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International Cooperation Between Ukraine and Latvia in the Area of Justice (Executive Branch of Power)

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Abstract

Implementation of the Association Agreement between Ukraine and the European Union has opened additional opportunities for establishing bilateral cooperation between bodies, institutions and organisations in the field of justice. The article examines the structure and management system of the Ministries of Justice of Ukraine and Latvia. In the course of a detailed analysis of the institutional structure and functional purpose, it was established that the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia have similar activities and management systems, typical for many European countries. Ukraine's European integration aspirations, reflected in its commitments under the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other, demonstrate Ukraine's serious intentions to change its approach to justice. It is established that in the direction of the development of cooperation in the field of justice between Ukraine and Latvia fruitful cooperation is established, which is reflected in the Memorandum of Understanding between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia.

Keywords: international cooperation, administrative law, justice, public administration.

Bodies of justice ensure functioning of the main activities of the state, proper level of functioning of which depends on the achievement of strategic goals of the state, in particular, socio-economic, political, international law, as well as the level of quality of life.

Modern processes of reforming the justice sector of Ukraine testify to the need to study and use the positive experience of the functioning of the judiciary in the European Union. The study of certain issues that arise during international cooperation in the field of justice will provide opportunities for the exchange of knowledge and experience in the legal, legislative, organisational and functional areas; which actualises this study. In the context of improving the functioning of the justice sector in Ukraine, it has been proposed to get acquainted with the experience of the Ministry of Justice of the Republic of Latvia, analyse the main activities, management system, tasks of this executive body and the main areas of cooperation between Ukraine and Latvia.

According to Art. 1 of the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States, the main objectives of the Association are: 1) to promote gradual rapprochement of the Parties based on common values and close privileged ties, as well as deepen Ukraine's relationship with EU policy and its participation in programmes and agencies; 2) to provide the necessary framework for enhanced of political dialogue in all areas of mutual interest; 3) to strengthen cooperation in the field of justice, freedom and security in order to ensure the rule of law and respect for human rights and fundamental freedoms, etc. (Verkhovna Rada of Ukraine, 16.09.2014).

According to Art. 14, Section III of the Association Agreement in the framework of cooperation in the field of justice, freedom and security, the Parties attach special importance to strengthening the rule of law and strengthening institutions at all levels in the field of governance in general and law enforcement and judicial authorities in particular. Cooperation will focus, in particular, on strengthening the judiciary, increasing its efficiency, guaranteeing its independence and impartiality, and combating corruption. Cooperation in the field of justice, freedom and security will be based on the principle of respect for human rights and fundamental freedoms (Verkhovna Rada of Ukraine, 16.09.2014).

Commitments made under the Association Agreement confirm European integration aspirations of Ukraine to change approaches in various areas, including justice.

The current stage of development of the Ministry of Justice of Ukraine allows identifying it as one of the leading central executive bodies, which has a particularly broad scope of interaction with citizens and the corresponding influence on the formation of state legal policy.

The views of N. A. Zheleznyak have been supported that are in contrast to other ministries, central executive bodies, including law enforcement (Ministry of Internal Affairs of Ukraine, Security Service of Ukraine, tax police, etc.). The Ministry of Justice of Ukraine occupies a special place, performing not narrowly specific (for example, "force") tasks and functions, but large-scale legal measures, which together provide support for the required level of law and order. The author stressed that the Ministry of Justice of Ukraine influences solution of problems in the justice sector and helps to increase the overall level of legal and organisational support for the implementation of

state legal policy aimed at protecting human and civil rights, freedoms in certain areas (Zhelezniak, 2005).

O. G. Predmetnikov, researching administrative and legal framework of the judiciary, noted that today the judiciary of Ukraine continues to be in a transitional stage of its institutionalisation and implementation of European experience in the field of justice and other related fields, in particular, positive trends in the elimination of system of justice bodies of Ukraine of superfluous administrative links, reduction of number of employees, introduction of modern electronic services, and also liberalisation, decentralisation and demonopolisation of the corresponding directions of activity of bodies of justice of Ukraine (Predmestnikov, 2017).

