



EGTC Setup on Hungary's External Border in the Hungarian-Romanian-Serbian Triple-border Area

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University of Szeged
Department of Political Science, Faculty of Law

Abstract. Hungary is among the leading countries when it comes to European Grouping of Territorial Cooperation (EGTC). Ten of them are based in Hungary and two has Hungarian partners (CoR, 2012). The southern border areas of Hungary presently comprise the external borders of the EU. Those that are regarded as external borders are the Hungarian-Serbian, Hungarian-Ukrainian border lines. Although Hungary has a good reputation of EGTCs in the evaluation of the EU along the internal borders, the country cannot achieve the ambitious goals set at European level for the external borders.

The purpose of the present paper is to give an overview of the development of organic region on the external border, namely in the Hungarian-Romanian-Serbian border area. What are the obstacles hindering collaborations, why the regional and local governments on the external border of the Union cannot achieve their aspirations?

The paper focuses on the collection of practical information in connection with the elaboration and registration of the analyzed Banat-Triplex-Confinium EGTC. The basic empirical material consists of official public documents and theme interviews conducted with the key actors of the EGTC. Beyond that, this paper devotes particular attention to the political dimension of elaboration and registration.

Keywords: European Grouping of Territorial Cooperation (EGTC), Hungarian-Romanian-Serbian border area, Banat-Triplex-Confinium EGTC.

1. Introduction

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Hungarian partners (CoR, 2012). The southern border areas of Hungary presently comprise the external borders of the EU. Those that are regarded as external borders are the Hungarian-Serbian, Hungarian-Ukrainian border lines. Although Hungary has a good reputation of EGTCs in the evaluation of the EU along the internal borders, the country cannot achieve the ambitious goals set at European level for the external borders.

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2. Development of cross-border cooperation in the triple-border area

Borders are the ‘scars of History’ (AEBR, 2004). In the Carpathian basin the borders of the states are the aftermath of the peace system put into shape after the Second World War. The borders were rather the symbol of the sovereignty of the states during the last centuries and their dividing role prevailed over the connective one.

The borders cut the historically, geographically, socially, politically homogenous organic space, preventing interactions between the two sides of the border, thus presenting problems for national minorities and for their families living on either sides of the borders. As for the number of ethnic Hungarian minority, this is 290,207 (2011) in Serbia (Vojvodina), while in Romania (Transylvania) it is 1,238,000 (2012).

The significance of borders transformed, and the role of cross-border regions changed during the last two decades. The cross-border networks in Hungary's southern border area draw up lines of the historical organic region. The cohesion of the border region is stably integrated by regional consciousness and inter-institutional system. While the Hungarian national minority groups belong to their nation state spontaneously as citizens, they belong to their kin-state in another way, through their secondary identity. The nation states often see cross-border cooperation as a potential threat to their integrity when it deals with ethnic homogeneity rather than with diversity (Palermo, F. 2009).

Because of the differing structure of national identities the cultural borders of nations do not overlap the political borders of a state (Bakk, M. 2008). But the EU

makes a new conception of the nation state in every state. In the focus of the new conception is the European citizenship which retains the legal and political framework but draws attention to the sources of the cultural and psychological considerations of national consciousness, dissolving the difference between the two paradigms of political nation and cultural nation (Örkény & Székelyi & Csepeli & Poór & Várhalmi 2007).

The removal of borderlines and the reinforcement of their bridge role can induce considerable development in the border area. Attention is currently centred on cross-border cooperation, which can allow regions earlier belonging together to reunite, to create areas of natural attraction, to integrate border regions in a peripheral situation, and to strengthen development and cooperation relations in areas inhabited by national minority (Hungarian) populations in varying ways and to varying extents. For this reason in Hungary the border cooperation appears as a necessary policy in order to most efficiently exploit the wide spectrum of development opportunities on both sides of the border. The external borders, due to the Schengen acquis, are evidently in a disadvantageous situation. The strategy towards Hungarian population can play a key role in the elaboration of the strategic purposes of cooperation across external borders.

