

# *Institutionalizing (cross-border) citizenship on subnational level – The European Grouping of Territorial Cooperation (EGTC) as a new administrative space for participatory and functional governance in Europe*

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**Abstract:** Cross-border, transnational and interregional cooperation of subnational entities within the European Union (EU) have been strengthened politically, legally and financially by the EU and the Council of Europe. Nearly every border region in the EU participates in some form of cooperation structure across borders – mainly due to financial support by the EU joint initiative INTERREG. In general, scholars have described these Europeanization effects of regional administrative integration using neofunctionalist (multilevel governance) and intergovernmentalist approaches, highlighting the cooperation rationale of cross-border actors. On the basis of the EU legal instrument European Grouping of territorial cooperation (EGTC), processes of re-scaling, re-territorialization and paradiplomacy in a “Europe of the territories” will be analyzed with regard to inclusiveness and modes of subnational participatory governance. In general, policy-making and strategic developments of the EU regional policy, particularly the European Territorial Cooperation (ETC), are products of a successive bargaining and functional technocratic regulation between just the administrative elites within the EU multilevel (supranational, national, subnational) polity excluding the local community. The aim of the article is thus to elaborate forms and channels of transborder participatory governance in EU transnational spaces and to examine pre-conditions for the establishment of an increased inclusion of a cross-border citizenship. Moreover, it focuses on the problems and obstacles of the institutionalization of deliberative and participatory mechanisms of a subnational citizenship in a postnational multilevel arena. Finally, the research - that is based on a case study of the EGTC Galicia-Norte de Portugal - analyzes to what extent the EGTC fosters both the consolidation of cross-border cooperation and institutionalization of transnational participation on a subnational level. Eventually, the article aims to go a step ahead through a conceptual shift towards a normative - participatory approach of (cross-border) regional integration.

**Keywords:** Cross-border cooperation; Participatory governance; Participatory democracy; Multilevel governance; Territorial cooperation; citizenship; European Grouping of Territorial Cooperation; EGTC; Institutionalism; Administration; Participation; regional integration

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## 1. Introduction and research question

Within the last 30 years, especially after the fall of communism in the CEE countries, administrative cooperation of subnational entities across borders has been strengthened comprehensively within the European community. In 1990, the joint initiative INTERREG as a financial instrument for territorial cooperation was launched by the EC-12. The Treaty of Maastricht (1992) has provided an empowerment of competencies on subnational level within the EU by the introduction of the principle of subsidiarity. Therefore, both the financial as well as the politico-administrative stimuli by the EU resulted in an empowerment of the subnational level within the inner-European Community.

Furthermore, functional differentiation of services and policies led to transnational forms of collaboration and governance that incorporated in an institutionalization process of inner-European border regions. Effects of *glocalization* and of the opening up of the borders by the Single European Market led to increased flows of goods and services in several politico-economic sectors within subnational and transnational contexts. In the early 1990's, therefore, manifold institutionalized forms of functional-transborder regions (Euroregions, Euregios, Eurodistricts) were established based on varying legal and administrative groundwork. In addition to this, the EU has continued to foster CBC through financial support by the INTERREG programme and through the introduction of a new transnational legal instrument: the European Grouping of Territorial Cooperation (EGTC). Although, CBC is still hampered by differing legal systems and socio-cultural restrictions within the neighbouring member states, nearly every border region in the EU cooperates in some form on the administrative level with its territorial counterparts.

The accumulation of spaces of institutionalized subnational (cross-border) governance leads to the prevailing debate on European integration. Some authors accentuate the notion of the EU as a technocratic transnational organization (Majone 1998; Moravcsik 2002; Radaelli 1999) – others stress the assumed lack of participatory modes of governance (see Kohler-Koch and Quitkatt 2013) - cross-border integration of regional administrations can be considered in the same light as “politics of the elite”, that is remote and opaque. Therefore, the discussion of a democratic deficit of the European Union could be transferred to the subnational level, where regional administrations cooperate to meet the functional criteria without addressing the needs of the local citizenship though. This article assumes that the participation of the local citizenship within the development of regional policy measures – a policy that directly affects them – has the potential to approach the local community to EU policy-making, resulting in a higher justification for EU politics. This paper argues that participation on the subnational level within regional policy fosters both the justification of EU politics at the subnational

level and citizenship's mobilization towards self-governance in cross-border territories. Cross-border regions are examples of territoriality in the EU that nowadays still represent functional entities that lack modes of participation, participatory governance. The application of participatory elements to EU territorial politics assumes to provide further legitimization towards the local population that is actually affected by those policies.

Many studies and research projects from a wide range of disciplines such as geography, political science, economics, legal studies were conducted on the difficulties of territorial cooperation and on the pre-conditions for a well-balanced collaboration (see Perkmann and Sum 2002; Perkmann 2007a and 2007b; Kramsch and Hooper 2004; Engl 2014; Gualini 2003; Knippschild 2011). This research work tries to go a step ahead and to look at the challenge that tackles the EU nowadays – to bridge the gap from the EU politics to a self-determined local citizenship. The assumption of this article is that although there are still some legal and administrative obstacles in the field of CBC, territorial cooperation has reached a point of saturation regarding integrationist matters. The research project asks for conditions and patterns for the local community to participate in regional cross-border cooperation matters. In this regard the article postulates three assumptions: First, participation and governance in cross-border regions depend highly on the design of the cooperative structure as well as on little cultural barriers between the adjacent border regions. Second, participation and governance unfold in institutional structures and, third, the EGTC is the most suitable cross-border institutional structure to adapt participatory elements to representative institutions due to its high regional mobilization potential. Regarding the assumptions of this article the research question can be defined as follows: *"To what extent and under which conditions do EGTC favor participatory governance and citizenship in cross-border regions within the EU"?*

Starting from the initial point of integrationist theories, the rationale of regional integration will be described in the next paragraph before the theoretical framework goes a step ahead towards the normative reflection on conditions for participatory linkage to institutionalized forms of cross-border governance. After having set an analytical framework, the established criteria will be used for examining the empirical case study of the EGTC Galicia-Norte de Portugal.

