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The Construction of European identity in the Paradigm of Anthropocentrism and its Constitutionalization

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Summary: The research highlights the importance of European identity forming in the paradigm of anthropocentrism, reveals the nature, factors, mechanisms, peculiarities and problems related to this process. It is emphasized that the search for the most appropriate conceptual model for the construction of European identity is one of the important conditions for deepening the solidarity and unity of the peoples of Europe, the effective functioning of the European Union, the activation of European integration, the enhancement of synergies between supranational and intergovernmental components of integration processes. The practice of Ukraine on the constitutionalization of European identity and European integration, ie revision of the Constitution of Ukraine confirming the European identity of the Ukrainian people and the irreversibility of the European course of Ukraine, are investigated. The modern practice and doctrinal views on the issues discussed were analyzed. Prospects for the constitutionalization of European identity at the level of supranational integration are presented.

Keywords: European Union (EU) – integration processes – European integration – Europeanization – European identity – self-identification – human rights – fundamental rights

1. Introduction

Constructing European identity and finding its most appropriate conceptual model is one of the important conditions for deepening solidarity and "creating

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an ever closer union among the peoples of Europe"[1] (the preamble to the Treaty on European Union as amended by the 2007 Lisbon Treaty), the effective functioning of the European Union (EU), the activation of European integration. The European identity creation is influenced by the expansion of European self-identification, *inter alia* among EU citizens, the state of trust in its supranational institutions, above all in the European Parliament empowered to represent their interests, and in the European Commission, which directly influences the formation of pan-European narratives – one of the key element of European identity as a collective type of identity. Urgent to the EU are conceptual and other issues connected with the formation of European identity, which cannot be imposed by the management decisions of its institutions, thus it is the discursive-constructivist approach that provides greater opportunities for its theoretical understanding in the categories of multiplicity, variability, flexibility. It is rooted in the consciousness of the peoples of Europe, consolidating them on the basis of common values, political traditions, geographical proximity, commonality: historical experience, political culture, cultural heritage, etc. Social and civic components play an important role.

Respect for human rights as a component of common values is the cornerstone of the implementation of 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,[2] 2014 (hereinafter referred to as the EU-Ukraine Association Agreement) is a factor of the formation of European identity, the core of the conceptual foundations of the EU legal oder, and also serves as one of the decisive tasks in the process of realizing the constitutionally enshrined European integration of Ukraine, the European vector as a priority in the foreign policy of the state, its foreign policy guide. Moreover, according to the amendments made to the fifth paragraph of the preamble of the current Constitution of Ukraine, the European identity of the Ukrainian people and the irreversibility of the European course of Ukraine were confirmed.[3] It is important that the consolidation of the legal certainty of Ukraine's strategic course for EU

[1] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. *Official Journal of the European Union*. C 202/01. Volume 59. 7 June 2016. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2016:202:FULL&from=EN

[2] 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. *Official Journal of the European Union*. L 161. Volume 57. 29 May 2014. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529(01)&qid=1580481775906&from=EN

[3] *Konstytutsiia Ukrainy* 254k/96-VR, redaktsiia vid 21 liutoho 2019. [online]. Available at: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80

membership at the constitutional level is supported by: the proper and timely implementation of the EU-Ukraine "tailored"[4] Association Agreement, that it is a tool for European integration revitalizing and therefore slowing down the processes of Europeanization; "the introduction of EU evaluation by its internal methodology on the state of affairs with practical adherence to common values in Ukraine",[5] which is an essential element of the EU-Ukraine Association Agreement; carrying out the necessary real reforms targeted at the meeting of EU membership criteria; creating conditions for establishing a unified national identity in Ukraine and increasing European self-identification among Ukrainians.

2. Conceptualizing of European identity

There is a single European space around the EU that embodies the idea of a United Europe and has different dimensions: educational, cultural, etc. Formed on common values and interests, the concept of a common cultural heritage, the United Europe has absorbed the distinctive features of each nation and its identity, including them on a parity basis in a pan-European context. That is why the concept of the EU's cultural foundation, which is the base to the creation of European identity constructed by the efforts of the elite in the paradigm of anthropocentrism, has been actively discussed among the European political elite. Each European nation brings in its own unique features to the idea of the United Europe, enriching it, ensuring in such a way the dynamics of European integration changes, the development of integration processes in economic, political and spiritual spheres.

At the 1973 Copenhagen Summit aspirations, including reviving of integration processes, prompted EU Member States' leaders to endorse the Declaration on European Identity[6] and to incorporate the concept of European identity into public discourse. Conditionally defining for a multifaceted and multidimensional concept "European identity" is widely regarded as a geographical identity and

[4] Sii ŠIŠKOVÁ, N. The EU – Ukraine Association Agreement as an Instrument of a New Generation of so called "tailored" Association Agreements: the Comparative View. *From Eastern Partnership to the Association: A Legal and Political Analysis:* Collective monograph. Ed. by Naděžda Šišková. Cambridge: Cambridge Scholars Publishing, 2014. pp. 106–134.

