

INTERNATIONAL COOPERATION OF EUROPEAN SUBNATIONAL REGIONS

Ass.Prof.Bojko Bucar, Ph.D.

Head of the International Relations Division
Faculty of Social Sciences
University of Ljubljana
P.O.Box 47, 61109 Ljubljana
SLOVENIA

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Defining the Concept of Regionalism

Regionalism denotes at different times and in different places quite various features. In the discipline of international relations this term basically denoted closer cooperation of a limited number of states as opposed to cooperation of a larger number of states, globally and universally (Lang, 1982). Thus under the term international regionalism one may find analyses of various aspects of regional arrangements falling under Chapter VIII of the UN Charter.¹ There seems to be less unity in the use of the term subregional cooperation of states since it is sometimes used interchangeably with regional cooperation, especially if it does not cover a prima facie distinctive region or if the type of cooperation seems to be distinctive², sometimes it is defined in relation to international regional cooperation as a sub-form thereof³, and sometimes it is influenced by the notion of region as used in other scientific disciplines (e.g. in geography). The lack of consistency in terminology may be explained by the relatively recent phenomenon and the abundance of forms and contents of international regionalism. In a way we could restate what has been said for international subnational regionalism, that it is maybe still too early for a theory on regionalism (Ricq, 1979:186). But as a rule, the above mentioned regional cooperation comprises the whole territory of all states engaged in such a process, mostly by way of legally binding international treaties or sometimes by mere gentlemen's agreements.

Yet in the international community there are numerous instances where states cooperate only on parts of their respective territories, usually in border regions. Good neighborly relations developed from principles of prohibition to infringe upon the sovereignty of the neighboring country, to present attempts of common management of border regions.⁴ This kind of cooperation became limited to subnational regions on one or both sides of the border. Since these forms of cooperation grew on importance and had some impact on international relations, they too became of interest for an analyses which could not escape the term regionalism. Therefore some authors (Lang, 1981) began to distinguish two levels of international regionalism. The first level, "regionalism in a narrow sense", would enshrine the whole of the territory of a country and the second level, "transnational regionalism" would enshrine only parts of the territory of a given country.

But in the last two or three decades a new phenomenon arose in Europe. Subnational territorial entities, which are generically defined as regions, started to cooperate quite independently of states. Their cooperation grew in quantity and in quality. They started to cooperate with their respective counterparts on the other side of national borders and soon expanded their cooperation with partner regions regardless of territorial proximity. Their activities were not only noticed by international organizations, but were also encouraged by them and the impact of their activities had to be reflected in the policies of states. Therefore these activities also came into the spotlight of the international relations discipline, where again the phenomenon was called regionalism.⁵ And this is the kind of regionalism we shall try to analyze and show some possible consequences for the future.

Finally, we should mention a distinct (yet related) phenomenon that is often discussed in connection with regionalism. This are the regional policies that are well known as a constituent part of internal politics within states. Some attention is given also to regional policies of states as regards transfrontier cooperation, especially with regard to various régimes concerning the flow of goods, people, services etc. over national borders in border areas. Also, in integration processes intergovernmental regional policies are nearly as important as regional policies in national politics. All the above mentioned policies are sometimes dealt with under the label of regionalism. We shall mention them only briefly in as much as they influence regionalism.

