

CHAPTER 11

DOI <https://doi.org/10.30525/978-9934-26-694-2-11>

INTERNATIONAL LEGAL FACTORS OF THE TRANSFORMATION OF NATIONAL LEGISLATION

Melnyk Ya. Ya., Perevertun O. V.

INTRODUCTION

The alignment of Ukrainian legislation with the law of the European Union during implementation creates conditions for the need to transform national legislation. It is obvious that any transformation of a phenomenon, including in the midst of the phenomenon of law, entails a corresponding burden on changing the current system, initiating a new stage, a new form of relations, in fact, a new model of their functioning.

Thus, if we are talking about the implementation of international regulatory legal acts into the national legislation of Ukraine, then there is a need to review the role and place of such sources (forms) of law as international treaties in the national legal system. The impact of international treaties that they can have on the system of national legislation is mediated not only by the purpose of such influence, but also by the procedure and ability, as well as by functional tools, means and methods to ensure such influence qualitatively and effectively.

Under such circumstances, fundamental questions arise regarding the need to study the processes of the influence of international treaties on the transformation of national legislation. Following this, there is a need to analyze and monitor existing international treaties

in Ukraine, legal monitoring of their effectiveness, research into doctrinal explorations of the transformation of national legislation, as well as the influence of legal doctrine on the regulation of the system of national legislation of Ukraine.

Thus, with such a statement of the problem, there is a need to study the processes related to the implementation of international legal norms into national legislation.

1. The place of international treaties in the legal system of Ukraine^{1*}

The legal system of Ukraine reflects not only the embodiment of legal ideas, rules, customs, interests and legal norms formalized in national legislation, but also determines the place of each source of law in the legal system according to the hierarchy, relationship with sectoral legislation, the method of influencing legal relations, the formation of the legal regime for their regulation.

Under such circumstances, the need to clarify the place of international treaties in the legal system of Ukraine becomes obvious, in order to also determine the issues of hierarchy, relationship with national legislation, methods of influencing legal relations, legal order, etc.

The legal encyclopedia notes that the influence of international law on national law consists in: (a) the issuance of certain norms of national law (when a national implementing regulatory legal act is adopted); (b) change of certain norms of national law

^{1*} Melnyk Ya.Ya (2024). Vplyv mizhnarodnykh dohovoriv na natsionalne zakonodavstvo Ukrainy [The influence of international treaties on the national legislation of Ukraine]. *Systematyzatsiia zakonodavstva Ukrainy yak vazhlyva skladova pravotvorchoi diialnosti v konteksti yevropeiskoi intehtratsii* [Systematization of the legislation of Ukraine as an important component of law-making activity in the context of European integration]: collection of scientific works / edited by O. O. Kot, A. B. Hryniak, N. V. Milovska. Kyiv : Alerta, 224–245.

(for example, when a state changes its legislation before concluding an international treaty, if it or its draft contradicts the current legislation, in order to ensure compliance of domestic legislation with such a treaty) abolition of certain norms of national law (in connection with the conclusion of an international treaty, the norms of law existing in the country, which otherwise regulate the same social relations, cease to be valid, however, again with the consent of the state) [2, p. 171].

At the same time, within the European Union, a special system of regulation of social relations was created, which significantly differs from the classical systems of national and international law. The heterogeneity and multi-level structure of this integration association determined the flexibility and diversity of methods of forming legal norms, as well as the means of their expression and fixation, that is, the sources of law [12, p. 49].

Analyzing the educational literature, it would seem to draw attention to the fact that the sources of primary law of the EU are its founding treaties, which were consolidated on the basis of the TEC and the TFEU. Today, these are the Maastricht Treaty, the Amsterdam Treaty, the Nice Treaty, and the Lisbon Treaty. The educational literature also notes that the founding treaties include the treaties that have been revised: the Treaty on the European Coal and Steel Community; the Treaty establishing the European Economic Community; (EU Treaty), Treaty establishing the European Atomic Energy Community of 1957 (Euratom Treaty). Primary sources also include treaties on the accession of member states to the EU: Belgium, Bulgaria, Greece, Denmark, Estonia, Ireland, Spain, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Germany, Poland, Portugal, Romania, Slovakia, Slovenia, Hungary, Finland, France, Croatia, Czech Republic, Sweden [12, pp. 49–50].

Also, legal educational literature draws attention to the fact that one source of primary EU law is its international treaties of the EU, which is related to the role of the community in the international arena. In this way, the community can conclude international treaties and agreements with countries that are not part of it, as well as with other international organizations. These agreements cover a wide range of relations – from cooperation in the field of trade, industry, technical and scientific cooperation to trade agreements on individual goods. Along with the growth of economic power and trade activity of the EU member states, the number of international treaties concluded by the community with countries that are not part of this organization has increased significantly in recent years. On this basis, legal literature suggests distinguishing two main types of international treaties between the European Union and countries that are not part of it. Association agreements establish a special type of relationship between the EU and other countries, which is not limited to trade alone and also includes close economic cooperation and financial assistance [12, pp. 50–51].

