

The EU-Ukraine Association Agreement and Its Impacts on Cross-Border Cooperation

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Edited by

Martin Lačný

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INTRODUCTION

CROSS-BORDER COOPERATION IN THE CONTEXT OF THE EU-UKRAINE ASSOCIATION AGREEMENT

MARTIN LAČNÝ

Cross-border cooperation has been the subject to political science research particularly since the 1980s. More recently, special attention has been paid to the study of state borders and their influence on regional and local communities living on both sides. The border has ceased to be studied in the traditional context of international law as a legal demarcation line between two sovereign states or merely in the context of international relations, geopolitics and security studies as a cause for territorial conflicts between states. A new field of study has been established in political science, namely border studies (for overviews and definitions, see Ackleson 2004, Houtum 2005, Houtum and Scott 2005a, Scott 2007), aiming to study not only the dividing functions (exclusion) but also the unifying functions (inclusion) of the border for regional and local communities living on both sides. The topics of this research include “processes of bordering”, which are based on the interactive processes of exclusion and inclusion related to regional and local cross-border communities (the multifunctional nature of borders) from the viewpoint of identity formation, including ideas of social, economic, and political life (Berg and Houtum 2003, Donnan and Wilson 1999, Houtum and Naerssen 2002, O’Dowd 2002, Newman and Paasi 1998, Paasi 1991, Paasi 1998, Paasi 1999, Ruggie 1993, Scott 2006a). While the traditional study of borders in political science focused on factors determining the behaviour and decision-making on the part of actors on the national level (the governments of the countries sharing a border), border studies draw attention to the factors determining the behaviour and decision-making on the part of regional and local actors that represent communities on both sides of the border, including their motivation to develop cross-border cooperation and/or to conflicts based on political and economic factors or factors related to identity and culture (Anderson and O’Dowd 1999, Blatter 2003, Blatter

2004, Perkman and Sum 2003). Border studies of regional and local actors as “new actors” of international relations – provide a significant contribution to the development of functionalism and neo-functionalism in the theory of international relations (Albert et al. 2001). At the same time, the methodology of research and findings that have been brought by border studies over the last 30 years have a significant impact on our knowledge and also on practical development of cross-border cooperation.

Border studies originated independently in the USA and Europe as a reaction to international political processes. Crucial to the development of the study of borders and cross-border cooperation in the American scientific environment was the signing of the NAFTA (i.e. the North American Free Trade Agreement) that integrated a market shared by Canada, Mexico, and the USA (the Agreement was signed in 1986 and came into force in 1994). The creation of the NAFTA changed the character of the borders between the USA and Mexico as well as the border between the USA and Canada, creating new possibilities for the development of cross-border cooperation. An increase in border clearance for the traffic of goods and services led to an increase in the significance of the role played by regional and local elites involved in cross-border cooperation on the external borders of the USA. In the 1980s and 1990s, several important studies by American, Canadian, and Mexican scientists were published, many of whom looked into the inclusive functions of borders and various factors determining the cross-border cooperation of regional and local actors on the border between the USA and Mexico as well as the USA and Canada (Alper and Monahan 1986, Anzaldúa 1987, Lapid and Mathias 2001, Martínez 1994, McCallum 1995, Pellow 1996, Vila 2000, Zerubavel 1991).

The development of integration within European Communities and, later on, within the EU, especially after reaching the free trade agreement of 1987, brought about the need to study cross-border cooperation, initially on the level of internal borders within the ECs/EU and subsequently on the level of the external borders of the EU (since 2004, i.e. since the so-called Grand Enlargement). The European school of border studies has paid special attention to the study of regional elites' interests in the course of their participation in cross-border cooperation as well as factors determining its institutionalisation: the development of cross-border cooperation and conflict resolution mechanisms (Blatter 1997, Blatter 2004, Houtum 2002, Houtum and Strüver 2002, Paasi 2001, Velde and Houtum 2000); relations between regional and local actors involved in cross-border cooperation and national governments; national actors' and international organisations' influence on cross-border cooperation, especially the EU; and the concept

of “Europeanization” of cross-border cooperation, including EU programmes designed to support such cooperation (Donnan and Wilson 1999, Blatter 2004); significance of cross-border cooperation for sustainable economic development bearing in mind environmental issues going beyond country borders; workforce migration; regional identity formation; and factors leading to the need of establishing “cross-border regions” that would serve as “cross-border territorial units”, for which the term “Euroregion” has been used in the European context (Blatter 2000, Keating et al. 2003, Gabbe 2004, Kramsch 2003, Kramsch and Barbara 2004, Madsen and Naerssen 2003, Monfort and Nicolini 2000, Moulaert and Sekia 2003, Perkman and Sum 2002, Velde and Houtum 2004).