Supporting such approach, the structural transformation of bodies and institutions under the jurisdiction of the Ministry of Justice of Ukraine is important to be performed, more so due to the international experience to apply the best form and management system.

O. Agapova and K. Palkova studying “public administration” in Ukraine and Latvia found that administrative law is an important component of public administration, thus concluding the following: 1) administrative and legal norms are the basis for the emergence of relations in the field of public administration; 2) community relations arising during public administration can be characterised as administrative and legal; 3) activity of subjects of public administration is carried out in appropriate forms of public administration (Agapova, Palkova, 2020).

It has been proposed to consider in excruciating detail the main administrative and legal regulations governing the activities of the Ministries of Justice of both countries.

According to the Resolution of the Cabinet of Ministers of Ukraine dated 02.07.2014 No. 228 “On approval of the Regulations on the Ministry of Justice of Ukraine”, the Ministry of Justice of Ukraine ensures formation and implementation of state legal policy, state policy on bankruptcy, notary, enforcement of court decisions and other bodies (officials), state registration of civil status acts, state registration of real rights to immovable property, state registration of print media and news agencies, in the field of execution of criminal penalties and probation, in the field of legal education, etc. (*Postanova Kabinetu Ministriv Ukrainy* (Eng. Resolutions of the Cabinet of Ministers of Ukraine), 02.07.2014).

It should be noted that the listed activities of the Ministry of Justice of Ukraine are typical for many European Ministries of Justice, including the Ministry of Justice of the Republic of Latvia.

According to the Regulations of the Cabinet of Ministers of the Republic of Latvia No. 474 of 16.08.2017 “Regulations on the Ministry of Justice”, the Ministry of Justice of the Republic of Latvia is an advanced institution of public administration in the field of justice (legal policy, judicial system and court management) policy (*Ministru kabinets* (Eng. Cabinet of Ministry), 18.08.2017).

The main functions of the Ministry of Justice of the Republic of Latvia can be divided into three groups: 1) development, organisation and coordination of policy in such areas as: judicial system and administration of district (city) courts and district courts; system of criminal and administrative penalties; execution of sentences; forensic examination; openness of information; public registers; systematisation of official publications; protection of personal data; industrial property, in particular patents, trademarks, samples and topographies of semiconductor products; maintaining the state real estate cadastre; insolvency of legal entities (except credit institutions) and individuals; registration of civil status acts; religious affairs; free access to legal professions (services); alternative dispute resolution – arbitration and mediation; providing state-guaranteed content; state legal aid; state compensation to victims; prevention of money laundering and terrorist financing together with the Ministry of Finance in accordance with the established competence, etc.; 2) organisation and coordination of implementation of laws and other regulations; 3) performance of other functions provided by external regulations (*Ministru kabinets* (Eng. Cabinet of Ministers), 18.08.2017).

Effectiveness of practical activities of the bodies belonging to the sphere of management of the Ministry of Justice, first of all, depends on the organised management system, through which the coordination of the activities forms a structure during the implementation of their respective tasks and functions. It should be emphasised that the Ministry of Justice of Ukraine and the Ministry of Justice of Latvia have a similar institutional structure and similar areas of core business.

The analysis of the Ministry of Justice of Latvia has made it possible to single out the bodies, departments and agencies that belong to the management system of this central executive body. The vertical of management of the Ministry of Justice of Latvia consists of the central office, the Secretary of State and its deputies and other bodies that ensure the work of the Ministry (Legal Department, Finance Department, Personnel Management, etc.).

The central office of the Ministry of Justice of Latvia consists directly of the Minister of Justice, parliamentary secretaries, and the administration. The Minister of Justice directly subordinates the State Secretary, who is in charge of: 1) Deputy State Secretary on Legal Policy; 2) Deputy State Secretary on External Cooperation and Strategy of the Ministry of Justice of Latvia; 4) Deputy State Secretary for Justice (*Tieslietu ministrija. Vadība* (Eng. The Ministry of Justice. Officials), 25.02.2020).

