

COMPARATIVE LEGAL ANALYSIS OF THE IMPLEMENTATION OF ASSOCIATION AGREEMENTS IN CENTRAL AND EASTERN EUROPE: EXPERIENCE FOR UKRAINE

Oksana HOLOVKO-HAVRYSHEVA*, Mykhailo MYKIEVYCH**

Abstract

Legal frameworks of EU's interactions with neighboring countries is treaty-based. The types of agreements concluded between the EU and ENP countries differ as to their purpose, scope and objectives of cooperation. This contribution aims to compare the practices of implementation of the Association Agreements (hereafter - AA) signed between the EU the countries of Central and Eastern Europe with particular focus on the experiences in Poland, Lithuania, Romania, Croatia and Ukraine, who developed their own doctrinal and practical approaches towards fulfilment of the AA obligations. The main research hypothesis is that the efficiency of the AA implementation in Central and Eastern European countries depends on the domestic practices of implementation of international law, deployed in these countries. Following from the hypothesis the research questions are: what are the constitutional and statutory provisions in Poland, Lithuania, Romania, Croatia and Ukraine, on which implementation of the international legal norms is based, and how these countries implemented or are currently implementing the AAs. This contribution is based on the desk-top research of the available legislative framework of the implementation of the AAs in these countries.

Keywords: association agreements, CEE countries, implementation of international law, Poland, Romania, Lithuania, Croatia, Ukraine

Introduction

Since the dissolution of the Soviet Union the relations between the EU and the countries of Central and Eastern Europe experienced significant political, social, economic and legal transformations, as a result of which some of them, such as Poland, Lithuania, Romania and Croatia have already joined the EU, whereas others, such as Georgia, Moldova and Ukraine are still on the way to the EU

*Oksana HOLOVKO-HAVRYSHEVA is Associate Professor at Ivan Franko National University of Lviv, Lviv, Ukraine; e-mail: oksana.holovko-havrysheva@lnu.edu.ua.

** Mykhailo MYKIEVYCH is Professor at Ivan Franko National University of Lviv, Lviv, Ukraine; e-mail: mykhailo.mykievych@lnu.edu.ua.

pursuing different national policies towards the EU and the EU membership. From the legal perspective the core EU-related transformations in their legal systems are directed towards ensuring the compatibility of their legal and administrative practices with the EU *acquis* and reflect the domestic practices related to the enactment, application and execution of the international legal norms in their domestic legal orders.

The domestic practices of the EU-compatible transformations of the legal systems of Poland, Lithuania, Romania and Croatia can also be traced back to the respective AA, which Poland and Romania as post-socialist countries and Lithuania as a post-Soviet country concluded in 1991, 1993 and in 1995 respectively; Croatia signed the association agreement with the EU in 2001, where the issues of the legislative and regulatory approximation played a crucial role in aligning the functioning of their legal systems to the EU *acquis* and preparing them for the full EU membership. In the case of Georgia, Moldova and Ukraine, who signed their AA in 2014, a lot of questions arise both in terms of the AA implementation and approximation as a key legal issue.

The first part of this contribution presents the overview of the AAs signed with post-socialist and post-Soviet countries in Central and Eastern Europe after collapse of the Soviet Union, their legal features and peculiarities. The second part of this contribution addresses the constitutional dimension of the AAs implementation in Poland, Lithuania, Romania, Croatia, Georgia, Moldova and Ukraine, and the third part focuses on the domestic practices of the implementation of the AAs in these countries.

1. Association Agreements between the EU and CEE countries: the overview and developments

Association Agreements between the EU and third countries are one the most important tools, which regulate contractual relations between the parties in political, economic and social matters. The possibility to conclude AAs was firstly provided by the Treaty of Maastricht, where the European Economic Community was equipped with the right to “[...] conclude with a third state, a union of states or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures”¹. This provision was widely used by the European Communities at first, and since the conclusion of the Treaty of Lisbon this provision was embedded into Article 217 of the Treaty of Functioning of European Union (hereafter – the TFEU). At the same time separate provision on cooperation with the neighbouring countries have been added to the Treaty on European Union (hereafter – TEU), also opening the discussion on the correlation of both articles for purposes of the AAs conclusion and their relevance for the legal regulation of relations with third countries.

¹ Article 238 EEC Treaty.



Despite the provisions on the conclusion of the AAs were widely used by the EU for the regulation of its relations with third countries in Europe and beyond, the scope and the legal nature of the “association” is defined rather unprecisely. In the academic discourse the association with the EU can be analysed from the international law and EU law perspectives. From the international law perspective, the discussions on the legal nature of the association are often linked to the debate on the issues of membership, trying to find the answer to the question, how many differences exist between the “association” and the “associate membership” (Klabbers, 2014) in the EU in terms of public international rules on the membership in the international organisations. While analyzing the AAs from the public international law perspective it is worth mentioning that Vienna Conventions on the Law of International Treaties (Vienna Convention on Law of Treaties, VCTL 1969; Vienna Convention on Law of Treaties, VCTL 1986) are applicable instruments as to guiding the procedural aspects of their conclusion.

From the EU law perspective, the legal nature of the association is grounded on the ECJ ruling in the case *Demirel* (Case 12/86), where the association was defined as “special, privileged links with a nonmember country,” with the consequence that the third country concerned obtains legal and political opportunities to participate in the EU system.

The contractual practice of the AAs conclusion is so diverse, that the concept of an “association” between the EU and third states is shaped not only by legal regulation as to the cooperation between the EU and third states, but also is co-determined by the geopolitical context and political considerations.

As a result, the scope and content of the “association” between the EU and a third state is quite flexible as to the degree the EU and a third country decide to liaise their legal systems as well as political and economic cooperation.

