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PAPERS PUBLISHED IN THE JOURNAL EXPRESS THE VIEWPOINTS OF INDEPENDENT AUTHORS.

OBSERVANCE OF HUMAN RIGHTS UNDER THE CONDITIONS OF NATIONAL LAW ADAPTATION TO THE NORMS OF THE EUROPEAN UNION

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Abstract: The article examines the issue of ensuring human rights when adapting the national legislation of Ukraine to the standards of the European Union. It was determined that the growing importance of international legal obligations encourages countries to adopt and implement EU norms, however, this process can generate conflicts with national legal systems, as well as human rights violations. The main aspects related to the observance of human rights in adapting national law to EU norms have been studied. Issues related to guarantees of freedom of thought, religion, human rights in the sphere of private life, and protection of personal data were analyzed. The need to regulate domestic procedures and control mechanisms to protect human rights has been identified. The necessity of maintaining a balance between the adaptation of national law to European standards and ensuring the protection of human rights on the basis of the development of monitoring mechanisms, the independence of the judicial system, and raising the legal awareness of society has been proven.

Keywords: human rights; legal norms; national legal system; EU legal directives; adaptation of law.

1 Introduction

Ensuring and protecting human rights is one of the main priorities in the modern legal space. The European Union, which is recognized as one of the most progressive regional organizations, focuses on creating a single space of freedom, justice, and security, which is based on common European values and norms. Ukraine's accession to the European Union is an important step in its political and legal development. However, this process requires an organic adaptation of the national law of Ukraine to the norms of the European Union and demands appropriate attention to the observance of human rights. Thus, there is an objective need to study the problems that arise in connection with the adaptation of the national law of Ukraine to European standards, with a focus on the observance of human rights. At the same time, it is necessary to analyze the impact of the adaptation of national law on guarantees of freedom, equality, and justice in the context of human rights. For this, it is necessary to take into account the key principles and values underlying the European legal space. In particular, the norms of the European Convention on Human Rights and relevant documents of the European Union have a direct impact on the national legislation of Ukraine.

An important aspect of the process of adapting the national law of Ukraine to the norms of the European Union is also the study of various aspects of this process, including the adoption and implementation of internal normative acts, reforming the judicial system, regulating interaction with European legal institutions and protecting human rights in this context. The key problem of this transformation process is the observance of human rights during the adaptation of the national law of Ukraine to the norms of the European Union. Its solution involves the need to take into account objective obstacles that may arise in the process of adaptation and affect the observance of human rights. In particular, this concerns conflicts between national norms and standards of the European Union, as well as the threat of violation of the rights and freedoms of citizens during this process.

In general, the need to respect human rights in the context of the adaptation of national law to the norms of the European Union takes into account several important aspects, such as the need to increase the awareness and legal culture of society, the creation of effective control mechanisms and an independent judicial system that will ensure the protection of the rights and freedoms of every citizen. That is why the process of adapting the national law of Ukraine to the norms of the European Union has a significant impact on the observance of human rights, as it requires the development and implementation of mechanisms that ensure consistency between the national law and the standards of the European Union, in particular in the implementation of human rights. The key factors for successful adaptation are determining priorities and appropriate strategies, creating effective control mechanisms, improving the judicial system, and ensuring access to legal protection.

That is why the study of the observance of human rights in the context of the adaptation of the national law of Ukraine to the norms of the European Union is of great importance for ensuring freedom, equality, and justice in modern society, as it contributes to the development of democracy, the strengthening of the rule of law and provides the citizens of Ukraine with an effective mechanism for the protection of their rights and freedoms. In light of the planned adaptation of Ukraine to European norms and standards, it is important to focus on the problems of observing human rights in this process. The path to joining the European Union must, first of all, ensure the real protection of citizens' rights and the implementation of high standards in the sphere of freedom, democracy, and justice.

2 Literature Review

Observance of human rights in the conditions of adaptation of the national law of Ukraine to the norms of the European Union is an urgent problem that attracts the attention of researchers and experts in the field of law. This topic is considered from different perspectives, analyzing the legal, political, social, and economic aspects of adaptation and their impact on the observance of human rights. In particular, A. Von Bogdandy, in the process of researching the process of adaptation of national law to European norms and its impact on the protection of human rights, defines the role of the European Union as a regulatory force that requires candidate countries to harmonize their legislation with European standards. The author also analyzes the problems faced by countries seeking to join the European Union and offers recommendations for ensuring effective compliance with human rights during adaptation [12].

