

# Cross-Border Cooperation: Challenges and Perspectives for the Horizontal Dimension of European Integration\*

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## Трансграничное сотрудничество: вызовы и перспективы для горизонтального измерения европейской интеграции

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### Part 3. Creation of Cross-Border Institutes as Challenge

#### Cross-border institution building as challenge

With regard to the functional task-focus, practical cross-border cooperation approaches in Europe are covering a wide range of material fields of action. Depending on the respective territorial context, these cover classical fields of regional development (such as spatial — and urban development planning, economic development, research and development, transport etc.), specific approaches of cooperation in sectoral policy areas (health, social security, education and training, science and research, environment, conservation and tourism, etc.) or areas of public services of general interest (supply and disposal, security, infrastructure, leisure and sport etc.). A classification of these various tasks, as relevant for the question of the challenge of cross-border institution-building, can be developed on the basis of the dimensions of «thematic orientation» and the characteristic “functional role” cross-border-cooperation is de facto providing.

Regarding the criteria of *thematic differentiation* a task-classification can lead to the following typology (Beck 2017):

**Type A:** Cooperation within the framework of mono-thematic projects (bridges, bike paths, bus-lines, kindergardens, information services for citizens, businesses, tourists, etc.) including INTERREG-life-cycle management («single issue»);

**Type B:** Cooperation within entire policy-fields (environment, health, transport, education, science and research, etc.) («policy-related»);

**Type C:** Cross-topic cooperation like programming / implementation / management of INTERREG programme; cooperation taking place within political bodies such as government commissions, Euroregions, Eurodistricts; Inter-sectoral cooperation taking place

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within the framework of innovative networked governance approaches of territorial development («integrated-cross-sectorial»)<sup>1</sup>.

In contrast, the typology of the criteria of “*functional role of cooperation*” refers to a variation in the intensity of cooperation requirements and the related performance of duties and tasks. Six ideal types of functional levels of cross-border cooperation can be identified here, that build on each other in practice — in the sense of a core process — and which are very often sequentially interlinked in the sense of different stages of development:

**Type 1:** The encounter between actors from various national political and administrative contexts can be considered as a basic function of the cross-border tasks. The aspects of mutual learning and the exchange about the respective specifications of the home context mark this level. Mutual meeting promotes mutual understanding and thus forms the basis for building trusting reciprocal relationships.

**Type 2:** On this basis, the partners can then enter into the second phase, which is characterized by a regular mutual information.

**Type 3:** Once informative cross-border relations are sustainable, these lead to the cross-border coordination of the relevant actions and policies of the partners involved in the third step.

**Type 4:** From this, the demand to develop joint cross-border planning and strategies that can ensure a coordinated, integrated approach in relevant fields arises as a fourth level.

**Type 5:** On this basis, then joint decisions can be made, which eventually lead to

**Type 6:** Shared, integrated and coordinated cross-border implementation of tasks on a sixth level.

This classification of six cross-border functional levels, building on each other, stands for the empirical observation that both the intensity, the liability, as well as the integration of the cooperation grows from one level to the other. Each stage itself represents a necessary and legitimate dimension and precondition of the effective fulfillment of cross-border tasks. In addition, the six levels are also representing different logics of interaction between the actors involved: while the first two levels are primarily a level of discourse, the following two stages focus rather on the structuring of the relations of interaction as such whereas the last two levels refer to implementation-related joint actions in a transnational context. Accordingly a reliable cross-border task-fulfillment is therefore only given (and possible) if all functions in all six reference levels are realized. The observation, that the two functions “decision” and “implementation” often still show empirical deficits (Beck/Pradier 2011) illustrates the challenges regarding the state of implementation of an integrated cross-border policy in many cross-border constellations.

Figure 1 summarizes the model of different functional levels of cross-border cooperation.

Territorial cooperation of the new generation tries to increasingly promote integrated development of cross-border potentials (Ahner/Füchtner 2010). Thus the question, by which means of institution-building this territorial development can best be accomplished, is more and more on the agenda in many border regions.

Institutions can be understood as stable, permanent facilities for the production, regulation, or implementation of specific purposes (Schubert/Klein 2015). Such purposes can refer both to social behavior, norms, concrete material or to non-material objects. Following the understanding of administrative sciences, institutions can in this way be interpreted as corridors of collective action, playing the role of a “structural suggestion” for the organized interaction between different actors (Kuhlmann/Wollmann 2013, p. 51). The question of the emergence and changeability of such institutional arrangements in the sense of “institutional dynamics” (Olson 1992) is subject to a more recent academic school

<sup>1</sup> I will refer back to this classification below, when discussing different degrees of institutionalization.