The decision on the “Grand Enlargement” of the EU (reached between 1997-2000 with the entry of 8 Central and East European countries, Malta and Cyprus in 2004, and Bulgaria and Romania in 2007) brought about the need for European research in the field of border studies to focus on cross-border cooperation at the external borders of the EU. This research has paid special attention to the significance of cross-border cooperation on the external borders of the EU for the implementation of the EU's bilateral relations with neighbouring countries, including the European Neighbourhood Policy framework since 2004; significance of new borders for the EU's role as an international actor, including its global geopolitical role (Berg and Ehin 2006, Dimitrova 2008, Holm 2005, Walters 2006, Zielonka 2001, Zielonka 2006); the role of cross-border cooperation in the formation and operation of the external border of the EU as an “permeable” border that supports “Europeanization” processes aimed at the neighbouring non-member countries, i.e. “an export of European values and norms” and, at the same time, a “safe” border that ensures internal security for the EU and the Schengen Area (Boedeltje et al. 2006, Dimitrova 2010, Emerson a kol. 2005, Houtum and Scott 2005a, Scott 2006a, Scott 2006b, Topaloglou et al. 2005); the juxtaposition of different concepts of state operation and civil society on the external border of the EU and its influence on the operation and behaviour of regional and local participants of cross-border cooperation (O’Dowd 2002, O’Dowd a Dimitrova 2007); the economic position of border regions of the EU and economic aspects of cross-border cooperation on the external border (Barjak and Heimpold 1999, Niebuhr and Stiller 2002, Scott and Storper 2003, Smallbone et al. 2007).

The most comprehensive research into cross-border cooperation at the external border of the EU was conducted within the project entitled “Lines of Exclusion as Arenas of Cooperation: Reconfiguring the External Boundaries of Europe – Policies, Practices, Perceptions” (EXLINEA),

which was coordinated by the Free University of Berlin (Germany). The research received support from the 5th EU Framework Programme for Research and Technological Development and focused on studying the impact of various EU policies as well as policies of the new member states on the development of cross-border cooperation on the external border of the EU, including the transformation processes on the local level in the borderlands and the behaviour of CBC actors. The research was applied in six different case studies: the borders between Finland and Russia, Estonia and Russia, Poland and Ukraine, Hungary and Ukraine, Romania and Moldova, and the northern border of Greece (see Kramsch et al., 2004, Houtum and Scott 2005a and 2005b, Scott and Matzeit 2006a, 2006b). Meanwhile, another research project was conducted with support from the 5th EU Framework Programme for Research and Technological Development, led by the University of Birmingham (UK): “The European Union and Border Conflicts: The Impact of Integration and Association” (EUBorderConf). The research studied the capacity and possibilities of the EU to participate in solving the border conflicts by encouraging the involved actors on both the local and the national levels to participate in association and integration processes (see Diez et al. 2006). The above two research projects were followed by the project entitled “Local Dimensions of a Wider European Neighbourhood: Developing Political Community Through Practices and Discourses of Cross-Border Cooperation” (EUDIMENSIONS) supported by the 6th EU framework programme for research and development. Carried out by the Leibnitz Institute for Regional Development and Structural Planning (Germany), the project focused on the study of the impact of geopolitical factors caused by the enlargement of the EU on cross-border cooperation on the external border of the EU. The research was applied in 8 case studies: the borders between Finland and Russia, Estonia and Russia, Poland and Russia (Kaliningrad), Poland and Ukraine, Hungary and Ukraine, Romania and Moldova, Greece and Turkey, Spain and Marocco (see Büchner and Scott 2009). Another research project supported by the 6th EU Framework Programme entitled “Challenges and Prospects of Cross-Border Cooperation in the Context of the EU Enlargement” (CBCED), was carried out by the University of Kingston (UK). The research centred on the entrepreneurial environment and factors determining the behaviour of economic actors taking part in cross-border cooperation on the external border of the EU (Smallbone et al. 2007). Within the 7th EU Framework Programme for Research and Technological Development, another research project has been implemented, namely “European Regions, EU External Borders and the Immediate Neighbours. Analysing Regional Development Options through Policies and Practices of

Cross-Border Co-operation” (2011-2015) (EUBORDERREGIONS). In 2012-2016 there has been another parallel project supported within the 7th Framework Program being implemented by the University of Eastern Finland and the Karelian Institute under the title “Bordering, Political Landscapes and Social Arenas: Potentials and Challenges of Evolving Border Concepts in a post-Cold War World” (EUBORDERSCAPES).

The implementation of the Association Agreement, including the Deep and Comprehensive Free Trade Area, between the EU and Ukraine has brought a qualitatively new situation in the development of border regions and regional societies on both sides of the Schengen border. Thus, a comparative study of the AA/DCFTA impacts on borderlands in Ukraine, Poland, Slovakia, Hungary and Romania is needed to handle the identification of new opportunities for cross-border cooperation and to work out policy considerations for its further development.

