Can EU cross-border governance be democratic? Some theoretical thoughts on citizen´s participation in the European Union

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Introduction to the research interest: The paradigm of democratizing the EU is over, or, let´s democratize it where it makes sense

"Quo vadis Europe?" This inflationary used question can be spotted anywhere in the media articulated by scientists, experts and practitioners. Recently, it has even been raised by the head of the EU – the president of the European Commission Jean-Claude Juncker – when he introduced the White Paper on the Future of Europe. The five scenarios expressed in this document are symbolic for the way of uncertainty that the European political project is facing. They represent the entire range of partially contradictory reform proposals that were formulated by high-level decision-makers on national or supranational level[1] as well as academics and EU scholars. In general, they reveal the renunciation of the long-standing riddle how to democratize a transnational polity of the EU towards a conceptual re-articulation and re-definition of the EU identity and general structure. It seems that both scholars as well as practitioners comprehended that transnational polity and democracy (in a nation-state ideal) are not suitable. The EU as such is to hesitant, inefficient and trapped in the multilevel governance pitfall that impedes agency. To democratize the EU is to slow it down, to make it even more incapable of acting as critics say.

Indeed, to democratize the EU is like to find a needle in a haystack. Re-nationalization of the already enclosed public sphere of 28 or soon 27 member states, no common European culture or identity, no European mass media received by the majority of the European population and incomprehensible and opaque decision-making in Brussels and Strasbourg. Also the European Citizens´ Initiative (ECI) and the EP election 2014 where firstly heads of the parties were nominated to personalize the election did not lead to the expected outcome. Democracy in the European Union on supranational level, hence, can be considered as challenging and highly contested. The democratic

deficit is one of the symptoms that the EU is suffering from.[2]

It is where the people live together and get in contact with each other on a daily basis where the idea of European identity and politics can be argued, bargained, decided and implemented with the voice and vote of the people. It is the geographical and personal proximity that mobilizes the people to think, discuss and engage in politics. European politics that should tackle the regions, the citizens and also consider the regional peculiarities can only be developed and implemented on subnational and not on supranational level. The closer the territorial layer is to the citizens, the more it is likely that people can be mobilized in their respective communities. Nevertheless, to democratize the regions doesn´t lead immediately to more European legitimacy and international cooperation but may result in regionalism and hole up in the own environment, therefore the European and international dimension is still important to bear in mind. Inner-European border regions have been labelled as a micro-laboratory of European integration[3] as they inhabit 30% of the population that covers a territory of 40% of the population[4] within the European Union. The European Union has fostered European cross-border cooperation with the financial instrument INTERREG and the legal form of the European Grouping of Territorial Cooperation (EGTC) and therefore, lay the foundation for a bottom-up framework to create Europe from below and to implement the ideas conceptualized on subnational level by the use of the structural funds. The cross-border policy priority elaboration funded by the INTERREG funds shall be decided in each Inner-European border region by the population as they are the ones benefitting from and concerned of the policies adopted.

As a consequence, several forms of public and civil forums mushroomed in the already more than 150 Euroregions[5] from open consultations to citizen´s councils. If we focus on these forums, we see that only choices may be done that are prescribed and implemented by the public administrations in these territorial arenas. The development of cross-border policies does not leave a great leeway for creating own ideas and policies to develop an own regional policy

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[1] The EU White Book on the Future of Europe by presented by the president of the European Commission Jean-Claude Juncker has been introduced in March 2017. Other proposals to reform the EU have been articulated e.g. by Guy Verhofstadt, Leader of the Alliance of Liberals and Democrats for Europe Group and Member of the European Parliament. Also in the post-Brexit phase some nation-state leaders were claiming a reform of the European Union, e.g. the Polish government.

[2] See Blatter; Schmid, Blättler 2016.
[3] See Jańczak 2014:14, Ulrich 2016:157.
[4] See Ulrich 2015:199.
[5] See Svensson 2013:409.

