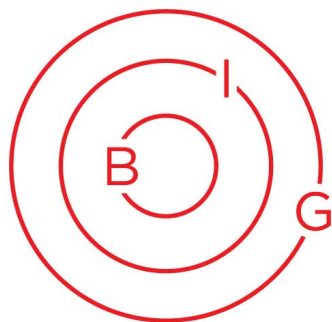




**BORDERS IN
GLOBALIZATION**





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Institutional Opportunities for Cross-Border Cooperation Between the European Union and Ukraine in the Local Regional Context

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The 2009 Eastern Partnership (EaP) initiative created a critical necessity to put into operation essential management structures in order to improve governance quality within its partners. 22 July 2009 the European Commission and the Ministry of Regional Development and Construction of Ukraine signed a Memorandum of Understanding (MoU) intended to promote dialogue on the regional policy and regional co-operation within the context of the Commission's Communications on the European Neighbourhood Policy (ENP) and EaP. The paper will look at regional strategies and programs which affect the relationship between EU/EU member states and Ukraine and analyse multi-level governance challenges facing Ukraine. This paper will be drawing on the theory of historical institutionalism and multi-level governance approach. Nowadays Russia has also emerged as the biggest threat to security of Ukraine which raised the question of how to protect national interest of Ukraine, and embrace security challenges. The paper aims to demonstrate that EU regional strategies tend to bring change and develop democratic institutions because they bring non-EU institutions into EU policy-making and affect the implementation of the existing legislation.

I. Introduction

The Eastern Partnership¹ (EaP) was built on the frame of the European Neighbourhood Policy (ENP) and designed to “accelerate political association and further economic integration”² between the Union and partner countries. The policy was the first comprehensive initiative introduced into the system of the EU’s external relations, which designed to help neighbouring countries with their approximation to and integration with the EU rules and norms, based on a differentiated approach committed to supporting each partner country to progress in its own way and at its own speed. The EaP was developed with the aim to advance political dialogue and cooperation in a number of areas, including governance³, trade, migration and border management⁴, energy and the environment by setting up bilateral and multilateral projects⁵ and programs in areas of

¹ The Eastern Partnership (EaP) policy initiative was launched in May 2009 with the aim of establishing a political association and economic integration between the EU and Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. In practice this means that the partner countries develop Action Plans by setting out their agendas for necessary political and economic reforms. Annual reports by the European external Action Service (EEAS) will assess the progress achieved.

² Council of Europe, Parliamentary Assembly, Resolution 1812 (2011), The impact of the Eastern Partnership of the European Union on governance and economic development in eastern Europe.

³ **‘Governance’** definition employed here means “the method of ‘governing’ proposed for obtaining lasting economic, social and institutional development, promoting healthy equilibrium amongst the state, civil society and the economic market, and generating expressly for this purpose active involvement by citizens”. Contributions to the White Paper on Governance. This definition of governance is provided by the Royal Academy for the Spanish Language. It fully suffices good governance principles incorporated into the White Paper on European Governance. European Commission, Brussels, 25.7.2001, COM(2001) 428 final.

⁴ Following the Commission Staff Working Document accompanying the Eastern Partnership (EaP) Communication dated 3.12.2008 it was agreed to establish a potential flagship initiative on an Integrated Border Management (IBM) Program. Geographically, the partnership in this domain has specifically focused on Central Asia, the Caucasus and in some other parts of the former Soviet Union (Ukraine and Moldova).

⁵ Bilateral projects include Comprehensive Institution Building Programs (CIBP) were expected to develop and improve the capabilities of the partner states’ public institutions. CIBP will focus on capacity building in the EaP countries, identifying weak spots and

economic, political and cultural development with all EaP participants (except for Belarus).

Further, the implementation of the European Agenda for Reform⁶ for Ukraine will be a joint effort of European Union and national authorities. It will be coordinated, on the one hand, through the Support Group for Ukraine set up by the European Commission, and on the other hand the institution set up within the Government of Ukraine dealing with the process of political association and economic integration with the European Union. The approval of an emergency Macro-Financial Assistance (MFA) loan programme for Ukraine of up to €1 billion complemented an existing MFA package of up to €610 million, bringing the total EU assistance under this financial instrument to €1.61 billion. The disbursements under the two MFA programmes totalled €600 million as of 17 June 2014. Autonomous trade measures granted by the EU to Ukraine on the elimination or reduction of customs duties on a large number of goods originating in Ukraine – which is in force since 23 April, worth nearly €500 million per year in tariff reductions. The new

addressing these through training, technical assistance and equipment where necessary. The aim is to help the partner-countries more intensively than before to achieve the reforms where necessary; Pilot Regional Development Programmes (PRDP) inspired by the EU cohesion policy experience will be able to develop and support regional development strategies aimed at reducing disparities and funding projects which will help in overcoming structural deficiencies.

The Conference of Regional and Local Authorities for the Eastern Partnership (CORLEAP) as a political body of multilateral cooperation was established to bring a regional and local dimension to the Eastern Partnership and strengthen local and regional self-government. Since its inauguration in September 2011 in Poznań, CORLEAP serves as a platform of political dialogue and information exchange on sub-national level,

<http://web.cor.europa.eu/epp/AtWork/Commissions/Pages/CORLEAP.aspx>

For multilateral projects four policy platforms (with 6 flagship initiatives) were introduced: on democracy, good governance and stability; economic integration and convergence with EU policies; energy security; and contacts between people.

⁶ Ministry of Foreign Affairs of Ukraine, Directorate General for the European Union. Documents regarding Association Agreement provided– Reforms Roadmap; High-level Support Group for Ukraine (SGUA), <http://bit.ly/1wxkT6u>; European Union Advisory Mission (EUAM), <http://bit.ly/1pkxqte>; Twinning/technical assistance (issues like public procurement); Conditionality applied; International donors conference.

“State Building Contract” programme signed on 13 May, worth €355 million, plus €10 million to support civil society will help the government of Ukraine to address short-term economic stabilisation needs and implement governance reforms in order to promote inclusive socio-economic development⁷.

However, ten years later EaP plan initiated by the European Union stayed largely infantile. The majority of the ENP countries are still ruled by authoritarian or semi-authoritarian regimes. Most of them remain undeveloped, especially when compared to neighbouring EU member states. Overall, post-Soviet Eurasian states remain the only region in which no state achieved a high level of transformation.⁸ The differences of socio-economic development and the existence of the strict EU visa regime demonstrated that the Eastern neighbours of the European Union profit from the EaP policy in a very constricted way. According to the EU Strategy Paper 2007-2013⁹, Eastern European countries, including Ukraine were characterized by ineffective public governance where the region as a whole faced serious difficulties with unprecedented corruption and poor governance. Moreover, Ukraine was listed among the most corrupted countries in the region¹⁰. Improving state capacity and quality of democracy remained priority issues

⁷ EU-Ukraine – A European Agenda for Reform, version of July 2014.