The comprehensive research project “Association Agreement between the EU and Ukraine and Cross-border Cooperation between Slovakia and Ukraine: Implications and Opportunities” (project no. APVV-15-0369) was implemented by the Institute of Political Science at the Faculty of Arts of the University of Prešov (Slovakia) with the support of the Slovak Research and Development Agency over the period of 2016-2019. It was focused on examining the factors influencing cross-border cooperation between Slovakia and Ukraine at three levels: 1) the supranational level – relations between the EU and Ukraine; 2) the national level – intergovernmental relations between Slovakia and Ukraine; and 3) the regional and local level – interactions of actors at the regional and local levels, who were involved in cross-border cooperation at the common border. In addition to processing the primary and secondary sources of information required for the research, empirical data collection was carried out at the aforementioned three levels through semi-structured interviews with representatives of the EU institutions, the governments of Ukraine and Slovakia, regional state administration in the Transcarpathian Region of Ukraine, regional governments in the Prešov and Košice Self-Governing Regions and representatives of local governments on both sides of the border. Moreover, empirical data collection was also carried out through a questionnaire for the local cross-border cooperation actors from Ukraine and Slovakia, following the EXLINEA methodology (Duleba 2019a, Duleba 2019b, Székely 2019, Lačný and Polačková 2019).

A follow-up project VEGA 1/0177/19 “Challenges and perspectives of cross-border cooperation in the context of the implementation of the EU-

Ukraine Association Agreement”, implemented by the Institute of Political Science at the Faculty of Arts of the University of Prešov (Slovakia) over the period of 2019-2021, has been focused on the research of Slovak-Ukrainian cross-border cooperation under the conditions of the gradual AA/DCFTA implementation and visa-free regime between the EU and Ukraine. The project has sought to answer the following research questions: 1) What are the impacts of EU's relations with Ukraine and the Slovak Republic's relations with Ukraine on the development of cross-border cooperation at regional and local level between Slovakia and Ukraine? 2) What will be the impact of the Association Agreement, including the Deep and Comprehensive Free Trade Agreement (AA/DCFTA), between the EU and Ukraine on the development of cross-border cooperation and regional development in the Slovak-Ukrainian borderlands? 3) How has the character of the Slovak-Ukrainian border changed after the application of the EU-Ukraine visa-free regime in 2017?

Within the outlined context, the present edited collection entitled *The EU-Ukraine Association Agreement and its Impacts on Cross-border Cooperation on the External EU Border*, incorporates the views of political scientists, sociologists, economists, lawyers and political geographers from Ukraine, Poland, Slovakia, Hungary and Romania on the issue. Apart from the determinants and trends of Ukraine's participation in cross-border cooperation, the book includes a variety of case studies from Slovak, Polish, Romanian and Hungarian borderlands. Their authors have examined the relations of the EU, Ukraine and its neighbouring EU countries as exogenous factors creating opportunities or, on the contrary, obstacles to further development of cross-border cooperation at the EU-Ukraine border. From this perspective, they analysed the development of the institutional framework as well as perceptions, preferences and policies of CBC actors. The chapters by Alexander Duleba, Martin Lačný and Anna Polačková, Nataliya Maradyk, Gabriel Székely, Michal Cirner and Irina Dudinská are partial outcomes of the abovementioned research projects, supported by the Slovak Research and Development Agency (APVV-15-0369) and by the Scientific Grant Agency of the Ministry of Education, Science, Research and Sport of the Slovak Republic (VEGA 1/0177/19).

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CHAPTER ONE

BASIC DETERMINANTS AND TRENDS OF UKRAINE'S PARTICIPATION IN CROSS-BORDER COOPERATION: CONTEXT OF EU-UKRAINE ASSOCIATION AGREEMENT AND UN AGENDA FOR SUSTAINABLE DEVELOPMENT

VOLODYMYR USTYMENKO,
ALEVTYNA SANCHENKO
AND ANASTASIIA TOKUNOVA

Ukraine's legal framework: brief overview

The current Ukraine's legislation on cross-border cooperation (CBC) is based on the Constitution of Ukraine¹ and its international commitments and obligations under the ratified multilateral and bilateral treaties. The most significant and determinative are the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Convention) of 1980² and three Protocols to it of 1995, 1998, and 2009³. Also a sub-regional treaty – the Framework

¹ Constitution of Ukraine, Basic Law of 28.06.1996 No 254к/96-BP.

<https://rm.coe.int/constitution-of-ukraine/168071f58b>, accessed February 20, 2021.

² European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106), Madrid, 21.05.1980; entered into force for Ukraine on 22.12.1993. <https://www.coe.int/en/web/conventions/full-list//conventions/rms/0900001680078b0c>, accessed February 20, 2021.

³ Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159), Strasbourg, 09.11.1995; entered into force for Ukraine on 05.02.2005.

Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention)⁴ of 2003, signed by Czech Republic, Hungary, Poland, Romania, Serbia, Slovak Republic, Ukraine, is quite important being the only multi-level governance mechanism covering the whole of the Carpathian area.