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within the region considering local peculiarities. Nevertheless, Euroregions or other territorial entities try to bind in the local population within the cross-border region in political will formation and public consultation. Local residents shall be heard in the implementation process and the development of such policies should be more transparent with these decisions. Considering open, transparent and inclusive patterns of governance arrangements may result in a higher input legitimacy of EU governance and a justification of EU politics in a cross-border subnational context. Nevertheless, a general trend has been identified that less and less people are attracted to go to such events. Information and consultation forums are losing the citizens. But why is the local population not really interested in politics and projects that they are benefitting from? And how could EU cross-border governance be constructed more open and democratic? The article tries to address these questions by giving some thoughts on the current and popular topic: How can we democratize the EU and EU decision-making, especially on the cross-border regional level? The article, in a next step, will reveal that the supranational level is lacking the pre-conditions for an amplified democratization that reaches the majority of the European citizens. It will be emphasized that the subnational and especially the cross-border regional or local dimension is the place of interaction within the European Union and where the people are coming together. As the EU system is described as a governance system in a multilevel polity, the next step is to identify forms to open-up governance arrangements for different types of actors. In a final step, the participatory governance approach and analytical concept will be combined with an analytical research model developed by Alice Engl for the analysis of European Groupings of Territorial Cooperation (EGTC) which is a new EU legal form of EU cross-border governance.

I. EU in cross-examination: Where can democratic patterns in the multilevel governance system be found

The question regarding transnational democracy in the EU that inevitably arises is: How to solve the dilemma of democratizing the European Union, its institutions, its decision-making and on which administrative level in which territorial and/or geographical scope? The question is difficult to answer as some policies, initiatives, projects, conceptions or ideas in white books or MoU´s already exist, some are in the beginning and some need to be conceptualized. Hence, in the following these measures will be introduced focusing on existing strategies and initiatives in the *polity* (structures or institutions), *politics* (decision-making apparatus and procedures) and *policies* (policy fields and contents of politics) that exist in the multilevel system of the European Union – especially the supranational and subnational level.

1. Polity

Polity describes structures, actors and institutions and, hence, represents the institutional order within the European Union. First of all, the EU can be considered as a political system *sui generis* that is labelled as a multilevel governance system. Multilevel Governance (MLG), hence, can be understood as "variable combinations of governments on multiple layers of authority – European, national and subnational – form policy networks for collaboration. The relations are

characterized by mutual interdependence on each other´s resources, not by competition for scarce resources".[6] MLG is, therefore, implemented on a vertical (supranational, national and subnational) and horizontal (administrations, economic sector, NGO´s, civil society organizations) dimension in the multilevel EU polity. Concerning cross-border cooperation, there is also a cross-border dimension of governance that is mostly linked to diagonal forms of governance arrangements across national borders (different territorial in both nation-states that are cooperating).
On a supranational level, the institutional triangle of the EU represents different forms of interest. While the Commission as the "guardian of the treaties" represents the interests of the EU and the Council of ministers the national interests, the European Parliament is the body for the European citizens. This is the organ where more than 500 Million Europeans are represented. As the national elections for the EP also resulted in nationalist party delegates mandated to the EP it shows that the whole spectrum of opinions and national parties are represented in the EP. With the Lisbon Treaty the EP has been strengthened for example regarding budgetary rights but in the same time the treaty provisions have strengthened the national competences in the Council of Ministers which result in a zero-sum-game in terms of democratization.
Another EU institutional body although just with a consulting function is the Committee of the Regions (CoR). *The subnational level* – which are the regions - of the European Union is represented here. As mentioned before the CoR is not part of the EU legislation but needs to be consulted for any directive or regulation that the EU is trying to implement. Another subnational structural principle is the principle of subsidiarity which ensures competence allocation to subnational administrative units in the implementation and execution of implementing acts. These measures reveal that the EU offers potentials for regional mobilization and participation in the EU decision-making process.

2. Politics

Politics describe the procedural part of EU governance. It comprises the decisions and initiatives applied by the EU multilevel polity. We can here examine which initiatives and processes within the EU structures are likely to include the civil society in EU governance. First, after presenting the institutional triangle of the EU, we can disclose where the EU citizens may vote or have a voice. As mentioned before the Commission represents the interest of the EU, its staff is independent of national or party preferences and only represents the interests of the EU. Only the President of the Commission may indirectly be appointed by the EP and therefore, can be installed in consideration of the results of the European elections. As the Parliament may propose a candidate for the Commission president, it is the only issue of Commission´s personal that can be indirectly decided by the EU population. Regarding the Council of Ministers, it not only represents the national interests in the EU decision-making but also the institutional members are cut off European decisions but are elected on national level. Thus, the national population is here deciding their national leaders that are then active on supranational level and making decisions on European level. For the elections on European level

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[6] Hooghe 1996:18.