It is significant that the legal doctrine of the European Union law distinguishes between two different types of association agreements. In particular, these are agreements that establish special relations between individual EU member states and countries that are not part of it; and also, these are agreements whose purpose is to prepare for accession to the EU or the creation of a Customs Union. At the same time, it is believed that the main reason for concluding association agreements of the first type is the existence of close economic, historical and political ties between EU member states and other states. The latter include, as an example, those that constitute ties between France,

Italy and their former colonies. Moreover, the introduction within the community of a single tariff system without preferences could complicate the development of trade relations with such countries. In view of this, special agreements were concluded designed to limit the effect of some provisions on free trade in relation to such countries [12, p. 50].

The association can also play the role of a preparatory stage for joining the EU. It can serve as a preliminary stage of the accession process, during which a country that has expressed a desire to join the EU can work on transforming its own economy in accordance with community standards. Ukraine is also on this path, with which the “Association Agreement” was signed in 2014 [12, pp. 50–51].

The civilized level of international contractual relations lies in the ability not only to regulate its relations through such an instrument as an international treaty, but also when such a treaty affects relations between states, as a result of which positive and negative consequences may arise. In essence, here we can preliminarily assume the thesis that “legal regulation” is equal to the thesis of “influence”, because in the absence of legal regulation, the question of the influence of law on relations may not even be raised.

At the same time, it is obvious that we are not only talking about the relationships between subjects of international law, but also about the “relationships” of legal systems and legal orders, which should have a certain consequence for legal regimes.

In international law, it has become established that the “law of international treaties” is primarily a set of international legal norms that determine the procedure for concluding, conditions for the validity, action and termination of international treaties by subjects of international law. Moreover, the international treaty itself is one

of the most common means in international law for its subjects to consolidate their mutual rights and obligations [17, p. 20].

Therefore, it becomes obvious that such a procedural property of international treaties affects the international legal factors of the transformation of national legislation. It determines, as a result of such a result, the place of international treaties in the national legal system.

Diving into a deeper analysis of the problems of an international treaty and its impact on the regulation of national legislation, the entry into European integration processes and the transformation of the legal system, it is advisable to pay attention to the international treaty as a source of law, its features as a legal institution.

Thus, E. O. Zverev notes that an international treaty as a source of national law has the features of an ordinary private law treaty and a status that is commensurate, and in many states even higher than the status of the law. According to the researcher, this is an important source of law, since it allows states not to stand aside from international life, stimulating them to improve their own legal systems, in order to comply with international standards. International treaties must work. For this, they must be applied by state bodies, understood and applied by citizens [7, p. 43]. The fact that an international treaty in legal doctrine is identified by certain features indicates that these features, as identifying correlates, can be characterized as being active, or, conversely, be passive and play a methodological role in the legal construction of an international treaty, influencing the transformation of the legal system by globalizing the legal space. In simple words, by analogy with a contract in civil law, these are precisely those certain factors that constitute the subject of legal regulation of contractual relations in the contract, uniting primarily regulatory and legal regulation into a single system.

The scientific literature notes that most states have special legislation that determines the powers of state bodies and officials regarding the conclusion, execution and termination of international treaties. Thus, in Ukraine, the laws of Ukraine “On International Treaties of Ukraine” (2004) and “On Succession of Ukraine” (1991) have been adopted [17, p. 22]. It is also appropriate to pay attention to the constitutional norm that determines the foundations of legal regulation of international treaties.

Thus, Article 9 of the Fundamental Law stipulates that “valid international treaties, the consent to be bound by which has been granted by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine, and the conclusion of international treaties that contradict the Constitution of Ukraine is possible only after making appropriate amendments to it” [10]. In the commented edition of the Constitution of Ukraine, formed on the basis of comments from excerpts from decisions of the Constitutional Court of Ukraine on the official interpretation of articles, there is no commentary on Article 9 of the Constitution of Ukraine [11, p. 37].

The Law of Ukraine “On International Treaties of Ukraine” in Article 1 defines a list of basic concepts, among which the legislator defined: “international treaty of Ukraine”, “conclusion of an international treaty of Ukraine”, “authority”, “signature”, “ratification, approval, acceptance, accession”, “statement”, “reservation”, “international organization”, “party”, “depository”, “termination of action”, “suspension of action” [18]. However, the concepts of “influence”, “legal influence” are not defined, neither in modern legal encyclopedias, nor in legislation and judicial practice, but nevertheless it follows from the strength of the source of law, when such is introduced into the hierarchy of sources.

