

THE LEGAL IMPLICATIONS OF EUROPEAN UNION ENLARGEMENT: A UKRAINIAN PERSPECTIVE



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Abstract

The acquisition of candidate status is highly valued by Ukrainian civil society, as it serves as a mechanism to build renewed momentum for reform. Over the past few months, the government and civil society have made a concentrated and successful effort to attain candidate status inside the European Union. From Kyiv's perspective, it can be argued that the Eastern Partnership has effectively accomplished its initial goals. Ukraine's willingness to embrace realignment or adopt new forms is contingent upon the attainment of demonstrable security benefits.

Ukraine's membership in the European Union (EU) offers several key advantages, including better trade prospects, ongoing implementation of reforms, and the opportunity for accelerated economic and social development. Ukraine's membership in the European Union would allow the country to achieve a degree of development similar to that of prominent European nations and to solidify its position within a union of economically advanced and politically independent states. Empirical data from numerous countries demonstrates that joining the European Union (EU) will bring several benefits to both the general population and businesses.

Keywords: enlargement, European union, Ukraine, agreement, reforms.

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1. Introduction

Being a European country, Ukraine's status provides it with new prospects for collaboration with the developed nations of the continent, thereby improving its worldwide standing within the context of international relations. Currently, the European Union consists of a total of 27 member states. Upon attaining the official status of an independent state in December 1991, Ukraine established diplomatic ties with the European Union. The determination of Ukraine's policy towards the European Union is established by the legislative framework outlined in the Law of Ukraine of 1 July 2010, titled 'On the Fundamentals of Internal and Foreign Policy'.¹

The results of European integration for Ukraine include the modernisation of the economy, bridging the technological divide, attracting foreign investment and advanced technologies, generating new employment opportunities, enhancing the competitiveness and productivity of domestic manufacturers, and gaining access to the global market, particularly the EU market. Ukraine, being a significant component of Europe, adheres to the prevailing paradigm of socio-economic progress employed by prominent European nations.²

Ukraine is required to adhere to the comprehensive body of EU legal norms referred to as the *acquis communautaire*. This criterion encompasses various aspects, including the quantitative aspect of the cohesion policy, adherence to democratic principles, and the fulfilment of specific requirements. Its primary objective is to facilitate the unhindered movement of goods and capital, enable the provision of banking, insurance, and investment services, and ensure the free movement of labour and the recognition of professional qualifications within the single market. This criterion serves to align the labour and social security laws within the system while governing competition and industrial policy, corporate law, the protection of industrial and intellectual property rights, as well as transport and telecommunications. The organisation establishes criteria for agricultural commodities, fisheries, and the control of environmental quality. Additionally, it safeguards the welfare of customers and promotes the coordination and advancement of education, science and research. The subject matter encompasses the Customs Union, the Schengen region, the Economic and Monetary Union, and exerts a substantial influence on the institutional advancement of the recently admitted member states of the European Union.³

Ukraine has had the status of a candidate for European Union membership since 23 June 2022. It is important to acknowledge that a nationwide poll was taken by the Sociological Group Rating on 14–16 January 2023. According to a recent survey, a significant majority of 87% of Ukrainians expressed their support for Ukraine's potential membership in the European Union, should a referendum be held. Conversely,

1 Law № 2411-VI of 1 July 2010 on the principles of domestic and foreign policy.

2 Могиль [Mohil], 2023, pp. 78–82.

3 Матюшенко [Matjusenko], 2015, p. 225.

a mere 3% of respondents opposed this idea, while 8% indicated that they would abstain from voting. The level of endorsement for NATO membership has had a notable resurgence, reaching its peak in recorded history. According to recent observations, a significant majority of 86% would express their support for this endeavour in a hypothetical referendum. Conversely, 3% would voice opposition, while 8% would abstain from voting. There is widespread consensus among representatives from various macro-regions, age cohorts, and income brackets in favour of accession to both the European Union (EU) and the North Atlantic Treaty Organisation (NATO). The results of the poll indicate that a significant majority, specifically, 85% of the respondents, express their support for the establishment of a military-political alliance comprising Ukraine, Poland and the United Kingdom. A total of 3% of individuals express opposition towards the aforementioned project, while 7% are indifferent. The concept of establishing a military-political alliance comprising Ukraine, Poland and Lithuania garners a favourable response from 80% of the individuals surveyed. A total of 6% oppose the establishment of such an organisation, while 9% exhibit a state of indifference. There is widespread support for the concept of military-political alliances with the aforementioned European nations across different regions, age and socio-economic groups.⁴ Ukraine stands as the sole nation to have attained EU candidate status while being embroiled in a state of armed conflict, with the expectation that the conflict will reach its resolution in the near future.

Before the incursion initiated by Russia on February 24th, Ukraine's EU strategy was characterised by the presence of two persistent themes. The ratification of the Association Agreement in 2014 brought about a notable change in the European Union's language, transitioning from a predominantly symbolic and normative focus on topics pertaining to prospective membership to a more pragmatic approach. The post-revolutionary political elites, who primarily support European integration, combined with a more capable civil society, directed their endeavours towards attaining a more extensive sectoral integration with the European Union. Concurrently, research presented empirical evidence of the widespread acknowledgment among Ukrainians of the highly improbable nature of achieving membership. An additional significant event was the escalating displeasure articulated by the Ukrainian leadership in relation to the European Union. Despite the notable advancements achieved by Ukraine in the implementation of reforms since 2014, the government exhibited a degree of hesitancy in earnestly evaluating proposals aimed at bolstering the Eastern

4 Підтримка вступу України до ЄС та НАТО практично одностайна серед українців [Support for Ukraine's accession to the EU and NATO is almost unanimous among Ukrainians] [Online]. Available at: <https://eu-ua.kmu.gov.ua/novyny/pidtrymka-vstupu-ukrayiny-do-yes-ta-nato-praktychno-odnostayna-sered-ukrayinciv-0> (Accessed: 29 June 2023).

Partnership framework. The plan known as the “Associated Trio”⁵ encountered reluctance among stakeholders in Brussels. The invasion led to a lasting change in the prevailing circumstances. The country of Ukraine has acquired a heightened level of importance as a strategic stronghold in the defensive endeavours of democratic Europe against the aggressive expansionist actions of Russia. The event outlined above presented Ukraine with a moral and strategic opportunity. The primary basis for Kyiv’s swift integration into the Union, similar to the time prior to 2014, was mainly rooted in normative principles. President Zelensky asserts that the granting of candidate status is considered fair, as Ukrainians are actively endangering their own existence in their pursuit of European ideas and rights.⁶ Ukrainian government officials saw enquiries pertaining to the advancement of judicial reforms or endeavours to address corruption as inappropriate “micro-arguments”. Concurrently, there is an evident rise in Kyiv’s level of confidence towards the European Union. The representatives of Ukraine believe that their nation is comparable to the larger member nations of the European Union. They present themselves as prominent figures within the region and assertively work as catalysts for implementing the Association Agreement.⁷

2. The historical stages of the signing of the Association Agreement between Ukraine and the European Union

The Maastricht Treaty⁸, also known as the Treaty on European Union, was signed on 7 February 1992 in Maastricht, the Netherlands. It subsequently became effective on 1 November 1993. The core elements of this concept encompass: a) transitioning from a singular internal market to achieving comprehensive economic and monetary integration; b) incorporating a social dimension into economic integration through the implementation of broad social policies; c) pursuing collective foreign and domestic policy initiatives. The European Council convened in Brussels on

5 The Foreign Ministers of Ukraine, Georgia and Moldova have established the Association Trio, a tripartite platform for enhanced cooperation on European integration, by signing a Memorandum. The document emphasises the European aspirations of the three EU associate partners and their ambitions to become members of the European Union. The Associated Trio reflects the clear position of our three European countries: Ukraine, Georgia and Moldova are an integral part of a united Europe and seek to join the European Union, the Minister of Foreign Affairs of Ukraine stressed. Kuleba, 2021.

6 Грузії, Республіки Молдова та України за підсумками 6-го Саміту Східного партнерства’ [Joint statement of the Heads of State/Government of the “Associated Trio” – Georgia, the Republic of Moldova and Ukraine following the results of the 6th Eastern Partnership Summit] [Online]. Available at: <https://www.president.gov.ua/news/spilna-zayava-glav-derzhavuryadiv-asocijovanogo-trio-gruziyi-72097> (Accessed: 29 June 2023).

7 Härtel, 2022.

8 The Treaty on European Union, 7 February 1992.

24–25 October 2002, during which the European Union’s expansion timeline and application deadlines were ultimately established. In May 2004, the European Union welcomed ten new member countries, namely, Estonia, Cyprus, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Hungary, and the Czech Republic. On 1 January 2007, Bulgaria and Romania became members of the European Union.⁹

Negotiations commenced in March 2007 between Ukraine and the European Union with the aim of reaching a new enhanced agreement to replace the existing Partnership and Cooperation Agreement. This initiative was undertaken in accordance with the Ukraine-EU Action Plan. During the Ukraine-EU summit held in Paris in September 2008, it was mutually decided by the parties that the forthcoming deal would be referred to as the Association Agreement, reflecting the anticipated enhancements and modifications. During the period from 2007 to 2012, a total of 21 negotiation sessions were held in connection with the Association Agreement, while the Deep and Comprehensive Free Trade Area chapter of the Agreement underwent 18 rounds of negotiations. The conclusion of discussions on the Association Agreement between Ukraine and the European Union was declared at the Ukraine-EU Summit on 19 December 2011. The scope of the European Union’s agreements with the countries of Central and Eastern Europe extends beyond mere bilateral arrangements. On 15 May 2013, the College of the European Commission made the decision to recommend to the EU Council the signing of the Agreement and its provisional application, pending the completion of ratification procedures by EU member states. The drafted Agreement was made available to the public on 9 August 2013 by publication on the Government Portal. An association agreement was concluded between Ukraine and the European Union in two stages. The signing of the political component of the Agreement and the last act of the summit took place on 21 March 2014 during an extraordinary meeting held between Ukraine and the European Union. At the Council of the European Union meeting held on 27 June 2014, the economic component of the Agreement¹⁰ was signed by President P. Poroshenko of Ukraine, the leadership of the European Union, and the heads of state and government from the 28 member states of the EU. The contents of this document encompass many parts pertaining to Justice, Freedom and Security, Trade and Trade-Related Matters, Economic and Sectoral Cooperation, and Financial Cooperation and Anti-Fraud Provisions. On 16 September 2014, the Verkhovna Rada of Ukraine and the European Parliament ratified the Association Agreement between Ukraine and the European Union simultaneously.¹¹

The Association Agreement signifies the most extensive international agreement ever established by the European Union with a non-member state,

9 Артьомов [Artyomov], 2007, p. 29.