It is also important to note the study of V. Muraviov, who examines the specific case of Ukraine and its process of adaptation of national law to European norms. The author analyzes the reforms carried out by Ukraine to fulfil the requirements of the European Union and their impact on the observance of human rights. The study highlights the problems that arise in the process of harmonization, such as corruption, insufficient freedom of the media, and suggests ways to overcome these problems - in particular, through strengthening the legal system, ensuring the independence of the courts and increasing public participation [6].

A significant contribution to the study of these processes was made by H. Nys, who conducted a comparative analysis of the observance of human rights in the process of adapting national law to European standards in different countries. Based on the study of the effectiveness of human rights protection mechanisms and the impact of adaptation on the guarantees of freedom, equality, and justice, positive practices and problematic aspects in this process were identified, based on which recommendations were made to ensure more effective observance of human rights [7].

In addition, it is necessary to note the work of T. Molnar, who investigated the influence of European law on the national legal systems of individual countries. In particular, based on the analysis of the processes of transformation and adaptation of national law to European standards in various member states of the European Union, the problems related to the observance of human rights in this process were considered, and the need for effective protection of the rights and freedoms of citizens was determined [5].

In general, the latest studies of the problems of adapting national legislation to EU legal norms, outlined in the works of various scholars [2; 4; 11; 13], note the need to solve such problems as corruption, inaccessibility of legal protection, restrictions on media freedom and insufficient independence of the judicial system. The recommendations proposed in the specialized scientific literature are aimed at strengthening legal awareness, improving legislation, ensuring an effective monitoring and control mechanism, as well as involving the public in the process of adaptation and creation of the legal culture of society.

Despite the significant amount of research, there is an objective need for further research into this issue, taking into account the specifics of the Ukrainian context, since currently there are gaps in the study of specific cases of adaptation and their impact on human rights in Ukraine, which will help to form an effective strategy for ensuring the observance of citizen rights during the adaptation of national law to the norms of the European Union.

3 Materials and Methods

Various methods and sources of information were used to achieve the goal of the research on the observance of human rights in the conditions of adaptation of the national law of Ukraine to the norms of the European Union.

In particular, the analysis of normative acts was applied, in which a systematic analysis of the national legislation of Ukraine and the norms of the European Union related to human rights and the adaptation process was carried out, including the study of constitutional acts, laws, directives, regulations, and other normative documents that regulate the legal framework and appropriate requirements.

A systematic review of scientific articles, books, dissertations, and other scientific sources related to the research topic was carried out. This review made it possible to obtain scientific approaches, concepts, and results of previous studies in this area.

A comparative analysis of research and statistical data on the observance of human rights in other countries, which also underwent the process of adaptation to European norms, was carried out. Its results made it possible to understand positive practices and shortcomings, as well as to identify possible ways of implementing effective measures by Ukrainian legislation.

The specified methods and sources of information were used for the systematic analysis and assessment of human rights compliance in the context of the adaptation of the national law of Ukraine to the norms of the European Union, and the results obtained became the basis for the development of recommendations and strategies for ensuring the effective protection of human rights in the process of adaptation.

4 Results and Discussion

Starting from the 20th century, the vast majority of European states, guided by common national interests, directed their efforts to the construction of a legal entity, which, according to V. F. Opryshko, is called "European law" [8] and consists of numerous conventions, agreements, charters, codes, and protocols to them, developed under the auspices of regional organizations - the Council of Europe, the Organization for Security and Cooperation in Europe, the European Union, etc. Their system, which contains more than 14 thousand different types of legal acts and almost 9 thousand decisions of the EU

Court, was created and developed for almost 50 years and today is actually the legal system of the European Union - *acquis communautaire*. This concept was used for the first time in the draft of the Treaty on the EU, but so far its content has not been disclosed in any of the legal acts. Since the exact translation of the concept of *acquis communautaire* into the languages of the EU member states turned out to be a difficult task, the EU institutions preferred the French version, which literally means "what is achieved within the borders of the Community", "the property of the Community" [3].

The analysis of regulatory acts showed that Ukraine adopted a significant number of legislative acts to adapt its national law to the standards of the European Union in order to ensure compliance with human rights. In particular, laws on the protection of human rights, anti-discrimination, freedom of speech, and others were adopted. The legislation of Ukraine defines the process of bringing the laws of Ukraine and other regulatory legal acts into compliance with the *acquis communautaire* as the adaptation of legislation. The adaptation of Ukrainian legislation to EU legislation is recognized as a priority component of the process of Ukraine's integration into the European Union, which, in turn, is a priority direction of Ukraine's foreign policy.