However, researchers in the field of law widely use the concept of “influence” in the course of doctrinal developments, operating with it in relation to certain circumstances and facts. This means that the rather loose and multi-vector use of the term influence in relation to essentially one direction of “legislation” does not give us a clear idea for application in the course of studying international treaties [15, pp. 224–245], although it is obvious that the terminology itself “... “authority”, ... “reservation”, “international organization”, ... “termination of action”, “suspension of action”... ” are correlates that determine the directions and processes of influence. This is, so to speak, a narrow view of the problem.

However, in a broader sense, it is worth bearing in mind that treaties and agreements are legally enforceable acts, as acts of legal subjects who have legal knowledge adopted in an officially recognized (documentary) form. Instead, the theory of law also distinguishes such types of legal acts as regulatory legal acts (aimed at establishing, changing or abolishing legal norms) and legal interpretative acts (aimed at clarifying legal norms) [19, pp. 236, 237]. This means that the issue of the legal impact of such legal acts as international treaties has an additional impact on another specific group of legal acts such as: (a) regulatory legal acts; (b) law enforcement acts; and, (c) legal interpretative acts [15, pp. 224–245].

According to national legislation, in accordance with Part 2 of Article 9 of the Law of Ukraine “On International Treaties of Ukraine”, it is determined that “... international treaties of Ukraine are subject to ratification:

(a) political (on friendship, mutual assistance and cooperation, neutrality), territorial and those relating to state borders, delimitation of the exclusive (maritime) economic zone and continental shelf of Ukraine, peaceful;

(b) relating to the rights, freedoms and obligations of man and citizen;

(c) general economic (on economic and scientific and technical cooperation), on general financial issues, on issues of granting loans and economic assistance by Ukraine to foreign states and international organizations, as well as on receipt by Ukraine from foreign states and international financial organizations of loans not provided for by the State Budget of Ukraine;

(d) on Ukraine's participation in interstate unions and other interstate associations (organizations), collective security systems;

(e) on military assistance and the sending of units of the Armed Forces of Ukraine to other states or the admission of units of the armed forces of foreign states to the territory of Ukraine, the conditions for the temporary stay of foreign military formations in Ukraine;

(f) concerning issues of the transfer of historical and cultural values of the Ukrainian people, as well as objects of state property rights of Ukraine;

(g) the implementation of which entails changes in the laws of Ukraine or the adoption of new laws of Ukraine;

(h) other international treaties, the ratification of which is provided for by an international treaty or the law of Ukraine ..." [18].

Such a list, which is specified in Part 2 of Article 9 of Law № 1906-IV of June 29, 2004, in our opinion, gives grounds to distinguish / differentiate / areas of legal influence by economic spheres, branches of law, etc. This idea is explained by the legal grounds for the ratification of international treaties of Ukraine, which is determined by the powers of the parties to the international treaty in which Ukraine participates [15, pp. 224–245].

In monographic studies, attention is drawn to the fact that international treaties enter into force in the manner and within the time period stipulated by the treaty itself. It is believed that this is one of the most important procedural issues, on which the moment from which the rights and obligations of the parties to the treaty arise depends. As for validity, an international treaty is valid if it has acquired and retains legal force in accordance with the conditions specified in it [17, p. 38]. This is where the peculiarities of the effect of international treaties should be considered. At the same time, in scientific studies of the effect of treaties it is noted that the nature of the treaty determines the limits of its effect, which are: the territory of a certain state or the territory of several states (international treaty, federal treaty). The effect of a regulatory and legal treaty extends to the subjects of its adoption, as well as other subjects, as provided for by the terms of the treaty [5, p. 186]. It is the targeting, the property of spreading “its norm” to specific parties, to the participants in the agreement, that constitutes the corresponding legal entity, so to speak, which is converted into “influence”, and, in fact, into the main element of any agreement – obligations.

Referring to Article 14 of the Vienna Convention regarding the fact that ratification as a traditional way of consenting to the binding nature of the agreement is mandatory only when it is provided for by the states that have signed the agreement, some scholars (V. Tymoshenko, S. Dryomov, A. Tymoshenko) note that there is no general presumption in favor of ratification. After all, everything depends on how the states-parties to the agreement are defined. Therefore, in their opinion, an international agreement concluded in a simplified form has the same legal force as an agreement concluded in writing, that is, with subsequent

ratification. Therefore, there is no material difference between them [21, pp. 185–186].

The legal doctrine of international law states that for many international legal norms and institutions of international treaty law, their implementation is generally possible only if there are corresponding norms in national law [17, p. 22].

