

ADMINISTRATIVE CO-OPERATION IN THE EUROREGION NEISSE-NISA-NYSA (*)

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TABLE OF CONTENTS

Introduction	3
The Evolution of the Neisse-Nisa-Nysa Euroregion ERN from Different National Perspectives	4
Legal Barriers to Cross-Border Co-operation in the Czech Republic	4
Cross Border Co-operation in the Polish Part of the ERN	5
The Special Problems of the German Part of the ERN	6
The Structure of ERN	7
Different Types of Intergovernmental Partnerships under the Roof of the ERN	10
Areas of Cross-Border Co-operation	10
Horizontal Partnerships	11
Vertical Partnerships	12
Hybrid Partnerships	13
Accountability Problems of the ERN from a Czech Perspective	14
Limited Scope for Co-operation at the Local Level	14
Insufficient Governance Structures for Regional Policies	15
Perceptions of the ERN from Internal and External Stakeholders	16
Conclusions	20
References	21

Introduction

Euroregions are important intergovernmental partnerships in two respects - on the one hand for the European Union (EU) and on the other hand for the border regions themselves. The primary significance of this kind of “international” partnership and ensuing joint cross-border projects is based on the characteristics and specific problems of border areas. With the European integration process which will undoubtedly intensify at the beginning of the third millennium, the significance of the Euroregions will also increase. In contrast to many other forms of transfrontier co-operation between neighbouring regions (for an overview, see Weyand, 1997:170-173), Euroregion is a form of co-operation between associations of local governments. Thus, they conform also with the principle of *subsidiarity*, which is one of the cornerstones of European institution-building.

The Neisse - Nisa - Nysa Euroregion (ERN) is a *municipal partnership of three border territories at the outer border of the EU*. It involves the Czech Republic and Republic of Poland, which are associated with the EU, as well as the EU Member country, the Federal Republic of Germany. This fact is important to the comparison of this Euroregion with other Euroregions formed along the internal boundaries of the EU, such as that at the German-Dutch border. Until 1989 the whole area, including its German part, formed part of the territory under the direct control of Moscow and the Council for Mutual Economic Assistance (CMEA), which was closed to the West and lived in isolation from the rest of the world. Moreover, this region is burdened with considerable economic and, especially, ecological problems. As a matter of fact, the “black triangle” is considered to be the most heavily polluted region in Central Europe. The Commission of the European Union is engaged in this area with a regional environmental programme, which is financed out of the EU PHARE Programme for Central and Eastern European Countries.

In the beginning of the 1990s, political changes which had taken place in individual ERN countries allied with a stronger impetus towards co-operation in the ERN region created new opportunities for cross-border co-operation. However, it is necessary to note that the situation in the German part of the region has been different from the beginning, particularly with regard to national law and public administration. The law of the Federal Republic of Germany as an EU Member State was compatible with EU law, which was not the case either in the Czech or in the Polish parts of the region.

The ERN covers the border area between Germany, Poland and the Czech Republic with the partial territories of Horní Lužice/Dolní Slezsko, Northern Bohemia and approximately the region of Jelenia Góra in Western Poland. In all, the ERN represents an area of about 12.000 square kilometers with approximately 1.6 Mio. inhabitants (Communal Association of the Euroregion Neisse (1998)). The biggest city is Liberec with about 102,000 inhabitants. Institutionally the ERN has to be conceived as a cross-border interest association. This means that the ERN is not a legal entity. As will be explained in more detail, the ERN offers the political and administrative framework for all kinds of horizontal, vertical and mixed (hybrid) partnerships with a cross-border scope.

The aim of the case study is to analyse the accountability problems with different kinds of cross-border partnerships. Accountability and efficiency considerations may point out two re-engineering strategies: As far as regional development projects with a transfrontier character are concerned, the recommendation is to transfer ERN projects to a regional level; with regard to voluntary municipal tasks with a strong cross-border element, it is necessary to foster the accountability to the local councils for the results of ERN projects.

The Evolution of the ERN from Different National Perspectives

Legal Barriers to Cross-Border Co-operation in the Czech Republic

Legal and institutional prerequisites are highly significant with reference to accountability and partnership relations of the individual Euroregions. This is especially the case in the Czech Republic, where a system of a *centralised state administration* created barriers to fully effective cross-border co-operation at the local/regional level. On the one hand, it was evident that the new Euroregion should not form another administrative tier but would still need some administrative organisation as well as competent officials (managers) for the solution of the numerous cross-border problems and tasks. On the other hand, the assumption was that the member countries would have adequate administrative tiers, especially at the local level. In the Czech Republic, however, the regional self-governing tier has not been established yet. There are only self-governing local authorities the majority of which are very small both in geographical terms and in respect of the population they represent. As a result, Czech municipalities all have insufficient tax incomes. The districts, however, have only state administration authorities.

The first agreement on the establishment of the Euroregion Nisa of December 1991, which foresaw the foundation of the *Regional Association of Northern Bohemian Cities and Municipalities*, is a testimony of the confusion about such fundamental matters as the *legal status of its members*. Some names of the founding members were correct - this is the case of the member cities and towns. Nevertheless, there were also cases where municipal offices were nominated as a member. Such title is at variance with past and present legislation. Under the Constitution of the Czech Republic the municipality and not the municipal office is the legal subject of local self-government.

The Procedural Rules of the Czech part of ERN contained some rules that were opposed to the Czech Communal Law of 1991. For instance, the provisions of the Procedural Rules stated that the elections of the Council of the Czech Regional Association of the Euroregion Nisa had to be co-ordinated by the respective district offices which were supposed to submit proposals for candidates. This contravened the Commune Act (Act No. 367/1990 CoL) according to which associations of local authorities were the expression of local self-governing competence. This excludes any use of district offices as state administration authorities.

The greatest problem from the foundation of the ERN has been the status and participation of district offices at the Czech part of the ERN. In contrast to the German and the Polish parts of the ERN, which have self-governing bodies at the supra-communal level, the Czech Republic has no such tier of self-government yet.

