



Peter Ulrich

Participatory Governance in the Europe of Cross-Border Regions

Cooperation – Boundaries – Civil Society



Nomos

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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 Con- vention 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 statis- tiques
PIC	Plan de Investimentos Conxuntos
PiS	Polish Party “Prawo i Sprawiedliwość”
SEA	Single European Act
SME	Small and medium-sized enterprises
SPD	Socialist Democratic Party of Germany (Sozial- demokratische 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-EU-ropean 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-rope 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,

private actors and CSOs (civil society organizations). Considering the legal, political and financial resources of the EU, and the relevance of CBC to European citizens and its direct impact on their lives, this form of cooperation could be exploited to a far greater extent. Every seven years, new policies, strategy and funding priorities intended to promote CBR are negotiated. These operational programs are the third goal of the ETC (European Territorial Cooperation) of the ERDF (European Regional Development Fund) for CBC and are negotiated among the COMM (European Commission), nation-states and subnational regions for the enhancement of the social, economic and territorial cohesion of inner-European borderlands. As mentioned previously, the development of social dimension is currently lagging. Civic encounter projects within sports and cultural events that represent one-time meetings and address those individuals who are already pro-European are the main sources of civic engagement. These events are held on an irregular basis and are intended to foster interactions between populations on both sides of the border. What is lacking, however, is an overarching, inclusive, regular, sustainable and constructive form of CBC that is also open to new ideas.

One way is to promote participation of civil society in cross-border governance arrangements and to make such participation more jointly deliberative and decisive. Participation is encouraged by means of education and the real possibility of allowing citizens to have a voice in the decision-making and opinion-forming processes within their own regions. The de-bordering of nation-state borders allows the citizens of two nation-states that share a regionally or locally demarcated territory to enter into negotiations and to formulate and co-create their own regional policy. Politically and legally composed collectives draw their own boundaries and thus enable their self-democratization (cf. Franzius/Mayer/Neyer 2014, p. 16f.). The potential offered by CBC need to be exploited in the CBRs to achieve both international cooperation and the democratization of European governance.

By making European resources and politics more accessible, democratic legitimacy is likely to be strengthened within the EU. Thus, it is necessary to focus on the characteristics that make the EU unique. The international cooperation among regions and the high density of legally, politically and administratively interwoven inner-European border regions are among the main strengths and resources of the EU that need to be communicated to its citizens. Webs of transborder interaction have been woven throughout Europe. These junctions are not only spatially demarcated and limited regions but also have the potential to oversee their own regional development through the appropriate allocation of development funds, strategies and

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policies to their regions. The European borderlands are thus laboratories for both European and regional democracy.

Civic awareness and boundaries

Boundaries to greater cooperation within the EU remain: One could argue that the EU-ropean resources offered to the European CBRs promote the joint regional collaboration of political authorities, administrations and civil society with regard to common regional policy. Nevertheless, barriers that hamper cross-border governance and the participation of civil society in governance arrangements still exist. Among these barriers are the perceptions and awareness of EU-ropean resources in the CBRs.

With regard to CBC, a 2010 Eurobarometer survey revealed that

“roughly a fifth (19%) of EU citizens said they were aware that regions in different countries cooperated in order to be eligible for funding under this objective. A large majority (79%), however, had never heard about such cross-border cooperation” (Eurobarometer 2010, p. 36).

Though ETC, the third funding objective of the EU regional policy, has been widely described as the most successful tool of the EU cohesion policy (cf. European Metropolitan network institute 2012; García-Álvarez/Trillo-Santamaría 2013), the linkage to the population is mostly lacking. Additionally, a more recent Eurobarometer survey has revealed that about 30% of the inhabitants of the CBRs are aware of EU-funded projects in their border regions (mostly in the new member states in the CEEC [Central and Eastern Europe countries]) (cf. COMM 2015, p. 7). With regard to obstacles, the majority of the respondents (57%) identified linguistic boundaries as a major hurdle, followed by social, economic, legal and administrative barriers (about 45%) and cultural boundaries (30%) (cf. COMM 2015, p. 29ff.). These boundaries are not only present in everyday civic interactions between adjacent neighbors but may also arise in cross-border governance processes. To both promote the awareness of CBR citizens of EU-ropean resources and overcome boundaries, the EU has created a politico-legal instrument that bundles competences and acts in the name of the members and territories it represents.

The EGTC as a legal instrument to coordinate cross-border regional policies

The EGTC — a cross-border legal instrument that the EU introduced in 2006 — endows cross-border institutional structures of public entities with a legal personality (cf. Ulrich 2016a). Its members can be public authorities (national, regional or local) or bodies governed by public law within the EU. The legal personality of this transborder entity allows it to represent and to speak with one voice for all of its members, territories and populations, both internally and externally (cf. Krzymuski/Kubicki/Ulrich 2017; Krzymuski/Kubicki 2014; Engl 2014; Eisendle 2011; Svensson 2014; Ulrich 2015, 2016a). The responsibilities of the EGTC are mainly focused on territorial cooperation, but it also carries out tasks given to it by its members. The EGTC can thus exercise a broad spectrum of competencies at the subnational level (cf. Ulrich 2016a), including all political domains that fall within *low politics* (cf. Hoffmann 1966), among which are the fields of cross-border education, health, transport, energy, economy, environmental protection, tourism, cooperation of academy, science and administration. Therefore, the EGTC is an appropriate tool with which to create, design and re-shape (cross-border) regional policy (cf. Ulrich 2016a). Considering the EGTC Regulation reform that was implemented in 2013, an obvious shift has occurred in the manner in which this institution carries out its tasks, with the goal to promote the interests of local citizenship. Pursuant to the EGTC Regulation reform, the institution is empowered to manage infrastructural affairs as well as services of general economic interest, such as health, transport and education (cf. Krzymuski/Kubicki 2014, p. 1340). Hence, the EGTC legal construct offers great potential for subnational (cross-border) mobilization by means of its legal personality and relatively high autonomy *vis-à-vis* the national state, social nature and regional anchoring by its power to coordinate tasks in the social and economic welfare areas (cf. Ulrich 2016a).

With regard to the object of investigation, namely the EGTC, it is crucial to reflect on the institutional functions of participatory governance arrangements in CBRs. Institutions have the function and effect of bundling and structuring rules, norms and decisions and hence make (cross-border) regional politics binding and operative. They are thus essential in allowing deliberations, decisions and institutional reforms to become formalized and effective. Nevertheless, particularly in cross-border contexts, transnational institutions are subject to different national rules, administrative peculiarities and financial requirements. In addition, boundaries — in this case, legal-structural boundaries — may hamper cross-border participatory

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governance. Cross-border institutions such as the EGTC need to contend with these various concerns when attempting to foster participation in cross-border governance structures.

This study has many goals, all of which can be understood in either normative, conceptual or empirical ways. First, this thesis aims to contribute to the debate on how the EU might be modernized in a democratic sense by highlighting the resources that Union already has, with the goal of promoting awareness thereof and the possibilities in terms of utilizing these instruments and the channels of participation for civic engagement. The study, therefore, demonstrates the degree to which decision-making in the CBRs is entangled with the multilevel polity of the EU and highlights the anchor points of civic engagement opportunities. Second, this study seeks to develop concepts and an analytical model of *participatory governance in the Europe of the CBRs*. More precisely, this model involves identifying a three-step causal relationship: The *conditions* (characteristics/quality of the nation-state border) that affect the quality and extent of the *outcome* of participatory governance in the Europe of the CBRs and the expected *effects* of including civil society in decision-making. This analytical model is applied in the empirical investigation. Finally, this thesis aims to understand the EU legal instrument of the EGTC not only as a cooperation structure for administrations in CBRs but also as an institutional framework for joint decision-making for regional politicians, administrations, economic actors and civil society. As the EGTC legal form bundles competences, tasks and agency within CBRs, is safeguarded towards nation-states and promotes visibility of CBRs on the supranational level, the EGTC appears to be an appropriate arena for participatory governance in the EU of the CBRs. Empirically, the purpose of this research is to determine whether the EGTC can contribute to an inclusive, participatory and co-creational form of (cross-border) regional policy-making.

1.2 Theoretical framework: Participatory governance in Europe of the CBRs and the impact of the nation-state border

To identify and understand the emerging issues associated with civic engagement in the CBRs, this study conducts a theoretical reflection that considers insights from *European integration studies*, mainly neo-functionalism, *governance studies*, the recently established interdisciplinary field of *borderland studies* and, finally, from *regional studies*. More precisely, first, theories from the field of European integration studies focusing on

governance and new forms of participatory or democratic governance are applied; thereafter, theories from the field of borderland studies, which emphasizes the conditions and characteristics of national borders, as well as their effects on political cooperation structures and interaction processes, are considered. This reflection outlines why geopolitical and sociocultural boundaries are assumed to have an overarching impact on political processes in border regions in general and on civic engagement in cross-border governance arrangements in particular. As the study focuses on governance processes in the Europe of the (cross-border) regions, the theoretical framework also provides insights from regional studies encompassing the notions of regionalism and regionalization and reflecting upon on the debate over the *Europe of the regions*. The theoretical framework offers an overview of the central concepts and conceptual reflections that serve as the groundwork for developed participatory governance in the Europe of the (cross-border) regions.

On governance and civic participation

CBC in Europe is transacted within the EU multilevel polity. CBC includes a variety of heterogeneous actors and institutions and is interconnected among different layers (European, national and international). These characteristics are intrinsic to the term governance which has been used in the fields of political science and geography since at least the 1990s (cf. Chapter 2.1.1.1). There is no unitary definition of the concept of governance, but most definitions of this term rely on heterogeneous and partially contradictory notions. It is based on the post-national integration theory of neo-functionalism (cf. Haas 1968; Lindberg 1963; Wolf 2005; Chapter 2.1.1.3) which is the countermodel of realist readings of European integration such as the liberal intergovernmentalist approach (cf. Moravcsik 1998; cf. Chapter 2.1.1.3) which considers nation-states as rational actors that are the engines of European integration. The neo-functionalist and post-national concept of governance, in contrast, views nation-states as “impotent actors” entangled in the multilevel polity of the diverse levels of political decision-making. Rosenau therefore describes this theoretical concept as “governance without government” (cf. Czempel/Rosenau 1992) while Zürn refers to it as “governance beyond the nation-state” (cf. Zürn 2016).

