Building Central and Eastern Europe in Partnership: 
Democracy and Cross-border Co-operations in Hungary 

Draft Paper

I. Introduction

Borders are the "scar of history". The aim of my paper is to present the connection between the European territorial governance and democracy, with special focus on the institution-building process of cross-border and macro-regional co-operations as new instruments of the region’s democratic development after the transition in Central and Eastern Europe.

Cross-border cooperation forms fulfill an increasingly significant role along the borders. The importance of cooperation systems evolving along the external and internal borderline of the European Union has been increasing since the last enlargement (in 2004 and 2007, 2013). According to the Charter for Border and Cross-border Regions the border areas are the building blocks and bridges in the process of European unification, ensuring coexistence of European populations, including minorities. "At least, some 32% of the population in more than 40% of the territory comprising the enlarged EU live in border regions. European policies make allowance for this fact through including border areas in the Lisbon Treaty and acknowledging and funding all border regions at the internal and external borders as a European priority."

The strengthening of cross-border cooperation all over Europe is a result of Europeanization and decentralization processes. The border areas of the countries of Western Europe took the first steps towards organised cooperation – both in the framework and outside of the European integration process – already in the 1950s where the state borders did not correspond to natural linguistic, ethnic, cultural or economic communities. At first it was done spontaneously, with bottom-up cooperation systems evolving that lacking any formality. Later, principles and legal regulations influenced already functioning practice, then slowly evolving into appropriate institutional structures (Euroregion, Working Community, and European Groupings of Territorial Cooperation - EGTC).

This tendency was enhanced by regional policies in the European Union. In the European integration the former government system based on national sovereignty is gradually transformed, while the local and regional levels strengthen both their political and decision-making powers (governance). The successful decentralisation and regionalisation process were necessarily followed by the growth of related institutions. The development and strengthening of the competencies of the local and regional authorities, especially in external relations, started only recently with the process of European integration and the evolution of the regions. This challenge is solved in different ways by the legal and administrative systems of unitary, regionalised, decentralised and federal states, offering different chances to sign international contracts and set up and maintain common bodies and institutions.

The institutionalisation of cross-border cooperation is shaped by the Europeanization process from two directions. On the one hand there exists an external, Council of Europe (CoE) and European Union expectation which requires the development of a legal and institutional system that is capable of incorporating and applying the acquis and the European practice at national level, while on the other hand, there is an internal request, which inspires regions to take part in EU-funded regional development programs.

II. Institutionalisation processes of cross-border cooperation – legal frameworks

1. Legal framework – Council of Europe

The Council of Europe has always recognised the crucial importance of democracy at the local and regional level. The Congress of Local and Regional Authorities of the Council of Europe (CLRAE) was created within the Council in 1957 to guarantee local and regional democracy in Europe, and bring together the elected representatives of the local and regional communities. The Congress is therefore such a political assembly composed of representatives holding an electoral mandate as members of a local or regional authority appointed each by a specific procedure. Its 648 members representing over 200 000 European municipalities and regions, are grouped by national delegation and by political group. Thus the Congress offers an ideal forum for dialogue where representatives of local and regional authorities discuss common problems, compare notes about their experiences and then put their points of view to the national governments.

The CLRAE moreover performs a function of keeping watch on local democracy in Europe, by producing “monitoring reports” on the situation in the Member States while encouraging consultation and political dialogue between the national governments and the territorial entities. Now that new states with varying political and economic profiles are coming on the scene, a reappraisal and a redefinition of the goals of the Congress is in progress. For instance, the Congress needs to aid effective organisation of local and regional authorities in new democracies by encouraging regional and trans-frontier cooperation. As promoter of local and

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7 Based on Document Database of the CLRAE of the Council of Europe.
regional democracy, since its inception it has produced a body of international treaties such as the European Charter of Local Self-Government, which has become the authoritative international treaty in this sphere.

