

INSTITUTIONAL ASPECTS OF PORTUGUESE-SPANISH CROSS-BORDER COOPERATION

PODADERA RIVERA, PABLO

CALDERÓN VÁZQUEZ, F.J.

ABSTRACT:

The Portuguese-Spanish border perfectly embodies the common characteristics of European cross-borders territories with a present which is characterised by abundant initiatives of cross-border cooperation. In the present paper we will analyse the institutional aspects of the cross-border cooperation on the Spanish-Portuguese border from its configurative elements: starting from the normative tools which have promoted it, up to the new institutions which have developed it; its results relating to the deactivation of the cross-border discontinuity and the minimization of inherent transaction costs due to the cross-border factor.

The final conclusions of research reveal an important impact of the cross-border cooperation, of its institutions and tools in the political and administrative landscape of Portuguese-Spanish cross-border areas even though they are impregnated by excessive Community bureaucracy and with important administrative, fiscal and juridical-legal limitation.

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Introduction: Borders, Transaction Costs and Institutions

The borders have been a key factor in the historic process of State-Nation configuration since the “national territory” is defined by its borders, demarcation lines which isolate, protect, separate and differ that State from the others. In this regard, the state (and the political socio-economic, juridical and cultural unity which it represents) exists and is recognized by others from its sovereign borders, therefore, the correlation between Border, State and Nation seems almost physiological (Agnew and Corbridge, 1995; Donnan, 1998; Donnan and Wilson, 1994 and 1999; Taylor, 1994 and 1995). In fact, as Taylor (1994:152) affirms: “*a world of sovereign states is a world divided by border lines*”.

Since the Peace of Westphalia (1648)¹, the territory between the borders of a certain state is a space of its Sovereignty, i.e. where the State in question exercises its power. Therefore, that space is obeyed to legal and political system of the State in question and the border is supposed to be its external limit (Cairo, 2001; Foucher, 1991).

As every state has its own and peculiar normative and political system and constitutes the border as its external edge, the existence of a political border implies the *discontinuity* or the juridical-political, economic-fiscal-customs, linguistic-ethnic-cultural differential between both sides of the same border because of the bordering territories belong to different legislations that end and start on the boundary. (Foucher, 1986; 2007; Wackermann, 2003).

The first regional economists (Christaller, 1966; Lösch, 1967) considered the border discontinuity (and its economic, legal and cultural consequences) as a form of fragmentation or separation of contiguous territories which were separated artificially, with the border delimitation, isolating such territories from its adjacent that, in this way,

¹Peace of Westphalia initiated a new order in Europe based on the concept of national sovereignty, marking the birth of the Nation-State. In Westphalia the principle that the territorial integrity is the foundation of the existence of States was established, against the feudal conception where the territories and peoples constituted a hereditary estate.

fractionated the existing market and obstructed the productive and territorial complementarity.

Following Rodrik (2012) the borders serve for market segmentation in a similar manner as the transport costs or customs duties do it, obstructing and making difficult the cross-border trades, considering the existing transaction costs derived from the discontinuity between political and juridical systems in competition. Such transaction costs can derive as from the enforceability of agreements and contracts beyond the borders so from the linguistic differences and cultural existences, the uncertainty of exchange rates, the belonging to different monetary system, etc. As a whole, such circumstances act as a powerful exchange inhibitor between both sides of the border or at least they generate important resistances in the cross-border relations. (Rodrik, 2012).

That is why it's no wonder that in the constituent process of Common Single European Market, the essence of the actual European Union (EU), one of the fundamental fronts of action has been the deactivation of the border effect (regarding the member-states' interior borders) in its different projections: either by elimination of physical barriers, or by means of reduction or minimization of the cross-border transaction costs.

It supposed that for managing the European economic integration the intra-European borders would have to act as "hinge" or as territorial articulation zones from which the Common Single Market project must be impelled, turning into a some kind of laboratories for European integration. (Van Houtum and Strüver, 2002; Perkmann and Sum, 2002; Anderson et. al. 2003; Kramsch and Hooper, 2004; Amilhat-Szary and Fourny, 2007; Harguindéguy, 2007; Dupeyron, 2008).

Despite such clearly defined will of the Community for integration, the task was not easy, since it was to overcome the common historical vicissitudes of many European border areas marked by differences, conflicts, fights and distrust towards the "others" even though they were also Europeans. In this sense, we should ask ourselves what arguments and reasons may encourage distant or separated by the border discontinuity states and communities to undertake "*pro-cooperatio*" actions with the other opponents.