The management system of the Ministry of Justice of Ukraine has features that distinguish its central executive body from similar entities in European countries. Thus, it is necessary to single out the following structural units of the Ministry of Justice of Ukraine: 1) central office of the Ministry; 2) territorial bodies (8 interregional departments); 3) institutions and bodies of justice (research institutions of forensic examinations, state notary offices); 4) subordinate institutions and state enterprises (State Enterprise “National Information Systems”, Coordination Centre for Legal Aid

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Provision, Institute of Law and Postgraduate Education of the Ministry of Justice, etc.); 5) bodies coordinated by the Minister of Justice (State Archival Service of Ukraine); 6) Interdepartmental Coordination Council on Juvenile Justice; 7) Public Council at the Ministry of Justice; 8) Coordination Centre for Legal Aid Provision (*Ministerstva yustytzii Ukrainy* (Eng. Ministry of Justice of Ukraine), 2021b).

The central office of the Ministry of Justice of Ukraine includes management and structural units responsible for various areas of state policy in the field of justice.

The management staff of the Ministry of Justice of Ukraine includes: 1) the Minister; 2) the State Secretary; 3) the First Deputy Minister of Justice of Ukraine; 4) three Deputy Ministers of Justice of Ukraine; 5) Deputy Minister for Enforcement Service, Deputy Minister of Justice of Ukraine for European Integration; 6) Deputy Minister of Justice of Ukraine – Government Commissioner for the European Court of Human Rights; 7) Deputy Minister of Justice of Ukraine for State Registration; 8) Deputy Minister of Justice of Ukraine for Digital Development, Digital Transformations and Digitisation (*Ministerstva yustytzii Ukrainy* (Eng. Ministry of Justice of Ukraine), 2021a).

Comparing management staff of the Ministries of Justice, it can be concluded that the management staff of the Ministry of Justice of Ukraine is represented by a large number of managers who are in charge of various spheres of activity of the Ministry of Justice of Ukraine, in contrast to the management staff of the Latvian Ministry of Justice. It is believed that the measures that were taken to optimize the management of the Ministry of Justice of Latvia have a positive impact on the effectiveness of management in the field of justice in Latvia. Therefore, such practice can be implemented into the management structure of the Ministry of Justice of Ukraine.

Analysing the specifics of the activities and management structure of the Ministries of Justice of both countries, it can be concluded that they have a particularly broad scope of interaction with citizens and the corresponding influence on the formation of legal policy and realisation of state and legal regulation.

Considering the unified approach to the management of justice in both countries, the senior management of the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia signed the Memorandum of Understanding (*Ministerstvo yustytzii Ukrainy* (Eng. Ministry of Justice of Ukraine), 2019). This event took place on October 16, 2019 and strengthened the partnership between the central executive bodies (*Tieslietu ministrija* (Ministry of Justice), 2019). The main objectives of the Memorandum, which will be gradually implemented by the Ministries of Justice, are as follows: a) intensification and consolidation of cooperation between the Parties in the areas of rule of law, human rights, access to justice and administration of justice; b) facilitation to the development of joint initiatives and projects under the frame of Eastern Partnership Platform 1 “Democracy, Good Governance and Stability”; c) sharing best practices on the implementation of the Association Agreement and EU legislation, as well as international conventions in the field of justice; d) sharing experience and progress made in the implementation of justice reforms; e) sharing views and consideration of possible solutions for

justice challenges; f) facilitation to sharing of any other information and experience on the issues within the competence of the Parties.

It should also be noted that Latvia and Ukraine have already reached agreement on: ensuring justice and the rule of law; protection of human rights; provision of free legal aid; development of legal awareness and ensuring access to justice; improvement of the penitentiary system and probation; ensuring execution of court decisions; strengthening cooperation in the area of forensic science; implementation of a set of measures designed to prevent and combat corruption, in particular, through ensuring the transparency of beneficial ownership; development of electronic registers and electronic trust services; introduction of innovative technologies such as open data and e-government; development of alternative ways of dispute resolution; establishment of cooperation in other areas of common interest.

