



Peter Ulrich

Participatory Governance in the Europe of Cross-Border Regions

Cooperation – Boundaries – Civil Society



Nomos

Border Studies
Cultures, Spaces, Orders

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Volume 4

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Printed with financial support from
the Viadrina Center B/ORDERS
IN MOTION of the European University Viadrina Frankfurt (Oder).

Dissertation an der Kulturwissenschaftlichen Fakultät
der Europa-Universität Viadrina Frankfurt (Oder)

Tag der Disputation: 02.07.2019

Betreuer: Prof. Dr. Jürgen Neyer

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in
der Deutschen Nationalbibliografie; detaillierte bibliografische
Daten sind im Internet über <http://dnb.d-nb.de> abrufbar.

The Deutsche Nationalbibliothek lists this publication in the
Deutsche Nationalbibliografie; detailed bibliographic data
are available on the Internet at <http://dnb.d-nb.de>

ISBN 978-3-8487-4793-1 (Print)
978-3-8452-9049-2 (ePDF)

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-4793-1 (Print)
978-3-8452-9049-2 (ePDF)

Library of Congress Cataloguing-in-Publication Data

Ulrich, Peter

Participatory Governance in the Europe of Cross-Border Regions
Cooperation – Boundaries – Civil Society

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689 pp.

Includes bibliographic references.

ISBN 978-3-8487-4793-1 (Print)
978-3-8452-9049-2 (ePDF)



Onlineversion
Nomos eLibrary

1. Auflage 2021

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Acknowledgements

This edited and shortened version of the dissertation submitted in March 2019 and successfully defended in July 2019 at the Europa-Universität Viadrina in Frankfurt (Oder) would not have been possible without the support of several colleagues, family and friends.

First and foremost, I would like to thank my supervisors, Prof. Dr. Jürgen Neyer and Prof. Dr. James W. Scott, who supported me with their advice, patience and critical comments on the state of my research. Moreover, I would like to thank the scientific institute, Viadrina Center B/ORDERS IN MOTION, and especially Dr. Andrea Meissner, who promoted my research activities in several ways since 2014. In the context of the work at the research center, I would like to thank the coordinators of the research projects under which my thesis was written. In particular, Dr. Marcin Krzymuski, who coordinated the EGTC Center of Excellence at the Viadrina Center B/ORDERS IN MOTION (2014—2017), encouraged me in a number of ways and assisted me with legal advice. In addition, I received assistance from Prof. Dr. Hannes Krämer and PD Dr. Carolin Leutloff-Grandits, who coordinated the research group, Border and Boundary Studies (2017—2018). I would also like to thank Dr. Geny Piotti and Dr. Petra Kuhnau from the research department of the Viadrina for their helpful comments at different stages of my PhD career.

Moreover, this work would not be possible without the support of my colleagues at the Viadrina Center B/ORDERS IN MOTION and at the chair for European and International Politics at the Europa-Universität Viadrina, whom I have become friends with over time: Dominik, Maria, Snežana, Florian, Concha, Rita, Norbert, Natalia, Katharina, Felix, Julien, Luana, Linda, Mitja, Moritz, Philipp K. and Philipp S. Through several discussions in colloquia, workshops, summer schools and conferences, I have learned a great deal from them and was able to further develop my arguments, which I am very grateful for. I would also like to thank my good friend Thomas who supported me with great effort with the visual illustrations in this book.

Finally, special thanks go to my parents, Irina and Rudolf, who have supported me for my entire life with everything that I have done. Most of all, I would like to thank Annemarie for all her love, forbearance and optimism with my work, which helped me to finish this book.

Berlin, November 2020

Peter Ulrich

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List of Abbreviations

AEBR	Association of European Border Regions
AfD	Alternative für Deutschland
Arge-Alp	Arbeitsgemeinschaft der Alpenländer
ARTE	Association Relative à la Télévision Européenne
CBC	Cross-border cooperation
CCDR-N	Comissão de Coordenação e Desenvolvimento Regional do Norte de Portugal
CDU	Christian Democratic Union of Germany (Christlich Demokratische Union Deutschlands)
CEEC	Central and Eastern European Countries
COMM	European Commission
CoE	Council of Europe
CoR	Committee of the Regions
CSO	Civil society organization
EC	European Community
ECBM	European Cross-border Mechanism
ECG	Euroregional co-operation grouping
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EEIG	European Economic Interest Grouping
EGTC	European Grouping of Territorial Cooperation
EP	European Parliament
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Fund
ETA	Euskadi Ta Askatasuna
ETC	European Territorial Cooperation
EU	European Union
EUCOR	The European campus (EGTC)
EUKN	European Urban Knowledge Network (EGTC)
EURES	EUROpean Employment Services
FN	Front National
FRG	Federal Republic of Germany