⁸ The statement made was based on the analysis of the data/country reports by the Bertelsmann Stiftung and according to the Bertelsmann Stiftung’s Transformation Index (BTI) which analyzes and evaluates the quality of democracy, a market economy and political management in 128 developing and transition countries. The BTI publishes two rankings, the Status Index and the Management Index which provide the qualitative data used to assess these countries’ transformation status and challenges, and to evaluate the ability of policymakers to carry out consistent and targeted reforms.

⁹ Eastern Regional Programme, Strategy Paper 2007 – 2013.

¹⁰ Ukraine scored 26 out of 100 in The Corruption Perceptions Index which ranks countries and territories based on how corrupt their public sector is perceived to be. <http://cpi.transparency.org/cpi2012/results/#sthash.UMh8PwC0.dpuf>; Overall Change Readiness Index (enterprise capability, government capability, political and civil society capability) which assesses country’s ability to manage change and cultivate opportunity for Ukraine is 0.4 (out of 1.0), [http://www.kpmg.com/global/en/issuesandinsights/articlespublications/change-readiness/pages/index-tool-2013.aspx?countryCode=UA](http://www.kpmg.com/global/en/issuesandinsights/articlespublications/change-readiness/pages/index-tool-2013.aspx?countryCode=UA;);

addressed by the EU both at national and subnational levels in Ukraine¹¹ but this does not necessarily translate into reform (Solonenko and Shapovalova, Policy Brief, 2011).

This paper will aim to analyse how EaP instruments, including EaP Cross-Border cooperation programs (CBC) work within the existing institutional environment in Ukraine. It will seek to find out when the EU approach would be sufficient to bring an overall institutional change and sustain democratic institution-building in Ukraine. My research objective will be to show how the EaP policy may be able to help improve both the political transformation¹² management activities and government capability¹³ in the area of regional cooperation and to advance democratic reforms in Ukraine. The question is twofold (1) do EaP policies have and use adequate instruments to address important institutional, including cross-border cooperation (CBC) problems in Ukraine? and (2) what factors drive the development of good governance in Ukraine? The research conducted for my paper analysed those administrative tools, which the EU had at its disposal to bring change into internal governance processes in the area of institutional-building and cross-border cooperation, in particular. To answer the question what factors drive the development of good governance in Ukraine, the relationship between EaP projects, including cross-border cooperation and good governance reforms must be established.

¹¹ The integration to the European Union is one of the priority directions of the foreign policy of Ukraine. This is supported by many political and legal instruments, such as the Law of Ukraine “On Concept of the National Program of the Adaptation of the Legislation of Ukraine to the Legislation of the European Union”, Program on the Integration of Ukraine to the European Union, Strategy of the Integration of Ukraine to the European Union, etc.

¹² Transformation management activities include prioritisation, implementation, policy learning, efficient use of assets, policy coordination, anti-corruption; consensus-building and regional cooperation and have been assessed along lines of structural constraints and management performance.

¹³ Government capability relates mainly to the capability of governmental and public regulatory institutions to manage, foresee and influence change effectively. This covers among other things how government interacts with business, its macroeconomic and fiscal policies, regulation and law and strategic future planning.

II. Multilevel Governance in the form of the EaP in Ukraine.

It is generally accepted that the EU foreign policies facilitated political activities during transformation processes and created opportunity structures for societal change. In 1995¹⁴ when increasing further the scope of conditions, the European Commission developed a new enlargement method (Maniokas, 2004) and a separate ‘enlargement *acquis*’ which included requirements for horizontal administrative reform, regionalization, reform of the judiciary, ethnic minorities’ rights, border treaties (friendship and cooperation treaties), safety of nuclear power plants and so on (Steunenbergh and Dimitrova, 2007). Goals and principles of those policies were formulated in consultation with the developing countries and jointly evaluated on the basis of formerly agreed benchmarking criteria (Holland, 2002: 6). The Eastern neighbourhood policy was understood both as a policy based on those enlargement principles and an arena in which the transition experience of the certain Central European states might assist the process of integration with the EU.

There are clearly significant problems in all EaP countries with transition economies: the state is not a good manager, and there is a lack of transparency among both public and private players. The EaP initiative and its active policy tools¹⁵ aimed to influence partner

¹⁴ The Madrid European Council, 15-16 December 1995, Presidency Conclusions, Annexes 6-10, http://www.europarl.europa.eu/summits/mad3_en.htm.

¹⁵ Depending on the nature of specific projects the EaP initiative allocates funds to various beneficiaries: for **CIBP** projects – those are public administrations of partner states, EU member states (MS), and EU institutions involved in training and other institutional reform programs by using specific instruments (e.g. twinning, Technical Assistance and Information Exchange instrument (TAIEX), EU advisory missions).

for **PRDP** – those are public administrations of partner states, local authorities, Small and Medium Enterprises (SMEs) and Non-Governmental Organisations (NGOs) (funding was foreseen in the amount of 75 mln euros); It started in 2012 from 2012/2013 ENPI budget in the amount of 62 mln euros, where Belarus is not a participating member. A number of preparatory steps have also been taken: EU missions were organised to all five EaP countries in April – May 2011, to inform stakeholders about the concept of PRDPs, and a seminar was organised in Brussels in June with representatives from partner countries and EU Delegations to launch the programme.

for EaP multilateral dimension - commercial companies which won in public tenders, as well as NGOs and other organizations which received grants through public calls for proposals, and public administrations of partner and member states in the amount of 350 mln euros.

states' transition processes towards democracy and stability whilst at the same time gradually improve institutional and organizational capacity¹⁶ of national and local actors. In 2007 the EU launched calls for proposal for Institution-Building Partnership Program (IBPP) projects (in the context of the TACIS programme) and increased the number of TAIEX¹⁷ projects. One of the examples of these projects in Ukraine is the Association Energy Efficient Cities¹⁸ which was financed by the European Commission within the framework of the Partnership Programme for Institutional Development (TACIS, IBPP). Because a major part of energy in Ukraine is consumed within the urban landscape, local authorities' joint, coordinated efforts in improving resource allocation allowed local communities to progress in a more effective manner¹⁹. Furthermore, EU developed cultural policies programme (2011-2015) aimed at strengthening regional cultural links and dialogue within the Eastern Partnership region, and between the EU and ENP Eastern countries' cultural networks and actors.

