



1st Governance Workshop:

Cross border governance

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Jean Peyrony is the Director General of the Paris-based Mission Opérationnelle Transfrontalière, the MOT which is a think-tank established by the French Government to support cross-border cooperation around France. Jean Peyrony has been coordinating the work of the MOT since 2011. Before his current position, he was already employed by the MOT between 2006 and 2008 as the director of development. Subsequently, he worked at the DG REGIO as a desk officer of European urban policy between 2008 and 2011. From 1992 to 1999, he managed the work of the regional observation group at Île-de-France directorate general and shortly in Réunion. He was responsible for the territorial cooperation and cohesion policy related activities of the DATAR, the interministerial delegation of spatial planning and regional attractiveness of France, between 1999 and 2005.

I will address cross-border governance through different aspects. First, I will give an introduction about the three levels of cross-border governance, and I will give three concrete examples. One example is the case of a cross-border territory, which is Greater Geneva at the border between France and Switzerland. Then, I will speak about 2 other examples of cross-border public services: the tramway between Strasbourg and Kehl at the French German border, and the hospital of Cerdanya between Spain and France.

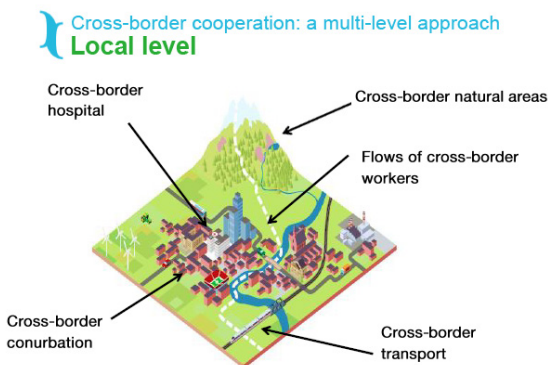
Then, I will move to actual happenings. There is a new narrative about cross-border cooperation, which is linked with obstacles and solutions, thus I will try to explain this new context, and I will go through the tool box of cross-border governance in this new context. There are 3 big dimensions. First is the governance of cross-border territories with the support of legal tools, like EGTCs, which are well known in Hungary. Second, there is the topic of coordination at the scale of the border, particularly as regards the legal and institutional issues. And the third tool is the Interreg which provides projects with financial support from the EU. That means we really need to address these 3 different aspects in order to have a clear and complete picture on cross-border cooperation. I will finish my presentation by giving some future perspectives on cross-border cooperation and borders.

I am fully aware that I speak within an academic context now. However, I am a practitioner, as the role of the Mission opérationnelle transfrontalière (MOT) is to help to develop cross-border projects for the inhabitants of the border regions. But I think that it is very important to discuss these topics between practitioners and researchers, especially when they are interested in concrete developments. Subsequently, my presentation will be rather practical. Sometimes I like to refer to academics and their scientific approaches, but I will not develop this path during the workshop; nevertheless, if you are interested, we can also have a theoretical discussion after, too.

The MOT has around 70 members, mainly located on the French borders, on the two sides of the border. Our headquarters are located in Paris, but we do not defend the French interests.

Rather, we defend and promote cross-border interests. We have members, mainly local authorities that are French, but also Belgian, Luxemburgish, German, Swiss, Italian and Spanish. Furthermore, we have also a good number of cross-border groupings, like EGTCs and others. The MOT has also the strong support of French national institutions (certain ministries, and Caisse des dépôts, the national promotional bank). What is more, 3 states are members of the MOT: Luxemburg, Monaco and Andorra. The last two mentioned states are really small ones, but for them it is important to be involved in this discussion of cross-border cooperation not only locally. Moreover, we maintain good relations with the EU institutions. We will discuss later our common projects with the Commission, where CESCO is also involved.

Around 40% of the territory of Europe is directly concerned by cross-border cooperation- figure based on the areas eligible to Interreg A programmes. There are 37 cross-border conurbations in Europe. You have 20.000 km of internal EU borders; 1 European from 3 citizens live in border areas and there are 2 million cross-border workers in the EU, i.e. people who cross the border between their house and work more than once a week. 20% of these cross-border workers live in France. This is very specific and is one of the main reasons why cross-border cooperation is really important in France.



Source: MOT – www.espaces-transfrontaliers.eu

For us, cross-border cooperation is first a local issue. In many territories of Europe we can find a city with surroundings, but it is crossed by the border. To a certain extent it's an ordinary city. There is a river which is the border, but there is a bridge on the river, thus people cross the border in order to go to work or go to the hospital. There are cross border flows, trains and other cross border services, giving shape to "cross border territories". But, there is still a border which generates obstacles, and this leads to the second level of cross-border cooperation.

Even if, due to the European integration process, there is free movement between countries, member states are still there; the border is a national institution and in reality we are not without borders. The borders are there and we have to live with them. The basic point is that border territories in each nation state are considered as peripheral areas and this fact is simply evidence. Subsequently, cross-border territories are not always taken into account by national policies with that specificity, even if they are a resource not only for the local authority, for the states as such.

Cross-border cooperation: a multi-level approach

National level



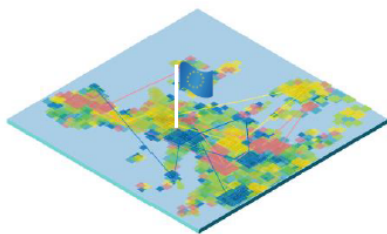
- Peripheral areas
- Areas that are not taken into account by national policies
- Areas where the border is a resource (cross-border workers, common use of equipments...)
- A place of coexistence for two or more systems

Source: MOT – www.espaces-transfrontaliers.eu

The border is not only a physical line, it is really the place, where two or more systems coexist with each other. Moreover, understanding of the reality is done through the conceptions of policies which are framed within national context, so on each border we have to deal with this encounter of different national systems.

And, of course we have the European level which is a facilitator of cross-border cooperation for two reasons. The first reason is that the aim of the European Union is not to destroy the borders, but to open them and to allow free circulation, to facilitate cross-border cooperation and interactions. The second reason is that the EU has developed specific instruments, like Interreg, to facilitate cross border cooperation which is well known by you. Without any doubts, cross-border territories appear as experimental sites of the European construction.