[5] SHULHA, D. Intehratsiina dynamika vykonannia Uhody pro asotsiatsiiu: vysnovky ta rekomendatsii. *Intehratsiia u ramkakh asotsiatsii: dynamika vykonannia Uhody mizh Ukrainoiu i YeS*. Kyiv, 2019. S. 10.

[6] Declaration on European Identity. *Bulletin of the European Communities*. Luxembourg: Office for Official Publications of the European Communities. 1973. № 12. P. 118-122. [online]. Available at: https://www.cvce.eu/content/publication/1999/1/1/02798dc9-9c69-4b7d-b2c9-f03a8db7da32/publishable_en.pdf

narrowly – the existence of the EU and its borders. Currently, European identity is characterized as: inclusive; multidimensional, multiple, capable to incorporate different subnational, regional, national and supranational identities; intercultural, multicultural, which recognizes, respects and promotes the development of existing diversity but is also able to produce new identities; based on democracy and the democratic vision of the United Europe.[7] Accordingly European identity is a built phenomenon and its objective is to construct, *inter alia*, the formation of need and ability to live together preserving historical memory and ethnic identity, cultural and religious diversity, guided by common values and common interests. As N. Pelagesha notes the inclusivity of European identity means that under "others" are recognized not those who are outside the borders of nation states, but those who are outside the integration union. The transformation of the national identities of the EU Member States in the context of European integration takes place in this area,[8] accompanied by the emergence of different concepts of "otherness".

European identity is predominantly defined as belonging to a new type of collective identity,[9] coexisting with the national identity of the citizens of the EU Member States, not replacing or weakening it, but causing transformation in a way of reconfiguration and making it more inclusive. John Erik Fossum underlines that "...the prospects for a European nation-type identity to emerge are bleak indeed. Instead what was explored was whether we see a reassertion of national identity, or a transformation of national identities, or the emergence of a post-national identity... National identities are becoming more inclusive and there are signs of an emerging inclusive conception of European identity. The latter is far more akin to a post-national than a national type identity...".[10] The European identity forming is a purposeful project implemented by the European elite, *inter alia*, in the socio-cultural realm through the policy of European identity, its conceptualization. Despite widespread criticism or partial rejection,

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7 ZAGAR, M. *Enlargement – in Search for European Identity*. [online]. Available at: https://www.academia.edu/585043/Enlargement_In_search_for_European_identity

8 PELAHESHA, N. *Ukraina u smyslovykh viinakh postmodernu: transformatsiia ukrainskoi natsionalnoi identychnosti v umovakh hlobalizatsii*: *monohrafiia*. Kyiv: Natsionalnyi instytut stratehichnykh doslidzhen, 2008, s. 70.

9 EDER, K. A. Theory of Collective Identity Making Sense of the Debate on a 'European identity'. *European Journal of Social Theory.* 2009. Volume 12. Issue 4, p. 427; SCALISE, G. European identity construction in the public sphere: a case study on the narratives of Europe. *International Journal of Cross-Cultural Studies and Environmental Communication.* 2013. Volume 2. Issue 2, p. 59.

10 FOSSUM, J. E. Identity-politics in the European Union. ARENA Working Papers, WP 01/17. *Journal of European Integration*. 2001. Volume 23. Issue 4, p. 406. [online]. Available at: https://www.researchgate.net/publication/5014658_Identity-Politics_in_the_European_Union

it is in European identity that experts see considerable potential, recognizing it as an important condition for the progress of integration processes in Europe.

The European identity has a multiple nature as it includes local, regional, national and supranational levels cemented by EU values enshrined in Art. 2 of the Treaty on European Union as amended by the Lisbon Treaty 2007: "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 Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail".[11] Preamble of the Charter of Fundamental Rights of the European Union states: "Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities by establishing the citizenship of the Union and by creating an area of freedom, security and justice".[12] It is important to consider on the possible consequences of a reasoned proposal by the EU Council that there is a clear risk of a serious breach by a Member State or determination by the European Council of the existence of a serious and persistent breach by a Member State of the values referred to in Article 2 as well as the potential of a preventative mechanism,[13] carefully researched by Professor Naděžda Šišková. The presence of common values and unique features in the EU does not prevent the citizens of each state to be proud of their unique traditions, history, culture. They tend to be in unity with others, depending on their respect and adherence to common values and other aspects of the spiritual essence of Europe.