Ukraine incorporated commitments related to the cooperation with EU, including those under the ENP and EU-Ukraine Action Plan, into its national policy, strategic and legislative instruments. Recently the institutional capacity of the state bodies to work with European integration issues was even more strengthened (creation of the special departments on the European integration within the Ministries, special staff trainings,

¹⁶ In this paper both EP and ENP instruments have been examined. European Neighbourhood Partnership Instrument (ENPI) is the financial instrument employed for European Neighbourhood policy (ENP). It is addressed to ENP partner countries including Russia and offers co-funding for promoting good governance and equitable social and economic development process. The ENPI also supports cross-border and trans-regional cooperation as well as gradual economic integration of recipient countries with the EU beneficiary countries.

¹⁷ Total of 115 TAIEX projects in Ukraine for a period of 2007-2010, according to DG Enlargement.

¹⁸ Main partners include: Minister for Housing and Communal Services of Ukraine; National Agency of Ukraine for efficient use of energy resource; Association of Ukrainian cities; Association of European Local Authorities Energy-Cities. <http://www.enecities.org.ua/en>. As well as Covenant of Mayors, the initiative of the EC which directly targets the local authorities and their citizens to take the lead in the fight against the global warming.

¹⁹ Association "Energy Efficient Cities of Ukraine", <http://www.enecities.org.ua/en>

etc.)²⁰. The territorial policy dimension in the Ukraine included important regional trends, such as inter-regional disparities, and its need for decentralization. However, despite of an agreement on the need for greater decentralization in Ukraine, sub-national/local governments faced various capacity challenges and were extremely fragmented at lower levels, making it impossible to grasp economies of scale or perform some basic service-provision functions effectively. As a result, for Ukraine, participation in the multi-level system of governance remained challenging overall and required specific reforms at both national and local public administration levels. It might involve development of timely, coherent and effective participation of various actors in policy-making, as well as effective coordination and timely implementation of relevant programs²¹.

In Ukraine sub-national governments tended to depend heavily on central transfers, the allocation of which were both unpredictable and non-transparent (interview with Valentina Romanova, Institute of Strategic research, Kyiv, Ukraine, December 2014). Reforms to sub-national public finances were in preparation for some time and needed to be taken forward (interviews Ukraine, 2014)²². Ukraine took a number of steps to bring its regional policy framework into line, focusing on investment, competitiveness and a multi-sector horizontal approach, as opposed to a top-down sectoral policy. According to OECD territorial reviews 2013, a territorial reform should be implemented prior to any

²⁰ Interviews conducted at the Institute for Strategic research, Kyiv and Ministry of Construction and Regional Development, Kyiv.

²¹ Information was based on the talk with the communication officer at the EC representation in Kyiv *David Stulik*, November 2014.

²² See also Appendix 3. Dependence on central government transfers (values in UAH billions). 2007-2013. Ministry of Finance, Ukraine.

Recent EU Funding provided to Ukraine :

- 5 March 2014: new package of €11 bln for 2014-2020, <http://bit.ly/1hKClgc>
- Macro-financial assistance (two programs, total €1,61bln, paid €600 mln, next payments soon), <http://bit.ly/10UgZZL>
- State-building contract *SBC* (total € 355 mln, paid €250 mln, €10 mln for NGOs): Adoption and implementation of a comprehensive reform of civil service and service in local self-government bodies focusing on European principles of public administration.
- Sector Budget Support programs (areas, €355 mln)

decentralisation of functions to lower levels of government; where such a reform would facilitate municipal mergers and the further development of new forms of inter-municipal co-operation; simplify the legal procedures involved in transferring competences to joint bodies or companies; and provide additional incentives to jurisdictions that implement new types of co-operative relationships (OECD Territorial Reviews OECD Territorial Reviews: Ukraine, 2013).

The international community as a whole and both western and eastern foreign actors played an important role in the process of shaping Ukrainian governing structures. The Partnership and Co-operation Agreement, the European Charter of Local Self-Government, other relevant legal acts of the European Union and the Council of Europe have been the basis for regional integration with the EU. They envisaged to set up and to deepen of direct contacts between Ukrainian regions and the countries which were members and candidate members to the EU. The development of those contacts were in line with the directions specified in the Strategy²³ with the aim of transferring the focus of the integration process from central bodies of executive power to regions, to bodies of local self-government, and to territorial Hromadas (Ukrainian communities) in order to secure a widest possible cooperation and integration with the EU in the end.

The three EaP priorities - public administration, fiscal decentralisation and regional cooperation were addressed in a report submitted at the CORLEAP²⁴ meeting in Lithuania in November 2013. CORLEAP members stressed that decentralisation and territorial cooperation were a key for a successful implementation of the Association Agreements and for economic, political and social development. According to Michel Lebrun, a CoR President and CORLEAP co-chair “*decentralisation reforms and more cross-border cooperation*” can lead “*to greater legitimacy of policies on the local level and provide concrete solutions to problems for people living on both sides of a frontier*”.

²³ The Country Strategy Paper adopted in 2007 remained a valid framework for EU cooperation with Ukraine.

²⁴ CORLEAP was established by the Committee of the Regions in 2011 to bring a regional and local dimension into the EU's Eastern Partnership. Committee of Regions and CORLEAP. CORLEAP brought together 36 regional and local elected representatives from the EU and the EU's Eastern Partnership countries. (EU Neighbourhood Info).

CoR President and CORLEAP co-chair Ramón Luis Valcárcel Siso stressed that an important factor enabling multi-level governance to function effectively was greater political and fiscal autonomy for regional and local authorities.

An important element of coordination between Ukraine and EU in regional policy is involvement of Ukraine's regions on regular basis to the activities of European regional associations, in particular the Assembly of the European Regions, Council of European municipalities and regions, Conference of European Regional Legislative Assemblies, Association of European Border Regions, Conferences of Peripheral Maritime Regions, Conference of President of Regions with legislative power, European Association of elected representatives from Mountain Areas and EUROCITIES. According to Foreign Affairs Council of EU on Ukraine, there has been an increase of regional cooperation between Ukraine and EU on border management, within the context of the EU Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM).²⁵

Ukraine is also integrated into the **Söderköping process** on border control. The actors in the sphere of integrated border management include: Administration of the State Border Guard Service of Ukraine, State Customs Service of Ukraine, Ministry of Internal Affairs, Ministry of Foreign Affairs and other government authorities within their competence. Ukraine is a country of immigration, for ethnic and labour migrants as well as for refugees (Ukraine State Statistics Committee). Refugees are coming from Russia, China, Georgia, Afghanistan, Turkey, Syria, Palestine, Somalia, Uzbekistan and other. Despite the strengthening of European border controls, refugees and migrants seek to cross from Ukrainian territory into neighbouring EU states (European Council on Refugees and Exiles, www.ecre.org). Among those immigrants are victims of trafficking, namely from Moldova and Georgia. There are also cross-border commuters conducting cross-border minor trade activities between Ukraine and Poland.

