# The EGTC, transformative and innovative governance and national boundaries

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## Abstract

The paper focuses on the power of the EGTC to provide participatory governance patterns, while considering the obstacles and (national) boundaries that define it. Besides diverse administrative and public actors on different layers, this legal instrument is also acting for and is stipulated by the local dimension and can act in the name of the local and regional citizenry. The EGTC, in this context, is considered as a cross-border supraregional institutional framework to implement a bottom-up, civil society and citizen-driven euroregional policy; to construct an everyday international cross-border living lab standing for solidarity and reconciliation and contributing to the fortification and establishment of a Europe of the cross-border regions. Within this paper an analytical model of *participatory governance of cross-border regions in the EU* will be presented and applied to analyze briefly four EGTC case studies: The EGTC Galicia-Norte de Portugal; EGTC South Tyrol-Tyrol-Trentino; the EGTC Strasbourg-Ortenau; and the EGTC TransOderana (under construction).

**Keywords:** participatory governance, boundaries, analytical model, cross-border regions, governance.

## I.    Introduction

This contribution will focus on the power of the EGTC to provide participatory governance patterns, while considering the obstacles and (national) boundaries that define it. In this edited volume, the EGTC – an EU legal instrument – is assessed in-depth. In several papers here it is described as both object and subject of (multilevel) polity and politics; including a wide range of interacting heterogeneous actors, institutions and interests on several administrative and geographical layers and scales (supranational, national, regional and local). The EGTC regulation, its

implementation/ implementing provisions on national and (in the case of Austria, Belgium and Germany) also on the regional level and the EGTC creation itself are products of multilevel politics; several articles in this volume, therefore, examine them as such.

This paper seeks to stress another perspective on the EGTC. Besides diverse administrative and public actors on different layers, this legal instrument is also acting for and is stipulated by the local dimension and can act in the name of the local and regional citizenry. The EGTC, in this context, is considered as a cross-border supraregional institutional framework to implement a bottom-up, civil society and citizen-driven euroregional policy; to construct an everyday international cross-border living lab standing for solidarity and reconciliation and contributing to the fortification and establishment of a Europe of the cross-border regions (Ulrich, 2020). Thus, the EGTC is not only an institutional framework for administrations and public actors but also a political instrument with a social and societal purpose – be it by providing leeway for civil society participation or by bundling and coordinating cross-border public services in state peripheries.

In the following sub-sections, first, the theoretical background will be illustrated by discussing notions of governance, civil society vs. citizen participation, cross-border institutions and borders and boundaries. Second, an elaborated analytical model will be presented to "measure" participatory governance in EU cross-border regions. Third, the EGTC will be discussed from the perspective of participatory governance and social cooperation and innovative forms of governing. Fourth, four different case studies will be compared to each other: The EGTC Galicia-Norte de Portugal; EGTC South Tyrol-Tyrol-Trentino; the EGTC Strasbourg-Ortenau; and the EGTC TransOderana. Finally, the analytical model will be verified in the discussion.

## II.   Theoretical background: Governance, Civil society participation, Institutionalisation, Borders

The EGTC will be discussed in this contribution as both object and subject of participatory governance across EU borders and the border-related factors that could favour or hinder cross-border interaction between state institutions, private actors, civil societies and citizens across borders. To go further and to conceptualise an analytical model of participatory governance in EU cross-border regions, it is essential to briefly reflect on some theoretical concepts and terms to be used later.

## Governance

The notion of governance is derived from the scientific discipline of economics and transferred and adopted to political and administrative studies, especially in the fields of European, regional and border studies. Gover*nance* encompasses – in clear demarcation to the notion of govern*ment* – network-like, multi-actor and frequently conducted interactive forms and styles of political steering; plus control, management and coordination of either a concrete territory (local or regional community, cross-border region, metropolitan area) or a concrete domain (certain programme, project, policy sector, concrete problem or territorial challenge). This means, that compared to hierarchic and top-down manners of political planning and steering, governance is based on collaborative and interactive forms of policy-making and regional planning, for example in cross-border regions. Governance – in this context – can be grasped as Regional Governance (Fürst, 2010; Kilper, 2010), Cross-Border Governance (Perkmann, 1999; Scott, 1999, 2010; Gualini, 2003; Ulrich & Scott 2020) or in public and European Politics also as European or Multilevel Governance (Rhodes, 1996; Hooghe and Marks, 2003). Governance can be understood in an empirical-analytical or a normative-ontological way. Empirical-analytical notions understand governance as an analytical or theoretical model to examine the polity (political structures and actors) or politics (political processes and interactions) in a multilevel and cross-border system. By contrast, normative-ontological readings of governance formulate expectations and norms of how governance should be designed in order to achieve certain effects. One of the norms is that governance should be to a certain extent open to civil society and citizens in order to gain a higher political input (politics *with* the people) and/or output (politics *for* the people) legitimacy. These normative stances of governance can be called democratic or participatory governance.

## Democratic or participatory governance: Participation of civil society and citizens in cross-border institutions

Democratic or participatory governance can be labelled as new governance patterns and were first claimed by the EU in the 2001 White Paper on European Governance; the idea being to bring the citizens back in into different administrative layers of EU politics. The inclusion of the citizenry could be achieved by including collectively organised civil society or the broad range of individual citizens (Schmitter, 2002; Heinelt, 2010; Kohler-Koch & Quittkat, 2013) in governance arrangements and include those who "are affected by the policies adopted" (Schmitter, 2002; Heinelt, 2010). This argument of democratic theory focuses in cross-border regions for example on the cross-border local populations but also on other groups of actors (Schmitter, 2002). Therefore, the citizens and civil society in a cross-border region shall participate in cross-border governance arrangements.

In combination with the EGTC, so far only a few studies have been conducted on democratic or participatory governance and the EGTC (Engl, 2015; Ulrich, 2016; Ulrich, 2020 - forthcoming). Engl (2015) grasps participatory governance in an institutional context by focusing on the extent that participatory and inclusive patterns are observable in the institutional structures of an EGTC. She names five dimensions of participatory governance within an EGTC (Engl, 2015: 130 ff.):

1. Participation of several governmental and administrative levels;
2. Participation of several political institutions of the same governmental and administrative level;
3. Participation of other public actors;
4. Participation of non-public or civil society actors; and
5. Institutional consideration of ethnic and linguistic diversity in a cross-border region.

The more of these five criteria are considered in the institutional structures of the EGTC, the more the EGTC can be considered to provide participatory governance structures. Besides the potential of involving diversity and inclusiveness in institutional structures, other forms of social inclusion in governance arrangements, which shall be called transformative-innovative governance, could also be achieved.

## Transformative-Innovative governance: The social dimension of governance

The social dimension of governance in (cross-border) regions encompasses a) the active participation of civil society and citizens (*active society*); and b) the provision of public and social services across borders (*active public authorities*) and enabling the conditions for c) social innovations in (cross-border) regions (*active society and private actors*). Therefore, innovating and transforming governance in a societal sense is based on three columns and integrates several actors from the public, private and societal sector. For participatory governance, it is necessary that an active organised civil society or individual citizens are *internally* included in the EGTC or interact frequently *externally* with the EGTC. For the provision of (cross-border) public and social services, the public authorities (on EU, national and subnational level) actively provide basic services for the citizens: for example in the fields of critical infrastructures (electricity, transport, water, waste management), healthcare and further social ambits (education). In a cross-border context, EU and supraregional institutions such as the EGTC might help to bundle and coordinate such social services for the public.

If state and public authorities are lacking public and social services such as in structurally weak and rural regions, new solutions between actively engaged private and civil society actors might help to tackle societal challenges in transformative societies. These new forms are called *social innovations* whose purpose is to achieve a social impact (Howaldt & Schwarz, 2010; Christmann, 2011; Moulaert & MacCallum, 2019; Sept & Ulrich 2020). Social innovations could also be new forms of cross-border governance or new state-society relations that tackle social inequalities and may be solutions to global and societal challenges. An EGTC could also support private and civil society actors by providing incentives for cross-border mobilisation of projects, ideas and new services, products, and/or companies that tackle cross-border societal and territorial inequalities. All of these abovementioned social columns of transforming and innovating governance could provide social, economic and territorial cohesion (Art 174 TFEU) which, moreover, could be coordinated by the EGTC.