In general, the term governance is a blurry and abstract concept, and it is generally a theoretical model describing a multilevel structure that encompasses a variety of actors (*polity*) that interact and relate to each other

(*politics*) within a certain political field or domain (*policy*). The *raison d'être* of the term *governance* is to be distinct from the notion of *government*, which implies that political control is not hierarchical and managed in a top-down manner but is instead handled in a cooperative fashion. Nevertheless, although there is no common definition of the term *governance*, there are some characteristics that are typically associated with the transnational context, the variety of actors participating, the ahierarchical network-like structure and the political dimension of joint coordination, management or steering (cf. Chapter 2.1.1.2). This concept therefore appears to be appropriate when examining the participation of (civil society) actors in cross-border subnational policy-making.

One possibility when attempting to grasp the “notoriously slippery” (cf. Benz/Dose 2010, p. 13) notion of *governance* is to distinguish between empirical-analytical (cf. Benz et al. 2007; Benz/Dose 2010; Jachtenfuchs 2003; Marks/Hooghe/Blank 1996; Hooghe 1996; Hooghe/Marks 2003; Chapter 2.1.1.3) and normative-ontological (cf. Kohler-Koch/Eising 1999; Kohler-Koch 2010; Kohler-Koch/Quittkat 2013; Heinelt et al. 2002; Heinelt 2010; Schmitter 2002; Papadopoulos 2010; Benz/Papadopoulos 2008; Lindgren/Persson 2011; Grote/Gbikpi 2002) notions of this concept in the field of European studies. Empirical-analytical approaches offer analytical models for the empirical investigation of actors and structures or networks and their interaction in certain policy fields. In contrast, normative-ontological contributions focus on norms and values through the conceptual progression and innovation of *governance*, such as the embedding of civil society in *governance* arrangements.

After the rise of MLG (cf. Hooghe 1996; Hooghe/Marks 2003; Jachtenfuchs/Kohler-Koch 1996) and cross-border *governance* (cf. Scott 1999, 2010, 2015; Leresche/Saez 2002; Perkmann/Sum 2002; Gualini 2003; Kramsch/Hooper 2004) approaches in the 1990s and the early years of the 2000s, new approaches to *governance* entered the stage after the publication of the *EU White Paper on European Governance* (2001), which led to a debate between academia and EU institutions on new or participatory *governance* forms. This resulted in the emergence of several publications (cf. Grote/Gbikpi 2002; Heinelt et al. 2002; Heinelt 2010; Kohler-Koch/Rittberger 2007; Kohler-Koch/Quittkat 2013; Benz/Papadopoulos 2008; Lindgren/Persson 2011) and research projects⁵ on participatory, new or democratic *governance*.

5 Especially the publications by Heinelt are based on the empirical results from the research projects GOVERN PARTICIPATORY, PLUS and G-FORS project funded by EU Research framework programs and the research project

The main goal of the refinement of the governance concept has been to shift from an interest-driven approach of administrative cooperation in order to open up governance structures to “get the citizens back in” and to involve those affected by the policies adopted (cf. Schmitter 2002; Heinelt et al. 2002; Kohler-Koch/Quittkat 2013). Civic or participatory notions of governance which stem from democratic theory, assume that the involvement of the civic dimension leads not only to the enhancement of the *input* legitimacy of decision-making (i.e., a wider scope of participation) but also to an increase in *output* legitimacy (i.e., better policy results). Contributions to the field of participatory governance, in particular those of Schmitter (2002), Heinelt (2002 with Getimis, Kafkalas, Smith and Swyngedouw; 2010), Kohler-Koch (2007 with Rittberger, 2010, 2013 with Quittkat) and Papadopolous (2008 with Benz 2010), are inspired by the premises of democratic theory: Those affected by the policies adopted should participate in governance arrangements (input legitimacy), and, through frequent and regular engagement, the participants gain knowledge and improve joint policy-making through social learning. Through this development, not only are decisions qualitatively improved (resulting in greater output legitimacy) but the participants themselves become capable of questioning, reflecting on and redefining governance structures (this approach is referred to as to *metagovernance*, cf. Jessop 2015). Based on the assumptions of democratic theory, particularly concepts in the fields of participatory democracy such as those developed by Barber (1984) and Pateman (1970), civic participation in political processes leads to social learning, which improves deliberation, decision-making, legitimacy and institutional structures. These learning processes are the basis for improved decision-making and can lead to a democratization of (cross-border) institutions and, ultimately, to the enhancement of the democratic legitimacy of European politics at the subnational level.

The linkage of contemporary normative (participatory) democratic theory, which is based on the Rousseauian premise of the sovereignty of the people, with the field of governance studies, which focuses on networks of governmental levels, appears to be contradictory in certain ways. More precisely, the linkage of the terms governance and democracy/civil society participation occurs to be randomly constructed, as governance refers to the

“Governance in the EU” funded by the German Research Council (DFG). Another research project network has been CONNEX (Connecting Excellence on European Governance) that has been coordinated by Beate Kohler-Koch and included the scholars Hubert Heinelt, Karl-Oskar Lindgren and Thomas Persson inter alia.

political steering and coordination of political networks comprised largely of administrations and actors within the private and economic sectors, whilst democracy or civil society participation refer to civic engagement and forms of civic and societal rule and dominion. Nevertheless, according to Kohler-Koch and Quittkat, theories of democratic or participatory governance seek to develop a “new relationship between politics, administration, and civil society” (Kohler-Koch/Quittkat 2013, p. 2) and that “participation is considered a necessary supplement to representative democracy” (Kohler-Koch/Quittkat 2013, p. 1). Following this thought, Rosenthal describes democracy based on the ideas of Dahl as “characterized by distinctive set of institutions and practices, a body of rights, and a process of making collective and binding decisions” (Rosenthal 1998, p. 6). When one adopts this understanding of democracy, democratic theory can serve as a “hunting ground” in which to conceptualize civil society participation and to identify the conditions required for collective decision-making, as well as the forms it can take, the approaches and styles thereof that have been adopted, and the effects of civic engagement on such decision-making. Therefore, Chapter 2.1.2.3 reflects on the premises of different schools of democratic theory and provides insights into the conceptualization of the analytical framework. In the context of the discussion of the term participatory governance, the debate between the liberal and normative participatory schools of thought can provide theoretical insights from democratic theory for the structuring of the participation of civil society in cross-border governance arrangements, that relate to three main topics: First, the broadness of the ones participating, which means the actors participating: collectives or the broad majority of citizens, citizens organized in associations or civic interest representatives. Second, participatory governance can be informed by insights from the field of democratic theory concerning how civic power and political will can be transformed into politically binding decision-making. The transformation of real civic presence in deliberative participation into joint decision-making is a process that is reflected on and discussed in the divergent schools of democratic theory. Finally, the dichotomy of size vs. territory is one of the main contributions that democratic theory makes regarding the discussion concerning the appropriate arena or forum for participatory governance in terms of population and territory.

As most of the approaches to participatory governance, following Dahl’s observation concerning the “third transformation of democracy” from national democracy towards international arenas, have focused on the participation of civil society and CSO within the EU at the supranational level, there is a clear lack of surveys on participatory governance at the

subnational level, especially within a cross-border context. This treatise addresses this research gap and contributes to the study of civic engagement in transborder governance processes within the subnational — more precisely the regional — dimension. The (cross-border) regional dimension is assumed to be an appropriate arena for participatory governance, as, first, it is accessible to citizens; second, it involves international cooperation on a daily basis; and, third, it serves as laboratory for European integration on the micro scale.

On Europe of the CBRs

European integration has gradually fostered regionalization processes within the EU (cf. Keating 1997, 2002, 2004). The process of the “regionalization of Europeization” led to profound debates, mainly during the 1980s and the 1990s, over the demise of the nation-state and the creation of a Europe of the regions (cf. Crepaz 2016; Guérot 2016) and *new regionalism* (cf. Keating 1988, 1997, 2002, 2004).

The concept of the Europe of the regions can be grasped in a theoretical, empirical or normative manner. *Theoretically*, it can be considered as an alternative conceptualization to the Europe of the nation-states that assigns regions greater capabilities to act in local matters than nation-states and follows a neo-functionalist logic (cf. Crepaz 2016, p. 25); *Empirically*, this concept has been invoked whenever the EU has attempted to take further steps toward integration and regional enhancement, particularly in the 1980s and the 1990s (cf. Keating 2002, p. 215); *Normatively*, the Europe of the regions has been referred to as a reformatory response to the current crisis of EU policy-making and the search for an alternative political system (cf. Guérot 2016). In fact, the European integration process has fostered regionalization processes by strengthening regional mobilization processes. Distinguishing between the concepts of *regionalization* and *regionalism* is crucial, as the first is a processual term referring to *becoming a region*, which means that it relates to creating narratives, discourses and practices that form the image of a region or contribute to regional empowerment, thus leading to subnational re-shaping of structures, institutions and processes. In contrast, regionalism refers to an identity-related form of *practicing of the region*, which can be expressed in varying degrees of regional mobilization, activation and even regional (cf. Keating 1988; Beswick 2007; Christiansen 1998), ethnic (cf. Markusse 2004; Loughlin 1987) or minority nationalism (cf. Keating/McGarry 2001; Lynch 1996; Watson 1990; cf.

Agarin/Cordell 2016). Anderson describes these cases of regionalism in the following way:

“Regions come in all shapes and sizes, some clearly demarcated by a long history, others little more than figments of a central bureaucrat’s imagination. Regionalisms likewise range from an almost non-existent sense of regional identity to fully-fledged sub-state nationalisms, a form of identity politics which sees the region as a potentially separate, independent politics” (Anderson 2002, p. 35ff.).