[11] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. *Official Journal of the European Union*. C 202/01. Volume 59. 7 June 2016. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2016:202:FULL&from=EN

[12] Charter of Fundamental Rights of the European Union. *Official Journal of the European Union*. C 202/02. Volume 59. 7 June 2016. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2016:202:FULL&from=EN

[13] ŠIŠKOVÁ, N. European Union's Legal Instruments to Strengthen the Rule of Law, their Actual Reflections and Future Prospects. *The European Union – What is Next? A Legal Analysis and the Political Visions on the Future of the Union:* Collective monograph. Naděžda Šišková (ed.). Köln: Wolters Kluwer Deutschland, 2018, p. 143–144.

3. Mechanisms for constructing of European identity

European integration, as Johan P. Olsen points out, is: first, evidence of the existence of a particular social and cultural community with its own collective identity; second, as a result of calculated profit, when actors become a part of a wider system with an added value overwhelming their individual efforts; third, as a consequence of sympathy towards certain political principles, institutions and rules of political coexistence.[14] In the doctrine changes, reforms that take place in the internal and external dimensions of state practices under the impact of European integration processes and peculiar to them, *inter alia* in the socio-cultural realm, due to the implementation of the EU identity policy, are usually referred to as "Europeanization". The latter is implemented in the way of eliminating differences and inconsistencies, gradual convergence, implementation of the most effective mechanisms, procedures, practices developed in the process of interaction between supranational and national levels in order to consolidate and enhance the effectiveness of economic cooperation, strengthen human rights protection, etc.

It is noteworthy that European integration is accompanied by Europeanization, the conceptual model of which is to promote, support and accelerate European integration processes in the format Membership Europeanization, Accession Europeanization or Neighborhood Europeanization (does not involve membership). Therefore, Europeanization is a phenomenon characterized by multidimensional and multilevel approaches, in which individual states act not only as full entities, but also as objects of influence within the Europeanization process, which in this case serves as a tool for the implementation of EU foreign policy. Europeanisation should be understood, from the one hand, as a process of political and institutional adaptation to the European integration, and, from the other hand, as restatement or redefinition on national identity and creation of European identity.[15] Well-defined and thoroughly developed mechanisms for constructing of European identity, mostly by the efforts of the political elites, are: the development of the EU Citizenship Institute;[16] ensuring respect for human rights and the ability to protect fundamental rights at EU level,[17] the presence of European symbols; the

[14] OLSEN, Johan P. *Europe in Search of Political Order.* Oxford: Oxford University Press, 2007, p. 172–173.

[15] See FEATHERSTONE, K. KAZAMIAS, G. *Europeanization and the Southern Periphery*. London: Routledge, 2014, p. 282.

[16] See DENYSOV, V. N. Hromadianstvo Yevropeiskoho Soiuzu. *Entsyklopediia mizhnarodnoho prava*: U 3 t. / Red. kol.: Yu. S. Shemshuchenko, V. N. Denysov (spivholovy) ta in.; Instytut derzhavy i prava im. V. M. Koretskoho NAN Ukrainy. T. 1. A–D. Kyiv: Akademperiodyka, 2014, s. 649–650.

[17] See HAMUĽÁK, O. The Variations of Judicial Enforcement of EU Charter of Fundamental Rights vis-á-vis Union Institutions and Bodies. *European Studies – The Review of European Law, Economics and Politics*. 2018. Volume 5. Wolters Kluwer, pp. 98–112.

functioning of the European Monetary Union as a form of monetary integration for most EU Member States, in which they see considerable potential despite periodic crises; formation of pan-European information and communication space; implementation of a European collective memory policy; development of EU specialized libraries; stepping up EU policy in the field of culture; implementation of language policy at EU level; implementation of EU education policy, etc. Above mentioned mechanisms serve as factors of community cohesion,[18] thus a guarantee of the integration association unity. At the same time, authors who characterize European identity as "thick" tend to be critical of this concept, referring to it as being too content "thick" and not without significant methodological flaws, in particular when it comes to identification of European identity and EU legitimacy, on the interpretation of problems with the formation of European identity as the main obstacle to the development of European integration,[19] pan-European unification processes. "What matters here is timing and a sense of realism"[20].

4. Factors of European identity formation in the anthropocentrism paradigm and problems related to this process

There is a common statement that an integration association forms its own European identity which should legitimize it among the citizens of the Member States,[21] since the EU citizen must identify himself not only with the relevant state but also with the integration association of which the state is a member, under whose jurisdiction he is. In Article 8 of the second part of 1992 Maastricht Treaty "Citizenship of the Union" defined "citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union".[22] It is noteworthy that "EU citizenship is not, by

[18] PELAHESHA, N., op. cit., p. 68.

