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Volume 21

Cross-border Cooperation in Europe between Successes and Limits

Edited by

Constantin-Vasile ȚOCA, Klára CZIMRE & Vasile CUCERESCU

References by

Fabienne MARON & Ernő MOLNAR



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Editors-in-chief: **Ioan HORGA** (*Oradea*) and **István SÜLI-ZAKAR** (*Debrecen*)

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Cuprins ◇ *Contents* ◇ *Sommaire* ◇ *Inhalt* ◇ *Tartalom*

Constantin-Vasile ȚOCA (Oradea) and Klára CZIMRE (Debrecen) ◀▶ Cross-border Cooperation at the EU Internal and External Borders	7
I. Cross-border Cooperation in Old Europe and New Europe.....	21
Willem MOLLE (Rotterdam) ◀▶ Half a Century of Cross-border Cooperation in Europe. Insights from the Cases of the EUREGIO and the EMR.....	23
Khrystyna PRYTULA (Lviv) and Yaroslava KALAT (Lviv) ◀▶ Directions of Cross-border Cooperation Intensification in the Framework of the Euroregion ‘Upper Prut’: Ukrainian-Romanian Borderlands	49
Maria GĂVĂNECI (Cluj-Napoca) ◀▶ Cross-border Cooperation through Mass Media Representation. The Case of Russia-Estonia Border.	67
II. Cross-border Cooperation at the edge of the EU	87
Marta PACHOCKA (Warsaw) ◀▶ Importance of Migration and Border Management Issues for the Cross-border Cooperation Poland–Belarus–Ukraine in the Period 2014–2020 under the European Neighbourhood Instrument	89
Vasile CUCERESCU (Kishinev) ◀▶ EU Cross-border Cooperation in Eastern Europe	107
Lucian JORA (Bucharest) ◀▶ Considerations Regarding Cross-border Cultural and Academic Cooperation Programs between EU and the South and Eastern Mediterranean Countries – The Case of Cultural and Academic Exchanges.....	129
III. The Challenges of Cross-border Cooperation at the Romanian – Hungarian joint border.....	141
Edina Lilla MÉSZÁROS (Oradea) ◀▶ The Evaluation of Police Cooperation between Hungary and Romania in the Fight against Cross-border Financial Criminal Activities	143
Klára CZIMRE (Debrecen), Constantin-Vasile ȚOCA (Oradea), Roland Hegedús (Debrecen) and Károly Teperics (Debrecen) ◀▶ Impacts of Study-driven International Migration on Cross-border Co-operations – Case Study: Debrecen-Oradea	157
Mirela MĂRCUȚ (Oradea) ◀▶ Using Digital Technologies to Strengthen Cross-border Cooperation. A Brief Evaluation of the Use of the Internet in HU-RO Cross-border Cooperation Projects	171

IV. Focus.....	181
István SÜLI-ZAKAR (Debrecen) ◀▶ Successes and Failures in the CBC History of East Europe (Retrospection to the three decades of my CBC activities and researches).....	183
Book Reviews	205
Luminița ȘOPRONI (Oradea) ◀▶ Frontier, Economy and Globalization	207
Diana COSTA (Oradea) ◀▶ The Utility of Borders	211
Cosmin CHIRIAC (Oradea) ◀▶ Eastern Partnership in the Context of EU-Russia Relations.....	217
Alina-Carmen BRIHAN (Oradea) ◀▶ The European Union in the Twenty-first Century – What Kind of Empire?	225
Edina Lilla MÉSZÁROS (Oradea) ◀▶ What Role for Culture and Paradiplomacy in the European Union?.....	235

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The Evaluation of Cross-border Cooperation at the Frontiers of EU/
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Importance of Migration and Border Management Issues for the Cross-border Cooperation Poland–Belarus–Ukraine in the Period 2014–2020 under the European Neighbourhood Instrument¹

*Marta PACHOCKA**

Abstract. *Following Poland's accession to the EU its borders with non-EU Member States became at the same time the EU's external borders. In the east Poland borders Belarus and Ukraine. The length of Poland–Belarus border is 418.24 km and of Poland-Ukraine border – 535.18 km, which totals 953.42 km, and constitutes 27% of the whole length of Polish borders. The aim of the article is to discuss briefly the place and importance of migration and border management issues within the cross-border cooperation at Poland's eastern border (and the EU's eastern external border) under the European Neighbourhood Instrument Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020 to draw a cross-section picture of the current situation and its circumstances. The programme for the years 2014–2020 identifies four priorities for cooperation in the geographic area concerned, among which the last one focuses on promotion of border management and border security, mobility and migration management.*

Key words: *Poland, Ukraine, Belarus, European Union, EU, European Neighbourhood Instrument Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020, border management*

Introduction

Following Poland's accession to the EU in 2004 its borders with non-EU Member States became at the same time the EU's external borders. In the east Poland borders two non-EU states, i.e. Belarus and Ukraine. The length of Poland-Belarus border is 418.24 km and of Poland-Ukraine border – 535.18 km, which totals 953.42 km, and constitutes 27% of the whole length of Polish borders. The aim of the article is to discuss the place and importance of migration and border management issues within the cross-border cooperation at Poland's eastern border (and the EU's eastern external border) under the European Neighbourhood Instrument Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020 to draw a cross-section picture of the current situation and its circumstances. The programme for the years 2014–2020 identifies four priorities for cooperation in the geographic area concerned, among which the last one mentioned

¹ This article was prepared on the basis of the results of the research no. KES/BMN/15/03/15 on “Comparative study of immigration policy in selected member states of the European Union: conditions, solutions, consequences. Conclusions and recommendations for Poland. Part II,” conducted at the Collegium of Socio-Economics of Warsaw School of Economics in 2015 and co-financed by the Polish Ministry of Science and Higher Education in the framework of “Young Scientists' Research Grants”.

