bulletin of the Verkhovna Rada of Ukraine (BVR)*, 2004, No. 50, Art. 540, Article 19, § 2. In: *zakon.rada.gov.ua* [online]. 2004 [2022-12-02]. Available at: <<https://zakon.rada.gov.ua/laws/show/en/1906-15#Text>>.

Association Agreement is groundless, since this Agreement is part of the national legislation of Ukraine... ”³⁹

Analysing the practice of applying the provisions of the Agreement and providing examples of case-law of the Supreme Court, the judge of this Court, Raisa Khanova emphasised the readiness of Ukrainian judges for the qualitative application of the Association Agreement and readiness for integration with the EU with Ukrainian academics' assistance.⁴⁰

Ukrainian courts increasingly apply the Association Agreement. The District administrative court of Kyiv even considered the case of recognising as illegal and invalid the provisions of a separate resolution of the Ukrainian government and recognising as illegal the inaction of the Government regarding the implementation of the Association Agreement in terms of the implementation of Directives.⁴¹

However, the Association Agreement contains, as mentioned above, the provisions of the founding treaties of the EU, EU legal acts of the institutions of the European Union as well as a significant number of EU legal acts, listed in the annexes. During the process of their application, Ukraine, including national judges, should take into account the relevant practice of the EU in these areas and case-law of the Court of Justice of the EU. In 2014, the information sheet with the aim of unifying the approach to the application of references to the Association Agreement in judicial practice was adopted by the Supreme Administrative Court of Ukraine. The Court stated that, bearing in mind the European direction of Ukraine's development and the purpose of adopting the Law of Ukraine “On the National program for the adaptation of the legislation of Ukraine to the EU law”, as well as the entry into force of the Association Agreement between Ukraine and the European Union, the legal positions formulated in decisions of the European Court of Justice, can be taken into consideration by courts as arguments and considerations regarding the interpretation of the national legislation of Ukraine in accordance with the EU standards, but not as a legal basis (source of law) for the settlement of relations.⁴² At this time the first examples of applications under the case-law of the CJEU have appeared. Kseniia Smyrnova and Anton Monayenko, emphasising the importance of applying not only the Agreement but also the case-law of the CJEU, distinguished at least three main areas in which the application of the practice of the Court of Justice in the legal order of Ukraine is necessary: the protection of intellectual property, the rules of competition in the market, primarily in the area of the introduction of the mechanism of control and monitoring with

³⁹ Постанова Верховного Суду у складі колегії суддів Касаційного господарського суду у справі № 910/4947/18 від 4. 7.2019 [Judgement of the Commercial Cassation Court of the Supreme Court]. para.7.1.5., 7.1.6.

⁴⁰ ХАНОВА, Р., БАРИКОВА, А., Застосування положень Угоди про асоціацію на рівні касаційної інстанції. Судово-юридична газета. [KHANOVA R., BARIKOVA A. Application of the provisions of the Association Agreement at the level of the cassation instance. In: *Judicial and legal newspaper* [online]. 19. 10. 2020 [2022-12-01]. Available at: <<https://sud.ua/ru/news/blog/182464-zastosuvannya-polozhen-ugodi-pro-asotsiatsiyu-na-rivni-kasatsiynoyi-instantsiyi>>.

⁴¹ Рішення Окружного адміністративного суду міста Києва, справа № 810/1685/18 від 27. 2. 2019 [Judgement of the District Administrative Court of the city of Kyiv, adopted February 27, 2019, case No. 810/1685/18].

⁴² Вищий адміністративний суд України, Інформаційний лист від 18.11.2014 у справі № 1601/11/10/14-14. [Informational sheet of the Supreme Administrative Court of Ukraine, adopted 18. 11. 2014]. In: *6aas.gov.ua* [online]. [2022-12-10]. Available at: <<https://6aas.gov.ua/ua/law-library/info-sheets/45-2014/168-informatsijnyj-list-vid-18-11-2014-1601-11-10-14-14.html>>.

state aid to business entities, and state procurement.⁴³ They come to the conclusion that the Ukrainian courts have started the process of applying not only the provisions of the Association Agreement, but, above that, the practice of the CJEU. The importance of case-law of the CJEU for the proper implementation of the Agreement by Ukraine was also underlined by Yaroslav Kostyuchenko.⁴⁴