Cross-border cooperation: a multi-level approach European level



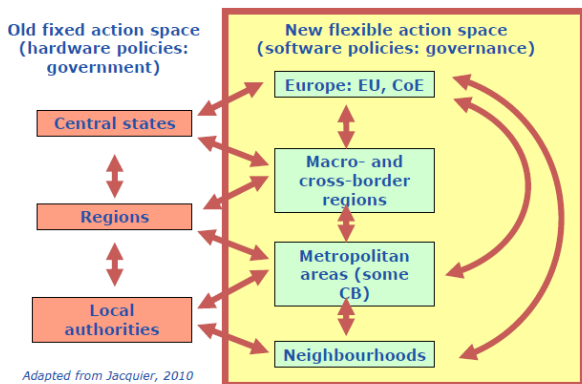
- Experimental sites of European construction
- Specific territories that aren't always taken into account by European policies

Source: MOT – www.espaces-transfrontaliers.eu

From the public policy point of view, there are different duties for the administrations at different levels. It is clear that the local level is on the front line, as these territories have to be managed by local authorities. In the MOT we believe that it is up to the local stakeholders, local administrations and local mayors or politicians to deal with cross-border cooperation and to develop projects. But, you also need to have the national level in order to support cooperation of local and regional stakeholders, to manage cooperation between them in their field of competences because the states keep their competences, notably as regards sovereignty - the police and security. This is still a duty of states. States have to coordinate their activities across the borders, in cooperation with local authorities. And at the European level, policies are not fully “territorially aware” of the

reality of border regions, so there is a need to develop territorial impact assessment of sectoral policies, beyond Interreg funding. The EU has also the responsibility to develop legal tools like EGTC, and networking frames to facilitate exchanges and capitalization about borders all over Europe with programs like Interact and so on.

From government to flexible multi-level governance



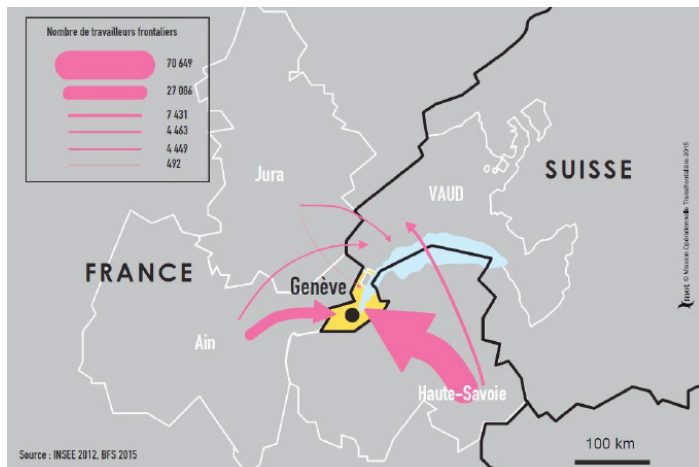
*Source: "Cities of tomorrow: Challenges, visions, ways forward",
European Union – Regional Policy, October 2011*

We have two different territorial orders that coexist with each other in our modern life in Europe. On the left of the schema, you may see the classical, so called Westphalian order with nested governments. All the countries are different and the EU does not make any legislation about the internal organization of the country. States keep the “competence of competence”, as German lawyers say. But basically, you have always municipalities and sometimes intermediate authorities. This is the classical approach what we have been taught. However, on the right of the schema you can see that new things are in move, due to increasing mobility across administrative and sometimes national borders that create “functional territories”,

and are the field of soft governance. For example, there are the metropolitan areas like Budapest, Paris, Geneva as well, and these areas generally go across the administrative borders as the cities grow and the institutions do not follow the reality of life. Sometimes you can make reforms in order to fit the reality better, but you cannot modify the institutions every day, because life is simply changing. Subsequently, you have these metropolitan areas and some tend to be cross-border in their activity. And nobody intends to change national borders, just because of the growth of a city.

At an upper level, you have also some cross-border regions or even some macro-regions. You have been working hard in this part of Europe with the Danube strategy. These regions are relevant to deal with some policy aspects, like the management of a river, of big transport infrastructure, cooperation between cities in economic development and other interactions. These areas are important, but they do not replace the states because nobody intends to change the borders of the states in order to manage a river. And even at the European level, there are institutions which have significant impact and influence, but the European Union as such is often considered as a soft institution. It is not an institution which is similar to regular state structures. It has a variable geometry (Schengen, the Eurozone, etc.), its member states can leave the Union and the Brexit exactly demonstrates this aspect of the European Union. What is important here is not that this new soft approach has replaced the hard and older approach. In fact, both approaches coexist and interact with each other at various moments. Thus, there are always two sides of the coin. I do not want to bring too much theory, but there is a quite interesting academic literature, i.e. Hooghe and Marks, who have been publishing together for more than 10 years about the mentioned two types of governance and the manners of their mutual complement. And, this literature is fully operative about cross-border cooperation, alongside governance of metropolitan areas, and governance of the EU.

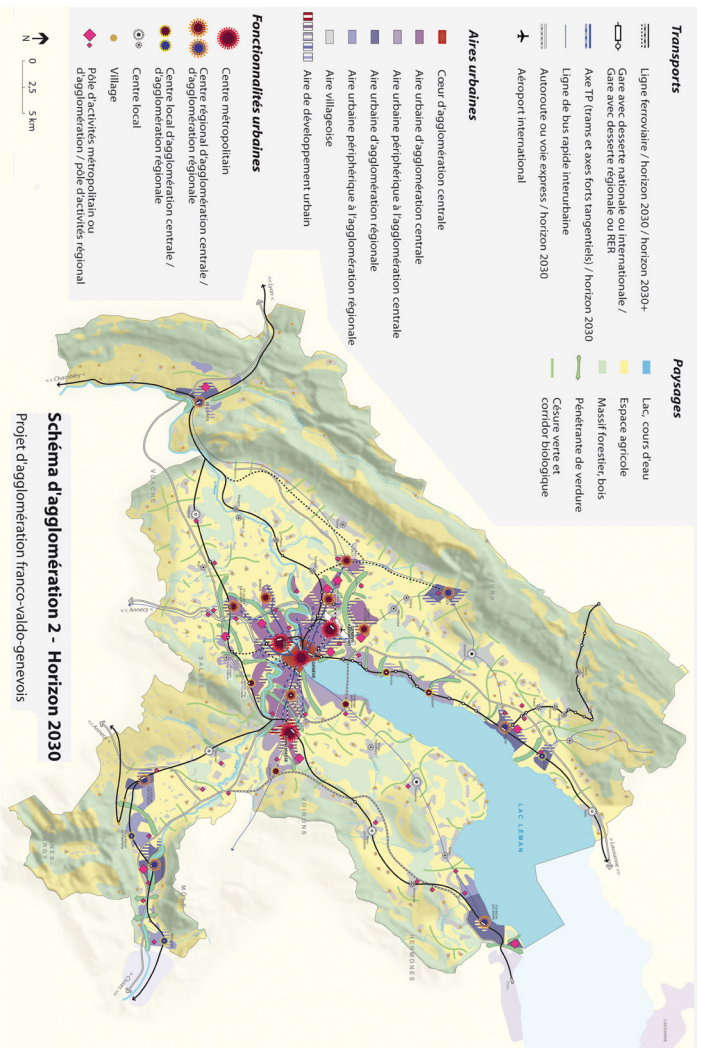
Now, I will try to be more concrete and test my hypothesis. I will speak about a fascinating cross-border territory, which is the Greater Geneva. This territory is located between Switzerland and France.