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that are carried out every five years, also national election system is relevant for the implementation of elections and the selected national mandates for the EP. Ever since, there are no EU wide political parties but separate national parties with their own political agendas that are trying to find coalition after the accession to the EP. Since the elections in 2014, for the first time, heads of parties have been presented to obtain some kind of transnational political identity. Nonetheless, the low voter participation, especially in the new EU member states, has left the political elites devastated.

After the institutional perspective of citizen´s participation, now the focus shall be put on the bottom-up policy-making potentials. With the introduction of the Treaty of Lisbon, the European Citizens´ Initiative (ECI) has been introduced. It entered into force with the approach that any citizen may initiate a proposal and convince over 1 Mio people of at least one quarter of all EU member states (recently 7) to sign it and to hand it in to the European Commission which – in a next step – needs to deal with it. The initiative on a first glance sounds promising. In practice, the success rate of the ECI is really low[7] and the ECI has made a "faltering start with a high failure rate either because the initiative was rejected at the outset by the Commission as being outside its legal competence or because the organizers had insufficient resources to collect the necessary signatures".[8]

Another forms of bottom-up may be responses to national proposals (white books, declarations) within polls and surveys. The examples of the EU white books on "European governance" and the "Future of Europe" show the impetus of the European Union to propose some possibilities how the EU can be designed in the future in terms of governance, democracy or the future form of integration. To include the European citizens, polls and surveys are installed on the webpages of the European Union that try to obtain a public impression of the EU citizens. Hence, as there is no European public sphere these polls and surveys are not widely known and are just used by those who are already working with the EU or that are really informed or interested in EU politics. Also the results show that mostly only a few hundreds or thousands participated in these polls. On the subnational level, nevertheless, regional policies that are financed from the EU Structural funds (ERDF) are implemented in some areas with the help of public opinion via consultations or surveys. As every region in the EU is unique and is composed by a different set of actors, institutions, competences, territorial organization and historical, cultural, social and political preconditions the elaboration of the operational programmes with its priority axis of the operational programmes is managed differently in each region. As some studies and reports show the regions are keen and willing to integrate the local population somehow in the negotiation process of the regions with the Commission or the national layer. The same can be witnessed in the border regions where INTERREG funds are elaborated that way.

3. Policy

Policy is the content-related part of EU governance. Policy also refers to the political sectors of the

European Union. The different policy fields of the European Union are also institutionalized in supranational level in the Commission´s General directorates ("directorate generals"-DG) that are representing and agencies for the sectoral implementation of the policy fields f.e. environment, regional policy, transport etc. These DG´s as well as the Commission try to involve the European citizens by enabling them to participate in polls and survyes etc. One example is the DG Science and Research that opened a public stakeholder consultation for an "interim evaluation of Horizon 2020" until January 2017. The results are being to a certain extend incorporated and considered in the 9th Research and Innovation Framework Programme. In this poll, indeed, few citizens have been awaited to participate but research and innovation institutions, universities, research institutes, research entrepreneurs, academics and politicians have been addressed. Also here results have shown that these initiatives are not at such high demand as if it represents the whole EU-wide citizenship. Concerning EU Regional Policy, the content-related dimension of politics is here comparably high. As Regional Policy encompasses the social, economic and territorial cooperation mostly on the regional layer it is highly relevant for the citizens. The same occurs with the cross-border cooperation within the European Union. Therefore, as it is highly relevant for the citizens, these are the ones that should be participating to define their territories policies. The arena of cross-border governance at Inner-European border regions is the point where governance shall be opened up as it offers both international-supraregional European cooperation and the proximity to the citizens.

