



HARMONIZATION OF AGRARIAN LEGISLATION OF UKRAINE AND LEGISLATION OF EUROPEAN UNION AS A FACTOR OF REFORMATION OF THE LEGAL SYSTEM OF UKRAINE

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Summary

Deepening and development of cooperation with the European Union to change the format of commitments on the harmonization of legislation; as a result of the harmonization of legislation is a direct tool for ensuring access of Ukrainian goods and services on the market states-members of the European Union. Ensure the full entry of Ukraine into the European political, economic and legal space formally identified systemic component of Ukraine's national interests. Also topical question of legal mechanisms valuation procedures coordinated interaction, partnership between state agencies responsible for the organization of work on harmonization of Ukrainian legislation to EU legislation.

Key words: adaptation, harmonization agrarian legislation of Ukraine, European integration, general agrarian politics of European Union, institutional mechanism of providing of harmonization legislation of Ukraine.

Аннотация

Углубление и развитие сотрудничества с Европейским Союзом изменит формат обязательств в вопросах гармонизации законодательства; в результате гармонизации законодательство становится прямым инструментом обеспечения доступа украинских товаров и услуг на рынке государств-членов Европейского Союза. Обеспечения всестороннего вхождения Украины в европейское политическое, экономическое и правовое пространство официально определены системной составляющей национальных интересов Украины. Актуальным также является вопрос правового унормирования механизмов принятия решений процедур согласованного взаимодействия, партнерства государственных структур, ответственных за организацию работы по адаптации законодательства Украины законодательству Европейского Союза.

Ключевые слова: адаптация, согласование аграрное законодательство Украины, европейская интеграция, общие аграрные политика Европейского союза, институциональный механизм обеспечения гармонизации законодательства Украины.

Entry. Realization of strategic course of Ukraine is on integration to EU, providing of the all-round including of Ukraine in European political, economic and legal space and creation of pre-conditions for acquisition by Ukraine of membership in EU with the aim of claim of Ukraine as the influential European state, full-fledged member of EU officially certainly by the system constituent of national interests of Ukraine.

Urgent the question of the legal setting of norms of mechanisms of making decision of procedures of the concerted co-operation, partnership of state structures accountable for organization of work from adaptation of legislation of Ukraine to the legislation of EU appears also.

With the aim of decision of these problems and providing of unity in going near co-ordination, at least – consistency, in the systems of legislation of all greater actuality acquires making of methodology of harmonization of agrarian legislation of Ukraine to the legislation of EU.

Methods. The scientific methods of our research are an analysis of the systems of operating leading directives of European Union and legislative acts of Ukraine in the field of adaptation of national legislation to the legislation of European Union, synthesis

and generalization of normative binding over's.

Theoretical bases of development of methodology of harmonization of legislation, on the whole, as a complex system of activity of legists, that includes: exposure of normatively-legal array of every state; realization of comparative analysis, exposure of differences and collisions, legal blanks; estimation of actuality and advantages of legislation each of parties; prognostication of realization of concrete, forms of creation of the single or compatible legal system of Union; organization of work on every object of legislation taking into account the certain form of his adequacy pluggings in single legal space, stopped up by the Russian scientists: A. Baranov, A. Vilanderberk, V. Vinogradov, S. Vlahov, N. Komissarov, M. Pshenychnov, I. Recker, A. Fedorov.

Decision advancement in direction of activating of processes of European integration became a result already of created, for today, political, law and organizational pre-conditions for his realization:

– made agreement about partnership and collaboration between Ukraine and European Concords and their states-members, that is envisage formation

of such organs: Council on questions a collaboration between Ukraine and European Concords(By EU) and Committee on questions a collaboration between Ukraine and European Concords(By EU), Committee of parliamentary collaboration between Ukraine and European Concords(By EU);

– political dialogues are founded;
– after the ratified plans work of branch parts of committees of Committee lasts on questions a collaboration between Ukraine and EU;

– Program of technical help of EU to Ukraine is worked out;

– collaboration is adjusted on bilateral basis Ukraine is the states-members of EU [10].