[19] WALKENHORST, H. The Conceptual Spectrum of European Identity: From Missing Link to Unnecessary Evil. *Limerick Papers in Politics and Public Administration*. 2009. № 3. P. 2. [online]. Available at: http://www.ul.ie/ppa/content/files/Walkenhorst_conceptual.pdf

[20] SCHNEEMELCHER, P., HAAS, J. Rules enforcement in the EU: "conditionality" to the rescue? *Bertelsmann Stiftung Policy Paper*. 28.05.2019. P. 11. [online]. Available at: https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ_JDI_BST_Policy_Paper_Conditionality_2019_ENG.pdf

[21] PELAHESHA, N., op. cit., p. 163.

[22] *Treaty on European Union*, as signed in Maastricht on 7 February 1992. Luxembourg: Office for Official Publications of the European Communities, 1992. P. 15. [online]. Available at: https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf

its nature, a nationality under international and national law",[23] it is derivative, complementing national citizenship without replacing it. The introduction of EU citizenship does not abolish national which is inherent in the correlation of national and European identity, that is seen as an important condition for deepening the solidarity of the peoples of Europe, their cohesion, as well as the vitality, capacity and development of European integration. Thus, a peculiar feature of the EU at this stage is that the above forms of citizenship complement each other confirming the acceptability of the concept of coexistence of national and European identity which is a higher and comparatively new system measurement of human identification practices, approaches to these practices.

The introduction of appropriate EU symbolism also plays an important role in affirming European identity and consolidating its connection with EU citizenship. The basic idea behind the introduction of European symbols is the gradual modification of the consciousness of the peoples of Europe regarding the political community to which they belong,[24] since as Ioana-Sabina Prisacariu notes "... symbolic forms create identity and are active elements in social problems; they do not only express differences and power ration, but also shape relations through the emotional and ideological construction of images".[25]

The basis of European identity is not homogeneity, but rather "the diversity of cultures within the framework of a common European civilization, the attachment to common values and principles, the increasing convergence of attitudes to life, the awareness of having specific interests in common and the determination to take part in the construction of a United Europe, all give the European Identity its originality and its own dynamism".[26] Up to these days Jean Monnet's famous statement, "if we had started to create the european community right from the beginning, we should have started from culture" has not lost its relevance. In this context is notable that the Reflection Group set up on the initiative of the European Commission concluded: "European culture, indeed Europe itself, is not a "fact". It is a task and a process".[27] The purpose of numerous activities,

[23] DENYSOV, V. N., op. cit., p. 651.

[24] GOTTDIENER, M. Postmodern Semiotics: Material Culture and the Forms of Postmodern Life. Oxford, UK; Cambridge, USA: Blackwell, 1995, p. 227.

[25] PRISACARIU, I. S. The Symbols role in the Creation of a European Identity. Dissertation paper. 2007, p. 96. [online]. Available at: https://pdfs.semanticscholar.org/a11a/d8c7d95e2da2b672cef95a17f66017497c0e.pdf

[26] Declaration on European Identity. *Bulletin of the European Communities*. Luxembourg: Office for Official Publications of the European Communities. 1973. № 12. P. 121. [online]. Available at: https://www.cvce.eu/content/publication/1999/1/1/02798dc9-9c69-4b7d-b2c9-f03a8db7da32/publishable_en.pdf

[27] The Spiritual and Cultural Dimension of Europe. Reflection group: Concluding remarks / K. Biedenkopf, B. Geremek, K. Michalski. Vienna / Brussels: European Commission, Institute for

among which: the holding of European Weeks (European Mobility Week, etc.), European Years (European Cultural Heritage Year, etc.), the introduction of an EU citizen's passport, European driving licenses and the creation of unified license plate form for cars of EU citizens, is the formation of collective European consciousness and identity, the affirmation of mutual respect and trust through the Europeanisation of culture sphere, adhering to such multifaceted and in-depth approaches, as a unity in diversity and multiculturalism. Cris Shore stressed: "Behind these seemingly mundane cultural initiatives lay a more profound objective: to transform the symbolic ordering of time, space, education, information, and peoplehood in order to stamp upon them the "European dimension". In short, to reconfigure the public imagination by Europeanising some of the fundamental categories of thought",[28] shaping European identity in the paradigm of anthropocentrism, respecting human rights, and legitimizing the process of European integration.

It is important to create the conditions under which European identity can be formed and developed, that will actualise a relevant cultural and educational policy which can transform peoples differences into a pan-European value. There is a process of Europeanization of national educational policies[29] by using the educational system to form a feeling among EU citizens of belonging to the European community, legitimizing a supranational integration association. EU language policy has become a separate area of EU political activity, demonstrating its importance in integration processes. There are reasons to testify that, as stated in the European Commission's report, "Languages are at the heart of the European project: they reflect our different cultures and, at the same time, provide a key to understanding them".[30] The EU's activity in the digital culture area also proves the fact that the main aim is to create a European cultural space, which is an element of European identity based on a common European cultural heritage and international cooperation in this area, taking into account (including) the purpose of cultural enrichment. Professor Jurgen Habermas acknowledged that further development of integration depends on the communicative network of common European political publicity, which composes common political culture

Human Sciences; Luxembourg: Office for Official Publications of the European Communities, 2005. P. 8. [online]. Available at: https://ec.europa.eu/research/social-sciences/pdf/other_pubs /michalski_091104_report_ annexes_en.pdf

[28] SHORE, C. "In uno plures" (?) EU Cultural Policy and the Governance of Europe. *Cultural Analysis*. 2006. Volume 5, p. 15.