10 Association Agreement, 27 June 2014.

11 Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand. The agreement was ratified by promulgation of the respective law.

including a diverse array of domains and containing significant substance. This proposal presents a novel framework for the bilateral relationship between Ukraine and the European Union, which is based on the concepts of political association and economic integration. Moreover, it functions as a strategic framework for the execution of significant socio-economic reforms in Ukraine. The Agreement aims to establish a complete and expansive free trade zone, and will create a legal framework to promote the unrestricted flow of products, services, capital, and to some extent, labour between Ukraine and the European Union. It additionally includes provisions for the adoption of regulatory measures with the objective of progressively aligning the Ukrainian economy with the common market of the European Union. As per the provisions outlined in Article 486 of the Agreement,¹² the interim application of the Agreement has been in effect since 1 November 2014 and will remain in force until its official implementation. The Association Agreement between Ukraine and the European Union was fully implemented on 1 September 2017, following an extensive ratification procedure.

3. Reforms required for Ukraine's integration into the European Union

Simultaneously, Ukraine and the European Union have entered into five agreements that serve to further our nation's progress towards accession into the European Union. These agreements also play a significant role in bolstering the stability of our state amidst the ongoing conflict with the Russian aggressor. An accord about Ukraine's involvement in the European Union's initiative, "Digital Europe" (2021–2027) has been reached.¹³ This falls within the framework of the European Union's digital visa exemption policy. The "Digital Europe" programme has been allocated a budget of 7.5 billion euros to facilitate the advancement of initiatives in five key areas: (1) supercomputing, artificial intelligence, cyber security, digital skills, and the widespread adoption of digital technology in the economy and society; (2) Agreement on the participation of Ukraine in the EU programme for cooperation within the customs domain.¹⁴ Commencing on 1 October, the European Union will implement a policy allowing customs clearance procedures to be conducted without the requirement of a visa. Following the formalisation of the Agreement,

12 Article 486 of the Association Agreement of 27 June 2014.

13 Agreement between Ukraine and the European Union on Ukraine's participation in the European Union programme "Digital Europe" (2021–2027). The agreement was ratified by Law No. 2926-IX of 23 February 2023.

14 Agreement between Ukraine and the European Union on Ukraine's participation in "Customs", the Union programme for cooperation in the customs sphere, Ukraine, Rules of 9 May 2022, ratified on 29 June 2023.

Ukraine will become a participant in the Customs programme with a substantial budget of about 1 billion euros. This initiative will facilitate the enhancement of the skill sets of our customs officers, enabling their active involvement in the advancement and use of European electronic systems; (3) Agreement on Ukraine's participation in the EU programme for cooperation in the tax sphere – *Fiscalis*.¹⁵ The State Tax Service of Ukraine will now have the capability to engage in information exchanges with counterparts from the European Union. The utilisation of contemporary European information technology systems presents a potential avenue for application within the realm of taxation; (4) the European Union has reached an agreement to allocate financial assistance in the amount of EUR 500 million to Ukraine. The allocated funds will be used to ensure accommodation for individuals who have been internally displaced, in addition to providing assistance to small-scale farmers in order to sustain and enhance their entrepreneurial endeavours; (5) an agreement has been reached wherein the European Commission will augment the budget allocated for grants to Ukraine by a sum of 122 million euros. This measure will facilitate the provision of financial support for Ukraine's priority projects and expedite its acquisition by enabling direct grant allocation to state authorities, local governments and public organisations. The inclusion of all five agreements in the two-year integration plan with the European Union represents a significant aspect, highlighting the exceptional support Europe lends to Ukraine amidst the ongoing conflict.¹⁶

In July 2022, an agreement was signed between the European Commission and the Ministry of Health concerning Ukraine's accession to the EU4Health programme.¹⁷ Ukraine has submitted applications for participation in seven grants intended for public institutions, namely, Joint Action grants. These projects collectively amount to a budget of over 205 million euros, allocated to the consortium of participating countries. The programmes commence in and the acquisition of funding from the European Union for their execution is scheduled for October–November 2023. These initiatives will be carried out by several entities within Ukraine, including the Ministry of Health, the Centre for Public Health, the State Expert Centre, the Ukrainian Centre for Transplant Coordination, and the State Enterprise “Electronic Health”. These initiatives will encompass the following domains: actions aimed at combating antimicrobial resistance, the prevention of cancer and other non-infectious diseases, the prevention of cardiovascular diseases and diabetes, as well as support for the integration of European Reference Networks (ERN) into the national health care systems. The present study focuses on the advancement of the EU regulatory network's capabilities in the domain of pharmaceutical products. This study aims to

15 Agreement between Ukraine and the European Union on the participation of Ukraine in the European Union programme for cooperation in the field of taxation “*Fiscalis*”, Ukraine, Rules of 5 September 2022, ratified on 29 June 2023.

16 To be in the European Union: when will negotiations on Ukraine's accession to the EU begin.

17 Agreement between Ukraine and the European Union on the participation of Ukraine in the “EU-4Health” programme. The Agreement was ratified by law.

test a novel methodology for assessing and approving revised protocols pertaining to the processing of donor blood, tissues and cells. Additionally, it seeks to enhance the utilisation of data within the electronic healthcare system and to execute interventions in the realm of global healthcare.

The agreement reached between Ukraine and the European Union pertains to Ukraine's involvement in the "EU4Health" programme.¹⁸ As of June 2023, the level of agreement implementation in the domain of health care has reached a rate of 71%. During the current year, two significant laws were enacted within the context of the Association Agreement with the European Union. These laws include the one on the Public Health System¹⁹ and a revised version of the law on Medicinal Products.²⁰

Noteworthy developments have occurred in the realm of blood donation, as evidenced by the government's implementation of a resolution that facilitates the automation of blood system procedures.²¹ This resolution specifically enables the expeditious acquisition of accurate data pertaining to blood requirements, thereby contributing to the efficient management and monitoring of national and regional blood reserves. These objectives are accomplished through the utilisation of electronic systems, namely eKrov (electronic blood) and Electronic health care system (EHCS). Furthermore, the Cabinet of Ministers has formulated and subsequently presented to the Parliament a draft piece of legislation aimed at enhancing accountability within the realm of blood donation and its constituent elements.²²

In August 2023, the Ukrainian Parliament passed a draft piece of legislation that pertains to the country's security and aims to incorporate EU standards into radiation protection, specifically addressing the impact of ionising radiation.²³

The Ministry of Health is making advancements in the internal review of laws to ensure conformity with European Union regulations. Now a significant proportion of EU directives, acts, agreements, and other actions pertaining to health care in the context of self-screening have been successfully reviewed, amounting to over 98% completion.²⁴

Agreement between Ukraine, on the one hand, and the European Union, on the other hand, on the participation of Ukraine in the European Union programme

18 Law № 2853-IX of 12 January 2023 on the ratification of the Agreement between Ukraine and the European Union on the participation of Ukraine in the "EU4Health" programme.

19 Law № 2573-IX of 6 September 2022 on the public health system.

20 Law № 2469-IX of 28 July 2022 on medicinal products.

21 CMU Resolution № 143 of 17 February 2023 on the creation of an information and communication complex of the blood system.

22 Draft Law № 9257 of 1 May 2023 on amendments to certain legislative acts of Ukraine on strengthening the liability for the violation of legislation in the field of donor blood and blood components.

23 Law № 3344-IX of 23 August 2023 on amendments to some laws of Ukraine regarding the protection of humans from the effects of ionizing radiation.

24 Ministry of Health: development of the approach to accession to the European Union, 2023.

“Single Market” (2021–2027):²⁵ the objectives of the “Single Market” programme are to improve the functioning of the internal market, and especially to protect and empower citizens, consumers and businesses, in particular micro, small and medium-sized enterprises (SMEs), by ensuring compliance with European Union legislation, promoting access to markets, setting standards and promoting human, animal and plant health and animal welfare by respecting and maintaining the principles of sustainable development and ensuring a high level of consumer protection, as well as to develop, produce and disseminate high-quality, comparable, timely and reliable European statistics, which underpin the development, monitoring and evaluation of all European Union policies and help citizens, politicians, authorities, enterprises, scientific circles and mass media to make informed decisions and take an active part in the democratic process.