## Conditions: Borders and boundaries

Yet, transformative-innovative governance for social, economic and territorial cohesion could be hampered if nation-state borders and their divergent administrative, political, legal, historical, linguistic, social and/or cultural characteristics are transformed into barriers and obstacles. (Ulrich, 2020 - forthcoming). Examples of such obstacles and factors that influence cross-border interaction and the establishment of an integrated cross-border area could be market forces and mobility; different governmental levels; and culture and local cross-border politics (Brunet-Jailly, 2005). According to Svensson and Balogh (2018) other border obstacles could be communications and infrastructures; legal norms and regulations; language and cultures that influence the interactions between the population on both sides of the border (Svensson & Balogh, 2018). Haselsberger (2014) who differentiates between border (as a nation-state demarcation line) and boundaries (as overlapping theme-specific demarcations), defines geopolitical, sociocultural, biophysical and economic boundaries that determine the "thickness" and therefore, the presence of a nation-state border which influences cross-border regional planning and cooperation within EU (and probably any other) border regions. Applying the different notions of participatory governance and borders and boundaries, these concepts by Haselsberger are combined within an analytical model for participatory governance and national boundaries within EU cross-border regions that will be presented in the following sub-section.

## III. Analytical Model "Participatory governance of cross-border regions in the EU"

The analytical model introduced in the following sub-section can be utilised to examine the border-related conditions for multilevel and cross-border governance in interaction with civil society. Therefore, it can be used to determine under which specific conditions – geopolitical or sociocultural boundaries – or more precisely, under which characteristic values participatory governance in EU cross-border regions applying the legal framework of the EGTC occurs. The logic of correlation in the analytical model is based on the following order: the permeability of the national border (condition) determines the degree of participatory governance in EU cross-border regions institutionalised in EGTCs (outcome) with the desired effect of democratisation of EU politics on the subnational level (see figure 1).

*Figure 1: Logic of causality of the analytical model*

| Conditions | Outcome | Effects |
|---|---|---|

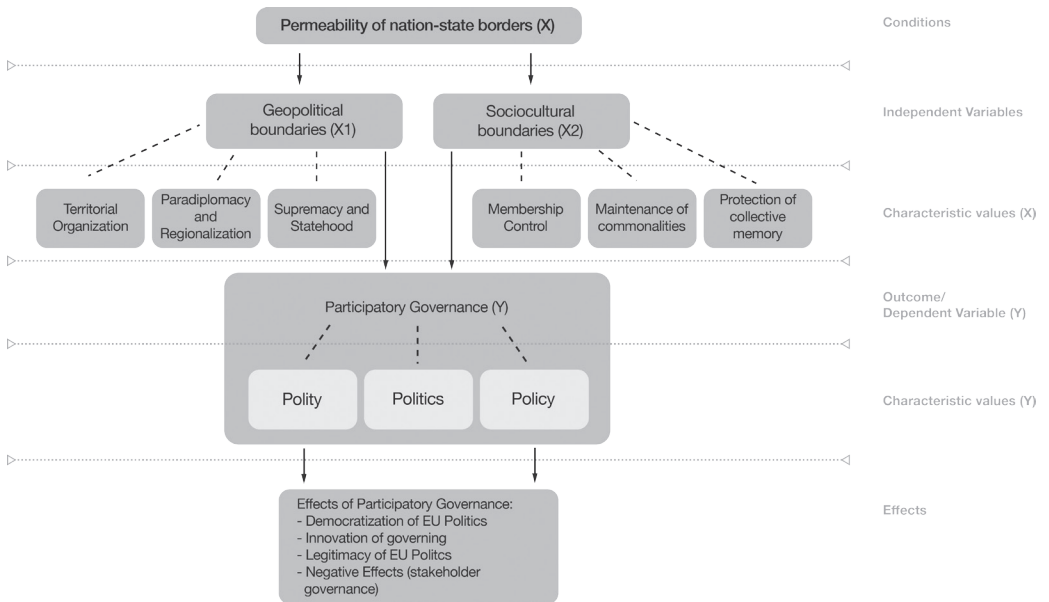| Permeability of national borders (X) | → | Participatory Governance in EU cross-border regions (Y) | → | Democratization of EU politics |
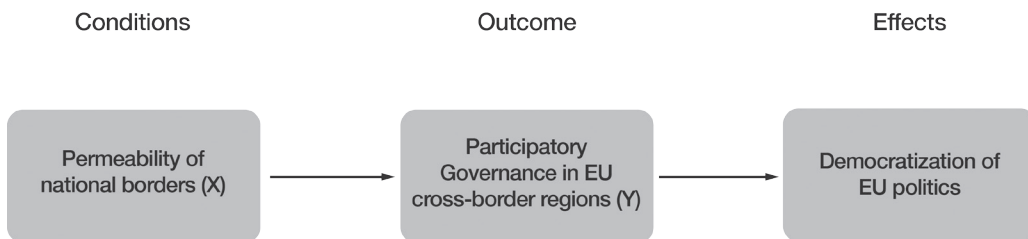
*Source: Own elaboration*

This logic of causality serves as a groundwork for the establishment of an analytical model which is based on several classifications or other analytical models such as the border and boundary-set model by Haselsberger (2014); the classification of different elements of participatory governance within an EGTC by Engl (2015); and the classification of external actor participation in governance arrangements by Schmitter (2002).

Figure 2 illustrates the elaborated analytical model to examine political interaction processes among public actors with representatives of civil society and citizens within borderlands and the conditions as well as potential effects of such interactions.

The assumed condition (X) *permeability of the nation-state border* is determined by the manifestation of the independent variables *geopolitical* (X1) and *sociocultural boundaries* (X2). Based on Haselsberger's classification to determine the durability or thickness of the border, the geopolitical and sociocultural dimensions of bordering processes appear to be the most commonly used to examine the conditions of cross-border governance arrangements. X1 is assigned the following characteristic values to

"measure" geopolitical boundaries: 1) territorial organisation; 2) paradiplomacy and regionalisation; and 3) supremacy and statehood; while X2 is examined through the manifestation of 1) membership control; 2) maintenance of commonalities; and 3) protection of collective memory (see figure 2). If pronounced geopolitical and/or sociocultural factors are detectable then the national border between both states and the EGTC is likely to be considered thick and impeding or hindering cross-border interactions between different kinds of actors (public, private and societal actors).

*Figure 2: Analytical model of participatory governance in EU cross-border regions*



*Source: Own elaboration*

The outcome or the dependent variable *participatory governance in cross-border institutions* (Y) depends on the assumed condition of the permeability of the nation-state borders and is measured by the manifestation of participatory governance processes and patterns in 1) polity; 2) politics; and 3) policy (see figure 2). Referring to this classical differentiation from political studies, polity refers to the institutional structure and actor networks, politics to the political processes and interactions while policy refers to the political fields and contents. The more the three characteristic values are open to civil society, the more participatory governance is observable. This then could also lead to positive effects such as democratisation of EU politics, innovation of governance, an increase of legitimacy of EU politics (see figure 2).

After introducing the analytical model to scrutinise participatory governance in EU cross-border institutions and regions, the following sub-section highlights the participatory characteristics that the EGTC has within EU multilevel and cross-border governance.

# IV. The EGTC as an institutional framework of participatory governance in cross-border regions

The EGTC is – as described by the various other contributions to this volume – first of all a legal instrument, but it also has highly political character. As initially stated in this article, the EGTC is initiator and promoter but also product of multilevel politics and governance in Europe. This means, that – as already stated – the EGTC regulation, its implementation/implementing provisions, and the foundation process of an EGTC are products of multilevel governance. The theoretical chapter outlined that governance is an actor-centered approach and that multilevel governance includes several actors on different scales from different nations. At the same time, mostly public and territorial authorities and actors participate with, or are members of, the cross-border grouping which has been opened up a little bit since the EGTC regulation reform in 2013. Following the notion of participatory governance, those that are affected by the policies adopted should also participate. In a territorial (regional or local) context that should be the population of a (cross-border) territory. Therefore, with regard to the enhanced inclusion of citizens and civil society in multilevel governance, the EGTC can provide the following possibilities when fostering transformative or innovative governance structures. Regarding the initially stated three lines of transformative and innovative governance forms, the EGTC fosters the social dimension of cross-border governance in the three following ways: a) the active participation of civil society and citizens (*active society*); b) the provision of public and social services across borders (*active public authorities*); enabling the conditions for c) social innovations in (cross-border) regions (*active society and private actors*).