Undoubtedly one of basic directions of integration process adaptation of legislation of Ukraine is certain to the legislation of EU, providing of human rights. On determination of Strategy of integration of Ukraine in EU adaptation of legislation of Ukraine to the legislation of EU consists in rapprochement with the modern European system of right, that will provide development of political, enterprise, social, cultural activity of citizens of Ukraine, economic development of the state within the framework of EU and will assist the gradual increase of welfare of



citizens, bringing him over to the level that was folded in the states-members of EU.

Harmonization of legislation has its own arsenal of methods and means by which the agreement form and content of the laws within the legal system and laws is adapting to external functional environment-establishing relationships with international law, social actualization (adoption of framework laws, development of legal concepts). Harmonisation is implemented through legislative and pravorealizatsiyini and interpretative forms and methods [9, p. 24], which actualizes the need to determine the most suitable ones in the study area.

Harmonization of legislation of Ukraine envisages reformation of her legal system and gradual bringing to conformity with the European standards and embraces a private, customs, labour, financial, tax legislation, legislation about intellectual property, labour protection, guard of life and health, natural environment, protection of consumers, technical rules and standards, transport, and also other industries certain Agreement about partnership and collaboration. It follows to consider participating of Ukraine the important factor of reformation of the legal system of Ukraine in conventions CES that set general for this organization and EU standards.

Among the functions of the harmonization of legislation stand out: epistemological, instrumental, typological correlation; ensure coherence of the State for the implementation of national projects to achieve legal and formal legal certainty; rationalize the relationship subjects of legal relations, synthesizing, information, orientation effects; methodological support enforcement process, to achieve stability development of a specific socio-economic segments (regions) improve the legal regulation; helpful.

The stages of legal adaptation is implementation of Agreement about partnership and collaboration, entering into branch contracts, bringing a current legislation over of Ukraine in accordance with the standards of EU, creation of mechanism of bringing projects over of acts of legislation of Ukraine in accordance with the norms of EU.

But to the legislation of EU it is envisaged Conception of adaptation of legislation of Ukraine, that adaptation of legislation is a systematic process, that includes three separate stages on each of

that the certain degree of accordance of legislation of Ukraine is arrived at to the legislation of EU in certain spheres [5].

On the first stage advantage must be given: to development in accordance with requirements, certain at Declaration that is accepted by European Advice on the Copenhagen summit in June in 1993, legal system in Ukraine, that would assist the achievement of stability in society, guaranteed supremacy of right, human right and provided functioning of market economy; to bringing of legislation of Ukraine to conformity with the requirements of Partnership and co-operation agreement between the European communities and their member states, and Ukraine and other international agreements that touch the collaboration of Ukraine and EU; to development of legislation of Ukraine after certain priority spheres in the direction of his gradual rapprochement with the legislation of EU.

On the second stage the process of adaptation of legislation is concentrated on such tasks: revision of legislation of Ukraine in spheres certain part second of the article 51 of Partnership and co-operation agreement between the European communities and their member states, and Ukraine, with the aim of providing of him approximate accordance to the legislation of EU; the legal providing of creation of free trade zone between Ukraine and EU and preparation is to the associated membership of Ukraine in EU [1].

The third stage of adaptation of legislation will depend on the conclusion of Treaty about the associated membership of Ukraine in EU and will include the period of preparation of the extended program of harmonization of legislation of Ukraine with the legislation of EU with the aim of providing of integration of Ukraine to the common market of EU [10].

Legal framework of rapprochement and gradual of legislation of Ukraine in accordance with the legislation of EU in the context of aspiration of foreign-policy activity of Ukraine on providing of her national interests and safety by maintenance of peaceful and mutually beneficial collaboration with the members of international concord after the universally recognized principles and norms of international law form: Constitution of Ukraine, approved by Verkhovna Rada of Ukraine Basic directions of foreign policy of Ukraine and Conception (bases

of public policy) of national safety of Ukraine, Agreement about partnership and collaboration between Ukraine and European Concords and their states-members from June, 14, 1994 and other agreements celled between Ukraine and EU, in that determined mechanism co-operation between them, and also conception adaptation legislation Ukraine to legislation EU and other agreements celled between Ukraine and EU, in that the mechanisms of co-operation are determined between them, and also Conception of adaptation of legislation of Ukraine to the legislation of EU, approved by resolution of Cabinet of Ministers of Ukraine from August, 16 in 1999 № 1496 [5]. At the same time basic directions of collaboration of Ukraine with EU as, Strategy of integration of Ukraine determines organization, that attained the high level of political integration, unitization of right, economic collaboration, public welfare and cultural development, to EU [2], ratified by Decree of President of Ukraine from June, 11, 1998 № 615/98.