It is important to acknowledge that the European Union plays a significant role in ensuring energy security. Under current circumstances, it is not feasible for any European nation to independently guarantee its own energy security. As our nation progresses along the path of EU membership, it is actively seeking the endorsement and safeguarding of its energy interests from prominent European nations. Upon its accession to the European community, Ukraine will no longer be solely regarded as a mere “transit territory” for the installation of pipelines to Europe.²⁶

Ukraine endeavours to attain the policy objectives outlined in the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. It encounters challenges and upholds the fundamental principles of democracy, the rule of law, respect for human rights, including equality among individuals, delicate equilibrium, and the freedom of expression and artistic autonomy. The agreement between Ukraine and the European Union regarding Ukraine’s involvement in the “Creative Europe” programme for the period 2021–2027.²⁷

4. The benefits of Ukraine’s membership in the European Union

- a) Political benefits: stability of the political system and adaptation of the national legislation to EU legislation, reform of the inefficient national judiciary, participation in European collective security and guaranteeing, with its help, the territorial integrity of Ukraine.

25 Agreement between Ukraine, on the one hand, and the European Union, on the other, regarding Ukraine’s participation in the European Union programme “Single Market” (2021–2027). The Agreement was ratified by Law № 3175-IX of 29 June 2023.

26 Павлюк [Pavlyuk], 2018.

27 The agreement was ratified by Law № 1963-IX of 15 December 2021.

- b) Economic benefits: macroeconomic stability, new sales markets for Ukrainian goods and additional investments in the Ukrainian economy, ensuring the development of medium and small businesses, implementing EU standards in production, increasing the competitiveness of domestic enterprises, subsidies to the degrading agricultural sector, reducing customs tariffs and achieving a positive trade balance.
- c) Social benefits: formation of the middle class, reform of education, social protection, effective protection of human rights in EU institutions, opening the borders for the free movement of people, more opportunities for education, work and recreation, and ensuring a high standard of living for the population.
- d) Cultural (ideological) benefits: the spread of Ukrainian culture in the EU countries, wide access to the information potential of the EU, etc. One of the prerequisites for the integration of new members into the European Union is a significant degree of development of the democratic institutions in the country seeking admission. In light of the decision to embark on the route of European integration, it is imperative for our state to make substantial efforts to ensure that Ukrainian citizens experience the advantages associated with European-style democracy.

In order to attain full membership in the European Union, Ukraine was required to undertake a series of duties, which include the reinforcement of anti-corruption measures, such as: (1) appointment of the heads of the Specialised Anti-Corruption Prosecutor's Office (SAP) and the National Anti-Corruption Bureau (NABU); (2) reform of the Constitutional Court of Ukraine; (3) the ongoing process of judicial reform in Ukraine encompasses several measures, such as the assessment of the integrity of individuals serving on the High Council of Justice (HCJ) and the careful selection of candidates for the High Qualification Commission of Judges (HCJC); (4) legislation aimed at countering oligarchy; (5) execution of measures to combat money laundering and to reform law enforcement; (6) enactment of a "Media Law" aligned with European audiovisual regulations; (7) the modification of legislation pertaining to national minorities.²⁸

President Volodymyr Zelensky expressed his commitment to ensuring the full implementation of all recommendations, emphasising the need for the European Commission to promptly commence the evaluation of Ukraine's progress in integration.²⁹ In the upcoming year, it is imperative to address the primary concern, which pertains to the commencement of membership discussions. The ability to meet the seven political criteria is what is needed to start negotiations with member states of the European Union. According to Prime Minister Denys Shmyhal, Ukraine aspires to be

28 Бурда [Burda], 2023.

29 Zelensky, 2022.

adequately prepared for engaging in negotiations over EU membership by the end of 2023, with the ultimate goal of attaining full EU membership by the end of 2024.³⁰

The European Union's implementation strategy entails the incorporation of necessary modifications into Ukraine's legislative framework and the development of procedures to effectively enforce this legislation. Let us now contemplate the alterations that have already been implemented, as well as the forthcoming transformations that lie ahead for Ukraine in its pursuit of accession to the European Union.

4.1. Strengthening the fight against corruption

A great deal of effort has gone into this step. Today, Ukraine has a fairly large anti-corruption infrastructure. A number of anti-corruption bodies have been created, namely:

- a) the Higher Anti-Corruption Court of Ukraine;
- b) State Bureau of Investigation;
- c) National Anti-Corruption Bureau of Ukraine;
- d) National Agency for the Prevention of Corruption;
- e) National Agency of Ukraine for the identification, search and management of assets obtained from corruption and other crimes;
- f) Specialised Anti-Corruption Prosecutor's Office.

The announcement of Ukraine's progress in combating corruption was made by the President of the European Commission herself. Nevertheless, occasional grievances arise over the efficacy of these establishments, which are entrusted with the task of combating corruption. It is noteworthy that the implementation of a comprehensive set of measures aimed at combating corruption is deemed to be highly important. Primarily, it is imperative to enact modifications to the existing legislation. The Criminal Code of Ukraine and the Law on the Prevention of Corruption in Ukraine are inconsistent in several regards, resulting in an inefficient prosecution process for individuals involved in corruption offences. Furthermore, the adoption of electronic service delivery by governmental entities has the potential to dampen the prevalent issue of corruption in certain areas. This measure prevents the proliferation of corruption, as it effectively reduces the level of engagement between government officials and the general populace. Ukraine has made significant progress in this particular endeavour. Nevertheless, the process of addressing corruption is a complex undertaking that necessitates a comprehensive evaluation of the behaviours exhibited by both public officials and individuals. Additionally, it requires a fundamental reconsideration of the detrimental impact that corruption inflicts upon the functioning of the state.

30 Радіо Свобода [Shmyhal], 2023.

4.2. Implementation of the Constitutional Court reform in Ukraine

Reforming the Constitutional Court of Ukraine is also a crucial measure, both for Ukraine's EU membership and for the country as a whole. In 2016, constitutional reform was implemented in Ukraine. The Law on the Constitutional Court of Ukraine was enacted already in 2017.³¹ Each appointing authority, including the President of Ukraine, the Verkhovna Rada of Ukraine, and the Congress of Judges, is required by this law to hold a separate competition for the appointment of judges. However, information about the changes and circumstances did not produce the desired outcome. In a ruling in October 2020, the Constitutional Court of Ukraine abolished criminal liability for failing to submit or falsifying electronic declarations. This decision nearly resulted in the loss of Ukraine's visa-free status. It led to citizen discontent and the so-called "crisis of the Ukrainian Constitutional Court".³² In order to prevent errors in the operation of the Constitutional Court of Ukraine, a thorough screening and the competitive selection of judges are necessary.

In a notable development, the European Commission proposed to uphold Ukraine's standing as a potential candidate for EU membership through the introduction of a rigorous selection process for judges of the Constitutional Court of Ukraine. Law No. 3277-IX³³ of Ukraine, which pertains to the competitive selection process for candidates seeking the position of judge in the Constitutional Court of Ukraine (CCU), came into effect on 20 August 2023. Consequently, Ukraine has successfully implemented one of the primary suggestions put forth by the European Commission for maintaining its status as a candidate for European Union membership, securing its position as the foremost candidate among the seven candidate nations. The significance of this event lies in its impact on the European integration process of Ukraine. The enactment of this law signifies the adoption of a novel mechanism for the selection of justices to the Constitutional Court, aligning with the proposals put forward by the Venice Commission. Indeed, the competition is scheduled to take place with the assistance of an Advisory Group of Experts specifically set up for this purpose. Assessing the moral attributes and professional aptitude of candidates for the position of justice of the Constitutional Court is their responsibility. During the period of transition, the DGE will comprise six individuals who possess expertise in the relevant field. Specifically, one representative will be selected by the President, the Verkhovna Rada, and the Council of the Judiciary (in lieu of the Congress of Judges), while the Cabinet of Ministers will appoint a member based on the recommendation of the Venice Commission. Additionally, two further members will be designated by international organisations that have been advising Ukraine on this

31 About the Constitutional Court of Ukraine: Law № 2136-VIII of 13 July 2017.

32 Шембель [Shembel], 2022.

33 Law № 3277-IX of 27 July 2023 on amendments to some legislative acts of Ukraine regarding clarification of the provisions on the competitive selection of candidates for the position of judge of the Constitutional Court of Ukraine.

matter. Competitions for available positions within the Constitutional Court are expected to be launched in the near future, in accordance with the revised protocol. Indeed, the process of the DGE (Directorate-General for Education) typically exceeds a duration of one month, as stipulated by the legislation. Furthermore, it is expected that within a one-month timeframe, the Verkhovna Rada and the Council of Judges will officially declare the commencement of the process for individuals interested in applying for the position of judge in the Central Administrative Court. Upon the transmission of candidate information to the DGE, a period of about five months will be allocated for the evaluation of candidates' fulfilment of the criteria of high moral characteristics and a recognised degree of competence. It is important to acknowledge that the KSU comprises a total of 18 judges. Six judges are appointed by the President, the Verkhovna Rada, and the Congress of Judges. It is important to acknowledge that there are now five unoccupied seats within the KSU. Specifically, three of these seats are allocated according to the Verkhovna Rada quota, while the remaining two seats are designated for the Congress of Judges. Consequently, the newly enacted legislation will enable the process of filling empty seats in accordance with the revised procedure.

4.3. Judicial reform

For Ukraine to attain full membership in the European Union, it is imperative that the country persists in the process of reforming its judiciary legislation. The process of judicial reform was initiated in Ukraine in 2016.³⁴ The current reform of the judicial power in Ukraine represents the most significant undertaking in the nation's history since gaining independence. The proposed reform encompassed modifications to the Constitution of Ukraine and the establishment of many additional entities. The Strategy for the Development of the Justice System and Constitutional Judiciary for the period of 2021–2023 has been endorsed by a Decree of the President of Ukraine.³⁵ This strategy outlines the fundamental principles and objectives for the continued and sustainable operation and advancement of the justice system, with due consideration given to the most exemplary international standards and practices. The objective of the strategy for the enhancement of the justice system is to identify the primary orientations and priorities for the ongoing improvement of Ukraine's legislation pertaining to the judicial system, the status of judges, and the judiciary's relationship and interaction with other justice institutions. This aims to effectively establish the principle of the rule of law, ensure efficient and equitable justice, and reinforce the functional framework for organising judicial authorities in accordance with the human rights safeguards and values enshrined in the Constitution of Ukraine and Ukraine's international legal commitments.