Regardless the fact that the AAs are quite ambiguous as to the exact content and scope of the association, they have some similarities. These common features are, beyond being concluded as the mixed agreement under Art. 217 TFEU, that AAs address political, economic and sectoral dimensions of the cooperation; they also establish a long-term institutional cooperation framework between the EU and a third country, including the dispute settlement provisions. While establishing the associations with Poland, Lithuania and Romania, the Europe Agreements (the EAs) with Poland (Europe Agreement with Poland, 1991), Romania (Europe Agreement with Romania, 1994) and Lithuania (Europe Agreement with Lithuania, 1995) define the aims of such association in a slightly different way: while the EAs with Poland, Lithuania and Romania set up as one of the association objective the establishment of the cooperation framework for gradual integration to the EU in conjunction with strengthening the political dialogue and support of economic reforms, each of the EAs highlights a particular field of interest for the countries at stake – for Romania the support of social development, for Poland – the cooperation on cultural matter as the area of particular interest and for Lithuania the Internal Market access as such. The EAs as the AAs particular type are based



on the idea of the spillover effects with the expectation that enhanced economic cooperation will "...lead to a greater political convergence" (Europe Agreement with Poland, 1991: Article 2). In terms of organizing the institutional cooperation the EAs have similar approach – Association Councils (ACs), the Association Committees and the Association Parliamentary Committees have to be established, with the ACs equipped with supervisory powers and dispute settlement competencies. Besides acting as primary body for disputes related to the interpretations of the EAs, ACs play crucial institutional role in the establishment of arbitration proceedings in the case when the dispute is not resolved by the decision at the AC level. The EAs contain a set of provisions related to the approximation of the national legislation of these countries to the EU *acquis*, which had rather a framework character (Art. 69-71 of EA with Lithuania, Art. 69-71 of the EA with Romania, Art. 68-70 of the EA with Poland).

Being of the same nature as the EAs with Poland, Romania and Lithuania, the Stabilization and Association Agreement with Croatia of 2004, generally known as SAA (Stabilisation and Association Agreement, 2004) had similar association objectives, however it did not textually provide the possibility of the country's gradual integration to the EU and focused on issues of the regional cooperation as particular priority for the cooperation between the EU and Croatia. It suggests EAs' similar institutional framework with the conventional dispute settlement instruments, which are limited to the Association Council's binding decisions on the matters of the SAA application and interpretation (Art. 113 SAA) and mandatory consultations (Art.121 SAA). The SAA provisions on the approximation of laws are formulated differently, they contain the Croatia's obligation to start the approximation process on the date the SAA is signed (Art. (1)69 SAA), as well as to establish the association within 6-year period after the SAA enters into force (Art.5 SAA). Moreover, the SAA provisions envisage that rules on modalities of the SAA implementation and the monitoring of the approximation progress will be subject to a jointly agreed approximation program with the particular focus on fundamental freedoms' regulations.

The EU-Ukraine Association agreement (EU-Ukraine Association Agreement, 2014), signed in 2014 and in force since 2017, represents a more sophisticated framework for the association relationship in multiple dimensions. First of all, among the association aims the gradual integration of Ukraine to the EU has not been mentioned *expressis verbis* (Art. (2)2 AA with Ukraine), being replaced with the commitment to enhance values-based cooperation allowing Ukraine to participate in the EU programs and agencies, to develop deep and comprehensive economic and trade relations and to promote peace and stability in the region. The provisions of the AA with Ukraine contain detailed regulations with regard to political cooperation, as well as the economic and sectoral ones, imposing a number of concrete obligations, not of the framework character. As a result, in the course of this AA implementation the public authorities are bound very often by precise obligations which arise directly from the text of the treaty, and are clear enough to be interpreted strictly and implemented in the domestic



legal order *directly* with rather simple transposition practices. The AAs institutional framework evolved as well besides the AC, the Association Committee and the Parliamentary Association Committee the summits were institutionalized as the highest cooperation body in the areas of political dialogue (EU-Ukraine Association Agreement, 2014: Article 460) and the civil society platform was established for ensuring the role of the civil society institutions in the course of the AA implementation). The AC role in the AA implementation seems to be limited more to the supervisory and monitoring functions, whereas dispute settlement procedures are regulated separately for trade and trade-related issues, sectoral cooperation and other cases. Moreover, dispute settlement procedures contain differentiated approaches towards dispute settlement in trade-related cases and other issues: rules on consultations (Art. 305 AA with Ukraine), arbitration proceedings (EU-Ukraine Association Agreement, 2014: Articles 306-326) as well as the mediation (EU-Ukraine Association Agreement, 2014: Articles 327-336) might be applied to a trade dispute. Moreover, in the cases when the dispute concerns the interpretation of the EU Law, the arbitration panel is obliged to suspend the case and to refer the interpretation question to the European Court of Justice for a ruling. Another difference the AA with Ukraine has if compared to the EAs and SAA is the content and intensity of regulation on the regulatory and legislative approximation, that, as *Tyushka* suggests, Ukrainian association occurs through approximation (Tyushka, 2015).

As *Van Eluswege and Chamon* point rightfully out, it is quite difficult to classify the AAs due to their flexibility and lacking finality as to the scope of the rights and obligations the EU and third countries regulate, they suggest to classify based upon the variety of criteria (geographical proximity, bilateral or multilateral nature, as well as the final intensity of links which the parties aim to achieve in their relations) the AAs as the pre-accession instruments, the AAs as the substitution for the membership in the EU and AAs as the frameworks for the privileged relations between the EU and third countries (Van Eluswege, Chamon, 2019). Thus, for the European countries contemporarily there are two types of the AAs commonalities: the AAs as the pre-accession tool (as in cases of Poland, Lithuania, Romania and Croatia) and the AAs as an alternative to the EU membership (as in cases of Georgia, Moldova and Ukraine). In both cases it imposes on the third country an obligation to align its legal system to the EU as the ultimate condition for opening of new opportunities for the cooperation with the EU.

To sum up, the AAs are one of the most effective and flexible legal instruments, on which the EU grounds its relations with third countries and which aims reflect the level and degree to which the EU opens its system for the country concerned. At the same time for opening this access to the third countries, the issue of the AAs implementation into their domestic legal orders is detrimental for efficient interaction between the EU and the third countries concerned. In third countries the AAs are understood as international treaties, to which the VCTL 1969



and VCTL 1986 are applicable, and thus their national practices reflect the traditional approaches towards the application of international conventional and customary treaty law thereto. Despite the VCTL 1969 and the VCTL 1986 can be identified as a common regulatory framework for the issues of conclusion, ratification, validity and applicability of international treaty law, the legal basis for their application in Poland, Lithuania, Romania, Croatia and Ukraine differs slightly. Croatia as a former Yugoslav Republic is a signatory party to the VCTL in the way of succession from 1969 with the ratification procedures being finished in 1970. Ukraine joined the VCTL 1969 in 1986 as the Ukrainian Soviet Socialist Republic, based on Soviet approaches towards the application, enforcement and implementation of the international treaties. Poland and Lithuania joined the VCTL 1969 as independent states in 1990 and 1992 respectively. Among the countries analyzed Romania is not a signatory party to the VCTL 1969, it applies arguable the VCTL as the customary international law; and Croatia is the only country which joined the VCTL 1986 in 1994 in the way of accession, whereas Poland, Lithuania, Romania and Ukraine did not join the VCTL 1986, so the applicability of the VCTL 1986 to their legal cooperation with international organizations seems not to follow the unified pattern, allowing for more flexibility in shaping their conventional cooperation with international organizations.