II.   Cross-border cooperation and democracy: Contradiction or mutual impregnation?

Cross-border cooperation at Inner-European borders has been praised by practitioners and scientists over the last 25 years as a driving force of the European integration process. To eliminate bottlenecks in the transport connections to bridge the gaps of the peripherical nation-state regions within the common European single market, these functional measures have been offered by the supranational EU layer and gratefully accepted by the subnational level. Also the nation-states have recognized the fact that not everything can be steered by the central state but that local matters should be solved by the respective local administrations. The nation-states, therefore, enabled and gave the opportunity to its subnational territories at the periphery to join cross-border forces to follow the functional criteria of cross-border cooperation. In the last 25 years the border regions within the European Union have developed dynamics and a high grade of interconnections.
With the rise of new nationalisms in the world and also in Europe as well the international cooperation is contested by some of the newly elected authoritarian regimes within Europe. Despite the fact that cross-border cooperation follows a functional approach, it needs continuous support by the national layer. Naturally, cross-border cooperation is implemented by subnational entities and is situated at the peripheries at the states. In times where nation-states are dealing with itself and their own destinations, the subnational layer needs to focus on their own destination point. Cross-border cooperation is, thus, at the crossroads. Some experts have diagnosed that the peak of cross-

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[7] See Venables 2016:135 et seq.
[8] Ibid.:18.

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border cooperation is over. The question is, how could cross-border cooperation be refined besides the functional dimension. Can it represent an alternative function beside cross-border functional integration?

Cross-border cooperation linked to democracy can hardly be found in literature of borderland studies. Whilst cross-border cooperation is mostly associated to (cross-border) "governance", EU politics and democratic theory are usually linked in the question how to democratize the supranational level as a response to Euroscepticism and the re-emergence of the nation-state. Nonetheless, the EU as a multilevel polity is a prime example of governance as "policy-making in the EU is characterized by mutual dependence, complementary functions and overlapping competencies".[9] To democratize the EU, hence, means to democratize the governance across the multiple levels in EU decision-making. As the governance system in the EU is entwined on various levels, to modify decision-making and "voice and vote"[10] in the governance system is hardly feasible. The border regions – "contact zones" and "microlaboratories of European integration", hence, represent a first playground for re-integrating the local population in EU decision-making.

III.   Concepts, theories and thoughts on citizen´s participation

If we try to find the answer of how to democratize the European Union and bring the citizen´s back in political theory, we will stumble about the common differentiation in democratic theory between liberal (representative) and participatory (normative) schools of democracy. Representative democracy - in contradiction to normative democratic theory – is based on a liberal understanding and allows to appoint representatives in the name of the people that elect this person to act in their name. In contrast, participatory democratic theory springs up the democratic school of thought of communitarism[11] that has been in the scientific debate for years the antithesis to liberalism (e.g. John Rawls) and is framed in various ways: "Participatory democracy, expansive democracy, strong democracy, associative democracy, dialogic democracy or deliberative democracy".[12]

In differentiation to the representative forms of democracy, communitarian theories represent an ideological approach following the paradigm of the creation of its own community. Whether these normative approaches focus more on deliberation[13] or education[14] nuances of this normative democratic theory have one crucial point in common: political participation seeks as much people participating in as much policy fields as possible.[15] The assumption of this school of thought is that representation of the few for the many kills active citizenship. In addition to this, it turns citizens into inactive individuals and it tears away the community´s ability of fellowship, regional autonomy, self-governance, mutual deliberation, shared public goods and social justice.[16]   To create a

community of individuals may turn the individuals to a community that follow the principle of politics as a form of living. To be included leads the citizens to actively participate in the community which also includes the active participation within the bargaining and decision-making processes. Participation, hence, is possible through education that the individual in the community is willing to learn as an effect of the inclusion within governance arrangements.

The author´s point of view is that both perspectives need a mid-way as a solution out of it. In political theory, the notions of civil society and representation were "conceptual rivals" and where representation was not "thought of in terms of involving the citizens".[17] Nevertheless, also participation of the civil society is some form of representation as civil society and European citizenship are "a social relationship that stems from citizens lining up with others and participating in political discourse and structures of governance that stretch beyond national borders".[18] In this "politized society" the civil society is involved in interest representation and "in this constitutive sense representation is directly linked to the concept of democracy".[19] Civil society participation in governance arrangements has been in the beginning of the 2000´s been identified as a strong feature in the elaboration of a new governance system in the EU and can also applied to cross-border subnational governance arrangements.