The character of cross-border cooperation differs depending on whether the cooperation concerns areas along internal or external borders. The first steps towards organised cooperation started on Hungary's external border in the triple-border area as early as the 1990s. Initially it was done spontaneously, with bottom-up cooperation systems evolving without any formality. From the occasional cooperation systems, cooperation systems with great cultural traditions and with town-twinning relations have the largest importance and can become more serious and establish long-lasting cooperation, while institutionalised forms aim at the Euroregional status.

The most complete cooperating structures are found along the Hungarian-Romanian-Serbian borders, where intensive relations have evolved at all local levels, fostered by common traditions and the large number of ethnic and national majority residing in areas that earlier belonged together. The EU association process of the Autonomous Province of Vojvodina could fill the cooperation with content, and could reinforce and make it effective.

The main Euroregional organisation of the Hungarian-Romanian-Serbian triple-borderline area is the *Danube-Kris-Mures-Tisa (DKMT) Euroregion*, founded in November 1997, consisting of three Hungarian and four Romanian counties, and the autonomous Vojvodina province of Serbia. The process of institutionalisation was preceded by bilateral cooperative agreements. The cooperation went through a structural reform in 2003, and a Coordination Committee, which is a body of three caring for the efficiency of the preparations of the decision and the functioning of DKMT, became part of the organisational

system. Furthermore, a working association with a legal entity, the DKMT Euroregion Development Agency P.C. came into being, as an instrument of the preparation and management of common development tasks. The essence of the structure is to separate the economic partnership with legal character from the political organisation of the regional cooperation. Due to the reforms, the Euroregion took on a new two-part structure: one part is an open consultative political forum, while the other is an operative working association with a registered legal-economic status. The public benefit organisation is a private company, founded by the common-rule organisations that established the Euroregion in 1997; therefore, in the members' assembly, the founders assert their rights and make their decisions on the development plans that the working association deems suitable to execute (Soós & Fejes 2008).

Attention is currently centred on European Grouping of Territorial Cooperation (EGTC). The new tool for cooperation across the borders was approved by the EU in 2006 (EGTC Regulation 1082/2006).

The EGTC instrument was proposed to overcome the obstacles hindering territorial cooperation in the EU and beyond the EU member states' borders. The EGTCs make it possible to reunite regions earlier belonging together, create areas of natural attraction, integrate border regions in a peripheral situation, and strengthen development and cooperation relations in areas inhabited by Hungarian populations in varying ways and to varying extents.

The establishment of an EGTC requires institutions from at least two EU Member States that are members of the cooperation system. Hungary was the first to pass its national act (Act XCIX., 2007) necessary for the establishment of EGTC. Romania was among the first countries that adopted the national legislation addressing EGTC (Romanian Government Ordinance, 127/2007).

The members of a European Grouping of Territorial Cooperation (EGTC) can be member states, regional and local authorities, as well as certain public legal institutions. If it is necessary under community or international private law to choose rights which govern an EGTC's acts, an EGTC shall be treated as an entity of the Member State where it has its registered office (Article 2 (1)). The function of the EGTC is determined by its constitution, and shall be governed by a convention concluded by its members in accordance with Article 4. The organisation of an EGTC is the following: general assembly with members' representatives and a director, representative of the association. It should be noted that the constitution could regulate other bodies with a clearly predefined competence (Article 10). The EGTC has in each Member State legal personality, under that Member State's national law it may acquire property and employ staff. The EGTC must compile an annual budget that, most importantly, contains the running costs and, if necessary, the operating costs and the association's debts of any kind, which is to be approved by the general assembly (Article 11-12). In

accordance with this act an EGTC seated in Hungary, as a legal entity has limited responsibility. A potential Hungarian EGTC member can only cooperate with a member that operates on a non-profit basis.