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focuses on promotion of border management and border security, mobility and migration management.

How to define cross-border cooperation (CBC) in the EU context?

Integration processes in contemporary Europe are manifested among other things, in different forms of cross-border cooperation². Cooperation between border areas or regions has a long tradition in Europe starting in 1960s of the 20th century in Western Europe. It was reflected in the emergence of the so-called “Europe of regions”³. CBC is carried out at different levels and in various forms, but mainly it is based on local and regional resources and development potentials. In Europe, we can identify some key arguments for the development of cross-border cooperation, divided into four groups, including⁴:

1. historical factors – they are based on the common cultural heritage of Europe and European border countries; local communities often use this heritage as a reference point to act together and cooperate in different fields;
2. political factors – cross-border cooperation is an important stabilizing factor; it also enforces broadly understood socio-economic development, shapes neighbourly ties and cooperation, and stimulates the process of European integration;
3. economic factors – they refer to the use of a common economic potential and the promotion of the growth of economic activity in border regions in order to increase competitiveness and to even out the levels of development;
4. social factors – the objective is to establish contacts between communities in neighbouring countries, overcome barriers and mutual prejudices, develop better mutual understanding, build bridges between the inhabitants of neighbouring regions.

There is no one commonly accepted definition of cross-border cooperation, also called transfrontier one. There are, however, different approaches to this issue, often conditioned by the perspective of a specific scientific discipline or an institution/stakeholder (e.g. the EU or national public authorities). In studies, literature and practice, we have different explanations. Often the understanding of cross-border region is based on the criterion of administrative division of the state, which for example in Poland corresponds to the voivodships (provinces).

² Główny Urząd Statystyczny, Urząd Statystyczny we Wrocławiu [Central Statistical Office, Statistical Office in Wrocław], *Euroregiony w nowym podziale terytorialnym Polski* [Euroregions in the new administrative division of Poland], ed. Bożena Kodeniec et al. (Warszawa, Wrocław: Główny Urząd Statystyczny, 1999), 3.

³ Małgorzata Lechwar, “Instytucjonalne podstawy europejskiej współpracy transgranicznej” [Institutional basis of European transborder cooperation], in *Spójność społeczno-ekonomiczna a modernizacja regionów transgranicznych* [Socio-economic cohesion and modernization of cross-border regions], ed. Michał Gabriel Woźniak (Rzeszów: Wydawnictwo Uniwersytetu Rzeszowskiego, 2008), 34; Jan Wendt, “Współpraca regionalna Polski w Europie Środkowej” [Poland’s regional cooperation in Central Europe], *Studia Europejskie* [European Studies] no. 4 (1998), 139; Stanisław Parzymies, “Europa regionów” [Europe of regions], *Sprawy Międzynarodowe* [International Affairs] no. 3 (1994), 18–19; Główny Urząd Statystyczny, Urząd Statystyczny we Wrocławiu, 10.

⁴ Bogdan Kawałko, “Wybrane problemy polsko-ukraińskiej współpracy transgranicznej” [Selected problems of Polish-Ukrainian cross-border cooperation], *Barometr Regionalny* [Regional Barometer] no. 2 (2011), 35–36. See more in: Główny Urząd Statystyczny, Urząd Statystyczny we Wrocławiu.

One of the most commonly invoked definitions of the cross-border (transfrontier) cooperation was proposed by the Council of Europe in *the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities* (“the Madrid Convention”) launched in May 1980⁵. The treaty came into force in December 1981 after having been ratified by at least four states⁶. The convention provides a legal framework for the establishment of cross-border regions. As of December 2016, it has been ratified by 39 Member States of the Council of Europe. In addition, two signatories did not ratify the convention, i.e. Iceland and Malta⁷. So far, the convention was supplemented by three protocols⁸:

1. *Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities*⁹,
2. *Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation*¹⁰,
3. *Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs)*¹¹.

Article 2 paragraph 1 of the Madrid Convention states that “transfrontier co-operation shall mean any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose. Transfrontier co-operation shall take place in the framework of territorial communities’ or authorities’ powers as defined in domestic law¹². The scope and nature of such powers shall not be altered by this Convention”¹³. Moreover, with reference to the paragraph 2 of the same article, the territorial communities or authorities can be understood as “communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each State”¹⁴.

As stipulated in the preamble of the convention of 1980, the CBC could comprise such different fields as “regional, urban and rural development, environmental protection,

⁵ Council of Europe, *European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities*, Madrid, 21.05.1980, ETS No. 106.

⁶ Council of Europe, *Details of Treaty No. 106*, accessed January 20, 2016, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/106>.

⁷ Council of Europe, *Chart of Signatures and Ratifications of Treaty 106*, accessed January 20, 2016, https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/106/signatures?p_auth=aaIYWNoJ.

⁸ Council of Europe, *Protocols*, accessed January 20, 2016, https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/en_GB/7767269.

⁹ Council of Europe, *Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities*, Strasbourg, 09.11.1995, ETS No. 159.

¹⁰ Council of Europe, *Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation*, Strasbourg, 05.05.1998, ETS No. 169.

¹¹ Council of Europe, *Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs)*, Utrecht, 01.03.2013, CETS No. 206.

¹² *Challenges and Perspectives in the Regional and Euroregional Issues in the New Europe*, ed. Ioan Horga and István Süli-Zakar (Oradea-Debrecen: Institute for Euro-regional Studies Oradea-Debrecen, 2006), 22.

¹³ Council of Europe, *European Outline Convention*, art. 2.

¹⁴ *Ibid.*

the improvement of public facilities and services and mutual assistance in emergencies”. Also, this cooperation could contribute not only to the improvement and development of border regions and their socio-economic progress but also to the spirit of fellowship uniting the societies across Europe¹⁵.