³⁴ Law № 1402- of 2 June 2016 on the judicial system and the status of judges.

³⁵ Decree of the President of Ukraine №231/2021 on the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021–2023.

The selection process for candidates to fill posts within the High Council of Justice (HCoJ) was finalised by the competition commission in March 2023.³⁶ The HCoJ, at present, comprises a total of 17 individuals, all of whom adhere to the established criteria of professional ethics and integrity. Between 9 November 2021 and 31 March 2023, the Ethics Council held a total of 101 interviews. These interviews involved 111 candidates who were being considered for membership in the HCoJ, as well as 4 current members of the HCoJ. It is noteworthy that on 13 July 2021, the Verkhovna Rada passed legislation concerning the reinstatement of the Higher Qualification Commission of Judges of Ukraine (HQCJU) operations.³⁷ The HQCJU tournament commenced in September 2021, experienced a six-month hiatus in 2022 due to the Russian invasion, and concluded on 15 March 2023. The competition commission, comprising a significant proportion of internationally recognised specialists, conducted a rigorous selection process to identify 32 individuals from a pool of 301 participants. In June 2022, the European Commission stipulated the establishment of a new Voluntary Cooperation and Convergence Unit (VCCU) as a prerequisite for Ukraine to commence negotiations regarding its potential accession to the European Union subsequent to obtaining candidate status. On 1 June 2023, a total of 16 individuals were appointed as members of the Supreme Judicial Council by the Supreme Council of Justice, chosen from a pool of 32 pre-selected applicants.³⁸

The initiative to enhance the efficiency of the court network was launched in the year 2021. Despite the significant alteration in plans resulting from the extensive invasion, completion of the operation had been originally slated for 1 January 2023. The growth in the number of courts unable to dispense justice was primarily attributable to the occupation of a portion of Ukraine's land. Consequently, the temporary modification of territorial jurisdiction resulted in a higher workload for other courts.

The Unified Judicial Information and Telecommunication System was inaugurated in January 2019. The implementation of automation in court systems can lead to the gradual streamlining of many operations. These include the gathering and processing of statistical data, the centralised storage of materials, automation of case distribution, utilisation of video conferencing, and the facilitation of document circulation among case participants. Among the 18 modules comprising the system, a total of 8 were initially intended for deployment. However, due to undisclosed factors, only three subsystems, including the "Electronic Cabinet", the "Electronic Court", and the "Video Conferencing Module" have been successfully implemented as of the year 2021.

36 'The Supreme Council of Justice' [Online]. Available at: <https://hcj.gov.ua/page/misiya> (Accessed: 29 June 2023).

37 Regulations of the Higher Qualification Commission of Judges of Ukraine. Decision № 81/3п-16 of the Higher Qualification Commission of Judges of Ukraine of 13 October 2016 was approved.

38 The list of members of the Higher Qualification Commission of Judges of Ukraine as at 1 June 2023.

During the implementation of judicial reform, it is imperative to underscore additional issues of equal significance that require resolution in the immediate future. The establishment of the Service of Disciplinary Inspectors inside the HCoJ is deemed necessary.

One of the primary responsibilities mandated by legislation for the Government Regulatory Panel is to ensure judicial accountability through the assessment of its findings. Furthermore, this pertains to the 2016 judicial reform plan aimed at establishing the High Court on Intellectual Property. The process of competitively selecting judges for the Court, which commenced in 2017, remains ongoing and has not yet come to an end.³⁹

4.4. Anti-Oligarchy Law

The steps necessary for Ukraine to attain full membership status in the European Union were partially completed in 2021. Law No. 1780-IX⁴⁰ was endorsed by the Verkhovna Rada of Ukraine, and subsequently ratified by the President, with the aim of mitigating risks to national security arising from the undue dominance of influential persons with substantial economic and political clout within the public sphere, sometimes referred to as oligarchs. This legislation establishes regulations aimed at diminishing the impact of the oligarchy on both the economic and political domains of the nation. This measure seeks to safeguard large corporations against the influence of politicians who exploit their economic leverage for the purpose of advocating for their own interests. This legislation encompasses a multitude of definitions, including the precise delineation of the term “oligarch” as well as the set of criteria employed to ascertain the classification of certain individuals. The criteria cover the following aspects: active engagement in political affairs, substantial impact on mass media, being the ultimate beneficial owner of a company, and possessing proven assets valued at more than one million times the subsistence minimum for able-bodied individuals. An individual may be classified as an oligarch if they satisfy a minimum of three conditions. Nevertheless, this legislation has numerous deficiencies and contradictions, rendering it ineffectual. An illustrative example is the identification of the parameters based on which an individual is classified as an oligarch. These factors are often perceived as a potential danger by many individuals, especially international investors. In June 2022, the President of

39 'Наступні кроки судової реформи: які вони?' [The next steps of judicial reform: what are they?] [Online]. Available at: https://lb.ua/blog/pravo_justice/552223_nastupni_kroki_sudovoi_reformi_yaki.html (Accessed: 29 June 2023).

40 Law № 1780-IX of 23 September 2021 on the prevention of threats to national security associated with the excessive influence of persons who have significant economic and political weight in public life (oligarchs).

Ukraine issued a decree authorising the establishment of the Register of Oligarchs.⁴¹ The establishment and maintenance of the Register of Oligarchs was mandated by the Council of National Security and Defence of Ukraine. The register will contain data pertaining to individuals who satisfy the conditions stipulated by the relevant legislation of Ukraine. Hence, in order to facilitate the advancement of Ukraine within the European Union, it is imperative to enhance the anti-oligarchy legislation, address existing discrepancies therein, and refine the mechanisms for identifying individuals classified as oligarchs.

4.5. Endeavours to combat money laundering

In order to progress towards European Union membership, Ukraine must prioritise the enhancement of its anti-money laundering legislation to comply with the established benchmarks set forth by the Financial Action Task Force (FATF).⁴² Implementation of this necessitates modifications to the existing legislative framework of Ukraine. The detection of dark money in politics poses a complex challenge, without a straightforward answer. However, Ukraine should consider enhancing transparency in political party financing and media ownership, while also adopting a proactive approach to combating money laundering. According to Carpenter, hacking, disinformation, and dark money are the primary mechanisms employed by foreign entities to meddle in political processes.⁴³

A.V. Bazylyuk defines “laundering” as the act of transforming funds acquired through fraudulent methods, such as price manipulation, infringement upon the genuine proportions of barter exchange, use of bills, securities, property relations, and many forms of illicit transactions. The observation reveals that in this particular scenario, engaging in illegal activities is regarded only as one of several methods of acquiring illicit earnings.⁴⁴ This perspective contributes to an excessively expansive interpretation of the legal parameters encompassed within this definition of criminal law.⁴⁵ V.M. Popovych makes a notable distinction between the processes of shadow capital cleanup and legalisation. The former pertains to the coverage of any actions or omissions committed by owners of “real funds of illegal origin” or “fictitious funds” acquired through the issuance of fictitious financial instruments. It also covers actions or omissions by employees of credit institutions, other financial

41 Decree of the President of Ukraine №459/2022 of 29 June 2022 on the decision of the National Security and Defence Council of Ukraine concerning the approval of the regulation on the register of persons who have significant economic and political weight in public life (oligarchs), the order of its creation and management.

42 FATF recommendations, international standards for combating money laundering, terrorist financing, and the proliferation of weapons of mass destruction, methodology for assessing compliance with FATF recommendations and the effectiveness of anti-money laundering and countering terrorist financing systems, rules and procedures of the 5th round of mutual evaluations by the moneyval.

43 Бедратенко [Bedratenko], 2018.

44 Базилюк [Baziljuk], 2002, pp. 11–13.

45 Baire [Waite], 2015, pp. 30–31.

and economic institutions, notary bodies, registration organisations, and other entities that attempt to conceal the origins of capital or act as initiators and accomplices in such endeavours. The researcher deems this to be a crucial component of the process of legitimising underground capital, specifically its integration into the formal economy.⁴⁶ Ukraine has undertaken the requisite actions in this regard, having included some European legislative acts related to the prevention of money laundering and the funding of terrorism in its domestic legal framework.⁴⁷

Ukraine can rely on the experience of European countries in this matter. In most European countries, the verification of suspicious transactions is the responsibility of individual authorities or, for example, customs or other financial institutions. Most EU member states have financial intelligence agencies that receive, analyse and investigate information about businesses to identify signs of money laundering. These organisations then pass on the information to law enforcement agencies for investigation in case of criminal acts or intentions. Improving the legislation on the State Financial Monitoring Service, expanding its powers and giving it more rights would be a good step in the fight against money laundering. This organisation is the financial intelligence agency in Ukraine. However, Ukraine has already taken a number of steps to fulfil this requirement. In April 2020, the Law on the prevention of and countermeasures against the legalisation (laundering) of the proceeds of crime, terrorism financing and financing the proliferation of weapons of mass destruction⁴⁸ came into force, which aims to adapt Ukraine's legislation in this area to European standards.

Ukraine has faced serious obstacles in the past and will do so in the future. Challenges the world must address: building a comprehensive mechanism for verifying information about the ultimate beneficial owners is a global problem; there is no country that has a fully functioning mechanism; hidden beneficiaries that can be used for terrorist financing and money laundering; and a lack of leadership and attention to ultimate beneficial ownership issues worldwide.