Source: MOT – www.espaces-transfrontaliers.eu

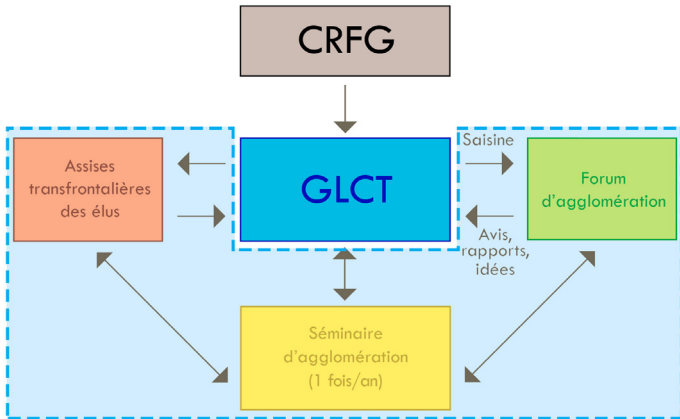
It is just at the end of the lac Léman; just above Genève you have the district of Nyon, which is in the canton of Vaud, another Swiss canton. Nevertheless, this part of the canton is in fact a suburb of Genève. And all the territories in grey are French territories that surround Genève. This border has been designed in 1815 in the Vienna Congress, after the defeat of France. Probably, the border could have been made further away from the centre of Genève, however, this was a Calvinist city and at this time it wanted to stay within religious homogeneity. The border is there and nobody wants to change this border now. Subsequently, there is a need to manage the territory that goes across the national border.

More than 100.000 people move from France to Genève every day in order to work. Many of them are French people, but not all of them. You have also Swiss citizens who live on the French side, which is a classical phenomenon around metropolises, because the city is dense and the surrounding peripheral area with mountains is cheaper and very nice since it is near to the Mount Blanc. So some Swiss people prefer to have a nice house in France and they commute to work every day back to Genève. Consequently, a tremendous flow of people needs to be organized in some way through public transport, because it turns into a nightmare if everybody use their own car.



Source: www.grand-geneve.org/

This huge flow of people has generated significant cooperation with planning exercise and experience. I will not present this planning in details, but here you can see the master plan of the Greater Geneva which has been elaborated by both Swiss and French authorities, with the specificity that regulatory urban planning remains a national competence. However, it does not prevent to coordinate the plans and to implement a cross-border master plan. The most important aspect is that this master plan is successfully implemented and I will give you an example later in my presentation.

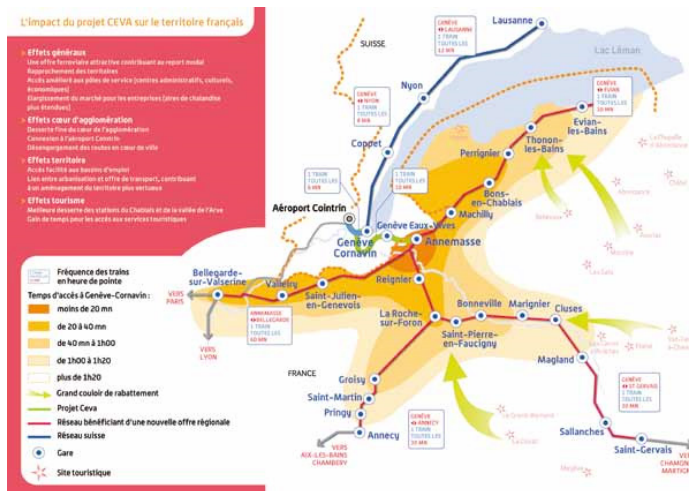


Source: www.grand-geneve.org

Management of cross-border governance also plays a crucial role. The CRFG – Comité régional franco-genevois was established in 1973 between Switzerland and France and between the local authorities that existed at that time - specifically 2 Départements in France, and the canton of Genève in Switzerland. The committee was established because the commuters pay their revenue taxation in Switzerland which is unfair, to a certain extent, to the French side. Thus, the Swiss authorities agreed to refund to France a certain amount on the basis of the number of cross-border workers. This is a quite interesting agreement and it is managed by this binational committee.

On the French side, a decentralisation process was launched in 1982. For instance, the local authorities gained more power in the field of urban planning. Since then, the local authorities make their plans and deal with their public services, etc. So, these local authorities have created together with Swiss authorities a cross-border organization which is the LGCC (Local Grouping of Cross border Cooperation). It is basically like an EGTC. It is a legal tool that existed before the EGTC, according to the Karlsruhe Agreement between France, Switzerland, Germany and Luxembourg, in the framework of the Council of Europe's Madrid Convention. I will come back to that issue later.

What does the LGCC of the Greater Geneva do? First, it has a political assembly that brings together the mayors from the Swiss and French sides; and there is a technical team, but it is important to underline that this is not a big team. It is something like 20 people. Their duty is to make coordination between the 3 sides of the border (France, Genève and Vaud). They manage the Greater Geneva, but when you manage big cities, like Budapest or Lyon, there are thousands of people who work on the management. Here, there are only 20 people. There is also the Agglomeration Forum, which is a sort of economic and social committee involving cross border stakeholders. So the governance for cross-border cooperation is very specific, but it works and it produces projects.



Source: www.grand-geneve.org

Probably, the most fascinating project is the cross border regional train, the “Leman Express”. Historically there is the French railway system and the Swiss railway system, and the train coming from Paris to Genève. But that was all, the 2 systems were not connected with each other. The regional train will be opened at the end of 2019 between the airport of Genève and Annemasse, which is a French city, part of these Genevan suburbs. This is a short railway - 16 km, but it fully connects the two national train systems. In other words, the reality will be a regional express network (230 km and 45 stations), thus making regular relations between the 2 parts of the cross border territory. This development will be very important for the agglomeration and also for the cities which are further away from Genève, like Annecy or Lausanne. They will be directly interconnected and it will lead to a new extension of Greater Geneva.

The French side also intends to develop its own attractiveness, but the metropolis of Geneva, which has a global dimension with international organisations like UNO, is an opportunity for the French side, too. Hence, it is good that there is this connection

between them. If appropriate public policy is implemented, then it can be a win-win game for both sides. Further interesting aspect is the investment that is shared between the two sides of the border, the national levels contribute and even the Swiss federal level contributes, also on the French territory. Subsequently, it mirrors that the whole issue of cooperation is not left solely to the local authorities.

In conclusion of this case of Greater Geneva, I would like to give a theoretical insight. Two French sociologists, Luc Boltanski and Laurent Thévenot¹, have shown that in democratic countries, the coordination of actors is based on 6 registers of justification that they call “cities”: the city market; the industrial (or functional) city; the civic city; the city of opinion; the inspired city; and the domestic city (city based on individual links). These “cities” coexist, they enter into conflicts and compromises. These 6 dimensions exist in each country - with arrangements which are specific to each country; but also at the European level and also within a cross-border territory like Greater Geneva. That means that there is a sort of parallel, which I use as a narrative. Europe, specifically the European Union, has been built first as a common, then as Single market, and an industrial and functional entity (transport networks, etc.). Europe has been progressively built as a civic and political entity (see for example the European Parliament). A Europe of media and a Europe of culture (“moral and spiritual heritage”) are also already there, or they are under construction. Even, people often say it is not enough what you have now, more interpersonal aspects, like Erasmus, should be promoted. It is funny to see the ways how the European Commission tries to communicate about Erasmus, counting the number of marriages that were generated by the Erasmus students. We feel that Europe is something which is connected with human relations.