To implement these areas of cooperation, corresponding programmes of cooperation in certain areas of activity are being developed. The content of such programmes includes a set of actions, namely: professional meetings, internships and training of experts for experience exchange; organisation of seminars, trainings, study and working trips; professional discussions; consultations of experts in the field of cooperation, organisation of a conference for representatives, etc.

A particularly important area of cooperation within the Memorandum of Understanding between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia is conducting internships for experience exchange among employees who are representatives of the penitentiary sector.

With the organisational support of the NORLAU project, representatives of the Directorate for Strategic Planning and European Integration of the Ministry of Justice of Ukraine and the State Institution "Probation Centre" paid a study visit to the Republic of Latvia for November 25 through November 27 of 2018 to study positive experience in implementing electronic monitoring (Babak, 18.12.2018). The NORLAU probation project is a technical assistance and cooperation project in Ukraine, which is funded by the Norwegian Ministry of Foreign Affairs and realised by the Norwegian executive power. Norwegian Rule of Law Advisory Team in Ukraine has been working since 2018 under the supervision of the Directorate of the Norwegian Correctional Service (KDI). In its work, NORLAU directly supports the State Institution "Probation Centre" of Ukraine and facilitates its development in accordance with international standards and best practices in the field of probation (Gromadskii prostir, n.d.).

The issues of establishing cooperation in the field of probation were also discussed during the working trip of the leadership of the Ministry of Justice of Ukraine to the Ministry of Justice of Latvia with the support of the NORLAU project in 2019 (*Tieslietu ministrija* (Eng. Ministry of Justice), 2019b).

It should be stated that international technical assistance projects play an important role in implementing provisions of the Memorandum of Understanding between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia.

Conclusions

Considering the best practices of EU member states serves as a step-by-step guide for system reforms in the field of justice in Ukraine. Strengthening of interstate cooperation in such areas as: justice and the rule of law; protection of human rights; free legal aid; legal awareness and access to justice; penitentiary system and probation; execution of court decisions; forensic examination; prevention and fight against corruption, etc., allows to get acquainted with the functioning of particular bodies and institutions and develop specific proposals for improving the activities of the judiciary in Ukraine.

The analysis of the Ministries of Justice of Ukraine and Latvia was based on a unique approach (legal regulation, institutional structure and management system, forms of international cooperation and projects), which allowed to identify the main forms of international cooperation and draw specific conclusions.

First, commitments made under the Association Agreement between Ukraine, as the first Party, and the European Union, the European Atomic Energy Community and their member states, as the second Party, confirm Ukraine's intentions of European integration kind to change its approach to justice.

Second, it is established that the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia have a similar institutional structure and similar areas of main activities, which are typical for many European Ministries of Justice.

Third, emphasis is put on existence of a unified approach in the administration of justice in both countries.

Fourth, it is noted that the Memorandum of Understanding between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia plays an important role in development of Ukrainian-Latvian relations and positively affects the implementation of positive experience gained over the course of realisation of the corresponding Ukrainian-Latvian cooperation programs.

Bibliography

Legal acts

1. Verkhovna Rada of Ukraine. (16.09.2014). *Zakon Ukrainy. Ukraine-European Union Association Agreement*. https://zakon.rada.gov.ua/laws/show/984_011#Text
2. Postanova Kabinetu Ministriv Ukrainy. (02.07.2014). *Pro zatverdzhennia Polozhennia pro Ministerstvo yustytzii Ukrainy*. (Eng. Resolutions of the Cabinet of Ministers of Ukraine. On hardened Regulations about the Ministry of Justice of Ukraine.) No. 228. <https://zakon.rada.gov.ua/laws/show/228-2014-%D0%BF#Text>
3. Ministru kabinets. (18.08.2017). Tieslietu ministrijas nolikums: MK noteikumi Nr. 474 (Eng. Regulations of the Ministry of Justice). *Latvijas Vēstnesis*. 164 (OP number 2017/164.7). <https://likumi.lv/ta/id/292913-tieslietu-ministrijas-nolikums>
4. Ministerstvo yustytzii Ukrainy. (2019). *Memorandum pro vzaiemorozuminnia mizh Ministerstvom yustytzii Ukrainy ta Ministerstvom yustytzii Latviiskoi Respubliky* (Eng. Memorandum on Mutual