List of Abbreviations

GD	General Directorate
GG	Grundgesetz
GDP	Gross domestic product
GDR	German Democratic Republic
GNP-EGTC	European Grouping of Territorial Cooperation Galicia/Norte de Portugal; Agrupamento Europeu de Cooperação Territorial (AECT) Galicia - Norte de Portugal
IGOB	Interessengemeinschaft Eisenbahn Berlin-Gorzów
LGCC	Local grouping for cross-border cooperation
MEP	Member of the EP
MIK	Ministerium des Innern und für Kommunales Brandenburg
MLG	Multilevel governance
MOC	Madrid Outline Convention for Transfrontier Cooperation (officially “European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities”)
MOL	Märkisch-Oderland (Landkreis)
MSZ	Ministerstwo Spraw Zagranicznych
NGO	Non-governmental organization
NUTS	Nomenclature des unités territoriales statistiques
PIC	Plan de Investimentos Conjuntos
PiS	Polish Party “Prawo i Sprawiedliwość”
SEA	Single European Act
SME	Small and medium-sized enterprises
SPD	Socialist Democratic Party of Germany (Sozialdemokratische Partei Deutschlands)
SPF	Small Project Fund
TEU	Treaty on the EU
TFEU	Treaty on the Functioning of the EU
UN	United Nations
WC	Working Community

1. Introduction

Cross-border collaboration among public regional entities is one of the major success stories of EU-rope.¹ European international organizations have allocated significant political, legal and financial resources to the inner-European borderlands to promote territorial cooperation across national borderlines. These cross-border political initiatives have led to the emergence of a *Europe of the CBRs* (cross-border regions). However, while these initiatives are based on the principles of co-creation and inclusiveness, CBC (cross-border cooperation) is not being exploited to its maximum potential in terms of joint decision-making between state and society.

In the light of the integration process, European institutions have redefined the notion of *governance*, which previously referred to de-centralized, non-hierarchical forms of joint decision-making, as a more civic and democratic notion referred to as *new, democratic or participatory governance*. These new approaches to governance are intended to include all those actors and institutions that are affected by the policies adopted. When applied to European borderlands, participatory governance is likely to be hampered by diverging political, legal, administrative, cultural, social, historical and linguistic relations between the neighboring nation-states. These *boundaries* can serve to either link or divide.

This treatise scrutinizes the conditions for participatory civil society governance in inner-European border regions within the EU (European Union). In this context, it is assumed that nation-state borders have an impact on cross-border participatory governance processes. Therefore, in a first step, it is crucial to analyze both nation-state borders and the specific border-related factors that affect political interactions across EU borders. In a second step, it is assumed that cross-border governance structures need to be developed in a participatory manner to render EU cross-border governance more democratic. Governance is understood as a non-hierarchical and transnational approach to political planning and action that involves multiple actors but is nevertheless dominated by a multilevel polity of administration within the EU. Additionally, governance is considered to be inevitable —

1 EU-rope and EU-ropean shall express the ambiguity of Europe and the EU (European Union). In some cases, it is unclear to differentiate between the EU as a political international organization and Europe in geographical, sociocultural or historical terms.

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thus, given the inevitability of cross-border governance within the EU, why not take the opportunity to adopt a more participatory approach? In democratic theory, it is assumed that civic participation in political deliberation and decision-making may lead to greater input as well as output legitimization of politics, which means that both the relations between state and society (through politics *by* the people) as well as the political results obtained (through politics *for* the people) will be improved. This thesis contributes to the debate on the future of EU-ropes by analyzing the potential of democratizing the processes of European governance.

From an empirical perspective, inner-EU CBRs will be considered as the anchor points of participatory forms of EU governance. The EU has promoted international cooperation across its internal borders by providing political, legal and financial support to its CBRs. Since 1990, the Interreg program has provided the border regions with funds intended to support cross-border territorial cohesion. Politically, the CoR (Committee of the Regions) and the EU subsidiarity principle have fostered regionalization processes within the EU. With the establishment of the EGTC (European Grouping of Territorial Cooperation), the EU created the first cross-border legal instrument for subnational public authorities; the EGTC, which has its own legal personality, is intended to promote the territorial and social cohesion of the EU. Due to the legal, political and financial support provided by the EU and its alignment to EU regional and cohesion policy and territorial development, the EGTC is considered to be an ideal for(u)m for the joint creation of regional policy by both the institution and citizens.