According to *the European Charter for Border and Cross-border Regions* adopted by the Association of European Border Regions (AEBR) in Euregio (Germany/Netherlands) in November 1981, amended in 1995 and 2004, and then opened to a new review in 2011, cross-border cooperation contributes to the mitigation of the disadvantages of borders, “overcome the peripheral status of the border regions in their country, and improve the living conditions of the population. It encompasses all cultural, social, economic and infrastructural spheres of life”¹⁶. Cross-border cooperation takes place at the different levels, including regional and local ones, and involves various social stakeholders and segments of the people across international borders¹⁷. The added-value of the European CBC is multidimensional, encompassing political, institutional, socio-economic and socio-cultural areas (**table 1**).

Table 1. *Dimensions of the added-value of the CBC in Europe*

Political added value	Institutional added value
<ul style="list-style-type: none"> • the development of Europe and European integration; • getting to know each other, getting on together, understanding each other and building trust; • the implementation of subsidiarity and partnership; • increased economic and social cohesion and cooperation; • preparing for the accession of new members; • using EU funding to secure cross-border cooperation via multiannual programmes, and ensuring that the necessary national and regional co-financing is committed in the long term. 	<ul style="list-style-type: none"> • active involvement by the citizens, authorities, political and social groups on both sides of the border; • secure knowledge about one's neighbour (regional authorities, social partners, etc.); • long-term cross-border cooperation in structures that are capable of working efficiently: <ul style="list-style-type: none"> - as a vertically and horizontally functioning partnership, despite having different structures and areas of responsibility; - as a legally accepted target of aid and a working partner, receiving and administering funds; • joint drafting, implementation and financing of cross-border programmes and projects.
Socio-economic added value	Socio-cultural added value
<ul style="list-style-type: none"> • the mobilisation of endogenous potential by strengthening the regional and local levels as partners for and initiators of cross-border cooperation; • the participation of actors from the economic and social sectors (for example, chambers of commerce, associations, companies, trade unions, cultural and social institutions, environmental 	<ul style="list-style-type: none"> • lasting, repeated dissemination of knowledge about the geographical, structural, economic, socio-cultural and historical situation of a cross-border region (including with the media's help); • the overview of a cross-border region afforded in maps, publications, teaching material, and so on;

¹⁵ Council of Europe, *European Outline Convention*, preamble.

¹⁶ Association of European Border Regions (AEBR), *Draft New Version: The European Charter for Border and Cross-border Regions*, Gronau, 15.09.2011, 3, accessed January 20, 2016, http://www.aebr.eu/files/publications/110915_Charta_EN_clean.pdf.

¹⁷ Ibid.

<p>organisations and tourism agencies);</p> <ul style="list-style-type: none"> • the opening up of the labour market and harmonisation of professional qualifications; • additional development, e.g. in the fields of infrastructure, transport, tourism, the environment, education, research and cooperation between small and medium-sized enterprises, and also the creation of more jobs in these areas; • lasting improvements in the planning of spatial development and regional policy (including the environment); • the improvement of cross-border transport infrastructure. 	<ul style="list-style-type: none"> • the development of a circle of committed experts (multipliers), such as churches, schools, youth and adult educational establishments, the conservation authorities, cultural associations, libraries, museums, and so forth; • equal opportunities and extensive knowledge of the language of the neighbouring country or of dialects as a component of cross-border regional development and a prerequisite for communication.
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Source: Association of European Border Regions (AEBR), *Draft New Version: the European Charter for Border and Cross-border Regions*, Gronau, 15.09.2011, 11–13, accessed January 20, 2016, http://www.aebr.eu/files/publications/110915_Charta_EN_clean.pdf.

Cross-border cooperation is also considered to be a process through which local and regional communities together with the structures of self-government (public authority) unite their efforts to jointly solve problems, despite the state border that separates them. Moreover, cross-border cooperation can be defined as a special form of international (foreign) cooperation, which is distinguished by two main features: proximity of contacts (it applies to directly adjacent border areas) and regional or local level of cooperation¹⁸. Cross-border cooperation is a broader concept than Euroregional cooperation as it does not require common structures on both sides of the border. This is a functional component that is emphasized in CBC, referring to the subject and objectives of this cooperation, while the concept of Euroregional cooperation draws from various forms of cross-border cooperation. Cross-border cooperation takes on the characteristics of Euroregional cooperation only when permanent and institutional forms of collaboration are established. The concept of Euro-regional cooperation underlines the importance of a structural element, and thus the institutional and legal framework of this cooperation¹⁹.

In the EU cross-border cooperation is one of the available forms of European Territorial Cooperation (ETC), known as Interreg, which also encompasses transnational and interregional cooperation. Interreg A focuses on cross-border cooperation (called European CBC), Interreg B refers to transnational cooperation and Interreg C is dedicated to interregional cooperation. Currently, ETC is implemented under the fifth programming period for the years 2014–2020 called INTERREG V²⁰. Interreg co-finances also regional development collaboration programmes outside the EU, including²¹:

¹⁸ Główny Urząd Statystyczny, Urząd Statystyczny we Wrocławiu, 11.

¹⁹ Ibid. See more in: Witold Toczyski, Witold Sartorius, and Jacek Zaucha (eds), *Międzynarodowa współpraca regionów. Wybór ekspertyz: praca zbiorowa* [International cooperation of the regions. Selected expertises: collective work] (Warszawa: Przedświt, 1997); Dorin Dolghi and Ioan Horga, “The Relationship between Political Europe and Cultural/Geographical Europe,” in *Oltre I confine: l’UE fra integrazione interna e relazioni esterne*, ed. Giuliana Laschi (Bologna: Il Mulino, 2012), 73–74.