Therefore, regions, regionalization and regionalism remain abstract concepts. With regard to CBRs, in regional studies, a (cross-border) region has been defined as a territory, a political space or a government, civil society or an autonomy-seeking entity (cf. Keating 1997, p. 390ff.). Other definitions consider the region in a socially, culturally and historically constructed manner that can be made relevant in cross-border discourses and narratives and can be institutionally linked with political-administrative framings such as Europaregions, Eurodistricts, Euroregions or macroregions (cf. Weichhart 2014).

It is not only the regional dimension but also the cross-border dimension that has been enhanced. A web of cross-border governance structures has been established throughout Europe; in addition, the EU has fostered cooperation across borders politically, financially and legally. The CBRs encompass comprehensive sections of the European population and territory and therefore represent arenas in which international cooperation, European integration and proximity to the people arise naturally. Due to these framework conditions, EU CBRs have been described as a “micro laboratory for European integration” (cf. Perkmann 2002a, 2002b; Perkmann/Sum 2002; van Houtum 2000, p. 64; Jańczak 2014, p. 14; Blatter 2004, p. 532; García-Álvarez/Trillo-Santamaría 2013, p. 105), “test beds for the construction of Europe” (cf. Tränhardt 1993), “contact zones” (cf. Pratt 1991) or European integration “on the small scale” (cf. Perkmann 2007a).

On border regions and the permeability of national borders

Participatory governance and European integration on a micro scale occur in CBRs. In the field of CBC and governance, Perkmann defines a CBR as “a territorial unit that comprises contiguous subnational units from two or more nation states” (Perkmann 2007a, p. 253). This definition approaches the concept of a CBR from a territorial and administrative perspective. As Perkmann is the most frequently cited scholar with regard to CBRs, this definition indicates that the notion of a CBR is highly actor-centered, as

these actors can be found in territorial administrations that are situated in territories across borders. In general, the concepts of CBR, Euroregion and Eurodistrict are used interchangeably. Nevertheless, according to Perkmann, these Euroregions represent only a limited section of the territories of larger CBRs: “Euroregions are small-scale groupings of contiguous public authorities across one or more nation-state borders and can be referred to as ‘micro-CBRs’” (Perkmann 2007b, p. 861). Therefore, a CBR encompasses the entire border between two countries and the hinterlands, while Euroregions are only a territorial part of an entire CBR. An EGTC, in general, can be territorially defined as either a CBR or a Euroregion. Nevertheless, EGTCs are largely referred to as Euroregions being more legally institutionalized (cf. Traweger/Pallaver 2016; Engl 2014; Haselsberger/Benne-worth 2010).

CBC is a political domain that has long been reserved for EU-ropean nation-states (cf. Perkmann 2002a, 2002b). Although the 1980s and 1990s can be considered as the peak of the Europe of the CBRs, some nation-states have traditionally resisted further deepening of the competences of subnational entities. Now, these national barriers are in some cases downscaled by hindering cross-border interactions on the subnational level by complicating the administrative structures and procedures. Thus, new types of borders have been created; the course of the COVID-19 crisis showed how *borders* and *orders* have been transformed in the EU in 2020.

When focusing on the political processes in CBRs in the field of low politics, especially in governance structures, the fact that a grouping’s territory can be located in two different nation-states presents an ambiguous picture. Any political activity that occurs across borders can be promoted by the presence of a national border or can be impeded by the administrative, legal, political, social, cultural or economic differences between two countries and their respective circumstances. While there are studies that consider a nation-state border as a resource (cf. Sohn 2014), others stress that, despite open borders in Europe due to the Schengen Agreement and the EU Single Market, barriers that hamper cross-border governance processes still exist (cf. Klatt/Herrmann 2011; Mccall 2013; Haselsberger 2014; Colomb 2017).

Borders have been described as connecting and linking elements, especially in the field of “low politics,” which falls under the domains of CBC (ETC) as part of the EU regional policy (cf. Scott 1999, 2010, 2015; Perkmann 1999, 2002a, 2002b; Perkmann/Sum 2002; Perkmann 2007a; Knipp-schild 2011; Medeiros 2015). As the EU offers support in a political, legal and financial sense, borders can be used to establish links among the actors

and institutions in border regions. These actors and institutions meet at borders and create new entrepreneurial structures there using the resources offered by the EU (cf. Perkmann 2007b).

Despite the mostly open borders in the EU, however, mental or structural barriers remain. Svensson and Balogh underline this fact by stating that

“while most formal barriers to the mobility of goods, capital, services, and labour [...] have by now been removed within the European Union, the effects of borders persist. For people living close to borders, these function as obstacles that are related to communication and infrastructure, legal and administrative differences, as well as language and culture” (Svensson/Balogh 2018, p. 115).

In addition, with regard to cross-border governance processes, structural (political, administrative and legal) (cf. Knippschild 2011; Terlouw 2012a; Beck 2017) and mental (social, cultural, linguistic, historical) (cf. McCall 2013; Colomb 2017; Beck 2018) barriers have been identified as the main inhibitors of cross-border governance. If the correlations of specific obstacles and interaction in CBRs are taken into account, it may be assumed that structural (political, administrative or legal) and/or sociocultural (social, cultural, linguistic or historical) boundaries are the main resources or barriers for transborder political interaction in general and civic participation within EU cross-border governance arrangements in particular. To analyze these pre-conditions for participatory governance in EU CBRs, two analytical perspectives can be applied.

One perspective would be to *think across the border*, which can be done by adopting the transboundary perspective on the existence of cross-border culture and/or identity (cf. Paasi 1986, 1996, 2009) expressed by concepts such as cultural proximity, similarity or homogeneity. The other perspective is *thinking from the border* (Bossong et al. 2017, p. 66; cf. Gerst et al. 2018) or “analyz[ing] the border from the border” (Gerst/Krämer 2017, p. 3) — a perspective that focuses on (in this case, socio-cultural) boundaries and uses concepts, theories and methodologies from the field of border studies to empirically scrutinize the border-related enabling conditions for cross-border interactions.

In summary, nation-state borders enable cooperation, as they can be used as a resource (cf. Chapter 2.3.1.5), but they can also be impeding factors in cross-border politics. Chapters 2.3.1 (*Perspective I: Thinking from the border*) and 2.3.2. (*Perspective II: Thinking across the border*) present the abovementioned two perspectives on the political, legal, social and cultural aspects of cross-border participatory governance. Chapter 2.3.1 describes how the first perspective is applied to evaluate the conditions and impeding/enabling factors of cross-border civic and political interaction in CBRs

and that serves as the blueprint for the empirical analysis. The main intellectual inspiration is provided by the analytical model developed by Haselsberger (2014), who describes different sets of overlapping boundary layers as *boundary sets* that constitute the *thickness* or durability of a nation-state border. As in a “modular construction system,” the specific boundaries (such as economic, political, cultural or linguistic) that exist between nation-states can be evaluated to determine the extent to which a nation-state border is *thick* and thus durable or permeable (cf. Schiffauer et al. 2018, p. 19). Starting with the assumption that borders are complex entities (cf. Bosson et al. 2017, p. 65; Haselsberger 2014, p. 505) that do not merely represent “one-dimensional dividing lines” (Bosson et al. 2017, p. 65), Haselsberger attempts to decode nation-state borders and their overlapping boundaries. In this context, she understands borders as “legal line[s] in space, separating different jurisdictions, nations, cultures,” while “a boundary is a linear concept, demarcating one particular facet (e.g. religious community)” that can be distinguished from physical (e.g., rivers, mountains or coastlines) or socially produced boundaries “established by social or political agents or agencies to distinguish between national, ethnic, religious, linguistic, legal or security differences” (Haselsberger 2014, p. 509). The interplay between borders and boundaries can be grasped in the following way: Borders are understood as “complex social constructions, which are comprised of four overlapping sets of different types of boundaries: geopolitical, sociocultural, economic and biophysical” (Haselsberger 2014, p. 508). Referring to the previously mentioned strands of theory from borderland studies, which consider structural (legal, administrative and political) and sociocultural aspects largely as enabling but also as impeding cross-border governance, it can therefore be assumed that geopolitical and sociocultural boundaries are the main factors that enable cross-border participatory governance. Based on certain theoretical stands in borderland studies that emphasize the fact that CBC faces several boundaries in terms of cross-border planning and politics (cf. Klatt/Herrmann 2011; Mccall 2013; Haselsberger 2014; Colomb 2017, Brunet-Jailly 2005), it is assumed that the absence of specific boundaries is more likely to generate a greater degree of cross-border interaction and governance by and through both administrations and civil society. The dividing and/or linking power of geopolitical (legal, political or administrative) and sociocultural (social, cultural, historical or linguistic) boundaries — as described in scientific literature on spatial and regional planning in cross-border contexts (cf. Scott 1999, 2010, 2015; Perkmann 1999, 2002a, 2002b, 2007a; Knippschild 2011; Sohn 2014; Medeiros 2015; Haselsberger 2014; Klatt/Herrmann 2011; Mccall 2013;

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Colomb 2017; Terlouw 2012a) — is expected to be the most influential element in terms of enabling of cross-border governance. In this regard, geopolitical and sociocultural boundaries are treated as explanatory factors that provide insight into the probabilistic correlation (and, ideally, causality) between the quality of the border and the participation of civil society in transnational consultation and decision-making processes (governance) in inner-European border regions within the EU.

1.3 Research question, main assumptions and hypotheses

Research question

The research question that is addressed in this thesis is as follows: *Which conditions favor the participation of civil society actors in sectoral or territorial subnational consultation and decision-making processes (“governance”) in inner-European border regions within the EU?*

Main assumptions

The conditions for participatory governance in the EU’s CBRs relate to those border-related factors that impede or enable participatory governance. The first theoretical assumption is thus as follows:

Boundaries, as effectual artifacts of nation-state borders, remain despite open borders and have an impact on both the implementation of cross-border agendas and civic willingness to participate in cross-border regional planning and decision-making.

The research interest is primarily in the conditions, and this work is therefore a largely X-centered research project. Nevertheless, the outcome participatory governance is assumed to have positive democratizing effects. Therefore, the second main theoretical assumption is as follows:

Cross-border participatory governance is applied in institutions and is likely to make them more democratic and to democratize EU politics at the regional level.