Ratification and signing of these treaties reinforced the related provisions of bilateral treaties on good neighbourly relations and cooperation between Ukraine and the neighbouring European countries – Bulgaria, Hungary, Poland, Romania, and Slovakia, signed in the early 90s of the 20-th century⁵. The same can be referred to the Ukraine-Poland bilateral

<https://www.coe.int/en/web/conventions/fulllist/-/conventions/treaty/159>, accessed February 25, 2021; Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation (ETS No. 169), Strasbourg, 05.05.1998; entered into force for Ukraine on 05.02.2005.

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/169>, accessed February 25, 2021; Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206), Utrecht, 16.11.2009; entered into force for Ukraine on 01.03.2013.

<https://www.coe.int/en/web/conventions/fulllist/-/conventions/treaty/206>, accessed February 25, 2021.

⁴ Framework Convention on the Protection and Sustainable Development of the Carpathians, Kyiv, 22.05. 2003, entered into force in January 2006.

<http://www.carpathianconvention.org/text-of-the-convention.html>, accessed February 25, 2021.

⁵ Treaty on Friendly Relations and Cooperation between Ukraine and the Republic of Bulgaria of 05.10.1992, in force since 02.03.1994.

https://zakon.rada.gov.ua/laws/show/100_003#Text, accessed February 27, 2021; Treaty on the Fundamentals of Good Neighbourliness and Cooperation between Ukraine and the Republic of Hungary of 06.12.1991, ratified by Ukraine on 01.07.1992. https://zakon.rada.gov.ua/laws/show/348_004#Text, accessed February 27, 2021; Treaty between Ukraine and the Republic of Poland on Good Neighbourliness, Friendly Relations and Cooperation of 18.05.1992, in force since 30.12.1992. https://zakon.rada.gov.ua/laws/show/616_172#Text, accessed February 27, 2021; Treaty of Good Neighbourliness and Cooperation between Ukraine and Romania of 02.06.1997, ratified by Ukraine on 17.07.1997.

https://zakon.rada.gov.ua/laws/show/642_003#Text, accessed February 27, 2021; Treaty on Good Neighbourliness, Friendly Relations and Cooperation between Ukraine and the Slovak Republic of 29.06.1993, in force since 16.06.1994.

https://zakon.rada.gov.ua/laws/show/703_150#Text, accessed February 27, 2021.

intergovernmental agreement on interregional cooperation of 1993⁶, which is the only one specifically aimed at CBC development. The neoteric Ukraine's international obligations and commitments in this area have been established since 2017 by the EU-Ukraine Association Agreement (Association Agreement)⁷ in its Chapter 27 "Cross-border and regional cooperation".

The laws and other normative acts, establishing the institutional, organisational and legal mechanism of international, in particular cross-border, cooperation of central, regional and local public authorities, in general correspond to the relevant Council of Europe (CoE) and EU *acquis* on CBC, though there are the necessity and opportunity for further developments. Thus, the following legal acts shall be in focus: laws "On the Principles of Domestic and Foreign Policy", "On the Principles of the State Regional Policy", "On Cross-Border Cooperation", "On Local Self-government in Ukraine", "On Local State Administrations"; Decree of the President of Ukraine "On Urgent Measures to Ensure Economic Growth, Stimulate Regional Development and Prevent Corruption"; Resolution of the Cabinet of Ministers of Ukraine on the State Strategy of Regional Development for 2021-2027, etc.

The State Strategy of Regional Development for 2021-2027⁸ (SSRD 2021-2027) determines the general vector of sustainable development of Ukraine's regions. It is the main planning document for implementation of sectoral development strategies at the regional level, coordination of public policy in various fields, achieving the efficient use by territorial communities and regions of the national resources in the interests of people, the State's unity, preservation of the environment and sustainable exploitation of natural resources for the current and future generations of Ukraine's population. CBC is considered by the Strategy an instrument of

⁶ Agreement between the Government of Ukraine and the Government of the Republic of Poland on interregional cooperation of 24.05.1993, in force since 27.10.1993. URL: https://zakon.rada.gov.ua/laws/show/616_171#Text, accessed February 27, 2021.

⁷ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (fully in force as of September 1, 2017). <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>, accessed March 1, 2021.

⁸ State Strategy of Regional Development for 2021-2027 approved by the Resolution of the Cabinet of Ministers of Ukraine of 05.08.2020 No 695. <https://www.kmu.gov.ua/npas/pro-zatverdzhennya-derzhavnoyi-strategiyi-regionalnogo-rozvitku-na-20212027-t50820>, accessed March 1, 2021.

regional development, strengthening the regions' competitiveness and Europeanisation of all relevant processes. Based on the fact that Ukraine and its regions have a number of competitive advantages as well as challenges, SSRD 2021-2027 sets a complex of tasks including the promotion of formation and development of cross-border clusters in Ukraine; introduction of mechanisms necessary to support the cross-border industrial and technological parks, economic and industrial zones on the territory of Ukraine in order to stimulate regional economic development. Also, Ukraine's participation in EU CBC programmes for 2021-2027 and ensuring its interaction with EU in the course of preparation and realisation of new Eastern Partnership Territorial Cooperation Support Programmes are defined as important benchmarks. In addition, SSRD 2021-2027 foresees elaboration of the State Programme for the CBC Advancement up to 2027 to meet the pertinent needs of CBC actors and promote implementation of international obligations and commitments. Its finalisation and enactment are expected shortly this year.