It needs to be mentioned, that Poland, Lithuania, Romania, Croatia and Ukraine developed their own approaches to the application, enforcement and implementation of international treaties, based on their constitutional regulations and statutory legislation, which have both common and different features.

2. Constitutional dimension of the implementation of the Association Agreements in the Central and Eastern European Countries: experiences of Poland, Romania, Lithuania and Croatia

Poland, Romania, Lithuania and Croatia, as the countries, experiencing impact of the Soviet and socialist legacy on their domestic political, economic and legal life, developed after the collapse of the USSR their own relations with the EU, which led to their full membership thereby. On their ways to the full EU membership these countries were affected by the transformations which affected their legal systems as well. Their legal systems had to find the solution to the issues of shaping relations with the EU as a legal order *sui generis* and aligning their domestic legislation to the *acquis*. The approximation of the legislation to the EU rules and standards became the core element in the implementation strategies of the AAs with Poland, Romania Lithuania and Croatia.

The constitutions of Poland, Lithuania, Romania, Croatia and Ukraine were adopted shortly after the Soviet Union collapsed and are marked very often with the provisions, which manifested the turn of these countries from the joint communist and socialist past. Being adopted in the period of 1990-1997, these constitutions, however, dealt with the international cooperation and foreign policy matters very fragmentarily, usually through rules on the status of the international



law and international treaties in their domestic legal systems. All these countries also underwent and some of them still undergo huge re-orientation of their foreign policy towards the EU and NATO, so that the vision of the European future of these countries started to shape the development of their legal systems as aligned to the European legal traditions.

Figure 1. Outlook on the relations between the EU and Poland, Lithuania, Romania, Croatia and Lithuania: constitutional dimension

					
AA	Signed 1991, in force since 1994	Signed 1995, in force since 1998	Signed 1993, in force since 1996	Signed 2001, in force since 2005	Signed 2014, in force since 2017
EU membership application	1994	1995	1995	2003	-
Accession	2004	2004	2007	2013	-
Constitution	1997	1992	1991	1990	1996
EU-relevant amendments to the Constitution	New Constitution adopted	Since 1996 amendments in the text, separate CA in 2003 2003	Chapters introduced on the EU and NATO membership added in 2003	Constitutional amendments in the text of the Constitution, the most important of 2004	Constitutional amendments 2019

Source: authors' representation

The legal debate on the rapprochement of the domestic legislation of the CEE countries to the EU focused traditionally on such questions of constitutional character as: 1) how the CEE countries, namely Poland, Romania, Lithuania and Croatia amended their domestic legislation, in particular, the constitutional provisions on cooperation with international organizations in the course of the AA implementation and preparation to the EU membership; 2) how do national constitutions shape the national practices with regard to the implementation of the AAs and 3) which national approximation practices were developed by Poland, Romania, Lithuania and Croatia that helped to overcome the ambiguity of domestic constitutional regulations. Obviously, all these countries have different approaches towards these issues based on their national practices of the application and enforcement of international law in their legal orders.

2.1. Poland

The extended cooperation between Poland and the EU dates back to 1991, when the Association Agreement with the EU was signed. The EA with Poland entered into force in 1994 and was accompanied by the submission of the

application for the EU membership in the same year. The implementation of the EA with the EU, as well as the perspectives of the full membership thereto implicitly contributed to the changes in Polish constitutional framework on the application, validity and enforcement of international law, as well as on the cooperation with international organizations.

The current Constitution of the Republic of Poland was adopted in 1997, providing general framework for the regulation of its external and internal policies, including framework rules determining the cooperation with international community. The duty to respect the binding international law is provided already in the first Chapter of the Polish Constitution (Constitution of the Republic of Poland: Article 9). In conjunction with Chapter III “Sources of Law” the place of international agreements seems to be clarified in several aspects: firstly, the duly ratified international agreements are recognized as a source of law in Poland (Constitution of Poland: Article 87); secondly, duly ratified international agreement are directly applicable unless they require the additional legislative or regulatory efforts (Constitution of Poland: Article 91(1)); thirdly, the international agreements, which require the ratification through the adoption of a statute, shall have the precedence over the statutes “if such an agreement cannot be reconciled with the provisions of such statutes” (Constitution of Poland: Article 91(2)); and fourthly, the Constitution of Poland provides the possibility for the recognition of the direct applicability of laws of international organizations which Poland joined and shall have the precedence over the domestic legislation in the cases of the conflict of laws (Constitution of Poland: Article 91(3)). The Constitution of Poland also provides the rules for the cooperation with international organizations, stipulating that competences of state bodies can be delegated to international organizations by the virtue of international agreements (Constitution of Poland: Article 90(1)), which are to be ratified by the Sejm and Senate at least “...with a two-thirds majority vote in the presence of at least half of the statutory number of Deputies” (Constitution of Poland: Article 90(2)) and can be subjected to the nationwide referendum (Constitution of Poland: Article 90(3)). The constitutional framework as to the ratification of international treaties vested the respective powers to the Parliament in cases when such a treaty deals with political and military issues, human rights, Poland’s membership in international organizations, financial responsibilities for the state and cases, when statutory regulation is required either by law or by the Constitution.

Even though the constitutional framework on the international affairs has been modernized in 1997, Czaplinski argued, that it still includes very fragmentary and incoherent constitutional regulation in this area, leaving a lot of questions on the correlation between domestic and international law open and requiring very often the judiciary to rule on (Czaplinski, 1998; Wójtowicz, 2018). The situation becomes even more complicated, once the issue of the validity of the EU Law in Polish legal system is to be analysed.

Moreover, besides the constitutional framework, Poland developed very pragmatic approach towards the cooperation with the EU at the statutory level.