## **2. The status quo– CBC in European integration studies**

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In the context of regional integration and the institutionalization of cross-border forms of cooperation, theoretical debates are focussing on numerous approaches ordering, analyzing and describing processes of cross-border institutionalization. The basic question is: Why do regions across borders cooperate? Starting from this point, scholars of international relations and political sciences analyzed the rationale for CBC using the neofunctionalist approach (f.e. multilevel-governance [Hooghe and Marks 2003; Benz 2010]) and the intergovernmentalist approach (f.e. liberal intergovernmentalism [Moravcsik 1998]). Neofunctionalist scholars focus on integration processes through cooperation of political actors, on the creation of joint supranational institutions and on the transfer of loyalty towards a new center (see Haas 1968; Wolf 2005; Lindberg 1963). Neo-functional elements, such as the strong supranational institution-building and pluralistic policy approach, have been further developed by Hooghe and Marks into the *multilevel governance* model. This can be considered as a counter model to the intergovernmentalist approach that is mainly based on nation-state preferences. In a cross-border context, some authors use the term “cross-border governance” to describe the EU multilevel construct (see Kramsch and Hooper 2004; Strüver 2004; Leresche and Saez 2002).

Therefore, regional integration processes have been described by scholars as a mixture of integration functional elements and a nation-state elaboration processes – i.e. describing EU’s regional integration as a “moving target” (see Neyer 2012, p.35). The multilevel character of EU polity and politics, nevertheless, can be understood as giving rise to a “merged federal state” (“fusionierter Föderalstaat”) (see Wessels 1992), an “intertwining system” (“Verflechtungssystem”) (see Scharpf 1985) or a “European onion” with several layers of legislation (see De Neve 2007).

This overview of European regional integration theory is the starting point for the argument of the article. Nevertheless, the status quo of regional cooperation that can be described out of the European integration process has been challenged by a variety of current developments as well as global trends such as individualism, glocalization, paradiplomacy and regionalization. Furthermore, the “participatory turn” (see Busschaert 2013) that scholars of European integration have figured out on the supranational and national level proliferates also at the subnational (cross-border) level. In fact, regional politics are still a continuous product of bargaining of the administrative elites in the EU multilevel polity on the horizontal and vertical layer mostly excluding the interests of the local population. Although some local administrations adhere to forms of public consultation in agenda-setting and strategy development, these forms of participation rely on a rather symbolic than on an institutionalized practice.

The discussion of a democratic legitimacy of EU governance and lacking of forms of political justification have led to several responses by both the EU (f.e. the citizens' initiative since the EU Lisbon treaty as a bottom-up form of public mobilization [Art.11 (4) TEU]) and scholars of EU integration. Looking on the initial remarks on the multilevel polity within the regional policy and the "empowered-through-subsidiarity" subnational layer, regions and municipalities are attractive arenas for participatory actions. Especially the EU regional policy and - in the cross-border context - the ETC are EU policies that highly influence the development of regions within the EU and, therefore, that of the local population in regions and municipalities. As measures, incentives and policies have been supplied on a high range by the EU and the CoE, the next step is to examine the exploitation of the potential that these instruments offer from a normative perspective.

### **3. Theoretical framework – Regional Cross-border Governance and local participation**

As the terms "governance" and "participation" represent the concepts of the analytical framework in this article both need to be clarified. The term "governance" derives from economics and was adapted to various fields and disciplines. It has been further developed and applied in various fields f.e. institutionalist economics and administrative studies (see Williamson 1996, Benz 2010), in political sciences (see Mayntz and Scharpf 1995) and in EU studies (see Marks, Hooghe and Blank 1996). All these interdisciplinary conceptual approaches to the concept of governance highlight three characteristics: 1. Governance represents an *alternative solution* to classical forms of nation-state governmental practice. Regarding the national challenges brought by processes of individualism, plurality, globalization and free flows of goods, persons, services and capital within the EU, an alternative way for coordination and control serves as a substitute to classical forms of national administration. 2. *Transnationality* – most of the empirical and theoretical research on governance focus on transnational developments, institutions or policy arenas. Deduced from economics – the classical realm for transnationality with its focus on worldwide companies and economic zones – governance is naturally a border-crossing concept. 3. *Variety of actors* – instead of a single government or a single administrative authority is in charge a mix of different actors from different institution interact in agenda-setting and decision-making processes.

These three basic characteristics that can be summed up from the transdisciplinary approaches that underlie the term governance can be applied to the institutional setting

of EU cross-border subnational institutions. Processes of political will formation and decision-making are characterized by an extensive negotiation between a multitude of local, regional, national and subnational actors, and regulative politics are outsourced to functional differentiated institutions and the addressees of politics are embedded somehow in this process (see Jachtenfuchs and Kohler-Koch 2010, p.69). Territorial governance, that nowadays still serves as a functional focus shall, therefore, be examined whether there are conditions and “channels” for participation of the local population in a cross-border subnational context.

In addition to the concept of governance, therefore, the term participation needs to be conceptionalized for the further argument. According to Bora, participation represents a political concept of reflection that claims and legitimates politicization (see Bora 2005, p. 15). Focusing on the normative construction of the theoretic argument – in a following step – the political theory of democracy outlines and clarifies notions of participation. Participatory democratic theory has been deduced from the debate within liberalism (f.e. John Rawls) and communitarianism (see Barber 1984; Pateman 2000) and is framed in various ways: “Participatory democracy, expansive democracy, strong democracy, associative democracy, dialogic democracy or deliberative democracy” (see Schmidt 2000, p.251). Whether these normative approaches focus more on deliberation (see Habermas 1994; Young 2000) or education (see Barber 1994), nuances of this normative democratic theory have one crucial point in common: political participation seeks as much people participating in as much policy fields as possible (see Schmidt 2000, p.251; Barber 1984, p.151). The assumption of the radical participationists is that representation of *the few for the many* kills active citizenship. In addition to this, it turns citizens into inactive individuals and it tears away the community’s ability of fellowship, regional autonomy, self-governance, mutual deliberation, shared public goods and social justice (see ibid., p.4/24/146/151).