The Law of Ukraine "On Cross-border Cooperation"⁹ (Law on CBC) (acting since 2004, amended in 2018) determines the legal, economic and organisational basics of CBC. It defines the CBC purpose and principles; subjects (actors) and participants, areas, forms and bodies of CBC; the State's role and sources of financial support, etc.

The CBC purpose is defined as formation of good neighbourly relations and deepening the interaction of CBC subjects and participants, which contributes to joint reaching of objectives of local and regional development. In particular, CBC – in the wording of the Law and in line with the Madrid Convention – is the concerted – on the basis of agreements and arrangements – actions designed to reinforce and foster economic, social, scientific, technological, ecological, cultural and other relations between Ukraine's subjects and participants of such relations and the respective subjects and participants from the neighbouring countries according to their powers defined by domestic law. The subjects of CBC, due to the Law, are the Ukraine's territorial communities, their representative bodies (councils – "radas") and their associations, local executive power bodies that interact with territorial communities (all the bodies generally – local and regional authorities (LRAs)), and relevant authorities of the neighbouring states within their competence established by the Ukraine's legislation and agreements on CBC. Participants of CBC are legal and

⁹ Law of Ukraine "On Cross-border Cooperation" of 24.06.2004 No 1861-IV. <https://zakon.rada.gov.ua/laws/show/1861-15>, accessed March 1, 2021.

natural persons, public associations that take part in it. The CBC subjects – LRAs – can choose to act as members and/or participants of Euroregions, form Euroregional Co-operation Groupings (ECGs) or become their members as foreseen by the Protocol No. 3 to the Madrid Convention, be the co-founders of European Groupings of Territorial Cooperation (EGTCs) on the basis of the corresponding interstate treaties and with regard to the EU *acquis* on EGTCs¹⁰.

The Law provides for LRAs' rights and competences to conclude agreements on CBC and ensure their realisation. LRAs are authorised by the Law on CBC and the laws "On Local Self-government in Ukraine", "On Local State Administrations" to ensure the fulfilment of Ukraine's obligations under its international agreements on CBC; participate in development and implementation of joint initiatives, activities, projects, programmes and strategies; form CBC bodies; decide on joining the relevant international and other associations; make proposals on organisation of cross-border trade, creation of cross-border associations (groupings); exercise other powers in the field of CBC in conformity with Ukraine's legislation and international treaties approved by the Parliament; propose a special procedure for crossing the State Border of Ukraine; make motions for amendments to legislation on CBC. As for the material and financial support for the ECGs' activities, for instance, LRAs in their status of founders and members of ECGs have the right to make one-time or periodic contributions. The laws "On Local Self-government in Ukraine", "On Local State Administrations" establish specific provisions on CBC realisation regarding the difference in the LRAs' legal status.

The Law on CBC determines the State's responsibility for CBC coordination and support to its performing via the authorised ministry (now – Ministry for Communities and Territories Development) and Ministry of Foreign Affairs by means of financing CBC initiatives, activities, projects, programmes and strategies that have received funding through international technical assistance programmes; formation and implementation of preferential customs, currency, financial, tax and other economic conditions for participants of CBC; conclusion of interstate and intergovernmental

¹⁰ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) amended by Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R1082-20140622>, accessed March 2, 2021.

agreements on simplification of rules of border crossing as well as in concern to CBC forms; selection of CBC projects (programs) that need the state support; elaboration and implementation of state programmes for CBC development; providing legal, organisational, methodological, informational assistance and support to Ukraine's CBC subjects and participants.

The legislative improvements of 2018 introduced into this Law a number of new definitions ("Euroregion", "Euroregional Co-operation Grouping (ECG)", "European Grouping of Territorial Cooperation (EGTC)", "Cross-border Grouping/Association", "Agreement on CBC") and new provisions with the aim to enact the norms of Protocol No. 3 to the Madrid Convention (ratified in 2012) and promote implementation of the Association Agreement.