States and border communities usually tend to move towards cooperation, either when the benefits derived from it are relevant, well when marginal profits derived from collective action are higher than the profits obtained from unilateral action (Hernandez

ET al. 2009). Therefore, any deconstruction analysis of border type should begin with prudence as a starting point, rather than assuming that the mere existence of a shared border is a factor that encourages or promotes the cooperation among States and border Communities. It could be so, but not necessarily; it would depend on such factors as the expectations of profit and loss derived from the collective action.

Since the institutions are the answer to the dilemmas that collective action generates (Olson, 1965), implementing the evocative designs of rapprochement and intra-European cooperation through the intra-Community borders, meant to generate new norms to give the origin and support for new institutions which, in its turn, would produce new forms of action, new methods and facilitation instruments for convergence process among which the *cross-border cooperation* stands out.

It was fundamental to “stimulate” the border states to change attitude towards the borders simultaneously (or previously) the institutional development, making available for them a range of powerful economic inducements offered by the European Regional Policy, in particular, by the European Regional Development Fund (ERDF).² Such inducements constituted in the state unilateral perspective, the essential *expectation of certain gain* (derived from collective action) was fundamental for a positive change of behaviour towards the cross-border cooperation with the "other " Europeans. Without such inducements today it would be difficult to speak about *Europe without borders*.

With regard to institutional development, North (1990) considers that the institutions are either as the set of the game rules established in a certain society, or as restrictive regulations that determine, shape and configure the interactions (political, social or economic) among the individuals who compose a society. Following North (1991), the institutions with their performance generate both low transaction costs for the implementation of *property rights* and incentives to minimize the uncertainty in trade together with the promotion of pro- cooperative behaviours and communication among

²Together with the creation and development of specific programmatic instruments for border areas as INTERREG: European initiative related to cross-border cooperation to encourage harmonious and balanced development of the European territory; it is one of the objectives of the Cohesion Policy of the European Union. It was launched in 1990 and is built around three axes of cooperation: cross-border (INTERREG A), transnational (INTERREG B) and interregional (INTERREG C). It has passed in several phases till today: 1991-1993 (INTERREG I) 1994-1999 (INTERREG II) 2000-2006 (INTERREG III) 2007-2013 (INTERREG IV) 2014-2020 (INTERREG V)

agents. Finally, by structuring and organizing the Agents' behaviours, the institutions generate a certain socioeconomic "order" that greatly influences on the functioning and the performance of an economy (North, 1991).

In the Community context, the emergence of new cross-border institutions has come from the new promoted regulations, in principle by peripheral entities to European institutions such as the Association of European Border Regions (AEBR)³ and the Council of Europe⁴. Both institutions, being promoters and protagonists of the "Europe without borders " have encouraged key regulations to that effect, and the so-called "*The European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities*" (CMECT) (1980)⁵ and the *European Charter of Border Regions* (1994) as the decisive regulatory instruments in the deactivation process of border fact at European continental level have emerged.

In the context of gradual deactivation of the European Union's internal borders, the Portugal-Spain border appears as one of the oldest, the largest and most stable intra-European borders of Europe (Kavanagh, 2009; Lopez, 2005), throughout its more than seven centuries of existence⁶ and its 1,234 km extent⁷ .

³ The Association of European Border Regions (AEBR) founded in 1971 in Bonn, has participated actively in the process of dismantling intra-Community borders since its inception, while assisting and advising the border and trans-border regions and has encouraged the creation of cross-border international organizations and projects cooperation.

⁴ The Council of Europe is an organization aimed to promote the configuration of common politic and juridical space in Europe by means of cooperation between European states based on the rule of law and the democracy and human rights values. The organization was founded in 1949 and it is one of the oldest organizations that pursues the European integration ideal and encompasses all European states.

⁵ Also so-called Treaty of Madrid (21/05/1980), entered into force in general way on 22 December 1981. Thereafter the different Member States started signing and ratifying the text, and being signed by Spain on October 1 1986 and prior authorization of Parliament, it was ratified on 10 July 1990 (BOE of October 16, 1990) To date, the Framework Convention has been signed by 40 and has been ratified by 38 out of 47 Member States of the Council of Europe.

⁶ The "Raya Iberian" as we know it, is founded on Treaties of Zamora (1143), Badajoz (1267) and Alcañices (1297). But only after the signing of the Treaty of Lisbon (1864), which was amended in the Agreement Limits (1926), when the last disagreements were resolved it achieved the current state.