Participation is a term that is used in academia in different forms and approximation. Starting from the simple explanation as a mechanism of “voice and vote” or “political reflection” (see Wampler and McNulty 2011; Bora 2005), in literature of participatory democracy the normative dimension is more developed than its conceptual design. Especially Barber provides a vague definition of participation. He frames participation as a moral strengthening tool that “enhances the power of communities and endows them with a moral force that non-participatory rulership rarely achieves” and argues that “participatory politics deal with public disputes and conflicts of interest by subjecting them to a never-ending process of deliberation, decision, and action” (Barber 1984, p.8/151). Participation in a political arena can, therefore, be understood in a successive process of exchange through public talk (deliberation), voting (decision) and action. He stresses the term “participation” in relation to an active citizenship as a broader concept

including as much citizens as possible participating in as much policy areas as possible, although “not necessarily at every level and in every instance, but frequently enough and in particular when basic policies are being decided and when significant power is being deployed” (Barber 1984, p. 151). Regarding self-government/ governance participation, this is achieved by an educational effect through inclusion of the local population as a key element for active citizenship.

The initial problems that this article tries to address are two: first, the problem of the central-periphery relation that lies within the representative forms of EU governance; second, the lack of inclusion of the local citizenship in cross-border policy development regarding agenda-setting, strategy development, decision-making processes and implementation of regional policies. Participation and inclusion offer the potential for a higher level of accountability and responsiveness of governance actors and make cross-border policies more visible and justified (see Papadopoulos 2010).

Benjamin Barber’s concept of participatory modes of citizens’ engagement does not try to abolish liberal institutions but to link them with participatory elements – finally to “reshape institutions” (*ibid.*, p. 16). Participatory elements for as much people as possible shall be attached to liberal and already existing institutions. As Barber reveals “strong democracy seeks institutions that can give these things a voice - and an ear” (*ibid.*, p. 177).

Based on the assumptions of Barber, participation hence implies self-governing characterized by deliberation, action and decision-making. Governance, on the other hand, can be depicted as transnational politics including various actors and a response to deficits of national coordination. Merging these two concepts, participatory governance can be defined as follows: „*Participatory Governance describes self-government (through deliberation, action, decision-making) of a variety of actors in a cross-border (transnational) territory as a response to deficits of national coordination*“. To analyze participatory governance in a cross-border institutional framework the essential pre-conditions need to be investigated. The next paragraph highlights the assumed conditions that need to be fulfilled for cross-border participation.

### *3.1. Pointing out the preconditions – organizational structure and cultural thickness*

Participatory governance in cross-border regions will be examined empirically in specific regions focusing on a new EU legal instrument: *European Grouping of Territorial Cooperation (EGTC)* that provides territorial entities across borders a legal personality and a high grade of autonomy vis-à-vis the respective national state (see Engl 2014). Therefore, it can be assumed that this legal instrument serves as a tool for regional mobilization. Due to its political and mobilizing character, this legal form shall serve as the basis for the empirical case study research on participatory governance in cross-border regions. As this legal instrument is applied to the case study further considered in

this article, one of the assumptions of this study is that participatory governance needs to be applied to institutions with a certain degree of organizational structure. In other words, the degree of participation and governance in cross-border regions is higher if the organizational set-up of the cross-border institutions is more elaborated.

To substantiate the argument for an organizational basis for a broader participatory governance there should be a reflection of the post-national debate on institution-building in new functional territories (that are macro-regions, cross-border regions, corridors). These new functional territories are developed by bordering effects such as “De-(/Re-) Bordering” or “De-(Re-) Territorialization”. National borders are legally penetrated by cross-border cooperation that creates new borders where no borders existed before. De-Bordering leads to re-bordering (see Newman 2006) and to re-scaling of territory (see Perkmann 2007a) that is consolidated by institutionalization of cross-border governance institutions (see Nelles and Durand 2014, p. 106).

New centers of cooperation emerged in Europe to solve problems in between regions and member states. Regional coalitions in policy arenas in macro-regions are somehow more effective with regard to finding local solution than the nation-states in certain matters. In the ambits of environmental protection and transport, for example, new networks and territories cooperate to manage regional claims. The institutionalization process of cross-border citizenship starts on a functional basis. Cross-border institutions had mostly a functional approach due to the necessity to solve regional transborder problems. With regard to regionalization in the EU, Perkmann differentiate between three dimensions (social, procedural and substantial) of re-scaling processes: political mobilization, governance building, strategic unification (see Perkmann 2007a). Keating also provides a template to analyze re-scaling processes by distinguishing between political mobilization, institutional restructuring and functional needs (see Keating 2002; Perkmann 2007a). The authors argue that political, institutional and functional elements occur in re-scaling processes of cross-border regions within the EU. As political mobilization and governance building (institutional restructuring) are part of these natural developments of shifting scales, the organizational set-up can be considered as one of the results of re-scaling processes. As cross-border regions are territories of new scales and, therefore, include organizational build-up, the degree of the organizational structure depends also on the degree of re-scaling of territories and institutions. The organizational structure and, therefore, the potential for institutionalization of cross-border governance are both depending on the degree of a restructuring of functional territorial spaces, and constitute the degree of autonomy of participatory governance. Therefore, the more the organizational structure has been developed and emancipated from competing administrative institutions in the cross-border subnational context the more the region can be an active actor in the EU multilevel polity. Eventually, the more “self-confidence” and political mobilization the cross-border region can gain, the more

favorable conditions for both active regional governance and participation can be achieved.

Other research projects also elaborate the organizational structure as a causal condition for cross-border governance (see Perkmann 2007b; Medeiros 2011; Knippschild 2011). As organizational factors apparently foster governance processes in cross-border regions, the focal point for the analytical framework construction will be put on the assumed second pre-condition for CBC.

Gualini argues that cross-border governance and the emergence and “invention of regions” rely on three interconnected dimensions: political-economic, institutional and a symbolic-cognitive dimension (see Gualini 2003, p. 43). He assumes that these linked vertical and horizontal dimensions are the terms for cross-border governance in European subnational layers. Especially, the first two dimensions can be summed up in the analytical framework as the organizational pre-condition for participatory governance. The third dimension that Gualini addresses is equivalent to the assumption regarding the second pre-condition for participatory governance in a trans-border subnational context. Specifically, the symbolic-cognitive dimension is derived from cultural cross-border context. Cultural homogeneity across borders depends on linguistic, historical, and ethnic proximity of the adjacent subnational spaces.