The Council of Europe has taken part a significant role in dismantling barriers to regional and international cooperation as well as strengthening cooperation across borders, with the aim of decentralisation. Numerous documents aiming to establish the legal framework for cross-border cooperation have been produced, including the Madrid Convention (1980) and the Additional Protocols (1995; 1998; 2009), the European Charter of Local Self-government and its Additional Protocol (1985; 2009), as well as the Council of Europe Reference Framework for Regional Democracy (2009).

At the European level, there is only one document that makes an attempt to create comprehensive regulation on cross-border cooperation systems, namely the Madrid Convention, passed by Council of Europe in 1980. The Convention plays a compensatory role, in that defines the concept of cooperation across borders and offers patterns and proposals for the member states to make the cooperation of regions and settlements across borders easier. The aim of the Convention is to promote cross-border agreements between local and regional authorities within the scope of their respective powers. Such agreements may cover fields as regional, urban and rural development, environmental protection, the improvement of public facilities and services and mutual assistance in emergencies, etc., and may include the setting up of transfrontier associations or consortia of local authorities.

According to the Convention the transfrontier co-operation means any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose. Transfrontier co-operation takes place in the framework of territorial communities’ or authorities’ powers as defined in domestic law.

The concrete forms of cooperation are derived from the internal legal regulation of each member state accordingly the Convention only provides a legal framework that must be filled with specific content by the internal legislations of the ratifying Contracting Parties. The Convention must meet specific expectation, to be applied to the local and territorial relations of the ratifying member states. Having variable legal and political systems, it must also create frameworks of bilateral and multilateral agreements. To allow for variations in the legal and constitutional systems in the Council of Europe’s Member States, the Convention sets out a range of model and outline agreements, statutes and contracts appended to itself, to enable both local and regional authorities as well as States to makes it easier for them to carry out their tasks effectively.

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8 European Outline Convention on Trans-frontier Cooperation between Territorial Communities or Authorities, Council of Europe, ETS No. 106, Madrid, 21 May 1980.
9 European Outline Convention on Trans-frontier Cooperation between Territorial Communities or Authorities, Council of Europe, ETS No. 106, Madrid, 21 May 1980. Preamble.
10 European Outline Convention on Trans-frontier Cooperation between Territorial Communities or Authorities, Council of Europe, ETS No. 106, Madrid, 21 May 1980. Article 2.
11 Appendix numbered 1.1 to 1.5 and 2.1 to 2.6. These model and outline agreements, statutes and contracts are intended for guidance only and have no treaty value. (See Article 3.)
Table 1. Signatures and ratifications of the Madrid Convention, ETS. No. 106.

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<tr>
<th>Members of Council of Europe</th>
<th>Signature</th>
<th>Ratification</th>
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The Convention has been modified several times, and three Additional Protocols (1995; 1998; 2009) were drafted. However, several recommendations and opinions of the international organisations representing regional interests (Council of Europe; Assembly of European Regions; Association of European Border Regions) only provide a framework for cooperation, which only national legal regulation can fill with expected content. That is why cross-border activities are influenced by multilateral, bilateral and trilateral agreements even today, mainly depending on the national political actors and governmental policies.\textsuperscript{12}

2. Legal framework – European Union

After more than 25 years adopting the Madrid Convention by CoE, the Regulation (EC) No 1082/2006 of the European Parliament and of the Council on a European grouping of territorial cooperation (EGTC)\textsuperscript{13} is a response to the lack of legal and institutional instruments, and ensures cooperation facilities for the local and regional authorities and Member States under EU acquis communautaire.

The EGTC is a new European legal instrument with the aim to facilitate and promote, in particular, territorial cooperation, including one or more of the cross-border, transnational and interregional cooperation,\textsuperscript{14} between its members with the aim of strengthening Union economic, social and territorial cohesion.\textsuperscript{15}

The EGTC has legal personality, it is unique in the sense that it enables public authorities of various Member States to team up and deliver joint services, without requiring a prior international agreement to be signed and ratified by national parliaments. Measures were necessary to reduce the significant difficulties encountered by Member States and, in particular, by local and regional authorities in implementing and managing actions of territorial cooperation within the framework of differing national laws and procedures.\textsuperscript{16}

\textsuperscript{12} Tóth, Judit–Fejes, Zsuzsanna: Report on multilevel governance and competences of local and regional authorities in the area of freedom, security and justice to the Committee of the Region, Brussels: Committee of the Regions. 2009. 23-33. p.

