

АДМІНІСТРАТИВНЕ ТА ФІНАНСОВЕ ПРАВО

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HARMONIZING UKRAINE'S FINANCIAL LEGAL SYSTEM WITH EU STANDARDS: CHALLENGES AND PROSPECTS

ГАРМОНІЗАЦІЯ ФІНАНСОВО-ПРАВОВОЇ СИСТЕМИ УКРАЇНИ ЗІ СТАНДАРТАМИ ЄС: ВИКЛИКИ ТА ПЕРСПЕКТИВИ

The European Union (EU) has formulated policies and strategies regarding financial markets, banking activities and overall the economy. For Ukraine, meeting the requirements of EU financial legislation is one of the most important strategic tasks, especially given its ambitions for increased European integration. This article looks at the obstacles and possibilities of meeting Ukraine's financial regulation with EU ones concentrating on legal, institutional and economic aspects of this phenomenon.

The most important of financial regulations of the EU which were studied include Capital Requirements Directive (CRD IV), Markets in Financial Instruments Directive (MiFID II), European Market Infrastructure Regulation (EMIR), and Anti Money Laundering Directives (AML). These documents are the primary sources of amendments in development of financial market of Ukraine which stipulate new approaches in banking supervision, investment services provision and financial intelligence services. The Association Agreement between Ukraine and the EU legally binds these changes as part of Ukraine's obligations on regulatory convergence.

While reforms benefiting the EU are quite useful, Ukraine is met with the lack of institutional capacity, challenges modifying the law, and geopolitical threats originating from Russian hostility. The National Bank of Ukraine (NBU) plays a strategic part in the restoration of the financial sector and modernizing the regulatory structures as well as in Ukraine's compliance with the EU financial governance. Moreover, Ukraine's participation in other EU financial structures as the European Supervisory Authorities (ESAs) and cooperation with the European Central Bank (ECB) fortifies regulatory and financial interdependence.

The article ends with the assertion that the effective deeper integration of Ukraine's financial legal system with those of the EU will improve the country's economic sustainability and investor confidence as well as enable an effective integration of the country into the European financial space. Nevertheless, to achieve full regulatory convergence, continuous legislative work, enhanced institutional collaboration, as well as timely strategic action on economic and security matters are prerequisites.

Key words: *financial regulation, European integration, banking supervision, legal harmonization, financial stability, capital requirements, institutional reforms, investment services, financial law, international organizations.*

Європейський Союз (ЄС) сформулював політику та стратегію щодо фінансових ринків, банківської діяльності та економіки в цілому. Для України виконання вимог фінансового законодавства ЄС є одним із найважливіших стратегічних завдань, особливо з огляду на її амбіції щодо посилення євроінтеграції. У цій статті розглядаються перешкоди та можливості наближення фінансового регулювання України до законодавства ЄС, зосереджуючись на правових, інституційних та економічних аспектах цього явища.

Найважливіші фінансові нормативні акти ЄС, які вивчалися, включають Директиву про вимоги до капіталу (CRD IV), Директиву про ринки фінансових інструментів (MiFID II), Регламент європейської ринкової інфраструктури (EMIR) і Директиви про боротьбу з відмиванням грошей (AML). Ці документи є першоджерелами змін у розвитку фінансового ринку України, які передбачають нові підходи до банківського нагляду, надання інвестиційних послуг та послуг фінансової розвідки. Угода про асоціацію між Україною та ЄС юридично закріплює ці зміни як частину зобов'язань України щодо регуляторної конвергенції.

Хоча реформи, які приносять користь ЄС, є досить корисними, Україна стикається з браком інституційної спроможності, проблемами, пов'язаними зі зміною законодавства, і геополітичними загрозами, що виникають через ворожість Росії. Національний банк України (НБУ) відіграє стратегічну роль у відновленні фінансового сектору та модернізації регуляторних структур, а також у відповідності України вимогам фінансового управління ЄС. Крім того, участь України в інших фінансових структурах ЄС, таких як Європейські наглядові органи (ESA) та співпраця з Європейським центральним банком (ЄЦБ), зміцнює регуляторну та фінансову взаємозалежність.