## a) Active participation of civil society and citizens (active society)

Besides being object, subject and initiator of multilevel governance in the EU, the EGTC is also an advocate of participatory governance as it promotes the inclusion of several kinds of actors and territorial layers and as it is allowed to coordinate social and public policy for cross-border territories. Engl admits that citizens are not directly addressed with regard to general cross-border governance:

> "*Several scholars have highlighted that a CBC area develops successfully and effectively if it implements governance structures and processes that include a different range of relevant actors and governmental levels. […] On the other hand, institutional cross-border arrangements are often limited to political elites and do not include other actors and networks and, therefore, neither promote a high level of institutional integration nor succeed in mobilizing broad attention and support among the population*" (Engl, 2016: 148).

Thus EGTCs are first and foremost groupings of public entities to better coordinate cooperation across borders.

Yet, as the EGTC contains a high degree of autonomy *vis-à-vis* the national layer on both sides of the border and as a supraregionalist entity is able to implement cross-border policies more efficiently, it is considered an appropriate institutional framework for the inclusion of citizens and civil society in cross-border regional policies. Public authorities – which can be territorial authorities but also public entities and authorities such as schools, universities, hospitals, transport associations, or municipal companies – may participate in the EGTC. Public entities of third countries of the EU may also participate in the EGTC since the EGTC regulation reform as well as "undertakings entrusted with operations of services of general economic interest" (Art. 3(1e-f) of the EGTC Amending Regulation). A third country may participate in the grouping when it borders at least one member state; thus, EGTC members could be public authorities from Ukraine, Belarus, Serbia, Bosnia, Turkey and Russia as well as EFTA/EEA states (Liechtenstein, Iceland and Norway).

Concerning the inner-institutional governance of the grouping, each EGTC should be composed of "an assembly, which is made up of representatives of its members" and a "director, who represents the EGTC and acts on its behalf" (Art. 10(1a-b) of the EGTC Regulation). Public entities such as schools, universities or municipal utilities and also entities of general public interest can participate in the EGTC, by sharing their knowledge, voice and ideas through the assembly of the grouping. Although not defined in the EGTC regulation, most cross-border EGTCs also possess thematic working groups where associations, private actors, civil society and citizens can participate in strategy development and projects.

## b) Provision of public and social services across borders (active public authorities)

The EGTC that has an own legal personality can only conduct policies in the fields and competences with which it is assigned. Therefore, the competences of the grouping are transferred by its members (Krzymuski, 2017: 159). Also, as already stated, "undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law" as well as "national, regional or local authorities, or bodies or public undertakings […] from third countries" (Art. 3(1e-f) of the EGTC Amending Regulation) can be members of the grouping since the EGTC regulation reform of 2013. As can be seen, the initial focus on an implementing agency for EU Regional funds such as ETC has been broadened towards a body for the implementation of public services; of course only within the limits of the competences of the national territorial authorities:

> *"An EGTC shall act within the confines of the tasks given to it, which shall be limited to the facilitation and promotion of territorial cooperation to strengthen economic and social cohesion and be determined by its members on the basis that they all fall within the competence of every member under its national law" (Art. 7(2) of the EGTC Regulation).*

Thus, the member with the lowest assigned competences defines the scope of competences transferred to the grouping (Krzymuski & Kubicki, 2014: 1339) which should be more flexible through the EGTC regulation reform and the potential European Cross-Border Mechanism. Member States can assign their regional authorities even greater competences if needed according to the EGTC regulation reform:

> *"Each task shall be determined by its members as falling within the competence of every member, unless the Member State or third country approves the participation of a member established under its national law even where that member is not competent for all the tasks specified in the convention" (Art. 7a(2) of the EGTC Amending Regulation).*

Therefore, a greater flexibility has been provided by the EU (Kubicki, 2017: 123). The provision of greater flexibility and the possibility of conducting general public services show that the EGTC is an instrument for active cross-border public and social service provision in a transformative and innovative governance context.

With regard to managing cross-border infrastructures since 2013, the EGTC is entitled to coordinate services of general public and economic interest which relate to services that are core competences of municipalities and inter-municipal cooperation in the national context in many Member States (Krzymuski, 2017: 162) as can be found in the EGTC regulation reform:

> *"However, in compliance with applicable Union and national law, the assembly of an EGTC, referred to in point (a) of Article 10(1), may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, or the terms and conditions subject to which a service of general economic interest is provided, including the tariffs and fees to be paid by the users" (Art. 7(4) of the EGTC Amending Regulation).*

Therefore, the EGTC is linked to the management of services of general economic and public interest such as local infrastructures; in the fields of public schools; social, cultural and health institutions; sport facilities; streets, railroads and public transport; energy and water supply; and waste management. The EGTC does not possess the infrastructure but coordinates it (Krzymuski, 2017: 163). Looking at the EGTC regulation reform, the EGTC is obviously empowered to manage infrastructural matters as well as services of general economic interest – for example in the fields

of health, transport and educational issues (Krzymuski & Kubicki, 2014: 1340). Therefore, the EGTC implies a highly social public function in the context of cross-border governance.

## c) Social innovations in (cross-border) regions (active society and private actors)

Finally, the third level refers to social innovations in cross-border regions which concern private, public and civil society solutions to societal challenges. Social innovations – as the third aspect of the social dimension of cross-border governance – encompasses as the enabling and promoting actors of the EGTC, mostly active social and civil society actors as well as private actors and the cross-border and euroregional entities. Therefore, it is crucial to focus on how the EGTC can foster social innovations in cross-border regions.

The EGTC was initially planned to more effectively implement cross-border EU programmes such as Interreg:

> *"Specifically, the tasks of an EGTC shall be limited primarily to the implementation of territorial cooperation programmes or projects co-financed by the Community through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund" (Art. 7(3) of the EGTC Regulation).*

Therefore, the EGTC follows the principles of territorial, social and economic cohesion by also implementing social and economically relevant actions such as the European Social Fund. In this context, the EGTC can promote cross-border projects by implementing cross-border cohesion policy programmes more efficiently and thus contribute to the cooperation of different kinds of actors from the private, economic and social sector across borders. Also the linkage of economic, research and innovation measures in cross-border projects and programmes such as the European Regional Development Fund which could be coordinated by the EGTC shows that the EGTC may also be an initiator of local, cross-border, social and technological innovations.

For the new programming and budgetary period 2021-2027, in the ETC regulation draft there has been the proposal that the EGTC shall be the mandatory management entity of Small Project Funds (SPF) in Europe. These SPF projects encompass social and cultural projects of encounter across borders. In this context, the EGTC would be a bottom-up and civil society project enabler for innovative forms of cooperation and interaction. This would agree with the Committee of the Regions' 2015 recommendation that "further encourages EGTCs to develop innovative models of citizen participation and European democracy" (CoR, 2015: 4). Therefore, the EGTC can serve as a promoter of citizen and civil society participation and social innovation.

# V. Case Studies

The sections above introduced the theoretical background; the conceptualised analytical model to study participatory (transformative and innovative) governance forms and national boundaries that can be encountered when applying the EGTC in cross-border regions; and the description of the EGTC from the perspective of participatory governance. This section presents the results of four EGTC case studies to which the analytical model will be applied.

This study has been conducted in the framework of the research group EGTC Center of Excellence funded by the Viadrina Center B/ORDERS IN MOTION (2014-2017) at the European University in Frankfurt (Oder) at the German-Polish border. The in-depth results of the case studies and the results of the comparison have been presented in a doctoral thesis submitted and defended in 2019 which will be published at the end of 2020 (Ulrich, 2020 - forthcoming). In this article, only a brief overview and analysis results for each case study can be presented. The EGTC case studies examined are, as most EGTCs (Evrard & Engl, 2018) cross-border (not transnational or interregional). As planning for their establishment started around 2010, they also can thus be considered as forerunners of the EGTC. Two of the EGTCs are situated on the regional (NUTS 2) level while two are located on the local (NUTS 3) level. The four case studies are: the Spanish-Portuguese EGTC Galicia-Norte de Portugal; the Austrian-Italian EGTC Tyrol-South Tyrol-Trentino; the German-French EGTC Eurodistrict SaarMoselle; and the German-Polish EGTC TransOderana (under construction). Data gathering was conducted from the beginning of 2015 until the end of 2016; interviews with representatives of the EGTCs and with EU institutions were also conducted in this period.