Institutional providing of collaboration of Ukraine and EU certainly by Strategy of integration of Ukraine in EU, by other decisions of Verkhovna Rada of Ukraine, President of Ukraine and Cabinet of Ministers of Ukraine.

An agreement about partnership and collaboration between Ukraine and EU is envisage creation of general organs between Ukraine and EU – Advice and Committee on questions a collaboration, to Committee on a parliamentary collaboration. Committee on European integration and Committee on foreign affairs form Verkhovna Rada of Ukraine, their plenary powers are certain. Ukrainian part of Committee operates under a parliamentary collaboration between Ukraine and EU, that is formed from the deputies of people's, that present different deputy factions and groups in Verkhovna Rada of Ukraine. Guidance in EU carries out Strategy of integration of Ukraine President of Ukraine. In addition, President of Ukraine annually participates in Summit Ukraine is EU that is the mechanism of regular political dialogue at the greatest level.

Providing of realization of Strategy of integration of Ukraine in EU belongs to the competence of Cabinet of Ministers of Ukraine, in particular, prime Minister of Ukraine is a chairman: Ukrainian part of Advice on questions a collaboration between Ukraine and EU; Co-ordinating advice from



adaptation of legislation of Ukraine to the legislation of EU. The first vice-prime minister of Ukraine is: by the vice-chairman of Ukrainian part of Advice on questions a collaboration between Ukraine and EU; by the vice-chairman of Co-ordinating advice from adaptation of legislation of Ukraine to the legislation of EU; by the chairman of the Co-ordinating center from fulfilling the plan of actions in relation to liberalization of EU of visa regime for Ukraine.

Activity of guidance of Cabinet of Ministers in the field of European integration and organization of work of Ukrainian parts of Advice and Committee on questions a collaboration between Ukraine and EU are provided by Department of European integration of Secretariat of Cabinet of Ministers [10].

Providing of coordination of realization of strategic course of Ukraine is on integration to European Union, creation of pre-conditions, necessary for acquisition Ukraine of competent membership in European Union carry out central executive bodies, accountable for realization of tasks certain Strategy of integration of Ukraine to EU [3], the list of that is ratified by the order of President of Ukraine from June, 27, 1999 № 151/99-rp.

However, on determination of governmental portal, a leading role in the field of European integration is played:

it is foreign Ministry, that participates in forming and realization of the public policy sent to integration of Ukraine in European political, economic, legal space with the aim of acquisition of membership in EU;

it is Ministry of justice as a central executive body is specially authorized in the field of adaptation of legislation of Ukraine to the legislation of EU organizes work on preparation of annual plan of measures in relation to implementation of the National program of adaptation of legislation of Ukraine to the legislation of EU, conducts monitoring of her implementation; but carries out the scientifically-expert, analytical, informative and methodological providing of implementation of the National program of adaptation of legislation of Ukraine to the legislation of EU, translation of acts of *acquis communautaire* by Ukrainian, updating of Glossary of *acquis communautaire* [10].

Ministry of economic development and trade, to the competence of that it is fixed: forming and providing of realization of public policy on questions the economic and

social collaboration of Ukraine from EU; providing and co-ordination within the limits of the plenary powers of implementation of obligations the Ukrainian side under the international agreements of Ukraine from EU, participating in negotiations, contractual relations sent to development from EU; participating in the set order in functioning of bilateral organs of format Ukraine is EU, form within the framework of running international agreements, provides work of corresponding parts of committees of Committee on questions a collaboration between Ukraine and EU; providing of co-operation of central executive related to creation of free trade zone between Ukraine and EU bodies by the conclusion of Treaty about an association between Ukraine and EU in economic, sectoral spheres, and also on questions development of human potential, development of suggestions in relation to perfection of mechanism of co-operation of central executive bodies with the institutes of EU provides within the limits of the plenary powers adaptation of legislation of Ukraine to the legislation of EU and other.

