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ALEVITYNA SANCHENKO – VOLODYMYR USTYMENKO

Valentyn Mamutov Institute of Economic and Legal Research  
National Academy of Sciences of Ukraine  
Ukraine  
E-mail: [alla.sanchenko@gmail.com](mailto:alla.sanchenko@gmail.com)  
[v.a.ustymenko@gmail.com](mailto:v.a.ustymenko@gmail.com)

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*Cross-Border Cooperation, EU-Ukraine Association Agreement, Madrid Convention, regional development, right to development, sustainable development.*

# CURRENT DRIVERS AND FACETS OF THE UKRAINE-SLOVAK CROSS-BORDER COOPERATION IN LINE WITH EUROINTEGRATION AND SUSTAINABLE DEVELOPMENT GOALS

ALEVITYNA SANCHENKO – VOLODYMYR USTYMENKO

Valentyn Mamutov Institute of Economic and Legal Research  
National Academy of Sciences of Ukraine  
Ukraine  
E-mail: [alla.sanchenko@gmail.com](mailto:alla.sanchenko@gmail.com)  
[v.a.ustymenko@gmail.com](mailto:v.a.ustymenko@gmail.com)

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## Introduction

Considering the essence of the multifaceted phenomenon of cross-border cooperation, we should recognize the pragmatism of its philosophy. Its “core code”, in fact, is the synergy of common interests and efforts of the cross-border cooperation actors with the aim to establish, strengthen and maintain the good neighbourly relations in order to provide sound political, socio-economic, legal, and institutional basics for their sustainable, mutually beneficial development.

The European Union, being an international entity primarily based on the pure economic interests of its members for the common welfare, nowadays places the cross-border cooperation within the frame of its social cohesion policy paradigm. The cross-border cooperation is positioned as a remedy and a tool to overcome the misbalances in the levels of development of its member states and their borderland regions as well as those of the neighbouring states, which frequently enjoy less economic strength and infrastructural comfort. However, these regions are strategically important from many points of view and in diverse dimensions. Applying the human rights-based approach to the policy-, law-, decision-making

and everyday practice, it is only just to mention the prior importance to appropriately implement in these areas (and wherever it may be) of the universal and European value of human rights (UN; CoE(ECHR); EU, 2012), including the right to development (UN, 1986) and the current central transformative postulate of the UN 2030 Agenda for Sustainable Development "Leave no one behind" (UN, 2015a).

Secondly, the areas of cross-border cooperation are important when it comes to the on-field realisation of the states' international commitments under the international treaties like the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities of 1980 with its Protocols of 1995, 1998, and 2009, the EU-Ukraine Association Agreement of 2014, interstate international treaties on cross-border cooperation and other of wider spectrum that cover this matter, intergovernmental and other sectoral bilateral agreements, etc. The international law treaties regulatively mark the common legal space borders in various fields of public relations with the aim to ensure the maintenance of international peace and security, the development of friendly relations and the achievement of cooperation among nations, as it is set forth in the UN Vienna Convention on the Law of Treaties of 1969 (UN, 1969) and universally recognised.

The UN 2030 Agenda for Sustainable Development and its relevant Cooperation Framework do reinforce the parameters of the states' relevant commitments that can make advantage of the pragmatic nature of cross-border cooperation. In particular, the UN General Assembly Resolution A/RES/70/1 of 2015 "Transforming our world: the 2030 Agenda for Sustainable Development" in its par. 21 communicates the importance of the regional and sub-regional dimensions, regional economic integration and interconnectivity in sustainable development. It underlines that regional and sub-regional frameworks can facilitate the effective translation of sustainable development policies into concrete action at national level (UN, 2015). The UN Development Cooperation pays specific attention to the issues that influence development trajectories increasingly cross borders. The Cooperation Framework encourages analysis of cross-border and regional issues – from trade to climate change and

health – that may determine opportunities to accelerate and safeguard development gains within a given country (UN, 2020).

Ukraine and the Slovak Republic as the next-door neighbouring countries have a long history of peaceful friendly relations and cooperation, traditional economic contacts and complementary national economies as well as close cultural and human ties insofar as a numerous Ukrainian minority lives in Slovakia and the Slovak minority – in Ukraine. The relations between the two states face new prospects and challenges of the European and global character since the EU's Eastward Enlargement of 2004 and the EU-Ukraine Association Agreement of 2014 (hereinafter – Association Agreement) (AA, 2014) with the Deep and Comprehensive Free Trade Area Agreement as its part. The Association Agreement being an ambitious multilateral treaty provides for intensive involvement of Ukraine into the European policy, law and economic area and, inter alia, sets the grounds for systemic cross-border cooperation. The Sustainable Development Agenda in its turn puts forward the triple task of economic, social and environmental welfare. We deem the Association Agreement's and SDGs' objectives are reachable also when the cross-border cooperation potential is appropriately accumulated and used. In this context, the scope of drivers and facets of the Ukraine-Slovakia cross-border cooperation is considerable and worth studying.