## EGTC Galicia-Norte de Portugal

**Overview:** The Spanish-Portuguese EGTC Galicia-Norte de Portugal was registered on February 18, 2010 and is thus the third EGTC in Europe and first on the Iberian Peninsula. The cross-border grouping consists of the Commissão de Coordenação e Desenvolvimento Regional do Norte de Portugal (the regional public institution of the Northern region) and the Xunta de Galicia (public authority of Autonomous Community in Galicia). The EGTC Galicia-Norte de Portugal hence contains NUTS 2 regions representing an area of 51,000 km² and a population of 6.4 million inhabitants (Pucher & Hauder, 2016: 32). The general objective of the EGTC cross-border governance institution was to create a "meeting point with legal status between institutions, businesses and citizens on both sides of the border" (Pucher & Hauder, 2016: 31) and to establish close linkage between these actors. The objectives are to "facilitate and promote regional cooperation among its members […], exceeding expectations at different levels, where its main concern

is to develop and deliver partnerships, creating bonds and union in different areas of performance" (Pucher & Hauder, 2016: 32). Before the creation of the EGTC, a Working Community Galicia-Norte de Portugal was established on October 31, 1991 with the same members (Pucher & Hauder, 2016: 31).

*Figure 3: Map of Galicia-Norte de Portugal*



*Source: Own elaboration*

**Analysis results:** The in-depth analysis of the characteristics of the Spanish-Portuguese border indicates that it is highly permeable in both geopolitical and sociocultural dimensions. Spain and Portugal have a shared history with similar events and turning points. Since joining the EC in the 1980s, structured paradiplomatic and cross-border cooperation activities could be witnessed along the Spanish-Portuguese border, with many town-twinning projects and the creation of some EGTCs. Additionally, Galicia focused on strengthening ties to its neighbour country by creating regionalist foreign policies with respect to Portugal. Both countries Spain and Portugal are highly compliant with EU law; reflected in the commitment of the public authorities to use and respect EU measures and instruments. Yet, the diverging territorial organisation of both states results in the manifestation of

national administrative boundaries that may hamper efficient and immediate forms of cross-border governance.

Focusing on the sociocultural boundaries between Galicia and Northern Portugal, the border can be characterised as highly permeable. Due to similar historical and linguistic backgrounds – and the Galician dialect as a bridge between Spanish and Portuguese – the border is permeable and the existence of a cross-border identity can be assumed. Additionally, the border is tightly interwoven on a socioeconomic dimension with a high number of commuters between the cities of Porto, Braga, Vigo, Pontevedra and A Coruña.

*Figure 4: Relations between permeability of the national border with estimated effects in the case of the Galicia-Norte de Portugal EGTC*
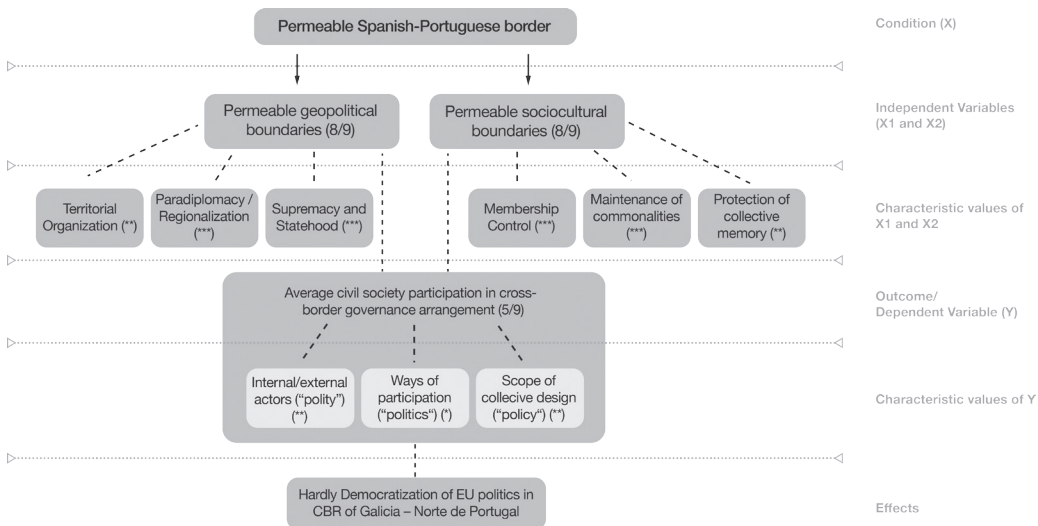


*Source: Own elaboration*

While the border between Galicia and Northern Portugal is highly permeable, which is assumed to be favourable for participatory governance, in practice, the participatory governance in the cross-border region of Galicia-Norte de Portugal in general and in the EGTC shows a mixed picture. The EGTC is considered to be an implementing agency for policies and measures created by the Working Community. It includes all three languages of the cross-border region as official operating languages. External participation in the EGTC mostly occurs by collaborating with academic, economic and EU actors. The civil society related initiatives which are established by the EGTC attempt to satisfy the needs of the citizens such as job creation, economic growth and education in the aftermath of the economic crisis. Through initiatives such as the Job Days (the euroregional student exchange program named 'IACOBUS'), the EGTC actively aimed to satisfy the desire to obtain jobs, to foster economic growth and generally improve the economic and general situation in both national societies

in the border region. Citizens on both sides of the border generally participate in activities, services and events implemented by the EGTC, especially in the social, economic and academic sectors. Figure 4 sums up the research results which have been elaborated in-depth within the research project.

## EGTC Tyrol-South Tyrol-Trentino

**Overview:** The Austrian-Italian EGTC Europaregion Tyrol-South Tyrol-Trentino was established in late 2011 and the grouping is comprised of the federal state of Tyrol (Austria) and the Autonomous Provinces of South Tyrol and Trentino (both in Italy) (Pucher & Hauder, 2016: 65); thus all NUTS 2 regions that represent the regional-federal state dimensions. The grouping covers a territory of 26,255 km² and encompasses a population of 1,751,000 inhabitants. Bolzano, South Tyrol has been chosen as the seat of the EGTC. Therefore, the applicable law is Italian law for the EGTC.

*Figure 5: Map of EGTC Tyrol-South Tyrol-Trentino*
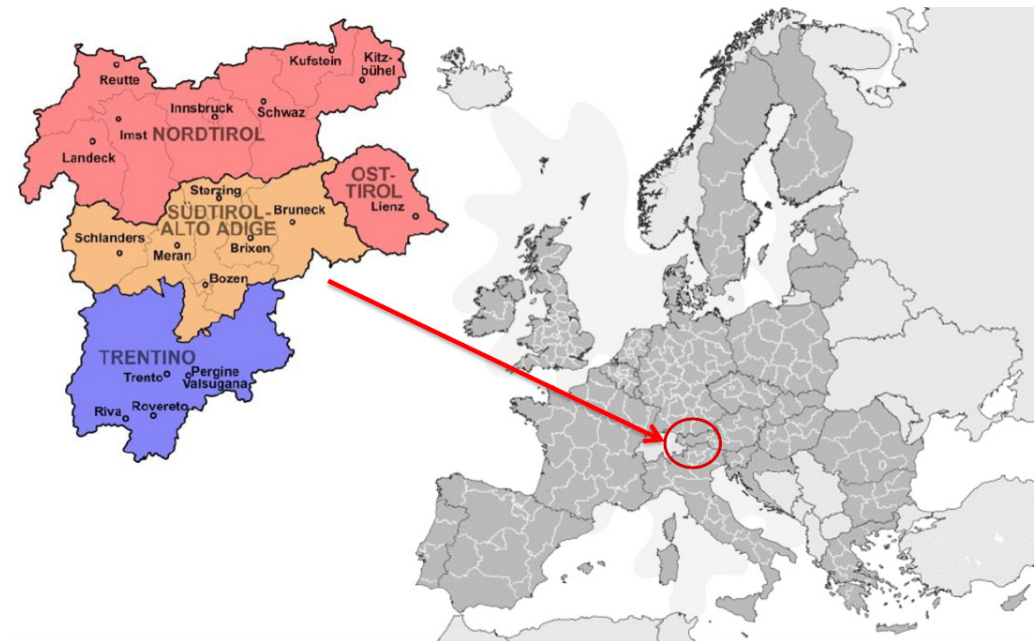


*Source: Matthias Fink 2018*

**Analysis results:** The Austrian-Italian border is divided and connected by the Alps, by diverging cultures, historical backgrounds and languages. After the end of the Danube monarchy and the division of historical Tyrol, South Tyrol transformed to a space of conflict. Since the 1990s, the situation has improved and territorial cooperation in this area between Austria and Italy has been promoted. In 1998, the

provinces of Tyrol, South Tyrol and Trentino created a Europaregion which was transformed into an EGTC in 2011. The historical, cultural and linguistic sociocultural diversity remains a challenge for cross-border governance. As well as German and Italian, the Ladin language and culture is also spoken in the area. Moreover, several discursive and media realities exist in parallel in this hybrid cultural space.