Hypotheses

Both theoretical assumptions can be transformed into hypotheses that represent the causal relations that are analyzed in the empirical section of this thesis:

Hypothesis 1: The greater the degree to which nation-state borders are permeable (in a geopolitical and/or sociocultural context), the greater the degree to which participatory governance in EU CBRs will be in evidence.

The geopolitical and sociocultural boundaries that define the thickness of nation-state borders and therefore their permeability determine the quality of civic participation in cross-border governance arrangements. The greater the degree to which geopolitical and/or sociocultural boundaries remain along nation-state borders (the open borders that were created by the Schengen Agreement), the less likely it is that civil society participation in cross-border governance arrangements will be observed. Thus, geopolitical and/or sociocultural boundaries along nation-state borders impede participatory governance in CBRs.

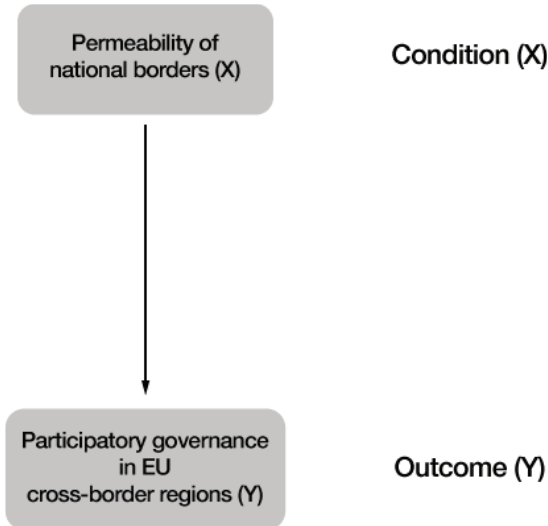


Figure 1: Hypothesis 1 — Permeability of national borders as condition (X) for participatory governance in EU CBRs as outcome (Y)

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Hypothesis 2: *The greater the degree of participation by civil society in cross-border governance arrangements, the greater the democratization of transborder institutions and EU politics at the cross-border regional level.*

This hypothesis highlights the effects that democratic theory claims that participatory governance can generate. Given the purpose of this research, this thesis seeks to identify mechanisms that can enable greater democratization of institutions (especially at the subnational cross-border level) and subsequently lead to a legitimization of EU politics.

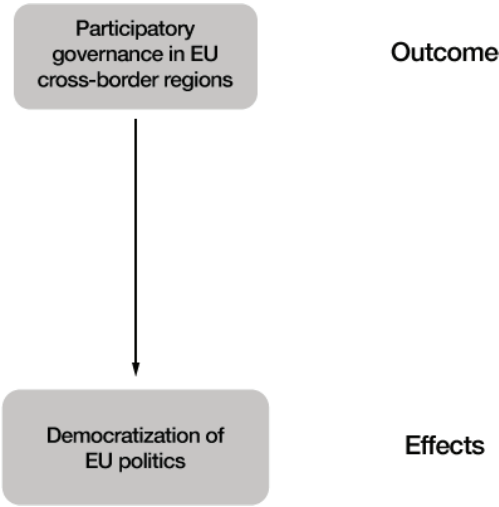


Figure 2: Hypothesis 2 — Participatory governance in EU CBRs as outcome (Y) leads to the democratization of EU politics as an effect

Combining hypothesis 1 and 2 results in the following causal relationship: The permeability of the nation-state border (condition) influences participatory governance in EU CBRs (outcome), which may lead to a democratization of EU politics at the subnational level (effect).



Figure 3: Hypotheses 1 and 2 combined — causal relationship of conditions, outcome and effects

1.4. Research design and outline of this thesis

Research design

To examine the state of participatory governance in EU CBRs and the conditions that determine the quality/characteristics (permeability) of national borders, this project adopts a qualitative research approach and methodology. In comparison to quantitative procedures, which rely on statistics and numerical information to provide general descriptions or to verify causal hypotheses, a qualitative approach emphasizes understanding political processes, mechanisms and structures by focusing on a limited number of cases and collecting data via interviews or from legal, political or administrative documents and historic documentation. Qualitative procedures are thus suitable when attempting to understand complex causalities or to comprehend political processes and interactions.

More precisely, this study adopts a qualitative in-depth comparative case study approach to empirically answer the research question. As the emphasis is on the conditions required for participatory governance, it employs an X-centered research design. Additionally, a process tracing of historical developments is conducted to identify transformations within governance processes in inner-EU border regions.

The data were collected between February 2015 and December 2016 by conducting 18 semi-structured guided expert/elite interviews. The interviewees are mostly representatives of the EGTCs examined in the case studies and of EU institutions (COMM, EP [European Parliament], CoR). In addition, grey literature, legal documents and political correspondence, as well as secondary sources, were utilized.

As mentioned previously, the empirical object of inquiry is the politico-legal EU instrument of the EGTC. In June 2020, 77 EGTCs existed in Europe,⁶ most of which were in the EU border regions. As the EGTC legal instrument was only introduced in 2006 and as the processes by which EGTCs are founded in EU border regions is somewhat lengthy, the case selection process focused on EGTCs that were established or were attempted to be established in the years shortly after the introduction of the EGTC Regulation (2010 at the latest).

The case selection process focused exclusively on border regions between two countries. Four EGTC case studies, namely the GNP-EGTC

6 Cf. CoR, List of European Groupings of Territorial Cooperation – EGTC, last updated 6/12/2020: https://portal.cor.europa.eu/egtc/CoRAactivities/Documents/Official_List_of_the_EGTCs.pdf?Web=0, requested 11/13/2020.

(EGTC Galicia-Norte de Portugal), the EGTC Tyrol-South Tyrol-Trentino, the EGTC Eurodistrict SaarMoselle and the EGTC TransOderana, are examined. These case studies are analyzed according to theoretically informed presuppositions concerning the geopolitical and sociocultural boundaries in the specific border regions featured in each case study. In addition, extreme cases of high/low pre-assumed geopolitical and sociocultural boundaries and mixed cases are investigated in terms of their correlation to participatory governance in specific border regions.

The thesis thus follows a mixed approach: It is a *deductive* study, as it verifies theory by evaluating empirics, and it is an *inductive* study, as it develops a theoretical explanation by means of empirical exploration and comparison to identify correlations or, ideally, to make causal inferences.

Outline of this thesis

This thesis consists of eight main chapters, with the following chapter (Chapter 2) focusing on the theoretical framework. Chapter 2.1 (“On governance and civic participation”) first discusses the inevitability of governance in the EU (cf. Chapter 2.1.1) and thereafter describes how governance can be transformed into a participatory form (cf. Chapter 2.1.2). More precisely, this subchapter describes the notion of governance, how it evolved, which forms of governance exist (e.g., multilevel or cross-border governance) and which characteristics are typically inherent to the notion of governance. Moreover, it explores how governance and civic engagement have been integrated in new governance approaches representing democratic or participatory notions of governance. This subchapter also outlines how this *participatory turn* occurred in governance studies, which additional characteristics and features distinguish the concept of participatory governance from multilevel or cross-border governance, the effects that can be assumed if the participation of civil society in governance arrangements occurs and how democratic theory can provide insights with regard to the conceptualization of the participation of civil society in cross-border governance arrangements (cf. Chapter 2.1.2.3).

Chapter 2.2 (“On Europe of the [cross-border] regions”) reflects on the territorial (or spatial/geographical) context of governance in CBRs. It first reflects on the concept of the Europe of the regions from a theoretical, empirical and normative perspective (cf. Chapter 2.2.1). Subsequently, it defines the regional dimension in a geopolitical and socio-constructivist sense and distinguishes between the terms regionalization and regionalism (cf.

Chapter 2.2.2.3). Thereafter, it turns to a discussion of whether the regional dimension is the appropriate scale for participatory governance, forms of self-determination in EU regions and regionalism in inner-EU border regions (cf. Chapter 2.2.3—2.2.5).

Chapter 2.3 (“On border regions and the permeability of national borders”) highlights the relevance of the quality and the impact of nation-state borders on cross-border policy-making in general and on participatory governance in particular. It explains why the quality of a border (permeable or durable) is the most likely to be the impeding or enabling factor for civic participation in cross-border governance arrangements. Moreover, it demonstrates that political, legal/administrative, social and cultural factors are particularly influential on cross-border governance and civic engagement. Nation-state borders can enable cooperation, as they can be used as a resource (cf. Chapter 2.3.1.5) but they can also function as impeding factors for cross-border politics. Chapters 2.3.1 (“Thinking from the border”) and 2.3.2 (“Thinking across the border”) discuss two approaches to and perspectives on empirically and analytically investigating the political, legal, social and cultural aspects of cross-border participatory governance in geographical terms (related to territories or borders). Conclusively, the first perspective, which is described in subchapter 2.3, is used to evaluate cross-border civic and political interaction in CBRs. This approach or perspective serves as the bridge between the theoretical chapter and the empirical investigation.

Chapter 2.4 (“Tying it all together: Towards an analytical model of participatory governance in the EU’s CBRs”) synthesizes the three subchapters of the theoretical framework and ties them all together. This Chapter restates the objective of this research and identifies the theoretical assumptions, the hypotheses and assumed causal relations. In addition, it defines the applied concepts, specifies the independent and dependent variables and describes the intrinsic values of the variables. Finally, it develops an analytical model for evaluating participatory governance in EU CBRs.

Following the presentation of the theoretical framework, Chapter 3 (“Participatory governance and the occurrence of the CBRs in the EU”) establishes a bridge between the theoretical considerations and the empirical examination and verification of the theoretical reflections. More precisely, Chapter 3 describes forms of civic participation in the EU (mostly on supranational scale) and the rise of the Europe of the CBRs.

More precisely, Chapter 3.1 (“Participatory governance in the EU”) discusses contemporary forms of participatory governance in the EU at various levels, but it mainly focuses on the supranational level. Forms of civil

society participation in EU governance include forums and consultations; the ECI (European Citizens' Initiative), which was introduced through the Lisbon Treaty; and the options offered by European citizenship in terms of legally and politically participating in EU politics at the institutional level (i.e., that of the COMM, the EP and the Council of Ministers).