The Concept of a Region

The term regionalism derives from the word region. When we speak of a region, we usually understand the meaning of the word. But as soon as we try to define it, we encounter difficulties. We may agree that the definition of a region depends on the author of the definition (Massart-Pierard, 1974). And the author is always limited by the field he is working in, by the scientific discipline he is writing in, by the dimension he deals with, the area he writes about and the structure he accepts. Small wonder then that there are probably as many definitions of a region as there are authors discussing the problem. But in political terms a region seems to require at least some degree of social and political institutionalization, so that it may legitimately and legally represent its own interests and be identified politically. The traditional concept of regionalism in international relations stems from the state as a basic constituent unit, not only because of the traditional state-centered research, but also because a state does not only consist of its territory and population but also of its effective authority, i.e. representatives of its interests. They are behind what we call the state as an actor in the international community. The same is of course also important for the political and legal identification of a subnational region, which has to be defined in a political, juridical or administrative sense. Either its authority has to be based on "elected representatives of the people" (as demanded by some international regional associations) or its authority has to be derived from central authorities and thus regions would constitute "the largest territorial unit within a country directly subordinated to central authorities (and above local authorities), with or without legal personality."⁶ The European Outline Convention on Transfrontier Co-operation Between Territorial Communities or Authorities (ETS 106) is even more general and defines "territorial communities or authorities" as "communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each state" (Art. 2.2). In this sense we may find even cases where a region in a political sense may be defined as a system of cooperation of local authorities having a formal or informal institutional structure.⁷ In theoretical terms this state of affairs seems best to be described as "preregional".

In classical political terms it is up to the state to define the territory and the organizational structure of its subnational regions. In modern political terms of democracy it depends on the will of the people. But only a politically institutionalized region may articulate its own interests and participate in transfrontier and international regional cooperation. Transfrontier cooperation is essential in transfrontier (transnational) regions. These regions consist of a territory and social relations (nature and society) that are divided by a national border. Since in sociological terms most national borders are artificial, such regions are an empirical fact in the international arena. Because of the concept of sovereignty of states, such regions have difficulties in reaching an institutional stage and therefore have difficulties in promoting their specific interests which in principle are the interests of the population along national borders. It is the subnational (border) regions which create transnational structures of cooperation that may become an instrument of expressing transnational interests. The structures may in a sense be compared to the "preregional" state of affairs in national administrative and political structures when local authorities assume regional functions. And since regionalism is a growing phenomenon within national (European) states its impact on international relations will certainly be seen also by the growth of institutionalized transnational regions.

The Growth of Regionalism in Europe

Regionalism within states is a growing trend in Europe. This may be seen especially in Western (continental) Europe, although there are signs that this trend may expand also to other parts (Malanczuk, 1981). The countries in transition of what was once called Eastern Europe study closely the phenomenon and it seems that to some of the challenges they are faced with, they might choose to respond by way of international⁸, internal⁹ and transnational¹⁰ regionalism. In Western European democracies they do have more than one example where regionalism has been successful. The international regional integration processes are already a lighthouse for Eastern European States. And we should remember that the federal structure of Germany and the regional structure of Italy were *inter alia* introduced because of a determination that these states never again should become strong.¹¹ In changed circumstances regionalism in turn became an advantage and it is surely a valid model for development. The reasons for growing regionalism in Europe are various (Hueglin, 1986), but generally speaking it is a result of two processes which we might distinguish as regionalization and (alas, again the same term) regionalism (proper).¹²

Regionalization is a process that delegates power from central authorities to lower levels of decision making bodies. It is a kind of decentralization that is often not more than a transfer of the implementation of decisions to lower levels of authority. These processes may be observed even in traditional centralized European states such as France and even Portugal. Contemporary social, political and economic development calls for regionalization because it facilitates the management (administration) of complex and sophisticated social relations. Managing or administering social relations from distant centers is unnecessary and mostly utterly inefficient.

With regionalism (proper) we understand a process that comes from below as an expression of grass root democracy. It is a demand of the population for democracy and self-government. In short, it is a demand of people to manage their own affairs and the environment they live in. It may have its roots in ethnicity, language, culture, religion, history or geography, but it is often only a social and psychological phenomenon. It is therefore a demand of a smaller, more or less territorially defined group of people versus the rest of the population of a country, regardless of their real or imagined differences.

There seems to be a relation between the processes of regionalism and regionalization. Regionalism calls for regionalization, but regionalization encourages regionalism. On top of it the process is nourished by international regionalism, i.e. by supranational integration processes and its regional politics.

