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**GENERAL OBSERVATIONS ON THE BUSINESS AND HUMAN
RIGHTS-RELATED PROVISIONS OF THE EU-UKRAINE
ASSOCIATION AGREEMENT**

The conclusion in 2014 and almost a decade of realisation of the EU-Ukraine Association Agreement (hereinafter – Association Agreement) [1] prove that the EU and Ukraine share the common European values based on the principles that unify the world’s free nations: democracy, the rule of law, and respect for human rights. As established by the Treaty on European Union, «The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail» [2].

The Association Agreement is aimed to develop and improve the mutually advantageous for sustainable development economic, social, financial, civil, scientific technological and cultural cooperation and covers the issues of relevant conditions for business and investment, for companies’ establishment and operation, for labour, provision of services and capital movements.

Following the European Commission Communication on the Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries of 1995 [3], the European Parliament resolutions of 2010 on corporate social responsibility in international trade agreements [4] and of 2011 on the future European international investment policy [5], the «human rights» and «corporate social responsibility (CSR)» clauses are implemented in the EU-Ukraine Association Agreement and arise commitments. The business and human rights (hereinafter – BHR) issues, fundamentally featured by the United Nations Guiding Principles on Business and Human Rights (hereinafter – UNGPs) of 2011 [6], are generally and specifically embedded in the Association Agreement. The overall analysis and a collection of BHR-related parts prove the human rights basics of the EU-Ukraine economic relations framed by the Association Agreement.

The content of five of its Titles – from II to VI – is of relevance to the BHR issues in a bigger or smaller scope, having correspondence to various UNGPs’ Pillars and their specific provisions. The Title IV. «Trade and Trade-Related Matters» establishing the Deep and Comprehensive Free Trade Area of the Association Agreement is of the most BHR-relevance. Implementation of this Title IV is directed at the economic integration and is an instrument of systemic Ukraine’s reforms in trade and economic spheres, a powerful stimulus for its economic growth, modernisation and further integration with the EU. It comprises the Ukraine’s and the EU commitments in concern to the National treatment and market access for goods (Chapter 1), Trade remedies (Chapter 2), Technical barriers to trade (Chapter 3), Sanitary and phytosanitary measures (Chapter 4), Customs and trade facilitation (Chapter 5), Establishment, trade in services and electronic commerce (Chapter 6), Current payments and movement of capital (Chapter 7), Public Procurement (Chapter 8), Intellectual property (Chapter 9), Competition (Chapter 10), Trade-Related energy (Chapter 11). These chapters tackle various human rights in economic relations, including

those of vital importance when it comes to ensuring human rights to safe consumption of products of animal and plant origin (Chapter 4) or protection of human rights in the context of unpatentable inventions like processes for cloning human beings, processes for modifying the germ line genetic identity of human beings, or uses of human embryos for industrial or commercial purposes as mentioned in Article 221 «Protection of biotechnological inventions» (Chapter 9). The Title IV includes also four particular chapters that are determinative for all the Chapters named above: Chapter 12 «Transparency», Chapter 13 «Trade and sustainable development», Chapter 14 «Dispute settlement», Chapter 15 «Mediation mechanism».

Objective analysis of incorporation of the BHR-related provisions in the Association Agreement is important to provide the Ukrainian decision-making authorities and business entities with the general vision of the Ukraine’s commitments before the EU in concern to application of the UNGPs and concurrent implementation of the relevant rules and standards on BHR of the International Labour Organisation, Council of Europe and Organisation of Economic Cooperation and Development. It is expedient for the optimum political and legal decisions to ensure Ukraine’s progress in this area in the process of the further Association Agreement realisation, the targeted work for Ukraine’s accession to the EU and effecting of the Ukraine’s Sustainable Development Goals in the course of the current martial law and the post-war recovery. For Ukraine, cooperation with the EU and its support on the BHR-standards implementation is beneficial as the EU is one of the world’s leaders in the BHR domain due to its advanced policy, relevant mandatory and secondary legislation.

Literature

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