### **The purpose and methods of the research**

In this article we find it expedient to concentrate on some determinative policy, legal and economic factoring of the Ukraine-Slovakia cooperation, leaving apart the aspects of social, cultural, and spiritual character. The purpose of this article is to characterize the policy, legal and economic backgrounds, drivers and facets of formation and development of the Ukraine-Slovakia cross-border cooperation in the course of the decades of post-soviet transformations and European integration; to map the regional European, global and national contexts of cross-border cooperation and their implications on its current and prospective progress on the way to sustainable development, including in the aftermath of the COVID-19 crisis.

To achieve the purpose of this research a number of general and specific methods and approaches has been used: formal-logical, hermeneutic, comparative legal, praxeological, prognostic. The formal-logical method made it possible to describe the transformation of the policy, legal and economic backgrounds for the Ukraine-Slovakia cross-border cooperation formation and development, to identify and generalise the system of international, bilateral and national legal acts on which it is based, and to map the common and specific contexts of the cross-border cooperation between the states and their communities. The hermeneutical method is applied to analyse the content of the norms of the international, bilateral and national legal and policy acts that impact the realities and perspectives of the Ukraine-Slovakia cooperation development and peculiarities of the current cross-border cooperation paradigm in Ukraine. The application of the comparative legal method provided an opportunity to analyse the features of the EU and Ukrainian cross-border cooperation regulation primarily aimed at cohesion and sustainable development. The praxeological and prognostic methods were used to analyse the actions taken by the states and cross-border cooperation actors to develop the cross-border cooperation in the course of implementation of the relevant international and national policy, treaties, agreements and cross-border cooperation arrangements, to reveal the prospects of the cross-border cooperation for sustainable development in Ukraine and Slovakia, taking into account the current integration and globalisation challenges, COVID-19 impacts. The method of generalisation was used to formulate findings.

### **Literature review**

Such scholars as Artjomov I., Benč V., Böhm H., Bufon M., Baňski J., Cirner M., Chobal L., Dudinska I., Duleba A., Dulebova I., Dusan F., Hymynets V., Kish Ye., Lačný M., Lalakulych M., Lazur Ya., Levytska O., Lendel M., Lutchak V., Macháčík V., Maradyk N., Markovych V., Mikula N., Mushak N., Ostapenko O., Perkmann M., Plenta P., Pryhodko V., Prytula Kh., Sadowski R., Stryzhakova A., Sushko I., Tsedik M., Tschudi H-M., Tymechno I., Ustych S., Zosymenko T., et al. have dedicated their works to the analysis of various aspects, tendencies,

challenges and problems, as well as perspectives of cross-border cooperation in Europe, between Ukraine and the neighbouring European countries, Slovakia and the whole Visegrad Group including. However, these recent studies often concern specific subjects of different fields of knowledge, science and practice that are connected with cross-border cooperation, present its perspective from the pro-EU or pro-Ukraine angle or they are targeted at the specific EU policy and law implementation in the Eurointegration context, having in mind, inter alia, the EU's benefits in the result of the Association Agreement realization. With full respect to the authors and results of their studies, the proposed article provides for the analysis of the panorama of the well-grounded, many-faceted and useful Ukraine-Slovakia bilateral and cross-border cooperation which, though, sometimes does not demonstrate significant dynamics; the shortcomings are revealed. It addresses the idea that the cross-border cooperation is contributory to building and enhancing of a true strategic partnership between Ukraine and Slovakia on the basis of the common interests, European values and benchmarks added by the UN values and goals of sustainable development.

### **The common political and legal commitments as drivers: step by step**

The unique historical transformations of the 20<sup>th</sup> century's last decades in the European political and security space, as well as in Ukraine and the Slovak Republic, which led to overcoming the menacing confrontation in Europe, were marked by the Treaty on Good Neighbourliness, Friendly Relations and Cooperation between Ukraine and the Slovak Republic of 1993 (hereinafter – framework Treaty) (Treaty, 1993).

This Treaty, which was signed six months after the Slovak Republic obtained its independence, reflected and anchored the political will of the two states and their peoples to build the qualitatively new relations based on the experience of political, economic, scientific and technical, environmental, humanitarian and cultural cooperation, in order to create for them an appropriate contractual framework grounded on mutual benefit. Though the Treaty does not provide for a specific article on cross-

border cooperation, it envisages the general frames for it by means of defining its potential actors and areas. In particular, Articles 8 and 9 prescribe that the states shall make every effort to promote permanent and direct contacts between the central bodies of state power and administration, between local self-government bodies and their representatives. The states agreed to facilitate expanding contacts between their citizens, both on an individual basis and through state and public organisations in order to provide the necessary conditions for the rapprochement of their peoples on a friendly good-neighbourly basis. The Treaty pays the prior attention to the matters of cooperation in security and economic sectors. Its Article 10 provides for the development of mutually beneficial economic cooperation and regulates the task to improve the mechanism of mutual economic relations, to bring them closer to the complex of economic, industrial and scientific and technical cooperation, to the processes of the world economy, as well as the practices and norms of the international market. At the same time, sticking to the rational approach, Ukraine and Slovakia find it important to preserve and develop their traditional economic and trade relations, taking into account their real needs and possibilities. They fix their commitment to provide – on the non-discriminatory basis and in the frames of relevant agreements – favourable economic, financial, tax and legal conditions for business and other economic activities, including the promotion and protection of mutual investments, and facilitate the movement of goods, services, capital and labour across borders, which is arranged in accordance with their domestic law, international obligations and objectives of this Treaty. For the sake of ensuring implementation of the ambitious tasks of economic cooperation, which are within the competence of state bodies, the partner states decide to establish the Ukrainian-Slovakia Intergovernmental Commission on Economic and Scientific-Technical Cooperation.