The Constitution of the Czech Republic forecasts self-governing bodies at the regional level. The regional self-governments are to be established in the year 2000 on the basis of the Constitutional Act No. 347/1997 CoL of 3 December 1997. When the regions will have been established as higher territorial self-governing units, the provisions of the Constitution of the Czech Republic concerning territorial self-government will be complied with and a two-tier self-government system at the municipal and regional level will be implemented. However, the Constitution does not foresee self-government at the district level. The districts are administrative territories under the exclusive control of the state administration. The respective state administration bodies are the district offices, which are state-run all-purpose agencies, which also include some special decentralised state administration authorities.

When the ERN was founded, the district offices in this area showed some interest in cross-border co-operation but the Czech law did not enable them to engage in such activities. This shortcoming was partly

remedied by the amendment of the Act on district offices (Act. No. 321/1992 CoL) which entered into force on 1 July 1992. Due to this amendment, the district offices can enter regional cross-border associations with the consent of the District Assembly and the Ministry of the Interior. However, they may not enter interest associations of legal entities. As a result of this new law, an association agreement was concluded between the ERN Regional Association of Northern Bohemian Cities and Municipalities and five district offices in December 1992.

According to the statutes of the Czech part of the ERN of April 1997, *the district offices are not direct members* of this Czech municipal-district-association but they may nevertheless participate in the Czech and the international parts of the ERN. This means that on the one hand, the 5 district offices engage financially in the Czech activities of the ERN; on the other hand, they are only indirect members of the various bodies of the Czech Regional Association and the ERN. This is due to the fact that the association agreement was concluded under Sec. 829 of the Czech Civil Code, under which such associations have no legal capacity to rights and obligations. The ERN Regional Association, in the bodies of which the district offices participate through their representatives, is a legal entity, as it was established as an interest association of legal entities under Sec. 20f of the Civil Code. On the basis of the above-mentioned 1992 Amendment of the Act on district offices, the Ministry of the Interior approved the accession of the district offices to the Czech Regional Association of the ERN. However, the Ministry did not give consent to a membership in the ERN Regional Association North Bohemia, which is a legal entity.

Nevertheless, the district offices have 5 seats in the Czech General Meeting (in the meantime converted into the General Assembly) and 4 seats in the ERN Council. In 1994 the Czech Secretary of the ERN Regional Association informed the Deputy Minister of the Interior that “the members of the bodies of the Association are elected from the members of the Association”. This statement, which undoubtedly reflects the present situation, is opposed to the explicit provisions of the Statutes of the Czech part of the ERN providing that the district offices are not direct members of the Association. This would imply the existence of “direct” and “indirect” members of the Czech ERN Association. Moreover, the above-mentioned information of the Secretary states that the representatives of district offices have the possibility of supervision and participation in the ERN activities as assured by an agreement.

This detailed explanation of the legal situation attempts to illustrate the non-transparency of various legal provisions of the ERN, which give rise to confusion regarding the management of cross-border partnerships and accountability.

Cross-Border Co-operation in the Polish Part of the ERN

Like other Polish municipalities, Jelenia Góra made several co-operation agreements with foreign regions, provinces and cities on the basis of international agreements such as the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities. On the basis of bilateral agreements between Poland and Germany as well as between Poland and the Czech Republic, Jelenia Góra established co-operation with Aachen and Saxony in Germany, Ringkjøbing in Denmark and Apulia in Italy. At present, two other co-operation agreements are prepared with Altenburg and Greitz in Germany. The declared objective of this kind of cross-border co-operation is to foster the cultural, economic and social development of the jurisdictions involved. The joint projects mainly focus on the development of local administration, culture, economic development, environment protection, health services and tourism.

The various forms of cross-border co-operation between regional and local authorities have given rise to partnerships between local organisations and citizens. Today, there is direct contact between the schools,

theatres, culture clubs, kindergartens, libraries, civic associations and institutions on both sides of the Polish, Czech and German frontier. This is an important achievement of cross-border co-operation. Due to historical events, language problems and prejudices the outer EU border still suffers from a deficit of contacts among citizens (Kowalke, 1995:78). But the spill-over may also be the other way round: There are many examples of institutional co-operation that started out of private initiatives.

Since 1991, the Neisse - Nisa - Nysa Euroregion plays a vital role in cross-border co-operation in the area of Jelenia Góra. Meanwhile, the Polish municipalities in the ERN established more than 65 partnerships. In most cases, these take the form of twin-towns. However, inter-municipal co-operation also involves informal types of co-operation such as joint meetings and mutual visits of local representatives. As will be discussed later, different degrees of formalisation of partnerships involve different accountability problems.

The Special Problems of the German Part of the ERN

From a German point of view it is important to consider the special problems of East Germany at the time when the ERN was founded. Apart from the task of building cross-border co-operation "from scratch", there were also many pressing problems from socialist times that had to be dealt with. Particularly in 1990, the political situation in East Germany was very unclear, which also impacted on the management of cross-border problems. One example: In May 1990, a new municipal administration was set up in the then still existent German Democratic Republic (GDR) as a result of the first free local elections. However, the responsibilities of the local authorities were quite unclear as the State was already in the stage of dissolution. The former district administration structures were politically reorganised in a rush and turned out to be second- or third best solutions. However, this situation of change also created new opportunities for co-operation, which could be used for the establishment of cross-border co-operation.

In this period also the establishment of the Euroregion Neisse-Nisa-Nysa took place. A trilateral conference of local politicians from the Higher Lausitz region, Northern Bohemia and Lower Silesia resulted in agreements on cross-border co-operation. In May 1991, the constitutional assembly of the ERN celebrated the foundation of the first Euroregion at the border between Saxony, Poland and the Czech Republic (Euroregion Neisse, 1998). The ERN encouraged the foundation of other Euroregions in the border area of Saxony in 1992: Elbe/Labe, Erzgebirge and Egrensis.

Before the establishment of the ERN it was necessary to set up some institutional structure for the German part of the ERN. The organisational framework on the German side is not as complex as on the Czech part and also different from the Polish part: the German Section of the Local Association of the Euroregion Neisse (Kommunalgemeinschaft Euroregion Neisse e.V.) is an association of districts (Kreise) and district-free cities on the basis of private law. This means that membership requires the decision of the respective District Parliament (Kreistag) or city council. The District Parliaments and Councils of district-free cities elect the delegates for the General Meeting. The General Meeting elects the President, the Committees/Working Groups and the Secretariat out of its members.