1.   Participatory Governance

Schmitter defines participatory governance as "regular and guaranteed presence when making binding decisions of representatives of those collectivities that will be affected by the policy adopted".[20] Therefore, the core idea of participatory governance is to give "voice and vote" to the individuals that are mostly affected by the policies that are implemented – in the case of cross-border regions civil society of the border region and other actors concerned by the policy adopted. Especially the EU Cohesion Policy, a policy field that is implemented by the subnational authorities and negotiated in a MLG arrangement on a frequent basis the local (cross-border) actors and civil society is directly affected by the policies and decisions that were taken.

For the open-up of governance structures for different kind of actor categories there has been some analytical models developed by Schmitter and further elaborated by Heinelt focusing on groups of interest and representation in participatory governance arrangements. Especially, in the cross-border context contact and forms of interaction in interest mediation are important to foster the territorial cohesion and to obtain European integration on the microscale.

Schmitter and Heinelt argue that participatory governance shall be applied to policy fields where policies are being implemented that affect the "holder of participation".[21] As Regional Policy and especially European Territorial Cooperation (ETC) measures are part of an overall programmatic policy instrument for

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[9] Marks et al. 1996:372.
[10] See Schmitter 2002.
[11] See Barber 1984; Pateman 2000.
[12] See Schmidt 2000:251.
[13] See Habermas 1994; Young 2000.
[14] See Barber 1994.
[15] See Schmidt 2000:251; Barber 1984:151.
[16] See ibid.:4/24/146/151.

[17] Kohler-Koch 2010:100.
[18] Kohler-Koch 2010:105.
[19] ibid:106.
[20] Schmitter 2002:56.
[21] See Schmitter 2002:62 et seq.; Heinelt 2010:225.

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regional concerns that is being adopted by self-policy making in EU regions in multilevel governance arrangements under guidance of the EU institutions, the opening for participation of the respective civil society may signify a higher trust in representative democratic institutions as the citizens are directly affected by the policies adopted.

2. For(u)ms of cross-border participation in cross-border regions

Thinking about democratizing EU cross-border governance and to innovate decision-making in cross-border regions (such as Euroregions, European Regions, Euregios or Eurodistricts), first, we should think about the possibilities of doing so. Democratic innovation can be understood as the continuation of the status quo - that is the representative democracy – and can be achieved by instruments of direct democracy, parlamentarism in relation to the represented and the invention of whole new accesses for citizens in public matters.[22] Bußjäger differentiates between three semi-direct forms of democratic procedures: Citizen´s initiatives ("Volksbegehren"), referendums ("Volksabstimmung") and consultations ("Volksbefragung").[23] *Volksbegehren* is equivalent to the European citizen initiative that indicate a concrete legislative proposal if a certain amount of signatures and other preconditions are fulfilled. It is, hence, a concrete form of a legislation proposal. *Volksabstimmung*, in differentiation, is also known as referendum and is mostly predefined from the nation-state and the citizens do not have creative leeway but only can confirm proposals initiated by the national layer. As these forms of participation mostly are allocated on the national layer it is inappropriate for policy-making and self-determination of cross-border regions. *Volksbefragung* is comparable to a consultation and serves as a collection of opinion of the local population. Mostly this questionnaire is predefined on the national layer and only has a consultative but not binding character. As it is mostly carried out on the national layer, it nevertheless could be applied on a subnational and cross-border context.

Other for(u)ms and participatory instruments according to Bußjäger are petitions, citizen´s evaluation/assessment ("Bürgerbegutachtungen"), Monitoring initiatives ("Kontrollinitiativen"), citizen´s initiative ("Bürgerinitiativen"), citizen´s council ("Bürgerräte") and transparency, accessibility and freedom of information ("Informationsfreiheit").[24] Some of these participatory measures are mostly designed for the national layer but some should be in practice in any public and democratic setting for example the monitoring initiatives and freedom of information. Other forms like the citizen´s initiative, citizen´s evaluation and councils should may be also applicable on the subnational cross-border level. The constitution of such councils, initiatives and evaluation boards requires the disposition, attendance and willingness of civil society actors, institutions and other forms of collectives in the cross-border region.