The further development of the legal base, necessary to implement this framework Treaty, already in 1993-1995 was particularised, inter alia, by the agreements between Ukraine and the Slovak Republic on the Common State Border (Agreement, 1993a) and on the Regime of the Ukrainian-Slovakia State Border, Coopera-

tion and Mutual Assistance on Border Issues (Agreement, 1993b), agreements between the Governments of Ukraine and the Slovak Republic on the Trade, Economic, Scientific and Technical Cooperation (Agreement, 1993) and on Water Management in Border Waters (Agreement 1994), etc. A lot of inter-agency agreements on different subject matters followed the abovementioned ones almost immediately and constantly further on. The List of bilateral Ukraine-Slovak agreements up to mid-2019 counts 98 documents (Embassy, 2019).

Alongside, Ukraine and Slovakia as the Council of Europe member-states took part in harmonisation of the European law and improved domestic legislation. Their bilateral treaties and agreements made essential sense in the context of ratification by Ukraine and Slovakia of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (hereinafter – Madrid Convention) of 1980 (CoE, 1980) (Ukraine – in 1993, Slovakia – in 2000), the Additional Protocol of 1995 (CoE, 1995) and Protocol No. 2 concerning interterritorial co-operation of 1998 to the Madrid Convention (CoE, 1998) (Slovakia – in 2000, Ukraine – in 2004 both the treaties). Ukraine and Slovakia are among 38 European states that took commitments to implement the Madrid Convention, among 24 – to implement the Additional Protocol and among 23 – to implement the Protocol No. 2 to it.

The norms of these treaties, which after ratification were integrated into the national legislation of both the states, empower local and regional authorities or bodies to establish – within their competence defined by their national law – cross-border cooperation in various forms and fields and to conclude any agreement and arrangement necessary for this purpose that shall not contradict the national law and international obligations of the relevant states (in the Madrid Convention). Also, local and regional authorities or bodies are encouraged to set up any cooperation body with the status of “legal personality” (legal corporate capacity) under an agreement on cross-border cooperation. The states recognise/validate in their national law acts and decisions of local and regional authorities or bodies made in the framework of a cross-border cooperation agreement (Additional Protocol). Moreover, lo-

cal and regional authorities or bodies which are situated further apart and do not share common state borders but have common interests and fields of responsibility are promoted to establish the interterritorial cooperation on the basis of interterritorial co-operation agreements. The latter – similarly with other cross-border cooperation agreements – shall be concluded in conformity with their national law and in keeping with international commitments of their states and shall entail only the responsibilities of local and regional authorities or bodies which have concluded them (Protocol No. 2). In addition, since 2013 Ukraine's local and regional authorities or other public bodies have got the right to participate in establishment and operation of Euroregional Co-operation Groupings (ECGs), legal entities that can conduct cross-border and interterritorial co-operation. This new opportunity is provided for by the Protocol No. 3 to the Madrid Convention concerning Euroregional Co-operation Groupings (ECGs) (CoE, 2009). Though the Slovak Republic has not ratified this treaty, the interested local and regional authorities or other public bodies can participate in establishing ECGs with the headquarters placed in Ukraine or another European state, which has joined the Protocol No. 3.

Noteworthy, that the Slovak Republic at the time of signature of the Madrid Convention in 1998 made the Declaration, which was confirmed in 2000 in the instrument of its ratification, that the Government, referring to paragraph 2 of Article 3 of the Convention, declares that its application shall be subject to the conclusion of inter-state agreements (CoE RD). Thus, in 2000 the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Slovak Republic on Cross-border Cooperation was signed (Agreement, 2020). The States underlined the meaningful potential of cooperation between local and regional authorities in Europe which should help them to efficiently fulfil their tasks and ensure economic and social progress of the border regions. The States agreed in conformity with the Madrid Convention that cross-border cooperation should be understood as administrative, technical, economic social and cultural activities of the states as well as settlements, cities and regions situated on both the sides of the common State border on the basis of the relevant agree-

ments, including. It was decided to support the activities of local and regional authorities on development of cross-border cooperation, equate their status and competence in the course of their cross-border cooperation with that they have in the course of cooperation at the national level, provide as far as possible financial support to these activities on the basis of mutual consultations. Also, Ukraine and Slovakia came to decision: 1) to improve the national legislations, in particular, in the field of tax, customs and currency rules, capital movement and the competence of the national regulating authorities, etc., in order to eliminate and prevent any barriers to cross-border cooperation; 2) to coordinate the cross-border cooperation in 17 areas (the list is non exhaustive) – regional development and territorial planning; transport and communication; border trade; energy and agriculture sectors; problems of employees residing on the border territories; environment and water resources protection and rational use; education, professional training and research; health protection; culture, recreation, tourism and sports; mutual assistance in emergency situations; social welfare; 3) to establish the Joint Commission authorized to coordinate implementation of the Agreement.