In accordance with the above-mentioned order of President of Ukraine responsibility of Ministry of agrarian politics of Ukraine is embraced by a collaboration in the field of agricultural co-operation.

At the same time, structural subdivisions, to the competence of that the taken questions of European integration, and also questions of adaptation of national legislation to the legislation of EU and preparation and realization of projects of technical help, are created (certainly) in central and local executive bodies.

Work in relation to monitoring and estimation of implementation of the attained agreements, including, in relation to realization of Order-paper association Ukraine – EU comes true within the framework of Ukrainian parts of bilateral organs Ukraine is EU (Ukrainian part of Advice and Ukrainian part of Committee on questions a collaboration between Ukraine and EU, and also Ukrainian parts of committee), Ukrainian part of Committee of senior public servants of Order-paper association Ukraine is EU.

Proper orgware of adaptation of legislation of Ukraine to the legislation of EU and in accordance with the article of a 51 Agreement about partnership and collaboration between European Concorde and Ukraine by claim of list of ministries,

other central executive bodies, accountable for organization of work from adaptation of legislation of Ukraine to the legislation of EU, concordance of co-ordination and co-operation of their activity, creation of the special public institution responsible assistance to Ministry of Justice of Ukraine in realization of the functions fixed on him in the field of adaptation of legislation of Ukraine to the legislation of EU, perfection of legal activity of executive bodies, is the article of the legal adjusting: Programs of integration of Ukraine to EU, approved by Decree of President of Ukraine from September, 14, 2000 № 1072; To the decree of President of Ukraine from February, 9, 1999 № 145 «About measures in relation to perfection of legislative activity of executive bodies»; To the decree of President of Ukraine «About measures in relation to perfection of rulemaking activity of executive bodies» from February, 9, 1999 № 145/99, To the decree of President of Ukraine from August, 21, 2004 № 965 «Question of organization of implementation of Law of Ukraine «About the National program of adaptation of legislation of Ukraine to the legislation of EU» of resolution of Cabinet of Ministers of Ukraine from June, 12, 1998 № 852 «About the input of mechanism of adaptation of legislation of Ukraine to the legislation of EU»; resolutions of Cabinet of Ministers of Ukraine from August, 16, 1999 № 1496 «About Conception of adaptation of legislation of Ukraine to the legislation of EU»; resolutions of Cabinet of Ministers of Ukraine from May, 15, 2003 № 716 «About formation of Center of the European and comparative right» for resolution of Cabinet of Ministers of Ukraine from July, 18 in 2007 № 950 «About claim of Regulation of Cabinet of Ministers of Ukraine» and other.

But recently decisive steps towards European integration in Ukraine declared the sole body of legislative power in Ukraine. In particular, according to the statement, «On the implementation of the European aspirations of Ukraine and Association Agreement between Ukraine and the European Union» the Verkhovna Rada of Ukraine, given that the European perspective of Ukraine has become a unifying factor around which consolidated the vast majority of political forces, taking into account the importance of the mission of the authorized representatives of the European Parliament and A.Kvasnevskoho P.Koksa, expecting positive results of the



next Summit of Ukraine – the European Union, scheduled for February 25, 2013, and the Eastern Partnership Summit, scheduled for 28–29 November 2013; states that, within its mandate assumed liabilities including activates to adopt laws aimed at adaptation of Ukraine to the European Union, in particular those provided relevant National Programme of Ukraine's European Union legislation, approved by the Law of Ukraine on March 18, 2004 № 1629-IV, as well as those that belonging to the reform of the judicial system, criminal justice system and the electoral law, the recommendations contained in the Final Report of the OSCE / ODIHR election Observation and opinions of the Venice Commission [4].