Governance and participation across borders are more likely if the cultural preconditions are similar on both sides of the border. The permeability of border is promoted, legally and politically, by the organizational set-up, and socially by cultural homogeneity of the cross-border region. Subnational cross-border participatory governance is, therefore, favored by a cultural “thickness”. Paasi associated the label strong regional (cross-border) cultural homogeneity within regional institutionalization processes when using the term of “cultural thickness” to describe the interplay between a territorial, symbolic, institutional and functional shape (see Paasi 1986 and 1996). These four shapes are in a permanent exchange: territories are successively under contestation, symbolic identity-building can happen top-down or bottom-up, depending on long-term cultural existence or artificial identity-creation, institutionalization occurs as a consequence of such identity formation and functionality of the established institution is required after linking the regional institution to a superordinate system (see Terlouw 2012, p.709; Paasi 1986, p.115 et seq.).

Institutionalization of communities, thus, depends on identity-building in regions. In the cross-border context, border regions favor the institutionalization of participatory governance when a cross-border cultural identity has been established artificially or on a historical basis. This endeavor of regional identity-building in the literature has been framed as “politics of identity” (see Jessop 2000), “inventing communities” (see Anderson 1991) or “artificial constructions of the central state” (see Terlouw 2012, p.

709). The existence or creation of cultural homogeneity (thickness) can be understood as “thick identity” that can be differentiated from “thin identity”: “Thick identity is more based on a shared culture and community relations. Thin identity is more related to a specific problem and requires less direct involvement with other individuals. Thick identities have a normative aspect, while thin identities are more practical and utilitarian” (*ibid.*, p.710) Hence, a thick identity refers to cross-border spaces with cultural homogeneity (both historical or artificially created) while thin identity represents cross-border spaces of cultural heterogeneity with a more functional basis of cooperation. In culturally thick cross-border regions institutional arrangements of regional authorities are being culturally and historically consolidated (see Paasi 1986). Thin regions – on the contrary - are (cross-border) regions with a low level of cultural and historical homogeneity. These cross-border regions represent the majority of cross-border regions in Europe and primarily cooperate because of functional requirements: “A cross-border region can exist functionally without any political framework or awareness of identity. In fact, this is the most widespread situation” (Leresche and Saez 2002, p.91). Through identity-building culturally “thin” regions can be made “thicker”.

With regard to the institutional set-up, a common cross-border identity-building is mostly actor-driven within a sub-national authority context. In this sense, Jones and MacLeod differentiate between “regional spaces” and “spaces of regionalism”. With regard to cultural spaces of participatory governance especially the second concept seems to be interesting. Spaces of regionalism “feature the re-assertion of national and regional claims to citizenship, insurgent forms of political mobilization and cultural expression and the formation of new contours of territorial government” (Jones and MacLeod 2004, p.435). Few cross-border regions are culturally homogeneous spaces with a common regional identity (e.g. Catalonia, Basque Country, and Wallonia) that in some cases can be considered “ethnic Euroregions” (see Markusse 2004) with features of “cross-border regionalism” (see Scott 1999).

After the clarification of the concepts “participation” and “governance” this paragraph has outlined in a theoretical approximation the assumed pre-conditions for participatory governance in cross-border territories. The next chapter will enunciate these theoretical discourse in an analytical framework that serves as a framework for analysis.

#### **4. Building an analytical framework – Examination of participatory governance**

Figure 1: Pre-Conditions (X1/X2) for Participatory Governance (Y)

As Figure 1 abstracts, the pre-conditions established for the analysis of participatory governance are organizational structure and cultural thickness. For the examination of participatory governance, criteria deduced from several studies focusing on causal conditions for cross-border cooperation will be merged into an analytical framework model.

Organizational structure: Criteria regarding the organizational set-up that fosters cross-border governance (see Perkmann 2007; Keating 1997; Medeiros 2011; Knippschild 2011; Gualini 2003);

Cultural thickness: Criteria for the examination of cultural boundaries in cross-border cooperation (see Paasi 1986; Markusse 2004; Jessop 2000; Anderson 1991).

As it has been mentioned before the article tries to analyze participatory governance in institutionalized cross-border territories. Participatory governance is, therefore, the dependent variable (Y). The assumed causal pre-conditions for participatory governance - organizational structure (X1) and cultural thickness (X2) - are the independent variables. The independent variables, in turn, are composed by categories for analysis that represent sub-variables (see Figure 2). To better understand the causal processes and mechanisms of participatory governance and its conditions a broad set of categories has been applied to the variables.

For the examination of the participatory governance in territorial entities the research project applies a qualitative approach. In differentiation to quantitative research that relies on numbers and statistical methods to find general description or to verify causal hypothesis, qualitative procedures focus on a small number of cases, collect data through interviews or depth analysis of historical material and are discursive in their methods (see King et al. 1994, p.4). One of the reasons why the qualitative research design has been chosen is the fact that participatory governance is, first, difficult to operationalize for, second, the collection of numeric data. Participatory governance can hardly be linked with numerics and it is to a high degree actor-centered.

The interpretative character of qualitative research may lead to deviations and subjectivity that might manipulate the research results. Nevertheless, qualitative examination of an empirical case study may draw assumptions about the causal interplay of a variety of factors that may influence dependent variable by an in-depth analysis. For the exploration of the selected in-depth case study, the following analytical framework has been developed for the empirical analysis (see Figure 2):

Figure 2: Analytical framework for the empirical case study

## **5. Institutionalizing participatory governance – cross-border institutions within the European Union**

After the derivation from the theoretical discussion on cross-border governance we have conceptualized the terms participation and governance and set-up the pre-conditions for participatory governance. The construction of the analytical framework, based on this conceptual deduction of organizational and cultural pre-conditions, serves as a research template for the empirical case study. In this chapter the emphasis will be put on cross-border subnational institutions.

Through Europeanization and the resultant regionalization new forms of transborder governance mushroomed in the EU. These products of “re-scaling” can be differentiated in a territorial but also in a functional (corridors, networks), legal (European economic interest grouping – EEIG, European Grouping of Territorial Cooperation – EGTC, bilateral treaties) and institutionalized sense (Working Communities, Euroregions/Euregios/Eurodistricts). With regard to the conceptual linkage of forms of participatory governance with cross-border subnational institutions, especially the institutionalized and legal forms of transborder governance will be scrutinized.

