
International Legal Aspects of the Cooperation between Ukraine and the EU

On November 28, 2011, **Mykhailo Mykivych**, Head of the Chair of European Law at Ivan Franko National University of Lviv, delivered a lecture within the framework of the Master's MIREES at the Faculty of Political Science "Roberto Ruffilli" in Forlì.

The lecture "**International Legal Aspects of the Cooperation between Ukraine and the EU**" focused on the current state of relations between Ukraine and the EU.

The first part of the lecture dealt with the **negotiations** on the EU-Ukraine Association Agreement. Starting with the Partnership and Cooperation Agreement (PCA, 1998), the basic document on relations between the EU and Ukraine, the speaker then passed to the analysis of the negotiations on a new ambitious and innovative agreement relaunched in March, 2007. According to Mykivych, the political significance of the EU-Ukraine Paris Summit 2008 was reflected in the name of this new document, "Association Agreement".

The guest then analyzed the development of the EU-Ukrainian **common institutional framework** and negotiation rounds, covering issues of economic cooperation issues, trade, the agreement reached on political dialogue and reform, political association, as well as cooperation and convergence in the field of foreign and security policy, discussions on references to the International Criminal Court and the already finalized Justice, Freedom and Security Chapter. The latter covers the rule of law and respect for human rights, protection of personal data, cooperation on migration, border management, movement of persons, money laundering and terrorism financing, cooperation on the fight against drugs, the fight against crime and corruption, combatting terrorism. Then the speaker reviewed the actual stage of **negotiations**, focused on movement of persons (the reference to a visa-free travel regime) and judicial cooperation on civil matters. A particular emphasis was put on the readmission agreement which came into force on January 1st, 2008 and whose ratification was compulsory with the ratification of the Visa Facilitation Agreement between Ukraine and the EU. The speaker underlined the importance of this agreement, as by signing this document Ukraine incurred certain obligations which only proved its intent to keep good relationships with the EU.

Turning to the group of **economic cooperation**, the guest reviewed the areas where negotiations have been finalized, opening the way for a comprehensive implementation by Ukraine of all EU laws and standards. These include agriculture and rural development, audiovisual policy, civil society cooperation, company law, consumer protection, cross-border and regional cooperation, culture, the Danube river, education, trading, financial cooperation including anti-fraud provisions, energy cooperation, environment, fisheries, health policy, industrial and enterprise policy, information society, macroeconomic cooperation, management of public finances, money and metals, participation in community agencies and programs, research and technological development, social cooperation, space, sports, statistics, taxation, tourism and transport. The speaker then moved to the Deep and Comprehensive Free Trade Area (DCFTA), a trade part of the **Association Agreement** successfully completed on October 20, 2011. Prof. Mykivych analyzed the conclusion of the DCFTA negotiations in the political context, marked by the trial former Prime Minister Yulia Tymoshenko.

Turning to the implementation of the Association Agreement, the guest analyzed an auxiliary document called the **Association Agenda** (2009) and its list of priorities for 2011-2012, agreed upon at the meeting of the joint EU-Ukraine Committee. These priorities highlight areas where particular emphasis is placed on a joint action by the EU and Ukraine: democracy, rule of law, human rights and fundamental freedoms, whereas policy measures are focused on the promotion of an inclusive constitutional reform process; strengthening local and regional self-government;

reforming and enhancing the capacity of the public administration system in Ukraine, including an effective fight against corruption; ensuring the effectiveness of the electoral framework; reforms aimed at ensuring the independence of the judiciary and the effectiveness of the courts and of the prosecution; effectively implementing and enforcing the civil and criminal economic and administrative codes and their corresponding procedural codes based on European standards; comprehensive cooperation on the protection of human rights and fundamental freedoms.



Assessing the completion of the DCFTA negotiations as a success for the EU and Ukraine, the speaker concluded that the **crisis in bilateral relations** which has been growing in recent weeks has been partially resolved. He then proceeded to the analysis of the prospects of the negotiations on the Association Agreement, placing them in the context of Tymoshenko's case and arguing that the country's EU accession process should not depend on the political behaviour of single representatives of the upper echelons. In Mykivych's view, the Association Agreement, if signed, would not only mark a diplomatic success for Ukraine, but would also bring new challenges which an overwhelming majority would like in domestic rather than in foreign policy area. Even in the absence of clear membership perspective, Europeanized strategy of domestic reforms can become a realistic way for Ukraine to cope with competitive pressures. Thus, the implementation of the commitments embedded in the Association Agreement could help country to acquire well-developed planning and implementation systems for the already undertaken obligations, to achieve a smooth coordination between the executive branch, civil society and business. This challenge, according to Mykivych, seems to be too complex to be tackled within the current European integration framework in Ukraine.

The speaker analyzed the peculiarity of the **European integration framework**, whose institutions and procedures in Ukraine differ from those of former and current EU accession aspirants. This difference is manifested by their complexity, based on two parallel tracks: the EU-Ukraine Action Plan and National Program for Legal Approximation (NPLA). Activities with the National Program for Legal Approximation represent a voluntary component, while the EU-Ukraine Action Plan is considered to be an obligation of Ukraine, its commitment before the EU.

According to Mykivych, Ukraine still lags behind in making its legislation compatible with that of the Community, both in terms of the Action Plan and in terms of the NPLA. This is often manifesting itself via lack of implementing provisions for fulfillment of the norms of the approximation legislation, for example implementation of EU technical regulations in Ukraine, and lack of understanding of the essence of new legal norms. Mentioning the transformation carried

out by the Ukrainian government in this direction, the speaker stressed the importance of not losing pace in this process.

Summarizing his lecture, the speaker gave a positive evaluation of the negotiations on the Association Agreement in 2010-2011, in which both sides were constructively engaged, reaching a **provisional agreement** on political dialogue, justice, freedom and security. Both the EU and Ukraine consider the completion of the negotiations as a key short-term objective, reconfirming their willingness to put their relations on a new footing of political association and economic integration, which, according to Mykivych, should be supported by strong institutions, relevant to Ukraine's European aspirations.

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