Regional policies are essential for every society, for every national state. Besides welfare policy and environmental policy the regional policy is one of the exceptions to market economy. The same is true in integration processes and many an attempt in developing countries to duplicate the success of European integration failed because of disregard for regional disparities.¹³ Europe was very well aware of the danger of regional disparities and tried to counterbalance the harmful integration effects by a number of measures including the establishing of various funds (Keating and Berry, 1985). One of the most important funds for growing regionalism is certainly the European Regional Development Fund (ERDF). And once the European Commission noticed that it did not bring expected results because of the strong influence of states it started to favor direct contacts with subnational regions.

The Concept of Subsidiarity

The growth of regionalism and regionalist ideas in western European countries had its impact also in the international arena. The growing self-awareness that included the notion of responsibility for one's own development gave birth to the concept of subsidiarity (Hummer and Bohr, 1992). The term itself was taken from Catholicism¹⁴ and is in essence a concept for the protection of the civil society from the state. All social activities and all activities by the state should be subsidiary (auxiliary, supplementary) and therefore a higher authority should help lower authorities by taking over specific functions then, and only then, if in the long run the lower authorities would not be able to perform certain functions on their own. In the short term, higher authorities should extend only help (subsidium) to lower authorities and therefore such a concept of subsidiarity enshrines the notion of necessity or emergency.

Through contacts with the German Länder the concept of subsidiarity was brought into European political language by Jacques Delors, the former President of the European Commission, who used it interchangeably with decentralization, deconcentration, federalization and regionalization (Hummer, 1992:83). The concept became a means for persuading those countries in the EU who feared excessive centralization of supranational structures and insisted upon national sovereignty and the authority of the national state.¹⁵ The word itself has even been written into the Treaty of Maastricht, yet the concept itself was not elaborated in greater detail. Although the term has come into the political language of the EU as support to the idea of a federated Europe, probably the place where it came from¹⁶ (combined with the tradition and interests of certain states) influenced the development of two different interpretations of subsidiarity. As noticed by Valéry Giscard d'Estaing (Hummer, 1992:84), according to the first interpretation of subsidiarity the Community should perform only those functions whose scope or effects cross national borders. This concept has a more decentralized or federal character, whereby an important political and institutional decision on centralized federalism or decentralized federalism (federal federalism) is still pending. The second interpretation understands that member states will delegate to a higher level only those essential functions which may be better performed on the level of the Community than on the level of national states. Here again we may find the concept of efficiency which may prove to become centralizing. In the Treaty of Maastricht (Art. 3) the higher level of authority should take care only of those matters that are insufficiently dealt with on a lower level and is therefore better that they are administered by a higher level.

Subsidiarity may therefore well have two meanings. The first is based on the principle of efficiency and the second on the principle of necessity. The principle of efficiency tends to favor the rational that whatever may be performed more efficiently on a higher level of authority should not be left to lower levels of authority, while the principle of necessity stands for a structure of authority where the higher level assumes only those functions which may not be administered by lower levels of authority even after a considerable time of assistance. Once the concept of subsidiarity became legitimate in the EU, the European regions started to advocate even louder the second meaning of subsidiarity.¹⁷ They called for the implementation of this principle on the international, but also on the national level. Within the plans for a New European Architecture they pushed for their concept of a "Europe of Regions" (Buzar, 1994). Europe in their view may not only be a Europe of states but has to become also a Europe of Regions. Regions are considered to be an older phenomenon than states and closer to the concept of a Europe of people, closer to "grass root democracy".

In institutional terms this concept of a "Europe of Regions" is still in its initial stage and causes problems on the theoretical level as well as in practice.¹⁸ But the idea has developed and it is not likely that it will disappear without any consequences. Already the Treaty of Maastricht provides for a Committee of Regions (Art. 4) as a consultative body of the European Council and the European Commission (Art. 198a-c). In this way the regions formally obtained a body equal to e.g. the Economic and Social Committee, yet on the other side they merely confirmed their consultative status.¹⁹ And yet they were mentioned in an international treaty and through it they strengthened their consultative status not only as regards the European Commission but also the European Council. We may expect a rise of their influence in particular as regards structural funds and regional policies in general.