²⁵ Support for Border Management Sector Policy in Ukraine for 2011-2015 amounted to 60 million euros.

III. Main regional programmes and instruments of the CBC in Ukraine.

In 2007, the European Neighbourhood Policy (ENP) started to replace former cross-border cooperation programs. One of the main goals of the ENP was to intensify cross-border cooperation between EU border regions and their neighbouring regions. Since May 2004, Ukraine had direct border connections with three EU member countries – **Poland, Slovakia and Hungary**. In January 2007, **Romania** was added to this list. Now EU Member States have borders with 6 regions (oblasti) with Ukraine²⁶. Besides a great optimism about positive effects of EU neighbourhood programmes on the development of border regions (TACIS, INTERREG III) there were also important considerations about effectiveness of these programmes. According to Pitoska (2006) who placed the example of EU-Balkan cooperation these programmes had positive but modest effect on the socio-economic development of border regions.

In the perspective of reinforcing cooperation with countries bordering the European Union, the European Neighbourhood and Partnership Instrument (ENPI)²⁷ included a component specifically targeted at cross-border cooperation (CBC)²⁸. The task of the regional and local partners on both sides of the border is to analyze their common needs and to identify priorities and actions that are most relevant to their local situation. The

²⁶ (Odessa, Chernivetska, Ivano-Frankivska, Lvivska, Zakarpatska, Volynska).

²⁷ The ENPI has three strategic objectives, namely: supporting democratic transition and promoting human rights; the transition towards the market economy and the promotion of sustainable development; and policies of common interests (antiterrorism, the proliferation of weapons of mass destruction, conflict resolution, the rule of international law, etc.). It is a more flexible and policy driven mechanism, as the allocation of funds depends on a country's needs and absorption capacity and its level of implementation of agreed reforms. **As from 2014 the ENPI will be replaced by the European Neighbourhood Instrument (ENI)**, which will provide increased support to 16 partner countries to the East and South of the EU's borders.

²⁸ Cross Border Cooperation (CBC) is a key priority of the ENPI. It aims at reinforcing cooperation between member states (MS) and partner countries along the external border of the European Union. CBC strategy has four key objectives: to promote economic and social development in border areas, address common challenges, ensure efficient and secure borders and promote people-to-people cooperation.

http://ec.europa.eu/europeaid/where/neighbourhood/regional-cooperation/enpi-cross-border/index_en.htm.

management of CBC programmes is assigned to a local or national authority jointly selected by all participating countries²⁹. CBC³⁰ uses an approach largely built on 'Structural Funds' principles such as multiannual programming, partnership and co-financing, adapted to take into account the specificities of the EC's external relations rules and regulation. One major innovation of the ENPI CBC can be seen in the fact that the programmes involving regions on both sides of the EU's border share one single budget, common management structures, a common legal framework and implementation rules giving the programmes a fully balanced partnership between the participating countries (EC representation, Kyiv).

CBC in Ukraine³¹ aimed to play a significant role in the facilitation of a regional policy with a task of a certain stabilisation of cross-border contacts, i.e. institution-building, over time (Perkmann, 2003: 156). The CoR, therefore, prioritised political and constitutional reform as well as institution-building as a key element of its interaction with and support

²⁹ The Cross-Border cooperation will be also financed by the European Regional Development Fund (ERDF). For example, EaP Territorial Cooperation Support Programme promotes sustainable cross-border cooperation between border regions of the EaP countries by building the capacities of local and regional authorities to effectively manage future cross-border programmes in the region. Timeframe 2012-2015. Budget: €5.5 million, http://www.enpi-info.eu/maineast.php?id=465&id_type=10

³⁰ Cross-Border Cooperation within the European Neighbourhood and Partnership Instrument (ENPI), Regulation of the European Parliament and of the Council on ENPI; Executive Summary of the ENPI CBC Strategy Paper.

³¹ Ukraine took part in 4 ENPI CBC programmes (ongoing):

1. Poland-Belarus-Ukraine (euro 186.2 mln for the whole programme 2007-2013). The priorities are increasing competitiveness of the border area, improving quality of life, networking and people-to-people cooperation.
2. Hungary-Slovakia-Romania-Ukraine (euro 68.6 mln for the whole programme) To promote economic and social development, enhance environmental quality, increase border efficiency and support people-to-people cooperation.
3. Romania-Ukraine-Republic of Moldova (euro 126.7 mln) Competitiveness of the border economy, environment, emergencies and interaction between people and communities living in the border areas.
4. *Black Sea Basin (21.3 mln) to support CBC partnerships for economic and social development based on combined resources, to share resources and competencies for environmental protection and conservation, and to support cultural and educational initiatives for the establishment of a common cultural environment in the basin.*

for local and regional government in Ukraine. A core aspect of the MoU is to facilitate the exchange of “views and practices on forms of multi-level governance, and the partnership in regional policies, including the principles of good governance at regional and local level”. In short, the benefits of CBC will have wide implications for the development of multi-level governance in Ukraine and can facilitate the objectives of the Memorandum of Understanding (MoU).

The research conducted by country specialists showed that the EU’s impact to some extent depended on the degree and character of pressure for certain reforms by its civil society actors. In addition to cooperation between governments, it is also important to foster cooperation between civil society within the region and between partner countries and the EU. Civil society normally acts as an informal controller of bad administration and ensures an increased scrutiny over public management. For this purpose the EaP set up a network of civil society organisations in the EU and the partner countries. European Community (EC) assistance in this area provided administrative and financial support for cooperation across the region and sub-regions between civil society organizations. “Migration and Asylum” (ex-Aeneas) and “Non-state actors and local authorities” programs were particularly relevant for the ENPI Eastern Region. The “Non-state actors and local authorities” thematic programme is particularly relevant with regard to civil society cooperation³² in Ukraine.