Already in 1996 in Poland the Office for European Integration was established with the aim to assist the Polish Government and ministries with the coordination of national policies and domestic legislation with the relevant EU standards. In 1997 the National Strategy for Integration (Strategia, 1997) was adopted by the Polish Parliament, which systematized Polish policy towards the EA implementation and future EU membership as well as positively influenced the process of approximation of the Polish legislation to the EU *acquis*. Significant legislative and regulatory changes were introduced, e.g. in 2000 Poland adopted its Law “On International Treaties” (Ustawa 39 poz.443, 2000), which defines Polish practices of the VCTL 1969 implementation. Besides clarifying the procedural aspects of the conclusion, ratification and enforcement of international treaties in Poland, it addresses the way the EU legal acts are to be introduced into Polish legal system: it stipulates that EU legal acts, foreseen by Art. 48 (6) TEU, Art. 25, 218 (2), Art. 223 (1), Art. 262 or Art. 311 (part 3) are to be ratified as well (Ustawa 39 poz.443, 2000: Article 12a).

Despite having a mechanism of implementation of the EU law in the domestic legal order since the EA was signed, the issues of application of the EU Law in Polish legal order seem not to have a clear pattern. The ambiguities enshrined in the constitutional provisions, the rules provided by its statutory legislation on the application of international treaties, and the reluctance² to recognize the direct effect and supremacy of the EU law in Polish legal order against the ECJ rulings (Joined Cases C-585/18, C-624/18 and C-625/18) seem to create the pattern, on which existential conflicts between the EU law and the national law in the Polish legal system emerge.

To sum up, it can be stated that Polish constitutional provisions reflect the VCTL 1969/VCTL 1986 framework regulating international practices with regard to the international treaties. It leaves a lot of open questions regarding the applicability of international law in the Polish legal system, especially when the supremacy of the EU primary and secondary legislation over the constitutional regulation is addressed. Moreover, the national implementation practices, being based on the concept of ratification of the EU legal acts, seem to be contradictory to the constitutionally embedded idea of direct applicability of international treaties in the Polish legal system. In the situation when such ambiguities occur, the role of judiciary gains importance.

²In March 2021 the Polish Prime Minister Mateusz Morawiecki lodged the application before the Constitutional Tribunal of Poland on the primacy of the EU Law. (Text of the application available at <https://ruleoflaw.pl/wp-content/uploads/2021/05/K_3-21_application.pdf>. In May 2021 the Constitutional Court of Poland heard the case dealing with controversial Polish legislation on judges’ appointment and dismissal procedures, the nomination of the National Council of Judges through the Parliament.



2.2. Lithuania

Lithuania, being the post-Soviet country, clearly articulated its pro-European aspirations in 1990s, after it became independent. In 1996 the Constitution of Lithuania experienced the first amendment caused by the perspectives of the future EU membership: the provision on acquisition of land in Lithuania was open to foreigners (Constitution of Lithuania: Article 47). In 2001 the constitutional amendments related to the future EU membership were not passed by the Lithuanian parliament, being deemed as not necessary by the Parliamentary Amendment Commission, however, in 2003 provisions on the transfer of powers to the EU were addressed again and the Constitution was amended by the Constitutional Act “On Membership of the Republic of Lithuania in the European Union” of 13 July 2004 (hereafter – the CA).

Chapter XIII of the Constitution of Lithuania regulates country’s foreign policy and defense matters and provides rules on country’s adherence to the universally followed and recognized international legal norms and principles (Constitution of Lithuania: Article 135); the accession to international organizations, if compliant with country’s national interests and independency of the state (Constitution of Lithuania: Article 136). It also stipulates that once duly ratified, international treaties are part of the domestic legal system (Constitution of Lithuania: Article 138). The Constitution of Lithuania also provides the basic rule that law or any legal acts contradictory to the Constitution are not valid (Constitution of Lithuania: Article 7), the constitutional review regarding the compatibility of the international treaties with the Constitution of Lithuania is stipulated in Article 105 of the Constitution of Lithuania.

Lithuania followed the way of introducing the special regulation on relations with the EU at the constitutional level. The CA is a constituent part of its Constitution (Constitution of Lithuania: Article 150). The CA provides regulation on the transfer of powers from the Republic of Lithuania to the EU institutions and confirms the direct applicability and supremacy of the EU founding treaties and secondary legislation over laws and other legal acts in Lithuania.

In Lithuania the constitutional provisions on the application and enforcement of international law and cooperation with the EU are also formulated in the framework character. The domestic legislation dealing with the implementation, application and enforcement of international treaties dates back to 1991: The Law “On International Treaties of the Republic of Lithuania” (Law on International Treaties, 1991), being the domestic practice of the implementation of the VCTL 1969, was adopted prior to the Constitution. It is formulated reflecting general practices for conclusion and execution of international treaties in Lithuania, and does not address the issue of direct applicability and direct effect of the international treaties within the domestic legal system. It stipulates that international treaties have the force of law on the territory of the Republic of Lithuania ((Law on International Treaties, 1991): Article 12). In 1995 in the case 8/95 the Constitutional Court of Lithuania ruled on the compatibility of Article 12



of the Law 1991 to the Constitution, affirming the approach of transformation (incorporation), which the country uses to implement international treaties in the domestic legal system (Case 8/95). In 2006 the Constitutional Court of Lithuania ruled, that "...in cases where national legal acts (inter alia, laws or constitutional laws) establish such a legal regulation that competes with the one established in an international treaty, the international treaty is to be applied" (Ruling of 14 March 2006: 2006) With regard to the supremacy of the EU law over the national legislation, the Constitutional Court of Lithuania follows the same approach, denying however the precedence of the EU law over the Constitution. It also follows the position that the EU law is a source of interpretation of the Lithuanian law, so the question remains open as to the status of the EU law in its domestic legal system. As Jarukaitis and Švedas rightfully point out, the Constitution of Lithuania provides the possibility of the direct effect of international law and the EU law, however, the supremacy of international law and the EU law over the Constitution is denied (Jarukaitis, Švedas, 2019).

2.3. Romania

Romania signed the EA in 1993, however its implementation speeded after 1999, when it was granted the status of the accession country. Being trapped in economic difficulties, political and corruption scandals prior to the accession of Romania, the EU developed a conditionality policy, which determined the framework for the EU-Romania relations in the pre-accession as well as in the post-accession periods (Pridham, 2007). Just like in Poland, once the EU membership perspective was opened, the constitutional amendments were introduced, which determined the interaction between the EU legal order and the Romanian legal system.