D. P. Martynovsky proves that international legal standards have a significant positive impact on the national legislation of the states parties to international treaties, on the one hand, harmonizing their national constitutional law with international law, and on the other hand, increasing and improving the mandatory level of national constitutional law in the context of its compliance with modern regulatory requirements of international law [13, p. 77]. V. A. Malyga and V. M. Repetsky believe that international treaties as a legal category have much in common in the interpretation of its legal nature and substantive content through the prism of international public, international private and national (domestic) law. They are united by the guideline defined by the Vienna Convention on the Law of International Treaties of 1969. At the same time, the Law “On Private International Law” establishes additional restrictive requirements for an international treaty that regulate relations with a foreign element (mandatory ratification) [14, p. 510]. Also, researchers prove that “... in public international law, the scope of international treaties includes, first of all, international interstate legal relations that have a political orientation, that embody the interests of states and are based on their sovereignty. Accordingly, international treaties as sources of private international law contain norms that will be applied in the future to private law relations involving individuals and

legal entities. For treaties that regulate relations with a foreign element, the main ones are economic, financial and other issues that directly affect the interests of such entities. It should be noted that the codification and unification of international law norms ensures the appropriate international legal order in the specified areas, providing legal relations with stability, logic, predictability by confirming existing norms and creating new norms that determine the substantive content of an international treaty. All international treaties are public by their nature (even if they act as sources of private law), since they are concluded by states that guarantee their implementation. At the same time, the presence of unified conflict rules in international treaties directly indicates that such a treaty is a source of private international law ..." [14, p. 510].

V. Trotska believes that "... the influence of international treaties on the development of national legislation is manifested in the need to create a single international legal space, which includes Ukraine, in order to establish common approaches to regulating relations in the field of copyright and related rights. International treaty unification in the field of copyright and related rights has features that are manifested in: (1) the development and observance by the participating states of uniform principles in the field of copyright and related rights; (2) the establishment in the legislation of states of uniform approaches to the implementation of protection of rights to objects of copyright and related rights; (3) the establishment of uniform rules of conduct defined in an international treaty, binding on its participating states; 4) the introduction of uniform mechanisms for the protection of rights in the event of violation of copyright and related rights..." [22, p. 25]. One should agree with such conclusions.

N. V. Atamanova, studying the problems of the role and significance of international treaties in the national legal system of Ukraine, comes to the conclusion that the role and significance of international treaties of Ukraine in the system of its national law have not yet been clearly defined. After all, the Constitution of Ukraine does not establish the primacy of the norms of international treaties over the norms of national law, recognizing some of the norms of international treaties (i.e. those whose consent to be bound by the Verkhovna Rada of Ukraine has been given) as part of national legislation. At the same time, the scientist notes, the priority given to the norms of international treaties over the norms of Ukrainian national law established in Article 19 of the Law “On International Treaties of Ukraine” and the norms of other laws of Ukraine cannot be clearly considered as applying to all legislation of Ukraine. That is why it would be more expedient to provide for the norm currently established in Part 2 of Article 19 of this Law in the Constitution of Ukraine itself, and not at the level of the law. The scientist also proves that in the process of law implementation, no contradiction between constitutional provisions and norms of an international treaty is permissible. Therefore, it is worth conducting a mandatory procedure for constitutional examination of all draft international treaties, since for each country there is an unambiguous constitutional imperative that all laws and other legal acts, in particular of an international legal nature, applied within the national territory, nevertheless do not contradict the Basic Law of a particular country [12, p. 12].

At the podium of young scientists, attention was paid to the “place of international treaties in the legal system of Ukraine”. In particular, international treaties of Ukraine for the legal regulation of the administrative activities of the police of Ukraine occupy a special place in the system of

regulatory and legal regulation of the administrative activities of the police. This, according to the researcher, is due to the fact that such acts are endowed with almost the highest legal force [6, p. 76]. K. A. Ragulina, studying the legal impact of international treaties, proves that international treaties and national legislation of Ukraine interact in two forms: (1) international treaties influence the creation and content of regulatory and legal acts of Ukraine; (2) international treaties recognized by our state have the ability to have direct effect, can be directly applied in the relevant internal relations [20, p. 36]. D. V. Hrytsayenko believes that "...the country's legal system is gradually developing in the direction of humanization and human-centrism, a noticeable tendency to refuse unfounded accession to new international treaties may indicate a pragmatic approach of the Ukrainian state. It is noted that in conditions of economic and social difficulties, the implementation of international obligations in the field of human rights often turns out to be overwhelming for Ukraine. The importance of properly assessing the state's capabilities to fulfill international obligations is emphasized, as well as the need to form a strategy that would include not only the signing of new treaties, but also the development of appropriate mechanisms for their implementation ..." [4, p. 116].

2. Implementation of international legal norms into national legislation

Implementation, as a certain process of states to implement the obligations undertaken with the introduction of international standards into national legislation, focuses attention on the needs of studying not only international legal norms, but also

the process itself, the powers of state bodies, its features. Thus, O. M. Ivanchenko, studying the problems of classification and structure of norms of international and national law, draws attention to certain features. In particular, the scientist proves that, unlike norms of international law, national norms differ significantly in legal force. They are arranged in a hierarchy in the same sequence as the regulatory legal acts in which they are contained. From this point of view, national norms are differentiated in the form of norms that have higher legal force (contained in the constitution), ordinary national law, act of the head of state, by-law, court decision, etc. The norms of both international and national law in the most general form can be defined as formally defined rules that regulate social relations that are the subject of these branches. In this case, formal certainty means a distinctive feature of international legal norms, which consists in the special clarity and certainty of concepts and structures. An important feature of international legal norms compared to national norms is that most of them are not universally binding, because a group of states cannot create norms for other countries [8, p. 108].