In addition, Chapter 3.2 ("The occurrence and consolidation of the cross-border governance in the EU") discusses different forms of functional integration in Europe and the ways in which CBRs entered the stage and have been promoted by the CoE (Council of Europe) and the EU. More precisely, it traces how territorial CBC in inner-EU border regions has been developed and strengthened and how it has been further consolidated as a result of the political, legal and financial support provided by the EU. Moreover, other forms of functional and territorial integration are briefly discussed to obtain the full picture with regard to different forms of territorial cooperation within the EU and across its external borders.

Chapter 4 ("The EGTC as an example of participatory governance") introduces the empirical object of investigation: the EU legal instrument of the EGTC. This Chapter briefly explains how and why this EU legal tool was established and why it represents a perfect example of multilevel and participatory cross-border governance in the EU. This Chapter also compares the EGTC to other legal or political forms of cross-border governance, including WCs (working communities), Euroregions and Eurodistricts. Finally, the roughly 80 territorial groupings in Europe that have applied the legal form of an EGTC are identified and classified according to different categories; this classification also serves as the first step of the case selection process in the empirical analysis.

Chapter 5 ("Applying the analytical model: Research design and operationalization") outlines the analytical steps from the theoretically informed analytical model to the empirical assessment involving the research design and the operationalization of the analytical model. As Chapter 5.1 focuses on the research design, it comprises a discussion of the methods, data collection, sources, and analysis; and the selection of the four case studies. This Chapter justifies the methods applied, the manner in which the data were collected and the selection of the specific cases. Chapter 5.2 defines the steps of operationalization of the dependent and independent variables and their specific characteristic values. Here, the analytical categories are operationalized to measure participatory governance in EU CBRs and the border-related enabling or impeding factors.

Chapter 6 (Participatory governance in EU CBRs: Analysis of EGTC case studies) presents the results of the interviews with the representatives

of supranational and international actors (i.e., COMM, EP, CoR and AEBR [Association of European Border Regions]) and the empirical case studies of four EU CBRs that have applied the EU legal form of the EGTC. The four case studies are the GNP-EGTC (case study I, cf. Chapter 6.2), the EGTC Tyrol-South Tyrol-Trentino (case study II, cf. Chapter 6.3), the EGTC Eurodistrict SaarMoselle (case study III, cf. Chapter 6.4) and the EGTC TransOderana (case study IV, cf. Chapter 6.5). All four CBRs have applied the legal instrument of the EGTC. The cases were selected according to the selection criteria and the classifications of the EGTCs provided in Chapter 5.1.3. The four selected case studies are examined with regard to forms of participatory governance in EU CBRs, the “quality of the border” and the relationships between border-related aspects and civic engagement in these inner-European border regions.

Chapter 7 (“Comparing participatory governance in four CBRs”) compares the results obtained from the individual case studies. This chapter attempts to determine if it is possible to make theoretical generalizations; thus, it focuses on whether or not any causal inferences can be detected. It first considers whether anything can be learned about general causal implications through comparing the in-depth case studies. Second, it explores whether there is any correlation or, ideally, causality between the permeability of nation-state border and participatory governance in EU CBRs. Finally, other factors that may hamper or promote civic engagement in EU CBRs are identified and described. This analysis of the interrelationship between the quality of the border and civic engagement in cross-border governance processes provides insights concerning the extent to which EU governance can be made more open to the public and thus more democratic.

2. Theoretical framework

2.1 *On governance and civic participation*

“Democratic government has never been easy. Motivating citizens to participate in democratic decision-making procedures and to cross the border between private and public interests appears to be as difficult as convincing elected representatives to behave in transparent and accountable ways. Even in relatively small and simple communities democracy relies on complex and delicate balances of power between many actors” (Benz/Papadopoulos 2008, p. xii).

“The question of how participatory governance can be effectively initiated is a perplexing and contentious one. Should it to be initiated by the state (meaning government agencies but also international organizations), or should it arise from ‘popular initiatives’ located within civil society” (Chhotray/Stoker 2009, p. 173)?

2.1.1 The inevitability of governance

The EU is a political governance system within a multilevel polity. Although the EU appears to be similar to any other political system, its form of governing does not seem to differ significantly from that of nation-states (cf. Jachtenfuchs/Kohler-Koch 2010, p. 69), for example with regard to the federative structure of Germany, Austria or Belgium – notwithstanding, in some policy fields governance patterns have successively evoked (cf. Benz/Dose 2010, p. 124). The EU's governance arrangements, which have been criticized for their neo-functionalist operating modes and the undemocratic forms of cooperation between public administrations and profit-seeking private actors, are only accessible to civil society actors and organizers to a certain degree; ultimately, civil parties are largely excluded from decision-making processes while maximally their voice is heard in opinion-forming procedures. As the following pages demonstrate, however, governance is essential and inevitable for the management and coordination of a multi-actor construct as complex and multilayered as the EU. Governance that will be defined thereafter represents in political, administrative and economic studies literature a concept encompassing a (political) system — and its steering and interaction conditions — of governing, control,

management, steering or coordination that is conducted horizontally and vertically by a variety of actors. MLG is not conceptualized top-down by a single government and is mostly organized transnationally and on a frequent basis with the aim of solving a problem more efficiently in a certain policy field or via spill-over in several policy fields. Governance in the EU is hence essential to giving a voice and, ideally, a vote to various actors in the bargaining and negotiation processes that occur in different settings and at distinct levels on a frequent basis. Even though this MLG construct (which is what the EU has been described as) appears to be inefficient, slow, dovish, inhibited, obstructed and resource-consuming, it is nevertheless an indispensable in keeping everyone in the EU included and ensuring a degree of international cooperation among nations, regions, companies, citizens, administrations, NGOs (non-governmental organizations), political parties and minority representatives. Alternatives at the European level would be a single European government with the power to exclude several actors or the abolition of the EU and the renationalization of competencies and decision-making. For a *sui generis* European political system (as the EU has been described due to its unique characteristics), a governance system is required and capable to include diverse actors from miscellaneous sectors, ambits, levels and backgrounds within the deliberation, opinion formation and, optimally, the decision-making processes of the EU. Concentrating competencies in the hands of a single government, party or leader, as is frequently witnessed elsewhere in the world, is, at first glance, a straightforward approach to providing greater responsiveness in times of crisis like for example in the current COVID-19 crisis, but such an approach would exclude several opinions, actors and interests from the political system and would be more vulnerable and fragile when it comes to democratic abuse. In addition, within the EU, some nation-states have positioned themselves against the EU; for example, the *Visegrad* group, led by Hungary and Poland, has rejected the notion of a common refugee policy within the EU in 2015. While the interactions, bargaining, positioning and embargoing that occur at the European level are expressions of governance, they can also be categorized as a failure of governance: If one layer is not capable of acting without another layer, it may lead to blockage (cf. Benz/Dose 2010, p. 16).

Therefore, from a theoretical perspective, the inevitability of governance, a term coined by Heinelt (2010, p. 218), emerges as a result of the general pluralization and diversification of the political processes of modern western societies (cf. Haas 1968). The modern world has become so complex, fast-paced and heterogeneous that the nation-state is no longer capable of solving various problems on its own. It is instead reliant on different norms

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and rules imposed by actors, institutions, organizations and territorial layers that are capable of re-arranging the division of labor on various scales, territories, policy fields and polities. In addition, in the EU, governance is mostly understood as an instrument or procedure for managing and coordinating interest mediation between different actors, including private and public parties, nation-states, big companies and SMEs (small and medium-sized enterprises) and international conglomerates, the public sector, civil society, associations, interest groups, regions, municipalities, political parties and other institutions. In this network of interested parties, forms of interaction and rules intended to promote harmonious actions should be implemented. Such forms and rules may be implemented by an institution that lacks formal binding power but has the ability to provide the infrastructure for this process. This is the core concept of the term governance. No central authority has overall authority within this network-like polity; rather, overarching institutions lay the groundwork for discussions and bargaining, decision-making and implementation processes. The nation-state is not the only responsible actor but delegates responsibilities and delivers the infrastructure for governance structures and processes which is performed in the institutional framework of existing national, regional or local institutions. Beyond the distinction that exists between government and governance, the existing literature offers few common denominators of features of this concept in the overflowing literature besides some core elements that are identified below. Governance is thus a modern buzzword that, as a concept, is “notoriously slippery” (cf. Benz/Dose 2010, p. 13) and has generally been applied whenever the network-like negotiation and steering processes or structures of a complex field are not overseen by a single government but instead by several actors. The inflationary use and the blurry conceptualizations of the term mean that the literature offers no consistent or adaptable definition of the concept of governance; as a result, it tends to be used arbitrarily. Some authors understand governance as a set of conditions for governing, while others understand it as governing without government (cf. Deroin/Neyer 2016, p. 177). Moreover, since the 1990s, the term has been used in an inflationary manner in the fields of political science, administration studies, planning studies and economics and thus seems to be over-stretched. This thesis avoids the pitfall of a superficial understanding of the term governance and strives to develop a theoretical construct that is both coherent and empirically applicable. In addition, it attempts to demonstrate the inevitability of governance, first, within the political practice of the EU as it is today and, second, within the object of investigation, namely the self-assertion and participatory interest mediation in and of inner-EU border

regions in the European multilevel polity and the application of the governance concept to understand such mediation. In the following, the development of the term governance is outlined, after which the concept of governance is linked to spatial categories in terms of multilevel/cross-border/territorial governance.

2.1.1.1 The evolution of the term governance

The term governance appeared in the 1980s in the field of economics and was adopted by various sectors like in political science in the 1990s. In the realm of institutional economics, governance can be understood as “an exercise in assessing the efficacy of alternative modes (means) of organization” (Williamson 1996, p. 11), a set of conditions for organizing ambits, sectors and units (cf. Rhodes 1996, p. 658) or as a “private interest government” (Benz/Dose 2010, p. 18). The term was later understood as a condition, measure or exercise intended to make organizations more efficient. In the field of political sciences, the term was imported in the 1980s, questioning the pre-conditions for “good governance” (cf. Rhodes 1996, p. 656) representing a guideline for implementing normative elements with political practices (cf. Benz/Dose 2010, p. 20). The World Bank has adopted the term good governance, which refers to “the exercise of political power to manage [a] nation’s affairs,” which requires “an efficient public service, an independent judicial system and legal framework” (Rhodes 1996, p. 656).

