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A GENERAL CHARACTERISTIC OF INTERNATIONAL READMISSION AGREEMENTS BETWEEN UKRAINE AND EU MEMBER STATES

It is proved that the fundamental international agreement on readmission between Ukraine and EU Member States is the Agreement between the European Community and Ukraine on the Readmission of Persons (2007) which applies to all EU Member States with the exception of the Kingdom of Denmark and the Republic of Ireland. It is determined that the international legal framework on the readmission of persons between Ukraine and Denmark is regulated by a special bilateral agreement (2007). However, no Implementing Protocol between Ukraine and Denmark on the readmission of persons has been concluded so far. It is also determined that Ukraine and the Republic of Ireland have signed no readmission agreement yet. It is established that after the United Kingdom's withdrawal from the EU, the legal relationship regarding readmission between Ukraine and the United Kingdom remains unregulated. It is proved that the bilateral agreements on readmission concluded between Ukraine and, respectively, the Republic of Hungary, the Republic of Poland, the Republic of Latvia and the Republic of Bulgaria prior to their accession to the EU are no longer applicable.

Keywords: readmission of persons, international agreements, implementing protocols, EU – Ukraine relations, withdrawal of the United Kingdom.

1. Introduction

We believe that the international legal regulations concerning the readmission of persons between Ukraine and EU Member States stem largely from the fact that the issue of readmission is part of the area of freedom, security and justice within the EU, and the area of freedom, security and justice is one of the areas in which the Union (in accordance with the Article 4(1, 2j) of the Treaty on the Functioning of the European Union – TFEU)¹ shares competence with the Member States. This means that both the Union and the Member States may legislate and adopt legally binding acts on the readmission of persons. The Member States exercise their competence to the extent that the Union has not exercised its competence (Article 2(2) of the TFEU)². The ability of the Union to conclude agreements with third countries for the readmission is provided for by the Article 79(3) of the TFEU³.

As a result, there are several important and interesting legal aspects to the international legal regulations concerning the readmission of persons between Ukraine and EU Member States.

The *first* is that the fundamental international agreement on readmission in relationships between Ukraine and EU Member States is the Agreement between the European Community and Ukraine on the Readmission of Persons, signed at Luxembourg on 18 June 2007 (hereinafter – “the Agreement 2007”)⁴. The basic nature of this Agreement is based on Article 216(2) of the TFEU⁵: agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

The above Agreement is concluded on behalf of the European Community, which in this Agreement represents all EU Member States, with the exception of the Kingdom of Denmark and the Republic of Ireland.

¹ Eur-Lex (2016). *Consolidated version of the Treaty on the functioning of the European Union* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

² Ibid.

³ Ibid.

⁴ Eur-Lex (2007). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁵ Eur-Lex (2016). *Consolidated version of the Treaty on the functioning of the European Union*. <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

In other words, the *second* aspect is determining how the readmission of persons is regulated between Ukraine and the Kingdom of Denmark and Ukraine and the Republic of Ireland.

The *third* aspect has to do with the United Kingdom's withdrawal from the EU, raising the issue of whether the Agreement 2007 still applies to the UK, and how the readmission of persons between Ukraine and the United Kingdom shall be regulated.

The *fourth* is the fact that Ukraine concluded bilateral readmission agreements with some European states prior to their accession to the European Union (we mean specifically the Republic of Hungary, the Republic of Poland, the Republic of Latvia and the Republic of Bulgaria). Thus, there is the question of how these bilateral agreements correlate with the Agreement 2007.

Finally, the *fifth* aspect: according to Article 16 the Agreement 2007, Ukraine concluded a number of Implementing Protocols with individual EU Member States, which is also a subject for a separate study.

Therefore, **the purpose of the current study** is to determine features of the international agreements regulating the readmission of persons between Ukraine and EU Member States. This purpose can be achieved through fulfilling the **following objectives**:

- to identify the legal nature and main features of the Agreement between the European Community and Ukraine on the readmission of persons (2007);
- to define the international legal grounds regulating the readmission of persons between Ukraine and Denmark, between Ukraine and Ireland, and between Ukraine and the United Kingdom;
- to determine the relation between the Agreement between the European Community and Ukraine on the readmission of persons (2007) and bilateral international agreements between Ukraine and the Republic of Latvia, Ukraine and the Republic of Poland, Ukraine and the Republic of Hungary, Ukraine and the Republic of Bulgaria respectively;
- to characterize in general the Implementing Protocols between Ukraine and some EU Member States concerning the readmission of persons.