For example, program in the framework of Ukraine TACIS Institution Building Partnership Program (IBPP) - Support to Civil Society and Local Initiatives with a budget of 252,175 EUR provided assistance to marginalized groups of the population, institution-, and network building within a period of 2006-2008 in Ukraine. The history of the project development was the following: Hungarian Interchurch Aid (HIA) has been present in Ukrainian Transcarpathia since 1998 to provide assistance to the victims of floods. While implementing the program HIA decided to implement long-term development programs in the region. In 2000 HID together with HEKS (Swiss Protestant

³² See Index 2.

Relief Organisation) established Beregovo Social Fund³³, a new civil organisation that was aimed to carry out social and training programs. General objective of the project was (1) to promote the social integration of unemployed people especially Roma and disabled individuals; (2) to provide capacity building to ADVANCE, HIA's partner organisation and (3) promote the establishment of a new NGO network³⁴.

One key indicator of good multi-level governance is in the manner in which local and regional authorities engage with their stakeholder community (Dahl, 1989; Kaufmann and Kraay, 2002). It is recognised that CBC is more likely to be effective in countries with a strong tradition of communal autonomy (Perkmann, 2003: 165). Markedly, the ENPI CBC programmes support the increase of the linkages between the level of understanding between local regional actors (LRA) actors in the EU and Ukraine by fostering learning, administrative capacity-building, facilitating dialogue and exchange of best practices across the EU's boundaries (Interviews, 2014). They aim to provide for stronger institutional contacts, various CBC schemes, particularly those which are relatively small in scale, and are also part of the multi-level governance structure of EU-policy-making (Pekmann, 2003: 168). Regrettably, the current statistics in Ukraine points to the low level of NGO engagement with their local and regional governments.

EUBAM, the flagship border assistance mission had operations on the ground in two (former Soviet) CIS countries: Ukraine and Moldova. EUBAM³⁵ was launched in

³³ The Fund has been renamed in June, 2006 and now is called ADVANCE – Transcarpathian Advocacy and Development Center. The project contributed to the institutional development of ADVANCE through organizing professional training for its staff both locally and in Hungary.

³⁴ Following the 2 years' work and 4 network-building conferences the ACCORD (Association of Cooperating Organizations for Development in Western-Ukraine) network was established. A total of 22 organizations signed the network agreement and expressed its intention to work together with the member organizations in the frame of the network.

³⁵EUBAM recognises that corruption represents a serious impediment to the modernization of border management procedures, and is an endemic problem in Ukraine. EUBAM has a budget of EUR12 million annually (provided by the European Union). It is comprised of 91 international and 127 national staff (Jan 2013). Its mandate was extended in 2007, 2009 and 2011. It is an advisory body without executive power.

November 2005 with its headquarters in Odessa, Ukraine. Concerning its democratic initiatives, the Mission appointed an anti-corruption advisor, and drafted a EUBAM Anti-corruption Assistance Strategy (2010-2012), which identified key areas for future engagement within the context of EUBAM's mandate. The establishment of two pilot projects – 'Islands of Integrity' border crossing points along the Moldova-Ukraine common border – was among the steps implemented by EUBAM to improve professional integrity and demonstrate that reducing the level of corruption at the border crossing points (BCP) is an achievable target provided there is strong commitment and leadership. The EU's Visa Liberalisation Action Plan (VLAP) for Ukraine also required that the government implement particular national reforms.

According to Delcour, the EaP clearly created new multilateral institutions in EU policy towards the East (Delcour, 2011). With regards to CBC policies, the instruments of the Institution-building which support the authority's administrative capacity to implement CBC policies at both local and national level are the following: TAIEX, Twinning³⁶, SIGMA and recent EaP comprehensive institution-building programmes (CIB). However in parallel it drew the line for a reinforcement of bilateral cooperation at various levels, i.e., of the contractual relations with the neighbours through the negotiation of the AA, DCFTA, visa liberalisation, cooperation in the field of energy, the support to social and economic policies and finally assistance aimed at strengthening institutional capacities in order to meet the requirements of the AA, the DCFTA and other. Without it neither the EU nor its partners can prove their ability to deliver and implement policies and to bring change. More to it, the European Commission's 2012 progress report on Ukraine encouraged the government's implementation of border control measures. However, uneven development, without the promise of EU membership, restricted the implementation of any 'innovative policy framework' in Ukraine.

³⁶ According to the Working Plan of the Administrative Office of the Twinning Program there are 61 Twinning projects for a period of 2013 in Ukraine.

IV. Debates and Theoretical Framework.

Proper functioning public administration is important for democratic economic and political development, therefore, it is necessary to take effective measures for public administration development, the state's decision-taking, its implementation capacity and scope of control and accountability relationships in Ukraine in line with the grounding European Union principles. The main characteristic of public administration of the Ukraine was its undemocratic and strongly centralized decision-making, where decisions were taken by the Communist Party. Ukraine scored 26 (Russia 28) out of 100 in The Corruption Perceptions Index which ranks countries and territories based on how corrupt their public sector is perceived to be³⁷. Overall Change Readiness Index (enterprise capability, government capability, political and civil society capability) which assesses country's ability to manage change and cultivate opportunity for Ukraine is 0.4 (out of 1.0)³⁸. Where Ukraine's position is concerned with respect to European Union integration process, domestic reform process has not been translated in the reform process on the ground yet. The key challenge for Ukraine when integrating into Europe and adapting essential institutions and values, especially those related to good governance, will be to improve its state capacity and quality of democracy (Fritz, 2007; xx). Those are issues addressed by the EU both at national and subnational levels.

There are two separate literature debates in the area of good governance: among transitologists (transitions, state-building, democratisation) and Europeanists (European Integration, Governance) literature. Both develop their own research areas and both contribute to each other, especially in institutionalist analysis regarding role of institutions (Jupille and Caporaso 1999, North 1990, Pierson 2000, Radaelli 200, Pollack 1996, 2005, Scharpf 1997, Thelen 1998, Olsen 2009, Bulmer 2009). The initial debates on the post-Soviet region have focused on political and economic transitions (democratization, marketization) as well on issues of national identity but tended to

³⁷ Corruption Perception Index 2012, Transparency international, <http://cpi.transparency.org/cpi2012/results/#sthash.UMh8PwC0.dpuf>.

³⁸ The KPMG International Annual review, <http://www.kpmg.com/global/en/issuesandinsights/articlespublications/change-readiness/pages/index-tool-2013.aspx?countryCode=UA>.

neglect the state and governance (Przeworski 1991, Linz and Stepan 1996, Pridham 2005, Fritz 2007, King 2000, Fuchs and Zielonka 2006). The experience of ‘failing’ economic and political transitions in the former Soviet Union (SU) countries has given rise to the issue of the role of institutions.