\textsuperscript{13} The EGTC was established the 5 July 2006 by Regulation (EC) No 1082/2006 of the European Parliament and of the Council and came into force on 1 August 2006.

\textsuperscript{14} There are three forms of european territorial cooperations: 1. Cross-border cooperation between adjacent border regions in neighbouring countries; 2. Trans-national cooperation between groups of countries and regions, mainly in the field of spatial planning; 3 Inter-regional cooperation between regions or cities in various countries.


The EGTC has in each Member State the most extensive legal capacity accorded to legal persons under that Member State’s national law and the registered office of the EGTC is located in a Member State under whose law at least one of the EGTC’s members is established.\textsuperscript{17} Where it is necessary to determine the applicable law under European Union law or private international law, the EGTC is be considered to be an entity of the Member State where it has its registered office.\textsuperscript{18} The members of EGTC can be states, local and regional authorities as well as other bodies and public undertakings – if they are located on the territory of at least two Member States, with some exceptions.\textsuperscript{19}

The tasks and competencies of the EGTC are to be set out in its convention. The tasks given to the EGTC by its members is not concern the exercise of powers conferred by public law or of duties whose object is to safeguard the general interests of the State or of other public authorities, such as police and regulatory powers, justice and foreign policy.\textsuperscript{20} The EGTC has at least the following organs:

- assembly, which is made up of representatives of its members;
- director, who represents the EGTC and acts on its behalf.\textsuperscript{21}

The EGTC establishes an annual budget which shall be adopted by the assembly, containing, in particular, a component on running costs and, if necessary, an operational component.\textsuperscript{22} The revised EGTC Regulation (1302/2013/EU) contains the most important pieces of legislation related to the cohesion policy and most of the programmes funded by the EU in the period 2014-2020.

The Committee of the Regions regularly publishes a Monitoring Report on the development of the European Grouping of Territorial Cooperation. By the end of 2015, 60 EGTCs were established in total, which include more than 800 national, local and regional authorities from 20 different Member States and from Ukraine. Out of these existing EGTCs, it has not been possible to update information on the developments in the year of 2015 for fourteen Groupings. The last three EGTC Monitoring Reports (2012 to 2014) found that a focus on Central and Eastern European territories could be observed. Half of the recently constituted EGTCs are following this trend covering territories in Hungary, Romania, Slovenia, the Czech Republic and Poland.\textsuperscript{23}

However, the adaptation of the form of EGTC is not obligatory; it is an instrument besides the existing ones, and choosing it is optional, it represents a new alternative to increase the efficiency, legitimacy and transparency of the activities of territorial cooperation, and at the same time secures legal certainty. It is applicable in every Member State, even in those that have not signed the Madrid Convention and its Additional Protocols or the special bi- and multilateral agreements. The new legal instrument supplements the already existing initiatives and forms of cooperation.\textsuperscript{24}

\textsuperscript{19} Regulation (EC) No 1082/2006 of the European Parliament and of the Council. Article 3.2. and 3a (2) and (5).
III. Building Central and Eastern Europe in Partnership

The intensity of the cooperation beyond borders in Central and Eastern Europe is lower than in Western-Europe because the nationalizing of the states and the homogenization processes, which are obstacles in front of the developing of the border regions. In the Central and Eastern European countries not only the settlements have become fragmented after constitutional and self-government reforms, but usually their interest representation system has also become poor, asymmetrical and fragmented. The weak mezzo-level or “the missing middle” together with institutional weaknesses can prevent local interests to compensate as real power for the stronger and stronger central administrative, political and economic power.