Development and Forms of International Subnational Regionalism

International activities of subnational regions may roughly be grouped into two categories according to territorial proximity: Transfrontier (transnational) cooperation and international cooperation.

Transnational cooperation is always based on territorial contiguity and we may further divide it with regard to the involvement of different levels of authorities into intergovernmental cooperation and interregional cooperation (and possibly also into local transnational cooperation and other forms of transfrontier cooperation). International cooperation of subnational regions is conducted regardless of territorial proximity and may be observed through international regional interest associations and through general international regional associations.

Transnational-Intergovernmental Cooperation

The roots of contemporary transnational regional cooperation in Europe may be traced also in the aftermath of World War II. There was a general awareness that in the past national borders were used as a pretext if not the cause for international conflicts. And regions in a geographical, economic, ethnical or social sense could never be delimited in a way that whole regions would come within one national state. Their partial inclusion into national states slowly produced a comprehension for the "richness in variety". Modern warfare techniques made international conflicts more and more undesirable, which on the other hand called for the respect of national borders and corresponding measures which today we should label as "confidence building". Small wonder then, that transnational regional cooperation strongly developed along borders of traditionally hostile states (e.g. on the French-German-Dutch border or the Italian-French border).

Today there are other reasons certainly more decisive for transnational regional cooperation. Considering the element of a region which consists of people and their relations, a region by definition can not end at a national border. Once national borders were the protecting force of national development, while today they seem to be a burden to it. Also, the notion of human rights, environmental protection, regional planning etc. can no more be confined within national borders. If borders are not yet obsolete, they sure have to be more open than this had been the case in the past. This is exactly what states are trying to do in various forms of international regionalism and in addition to integration efforts of whole economies and even national policies they also further transnational regional cooperation.²⁰ In western Europe there are practically no borders without intergovernmental cooperation on the transnational regional level.²¹

We may detect at least two typical trends developing within intergovernmental transnational cooperation. First, such cooperation developed from seeking solutions to rather simple problems (e.g. traffic of goods and people across the border) to complex management of the territory and social relations (including the planning of activities). Second, the role of institutionalized regions increased within intergovernmental cooperation. Often in the beginning regional and local representatives were only present because they were familiar with local circumstances, yet gradually they took over the substance of cooperation. Especially regional environmental protection and regional planning proved to be utterly inefficient if conducted through national centers. There are cases where national governments legally empowered regional authorities to conduct transnational cooperation²², but often such cooperation is conducted in addition to intergovernmental cooperation.

A special illustrative case represents Regio, a common name for the region on the border between Switzerland, France and Germany. Transnational cooperation started in 1963 by a private Swiss

association called Regio Basiliensis which was in the beginning interested in facilitating the movement of labor from Germany and France to Basel in Switzerland. Soon membership expanded to local and regional authorities of all sides of the borders and so did interests and activities which expanded to such fields as common scientific research, regional planning, various professional and civil activities etc. Once they noticed within the environmental protection activities that the issue of the location of nuclear power plants was at least in one country (France) within the competence of the national government, they gave the initiative to form an intergovernmental commission. On Nov. 3, 1975 an intergovernmental exchange of notes established the German-French-Swiss Intergovernmental Commission for "transnational cooperation in the Upper Rhine Region". Under the patronage of this commission officially all the activities are conducted yet in reality all private, local, regional and national activities are conducted independently and simultaneously.