The abovementioned intergovernmental Agreement on the trade, economic, scientific and technical cooperation of 1993 was soundly instrumental for realisation of the Ukraine-Slovak mutual interest to develop the cross-border cooperation between its actors. It aimed to promote the development of trade relations, with payments for all types of transactions made in a freely convertible currency, increase the volume of services provided, production and investment. For these purposes it was agreed to mutually support creating of joint ventures, corporations, joint stock companies; opening branches, outlets, representative offices of organisations, enterprises, firms, banks, shopping centres, cooperatives and companies of the partner State; to promote the development of various forms of contacts and cooperation between individual economic entities, economic, technical and research organisations, etc.

And after the Slovak Republic joined the EU in 2004, the Agreement of 1993 was substituted by the Agreement on Economic, Industrial and

Scientific-Technical Cooperation of 2005 (Agreement, 2005). With the reference to the gained positive experience and good level of cooperation it defined 22 areas of the long-term cooperation. The list of areas mentioned in the Agreement on Cross-border Cooperation is widened by a number of fields of industry – pharmaceutical, chemical and petrochemical, woodworking, electronic and electrical, metallurgy, mining, agricultural and forestry machinery, production of construction materials and equipment, industrial and civil construction, mechanical engineering, as well as oil and gas sector, including expansion and reconstruction of gas and oil pipelines, cooperation in the field of exploration and equipment of new fields.

In 2007 this Agreement was strengthened by the specific interstate Agreement on Promotion and Mutual Protection of Investments (Agreement, 2007). In 2008 Agreement between Ukraine and the Slovak Republic on Local Border Traffic (Agreement, 2008) was signed to further develop cross-border cooperation, to prevent the transformation of the state border between them, which at that time became the external border of the European Union, into a barrier to business, social, cultural and regional cooperation, and to establish the local border traffic rules at the external land borders of Slovakia as an EU member-state. It establishes the conditions of entry, term of stay in the border area, points determined for crossing the common state border in the mode of local border traffic, sanctions for violation of the local border traffic regime, etc. This Agreement meets the norms of the Regulations (EC) No. 1931/2006 of the European Parliament and of the Council of December 20, 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (EU, 2006b).

These and other similar agreements create the system of the common international commitments, the bilateral legal base and factoring for the Ukraine's integrative cooperation with Slovakia and with other EU member-states in multilateral format with the Slovak participation, for promotion and implementation in both the states the European value of four freedoms – movement of goods, capital, services, and people. The latter are the fundamen-

tal background for the Association Agreement – the specifically complex European law frame for coordinated development of political, economic and socio-cultural relations between its Parties. Already in its Preamble it refers to the Parties' commitment to promote cross-border and interregional cooperation and contains a particular 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 role of local and regional authorities in CBC realisation – Article 447 exactly provides for the need to establish an enabling legislative framework to uphold and strengthen local and regional authorities' involvement in cross-border cooperation and related management structures, to sustain and develop capacity-building measures and promote strengthening of cross-border and regional economic and business networks. The cross-border cooperation focus, as foreseen by Article 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 cross-border cooperation development in regard to modernisation, equipping and co-ordination of emergency services. Article 449 records the consent of the Parties to hold a regular dialogue aimed to ensure the cross-border cooperation progress.

#### **Ukraine's policy and legislation: some current and prospective parameters**

Worth mentioning, that the Madrid Convention's and the EU *acquis* provisions are incorporated into the Ukrainian legislation on cross-border cooperation by means of the Law "On Cross-border Cooperation" (hereinafter – the Law on CBC) of 2004, specific norms of the

laws "On Local Self-government in Ukraine" of 1997 and "On Local State Administrations" of 1999; these laws were amended in 2018 to introduce the norms corresponding the Protocols No. 2 and No. 3, ratified in 2004 and 2012, as well as the Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 2006 on a European grouping of territorial cooperation (EGTC) (EU 2006a) that include amendments introduced by the Regulation (EU) No 1302/2013 of 2013 as regards the clarification, simplification and improvement of the establishment and functioning of such groupings.

As known, a specific law on cross-border cooperation is quite a rare legal act in Europe; the Visegrad Group countries rule the cross-border cooperation relations mostly by their laws on regional development and sectoral matters (Bański et al., 2021). So, the current and potential Ukraine's cross-border cooperation partners are in more favourable position when looking for the cross-border cooperation regulation in Ukraine.