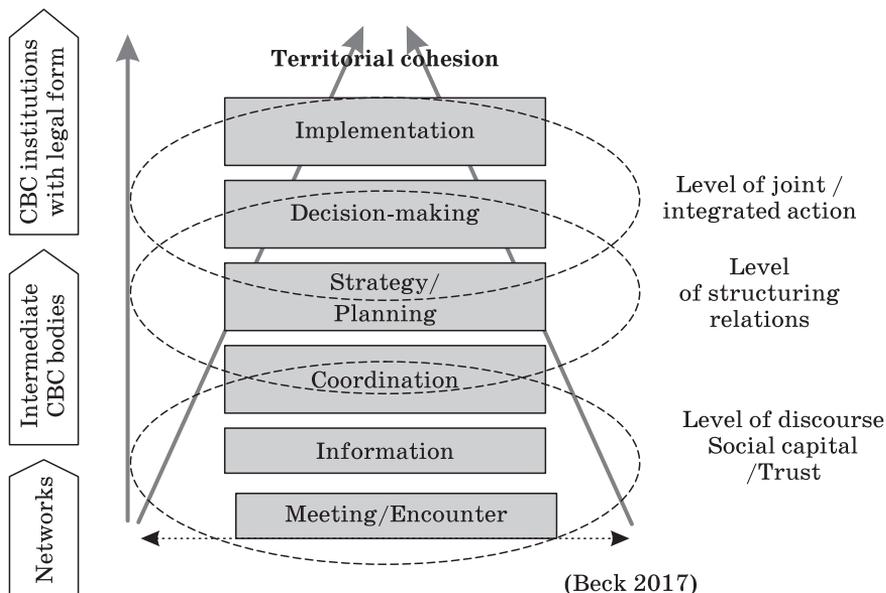


Fig. 1. Functional levels of cross-border cooperation

of thinking, trying to integrate the various mono-disciplinary theoretical premises under the conceptual framework of neo-institutionalism. Following Kuhlmann/Wollmann (2013, p. 52) three main theoretical lines of argument can be distinguished here:

Classical historical neo-institutionalism (Pierson 2004) assumes that institutions as historically evolved artefacts can be changed only very partially and usually such change only takes place in the context of broader historical political fractures. Institutional functions, in this interpretation, impact on actors, trying to change given institutional arrangements or develop institutional innovations, rather in the sense of restrictions. The classical argument here is the notion of path-dependency. In contrast, rational-choice and/or actor-centered neo-institutionalism (Scharpf 2006; March/Olson 1989) emphasizes the interest-related configurability of institutions (in the sense of “institutional choice”), however, the choices that can realistically be realized depend on the (limited) variability of the existing institutional setting. Approaches of sociological neo-institutionalism (Edeling 1999; Benz 2009), on their turn, also basically recognize the interest-related configurability of institutions, however — rejecting the often rather limited model in institutional economics of a simple individual utility maximization of actors — emphasize more on issues like group-membership, thematic identification or cultural adherence as explanatory variables for the characteristics of institutional patterns.

With regard to the conceptual use of neo-institutionalist thinking, territorial cooperation represents a twofold interesting application area. First it constitutes a object-based framework, to which the three above lines of argument are related: the territorial reference-frame of politics, in which institutional arrangements are de facto materializing themselves. Second, territorial cooperation itself, as dependent variable, can only be understood rightly, if — with regard to its genesis, structural and procedural functioning and material effectiveness — both the historical, actor-centered and sociological factors are considered as explanatory variables, taking into account their respective interdependency. The related research question here would refer to the functionality of different degrees and arrangements of such territorial institutionalism from the point of the partners involved: What institutional functions

are delivered and/or expected and where can they be situated within the continuum of loosely coupled (inter-institutional and inter-personal) networks in the sense of a „transnational governance“ on the one hand (Benz at al 2007; Blatter 2006) and more formal, institutionally solidified organizational structures in the sense of a “transnational government” on the other hand (Fürst 2011; König 2008, pp. 767; König 2015, pp. 216ff).