The Structure of ERN

According to the General Co-operation Agreement of the Euroregion Neisse-Nisa-Nysa of 1994 (amended in 1995), the ERN consists of the following members: the Polish Municipal Association of the Euroregion Nysa, the German Section of the Local Association of Euroregion Neisse and the Regional Association of Northern Bohemian Cities and Municipalities in the Euroregion Nisa and five district offices on the Czech side. It becomes evident that with the exception of the Czech members, the German and Polish members are municipal associations. As will be explained later, the special composition of the Czech ERN membership is a challenge of its own for accountability management in the ERN.

The co-operation within ERN is based on parity, rotation and consensus. As Figure 1 shows, the ERN is composed of four common trilateral governing bodies:

Council: The ERN Council consists of representatives of regional municipal associations, each of which delegates 10 members. The main tasks of the Council are to define the priorities of the ERN and to determine the guidelines for common activities.

Presidium : The Presidium consists of the chairmen of the three municipal associations. It represents the ERN and acts on behalf of the ERN between the sessions of the Council. The Presidium is authorised to take resolutions and to discuss important issues. In practice, the Presidium convenes in the form of the Extended Presidium, which is the Presidium plus three country co-ordinators.

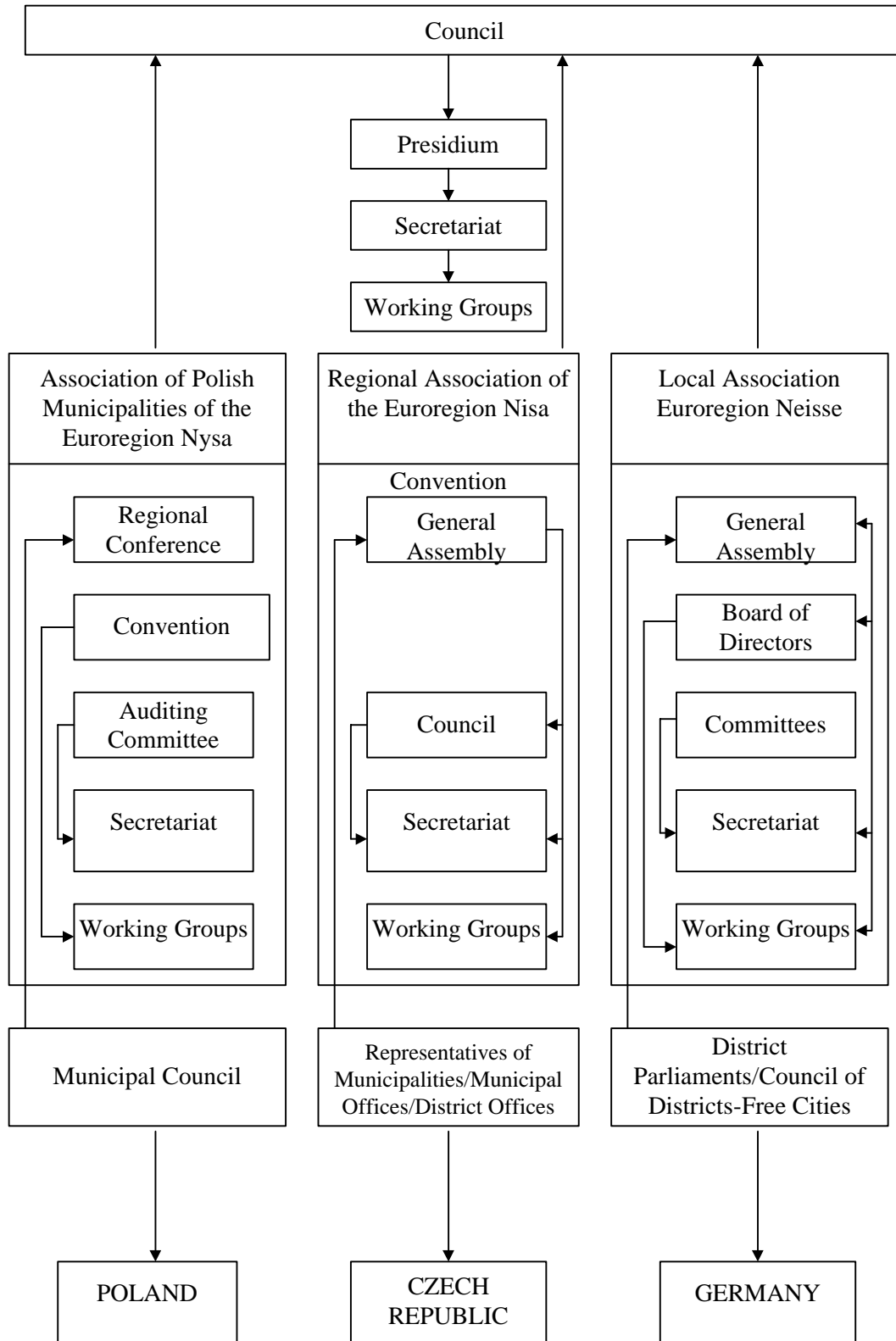
Secretariat: The Secretariat co-ordinates the flow of information and executes the daily work of the ERN, including the organisation of the meetings of all statutory bodies of the ERN. In addition to the ERN Secretariat there are Country Secretariats which work as a kind of consultation and co-ordination body.

Working Groups: The Working Groups prepare recommendations and proposals to the statutory bodies of the ERN. They operate on a voluntary basis and have a couple of unilateral and trilateral meetings a year.

The organisational chart illustrates the complex structures of the ERN: First of all, the institutional framework consists of three parts, which are Polish, Czech and German. Each of these parts is organised differently: On the Polish side, the municipalities are the core elements of the Polish ERN institutional structure. The German co-operation in the ERN is based on districts and district-free cities. As mentioned above, the institutional structure of the Czech part is extremely complex as the ERN co-operation is based on municipalities, municipal offices as well as district offices. This implies that the persons representing each regional part of the ERN are very different as well: On the Polish side, it is a Parliamentary Deputy (from the Sjem), on the German side it is the district head (Landrat) and on the Polish side it is a mayor. Although each of these representatives has a different status in their national administrative system this does not cause any problems in an ERN context. Lastly, the ERN has its own governing bodies such as the Council, Presidium, Secretariat and the Working Groups.