²⁰ European Commission, Directorate-General for Regional and Urban Policy, *European Territorial Co-operation*, accessed January 20, 2016, http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/.

²¹ European Commission, Directorate-General for Regional and Urban Policy, *Regional Development Co-operation Programmes Outside the EU*, accessed January 20, 2016, http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/outside-the-eu/.

- Instrument for Pre-Accession Assistance (IPA) cross-border cooperation programmes,
- European Neighbourhood Instrument (ENI) cross-border cooperation programmes.

Currently, CBC could be implemented in two dimensions²²:

1. at the EU internal borders among Member States (Interreg A),
2. at the EU external borders dedicated to two groups of countries:
 - a) candidates for EU membership or potential candidates (Interreg Instrument for Pre-accession Assistance (IPA II)),
 - b) EU neighbouring countries in the East and in the South (Interreg and the European Neighbourhood Instrument (ENI)).

Table 2 contains a brief overview of the EU approach to the issue of the CBC in two cases: EU internal borders shared by Member States and EU external borders with neighbours. In case of the cooperation outside the EU, the cross-border cooperation between Member States and candidate/potential candidate countries was excluded from further consideration as it is a subject of the EU enlargement policy. CBC is at the same time based on the EU's territorial cooperation model's principles and adjusted to the needs of the EU external cooperation²³.

Table 2. *A brief overview of the EU approach to the issue of the CBC*

CBC at the EU internal borders shared by Member States	CBC at the EU external borders with neighbours
<ul style="list-style-type: none"> • implemented under the European Regional/Cohesion Policy (ERP, Interreg A) • financed by the European Regional Development Fund (ERDF) • supports cooperation between NUTS3 regions from at least two different Member States lying directly on the borders or adjacent to them • aims to tackle common challenges identified jointly in the border regions and to exploit the untapped growth potential in border areas, while enhancing the cooperation process for the purpose of the overall harmonious development of the Union 	<ul style="list-style-type: none"> • implemented under European Neighbourhood Policy (ENP) • financed by the European Neighbourhood Instrument (ENI) and contributions from the European Regional Development Fund (ERDF) • promotes cooperation between EU countries and neighbouring countries sharing a land border or sea crossing, but also can cover the non-EU countries that are part of the same sea basin • aims to promote economic and social development in border areas, address common challenges (environment, public health, safety and security) and put in place better conditions for the mobility of persons, goods and capital

Source: Author's own elaboration based on: European Commission, Directorate-General for Regional and Urban Policy, *European Territorial Co-operation*, accessed January 20, 2016, http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/.

In this article, the subject of our interest is the cross-border cooperation at the EU external borders between Poland on one hand, and Ukraine and Belarus on the other hand. The content analysis of the EU official documents leads us to the conclusion that in any of the strategic documents for the CBC between Poland–Ukraine–Belarus, the cross-border

²² Ibid.

²³ European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, *Cross Border Cooperation*, accessed January 20, 2016, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/cross-border-cooperation_en.

cooperation was not expressly defined. There are three key documents for the abovementioned field, i.e.:

1. *Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument*²⁴,
2. *Programming of the European Neighbourhood Instrument (ENI) – 2014–2020: Programming document for EU support to ENI Cross-border Cooperation (2014–2020)*,
3. *European Neighbourhood Instrument (ENI) Cross-border Cooperation Programme Poland–Ukraine–Belarus 2014–2020 (as of 15.11.2016)*.

In the *Programming document*... it is stipulated that: “cross-border cooperation (CBC) is an integral component of the EU’s European Neighbourhood Policy (ENP), and of EU–Russia co-operation. It likewise features in associated regional policies such as the Euro-Mediterranean Partnership and the Eastern Partnership. It aims to promote co-operation across the borders between EU Member States and the countries in the European Neighbourhood and the Russian Federation”²⁵. So, CBC is not defined but rather it is explained through its goals and ties with EU policies and political initiatives.

Why CBC at the eastern border of Poland is important to the EU?

Poland’s total area equals 312,685 sq km, while the population is 38 million people²⁶. Poland has seven neighbouring countries. These are: Germany to the west, the Czech Republic and Slovakia to the south, Ukraine and Belarus to the east, Lithuania and the Russian province of Kaliningrad Oblast to the northeast. The Baltic Sea borders the country to the north. The total border length of Poland is 3,511.52 km. Taking into account the breakdown of border lengths per neighbouring country, the longest one is the Czech-Polish border (796.04 km) and the shortest one is with Lithuania (104.28 km). The EU eastern external border includes Poland’s border with: Russia-Kaliningrad Oblast (232.04 km), Ukraine (535.18 km) and Belarus: 418.24 km, which totals to 1,185.46 km (34% of Polish borders)²⁷.

Poland is one of the Central European countries and a new EU Member State. Its eastern border is at the same time EU external border in the east and the gateway to the Schengen area characterized by a free movement of people. As mentioned above, in the east Poland borders Belarus (more than 410 km) and Ukraine (more than 530 km), which totals almost 950 km, and constitutes 27% of the whole length of Polish borders.

The centralized economic system and lack of democratic reforms of Belarus both contributed to the low development levels of the border regions. Belarus also plays a

²⁴ European Commission, *Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument*, 19.08.2014, OJ L 244.

²⁵ European Union, *Programming of the European Neighbourhood Instrument (ENI) – 2014–2020: Programming document for EU support to ENI Cross-border Cooperation (2014–2020)*, 2.

²⁶ Central Statistical Office, *Concise Statistical Yearbook of Poland 2016* (Warsaw: Statistical Publishing Establishment, 2016), 18, 97.