Besides sociocultural aspects, geopolitical elements also play a crucial role in cross-border governance. On both sides of the border the regions and provinces are assigned with broad competences. Moreover, the cultural and linguistic diversity is mirrored in the territorial cooperation structures and within the institutional structure of the EGTC. Finally, the EGTC serves to bundle the potentials of the cross-border region. It is utilised in several policy fields and addresses and invites the (cross-border) citizenry in different for(u)ms. Although almost no typical formats for citizen participation exist with regard to forms of direct or participatory democracy (referenda or public consultations), offers for participation are offered in different ways. Additionally, the EGTC has established a wide network of heterogeneous actors encompassing economy, society and academia that interact on a frequent basis within the cross-border region.

*Figure 6: Relations between permeability of the national border with estimated effects in the case of the Tyrol-South Tyrol-Trentino*
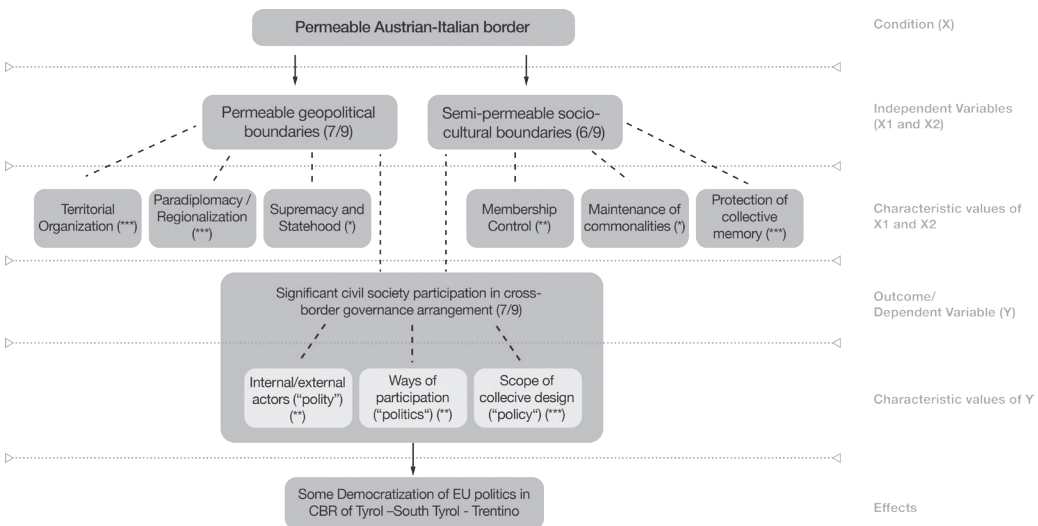


*Source: Own elaboration*

## EGTC Eurodistrict SaarMoselle

**Overview:** The German-French EGTC Eurodistrict SaarMoselle was approved as an EGTC on May 6, 2010 and comprises local entities: namely the Communautés d'agglomération Forbach Porte de France and Serraguemines Confluences; the Communauté de communes du Pays Naborien, de Freyming-Merlebach, du District urbain de Faulquemont, du Warndt and de l'Albe et des lacs on the French side; and the regional association of Saarbrücken and the associated body Saarpfalz-Kreis on the German side (Pucher, Frangenheim & Radzyner, 2014: 98). The territory of the grouping has a total population of 800,000 inhabitants. The seat is located in Sarregemines, France while the operational office is in Saarbrücken, Germany. French public law is applied by the EGTC (Pucher, Frangenheim & Radzyner, 2014: 98).

*Figure 7: Map of Eurodistrict SaarMoselle*
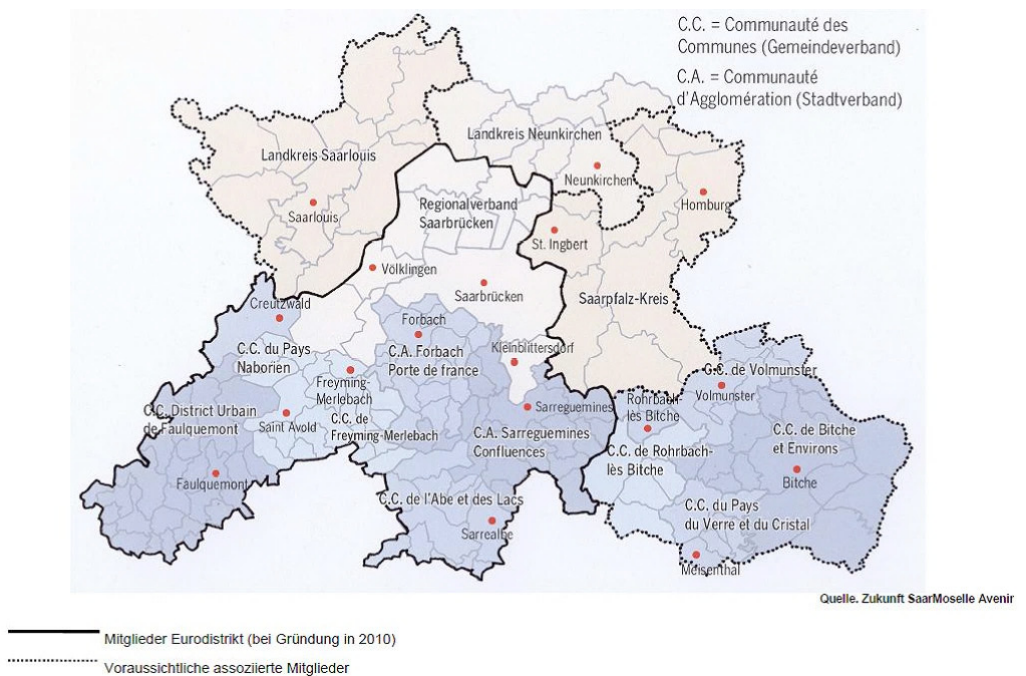


*Source: Zukunft SaarMoselle Avenir*

**Analysis results:** German-French relations have in the past experienced conflicts and wars. Through the process of European integration, conducting a policy of reconciliation, the border was transformed from a conflict zone to "post-conflict border" representing a role model for cross-border interrelations where several cross-border initiatives and supraregionalist institutions now exist. Therefore, geopolitical boundaries in the cross-border region of the EGTC today can be considered as being highly permeable. Especially the high degree of interconnectedness on

a subnational level across borders and the compliance with the European values of free movement (Schengen) and a Single Market represent linking elements in the context of EU cohesion and the creation of cross-border links. Yet, the difference between the territorial organisation of the centralist state of France and federalist state of Germany can be felt in different contexts of cross-border governance. Nevertheless, this aspect has no direct effect on cross-border internal or external civil society participation in the EGTC. While the geopolitical dimension seems to favour cross-border (civic) interaction (except different territorial and administrative structures), the socio-cultural dimension contains cross-border forms of reconciliation after years of conflict. Cross-border initiatives are implemented together by public authorities from both sides of the border and bilingualism is broadly applied in territorial governance. Cross-border programmes, projects and initiatives by the EGTC are developed without the inclusion of civil society in strategic forums but are developed with institutions for the promotion of cross-border cohesion. Civil society is represented in associations, for example on the German side where several civic associations are organised to promote cultural and social activities across borders. The annual cross-border Warndt weekend festival which is organized by the EGTC brings together citizens and civil society from both sides of the border. Moreover, the EGTC not only offers a variety of policy fields in which it is active, but it also actively follows a public service provision approach.