It is believed that the prerequisite for the implementation of international human rights standards is the constitutional consolidation of the provision on the inclusion of an international treaty, other sources of international human rights standards in the national legislation (national law or national legal system) [2, p. 172]. And this approach is methodologically correct and justified. Which explains the issue of compliance with the sovereignty of legal orders, the interconnection of legal systems, as well as the powers to transform a system that adapts to another legal order.

The textbook on international law states that “...the implementation of international law is a purposeful organizational and legal activity of states, which is carried out individually, collectively or within international organizations for the purpose of timely, comprehensive and full implementation of the obligations assumed by them in accordance with international law. In the case of the implementation of international legal norms at the national level, additional domestic measures are required to transform the goals set forth in the norms of international law into real actions of legal entities and citizens under state jurisdiction. National law is the main instrument for the implementation of the norms of international law...” [3, p. 18]. The implementation of the norms of international law occurs through the reception of the rules of international treaties by national law [3, p. 19].

In the study conducted by D. P. Martynovsky devoted to the study of the role of the phenomenology of international legal standards in the constitutional law of Ukraine, their significance and influence on its formation, development and improvement, the formation and development of the constitutional and legal status of a person and a citizen. International legal standards in the constitutional law of Ukraine. The author of the study in one of the sections comes to conclusions that relate to the problems of international norms and norm-setting. In particular, the scientist believes that international legal standards are the result of the efforts of the international community of states to optimize and unify the phenomenology of international norm-design and norm-setting for the purpose of uniform normative regulation of the most important issues of international cooperation – by first enshrining them in international multilateral agreements of a contractual nature as norms of international law, and then

borrowing them by national legal systems, in particular systems of national constitutional legislation [13, p. 75]. According to D. P. Martynovsky, the features of international legal standards that identify them within the framework of international public law and the constitutional law of member states of the international community are: (a) the definition of their legal nature as norms of international law, which in turn determines the corresponding model of legal behavior of states and other subjects of national constitutional law; (b) their formalization as norms of an international treaty and granting them the property of obligation for the implementation by all signatory states (participants) of such treaties; (c) granting a specific state a free choice of means of implementing the provisions of international legal standards into the system of national constitutional legislation; (d) the formation of a management and rule-making paradigm, according to which the adoption of new international legal standards is consistent with the complex of current international norms in the relevant field; e) the definition that the content of the standards is, firstly, a compromise between the subjects authorized to adopt them, and secondly, they establish a minimum level of obligations for the signatory states, which must be reproduced in their national legislation; (f) the content of the standards is a compromise between the subjects authorized to adopt them, therefore they establish a minimum level of requirements for the constitutional legislation of different states [13, p. 76]. “International legal standards”, not identifying it with the concept of “international legal norms”, based on the fact that not all international legal standards are international legal norms, although the latter can be international legal standards. At the same time, international legal norms are mandatory and have a contractual

nature, while international legal standards are often doctrinal developments [13, p. 77].

N. V. Kaminska and V. I. Boyko prove that the dynamics of the system of international legal regulation, international law-making and law enforcement, as well as active changes in the system of their object-subject characteristics, the spread of new phenomena and processes, including digital tools used both in peacetime and during armed conflicts, give grounds to argue about the expediency of modernizing the forms of implementation of international law, the ways of its interaction with national and supranational law [9, p. 162]. However, according to these researchers, it is on this path that there are both achievements or certain developments, and at the same time significant problems, shortcomings, etc. First of all, these are problems of a general theoretical or conceptual nature, associated with the lack of unified approaches to understanding the concept, nature and substantive features of the phenomenon of implementation. Such unification is absent in doctrinal sources, as well as in international law and national regulatory legal acts. In particular, the analysis allows us to distinguish the most widespread use of the concepts of implementation of international law, implementation of norms and principles of international law, implementation of international law or international obligations, implementation of international legal standards, etc. The basic category of implementation itself has various meanings, narrow and broad senses, and the substantive and spatial features and properties are differentiated [9, p. 162].

Within the framework of the problems outlined above of harmonizing the legislation of Ukraine with the law of the European Union as a necessary component of its systematization, it is possible to state that harmonization is a process not of

a local, but of a global and regional nature, which causes the normalization and balancing of the norms of national law with EU law. By systematizing national legislation to EU law, the addressees of rights receive legal guarantees, and the state receives a legal order that meets EU standards. Systematization as a process leads to corresponding legal consequences that determine the operation of effective legislation, strengthen the influence of legal and social culture and awareness of holders of rights, freedoms and interests.