The degree of scientific development of the issue

Certain aspects of the subject of our work have been studied by the following Ukrainian and foreign scholars: L. Ananko¹, O. Bilokon², S. Carrera³, J.-P. Cassarino⁴, M. Chulaievsk⁵, K. Gillade⁶, M. Giuffre⁷, E. Horian and S. Kutniak⁸, R. Havrik and I. Hryhoruk⁹, B. Hulme and M. T. Cremades¹⁰,

¹ Ананко, Л. (2010). Переваги та недоліки підписання угоди про реадмісію з Європейським Союзом для України. *Збірник наукових праць Національної академії державного управління при Президенті України*, 2, 234-244 <http://academy.gov.ua/NMKD/library_nadu/Zbirnyk_NADU/dd9733bb-f3af-49a9-9f11-323e1489a670.pdf>. (2020, November, 20).

² Білоконь, О. В. (2015). Адміністративно-правове регулювання реадмісії в Україні: *автореферат дисертації на здобуття наукового ступеню кандидата юридичних наук*. Київ: Національна Академія Внутрішніх Справ.

³ Carrera, S. (2016). Implementation of EU Readmission Agreements Identity Determination Dilemmas and the Blurring of Rights. *Springer Briefs in Law* <<https://phlconnect.ched.gov.ph/admin/uploads/add217938e07bb1fd8796e0315b88c10/2016BookImplementationOfEUReadmissionA.pdf>>. (2020, November, 20).

⁴ Cassarino, J.-P. (2010). Readmission Policy in the European Union. *Europarl* <[https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425632/IPOL-LIBE_ET\(2010\)425632_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425632/IPOL-LIBE_ET(2010)425632_EN.pdf)>. (2020, November, 20).

⁵ Чулаєвська, М. Є. (2013). Державне управління трудовою міграцією України в контексті європейської інтеграції: *автореферат дисертації на здобуття наукового ступеню кандидата юридичних наук*. Київ: Національна Академія Державного Управління При Президентові України.

⁶ Gillade, K. (2011). Readmission agreements concluded by the EU. *Universiteitsbibliotheek Gent* <https://lib.ugent.be/fulltxt/RUG01/001/787/173/RUG01-001787173_2012_0001_AC.pdf>. (2020, November, 20).

⁷ Giuffre, M. (2011). The European Union readmission policy after Lisbon. *Interdisciplinary Political Studies*, 1,0,7–19 <<http://siba-ese.unisalento.it/index.php/idps/article/view/17221/14736>>. (2020, November, 20).

⁸ Горян, Е. В., Кутняк, С. В. (2012). Угода між Україною та Європейським Співтовариством про реадмісію осіб: стан виконання та перспективи міграційної політики України. *Актуальні проблеми міжнародних відносин*, 111, 1, 181-188. <<http://journals.iir.kiev.ua/index.php/apmv/article/viewFile/379/347>>. (2020, November, 20).

⁹ Гаврік, Р., Григорук, І. (2018). Міжнародні та національні підходи до визначення поняття «реадмісія осіб». *Вісник Національної академії Державної прикордонної служби України. Серія: юридичні науки*, 3, 62-72. <https://nadpsu.edu.ua/wp-content/uploads/2018/12/visnik_3_2018_ur.pdf>. (2020, November, 20).

¹⁰ Hulme, B., Cremades, M. T. (2018). The implications of the United Kingdom's withdrawal from the European Union on readmission cooperation. *Carloscoelho* <<https://carloscoelho.eu/ed/files/the-implications-of-the-united-kingdom-s-withdrawal-from-the-european-union-on-readmission-cooperation.pdf>>. (2020, November, 20).