The latter international legal act, being the basis for systemic development of political, economic and socio-cultural relations between its Parties, refers in its Preamble to the Parties' commitment to promote cross-border and interregional cooperation and contains a specific Chapter 27 "Cross-border and regional cooperation" (Articles 446-449) in Title V "Economic and sector cooperation". Its provisions envisage the bilateral cooperation – on the basis of mutual understanding – in the field of regional policy, on methods of formulation and implementation of regional policies, including multi-level governance and partnership, with special emphasis on development of disadvantaged areas and territorial cooperation, hereby establishing channels of communication and enhancing exchange of information between national, regional and local authorities, socioeconomic actors and civil society. They unequivocally emphasise the crucial LRAs' role in CBC realisation – Art. 447 particularly provides for the need to establish an enabling legislative framework to uphold and strengthen LRAs' involvement in CBC and related management structures, to sustain and develop capacity-building measures and promote strengthening of cross-border and regional economic and business networks. The CBC focus (as foreseen by Art. 448) shall be applied to various areas of activities covered by the Agreement – transport, energy, communication networks, culture, education, tourism, health, etc. In addition, specific attention shall be paid to encouragement of CBC development in regard to modernisation, equipping and co-ordination of emergency services. To ensure the CBC progress, a regular dialogue shall take place between the Parties of the Agreement (Art. 449).

Regarding the Title V “Economic and sector cooperation” Ukraine shall respond the impulse of the Association Agreement to improve and develop the laws on foreign economic activity, on border control, custom services and taxation, on legal status of foreigners and stateless persons, on employment, on public-private partnership, on scientific and technical activities, on innovative activity, on state regulation in the field of technology transfer, on science parks, etc., necessary for the CBC sound background and realisation. This way EU promotes operation of the Cohesion Policy and European Neighbourhood Policy priorities in its cooperation with Ukraine as an economic partner and immediate neighbour on its external borders.

And, during the previous years some improvements were introduced into the sectoral legislation. For example, in 2019 a new Law “On Concession”¹¹ was adopted to provide the possibility to effectively attract domestic and foreign investment in Ukraine’s economy and infrastructure development. Alongside, positive amendments were introduced into the Law “On Public-Private Partnership”¹² with the aim to harmonise the legislation on concession with the legislation on public-private partnership, to eliminate the inaccuracies and legal collisions that caused practical difficulties during the application of the relevant legislation. More than 30 Ukraine’s legislative acts were amended to eliminate barriers for implementation of concession projects. In 2020 the laws on legal status of foreigners and stateless persons, on employment were also improved positively by adoption of the Law “About modification of some legislative acts of Ukraine concerning recognition of a person as stateless”¹³. All in all, 8 laws were amended to regulate the procedure for recognition a person as stateless, obtaining a document to certify the person’s identity and confirm the legality of the person’s residence in Ukraine, his/her right to free secondary legal aid, right to work and appropriate living conditions. Both the named areas concern the international relations of the CBC context. LRAs’ part in their implementation in Ukraine and in its partner states is of obvious importance.

¹¹ Law of Ukraine “On Concession” of 03.10.2019 No 155-IX.

<https://zakon.rada.gov.ua/laws/show/155-20?lang=en#Text>, accessed March 1, 2021.

¹² Law of Ukraine “On Public-Private Partnership” of 01.07.2010 No 2404-VI.

<https://zakon.rada.gov.ua/laws/show/2404-17#Text>, accessed March 1, 2021.

¹³ Law of Ukraine “About modification of some legislative acts of Ukraine concerning recognition of a person as stateless” of 16.06.2020 No 693-IX.

<https://zakon.rada.gov.ua/laws/show/693-20#n20>, accessed March 1, 2021.

In general, the acting Ukrainian legislation gives a positive impact and causes LRAs' interest towards the possibilities, which CBC could provide. However, several some laws, first of all the Law on CBC, still have certain shortcomings and gaps. Some of the new definitions in this Law need revision. In particular, we would mention a narrow understanding of the “neighbouring states” concept used in the current notion of CBC, which does not take into account the CoE Committee of Ministers' Explanatory Report to Protocol No. 2 to the Madrid Convention¹⁴ (ratified by Ukraine in 2004). There is nothing about the interterritorial cooperation as established by Protocol No. 2. None of the laws define purposes, tasks, procedures of Euroregions' and EGTCs' formation with Ukraine's LRAs in the status of founders, co-founders and members. There are no norms on methods and mechanisms of Euroregions' and EGTCs' functioning with regard to specific needs of local communities or other weighty factors, etc. Hereof we find it expedient to revise the Law on CBC and consider adopting a specific law on CBC in the forms of ECGs, EGTCs, Euroregions and, possibly, others.

Some laws, important for the effective CBC, are quite outdated and need accurate improvement as soon as possible. Thus, the laws “On Foreign Economic Activity”, “On Scientific and Technical Activities”, “On State Regulation in the Field of Technology Transfer” were last amended in 2015, the laws “On Innovative Activity”, “On Science Parks” – in 2012, before the Association Agreement's enacting.