Стаття закінчується твердженням, що ефективна глибша інтеграція фінансової правової системи України з системою ЄС покращить економічну стійкість країни та довіру інвесторів, а також дозволить ефективно інтегрувати країну в європейський фінансовий простір. Тим не менш, для досягнення повного регуляторного зближення необхідними умовами є безперервна законотворча робота, посилена інституційна співпраця, а також своєчасні стратегічні дії з питань економіки та безпеки.

Ключові слова: фінансове регулювання, євроінтеграція, банківський нагляд, правова гармонізація, фінансова стабільність, вимоги до капіталу, інституційні реформи, інвестиційні послуги, фінансове право, міжнародні організації.

In the realm of economic activities regulation, no place comes close to that espoused by the European Union (EU). With their legal economy, growth, and integrity of the financial markets, they have set adequate laws and standards that unlike any other, foster economic growth and stability. Often referred to by many of the observers, the EU supranational approach to civil law is a center of financial activities. Owing to its complex legal framework, it sets a paradigm for lawmakers in the European member states to develop their own national legal systems. The cooperation with the EU on financial law is a crucial step for Ukraine that looks for close integration with the EU as it tries to utilise such tools like the Association Agreement to transform its financial and economic policy to adhere to EU law and practices. This subsection will focus on Ukraine's relationships with the EU in financial law, the influence of banking and financial market regulation through the legislation of the EU countries, and the application of the EU regulatory experience as a standard for integration of the legal system of Ukraine to the EU legal systems [1].

Apart from the Association Agreement, Ukraine is active in some other EU projects aimed at improving the country's financial system such as the European Neighborhood Instrument (ENI) or events falling under the Horizon Europe framework, which funds activities aimed at enhancing financial market regulation and the formulation of economic policies within the Ukraine to EU framework.

Impact of European Legislation with Respect to Banking Activity Regulation, Financial Markets, and Economic Stability

The European Union has formulated extensive legal and regulatory measures towards the fostering

of stable, reliable, and, transparent operations of the financial market. Important institutions such as the European Central Bank and the European Banking Authority are crucial for the development of policies and regulations of banking and financial market activities within the boundaries of the EU. These policies and rules relate to the wide spheres of activity of credit institutions and investment companies, including the regulation of financial markets and the provision of services on a territorial basis.

For Ukraine, the most important component of EU legislation is the Capital Requirements Directive (CRD IV) and the Capital Requirements Regulation (CRR), which outline the framework concerning capital, liquidity, and leverage for financial companies operating within the European Union. The purpose of these regulations is to protect financial stability by making certain that banks have the necessary capital reserves to offset the risks being taken. In implementing these regulations, Ukraine intends to strengthen the stability of its banking sector and avert crises.

Another important piece of legislation is the Markets in Financial Instruments Directive (MiFID II), which sets investment services and trading activities within the EU into a legal context. The objectives of MiFID II are to enhance market efficiency, provide better safeguards for market participants, and promote the integrity of the financial markets. The inclusion of these provisions by Ukraine under the Association Agreement will indeed promote greater integration into the European financial system and increase confidence among investors [2].

Ukrainians can also benefit from EU Anti Money Laundering directives establishment

as they provide comprehensive Anti Money Laundering (AML) and counter terrorist financing regimes. As Ukraine's AML laws are brought into line with these EU directives, the country improves its legal and institutional capacities to combat financial crime and gain further access to EU financial systems.

For Ukraine, adopting EU Standards means the country has to draft and enact laws and regulations that correspond to EU directives and several other regulations which implies transforming national governmental structures, enhancing regulatory, and performing best practices compliance within financial institutions. In charge of instituting these reforms has been the National Bank of Ukraine (NBU), the country's central bank, while working together with the ECB and other European institutions in Ukraine's adoption of banking regulation and modernization of its financial infrastructure to the EU level.