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Relations between the Ministry of Justice of Ukraine and the Ministry of Justice of the Republic of Latvia). Memorandum: Mizhnarodnyi document. Vid 16.10.2019. https://zakon.rada.gov.ua/laws/show/428_002-19#Text

Literature

5. Predmestnikov, O. (2017). *Administratyvno-pravovi zasady diialnosti orhaniv yustytysii Ukrainy* (Eng. Administrative legal and ambushes of the agency of justice of Ukraine): avtoref. dys. [summary of the Doctoral Thesis]; MVS Ukrainy, Kharkivskii natsionalnii universitet vnutrishnih sprav. Kharkiv. 39 s.
6. Zhelezniak, N. A. (2004). *Pravovi ta orhanizatsiini formy diialnosti Ministerstva yustytysii Ukrainy u zdiisnenni derzhavnoi pravovoi polityky (teoretychni ta praktychni pytannia)* (Eng. Legal and organisational forms of the Ministry of Justice of Ukraine and establishment of sovereign legal policy (theory and practice)): dys. [the Doctoral Thesis]. Kyiv. 258 s.

Journals

7. Agapova, E., Palkova, K. (2020). "Public Administration" in the Latvian and Ukrainian Administrative and Legal Traditions. *Socrates*. 2(17), 66–71. <https://doi.org/10.25143/socr.17.2020.2.066-071>

Internet resources

8. Babak, A. K. (18.12.2018). *Zvit pro rezultaty sluzhbovoho vidriadzhennia za kordon ukraïnskoi delehatsii do Latvii* (Eng. Sound results of the service visit for the cordon of Ukrainian delegation to Latvia). <https://www.probation.gov.ua/wp-content/uploads/2019/03/2018.11.25-27-%D0%B7%D0%B2%D1%96%D1%82-%D0%B2%D1%96%D0%B4%D1%80%D1%8F%D0%B4%D0%B6%D0%B5%D0%BD%D0%BD%D1%8F-%D0%B7%D0%B0-%D0%BA%D0%BE%D1%80%D0%B4%D0%BE%D0%BD%D0%B5%D0%BB%D0%B5%D0%BA%D1%82%D1%80%D0%BE%D0%BD%D0%BD%D0%B8%D0%B9-%D0%BC%D0%BE%D0%BD%D1%96%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3.pdf>
9. Gromadskii prostir. (n.d.). *The Norwegian Rule of Law Advisers Probation Project (NORLAU)*. <https://www.prostir.ua/author/norlau/>
10. Ministerstva yustytysii Ukrainy. (2021a). *Kerivnytstvo Ministerstva yustytysii Ukrainy* (Eng. Management System of the Ministry of Justice of Ukraine). <https://minjust.gov.ua/m/the-leadership-of-the-ministry>
11. Ministerstva yustytysii Ukrainy. (2021b). *Struktura Ministerstva yustytysii Ukrainy* (Eng. Structure of the Ministry of Justice of Ukraine). <https://minjust.gov.ua/structure>
12. Tieslietu ministrija. (2019a). *Ciešāka sadarbība tieslietās palīdzēs stiprināt tiesiskumu Ukrainā un Latvijā* (Eng. Closer cooperation in the field of justice will help strengthen the rule of law in Ukraine and Latvia). <https://www.tm.gov.lv/lv/jaunums/j-bordans-ciesaka-sadarbiba-tieslietas-palidzes-stiprinat-tiesiskumu-ukraina-un-latvija-0>
13. Tieslietu ministrija. (2019b). *Latvija un Ukraina turpina sadarbību probācijas jomā* (Eng. Latvia and Ukraine continue cooperation in the field of probation). <https://www.tm.gov.lv/lv/jaunums/latvija-un-ukraina-turpina-sadarbibu-probacijas-joma-0>
14. Tieslietu ministrija. Vadība. (25.02.2020). (Engl. Ministry of Justice. Officials). <https://www.tm.gov.lv/lv/node/684>