To evaluate the state and conditions of civil society participation in governance arrangements, this thesis reviews four EGTC case studies that were chosen and derived from theoretical assumptions and include most and least likely cases, focusing on both the impact of nation-state borders on cross-border governance and civil society participation in governance arrangements. In its conclusion, this work attempts to determine which border-related factors impact participatory governance in the EU's CBRs and if civic participation in cross-border governance is likely to promote the democratization of EU politics.

1.1 Relevance and purpose of research

European integration has reached its limits (cf. Franzius/Mayer/Neyer 2014). Multiple crises, such as the ongoing financial, debt, Euro and refugee crises, burgeoning populism and nationalism, the threat of the disintegration

of the EU and Brexit and the erosion of democracy, have triggered societal polarization and lines of tensions between nation-states that endanger the merits of European integration and the democratic legitimacy of the Union. The European politico-organizational project is at a crossroads, and greater integration through the communitarization of competences and further territorial enlargement seems to be out of reach. Hitherto, European integration has been a one-way street, as it lacked a profound deliberative and democratic civic inclusive procedure that is mirrored in the current state of the Union (cf. Neyer 2012). The potential for further integration seems to have been exhausted, and the actual EU system is experiencing a legitimacy deficit, as forms of differentiated integration are being championed in current debates (cf. Stratenschulte 2015).

Consequently, a variety of conceptual proposals have been advanced by practitioners from EU, national and subnational administrations and governments,² academics, European thinkers and think tanks. In accordance with the desire for a more democratic, people-oriented, transparent, efficient, effective, innovative, responsive, functional, unified and collaborative EU, the reform proposals that have been made by such parties represent recreational, retaining and redefining streams of thought.³

This treatise contributes to the debate by corresponding to the retaining and redefining streams of thought. It argues that the EU has access to the resources required to overcome the crisis but needs to reconstruct the

2 The EU White Paper on the Future of Europe presented by the president of the COMJ Jean-Claude Juncker has been introduced in March 2017. Other proposals to reform the EU have been articulated e.g. by Guy Verhofstadt, Leader of the Alliance of Liberals and Democrats for Europe Group and Member of the EP (European Parliament). Also in the post-Brexit phase some nation-state leaders were claiming a reform of the EU, e.g. the French and Polish government. One of the most prominent examples are the reform proposals articulated by the French President Emmanuel Macron at the Sorbonne University in September 2017.

3 *Recreational ideas*, firstly, reflect the normative assumption that the EU as such needs to be repealed for a new system to be born. *Retaining ideas*, secondly, represent the assumption that the EU as such is in a legitimacy crisis due to its perception – not the EU as a political system need to be altered but the discourses, narratives, knowledge and ideas about the EU need to be re-articulated. Finally, *redefining ideas* of the EU represent the most common stance in academic literature – it accepts the right to exist of the EU but discerns the internal structural asymmetries within the political system. Reform proposals – mostly concerning the re-nationalization of competencies or the democratization of European politics by strengthening the agency of the EP – to overcome these internal boundaries and inconsistencies are amalgamated in the redefining streams of thought.

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barriers and obstacles that exist within the international arena and to focus on and promote its strengths: cultural diversity, regional self-determination, interest mediation and political cooperation across European borders.

The point of departure of this thesis is that the EU has legitimately developed into the Union as it exists today and has the internal resources and potential to overcome the abovementioned crises and its democratic deficit. The EU can achieve greater democratic legitimacy if it focuses on its strengths and unique characteristics. It is a political system that involves several interests, actors, institutions, nation-states, organizations, companies and a population of more than 447 million people living in 27 member⁴ states who speak 24 official languages. This diversity remains strength, but it is a challenge to manage. Nationalist responses to the complexities of contemporary global and European issues seem to be *en vogue*, and certain member states within the EU seem to be tempted by populist rhetoric. However, regressionist tendencies towards national structures do not have the potential to cope with the challenges that the EU is facing. Re-bordering processes between nation-states may result in new conflict lines, and European reconciliation may be endangered by egoistic nationalism. Reformation of the EU seems inevitable; as European integration has reached its limit. Primarily, this scientific work suggests that the EU needs to focus on its own resources and strengths and thus needs to redefine its inner- and inter-institutional networks of relationships.