When systematizing, one should focus on the hierarchical relationship of norms so that they are effective. The hierarchy should be based primarily on the priority area of the need for urgent changes (due to war; Covid, etc.); on the area of the priority of legal acts; on the sectoral area; on the area of social requests, etc. It is under such circumstances that we believe that the harmonization of legislation will be carried out effectively, and its consequence – systematization, will also have an effective effect on law/national legislation. In fact, taking into account hierarchy and consistency is the key to European integration success.

It should be stated objectively that the systematization of Ukrainian legislation to EU law should be divided into certain stages: before accession to the EU, after Ukraine's accession to the EU. Systematization as a process “works” with legal systems, as a result of which they are transformed and modified.

At the same time, unresolved or/actually those that will require solution/ are problems that pose risks to ensuring social security [16, pp. 69–70].

Some researchers believe that among the following relevant areas of scientific research and discussions, it is proposed to single out the national model of implementation of international law, national policy and strategy for the implementation of international

law, its individual branches; a thorough study of foreign experience in implementing the norms and principles of international law into national legislation, monitoring national legislation for its compliance with the norms and principles of international law, individual branches and institutions; modernization of the regulatory, legal and organizational and institutional framework for implementation, information and educational activities, legal culture and legal awareness in this context; increasing the efficiency of law enforcement practice, judicial activism, etc. [9, p. 163].

CONCLUSIONS

The study found that international legal factors for the transformation of national legislation are possible due to the synergy of national and international legal orders, two or more legal systems. European integration processes cause the transformation of the national legal system due to the action between the legal systems of international association agreements. These documents embody the synchronization of legal ideas, rules, customs, interests and legal norms formed by the European Community.

International treaties occupy a special place in the legal system in terms of hierarchy, relationship with sectoral legislation, method of influencing legal relations, formation of the legal regime of their regulation, obligations of subjects/parties to the agreement.

The modern level of international contractual relations is characterized by the ability to regulate sectorally and procedurally, to attribute implementations, to determine the main required segments of adaptation in the national legal system, to influence relations between states.

International treaties have the fundamental property of influencing the transformation of national legislation.

Diving into a deeper analysis of the problems of an international treaty and its impact on the regulation of national legislation at the entrance of European integration processes and the transformation of the legal system, it is advisable to pay attention to the international treaty as a source of law, its features as a legal institution. In particular, the targeting of the binding requirements of an international treaty indicates the property of spreading “its norm” to specific parties to the treaty, as participants in the treaty, and thereby constitutes the formation of the corresponding legal personality of the parties to the treaty. That is, the composition, which is converted into a binding effect, as a natural property and function of an international treaty.

International treaties, as acts of expression of the will of states to implement legislation, express the will to observe the sovereignty of legal orders in a particular sector, reflect the close interrelationship of legal systems, as well as the powers to transform them, which is adapted to another hierarchically higher legal order of a perfect legal system.

SUMMARY. The conducted study examines the international legal factors of the transformation of national legislation. It was found that international treaties occupy a special place in the legal system of Ukraine, because some of them lay the foundation for the implementation of international legal norms into national legislation, transforming the latter. The purpose of the study is to reveal the international legal factors of the transformation of national legislation in the European integration period, to clarify the place of individual international treaties in the legal system of Ukraine. The research methodology is based on the methods of comparative law regarding the analysis and synthesis of the processes of transformation of

national legislation and the legal system, the implementation of international legal norms into national legislation, etc., thanks to general legal methods of legal regulation – imperative, dispositive, historical, recommendatory, incentive, etc. The conclusion is made that the transformation of national legislation is possible due to the synergy of national and international legal orders, two or more legal systems. European integration processes cause the transformation of the national legal system due to the effect of international association agreements between legal systems. These documents embody the synchronization of legal ideas, rules, customs, interests and legal norms formed by the European Community.

References:

1. Atamanova N. V. (2020). Rol' ta znachenja mizhnarodnuh dogovoriv y nacionalniy pravoviy sustemi Ykrainu [The role and significance of international treaties in the national legal system of Ukraine]. *Pravo i syspilstvo*, 2, 7–13. URL: https://pravoispilstvo.org.ua/archive/2020/2_2020/part_1/4.pdf (accessed: 17.04.2026) (in Ukrainian).
2. Velyka ukrainska yurydychna entsyklopediia (2017) [Great Ukrainian Legal Encyclopedia] : u 20 tomakh. Kharkiv : Pravo, 2016. T. 3 : Zahalna teoriia prava / redaktyr: O. V. Petryshyn (holova) ta in.; Natsionalnyi akademik prava Ukrainy; Instytut derzhavy i prava imeni V. M. Koretskoho NAN Ukrainy; Natsionalnyi yurydychnyi universytet imeni Yaroslava Mudroho, 952 (in Ukrainian).
3. Voytsikhovsky A. V. (2020). Miznarode pravo [International Law] : Pidruchnik / A. V. Voytsikhovsky; Ministerstvo vnytrushnuh sprav Ukrainu, Xarkiv. Natsionalniy yniversitet vnutrishnih sprav, 544 (in Ukrainian).