Ukraine encounters challenges arising from the lack of a governmental entity tasked with the establishment and execution of state policy concerning beneficial ownership, as well as the development of a mechanism for verifying ultimate beneficial owners. The successful implementation of such a mechanism necessitates collaboration among all parts of government, encompassing the legislative, executive, judicial, and banking institutions. It is important to introduce modifications to normative legal actions. The Electronic Data Repository (EDR) contains data that lacks organisation and reliability, leading to the absence of key processes outlined in legislation. The absence of validation and accountability for inaccurate information

46 Попович [Popovych], 2001, pp. 108–109.

47 Law № 361-IX of 6 December 2019 on the prevention of and countermeasures against the legalisation (laundering) of the proceeds from crime, terrorism financing and financing the proliferation of weapons of mass destruction.

48 Law № 361-IX of 6 December 2019.

pertaining to ultimate beneficial owners, the absence of a cohesive approach to the organisation and oversight of the accurate identification of ultimate beneficial owners, and the absence of systematic training, communication, and awareness campaigns regarding the imperative to identify and verify ultimate beneficial owners.⁴⁹

Finally, the courts should pay attention to the fact that the location of money or other property obtained as a result of the predicate offense is irrelevant, as these things can be legalised both in Ukraine and abroad. Thus, the provisions of Articles 6 to 8 of the CC refer to the spatial application of the criminal law in assessing both the predicate offense and the legalisation of the proceeds.⁵⁰ Public authorities should combat money laundering in the framework of international cooperation. For example, state registries should be improved to contain verifiable information on the true ownership of all legal entities, and all banks should know the true owner of any account with financial institutions. In addition, public authorities should adopt and fully implement all FATF recommendations;⁵¹ multinational companies should publicly disclose their revenues, profits, losses, sales, taxes paid, subsidiaries and staff levels in each country; customs agencies should properly review trade transactions; financial institutions should have adequate controls and procedures in place, applying strict customer due diligence, and ensure a high degree of transparency in operations, which is crucial for combating money laundering.⁵²

In conclusion, it is important to highlight that money laundering has the most detrimental impact on the state's economy. The sectors covering macroeconomics, finance, investment, international economics, and production are among the numerous constituents of the "unclean" property that experience some detriment during the process of its purification. Although Article 209 of the Criminal Code of Ukraine, pertaining to money laundering, is situated within Chapter VII of the Special Part of the Criminal Code of Ukraine titled 'Crimes in the Field of Economic Activity', it is important to acknowledge that the ramifications of this offence extend beyond the realm of the economy. The most apparent ramifications of money laundering are the financial losses resulting from predicate crimes and the subsequent rise in revenue for individuals engaged in criminal activities. However, it is important to consider additional threats that may arise, including the proliferation of corruption, the escalation of criminal activities, particularly those associated with organised crime, and the subsequent amplification of their economic and political sway. The confluence of these causes precipitates the dismantling of the political frameworks within the state.

49 Fighting money laundering and reforming the law enforcement sector, 2023.

50 On the practice of courts applying the legislation on criminal liability for legalization (laundering) of proceeds obtained through crime: Plenum of the Supreme Court of Ukraine Resolution. 15.04.2005.

51 Сорок рекомендацій групи з розробки фінансових заходів боротьби з відмиванням грошей [Forty recommendations of the group on the development of financial measures to combat money laundering] [Online]. Available at: <https://www.kmu.gov.ua/npas/2854776> (Accessed: 29 June 2023).

52 Венгерська and Удодова [Udodova and Kutsenko], 2018, p. 46.

4.6. “Media Law”

For the most part, the legislative framework governing the media in Ukraine originated in the early 1990s. During this period, the media landscape consisted mostly of newspapers, television channels, both state-owned and a limited number of privately-owned entities. The private media sector encompassed print media and cable television, which often faced challenges in terms of inconsistent programming and the presence of unauthorised content. The development of the Ukrainian media field is faced with significant challenges stemming from various factors, including the enduring influence of the Soviet era, the erosion of fair business practices, the prolonged period of Soviet rule spanning 70 years, the impact of hyperinflation, and the ongoing fight in the economic sphere. These factors collectively contribute to the difficulty of envisioning alternative pathways for the advancement of the Ukrainian media landscape. The countries that had been colonised for several centuries were denied their freedom due to the significant influence exerted by Russia. The combination of these causes led to the phenomenon of “oligarchisation” of the media market. The emergence and consolidation of major television channels have occurred as a result of their integration into the media holdings of a limited number of oligarchs at the local level. These media outlets are additionally subject to control by local business elites or politicians, with instances of overlapping ownership in certain cases. Simultaneously, these aforementioned circumstances led to a multitude of setbacks in the establishment of autonomous public service media. The establishment of Ukrainian public service media UA: PBC occurred subsequently to the third revolution, commonly referred to as the Revolution of Dignity, rather than in the year 2014. Specifically, UA: PBC was established in 2017. Throughout the period of Soviet rule, Ukraine lacked an autonomous media sector. Due to the imperative of the Soviet leadership to establish robust propaganda mechanisms, the fundamental liberties of speech, assembly, and private property were rendered unattainable during that era. The emergence of private print media occurred only during the final years of the Soviet Union’s disintegration, a period commonly referred to as “Perestroika” or “rebuilding”. The initial legislation on print media in Ukraine was introduced in 1992, while the legislation concerning television and radio broadcasting was enacted in 1993, with subsequent amendments made in 2006. In 1997, a set of four media laws was enacted, including a law pertaining to public service broadcasting. However, the aforementioned law quickly became ineffective within six months of its promulgation, rendering it essentially obsolete. The laws pertaining to the coverage of state bodies and local authorities have been widely regarded as the most undemocratic statute within the realm of media legislation. Their revocation, however, is not expected to take place before the year 2023. The law “brings national legislation closer to Directive 2010/13/EU on audiovisual media services” and the ratification of the law is one of the European Commission’s primary requirements for Ukraine’s EU membership application.⁵³

53 Moiceєв [Moiseev], 2023.

From time to time, some huge scandals concerning attempts to put pressure on the media emerged. In some cases, media were destroyed by false defamation cases, as was the case with the popular newspaper “Silski Visti” in the late 1990s. In other cases, judgments of the European Court of Human Rights help to address issues that require final resolution. For example, in the case *Ukrainian Press-Group v Ukraine* in 2004, the Court made a devastating decision saying that value judgment is not subject to proof. Another case – *Editorial office “Pravoye Delo” & Shtekel v Ukraine* in 2015, shows a considerable gap in the regulation of news websites or online media under the future law.⁵⁴ There exist three primary justifications for the immediate necessity of new media legislation in Ukraine. The initial observation highlights that the Ukrainian media legislation was ill-prepared to address the challenges posed by Russian assault. Both regulatory bodies and legal regulations lack sufficient mechanisms to counteract the dissemination of disinformation, propaganda and deceitful narratives by Russian media outlets, including both official and opposition sources. These media sources audaciously referred to the occupying forces as “our lads”. This issue is inherently inherent – Ukraine has never had intentions to initiate a conflict, in contrast to Russia. Furthermore, the existing Ukrainian legislation, which is based on a framework of “old” technologies, fails to adequately address the contemporary issues posed by convergent media and social networks. Naturally, the domain of media law does not provide a comprehensive response to the challenges posed by the messaging platform Telegram, which is known for its problematic security rules and widespread usage in Ukraine. Nonetheless, the incorporation of measures addressing this issue represents a progressive advancement in the evolution of Ukrainian laws. The third perspective concerns the European dimension, signifying that the regulations implemented in Ukraine ought to bear a resemblance, to a certain extent, to the regulations outlined in the European directive.

On 13 December 2022, the Ukrainian parliament finally adopted a law on the media.⁵⁵ The Law on Media was developed and adopted to fulfil the requirements of the European Union imposed on Ukraine, in particular to overcome excessive private interests in the media market of Ukraine, and to transpose into Ukrainian law the provisions of Directive 2010/13/EU of the European Parliament⁵⁶ and of the Council on audiovisual media services as amended by Directive (EU) 2018/1808 of 14 November 2018.⁵⁷ The legislation establishes provisions regarding the process

54 Розкладай [Rozkladai], 2023a.

55 About media: Law of № 2849-IX of 13 December 2022.

56 Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

57 Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

of licencing and registering entities operating in the media sector, including the specific procedures for registering foreign linear media. It also outlines the legal responsibilities of media entities in relation to compliance with legal requirements. Additionally, it addresses the unique aspects of legal regulation in situations of armed aggression. The law further defines the role and status of the national regulatory body, as well as the implementation of co-regulation mechanisms and collaborative development with the joint regulatory body.⁵⁸

The legislation augmented the jurisdiction of the National Council to impose sanctions on media organisations for a range of transgressions; however, it did not confer upon the Council the authority to unilaterally cease their operations, i.e. to suspend or impede their activities, without recourse to a judicial process. Media outlets may face various sanctions for non-compliance with regulatory requirements or licence terms. These sanctions, which are contingent upon the type of media, may include warnings and fines, revocation of licences, cancellation of registration, and prohibition on publication and distribution. The fulfilment of these provisions constitutes a prerequisite for granting Ukraine candidacy for accession to the European Union.⁵⁹

Furthermore, according to paragraph 5 of Resolution No. 314 of the Cabinet of Ministers of Ukraine of 18 March 2022 titled “Certain Issues of Ensuring Economic Activities during the State of War”,⁶⁰ the validity period of existing term licences and permit documents shall be automatically extended for the duration of the state of war and an additional three months following its cessation or revocation. Additionally, the payment deadlines for these licences and documents shall be deferred until the end of the state of war in Ukraine.