[29] ORTLOFF, D. H. Becoming European: A Framing Analysis of Three Countries' Civics Education Curricula. *European Education*. 2005. Volume 37. Issue 4, p. 49.

[30] Commission Working Document – Report on the implementation of the Action Plan "Promoting language learning and linguistic diversity" {SEC(2007)1222} /COM/2007/0554 final/. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52007DC0554

beared by civic society.[31] In fact, there is a transition to a knowledge society, and more often the prerequisites for political and structural change in Europe are being laid by the latest information and communication technologies.

The concept of common cultural identity is based, *inter alia*, on the common values and concept of the common cultural heritage of Europe as enshrined in the 1954 European Cultural Convention, States Parties of which, in particular, are all EU Member States. Professor M.M. Mikhievich emphasizes the importance of "developing European self-awareness for the formation of European cultural identity".[32] After all, the development of EU cultural policy, the formation of a European cultural identity, at the heart of which is the concept of a common European cultural heritage, cannot be understood out of the context of a broad political project for constructing a United Europe, the activation of the process of European integration, the importance of shaping European identity in the paradigm of anthropocentrism.

The process of self-identification of Europeans is complicated by urgent problems facing the EU. Despite the long period of its development and expansion, undeniable achievements, the integration processes in recent years that have made Europe's history virtually inevitable have been compounded by numerous challenges and threats. First of all, it concerns: inequality among EU Member States and the need to provide them with equal opportunities; the migration crisis; uneven economic development that has gradually led to a crisis in the functioning of the European Monetary Union and social exacerbations; the bureaucratic nature of the EU's organizational structure and law-making process; "integration fatigue" and reluctance to pursue expansion policies; revision of the current accession procedure and putting forward new criteria for EU membership; the application of double standards and the manipulating conditions that determine the opening of accession negotiations for the Western Balkan countries; the fiasco of EU Balkan policy, as a consequence, launching a redistribution of influence in the Western Balkans; centrifugal trends; the inevitable effects of Brexit; the need to further improvement of the European Neighborhood Policy, its southern and eastern dimensions; security challenges; terrorist threats. During this, Euro-optimism is inferior to Euro-skepticism and even European-pessimism. The prolonged migration crisis has tested the strength of the EU institutional system, necessitating political transformation in order to avoid "fragmentation" within the Union.[33] Problems related to interethnic relations, "internal Islam",

[31] HABERMAS, J. *The Inclusion of the Other: Studies in Political Theory.* Cambridge: John Wiley & Sons, 2015, p. 219.

[32] MYKIIEVYCH, M. M. *Mizhnarodno-pravovi aspekty spivrobitnytstva Yevropeiskoho Soiuzu z tretimy krainamy: monohrafiia.* Lviv: Vyd. tsentr LNU im. Ivana Franka, 2001, s. 11.

[33] FALALIEIEVA, L. Kopenhahenski kryterii yak chynnyky rozbudovy yevropeiskoi intehratsii. *Naukovi zapysky Instytutu zakonodavstva Verkhovnoi Rady Ukrainy*. 2017, № 2, s. 124.

religious intolerance in the EU Member States remain relevant, as the growth of non-Christian population in them has not become a consolidating factor for the formation of European identity. Muslim identity has proven to be so strong that sometimes it claims to dominate, impose its own value system, and this does not contribute to solving the identified conceptual problems and overcoming the crisis phenomena that accompany integration processes at the present stage. For political and strategic reasons Europeans face new pressing questions on assessing the process of European integration in terms of issues solving related to interethnic relations in EU Member States, the impact of enlargement on a feeling of cohesion and solidarity within the EU, etc. At the same time, the foundation of European identity is an awareness of value and strict respect for human rights, creation of a comfortable environment at the level the most favorable for life.