O. Kazhaeva¹, S. Knysh², N. Naumenko³, O. Nimko and S. Mamchur⁴, O. Oleksiv⁵, S. Oliinyk⁶, V. Osypova⁷, Iu. Paukova⁸, S. Peers⁹, N. Tyndyk¹⁰, A. Shenderovska¹¹ and others. Never the less, this is the first time the issues defined in the purpose and objectives of the article have been studied, which is what makes our study particularly relevant.

2. Key findings

The international legal grounds regulating the readmission of persons between Ukraine and European Union

As noted above, the fundamental international legal agreement on readmission between Ukraine and the EU Member States is the Agreement between the European Community and Ukraine on the Readmission of Persons (18 June 2007)¹². Under the established practice of the European Union, the Agreement 2007 qualifies as a *mixed bilateral international agreement*, as its contracting parties are the European Community on the one part and the State of Ukraine on the other.

However, it should be emphasized that the European Union replaced and succeeded the European Community in accordance with Article 1 of the Treaty of Lisbon¹³. This means that the Agreement 2007 *remains binding* on the European Union due to the succession, and now the Contracting Parties to this Agreement are Ukraine and the European Union¹⁴.

¹ Кажаяева, О. С. (2014). Институт реадмиссии в международном праве: автореферат диссертации на соискание научной степени кандидата юридических наук. Москва: РУДН <http://dissovet.rudn.ru/web-local/prep/rj/index.php?id=37&mod=dis&dis_id=420>. (2020, November, 20).

² Книш, С. В. (2012). Правова конструкція (модель) реадмісії осіб як міжнародно-правового явища. *Вісник Львівського державного університету внутрішніх справ. Серія юридична*, 2, 94-99. <http://www2.lvduvs.edu.ua/documents_pdf/visnyky/nvsvy/03_2012/12ksvmpya.pdf>. (2020, November, 20).

³ Naumenko, N. (2019). Peculiarities of Agreement between Ukraine and Denmark on the readmission of persons. *Recht der Osteuropäischen Staaten*, 1, 123-127. <<https://www.uni-goettingen.de/de/document/download/ca207b2c626da0c3a651dab3e413069e.pdf/ReOS%2001%20aus%202019.pdf>>. (2020, November, 20).

⁴ Німко, О. Б., Мамчур, С. М. (2017). Історія виникнення реадмісії та аналіз зарубіжного досвіду правового регулювання реадмісії. *Часопис Київського університету права*, 1, 86-91. <http://kul.kiev.ua/doc/CHAS17_1.pdf>. (2020, November, 20).

⁵ Олексів, О. (2012). Правове регулювання політики реадмісії в Європейському Союзі. *Вісник Львівського університету. Серія: Міжнародні відносини*, 30, 189-200. <https://intrel.lnu.edu.ua/wp-content/uploads/2015/09/VLNU_Mv_2012_30_25.pdf>. (2020, November, 20).

⁶ Олійник, С. М. (2020). Міжнародно-правове регулювання реадмісії осіб: автореферат дисертації на здобуття наукового ступеню кандидата юридичних наук Київ: Національний університет Києво-Могилянська академія.

⁷ Осипова, В. В. (2016). Становлення інституту реадмісії у рамках ЄС. *Молодий вчений*, 6, 262-264. <<http://molodyvchenu.in.ua/files/journal/2016/6/65.pdf>> (2020, November, 20).

⁸ Паукова, Ю. В. (2013). Пространство свободы, безопасности и правосудия Европейского Союза: некоторые вопросы заключения и реализации соглашений ЕС о реадмиссии. *Пространство и время*, 2, 17-24. <<https://cyberleninka.ru/article/n/prostranstvo-svobody-bezopasnosti-i-pravosudiya-evropeyskogo-soyuza-nekotorye-voprosy-zaklyucheniya-i-realizatsii-soglasheniy-es-o/viewer>>. (2020, November, 20).

⁹ Peers, S. (2003). Readmission Agreements and EC External Migration Law. *Statewatch analysis*, 17, 8. <<https://www.statewatch.org/media/documents/analyses/no-17-readmission.pdf>>. (2020, November, 20).

¹⁰ Тиндик, Н. П. (2009). Угода про реадмісію – початок формування нових підходів у міграційній політиці України. *Діяльність органів внутрішніх справ щодо забезпечення міграційного процесу в Україні*. Львів: ЛьвДУВС, 277-289.