In general, European integration is based, first of all, on the universal principles of state sovereignty, democracy and the rule of law, and protection of human rights and freedoms. Throughout history, the development of the ideas of human rights protection and European integration has been determined by interdependence and mutual influence. Most of the international acts and ideas related to the integration of states in Europe contained provisions on human rights as a basic value, the protection of which will allow for maintaining peace and security on the European continent. In the context of the protection of human rights, the European regional integration process is determined by a unique legal, political, economic, and cultural phenomenon and acts as a basis for the convergence of the legal systems of states. A special place in this process is occupied by the gradual unification of legal norms in the field of human rights.

However, currently, there are still problems regarding the compliance of Ukrainian legislation with international standards and its effectiveness in practical application. One of the main problems is corruption and insufficient independence of the judicial system. Recent studies in this area have shown that these are serious problems affecting the observance of human rights during the adaptation of national law. Corruption creates obstacles to equal access to justice, and insufficient independence of courts can lead to biased decisions, violation of the rights and freedoms of citizens.

Another problem is the unavailability of legal protection for citizens during the adaptation of national law. In particular, many citizens of Ukraine do not have sufficient information about their rights and procedures for their protection. In addition, the high cost of legal services and the complexity of procedures can make access to a fair trial and equal protection of rights difficult.

Active cooperation with international organizations should be included among the positive aspects of the adaptation of legal norms - Ukraine actively cooperates with international organizations, such as the Council of Europe and the Office of the UN Commissioner for Human Rights, to support and strengthen human rights in the context of the adaptation of national law. This includes providing financial, technical, and expert assistance, as well as monitoring and evaluating the human rights situation.

The Council of Europe, as an international intergovernmental organization, working towards the unification of human rights law, created a special system of norms. This system consists of the rules of contract law, precedent, and institutional law. The action of the Convention on the Protection of Human Rights and

Fundamental Freedoms achieves the most complete unity of norms regarding the protection of human rights since the Convention contains norms that are included in national law through transformation into constitutional and legal norms. In this regard, they cannot be changed in the process of development of national legislation, and their provisions, terms, and concepts cannot be interpreted on the basis of domestic law. This method of unification is the most effective, as unity is achieved in the practice of applying the norms of the Convention on the Protection of Human Rights and Fundamental Freedoms [9].

Adaptation of national legislation to the legislation of international organizations is carried out by authorized bodies of state power through law-making, planning, coordination, and control. Adaptation is a component of integration processes, a prerequisite for the harmonization of national legislation with the legislation of international organizations. This is a planned process that includes several successive stages, at each of which a certain degree of compliance of national legislation with international legal norms and standards should be achieved [10].

Studies of the current situation indicate the need for further efforts to ensure the effective adaptation of the national law of Ukraine to the norms of the European Union in order to respect human rights. At the same time, the above-mentioned problems require systemic reforms and the implementation of effective measures. In this aspect, it is important to ensure the independence of the courts, the fight against corruption, and guarantee the appropriate level of media freedom. It is also necessary to recognize the need to promote the availability of legal protection and to inform citizens about their rights and protection procedures.

One of the possible ways to positively change the situation is to improve the legislation, ensure its compliance with international standards, and its effective application. Careful monitoring of human rights compliance, including statistical data collection and research, should be carried out. This will allow identifying problem areas and the development of targeted strategies and measures to improve the situation. It is also important to involve the public organizations in the process of monitoring the observance of human rights. This may include conducting information campaigns and educational activities, as well as promoting the active participation of citizens in decision-making related to human rights.

The general goal of such a legal transformation is to create an effective system that guarantees the observance of human rights in the conditions of adaptation of the national law of Ukraine to the norms of the European Union. This will contribute to the construction of a legal state, the protection of individual freedoms, and the development of society based on the principles of justice and equality. In addition, it is important to pay attention to the international experience and best practices in the field of human rights when adapting national law. Other countries that have already gone through a similar process can provide valuable advice and guidance. Such an exchange of experience can contribute to the improvement of legislation, a balanced approach to the protection of human rights, and the creation of an effective control system. Further research and analysis of legal problems arising during the adaptation of national law to the norms of the European Union is also an important component of the development of human rights field. This will make it possible to identify new challenges and gaps in the legislation and direct efforts to their solution.