The current Constitution of Romania was adopted in 1991 and amended in 2003 with chapters dealing with country's relations with the EU and NATO. Since 2010 there has been an internal discussion on the necessity of the revision of the Constitution, f.e. in order to reflect the latest development in the family law issues (national referendum 2018 on this matter failed). Romania is not a signatory party to the VCTL 1969 and VCTL 1986, so the constitutional provisions on the role of international law and international treaties are drawn in the basic lines. The Constitution of Romania stipulates the duty to fulfil duly the commitments arising from international treaties Romania is a party thereto (Constitution of Romania: Article 11 (1)). It also provides that treaties, if ratified by the Parliament, are part of the national law (Constitution of Romania: Article 11 (2)) and in case an international treaty contradicts to the country's constitution, it can be concluded only after the respective constitutional amendments are introduced (Constitution of Romania: Article 11(3)). Moreover, in case the Constitutional Court of Romania finds an international agreement unconstitutional, it shall not be ratified (Constitution of Romania: Article 147 (3)). The Romanian Constitution contains



provisions on the legislative acts (Constitution of Romania: Articles 73-79), but no exact rules on the role of international law and international treaties in the country's legal order are provided. The amendment of 2003 introduced the legal basis for Romania's accession to the EU and provided procedural framework thereto. The Constitution required a two-third majority vote in the joint sitting of the Chamber of Deputies and the Senate presenting two-thirds of deputies and senators (Constitution of Romania: Article 148(1)); it also confirms the precedence of the EU founding treaties and mandatory secondary EU legislation over the domestic law if compatible with the accession act (Constitution of Romania: Article 148 (3)). It also provides joint responsibility of the Romanian parliament, government and judiciary for the fulfillment of the obligations arising from the accession act and the EU membership (Constitution of Romania: Article 148 (4)). These framework regulations leave a lot of open questions with regard to the interaction between the domestic and international law in Romania, where the role of judiciary seems, especially of the Constitutional Court of Romania to be crucial (Gáleo, 2020).

2.4. Croatia

The Constitution of Croatia was adopted in 1990 and since that time has experienced numerous amendments. The basic framework rules on the application of international law in Croatia are to be found in Chapter VII of the Constitution. It provides that if signed and ratified the international treaties are part of the domestic legal order with the precedence over the statutory legislation and regulatory acts under the condition that they entered into force and are published officially (Constitution of Croatia: Article 134). In the case of the international treaties, which grant powers of the Croatian state to international institutions, they are to be ratified by the two-thirds majority vote in the Parliament from all deputies (Constitution of Croatia: Article 133).

Like in the case of Poland and Lithuania, the Constitution of Croatia contains provisions on the regulations of the relations with international organizations and poses the mandatory two-thirds voting in the Croatian parliament and nationwide referendum (Constitution of Croatia: Article 135). Like in the case of Romania, the provisions regulating the relations with the EU are included directly into the text of the Constitution of Croatia and provide the most advanced regulation on the transfer of powers to the EU (Constitution of Croatia: Article 141a), rules on the participation at the EU institutions (Constitution of Croatia: Article 141b), norms on the application of the EU law in Croatia legal order (Constitution of Croatia: Article 141c), and the legal status of the EU citizens in Croatia (Constitution of Croatia: Article 141d). The constitutional review of the compatibility of international treaties with the Constitution can be assumed to be vested to the Constitutional Court of Croatia based on Article 125* of the Constitution, since the review of the constitutionality of international treaties is not mentioned therein *expressis verbis*. Like in Poland, Lithuania and Romania, the



role of the Constitutional Court in addressing the EU matters is crucial (Božac and Carević, 2015; Goldner *et al.*, 2019).

Thus, this short overview of the experiences of Poland, Romania, Lithuania and Croatia underlines, that the post-Soviet and post-socialist countries, despite having the common socialist legacy developed their own approaches towards the implementation of the international law in their domestic legal orders and, consequently, the implementation of the association agreements with the EU. The domestic constitutional regulation on this issue is mainly of the framework character and reflects national practices of the VCTL application regardless whether these countries are signatories to the VCTLs or apply it as the customary international law. The constitutional provisions on the application and enforcement of the international law are based on the rule, that if ratified duly, the international treaties form a part of the domestic legal order, usually being subordinated to the constitutions, but having the precedence over statutory laws and other regulatory acts. Moreover, some constitutions recognize the possibility of direct applicability of international treaties in their domestic legal systems (f.e. Art. 91 of the Constitution of Poland) and provide constitutional review of the compatibility of international treaties with domestic constitutions (Article 188 (1) of the Constitution of Poland, Article 148 of the Constitution of Romania, Article 105 of the Constitution of Lithuania, Article 125* of the Constitution of Croatia). As the practices of the constitutional review of international treaties in cases of Poland, Lithuania, Croatia and Romania show, the outcomes of such reviews in different legal systems, as *Mendez* notes, differ much (Mendez, 2017). Once these countries defined the membership in the EU as one of their foreign policy priorities, they faced the situation that existing constitutional provisions are not ensuring the prompt, efficient implementation of association agreements, thus the amendments to their constitutions were introduced addressing the issue of the delegation/transfer of state competencies to the EU and the issue of the direct applicability of the EU founding treaties and secondary legislation in the domestic legal orders of Poland, Romania, Lithuania and Croatia, leaving open the the question about the correlation and supremacy of domestic constitutions and the EU law, especially EU primary law.

3. National practices of the implementation of the Association Agreements in Central and Eastern Europe: lessons for Ukraine

Ukraine became independent in 1991 after the dissolution of the Soviet Union. Like any country in the post-Soviet area it started to develop its contractual relations with the EU focusing at first at the maintenance of the cooperation in trade and trade-related matters. Gradually the cooperation between the EU and Ukraine became intensified: with the signature (1994) and entering into force of Partnership and Cooperation Agreement between the European Union and Ukraine (1998, hereafter – PCA) the political dialogue between the EU and Ukraine became



institutionalized within the Ukrainian legal system. According to the PCA Ukraine for the first time unilaterally agreed to align its domestic legislation to the *EU acquis*, so that domestic practices on the rapprochement of its legal rules and regulatory practices to the EU became an essential part of the bilateral cooperation discourse accompanied by the discussions on structural reforms, combatting corruption and stabilizing the economic situation.