These 6 dimensions exist also in the cross-border territories. Market of course: cross-border workers and consumers, cross-border territories are also local markets. There is a functional reality, or there

1 Boltanski, L. – Thévenot, L. (1991/2006): *On justification: Economics of worth*. Princeton University Press, Princeton

should be a functional reality of cross-border public services, such as trains, hospitals, etc. There is also a civic reality which is a little bit paradoxical, because civic realities are generally caught in national systems; but cross-border territories want to create a governance, involving the citizens and the elected people. The aim would be to have some kind of cross-border media, it is not obvious, but it certainly would be a progress. Furthermore, we need to have cross-border people to people projects, i.e. to make sure that people meet and know each other. This should be natural, but it requires to be accompanied. In many border areas, there is a withdrawal of the knowledge of the other side. For instance, if you take France and Germany in a region like Alsace, the traditional language was very close to the German language. And you might think that we are in peace now, it is good for the people of Alsace to learn German and so to be able go to Germany, or to Switzerland since there is a German speaking part of Switzerland around Basel, to get jobs or simply to meet other people and the same the other way round. But it is not the case, as the knowledge of the German language by the French is falling down and the reverse in Germany for French is also true. Thus, there is really something to be done, namely support the people to people interaction and also the dimension of culture and communication. If we come back to Geneva, there is no language problem, but there have been populist movements since a couple of years in Switzerland. In 2014, there was a "votation" following a citizen's initiative, a referendum about the limitation of work migration - including cross-border work. And the Swiss people voted against the federal government, so to limit work migration. This is an economic absurdity because Switzerland and its economy need this cross-border workforce, but people voted in the other direction. We cannot change the people, as Bertolt Brecht said, so we have to live with that. Consequently, these issues have being progressively solved now. The Swiss administration has found a way to make modifications in these areas, but without really preventing cross border work. So, this is becoming quieter now. The good news is that the real life goes on, people still cross the border in order to go to their workplace and the technical projects go on, too. In other words, the market city and the functional city are in

better shape than the civic city. You have always a sort of balance between these different dimensions. On the other hand, if there is too much separation between people, in their representations, in the way how they see the world, then problems may easily appear. The cross border civic, inspired, informed and interpersonal cities remain to be built.

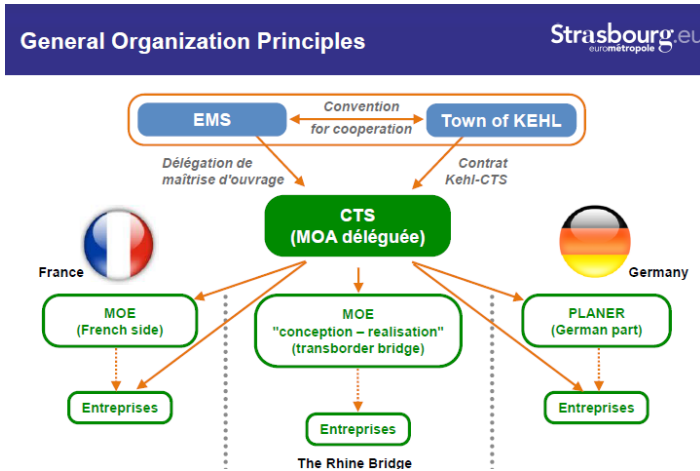
In the French journal “le Monde”, there was an interview with a UK citizen one year after the Brexit. The journalist asked ‘how did you vote and what do you think now about your vote’. The English guy said that he had voted for Brexit. He said that his heart voted for Brexit, his portfolio wanted to vote against Brexit and his head did not know. It is absolutely the same in the cross-border territories. Our representations of life are generally made within national contexts, within our states. The reality can be that we have good reasons to cross the borders, and it is a win-win game. However, you have a conflict between different narratives. There is a need to reconcile personal and collective narratives, today mainly national, across borders and in overall Europe.

Another example which is at the border between France and Germany is a tramline between the French city of Strasbourg and the German city of Kehl, just the other side of the Rhine.

The big German cities are farther from the border. There is a natural expansion of the city of Strasbourg, thus Kehl can be considered as a suburb area of Strasbourg. There were bus connections, but there was no tramway connection between the two cities. Strasbourg has a very efficient city tramway system and the idea was to assure that this tramway crosses the Rhine. It was inaugurated in May 2017. It is not only a transport project, but it is also an urban project, because it was an opportunity to develop new districts on the French bank of the Rhine.

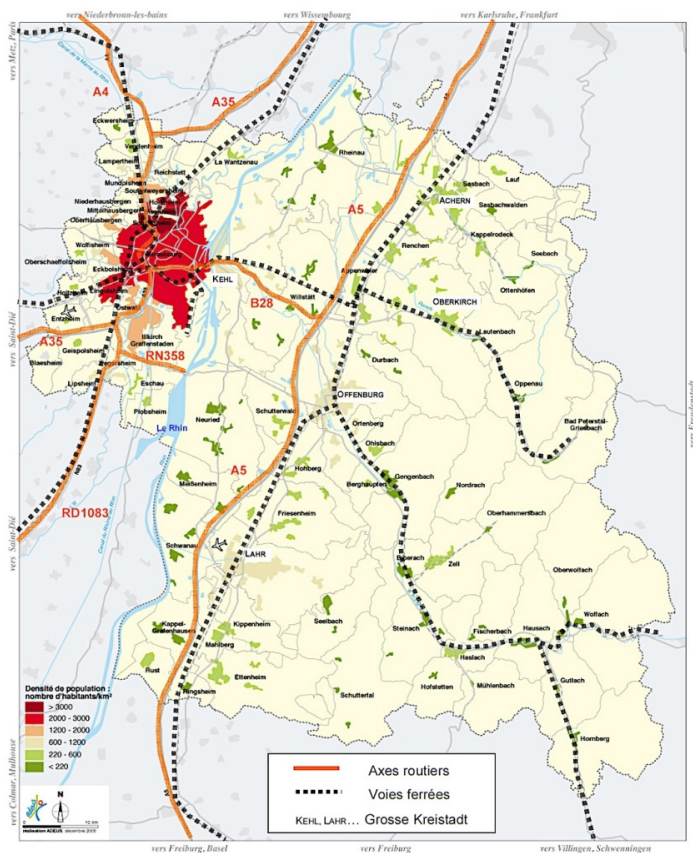
This is the technical organisation and the funding organisation of the tramway project. (which is different from the governance of the agglomeration, based on an EGTC.) You have the two public authorities at the top, it is Eurométropole de Strasbourg (EMS), the local authority in France managing Strasbourg, and it is the city of Kehl in Germany. There is a convention between EMS and Kehl

to organise the cooperation about this project. Then, the problem was who will fund and manage the tramway. It is a French tramway: one of the lines of the tramway crosses the Rhine, but it is a very minor part of the system. The real authority for this project is CTS, *Compagnie des Transport Strasbourgeois* that means Strasbourg Transport Company which manages all the system of transport of Strasbourg. The two sides of the border contracted with this transport company, located in France, with the aim to develop the project. As for the infrastructure, it had 3 subparts: the French part, the German part, and the bridge itself.