Among the most important aspects of regulatory improvement in Ukraine has been the incorporation of the EU's European Market Infrastructure Regulation (EMIR) that regulates the OTC derivatives market, central clearing, and trade reporting system. The purpose of EMIR is to minimize systemic risk in the financial markets. It does this by forcing the clearing of derivatives through central counterparties and increasing the transparency of derivative markets. The fact that Ukraine has started adopting EMIR like regulations makes it possible for its financial markets to be more compatible with the EU which increases the strength of its economy and access to the EU capital markets.

Ukraine's financial services sector can also take advantage of the European Supervisory Authorities (ESAs) and their Agenda for the Single Rulebook, which is geared towards the EU member states. The ESAs extend the so-called soft power of the EU by providing assistance even when the countries and Ukraine, for example, are not members of the Union. These bodies help Ukraine deep its international obligations and commitments, what is very important for further development of the country. These institutions offer invaluable help and services as Ukraine seeks to upgrade its regulatory system and further develop economic relations with EU countries.

The Association Agreement, especially one on financial law, renders Ukraine's cooperation with the EU and integration into the European financial system pursue. Through the restructuring of Ukraine's financial laws in accordance EU regulations, Ukraine is further enhancing the country's domestic financial structure, making it more appealing to foreign investors, and improving the overall stability of the economy. Ukraine can greatly benefit from the EU experience in regulation of issues such as banking and other financial markets, as well as the prevention of money laundering activities in developing compatible laws and practices with Europe. When these reforms are fully developed, Ukraine will be able to participate actively in the international economic arena which will in the long run enhance chances for the country's sustainable growth and stability.

In recent years, financing of terrorism and various international crimes has, and continues to be, an issue of deep concern for governments and international organizations alike, as the same poses a significant threat to national and international financial stability. To tackle the increasing issues in international financial legal relations, countries need to strive towards effective management of their financial systems and compliance with internationally accepted norms and structures, which are a prerequisite for guaranteed sovereignty, economic stability, and growth. An ongoing war has drawn the specific attention of international financial organizations that Ukraine is currently involved in. Indeed, the current conflict initiated by Russia has shed light on Ukraine's dire need to address financial security issues. This subsection of the work aims at assessing how financial security fosters national security of Ukraine, its relationship to international relations of sanctions, financial stability, and economic relationships, as well as the effects of the war on Ukraine's diplomacy and changes to the financial law due to new circumstances.

As Ukraine progresses towards national security landmarks, it is necessary to consider its financial security and ensure it remains a priority which accompanies economic growth. Financial security directly translates to economic productivity and when optimally exercised in conjunction with a country's economic development, it can improve

the ability to contest internationally. Specifically for Ukraine, Financial security has attracted considerable attention due to the existence of war with Russia which resulted into Ukraine's economy to stagnate and put a strain on the financial system as well as on the public sector infrastructure. The Ukraine government has been constantly overdependent upon foreign aid as well as foreign loans, IMF, European union, world banks grants and even technical assistance.

Protection of Ukraine's sovereignty, military and other crucial societal services can all be achieved with memorandums made possible through concessional loans, grants, and even technical assistance. The Ukrainian government must mobilize the economy to achieve financial stability in order to conduct the wars and its numerous sides such as: defense, humanitarian and infrastructure building. Further downsizing external threats to a country is directly proportional to Ukraine's responses legal financial framework political measures aimed toward achieving economic stability.

The stability of Ukraine's financial system is vital to the rest of its national security. This is the reason behind the significant role of the National Bank of Ukraine (NBU). The policies the NBU has implemented aim at stabilizing the national currency, the hryvnia, which, in turn, brings down inflation. Now, the NBU has made efforts to collaborate with international organizations in an attempt to secure money from external sources to strengthen the economy of the country and withstand large external shocks [3].

Cyber and financial security threats are a major concern owing to attacks on crucial financial infrastructure. The Ukraine is in the process of improving cyber defense in banking by joining forces with other governments to secure banking and payment systems from outside attacks. These steps are necessary in order to protect Ukraine's financial system so that it continues to operate during the relentless war.

Relations Between Financial Connections, Sanctions, and Economic Sovereignty. One of the noteworthy tools of contemporary weaponry alongside conventional firearms is the system of international sanctions. The conflict between Ukraine and Russia is a good example. In particular, economic sanctions such as trade

embargoes, asset freezing, and restrictions on dealings in international capital markets have caused significant damage to Russia's economy, disrupting its international financial relations and creating economic instability. Similarly, these sanctions have had effects on the Ukrainian financial system and Ukraine's participation with international financial organizations.

