

THEORETICAL AND LEGAL PRINCIPLES OF CROSS-BORDER COOPERATION: SPECIFIC ISSUES

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Annotation. This article analyzes the conceptual framework of cross-border cooperation as a legal institution that has gained particular importance during Ukraine's European integration process. The research examines various theoretical perspectives from both Ukrainian and international scholars regarding the nature of cross-border cooperation, its classification among international interactions, and its regulatory characteristics.

The analysis establishes cross-border cooperation as a distinct form of international engagement between individuals and/or legal entities of different nationalities operating in border territories. This interaction occurs on a contractual basis with the aim of addressing shared challenges in border regions and enhancing the quality of life for local populations.

Six defining characteristics of cross-border cooperation are identified:

- contractual foundation of relationships;
- implementation between entities in territories adjacent to state borders;
- focus on cross-border movement of people, goods, services, and capital;
- specific participants (individuals/legal entities with different national affiliations);
- medium to long-term relationship duration;
- focus on resolving common issues and achieving socially beneficial outcomes for border populations.

The legal framework for cross-border cooperation in Ukraine has evolved considerably, particularly following the February 7, 2019 constitutional amendments that formalized Ukraine's European foreign policy direction, elevating this institution to a fundamental constitutional category. As globalization and regional integration progress, further regulatory development should focus on creating effective mechanisms for implementing cross-border projects, expanding regional and local authority powers, and aligning Ukrainian legislation with European standards.

Key words: cross-border cooperation, border regions, European integration, constitutional regulation, legal institution, Euroregions, international cooperation, cross-border projects.

1. Problem statement.

The study of cross-border cooperation has gained significance due to accelerating global integration processes and Ukraine's constitutional commitment to European integration. As international interactions intensify and the need to overcome border barriers for socioeconomic development of frontier regions grows, cross-border cooperation emerges as a crucial mechanism for implementing national foreign policy priorities at the regional level. Following the February 7, 2019 amendments to Ukraine's Constitution that established a European foreign policy vector, cross-border cooperation has been elevated to a fundamental constitutional category, necessitating comprehensive theoretical analysis and improved legal framework.

2. Literature Review:

The theoretical foundation of this research draws upon works by domestic and international scholars who have significantly contributed to cross-border cooperation theory. S.I. Ustych examines cross-border cooperation through the lens of cross-border societal systems with horizontal and vertical dimensions. A.Y. Stryzhakova proposes terminology including concepts of "region," "state border regime," "cross-border region," "border cooperation," and "Euroregion." M.I. Dolishniy characterizes it as a system of organizational, legal, and economic measures promoting border region development. I.O. Prus and M.D. Lesechko define it as a form of international relations at regional and local levels, while P.V. Lutsyshyn views it as a system of regional development regulation measures. N.A. Mikula's research deserves special attention for examining cross-border cooperation as a specific sphere of regional international activity with distinctive features. I.V. Artyomov emphasizes the role of territorial communities and local authorities in implementing cross-border cooperation.

3. Research Objective:

To conduct a thorough analysis of cross-border cooperation's conceptual and categorical framework, identify its essential characteristics and constitutional regulatory features, and develop recommendations for improving the regulatory framework in alignment with European standards and Ukrainian realities.

4. Presentation of the research material.

Cross-border cooperation is a category that accumulates various types of processes related to one goal - establishing ties between residents of neighboring states in order to improve the lives of the population of the regions involved.

According to the leading specialist in the field of research on the problems of cross-border cooperation S. I. Ustych, when analyzing the issue of cross-border cooperation, it is advisable to operate with the concept of a cross-border system (TS) of society. Thus, the scientist notes, the horizontal section of the cross-border system constitutes the main component series, which, as the scientist notes, includes cross-border needs and interests, subjects of cross-border activity, this activity itself, the objects at which it is aimed, the means by which it is carried out, as well as cross-border relations. The vertical section of the cross-border system is formed by its main subsystems: technical-production, economic, political and spiritual-specialized. From the point of view of the social scope, cross-border systems can act at three main levels: macro- (nationwide), meso- (regional) and micro- (local) [6, p. 36].

As a legal institution, cross-border cooperation has been actively developing throughout the years of Ukraine's independence, and with the adoption of the Constitution of Ukraine, Article 18 established the principle of peaceful and mutually beneficial cooperation of Ukraine with members of the international community. However, in the author's opinion, it was from February 7, 2019, after amendments were made to the Constitution of Ukraine, which enshrined the European vector of Ukraine's foreign policy in the Fundamental Law, that the institution of cross-border cooperation acquired the status of a basic constitutional category, which established the imperative of deepening international cooperation between states in all areas.