5. The constitutionalization of European identity in Ukraine

European integration is part of the foreign policy activities of many European countries, among which Ukraine is. According to Academician Y. S. Shemshuchenko, the norms of the Constitution of Ukraine are the political and legal basis for the implementation of the foreign policy state function based on its national interests and domestic policy, widely recognized principles and norms of international law.[34] At the same time, Professor V. M. Shapoval acknowledges that "the problem of the content of the constitution has different sides of the theoretical and practical nature among which special attention is paid to those that appear in the international legal context".[35] One of the peculiarities of the newest constitutions is the presence in their texts of provisions that "create legal prerequisites for the participation of states in various integration processes ...".[36] That is what the Law of Ukraine "On Amendments to the Constitution of Ukraine (concerning the strategic course of the state for full membership of

[34] SHEMSHUCHENKO, Yu. S. Konstytutsiia Ukrainy 1996. *Entsyklopediia mizhnarodnoho prava*: U 3 t. / redkol.: Yu. S. Shemshuchenko, V. N. Denysov (spivholovy) ta in.; Instytut derzhavy i prava im. V. M. Koretskoho NAN Ukrainy. T. 2. E–L. Kyiv: Akademperiodyka, 2017, s. 738; sii SHEMSHUCHENKO, Yu. S. Na shliakhu do onovlennia Konstytutsii Ukrainy. *Chasopys Kyivskoho universytetu prava*. 2013. № 2, pp. 4–5.

[35] SHAPOVAL, V. N. Soderzhanie Konstitucii v kontekste mezhdunarodnogo prava. *Mezhdunarodnoe pravo kak osnova sovremennogo miroporjadka. Liber Amicorum k 75-letiju prof. V. N. Denisova*: monografija / Pod red. A. Ja. Mel'nika, S. A. Mel'nik, T. R. Korotkogo. Kiev; Odessa: Feniks, 2012, s. 339.

[36] Ibid., s. 340.

Ukraine in the European Union and in the Organization of the North Atlantic Treaty)"[37] No. 2680-VIII of February 7, 2019 should be focused on and which came into force on 21 February 2019, according to which the Constitution of Ukraine was revised, in particular, the provisions on the European integration of the state: the definition of the bases for the implementation of the strategic course for the acquisition of full membership of Ukraine in the EU belongs to the powers of the Verkhovna Rada (paragraph 5 of Part 1 of Article 85 of the Constitution of Ukraine), the President of Ukraine, among other things, is the guarantor of the realization of the strategic course of the state for the acquisition of full membership of Ukraine in the EU (part 3 of Article 102 of the Constitution of Ukraine), and the Cabinet of Ministers of Ukraine provides implementation of this course (paragraph 1^1 of Article 116 of the Constitution of Ukraine).[38] The above, however, neither crucial nor significant for the realization of Ukraine's European integration, since it is completely correlated with the functions and powers of the above mentioned state authorities in the foreign policy area *(for example, the definition of the principles of domestic and foreign policy belongs to the powers of the Verkhovna Rada of Ukraine (paragraph 5, part 1, Article 85 of the Constitution of Ukraine), therefore, it is she (the Verkhovna Rada) who determines the principles of implementation of the strategic course of the state for EU membership)* and essentially does not approach the stated goal of integration.

The EU has explicitly reaffirmed its recognition of European identity, Ukraine's aspirations as a European state which shares a common history and common values with its Member States and is committed to realize those values while ensuring respect for them.[39] The stated provision of the preamble to the EU-Ukraine Association Agreement should not be interpreted as a "substitute" for the current constitutionally enshrined EU membership strategy, actually the latter also indicates the long-term prospect of achieving this goal. The question arises whether it was necessary to incorporate this provision into the constitutional text as well as to "confirm the European identity of the Ukrainian people"[40] once again

[37] *Pro vnesennia zmin do Konstytutsii Ukrainy (shchodo stratehichnoho kursu derzhavy na nabuttia povnopravnoho chlenstva Ukrainy v Yevropeiskomu Soiuzi ta v Orhanizatsii Pivnichnoatlantychnoho dohovoru): Zakon Ukrainy* № 2680-VIII vid 7 liutoho 2019. Vidomosti Verkhovnoi Rady Ukrainy. 2019. № 9, p. 50. [online]. Available at: https://zakon.rada.gov.ua/laws/show/2680-19#n2

[38] *Konstytutsiia Ukrainy* 254k/96-VR, redaktsiia vid 21 liutoho 2019. [online]. Available at: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80

[39] 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. *Official Journal of the European Union*. L 161. Volume 57. 29 May 2014. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529(01)&qid=1580481775906&from=EN

[40] *Konstytutsiia Ukrainy* 254k/96-VR, redaktsiia vid 21 liutoho 2019. [online]. Available at: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80

(preamble to the Constitution of Ukraine) that is obvious, already recognized by the EU in the preamble to the Association Agreement, thus European self-identification remains out of date mostly for Ukrainian society, because "progress, prosperity, security and a high standard of living" cannot be achieved by only declaring its Europeanness and commitment to European values.[41]

Procedures are necessary to preserve the fundamental values of a democratic society, the national sprouts of conceptual lawmaking, it actualises the need to improve the mechanism of drafting laws, to many of which society not only doesn't have time to react, but, *inter alia*, to understand and comprehend. Qualitative laws, especially the Basic Law, their proper substantive content, semantic unity and integrity, clear and detailed justification are not quickly created as well as others socially significant decisions. Besides, the text of the Constitution of Ukraine, like any other's state, cannot be revised and rewritten by electoral rhetoric of one or another political force with reference to messianic care for "safeguarding the country from possible political manipulation" in the future. Instead, it is crucial to defend the national interests, the international legal position of the state more resolutely and pragmatically, intensify and consolidate efforts to implement real visible internal reforms and proper implementation of international commitments.

