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## **LEGAL REGULATION OF TRANSFRONTIER AND INTERTERRITORIAL COOPERATION OF LOCAL AUTHORITIES OF PUBLIC POWER**

### **Fetko Yu. Legal Regulation of Transfrontier and Interterritorial Cooperation of Local Authorities of Public Power**

**Abstract.** The article is devoted to the study of legal regulation of transfrontier and interterritorial cooperation of local authorities of public power. The main international legal documents regulating international cooperation, in particular, transfrontier and interterritorial cooperation of local authorities of public power and which are ratified by our state are considered. An analysis of the legislative framework for the functioning of international cooperation of local authorities of public power is carried out.

**Key words:** *Council of Europe, European Union, Association Agreement, local authorities of public power, transfrontier cooperation, interterritorial cooperation, Euroregional Co-operation Groupings, European Grouping of Territorial Cooperation.*

#### **Problem statement and its relevance.**

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, and today, 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 life.

According to the Association Agreement, an important role is also given to the issue of transfrontier and interregional cooperation. In the preamble of this Agreement it is indicated that the Parties undertook to support transfrontier and interregional cooperation. It should be noted that this area of cooperation is even set out in Chapter 27 Transfrontier and regional cooperation Section V economic and industrial cooperation, which in turn clearly emphasizes the importance of using the instrument of cooperation [1].

For our state, which has a favorable geopolitical position, the potential of developing transfrontier and interterritorial cooperation with the local authorities of public power of 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 backward regions.

Undoubtedly, such cooperation with the local authorities of public power of neighboring and other states can only be effective under conditions of sufficient legal regulation both at the international and national levels.

**Analysis of recent research and publications.** It is important that the comprehensive study legal regulation of transfrontier and interterritorial cooperation of local authorities of public power was practically not studied by legal science. Individual works of lawyers in this field, including such as Yu. V. Chystiakova, I. S. Demchenko, I. A. Haliakhmetov, V. V. Kolodiadzhna, S. V. Papaiani,

O. O. Petryshyn, M. O. Petryshyna, O. B. Tsyklauri, Ye. O. Vasyliiev, Yu. O. Voloshyn, O. K. Vyshniakov, O. V. Zadorozhni, I. V. Zhylinkova etc. in essence, are reduced to the consideration of certain issues of legal regulation of relations of the state arising in the relevant field. However, despite the theoretical work of the scientists, the legislative support of transfrontier and interterritorial cooperation of local authorities of public power remains unnoticed.

Accordingly, the **purpose** of this article is to study the legislative provision of of transfrontier and interterritorial cooperation of local authorities of public power.

**Presenting main material.** The regional international organization, the pan-European scale — the Council of Europe created a pan-European legal framework for cooperation between local authorities of public power across borders.

Today, our state has joined all important international legal instruments in the field of international cooperation, in particular transfrontier and interterritorial cooperation of local authorities of public power.

In particular, the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities of May 21, 1980. The Convention is the main document aimed at promoting and developing cooperation between local authorities of public power across borders.

She consolidated two main terms — «transfrontier cooperation» — this is one of the types of international cooperation of local authorities of public power and «territorial communities or authorities» — actors of cooperation, that is, local authorities of public power.

The Convention also provides general principles for cooperation between local authorities of public power. It approved the formal legal framework and forms of participation of local authorities of public power in the implementation of such cooperation [2].

Also joined the equally important European legal act of the European Charter of

Local Self-Government, which has consolidated the right of local authorities of public power to international cooperation [3].

Finally, the Additional Protocol to the Convention of November 9, 1995, enshrined the right of local authorities of public power to enter into transfrontier cooperation agreements, and also consolidated the legal status of the body of transfrontier cooperation established in accordance with the concluded agreement on transfrontier cooperation between local authorities of public power [4]. And Protocol No. 3 to the Convention of November 16, 2009, subsequently, somewhat improved the legal status of the cooperation body [5].

Another important international legal instrument is Protocol No. 2 to the Convention of May 5, 1998, which deals with interterritorial cooperation. Which defined the international legal framework for interterritorial cooperation of local authorities of public power.

This protocol defines the concept of «interterritorial cooperation» — this is the second type of international cooperation of local authorities of public power.