The approximation practices in Ukraine evolved from the implementation of the Article 51 PCA (Partnership and Cooperation Agreement, 1994), which contained the lists of areas, where the compatibility of the Ukrainian legislation and regulatory practices of the EU rules was expected, however the clarity as to the terms and procedures for the adaption of the Ukrainian legislation to the EU *acquis* was lacking. The national approach towards the approximation practices, however started to be shaped merely by active governmental efforts, which started to develop a statutory and secondary legislation in this area already at the turn of the XX-XXI centuries with particular focus on the EU law compatibility checks, translation of the EU *acquis* and institutionalization of the decision-making and control over the implementation of the Ukrainian obligations under the treaties with the EU.

The national legislative and approximation practices are based in terms of constitutional regulation on Article 9 of the Constitution of Ukraine, which determines the correlation between international treaties, to which Ukraine is a party and which are duly ratified by the Ukrainian Parliament, and acknowledges their status as a part of the domestic legislation. Like in the case of Lithuania, Romania and Croatia, international treaties, if contradictory to the Constitution, can be signed and ratified only after the constitution is amended. The Constitution of Ukraine does not contain clear rules regarding the place of international treaties in the legal system of Ukraine. Statutory legislation often provides that international treaties, if ratified and duly in force, are to be applied in the same manner as the national legislation is enforced. Where the national legislation contradicts international treaties, the latter have priority over the Ukrainian legislation.

Unlike the Constitutions of Poland, Romania, Lithuania and Croatia, the Constitution of Ukraine does not provide general coherent regulation on Ukraine's cooperation either in the case of the application and enforcement of the international law in general terms nor in the case of the development of cooperation with international organizations, leaving here the space open as to the constitutional prerequisites of the transfer of powers to international institutions. Like in Poland, Romania, Lithuania and Croatia the Constitutional Court of Ukraine is vested with powers to determine the compatibility of international treaties with the Constitution of Ukraine (Constitution of Ukraine: Article 151) and is entitled to express its opinion on this issue.

This constitutional provision shaped the debate on the implementation of the PCA; it also determines the contemporary domestic practice of the implementation of international treaties in Ukraine, including the EU-Ukraine AA and gives floor for the debate on the correlation of the international law and the domestic law,



since the enforcement of international legal rules in Ukraine in different fields, e.g. human rights, causes a lot of controversies both in practical and theoretical terms, since a coherent approach towards such fundamental issue is not achieved yet neither by state policies nor in the academic environment (Koziubra, 2020; Petrov, 2014). Like Romania and Lithuania, the Constitutional Court of Ukraine is vested with powers to determine the compatibility of international treaties to the Constitution of Ukraine (Constitution of Ukraine: Article 151) and is entitled to express its opinion on this issue.

The Law of Ukraine “On International Treaties”, as the VCTL 1969 implementation practice, does not contain a separate provision on the direct effect of international treaties. It confirms the constitutional rule that if ratified by the Ukrainian Parliament, the international treaties are to be applied as the domestic legislation and shall prevail over it in the case of the conflicts (Law of Ukraine (1906-IV), 2004: Article 19). The Ukrainian statutory legislation does not contain special provisions on the direct applicability of international legal norms in Ukraine with one exemption: the European Convention of Human Rights is directly effective and applicable (Law of Ukraine (№ 3477-IV), 2006). However, in this case the judiciary should fill the gap, as *Petrov* argues, and recognize the primacy and the direct effect of PCA provisions over the conflicting domestic legislation (Petrov, 2014: 5). In Ukraine, such judiciary activism occurs in an inconsistent and sporadic manner.

The national legislative framework for the approximation of the domestic legislation of the EU *acquis* dates back to 1998, when the Government of Ukraine adopted the National Strategy of the Integration of Ukraine into the EU, where the approximation discourse was defined in general terms. In 1999, the Government of Ukraine adopted the Concept of Adaptation of Ukrainian laws to the legislation of the EU (Decree 1496, 1999). In 2004 the Ukrainian Parliament approved the National Programme on the Adaptation of Ukrainian legislation to the EU *acquis* (Law of Ukraine (1629-IV) 2004), where, as *Petrov* argues, Ukraine voluntarily agreed to introduce the EU *accession acquis* without the perspective of full membership in the EU (Petrov 2014: 12). In the course of the AA implementation Ukraine made extensive use of deploying national secondary legislation at the level of by-laws to regulate the approximation issues: e.g. the compliance check for the domestic legislation was introduced in 2009 in the Rules of Procedure of the Government of Ukraine (para. 46 on the compliance check for conformity of Ukrainian draft law with the EU *acquis*) (Rules of Procedure, 2009) and exarbedated in the Ruling on the Governmental Office for European and Euro-Atlantic Integration, where most procedural rules are contained (Ruling 759, 2017).

Until 2017, the institutional framework of approximation in Ukraine was based on the idea that approximation and the EU law compliance check were to be organized within the government by line ministries, which actually very often caused a lack of coordination leading to delays in the approximation process. In 2016, Ukraine transferred from the decentralized institutional framework for EU



matters to the single-body focused model of the national institutional mechanism on the EU-Ukraine relations: it established the position of the vice-premier for issues regarding the European and Euratlantic Integration of Ukraine. Thereafter, in 2017, the Governmental Office for the Coordination of European and Euro-Atlantic Integration of the Secretariat of the Cabinet of Ministers of Ukraine (Ruling 759, 2017) was established in order to direct, coordinate and control governmental efforts in the implementation of the EU-Ukraine AA, including the approximation of Ukrainian legislation to the EU *acquis*.

Thus, Ukrainian practices on the AA implementation are based on the constitutional provision on the international treaties, which determines the framework for domestic practices of the implementation of international treaties.

Despite the Ukrainian legislature, executive and judiciary recognize specific nature of the AA, a complex framework legal structure that contains not only specific norms able to govern the functioning of the association relations between the EU and Ukraine is still missing. The constitutional amendments (Constitution of Ukraine, 1996: Constitution Preamble, Article 85(5), Article 102, and Article 116 (1¹)) were introduced in 2019, reflecting the European expectations of the Ukrainian population, however both the implementation practices for the international legal rules in general and the implementation of the AA itself did not receive a coherent and transparent structure.