In general, the Law on CBC (Law No. 1861-IV, 2004) amended in 2018 (Law No. 2515-VIII, 2018) determines the legal, economic and organisational basics of CBC. It defines the purpose and principles of cross-border cooperation, subjects (actors) and participants, areas, forms and bodies of cross-border cooperation; the role of the State and sources of financial support of cross-border cooperation, etc. The definition of cross-border cooperation is transposed from the Madrid Convention, the formulations of its purpose and principles reflect the acknowledged pragmatic essence of the cross-border cooperation – formation of good neighbourly relations and deepening the interaction of CBC actors and participants, which contribute to local and regional development. The actors of cross-border cooperation, due to the Law, are the Ukraine's territorial communities, their representative bodies (councils / "radas" as local self-government bodies) and their associations, local executive power bodies (local state administrations) interacting with territorial communities and relevant authorities of the neighbouring states within the limits of their competence, established by the legislation of Ukraine and agreements on cross-border cooperation. The legal and natural persons, public associations that take part in cross-border

cooperation are attached the legal status of the cross-border cooperation participants. The cross-border cooperation actors can choose to act as members and / or participants of Euro-regions, form Euroregional Co-operation Groupings (ECGs) as foreseen by Protocol No. 3 to the Madrid Convention or become their members, be co-founders of European Groupings of Territorial Cooperation (EGTCs) on the basis of the corresponding interstate treaties and with regard to the EU regulations on EGTCs. The laws "On Local Self-government in Ukraine" (Law No. 280/97-BP. 1997) and "On Local State Administrations" (Law No. 586-XIV. 1999) itemize the competence of the relevant CBC actors with regard to their legal status and prescribe some administrative procedures on their decision-making on cross-border cooperation and its conducting. The Law on CBC determines the State's responsibility for cross-border cooperation 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 cross-border cooperation 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 cross-border cooperation; conclusion of interstate and inter-governmental agreements on simplification of rules of border crossing as well as in concern to CBC forms; selection of cross-border cooperation 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 cross-border cooperation subjects and participants.

In general, the current Ukraine's legislation provides for the possibility of the cross-border cooperation actors and participants to establish and maintain such cooperation with their counterparts from the European countries, from the Slovak Republic including. However, this Law has unreasonable shortcomings and gaps which cause undesirable obstacles. Some of the definitions in this Law need revision; others, set forth by the international treaties,

shall be appropriately incorporated. In particular, we would mention quite a narrow definition of cross-border cooperation which prescribes cooperation with the neighbouring states only, the absence of provisions about interterritorial cooperation as established by Protocol No. 2 to the Madrid Convention. None of the laws define purposes, tasks, procedures of Euroregions' and EGTCs' formation with Ukraine's local and regional actors in the status of founders, co-founders and members. There are no norms on methods and mechanisms of Euroregions' and EGTCs' functioning with due regard to specific needs of local communities or other weighty factors important for the cross-border cooperation partners, etc. Such shortcomings do not provide for the effective realisation of the cross-border cooperation purposes in the interests of the communities' and states' balanced and sustainable development as it is foreseen by the Council of Europe treaties, Association Agreement and the corresponding bilateral and multilateral agreements of regional and sub-regional levels (like the Framework Convention on the Protection and Sustainable Development of the Carpathians of 2003) (Carpathians Convention, 2003) and of the sectoral character (like the mentioned above Agreement between Ukraine and the Slovak Republic on Promotion and Mutual Protection of Investments of 2007).

Hereof in recent years researchers of the Valentyn Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine (hereinafter – IELR of NASU) as well as other experts and practitioners found it expedient and recommended the Ministry for Communities and Territories Development of Ukraine to revise the acting Law on CBC and bring it in more close conformity with the European law norms and standards. To the common satisfaction, a draft new version of the Law on CBC has been elaborated with account of our recommendations and the vision of cross-border cooperation actors. Among the novelties are the notions of interterritorial, inter-regional and border / frontier cooperation, extended and more clarified norms on Euroregions, ECGs and EGTCs and their creation, on the State support to cross-border cooperation and the relevant national and regional programmes.

The draft law was considered by the Secretariat of the Cabinet of Ministers. Upon its approval on 23.09.2021 the draft Law on CBC was passed to the Parliament by the Prime Minister of Ukraine and registered under No. 6082 (Draft Law No. 6082. 2021). In the Parliament it is being considered by the Committee on Foreign Policy and Inter-parliamentary Cooperation, Committee on Ukraine's Integration into the European Union, Committee on Budget, Anti-Corruption Policy Committee.

The parliamentary legislative procedure allows more improvements when necessary and IELR of NASU on behalf of academia shall contribute to the work of the Parliament's Committee on Foreign Policy and Inter-parliamentary Cooperation and Committee on Ukraine's Integration into the European Union. At this phase the IELR of NASU plans to present the set of recommendations to the draft law, which are elaborated in June-October 2021 in cooperation with the Slovak (University of Prešov), Czech (Technical University of Liberec), Hungarian (CESCI) and Polish (Polish Academy of Sciences) colleagues within the 2020-2022 International Visegrad Fund Project "With cross-border cooperation for the Europeanisation of Ukrainian borders". The consolidated opinions and arguments will be aimed to minimise legislative discrepancies and make the Law on CBC living and easily applicable, transforming the pragmatic philosophy and the EU policy of cross-border cooperation into beneficial practice and sustainable development of cooperating communities, regions and states.