*Figure 8: Relations between permeability of the national border with estimated effects in the case of the Eurodistrict SaarMoselle*
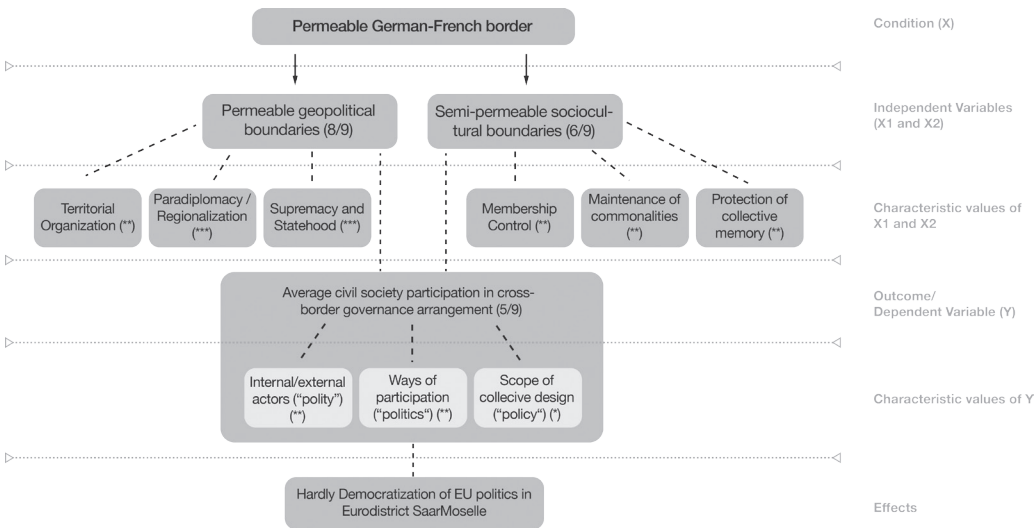


*Source: Own elaboration*

## EGTC TransOderana (under construction)

**Overview:** The final German-Polish EGTC case study is the EGTC TransOderana, which has not yet been accomplished. It is a grouping of small towns, municipalities and districts and a state college on the Polish side in the sparsely populated German-Polish territory. The EGTC aims to re-create a European model region along the former Royal Prussian *Ostbahn* railway line which was destroyed in the Second World War. After starting a civil society and transport stakeholder initiative in 1999 through talks and discussion rounds on how to revitalise the former railway line, a "Community of interest railway Berlin-Gorzów Wielkopolski" was created in 2006. By applying the "private brother" of the EGTC, the European economic interest grouping (EEIG) – which is the EU cross-border legal instrument for private entities – it was possible to attract private entity partners and to finally reactivate a 253km part of the former railway line. The public authorities then decided to conceptualise the grouping and the territory along the railway line as a European model region by transforming the EEIG into an EGTC with the seat in Gorzów Wielkopolski. A reluctant attitude towards the grouping by the federal state of Brandenburg has so far prevented the constitution of EGTC and it can be considered as the only EGTC grouping that could not be concluded at such an advanced stage in the creation process.

*Figure 9: Map of TransOderana EGTC*
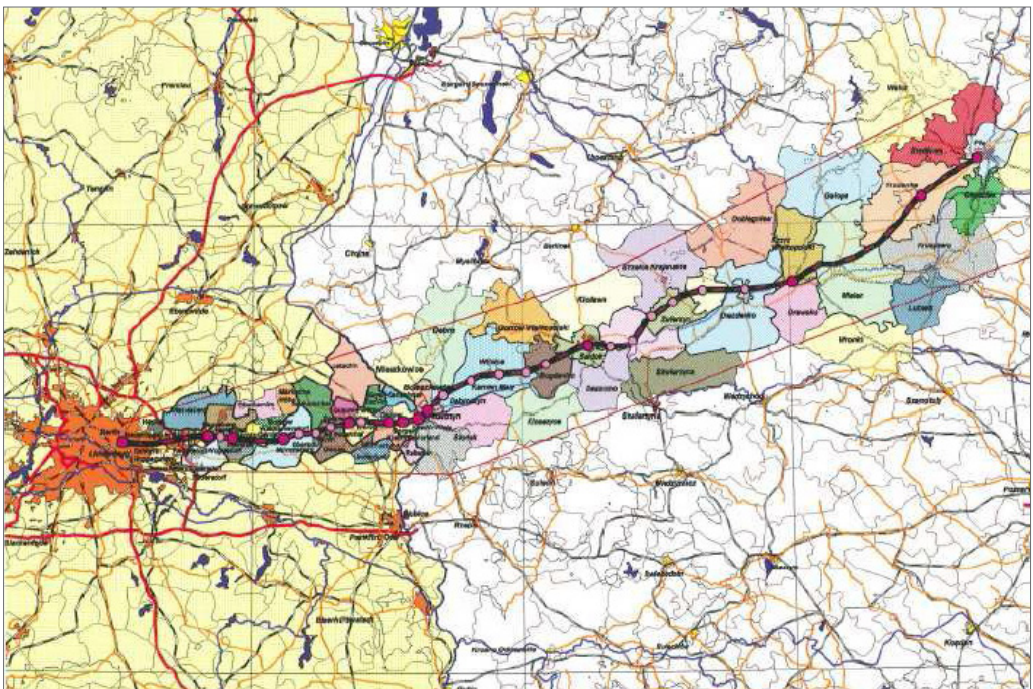


*Source: Pupier, 2011, figure by Karl-Heinz Bossan,
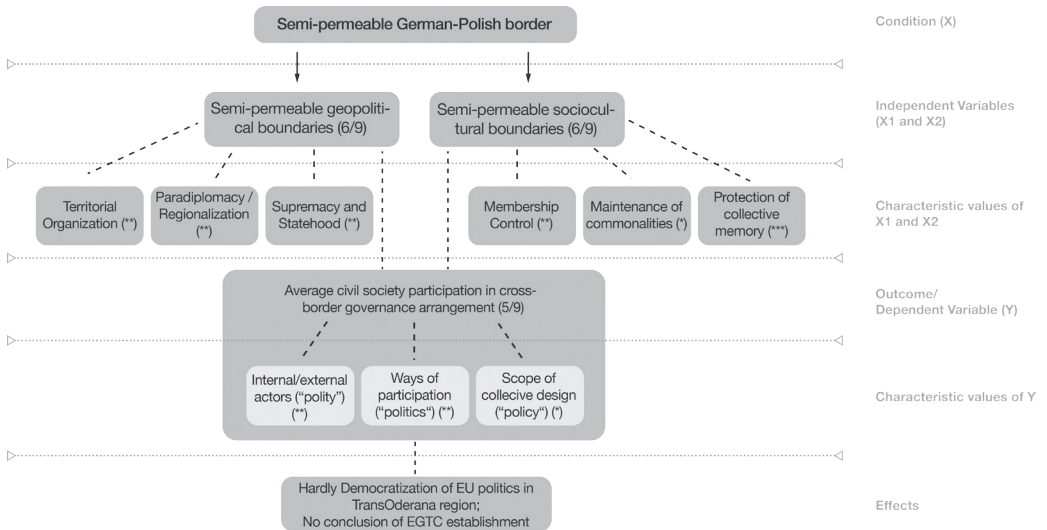Joint State Planning Authority of Berlin-Brandenburg*

**Analysis results:** The German-Polish border is one of the most asymmetrical and historically contested border lines in the EU as it historically represented a political, welfare, strong linguistic and cultural boundary that has shifted and moved throughout history. With regard to the geopolitical dimension, there is an asymmetry referring to the federalist German and the centralist Polish state organisations. Moreover, different levels on both sides of the border are engaged in the implementation of regulations, such as the implementing provision for the EGTC Regulation. This implementation process of the regulation was imprecise, which led to legal uncertainty. In this context, the uncertainty caused by vague definitions in the fields of finances, competences, legal and liability concerns and potential dual structure to the Euroregion in Brandenburg resulted in the approval of the EGTC from the competent authority not being concluded. Thus, in the EGTC foundation process, geopolitical boundaries played a huge role while sociocultural boundaries were less significant; despite the difficult and entangled history between both states. As the EGTC was not formally established, the citizens could not participate and interact with the grouping.