In particular, practical difficulties arise in the application of the EGTCs in the external border areas, where the cross-border cooperation strategy is very different from that in the internal ones. A decisive role has been given to the European integration in the border area. The cooperation makes an indirect contribution to the mediation of European values (rule of law, market economy, respect of human and minority rights). The EU-supported operative programmes in the triple border region along the external border contribute to the cross-border parts of IPA (Instrument for Pre-accession). But in the cross-border area the local and regional actors' fundraising ability is restrained without support of the central authorities. (Although there are some exceptions, since local governmental and economic actors – enterprises – can have their own resources.) Their activities in many cases go further beyond the implementation of cooperation programmes in the framework of Hungary's relations to Hungarian ethnic minorities living over the border area. Therefore the increasing or decreasing significance of the dividing border line of a state in many cases depends on the intentions of state authorities. Cross-border relations are strongly influenced by the relationship between the neighbouring countries.

3. EGTC establishment on the ground. The failure of the trilateral initiative in the Hungarian-Romanian-Serbian triple-border region

The Hungarian-Romanian-Serbian triple-border region can be considered a gradually dynamic region on the edge of the Great Hungarian Plain. Its main centre is Szeged with Mórahalom, a nearby small town, which is active in the renewal of ties with Vojvodina. The formation of the Banat – Triplex Confinium European Grouping of Territorial Cooperation Limited (BTC EGTC) started at the meeting of 50 mayors from the triple-border region which decided in Mórahalom (Hungary) on 17 June 2009 to establish a Mórahalom-based European Grouping of Territorial Cooperation.

Referring to the EGTC Regulation (EGTC Regulation 1082/2006 Art. 3), the creation of an EGTC is the competence of the cooperating parties, and the matter is to be decided by the municipalities. The participative members have to make decision about the intention to join the grouping of territorial cooperation. Since local governments are decision-making bodies of political authority decisions about cooperation with the local governments of other countries, these are to be made with a qualified majority within the governing body. On 10 December 2009, upon the initiative of participative members the Convention (Convention, BTC EGTC, 2009) and the Statute of BTC EGTC was approved.

The establishment of the EGTC is connected with the process of approval by national authorities – the criteria for approval or rejection by national authorities are specified and the time for examination is limited to three months. The EGTC members must first obtain authorisations from all the states concerned. In Hungary the Approval Authority, the Ministry of Public Administration and Justice approved the grouping in 2010.

In Romania the Approval Authority is the Ministry of Regional Development and Tourism (MRDT), which issued the approval of a Romanian entity to the association at the establishment of an EGTC to be located in Mórahalom (Hungary).

Concerning the third part of the prospective EGTC, in 2009 the councils of Vojvodinian municipalities made a decision to join the BTC EGTC. They notified the Serbian government about their intention to participate in the grouping but the petition of local authorities was refused first by the Ministry of State Administration and Local Government in September 2009, then by the Ministry of Human and Minority Rights, State Administration and Local Government in May 2011. In the explanation of the Ministry the main reason of refusal was that Serbian legal system cannot allow the municipalities to participate in such type of grouping. In the official response the Ministry argues that the Republic of Serbia has no bilateral agreement with the EU Member States and there is no applicable national law on EGTC allowing the participation of the Vojvodinian municipalities.

Taking into consideration the government resolution, the Vojvodinian municipalities decided not to slow down the establishment process. Ad interim, until the elimination of legal difficulties, while the Serbian government approves their full member status in the EGTC, they will take the position of an observer. From Serbia eight municipalities from Bačka and Banat joined the EGTC as observers. The Cooperation Agreement between the BTC EGTC and the eight Vojvodinian municipalities was signed in Mórahalom on 10 December 2009 (Cooperation Agreement, BTC EGTC, 2009).