Indeed, the process has been started and since the selected parts of the Agreement entered into force, significant progress has been achieved in the sphere of application of the Association Agreement by Ukrainian judges. However, such examples are still rare. Identifying the main problems in the application of EU legislation, Roman Petrov noted the general unpreparedness of Ukrainian judiciary to apply and effectively implement the Association Agreement provisions in court judgements, which, according to him, is connected with a lack of understanding of the provisions of both the Agreement itself and EU legislation, its principles, doctrine, and case-law of the EU Court.⁴⁵

Therefore, it has to be admitted that application of the Association Agreement by Ukrainian judges in conjunction with EU legislation and case-law of the CJEU is extremely important. The quantity and quality of such references and application of the provisions of the Agreement as sources of law at the national level should be the trigger for authorities and for society on the necessity of effective implementation of the Agreement and importance of understanding the EU law, including the case-law of the CJEU. For this purpose, specialised trainings and programs must be organised for judges, public servants, lawyers, etc. Despite several initiatives within different international and EU projects, including several trainings for judges “Fundamentals of the Law of the European Union” and “EU competition law in the field of state aid in the EU” within the EU Project Pravo-Justice, no special attention is paid to the EU law within education and training programs for these categories of stakeholders, compared to for example various programs and courses related to the European Convention on Human Rights and the case-law of the European Court of Human Rights. To date, no training course on EU law is provided among the trainings of the National School of Judges of Ukraine yet. Considering the general attention to the EU in Ukraine and work on fulfilment of new obligations due to obtaining the candidate country status, the state policy in the educational sphere on the EU law should be changed as it had been after the ratification of the European Convention on Human Rights.

CONCLUSIONS

Following its independence, Ukraine has been gradually implementing its European integration direction of development towards the EU, and the authorities’ refusal to con-

⁴³ МОНАШКО, А., СМІРНОВА, К. Застосування практики ЄСПЛ та суду ЄС на прикладі адміністративного судочинства. *Юридична газета №8 (714)*. 28. 4. 2020. MONAYENKO, A., SMYRNOVA, K. Application of the practice of the ECtHR and the EU Court on the example of administrative proceedings. *Legal newspaper*. 2020, Vol. 8, No. 714.

⁴⁴ КОСТЮЧЕНКО, Я. Угода про асоціацію з ЄС у національному правопорядку України. *Підприємництво, господарство і право*, № 6, 2019, с. 354 KOSTYUCHENKO, Y. Association Agreement with the EU in the national legal order of Ukraine. *Entrepreneurship, economy and law*. 2019, No. 6, p. 354.

⁴⁵ ПЕТРОВ, Р. Що таке Acquis EC? [PETROV, R. What is Acquis EC]. In: *EDERA* [online]. [2022-12-10]. Available at: <<https://eu-agreement.ed-era.com/b1/p3>>.

tinue this strategic path in late 2013 led to a Revolution of Dignity, in which Ukrainians defended their societal choice. After the Revolution, the key document for regulation of the relations between the EU and Ukraine – the Association Agreement – was concluded, which became the biggest agreement that has ever been concluded by Ukraine. Roman Petrov and Golovko-Gavrysheva Oksana stressed that “with its entry into force, the EU-Ukraine Association Agreement became a lynchpin of economic and legal reforms in Ukraine.”⁴⁶ Undeniably, based on the “principles of political association and economic integration”, the Agreement led to gradual integration of Ukraine to the EU and has become a strategic bulwark for many internal reforms, the effectiveness of which strictly depends on the progress of its implementation.

However, this strategic agreement, the validity period of which has not been determined, has been seen as a long-term, dynamic document for the regulation of EU – Ukraine relations without a clear vision of further development of their relations and further steps of Ukraine’s approach to EU membership even in case of its maximum possible implementation, by reason of the total lack of provision about perspectives of membership in case of its realisation. Nevertheless, the Association Agreement has always been understood as a unique chance for Ukraine, which enshrined the general principles of cooperation between Ukraine and the EU, created a deep and comprehensive free trade zone with the EU, opened EU markets for Ukrainian business, having also a tremendous potential, including the possibility to obtain customs and industrial visa-free regimes,⁴⁷ and created the possibility to bring Ukrainian legislation into accordance with a significant part of the EU *acquis*. The Agreement once again confirmed European integration and European values as the main direction of development of Ukraine. Ukraine confirms its unalterable European integrational intentions even now, during the war.