The new regionalism as a complex phenomenon was a more perfect form of democracy and model for the future of Europe with converging regions. It was not only a myth but based on the empirical reality of the various types of regions. In practice, regions have to face the heterogeneity of the rising economic, social, political and cultural interests. However, the regionalisation process has more or less confirmed the concept of three-level structure of the EU policy: consisting of the trans-national, national (centralistic) and regional (decentralised) layers with a strong demand for partnership on the regional level.

The European Union supports establishing preconditions with a sensitive and differentiating approach to regional policy and instruments, while taking into account the political, legal and societal reality in each part of Europe, including the accelerated top-down and not historically developed bottom-up regionalisation in the Central and Eastern Europe.

According to Michael Keating (1998) there are three societal and political preconditions for mature regionalisation:

- nation-wide campaign that advertise it, since the regions are not well known among the population at large;
- historical compromise has to be made with the local power elites in order to avoid their resistance; and
- political consensus has to be reached as a compromise between the government and opposition on the principles of decentralisation and regionalisation.

The overall answer to daily challenges is most frequently provided by local and regional governments which create good or bad conditions for investments to deliver local and regional services. This question may be clarified from two aspects:

- „Lack of the really political and legal competences at the local and regional level, bad conditions for local and regional service delivery (weakness of local and regional governments, strong influence of national level).
- The financial conditions of the sub-national level are not evaluated. In the context of the new cohesion policy for the period 2014-2020, the creation of the EU’s legal basis for enhancing territorial cooperation in the EU constitutes a major priority for local and regional authorities as it brings along added value by helping them to overcome the practical difficulties that cooperation faces at this moment in the EU.

The distinction between the nature of legislative, administrative and fiscal competences is rather formal, the line is not easy to draw. The administrative competences may well include the power to adopt general regulations that complement the formal laws. The power of local governments

to levy taxes is so broad that it is often confused by politicians and practitioners with legislative powers. However, political competence is the core of local democracy and of local public service management, which partly overlaps the management of local self-government.  

The lack of competence in the course of the cross-border cooperation, and the diversity of responsibilities and level of organisation of the cooperating partners cause a problem. Beside the traditional actors (municipalities), new social actors have appeared (regional development councils, agencies, economic and non-governmental organisations) as well. All the above render it more difficult for cooperating partners to meet each other, and often make substantive collaboration impossible. Those co-operations proved to be the most viable that broadened the objectives of the collaboration and increased the economic and social inclusion of the horizontal partnerships, and so became capable of formulating long-term goals.  

Hungary represents all types of border areas in Central and Eastern Europe. Hungary has an “old” (Austria) and four “new” internal EU borderlines (Slovakia, Slovenia 2004, Romania 2007, Croatia 2013); and two external borderlines (Serbia, Ukraine). However, Hungary has a special location among the regions of Carpathian Basin. Due to its historical, ethnic, cultural and economic heritage, Hungary is one of the most valuable “so called” gate country towards the European Union. Next to the emotional relations, the common culture and identity, the economic and infrastructural traditions prevail, which has long tradition. The historical intension, geographical proximity and the European infrastructural connections have established the cross-border relations, for example the rivers (Danube, Drava, Koros, Tisza, Maros) symbolize the belonging, and strong national identity.

The last enlargements increased the length of the EU’s external borders. As Hungary became a full member in the Schengen Zone in 2007, new opportunities occurred along the internal borders due to certain positive changes. At the same time, however, as a consequence of the strengthening of external border security and the increased difficulty of crossing external borders nowadays (obligatory visa, challenges of migration process), the cross-border co-operations along the Ukrainian, Serbian and Southern borders are not building bridges in EU-relations with third countries.

The border regions contribute to the deepening of cross-border relations through development centres and sub-centres. According to the OTKA-research project at University of Szeged we have detected the following organisational models along the Hungarian borders:

1. Working Community cooperation systems (trans-national cooperation, NUTS 1):
   Along the Hungarian border sections, the initial great regional co-operations (Alps-Adriatic Working Community (1978), Carpathian Euroregion (1993), Danube-Drava-Sava Euroregional Cooperation (1998)), are increasingly being replaced by smaller, functionally united organizational models of the local Euroregional cooperation (municipality, micro-region).

