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**Sanchenko A. Ye.**

*Ph.D. in Law, Senior Researcher, Chief of the Centre for Advanced Studies on Human Rights in Economics, Leading Researcher, State Organisation “V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine*

### **GUARANTEEING HUMAN RIGHTS: A CROSS-SECTORAL ISSUE ON UKRAINE’S PATH TOWARDS THE EUROPEAN UNION AND EUROPEAN SOCIAL MARKET ECONOMY**

The Joint Statement of the Ukraine’s President, the Chair of the Parliament and the Prime Minister of 2 July 2022 regarding the European Council’s decision to grant our country the status of a candidate for membership in the European Union (EU) [1] confirms the priority of the human rights immutable benchmarks in the general context of the new dimension of the EU-Ukraine relations.

The Joint Statement underlines that Ukraine’s integration in the EU is the conscious aspiration of the Government and citizens, the cornerstone of democratic change and the driving force for key reforms based on the European values. Thus, the leaders of Ukraine, on behalf of the nation, declared the Ukraine’s commitment to Article 2 of the Treaty on European Union [2], according to which 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. They committed to unwaveringly adhere to the values, shared by Ukraine and the EU member states, where pluralism, non-discrimination, tolerance, justice, solidarity and equality of women and men prevail.

The EU and Ukraine share the common European values based on the historical links between them and a set of principles that for more than seven decades have been unifying the free nations of the world. Since gaining its independence and starting cooperation with the Council of Europe, EU and

Organisation for Economic Co-operation and Development, Ukraine has taken many important steps to implement these values in its policy, law and practice, to improve the human rights protection, in particular. The provisions on respect for the universal democratic values, with due regard to the International Bill of Human Rights and the Constitution of Ukraine, usually constitute the basic clauses – in a part of general principles and beyond – of all international agreements in various fields, which Ukraine lays with its foreign partners.

This equally concerns the Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine of 1994 (entered into force in 1998) (PCA) [3] and the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part of 2014 (Association Agreement) [4]. These are the determinative EU-Ukraine treaties to develop and improve the mutually advantageous economic, social, financial, civil, scientific technological and cultural cooperation. Both the treaties cover the relevant to the EU fundamental values matters concerning conducting business and investment, establishing and operation of companies, ensuring fair labour standards, provision of services to consumers and capital movements. The business and human rights (BHR) issues, which have been for long promoted by the UN and highlighted by the UN Guiding Principles on Business and Human Rights of 2011[5], the renewed EU Strategy 2011-14 for Corporate Social Responsibility [6] and Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth [7], are generally and specifically embedded in the EU-Ukraine agreements.

The EU-Ukraine cooperation within the PCA and the Association Agreement, the Energy Community Treaty and the Agreement on the Common Aviation Area, as well as the political and economic cooperation since 2004 within the European Neighbourhood Policy and the Eastern Partnership Initiative since 2009, boosted the review and elaboration of a number of strategic policy and legislative acts in the area of human, economic, social and environmental development of Ukraine. Most of them were adopted in 2017-2021 with the aim to make the implementation of the Association Agreement more efficient and to meet the commitments under the 2030 UN Agenda for Sustainable Development.

In March 2021, the updated National Human Rights Strategy (NHRS) was approved by the Presidential Decree № 119/2021 [8] with the aim to improve the activities of the State on ensuring of human rights and fundamental freedoms, creating effective mechanisms for their realisation and protection, solving systemic problems in twenty seven specified areas. The updated NHRS was amended with new sections. The new strategic human rights directions were considered, some sections were reviewed, and the monitoring mechanism for evaluating the progress of the Strategy's implementation was revised. In particular, the strategic directions on environmental rights (§ 15) and on ensuring human rights in the process of economic activities (§ 16) – the BHR dimension – along with other strategic directions of the State policy for human rights protection in the conditions of the armed aggression of the Russian Federation against Ukraine were defined. The UNDP in Ukraine supported the development of the NHRS, which «charts the next stage in bolstering human rights observance in Ukraine» [9].

The international and European *acquis* on BHR needs to be further promoted and implemented in Ukraine in order to meet the EU accession requirements and develop the solid ground for its integration into the European social market economy. The latter implies that: a) people are put over profits; b) the governance is democratic; c) the interests of members/users and/or general interest are combined; d) the principle of solidarity and responsibility is defended and applied; d) most of the benefits/surpluses to carry out sustainable development objectives are reinvested [10].

This should be done with due account of Ukraine's specific country profile, the current state of play and the needs, which are conditioned by the consequences of the current Russia' war against Ukraine, our State's ambitions, obligations and commitments. In April 2023, Ukraine is an 8-years Party to the Association Agreement, a 9-months candidate to join the EU and a more than 1-year country in a war. During the war, human rights are at the highest risk of gross abuses and criminal crimes. According to the Prosecutor General's Office, «almost 76,000 crimes of aggression and war crimes are registered up to April 2023; 9,000 civilians died, including 465 children; about 20,000 civilians went missing; 4.8 million Ukrainians became IDPs, 7.9 million of our citizens found refuge abroad» [11]. The business sector should avoid being involved into crimes against human rights, but should, as «major drivers of productivity, inclusive economic growth and job creation» [12], contribute to human rights respect and remediation of human rights abuses.

The current and post-war recovery process of Ukraine is and will be held by the people and for the people of Ukraine who deserve that their rights are respected. Its path to reconstruction, modernisation and development goes in the fairway of the EU integration. The progressive States, in particular 41 participating States of the Lugano «Ukraine Recovery Conference» of July 2022 [13], commit to supporting Ukraine. The «Lugano Principles», the guiding principles for Ukraine's recovery, are riddled with the human rights paradigm. The Principles clearly establish the primacy of the rule of law, which implies transparency and accountability to the people of Ukraine and eradication of corruption, as well as of fairness, inclusiveness, gender equality and respect for human rights, including economic, social and cultural rights. They state that «recovery needs to benefit all, and no part of society should be left behind» [14].

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