²⁷ Straż Graniczna, Komenda Główna Straży Granicznej [Border Guard, National Border Guard Headquarters], *Granice RP* [Borders of the Republic of Poland], accessed January 20, 2016, <https://www.strazgraniczna.pl/pl/granica/granice-rp/1910,Granice-RP.html>.

strategic role as a transport gateway between the EU and Russia²⁸. Also, the Ukrainian regions bordering the EU are of key importance as gateways for the transport of goods and energy.

Ukraine and Belarus are both covered by a policy initiative of Eastern Partnership (EaP) since May 2009 in the framework of European Neighbourhood Policy. However, Ukraine is much more advanced in cooperation with the EU than Belarus and has the greatest chances of joining the EU out of six EaP states²⁹. Even if it is the case, this accession will not happen in the nearest future. “Apart from the delays in ensuring the development of democratic mechanisms and appropriate socio-economic progress, the main difficulty comes from its unstable internal situation – the widening political gap between the Eastern and Western Ukraine coupled with Russia’s aggressive policy towards it”³⁰.

With direct reference to the state of play in the field of EaP, in 2014, the EU-Ukraine Association Agreement was signed by EU Heads of State and Government and Ukrainian President Petro Poroshenko. The same year it was ratified by the Ukrainian Parliament and “consent was given by the European Parliament, enabling the provisional application of the relevant provisions of the Association Agreement from 1 November 2014, and the parts related to the Deep and Comprehensive Free Trade Area from 1 January 2016”³¹. Moreover, the Visa Facilitation Agreement (VFA) and Readmission Agreement (RA) between the EU and Ukraine came into force in June 2007, whereas the amended version of the VFA became effective in July 2013³².

In the meantime, “the EU-Belarus cooperation has been progressing at the slowest pace since 2009, the main reason being that it is not a truly democratic state, but an authoritarian regime led by Alexandr Lukashenko as its president with very broad competences”. Even though Belarus is a member of the EaP, its involvement was mostly limited to a multilateral track of this political initiative and it was the civil society remaining the key partner in bilateral dialogue³³. Negotiations on a Partnership and Cooperation Agreement between the EU and Belarus were completed in 1995 but the

²⁸ European Union, *Programming of the European Neighbourhood Instrument (ENI) – 2014–2020*, 6.

²⁹ More: Marta Pachocka, “The Foundations and the Institutional Framework of the EU and EaP States’ Relations in the Field of Migration and Asylum,” in *EU Relations with Eastern Partnership: Strategy, Opportunities and Challenges*, ed. Vasile Cucerescu et al. (Chişinău, Chernivtsi, Tbilisi: Print-Caro, 2016), 226–244.

³⁰ *Ibid.*, 240–241.

³¹ European Commission, Press Release Database, *ENP Country Progress Report 2014 – Ukraine*, Brussels, 25.03.2015, accessed January 20, 2016, http://europa.eu/rapid/press-release_MEMO-15-4679_en.htm; European External Action Service, Delegation of the European Union to Ukraine, *Association Agreement*, accessed February 02, 2016, http://eeas.europa.eu/archives/delegations/ukraine/eu_ukraine/association_agreement/index_en.htm; European External Action Service, *EU-Ukraine Eastern Partnership: Supporting Reforms, Promoting Change*, accessed February 02, 2016, http://eeas.europa.eu/archives/docs/eastern/docs/eu-ukraine_en.pdf.

³² European Commission, Directorate-General for Migration and Home Affairs, *Eastern Partnership: Mobility Partnerships, Visa Facilitation and Readmission Agreements*, accessed January 22, 2016, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/mobility-partnerships-visa-facilitation-and-readmission-agreements/index_en.htm.

³³ Pachocka, “The Foundations,” 241.

agreement was not ratified by Belarus³⁴. The EU started negotiations concerning the VFA and RA with Belarus in 2014. The EU-Belarus Mobility Partnership (a part of bilateral track within the EaP) was finally signed in autumn 2016³⁵.

Poland's eastern borders are also important for the EU for other reasons. Geopolitical situation in the region and in the EU neighbourhood (both in the east and in the south) is complex, multifactorial, dynamic and multi-stakeholder, and its external effects are transmitted to the EU and Schengen area Member States. Firstly, Russian foreign policy, especially towards Ukraine is aiming at its disintegration ("the illegal annexation and the occupation of Crimea and Sevastopol since 2014 and the involvement in the armed conflict in the eastern Ukraine leading to lower political stability of the state and weakening its territorial integrity"³⁶). Secondly, the security issues have become increasingly essential in recent years in the Mediterranean region (civil war in Syria, post-war political instability in Libya, expansion of the Islamic State of Iraq and the Levant (ISIL) – often translated as Islamic State of Iraq and Syria (ISIS)) and in Europe (terrorist attacks in France, Belgium or Germany, the growing terrorist threat in general). Thirdly, the gradually increasing migratory movements from Africa and Middle East to Europe since 2011 after the outbreak of the Arab Spring and the expansion of the ISIL/ISIS have not been without significance. These developments are directly linked to the migration and refugee crises in Europe/the EU with 2015 to become so far the peak year in terms of numbers³⁷.