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28 „A határ menti együttműködésekk jogi és közigazgatási háttére, az együttműködés továbbfejlesztésének lehetséges irányai”. K 42892. sz. OTKA kutatás.
2. Euroregional cooperation system:
   • at mezzo/territorial level (region NUTS 2, county NUTS 3), relations with regional participation that are the closest to the status and organizational construction of real Euroregions, based on inter-terri
torial cooperation, but do not work in a proper institutional way;
   • at local level (micro-region LAU 1, settlement LAU 2), that have well-functioning municipal and town-twinning relations, supported by inter-town and micro-regional cooperation systems.

At present, most of the Hungarian cooperation systems name themselves Euroregions, and establish a more or less organized structure, or working organization to assist their work, although the level of integration varies considerably. These formations do not dispose of political power and autonomous government; the real operational tasks are provided by private law working organisations.

3. European Grouping of territorial cooperation:
EGTC is an organisational form with legal personality defined by European law, designed to facilitate and promote cross-border, transnational, and interregional cooperation. EGTC members are at different levels, they can be EU Member States, regional and local authorities, associations, and any other public body from different member states. The EGTC is an experimental territory of the multi-level governing system which makes a two-level communication channel that works with the “theory of initiating from the lower level” and it is a mediator for the issues about borders. The diversity of the forms of the cooperation in the EGTC is an essential condition of the multi-level governing and the advantage of this system is that the interested parties can decide that which form of cooperation is more suitable for the improving of their connections beyond borders.

Most cooperating organisations have developed from mainly local initiatives and traditions, and found their role in the shaping of local and regional international relations. It can be stated that, among the currently existing legal instruments, irrespectively of the size and the number of participants, the European grouping of territorial cooperation is the most efficient way to realize the common goals. The EGTC signifies decentralized cooperation, and is built on the years-long experience of Euroregional cooperation. It is an instrument of multi-level governance (MLG), and contributes to the quality improvement of local and regional cross-border cooperation. The MLG platform which is characterised by Liesbet Hooghe and Gary Marks as “task-specific governance”: flexible structure of a network with multi-level and cross-cutting membership aiming at delivering of specific public-goods for the society. The EGTC regulation is the first example among EU legal regulations in the course of which a legal instrument grants special rights to local, regional and national public law institutions and civil law organisations of the different member states, in order to develop unified structures that can achieve a more efficient cooperation.

4. EGTC as a strategic tool for territorial cooperation – The EU Danube Strategy

The European Union’s internal strategy is also aimed at developing macro-regions. The lessons learnt from the implementation of the Strategy for the Baltic Sea region and from the Strategy

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for the Danube, together with the possibilities created by the wider neighbourhood plan drawn up for the outermost regions, will be essential in determining the relevance of these macro-regions with regard to European governance, development of territorial cooperation and the objective of territorial cohesion.

The currently observed dynamic changes in the functioning of a state do not only intensify the discussion but also provoke to ask new questions, especially while taking into account the role and the functions of state institutions. The role of multi-level governance, which determines the scale and the dynamics of development at the central, regional and local level, is increasing. The modern state, which forms a flexible structure, more and more often defines its goals in a different way. The traditional methods of management become more and more ineffective.

The European Commission has end 2010 proposed an overarching Strategy for the Danube Region, which covers eight EU Member States and six other European countries. The participation in the Danube Region Strategy promotes the strengthening of economic and political cohesion and coherence in the region, and it also brings the participating non EU-member states closer to integration-related cooperation. It is importance that EU member states taking part in the strategy should support the countries aspiring to EU membership in their integration preparations, in further developing their democratic political structures and the state of the rule of law, furthermore in developing their civil society in the whole of the Danube’s catchment area.32

The Strategy aims at a strong cooperation between countries, making a more optimal use of all EU funding available, without reserving new funds, setting new rules or creating new institutions. The River Danube has served several times as a natural border between civilisations, political systems and governments.33 Cooperation within a ’macro-regional’ framework’ is intended to produce a more effective coordination. This approach does not imply new laws or institutions but rather strengthens links between different policies and a wide range of stakeholders.34

IV. Conclusion

The institutional systems of cross-border cooperation, in the area of Central and Eastern Europe, are not sufficient for the development considerably. In Central and Eastern Europe, especially the mostly centralised government systems, accordingly there is a perceptible change of paradigm: the cross border local and territorial co-operations are getting more and more stressed.