The basic reference points of such patterns of European territorial institutionalism are the related territorial cooperation-needs, which are in turn derived from the different thematic and functional tasks of territorial development itself and which can be understood as intervening variables of such forms of institutionalism: Different degrees of cooperative institutionalization, such would be the related hypothesis, can be interpreted as a territorially influenced function, resulting from the collective adjustment between different historically evolved and thus still rather persisting national systems (public administration, law, political, economic and social order, characterized by diverging functionalities), the interest-related interaction between the actors involved (local communities, territorial governments, enterprises, associations, universities etc. with individual institutional interests), and the cultural and group-related formations (administrative and organizational cultures, norms, leading ideas, mental models etc. of both the collective and individual actors) which are finally, in turn, impacted/influenced by a (interdependent) intervening territorial variables such as geographical location, socio-economic situation, the practical handling of functional development needs, policy-typologies and/or policy-mix, inter-cultural understanding (for further explanantion see: Beck 2017a).

The fact of different interests and systems meeting each other within the subsystem of cross-border cooperation marks both the complexity and the conditions under which joint institutional solutions can be developed cooperatively. Referring to the above described typology of CBC-tasks and functions, in principle, the need of institutionalization would depend on and increase in relation with the expanded level of both the tasks and the functions to fullfil. Following Beck (1997; 2017), Blatter (2000) and Zumbusch/Scherer (2015) the following figure suggests a model of territorial institutionalism in cross-border cooperation (fig. 2):

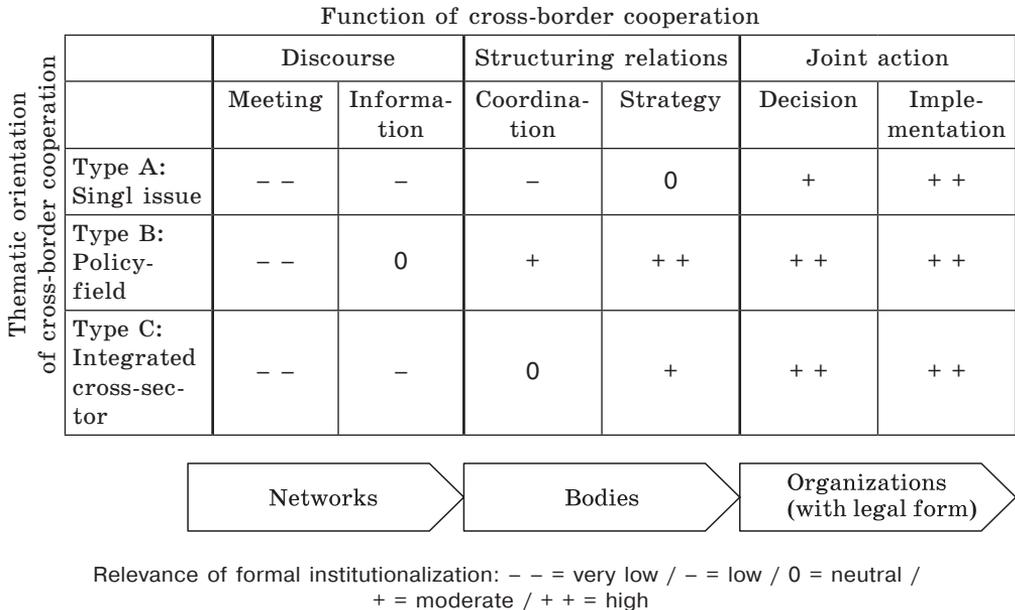


Fig. 2. Model of territorial institutionalism in cross-border cooperation

## **Conclusion: Setting the Frame for a Systemic Capacity-Building of Cross-Border Cooperation**

In addition to training/facilitation and territorial institutionalism, which have been outlined in more detail above, four further components of a systemic cross-border capacity-building seem to be of particular strategic interest for the future:

**Strengthening the evidence base of cross-border policy-making:** One central weakness of most cross-border policy-making consists in the lack of tangible base-line information regarding both the real world strengths/weaknesses and the potentials of the cross-border territory in question. The national and regional statistics often suffer from a lack of comparability and specific analysis on the characteristics and the magnitude of the socio-economic cross-border phenomenon (be it mobility of citizens, economic exchanges and relations, transport and traffic movements, exchanges between universities, students, associations etc) suffers both from the challenge of quantification and qualification. In addition, the results of the SWOT-analysis carried out at the beginning of a new programming period, are often not really binding later on, when the selection of project applications actually takes place. In turn, both the programme and the project level have difficulties to describe and capture the specific cross-border added-value of the actions that were funded — mostly due to the absence of credible impact-indicators and a data generation that requires specific qualitative and quantitative methods.