¹¹ Шендеровська, А. В. (2013). Характеристика Угоди про реадмісію осіб між Україною та ЄС та її виконання Україною. *Часопис Київського університету права*, 4, 379-383. <http://kul.kiev.ua/doc/CHAS13_4.pdf>. (2020, November, 20).

¹² Eur-Lex (2007). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

¹³ Eur-Lex (2007). *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2007:306:FULL&from=EN>>. (2020, November, 20).

¹⁴ Naumenko, N. (2019). Peculiarities of Agreement between Ukraine and Denmark on the readmission of persons. *Recht der Osteuropäischen Staaten*, 1, 123-127 <<https://www.uni-goettingen.de/de/document/download/ca207b2c626da0c3a651dab3e413069e.pdf/ReOS%2001%20aus%202019.pdf>>. (2020, November, 20).

It is also important to note that under Article 1(b) of the Agreement 2007, for the purpose of this Agreement, “*Member State*” means any Member State of the European Union, with the exception of the Kingdom of Denmark and the Republic of Ireland¹. In other words, the international legal regulation of the readmission of persons between Ukraine and the Kingdom of Denmark, and between Ukraine and the Republic of Ireland does not fall under the Agreement 2007. Let us examine this issue in more detail.

The international legal grounds regulating the readmission of persons between Ukraine and the Kingdom of Denmark

Article 18(2) of the Agreement 2007 specially underlines that this Agreement shall not apply to the territory of the Kingdom of Denmark². This provision has been clarified in the Joint Declaration concerning Denmark to the Agreement 2007 (which forms an integral part of this Agreement) – the Contracting Parties take note that this Agreement does not apply to the territory of the Kingdom of Denmark, nor to the nationals of the Kingdom of Denmark³.

Also in accordance with Articles 1 and 2 of the Protocol on the position of Denmark⁴, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of the Council Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons (2007/839/EC)⁵ and is not bound by it or subject to its application.

However, the Joint Declaration concerning Denmark to the Agreement 2007⁶ established that *it is appropriate* that Ukraine and Denmark conclude a readmission agreement in the same terms as this Agreement. Such readmission agreement took the form of the Agreement between the Government of the Kingdom of Denmark and the Cabinet of Ministers of Ukraine on the readmission of persons, signed at Copenhagen on 16 March 2007⁷.

Apparently, the signing of a specific international agreement on the readmission of persons between Ukraine and Denmark can be explained by Denmark’s reluctance to undertake commitments to Ukraine for readmission of citizens of other EU Member States. It should also be noted that no Implementing Protocol between Ukraine and Denmark on the readmission of persons has been concluded so far⁸.

The international legal grounds regulating the readmission of persons between Ukraine and the Republic of Ireland

As we have mentioned above the Agreement 2007 does not apply to the Republic of Ireland.

Under Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland⁹, annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, Ireland also is not taking part in the adoption of the Council

¹ Eur-Lex (2007). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

² Ibid.

³ Eur-Lex (2007). *Joint Declaration concerning Denmark to the Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁴ Eur-Lex (2016). *Protocol No 22 on the position of Denmark* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

⁵ Eur-Lex (2007). *Council Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁶ Eur-Lex (2007). *Joint Declaration concerning Denmark to the Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁷ Eur-Lex (2009). *Agreement between the Government of the Kingdom of Denmark and the Cabinet of Ministers of Ukraine on the readmission of persons (with annexes). Copenhagen* <<https://treaties.un.org/doc/Publication/UNTS/Volume%202580/v2580.pdf>>. (2020, November, 20).

⁸ Naumenko, N. (2019). Peculiarities of Agreement between Ukraine and Denmark on the readmission of persons. *Recht der Osteuropäischen Staaten, 1*, 123-127. <<https://www.uni-goettingen.de/de/document/download/ca207b2c626da0c3a651dab3e413069e.pdf/ReOS%2001%20aus%202019.pdf>>. (2020, November, 20).

⁹ Eur-Lex (2016). *Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons (2007/839/EC)¹ and is not bound by nor subject to its application.