It is not about situational constitutional and legal support for European aspirations but about a complex and long process of intensifying results-oriented efforts, first of all, towards completing the implementation of inclusive constitutional reform, a systematic approach to it, in order to create preconditions for concerted and consolidated actions to undertake visible in-depth internal reform transformations, proper and timely implementation of the commitments made under the EU-Ukraine Association Agreement. A number of conflicting provisions of the recently presented Concept of Amendments to the Constitution of Ukraine[42] are also to be updated and eliminated.

The practice of amending the Constitutions of Czech Republic, Slovakia, Poland, Estonia, Latvia, Lithuania, Hungary indicates that they mainly concerned: strengthening the role of the international treaty in national legal systems; recognizing the primacy of EU law over domestic law; fixing the possibility of transferring some of the sovereign rights to the EU in order to achieve common goals. EU membership in a supranational integration union causes for States restriction of their sovereign rights for an indefinite period, part of which they

[41] POPOVA, N. Kontseptsiia yevropeizatsii ta mozhlyvosti yii vykorystannia dlia analizu vidnosyn Ukraina – YeS. *Istoryko-politychni problemy suchasnoho svitu*: Zbirnyk naukovykh statei. Chernivtsi: Chernivetskyi natsionalnyi universytet, 2017, T. 35–36, s. 156.

[42] BRYZITSKYI, M. Shcho ne tak iz Kontseptsiieiu zmin do Konstytutsii. *Dzerkalo tyzhnia.* 2019. № 43–44 (439–440), s. 2.

pass on to it. "It is important that there is a tendency to establish the actual priority of international treaties governing the processes of pan-European integration with respect to certain provisions of the fundamental laws of the States Parties to these processes. The outlined trend provided for just by the constitutions themselves is reflected in the transfer of some of the powers of state bodies to relevant international organizations and institutions. However, such a trend does not deny the legal properties of the constitution as a fundamental law of the state, the importance of constitutional regulation for the organization and implementation of all functions of the state, including external ones".[43] The constitutions of some EU Member States provide for the transfer of sovereign rights in favor of inter-state associations. Thus, in paragraph 1 of Article 23 of the Basic Law (German Grundgesetz) of the Federal Republic of Germany 1949 as amended on 21 July 2010, stipulates that "in order to realize the idea of a United Europe…The Federation may transfer its sovereign rights",[44] in paragraph 1 of Article 24 established that "the Federation may by law transfer its sovereign rights to interstate associations",[45] and paragraph 2 of this article refers to the possibility of the Federation's consent "to such restrictions on their sovereign rights, which should result in the establishment and maintenance of a peaceful and stable order in Europe and in relations between peoples around the world".[46] Paragraph 2 of Article 28 of the Constitution of the Hellenic Republic 1975 as amended in 1986 and 2001, states: "For the sake of serving to important national interests and developing co-operation with other States, it is possible, through the conclusion of a convention or agreement, to recognize the competence of international organizations provided for by the Constitution …" and paragraph 3 of this article states that "Greece may, on a voluntary basis, by adopting a law…, restrict the exercise of national sovereignty if important national interests so require, as long as it does not violate human rights and the foundations of a democratic system, it shall be carried out on the basis of equality and reciprocity".[47] The constitution of the French Republic of 1958 (with amendments) contains a separate section XV "on the European Union", Article 88-1 of which states: "The Republic participates in the European Union founded by the free choice of states under the treaties they have concluded for the joint exercise of certain

[43] SHAPOVAL, V. N., op. cit., p. 339.

[44] *Konstitucii zarubezhnyh gosudarstv: Velikobritanija, Francija, Germanija, Italija, Evropejskij sojuz, Soedinennye Shtaty Ameriki, Japonija*: ucheb. posobie. Sost. V. V. Maklakov. 8 izd. M.: Infotropic Media, 2012, s. 188.

[45] Ibid., p. 189.

[46] Ibid.

[47] *Konstitucii gosudarstv Evropejskogo Sojuza*. Pod obshh. red. L. A. Okun'kova. M.: Izd. gruppa INFRA M–NORMA, 1997, p. 256.

powers".[48] Given the above, we are talking about practically significant issues that require constitutional regulation.