Source: Eurométropole de Strasbourg

The funding of the project is also quite interesting. It is a project which cost around 105 million Euros. There were the local authorities, putting some 70 million Euros from the Eurométropole Strasbourg, around 26 million Euros from the city of Kehl. The German side pays a smaller part since the German territory involved in the project is smaller than the French part. And there is additional funding, from the French state, from the Land and also from the Bund, the federal level in Germany. There is 3 million Euro from Interreg. It means only 3 percent of the project are funded by



Source: ADEUS; eurodistrict.eu

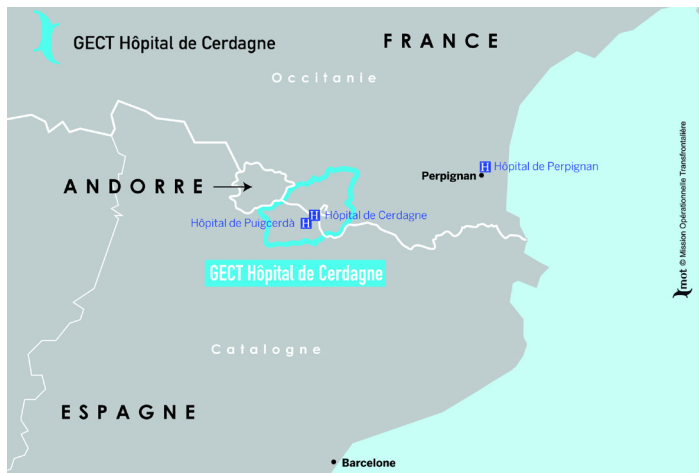
Interreg. The point is that the Interreg program in the area of upper Rhine that has something like 200 million Euros (ERDF + co-financing) for the whole programming period for the whole region. If you would have funded the whole tramway, it would have been one half of the program. So, it is not realistic. People would say, we need more money, more Interreg, and I am not against that, but on the other hand, we have to consider things differently. Interreg has

to facilitate cross border projects, for instance to make the studies. Nevertheless, if we have strategic projects which aim is to co-develop the two sides of the border, then we also need to have national or regional funding, not only Interreg. This may be true in the context of Hungary: you have some money from the regional programmes; in some cases, it could be interesting that part of these regional programmes fund cross-border projects. This topic is important for the future of Interreg. Should Interreg fund the whole projects, or should regional programmes also contribute? This is a real issue.

Different difficulties are met in such a project, like different cultures and/or administrative procedures on the 2 sides of the border. For instance, the public consultation processes are different in France and in Germany, so in that case it was necessary to coordinate the 2 processes. There was also the financial issue, namely who pays for what? They found a solution, not only to fund the infrastructure, but also to define a ticketing system. In Strasbourg, you can pay for one travel, one day, one week for the overall transport system. But, can the German people have access to this? They do not just cross the bridge. The interest is that we can travel in all Strasbourg areas, so they had to find an agreement. They found a way that is acceptable for both parties. The lesson of this project is that it is a success, but basically it took 10-12 years and probably it could have been faster.

There are new ideas, proposed by Luxembourg, to develop a new legal tool – the “European Cross Border Convention” to facilitate such projects, by a sort of local mutual recognition of the norms across the border. I will explain this later.

Third presented example, which is also quite interesting, is the cross-border hospital of Cerdanya. It is located at the border between France and Spain. Cerdanya is a very nice cross border mountainous area near Andorra, a plateau with many tourists in the summer and in winter. Historically, there is no hospital on the French side and there was an old hospital on the Spanish side, which was no longer financially sustainable. Subsequently, the idea was to promote a cross-border hospital between Spain and France with a funding from Interreg. The attempt was successful and the hospital opened in 2014.



Source: Mission Opérationnelle Transfrontalière

The French people previously had to go to Perpignan which is the city on the sea shore that can be reached by car in two hours, hence in case of illness this distance is too much for the patients. Currently, the cross-border hospital allows health care treatment for both the French and Spanish patients. And this works.

The hospital is not only about walls and infrastructure constructions. These were not the most difficult domains of project realisation. The building of the hospital was funded with the help of the Interreg. The hospital is managed by an EGTC, which shows that the EGTC can be utilized for territorial government, but also for management of public services. The hospital itself is located in Puigcerdà, on the Spanish side. The 2 main partners of the project are, the Ministry of Health of the Generalitat of Catalonia for the Spanish side, since Catalonia has the competency of health. For the French side, it is the Government of the French Republic, because health is a national competence in France. (Namely, it is the regional agency of health, which is a national, de-concentrated agency.) This demonstrates that dissymmetry very often appears in the context of cross-border cooperation. The added value of the EGTC is that

it allows to involve local and national members as well. And in that case it was necessary.

The hospital is in Spain and the majority of activities are performed in Spain. The statutes of the EGTC specify that there is a 60/40 share between Spain and France, as well for financing of the investments and functioning. Simply, the cross-border hospital is a French hospital for the French people, and it is a Catalan hospital for the Catalan people.

The investment which was 30 million Euro was funded by Interreg, with a rate of 65 % of the investment. However, a hospital is not only about walls, but it needs nurses, medicines, etc. Hence, assuring the functional part of the health care system was the trickiest part. I will develop this aspect.

Again, I take the 6 dimensions for coordination of actors, the Boltanski and Thévenot approach. In a normal, domestic hospital, you have already these 6 dimensions. A hospital is something functional, it needs technical and administrative arrangements, because it is about health care, you need to define the procedures of health care, use of machines, protocols, etc.

Moreover, a hospital is an economic thing. That means: costs of health care have to be covered. The question is the following, who will pay the costs? Will it be the market, public system or a combination of both? Furthermore, there is also a civic dimension of the hospital, i.e. local and regional politicians have their say in the issues of the hospital: notably its location. These domains are the basic issues that are needed to be solved.

You have also other issues that relate to the hospital, like the dimension of information and opinion. There are different opinions about health, like how should we cure, should we make this care or not, etc. Besides of these, interpersonal matters also appear as important aspect. It is also a relationship between nurses, doctors and patients. In each country you have a national medical order which is a sort of confraternity, with the Hippocratic Oath, this very old Greek vow, where the doctors promise to cure the people. All these different spheres (functional, economic, civic, opinion, cultural, interpersonal) coexist in a hospital. The life of a hospital

is based on the coexistence of these different spheres, the conflicts and the compromises between them.