Migration and border management issues in the ENI CBC Programme Poland–Belarus–Ukraine 2014–2020

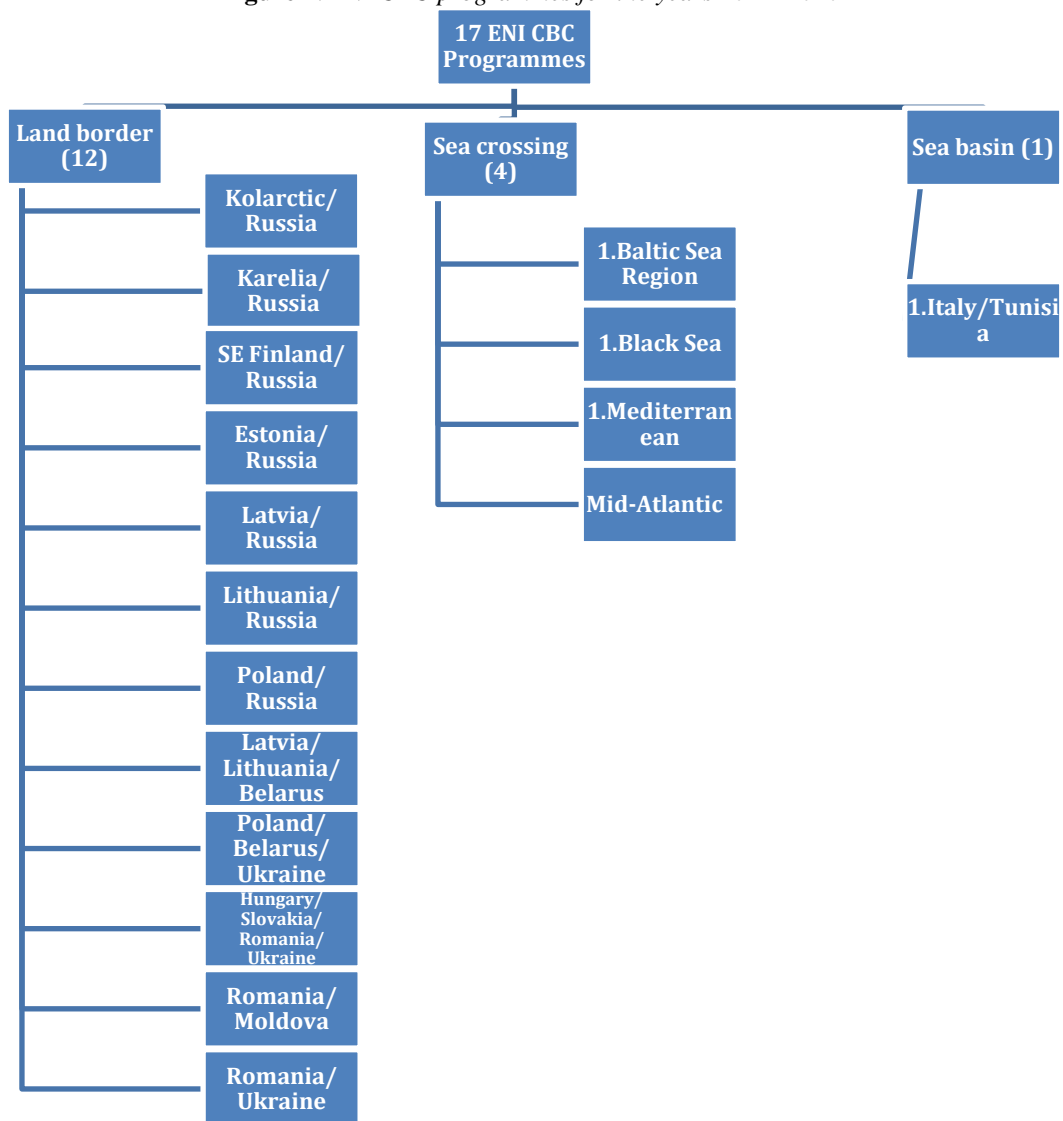
In 2014, a new phase of an initiative targeting CBC was launched by the EU as part of its comprehensive European Neighbourhood Policy. CBC aims to emphasize balanced cross-border cooperation at the local and regional levels, whereas ENP is more concerned with external relations with neighbours. In 2014–2020 CBC receives funding from the European Neighbourhood Instrument – previous European Neighbourhood and Partnership Instrument, which covered the period 2007–2013.

³⁴ European External Action Service, *EU-Belarus Relations*, Brussels, 15.02.2016, accessed February 20, 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/4014/eu-belarus-relations_en.

³⁵ European Commission, Directorate-General for Migration and Home Affairs, *Eastern Partnership*.

³⁶ Pachocka, "The Foundations," 241.

³⁷ More: Marta Pachocka, "The Twin Migration and Refugee Crises in Europe: Examining the OECD Contribution to the Debate," in *Yearbook of the Institute of East-Central Europe* 14(4) (2016): 71–99; Marta Pachocka, "The European Union in Times of Migrant and Refugee Crises," in *Peculiarities of Development in a Globalized World Economy*, ed. Valentin Beniuc and Ludmila Roșca (Chișinău: Print-Caro, 2016), 86–100; Marta Pachocka, "The European Union and International Migration in the Early 21st Century: Facing the Migrant and Refugee Crisis in Europe," in *Facing the Challenges in the European Union. Re-thinking EU Education and Research for Smart and Inclusive Growth (EuInteg)*, ed. Ewa Latoszek et al. (Warsaw: Polish European Community Studies Association – Elipsa, 2015), 531–557; Marta Pachocka, "Looking beyond the Current Migration and Refugee Crises in Europe: A Common Policy of the EU and the Outlook for the Future – In Search of Solutions" (conference paper, Jean Monnet Seminar "Migrations", 22–23.02.2016, Tunis, European Commission).

Figure 1. ENI CBC programmes for the years 2014–2020

Source: Author’s own elaboration based on: European Union, *Programming of the European Neighbourhood Instrument (ENI) – 2014–2020: Programming document for EU support to ENI Cross-border Cooperation (2014–2020)*, 18.

CBC supports the ENI aim of striving for progress towards “an area of shared prosperity and good neighbourliness” between EU Member States and the neighbouring countries. In this context, there are three Strategic Objectives (SO) under the European Neighbourhood Instrument corresponding to the CBC, i.e.³⁸:

1. SO A: “to promote economic and social development in regions on both sides of common borders”;
2. SO B: “to address common challenges in environment, public health, safety and security”;

³⁸ European Union, *Programming of the European Neighbourhood Instrument (ENI) – 2014–2020*, 4.