The institutionalized forms of transborder governance in the European Union can be distinguished mainly between Euroregions and Working Communities. While Euroregions represent mostly the same institutional concept as Eurodistricts or Euregios, Working Communities need to be examined in a different light. The structures of Working Communities “are based on legally non-binding ‘agreements of cooperation’ or ‘working protocols’ signed between equivalent first level regions (and sometimes local authorities) or other organizations that agreed to cooperate” (Haselsberger 2007, p.7). A Euroregion, on the other hand, “in the sense as an institution is a 1. amalgamation of regional and local authorities from both sides of the national border, sometimes with a parliamentary assembly; 2. cross-border organization with a permanent secretariat and experts and administrative staff; 3. according to private law based on national associations or foundations from both sides of the border according to the respective law; 4. according to public law based on international treaties which also regulate the membership of regional authorities” (EC 2000, p.9; Medeiros 2011, p. 142). Since the first Euregio has been built in 1958 in the German-Dutch borderlands, far more than 150 Euroregions have been established all over Europe (see Svensson 2013). Although most Euroregions are composed by institutional bodies and secretariats, those entities are mostly “based on informal or quasi-juridical arrangements among participating

authorities" (see Perkmann 2007b, p.863). Some Euroregions rely on the Madrid Outline Convention on Transfrontier Co-operation – an international agreement introduced by the Council of Europe (CoE) in 1980. This legal convention builds the groundwork for further bi- or multilateral agreements in cross-border regions concerning issues of cooperation across borders. Examples of bilateral contracts based on the Madrid Convention are the treaties of Anholt (1991) and Karlsruhe (1996) that represent the legal basis for the Euregio Rhine-Waal (Germany-Netherlands)<sup>1</sup> and the Region Pamina (Germany-France)<sup>2</sup>. Nonetheless, the Madrid Convention "amounted to a declaration of intent" (Nadalutti 2013, p.759) with low legal value (see Eisendle 2011, p.17).

The European Grouping of Territorial Cooperation (EGTC) – a cross-border legal instrument introduced by the EU in 2006 – endows its members with a legal personality for the cross-border territorial grouping (Art. 1[3] Regulation [EC] 1082/2006). Its members can be public authorities (national, regional, local) or bodies governed by public law within the European Union (Art. 3[1] Regulation [EC] 1082/2006). The legal personality of this transborder entity permits the representation and to speak with one voice for its members internally and externally, and to act independently from its member authorities (see Ulrich 2015, p. 201). The tasks of EGTC are mainly based on territorial cooperation and but it also "shall carry out the tasks given to it by its members" (see Art. 1[3] Regulation [EC] 1082/2006). The EGTC, thus, can exercise a broad spectrum of competencies on subnational level excluding the exercise of governmental authority. Therefore, an EGTC is an appropriate tool to create, to design and re-shape (cross-border) regional policy.

Looking on the EGTC regulation reform that has been implemented in 2013, an obvious shift has been made to the tasks of EGTCs to meet the interests of local citizenship. Referring to the EGTC regulation reform, an EGTC is empowered to manage infrastructural affairs as well as services of general economic interest – for example health, transport, educational issues (see Krzymuski & Kubicki 2014, p. 1340). Hence, the legal construct of EGTCs features a high potential for both the subnational (cross-border) mobilization - by its legal personality and relatively high autonomy vis-à-vis the national state - and the social nature and regional anchoring - by its feasible delegation of tasks in the social and economic welfare area. The EGTC, therefore, covers the administrative facilitation but can also be a political instrument for regional mobilization and public policy. This is the point of linkage of the concept of participatory governance with institutional practice. Therefore, the EGTC reform demonstrates that not only the permeability of borders and obstacles of administrative practice shall be overcome but also the local citizenship and its necessities shall be taken into account.

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<sup>1</sup> <http://www.euregio.org/seiten/index.cfm> , 15.04.2015

<sup>2</sup> <http://www.eurodistrict-pamina.eu/pamina/>, 15.04.2015

The EGTC - that differs from the European economic interest grouping (EEIG) that is the “EU legal brother” for economic and private associations – is, therefore, the right arena to transpose demands and requirements of the public with institutional arrangements. The Committee of the Regions (CoR)<sup>3</sup>, that coordinates the EGTC at the supranational level, highlights their “potential in particular in transport, employment, environment” and “further encourages EGTCs to develop innovative models of citizen participation and European democracy” (Committee of the Regions 2015b, p. 4). This legal instrument, therefore, shall develop from a facilitator of territorial cooperation - in accordance with the political will of the CoR - into a tool to elaborate public policies at the cross-border subnational level.

The next chapter will focus on an empirical case of an EGTC that is situated on the Spanish-Portuguese border. The participatory governance, organizational structure and cultural thickness will be examined in this region. Specifically, it will be examined to what extent the EGTC addresses the strategy of the CoR and includes the local citizenship.

Figure 3: Cross-border Institutions

## **6. The EGTC Galicia – Norte de Portugal as territorial space for participatory and functional governance in Europe?**

The EGTC „Galicia-Norte de Portugal“ (GNP-EGTC) has been selected as a case study, on the one hand, due to the fact that for this cross-border region already a variety of data (articles, grey literature) is available compared to other cross-border EGTCs in Europe. On the other hand, as the EGTC „Galicia-Norte de Portugal“ (GNP-EGTC) is one of the first entities with this legal form established, it can be assumed to be able to provide a broad set of information. The data used in the analysis is based on policy and legal documents as well as interviews conducted with representatives of the Galician and Portuguese members of the EGTC. The findings of the analysis will be structured along the analytical framework to guarantee unity regarding the analytical concept and the empirical description. The analysis starts with the assumed pre-conditions of participatory governance: the organizational structure of the EGTC and the cultural thickness of the cross-border territory. Subsequently, participatory patterns within this cross-border institution will be examined and casually linked to the pre-conditions defined.