European territorial co-operation is not possible without decentralisation. The European Union has established a new legal instrument, a new form of cooperation of the European territorial cooperation (2014-2020). It substantially contributes to European integration and to

implementation of cross-border strategies. Furthermore, it brings EU policies closer to people, it means European, political, institutional and socio-cultural added value.

Summing up the principle of subsidiarity plays a specific role – due to the decentralisation of central assignments – in the division of power of states at local and regional level. In the interests of cross-border cooperation systems, it is important to create multi-level governance in which local and regional (self-) governance plays a significant part in the arrangement of public affairs. Successfully strengthened territorial cooperation needs an appropriate legislative framework in terms of local governance, local administrative reforms and capacity building. To overcome obstacles and barriers created by borders due to national law and the different administrative structures and competences is the willingness of local and regional authorities.

The conservation of long-time institutionalised cross-border cooperation depends on the establishing of the common institutional background with legal personality, adjusted to the 2014-2020 EU-funds. The EGTC is competent in eligible to build up the flexible but common cross-border network system taking the sub-national levels into the multi-level governance system, and ensure the conditions to join cross-border co-operations at European level.

The Committee of the Regions (EU) adopted an own-initiative report on European Territorial Cooperation, in which it has highlighted three important added values of the EGTC:

- "Territorial cohesion: It helps to achieve the objectives of the EU as stated in the Treaty of Lisbon.
- Europe 2020: It can be a tool to implement the Europe 2020 Strategy, boosting competitiveness, integrated territorial development, and sustainability in Europe's regions.
- Multilevel governance: The EGTC offers "the possibility of involving different institutional levels in a single cooperative structure", and thus "opens up the prospect of new forms of multilevel governance, enabling European regional and local authorities to become driving forces in drawing up and implementing EU policy, helping to make European governance more open, participatory, democratic, accountable and transparent."

The added value of the EGTC is that it represents both sides of the borders equally by applying common projects, which means simplification of administration, cooperation and financial control of territorial cooperation in Europe.

The EU may support establishing preconditions with a sensitive and differentiating approach to regional policy and instruments in the Union while taking into account the political, legal and societal reality in each part of Europe including the accelerated top-down and not historically developed bottom-up regionalisation in the Central and Eastern Europe. It is exactly this diversity in reality and legal competences of local authorities and sub-national units, which may be used in the near future as existing instruments at consultations.

On the basis of these my conclusion is that the most appropriate models for institutional cooperation could be those applied by the European Grouping of Territorial Cooperation (EGTC). The EGTC regulation is the first example among EU legal regulations in the course of which a legal instrument grants special rights to local, regional and national public law

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36 Own-initiative report on European Territorial Cooperation. CoR. 2015/2280(INI) - 09/06/2016
institutions and civil law organisations of the different member states, in order to develop unified structures that can achieve a more efficient cooperation:

- it represents a new alternative to increase the efficiency, legitimacy and transparency of the activities of territorial cooperation
- it signifies decentralized cooperation, and is built on the years-long experience of Euroregional cooperation
- it is an instrument of multi-level governance, and contributes to the quality improvement of local and regional cross-border cooperation
- it may be possible for geographical overlaps to be found in case of the various EGTC-s or for the EGTC-s to be arranged around specific tasks, instead of on a territorial basis – the macro-regional cooperation can be the new form, which can successfully manage the common goals of bigger territories, such as the EU Danube Strategy.

The European territorial networks at local and regional level can make an important contribution to tolerance and building mutual trust via socio-cultural cooperation. Cross-border cooperation therefore will remain an indispensable factor to facilitate partnerships between neighbouring countries. Partnerships of this kind can build new multilevel good neighbourly relations on the borders.