Conclusions

The national implementation practices of the association agreements in Central and Eastern European countries are basically linked to the constitutional provisions, which refer to the status of international law, international treaties and rules on cooperation with international organizations. As experiences of Poland, Romania, Lithuania, Croatia and Ukraine show, the general constitutional provisions are containing the framework rules on the interaction between international law and domestic legal orders. These constitutional provisions are circumstanced by domestic practices of the implementation of international law. The constitutional provisions very often stipulate that if signed and ratified, international treaties, form the part of the domestic legal orders, however the applicability of international treaties within these countries is regulated differently: Poland recognizes the direct applicability of international treaties in its domestic legal order, as opposed to Romania, Lithuania, Croatia and Ukraine, which do not address the direct applicability or direct effect of international treaties *expressis verbis* in their constitutions. The conclusion and ratification of the AAs between the EU and these countries, especially once the perspective of the EU membership was open, modernized national practices of implementation of the international treaties, especially due to the fact, that the recently concluded AAs include provisions on extensive legislative and regulatory approximation of the domestic legal systems to the EU *acquis*. The AAs with CEEs evolved from the agreements which contained basically the framework rules regulating relations between the EU



and third countries like in the cases of EAs with Poland, Romania and Lithuania, to the treaties, which contain detailed, clear and self-sufficient regulations, like in the case of Ukraine, with rather a limited margin of appreciation left to the states in the course of the AAs implementation. This opens the discussions on the direct applicability of such AAs in the domestic legal orders of such countries as Ukraine. The issue of direct applicability of international law has a clear constitutional dimension, and gives a new rise for the debate in Ukraine on the precedence of the international law over the domestic legislation, especially over its Constitution.

It needs to be mentioned that Poland, Lithuania, Romania and Croatia dealt with the issues related with the EU membership at the constitutional level prior to their membership. Technically, the most important issue that the legal systems of Poland, Lithuania, Romania and Croatia needed to address at the constitutional level was the direct effect and direct applicability of the EU Law, which required to be addressed both at the constitutional level and at the level of the secondary legislation. All countries but Poland follow the way of the introduction of the amendments to their constitutions, whereas in 1997 Poland adopted the Constitution with the general framework regulation on its cooperation with international organizations. Even if amended, the countries Poland, Romania, Lithuania and Croatia do not recognize the supremacy of the EU Law over domestic constitutions. The judiciary (constitutional and supreme courts of these countries) address the ambiguities related to the EU Membership and the application of the EU Law. Ukraine in this context also follows the line of amending the text of its Constitution, both in the way of application of the rules on constitutional amendments and in the way of judiciary activism. The last one, especially through the jurisprudence of the Constitutional Court of Ukraine, is very often seen as an instrument of the tacit amendments to the Ukrainian constitution.

Acknowledgement: This contribution is prepared in the framework of the realization of the Jean Monnet project under the Erasmus+ programme 99469-EPP-1-2018- 1-UA-EPPJMO-CoE Western Ukrainian Research Center in European Studies (Jean Monnet Centre of Excellence). The sole responsibility of this publication lies with the authors. The European Union is not responsible for any use that may be made of the information contained therein.

References

- Božac I., Carević M. (2015), *Judicial Application of International and EU Law in Croatia*, in Rodin, S. and Perišin, T. (eds.), *Judicial Application of International Law in Southeast Europe* (retrieved from <https://lawexplores.com/application-of-international-and-eu-law-in-croatia>).
- Cabinet of Ministers of Ukraine (1999), *Decree of the Cabinet of Ministers of Ukraine No. 1496 of 16 August 1999 on the Concept of adaptation of the legislation of Ukraine to the legislation of the EU*, *Official Herald of Ukraine*, 1999, No. 33, Art. 168.



- Cabinet of Ministers of Ukraine (2009), Rules of Procedure of the Cabinet of Ministers of Ukraine, No. 712 (2009) (retrieved from <https://www.kmu.gov.ua/npas/228286390>).
- Cabinet of Ministers of Ukraine (2017), Ruling of the Cabinet of Ministers of Ukraine, № 759 (2017) (retrieved from <https://www.kmu.gov.ua/npas/250334224>).
- Constitutional Court of the Republic of Croatia (2014), Constitution of the Republic of Croatia, as of January 2014, Consolidated text, Official Gazette Nos 56/90, 135/97, 113/00, 28/01, 76/10 and 5/14 (retrieved from: https://www.usud.hr/sites/default/files/dokumenti/The_consolidated_text_of_the_Constitution_of_the_Republic_of_Croatia_as_of_15_January_2014.pdf).
- Constitutional Court of the Republic of Lithuania (1985), Case No. 8/95 on the application of international treaties of the Republic of Lithuania (retrieved from <https://www.lrkt.lt/en/court-acts/search/170/ta983/content>).
- Constitutional Court of the Republic of Lithuania (1991), Law of The Republic of Lithuania of 21 May 1991 on international treaties, (retrieved from https://www.servat.unibe.ch/icl/lh02000_.html).
- Constitutional Court of the Republic of Lithuania (1992), Constitution of Lithuania, (retrieved from <https://www.lrkt.lt/en/about-the-court/legal-information/the-constitution/192>).
- Constitutional Court of the Republic of Lithuania (2006), Ruling of the Constitutional Court of the Republic of Lithuania, of 14 March 2006 (retrieved from https://www.lrkt.lt/data/public/uploads/2021/05/selected-doctrine-2021_1.pdf).
- Constitutional Court of the Republic of Lithuania (2006), The Foundations Of The Constitutional Order (retrieved from: https://www.lrkt.lt/data/public/uploads/2021/05/selected-doctrine-2021_1.pdf).
- Constitutional Court of Ukraine (1996), Constitution of Ukraine, Adopted By Verkhovna Rada Of Ukraine On 28 June 1996, Records of the Verkhovna Rada of Ukraine, 23 July 1996, No. 30, Art.141.
- Constitutional Court of Ukraine (2004), Law of Ukraine (1629-IV) of 18 March 2004 about the All State Programme of adaptation of Ukrainian legislation to that of the EU, Official Herald of Ukraine, 2004, No. 29, Art. 367 (retrived from <https://cis-legislation.com/document.fwx?rgn=18212>).
- Constitutional Court of Ukraine (2004), Law of Ukraine (1906-IV) of 29 June 2004 on international treaties, Records of the Verkhovna Rada of Ukraine, 10 December 2004, No. 60, Art. 540 (retrived from <https://cis-legislation.com/document.fwx?rgn=9402>).
- Constitutional Court of Ukraine (2006), Law of Ukraine (№ 3477-IV) of 23 February 2006 on the fulfilment of decisions and application of practice of the European Court of Human Rights, Records of the Verkhovna Rada of Ukraine, 28 July 2006, No. 30, Art. 260 (retrived from <https://cis-legislation.com/document.fwx?rgn=18190>).
- Czaplinski, W. (1998), Relationship between international law and Polish municipal law in the light of 1997 Constitution and Jurisprudence, *Revue Belge de Droit International*, 1998/1, pp. 259-271.