Figure 4: Map of the EGTC Galicia-Norte de Portugal

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<sup>3</sup> The Committee of the Regions (CoR) is responsible for the Political support for EGTCs and their activities and published the “work programme for networks and platforms for the European Groupings of territorial cooperation (EGTC)” for 2015/ 2016

### 6.1. Participatory governance

The institutional architecture of the GNP - EGTC is made by a general assembly with members' representatives of the EGTC, a director, sub-director and a fiscal council (see Committee of the Regions 2014, p. 78; Ferreira 2015; Lago 2015). The position of the director rotates every two years between a Spanish and Portuguese representative - to guarantee a high level of representation and legitimization towards their own cooperation members (see Ferreira 2015). The assembly and the directors are representatives of the members "*Comissão de Coordenação e Desenvolvimento Regional do Norte de Portugal (CCDR-N)*" and the *Xunta de Galicia*. They are not elected by local citizens in their respective region but by the technicians and staff of administration. This lack of participatory patterns in the decision-making process unfolds the limited scope of legitimacy and accountability within the institutional design of the GNP-EGTC.

The GNP-EGTC acts as a "meeting point with legal status between institutions, businesses and citizens on both sides of the border to develop shared projects and programs" (Committee of the Regions 2015a, p. 38). The members, therefore, seem to be interested in a people-oriented and economic friendly cross-border governance structure. The aim of the GNP-EGTC is „facilitating and promoting regional cooperation among the members, enhancing competitiveness in the fields of knowledge and innovation, ultimately resulting in increasing the cohesion“ (Committee of the Regions 2014, p. 77). Although the active role of this cross-border entity is framed as a people-oriented institution, the emphasis concerning the objectives is put on the European catch-word "cohesion" and economic factors (innovation, competitiveness). The main tasks of the GNP-EGTC are the management of contracts and the implementation of the ETC program in Galicia and North of Portugal and the development of regional cooperation activities (see *ibid*, p. 77).

The tasks are characterized by an implementing approach and are demarcated within the European Territorial Cooperation. This might imply both a top-down implementation contract of EU regional policy and a bottom-up constitution of regional concerns within the Europeanized administrative conditions. A bottom-up participatory deliberation that is arranged on subnational-territorial level and transposed on supranational level is mostly missing. An information office has been established in 2012 and every year OPEN DAYS were organized to inform citizens on the work and activities of the EGTC (see *ibid*, p. 77). A further deliberation of policies including the local citizenship in view of implement agenda-setting practices or implementation strategies do not exist so far. As the tasks of the institution reveal, it is designed to implement the Spanish-Portuguese ETC programme.

In the context of ETC, the EGTC organized an international conference on cultural and creative industries, and created a unit support for health issues (see *ibid*, p. 77). Further

participatory actions were enabled by the EGTC, f.e. through the Job Day that has been introduced in 2014. Due to the debt crisis the government of Galicia and the Portuguese CCDR-N decided to take measures that affect the local population in a positive light. The first Job Day in Tui, Galicia brought together small- and medium-sized enterprises (SME's) from the metal sector and jobseekers of the region (see Ferreira 2015 and Lago 2015). In addition to this, the members' administrations introduced a student exchange programme called JACOBO – like the EU ERASMUS programme "a la gallega" (see Lago 2015).

Participation happens, therefore, in the socio-economic as well as educational sector. These participatory actions have been established as an autoresponse to the economic crisis. Nonetheless, these actions correspond to sectors that represent general economic and social interests and, thus, can be looked at as people-oriented regional policy.

The EGTC exists in parallel to the *Working Community* (WC) that has been installed in 1991 by both regional administrations and that is the governance institution. The EGTC works under the umbrella of the WC that has a permanent structure and "sets the global strategy and the EGTC implements it" (see Ferreira 2015). The EGTC, therefore, represents an instrument to operationalize cross-border cooperation while the WC is a platform for political exchange and overall strategies like the Joint investment plan (see Ferreira 2015).

The establishment of the GNP-EGTC has generally marked a milestone in the cross-border governance in the Galician-Portuguese borderlands. After reaching this „miliarium“, the Autonomous Community of Galicia have focused continuously on further external cooperation and twinning of administrative strategic actions with its regional neighbor, the Northern part of Portugal. Cross-border activities of the Galician officials with northern Portuguese administrations might be accounted as external action: in two of the main strategic documents regarding external affairs of Galicia – "Libro blanco de la Acción Exterior" (2004) und "Estrategias de la Acción Exterior" (2007) an enhanced tendency to external policy endeavor towards Portugal can be observed (see García-Álvarez and Trillo-Santamaría 2013, p. 110). Although cross-border cooperation can be labeled as foreign policy towards the north of Portugal, since it occurs on a smaller scale than the more nationalist paradiplomatic endeavor in the Basque country (see *ibid.*, p. 110).

## *6.2. Organizational structure – cross-border frontrunner and dependency on funds*

The EGTC „Galicia-Norte de Portugal“ (GNP-EGTC) is the third established European EGTC and the first one on the Iberian Peninsula. This cross-border institution has its seat in Vigo, Spain and is composed by two member associations: the one on the Northern Portuguese side is the regional delegation of the CCDR-N (seat in Porto,

Portugal), and on the other side of the border it is the Autonomous Community Xunta de Galicia (seat in Santiago de Compostela, Spain). The regional authorities form a territory of 51.000qm with a total of 6,4 million inhabitants (see Committee of the Regions 2014, p. 76 et seq.).

Relying on the classification of Eurostat's "Nomenclature des unités territoriales statistiques (NUTS)" the members represent NUTS2 territories (basic regions for the application of regional policies).<sup>4</sup> The composition of the members as well as the territorial scale is, therefore, symmetric and represents a balanced territory and an internally equal composition membership.

The operational framework of the cross-border region have been constituted by both regional administrations within a cross-border WC that has been installed in 1991, and represented the first institutionalized form of cross-border governance at the Portuguese-Spanish border. By the declaration of the „European Territorial Cooperation Agreement“ on 22<sup>nd</sup> September 2008, the members introduced an EGTC as a new cross-border institution in this region. This has been registered on 18<sup>th</sup> February 2010 (see Committee of the Regions 2014, p. 76). Nevertheless, as mentioned before, the WC has not been substituted by the EGTC but acts as an individual entity independently.