Transnational-Interregional Cooperation

Once regions became institutionalized on the national level within countries, they assumed to a certain extent the responsibility for their own development. One of the results of this was a tendency to transnational cooperation, in essence to cooperation with their natural background or environment. This in turn only stressed the issue of the competence of subnational regions, and therefore also the right to transnational cooperation. Classical issues of transnational cooperation (e.g. water supply, protection against hail etc.) soon became insufficient. There was a qualitative and quantitative growth of activities having a spill-over effect on each other. Cooperation grew from settling burning and necessary issues to cooperation in different initiatives and today we may observe common planning and managing of activities. More and more actors engage in transnational cooperation and results of common activities attracted adjacent regions not bordering national borders themselves to join transnational cooperation. This kind of cooperation is conducted independent of national governments and has mostly not more than a tacit consent of the respective national governments.

In this way the most characteristic forms of transnational regional cooperation emerged, usually called Working Communities. Rather well known are those which were founded in mountain areas, where regions have common characteristics and common problems deriving from their geographic and socioeconomic setting (e.g. Working Community Jura - CTJ, established in 1985 or the Working Community of the Pyrenees - CTP, founded in 1983). Such regional cooperation developed rather strongly in the alpine area which is divided by numerous national borders. There we may find the Working Community of Western Alps (COTRAO, 1982), the Working Community of (Central) Alpine Regions (Arge-Alp, 1972) and the Working Community (of Eastern Alps) Alps-Adria, established in 1978. All of them are well structured, having numerous permanent bodies engaged in a variety of issues and often showing surprising results (e.g. cf. Horváth, 1993).

There are of course other more or less successful Working Communities²³, whereby those somewhat less structured are known as Conferences.²⁴ Similar to what we have observed in intergovernmental transnational cooperation, also in transnational regional cooperation there are sometimes uncertainties as regards levels of cooperation. This is especially true as regards the distinction between regional and local cooperation. But because we may consider associations of local communities which assume regional functions as regional cooperation, the number of transnational regional cooperation increases considerably.²⁵

Regions cooperate in issues where they face similar problems (e.g. economic and social problems in mountain areas), where they face common problems (e.g. environmental protection or migrant workers), and in areas of mutual interest (e.g. in education, science, economy, sports, culture, etc.). The widening and deepening of cooperation and subsequent substantial results attracted new actors on the horizontal and on the vertical level. On the one hand new adjacent regional authorities joined the

original founding members of transnational regional associations, and on the other hand more and more legal persons within respective regions became involved in transnational cooperation.

International Regional Cooperation

The growth of competence of subnational regions and the growing responsibility for their development has also stimulated cooperation with similar regions regardless of territorial proximity. Usually the cooperation started bilaterally because of historical or economic links and developed in searching pragmatic answers to problems of mutual interest.²⁶ Practical experiences soon instigated multilateral cooperation and the emergence of regional interest associations.

Regional Interest Associations

A certain similarity, a common past and present destiny were certainly a motive for cooperation of border regions. They were dislocated from national centers, their economic, cultural and social space was not rounded up and feeling deprived they sought solutions, in the beginning in transnational cooperation and once it showed results, in international cooperation. So the Association of European Border Regions (AEBR) was founded in 1971. Of course this was not the first association of regions facing similar problems. Already in 1964 the Union of Regions of European Capitals (URCCE) was established. Later followed the Conference of Peripheral Maritime Regions (CPMR 1973) and the Community of Regions of Traditional Industry (RETI 1984) or the European Working Community for Rural Development and the Reconstruction of Villages (EALD 1988).

The last mentioned association could also be classified as functional cooperation, somewhat like the Interregional Transport Commission in the Mediterranean Basin (CITRAME), the Working Community of Winegrowing Regions or the cooperation scheme of The Four Engines (Quattro Motori)²⁷, established in 1989. The question may well be raised if in theory we should make a distinction between interest and functional associations? Not only because there is somewhat less functional cooperation, since these functions are also performed by private civil and professional nongovernmental organizations, cooperation of institutions, etc. But rather because in functional cooperation we may detect a tendency towards deepening and widening of existing cooperation, a tendency towards the aims of existing regional interest associations. We may easily expect that most of the functional regional associations will eventually turn into interest associations of member regions.