Contributions to the field of policy research, especially those concerning program development and processes of implementation (cf. Mayntz/Scharpf 1995), have revealed the need for more efficient organizations in various fields. National state administrations and governments have successively become unable to manage tasks in certain policy fields autonomously and have needed to enter into cooperative relationships with various actors to implement functional solutions (cf. Benz/Dose 2010, p. 21). In public law and administration sciences, governance is understood as a mixture of the terms *governing*, *control*, *management* and *coordination* that emphasizes the complexity of a pluralistic modernity which leads to functional and territorial border-crossing within the competency of a national realm (cf. Benz/Dose 2010, p. 22). Additionally, the concept describes ways and methods of governing, coordination, management and control more than it does actual activities and effects. As a result, governance has tended to be described more as a theoretical model or analytical concept for empirical research than an all-embracing theory (cf. Knodt/Große Hüttmann

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2005). A theory needs to provide statements, assertions, evidence and claims regarding causes and effects; Benz nevertheless justifies the understanding of governance as a theoretical concept that refers to dynamic interactions among structures and processes, institutions and actors and rules and the application of rules (cf. Benz/Dose 2010, p. 26).

2.1.1.2 Characteristics of governance

As previously stated, there is no universally accepted definition of governance; instead, there are several, partially contradictory, understandings of this term. One approach to understanding, structuring and categorizing the various claims and qualities in governance research is to distinguish between empirical-analytical (cf. Benz et al. 2007; Benz/Dose 2010; Jachtenfuchs 2003; Marks/Hooghe/Blank 1996; Hooghe 1996; Hooghe/Marks 2003) and normative-ontological (cf. Kohler-Koch/Eising 1999; Kohler-Koch 2010; Kohler-Koch/Quittkat 2013; Heinelt et al. 2002; Heinelt 2010; Grote/Gbikpi 2002; Schmitter 2002; Benz/Papadopoulos 2008; Papadopoulos 2010; Lindgren/Persson 2011) notions of this concept. Empirical-analytical approaches seek to deliver an analytical model for empirical investigation; normative-ontological contributions, in contrast, focus on the conceptual progression of and innovations that have occurred in governance, such as the embedding of civil society in governance arrangements.

In EU integrational studies, the previously mentioned MLG approach, derived from an empirical analysis of the EU regional policy after its reform in 1988, describes the EU as a multi-faceted body that includes various kinds of actors on different layers, with a empowered subnational layer and supranational agenda-setters that mutually interact when it comes to decision-making and problem-solving: “Policy-making in the EU is characterized by mutual dependence, complementary functions and overlapping competencies” (Marks/Hooghe/Blank 1996, p. 372). All of these interdisciplinary conceptual approaches to the term governance share following characteristics (cf. Ulrich/Scott 2020):

1. They emphasize *Alternative solutions* to classical forms of nation-state governmental practice: Faced with the challenges associated with individualism, plurality, globalization and the free flow of goods, persons, services and capital within the EU, an alternative approach to coordination and control provides a substitute to classical forms of national administration and governing modes. In this context, *governing beyond the nation-state* (cf.

Zürn 2016; Derooin/Neyer 2016) or *governance without government* (cf. Czempiel/Rosenau 1992) has been identified in the field of political science.

2. *Not just governing but also its conditions*: Beyond those characteristics that distinguish it from the term government, governance is about the pre-conditions of governing. Governance in this context can be explained by the terms coordination, control, management, the steering of governing and governing modes.

3. *Transnationality*: Most empirical and theoretical research on governance has focused on transnational developments, institutions or spaces of interactions beyond the “national container.” As it derives from the field of economics — the natural arena for the study of transnationality, given its focus on worldwide companies and economic zones and flows and the management of such flows — governance is naturally a border-crossing concept.

4. *Variety of actors*: Instead of a single government or a single administrative authority being in charge, a variety of different actors from different institution interact in agenda-setting and decision-making processes.

5. *Frequency and incompleteness*: Frequent interaction and questioning by the actors involved in governance structures with regard to the decisions taken in governance arrangements. Perennial deliberation, interaction, bargaining, negotiation, decision-making and reconsideration among different kinds of actors in governance network. A governance process is not complete when a decision is taken, as decisions are frequently re-articulated and re-negotiated.

6. *Sectorality versus territoriality*: As governance arrangements are mostly fixed in functional terms, they have been implemented to manage certain (policy) fields of action or address concrete problems. In some cases, spill-over to other policy fields through inter-sectorality occurs. An alternative mode of application would be a territorial approach, for example, in a CBR. In such a case, the governance arrangement is territorially fixed but concerns different tasks and ambits, in short, it applies to policy sectors.

7. *Interdependence on different levels*: As stated previously, governance arrangements within the EU function on different hierarchical levels, including the European, national, regional and local level on a vertical dimension. However, interactions also primarily occur between different vertical layers in the various theoretical models of governance that are described below.

Having highlighted the key characteristics of governance, the following section focuses on a concept that describes the European system as it is,

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namely as a multilayered political structure that interacts both inter- and intra-institutionally with different sets of actors on a frequent basis.

2.1.1.3 Governance within the multilevel EU polity

A typical example that has been used to demonstrate governance as meaning governing in a multi-layer political system is the EU. Since at least the 1990s, the Union has served as a prime example of a multilayered political system wherein actors from different levels cooperate and interact vertically/transnationally (at the supranational, national and subnational levels), horizontally (with actors from this level including administrations, society, companies and interest organizations) and, in the context of cross-border/territorial governance, diagonally (administrative asymmetries due to different territorial organizations). Hooghe and Marks developed the MLG theoretical model based on an analysis of the EU regional policy. According to Hooghe and Marks, the multilevel character of governance is evidenced by the fact that MLG is a system wherein

“variable combinations of governments on multiple layers of authority — European, national, and subnational — form policy networks for collaboration. The relations are characterized by mutual interdependence on each other’s resources, not by completion for scarce resources” (Hooghe 1996, p. 18).

Governance within a multilevel polity is not hierarchical but is instead composed of several layers that are organized according to geographical demarcations; hence, given the existence of its administrative layers, MLG can be understood as having a territorial component (cf. Benz/Dose 2010, p. 111).

The political system of the EU bears a certain resemblance to the federal order in Germany, and its decision-making process can be compared to Fritz Scharpf’s pattern of complex policy interweaving (*Politikverflechtung*) (cf. Scharpf 1985; Benz/Dose 2010, p. 124; Kohler-Koch/Quittkat 2013, p. 7). However, in certain policy fields, some forms of governance have developed. The multilevel polity of the EU governance system is reflected in the EU regional, structural and cohesion policies (cf. Hooghe 1996; Marks 1996; Hooghe/Marks 2003; Benz/Dose 2010; Bache 2008; Heinelt 2010, p. 117). The MLG approach has largely been used empirically to illustrate and trace the structures and compositions of actor networks (*polity*) and the decision-making processes (*politics*) of actors from different administrative layers in certain sectors (*policy*). Prior to the coining of this term, other concepts were employed, the majority of which described the same characteristics of the EU or the EC, with examples including “merged federal state”

(*fusionierter Föderalstaat*) (cf. Wessels 1992), “intertwining system” (*Verflechtungssystem*) (cf. Scharpf 1985), a “European onion” with several layers of legislation (cf. De Neve 2007), “European statehood” (*Europäische Staatlichkeit*) (cf. Bieling/Große Hüttmann 2016), a “still emerging state or state-like body” (Jessop 2015, p. 10), “special-purpose association of functional integration” (*Zweckverbände funktionaler Integration*) (cf. Ipsen 1972, p. 196f.), “para-state superstructure” (*parastaatliche Superstruktur*) (cf. Oppermann 1977, p. 696f.), a “new kind of political entity” (cf. Marquand 1981, p. 223), “partially-integrated policy-making system at the regional level” (cf. Webb 1983, p. 9), “less than a federation, more than a regime” (cf. Wallace 1983) and a “lop-sided political regime” (cf. Wallace 1993, p. 302)

In the policy fields of the EU, one can easily find numerous examples of combinations of hierarchy, negotiations and policy competition in collaboration with public officials and representatives of public interests (cf. Benz/Dose 2010, p. 29f.). Governance in the EU requires national, regional and European institutions to make joint decisions; hence, coordination and steering processes occur across hierarchical levels (cf. Benz/Dose 2010, p. 30). When referring to MLG, the emphasis is on the multilevel polity of the EU and its special institutional constellation, which is composed of a web of *intergovernmental* and *intragovernmental* politics (cf. Benz/Dose 2010, p. 30).

The MLG concept provides an excellent point of departure for developing the arguments in this thesis, as it allows for an examination of the participation of different sets of actors in certain policy domains, the majority of which operate across EU inner-borders at the subnational level. Hence, it is an almost compulsory theoretical model to apply if such an investigation is to be conducted.

Benz remarks that governance should be understood as a multilevel process if its political processes cross an administrative layer (cf. Benz/Dose 2010, p. 112). Competencies in the EU are clearly organized, but the implementations thereof are mostly interdependent. Multilevel systems exist if competencies are divided into several layers but tasks are executed interdependently and decisions are coordinated across layers. MLG thus takes place in connected arenas (cf. Benz/Dose 2010, p. 112). The MLG approach is based on neo-functional premises (cf. Knodt/Große Hüttmann 2005) and is therefore part of the general debate between the theories of neo-functionalism and liberal intergovernmentalism in the field of European integration studies. Both theories can be considered the “grandfathers” of European integration theory, as they represent the main opposing arguments and

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explanations as to why and how administrative-territorial entities cooperate or fail to do so within international organizations such as the EU.