Yet, the idea to recreate the former *Ostbahn* railway sprang from citizen discussion events including railway, infrastructure and history experts and academics. Thus, this initiative of EGTC creation was a truly bottom-up participatory initiative fitting Engl's (2015) classification. Notwithstanding the inclusion of public actors at different administrative levels and an academic actor in the membership structure, the EGTC proposal was rejected by the public approval authorities. As this case study highlights, civil society-led and bottom-up EGTC creation initiatives without the early support of federal or state institutions might be difficult to accomplish. Despite the fact that the cross-border TransOderana is a well-balanced and professionally prepared project, the EGTC was rejected by the German public authorities. Although the federal and national institutions were involved and informed on a frequent basis, the implementation process could not be concluded.

A solution to this dead end situation could be the reform of the implementing provision in the federal state of Brandenburg; specifically, the two articles concerning liability and legal competences that created so many legal uncertainties. A new federal state implementing provision of the EGTC regulation could facilitate the participation of Brandenburg public authorities in future German-Polish cooperation structures, culminating in a successful EGTC formation. The Polish national implementing provision defines several articles on sensitive topics regarding finances and legal concerns that could usefully be replicated by the German national or federal state public authorities. The EGTC monitoring report for 2018-2019 shows that the Member States and regions are generally not very active in the implementation of the EGTC regulation reform (Zillmer et al., 2020: 6-7). Nevertheless, the example of the federal state of Bavaria has shown that it is

possible to change an already implemented provision; an example could serve as a blueprint for the Brandenburg responsible authorities. As some aspects in the initial EGTC implementing provision were considered to be not sufficiently defined in Bavaria, the federal state authorities decided to amend it by adding supplemental information and to clearly define imprecise legal concerns. And also in the time of writing, the *Landtag* – the federal state parliament – introduced in September 2020 a new legal proposal that clarifies the uncertainty with regard to liability concerns for the EGTC creation (Landtag Brandenburg, 2020). Thus, the federal state government tries to tackle these obstacles for EGTC creation with participation of Brandenburg´s authorities.

*Figure 10: Relations between permeability of the national border with estimated effects in the case of the TransOderana EGTC*



| | |
|---|---|
| Semi-permeable German-Polish border | Condition (X) |
| Semi-permeable geopolitical boundaries (6/9) — Semi-permeable sociocultural boundaries (6/9) | Independent Variables (X1 and X2) |
| Territorial Organization (**) — Paradiplomacy / Regionalization (**) — Supremacy and Statehood (**) — Membership Control (**) — Maintenance of commonalities (*) — Protection of collective memory (***) | Characteristic values of X1 and X2 |
| Average civil society participation in cross-border governance arrangement (5/9) | Outcome/ Dependent Variable (Y) |
| Internal/external actors ("polity") (**) — Ways of participation ("politics") (**) — Scope of collecive design ("policy") (*) | Characteristic values of Y |
| Hardly Democratization of EU politics in TransOderana region; No conclusion of EGTC establishment | Effects |

*Source: Own elaboration*

After focusing on these four case studies, in the final section, the four cases will be compared to each other and an outlook will be made.

## VI.  Comparison and outlook

The short analysis of the four EGTC case studies has shown different manifestations of participatory governance and its interplay with national boundaries. In most cases, a causal relationship between those two dimensions was hardly observable; however, correlations could be detected between the quality or permeability of a border and the degree of participatory governance. In only one case – the EGTC Tyrol-South Tyrol-Trentino – could be observed a broad form of participatory governance with regular and frequent interaction with civil society and citizens and participatory forms within the EGTC structures (see also Engl, 2015). In this case, a clear linkage between historical bonds (sociocultural links) and the high degree of regional autonomy provided by both the Italian and Austrian territorial organisations (geopolitical links) facilitated a broad approach and utilisation of participatory measures. By contrast, in the example of the German-Polish TransOderana EGTC, national boundaries led to a failed foundation process. Despite the fact that this bottom-up cross-border initiative was promoted by civic associations and civil society, the initiative was blocked because of legal and political reasons and uncertainties. As of writing, therefore, the EGTC TransOderana is not established.

In the following tables 1 and 2, the in-depth results of the analysis of each case study are shown providing information about the cross-border region, the EGTC and a summary of the analytical results regarding national boundaries (geopolitical and sociocultural) and participatory governance.

The in-depth reflection and discussion of the research results is broadly presented in the publication of the dissertation project (Ulrich, 2020 - forthcoming). This article aimed at providing an excerpt of this research thesis conducted at the EGTC Center of Excellence funded by the Viadrina Center B/ORDERS IN MOTION (2014-2017) at the European University in Frankfurt (Oder) at the German-Polish border. It focused on a still under-explored field in the studies of cross-border cooperation and governance; specifically, civil society participation in cross-border governance of EGTCs. Therefore, this article and the thesis could contribute to a greater understanding of how to conceptualise a social dimension of cross-border governance within cross-border supraregional institutions such as the EGTC. As mentioned above, the social dimension of cross-border governance can encompass a) the active participation of civil society and citizens (*active society*); b) the provision of public and social services across borders (*active public authorities*); and enabling the conditions for c) social innovations in (cross-border) regions (*active society and private actors*). These three versions of social cross-border governance could be observed in the four case studies. These three overlapping dimensions of transformative and innovative cross-border governance will be crucial to tackle the future challenges in EU-rope´s cross-border regions.

| | Galicia – Norte de Portugal | Tyrol - South Tyrol - Trentino | Eurodistrict SaarMoselle | TransOderana |
|---|---|---|---|---|
| **Countries** | Spain, Portugal | Austria, Italy | Germany, France | Germany, Poland |
| **Foundation date** | 18 February 2010 | 14 July 2011 | 6 May 2010 | Not founded yet, planned since 2009 |
| **Geographical layer** | NUTS2; regional layer (regional public institution for regional development and Autonomous Community) | NUTS2; regional layer (federal state and autonomous provinces) | NUTS3; mostly local: regional associations, districts and municipalities | NUTS3; mostly local: districts and municipalities. Districts only on Polish side |
| **Territory/Population** | 51.000 km2; 6.4 million inhabitants | 26.255 km2; 1.75 million inhabitants | 800.000 inhabitants | 500.000 inhabitants |
| **Seat** | Vigo (Galicia), Spain | Bolzano (South Tyrol), Italy | Sarreguemines, France; operational office in Saarbrücken, Germany | Gorzów Wielkopolski, Poland; office is to be located in Seelow, Germany |
| **Applied law** | Spanish public law | Italian public law | French public law | Polish public law |
| **Tasks/ Objectives** | Meeting point with legal status between institutions, businesses and citizens on both sides of the border; Facilitating and promoting regional cooperation among its members; Generally fostering the cross-border cooperation in several policy fields and using the legal personality that is provided by the EGTC legal form; Implementing the Joint Investment Plan Galicia-Norte de Portugal 2014-2020' and some of the activities there established. | Strengthening the economic, social and cultural relations of the citizens of its members; Promotion of territorial development in fields of education, culture, energy, sustainable mobility, health, research and innovation, economy, mountain agriculture and environment; Coordination of the joint participation in ETC or other EU programmes; Representation of the EGTC interests vis-à-vis international and national institutions. | Promoting and coordinating of cross-border cooperation between municipalities and municipal associations regarding the development promotion of the Eurodistrict SaarMoselle and the initiation, accompaniment and implementation of intercommunal cooperation projects that are developed on the level of the Eurodistrict SaarMoselle and visible for the citizens. | Enlarging and deepening the German-Polish territorial cooperation; Reducing economic and social disparities; Contributing to innovative common public services in the model region through joint projects and further measures within the competences of its members to develop an economically modern and attractive region with a competitive economy, with qualitatively high educational and working conditions. |
| **Motives of members to apply the EGTC** | > Legal personality (WC has none) > EGTC to operationalize quicker contracts, studies > Stable form for cross-border governance | > No other alternative for a European cross-border legal instrument for public and territorial entities > CoE instruments not eligible/applicable for territorial cooperation in Austrian-Italian context | > Visibility promotion of grouping and to speak with one voice vis-à-vis other institutions on supranational, national and subnational level > Continuity and long-term planning perspective > For French side a public legal form has been important > Higher probability to acquire ETC funding | > Territorial authorities wanted to participate more than in previous legal grouping of EEIG for private entities > Designing instrument ("*Gestaltungsinstrument*") for the economic, touristic and spatial development of a cross-border region |
| **Duration of CBC in EC/ EU context** | Since 1980s | Since 1990s | Since 1960s | Since 1990s |
| **Part of EC/EU** | Both since 1986 | Italy since 1957 (Treaty of Rome), Austria since 1995 | Both since 1957 (Treaty of Rome) | FRG since 1957, former GDR after German reunification, Poland since 2004 |
| **Part of EU Single Market** | Both since 1992 | Italy since 1992, Austria since 1995 | Both since 1992 | Germany since 1992, Poland since 2011 |
| **Part of Schengen Area** | Both since 1995 | Italy since 1995, Austria since 1997 | Both since 1995 | Germany since 1995, Poland since 2007 |
| **Bilateral national territorial cooperation treaties** | > Treaty of Valencia (2004) | > Accordino (1949) > Arge-Alp (*Arbeitsgemeinschaft der Alpenländer* – working community of the Alpine countries) (1972) > Agreement for closer cooperation in Tyrol, South Tyrol and Trentino (1992) | > Élysée Treaty (1963) > Agreement between Chirac-Schröder (2003) > Treaty of Aachen (2019) | > Treaty of Good Neighbourship (1991) |
| **Legal groundwork for CBC** | CoE Madrid Convention signed by both, but Spain did not sign the additional protocols and Portugal two but did not ratify them > LGCC not available | CoE Madrid Convention signed by both, but additional protocols not signed by Italy > LGCC not available | Full ratification of CoE Madrid Convention and additional protocols | CoE Madrid Convention signed by both, but additional protocols not signed by Poland > LGCC not available |
| **Cross-border governance institutions** | 3 WCs, 5 Eurocities, 4 Eurocities and 9 EGTC at Spanish-Portuguese border | 2 Euroregions (with status of EGTC) covering whole cross-border territory | 4 Eurodistricts and/ or 6 EGTC (3 cross-border and 3 theme-specific) | 4 Euroregions, 3 town twinning projects, no EGTC founded so far |