The relevant Ukraine's policy and programming documents – On Ukraine's Sustainable Development Goals for the period till 2030 (President Decree No. 722/2019. 2019), National Economic Strategy of Ukraine until 2030 (CMU Resolution No. 179, 2021), Strategy on Human Development (President Decree No. 225/2021, 2021), State Strategy of Regional Development for 2021-2027 (CMU Resolution No. 695, 2020), State Programme for the Cross-border Cooperation Advancement up to 2027 (CMU Resolution No. 408, 2021), etc., derive from its international commitments (under the Association Agreement, including) and legislation, current domestic and foreign practice as well as the political and socio-economic prognosis. The State Strategy of Regional Develop-

ment and the State Programme for the Cross-border Cooperation Advancement, consequently adopted by the Government in 2020 and 2021, determine the general vector of sustainable development of Ukraine's regions and are directed at promotion of cross-border cooperation, stimulation the activities of its actors and participants.

In particular, the 2021-2027 State Strategy of Regional Development 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 vitalise the regional economic development. Also, Ukraine's participation in the EU cross-border cooperation programmes for 2021-2027 and ensuring the EU-Ukraine interaction in the course of preparation and realisation of the new Eastern Partnership Territorial Cooperation Support Programmes are defined as important benchmarks. The State Programme for the Cross-border Cooperation Advancement is based on the analysis of the on-going state of cross-border cooperation in the coordinates of the Ukraine's international commitments under the multilateral and bilateral treaties and agreements (Association Agreement including) and the key domestic policy acts, of current and potential needs in the cross-border cooperation field of particular regions and areas. It provides for the approaches and means to eliminate obstacles to efficient cross-border cooperation, for the complex of tasks for its implementation that concern a number of issues. Among the listed ones there are the following: intensification of cross-border cooperation; realisation in Ukraine of the EU Strategy for the Danube Region and the Danube Transnational Program; implementation of cross-border cooperation programs within the framework of European Territorial Cooperation for 2021-2027 within the framework of the "Neighbourhood, Development and International Cooperation Instrument" (NDICI); development of mountainous border areas of the Carpathians; promoting the development of institutional capacity of cross-border cooperation actors and participants. The Programme matches the expected results and is accompanied with the Ac-

tion Plan to ensure the cross-border cooperation development for 2021-2027.

Though the Programme is developed by the government agencies in cooperation with cross-border cooperation actors and participants, experts from academia and practitioners, it is not without flaws for different reasons. The Government aimed to introduce novelties, keep and stick to positive experience, particularly supporting the activities of the intergovernmental bodies on cross-border cooperation. However, the budgetary restrictions, caused by the weak economic position of Ukraine, did not allow covering all the discussed needs in full. Yet, the Government does not limit initiatives of local and regional cross-border cooperation actors to develop it in accordance with their strategic vision and operational plans. They are authorised to foresee the costs for cross-border cooperation activities in their budgets, including expenditures for co-financing the implementation of cross-border cooperation projects under the EU Neighbourhood Programs and using the European Neighbourhood and Partnership Instrument as it is prescribed by the "Measures to Intensify Eurointegration Border Cooperation" of 2007 (President Decree No. 1236/2007, 2007). Since 2015 in the result of the national decentralisation reform and in compatibility with the Law Ukraine "On Stimulating the Development of Regions" of 2005 (amended in 2012) (Law No. 2850-IV, 2005), which concentrates, inter alia, on the state incentives for the development of depressed territories, they have got better opportunities and possibilities to form, plan and use their own budgets and resources in order to foster and advance cross-border cooperation.

#### **Briefly on actualities of the Ukraine-Slovak bilateral and cross-border cooperation: grounds for optimism and ambitions to realise**

The general analysis of Ukraine's bilateral relations demonstrates that its bilateral and cross-border cooperation with the Slovak Republic is one of the most important, and the corresponding contractual base is significant, it meets the needs of both the states and the modern international law requirements.

The Slovak Republic is recognised to be an important trade and economic partner of

Ukraine. Implementation of the bilateral agreements on economic, industrial and scientific-technical cooperation and on promotion and mutual protection of investments as well as the Association Agreement with its DCFTA ensure that the Ukraine-Slovak trade and economic relations have been actively developing in recent years and have tended to grow. In 2020, Slovakia ranked 20<sup>th</sup> in terms of trade in Ukrainian goods in the world and 14<sup>th</sup> among European countries in terms of Ukrainian exports. As of January 1, 2021, the volume of direct investments from the Slovak Republic into the economy of Ukraine amounted to USD 211.5 million. The vast majority of investments went to industry, postal and courier services, health care and social assistance, real estate transactions, wholesale and retail trade; repair of motor vehicles. The total turnover in the first quarter of 2021 amounted to USD 384.4 million and increased compared to the same period by USD 66.7 million, or 17.4 % (Embassy, 2021). The main factor in increasing bilateral trade is the DCFTA with the EU.