The full EU member states of the EGTC obtained the approval of their own states, and the Banat-Triplex-Confinium EGTC was registered in Budapest on 5 January 2011 with the affirmation of the Budapest Metropolitan Court.

The aim of the cooperation on the triple-border is to underpin the economic and social cohesion with territorial cooperation. By the Convention, the cooperation between Hungary and Romania shall act for the purpose of implementing territorial cooperation programmes or projects co-financed by the European Union, notably under the structural funds through ERDF, ESF and the Cohesion Fund. The main task of EGTC is to dynamise border areas which were marginalised in the last few decades. So particularly important is the elaboration of a joint market in the BTC EGTC area, and labour development strategy in the fields of agricultural innovation, the exploitation of renewable energy sources, the infrastructure, the enterprise

restructuring, the education and training, and achievements of particular applications of EU funds (Convention, BTC EGTC, 2009).

Signing agreements with other municipalities beyond the borders is to be the competence of local and regional municipalities. Even though the cross-border cooperation for Serbian municipalities is formally guaranteed by the constitutional and legislative frameworks, without the political endorsement of the establishment of the Banat-Triplex Confinium EGTC and other prospective EGTCs by the central governmental authorities the legal background remains a required but insufficient term.

Cross-border cooperation among local communities of neighbouring countries is a real indicator of stability of relations and normalisation of relations between the two countries (Jelinčić & Durovič 2009). The failure of the full membership of the Vojvodinian municipalities raises a question of political nature. In order to overcome the obstacles hindering cross-border cooperation there is a demand to have an international agreement between the two states, further bilateral agreement between the EU member state Hungary and non-EU Serbia. The lack of bilateral agreements between the two countries restricts the cooperation initiatives and development in the Hungarian-Serbian border area.

Among the few advantages of the observer status for the Vojvodinian municipalities are that they do not have to search for partners for IPA projects any more since they can find partners among the EGTC partners to different IPA programs. Besides, there is also hope among partners that the future cross-border cooperation programmes may facilitate the establishment of good and close relations with the Serbian government and herewith build good neighbourly relations.

4. Conclusions

The prospective EGTC, the Banat-Triplex Confinium EGTC in the Hungarian-Romanian-Serbian triple-border region is still lacking the ‘top-down’ support of the neighbouring central governments. After having helped EGTC make its first step, the establishment, the central government prevents them from growing into a strong and mature structure.

How to remove obstacles from the establishment of an EGTC with Serbian full members? The primary concept was the setting up of the triple-border cooperation in the framework of an EGTC, but the dismissal of Serbian central authorities significantly changed the nature of the cooperation.

The actual creation and operation of cooperation systems largely depends on the legal system and political attitude of the neighbouring countries.

1. The authorities of the central governments are still convinced that each type of international relations is the monopoly of the bodies of the central government,

and no cross-border cooperation on the part of local or regional authorities should be allowed. The Serbian government acknowledges the significance of cooperation but try to keep them under state control, favouring the initiatives generated by the central state authorities.

Consequently, the building-up and institutionalisation of cooperation systems are largely influenced by bilateral agreements signed by central governments. That is why it is very important to adopt bilateral and multilateral agreements with neighbouring countries, to ensure the protection of persons belonging to the national minorities concerned.

2. As far as their legal status is regarded, the EGTCs in which Hungarian municipalities participate have cross-border legal entity therefore they can sign regional agreements with international public legal content. Due to the different laws and degrees of centralisation in Hungary's neighbouring states it is necessary to provide the participants with the legal background of cooperation systems, the scope of competences, and the right to sign contracts.

It belongs to the democratic principles of integration to acknowledge that municipalities have political power and have the right to participate in the international activities of the State at any time. Local authorities shall be entitled to cooperate with their counterparts in other States in the manner defined by the relevant national legislation, where their interests are concerned.

At European level there is a comprehensive regulation on cross-border cooperation systems that makes an attempt to create a comprehensive regulation, namely the Madrid Outline Convention (Madrid Outline Convention, 1980), passed by the Council of Europe in 1980.