Neo-functionalism scholars focus on integration processes that occur through cooperation between political actors, the creation of joint supranational institutions and the transfer of loyalty towards a new center (cf. Haas 1968; Wolf 2005; Lindberg 1963). While problem-solving occurs through functional (cross-border or transnational) regional cooperation, resulting in supranationalist institutional structures and spill-over into other policy areas, nation-states lose political power within such institutional structures. Neo-functionalism elements such as the strong supranational institution-building and pluralistic policy approach have been further developed by Hooghe and Marks to the MLG model. The multi-level approach, which was developed from an empirical analysis of the EU regional policy after its reform in 1988, describes the EU as a multi-faceted body that includes various kinds of actors on different layers; it has an empowered subnational layer and a supranational agenda-setter that mutually interact when it comes to decision-making and problem-solving: "Policy-making in the EU is characterized by mutual dependence, complementary functions and overlapping competencies" (Marks/Hooghe/Blank 1996, p. 372).

The MLG approach can be considered as a countermodel to the intergovernmentalist understanding of European integration, which defines the member states as the principles of European politics and will creation and supranational institutions (e.g., the COM) as their agents (cf. Knodt/Große Hüttmann 2005, p. 226). The liberal intergovernmentalist approach developed by Andrew Moravcsik, who has been called a "leading advocate of the state-centric view of European integration" (Lindgren/Persson 2011, p. 13), relies on two assumptions: First, "states are actors," and, second, "states are rational" (Moravcsik/Schimmelfennig 2009, p. 68; cf. Moravcsik 1998). Nation-states' preferences are elaborated by recurrent bargaining of agreements within a liberal inner-state procedure that is consolidated by institution-building, and "cooperation outcomes are explained only at the end of the multicausal sequence" (Moravcsik/Schimmelfennig 2009, p. 69; cf. Moravcsik 1998).

MLG in the EU is a direct result of the absence of the nation-state. Jessop offers a critical perspective on governance, arguing that the decline of the nation-state was caused by inefficiency and "nation-state failures." In contrast, in their MLG model, Hooghe and Marks note that the so-called "nation-state failure" (cf. Jessop 1998) has naturally occurred due to the process of European integration. Kohler-Koch and Larat also indicate that the nation-state is not losing its power but instead actively enables other public

and private entities to assume responsibilities that were previously state competencies. Hence, its “role has changed from authoritative allocation from above to the role of an activator” (Kohler-Koch/Larat 2009, p. 8).

The multilevel character of the EU is reflected in the EU regional policy and that of the ETC, which provides financial support for cross-border activities (cf. Hooghe/Marks 2003). Agenda-setting, strategy development, regional policy priority setting, decision-making, the implementation of policies and the evaluation of outcomes are negotiated within a multilevel context — both vertically (at the supranational, national and subnational levels) and horizontally (at the level of the regional or local authorities on both sides of the border, chambers of commerce and associations). With regard to the different state organizations of the cooperating countries (federal vs. centralized), juridical incompatibility and differences in national law, the existence of a diagonal level of governance (in a more juristic-administrative sense) could also be considered within the multilevel polity of the EU (cf. Maier 2009, p. 459). This form of governing across territorial, physical, administrative, legal, social and cultural borders and boundaries is referred to as cross-border governance (cf. Scott 2010; Jańczak 2014; Kramsch/Hooper 2004; Leresche/Saez 2002; Gualini 2003).

2.1.1.4 Cross-border regional governance

Cross-border regional governance not only depicts a part of scale, territory and administrative conjunction in the EU multilevel polity — precisely from the border regions and transborder administrative cooperation structures within the Union — but also offers a detailed section of the MLG polity of the EU: the cross-border subnational level in certain territorially delimited territories. Regional governance describes forms of regional self-coordination as responses to deficits of national coordination that appear when exchanges and interplay among national, subnational and economic actors are required for intermediary problem-solving (cf. Fürst 2010, p. 49). Through decentralization, the principle of subsidiarity and the legal, financial and administrative support provided by supranational legislation within the EU, regional governance has been strengthened in various ways in the last decades.

In the regional governance approach, regions are considered as action areas (*Handlungsraum*) that have certain spatial functions, including the development of regional business and labor markets and the setting of cultural policy and regions are less perceived as a political subdivision or territorial

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authority (*Gebietskörperschaft*) (cf. Benz/Dose 2010, p. 29). In this context, regional governance refers first to the self-guidance of regional actors in negotiations and networks and second to the characteristics of a region as an intermediary level that is closely interlinked with both local as well as national and European politics (cf. Benz/Dose 2010, p. 29).

According to Fürst (cf. 2010, p. 53ff.) the characteristics of regional governance are as follows:

- Interplay of actors of organizations;
- Interaction between actors with different motives;
- Mutual interdependence of these actors (on both input and on the output sides);
- Crossing the boundaries and competencies that exist among subsystems such as states, economies and civil society;
- Self-guided and self-organized networks;
- Horizontal forms of interaction via modi of argumentation and negotiation, not of power and compulsion;
- Embedding of actors and institutions in self-chosen (negotiated) regulatory systems that formally channel interactions, decrease transaction costs
- A high degree of reflective rationality (learning processes play a crucial role); and
- Intermediary role, meaning that it mediates between institutional structures and is integrated within existing institutional structures.

Regional governance occurs and develops as a form of regional steering of regional spatial planning program and is established as it first, offers a comparative advantage compared to other forms of collective action; second, it requires encouraging political opportunity structures, as regional governance arrangements are related to high transaction costs; third, regional governance is structured in the initial, planning and the implementation phases; fourth, it is mostly issue-related, which means that it is project-related cooperation that leads to a regional development approach with sectoral, territorial or social reference; and, fifth, regional governance only emerges in the framework of existing institutions and is generally significantly influenced by their policies (cf. Fürst 2010, p. 55f.). In addition, regional governance describes voluntarily regional self-guidance that is not constituted by and limited to certain traditional societal subsystems (politics/administration, the economy or socio-cultural society); rather, it includes heterogeneous actors such as local politicians, companies and civil society

associations, each of which has different motives (cf. Fürst 2010, p. 50). Local politicians are territorially bound to their municipalities and represent their interests; such politicians focus on and strive to obtain power and re-election and hence attempt to sway voters by drawing attention to and securing results for their territories. Companies are driven by markets and prices and are primarily functionally oriented. Thus, they are not bound to a territorial demarcation of their areas of activity but are bound to a location (cf. Fürst 2010, p. 50).

Fürst states that the concept of regional governance remains blurry empirically, as it is necessary to distinguish between two basic types: *territorial*, which is spatially fixed, and *functional*, which is not spatially limited (cf. Fürst 2010, p. 51). The challenge is to combine functional governance patterns that are mostly program-, theme-, topic- or project-based (e.g., social, ecological, economic or infrastructural issues) with a territorially integrated approach. According to Fürst, examples of sectoral policies that initiated governance patterns include regional development programs initiated by member states or regional development programs initiated by the EU, such as the EU structural funds or the LEADER+ initiative (cf. Fürst 2010, p. 52). As a consequence, in some rural areas, several cooperation forms overlap, and some overlapping memberships exist. Regional governance thus not only has a horizontal but also a vertical dimension, which means that such governance occurs within a multilevel polity. Both regional and cross-border governance are miniature forms of MLG. In summary, governance arrangements on the regional layer are based on actors, who are personalities who voluntarily cooperate and may drop out of that arrangement at any time; these arrangements rest upon conventions, traditions and agreed-upon rules and are implemented within existing institutions within a multilevel context.

The same applies to governance structures on the subnational level across borders. One of the main differences is the institutional setting, which cannot be managed in pre-existing national or regional institutions. In contrast to inner-state regional governance, cross-border governance cannot rely on national, regional or local institutional structures, as it stretches over a trans-border territory. Hence, since the 1990s, informal cross-border institutions have been created under names such as Euroregions, Eurodistricts, macroregions and Euregios. These institutions are mostly informal and rely on existing national, regional or local institutions on both sides of their respective borders. With the rise of the Euroregions as a consequence of the introduction of the Interreg initiative, which was intended to promote CBC in

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Europe, researchers focused on regional interaction, steering, organizational research and spatial planning introduced the term cross-border governance.

The cross-border governance approach thus serves as a cornerstone for developing a more territorialized understanding of governance across borders. Scott identifies cross-border governance or “transboundary cooperation” as a necessity for a number of reasons: first, it is a response to

“globalization and its effects on local cross-border communities, second, symbolic of post-security geopolitics in which environmental and economic issues play an increasingly important role and, perhaps most significantly, third, a new emerging form of regionalism signaling the death knell of statism’s dominance as an organizing principle of international relations” (Scott 2010, p. 135).

The death of statism refers to the gradual erosion of static assemblies and structures such as nation-states in certain functional and/or sectoral ambits. In his opinion,

“transnational governance, to the extent that it is defined by decentralized forms of interaction, is a relatively new phenomenon, but the demand for it is steadily increasing. Economic, political and environmental interdependencies on a global scale are intensifying at the same time as political issues are becoming more inter-linked and complex, thus blurring distinctions between domestic and international policies” (Scott 1999, p. 606).

In Scott’s description, cross-border governance is framed as cross-border regionalism. In this thesis, the term cross-border regionalism is also used but in a different context. In the words of Scott, cross-border governance or cross-border regionalism can be defined as

“part of a process of political regulation, operating at different spatial scales and describing a spatially integrated approach to problem-solving involving actors from local, regional and central levels. In a normative sense it implies the achievement of a higher level of interstate co-operation, contributing to the development of new forms of regional governance above and beyond traditional administrative and nationally-oriented frameworks” (Scott 1999, p. 606).

As Jarosław Jańczak states, “permeable borders require a new way of managing interactions” (Jańczak 2017a, p. 50); he goes on to mention the cross-border governance approach and the classifications used by Gualini who distinguishes between the political-economic, institutional and symbolic-cognitive elements of cross-border governance (cf. Gualini 2003, p. 44ff.).

To summarize, cross-border regional governance can be differentiated from territorial governance, although most scholars use both terms simultaneously. As a result, all governance approaches feature the characteristics identified in Chapter 2.1.1.2. In general, subnational administrative

cooperation has been facilitated by the EU and the CoE with the introduction of legal tools, financial incentives and administrative procedures for implementing governance constructs across borders. Despite these seemingly perfectly clear pre-conditions, CBC on the part of administrations is still hampered by national diverging juridical systems and state organizations (cf. Maier 2009, p. 455). Nevertheless, the major future challenge for the EU's subnational policy will be to overcome the lack of participation in EU policies on both the sub- and supranational levels. To address the major challenge of promoting participation on the subnational level, this thesis goes a step ahead and investigates the participatory turn that has occurred in (regional) European integration theory.