At the same time, on experts' mind (Zosymenko, 2021), it is not fair that the Slovak Republic is not included in the markets in focus in the Export Strategy of Ukraine for 2017-2021 of 2017 (CMU Order No. 1017, 2017). Despite the ambition to implement the Ukraine-Slovak project of "the great reverse", Slovakia is not mentioned in the Energy Strategy of Ukraine until 2035 of 2017 (CMU Order No. 605, 2017). Repeated statements on the intensification of cooperation in the development of the "Silk Road" through the territories of Ukraine and Slovakia are not reflected in the 2018 National Transport Strategy of Ukraine until 2030 (CMU Order No. 430, 2018).

Though, our analysis reveals that after signing the inter-ministerial Memorandum of Cooperation within the framework of the "Silk Road Economic Belt" in 2020 the Action Plan for implementation of the National Transport Strategy of Ukraine is amended in 2021 (CMU Order No. 321, 2021). It sets a number of relating tasks and activities: a) conclusion of international agreements with the Slovak Republic on organisation and implementation of control at joint checkpoints on the border with EU member states; b) needs analysis and study of possibilities for construction of new and modernisation of existing checkpoints on the

Ukrainian-Slovak section of the state border; c) experimental resumption of 1520 millimetres of through rail traffic between all border regions of Ukraine and the border regions of Romania, Hungary, Slovakia and Moldova, which are part of the EU Strategy for the Danube Region; d) negotiations on increasing the quota of permits for international freight traffic through the territory of the Slovak Republic and other neighbouring EU countries; e) approval of the text of the Agreement with the Republic of Slovakia on the conditions of operation of the Uzhhorod International Airport.

The further research admits that in Ukraine's Cross-Sectoral Strategy for the Machinery Sector (Ministry of Economy of Ukraine, 2020), Slovakia is singled out as a country for benchmarking of conditions for location of machine-building enterprises and the export of their products. Projects for the development of infrastructure in the agricultural and food sectors with an enhanced environmental component which is a key factor in the processing of agricultural products under the EU Green Deal could be attractive to both the states and the cross-border cooperation actors. Sustainable cooperation in metallurgy and tourism would be of mutual benefit as well. The Slovak Republic is also of the Ukrainian interest in terms of increasing exports in the creative industries sector by cooperating with the European cinematographic and audiovisual organisations, in particular the European Cinema Support Fund (Eurimages) (Zosymenko, 2021). These and other are the promising for the Ukraine-Slovak partnership areas; cross-border cooperation actors should look for their common interests in these areas and take opportunities to realise them via the inter-state projects in various sectors.

However, the quite a "pinpoint" and incoherent approach in terms of the basic documents of Ukraine's foreign economic policy as well as a current pause – because of a number of factors, including the COVID-19 impacts and consequences – in the bilateral inter-agency communication on economic, industrial, scientific-technical and cross-border cooperation hinders the appropriate use of the potential of the Ukraine-Slovak relations.

For instance, the previous 13<sup>th</sup> meeting of the Ukrainian-Slovak Commission on Cross-Border Cooperation was held on November 21-

22, 2017 in Kaluža, Zemplínska šírava, Eastern Slovakia. The next meeting should be held in Ukraine but in the third quarter of 2021 there is no news about it. In 2017 the Commission considered and determined actions on a wide range of issues of cross-border cooperation. In particular, the Parties discussed the regulatory framework for the joint border and customs control at joint border checkpoints; small border traffic; border infrastructure development at the Ukrainian-Slovak border, inter alia construction, modernisation and reconstruction of checkpoints Solomonovo – Čierna and Ulych – Zabridj; introduction of pedestrian and bicycle traffic at the checkpoint to Ukraine-Slovak border Uzhhorod – Vyšné Nemecké; construction, reconstruction and modernisation of drive ways and bridges; implementation of joint measures to planning of infrastructure of international transport and communication corridors as well as the issues of environmental protection and prevention of emergencies at the border (CMU, 2017).

The planned activities prove that the cooperation of Ukraine-Slovak communities across borders is targeted to develop common areas of living which suppose free movement of goods, services and people. However, the COVID-19 temporarily caused the counterproductive measures which hindered the cross-border cooperation governance and usual way of life of population of cross-border communities. The closure of borders brought down the usual visa-free and visa-liberalisation life modalities and development perspectives – the stopped cross-border mobility broke the regular economic and business relations, public services' chains, and family ties; the cross-border workers and other persons crossing borders were stigmatised and blamed illegitimate. The absence of a definite picture of the pandemic spread and of understanding what sound solutions to choose caused the uncoordinated and disproportionate decisions taken by the neighbouring states, which raised the alienation between people and the sudden states' drifting to sovereignty. Thus, the issue of the post-crisis pragmatic cohesion for the sake of sustainable development of people, communities and places within the EU and beyond is at the urge of policy- and decision-making. The relevant ones like Territorial Agenda 2030 (EU, 2020), the Recovery Plan for Europe "NextGenerationEU"

that includes a new initiative "Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU)" address the need to consider functional regions, and integration beyond borders; the budget allocations are attached to financing recovery and economic and social resilience via support to reforms and investments (EU, 2020).