Academic literature still debates the role played by external factors in the domestic process of democratization. At the beginning, studies on democratic transition in Latin America and Southern Europe shared the hypothesis that external factors do not play any role – at best a marginal one – in domestic processes of change (O’Donnell, Schmitter and Whitehead 1986; Linz and Stepan 1986). For instance, Philippe C. Schmitter in ‘Transitions from Authoritarian Rule’ argues that transitions from authoritarian rule and immediate prospects for political democracy were largely to be explained in terms of national forces and calculations. External actors tended to play an indirect and usually marginal role (Schmitter 1986). Linz and Stepan arrived at similar conclusion about domestic factors which play predominant role in the transition. Internal factors were of primary importance in determining the course and outcome of the transition attempt where international factors played only a secondary role (Linz and Stepan 1996).

The initial debates on the post-Soviet region have focused on political and economic transitions (democratization, marketization) as well on issues of national identity but tended to neglect the state and governance (Przeworski 1991, Linz and Stepan 1996, Pridham 2005, Fritz 2007, King 2000, Fuchs and Zielonka 2006). The experience of ‘failing’ economic and political transitions in the former Soviet Union (SU) countries has given rise to the issue of the role of institutions. Recent democratization and transitologist literature debates tend to treat good governance and associated institutions as a key variable to implementing successful democratic reforms in transition countries (Linz and Stepan 1996, Pridham 2005, Schmitter and Schneider 2004, etc.). In contemporary literature debates ‘good governance’ is widely regarded as the goal of state formation and transformation efforts (Fritz, 2007, Gänzle 2009, Lavenex, 2004, Pollack 1996, 2005, etc.). According to Fritz, the key challenge for Ukraine when integrating into Europe and adapting essential institutions and values, especially those related to good governance, will be to improve its state capacity and quality of democracy (Fritz, 2007).

Change of the literature in the '90s is the result of the accumulation of empirical evidence following the democratic transitions that occurred after 1989 in Central Eastern European countries. Those revolutions had been more influenced by international factors, notably the fall of the Berlin Wall and the demise of the Soviet Union. Furthermore, after the end of the Cold War, main international actors (USA, UK, France, Germany, Norway and Japan) along with the international organisations in which these actors were the core (World Bank, International Monetary Fund (IMF), Council of Europe (CoE), European Union, Organisation of Security and Cooperation in Europe (OSCE)) started to develop several mechanisms and incentives to enhance the adoption, in third countries, of democratic reforms and of a free market system. Scholars of political science debated on the characterisation of the nature and relative importance of the transition of democratic and liberal norms to the states: whether it was largely voluntary or involuntary, driven mainly by external or internal forces; or whether the most efficient measures were those that operated through the mechanisms of conditionality, or rather 'lesson drawing' and 'social learning' by the candidate states, which voluntarily adapted to the models they saw as dominant among EU Member States (Schimmelfennig and Sedelmeier 2004, 2005; Schimmelfennig 2008, Hughes and Sasse 2004, other). In the 90s the challenges to developing effective institutions were underestimated (Hill and Knill 2006, Olsen 2009, Pollack 2005, Pierson 2000).

The last two decades of EU integration have seen the emergence of 'new modes of governance', as 'mechanisms of 'governing or steering' not exercised solely by governments, but including the governing and regulatory activities of different governmental, quasi or semi-governmental as well as non-governmental actors. Governance in this sense is not only performed by hierarchical mechanisms of legally binding acts, but also includes methods such as soft law, agreements and contracts. It is exercised in configurations with regional, supranational and international governmental institutions working complementarily or in co-operation with national governments'. The presence of institutions such as agencies, networks, or committees, the use of instruments such as non-binding guidance documents, or of procedures involving the horizontal

cooperation of national authorities or the presence of private bodies in the decision-making process has multiple purposes, such as achieving more efficiency in more and more complex regulatory decision-making scenarios, or improving the application of EU law in an even growing Union. However, these new modes of governance have, at the same time, given rise to several concerns: how to balance efficiency of decision-making with a thorough review of all interests involved? To which extent can efficiency go to the expense of transparency and democratic values?

According to Migdal, the state may remain weak, even when it accumulates all of its resources because the state leadership keen on political survival prevents the development of complex organisations in state institutions (Migdal, 1988, p.236). Therefore, EU cross-border interactive frameworks can encourage new spaces for development of policy solutions to policy challenges, irrespective of national territorial boundaries. It is within this context that more appropriate solutions to the challenges of regional economic development can be developed. The CoR and its members should thus look to support innovation in the form of new governing practices to meet regional challenges across borders, such as those promoted through the CBC programmes funded through the ENPI and supported by MoU. Despite its different transformations the state in Ukraine has been continuously characterized by the prevalence of informal levers of power and the absence of strong formal institutional foundations. As a result, after years of transformation it still lacks the prerequisites of effective governance: impersonal and effective bureaucracy, rule of law and necessary mechanisms of accountability and makes the state dysfunctional and incomplete.

It is also argued that external governance seeks to expand the 'legal boundary' of the Union with only limited openings of its 'institutional boundary', thereby oscillating between an inclusionary and exclusionary approach towards its near abroad (Lavenex, 2011). Institutionalism characterizes much and the best of recent work of the EU (Jupille and Caporaso 1999: 431). Theories of new institutionalism (March and Olsen 1989, North 1990, Olsen 2009) described various institutional features (for instance, constitutional arrangements and policy structures), which helped examine long-term

processes of social change. Rationalist institutionalism followed the logic of resource redistribution and the presence of supporting institutions as main factors facilitating change. This approach helped in addressing issues of temporal changes without making overgeneralizations about events and actors involved. From a rationalist institutionalist perspective changes in the political opportunity structure leads to a domestic redistribution of power and consequently to the domestic change. Institutions mainly provide constraints and incentives but not reasons for action and alter cost-benefit calculations but not interests or identities (Schimmelfennig 2004). Sociological institutionalism emphasizes an importance of European policies, norms and collective understandings. It suggests that Europeanisation leads to domestic change through a socialisation and collective learning process resulting in norm internalisation (Börzel and Risse 2003, Schimmelfennig 2004).