Protocol No. 2 explains that in the Convention and the Additional Protocol the expression «transfrontier cooperation» is read as «interterritorial cooperation». That is, using Protocol 2, the articles of the Convention and the Additional Protocol can be applied not only to transfrontier, but also to interterritorial cooperation [6].

In the end, Protocol No. 3 to the Convention of November 16, 2009 refers to Euroregional Co-operation Groupings.

Protocol No. 3 contains rules that improve the legal status of the body of such cooperation as an Euroregional Co-operation Groupings. And establishes unified standards for their activities through the establishment of strict rules for the creation, membership, activities, at the same time, subject to compliance with the law of the resident state.

Protocol No. 3 to the Convention stipulates that the Euroregional Co-operation

Groupings 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 Euroregional Co-operation Groupings has the right for own budget, can conclude contracts, hire staff, acquire movable and immovable property and conduct procedural actions.

Members of the Euroregional Co-operation Groupings may be both local authorities of public power 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 [7].

Consequently, the above-mentioned documents are the basic international legal acts in the field of regulating international cooperation of local authorities of public power. However, their scope is limited to a specific international organization — the Council of Europe (all five documents are autonomous, joining them serves as a separate procedure).

Ukraine ratified the European Framework Convention on Transfrontier Cooperation between Territorial Communities or Authorities undertook obligations, on the one hand, to create such legislation that would enable local authorities of public power to effectively implement transfrontier cooperation and, on the other, to adapt legislation Ukraine to the European legal standards.

This is confirmed by the provisions of 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 transfrontier cooperation and to coordinate its activities with other actors in the event of such impediments [8].

In order to implement the provisions of the Convention, the Law of Ukraine «On Transfrontier Cooperation» of June 24, 2004 was developed. The law defines

the economic and organizational principles of transfrontier cooperation [9].

One should agree with the statement in the scientific publications that the Law declares high goals of transfrontier cooperation, the provision of powers to local executive authorities, local self-government bodies in the field of transfrontier cooperation, as well as legislative regulation of financial support for the development of transfrontier 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 [10].

Finally, in September 2018, the Verkhovna Rada of Ukraine adopted amendments to the Laws relating to transfrontier cooperation of local authorities of public power.

The Law of Ukraine «On Amendments to Certain Laws of Ukraine on Transfrontier Cooperation» of September 4, 2018 defines the notion, provisions on the creation and operation of Euroregional Co-operation Groupings.

Also, the concept of the European Grouping of Territorial Cooperation and the provisions governing the procedure for the establishment and operation of such a form of cooperation are defined. The law introduced transparent conditions for state support for transfrontier cooperation projects [11].

Finally, to the national legislation that regulates the institutional and organizational and legal mechanism for such cooperation, it's the Law of Ukraine «On Local Self-Government» of May 21, 1997 [12], the Law Of Ukraine «On Local State Administrations in Ukraine» of April 9, 1999 [13].

Thus, in our country there is a legislative basis for the functioning international cooperation of local authorities of public power. However, scholars-law point out that there is no proper harmonization of domestic normative legal acts in accordance with European legal standards in this area.

It means that despite the ratification of international legal instruments concerning this area of legal relations, the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, its Additional Protocols and European Charter of Local Self-Government it is not determined at the legislative level between the subjects and in what forms the cooperation of local authorities of public power with local authorities of public power of other states, that is, those who do not interfere with each other.

**Conclusion.** We came to the conclusion that international cooperation, such as transfrontier and interterritorial cooperation of local authorities of public power, can only be effective if sufficient legislative provision is provided.

Our state has ratified the main international legal instruments related to this area of legal relations, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, its Additional Protocols and European Charter of Local Self-Government.

However, national legislation, in particular, the Law of Ukraine «On Transfrontier Cooperation», the Law of Ukraine «On Local Self-Government in Ukraine» and the Law of Ukraine «On Local State Administrations» regulate the institutional and organizational and legal mechanism of one of the types of international cooperation of local authorities of public power, transfrontier cooperation.

Finally, at the legislative level, it is not defined which subjects and in what forms the cooperation of local authorities of public power with of local authorities of public power of other states, that is, those who do not interfere with each other, are implemented. Therefore, at the legislative level, there is no interterritorial cooperation between local authorities of public power of our state.

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