It should be noted that, as of this writing, Ukraine and the Republic of Ireland have signed no readmission agreement.

The international legal grounds regulating the readmission of persons between Ukraine and the United Kingdom

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland², annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom *initially* has notified its wish to take part in the adoption and application of the Council Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons (2007/839/EC)³.

Then, under Article 127(1a) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01)⁴, it was established that Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice⁵ *was not binding* upon and in the United Kingdom *before* the date of entry into force of this Agreement. Recall that the United Kingdom was set to leave the European Union on 31 January 2020 at midnight (Brussels time)⁶.

On the whole, in accordance with Article 127(5) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01)⁷ during the transition period (comes to an end 2020)⁸, in relation to measures which amend, build upon or replace an existing measure adopted pursuant to Title V of Part Three of the TFEU by which the United Kingdom is bound before the date of entry into force of this Agreement, Article 4a of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice⁹ shall continue to apply *mutatis mutandis* (with the necessary modifications).

These provisions effectively mean that the United Kingdom is excluded from the scope of the Agreement 2007¹⁰. In other words, there is no current international agreement on readmission between Ukraine and the United Kingdom.

¹ Eur-Lex (2007). *Council Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

² Eur-Lex (2016). *Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice*. <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

³ Eur-Lex (2007). *Council Decision of 29 November 2007 concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons (2007/839/EC)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁴ Eur-Lex (2019). *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community* <<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1580206007232&uri=CELEX%3A12019W/TXT%2802%29>>. (2020, November, 20).

⁵ Eur-Lex (2016). *Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice*. <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

⁶ An official website of the European Union (2020). *Questions and Answers on the United Kingdom's withdrawal from the European Union on 31 January. 24 January 2020. Brussels*. <https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_104>. (2020, November, 20).

⁷ Eur-Lex (2016). *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community* <<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1580206007232&uri=CELEX%3A12019W/TXT%2802%29>>. (2020, November, 20).

⁸ GOV.UK (2020). *The UK transition* <<https://www.gov.uk/transition>>. (2020, November, 20).

⁹ Eur-Lex (2016). *Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

¹⁰ Eur-Lex (2016). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

Relation between the Agreement between the European Community and Ukraine on the readmission of persons (2007) and bilateral international agreements between Ukraine and the Republic of Latvia, Ukraine and the Republic of Poland, Ukraine and the Slovak Republic, Ukraine and the Republic of Hungary, Ukraine and the Republic of Bulgaria respectively

Ukraine concluded bilateral readmission agreements with some European states prior to their accession to the European Union, namely the agreements with the Republic of Hungary¹, the Republic of Poland², the Republic of Latvia³ and the Republic of Bulgaria⁴.

It should be noted that an Agreement on Readmission was also concluded between Ukraine and the Slovak Republic⁵, but Ukraine denounced this Agreement in 2000⁶.

Therefore, as of this writing, the bilateral readmission agreements between Ukraine and, respectively, the Republic of Hungary, the Republic of Poland, the Republic of Latvia and the Republic of Bulgaria remain formally in force. This naturally raises the question of their legal effect relative to the Agreement between the European Community and Ukraine on the Readmission of Persons (18 June 2007)⁷.

The general legal norm (*lex generalis*) ascribing priority to the Agreement 2007 is fixed in the abovementioned Article 216(2) of the TFEU⁸: agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

For the Republic of Hungary, the Republic of Poland and the Republic of Latvia, special legal norms (*lex specialis*), establishing the priority of the Agreement 2007 over these states' bilateral agreements concluded prior to their accession to the EU are fixed in the Article 6 (para 2 and 6) of the Act of Accession⁹: the new Member States undertake to accede, under the conditions laid down in this Act, to the agreements or conventions concluded or provisionally applied by the present Member States and the Community, acting jointly, and to the agreements concluded by those States which are related to those agreements or conventions. And as from the date of accession (1 May 2004) ... the new Member States shall apply the provisions of the Agreements concluded by the present Member States and, jointly, the Community with ... Ukraine ... as well as the provisions of other agreements concluded jointly by the present Member States and the Community before accession.