The globalization of social relations necessitates the state to focus its attention on such an important component of its state policy as cross-border cooperation, which creates legal prerequisites for overcoming border and customs barriers for the export-import movement of goods and services, in which an active role is assigned to local players. Cross-border cooperation creates a space that contributes to the improvement of the standard of living of all participants through the use of economic instruments, the creation of competitive prices for goods and services in demand in this region, taking into account established standards, and the "pull up" of the quality of the offered product to the European level.

In order to improve the legal regulation of cross-border cooperation at the constitutional and legal level in the future, let us consider the existing conceptual and categorical apparatus of the specified institute.

Scientist A.Yu. Stryzhakova to the terminology of cross-border cooperation, includes such concepts as: region, state border regime, cross-border region, border cooperation, Euroregion, subjects of cross-border cooperation, cross-border cooperation [7, p. 193].

There is no doubt that the basis of cross-border cooperation is the process of creating connections and contractual relations in border areas in order to find solutions to common and identical problems, and the "philosophy of cross-border cooperation" is that two adjacent border regions cooperate in the process of developing plans and choosing development priorities, and do not work separately, and then coordinate development plans for individual measures. Cross-border cooperation consists in involving all social groups of the population and administrative bodies in dialogue in all spheres of life [16, p. 216].

To derive our own definition of the studied category and to distinguish the features of cross-border cooperation, we will consider the meaning of the concepts of "cross-border", "cooperation" and outline the difference between cross-border and other types of cooperation.

Regarding the meaning of the concept of "cross-border", cross-border ("trans") in translation means "over", to transfer, to move, etc. Cooperation as a term is given by the Dictionary of the Ukrainian Language, according to which cooperation is considered joint activity, joint actions or work in any institution; participation as an author in the work of some printed organ [17]. Etymologically, the term "cooperation" has the same meaning as in private relations, namely: joint activity, complicity, partnership, interaction, etc. [18].

As noted by researcher N. A. Kostina, cooperation is the result of a voluntary and meaningful decision of its participants, it is not a one-time (fragmentary) action, but must have the following features: the subjects of cooperation must be legal entities and have appropriate political, legal and financial autonomy ...; they agree to work together on issues of local development that fall within their competence; such cooperation has its own price for each of the participants; the subjects of cooperation agree to provide appropriate resources to obtain mutual benefit, which would be unattainable in the case of their independent (isolated) activity; a clear period of implementation of such cooperation with established criteria and indicators for assessing its effectiveness must be determined. Therefore, the formation of an attractive investment climate, strengthening the capacity of the relevant participating communities to cooperate with international (donor) organizations, investors to attract the necessary resources for the effective implementation of local development programs and projects, and the development of public-private partnership are the main useful results of this type of activity [19, p. 69].

Regarding the understanding of the concept of cross-border cooperation in domestic science, the opinions of scientists are formed as follows.

Scientist M. I. Dolishny characterizes cross-border cooperation as a set of organizational, legal, and economic measures that, using appropriate administrative levers and financial and economic instruments, ensure the stimulation of effective, proportional, and balanced economic development of border regions, rational and economical use of their resource potential with the aim of raising the standard of living and quality of life of the population with maximum preservation of the natural environment for the functioning of productive forces [8, p. 51].

I.O. Prus and M.D. Lesechko define cross-border cooperation as a form of international relations at the regional and local levels, which combines the capabilities and resources of border territories of neighboring states to solve common problems, which contributes to the socio-economic development of border territories [9, p. 63].

P.V. Lutsyshyn considers cross-border cooperation in border areas, which he defines as a system of measures aimed at regulating the development of regions in order to achieve set goals" [10, p. 23].