Figure 1: Organisational Chart of the Euroregion Neisse-Nisa-Nysa (as of Dec. 1997)

(Source: Yearbook of the Euroregion Neisse-Nisa-Nysa (1998), Basic Data, Statistical Office in Jelenia Góra, Czech Statistical Office of the Department Liberec and Home Statistical Office of Sachsen in Kamenz).



A more recent body that does not figure in the above graph is the *Evaluation Committee* of the ERN that has an important role in the ex-ante evaluation of project proposals. It is composed of a German, Polish and Czech representative of the ERN. If the Evaluation Committee has a dissenting opinion, the project proposal is passed to the Presidium for further consultation. The final decision, however, is made by the Council.

The financial resources are different for each party of the ERN. The nature of the project defines whether it is more financed externally or through ERN memberships fees. External funds are provided from the EU, special bilateral institutions such as the Polish-German Youth Exchange as well as national and subnational levels of government. In relation to financial support from the EU, funding to the ERN is provided through the PHARE Programme and the INTERREG Programme. The former is an European Community initiative which provides grant finance to support Central and Eastern European countries (CEEC) through the process of economic transformation and strengthening of democracy to the stage where they are ready to assume the obligations of membership of the European Union. Since 1994 the PHARE Programme has a separate budget line for cross-border co-operation at the Western borders of these countries (see regulation No. 1628/94 of the EU Commission from 4 July 1994 on the Implementation of a Programme on Cross-Border Co-operation between CEECs and EU Member Countries within PHARE).

The INTERREG Programme is an EU initiative that mainly supports small-scale projects in infrastructure, environmental protection and co-operation between firms and public utilities in border regions whose economic activity have been affected by the single market (see Beck, 1999). Since 1995, the EU also funds regional and local cross-border co-operation on the outer borders of the EU within the framework of the INTERREG II Programme. This development has strengthened the institutionalisation of existing cross-border partnerships in this area and also encouraged the creation of new cross-border partnerships with CEEC countries. The INTERREG projects in the target No.1 area (economically underdeveloped regions with per capita GNP below 75 per cent of the EU average) are co-financed by the European Commission up to 75 per cent, the other 25 per cent are shared between the respective co-operation partners. However, the INTERREG II Programme will end by the year 1999. The INTERREG III Programme that will start in the year 2000 is likely to emphasise inter-regional and inter-municipal co-operation.

The priorities of the PHARE programme include transportation, environmental protection and local infrastructure. Most of the PHARE projects are large infrastructure projects. For example, the Polish side of the ERN carried out 21 mega projects between 1995 – 1997 with a total value of 52 Mio. ECU. The PHARE contribution of these projects was over 25 Mio. ECU. This shows that the financial support of the PHARE programme is vital for the Polish members of the ERN.

Since 1996, a fund for small projects was established within ERN. The fund supports small-scale projects aimed at the improvement of integration, cultural and professional exchange and mutual understanding. The yearly budget for the Polish part of the ERN is about 0.5 Mio ECU. Since the beginning of the programme over 150 small projects were completed and another 70 are already approved. The cross-border cultural events, performances, concerts, workshops, sport tournaments, competitions, multilingual publications help to establish contacts between the citizens of the ERN and are an important tool to initiate more substantial projects.

Different Types of Intergovernmental Partnerships under the Roof of the ERN

Areas of Cross-Border Co-operation

The specific institutional structure of the ERN, the legal status of the three respective regional ERN associations, the financing structure and the political interests involved in the partnership give rise to many different kinds of co-operations. Before analysing the accountability management of specific types of partnerships, it is necessary to put them into context.

It is plausible to expect intense co-operation in areas where jurisdictions of the same administrative level have to deal with similar problems. This means that horizontal co-operation between municipalities is likely in the areas such as sewage and waste disposal, sports and cultural exchange. In these cases, the ERN acts as a service provider that becomes active if desired by the stakeholders. Cross-border co-operation is much more difficult if there is not an adequate co-operation partner on the other side of the border. For example, a problem from a German perspective that strongly focuses on local self-government is the non-existence of a district level on the other side of the border. This implies that a German *Landrat* (the politically elected head of a district) may co-operate with a municipality in one case and with the state administration in the other case. Similar problems may also arise on the level of inter-municipal associations and NGOs. In order to quote another example from a German point of view, municipal single or multi-purpose associations, the chamber of commerce and industry or even the employment office may not find compatible institutions in Poland and the Czech Republic. This is when the ERN Working Groups become important to fill these “institutional gaps”.

The Working Groups have to be understood as kind of auxiliary structure, which are supposed to compensate for missing administrative levels. This means that on the one hand, institution-building is encouraged in the country where these have been deficient. On the other hand, the actors gain some legitimacy, especially since the members and the heads of the national Working Groups are selected on the basis of a political decision of the respective governing body of each regional ERN association. The Working Group system of the ERN has been developed further to use it in areas where cross-border co-operation is to be encouraged, like, for example, in the area of health and history. Nevertheless, the Working Group system also needs some evaluation regarding the effectiveness and efficiency of its operations.

It may be taken as a sign of the effectiveness of the ERN that over time it also developed various vertical partnerships with higher levels of government. The legal status of these forms of co-operation may be very different, reaching from forms of formal co-operation where the ERN has voting power to informal co-operation where the ERN is only vested with “voice”. For example, the vertical co-operation of the German part of the ERN involves a whole range of memberships in different governmental or intergovernmental institutions such as:

- Steering Committee of the EU Programme INTERREG II (under the direction of the Ministry of Economic Affairs of the *Land* Saxony);
- Co-Working Groups of the PHARE Programme (under the direction of the Cabinet Ministry of the *Land* Saxony);
- German-Polish Government Commission.

A similar list of vertical forms of co-operation could be produced for the Czech and Polish part of the ERN. Given the multitude of ERN-related cross-border partnerships, it is necessary to limit the analysis of

accountability problems on specific partnerships. The following partnerships were all chosen from the Polish part of the ERN.

Horizontal Partnerships

The main actors of the horizontal partnerships within the ERN are the ERN municipal associations of each member country. These actors are independent and their control system is decentralised. All ERN municipal associations are supervised by their respective national or regional Audit Court.