Health is priceless, but not costless, so we have to take decisions. What do we do? For example, how long will we maintain artificially the care of a very old person? There are trade-offs between economic and functional considerations on one side, and interpersonal and civic considerations on the other side. Another question is can we keep the local hospital or should we suppress the hospital and ask the people to travel 20 km away to go to a more efficient hospital? You have economic versus civic, interpersonal and ethical issues. In a domestic hospital, there is the national framework that shapes the decision process. For the economic versus functional discussion, you have a national social security system: the national administration decides which health care interventions can be made; it will be reimbursed this amount, no more, no less. Moreover, there is a health spatial planning, which gives shape to the discussion whether to keep this hospital or to merge two hospitals into one hospital. These questions are decided in a national framework. Some people complain, but decisions are taken, and they are legitimate. A national ethic committee exists that gives rules about how to decide for expensive caring in case when the treated person is not conscious, etc. These discussions exist in every country, and they are not easy questions, but there is a frame, where these discussions take place.

If there is a cross-border hospital then suddenly there are 2 systems. In France, the social security system is Bismarckian: it is not a state system. Decisions are taken by the representatives of the employers and employees. In Spain, it is the Beveridgian system, the English system, thus it is more a state system. Subsequently, the 2 systems coexist. It does not mean that the issues are different, because the cross-border hospital has to deal with the same issues of life and death, which are common to the whole humanity. The main difference is that there is a need to build a third frame, a cross-border frame instead of the two national frames. In the case of the Cerdanya hospital, some issues are already solved, but some issues have not been solved, yet. For instance, the doctors have to pay fee to their national professional order, and there is a big difference between the fees in France and in Spain, which is not

fair. Functional decisions have to be taken: what are the norms of the caring, how the diploma should be acknowledged on the other side of the border? In this case, the question of acknowledgment has been basically solved by empirical decisions, admitting that the French nurses can be acknowledged within the Catalan health system. This question is not solved at the European level, thus there is a need to make decision on how to acknowledge diplomas and certifications on the other side.

There are the civic issues, e.g. can the police perform an inquiry after a traffic accident on the other side of the border? To be more specific, if there is a car accident in France when the patients are taken into the hospital, can the French police go to the hospital to interview the people? At the moment, there is no possibility to do that, since this issue is unsolved.

Further question is that of economic wages. How much the workers are going to be paid? There are people who work permanently in the hospital, so they are hired by the EGTC, but there are also the doctors from the French side who work only for two days in the hospital. The solution is empirical. Why? Because the economies of the two sides are different, hence there is no ideal solution. Furthermore, there was the question of lunch break. The lunch break is different in Spain and in France. In France, people eat generally at noon or at 1 PM, but in the hospital it is usually 11:30. In Spain, people eat quite late, around 1:30 PM. So they had to decide. Subsequently, a middle ground was found between the two habits and they decided that the lunch break will be at 12:30, which is a reasonable solution. However, this was not the most difficult issue to solve.

There are further problems linked with individuals, e.g. to declare the birth when you have a French baby born in Spain. The general rule for a baby born abroad is that you have to go to the closest Consulate. But the Consulate of France is in Barcelona. So, they had to find a system which allows that the declaration can be done in the hospital. Moreover, there was also a problem with the dead people. The general rule for people dying abroad is that the dead body needs to be taken across the border within a sealed coffin, which is more expensive. It took several years to reach an agreement saying that

for every person who dies in France or in Spain and he/she is a citizen of the other country, there is no need of a sealed coffin. Miracle! In that case the hospital has provoked a general bilateral agreement valid for the two countries and not only for the case of the hospital. It really shows that such cross-border public services are real “laboratories”, machines to solve obstacles. Here it works, because the patients want to live, the doctors want to cure and there is a team which cooperates. Cooperation is heavily based on human factor and willingness.

The EU has helped, Interreg has funded, but the transaction costs have been heavy. It took more than 10 years, and it was very difficult. There are still grey areas concerning the legal security of certain arrangements. This is where we think that the new tool proposed by Luxembourg should be considered, I will come back to this.

Most probably, the national health systems will go on and we will not have a fully European interoperable health system soon, thus the basic aim is not to harmonize, but to coordinate the national health systems and to bridge them across on the borders.

Now, I move to the new paradigm of cross-border cooperation. We have something interesting in the Treaty of Lisbon, which is the issue of territorial cohesion. The article 174 says that cross-border regions are areas of interest where we want to realize territorial cohesion. The framework is clear, Europe is a single market and it supports the freedom of movement, but Europe also aims to achieve cohesion, meaning public intervention for the solidarity and cooperation.

Something happened in 2015. It was the 25th birthday of Interreg. The Commission launched the cross-border review. There were big European consultation and studies, CESC and MOT were involved as stakeholders. The Commission published a communication with proposals of new policies at the EU, national and local level. Another thing happened in 2015, there was the Luxembourg Presidency of the Council and Luxembourg put the cross-border question at the top of its priorities. Cross-border cooperation was discussed in the General Affairs Council, gathering the Ministers in charge of European Affairs, and it does not happen every day. I think it

was even the first time. Moreover, there was a ministerial meeting on territorial cohesion which discussed cross-border cooperation, where Luxembourg made a proposal for a new tool. They launched a working group about innovative solutions towards cross-border obstacles. This working group has met several times, and it has gathered ten to twelve countries, including France, Hungary, etc., and the EU institutions. Participation in this working group is based on a voluntary basis. AEBR, CESCO, MOT are present as stakeholders, and we produced a report that is available on the website of MOT, who keeps the secretariat of the group. This working group made 2 things, a review of obstacles and solutions was made, and we developed two new ideas.

First, let us say few words about the Commission Consultation. So, the Commission asked people what are the obstacles on the borders? The following results were found: the first category of obstacles is linked with legal and administrative dimensions. It was not a surprise. The second dimension of obstacles is generated by different languages and cultures. It was a surprise neither for you nor for us, but it was a surprise for the Commission. The Commission works in strong English-speaking environment and they think that everybody can speak English. However, people expressed that the best way for cross-border cooperation is to speak the language of the neighbour. The third dimension is the issue of physical access. Once again, this was not a surprise. Some borders are indeed very tough.

Now, I move to the work of the working group and to the process of obstacle mapping. This issue is not new. The Council of Europe has been working hard on these topics. There was a consultation, around 2010. All the countries of the Council of Europe were asked to list obstacles and solutions. And this led to a very good analysis, which can be found on the website of the Council of Europe and of the ISIG institute, based in Gorizia, at the border between Italy and Slovenia. CESCO and MOT have been working with these topics, too. If you want to build a typology of cross-border obstacles, you can identify different borders and different geographical areas, mountains, cross-border agglomerations, etc. There are also different levels of solutions, i.e. some obstacles have to be solved locally and some obstacles require national or even European intervention.

Moreover, obstacles are linked with certain sectorial policies, like employment, transport, etc. ISIG also identified what they call the nature of obstacles. They identified 6 types of obstacles which are the following ones: technical and administrative obstacles, legal and institutional obstacles, economic obstacles, cultural obstacles, obstacles linked with lack of knowledge, and obstacles linked with lack of propensity to cooperate. I like this because it simply fits with the 6 categories issued from the two French sociologists, Boltanski and Thévenot. These 6 categories of obstacles more or less correspond to functional, civic, market, inspired, opinion and interpersonal dimensions. Typologies are never perfect, but it really shows, that when we make public policies, we are very much (and it is normal) in the topic of institutions, legislation, technical rules, political discussion or market. We are less aware about the other dimensions that are the culture, the shared information, or simply the relations between people. And if you miss these dimensions, things will not work either at European or at local level.