IV. Civil society actors in cross-border governance arrangements: actor-centered and institutional cosiderations

After addressing the forums and ways of participation, in a next step, it is crucial to conceptualize the actors or institutions that may be addressed in terms of participation in cross-border policy-making. In scientific debate individuals or collectives are mostly referred to as "citizenship" or "civil society". In some scientific discourse these concepts are utilized simultaneously although they follow divergent approaches. The term citizenship mostly refers to "state-enforced rights and obligations"[25] although there is no holistic approach to European citizenship but is mostly constituted from a historical, legal or everyday-practice perspective.[26] Conversely, civil society consists of and represents the "public sphere of associations and organizations that are engaged in debate and discussion".[27] Kohler-Koch and Quittkat distinguish four approaches to conceptualize civil society:

1. regarding a definition reflected in the EC´s position on stakeholder representation including a wide field of societal groups
2. regarding Habermas´ description of the civil society role in the "public discourse"
3. the "self-constitution" potential of civil society
4. the communitarian approach of civil society as defined in the work of Benjamin Barber.[28]

For Kohler-Koch and Quittkat civil society is organized in not collectively connected informal groups of social actors that are influential on each other and forms of organized social groups that are labelled as Civil Society Organizations (CSO). These CSO "function as ´schools of democracy´ in society and take up the concerns and values of the citizens and feed these into the political process".[29]

This line of thought also follows Schmitter. He argues that in governance arrangements normally no "individual persons, as such, but spokespersons for non-profit, semi-public and, at least, semi-voluntary organizations" are deliberatively involved and, therefore, collective actors that "share a common set of norms and experiences"[30] are required for participatory forms of governance. Participation in governance arrangements is, hence, conducted by "organized and/or collective actors without direct reference to individual citizens".[31]

1. The notion of holders of participation

The notion of citizenship also includes the feature of "knowledge".[32] These organized and collective actors that act and live in demarcated cross-border territories as local knowledge holders[33] are experts on matters that concern their own (border) region and are more suitable than the subnational and national layer to decide which priorities in Regional Policy should be adapted in their own cross-border territories. EU Regional Policy according to Article 174 of the TFEU "shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion". In recent times, the issue of *cross-border*

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[22] See Bußjäger 2015:3.
[23] See ibid.:6 et seq.
[24] See ibid.:11 et seq.

[25] See Janoski 1998:17.
[26] See Venables 2016:14.
[27] See Janoski 1998:17.
[28] See Kohler-Koch/Quittkat 2013:6.
[29] Kohler-Koch/Quittkat 2013:5.
[30] Schmitter 2002:53.
[31] See Greven 2010:236; Engl 2015:125.
[32] See Schmitter 2002; Engl 2015;
[33] See Schmitter 2002:53.

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public service such as the "services of general economic interest" are put on the agenda. These services encompass social and economic concerns such as transport, health, education. These services on subnational and cross-border context shall be implemented by organized and civil society actors as they are highly relevant to the population of the cross-border region.

These economic and social measures shall be coordinated and bargained with the local knowledge holders as Schmitter calls them. Further "holder" of participation are "persons/organizations who could potentially be invited or allowed to participate [...], they possess some quality or resource that entitles them to participate".[34]

Besides knowledge holders (information, skills) that shall be called "experts" or "guardians" the "holders" shall possess following principles and identities: They exhibit "rights" that are attached "membership in a national political community" ("Citizens"), they live on a "regular basis within a demarcated territory" (spatial location and may be called "residents"), they share assets/resources that "are going to be affected by any change in the allocation of resources and or imposition of regulations" ("owners"), may be stake (regardless of where they live that may affected by policies - "beneficiaries-cum-victims") or interest ("voluntary spokespersons") holders and can be corporate representatives that are "authorities ultimately responsible for decision and formally accorded the right to represent a designated social, economic or political category".[35] Local knowledge and actors that embody and can bring in these resources of knowledge into the political will and decision-making process can contribute to the justification processes of governance that take place and affect the local (cross-border) level. Not only the conceptualization of the "holders" of the civil society participating in governance arrangements is important but also cultural and administrative settings influence the institutional design for participatory governance.