The horizontal co-operation is based on common goals as defined and described in the ERN Framework Agreement. These include the elimination of the negative impact of the borders, improvement of living standards, natural and cultural conditions, development of the regional economy as well as the integration of the inhabitants of the border region. Another less explicit objective is the building of trust on both sides of the borders. In practice, this means to support events that help inhabitants to get to know each other. By doing so, meetings of the youth, students, librarians, administrative staff, policemen, scientists, firemen, historians, environmentalists and many other social circles and professionals are organised and supported by the PHARE Cross Border Co-operation Programme (CBC) and Polish-German Youth Exchange programmes.

Horizontal cross-border projects also involve joint decision-making regarding the priorities of ERN. The Council and the Presidium are in charge of developing the strategic framework for long-term co-operation. The selection of projects is made in the meetings of the Committees, Evaluation Committee, Presidium and Council. By the same token, horizontal projects require co-operation on the operational level, which is mainly done in the Working Groups and the Secretariat.

Last but not least, co-operation between the ERN municipal associations requires joint investment of resources. As any funding from the PHARE CBC Programme and from the German Regional Fund is based on the principle of co-financing, the municipal associations have to agree on some financial scheme as far as their own contributions are concerned.

Sources of uncertainty and conflicts have their roots in the different level of economic development as well as differences in administrative structures in the three countries. Also different national priorities impact the cross-border co-operation within ERN. Consensus is not easy to find if the subjects of cross-border negotiation are of vital interest to the parties. A good example of divergent national interests is the airport project in Rothenburg. The airport is of high priority for the German side and would also benefit the northern part of ERN. The Polish Government, however, perceives the location of the planned airport as disadvantageous as an airport in Rothenburg would bring about competition for the Polish Southwestern airports. Divergent national and ERN priorities may also distort the objectives of cross-border projects. Since the investment needs of Polish municipalities are huge, PHARE CBC-funded projects are sometimes rather perceived as a local investment resource than as a tool of cross-border co-operation.

However, lobbying activities at the ERN level may also influence national priorities to the benefit of the ERN region. The Polish - Czech mountain crossings are an example of successful joint priority setting: the Polish and Czech local governments, tourist organisations as well as individuals constantly proposed the establishment of new crossings without standard customs for tourists in the Karkonosze Mountains. Thus, this project became one of the priorities of ERN and was constantly presented to the national governments until in 1996 five new crossings were opened finally.

Besides lacking the support of higher levels of government, the improper functioning of the Working Groups may also impact horizontal partnerships projects in the ERN. The problem is that the Working Groups do not have a strong resource base, which makes them very weak. Often, the members of the Working Groups also lack the adequate competencies. As a consequence, the Working Groups rather resemble an informal social circle of enthusiasts than a team of experts in many cases.

The information management within the ERN is also deficient. The broad range of ERN activities causes a wide stream of information in relation to cross-border co-operation. In particular, the co-ordination of information is not well-managed as some basic data (for example, resolutions of Working Groups, implemented projects under PHARE Cross Border Co-operation Programme or INTERREG II Programmes) are not transferred in time to the appropriate bodies of the ERN. In spite of some achievements (for example, common publications of Statistical Offices, librarians and historians), there is still a lack of information concerning the institutions and data bases of the member countries. Lack of information and clear rules of information flow makes the co-operation vulnerable to mistaken or belated decisions.

Vertical Partnerships

This type of ERN partnerships involves co-operation with higher levels of government. For the Polish part of the ERN, the Authority of Cross- Border Co-operation (CBC Authority) is an important co-operation partner, especially as far as small-scale projects are concerned. The CBC Authority delegated authority to the ERN to manage the programmes related to the small-scale projects (1 - 50 thousands ECU). In order to assure accountability, the CBC Authority determines the guidelines for project implementation and informs the ERN about the evaluation criteria. The final acceptance of the projects as well as all payments relating to the projects depends on the approval of the CBC Authority. The ERN is responsible for the selection of the projects, monitoring progress and controlling financial management. Beneficiaries of PHARE CBC funding are responsible for the project implementation in accordance with the established conditions.

Since the PHARE CBC Programme mainly promotes Polish - German co-operation projects, co-operation between Poland and Germany is more intense than between Poland and the Czech Republic. Thus, the vertical funding stream brings about an imbalance in the horizontal partnerships within the ERN. The unbalanced horizontal relations are reinforced by legal problems of the Czech side.

The accountability management of vertical co-operation projects of the ERN has its own specific difficulties. The sources of conflicts are manifold:

- Diverse evaluation of the cross-border impact of a given project by the beneficiary, the ERN and the CBC Authority: The problem is that the definition of cross-border impact is not very operational (“positive impact on both sides of the border”) and difficult to evaluate. As a result, potential beneficiaries have incentives to seek the financial support for predominantly domestic events with rather minor international participation (for example, projects like “xth Anniversary of Town x”). There are many examples of these kinds of simulated cross-border partnerships - often cross-border projects only serve to support local budgets.
- Declared participation of the Czech and German side is not always reliable as on the Polish side some relations with foreign partners are not consolidated. It often happens that an event is planned with international participation but is carried out as a domestic happening. The cross border effect is none.

- Unclear accountability expectations: The instructions for project management from the CBC Authority are rather vague and changeable over time. The CBC Authority may also change the terms of payment unilaterally which leads to dissatisfaction with the financial management of the project on the part of the beneficiaries. A further problem is the absence of transparency for the procedures of project selection.

Compared to the horizontal projects of ERN, the information management of vertical partnerships projects are even more demanding. The Secretariat of the ERN, the CBC Authority and special project managers of the organisation running the cross-border project are responsible for co-ordinating the streams of information. Most beneficiaries prepare the project proposals on the basis of incomplete data and unrealistic budget expectations that go far beyond available funds. ERN is not always informed about important changes relating to the projects in time. The large number of chosen projects make it difficult for ERN to carry out interim project evaluations and regular supervising visits. At present, the ERN and the CBC Authority only evaluate cross-border projects on the basis of the application form (ex ante) and the final report (ex post).