The institutional export by the EU to Central Eastern European countries is widely regarded as a success; but, for example, similar efforts in the Western Balkans have had less effect (Schimmelfennig and Sedelmeier, 2005, Vachudova 2005, Highes, Sasse, Gordon 2004, Fritz, 2007, Haughton 2007). Besides a great optimism about positive effects of EU neighbourhood programmes on the development of border regions (TACIS, INTERREG III) there are also significant considerations about effectiveness of these programmes. Pitoska (2006) discussed based on the example of EU-Balkan cooperation that these programmes have positive but modest effect on the socio-economic development of border regions. Therefore, the EU no longer unilaterally imposes certain development policies. According to Holland, goals and principles shall be formulated in consultation with the developing countries and jointly evaluated on the basis of formerly agreed benchmarking criteria (Holland, 2002: 6). Periodic monitoring, evaluation and reviews are supposed to induce processes of mutual learning through the diffusion of best practice. These processes of coordination are complemented by reinforced efforts at capacity building public sector, strengthening of civil society and NGOs.

Debates between rationalist and sociological institutionalism generated hypotheses about the conditions of the institutionalisation and institutional effects. The conditions of

institutionalisation and institutional effects will reflect the extent of the effectiveness of international influence on domestic change. EU conditionality is not based on a single or several related conditions (for example, economic reform, liberalization, and human rights), but reflects a diverse set of conditions. Those analyses are organized around the EU's Copenhagen criteria and later additions such as the Madrid administrative capacity criterion³⁹ (Dimitrova, 2002). Christiansen (1998) seeks to examine the interrelationships between 'three layers of change' (at the policy-making, constitutional, and macro-societal levels), each of which operates in a different historical time frame. Historical Institutionalism combined with constructivism would endogenise "the current configuration of actors, interests and powers" (Christiansen 1998:113) to the structures within which they act. Through the medium of actors, interests and powers, structures condition the policy-making process, which conditions constitutional reforms, which contribute in turn to long-term structural (deep institutional) change.

Realism and (neo)liberal institutionalism are among major International Relations theories that employ institutions as a core concept. The core of economic liberalism is a view that in order to function smoothly, a liberal economic order requires international regimes or institutions such as, for instance, the European Community, World Bank, World Trade Organisation (WTO), International Monetary Fund (IMF). Once in place, these institutions and regimes bolster economic cooperation, hence bolster prosperity (Haas 1980; Nye 1980, Keohane, 1988, and Moravcsik 1996; Mansfield 1992; Schimmelfennig 2001, Schneider and Schmitter 2004). However, in the field of international relations, traditional theories of international institutions (for example, neoliberal institutionalism or realism) do not offer much insight into how or under what circumstances these organizations might promote democracy. Most theories of international organizations concentrate on international outcomes such as interstate conflict and cooperation, and do not provide a basis from which to draw strong causal

³⁹ In general terms by the phrase 'administrative capacity' the Commission sought the following reforms in the public administrations of the applicant states: legislation specifically regarding the civil service; the establishment of a career civil service; political neutrality of the civil service; and pay reform designed to bring public sector pay closer to that in the private sector. The Commission also reviewed capacity of applicant states to implement the *acquis* in sectoral areas.

linkages between international agents and domestic actors (Pevenhouse 2002). It is admitted generally that in order to get a more comprehensive picture and to capture fully how EU matters the study of the various feedback processes should be complemented. From institutionalist perspective, it matters less whether politics occurs within or among nations. What matters more is that politics occurs within a framework of mutually understood principles, norms, rules or procedures, that is, within an institutional context. Institutionalism promises a logic that can unify the analysis of politics and policy making at and across levels of analysis.

V. Conclusion.

Preliminary findings based on existing literature and interviews conducted demonstrate that for Ukraine its progress towards European Integration is a complex result of domestic, international and geopolitical factors, influencing EU–Ukraine relations and explaining its success or failure. The research conducted for this paper consisted of tools, which the EU had at its disposal to bring change into internal governance processes. The European Union is conducting external relations through a various set of capacities. Bilateral and multilateral agreements signed by communities, diplomatic delegations set up by the European Commission in third countries, autonomous measures such as regulations, decisions on common commercial policy, financial assistance undertaken while using either regional approach, such as TACIS or thematic approach. The current state of EU-Ukraine cooperation doesn't meet the needs of either side. Despite Ukrainian continuing implementation of undertaken obligations which confirmed its adherence to the European integration values, politically situation remains far from being stable and economically the country is struggling to avoid its sovereign default.

As Inna Pidluska, President of the Europe XXI Foundation, Kyiv, Ukraine, stated «the challenges to crossborder cooperation can be summarized as follows: weak institutions and poor governance, lack of political and institutional accountability and responsibility for results of their performance or failure to perform,- insufficient (and often totally lacking) respect for the rule of law, incomplete economic transformation, non-transparent privatization, insecure and questionable property rights, - dramatic and rapid deterioration of the «social capital», impoverishment of population and lack of incentives for

development of «middle class», - corruption and illegal activities justified by broad circles of the population». According to her, taken together, those challenges hinder development of a new quality of cooperation which is complicated by the present political situation. It is also necessary to harmonize sector strategies with the Strategy of the National Regional Policy in Ukraine to ensure access and public participation in the decision-making process on local regional issues.

At the same time the EU institutions and the EU member-states should maintain the dialogue with Ukraine to pay extra attention to the regional and non-government component: local and regional communities, civil society etc. Politicisation of EU and Ukraine activities often happen due to the lack of strategical vision of the future for EU-Ukraine integration such as decentralisation tendencies at the local levels, political will, depoliticization of issues, technical assistance, professional advice, and shared competencies. The public lacks information on the European Union integration, and the EU policies (ENP and EaP) issues. Key problem areas also include the capacity of state authorities (personnel capacity). The journey to democracy can be, to varying degrees, especially long and hard for Ukraine, because of weak institutions, and their weak traditions of cultural pluralism, and the separation of powers. Regional and local authorities, as well as a wide range of representatives of civil society have to develop their own strategies in order to start building trust in governance. It is important that the authorities make it clear that everyone is treated equally when it comes to justice and law enforcement. EU can help combine all those measures and policy areas needed for change by using its multilevel governance (MLG) approach and solidarity actions of its member states.