Granting the status of a candidate state for EU membership has been an important political signal of support of Ukraine, which, nonetheless, should not give Ukraine false expectations for a quick start of official negotiations and, above that, for a quick accession without fulfilling the Copenhagen criteria and approximation of national legislation to the EU law.

The new status has triggered discussions about the role and importance of the Association Agreement too. Discussing the EU–Ukraine Association Agreement after Ukraine’s EU membership application, Guillaume Van der Loo and Peter Van Elsuwege stated that “EU–Ukraine Association Agreement remains the most appropriate instrument to develop their relationship further... can reorient it [Association Agreement] to new and more ambitious forms of political association and economic integration and accommodate it to a pre-accession context on the basis of a staged approach.”⁴⁸ Fully agreeing with this state-

⁴⁶ PETROV, R., GOLOVKO-GAVRYSHEVA, O. Resilience in the Context of the Implementation of the EU-Ukraine Association Agreement. *Kyiv-Mohyla Law and Politics Journal*. 2021, Vol. 7, p. 2.

⁴⁷ See Prime Minister: From October 1, customs visa-free regime with the EU will start, and next year – industrial. Governmental portal. Communications Department of the Secretariat of the CMU, 7 September 2022. In: *kmu.gov.ua* [online]. 7. 9. 2022 [2022-12-03]. Available at: <<https://www.kmu.gov.ua/en/news/premier-ministr-z-1-zhovtnia-zapratsiuiie-mytnyi-bezviz-iz-ies-a-nastupnoho-roku-promyslovyyi>>.

⁴⁸ VAN DER LOO, G., VAN ELSUWEGE, P. The EU–Ukraine Association Agreement after Ukraine’s EU membership application: Still fit for purpose. In: *European Policy Centre* [online]. 14. 3. 2022 [2022-12-10]. Available at: <https://www.epc.eu/content/PDF/2022/Ukraine_DP.pdf>.

ment, it should be added that after obtaining the candidate status by Ukraine the Agreement still continues to play the role of a cornerstone of internal reforms in different spheres and remains the unique dynamic document, proper implementation of which should help Ukraine with further steps to EU membership. Moreover, the EU-Ukraine Association Agreement is in the selected group of “integration-oriented agreements”, i.e., agreements including principles, concepts and provisions of EU law that are to be interpreted and applied as if the third State is part of the EU⁴⁹. It means that within the Association Agreement Ukraine had received all necessary tools for bringing national legislation to the EU acquis despite the absence of provisions on Ukraine’s accession in future.

In this context, the focus should be on the effectiveness of fulfilment of the obligations under the Agreement, notwithstanding the official statement of 70% compliance with the obligations. Three approaches to enhance the effectiveness were proposed.

Firstly, all annexes to the Agreement should be thoroughly revised according to the evaluation of the EU acquis since its adoption.

Secondly, attention should be given to the practical application of national legislation that was elaborated or changed under the Agreement and the extent and scope of such approximation. The criteria of the applicability of the relevant legislation in practice should be added to the monitoring systems of the Association Agreement implementation. The high rates of implementation, which can include law drafts, with ranges of 70–85% fulfilment score should be scrutinised. Therefore, it is necessary to carefully check the real percentage of fulfilled obligations with the involvement of independent experts in each field.

Thirdly, stimulation of applying the Agreement and EU law by Ukrainian judges, in particular through specialised programs and trainings on EU law and case-law of the CJEU, would substantially assist with practical implementation of the Agreement and approximation of Ukraine’s legislation to EU norms and standards.

To summarise, it is crucial to emphasise that the Association Agreement undoubtedly has a fundamental importance in Ukraine’s path to EU membership, the importance and role of which only increased in the context of acquiring the status of a candidate country. The main task today should be to focus not only on the number of fulfilled obligations, but also on their quality and the effectiveness of the provided changes in the national legislation.

⁴⁹ See: MARESCAU, M. Les accords d’intégration dans les relations de proximité de l’Union européenne. In: Claude Blumann (ed.). *Les frontières de l’Union européenne*. Bruxelles: Bruylant, 2013, pp. 151–92.