Under the new generation of the cohesion policy, the idea of evidence based policy-making has a prominent place. Cross-border territories will have to strengthen their efforts to creating and proceeding tangible impact information in the near future. This is also a prerequisite for any cross-border policy-approach that wants to become more strategic in the sense of a more focused and concentrated pattern that concentrates on the integrated development of territorial potentials (360° perspective) instead of multiplying disconnected sectorial projects.

With the Impact Assessment toolkit for cross-border cooperation, the Centre for Cross Border Studies in Ireland and the Euro-Institute have developed an instrument that can be very significant in this regard, allowing for a much more evidence based policy- and project development in the future (Tailon/Beck/Rihm 2010).

Developing a multi-level-governance based on „horizontal subsidiarity“: In the perspective of a systemic capacity-building approach it seems desirable to strengthen and enlarge the scope of action of the sub-system of cross-border-cooperation in Europe. Overcoming the seven challenges cited above would require multi-level governance that leads both to a much closer and more integrated cooperation and a much clearer functional division of labour between the different levels of cooperation. In such a perspective the EU-level would anticipate impacts of future EU-initiatives on the cross-border territories at an early stage and would allow for a better inter-sectoral coordination between the different thematic policy-areas and institutional competences which have a logical border crossing dimension. Integrated policy-making would require, for instance, standing inter-service groups on cross-border cooperation, which are them themselves interlinked with relevant groups of the Committee of the Regions and the European Council and Parliament.

The member states (and their territorial subdivisions) would on the other hand support cross-border cooperation actively and would allow for flexible solutions to be developed on the borders. This would lead to a new operating principle, which I described recently as “horizontal subsidiarity” (Beck 2012b): Whenever a policy-field that is relevant for horizontal exchange, cannot be harmonized at the European level, member states should then at least try to setting the frame via direct coordination with their neighboring states. The term “horizontal subsidiarity” means in this respect, that with regards to cross-border policy-issues the “smaller” cross-border unit should have the possibility

to solve a problem or handle a question prior to the intervention of the “bigger” national jurisdiction. This would then require that the smaller unit will become enabled by the provision of the necessary legal flexibility: experimental and opening clauses in thematic regulations and exemptions based on *de minimis* rules (whenever a cross-border phenomenon does not exceed a certain level of magnitude — e.g. 5% of the population being commuters, 3% of the students studying at the neighbour-university, 2% of patients asking for medical treatment with a doctor beyond the border — an exception to the national rules will be allowed).

The local and regional actors on the other hand would have to develop shared cross-border services (Tomkinson 2007; AT KAERNY 2005) and transfer domestic local/regional competencies to joint cross-border bodies with real administrative competencies for concrete missions within relevant cross-border fields. Instead of building or maintaining relatively expensive public infrastructures separately on both sides of the border in service areas such as health, leisure time, schools, kindergarden, fairs, libraries but also transport operators, hospitals, fire department or civil protection etc., local and regional actors would develop complementary fields of specialization and share their infrastructures with local and regional actors from the neighboring state. This could give cross-border cooperation a completely new finality, allowing not only to save scarce resources but also to symbolize both the permeability and the added-value of the “joint” cross-border territory from the point of view of the ordinary citizen.

Developing subsidiarity within the crossborder-territory: In an area such as this, where there is freedom to undertake cross-border action strengthened by horizontal subsidiarity, two additional subsidiary perspectives must be taken into account. On the one hand, a vertical subsidiarity should be established within the cross-border areas of responsibility across the total spatial level (eg the total territory of the Danube macro-region, the total territory of the Lake Constance Conference, the total territory of the tri-national metropolitan region of the Upper Rhine) which would only become operative when the smaller cross-border entities (inter-municipal cooperation, Euro-districts, EUREGIOs, etc) receive excessive demands on their pragmatic, territorial expertise. Thus, distributions of functional and specific assignments on the proficiency scale could be developed in the cross-border area which would be likely to reduce any duplication of work which has been observed, and which is still widespread today, between the different actors, institutions and territorial levels of cross-border cooperation.