Row groups (left margin): **EGTC** (Countries through Motives of members to apply the EGTC); **CBR** (Duration of CBC in EC/EU context through Cross-border governance institutions)

| | | Galicia – Norte de Portugal | Tyrol - South Tyrol - Trentino | Eurodistrict SaarMoselle | TransOderana |
|---|---|---|---|---|---|
| **National boundaries** | **Geopolitical boundaries** | Permeable Geopolitical boundaries (8/9): Territorial Organization (**); Paradiplomacy and Regionalization (***); Supremacy and Statehood (***)<br><br>Legal-administrative boundaries:<br>> Different speeds of administrations > Xunta de Galicia quicker than Portuguese central administration<br>> Fiscalism,<br>> Health insurance and<br>> Staff requirement | Permeable Geopolitical boundaries (7/9): Territorial Organization (***); Paradiplomacy and Regionalization (***); Supremacy and Statehood (*)<br><br>Legal-administrative boundaries:<br>> Administrative proceedings,<br>> Labor law and<br>> Liability issues | Permeable Geopolitical boundaries (8/9): Territorial Organization (**); Paradiplomacy and Regionalization (***); Supremacy and Statehood (***)<br><br>Legal and administrative boundaries:<br>> French public law complicates recruitment of German staff > amendment to German law with regard to employment | Semi-permeable Geopolitical boundaries (6/9): Territorial Organization (**); Paradiplomacy and Regionalization (**); Supremacy and Statehood (**)<br><br>Legal, administrative and political boundaries:<br>> Local/ national elections led to a more skeptical attitude towards CBC<br>> Uncertainty regarding double structure with local self-governments<br>> Imprecise, blurry implementation of EGTC regulation in Brandenburg > uncertainty in liability and financial issues |
| | **Sociocultural boundaries** | Permeable Sociocultural Boundaries (8/9): Membership Control and cross-border membership policy (***); Maintenance of cultural, traditional and historical commonalities (***); Protection of collective memory (**)<br><br>> Nearly no sociocultural boundaries detectable<br>> Similar history with similar developments<br>> Galician language as the bridge between Spanish and Portuguese language | Semi-permeable Sociocultural Boundaries (6/9): Membership Control and cross-border membership policy (**); Maintenance of cultural, traditional and historical commonalities (*); Protection of collective memory (***)<br><br>> Different regional identities and media realities f.e. in South Tyrol<br>> Minority protection of Ladin culture and language | Semi-permeable Sociocultural Boundaries (6/9): Membership Control and cross-border membership policy (**); Maintenance of cultural, traditional and historical commonalities (**); Protection of collective memory (**)<br><br>> Bilingualism in CBC and planned EGTC<br>> Still stereotypes on both sides, yet Treaty of Aachen aims to foster also cultural exchange | Semi-permeable Sociocultural Boundaries (6/9):<br>Membership Control and cross-border membership policy (**); Maintenance of cultural, traditional and historical commonalities (*); Protection of collective memory (***)<br><br>> Language barrier<br>> Bilingualism in CBC and planned EGTC |
| **Participatory Governance** | **General civil society organization in both countries** | Average civil society participation in cross-border governance arrangement (5/9): Internal/External actors and structures ("Polity") (**); Ways of participation ("Politics") (*); Scope of collective design ("Policy") (**);<br><br>> Peaceful civil society organization has started in 1980's<br>> Before that both countries military dictatorships<br>> Left-wing movements in Spain in the course of the financial crisis (M15 movement) | Significant civil society participation in cross-border governance arrangement (7/9): Internal/External actors and structures ("Polity") (***); Ways of participation ("Politics") (***); Scope of collective design ("Policy") (***)<br><br>> Both countries as Western democracies experienced forms of public protests<br>> Recently, civil society in Italy is engaged in migration concerns<br>> In South Tyrol-Tyrol and Trentino civil society is also organized in touristic, historic and cultural associations | Average civil society participation in cross-border governance arrangement (5/9): Internal/External actors and structures ("Polity") (**); Ways of participation ("Politics") (**); Scope of collective design ("Policy") (*)<br><br>> France: Culture of civic protests and labor/social movements<br>> Germany: Culture of associations ("Vereinswesen") | Average civil society participation in cross-border governance arrangement (5/9): Internal/External actors and structures ("Polity") (**); Ways of participation ("Politics") (**); Scope of collective design ("Policy") (*)<br><br>> Poland: "Solidarnosc" movement in the 1980´s as civil society movement opposing the state<br>> Germany: Culture of associations ("Vereinswesen") |
| | **Which kind of actors ("holders" by Schmitter) are participating** | Mainly: Institutions, companies and citizens; Working Community which makes the cross-border strategies and programmes, EGTC implements them<br>Citizens and residents (**); Experts/guardians (*); Owners and representatives (***); Beneficiaries/ victims (**); Spokespersons (*) | Business, citizens and academia;<br>Citizens and residents (**); Experts/guardians (***); Owners and representatives (*); Beneficiaries/ victims (**); Spokespersons (**) | Mainly: local authorities, associations (on German side);<br>Citizens and residents (*); Experts/guardians (**); Owners and representatives (***); Beneficiaries/ victims (**); Spokespersons (**) | Territorial authorities, academia and initially businesses from logistics, citizens are hardly involved;<br>Citizens and residents (*); Experts/Guardians (***); Owners (***); Beneficiaries-Victims (***); Spokespersons (*); Representatives (*) |
| | **Ways of participation** | Citizen´s as consumers; Those affected by financial crisis participate in cross-border social policy measures, No civic forum or joint strategy development with citizens | Broad civic opinion expression and academic involvement in channels like thematic conferences, euroregional academies, academic surveys on public opinions and in the EGTC working groups | Citizens as consumers: are participating in cultural fests and encounter meetings; experts involved in working groups and in the elaboration of studies (mostly in public transport sector) | Citizen´s hardly involved; experts involved in working groups, consultancy and studies |

*Source: Own elaboration*

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