The inevitability of governance

The EU is — and will inevitably remain — a MLG (multilevel governance) system. As an international organization, the EU is a multi-complex, multi-layered and multi-cultural political organization that includes more than 300 regions, 27 member states and European institutions and political representatives at the European supranational level. Since the 1950s, it has been described as a *sui generis* system, which indicates its uniqueness compared to other international organizations. Given the enlargement of territory and competences at the subnational and supranational levels, the EC (European Community) has been described as a governance system with a multilevel polity. In the field of European studies, the MLG concept has been used in debates over European integration since at least the 1990s. However, while it was dominant during the 1990s and at the beginning of the 2000s, this

4 Cf. Eurostat data browser on EU's population.

concept has been to a certain extent absent from recent theoretical European integration debates and is now mainly presented as an analytical model for empirical research in public policy research. The concept has become outdated largely due to two developments: First, it is usually used to refer to a long-term circular form of frequent and re-articulative interplay among different kinds of administrations, and, second, it is based on post-national premises. Hence, in times of re-nationalization and national solo runs, MLG represents a somewhat old-fashioned, inefficient, opaque and bureaucratic approach to decision-making. Moreover, this governance concept seems to be out of date considering the disintegration of processes and the nationalist recovery attempts that have occurred within areas that have hitherto been within the EU's competence and policy fields. A MLG approach would involve reflecting on how the EU is composed and on how decisions, policies, directives, programs and regulations within the Union are negotiated and established between the various European layers in the vertical (supranational, national and subnational) and horizontal (private, public, civil and economic actors) dimensions. In addition, it outlines the specific and unique roles that the European regions play in this multilevel polity.

Transforming the inevitability of governance into a participatory form

Against this backdrop, governance approaches have been further developed and refined to comply with the goal of the EU institutions to *get the citizens back in*. Notions of *new governance* have been established to combine governance and democratic theory, which has been referred to as *democratic governance* or *participatory governance*, to meaningfully contribute to the discussion on a more democratic Europe and European decision-making (cf. Chapter 2.1.2). Deliberation processes by EU institutions with academics have led to new proposals and strategies intended to include European citizens in EU decision-making. While most of these approaches focus on the supranational dimension and therefore ways and formats how to integrate European citizens into Brussels' policy-making, the level of decision-making that is most proximate to citizens, the regional dimension, is largely overlooked in debates.

The Europe of the CBRs

One of the main approaches to building European identity and augmenting democratic legitimacy in Europe is the consolidation of regions and subnational communities within and across national borders (cf. Chapter 2.2). The process of European integration has strengthened the subnational layer financially, legally and politically, resulting in a process of regionalization via Europeanization (cf. Keating 2002). Beyond domestic regional empowerment, cooperation across borders in Europe has been strengthened, and cross-border twin cities, municipalities, districts and regions within Europe have significantly increased in number since the 1990s following the policy of social, economic and territorial cohesion within the EU. CBC, referring to the establishment of regionally or locally demarcated cooperation structures across borders (*territorial cohesion*), is one of the success stories of Europe. By means of functional cooperation, cross-border solutions can be identified, and problems and challenges can be solved by adjoining communities rather than the national container, which may not be willing or capable to do so on its own. De-bordering processes in CBR have led to an incremental permeability of national demarcation lines and to cross-border re-territorialization of functional and sectoral cooperation and governance spaces (*economic cohesion*). As approximately 30% of the total EU population lives in EU border regions, which represent 40% of the EU territory (cf. Beck 2017, p. 343), a significant percentage of the EU populace engages with the national border on a daily basis. Negatively perceived aspects of *open borders* such as the crime and refugees that allegedly flow across the Schengen borders, represent a challenge to arguments for the EU, namely freedom of movement (of goods, services, people and capital as a result of the EU Single Market) and open borders (for travelling as a result of the Schengen Agreement). In contrast, the greater territorial and economic cohesion that has been partially achieved through CBC should be emphasized. Additionally, the third component, *social cohesion*, needs to be further explored.

Border regions as labs for European integration and civil society participation

In this light, it can be stated that CBC is not being exploited to its maximum potential. At the moment, CBC largely encompasses functional cooperation among different kinds of administrative units and, occasionally, companies,