For the Republic of Bulgaria, the relevant legal norms establishing the priority of the Agreement 2007 over its bilateral agreements concluded prior to its accession to the EU are fixed in the Article 6 (para 1 and 2) of the Protocol concerning the conditions and arrangements for admission of the republic of Bulgaria and

¹ Офіційний сайт Верховної Ради України (1993). *Угода між Урядом України і Урядом Угорської Республіки про передачу і прийом осіб через спільний державний кордон* <https://zakon.rada.gov.ua/laws/show/348_317#Text>. (2020, November, 20).

² Офіційний сайт Верховної Ради України (1993). *Угода між Урядом України і Урядом Республіки Польща про передачу і прийом осіб через спільний державний кордон* <https://zakon.rada.gov.ua/laws/show/616_170#Text>. (2020, November, 20).

³ Treaty Series (1997). *Agreement between the Government of the Republic of Latvia and the Government of Ukraine regarding the admission and transfer of persons (with protocol)*, 2411, I-43511, 43-48 <<https://treaties.un.org/doc/Publication/UNTS/Volume%202411/v2411.pdf>>. (2020, November, 20).

⁴ Офіційний сайт Верховної Ради України (2001). *Угода між Кабінетом Міністрів України та Урядом Республіки Болгарія про приймання та передачу осіб, що перебувають на територіях обох держав нелегально* <https://zakon.rada.gov.ua/laws/show/100_023#Text>. (2020, November, 20).

⁵ Офіційний сайт Верховної Ради України (1993). *Угода між Урядом України і Урядом Словацької Республіки про передавання і приймання осіб через державний кордон*. <https://zakon.rada.gov.ua/laws/show/703_053#Text>. (2020, November, 20).

⁶ Офіційний сайт Верховної Ради України (2000). *Про денонсацію Угоди між Урядом України і Урядом Словацької Республіки про передавання і приймання осіб через спільний державний кордон* <<https://zakon.rada.gov.ua/laws/show/ru/1513-2000-п#Text>>. (2020, November, 20).

⁷ Eur-Lex (2007). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁸ Eur-Lex (2016). *Consolidated version of the Treaty on the functioning of the European Union* <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016E/TXT&from=EN>>. (2020, November, 20).

⁹ Eur-Lex (2003). *Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.236.01.0033.01.ENG&toc=OJ:L:2003:236:TOC>. (2020, November, 20).

Romania to the European Union¹ and in the Article 6 (para 2 and 3) of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the treaties on which the European Union is founded².

Implementing Protocols drawn up between Ukraine and some EU Member States under the Agreement between the European Community and Ukraine on the Readmission of Persons (2007)

The drawing up of Implementing Protocols is provided for by Article 16 of the Agreement between the European Community and Ukraine on the readmission of persons (2007)³. The legal purpose of the Implementing Protocols is increasing efficiency of interstate cooperation concerning the readmission of persons.

So far Ukraine has drawn up Implementing Protocols with the following EU Member States: the Republic of Austria⁴, the Czech Republic⁵, the Republic of Estonia⁶, the Republic of Poland⁷ and the Republic of Lithuania⁸.

Overall, the readmission dialogue concerning the texts of Implementing Protocols is at various stages with the rest of the EU countries. Thus, draft Implementing Protocols to the Agreement with the EU as proposed by the Ukrainian side are currently being processed by the relevant authorities of France, Germany, Portugal, Cyprus, Slovakia, Hungary, Romania, Malta, Latvia, Bulgaria, Greece, Slovenia, Croatia and Sweden. The Ministry for Foreign Affairs of Finland has expressed a lack of interest in signing an Implementing Protocol due to the high efficiency on part of Ukraine in implementing the basic Agreement between Ukraine and the EU on the readmission of persons; Ukraine is currently reviewing the draft Implementing Protocols offered by Italy and Spain⁹.

3. Conclusions

1. At present, readmission relationships between Ukraine and EU Member States are regulated by several bilateral international agreements. Namely, the Agreement between the European Community and Ukraine on the Readmission of Persons (2007), the Agreement between the Government of the Kingdom of Denmark and the Cabinet of Ministers of Ukraine on the Readmission of Persons (2007) and Implementing Protocols with the some EU Member States.