Looking on the operational framework, the cross-border region has exploited on an early stage the potential of European measures for cross-border regional policy with the implementation of European instruments at an early stage. Regarding the operational framework, the GNP-EGTC can be considered as a frontrunner of cross-border cooperation in Europe and of the Iberian Peninsula. The EGTC employs six members of staff (three from each country): they are employed under Galician law, are not public officials, and applies three languages – Spanish, Portuguese and Galician - as working languages (see Committee of the Regions 2014; Lago 2015). As the EGTC has been described as a symmetric cross-border entity regarding territorial cooperation level, an asymmetry can be observed from the territorial (state) organizational perspective. The Spanish national state is organized as a quasi-federal system (see Rius-Ulldemolins and Zamorano 2014) with 17 Comunidades Autonomas ("Autonomous communes") with extensive executive, legislative and juridical power. Portugal is characterized as a very centralized country with five regional commissions for the coordination and development that depend highly on the national government (see Garcia-Álvarez and Trillo-Santamaría 2013, p. 111). This asymmetry in the diagonal multilevel governance unfolds especially in the foundation process of the EGTC, where Portugal's central state organization hampered a quicker institutional set-up (see Ferreira 2015; Lago 2015).

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<sup>4</sup> See website of the European Commission on Eurostat: <http://ec.europa.eu/eurostat/en/web/nuts/overview>, 02.02.2016

Further organizational boundaries result from the EU's financial debt crisis that has also affected the subnational administrations in Spain and Portugal. The regional administrations on both sides of the border have been alleviating the adverse effects of this crisis. Cross-border regional policy measures "mainly concentrated on mitigating these effects" (see Committee of the Regions 2014, p. 77). Regional policy measures were to a high degree implemented through the contribution of EU funds (especially in the framework of the INTERREG IVa programme that represents the cross-border joint initiative of the EU) that amounts nearly 75% of the budget of the GNP-EGTC (see Committee of the Regions 2014, p. 77 and Lago 2015). The members of the EGTC provide the rest of the budget that in total represent more than 271.410 Euro in 2012 (see *ibid*, p. 77). Nevertheless, compared to other EGTC in Europe the budget can be considered as rather low (see *ibid*). In addition to this, the GNP-EGTC is highly dependent on EU funds. Nearly 75% of the Budget is composed by EU contributions, especially the INTERREG funds (see Committee of the Regions 2015a, p.39). The linkage to EU funds and the lack of own resources draw an image of an EU policy implementing agency that needs to emancipate from ETC programmes. Regarding the strategic autonomy in the implementation activities, Galicia and the north of Portugal are challenged by the debt crisis. Nevertheless, the organizational structure is stable regarding the institutional design and operational framework (see Ferreira 2015).

Besides the organizational structure of the EGTC and the cross-border region in general, the cultural pre-conditions shall be examined in the following paragraph.

### *6.3. Cultural thickness – linguistic homogeneity and historical proximity*

Cross-border governance efforts, especially made by the Galician side, can be explained with the cultural pre-conditions of the cross-border region. This endeavor of paradiplomacy as has been manifested in the "Libro blanco de la Acción Exterior" and "Estrategias de la Acción Exterior" and result from the common cultural, linguistic, historical and traditional similarities to the Northern part of Portugal, but also by economic interweaving of cross-border flows of goods (see Garcia-Álvarez and Trillo-Santamaría 2013, p. 110). Especially, the historical development of Spain and Portugal that contained times of common form of rule (f.e. same kingdom of the Moors) and times as seafaring opponents (see Lago 2015) reveal centuries of cultural and historical intersection.

Besides historical correlation, as a reason for the Galician interest to cooperate with the north of Portugal the cultural-linguistic similarities can be considered favorable for participatory governance. From a practical point of view cross-border cooperation does not experience obstacles in the daily practice due to linguistic boundaries, in contrast, the similarities even give impetus for more deliberation and operational exchange

(see Lago 2015). Through the establishment of a new regional cross-border space of territorial cooperation, regional policy issues can be addressed and coordinated below the national state in the Galician-Portuguese border region. Nevertheless, compared to the example of the Basque country cross-border activities, the central government in Madrid regards Galicia cross-border motivations as less critical (see García-Álvarez and Trillo-Santamaría 2013, p. 111).

## 7. Results and Outlook

This brief overview is too short to examine the width of participation of the cross-border regional population, nevertheless some impressions drawn from the region could be gained. The analysis of cross-border participatory governance within the EGTC Galicia-Norte de Portugal unfolds dichotomous results. On the one hand, participatory governance happens referring to participatory actions (e.g. Job Days, Jacobo, and Open Days) though including few policy areas (social and educational policy) and few people participating on a not frequent basis. On the other hand, decision-making and deliberation lack a broad concept of participatory modes and accountability. Regarding the participatory actions, participatory governance can be considered auto-responsive towards the economic crisis as the EGTC managed to mitigate the effects of the financial debt crisis. The organizational structure also depends much on national or subnational implementation strategies of the debt crisis risk management. In addition to this, the EGTC is highly depending on EU funds. The deficient diversity of funds and lack of strategic autonomy create the impression of an implementing agency. Nevertheless, the Spanish-Portuguese cross-border region can be considered as a “model student” for EU CBC by having applied institutionalized forms of cooperation on an early stage. This could be explained by the historic-linguistic proximity of both sides of the adjacent border territory.

This article has attempted to take a step ahead from the originally integrationalist argument of CBC towards the contemporary challenge of EU politics – to bridge the gap to European citizens. Cross-border regions are framed as laboratories for European integration and are therefore favorable arenas for both a space for cross-border administrative cooperation and a model for modes of citizens’ participation. One of the assumptions of the text is that modes of participation can only function applied to institutions. The EGTC as a new EU legal instrument represents a highly political instrument that ideally fosters both citizens’ participation and regional mobilization. After the merger of the concepts of governance and participation, further assumptions and pre-conditions have been established. For the empirical investigation of cross-border participatory governance an analytical framework has been created. The empirical study

of the GNP-EGTC has revealed two main difficulties. First, due to the interpretative approach of the qualitative data, research outputs are difficult to gain and to interpret. Deviations and subjectivity may manipulate the research results. Second, a further specification of the research object is needed to guarantee a profound and veridical empirical description.

