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**Tisza European Grouping for
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**СПРИЯННЯ ЄВРОАТЛАНТИЧНІЙ ІНТЕГРАЦІЇ УКРАЇНИ
НА ПРИКЛАДІ ЗАКАРПАТТЯ
матеріали міжнародних конференцій**

**UKRAJNA EURO-ATLANTI INTEGRÁCIÓJÁNAK SEGÍTÉSE
KÁRPÁTALJA PÉLDÁJÁN KERESZTÜL
nemzetközi konferenciák anyaga**

**SUPPORTING THE EURO-ATLANTIC INTEGRATION OF UKRAINE
THROUGH THE EXAMPLE OF TRANSCARPATHIA
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TO THE ACTUAL ISSUES OF LEGAL SUPPLY OF UKRAINE'S TRANSBORDER COOPERATION

Realizing the course on European integration, our state began to develop cooperation with the European Union initially within the framework of the Partnership and Cooperation Agreement, subsequently within the framework of the Eastern Partnership Initiative, and at this stage in accordance with the Association Agreement between Ukraine and the European Union. As a result of the signing of the Association Agreement, our state has undertaken large-scale commitments regarding the implementation of the European Union standards in all spheres of society's life.

According to the Association Agreement, an important role is also given to the issue of cross-border cooperation. In the preamble of this Agreement, it is indicated that the Parties undertook to support transborder and interregional cooperation, it should be noted that this area of cooperation is even set out in Chapter 27 Cross-border and regional cooperation Section V economic and industrial cooperation, which in turn clearly emphasizes the importance of using the instrument of cooperation.

For our state, which has a favorable geopolitical position, the potential of developing cross-border cooperation with the member states of the European Union is important as it is considered to be a powerful factor in the process of European integration and an instrument for the development of the border areas. Such cooperation can be effective only under conditions of sufficient legal and regulatory provision both at the international and national levels.

At present, cooperation within the framework of the European Grouping of Territorial Cooperation (EGTC) is developing very rapidly in the countries of Europe, the data of the groupings are created in accordance with the Regulation of the European Parliament and the European Commission No. 1082/2006 of July 5, 2006 (hereinafter the EGTC)

In accordance with Regulation No. 1082/2006 of 5 July 2006, the EGTC is an instrument of cooperation that promotes cross-border, transnational and / or interregional cooperation among the member states of the European Union to strengthen economic and for social cohesion.

EGTC is a legal entity, its members also have the status of legal entities, which allows public authorities of different countries of such an association to provide joint services without requiring the conclusion of preliminary international agreements signed and ratified by national parliaments. At least two EU Member States must be represented in the EGTC [3].

The functions of the EGTC are very diverse and can consist of solving any specific problem, or in developing a platform for the development of decision-making mechanisms for the development of regions in general. The creation of the EGTC may be linked to the management of cross-border cooperation programs; implementation of border cooperation projects at the regional and local levels; other ways of cooperation with or without financial support from the European Union (for example, support for cross-border transport associations or bilateral municipality initiatives (hospital construction, utilization of waste)).

At the moment, such associations have been created in 20 member states of the European Union, and by the year 2018, 63 EGTCs have been created, which include more than 800 national, local and regional authorities from 20 EU member states [1]. Most of the EGTC is located in Eastern and Southern Europe. Moreover, if in the early stages of the EGTC were projects on the implementation of exclusively cross-border cooperation, then since 2012 they have been created as a platform for cooperation between cities of different European Union member states. Regarding the possibility of Ukraine to participate in this new partnership mechanism, Regulation No. 1082/2006 of 5 July 2006 clearly states that "non-member countries of the European Union should not be excluded from the process of implementing the mechanism for the creation of the EGTC, if this is not contrary to the legislation of the country, or enshrined in international treaties between the member states of the EU and this state" [3].

Ukraine joined this form of cooperation in October 2015 [1] when the European Territorial Cooperation Limited Liability (TISZA) was established between the Transcarpathian Regional Council, Szabolcs-Szatmár-Bereg Region General Assembly and Kisvárda City Self-Government. The decisive point is that, since the creation of this legal instrument in 2006 by the European Union's which is designed to develop regional cooperation, EGTC TISZA is the first project in Ukraine, the first association established between a Member State of the European Union and a third country. However, the imperfection of Ukrainian legislation regarding the allocation of certain powers of local public authorities is an obstacle in the new format of cooperation for the implementation of joint projects with neighboring states of the European Union.

Moreover, experts from the Committee of the Regions have repeatedly noted that the use of the mechanism of the EGTC on the external border of the European Union is very useful for exchanging experience between the territorial authorities of the European Union and the states on the other side of the border as well as for a possible effective mechanism for promoting the implementation of the neighborhood policy.