Though the Ukraine's legislation on CBC, that has incorporated determinative European law norms, provides quite a good background for it, there are some legislative “bottlenecks” in the dominant and surrounding CBC regulation. They cause different complications for the CBC intensification and effectivisation in various possible areas, for efficient participation of Ukraine's LRAs in EGTCs and ECGs, for their smooth cooperation within Euroregions with LRAs of other European states. Further efforts for the diligent implementation of Association Agreement, European law and UN 2030 Agenda for Sustainable Development will boost ensuring of positive developments.

¹⁴ Explanatory Report to Protocol No. 2 to the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities concerning interterritorial co-operation (ETS 169), Strasbourg, 05.05.1998. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800cce40>, accessed March 1, 2021.

Key political and legal determinants

When outlining the legal framework for CBC, it is expedient to refer to the relevant policy and programme framework, defining the general strategic and operational directions and goals of Ukraine's and other European countries' development. It includes the UN General Assembly Resolution "Transforming our world: the 2030 Agenda for Sustainable Development" of 2015 (2030 Agenda for SD)¹⁵, EU Council Conclusions "A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development" of 2017¹⁶, Decree of the President of Ukraine "On Sustainable Development Goals of Ukraine for the period till 2030" of 2019¹⁷, "National Economic Strategy of Ukraine until 2030" of 2021¹⁸, etc.

The EU and Ukraine's strategic approach and policies in the field of CBC are being reviewed and updated currently; new programmes and projects are planned to be introduced as the term of the key instruments in this area has ended in 2020.

The common vision of Ukraine and EU on the necessity and mutual advantages of the CBC development is reflected and established by Association Agreement. It sets out the general principles of its Parties' cooperation which should be followed when addressing specific issues, CBC including. Among the main principles is the sustainable development promotion, as enshrined in its Art. 3¹⁹. Sustainable development is one of

¹⁵ Transforming our world: the 2030 Agenda for Sustainable Development: Resolution 70/1 adopted by the General Assembly on 25 September 2015.

https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E, accessed March 5, 2021.

¹⁶ A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development, as adopted by the Council at its 3552nd meeting held on 20 June 2017. <https://www.consilium.europa.eu/media/23989/st10370-en17.pdf>, accessed March 5, 2021.

¹⁷ On Ukraine's Sustainable Development Goals for the period up to 2030: Decree of the President of Ukraine of 30.09.2019 No. 722/2019.

<https://zakon.rada.gov.ua/laws/show/722/2019#Text>, accessed March 3, 2021.

¹⁸ National Economic Strategy for the period up to 2030, as approved by the Resolution of the Cabinet of Ministers of Ukraine of 03.03.2021 No 179.

<https://www.kmu.gov.ua/npas/pro-zatverdzhennya-nacionalnoyi-eko-a179>, accessed March 5, 2021.

¹⁹ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (fully in force as of September 1, 2017).

the cross-cutting aspects of the Agreement and should be duly regarded and applied accordingly by all stakeholders. Obviously, this is equally relevant for the CBC sector. Thus, it is reasonable that Ukraine, when developing its strategic and programmatic CBC framework, would take into account that the current EU strategies and policies have consistently incorporated the 2030 Agenda for SD and its 17 Sustainable Development Goals (SDGs).

The latter is proved by the EU documents, definitely shaping its modern approach to CBC and its realisation: “Shared vision, common action. A stronger Europe: a global strategy for the European Union's foreign and security policy”²⁰; “The new European Consensus on Development – Our World, our Dignity, our Future”²¹; “A Strategic Approach to Resilience in the EU's external action: Joint communication of the European Parliament and the Council”²². The restructuring of EU's activities beyond its borders is currently being completed by merging 12 existing instruments, including the European Neighbourhood Instrument (ENI). Until 2020 ENI has served one of the key platforms for EU-Ukraine CBC projects and programmes. The relevant updated EU format is being launched by establishment of the Neighbourhood, Development and International Cooperation Instrument (NDICI). It provides for favourable frames for implementation of EU's external action policies and international commitments, and 2030 Agenda for SD²³. Also, the support for the

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>, accessed March 1, 2021.

²⁰ Shared Vision, Common Action. a Stronger Europe: a Global Strategy for the European Union's Foreign and Security Policy, June 2016.

https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf, accessed March 6, 2021.

²¹ The New European Consensus on Development – Our World, Our Dignity, Our Future: Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament, and the European Commission. Published November 19, 2018.

<https://op.europa.eu/en/publication-detail/-/publication/5a95e892-ec76-11e8-b690-01aa75ed71a1>, accessed March 7, 2021.

²² A Strategic Approach to Resilience in the EU's External Action: Joint communication of the European Parliament and the Council; Brussels, 07.06.2017 JOIN(2017) 21 final. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52017JC0021>, accessed March 9, 2021.

²³ Amended proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument; Brussels, 29.05.2020 COM(2020) 459 final. <https://eur->

implementation of SDGs, the Paris Agreement on Climate Change counting, is enshrined in EU documents on the Eastern Partnership after 2020^{24, 25}. Such progress should be regarded at all levels of administration and by all Ukraine's LRAs, as CBC development between LRAs of Ukraine and of EU Member States is largely linked to involvement of the relevant EU financial resources.