4. Hrytsayenko D.V. (2024). Mizhnarodnyy dohovir yak dzherelo prava v Ukrayini: zahalnoteoretychnyy aspekt [International treaty as a source of law in Ukraine: general theoretical aspect]. *Universum*, 15, 110–117. URL: <https://archive.liga.science/index.php/universum/article/view/1519/1538> (accessed: 17.04.2026) (in Ukrainian).

5. Diya prava: intehratyvnyy aspekt (2010) [The effect of law: integrative aspect]: monohrafiya/spivavtory: holovnyy redaktor N. M. Onyshchenko. K. : Vydavnytstvo “Yurydychna dumka”, 360 (in Ukrainian).

6. Dosayev V. A. (2018). Mistse mizhnarodnykh dohovoriv Ukrayiny v systemi normatyvno-pravovoho rehulyuvannya upravlinskoyi diyalnosti politsiyi Ukrayiny [The place of international treaties of Ukraine in the system of regulatory and legal regulation of the administrative activities of the police of Ukraine.]. *Priorytetni napryamky diyalnosti Natsionalnoyi politsiyi Ukrayiny: Tezy dopovidey uchasnykiv naukovo-praktychnoyi konferentsiyi kursantiv, studentiv ta aspirantiv* (Kharkiv, 12 hrudnya 2018 r.). Kharkiv, 73–76. URL: https://univd.edu.ua/general/publishing/konf/12_12_2018/pdf/18.pdf (accessed: 17.04.2026) (in Ukrainian).

7. Zvyeryev Ye. O. (2010). Mizhnarodnyy dohovir yak dzherelo natsionalnoho prava [International treaty as a source of national law]. *Naukovi notatky*, 103. Yurydychni nauky. NaUKMA, 41–44. URL: <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/da9c2ee3-b905-438e-be71-9d9f4d29c45a/content> (accessed: 17.04.2026) (in Ukrainian).

8. Ivanchenko O. M. (2012). Klasifikatsiya ta struktura norm mizhnarodnoho ta natsionalnoho prava: zahalni ta

spetsialni [Classification and structure of norms of international and national law: general and special]. *Aktualni problemy polityky*: zbirnyk naukovykh prats / red.: S. V. Kivalov (holovnyy redaktor), L. I. Kormych (zastupnyk redaktora), Yu. P. Alenin [ta in.]; Ministerstvo molodi ta sportu Ukrayiny; Natsionalna akademiya prava Ukrayiny. Odesa : Feniks, 46, 101–109. URL: https://app.nuoua.od.ua/archive/46_2012/16.pdf (accessed: 17.04.2026) (in Ukrainian).

9. Kaminska N. V., Boyko V. I. (2025). Implementatsiya mizhnarodnoho prava: kontseptualni pidkhody ta neobkhdnist modernizatsiyi [Implementation of international law: conceptual approaches and the need for modernization]. *Visnyk Natsionalnoyi akademiyi pravovykh nauk Ukrainy*, 32 (4), 154–166 (in Ukrainian).

10. Konstytutsiiu Ukrainy bulo pryiniato na piatii sesii Verkhovnoi Rady Ukrainy 28 chervnia 1996 roku [The Constitution of Ukraine was adopted at the fifth session of the Verkhovna Rada of Ukraine on June 28, 1996]. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text> (accessed: 17.04.2026) (in Ukrainian).

11. Konstytutsiia Ukrainy v praktytsi Konstytutsiinoho Sudu: ofitsiine tlumachennia ta pravovi pozytsii. 1997–2023 (2024) [The Constitution of Ukraine in the practice of the Constitutional Court: official interpretation and legal positions. 1997–2023]/peredmovi S. P. Holovatoho; za redaktsiieiu: S. P. Holovatoho, V. I. Beshchastnoho, L. I. Biriuk, N. I. Adamchyka, Yu. M. Mykheienko. Kyiv : VAITE, 448 (in Ukrainian).

12. Kovaliv M. V., Tymchyshyn T. M., Nikanorova O. V. (2020). *Osnovy prava Yevropeiskoho Soiuzu* [Fundamentals of European Union Law] : pidruchnyk. Lviv : Lvivskiy derzhavnyi universytet vnutrishnikh sprav, 212 (in Ukrainian).

13. Martynovskyi D.P. (2020). *Mizhnarodno-pravovi standarty v konstytutsiinomu pravi Ukrainy* [International legal standards in the constitutional law of Ukraine] : dysertatsiia ... doktora filosofii za spetsialnistiu 081 – Pravo. Kyiv, 238. URL: <https://er.kai.edu.ua/server/api/core/bitstreams/bff3e9ef-394b-4bde-a145-e6caf91b1e5e/content> (accessed: 17.04.2026) (in Ukrainian).