These far-reaching solutions are able to boost the mutually interesting and beneficial cross-border cooperation between Ukraine and Slovakia aimed at development of infrastructure, trade, public utilities, municipal and green tourism, attracting investors and formation of investment ideas database, strengthening of ecological security, revival and preserving of cultural heritage, establishment and enhancing of information and cultural exchange, etc. It is legally provided and proved in practice by almost 50 cooperation agreements signed between the countries and their cooperation actors at the interregional level (as of January 1, 2020). All 8 regions of Slovakia and 10 oblasts of Ukraine have established cooperation. In addition, 15 Ukrainian and Slovak cities, the capitals Kyiv and Bratislava including, are developing partnerships (Embassy, 2020).

It is well-known and only natural, that traditionally active is the Ukraine-Slovak cross-border cooperation between the Zakarpatska Oblast of Ukraine and the neighbouring Košice and Prešov self-government regions of Slovakia. With due account of the Agreement on cooperation between the Zakarpatska Oblast and the Prešov Self-governing Region of 2005 and the Framework agreement between the Zakarpatska Oblast State Administration and the Košice Self-governing Region on Trade-Economic, Scientific-Technical and Cultural Cooperation of 2006 the cross-border cooperation Parties regularly adopt the strategic and programming local acts. The Program for the Cross-border Cooperation Development in the Zakarpatska Oblast for 2021-2027 (Zakarpatska Oblast State Administration Order No. 705, 2020) is oriented at enhancing the cross-border cooperation with the Slovak neighbours, having regard to the Association Agreement, EU Strategy for the Danube Region, initiatives to create a new EU macro-regional Strategy for the Carpathian region, support programs under the "Neighbourhood, Development and In-

ternational Cooperation Instrument" (NDICI). The similar local act is adopted by the Lviv Oblast - Regional Program on International and Cross-border Cooperation, European Integration for 2021-2025 (Lviv Oblas Rada Decision No. 66, 2021). Cross-border cooperation actors of the Zakarpatska Oblast along with those from the Lviv, Ivano-Frankivsk, and Chernivtsy oblasts are the participants of the "Carpathian Euroregion", uniting the European partners of 5 bordering countries - Ukraine, Slovakia, Hungary, Poland and Romania. They interact with the Slovak cross-border cooperation actors also in the frames of the "Hungary-Slovakia-Romania-Ukraine" European Neighbourhood Instrument Cross-border Cooperation Programmes, etc. Alongside, there is no experience of Ukraine-Slovak EGTCs and/or ECGs, which, on our opinion, can become instrumental drivers of socio-economic progress of territories and regions that would solve their common problems and reach the goals of mutual benefit for the sake of enhancing the living conditions of their population. The added value of cross-border structures and agreements during the pandemic is clearly underlined in the European Commission supported empirical report "The effects of COVID-19 induced border closures on cross-border regions" of 2020 (MOT, EU, 2021). On the whole, the Ukraine-Slovakia cross-border cooperation is held on many vectors, and the process of its expanding and deepening is ongoing. Yet, the Ukraine-Slovakia cross-border region has substantial capacity of socio-economic growth, which hasn't been realised yet to the fullest capacity (Institute of regional research named after M. I. Dolishniy of Nasu, 2019). On experts' opinions, the barriers for the proper use of its potential are the shortcomings of the Ukraine's cross-border cooperation policy and legislation which are not fine-tuned with the EU policy and acquis, the lack of a common planning horizon that is caused, inter alia, by the lack of regularity of the intergovernmental contacts, including in the established institutionalised formats. The meeting between the Prime Minister of Ukraine Denys Shmygal and the Prime Minister of the Slovak Republic Eduard Heger of November 12, 2021 in Uzhhorod marked the restoration of full-fledged functioning of the International Airport "Uzhhorod" and should result in increasing bilateral trade and participa-

tion of the Slovak business in Ukrainian investment projects, re-intensification of cross-border cooperation, including in the field of coordination of regional development planning and cooperation in the preparation and submission of common applications for funding of joint projects on horizontal programs of the European Structural and Investment Funds (CMU, 2021).

Another factor of complexity is conditioned by differences in administrative systems, poor infrastructure, poor services at border crossing points, lack of the state and local financial support, etc. Thus, the implementation of many joint cross-border cooperation projects is based mainly on the mechanisms of the EU regional policy, as well as the European Neighbourhood Policy. Ukraine is not an EU member-state and its own state mechanism of providing financial support to implementation of cross-border cooperation projects and also the capacity of local cross-border cooperation actors need improvement and enhancement.

In this context, the forthcoming Ukraine's chance to preside through November 2021-November 2022 over the EU Strategy for the Danube Region (CMU, 2021), where Slovakia is a Party, is promising. Undoubtedly, each joint platform with the EU accelerates Ukraine's European integration track, adds to the quality and quantity of its bilateral cooperation with the European neighbouring states and boosts the sustainable development. We deem, the essence of cross-border cooperation responds the key message of the UNDP's Human Development Report, expressed already in 1993 at the dawn of the Ukraine-Slovak cooperation, - "Development should be woven around people, and it should empower individuals and groups rather than disempower them" (UNDP, 1993).

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