

# CROSS-BORDER COOPERATION AS A LEGAL INSTITUTION: CONCEPTUAL APPARATUS AND REGULATION

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**Annotation.** The article examines the conceptual and categorical apparatus of cross-border cooperation as a constitutional and legal institution in Ukraine. The study analyzes the evolution of its legal regulation, with particular emphasis on the constitutional amendments of February 7, 2019, which enshrined Ukraine's European integration course at the fundamental law level and elevated cross-border cooperation to the status of a basic constitutional category. Drawing on the works of leading domestic scholars - S.I. Ustych, A.Yu. Stryzhakova, M.I. Dolishnyi, I.O. Prus, M.D. Lesechko, P.V. Lutsyshyn, N.A. Mikula, I.V. Artyomov, Z.S. Varnalii, and others - the article critically examines existing definitions and approaches to understanding cross-border cooperation in Ukrainian legal science. The article clarifies the content of the key terms «cross-border» and «cooperation,» identifies the essential features of cross-border cooperation, and proposes an original definition of this legal category. Cross-border cooperation is defined as a special form of international interaction of individuals and/or legal entities of different nationalities operating in territories bordering the state boundary, carried out on a contractual basis with the aim of solving common problems of border regions and improving the living standards of their population. The article further outlines the principal features distinguishing cross-border cooperation from other forms of international activity, including the contractual nature of relations, special subject composition, focus on the cross-border movement of people, goods, services and capital, the medium- and long-term character of established ties, and orientation toward achieving a socially beneficial effect. Proposals are formulated for improving the regulatory framework in the field of cross-border cooperation in line with European standards and Ukrainian realities.

**Key words:** cross-border cooperation; conceptual and categorical apparatus; constitutional and legal regulation; border region; Euroregion; European integration; territorial communities; local self-government; transfrontier cooperation; European Outline Convention.

## 1. Introduction.

The relevance of the study of cross-border cooperation is due to the intensification of globalization processes in the world and the European integration course of Ukraine, enshrined at the constitutional level. In the context of increased international interaction and the need to overcome border barriers to stimulate the socio-economic development of border regions, cross-border cooperation acquires special importance as an effective mechanism for implementing the state's foreign policy priorities at the regional level. After amendments to the Constitution of Ukraine on February 7, 2019 and the consolidation of the European vector of foreign policy, the institution of cross-border cooperation acquired the status of a basic constitutional category, which necessitates its comprehensive scientific and theoretical understanding and improvement of legal regulation.

## 2. Status of the study of the problem.

The theoretical basis of the study is the works of domestic and foreign scientists who have made a significant contribution to the development of the concept of cross-border cooperation. In particular, S.I.

Ustych considers cross-border cooperation through the prism of a cross-border system of society with horizontal and vertical sections. A.Yu. Stryzhakova offers a terminological apparatus of cross-border cooperation, which includes the concepts of "region", "state border regime", "cross-border region", "border cooperation", "Euroregion" and others. M.I. Dolishny characterizes cross-border cooperation as a system of organizational, legal and economic measures to stimulate the development of border regions. I.O. Prus and M.D. Lesechko define it as a form of international relations at the regional and local levels, and P.V. Lutsyshyn - as a system of measures to regulate the development of regions. Special attention deserves the research of N.A. Mikula, who considers cross-border cooperation as a specific sphere of international activity of regions with characteristic features. I.V. Artyomov focuses on the role of territorial communities and local authorities in the implementation of cross-border cooperation.

**3. The purpose of the study** is a comprehensive analysis of the conceptual and categorical apparatus of cross-border cooperation, the identification of its essential features and features of legal regulation at the constitutional level, as well as the development of proposals for improving the regulatory framework in the field of cross-border cooperation, taking into account 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, we will 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 the dialogue in all spheres of life [16, p. 216].

To derive our own definition of the studied category and identify 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 researcher N. A. Kostin notes, 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 benefits that would be unattainable in the case of their independent (isolated) activities; a clear period of implementation of such cooperation should be determined with established criteria and indicators for assessing its effectiveness [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 territories, 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; environmental security 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, and which, covering all their general forms, is distinguished by the need and possibilities of their more active use, as well as a number of features, namely - the presence of a border and the need for its development, joint use of natural resources and, accordingly, joint solutions to environmental security 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 field 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 the further development of cross-border cooperation [12, p. 10].