Index 1: Table 1 Eastern Partnership Funds⁴⁰

Eastern Partnership funds		
Comprehensive Institution Building €175m	Pilot regional development programmes €75m	Multilateral dimension €350m

Indicative breakdown of EaP financing				
2010	2011	2012	2013	TOTAL
€85m	€110m	€175m	€230m	€600m

Index 2:

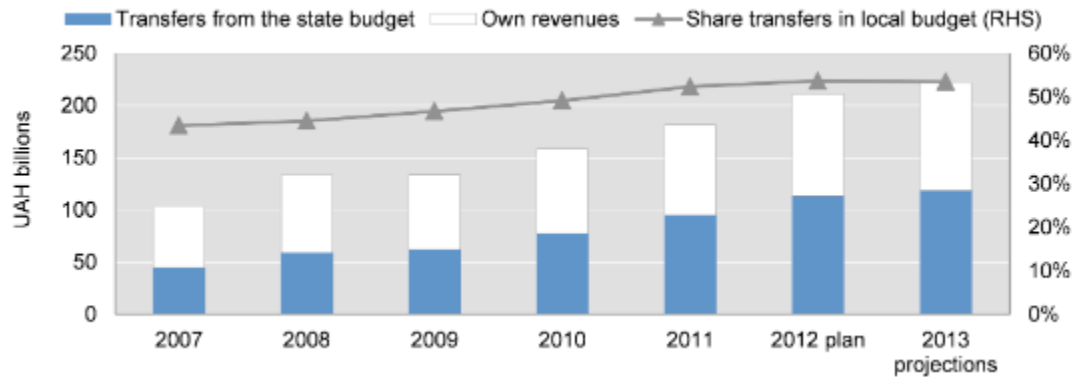
EP Platforms			
AI Democracy, Good Governance and Stability			
Public Administration Reform	Policy Objectives Professional and accountable civil service; Approximation to EU standards and increasing efficiency of the public administration and policy making process	Instruments EP Panel on PA reform; ENPI; EU MS- Tallinn, Warsaw, Prague Institute and Academy for PA	Expected Results/Lessons learned PA legislation: A greater ability to absorb EU assistance due to well-functioning central administration
Regional and Local Authorities	Policy Objectives	Instruments	Results/Lessons
	Local Government Reform	CORLEAP, TAIEX	
	Local Government		

⁴⁰ Eastern Partnership Funds. When creating the Eastern Partnership in 2009, the EU assigned €600m to it, increasing the overall amount of ENPI funds for the Eastern partners to €1,9bn during 2010-2013. After last EaP summit in Warsaw, the Polish prime minister Donald Tusk, announced an increase of the EU's allocation towards the eastern partners by €150 million in 2011-2013. The 'EaP funds' are incorporated into the ENPI and are dispensed by the Commission in accordance with usual ENPI procedures.

	Reform		
CBC	CBC	ENPI funded CBC	
A9 Fight Against Corruption		CoE and EaP Panel	

Index 3. State Statistics Committee

Ukraine.



Index 4:

The legal framework for the involvement of Ukraine’s border regions in cross-border cooperation is well developed and quite sufficient. It includes:

The Council of Europe acts: European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Ratified by the Decree of Verkhovna Rada of 14 July 1993) and European Charter of Local Self-Government (Ratified by the Act of Ukraine of 15 July 1997).

National legislation: Act of Ukraine on Local Self-Government (adopted: 21 May 1997); Act of Ukraine on Local State Administrations (adopted: 9 April 1999); Act of Ukraine “On Transfrontier Co-operation” (adopted; 24 June 2004). The latter defines: the objectives and principles of the national policies in the field of transfrontier co-operation; powers of Ukrainian entities involved in transfrontier co-operation; the principles and methods of the government support to transfrontier co-operation including the national funding. Decree by the Cabinet of Ministers of Ukraine “On the Measures to Implement

the Concept of the State Regional Policy” (adopted: 13 Sept. 2001); Decree by the Cabinet of Ministers of Ukraine “On Some Issues of the Development of Cross-border Cooperation and the Euroregions” (adopted: 29 April 2002).

Bilateral agreements on co-operation and good neighbourhood between Ukraine and the neighbouring countries and special bilateral agreements on cooperation between Ukraine and the neighbouring countries in boundary regime and sectoral cooperation (e.g. trade, cooperation in the management and protection of transboundary waters etc.).

Documents outlining Ukraine’s move towards accession to the EU: EU-Ukraine Partnership and Co-operation Agreement (signed in 1994, entered into force in 1998); Strategy of Ukraine’s integration into the EU (approved by the President’s Decree of 11 June 1998); National Programme of Ukraine’s integration into the EU (Sept. 2002); yearly adopted EU-Ukraine Action Plans.

Interviews conducted 2014:

Kyiv : Valentina Romanova, analyst on regional integration, Institute of Strategic Studies, Kyiv, Ministry of regional development in Ukrainian only, department of European Integration. David Stulik, European Commission representation in Kyiv. More to be conducted in January 2015 by skype. Jan Tombinski ?. Ministry of Construction and Regional Development. Ilko Kucheriv Democratic Initiatives Foundation website – <http://dif.org.ua/>. Kyiv International Institute of Sociology website – www.kiis.com.ua. Razumkov Centre website – www.razumkov.org.ua. Kyiv Mohyla Academy.

in Lviv

Maryan Manko, PhD candidate, Ivan Franko University Lviv, Department of political Science and Krakow Economic University Poland, Europe Group; Ukrainian policy experts at the Center for Political and Legal Reform, City Council Lviv, International Cooperation Bureau, CBC Lviv. Project Implementation Unit.

The JTS is located at a state-owned body – the Centre for European Projects, which is a budgetary unit located in Warsaw. the Ukrainian branch office is located in Lviv.

Ukraine’s MFA representative in Lviv — Vyacheslav Voynarovskiy. Ukraine Embassy, Krakow representative.

Interviews in Warsaw and Krakow: Instytut Spraw Publicznych – Warszawa, Stowarzyszenie Wschodnioeuropejskie Centrum Demokratyczne (East European Demo-

cratic Center) – Warszawa. Europe Group, Club Jagiellonski, experts on EaP and Ukraine.

Abbreviations:

CIP - Comprehensive Institution-Building

CoE – Council Of Europe

ENP European Neighbourhood Policy

ENPI- European Neighbourhood Policy Instrument

EU – European Union

EC European Community

EaP – Eastern Partnership

IBM – Integrated Border Management

PRDP - Pilot Regional Development Programmes

SME – Small and Medium Enterprise

TAIEX – Technical and Information Exchange

NGO – Non-Governmental Organisation

OSCE Organisation for Security and Cooperation in Europe

CORLEAP - The Conference of Regional and Local Authorities in the Eastern Partnership

EURONEST - EU Neighbourhood East Parliamentary Assembly.

CSF- Civil Society Forum;

Cooperation beyond EU political institutions: Eastern Partnership Technical Assistance Trust Fund (offers a multi-purpose, multi-sectoral funding facility for technical assistance).

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InterAct EU

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