Examining harmonization as process of adjustment of legislation of the states-members of EU on the basis of legal acts of EU, in particular directives, that have binding force for the states-members of EU and require from these states to bring them over a domestic law in accordance with positions of directives, more detailed research needs the question of development of methodology of harmonization of agrarian legislation on the stage of analysis of agrarian politics and directly development and acceptance of normatively-legal acts and conditioning for their proper introduction and application with the aim of gradual achievement of complete accordance of right for Ukraine with the European right.

With the aim of the informative and methodological providing of implementation of the National program of adaptation of legislation of Ukraine to the legislation of EU by the order of Ministry of Justice of Ukraine from Septembers, 24, 2009 № 1728/5 Order of translation of acts of *acquis communautaire* into Ukrainian language (farther is Order) that determines a translation of acts of *acquis communautaire* into Ukrainian language, grant to them of status official and promulgation with the aim of providing of free access to them of participants of adaptation of legislation.

According to the point of 3 Orders of translation the consolidated version of act of *acquis communautaire*, that is loaded from the official Web-portal of legislation of EU [11] and created on the basis of texts by English or, in case of necessity, other official language of EU. Organization of translation of acts of *acquis communautaire* comes true in accordance with the annual reference plan of translation of acts of *acquis communautaire* in a corresponding year.

Performers in terms certain in accordance with agreements on the purchase of services in writing translation of acts of *acquis communautaire* from one of official as if EU into Ukrainian language provide translating of the documents passed to them and pass to realizable translations the department of translation of acts of *acquis communautaire* Department that checks them for authenticity.

Count of actual volume of act of *acquis communautaire* comes true on the basis of the last existent consolidated version of act of *acquis communautaire* from settling a 1 page equals 1900 signs without admissions [7].

Verification of authenticity of translation of acts of *acquis communautaire* provides the State department on questions adaptation of legislation, whereupon the obligatory stage is realization of terminological examination. The aim of terminological examination is establishment of accordance and appropriateness of the use of terms in translation of acts of *acquis communautaire*. Terminological examination is conducted on the basis of two-, trilingual glossaries of terms that is used in the acts of *acquis communautaire* in corresponding spheres, and also terms that is used in the operating acts of the Ukrainian legislation.

On completion of works from translation and realization of terminological examination texts of translations of acts of *acquis communautaire* is passed to Commission on a grant to translations of status of official, that examines texts of translations, sets and certifies loyalty of translation and makes decision in relation to a grant to these translations of status of official.

Translation of act of *acquis communautaire*, that got status official, passed to the research and information department of Department, that places the electronic copy of this translation in the Electronic system of documentation on questions adaptation of legislation of Ukraine to the legislation of EU.

In accordance with a current legislation measures from the improvement of rulemaking of executive bodies provide for: input of the single system of planning, co-ordination and control after rulemaking of executive bodies; laying-on of functions of planning of legislative work and work from adaptation of legislation of Ukraine to the legislation of EU after the giving of ministries, other central executive, co-

ordination of rulemaking of executive and control bodies after this activity on Ministry of Justice of Ukraine and providing ministries, other by central executive of periodicity of presentation for consideration of Ministry of Justice of Ukraine reference plan of legislative work on a next year, development of the projects of normatively-legal acts envisaged by a plan, and also reports bodies on the state of rulemaking [7].

Will notice also, that authentic local steps on a way to the methodological providing of bringing positions over of projects of normatively-legal acts in accordance with the legislation of EU with the aim of optimization of activity of separate structural subdivisions it is inculcated by State tax administration of Ukraine, by the order of that from December, 26, 2003 № 631 Methodical recommendations are ratified in relation to providing of bringing positions over of projects of normatively-legal acts on questions taxation excise duties in accordance with the legislation of EU and requirements of positions of agreements of World Trade Organization [8].

