actions are very rare, but fines can be very large; up to 10 % of the annual aggregate worldwide turnover of the group [2].

Instead of competing with each other cartel's members establish general concern actions that reduce incentive to present new or better products and services at competitive prices. As a result, their clients (consumers or other enterprises) pay more for a less quality. That is why cartels are illegal in accordance to Treaty on the Functioning of the European Union and why European Commission imposes big fines on companies taking part in cartel. As far as cartels are illegal they have a secret character and evidence of their existence is hard to find. The «leniency policy» motivates companies disclose proof of cartel's existence. The first company in any cartels is not have to pay fines. And it will bring to cartel's destabilization. The last years the most companies were revealed by European Commission after one member of cartel avowed and asked for leniency, though European Commission also successfully continues to conduct its own investigations for cartel's disclosing. Since 2008 companies discovered by the Commission has been involved in a cartel can settle their affairs by recognizing their participation in the cartel and get less penalty in reply. In a cartel agreement, producers explicitly agree to cooperate in setting prices and output levels for mutual advantage. By consolidating and limiting production, producers can push the market price up and earn higher profits. Cartels act in this way similar to a monopoly, and to the extent that a cartel can gain monopoly power (possible especially when demand for the good is inelastic), the cartel can raise prices above equilibrium levels [3].

Cartel is formed when two or more competing firms agree to work together to profit from the following actions:

fixing prices (agreed selling or buying prices (this does not necessarily mean that prices are set at the same level by all parties to the agreement); agreed minimum prices; an agreed formula for pricing or discounting goods and services; agreed rebates, allowances or credit terms. Such agreements may be in writing but are often informal and verbal);

market sharing – allocating customers, suppliers or territories to remove companies (allocating customers by geographic area; dividing contracts by value within an area; agreeing not to compete for established customers; agreeing not to produce each other's products or services; agreeing not to expand into a competitor's market);

rigging bids (cartel members can rotate winning jobs at inflated rates; participants in a bid rigging cartel may take turns to be the 'winner' by agreeing about the way they submit tenders, including some competitors agreeing not to tender);

controlling the output or limiting the amount of goods and services available to buyers (so buyers have no choice but to pay higher prices).

Understanding of cartel's issues in a today's economic development can bring to decision that it is time for modernization of anti cartel legislation that helps to uncover most of cartels through leniency program and broader legal liability except imposing fines.

Literature:

1. Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed 13, December, 2007, Lisbon

2. Massimo Motta (n. d/2006) On the Effect of EU Cartel Investigations and Fines On the Infringing Firms' Market Value [WWW document]. URL http:// www. bu. edu/law/central/jd/organizations/journals/bulr/volume86n3/documents/ BONEv2_000. pdf, p. 1/13;

3. Collin Fitzsimmons What Is a Cartel Agreement? [WWW document]. URL http://www. ehow. com/about_5271061_cartel-agreement. html.

Кацин М. Е.
ассистент,
Национальный университет «Одесская юридическая академия»

THE EU EXTERNAL ACTIONS OF COOPERATION: THE LEGAL AND ECONOMICAL ASPECT OF ENP

According to the Article 22(1) TEU [1], the leadership in the direction of foreign policy rests with the European Council, whose task is to «identify the strategic interests and objectives of the Union». The European Council acts on the basis of unanimity based on recommendation by the Council of Ministers, who in turn may receive proposals from the High Representative of the Union (for matters relating to CFSP) and from the Commission for other policy fields. The impact of these decisions will be set out the policy framework for the European Union's external relations with various countries or regions. The Article 21(1) TEU gives the tools, how to influence on third's countries development can be exercised. It includes:

1. safeguarding its values, fundamental interests, security, independence and integrity;

2. consolidation and support democracy, the rule of law, human rights and the principles of international law;

3. preserving peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;

4. fostering the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;

5. encouragement the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

6. help in order to develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

7. assistance to the populations, countries and regions confronting natural or man-made disasters; and promote an international system based on stronger multilateral cooperation and good global governance.