The analysis of the process of approximation of Ukrainian legislation to the legal system of the EU makes it possible to identify theoretical and practical problems that require an urgent solution. Adaptation of domestic law to EU law is carried out simultaneously with the legal reform in Ukraine. The current legislative framework of Ukraine is contradictory, unstable, and therefore imperfect. The Ukrainian state must update its own legislation in accordance with international principles and standards because the quality of legal acts is of particular

importance in the EU - the Council of the EU adopted a special decision on the rules for their preparation, according to which the legal action must be clear, not ambiguous, without excessive use of abbreviations, without jargon expressions, excessively long phrases, unclear references to other texts, complications that affect its understanding and, accordingly, its implementation [3].

On the other hand, the unification of legal norms within the EU became possible as a result of the member states transfer of part of their sovereign rights to the EU institutions in the adoption of universally binding prescriptions of a legislative nature, which establish the basic principles of regulation common to all member states or other field. Moreover, as a result, member states are retaining the right to independently conclude international agreements both within the Union and with third countries.

Therefore, the priority spheres of the process of adaptation of Ukrainian legislation to EU law should be the fields that regulate the rights and freedoms of a person and a citizen. It is worth agreeing with the opinion of M. M. Antonovych that Ukraine, "as a member of the international human rights protection system, is obliged to comply with international standards regarding human rights and to ensure collective rights, including the rights of national minorities and indigenous peoples and other rights, through the implementation of international human rights norms in the internal legal order, the implementation of these norms and control over their observance, and in case of violation of human rights – through the provision of fair compensation" [1].

It can be argued that an important element of the ongoing reforms in Ukraine is the process of bringing the national law into line with the law of the European Union, and this process is also understood as convergence, approximation of law. The legislation of Ukraine defines the process of bringing the laws of Ukraine and other regulatory legal acts of the country into compliance with the *acquis communautaire* as the adaptation of legislation. The adaptation of Ukrainian legislation to EU legislation is determined as a priority component of the process of Ukraine's integration into the European Union, which, as it was mentioned above, in turn, is a priority direction of Ukraine's foreign policy. The purpose of adapting the legislation of Ukraine to the legislation of the European Union is to achieve compliance of the legal system of Ukraine with the *acquis communautaire*, taking into account the criteria put forward by the European Union to the states that intend to join it.

Thus, the integration of Ukraine into the European and international community led to the need to resolve the issue of the relationship between the principles and norms of European human rights law and the principles and norms of the legal system of Ukraine. The process of bringing the norms of Ukrainian law in line with the EU norms is defined as the adaptation of law, which is a priority component of the process of Ukraine's integration into the European Union, as a direction of Ukraine's foreign policy. Therefore, achieving compliance of the legal system of Ukraine with the *acquis communautaire* is not possible without help from the European Union. However, such assistance can be provided, for example, in the form of prompt information on EU legislation, organization of seminars, exchange of experts, translation of EU legislation, etc. And, of course, the adaptation of the legislation also requires financial assistance from the EU, because the current economic condition of Ukraine, especially in connection with Russian military aggression, will not allow it to properly fulfil the relevant obligations.

5 Conclusion

It has been shown that the process of legislative adaptation can create challenges for the provision and protection of citizens' rights. The results of the analysis indicate the need for systemic reforms to ensure the effective adaptation of Ukrainian national law to the norms of the European Union, taking into account

human rights. Important aspects are ensuring the independence of the judicial system, the fight against corruption, the freedom of the media, and the availability of legal protection. It was also found that it is necessary to actively involve the public and non-governmental organizations in monitoring the observance of human rights during the adaptation of national law. Information campaigns, educational activities, and the promotion of active participation of citizens in decision-making can contribute to the conscious and active protection of human rights. Cooperation with international organizations is also of great importance for ensuring the observance of human rights. Further exchange of experience and joint work will contribute to the development of effective mechanisms for the control and protection of human rights in the context of adaptation of Ukrainian national law to European standards. Therefore, it is important to continue research and develop strategies aimed at ensuring the observance of human rights during the adaptation of the national law of Ukraine.

For greater efficiency in this process, it is necessary to overcome a number of problems that impede the approximation of Ukrainian law to the standards of EU law. First of all, it is necessary to qualitatively change domestic legislation in accordance with international principles of democracy, respect for human rights and fundamental freedoms, minority rights, and the rule of law. It is necessary to ensure the training of specialists in European law and to make greater use of the potential of scientific research institutions and institutions of civil society. At the same time, the areas regulating the rights and freedoms of man and citizen should be recognized as priority areas of the process of adaptation of Ukrainian legislation to EU law.

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