Nevertheless, there is a positive incentive mechanism in the accountability management of vertical ERN partnerships: The ERN receives a “financial reward” of 5 per cent of any PHARE CBC project funding from the CBC Authority for properly completed projects. The other factor that contributes to project completion is the development of a sustainable co-operation among the individuals involved in the project work. Last but not least, an increasing number of project proposals and an awareness of improved co-operation also works towards quality improvement of project management.

Hybrid Partnerships

The cross-border nature of ERN projects involves horizontal and vertical networking with many actors and institutions from different levels of government. The role of ERN consists in establishing the necessary contacts and subsequent co-ordination. Many external actors also perceive the ERN as an organisation with a wide network of international relations and seek the assistance of the ERN for specific cross-border problems.

The accountability relationships in these hybrid partnerships are extremely problematic as the tasks and accountability of the ERN no longer correspond to each other: ERN is regarded as the accountable institution with relation to matters which are not under the responsibility and control of the ERN. Examples are the co-ordination of spatial planning, communication systems, aid in emergency situations and the permission of green cards for inhabitants of border municipalities.

The co-operation of the ERN with external actors is not sustainable and not systematic. Often there are no formal arrangements and schemes describing the status of the parties involved as well as a lack of written procedures. For example, the Polish President of the ERN was a member of one of the regional committees in Poland, which also included the political, Government appointed head (*Voivode*) of the Province of Jelenia Góra, the Chairman of the Provincial Self-Government and the Chairman of the Mayors’ Convent in this region. This very committee applied for carrying out an evaluation of a “big” PHARE CBC project. This clearly implied a conflict of interest for the Polish President of the ERN. The other problem is that the regional committee did not have any detailed principles of work, and, in the case of controversies, the *Voivode* of the Province had the final say in spite of equal voting power of the members.

Since the co-operation with external actors depends often on the good will of the co-operation partners on and personal relations, the flow of information is to a large degree informal. Important data and messages concerning cross-border projects are often not communicated to the ERN. Passing information by the ERN to external institutions is difficult because of insufficient staff resources. The hybrid partnerships especially show that the resourcing of the ERN is insufficient in relation to the scale of tasks it has to deal with.

Accountability Problems of the ERN from a Czech Perspective

Limited Scope for Co-operation at the Local Level

The interest in membership of the ERN Regional Association in North Bohemia is considerable. From the initial 22 founding members, which were only local authorities and towns of the region at this time, the membership of the Association increased to presently 140 members, including 136 local authorities, 5 district offices and one District Economic Chamber in Liberec, which is so far the only member established on the basis of private law. In comparison to the membership of the German part of the ERN, which numbers 3 districts and 3 towns, and the Polish part, which numbers 41 towns and “gminy”, the membership of the Czech part of the ERN is considerably different. This is due to the fragmentation of local authorities in the Czech Republic, which has 6 234 local authorities altogether. The fragmentation of the local authorities and the non-existence of a second tier of local self-government, characterise the administrative framework in the Czech Republic. Needless to say that such institutional conditions are not very favourable the regional cross-border co-operation.

On the local level, good will and endeavour have been very strong from the very beginning so that various *cross-border partnerships*, particularly on the *horizontal level*, could be established. This kind of partnership is also supported legally. According to the Commune Act, local authorities may form voluntary associations of local authorities for the purpose of municipal co-operation. The same Act also allows the co-operation of local authorities and their associations with local authorities of other countries and allows the membership of international associations of municipalities and legal entities with an international element. However, since the administrative level of regional self-government is still absent, there is no legal support for international co-operation on the regional level.

As described earlier, *vertical partnerships* are confronted with legal barriers, and the incomplete structure of territorial public administration proves to be a major barrier. The district offices may act only to a limited extent as a real partner of local authorities, as it is simultaneously their supervisory authority as far as the legality of municipal activities is concerned. Vertical partnerships developed more or less spontaneously among the respective administrative units of the three countries and were confirmed by mutual agreements. However, it is questionable whether they are also sufficiently covered by the respective international treaties that were decided on national level (by the Government, the Parliament and possibly the President).

However, *most partnerships are hybrid in nature* as most ERN activities fall within the competence of local authorities, district offices and often also Ministries or other central government authorities. For this reason, the programme of ERN activities for 1997 - 2001 was drafted by a number of central state administration authorities with the participation of other public and private law organisations (foundations, civic initiatives, economic chambers, various associations, etc.). In other words, the ERN 1997-2001 programme is itself a *partnership* in the most varied forms and extent.

Insufficient Governance Structures for Regional Policies

Given that the ERN mainly deals with problems of a regional scale it seems legitimate to raise the question whether the local level is the appropriate level for ERN co-operation projects. Especially from a Czech perspective, the fragmentation of the municipalities as well the legal barriers of vertical partnerships seem to suggest that the regional level might be the better co-operation partner for ERN activities, especially as far as regional development projects are concerned.

This would imply the desirability of further development and resourcing of *Regional Development Agencies* (RDA) as they have proved to be an efficient instrument of institutional support for regional economic development in countries with established market economies. In the Czech Republic, seven Regional Development Agencies are established so far and six others are in the planning stage. In five cases, regional associations of local authorities were involved in the foundation of RDAs, in two cases Euroregions, including the ERN, had an important role as a catalyst. The role of the state was rather marginal. However, big enterprises were very much in favour of the RDAs.

The present situation of these agencies is characterised by a lack of co-ordination. This is mainly due to the as yet missing regional public policy of the central government and to the non-existence of regional self-government bodies, whose responsibilities should include the co-ordination of regional development. Voluntary associations of local authorities have difficulties in carrying out these co-ordination functions under the existing legislation as the present Municipal Act does not provide for co-ordination of regional development. Therefore, all associations of local authorities must act on the principle of general consensus.

As far as the legal form of the RDAs is concerned, some of them were established under the Civil Code as associations of legal entities, others under the Commercial Code as joint-stock companies or companies with limited liability, yet others as non-for-profit third sector associations under a specific Act. A major problem is the lack of financial independence of most RDAs. For instance, the RDA NISA Ltd. has only a capital of 100 000 Czech Crowns and thus has to apply for central government support.