Emmanuel Brunet-Jailly is one of the leading academics dealing with the issue of the borders. He lives in Canada, and he elaborated a general theory of borders. He works mainly in English language, where there are several words which describe the border itself, like border, frontier and boundary. He recalls that 'boundary' is linked with 'bind'. And, boundaries bind nation-states. It is very important to understand that. Before being a limit with the other country, boundary is something that is directed inwards, a thing that binds a country. It is the national system that frames our daily life and also the way how we think. Boltanski says that states do not only have the monopole of violence – as Max Weber said, but also the monopole of evidence. The problem is not so much that we do not like our neighbours. We like the neighbours very often, but our attention concentrates on our fellow citizens.

Basically, the working group elaborated on 3 big categories of obstacles leading to 3 categories of public policies. One category of obstacles is linked with economic costs, supposed to be addressed by financial support, like Interreg. Obstacles linked with institutional dimension can be solved for example through the instrument of

EGTC. Administrative and legal obstacles are category of obstacles for which there is no specific European tool at the moment.

Now, I will present these 3 categories and go through tools providing institutional solutions, e.g. EGTCs and others. Then, I will move to tools which provide legal and administrative solutions. And, then I will speak about financial solutions, because there is also something to tell about the future of Interreg.

I will address first the classical legal theory of cross-border governance. In the so-called Westphalian order, cross-border cooperation is basically a form of relations between the neighbours that are developed by local authorities and local groupings on both sides of the border. That means it is a method how local actors exercise their competences within the national systems, and it definitely does not provide new competences to the local authorities. This is very important. The fact that you cooperate does not give you any new competences, but it is a possibility to jointly exercise your competences. It is based on volunteering and of course it is not compulsory. Local authorities and their groupings cooperate in their common areas and cooperation respects national legislation. Local partners do not have regulatory functions which remain at the state level.

How can local authorities and groupings formalise their cooperation? There are different ways to do that. They can make a convention which is the ordinary process. That means it is not always necessary to establish an EGTC. Nevertheless, in some cases there is a need to make legal structures with legal personality and this is when EGTCs are formed. In other cases, other legal frameworks might be applied, like associations or EEIG, European Economic Interest Grouping. There are also bilateral agreements signed by neighbouring states that create a certain form of cooperation, and you have also the internal law of local authorities in every country that can describe such tools. In any case, these structures have to use the law of the country, where their seat is located. It is important to underline that local authorities cannot go beyond their internal competences and prerogatives.

Before the EGTC, there was the Madrid Outline Convention, a convention of the Council of Europe. It gives a general framework to define bilateral or multilateral agreements concerning cross border cooperation. For instance, we have as many agreements as neighbouring countries in France. We have an agreement between France and Belgium; an agreement which is multilateral with Luxemburg, Germany, and Switzerland, which is the Karlsruhe Agreement. There is an agreement with Italy, and one with Spain. All these agreements existed before the formulation of the EGTC by the European Union.

There was the LGCC in the Karlsruhe Agreement, the Consorcio between France and Spain, etc. If you take French borders, the different cross-border territories and the different equipment have taken this or that legal form. That means there is a toolbox. For instance let's consider the cross-border Chamber of Commerce between France and Spain in Pays Basque. The French Chambers of Commerce are public entities, but they are private in Spain, and in that case they used the EEIG, the EU legal tool for cooperation between private entities, because they could not use the EGTC. In some cases, the EGTC is used and other forms are used in other cases.

I am going to tell some words about EGTCs, since I think it is a cross-border tool that interests you. EGTC can have an annual budget, voted by an assembly. It can apply for Interreg subsidies, but it is not necessarily linked with Interreg. It can employ staff, for example, as I explained in the case of cross-border hospital, there is the permanent staff of the EGTC. Moreover, the EGTC can enter into contracts in order to acquire goods and services, thus it can be considered as a very good tool of cross-border interaction. The members can be local authorities, their groupings or even states. More widely, it can be any legal person that applies the rules of public procurement; that means public authorities, not only strictly national or regional authorities, and can be also associations of these authorities and non-EU legal entities under certain conditions. For example, it is possible to have an EGTC with Switzerland now in France. The EGTC can manage cross-border cooperation programmes and projects with or without European funding. Each

member state is competent to define the EGTC system, to interpret the regulation, to define the EGTC liability system and to authorize the establishment of EGTC or to suggest any changes. It is really a possibility for national governments to control that the local authorities do not do things that are not allowed to do and which go beyond their competences.

There are two EGTC champions in Europe, one is Hungary and another one is France. In France, we favour public approach of public services, and we think that such public services require some institutional building; the first EGTC was decided by Pierre Mauroy, who was a former Prime Minister. He was a great politician, who made decentralisation in France and he was also very much European. As Mayor of Lille, he wanted to establish the first EGTC in order to govern the metropolis of Lille with Kortrijk and Tournai in Belgium. His political view was that cross borders territories require public governance, based on the common commitment of politicians on both sides of the border, working with a public cross-border team to manage the territory. On other European borders, you have more private or soft arrangements. It does not mean that cooperation is bad, but it reflects different traditions.

I would like to mention a nice project that we had with Hungary. It was the moment when we met Gyula and then it led to the creation of CESCO. The project was about the governance of transfrontier conurbations (so the acronym was EGTC), within the URBACT programme. The lessons of this project was that you need to develop these cross-border conurbations, both political commitment and technical work, but you also need to give a space for the population, thus connecting the leaders and the citizens and to develop a sense of cross-border community. It is once again those 6 dimensions and you cannot leave them only to the politicians or to the technicians.

Now, I move to legal and administrative obstacles and to solutions that consist in coordination of public policies regarding the borders, which necessarily involve states at the national level.

On the French-Belgian border, there has been a good example of such a coordination, involving local, as well national authorities on the 3 sides of the border (France; Wallonia and Flanders for Belgium), supported by MOT. You, with CESCO, did interesting things in the domain of obstacles around Hungary. You cannot just leave it to the local authorities. You need to involve national administrations, too.