On the other hand, the prospects of intersectoral subsidiarity should also be greatly strengthened. While today, in most cross-border territories in Europe, cross-border issues are primarily the responsibility of political and administrative actors (the current configuration of European aid programmes sustains this trend), subsidiary cross-border cooperation should support more strongly sectoral ownership of cross-border systems in economy, science and research, and civil society. Public action contributions would therefore be in these sectors that, in the future, would need to better arrange cross-border action amongst themselves, either in a catalytic (eg to simulate project initiatives) or complementary way (eg in the form of financial assistance to initiatives coming from these very sectors), however they should not replace them either (Grabher. 1994; Scharpf 2006) In addition to the key public cross-border assignments (infrastructure, welfare, security against risks, etc), public actors could ultimately in such a perspective, divert the justifiable functional legitimacy to act from the long-term protection mission of posterity (Böhret 1990; Böhret 1993; Dror 2002) which should be visible in the integrated approaches of a cross-border sustainability strategy.

The conceptual foundation of the interlink between the subsidiarity and the governance dimension on the one hand and the vertical and horizontal differentiation of both

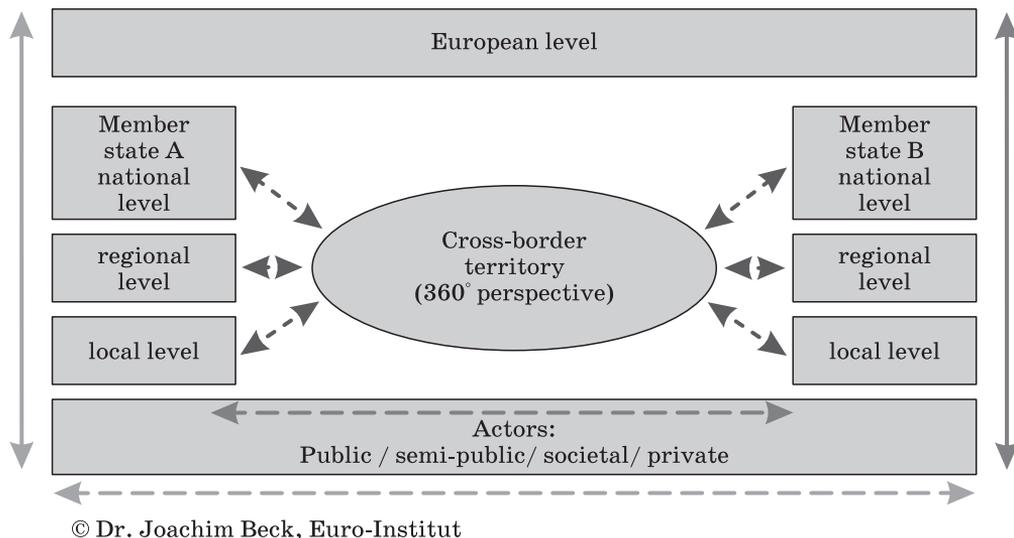


Fig. 3. The vertical and horizontal differentiation of multi-level governance and subsidiarity in cross-border cooperation

principles on the other are illustrated — for the case of cross-border-policy making — in the following graph (fig. 3):

Promoting CBC at EU-level: From the perspective of cross-border territorial cohesion the frequently different implementations of EU law by the neighboring countries regularly leads to technical and political asymmetries, which often even reinforce structural differences rather than leveling them. It must be worrying that the comprehensive annual work output of the European Commission (on average, these are several thousand proposals for directives, policies, regulations, decisions, communications and reports, green papers, infringement procedures per year) does not explicitly consider possible impacts on the European cross-border territories so far — although it is evident how strongly they are affected by it. It therefore seems necessary that cross-border territories become more visible with regards to their specific implementation role and thus get more explicitly considered by the European policy-maker when developing key-initiatives in the context of the strategy “Europe 2020”. In the European Commission’s impact assessment system (European Commission 2017) a specific cross-border impact category is currently still lacking. However, cross-border territories could become ideal test-spaces for the ex-ante evaluation of future EU policies. On the other hand this would require a real awareness of cross-border territories to also actively engage in this in a coordinated manner, and — for instance — present joint opinions and impact analysis throughout official thematic consultations, launched by the European Commission. It is evident, that also a joint and coordinated thematic lobbying and advocacy activity of cross-border territories should be strengthened in this regard. The European macro-regions have shown how the interests of specific types of cross-border areas may well find their way into European strategies.

Such a perspective of differential cross-border action based on the principles of horizontal and vertical subsidiarity appears to be a necessary prerequisite for a future capacity-building-approach, allowing for the better deployment of the potential for innovation of cross-border territories and therefore of their specific function within the context of a new horizontal dimension of European integration and the emerging European Administrative Space (Siedentopf/Speer 2002; Beck 2017b).

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