The proposed legislation seeks the comprehensive and significant transformation of the Ukrainian media landscape, commonly referred to as media reform. This reform was initiated in a period when the global community confronted the emergence of Russian fascism and neoimperialism, posing a significant danger to the established international order and democratic principles, and exacerbating a food shortage. However, the process of reforming the media does not solely entail altering the regulations governing its operations, bureaucratic procedures, or implementing sanctions. The topic at hand pertains to democracy itself. The existence of democracy is contingent upon the presence of freedom of speech which, in turn, relies on the presence of responsive journalism, independent media, and an impartial regulatory body. The recently enacted Media Law aims to achieve a highly ambitious objective, which is to effectively transform the prevailing culture within the media market and

58 Баконіна [Bakonina], 2023.

59 Національна рада надає роз’яснення щодо впровадження Закону “Про медіа” [The National Council provides clarification on the implementation of the Law “On Media”] [Online]. Available at: <https://www.nrada.gov.ua/natsionalna-rada-nadaye-roz-yasnennya-shhodo-vprovadzhennya-zakonu-pro-media/> (Accessed: 29 June 2023).

60 Resolution № 314 of the Cabinet of Ministers of Ukraine of 18 March 2022 on some issues of ensuring economic activities during the state of war.

establish a solid basis for fostering trust.⁶¹ Total review of all regulatory acts of the National Council, cancellation or review of some acts of the Cabinet of Ministers, Ministry of Culture and Informational Policy, and the Ministry of Justice should be ensured. Also, these actions should start the process of the proper budget funding for 2024. The creation of co-regulatory bodies is a good test for the media market so that it could become an active part of the policy process and be responsible for the fulfilment of commitments.⁶² In accordance with the Law, news agencies are required to determine their legal classification and through the process of re-registration as media enterprises within a certain timeframe, namely, by 31 March 2024. The process of re-registration is carried out upon submission of a certificate of state registration of a news agency as an entity engaged in information-related activities and does not incur any fees. Subsequent to the aforementioned date, the validity of certificates of state registration of a news agency as an entity engaged in information-related endeavours shall be rendered null and void.⁶³

The author believes it is imperative for journalists to thoroughly understand the societal ramifications and repercussions stemming from their professional endeavours. In accordance with European legislation, it is incumbent upon the state to ensure the fundamental entitlements of freedom of expression and information. However, this assertion is not applicable to the present situation. The use of tactics that involve inducing artificial panic among residents or disseminating false or exaggerated information can be deemed as justifiable and essential strategies for safeguarding the state and its populace.

4.7. Law on National Minorities

The final challenge facing Ukraine is to bring its national minority legislation in line with the standards set by European legislation. The legislation establishes the basic principles of state policy for enforcing the rights and freedoms of persons belonging to a national community in Ukraine. It also defines the main powers of the central executive body that ensures the formulation and implementation of state policy in the field of rights and freedoms of national communities, among other provisions.⁶⁴

Ensuring the rights of national minorities is an important step towards Ukraine's membership in the European Union, and a significant contribution to the preservation of human rights in the democratic global community. The adoption of the

61 Розкладай [Rozkladai], 2023a.

62 Розкладай [Rozkladai], 2023b.

63 Національна рада надає роз'яснення щодо впровадження Закону "Про медіа" [The National Council provides clarification on the implementation of the Law "On Media"] [Online]. Available at: <https://www.nrada.gov.ua/natsionalna-rada-nadaye-roz-yasnennya-shhodo-vprovadzhennya-zakonu-pro-media/> (Accessed: 29 June 2023).

64 Передерій [Perederii], 2022, p. 22.

Law⁶⁵ provided President Zelensky with a legitimate basis for communication with the leaders of the EU member states on 15 December 2022. In his address, he called on them to accelerate the assessment of Ukraine's implementation of the European Commission's (EC) recommendations, thereby facilitating progress towards the start of negotiations on Ukraine's potential accession to the EU.⁶⁶ In the summer of 2023, the Venice Commission offered comprehensive feedback on the Law on National Minorities in Ukraine. Considering Russia's hostile actions towards Ukraine, it is crucial to thoroughly analyse the matter of supporting a state engaged in terrorism (an aggressor state). The focus should be restricted to criminal law, excluding minority law, as this is the primary concern. The Venice Commission proposes the inclusion of this provision in a more suitable legislation, such as the statute pertaining to the situation of emergency. The initial clause of Article 6(1) regarding self-identification is consistent with the provisions outlined in Article 3 of the Framework Convention for the Protection of National Minorities. This article curtails individual rights, in violation of the Convention for the Protection of National Minorities (FCNM). As per Article 6(1), individuals are not obliged to reveal their affiliation with a national minority. Notwithstanding this rule, the rights of national minorities cannot be effectively enforced. Crucially, according to Article 6(2) of the existing legislation, it is forbidden to compel Ukrainian nationals to acknowledge or give up their identity as a national minority or group. Furthermore, the correlation between Article 6(3) concerning names, surnames, and patronymics and Article 11(1) of the Framework Convention for National Minorities is significant. Nevertheless, this rule can elucidate the process for the endorsement of names in minority languages. Article 15 of the Framework Convention for the Protection of National Minorities (FCNM) surpasses the provisions of Article 9 by mandating governments to create favourable circumstances for the involvement of national minorities in cultural, social, economic and public matters. The Venice Commission advises the enactment of laws to ensure the necessary circumstances.⁶⁷

In September 2023, a group consisting of representatives from the Ministry of Education, the State Service for Ethnic Policy, legislators, and the Ministry of Foreign Affairs visited Budapest. During the visit, Hungary was provided with a roadmap that outlined specific technical and organisational measures agreed upon by the Hungarian party. These measures pertained to textbooks, the educational process, its organisation, decisions made by the Ministry of Education, and any additional legislative changes.⁶⁸

65 Про національні меншини (спільноти) України: Закон України від 13.12.2022 №2827-IX. [On national minorities (communities) of Ukraine] (Ukraine), 13.12.2022, No 2827-IX. Retrieved June 15, 2023 [Online]. Available at: <https://zakon.rada.gov.ua/laws/show/2827-20#Text> (Accessed: 29 June 2023).

66 European Integration in the Conditions of War: Challenges and Prospects Analytical Report, December 2022.

67 Opinion On The Law On National Minorities (Communities) in Ukraine, Strasbourg, 12 June 2023.

68 Стефанішина [Sztefanisina], 2023.

The Verkhovna Rada approved the draft law on amendments to the Law on National Minorities (Communities) in Ukraine concerning certain issues of ensuring the rights and freedoms of national minorities in the first reading on 21 September 2023, taking into consideration the observations made by the Venice Commission. On 8 December 2013, the President of Ukraine signed a new law concerning national minorities. This legislation primarily centres around the definition of national minority, stating that a national minority (community) in Ukraine refers to a group of Ukrainian citizens who are not of Ukrainian ethnicity. These individuals reside within Ukraine's internationally recognised borders and are bound together by shared ethnic, cultural, historical, linguistic and/or religious characteristics. They are aware of their affiliation to this group and express a desire to maintain and advance their linguistic, cultural and religious identity. National minorities, also known as communities, are an integral element of Ukrainian society, encompassed by and assimilated within it. The Law also delineates the criteria for classifying settlements as inhabited by national minorities. A settlement that has been traditionally occupied by members of a national minority community is defined as a village, town, or city where these members have resided continuously for the past century, as indicated by official statistical data provided by the state. Furthermore, these members must constitute at least 10% of the total population at the time when this information is obtained. Deportees, individuals who have suffered ethnic genocide or temporary occupation, are exempt from the obligation of maintaining continuous residence in the settlement. A settlement where a national minority community makes up a substantial portion of the population is defined as a village, town, or city where, based on official statistical data, the national minority community constitutes more than 15 per cent of the total population at the time of receiving this information.

The legislation provides national minorities with the entitlement to receive education in their native language in secondary school, as long as it is one of the official languages of the European Union. (Once again, this clarification is crucial in order to alleviate the "tension" around the Russian language.) Private universities are required to instruct students in the language of national minorities, as long as it is a language spoken in an EU member state, under the condition that Ukrainian is taught as a distinct subject. Furthermore, educational institutions have the authority to potentially increase the proportion of instruction in the Ukrainian language. The state language should be used to instruct students in the Ukrainian language, Ukrainian literature, the history of Ukraine, and the defence of Ukraine.⁶⁹

Individuals who are members of a national minority are entitled to self-identification, use of their minority language, unhindered participation in public organisations, the safeguarding of cultural identity, and the opportunity to receive education in their native language, among various other rights. The core principle of the Law is that national minorities, or communities, are essential and fully integrated components of Ukrainian society. Ukrainian citizens cannot be compelled in any manner

69 Власенко [Vlasenko], 2023, p. 7.

to acknowledge, abandon, or alter their association with a national minority (community). In Ukraine, individuals are entitled to their own given name, patronymic and family name, in consideration of the cultural practices of the national minority or community with which they are affiliated. Ukraine has implemented various strategies to accomplish this objective. For example, Article 12⁷⁰ of the Law provides for the right to protect the cultural identity of a national minority. In particular, persons belonging to a national minority have the following rights (1) the right to preserve and develop their cultural, linguistic and religious identity as well as their traditions and customs; they also have the right to enjoy the achievements of their culture, preserve and disseminate their cultural heritage; (2) the right to celebrate and commemorate events related to their history and culture.