So, 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. An obligatory difference between this type of activity and others is the specific procedure for its implementation - with the movement of the results of activity beyond 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 offer 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. is carried out only by individuals and/or legal entities with different countries of state registration (i.e. are characterized by the presence of special entities);

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

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 living standards 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 a significant evolutionary path, acquiring special 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.

#### References:

1. Bielov, D. M., & Honcharuk, V. V. (2021). Teoretyko-pravovi zasady zdiisnennia transkordonnoho spivrobitnytstva: okremi aspekty [Theoretical and legal foundations of cross-border cooperation: selected aspects]. *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Serii Pravo*, (68), 131–137. <https://visnyk-juris-uzhnu.com/wp-content/uploads/2022/03/23.pdf>
2. Bielov, D. M., & Honcharuk, V. V. (2021). Pravovyi status orhaniv transkordonnoho spivrobitnytstva: normatyvno-pravovi zasady [Legal status of cross-border cooperation bodies: regulatory framework]. *Analychno-porivnialne pravoznavstvo*, (3), 255–260. <https://dspace.uzhnu.edu.ua/items/227c592b-bd91-423f-b07e-9c02d9e67f93>
3. Bielov, D. M., Hromovchuk, M. V., & Bilak, O. P. (2022). Mizhmunitsypalne spivrobitnytstvo v strukturi transkordonnoho spivrobitnytstva [Inter-municipal cooperation within the structure of cross-border cooperation]. *Naukovyi visnyk UzhNU. Serii «Pravo»*, (72(4)), 226–231. <http://visnyk-pravo.uzhnu.edu.ua/article/view/267802>
4. Bilak, O. P. (2020). Yevropeiske obiednannia terytorialnoho spivrobitnytstva v Ukraini v umovakh yevrointehratsii [The European grouping of territorial cooperation in Ukraine in the context of European integration]. *Visegrad Journal on Human Rights*, 1(2), 180–185. <https://journal-vjhr.sk/wp-content/uploads/2021/11/VJHR-220-Last.pdf>
5. Bilak, O. P. (2020). Yevropeiski orhany terytorialnoho spivrobitnytstva v Ukraini [European bodies of territorial cooperation in Ukraine]. *Regionalna Revue*, 1(2), 30–35.
6. Ustych, S. I. (2019). Transkordonni spivrobitnytstvo yak element transkordonnoii systemy suspilstva: horizontalnyi ta vertykalnyi krizy [Cross-border cooperation as an element of the cross-border system of society: horizontal and vertical dimensions]. *Rehionalni studii*, (3), 35–41.
7. Stryzhakova, A. Yu. (2020). Terminolohichni aparat transkordonnoho spivrobitnytstva: teoretyko-metodolohichni pidkhody [Terminology of cross-border cooperation: theoretical and methodological approaches]. *Publichne upravlinnia ta mytne administruvannia*, (2), 192–198.