3. SO C: “to promote better conditions for ensuring the mobility of persons, goods and capital”.

There are three types of programmes within the ENI dedicated respectively to three different areas of land border, sea crossing and sea basin. As indicated in the *Programming document for EU support to ENI Cross-border Cooperation (2014–2020)*, in total there are 17 ENI CBC programmes compared to the 13 ENPI CBC programmes conducted from 2007 to 2013³⁹. **Figure 1** shows the detailed list of the current programmes, including 12 land border programmes, 4 sea-basin programmes and one sea-crossing programme. Cross-border cooperation covering Poland as an EU Member State and Belarus and Ukraine as non-EU members is included among land border programmes.

The cross-border cooperation between Poland, Ukraine and Belarus under the new European Neighbourhood Instrument will be implemented and developed from 2014 to 2020 in accordance with *the ENI CBC Programme Poland–Belarus–Ukraine 2014–2020 (PL-BY-UA 2014–2020)*, which is a continuation of *the ENPI CBC Programme Poland–Belarus–Ukraine 2007–2013 (PL-BY-UA 2007–2013)*.

Table 3. *The detailed list of regions covered by the ENI CBC Programme Poland–Belarus–Ukraine 2014–2020*

Country	Core area (sub)regions	Adjoining regions
Poland	<ol style="list-style-type: none"> 1. Krośnieński (in Podkarpackie voivodeship) 2. Przemyski (in Podkarpackie voivodeship) 3. Białostocki (in Podlaskie voivodeship) 4. Łomżyński (in Podlaskie voivodeship) 5. Suwalski (in Podlaskie voivodeship) 6. Białski (in Lubelskie voivodeship) 7. Chełmsko-zamojski (in Lubelskie voivodeship) 8. Ostrołęcko-siedlecki (in Mazowieckie voivodeship) 	<ol style="list-style-type: none"> 1. Rzeszowski (in Podkarpackie voivodeship) 2. Tarnobrzeski (in Podkarpackie voivodeship) 3. Puławski (in Lubelskie voivodeship) 4. Lubelski (in Lubelskie voivodeship)
Ukraine	<ol style="list-style-type: none"> 1. Lvivska oblast 2. Volynska oblast 3. Zakarpatska oblast 	<ol style="list-style-type: none"> 1. Rivnenska oblast 2. Ternopilska oblast 3. Ivano-Frankivska oblast
Belarus	<ol style="list-style-type: none"> 1. Grodno oblast 2. Brest oblast 	<ol style="list-style-type: none"> 1. Minsk oblast (including the city of Minsk) 2. Gomel oblast

Source: Author’s own elaboration based on: European Union, *European Neighbourhood Instrument (ENI) Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020 (as of 15.11.2016)*, 6–7.

In December 2015, the European Commission adopted its implementing decision No. C(2015) 9138 approving the Joint Operational Programme (JOP) Poland–Belarus–Ukraine 2014–2020 for the ENI Cross-border Cooperation programme corresponding to

³⁹ *Ibid.*, 18.

the same time period⁴⁰. In general, the objective of the abovementioned JOP is “to prevent the emergence of new dividing lines between EU and its neighbours and to help the regions to develop their economic, social and environmental potential”⁴¹. The maximum amount of EU contribution to the programme’s implementation was given the limit of 183,078,184 Euros⁴².

The main goal of the *ENI CBC Programme Poland–Belarus–Ukraine 2014–2020* “is to support cross-border development processes in the borderland of Poland, Belarus and Ukraine, in line with the objectives of ENI”. The programme will be implemented on the area covering NUTS3 units in Poland and equivalent territorial units called „oblasts” in Belarus and Ukraine. This area encompasses 22 regions (13 core area (sub)regions and 9 adjoining regions)⁴³ indicated in the **Table 3** and presented on the **Map 1**, i.e.:

- 12 regions in Poland (8 core area subregions and 4 adjoining regions),
- 6 regions in Ukraine (3 core area regions and 3 adjoining regions),
- 4 regions in Belarus (2 core area regions and 2 adjoining regions).

Map 1. Area covered under the *ENI CBC Programme Poland–Belarus–Ukraine 2014–2020*



Source: European Union, *European Neighbourhood Instrument (ENI) Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020* (as of 15.11.2016), 8.

⁴⁰ European Commission, *Commission Implementing Decision on the Joint Operational Programme Poland-Belarus-Ukraine 2014–2020 for the ENI Cross-border Cooperation programme for the years 2014–2020 to be financed from the general budget of the European Union, Brussels*, 17.12.2015, C(2015) 9138 final.

⁴¹ *Ibid.*, 2.

⁴² *Ibid.*, 3, art. 2.

⁴³ *Ibid.*, 6.

The area covered by the programme totals 316.3 thousand sq. km, including: 75.2 thousand sq. km in Poland (24% of the total area), 102.5 thousand sq. km in Ukraine (15%) and 138.5 thousand sq. km in Belarus (44%). According to the statistical data from 2013/2014, the total population of this area amounted to 20.9 million people, consisting of 6.2 million in Polish regions (30% of the total population), 7.5 million on the territory of Ukraine (36%) and 7.2 million in the Belarusian part (34%)⁴⁴.

The strategy PL-BY-UA 2014–2020 was informed by socio-economic analysis which identified shared national and regional priorities of the regions and countries in question as well as different stakeholders involved, and the lessons learned from the previous programming period. It is also in line with the decision-making process of the Joint Programming Committee (JPC) which allows it to tackle themes shared by participating countries that can be better approached and dealt with using joint assets⁴⁵.