The government actively promotes and supports the identification and preservation of sites that hold historical importance to national minorities or groups. Furthermore, it guarantees the safeguarding of places of cultural heritage linked to national minorities or communities. The historical, cultural and religious monuments of national minorities residing in Ukraine are an inseparable component of Ukrainian culture. Furthermore, examination of the historical and cultural facets of these ethnic groups is of key significance. It is also crucial to organise cultural and artistic activities that are tailored to the needs and interests of these unique national minorities. The state has the duty to guarantee that individuals who are part of a national minority (community) are provided with education regarding the history and culture of Ukraine.

Important changes to the Law are that TV channels and radio stations wishing to broadcast in a language of the EU or certain national minorities of Ukraine will be able to reduce the mandatory share of the Ukrainian language on air to 30%; however, this will not apply to the Russian language. Another new element is the right to set up specialised bookstores to ensure the rights of national minorities (communities) are applied.

Also, national minorities have the right to audiovisual advertising in their native language on the condition that it is duplicated in the state language. Advertising in the Russian language is no longer possible.

Nevertheless, the matter of establishing and building transparent and efficient structures designed to safeguard the rights of ethnic minorities remains unresolved. The state administrations, in response to the initiative of public associations representing national minorities, will establish a Centre for National Minorities in the respective administrative areas. This centre will provide the necessary resources and infrastructure to meet the cultural needs of individuals belonging to a national minority, ensuring equal and inclusive access. The establishment of an autonomous regulatory entity to ensure adherence to the legislation in this domain is a vital step towards the successful execution of changes in this field.⁷¹

70 Law № 2827-IX of 13 December 2022 on National Minorities (Communities) in Ukraine.

71 Шембель [Shembel], 2022.

The safeguarding of national minorities is fundamentally rooted in political deliberations and is closely related to the establishment and maintenance of trust among the different segments of the population. The European Court of Human Rights (ECHR) examined an interview conducted with representatives of the Greenjackets youth group, which was a rare instance of investigation in the realm of broadcasting. During the interview, derogatory comments were made about immigrants and other ethnic groups living in Denmark. Specifically, the phrases “Denmark is for Danes” and “niggers are animals” were used. Furthermore, a comparison was made between individuals of African descent and gorillas. Moreover, individuals labelled as “perker” – a derogatory term employed to characterise migrants – were collectively indicted for their alleged participation in drug trafficking. Members affiliated with the organisation faced legal repercussions for the aforementioned remarks. In addition, the applicant was convicted as a co-conspirator. The support offered encompassed the participation of journalists who expressed their views. The ECHR’s assessment of this intervention was confined to its necessity within a democratic society. The TV presenter underscored the paramount need of addressing racial prejudice, highlighting that the democratic framework of society rests upon the principle of freedom of speech. Furthermore, he recognised the expedited and substantial influence of audiovisual media in comparison with conventional media. Hence, the presenter contended that journalists must strictly adhere to the norms of objectivity and impartiality in their reporting. The European Court of Human Rights (ECHR) examined both the substance and circumstances of the aforementioned interview. The item was introduced as a component of a broadcast with a sombre tone, targeting an audience that was adequately knowledgeable about the topic being discussed. Furthermore, it is important to mention that the documentary commenced with a disclaimer noting the contentious nature of the subject matter, and the interviewer himself had negative connotations about it. Considering these factors, along with the fact that the representatives of the “Greenjackets” did not have the right to normal protection, the European Court of Human Rights (ECtHR) determined that this interference was not required in a democratic society and constituted a breach of Article 10 of the Convention. Upon examination of this instance, it is evident that journalists may permit the use of unpleasant language and hate speech in the comments made by their guests. Nevertheless, it is imperative for them to unequivocally distance themselves from these perspectives and uphold objectivity to prevent these talks from exceeding the scope of public concern.⁷²

The legislation of Ukraine establishes the definition of “national minorities (communities)”: (a) rights, freedoms and duties of persons belonging to a national minority (community); specifics of the state policy concerning the enforcement of the rights and freedoms of persons belonging to a national minority (community), in particular, the specifics of financial support for the implementation of such policy, powers of the central executive body implementing the state policy in the field of the

72 Дущик and Дворовий [Dutsyk and Dvorovy], 2019, p. 24.

protection of rights and freedoms of persons belonging to a national minority (community); (b) possibility to set up advisory bodies at state executive bodies of different levels to advise in the above matters.⁷³

After examining the rulings of European courts, Yevhen Tkachenko determined that the majority of cases initiated by minority groups and their advocates pertain to infringements of fundamental rights that apply universally. These rights encompass the right to education (as stated in Article 2 of Protocol No. 1), freedom of thought, conscience and religion (as stated in Article 9), freedom of expression (as stated in Article 10), freedom of assembly and association (as stated in Article 11), and the right to free elections (as stated in Article 3 of Protocol No. 1). Guaranteeing free elections is essential, as without it, all other steps to protect minority rights will be ineffectual, if not purely symbolic. These rights are safeguarded by the implementation of Article 14 of the Convention for the Prohibition of Discrimination Based on Belonging to a National Minority together with other articles in Section I (“Rights and Freedoms”) of the aforementioned agreement and its protocols.⁷⁴

To sum it up, it may be contended that Ukraine has successfully adopted a substantial portion of the legal amendments required for possible membership in the European Union. At this point, the task is the efficient methods and protocols for executing the new legislation and the meticulous choice of capable personnel for public positions. Ukraine must make substantial efforts to enhance its legal structure and align it with European standards in order to further its goal of EU membership.

5. Other important changes

The Verkhovna Rada of Ukraine is now deliberating a proposed law on amendments to the Law on the Security Service of Ukraine with the aim of enhancing the organisational and legal framework governing the operations of the Security Service of Ukraine (registration number 3196-d).⁷⁵ The primary objective of the proposed law is to enhance the institutional capabilities of the Security Service of Ukraine in safeguarding the state’s security. This entails aligning the existing Ukrainian legislation governing the activities of the Security Service with contemporary challenges and threats that pose risks to the state’s security, which the Security Service of Ukraine is responsible for countering.

⁷³ Стешенко [Steshenko], 2023.

⁷⁴ Ткаченко [Tkachenko], 2018, pp. 165–166.

⁷⁵ Draft law № 3196-d of 26 October 2020 on amendments to the Law on the Security Service of Ukraine regarding the improvement of the organisational and legal foundations of the Security Service of Ukraine.

The Verkhovna Rada of Ukraine officially recorded a fresh iteration of the Law on the Protection of Personal Data (registration number 8153)⁷⁶ on 25 October 2022. The purpose of the draft law is to align Ukrainian legislation with European standards in the area of personal data protection and to ensure compliance with the updated Convention by implementing Regulation (EU) 2016/679 of the European Parliament and Council,⁷⁷ commonly known as GDPR. Additionally, the draft law aims to incorporate the provisions of EU Directives 2016/680⁷⁸ and 2002/58⁷⁹, which pertain to the protection of personal data by competent authorities and the processing of personal data and the protection of privacy, respectively.

The Verkhovna Rada of Ukraine has officially registered a draft law on the National Commission for the Protection of Personal Data and Access to Public Information.⁸⁰ The proposed legislation entails the establishment of a new regulatory entity for safeguarding personal data – the National Commission for the Protection of Personal Data and Access to Public Information. Additionally, it outlines the official standing, authorities, organisational principles and procedural framework of this institution.

Efforts are currently made to advance the drafting of the revised law on State Control of International Transfers of Strategic Goods.⁸¹ This revision is being undertaken with due consideration of the provisions in Regulation (EU) 2021/821⁸² of 20 May 2021, which establishes a comprehensive framework within the Union for the regulation of exports, intermediary activities, technical assistance, transit, and transfers of dual-purpose goods. The forthcoming version of the law will incorporate these provisions.

In December 2022, the European Commission endorsed the application put forth by the international consortium potential, which includes Ukraine, to spearhead the development of a digital wallet for Europe (European Digital Identity Wallet).⁸³

76 Draft law № 8153 of 25 October 2022 on Personal Data Protection.

77 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

78 Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

79 Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

80 Draft law № 6177 of 18 October 2021 on the National Commission for the Protection of Personal Data and Access to Public Information.

81 Draft law № 8415 of 3 February 2023 on State Control of International Transfers of Strategic Goods.

82 Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast).

83 The Potential consortium was set up to pilot the new European Digital Identity Wallet (EUDIW).

The implementation of the pilot project is planned for the period 2023 to 2025. Its goals are to: (a) collaboratively develop interoperable national digital wallets accessible across Europe in a fully secure manner; (b) streamline online procedures such as opening a bank account, renting a car or signing documents electronically; (c) forge stronger ties across Europe and help people, businesses and governments to work together more efficiently.

Based on the evaluation carried out by the European Union in 2020 regarding compliance with obligations in the telecommunications services sector under the Association Agreement, it has been determined that the majority of the provisions outlined in Directive 2000/31/EC⁸⁴ of the European Parliament and of the Council, commonly referred to as the “Directive on electronic commerce”, have been incorporated into Ukrainian legislation.

According to a report from the Ministry of Social Policy of Ukraine, individuals now have the opportunity to officially register as candidates for child adoption using the Diya portal, an online platform. A total of 780 applications have been submitted thus far.⁸⁵

The state strategy for the promotion of gender equality and equal rights and opportunities for both women and men until 2030 was officially endorsed by the government on 12 August 2022. Additionally, the operational plan for the execution of this strategy during the years 2022–2024 was also authorised⁸⁶. The strategy is designed with the objective of attaining the Sustainable Development Goals of Ukraine by the year 2030.