8. Dolishnii, M. I. (2018). Rehionalna polityka na rubezhi XX–XXI stolit: novi priorytety [Regional policy at the turn of the 20th–21st centuries: new priorities] (294 s.). Naukova dumka.
9. Prus, I. O., & Lesechko, M. D. (2018). Transkordonna spivrobitnytstvo yak faktor yevrointehratsiinykh protsesiv Ukrainy [Cross-border cooperation as a factor of European integration processes of Ukraine]. *Efektivnist derzhavnoho upravlinnia*, (26), 62–70.
10. Lutsyshyn, P. V. (2019). Yevropeiski intehratsiini protsesy: formuvannia yedynoho rynku [European integration processes: formation of the single market] (320 s.). Vezha.
11. Varnalii, Z. S. (2020). Transkordonna spivrobitnytstvo rehioniv v umovakh mizhnarodnoi ekonomichnoi intehratsii [Cross-border cooperation of regions in conditions of international economic integration]. *Ekonomika Ukrainy*, (2), 78–85.
12. Artiimov, I. V. (2019). Transkordonna spivrobitnytstvo yak vazhlyvyi chynnyk pidvyshchennia rehionalnoi konkurentospromozhnosti [Cross-border cooperation as an important factor in increasing regional competitiveness]. *Naukovyi visnyk Uzhhorodskoho universytetu. Serii: Ekonomika*, (2(54)), 15–22.
13. Mikula, N. A. (2019). Transkordonna spivrobitnytstvo Ukrainy v konteksti yevrointehratsii [Cross-border cooperation of Ukraine in the context of European integration]: monohrafiia (302 s.). NISD.
14. Kostina, N. A. (2021). Rozvytok publichno-pryvatnoho partnerstva v konteksti aktyvizatsii transkordonnoho spivrobitnytstva [Development of public-private partnership in the context of intensification of cross-border cooperation]. *Derzhavne upravlinnia ta mistseve samovriaduvannia*, (4), 118–125.
15. Yevropeiska ramkova konventsiiia pro transkordonna spivrobitnytstvo mizh terytorialnymy obshchynamy abo vlastiamy [European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities]. (1980, May 21). Council of Europe. [https://zakon.rada.gov.ua/laws/show/995\\_106#Text](https://zakon.rada.gov.ua/laws/show/995_106#Text)
16. Association of European Border Regions (AEBR). (2000). Practical guide to cross-border cooperation (3rd ed.). AEBR / European Commission (Phare). [https://www.aebr.eu/files/publications/lace\\_guide\\_en.pdf](https://www.aebr.eu/files/publications/lace_guide_en.pdf)
17. Bilodid, I. K. (Ed.). (1978). *Slovyk ukrainskoi movy: v 11 tomakh* [Dictionary of the Ukrainian language: in 11 volumes] (Vol. 9, p. 520). Naukova dumka.
18. Bakumenko, V. (Ed.). (2002). *Derzhavne upravlinnia: slovyk-dovidnyk* [Public administration: reference dictionary] (228 s.). UADU.
19. Kostina, N. A. (n.d.). Rozvytok spivrobitnytstva terytorialnykh hromad v umovakh reformuvannia mistsevoho samovriaduvannia v Ukraini [Development of cooperation of territorial communities in the context of local self-government reform in Ukraine] (Dysertaciia na zdobuttia naukovooho stupenia kandydata nauk z derzhavnoho upravlinnia, spets. 25.00.04, 210 s.).
20. Miklovda, V. P., Hazuda, L. M., Diachenko, B. I., & Lizanets, O. V. (2012). *Prykordonne spivrobitnytstvo: rehionalni transformatsii i perspektyvy* [Border cooperation: regional transformations and prospects] (121 s.). Vydavnytstvo FOP Breza A. E.
21. Mikula, N. A., & Tolkovaniv, V. V. (2011). *Transkordonna spivrobitnytstvo: Posibnyk* [Cross-border cooperation: A guide] (188 s.). Kramar.
22. Mikula, N. A. (2008). *Stratehiia formuvannia ta pidtrymky rozvytku transkordonnykh klasteriv* [Strategy for formation and support of cross-border cluster development]. In Ye. I. Boiko (Ed.), *Sotsialno-ekonomichni*

problemy suchasnoho periodu Ukrainy. Klastery ta konkurentospromozhnist prykordonnykh rehioniv: zb. nauk. prats (Vyp. 3(71), s. 130–132). NAN Ukrainy, In-t rehionalnykh doslidzhen.

23. Varnalii, Z. S. (2006). Problemy ta priorytety konsolidatsii rehioniv Ukrainy [Problems and priorities of consolidation of Ukrainian regions]. In O. S. Vlasiuk (Ed.), *Ukraina: stratehichni priorytety. Analitychni otsinky*. 2006: monohrafia (s. 462–466). NISD.
24. Mikula, N. A. (2004). *Mizhterytorialne ta transkordonni spivrobotnytstvo [Inter-territorial and cross-border cooperation]* (220 s.). IRD NAN Ukrainy.

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