Presently Ukraine has taken some significant steps towards implementing the SDGs into sectoral, regional and local policies and programmes. After the National Report "SDGs: Ukraine"²⁶ of 2017, several important milestones can be marked: 1) SDGs are defined as guidelines for elaboration of prognosis and programme documents, of laws and regulations on balanced economic, social and environmental dimensions of Ukraine's sustainable development²⁷; 2) indicators, on the basis of which the data are collected for monitoring of the SDGs' implementation, are approved; the State Statistics Service is instructed to ensure the respective data collection²⁸; 3) First Voluntary National Survey on SDGs' implementation

lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020PC0459, accessed March 9, 2021.

²⁴ Eastern Partnership policy beyond 2020. Reinforcing Resilience - an Eastern Partnership that delivers for all: Joint communication to the European Parliament, the European Council, the Council, the European economic and social committee and the Committee of the Regions from the European Commission and the High representative on the Union for foreign affairs and security policy, Brussels, 18.3.2020 JOIN(2020) 7 final.

https://eeas.europa.eu/sites/default/files/1_en_act_part1_v6.pdf, accessed March 9, 2021.

²⁵ Council Conclusions on Eastern Partnership Policy Beyond 2020; Brussels, 11.05.2020. <https://www.consilium.europa.eu/media/43905/st07510-re01-en20.pdf>, accessed March 9, 2021.

²⁶ Sustainable Development Goals: Ukraine. 2017 National Baseline Report. <https://me.gov.ua/Documents/List?lang=uk-UA&id=938d9df1-5e8d-48cc-a007-be5bc60123b8&tag=TSiliStalogoRozvitku>, accessed March 10, 2021.

²⁷ On Ukraine's Sustainable Development Goals for the period up to 2030: Decree of the President of Ukraine of 30.09.2019 No. 722/2019. <https://zakon.rada.gov.ua/laws/show/722/2019#Text>, accessed March 3, 2021.

²⁸ Issues of data collection to monitor the implementation of the Sustainable Development Goals: Order of the Cabinet of Ministers of Ukraine No. 686-p of 21.08.2019. <https://zakon.rada.gov.ua/laws/show/686-2019-%D1%80#Text>, accessed March 10, 2021.

in Ukraine is conducted²⁹. Moreover, the National Economic Strategy of Ukraine until 2030 (adopted in March 2021) is aimed at creating opportunities to realise the existing geographical, resource, and human potential of the country to ensure the appropriate level of welfare, self-realisation, security, rights and freedoms of every citizen through the innovative outpacing economic growth with respect to SDGs and the need to achieve the climate neutrality no later than 2060³⁰.

Hence, the consistent Ukraine's national policy allows ensuring the references between CBC development and realisation of 2030 Agenda for SD and Association Agreement. The key document in this context is the SSRD for 2021-2027³¹. Inter alia, it enshrines the task to implement SDGs' at regional and local levels; establishes a specific objective to ensure the progress of cross-border, inter-municipal, and macro-regional cooperation when elaborating and fulfilling the joint sustainable development projects.

The mentioned political frame records the will and conceptual readiness of Ukraine to further develop CBC with direct relevance to the vision, updated through the prism of 2030 Agenda for SD and SDGs. In terms of practice, there is a progress at the level of targeted planning and programming in this field. For instance, the "State Programme for Development of the Ukrainian Carpathian Region for 2020-2022"³² stipulates the need to regard during its implementation the National Report

²⁹ Voluntary National Review of the Sustainable Development Goals in Ukraine. Official website of the Ministry for Development of Economy, Trade and Agriculture of Ukraine (published in June 2020).

<https://me.gov.ua/Documents/List?lang=uk-UA&id=938d9df1-5e8d-48cc-a007-be5bc60123b8&tag=TSiliStalogoRozvitku>, accessed March 10, 2021.

³⁰ National Economic Strategy for the period up to 2030, as approved by the Resolution of the Cabinet of Ministers of Ukraine of 03.03.2021 No. 179.

<https://www.kmu.gov.ua/npas/pro-zatverdzhennya-nacionalnoyi-eko-a179>, accessed March 5, 2021.

³¹ State Strategy of Regional Development for 2021-2027 approved by the Resolution of the Cabinet of Ministers of Ukraine of 05.08.2020 No 695.

<https://www.kmu.gov.ua/npas/pro-zatverdzhennya-derzhavnoyi-strategiyi-regionalnogo-rozvitku-na-20212027-t50820>, accessed March 1, 2021.

³² State Program for the Development of the Region of the Ukrainian Carpathians for 2020-2022, as approved by the Resolution of the Cabinet of Ministers of Ukraine of 20.10.2019 No.880. <https://zakon.rada.gov.ua/laws/show/880-2019-%D0%BF#n12>, accessed March 10, 2021.