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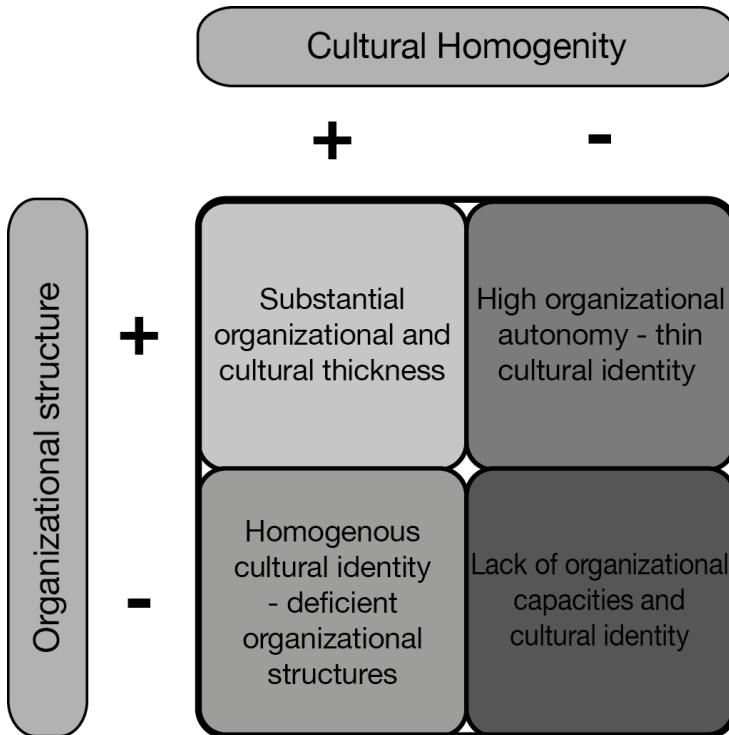
*Ulrich, Institutionalizing (cross-border) citizenship on subnational level*

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**Tables and Figures:**

**Figure 1:** Pre-Conditions (X1/X2) for Participatory Governance (Y)



**Figure 2:** Analytical framework for the empirical case study

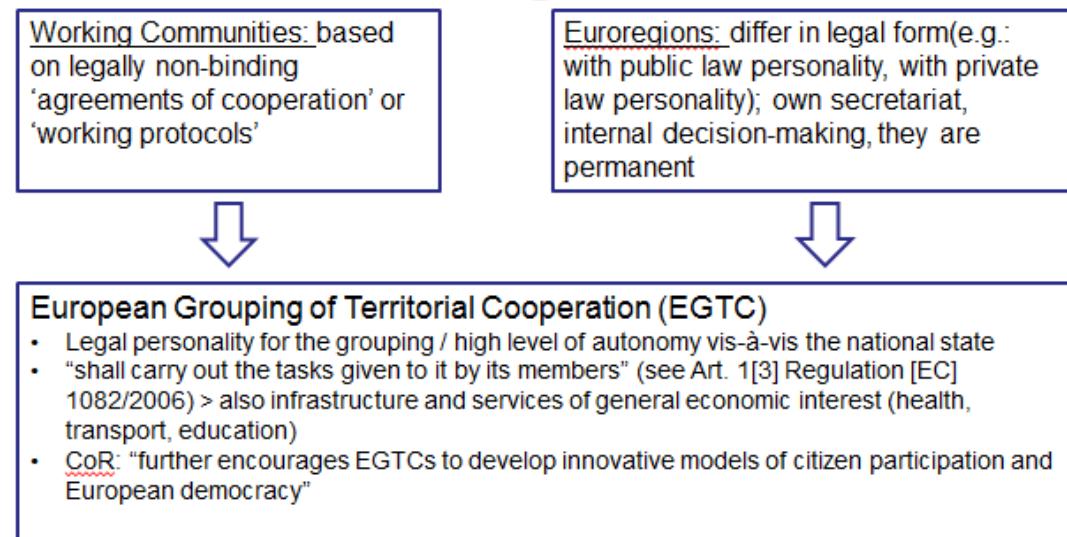
*Ulrich, Institutionalizing (cross-border) citizenship on subnational level*

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| Dimension                       | Criteria                 | Explanation  |
|---------------------------------|--------------------------|--|
| <b>Participatory governance</b> | Deliberative praxis      | Forms/ frequency/ channels of deliberative bargaining with citizens for political will formation /agenda-setting   |
|                                 | Modes of Legitimation    | Discourses on legitimation (on strategy, policy, budget f.e.) to citizens  |
|                                 | Actors and participation | Who are the holder of participation? Local representatives, elites, citizens' representations, technocrats? Further actors from national or supranational level? |
|                                 | Decision-making          | How is decision-making made? Majoritarian vote/ qualified majority? How are strategies implemented?  |
|                                 | Policy sectors           | In which policy areas citizens can participate? (tourism, energy, economic policy)   |
| <b>Organizational structure</b> | Territorial scale        | Members of cooperation:<br>Nations, regions, municipalities?   |
|                                 | Cooperational framework  | Intensity, evolution , objectives, expectations and policy areas of cooperation  |
|                                 | Institutional design     | Involved parties, bodies, committees, competencies and human resources of institution  |
|                                 | Legal conditions of EGTC | Territorial organization of national states involved in cooperation, legal collision of national law   |
|                                 | Strategic autonomy       | Strategic autonomy to other adjacent institutions?<br>"De facto" independency in strategy development?   |
|                                 | Diversity of resources   | Financial autonomy through diversity of funds<br>(EU, local authority, private investor)   |
| <b>Cultural thickness</b>       | Language                 | A common or similar language on both sides of the border?  |
|                                 | History                  | A common history or history of borders?  |
|                                 | Ethnic homogeneity       | Is there a cross-border ethnicity?   |
|                                 | Socio-economic factors   | Are there significant socio-economic differences?  |
|                                 | Identity                 | Common cultural identity? Historical cultural identity or inventing an identity?   |

**Figure 3:** Cross-border Institutions

*Ulrich, Institutionalizing (cross-border) citizenship on subnational level*



**Figure 4:** Map of the EGTC Galicia-Norte de Portugal