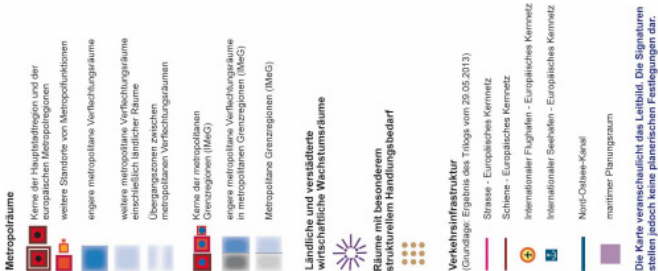
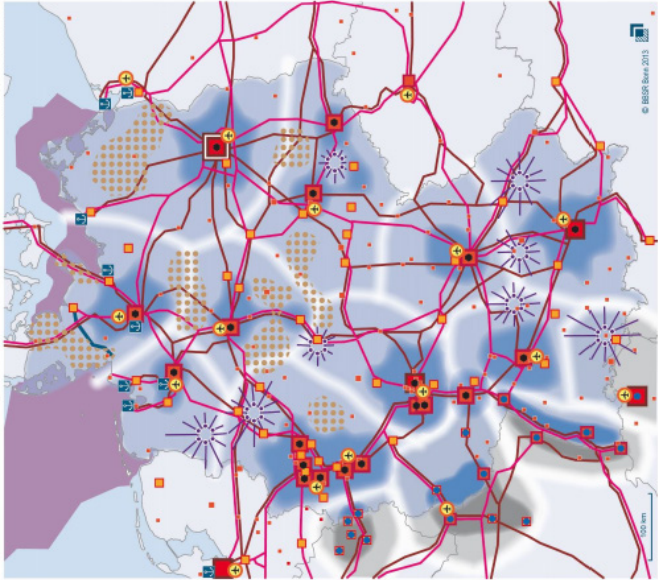
A good example is what Germany does. Germany is a federal country, so the Länder and the local authorities are even more in charge of the cross-border cooperation than the local authorities in France. On the other hand, the federal level also actively works on cross-border cooperation. At first, they have worked on the so called polycentric metropolitan regions. Within Germany, some of them cross the borders of the Länder, for example in the case of Hamburg. Hamburg is a big city, but its functional urban region covers 3 Länder, and they do not want to change the borders of the Länder. At the federal level, they have launched “MORO” projects, on the basis of call for projects, with the federal technical office, the BBSR, providing assistance. It helped to improve the governance of metropolitan regions around Hamburg or Mannheim. The second step was to make it within the cross-border context, with a new call for projects, where CB regions, like Euroregion Maas-Rhine involving Belgium and the Netherlands, Greater region involving Belgium, Luxembourg and France, Upper Rhine with France and Switzerland, and so on.

It also led to a map included in a federal plan which is in fact co-decided by the Bund and the Länder in Germany. And this plan acknowledges the reality of cross-border metropolitan regions. It is interesting to see a federal government that acknowledges such a reality.

Furthermore, Germany also has a pilot project with Poland, aiming at cross border planning for the Brandenburg in Germany and the Polish border regions. Again, this is a commitment of the Bund, the federal level. It shows that even in a country which is fully aware of subsidiarity feels the need to act at national level.

Wettbewerbsfähigkeit stärken

Entwurf 20.08.2013



Source : BBSR (Federal Institute for Research on Building, Urban Affairs and Spatial Development), Germany

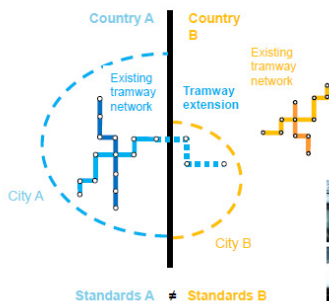
I finally move to the third category of obstacles and answer about the funding of cross border cooperation and support tools, like Interreg. I do not insist, as you know Interreg. I just want to mention a quite promising approach, the ITI (Integrated Territorial Investment). Why is it a promising approach? Because it allows reconciliation of a territorial, integrated approach with sectorial approaches, basically the Europe 2020 objectives with these big vertical priorities, like low-carbon, employment, education, etc. Theoretically, the ITI is a good tool, but it has not been fully implemented at the moment. Subsequently, we need to think about better implementation of the regulation in the future.

Now, I propose to have a look into the future, keeping in mind my 6 dimensions of cohesion and obstacles. What do we want for the future of cooperation? We want market cross-border regions, we want to help cross-border workers, consumers, SMEs, etc. We want functional cross-border regions with cross-border public services, strategies and planning vision of territories. Moreover, we want civic cross-border regions with political leaders and citizens who are engaged in a common development. However, we need the other dimensions of cooperation, too. We need informed cross-border regions, with cross-border media, democracy within cross-border context, knowledge of the territory, cross-border maps; tools such as the Euro-Institute between France and Germany in Kehl. There is a network of Euro-institutes at the European level. CESCO is also working with them and you are entering into the club.

Furthermore, cross-border regions need also to be human. There is a need for people to people projects. These can go through micro-projects. We need to have people on board. And we also need what I call inspired cross-border regions and this is probably the most difficult. Common visions are achievable, but you often have to cure the “scars of history” that are linked with borders, for instance through cross-border education projects. For example, Presidents Chirac and Schröder decided in 2003, on the occasion of the 40th anniversary of Élysée Treaty (reconciliation between France and Germany) to realise a common history book for schools, and now the book exists. The main aim is to contribute to a common understanding of history, while respecting approaches that may differ on the other side of the border and try to progress in common areas. Interreg has to support also such projects.



Example of ECBC in extending a tramway line



→ Need to extend a tramway line across the border; different standards applying
 Suggestion to apply standards of country A in country B only for this specific cross-border line
 Adaptation of standards to respect local specificity



Source: MOT – www.espaces-transfrontaliers.eu

I end my presentation with the idea of a new legal tool proposed by Luxembourg. It is inspired by the real case of the cross-border tramway between France and Germany. The tramway now exists and it works, but it would have been possible to save time and money. The idea of the ECBC, the European Cross-Border Convention, the proposal made by Luxembourg, would facilitate CB projects, like this tramway, with the EU legislation that could allow local partners to propose a technical solution to the two countries concerned. The two countries can say yes or no, eventually propose other solutions, but they have to explain the reason of their position. Basically the question is the following, was it really necessary to modify the French tramway, just crossing the river and running only for 2 km in Germany, and to add some technical devices in order to conform to the German legislation? The German people could survive on the French tramway of Strasbourg, it is not dangerous. It would be a sort of local mutual recognition in technical issues.

You know that mutual recognition already exists in case of goods, such as food. That means we are confident that the goods from other member states are safe, e.g. when we buy a German cheese or a Hungarian wine. Thus, similar logic could be installed in the issue of cross border public services. Unfortunately, this kind of trust and agreement do not exist at the moment. It would be a sort of fast track

process that could allow local authorities to propose solutions and national authorities can express their agreement or denial, and the EU would monitor the whole system. The communication, which will be published on September 20th, 2017 by the Commission, will say that it will consider the Luxembourg proposal positively.

You have to act on each border, but you can exchange also between borders. You have to act at the level of governments, i.e. in Budapest, in Paris, in Berlin, and there is a need to bring the ministries on board. Furthermore, there is something to be done either in Brussels with the Commission and the Parliament or in the intergovernmental process. It is good to have the working group, because we have there different states that want to work together on the cross-border issue.

The second, which is in the working group report, is to create a platform at the European level that would coordinate all the organisations which work in order to facilitate cross border cooperation, like CESCO, MOT, diverse organisations in other parts of Europe, and the AEBR (Association of European Border Regions) which is a sort of umbrella for all of our organisations. We could act together, exchange information and create a sort of common database serving cross-border stakeholders.