Conclusions. In the need to achieve high levels of foreign economic relations with the European Union, including through coordination and compliance of domestic legislation with the requirements *acquis communautaire* on the relevant areas of agriculture and related activities, developing national legislation towards its harmonization with EU legislation and ensuring a high level of training in Ukraine draft legislation, the establishment of a legal framework for the integration of Ukraine into the EU with a promising opportunity to implement approximate mechanisms of state intervention in the sphere of agriculture of Ukraine operating home normatively-legal base in the field of bringing positions over of projects of normatively-legal acts on questions adjusting of agrarian relations in accordance with the legislation of EU only partly satisfies the necessities of time and not always embraces all key elements, that is needed for effective realization of the public agrarian policy sent to the effective management in industry of agricultural production and land-tenure, support of agricultural production, stimulation of integration processes in an agroindustrial complex, forming of pre-conditions for maintenance and complex development of rural territories and support of enterprise initiatives on a village. For today the row of



Laws of Ukraine and normative documents of different levels that embrace the problems of providing of process of adaptation of legislation of Ukraine to the legislation of EU operates in Ukraine.

Thus, it is possible to establish, that in most a home normatively-legal array in the field of bringing of legislation of Ukraine to conformity with the legislation of EU regulates the conceptual questions of general political aspiration or technical aspects of procedural mechanisms exceptionally; operates definitions of determination of that are actually absent or not comport inter se.

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ПОНЯТИЕ, СИСТЕМА И ВИДЫ ПРОЦЕДУРНЫХ ПРАВООТНОШЕНИЙ В СФЕРЕ ГОСУДАРСТВЕННЫХ СОЦИАЛЬНЫХ ПОСОБИЙ

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Summary

The article deals with the actuality of investigation of procedural relations in the sphere of welfare payments. On the basis of scientific literature analysis and current normative legal acts of Ukraine the author's definition of these legal relations is presented. The author proposes as to the procedural legal relations expediency in the sphere of welfare payments as juridical structure and the list of structural elements of the construction, taking into account the specifics under investigation legal relations system. The inadequacy of the legal regulation of procedural relations in the sphere of welfare payments in Ukraine, which greatly reduces the effectiveness of procedures for exercising the right to the state social assistance is highlighted. General proposals for improving legislation are distinguished.

Key words: procedural legal relations in the sphere of the state social assistance, state social assistance, juridical construction.

Аннотация

В статье обосновывается актуальность исследования процедурных правоотношений в сфере государственных социальных пособий. На основе анализа научной литературы и действующих нормативно-правовых актов Украины подается авторское определение этих правоотношений. Автором вносится предложение о целесообразности рассмотрения процедурных правоотношений в сфере государственных социальных пособий как юридической конструкции, а также устанавливается перечень структурных элементов такой конструкции с учетом специфики системы исследуемых правоотношений. В статье указывается на несовершенство правового регулирования процедурных правоотношений в сфере государственных социальных пособий в Украине, что существенно снижает эффективность процедуры реализации права на государственные социальные пособия, вносятся общие предложения по усовершенствованию законодательства.

Ключевые слова: процедурные правоотношения в сфере государственных социальных пособий, государственное социальное пособие, юридическая конструкция.

Постановка проблемы. Действенность законов в сфере социального обеспечения зависит не только от достаточного финансирования, но и от того, насколько совершенным является установленный порядок реализации правовых норм. Наличие разработанных, четко регламентированных процедурных правил, которые реализуются субъектами конкретных процедурных правоотношений, обуславливает эффективность применения норм права в сфере социального обеспечения. Поэтому от надлежащего правового регулирования процедурных правоотношений, которые выполняют служебную роль по отношению к материальным, зависит реализация права на государ-

ственное социальное пособие правомочным субъектам.

Анализ нормативно-правовых актов, которые регулируют порядок назначения и выплаты государственных социальных пособий¹ в Украине, показывает, что в законах процедурные нормы или отсутствуют, или прописаны в общих чертах. Пробелы в правовом регулировании процедуры реализации права на определенный вид государственного пособия в законах компенсируются процедурными нормами значительного количества несистематизированных подзаконных нормативно-правовых актов. Таким образом, несоответствие современным требованиям правоприменительной практики нормативно-правовой базы в сфере

¹Термин «государственное социальное пособие» соответствует используемому в украинском законодательстве термину «державна соціальна допомога».