2. The legal nature of the Agreement between the European Community and Ukraine on the Readmission of Persons (2007) is the *mixed* bilateral international agreement, as its contracting parties are the European Community from the one side and the State of Ukraine from the other side. Whereas the

¹ Eur-Lex (2005). *Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2005.157.01.0029.01.ENG&toc=OJ:L:2005:157:TOC>. (2020, November, 20).

² Eur-Lex (2005). *Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the treaties on which the European Union is founded* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2005.157.01.0203.01.ENG&toc=OJ:L:2005:157:TOC>. (2020, November, 20).

³ Eur-Lex (2007). *Agreement between the European Community and Ukraine on the readmission of persons. Luxembourg* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG>. (2020, November, 20).

⁴ Офіційний сайт Верховної Ради України (2012). *Імплементційний протокол між Кабінетом Міністрів України та Австрійським Федеральним Урядом про реалізацію Угоди між Україною та Європейським Співтовариством про реадмісію осіб* <https://zakon.rada.gov.ua/laws/show/040_039#Text>. (2020, November, 20).

⁵ Офіційний сайт Верховної Ради України (2001). *Імплементційний протокол про реадмісію осіб між Кабінетом Міністрів України та Урядом Чеської Республіки* <https://zakon.rada.gov.ua/laws/show/203_065#Text>. (2020, November, 20).

⁶ Офіційний сайт Верховної Ради України (2001). *Імплементційний протокол між Кабінетом Міністрів України та Урядом Естонської Республіки до Угоди між Україною та Європейським Співтовариством про реадмісію осіб* <https://zakon.rada.gov.ua/laws/show/233_001-15#Text>. (2020, November, 20).

⁷ Офіційний сайт Верховної Ради України (2001). *Імплементційний протокол між Кабінетом Міністрів України та Урядом Республіки Польща про виконання Угоди між Україною та Європейським Співтовариством про реадмісію осіб* <https://zakon.rada.gov.ua/laws/show/616_002-17#Text>. (2020, November, 20).

⁸ Офіційний сайт Верховної Ради України (2001). *Протокол між Кабінетом Міністрів України та Урядом Литовської Республіки про виконання Угоди між Україною та Європейським Співтовариством про реадмісію осіб* <https://zakon.rada.gov.ua/laws/show/440_005-18#Text>. (2020, November, 20).

⁹ Державна міграційна служба України (2018). *Інформаційно-аналітичні матеріали щодо заходів співробітництва з Європейським Союзом у сфері юстиції, свободи і безпеки* <<https://dmsu.gov.ua/assets/files/doc/eu-inf.pdf>>. (2020, November, 20).

European Union replaced and succeeded the European Community, the Agreement between the European Community and Ukraine on the readmission of persons (2007) *remains* binding on the European Union due to the succession and the Contracting Parties to this Agreement are Ukraine and the European Union. The Agreement applies to all EU Member States, with the exception of the Kingdom of Denmark and the Republic of Ireland.

3. The international legal framework on the readmission of persons between Ukraine and Denmark is regulated by a special agreement between the Government of the Kingdom of Denmark and the Cabinet of Ministers of Ukraine on the Readmission of Persons (2007). No Implementing Protocol between Ukraine and Denmark on the readmission of persons has been concluded so far.

4. Ukraine and the Republic of Ireland have signed no readmission agreement so far.

5. Following the withdrawal of the United Kingdom from the EU, the legal framework on the readmission of persons between Ukraine and the United Kingdom remains unregulated.

6. The bilateral readmission agreements concluded between Ukraine and, respectively, the Republic of Hungary, the Republic of Poland, the Republic of Latvia and the Republic of Bulgaria prior to their accession to the EU are not currently in force.

7. Under the Agreement 2007 and in order to increase the efficiency of interstate cooperation concerning the readmission of persons, Ukraine has signed Implementing Protocols with the Republic of Austria (2012), the Czech Republic (2013), the Republic of Estonia (2015), the Republic of Poland (2017) and the Republic of Lithuania (2018).

Further research perspectives

Further scientific articles are to be devoted to the analysis of the contents of specific international agreements on the readmission of persons to which Ukraine is a party.

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