Graphic 1: Groups of Holders participating in cross-border governance institutions
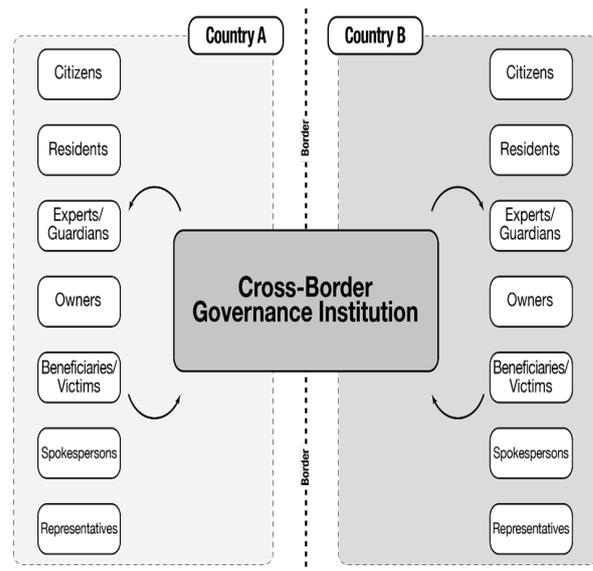
According to Heinelt, this categorization of Schmitter´s holder concept, is helpful in a threefold way: First, it helps to qualify the governance structure according to different kinds of actors (holders); Second, to identify changes and bias towards one type of holder category over time and third, to relate policy processes and their effectiveness and legitimacy to different participating holder categories.[36] This broad categorization of different sets of actors represent any collective or interest organization including the private, the public, the economic, the administrative, the academic and the civil society sector. The holder classification is, hence, an analytical model but also an illustrating model of all organizations and persons who are allowed to participate in cross-border governance arrangements.

2. **Participatory Governance in new forms of cross-border institutions within the European Union**

Besides this analytical model of holder´s by Schmitter, another form and inclusion of participatory governance is offered by Alice Engl. In her governance analysis she focuses on the institutional structure and the common organs of a European Grouping of Territorial Cooperation (EGTC).[37] The EGTC is a European cross-border legal instrument that has been introduced by the EU in 2006. The legal form offers public entities (National, regional or local authorities, entities and companies that are governed by public law) from at least two EU member states an own legal personality. In practice, it is mostly applied by subnational authorities in border regions and represents, hence, a new form of legally and politically institutionalized form of cross-border cooperation. It is, furthermore, a highly inclusive form of cooperation form as different territorial layer (national, regional, local, public companies and institutions) across borders may participate in this cross-border structure. On this basis, Engl does not focus on direct citizen participation but on institutional characteristics of participatory and multilevel governance in the framework of cooperation structures.[38] Governance structures in cross-border cooperation (in the example of an EGTC) may be designated as participatory in case of, first, the

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[34] ibid:62.
[35] Schmitter 2002:62f.

[36] See Heinelt 2010:29.
[37] See Engl 2015:123.
[38] See ibid.:123.

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inclusion of various governmental and administrative levels; second, the involvement of distinct political institutions of the same governmental and administrative level; third, the participation of other public actors (f.e. administrative offices and officials), the inclusion and participation of non-public and civil society organizations and individuals as well as, fifth, the institutional consideration of the ethnic and linguistic diversity in the cross-border region.[39] These forms of inclusion shall be put on frequent and be applied on regular basis in joint bodies and organs – here in the case of the EGTC.[40]

Graphic 2: Participatory Governance in a cross-border institutional context on subnational level according to classifications of Schmitter and Engl

Graphic 2 tries to integrate and illustrate both approaches and models. As the author´s opinion is that cross-border governance in terms of EU Regional Policy (European Territorial Cooperation) shall be applied in institutions and shall be open to the civil society, the illustration shows the EGTC as the arena for deliberation, decision and implementation of cross-border social, economic and territorial policies. Competent and official authorities are necessary so that agreements and results of interaction are binding and applicable. The EGTC has a highly inclusive character as described above. The institutional structure according to the characteristics of Engl has *internally* a high participatory potential. Also in the interaction with *external* actors the EGTC shall be open towards different kinds of holders to enhance the democratic quality of the governance arrangement.