As already mentioned in the paper, there are three ENI Strategic Objectives (SO A, SO B, SO C) for CBC activities. There are also 10 Thematic Objectives (TO) out of which four were selected by the Joint Programming Committee⁴⁶ to be financed under the programme. These TOs and their priorities are as follows⁴⁷:

1. Promotion of local culture and preservation of historical heritage (TO HERITAGE):
 - a) Priority 1.1 Promotion of local culture and history,
 - b) Priority 1.2 Promotion and preservation of natural heritage,
2. Improvement of accessibility to the regions, development of sustainable and climate-proof transport and communication networks and systems (TO ACCESSIBILITY):
 - a) Priority 2.1 Improvement and development of transport services and infrastructure,
 - b) Priority 2.2 Development of ICT infrastructure,
3. Common challenges in the field of safety and security (TO SECURITY):
 - a) Priority 3.1 Support to the development of health protection and social services,
 - b) Priority 3.2 Addressing common security challenges,
4. Promotion of border management and border security, mobility and migration management (TO BORDERS):
 - a) Priority 4.1 Support to border efficiency and security,
 - b) Priority 4.2 Improvement of border management operations, customs and visas procedures.

Among the four Thematic Objectives to be implemented under the CBC Poland–Belarus–Ukraine, the TO 10 with its two related priorities refers directly to the migration and border management issues. It corresponds with the ENI CBC Strategic Objective C focused on promotion of better conditions and modalities for ensuring the mobility of persons, goods and capital. Its implementation shall enhance “the effectiveness of the border infrastructure and procedures as well as the improvement of border security”, preventing and tackling smuggling and illegal migration as well as targeting organized crime⁴⁸. The proposed indicative actions that could be financed under TO10 are specified

⁴⁴ Ibid., 6–7.

⁴⁵ Ibid., 10.

⁴⁶ Cross-border Cooperation Programme Poland–Belarus–Ukraine 2007–2013, *ENI CBC Programme Poland–Belarus–Ukraine 2014–2020*, 29.10.2015, accessed February 18, 2016, <http://pl-by-ua.eu/en/news/169>.

⁴⁷ Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020, *Thematic Objectives*, accessed February 18, 2016, <http://www.pbu2020.eu/en/pages/193>.

⁴⁸ Ibid.

separately for both priorities. These actions are enumerated in the **Table 4** together with output and result indicators for each priority.

Table 4. *Proposed indicative actions to be financed under TO10 and related indicators*

	Priority 1: Support to border efficiency and security	Priority 2: Improvement of border management operations, customs and visas procedures
Actions	<ol style="list-style-type: none"> 1. Joint initiatives on adaptation and extension of the existing border crossings for pedestrian and bicycle traffic; 2. Joint initiatives on improving border-crossing infrastructure; 3. Joint creation of a coherent system of signs and visual identification of border crossings; 4. Joint projects regarding equipment of existing border crossings allowing streamlining of their operation; 5. Joint development and modernisation of border crossings' supporting infrastructure. 	<ol style="list-style-type: none"> 1. Common initiatives to create the possibility of an accelerated clearance of travellers who rarely cross the border; 2. Joint initiatives for facilitating border crossing procedures and training of border and customs services' personnel; 3. Joint initiatives to increase transparency and efficiency of customs and clearance procedures; 4. Joint initiatives to support border management in the field of prevention and combating of illegal migration and trafficking and fight against organized crime.
Output indicators	Number of border crossing points with increased throughput capacity (ENI/CBC 35).	Acceleration of passengers and cars border clearance.
Result indicators	Increased throughput capacity of persons on land border crossing points (ENI/CBC 38).	Increased efficiency of border clearance.

Source: Author's own elaboration based on: Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020, *Thematic Objectives*, accessed February 18, 2016, <http://www.pbu2020.eu/en/pages/193>; Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020, *Programme indicators*, accessed February 18, 2016, <http://www.pbu2020.eu/en/pages/194>.

The importance of the issues related to migration and border management under CBC is well reflected in the SWOT analysis that was elaborated as a part of the *ENI CBC Programme Poland–Belarus–Ukraine 2014–2020*. The detailed analysis covers the complex area of the programme from CBC perspective taking into account both internal conditions (considered in four categories: strengths, weaknesses, possibilities and limitations) and external environment (opportunities and threats). It seems to be a very useful tool to justify the legitimacy of the programme discussed. Some of the factors identified are directly linked to the field of our interest in this paper. For example, two significant issues mentioned among weak points are as follows⁴⁹:

1. “border regime associated with the external border of the European Union, with various dysfunctions that occur at border crossings and which considerably hamper cross-border interactions”;
2. “underdevelopment of technical infrastructure (transport and border crossings), which poses a barrier to the development of cross-border interactions”.

⁴⁹ European Union, *European Neighbourhood Instrument (ENI) Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020 (as of 15.11.2016)*, 23.

In turn, “lack of binding local border traffic agreement between Poland and Belarus” is considered as one of the barriers to the development of the CBC in the geographical area covered by the programme⁵⁰.

Conclusions

There is a great potential for much more effective cross-border cooperation in the field of migration and border management issues between Poland, Ukraine and Belarus. This requires time and money to be implemented under the European Neighbourhood Instrument in the period 2014–2020. Thematic Objective 10 and its two priorities seem to be well-defined and adapted to the needs of the region. However, the final result will depend on the implementation of the specific CBC activities conditioned by both internal factors and external environment. The first assessment will be possible in a few years.

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⁵⁰ Ibid.

- Cross-border Cooperation Programme Poland–Belarus–Ukraine 2014–2020. *Programme indicators*. Accessed February 18, 2016. <http://www.pbu2020.eu/en/pages/194>.
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