Nevertheless, regional policy is also closely associated with regional self-government. Therefore, regional policy cannot be carried out by the central government but the task must be transferred to a regional body with a much better knowledge of regional problems than has the central government. The long delay in establishing a level of regional self-government is one of the weak points of the political transformation of the Czech Republic. In July 1997, the European Commission criticised the Czech Republic for unsatisfactory progress in public administration reform. In this criticism it pointed out especially the shortcomings of regional policy. The priority of the preceding Governments was economic reform, while the public administration reform, although prioritised in then Government declarations, remained secondary in their practical policy. It was impossible to attain consensus in Parliament or in the coalition Government of that time. Strictly speaking, the political will in this field was missing. The new Government put public administration reform into its political programme, which it submitted to the Parliament in the middle of August 1998 as one of its fundamental priorities.

Even if the present minority Government devotes sufficient attention to this problem and obtains support in Parliament, outcomes of actual regional policies "from below" are unlikely to manifest themselves earlier than 3 - 4 years. Effective regional policies will require the adoption of a number of Acts of Parliament, the establishment of a number of new institutions, the transfer of power from the centre to the regions, the establishment of new responsibilities for the implementation of the new laws and - last but not least - qualified staff. As ever, the transformation process will depend on the state of the State budget.

The integration of the Czech Republic into the *EU Structural Funds* will also be a challenge because it will require the generation of the necessary legislative, institutional, organisational and personnel prerequisites, and also because it will require considerable financial resources. The idea that the Czech Republic will receive money from the EU Structural Funds and will be “in clover” is greatly simplified and naive because the implementation of the individual programmes also require the financial participation of the Czech Republic.

In the present situation of a missing level of regional self-government, the funds intended for regional public policy are administered by the *Ministry for Regional Development*. This Ministry also administers the EU Structural Funds whenever they concern programmes intended for the support of specified regions. As far as the management of regional public policies is concerned, the Ministry does not interfere with the responsibilities of other line ministries and central agencies. In particular, it does not participate in the decisions on the allocation of funds in a given sector but merely co-ordinates the activities related to regional public policies. For the period of 1998 - 1999 the Ministry has to draft and submit to the Government:

- a) a strategy of regional development with an adequate treatment of *public-public partnerships* as well as *public-private partnerships* in regional development;
- b) regional development programmes for specific regions (Northwest Bohemia, etc.);
- c) a draft of the intentions of the law on the support of regional development.

There have been intentions in the Czech Republic since 1998 to change the definitions of Czech regions which are eligible for State support by applying the definitions of the targets No. 2 and No. 5b of the EU Structural Funds. Similarly to the EU target No. 2, one type would include structurally affected regions (i.e. areas with a high proportion of industry in economic decline and a high rate of urbanisation, the industrial base of which is undergoing fundamental restructuring and downsizing in connection with above-average employment). In analogy to the EU target No. 5b, another type of region would refer to economically weak regions with a low standard of living, above-average employment in the primary sector, low density of population and above-average unemployment (generally rural areas with a lower rate of urbanisation and economic development but high environmental quality). Apart from that, there are proposals to define regions with specific needs such as the borderline regions.

In July 1998, the Ministry for Regional Development organised several workshops on regional cross-border co-operation in connection with the new objectives of the PHARE CBC 1998 programme. In view of the future establishment of regional self-government, the fund scheme of the individual programmes was approved with the provision that the decisions about specific projects will be taken by *Regional Management Committees*. The PHARE CBC programme will also support the establishment and activities of RDAs as well as municipal co-operation projects of the INTERREG II programmes. These measures can be taken as a first step towards the development of some governance structure for regional policies in the Czech Republic.

Perceptions of the ERN from Internal and External Stakeholders

In the framework of the existing PHARE Multi-Year CBC Programme a survey was carried out in order to specify working priorities for the period of 1998-1999. The results of the structured interviews with the senior management level of the ERN also reveals internal perceptions of the ERN and related partnership projects.

Cross-border co-operation is to be based on close and multi-level networks among local self-government institutions, NGOs and State administration authorities. The following factors were indicated as principal obstacles complicating cross-border co-operation:

- language barriers;
- different legislation;
- incongruity of the three national parts of the ERN;
- different priorities and degree of interest in cross-border co-operation; and
- inadequate professional institutional capacity for cross-border co-operation (at both communal and regional levels).

The respondents were convinced that the programmes should be of a regional character, i.e. that allocation of funds for the region, decisionmaking and management should take place at the regional level. They appreciated the managerial flexibility and the possibility of deciding on fund spending directly within the region. In this context, the activities of RDAs were positively evaluated.

When dealing with the subjects concerning the development of the programme for 1999, the following problems of project co-financing appeared:

- limited municipal and district budgets;
- difficult search for adequate funds in State transfer programmes;
- difficulties of local authorities with co-financing of projects, the subsidy of which exceeds 300 000 ECU;
- special difficulties of co-financing of projects on human resources development and the support to development of small and medium-sized enterprises.

It was also confirmed that the financial costs of project preparation and subsequent costs of drafting the required project documents appeared to discourage potentially interested parties due to the increased costs which must be borne by the prospective beneficiary. These costs represent an excessive financial burden.

These results indicate that the ERN project work may not be carried out at the appropriate level of government. In addition to this, the democratic accountability of ERN municipal project work also rates rather low as indicated by two other surveys on ERN activities.

The Czech Institute of Sociology in Ústí carried out a public opinion survey on the role of various Euroregions in cross-border co-operation between the Czech Republic and Germany in April 1997. The sample consisted of 333 adults above 15 years, which represent about 3 per cent of the population in North Bohemia. The survey revealed that the Euroregion Labe-Elbe is best known among the five Euroregions in this area. More than 50 per cent of the respondents know about its existence. However, the other four Euroregions Nisa-Neiße-Nysa, Labe-Elbe, Krusnohorí-Erzgebirge, Sumava-Bayrischer Wald-Mühlviertel and Egrensis are not very well known in North Bohemia. The same is very much true of the North Bohemian Municipal Association and the EU Programme PHARE, which more than two thirds of the respondents are unfamiliar with. In the case of the EU Programme INTERREG II, 95 per cent of the respondents never heard of it. This may be taken as an indicator of lacking democratic accountability of cross-border intergovernmental partnerships.