With respect to Ukraine, the sanctions have had an impact in two dire contexts: one being Ukraine's targeted retaliatory sanction from Russian economic measures and secondly, a party benefitting from sanctions on Russia. Even though Ukraine has been deeply harmed as a victim of financial sanctions imposed by Russia, there is a silver lining. Disruptions in trade and energy supplies have harmed Ukraine, but the military sanctions on Russia have been beneficial. These sanctions contribute to poorly financing of Russian military activities, which in turn weakens Ukraine's ability to defend itself.

The sanctions led to the restructuring of financial relations between Ukraine and several international financial institutions. The EU, the U.S. and the rest of the Western world has deepened financial relations with Ukraine in the form of loans, grants, and other financial support. These contributions are important to maintain Ukraine's financial situation in the country's fight against Russian aggression.

At the same time, Ukraine fortified its legal framework for fighting financial crimes like money laundering and ensuring compliance with global financial transparency standards. Ukraine's financial institutions have collaborated closely with international institutions such as the Financial Action Task Force (FATF) to protect the country's financial system from illegal actions and to increase global accountability standards [4].

With regards to the adaptation of financial law to the sanctions, the law presents a delicate balancing act. Sanctions impact the Ukraine side trade and financing channels but they are designed to limit Russian military and economic power. Even so, it has made it easier for Ukraine to cooperatively work with international organizations since the compliance mechanisms have been able to enforce Ukraine's social compliance to legal and regulatory standards in reality.

The Impact of the War in Ukraine on Interactions with International Organizations and Changes in Financial Law Compliance Business Strategies

Because of the war, Ukraine has had to make drastic alterations in its relationships with international organizations when it comes to finances and other legal issues. In relation to Ukraine's international obligations, Ukraine's national financial policies have been reorganized in a way that is consistent with international financial law, and the government has collaborated closely with IMF, World Bank, and the EU to get emergency funds, improve economic governance, and mitigate the emerging financial crises.

As Ukraine seeks to stabilize its economy while embroiled in an ongoing conflict, its relations with the International Monetary Fund (IMF) have become critical, Ukraine has continued to receive assistance from the IMF in the form of emergency loans as well as other packages. These packages are designed to help stabilize the economy, most importantly ensuring fiscal stability and stabilizing the foreign exchange market. These programs are underpinned by strong legal regimes that compel Ukraine to enact a set of economic reforms that are intended to enhance governance, financial management and anti-corruption activities within the country.

In addition, Ukraine has taken steps towards improving its legal financial frameworks in light of the war, Aiding the international financial assistance needs, improving measures to ensure enforcement of sanctions, and facilitating the foreign investment application process. Alongside this, there has been criticism of Ukraine's financial

system from the international community, and it has been suggested that there should be more focus on harmonization of EU financial legislation, especially regarding AML/CTF.

This conflict has reinforced the necessity of international financial law reform so as to address the contemporary issues such as funding of military operations or safeguarding of financial interests during armed conflict. International financial law is now being confronted with these problems and under the direction of the IMF, the World Bank, and the EU, policies are being formulated in such a way as to ensure aid is dispensed without violating international standards [5].

The Imposition of the Association agreement and the Ukraine-EU cooperation in the area of financial law marks a significant milestone in the achievement of Ukraine's goal of attaining deep integration in the European financial system. If Ukraine has identified the EU financial regulatory system as a benchmark to define its financial regulations, it is a step in the right direction not only to bolster the country's financial consumption infrastructure, but is also likely to increase the level of foreign direct investment in the country to stabilize the economy. Most importantly, anti money laundering legislation, banking and financial market regulations in the EU, more so, serve as relevant guiding benchmarks. Ukraine aspires to use as it seeks to align its laws and practices with European standards. The successful execution of these reforms is what Ukraine needs in order to participate fully in the international economic system and increase the chances of achieving growth and stability for a long time.

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