General International Regional Cooperation

In the beginning of the eighties, when all kind of international subnational regionalism was already well developed, the European regions realized, that the exchange of experience and mutual cooperation do not meet all the challenges of the present time. If inter alia they tried to influence the policies of national governments through the international organization Council of Europe (CE)²⁸, they soon came to realize that international or rather supranational politics produced policies, whose effects are most drastically felt on the subnational regional level. Within compromises made between states (sometimes ironically labeled as horse trading), the states may always compensate a loss in one field by gaining something else in another field. Regions on the other hand are much smaller units, less capable of compensating losses which are the result of harmful policies.²⁹ International regionalism with supranational elements definitely influenced the emergence of "regional foreign policy".³⁰

Supranational policies, harmful to certain regions, may even be accompanied by certain supranational or national compensatory measures. Yet even then regions have to be present in the planning stage as

well as in the stage of implementation. And even regardless of what has been said so far, today certain developments (e.g. in science and technology) in one part of the world may easily influence developments in quite another region of the world. Therefore regions have to be present in international relations where even if they may not influence developments, they may at least be warned at an early stage. And in addition, when new political structures are built, they wish to be present to safeguard their interests. And therefore the Assembly of European Regions (AER) has been established.³¹

At the same time as their Assembly the regions established their European Center for Regional Development (CEDRE), entrusted with organizational, professional and technical tasks. Yet both in essence serve the same purpose: to organize regions, facilitate their mutual cooperation and represent regional interests within European institutions and integration processes.

Some Theoretical Implications

There is no doubt that certain regions are actors in the international community. They are present indirectly through the influence on their national governments, but they are also directly present. In transnational relations and in international subregional relations they conduct foreign policy and form their own organizations. They communicate with each another, but they also exercise influence on own and foreign states. They are members of international (intergovernmental) organizations. Within the CE they influence the adoption of conventions, legally binding instruments, and through it they influence the harmonization of European law. Within the EU they exercise influence on the European Commission, and after Maastricht also the European Council. Because of national political reasons, but also because of mutual interest, they influence parliamentarians in both organizations. Through them, but also independently they influence governments of states. Although there are some doubts as to the degree of their influence, there may be no doubt that there is some influence which is permanently rising. After Maastricht no European Home will be able to escape their presence.

But if the regions are actors in the international community, how do we assess their subjectivity? Subjectivity is the capability of acting in a specific field of a given area. But is their acting regulated to such an extent that they may be considered also a subject of international law? In the international community this calls for at least some kind of sovereignty of territorial units, considering of course, that sovereignty has changed considerably in substance through history. And a sovereign state in the international community is legally determined by its right to representation, to conclude treaties and to wage wars. But since sovereignty is a nebulous and prestigious concept, we may also remember that there are other subjects of international law, which we do not call sovereign, but they assume rights and obligations under international law. And partial subjects of international law may be recognized by their right to conclude treaties and their right to representation.

The regions vary considerably as regards their competences. Many have the constitutional right to act in some way in the international community and this has to include the right to representation. True, their representatives have no right to privileges and immunities according to international law. But there are a few instances where as a matter of courtesy foreign governments and foreign regional authorities provide for some privileges. In any case organized representation of regions, including offices abroad, are a fact of life. As regards the treaty making power, there are regions, some federal units and some autonomies, which may conclude international treaties as their constitutional right. Others are specially empowered by central authorities and some consider it as inherent in their right to act in the international community. It is usually argued that these are political agreements or private law types of agreements. The problem arises if and when the aim and the purpose of the treaty show legal obligations in the domain of public authority. The treaties may very well be invalid yet parties to the treaty do respect the obligations. Which law would govern such a treaty? The legal doctrine is

divided on this issue, but one could easily claim that regions are an emerging subject of international law.

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