6. Procedure for acquiring EU member status

Once candidate status is granted, the European Commission will proceed to identify the principal elements and suggestions for discussions, which will necessitate unanimous endorsement from the European Council. The negotiations are founded around a framework consisting of 35 chapters, which are categorised into six primary clusters: fundamental principles, internal market, competitiveness, green agenda, resources, agriculture, and foreign relations. The negotiation process often adheres to a rigid linear structure, wherein each chapter is initiated only upon the definitive

84 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

85 Report on the implementation of the association agreement between Ukraine and the European Union for 2022.

86 Order of the Cabinet of Ministers of Ukraine № 752-p of 12 August 2022 on the approval of the state strategy for ensuring equal rights and opportunities for women and men for the period up to 2030 and the approval of the operational plan for its implementation for 2022–2024.

closure of the preceding one. The initial chapter of the European Union is dedicated to the fundamental principles upon which it was established. These principles encompass a range of topics including justice, human rights and the functioning of public institutions. Significantly, this chapter is positioned at the beginning and end of the EU's framework, highlighting the paramount importance the EU attaches to upholding its core democratic values. It is highly probable that Ukraine will be requested to initiate changes prior to the commencement of negotiations.

The primary objective of the arduous discussions is to align the candidate country as closely as feasible with the laws, legislation and political structures of the European Union. Following the comprehensive consideration of all 35 chapters, a preliminary accession agreement is produced. The text requires unanimous ratification by both the Council and the national parliaments of each member state within the European Union in addition to securing a majority vote in the European Parliament.

Typically, effective discussions span a duration of approximately four to five years. As an example, Poland officially made its application for membership in 1994 and subsequently acceded in 2004. Austria, Finland and Sweden successfully accomplished the assignment over a span of two years, whereas Croatia, the most recent member to join the European Union, required nearly eight years to complete the same task. The time required is contingent upon both the cadence of the candidate's reform initiatives and the level of political engagement from the European Union.⁸⁷

The process of accession to the European Union is evidently characterised by its extensive and arduous nature, demanding significant efforts from both the applicant country and the EU as a collective entity. The European Union has adopted a cautious approach towards accepting new members in recent times. This hesitancy may be attributed to various factors, including the economic and migrant crises, the Brexit phenomenon, the ongoing pandemic, and instances of rule-breaking by certain member states, notably Hungary. Simultaneously, the requirement for unanimous agreement among all EU member states means a persistent impediment to the process of enlargement. Bulgaria is presently hindering the initiation of accession negotiations with North Macedonia, which indirectly affects Albania as well. This obstruction is primarily rooted in enduring disagreements concerning historical and linguistic matters.

Furthermore, the remaining three recognised aspirants, namely Montenegro, Serbia and Turkey, are presently facing obstacles in advancing their accession negotiations. Notably, negotiations with Turkey have been ongoing since 1987 without significant progress in advancing the process. Considering the aforementioned factors, it is pertinent to acknowledge that the expeditiousness of Ukraine's integration into the European Union may be further affected by the stances of long-standing candidate

87 Терещук [Tereshchuk], 2022.

nations awaiting accession, as well as the positions of other aspiring member states such as Moldova and Georgia, which also anticipate joining the EU.

Simultaneously, the ongoing war in Ukraine has prompted and expedited Ukraine's progress towards joining the European Union. However, additional factors relating to Ukraine, such as its substantial demographic size (approximately 40 million inhabitants) and geographical location, may influence the attainment of consensus among EU member states. These factors bear significance because of shared characteristics with Russia and Belarus as well as relative poverty and a GDP per capita that ranks among the lowest in Europe.

The perspective of EU membership has been and continues to be regarded as a very efficacious instrument of EU foreign policy. The anticipation of joining the European Union motivated Bulgaria and Romania to intensify their efforts in combating corruption, and lead to an increased rate of apprehensions of war criminals in Croatia, Serbia and Montenegro.⁸⁸

The questioning stance adopted by Kyiv is both comprehensible and justified. It serves to prompt Europeans to take swift action and make judgements in the face of the current exceptional circumstances rather than relying on customary technical and bureaucratic procedures. Simultaneously, it is evident that Ukraine's prospective membership in the European Union in the near future is unattainable, even in a theoretical sense. This discussion encompasses not just political factors inside the European Union but also procedural aspects and other relevant issues.

Following Ukraine's submission of its application for the establishment of a distinct entry procedure for our nation, Slovakia immediately expressed its support. However, what this procedure will exactly look like and whether some intermediary phases can be omitted or reduced remains uncertain. The forthcoming European Union summit may include deliberations on the matter of "special procedures".

It is unsurprising that the Baltic states and Poland, our proximate European allies, express support for Ukraine's membership but without advocating for an urgent and expedited accession process. The expeditious granting of candidate status for EU membership to Ukraine was strongly encouraged by Slovenia and the Czech Republic, followed promptly by the initiation of negotiations on membership. Subsequently, Hungary also joined this endeavour.⁸⁹

88 Терещук [Tereshschuk], 2022.

89 Коли Україна вступить до ЄС: питання та відповіді [When will Ukraine join the EU: questions and answers] [2022]. [Online]. Available at: <https://www.rbc.ua/ukr/news/ukraina-vstupit-es-voprosy-otvety-1647117135.html> (Accessed: 29 June 2023).

7. Conclusions

The relationship between the European Union and Ukraine has deepened significantly since Ukraine's attainment of independence in 1991. The rationale behind this was the mutual recognition by both parties that fostering collaboration between Ukraine and the European Union had the potential to substantially enhance economic well-being, political stability and regional security. Ukraine and the European Union both wish to improve their bilateral relations in the forthcoming years. Over time, this relationship has progressed from political statements to the provision of technical and financial aid, growing into a collaborative partnership that embodies a diverse array of issues across multiple sectors, involving numerous governmental, business and civil society entities. The Partnership and Cooperation Agreement inked in 1998 marked a considerable advancement in the relations between the European Union and Ukraine. The Partnership and Cooperation Agreement (PCA) and the ten-year EU-Ukraine Action Plan established the necessary legal and practical framework for the furthering of EU-Ukraine ties. The events of 2004 played a significant role in fostering closer relations between Ukraine and the European Union. The Orange Revolution exemplified Ukraine's dedication to implementing internal democratic reforms. Nevertheless, the enlargement of the European Union on 1 May 2004 created a contiguous border between Ukraine and the European Union. Negotiations were initiated in March 2007 with the aim of reaching a new agreement to supplant the existing Partnership and Cooperation Agreement. The agreement, which was ratified subsequent to Ukraine's membership in the World Trade Organisation in May 2008, sought to establish a comprehensive and extensive free trade zone between Ukraine and the European Union.

The annual summit between the European Union and Ukraine took place on 9 September 2008, providing a platform for evaluating the progress of their evolving partnership and contemplating future prospects.⁹⁰

During the Ukraine-EU meeting held on 3 February 2023, Ursula von der Leyen, the President of the European Commission, stated that while no specific timeline was outlined, there are certain objectives that the aspiring member must accomplish. Ukraine has a commendable level of proficiency in this domain. It has a reputable track record of adhering to the pronouncements made by the European Union's High Representative and Council resolutions. Ukraine regularly collaborates with the European Union in efforts aimed at combating cyber threats and disinformation. The normative framework, which includes legal regulations, often aligns with the accumulated body of European Union legislation, known as the *acquis communautaire*. The unresolved matter pertains to the ratification of the Rome Statute of the International Criminal Court and its associated treaties. Further efforts are required to

90 Саміт Україна [Ukraine-EU summit], 2008.

effectively address and mitigate the unlawful trafficking of firearms, munitions and explosive materials.⁹¹

Ukraine has successfully accomplished 72% of the obligations outlined in the Association Agreement, a significant component of which is Ukraine's endeavour to integrate into the internal market of the European Union. Companies can benefit from various advantages within the European Union (EU). These include better access to EU funds and support programmes specifically designed for small and medium-sized enterprises (SMEs). Additionally, companies can access lending programmes and receive assistance tailored to the agricultural sector. The EU also offers transparent taxation and accounting rules, which can facilitate business operations. Furthermore, the absence of customs or quantitative restrictions within the EU fosters seamless trade. Companies can also benefit from simplified administrative procedures when trading with other EU member states. Lastly, the EU provides access to a vast market comprising approximately 450 million consumers, offering significant potential for business growth and expansion.

Non-tariff barriers can be reduced by many measures, such as the mutual certification of goods, establishment of a standard certification process, and the rigorous enforcement of competition policy and intellectual property rights.⁹²

The conditions that new members must meet in order to join the European Union are commonly referred to as the "Copenhagen criteria". A state meeting certain criteria, such as being free and democratic, upholding the rule of law, safeguarding human rights, maintaining stable state institutions, and fostering a competitive market economy, is considered to have fulfilled these conditions. It should be noted that the CMU (Cabinet of Ministers of Ukraine) has officially endorsed a resolution which requires that a report, along with recommendations, be presented to the Cabinet of Ministers of Ukraine by 30 August 2023.⁹³ This report will contain the evaluation results and suggestions for aligning Ukraine's industry legislation with the legal framework of the European Union (EU *acquis*). The CMU is also expected to submit a separate report to the Cabinet of Ministers of Ukraine by the same deadline, providing an assessment of the results and proposals for harmonising Ukraine's industry legislation with the regulations of the European Union (EU *acquis*).

Therefore, should Ukraine persist on its current trajectory, there is considerable likelihood of meeting the criteria established by the European Union for accession.

91 Commission Staff Working Document – Analytical report to the Communication of the Commission to the European Parliament, the European Council and the Board of Conclusions of the European Commission regarding Ukraine's application for membership in the European Union. Brussels, 1 February 2023.

92 Терешук [Tereshchuk], 2022.

93 Resolution of the Cabinet of Ministers of Ukraine № 189 of 28 February 2023 on the approval of the procedure for conducting an initial assessment of the state of implementation of the acts of the European Union (EU *acquis*).

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