Although there are several definitions of governance, the emphasis is on the more refined concept of participatory governance, which is introduced in the next chapter.

2.1.2 Transforming governance into a participatory form

2.1.2.1 Participatory turn in governance studies

If governance in the EU is inevitable, this ineluctability should be transformed into a participatory form (cf. Heinelt 2010, p. 123). The participation of civil society actors in cross-border regional governance arrangements is intended to promote not only the input legitimacy of European governing but also the output thereof, given that, as is demonstrated in this chapter, both elements of democratic legitimacy are highly interdependent, interactive and responsive. At first glance, the linking of the terms governance and democracy/civil society participation seems to be arbitrary, as governance generally refers to the steering, management, coordination or control of governing structures of administrations and the private and economic sectors while democracy or civil society participation refers to civic engagement and forms of civic and societal rule, control, dominion or self-governing/government. Indeed, within the academic debate on governance and new forms of governing and/or governance in Europe, some doubts have been expressed concerning the applicability of democratic theory to constitutionalism, European technocracy, European governance or administrative cooperation. In particular, some scholars have argued that methods of participatory governance at the supranational level (such as consultations and surveys) do not bridge the gap between the EU and society but instead deepen it (cf. Lindgren/Persson 2011, p. 3; Grande 2000; Warleigh 2001;

Michalowicz 2004). Nevertheless, particularly since the beginning of the new millennium, certain themes in the literature concerning democratic forms of governance have evolved and explicitly appeared on stage, mostly under the notion of participatory governance. Generally speaking, “participatory governance refers to cooperation between state actors and members of civil society in the formulation, and at times the implementation, of public policy” (Lindgren/Persson 2011, p. 5). The main representatives of this school of thought are Beate Kohler-Koch, Philippe C. Schmitter, Hubert Heinelt and Yannis Papadopoulos. The majority of their intellectual input contributes to what Robert Dahl called the “third transformation of democracy” (cf. Dahl 1994) which refers to an upscaling of democratic practices to transnational arenas in response to external strains. According to Dahl, former transformations of democracy in political history occurred from “nondemocratic city-states — typically aristocracies, oligarchies, monarchies, or mixtures of all three” (Dahl 1994, p. 25) to democratic nation-states, and, in the second transformation, from city-states to the national level. Through the functional and sectoral dissolution of nation-state borders as a result of globalization, internationalization and external pressure and influences, a third transformation has been initiated:

“The third transformation, then, is the one now taking place. Just as earlier city-states lost much of their political, economic, social, and cultural autonomy when they were absorbed into larger national states, so in our time the development of transnational systems reduces the political, economic, social, and cultural autonomy of national states” (Dahl 1994, p. 26).

Thus, he describes a recent transfer of democratic patterns from nation-states to transnational institutions. At this point, Dahl notes a “democratic dilemma,” which is “system effectiveness versus citizen participation” (cf. Dahl 1994). The rescaling of democracy upwards is legitimized by greater system effectiveness, “but citizen participation decrease[s] with the number of citizens” (Dahl 1994, p. 26). Hence, he claims that methods or mechanisms to enhance democratic participation in transnational organizations are required. At this point, the majority of scholars have focused their contributions on the transformation potential of public administrations and civil society. In reference to Dahl’s train of thought these scholars stress the linkage of civil society (organizations) with transnational institutions on an international-supranational level. Herein lies the main difference in their contributions to this thesis: Whereas those works focus primarily on societal interaction with supranational institutions (*up-scale*), the present study emphasizes the cross-border subnational (regional or even local) dimension (*down-scale*). Nevertheless, some of their conceptual considerations can

also be applied to the discussion in this work. The linkage of civil society participation with governance arrangements, which, in the light of representative democracy, manifests in a transnational polity, is congruent and useful in the theoretical investigation in both this research and in the works of the authors mentioned previously. In most of the discourses, the focus is not primarily on a reconceptualization of democratic decision-making through applying a communitarian approach; rather, “participation is considered a necessary supplement to representative democracy” (Kohler-Koch/Quittkat 2013, p. 1). In particular, the contributions of Schmitter and Heinelt — and, to a certain extent, those by Kohler-Koch — are utilized for a normatively guided and theory-based establishment of an analytical model for empirical scrutiny. Moreover, this work relies to an even greater extent on the observations of Robert Dahl than the contributions of the aforementioned, as the approach of analyzing participation in governance arrangements at a subnational level is more appropriate for scrutinizing the conditions that allow broad and frequent citizen participation in locally and regionally demarcated democratic arenas. As transborder regional contexts, especially in sparsely populated border regions, may be more proximate to their citizens, particularly in terms of self-governing, a broad and equal participation is theoretically more likely in these arenas:

“To oversimplify, if citizens were truly equal in influence, then the influence of an average citizen would necessarily shrink as the number of citizens increased from a hundred to a thousand; from a thousand to a hundred thousand; and so on. Or if we take theoretical opportunities to participate at any stage in a decision process — for example, by engaging in discussion with all other citizens or for that matter with one’s representative in the parliament — then clearly these shrink linearly with numbers. A simple arithmetical exercise would demonstrate how the amount of time for each citizen to engage in discussion rapidly approaches insignificance as the number of individuals who participate increases. Thus even if transnational democratic institutions are created, they cannot overcome the limitations imposed by scale and time” (Dahl 1994, p. 28f.).

Subnational cross-border contexts are thus a slightly wider scale than the former Greek city-state democracies but are still seemingly in touch with the people. These considerations are also considered in a brief theoretical discourse on political theory in Chapter 2.1.2.3. For the main empirical argument and the development of a reliable, resilient and robust analytical model of participatory governance, academic contributions concerning the topic of governance are examined, critically reviewed and utilized. The main assumption and the starting point of the aforementioned authors (in this case, Kohler-Koch) is that “civil society participation should offset the poor responsiveness of political representatives and strengthen the problem-

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solving capacity of executives” (Kohler-Koch/Quittkat 2013, p. 1), as participation is a substantial contribution to governance in the EU, especially in the development and implementation of (cross-border) regional policy. The hypothesized effects of individual and organizational participation in governance arrangements are expressed by Schmitter: Such participation “can not only improve both sustainability and innovation, but also make them compatible with each other” and “can contribute to legitimizing the European Union” (Schmitter 2002, p. 51). In this chapter, these thoughts are refined and discussed in depth.

Interestingly, these conceptual developments coincided with the activities of the COMM regarding new forms of governance. With the decision of the COMM to prepare a White Paper on European Governance in the 2000s it served as an impetus for the conceptualization of “new governance” intended to create democratic confidence (cf. Vignon 2009, p. xv) and to bring citizens back in (cf. Zittel/Fuchs 2006). This debate on democratic forms of governance led to a rising awareness among scholars in EU integration studies to re-consider normative stances of governance which concluded a participatory turn (cf. Busschaert 2013) in the EU integration studies on governance. The white paper identified the weaknesses of and possibilities for improvement in the prevailing discourse concerning the democratic deficit in the EU and its governance and combined both streams of thought into a strategy that comprised both effective problem-solving and promoting democratic legitimacy by means of direct participation of civil society in the political process, which led to a broad conceptual discussion and concrete reforms (cf. Jachtenfuchs/Kohler-Koch 2010, p. 81). In this context, a fruitful interaction between academia, especially the fields of political science and European studies and political practice can be identified, as most of the terms used in the white paper referred to concepts utilized in contemporary political science. In recent decades, the concept of participatory governance has been created and has reached its peak. The main goal was to link democratic theory to governance models that were mostly structured by liberal and representative entities and to thus create a “new relationship between politics, administration, and civil society” (Kohler-Koch/Quittkat 2013, p. 2). However, how does the concept of participatory governance — which is the central focus of this thesis — differ from the presented concepts of MLG and its territorial spin-off, cross-border regional governance? What benefits can participatory governance offer in comparison to the aforementioned notions of governance?

2.1.2.2 Participatory governance: Definitions, conditions, five key features

To tackle these questions, it is crucial to explore what participatory governance refers to. Schmitter defines participatory governance as “regular and guaranteed presence when making binding decisions of representatives of those collectivities that will be affected by the policy adopted” (Schmitter 2002, p. 56). As the definition of participatory governance adopted in this study largely relies on that of Schmitter, his understanding of governance is also essential when attempting to formulate an applicable definition of the central term of this thesis:

“Governance is a method/mechanism for dealing with a broad range of problems/conflicts in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating with each other and co-operating in the implementation of these decisions” (Schmitter 2002, p. 53).

Taking the definition of governance and participatory governance into account, Chapter 2.4 develops an appropriate definition of the participatory governance in the Europe of the CBRs.

In comparison to the multilevel or cross-border governance concept, participatory governance comprehensively refers to concernment and individuals/representatives who benefit or are affected from the decisions made in certain governance arrangements and does not necessarily point at territorial concerns (as opposed to multilevel or cross-border governance contexts). Within this analysis, hence, the focus will be put on participatory governance in a transnational (cross-border) and multilevel polity. Kohler-Koch agrees with Schmitter while pointing out that “participation is promoted in order that those affected by policy are able to directly take part in issue-specific policy processes” (Kohler-Koch/Quittkat 2013, p. 1). Whilst Schmitter’s interpretation of the notion of participatory governance refers to the sole presence by those affected by the policies made in political processes, Kohler-Koch notes the active role played by political subjects. In addition, Heinelt, who is a central figure in the literature on participatory governance, states that it is a normative assumption of participatory governance that “from the idea of natural rights of men, [...] those who are affected by a decision also have to be given a right to participate in the decision” (Heinelt 2010, p. 8). In general, the *conditions of participatory governance* are specific circumstances and boundaries that are interconnected with the structure of participatory governance:

“To reflect on conditions for participatory governance, specific opportunities and constraints are crucial which are determined by institutional rules, material and non-