In general, both categorizations by Schmitter and Engl contribute to a broad and inclusive understanding of
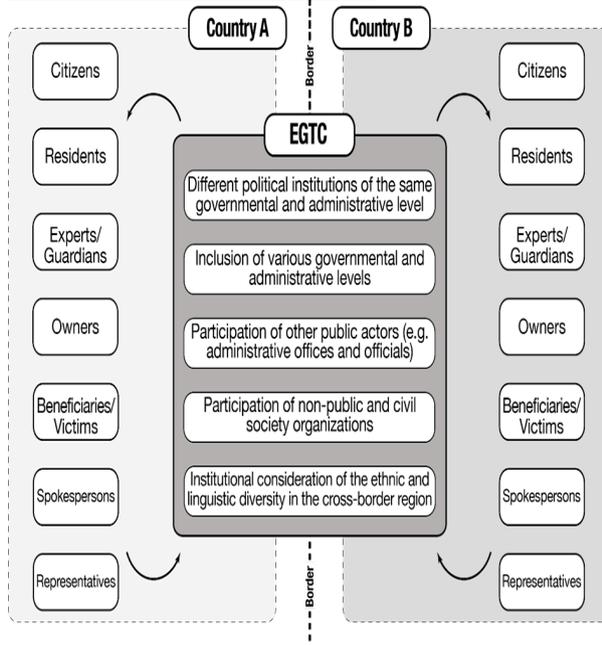
how cross-border governance shall be conceptualized. Based on these conceptions multilevel cross-border governance shall be built-up on following essential parts:

1. Comprehensive cross-border governance including as much administrative layers on both sides of the border as possible
2. Diverse cross-border governance: Public, Private, economic, academic and civil society actors shall be participating in cross-border governance arrangements
3. Effective cross-border governance: Identification of policy realms, requirements and tools for the most effective solution of problems in a cross-border context
4. Open, transparent and participatory approach to multilevel and cross-border governance.

Conclusion and Outlook

The Article tries to address the issue of the contrasting pair of the EU supranational polity that is a governance system "sui generis" and democracy that is mostly referred to nation-state democracy. Supranational democracy has by many scholars in the debate be labelled as illusionary as nation-state like democracy is not applicable in a heterogeneous European community with 28 or soon 27 national public spheres without European identity and widely received and perceived transnational media. The article, in a next step, described different approaches of democratic action in the EU multilevel governance structure (polity), its processes and decision-making (politics) and in the sectors and domains (policy). This clarification highlighted that the subnational and cross-border governance arenas are the ones where the European civil society is actually concerned by the policies adopted. In the framework of EU Regional Policy and the European Territorial Cooperation (especially INTERREG-A) civil society shall be the one in charge and participating in decision-making as this policy domain includes the social, economic and territorial dimension. Border regions hence are the contact zones of the transnational European civil society and therefore serve as test-beds of European integration. The article continued with some theoretical reflections on democracy on subnational (cross-border) level including some theoretical thoughts from normative and representative school of thoughts in democratic theory. In a final step, the approach of participatory governance and categorizations of actors and organizations (holder concept by Schmitter) and the institutional characteristics by Engl have been combined. In conclusion, the author names some characteristics how cross-border governance arrangements shall be conceptualized so that it has a high degree of inclusion and considers various kinds of actors, persons and organization in deliberation, reasoning, opinion formation, decision-making and implementation of policies in cross-border governance arrangements. The results of this theoretical conceptualization may be applied in different settings and cross-border context. Every border region is unique and has divergent cultural, socio-economic, political, juridical, organizational, historical and administrative pre-conditions for cross-border governance. Nonetheless, these theoretical thoughts and conceptualizations may provide an impulse of how governance in border regions may be widened and made more inviting.

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[39] See Engl 2015:125.
[40] See ibid.:125.

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