So the Serbian Parliament has to approve the Madrid Outline Convention and the Government has to secure conditions for application of the European Charter of Local Self-Government (1985), particularly the right of local governments to unite at international level. 'Local authorities shall be entitled, under such conditions as may be provided for by the law, to cooperate with their counterparts in other States' (European Charter of Local Self-Government, Art. 10. (3), 1985).

The Convention increases the role of local governments and territorial authorities in creating relations across borders. Therefore it is necessary to draft regulations compatible to the Madrid Convention that guarantee political power to communities and local governments and provide suitable financial resources to create cross-border cooperation systems. Hungary signed the Convention on 6 April 1992, and it was announced together with Act XXV of 1997; Romania signed it on 27 February 1996. From Hungary's neighbouring countries on the external borders Serbia, where local governments are still undeveloped, has not signed that, and the absence of European norms can aggravate the situation. This fact can seriously reduce the chances of cross-border cooperation systems. Usually there is

a chance to sign bilateral agreements at local level in countries where the lower levels have a large degree of autonomy.

On the other hand, the Madrid Convention authorises regional and local bodies to sign international treaties only under the supervision of the national level authorities. Consequently, here the state preserves its right of veto as the exclusive possessor of competence on foreign affairs.

However, the EU does facilitate the participation of local and regional authorities from third countries in the European groupings of territorial cooperation. The EGTC Regulation does not explicitly exclude the possibility of the involvement of entities from a third country, or the participation of their regional and local bodies in an EGTC formed in accordance with this regulation (EGTC Regulation 1082/2006 Preamble (169)). In the examined case the implementation difficulties made the participation for the Vojvodinian municipalities from Serbia impossible. Its main reason stems from a perception of incompatibility of the differing statuses of the neighbouring states. The EGTC Regulation cannot be applied directly in non-EU Member States. On 1 March 2012 the European Council agreed to grant Serbia the status of candidate country. Reassuring for the BTC EGTC and the future EGTCs on the Hungarian-Serbian border that the Council's progressive resolution may eventuate the adoption and implementation of the *acquis communautaire*, among others the 1082/2006/EC Regulation, in the internal legal system as early as during the accession negotiations (COM (2011) 668).

Third countries, such as Serbia, can be involved in an EGTC-like cooperation system initiated by two EU member states. In the examined and proposed EGTC on the external border of Hungary in the case of BTC EGTC it is Serbia who blocks the establishment process. The delay in the approval process is the consequence of the terms of establishment of the groupings determined by the EU regulations and also by the national policies of the involved countries.

For third country partners interested in an EGTC to be involved in it is essential to pass a national legal regulation that allows such a form of cooperation. Cooperation with third countries within the framework of the EGTC is possible if it is allowed by the national legal regulation of the given EU member state. The EGTC left the question open, the decision is left to the member states.

However, there are several cases where the members or prospective members would see advantages in involving members from a third country or even setting up an EGTC between regions or local authorities of two member states and a third country. It is particularly true in those cases where a significant minority lives in the border area and they want to establish close links with their kin-state. The EGTC tool allows the intervention across borders and the motivation to set up an EGTC often depends on the previous history of the countries involved. Obviously, this has a deep impact on the national minorities of a country. Cross-border

cooperation 'below the nation state' resuscitates regional and local identities in the border areas.

In order to have more EGTCs in the border areas Hungarian national and subnational diplomacy should keep the issue on the political agenda: the expectation towards the Serbian government is to sign the most important international documents, the Madrid Convention and the bilateral agreement with Hungary, and promote more active relations with the Romanian central government to abolish the prejudice and make them more cooperative towards cross-border 'bottom-up' events.

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CoR overview of EGTC setups already in place: <http://portal.cor.europa.eu/egtc/en-US/Register/already/Pages/welcome.aspx>

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