In the conclusion of the Committee of Regions "Local and Regional Governance in Ukraine and the development of cooperation between Ukraine and the European Union" (October 2011), it was noted that the EGTC should

play a significant role in such areas as health care, public transport, the creation of national structures for tourism, etc. Moreover, this tool will promote the implementation of public-private partnership strategies. The Committee of Regions has also urged the competent national authorities of Ukraine and neighboring EU member states to take appropriate measures to adapt the relevant legislative provisions that would allow Ukrainian partners to participate in future UEs [2].

Today our state has acceded to all important documents in the field of cross-border cooperation, ratified the European Convention on the Transboundary Cooperation between Territorial Communities or Authorities of May 21, 1980 [5], the Additional Protocol to the European Convention on Transfrontier Co-operation between Territorial Communities or Authorities of November 9, 1995 [4], Protocol No. 2 to the European Framework Convention on Transborder Co-operation between Territorial Communities or Authorities As for interterritorial cooperation of 5 May 1998 [12], Protocol 3 to the European Outline Convention on Transborder Cooperation between Territorial Communities or Authorities concerning Euroregional Cooperation (ECG) of 16 November 2009 [13].

Ukraine ratified the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities undertook obligations, on the one hand, to create such legislation that would enable territorial communities and local self-government bodies to effectively implement cross-border co-operation and, on the other, to adapt legislation Ukraine to the legal standards of the EU, in accordance with Article 4 of the Convention, which states that the States Parties wish to eliminate the difficulties and obstacles of the legal, and administrative or technical nature that could be an obstacle to the development and normal implementation of cross-border cooperation and to coordinate its activities with other actors in the event of such impediments [5].

Regarding national legislation, the regulation of the institutional and organizational-legal mechanism of cross-border cooperation is carried out by the Law of Ukraine "On Transboundary Cooperation" dated June 24, 2004 [8], the Law of Ukraine "On Local Self-Government" of June 24, 2004 [9], the Law Of Ukraine "On Local State Administrations in Ukraine" of 09.04.1999 [10].

According to the provisions of the legislation, the institutional form of cross-border cooperation is cooperation within the Euroregion. In accordance with Article 1 of the Law of Ukraine "On Transboundary Cooperation", the Euroregion is an organizational form of cooperation between administrative and territorial units of European states carried out in accordance with bilateral or multilateral agreements on transfrontier co-operation [8]. The position of the scientists is that the use of such an organizational structure as the Euroregion is hampered by adverse factors such as disproportions in administrative-territorial division models, unequal scope of competence of public authorities that are subjects of cross-border cooperation, mismatches of re-

sources, sometimes lack of guaranteed national financing of functioning activities, as well as the fact that the creation of an Euroregion does not always lead to the emergence of a new entity with the status of a legal persons. Through the identification of the relevant shortcomings of cross-border cooperation, the need for a clearer and more effective regulatory framework for institutional cooperation was created.

The Ministers of the Council of Europe member states responsible for local and regional government have developed Protocol No. 3 to the European Convention on Transfrontier Cooperation between Territorial Communities or Authorities for Euroregional Cooperation (ECG) Protocols, which entered into force after ratification by its first four states in 2013. Ukraine has ratified this protocol in 2012, and it has come into force in 2013 [7].

This protocol provides for the creation of a new form of cross-border cooperation - the unification of Euroregional cooperation and establishes unified standards for their activities through the establishment of strict rules for the creation, membership, activities, at the same time, at the same time, subject to compliance with the law of the resident state. Protocol No. 3 to the European Convention on Transfrontier Co-operation between Territorial Communities or Authorities for Euro-regional Cooperation (ECG) involves the introduction of a number of new procedures related to such form of cross-border cooperation between the member states of the Council of Europe. It defines that the association of Euroregional cooperation is a legal entity, and has such legal capacity, which is provided to legal entities in accordance with the national legislation of the state. The association of Euroregional cooperation has the right for own budget, can conclude contracts, hire staff, acquire movable and immovable property and conduct procedural actions. Members of the association of Euroregional cooperation may be both local self-government bodies and local state administration authorities of the Parties as well as legal entities in cases where their activities are funded and controlled by the state or if they are not engaged in industrial or commercial activities [13].

The current legislation of Ukraine, in contrast to the legislation of the member states of the European Union, does not contain norms governing the formation, functioning, termination and taxation of activities of associations of Euroregional cooperation, therefore, there is a need to improve the legislative acts of Ukraine that regulate the activity of cross-border cooperation.

Forming the "Ukrainian-European Union" border cooperation, the main requirement from Ukraine is the proper adaptation of the legislation to the requirements of the European Union. Legislators should first of all take into account that Ukraine is not only bordered by a neighboring state when the relationship is based on a bilateral contractual legal framework, but with a Member State of the European Union, so it requires the development of a new unit of regulatory relations for relations which should take into account the regulations of not only one neighboring state, but the whole of the European

Union. This criterion should be the key to improving the legislative acts of our state, which, in turn, would regulate the transborder cooperation of Ukraine in the new conditions.