In this context it is very remarkable to analyze the relationship between EU and the former colonies of it's member states in the African, Caribbean and Pacific states (ACP) states. Relations are currently governed by the Cotonou agreement which was signed by seventy seven states. It based upon five issues [2]:

1. political reform (democracy, rule of law and human rights);

2. the involvement of non-state actors;

3. the reduction of poverty;

4. promoting economic reform and trade liberalization;

5. financial assistance, with greater flexibility for recipients in that aid is not remarked for a given purpose;

According to the Article 9 (2) of the Cotonou Agreement «respect for human rights, democratic principles and the rule of law shall underpin the domestic and international policies of the Parties and constitute the essential elements of the Agreement»

Nowadays, especially for the Ukraine, it is very important to study application of the Article 21(2) TEU which reflected in the European

Neighbourhood Policy (ENP) launched in 2004 (it applies to the Union's immediate neighbours by land or sea), at the same time as it settled the final package of the accession's negotiations with the ten new members who joined the EU on the 1 st May 2004, the December 2002 European Council opened the prospect for a new policy with the neighbour countries of the EU of 27 with Bulgaria and Romania which were to accede by 2007. The main aim is «to develop a zone of prosperity and a friendly neighboourhood – a «ring of friends» – with whom the EU enjoys close, peaceful and cooperative relations. By promotion of such policy, EU wants to secure from mass migration, and to cooperate with its partners, which will bring economic benefits for both parties [3].

The simultaneity of completing enlargement negotiation with the kick-off for the neighbourhood policy was not only coincidental: it actually expressed the continuation of the same goals but in a wider context and with lower leverage [4].

The scope of models ranges from models incorporating bilateral deep free trade or multilateral simple free trade arrangements to models incorporating a stake in the common market, with its four freedoms (maybe without freedom of labour), which is seen as the most attractive economic offer right now. For the time being, economic integration remains a bilateral instrument that has a basic trade component and specific co–operation schemes depending on the interest of either the EU or ENP countries.

Thus, the ENP follows the enlargement strategy of the simultaneous application of polity conditionality, or reforms of political and economic structures and processes, such as democracy, minority rights, and policy–oriented conditionality, that is the adoption and implementation of the acquis [5] during the enlargement process.

This emulation of the enlargement strategy through combining polity and policy conditionality in the ENP is driven by the belief that these two types of conditionality were mutually reinforcing during the enlargement process. As was the case during the accession process, under the ENP, the neighbours are to benefit from developing and modernization of their public policies and economies by anchoring them in the EU model of governance. Yet, while clearly borrowing many elements from the enlargement strategy, the ENP was devised as an alternative to enlargement.

Through its enlargement policy, the EU aimed at sharing common values, promoting political stability and diffusing well-being and prosperity by offering membership to 12 candidate countries.

The European Neighbourhood Policy (ENP) [6] is to achieve the same goals beyond the new Union's border through a privileged relationship with the new neighbouring countries but setting apart the issue of a prospective accession.

Theoretical and empirical research on European Neighbourhood Policy (ENP) is not yet well rooted in the literature on Europeanization. When reviewing the rapidly growing body of literature from the early 1990s to the present day, it is possible to identify three distinct phases and – consequently – three streams of Europeanization research, where each new stream draws on and adds to the previous one [7]:

1. Membership Europeanization, which delineates the EU's impact on existing EU Member States;

2. Accession Europeanization, which is applied to post-communist countries with a clear EU membership perspective; and, more tentatively, what we would label

3. Neighbourhood Europeanization, which (mainly through ENP) affects the EU's neighbouring 'outsiders', who have no immediate accession perspective.

To sum up, it is possible to stress, that the basic deal the EU has offered to the ENP states consists of economic co–operation in exchange for political reforms'. However, the economic dimension of ENP remains rather vague.

Literature:

1. Consolidated version of the European Treaty on the European Union, http:// eur-lex. europa. eu

2. Cotonou Agreement, http://eur-lex. europa. eu

3. Damian Chalmers, Gareth Davies & Giorgio Monti. European Union Law,– 'Cambridge University Press', New York, 2010

4. Willem Foster. The Economics of European integration, – Aschgate, 2006, 446

5. Nigel Forester, Foster on EU Law, Oxford University press, New York, 2006, 462

6. Jacques Pelkman. Methods and Economic Analysis, – FT Press, New Jersey, 480

7. Roman Petrov. The transposition of the «acquis» of the EU into the law systems of the third countries. – 'Istina', Kiev, 2011, 383