Another set of items investigated into the effectiveness of Euroregions as perceived by the population concerned by cross-border activities. As table 1 shows, a quarter of the respondents considered Euroregions as an instrument to solve periphery problems which are characteristic of border areas. On a more personal level, Euroregions are also seen as an adequate tool to improve contacts and relations with the population on the other side of the border. Another 17 per cent of the Czech sample consider Euroregions to be an outcome of the necessity for the Czech local and regional public administration to co-operate in order to manage with scarce resources. To some degree, Euroregions are also seen as a substitute for the missing regional level in the Czech Republic (11 per cent of the respondents). Nevertheless, the view of Euroregions is not always positive: 16 per cent of the respondents take the cross-border activities of Euroregions as an indicator of foreign political and economic expansion in the Czech Republic. 10 per cent criticise the Euroregions for offering an artificial institutional framework for the pursuit of particular interests of some powerful stakeholders. The results show that the activities of Euroregions are not very well known to the population. One possible explanation is that the activities of Euroregions have not yielded visible outcomes.

Table 1: The Role of Euroregions as Perceived by the Czech Population in the District of Teplice

Functions of Euroregions	Popular Perceptions (in percentage)
<i>Would you perceive Euroregions as an instrument</i>	
• to overcome the peripheral situation of border regions?	25
• to strengthen personal contacts with people living on the other side of the border?	21
• to mobilise resources for the local and district level of government?	17
• for the economic and political expansion of foreigners in the Czech Republic?	16
• to substitute the missing level of self-government on the regional level in the Czech Republic?	11
• for individuals to realise their particular interests?	10

Source: Jeřábek, Milan (1997), Results of the First Round of the Public Opinion Survey in the District of Teplice, published in the Regional Development Programme of the District Teplice, District of Teplice and Mise GmbH (in Czech language).

The above hypothesis is very much confirmed by a survey among the mayors of Czech and German municipalities that are situated in the border area. More than half of the 255 municipalities that took part in the survey are members of the ERN.

Table 2: Effectiveness of the Euroregions for Local and Regional Development

<i>To what extent are Euroregions influential in supporting the local and regional development in the border area between Bohemia and Saxony?</i>				
In percentage	Very strong	Strong	Less strong	Not at all
All interviewed municipalities	15	25	32	10
• in Saxony	0	16	43	13
• in Bohemia	31	35	21	7
• in the ERN	21	18	28	13
<i>To what extent do the activities of the Euroregions influence the decision-making process in local councils in Bohemia and Saxony?</i>				
In percentage	Very strong	Strong	Less strong	Not at all
All interviewed municipalities	4	9	35	40
• in Saxony	0	4	33	42
• in Bohemia	7	13	38	37
• in the ERN	4	10	34	38

Source: Jeřábek, Milan (1998), Survey within the Project "Communicating in Border Areas", unpublished.

As table 2 points out, the overwhelming majority of the mayors of German municipalities does not consider Euroregions to be a very effective instrument for regional development whereas the Czech mayors are much more positive about the usefulness of Euroregions. The comparison of the total sample with the sample of the mayors being member of the ERN also reveals that the establishment of some institutionalised form of cross-border co-operation does not influence the overall rather negative perception of Euroregions. The results are even more pronounced when it comes to the influence of Euroregions on municipal decision-making processes. Both the majority of the German and the Czech mayors thinks that Euroregions have a very low impact or no impact at all on the decisions of local councils. Again the pattern in the ERN is not different from the overall low impact of Euroregions in the total sample. The survey results suggest that the ERN is not very accountable to local councils.

Conclusions

It seems legitimate to answer the question what is the new and additional institutional structure of the ERN about, given that the ERN does not deal with sovereign tasks. The fact that the ERN is not a unique or singular punctual institutional form but exists in various forms all over the EU may give one hint of a possible explanation. The existence of many other Euroregions on German borders may be indicative of objective necessities or gaps. It is obvious that border areas are particularly concerned about the negative impacts of different national regulations or the problems arising from the physical border itself. What intellectual circles may debate as European theory is daily practical experience for the citizens who live in border areas. Those citizens experience the effects of border directly which is why they are interested to solve these problems. Euroregions may be an instrument to solve the specific problems of border areas.

The problem is that the nature and significance of cross-border problems may be very different. For example, if there is a bike path that has to be extended beyond the border because there is a tourist target this will be conceived by the citizens as a foregone opportunity but not as a major problem. If, however, municipalities that are separated by the frontier could achieve economies of scale by running a sewage system together citizens will see more of a need for cross-border co-operation, especially when the efficiency rent reduces their water bill. To quote another example, if unpaid bills for rescue operations in foreign territory that is not covered by national assurances keep accumulating at the local first-aid station, then cross-border co-operation is considered to be crucial.

In the case of the Euroregion Neisse-Nisa-Nysa the initiatives for the establishment of the organisation and the launching of cross-border projects came from the municipal level. This raises immediately the question of *local accountability* for transborder co-operation: What are the tasks, responsibilities and legitimisation of local authorities in the context of the ERN? The local authorities deal with ERN issues within their self-governing competence. However, the co-operation may also include issues which are part of the tasks that the state administration transferred to local authorities and for the execution of which the State makes transfer payments to the local authorities from the State budget. In this area, the municipality is subject to the supervision of the respective State administration body, which is, in the Czech case the district offices, some decentralised State administration body or, if provided by the law, the ministry or some other central State administration authority. The authority of the State does not only cover legal supervision of responsibilities that were transferred to the local level, but also the right to determine performance standards for the municipal execution of State tasks. Therefore, the question of accountability of the local authorities in transborder co-operation is complex and difficult to answer.

This may be a reason for sceptics to start a long-term fundamental debate. The citizens living in this area perceive firstly the need to overcome language and communication barriers between the three countries with appropriate instruments. They also see the need to remove hostile images and cliches and to build trust and mutual acceptance. At the municipal level, there is the necessity to be informed about the land use planning and certain infrastructures of the "other side", which function as common resources. Lastly, there are many so-called voluntary tasks of local authorities - starting from economic promotion to tourism, culture and sports. In the end, local authorities are accountable firstly for all of their activities to their constituents. Therefore, it is important that the decisions on principal issues of transborder co-operation are taken by municipal councils.

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