⁷ For the purposes of European administrative-territorial organization the Spanish-Portuguese Raya (Borderline) encompasses a territorial whole composed of 17 territorial cross-border units of nomenclature (NUT III) which cover an area of 136 640km (23.5% of the Iberian space) and a population of 5,474,225 inhabitants (10% of the total population of the two states). In turn, 17 NUT III (Nomenclature of Territorial Units) are distributed in five areas of cooperation for the purposes of cross-border cooperation: North Region-Autonomous Community of Galicia; North Region-Autonomous Community of Castile and Leon;

The Spanish-Portuguese border perfectly embodies the common characteristics of many European border areas and reflects the vicissitudes of its evolutionary process, while moving from a remote past, marked by conflict and fights, in this case between the two Iberian kingdoms, till a hopeful present, characterized by abundant cross-border cooperation initiatives and a clear line between the Portuguese and Spanish economies (Calderon, 2015).

In this paper we analyse the institutional aspects of cross-border cooperation in the Spanish-Portuguese border from its constituent elements: the regulatory instruments that have encouraged it, the institutions that have been created and have been developing, their results in terms of deactivation of the border discontinuity and transaction costs derived from the border fact.

To this end, the text is structured, after this introduction, into four sections more. In the first section, we review the historical political cross-border cooperation in the Portuguese- Spanish border context. In the second section, we review the necessity in cross-border institutions and the Community regulatory framework. In the third section, we proceed to an overview of cross-border cooperation in the “Iberian Raya” (Iberian Borderline) that goes from the Working Communities to Euroregions, and review the trans-border institutions and the deployment process of Portuguese-Spanish *cross-border*. In the fourth section, we proceed to reflect on the results of two decades of cross-border cooperation and challenges for the future.

1. The historical-political context of Portugal–Spain cross-border cooperation

We can describe the Interstate relations between Portugal and Spain, throughout the 19th and 20th centuries, as a life as *costas voltadas*, i.e. back to back living (Reis, 2007). It should not be rare, due to peculiar structure of mistrust existing between the two large Iberian States, which tended "to live with its back turned to the neighbour " (Lopez,

Central Region-Autonomous Community of Extremadura-Alentejo Region; Alentejo Region- Autonomous Community of Andalusia-Algarve Region.

2005; Calderon, 2015) as usual *modus operandi*. So close but so far, the Portuguese and the Spanish, being formally “great friends” but de facto scarcely inclined to the interaction were living closed themselves off, each one in its place, thus, the potential "approach" between so ambiguous and "distant" positions was devoid neither of hardships nor of historical prejudices (Kavanagh, 2009 and 2011). The trigger for the change of this historical inertia for non-cooperation between not too well-matched "neighbours" (Medina, 2009), will come from the incorporation of both Iberian countries, first, to the European Economic Community (EEC) in 1986 and afterwards, to the European Single Market, which would lead to the historic dismantling of customs and subsequently to the European Schengen (1992) that will bring the free transit from one country to another.

This unusual acceleration of social innovations in such a short interval (1986-1992), will cause a Copernican turnabout in the Spanish-Portuguese border dynamics until that time very limited (with respect to cross-border relations) to the local border trade⁸, the contraband (Calderon, 2015) and the collusion relations, the neighbourhood and the complementarity between the people on both sides of the border (Caballero, 2009; Medina, 2006; Corrales, 2006).

Unlike other Central European borders much more oriented towards cooperation, such as the Belgian-Dutch, the Dutch-German or the Benelux itself (Belgium, Netherlands and Luxembourg) the Portuguese-Spanish border heeled over the "non-cooperation" (Candy, 2002; Garcia and Mora, 2005; Gaspar, 1993), being a historical result of a *diseconomies* combination: on the one hand, the infrastructure endowment itself (road and railway) of the vast majority of border sections which, shaped by the border effect as *cul de sac*, had neither road links (bridges, etc.) nor continuity beyond the border⁹ and therefore, the highways, roads and railways used to die at the same border (Calderon, 2010).

⁸ Particularly active in local markets located on the borderline or nearby (Valença do Minho, Miranda do Douro, Vilar Formoso, Elvas, Vila Real, etc.).