14. Malyha V. A., Repetskyi V. M. (2024). *Mizhnarodnyi dohovir yak dzherelo mizhnarodnoho publichnoho ta mizhnarodnoho pryvatnoho prava. Yurydychnyi naukovi elektronnyi zhurnal* [International treaty as a source of international public and international private law], 7, 507–510. URL: https://lsey.org.ua/7_2024/121.pdf (accessed: 17.04.2026) (in Ukrainian).

15. Melnyk Ya. Ya. (2024). *Vplyv mizhnarodnykh dohovoriv na natsionalne zakonodavstvo Ukrainy* [The influence of international treaties on the national legislation of Ukraine]. *Systematyzatsiia zakonodavstva Ukrainy yak vazhlyva skladova pravotvorchoi diialnosti v konteksti yevropeiskoi intehratsii* : zbirnyk naukovykh prats / za red. O. O. Kota, A. B. Hryniaka, N. V. Milovskoi. Kyiv : Alerta, 224–245 (in Ukrainian).

16. Melnyk Ya.Ya. (2024). *Harmonizatsiia zakonodavstva Ukrainy z pravom Yevropeiskoho Soiuzu yak neobkhidna skladova ioho systematyzatsii* [Harmonization of Ukrainian legislation with the law of the European Union as a necessary component of

its systematization]. *Systematyzatsiia zakonodavstva Ukrainy yak vazhlyva skladova pravotvorchoi diialnosti v konteksti yevropeiskoi intehratsii*: zbirnyk naukovykh prats / za red. O. O. Kota, A. B. Hryniaka, N. V. Milovskoi. Kyiv : Alerta, 54–70 (in Ukrainian).

17. Mizhnarodne publichne parvo (2020) [International public law: textbook] : pidruchnyk: u 2 t./ [V. V. Mytskyi, V. M. Buromenskyi, M. M. Hnatovskyi ta in.]; za redaktsiieiu V. V. Mytsyka. 2-he vyd., zminy. Kharkiv : Pravo, T. 2 : Osnovni haluzi, 624 (in Ukrainian).

18. Pro mizhnarodni dohovory Ukrainy: Zakon Ukrainy vid 29 chervnia 2004 r. № 1906-IV. URL: <https://zakon.rada.gov.ua/laws/show/1906-15#Text>. (accessed: 17.04.2026) (in Ukrainian)

19. Oborotov Yu. M., Krestovska N. M., Kryzhanivskyi A. F., Matvieieva L. H. (2010). *Teoriia derzhavy i prava* [Theory of State and Law]. Derzhavna ekspertyza. Kharkiv : Odissei, 256 (in Ukrainian).

20. Rahulina K. A. (2018). Vplyv mizhnarodnykh dohovoriv na natsionalne zakonodavstvo Ukrainy: zahalnoteoretychnyi aspekt [The influence of international treaties on the national legislation of Ukraine: a general theoretical aspect]. *Naukovyi visnyk Mizhnarodnoho humanitarnoho universytetu*. Ser. Pravo-znavstvo, 35 (1), 32–36. URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc35/part_1/10.pdf (accessed: 17.04.2026) (in Ukrainian).

21. Tymoshenko V., Dromov S., Tymoshenko A. (2021). *Budapeshtskyi memorandum: pacta sunt servanda!* [Budapest Memorandum: pacta sunt servanda!]. *Novyi shliakh do prava* :

колективна монографія / За редакцією А. О. Селіванова. Київ : Лохос, 181–189 (in Ukrainian).

22. Trotska V. (2024). Vplyv mizhnarodnykh dohovoriv na rozvytok zakonodavstva Ukrainy u sferi avtorskoho prava ta sumizhnykh prav [The Influence of International Treaties on the Development of Ukrainian Legislation in the Sphere of Copyright and Related Rights]. *Teoriia ta praktyka intelektualnoi vlasnosti*, 1 (133), 19–28 (in Ukrainian).

Information about the authors:

Melnyk Yaroslav Yaroslavovych,

Doctor of Law,

Senior Researcher of the Department of Research on Problems of Law-Making and Adaptation of Ukrainian Legislation to EU Law,
Institute of Law-Making and Scientific-Legal Expertise of
the National Academy of Sciences of Ukraine, Ukraine
<https://orcid.org/0000-0003-1937-6772>

Perevertun Oksana Volodymyrivna,

Researcher of the Department of Research on Problems of Law-Making and Adaptation of Ukrainian Legislation to EU Law,
Institute of Law-Making and Scientific-Legal Expertise of
the National Academy of Sciences of Ukraine, Ukraine
<https://orcid.org/0009-0003-0283-5781>