Having successfully fulfilled the commitments under the EU-Ukraine Association Agreement, meeting the criteria for EU membership and putting the real prospect of joining, there is an urgent need for Ukraine to ensure constitutional and legal regulation of the possibility of transferring sovereign rights to interstate unions. Therefore, the constitutional consolidation of the above provisions is not as necessary as determining the possibility and mechanism for the transfer of their sovereign rights to inter-state associations, it means that quite possible that the current Constitution of Ukraine will again need to be amended accordingly. Such fragmentary approach is increasingly being compared to the dotted repair of our roads. The Ukrainian doctrine of international law is already exploring the issues outlined above and relevant researches can become a theoretical and methodological basis for the subsequent constitutional changes and additions, which could have been avoided with the availability of a methodological basis of development, strategy for the development of the Basic Law, proper scientific substantiation, thoughtful and a well-balanced concept of its renewal, comprehensive approach to the latter. It would clearly be more farsightedly to envisage the possibility of transferring sovereign rights to interstate associations while amending the current Constitution of Ukraine to determine the strategic course of the state and to confirm the European identity of the Ukrainian people, or even better instead. This would be a manifestation of conceptual lawmaking, a systematic approach to constitutional and legal modernization, taking into account the experience and content of the constitutional practice of EU Member States as a methodological guideline for amending and improving the practical effectiveness of the Constitution of Ukraine, its optimal, balanced, thoughtful and reasoned update on the best traditions of constitutionalism.

6. Conclusion

Based on the above, we can summarize that maintaining the dynamics of European self-identification growth among Ukrainians, deepening and bringing to a new level of cooperation with the EU depend on the practical implementation of the existing legal foundations of regulation of the process of European integration of Ukraine, conceptual approach to it, the observance of common values, respect for human rights in particular, the level of cultural and civilizational self-identification of Ukrainians with Europeans and feeling like an organic part of them,

[48] Ibid., p. 681.

the development of Europe in Ukraine and its Europeanization. The nature of civilizational challenges and threats has recognized the changes, it should not be ignored, as well as the fact that constitutional stability is an important factor in the stability of the state and a driver for the democratic progress of society. At the same time, a qualitatively new stage of EU cooperation with Ukraine was launched, its evolution from *the Neighborhood Concept* to *the Association Strategy* is being crystallized, the effectiveness of concrete actions for the creation of which before the EU would mean the success of the Eastern Partnership policy, confirmation of the attractiveness of the regional integration European model, the logic of integration through law and democratization, as well as European self-identification.

From the foregoing it is seen that the constitutionalization of European identity at EU level will be of great practical importance, reaffirming and embodying the aspirations of Member States to deepen solidarity between their peoples, respecting their history, culture, traditions, national identity. Particularly relevant are the objective basic factors which could determine the presence or absence of European identity, focus on its complex and balanced formation, determine the differences between theoretical desirability and practical implementation. The mechanisms for constructing European identity resemble those with which it was formed and now national identities are being reconstructed. The formation of European identity is gradual, thought-out, balanced and cautious, possibly slow-moving, but has a growing impact on the internal socio-cultural environment of the EU Member States. Generally, the key structural elements and mechanisms for constructing by the efforts of the political elites of an integration association and / or its Member States, European identity, can be defined as follows: an approval of a pan-European political and legal space; presence of European symbols; the development of the EU Citizenship Institute; ensuring respect for human rights and the ability to protect fundamental rights at EU level; the functioning of the European Monetary Union as a form of monetary integration for most EU Member States; creation of a pan-European information and communication space; implementation of EU cultural and educational policies, development of a pan-European system of cultural and educational institutions and programs, in particular the *College of Europe*, *Jacques Delors Institute*, *Jean Monnet's instrument*, *EU Programme Erasmus+*, *EU Programme Europe for Citizens*, which serve to shape European collective memory, common historical consciousness, solidarity and cohesion around common values and basic principles.

The EU development dynamics has created the conditions for the formation of European identity as a result and a tool for the progress of integration processes in its framework, interaction in the process of European integration.

The creation of European identity and its conceptualization, on the one hand, have become a challenge for both EU citizens and its political elite, as well as the scientific community, and on the other – is an objective consequence of the EU becoming a supranational integration association, an independent actor in international relations and a fully-fledged international law entity. Difficulties in forming European identity based on geographical proximity, linguistic homogeneity, common historical experience and cultural heritage are expressed, which undoubtedly affects the EU's "integration capacity", but European identity is a cohesive factor that will influence not only the EU and its Member States. The use of a discursive-constructivist approach and methodological refinement of constructivists contributes to a critical rethinking of the concept of European identity, without unduly underestimating or exaggerating its role in the development of European integration. European identity is an important component of European integration, providing it with a coherent, systemic vision, gradually moving away from a superficial institutional approach. Search of the most appropriate conceptual model for European identity creation is one of the important conditions for deepening solidarity and consolidation of the peoples of Europe, effective functioning of the EU, activation of European integration, strengthening synergy between supranational and intergovernmental components.

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