- Gáleo, I. (2020), The Relation between Treaties and the Constitution of Romania: Recent Case-Law of the Romanian Constitutional Court, *Romanian Journal of International Law*, 23, pp. 80-95.
- Goldner Lang I., Đurđević Z., Mataija M., (2019), The Constitution Of Croatia in the Perspective of European and Global Governance. In: Albi A., Bardutzky S. (eds.), *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law*. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-273-6_24
- Holovko-Havrysheva, O. (2020), Legal Regulations Of The Consumer Protection in Ukraine with regard to Ukraine's obligation of adaptation to the EU legislation, *Przegląd Europejski*, 4(4), pp. 61-78, <https://doi.org/10.31338/1641-2478pe.4.20.5>
- Internetowy System Aktów Prawnych (ISAP) (2000), Ustawa o umowach międzynarodowych (Law on International Agreements), Dz. U. 2000 Nr 39 poz. 443 z dnia 14 kwietnia 2000 r (retrieved from <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20000390443>).
- Jarukaitis I., Švedas G., (2019), The Constitutional Experience of Lithuania in the Context of European and Global Governance Challenges, in: Albi A., Bardutzky S. (eds.), *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law*. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-273-6_21.
- Klabbers, J. (2015), *An Introduction to International Organization Law*, OUP, 2015.
- Koziubra, M. (2020) The Correlation of Constitutional and International Law: The Ukrainian Case, *Kyiv-Mohyla Law and Politics Journal*, 2020 (6). <https://doi.org/10.18523/kmlpj220749.2020-6.177-195>.
- Mendez, M. (2017), Constitutional Review Of Treaties: Lessons For Comparative constitutional design and practice, *International Journal of Constitutional Law*, 15(1), 1 January 2017, pp. 84–109, <https://doi.org/10.1093/icon/mox004>
- Official Journal of the European Union (1987), Case 12/86 Demirel, ECR 1987, (retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61986CJ0012>).
- Official Journal of the European Union (1993), Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, OJ, L 348; 31.12.1993 (retrieved from <https://eur-lex.europa.eu/eli/dec/1993/743>).
- Official Journal of the European Union (1994), Europe Agreement establishing an association between the European Economic Communities and their Member States, of the one part, and Romania, of the other part, OJ, L357, 1994 (retrieved from <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AL%3A1994%3A357%3ATOC>).
- Official Journal of the European Union (1998), Partnership And Cooperation Agreement between the European Communities and their Member States, and Ukraine, OJ L 49, 19.02.1998 (retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A21998A0219%2802%29>).
- Official Journal of the European Union (2005), Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and

- the Republic of Croatia, of the other part, Official Journal, L26, 2005 (retrived from https://www.fdfa.be/sites/default/files/atoms/files/472_Agreement%20in%20English.pdf)
- Official Journal of the European Union (2012), Consolidated Version of the Treaty on European Union, OJ C202; 7.6.2016, (retrieved from https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF).
- Official Journal of the European Union (2012), Consolidated Version of the Treaty on Functioning of the European Union, OJ L. 326; 26.10.2012 (retrived from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>).
- Official Journal of the European Union (2012), Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, OJ L 051 , 20.02.1998 (retrived from <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A21998A0220%2801%29>).
- Official Journal of the European Union (2014), Association Agreement (2014) between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29.5.2014, (retrieved from <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>).
- Official Journal of the European Union (2018), Joined Cases C-585/18, C-624/18 and C-625/18, Judgment of the Court (Grand Chamber) of 19 November 2019 (request for a preliminary ruling from the Sąd Najwyższy — Poland) — A. K. v Krajowa Rada Sądownictwa (C-585/18) and CP (C-624/18), DO (C-625/18) v Sąd Najwyższy (retrived from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62018CA0585&rid=1>).
- Parliament of Romania (1991), Constitution of Romania, (retrieved from <http://www.cdep.ro/pls/dic/site.page?id=371>).
- Petrov, R. (2014), Legislative Approximation and Application of EU Law in Ukraine, in: Petrov, R. and Van Elsuwege, P. (eds.), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union Towards a Common Regulatory Space?*, Routledge.
- Pridham, G. (2007), Romania and EU Membership in Comparative Perspective: A PostAccession Compliance Problem? – The Case of Political Conditionality (retrieved from <https://www.tandfonline.com/doi/pdf/10.1080/15705850701322491>).
- Sejm of the Republic of Poland (1997), Constitution of the Republic of Poland, 2 April 1997, Dziennik Ustaw, No, 78, Item 483 (retrived from <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>).
- Sejm of the Republic of Poland (1997), Narodowa Strategia Integracji (National Integration Strategy), (retrieved from: http://oide.sejm.gov.pl/oide/images/files/dokumenty/narodowa_strategia_integracji.pdf).
- Tyushka, A. (2015) Association through Approximation: Procedural Law and Politics of Legislative and Regulatory Approximation in the EU-Ukraine Association Agreement, *Baltic Journal of European Studies*, 5(1/18), pp. 56-72.



- United Nations (1969), Vienna Convention on Law of Treaties, 189 UNTS 137 (retrived from https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).
- United Nations (1986), Convention on the Law of Treaties between States and International Organizations or between International Organizations, (retrived from https://legal.un.org/ilc/texts/instruments/english/conventions/1_2_1986.pdf).
- Van Eluswege P., Chamon M. (2019), The Meaning of ‘Association’ under EU law. A Study on the Law and Practice of EU Association Agreement (retrieved from [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/608861/IPOL_STU\(2019\)608861_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/608861/IPOL_STU(2019)608861_EN.pdf)).
- Wójtowicz, K. (2018), The Position of Customary International Law in the Polish Legal System in the Light of Article 9 of the Constitution of 1997, Wroclaw Review of Law, Administration & Economics. 8. 244-248. 10.1515/wrlae-2018-0045.