In the Law of Ukraine "On Transboundary Cooperation" of June 24, 2004, the legal, economic and organizational principles of cross-border cooperation have been defined; it should be noted that significant changes have not been made to it in the last 14 years, only some minor changes in 2010 and 2014. One should agree with the statement in the scientific publications that the law declares high goals of cross-border cooperation, the provision of powers to local executive authorities, local self-government bodies in the field of cross-border cooperation, as well as legislative regulation of financial support for the development of cross-border cooperation. The law complies with the requirements of the legislation of the European Union or the norms and principles of the GATT / WTO system. At the same time, from a practical point of view, legislation needs to create pragmatic organizational, legal and institutional mechanisms for legal regulation of border relations at the institutional level. Material rules of the Law are purely declarative and do not create legal bases for the formation of organizational-legal and institutional mechanisms [11].

During the years 2011 - 2017, the Ukrainian legislator has already made several attempts to amend certain legislative acts in accordance with Protocol No. 3 to the European Convention on Transfrontier Co-operation between Territorial Communities or Authorities Regarding the Euroregional Cooperation (ECG) on November 16, 2009, however, none of them ended with the adoption of the relevant regulatory act. For the time being, the urgent need is to regulate the legal status of associations of Euroregional cooperation in order to fully use the potential of cross-border cooperation with the European Union states, and the absence of such a mechanism significantly impedes the process of cooperation.

Thus, it should be concluded that cross-border co-operation can only be effective if there are sufficient regulatory and legal framework. Legislation of Ukraine, unlike the legislation of the member states of the European Union, does not contain norms regulating issues of activity of associations of Euroregional cooperation. There is a need to introduce a number of amendments to some legislative acts of Ukraine, for the introduction of a new instrument of cooperation, which in turn will enable regions to actively develop cross-border cooperation with the European Union states and the emergence of new opportunities for attracting additional external assistance resources.

References:

1. EGTC monitoring report 2016 and impacts of the Schengen area crisis on the work of the EGTCs - [Electronic resource]. - Access mode: http://www.cor.europa.eu/en/documentation/studies/Documents/CoR-EGTC_monitoring.pdf

2. Opinion of the Committee of the Regions on "Local and regional government in Ukraine and the development of cooperation between Ukraine and the EU" (2011 / C 42/13) - [Electronic resource]. - Access mode: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010AR0173&from=EN>
3. Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on the European Grouping of Territorial Cooperation (EGTC) - [Electronic Resource]. - Access mode: <https://cor.europa.eu/en/activities/networks/Documents/EN.pdf>
4. Additional Protocol to the European Convention on the Transfrontier Co-operation between Territorial Communities or Authorities of November 9, 1995 - [Electronic Resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/994_099
5. European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities - May 21, 1980 - [Electronic Resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/995_106
6. European Territorial Cooperation Groupings as a New Optimal Mechanism for Interterritorial and Transboundary Policies in Europe - [Electronic Resource]. - Access mode: <http://fmv-visnyk.pp.ua/wp-content/uploads/2016/2013-9/29.pdf>
7. The Law of Ukraine "On ratification of Protocol No. 3 to the European Convention on Transfrontier Co-operation between Territorial Communities or Authorities Regarding Euroregional Cooperation Groupings (ECG)" - May 16, 2012 - [Electronic resource]. - Access mode: <http://zakon4.rada.gov.ua/laws/show/4704-17>
8. The Law of Ukraine "On Transboundary Cooperation" - dated June 24, 2004 - [Electronic resource]. - Access mode: <http://zakon4.rada.gov.ua/laws/show/1861-15>
9. The Law of Ukraine "On Local Self-Government in Ukraine" - dated May 21, 1997 - [Electronic Resource]. - Access mode: <http://zakon2.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>
10. The Law of Ukraine "On Local State Administrations" - dated April 9, 1999 - [Electronic resource]. - Access mode: <http://zakon2.rada.gov.ua/laws/show/586-14>
11. Models and mechanisms of regulation of Euroregional cooperation of Ukraine: monograph / According to the commissions. Ed. I.V. Artyomova, O. M. Vashchuk, O. M. Rudenko. - Uzhhorod: MPP "Grazhda", 2013. - 612 p. - (Series "Eurointegration: Ukrainian Dimension", issue 21).
12. Protocol No. 2 to the European Convention on the Transfrontier Co-operation between Territorial Communities or Authorities concerning Inter-Territorial Cooperation of May 5, 1998 - [Electronic Resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/994_520
13. Protocol N 3 to the European Convention on the Transfrontier Co-operation between Territorial Communities or Authorities Regarding Euroregional Cooperation Groupings (ECG) of November 16, 2009 - [Electronic Resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/994_947
14. Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand - of November 30, 2015 - [Electronic resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/984_011