As some domestic scientists point out in their study, "... The concept of "Trans-border cooperation" (trans-border, trans-boundary, transfrontier, cross-border cooperation) is literally interpreted as "through border cooperation" [20, p. 9], and referring to the "European Framework Convention on Transfrontier Cooperation between

Territorial Communities or Authorities, 1980" they define it as any joint actions aimed at strengthening and deepening good-neighborly relations between territorial communities or authorities under the jurisdiction of two or more Contracting Parties, and at concluding any necessary agreements or reaching agreements for this purpose..." [15]. Researcher N.A. Mikula characterizes cross-border cooperation as various kinds of contacts (connections) of people that can lead to the emergence of joint activities: family and socio-humanitarian contacts, border trade; economic cooperation; mutual assistance in emergency situations, in the fight against smuggling, illegal migration; joint use of natural resources, environmental protection measures; ecological safety and territorial (spatial) planning and development of the territory, etc. [22, p. 130]. The researcher also defines cross-border cooperation as a specific sphere of foreign economic, political, environmental, cultural and educational and other types of international activity carried out at the regional level, which, covering all their general forms, is distinguished by the need and opportunities for their more active use, as well as a number of features, namely the presence of a border and the need for its arrangement, the joint use of natural resources and, accordingly, the joint solution of environmental safety problems, wider mutual communication of the population of neighboring states and personal ties of people, a significantly higher load on infrastructure (roads, communications, service sector, roadside infrastructure), etc. [21, p. 14].

Leading scientist I. V. Artyomov understands cross-border cooperation as joint actions of territorial communities or local authorities on both sides of the border aimed at solving a specific problem of a cross-border nature, or cooperation in a separate industry where they have common interests. That is, we are talking about mutual contacts between local self-government bodies or local state authorities. This circumstance is fundamental in assessing the state and determining ways for further development of cross-border cooperation [12, p. 10].

Therefore, it follows that the cross-border nature of cooperation means joint activities or joint actions carried out with movement across the line that defines the borders of the state territory. A mandatory difference between this type of activity and others is the specific procedure for its implementation - with the movement of the results of the activity beyond the borders of the state territory.

Considering the positions on the result of cross-border cooperation, we state that scientists mainly define the result of cross-border cooperation as "solving common problems that arise in the cross-border region" (Z.S. Varnalii [23, p. 463]), "solving a specific problem of a cross-border nature, or cooperation in a separate field where they have common interests, improving the quality of life of border residents" (I.V. Artyomov [12, p. 10]), "the emergence of joint activities" (N.A. Mikula [22, p. 130]). We agree with the scientists and note that in addition to solving common problems, cross-border cooperation creates an effect of improving the standard of living of the population in the cross-border region.

So, having considered the above interpretations, we propose the following definition of the concepts of "cross-border" and "cooperation" within the framework of the subject of our study. Thus, the concept of "cross-border" in our opinion means one that interacts through territories bordering the state border, is implemented with the movement of people, goods, services, capital across the state border, and is characterized by different state affiliation of its subjects.

In turn, "cooperation" is such an organization on a contractual basis of the process of interaction between individuals and/or legal entities, as a result of which connections are established aimed at the medium and long term in order to find ways to solve common and identical problems and achieve a socially beneficial effect of improving the standard of living of the population.

Signs of cross-border cooperation:

1. interaction of individuals and/or legal entities occurs on a contractual basis;
2. interaction occurs between individuals and/or legal entities operating in territories bordering the state border;
3. contractual relations are aimed at the movement of people, goods, services, capital across the state border;
4. carried out only by individuals and/or legal entities with different countries of state registration (i.e. characterized by the presence of special entities);

5. established ties are aimed at the medium and long term;

6. interaction of individuals and/or legal entities is carried out with the aim of finding ways to solve common and identical problems of the territories of different states and achieving a socially beneficial effect of improving the living standards of the population of these territories.

Regarding the place of cross-border cooperation among other types of cooperation in the global context, we agree with the scientist N.A. Mikula, who defines cross-border cooperation as a type of international cooperation of regions, to which the scientist, in addition to cross-border, also includes inter-territorial and inter-regional [24, p. 11].

5. Conclusions.

Based on the conducted study of the conceptual and categorical apparatus of cross-border cooperation, it is possible to formulate its definition as a special type of international interaction of individuals and/or legal entities of different nationalities, operating in territories bordering the state border, carried out on a contractual basis in order to solve common problems of border regions and improve the standard of living of their population. The key features of cross-border cooperation are the contractual nature of relations, a special subject composition, a focus on the movement of people, goods, services and capital across the state border, the medium- and long-term nature of the established ties, as well as an orientation towards achieving a socially beneficial effect.

The legal regulation of cross-border cooperation in Ukraine has undergone significant evolutionary changes, gaining particular importance after the constitutional consolidation of the European vector of the state's foreign policy in 2019. In the context of globalization and regional integration, further improvement of the regulatory framework in this area should be aimed at creating effective mechanisms for implementing cross-border projects, expanding the powers of regional and local authorities in implementing cross-border cooperation, and harmonizing Ukrainian legislation with European standards.

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