⁹ the great communication border axes being presented from south to north of the border would be the following: Ayamonte (Spain) -Vilar Real do Santo Antonio (Portugal); Badajoz (Spain) -Elvas -Campo Maior (Portugal) ; Fuentes de Oñoro (Spain) -Save (Portugal), located on the N - 620, one of the main routes between Portugal - Spain -France; Verin (Spain) -Chaves (Portugal), Tuy (Pontevedra, Spain) and Valenca do Minho (Viana do Castelo, Portugal), which have always maintained the commercial and exchange tone.

Similarly, the socio-economic configuration of Portuguese-Spanish border areas, being primary continental peripheries (Calderon, 2010; Lopez, 2005), that just have a few dynamic and relevant urban centres, the territories doomed mostly to the production of raw materials, coupled with a Demand of poor solvency derived from the contingents mostly of a rural, sparse, dispersed, and ageing population, (Podadera and Calderon, 2014), of very low purchasing power, with high levels of compared poverty (De la Macorra, 2005), formed an economic outlook characterized by its sluggishness.

The change of the Portuguese-Spanish relational climate on the basis of the political changes with the return of Democracy and the signing of the Treaty of Amity and Spanish-Portuguese cooperation (11/22/1977), it will be gradually turned into a more inclined attitude towards the understanding and interaction with the "other", and the greater fluidity in the cross-border relations especially significant from 1996 is noted, and, thus, the Raya (Borderline) turns into a starting point for numerous initiatives of cross-border cooperation (Castro, 2011; Medina, 2009; Pires and Pimentel, 2004). Such initiatives encompass a broad range of subject contents, ranging from business to cultural, to linguistic and touristic aspects, and going through the administrative, the environmental aspects and the management of border territory. This "bloom" of the initiatives of Portuguese-Spanish cross border cooperation seems directly correlated with the generous funding opportunities offered by the Structural Funds.¹⁰

The combined effect of funds and institutions (and the consequent demonstration effect) has led to the rise of the cross-border cooperation to the forefront of the topicality of the Portuguese-Spanish borderlands, being understood following Medina (2009) as a usual and daily relational modality between both sides of the border.

2. – The necessity for cross-border institutions. The Community regulatory framework

¹⁰ Particularly important in the case of the Raya: On the one hand, the European Regional Development Fund (ERDF) which aims to strengthen economic and social cohesion within the EU by correcting imbalances between its regions. Furthermore, the (no less generous) Community initiatives and programs, in particular INTERREG and to a lesser extent, the LEADER program (Liaisons between activités de L' Economie Development Rural)

Following ARFE (1997), the reason for cross-border cooperation lies in overcoming the negative correlates of the border effect, for which the creation of cross-border areas for the economy and services arises, the reducing of the national border to a simple administrative boundary and the transformation of the peripheral position of the border regions with regard to the national territory in a central position in the European Union in the long-term is considered (ARFE, 1997: 6).

That territorial "revolution", raised for being carried out effectively, would have to meet several conditions: on the one hand, it must be multilevel and cross necessarily, and embraces all sectors of daily life: housing, employment, leisure, culture, social life, transport, environment, etc. On the other hand, it has to involve all regional actors from both sides of the border and to act at all territorial scales both on the national level and on the regional and local levels. Finally, it is crucial to develop the cross-border actions in a coordinated manner. Otherwise, the conflicts of competence will be inevitable, because of the different national structures among other reasons (AEBR, 1997).

All this leads to the necessity for cross-border institutions; to guide such complicated processes of border deactivation and to produce concrete and tangible results simultaneously means having formal or informal complex entities that when establishing the courses of determined and preset action (North, 2003) would constrain and regulate the border agents' behaviour and encourage the coordination and cooperation between individual and collective trans-borders actors.

The minimization of the cross-border transaction costs, being the axis of the cross-border cooperation, just begins carrying out if trade partners know the rules of the game and the limits of scope and it implies a great clarity in the design and in the institutional performance (North, 2003). This can only be if each decision maker knows that the other agents act according to the same principles, norms, rules, procedures and mechanisms that correspond to those previously established by cross-border institutions.

The typical for border relations uncertainty (in the sense of ambiguity) can be reduced if the supply and the exchange of information between the parties (referred to an essential thematic content that each message delivered by each of the parties with respect to a specific situation must contain), do not require an exhaustive and repetitive work of interpretation whenever an exchange is being addressed. To this end, the parties need to have confidence in the foreseeable counterparts' behaviour, since the actions of these

must be produced in accordance with the rules issued by the institutions, that is, they follow a precise route-map: established in advance, producing a predictable (and expected) by the others, behaviour and, hereby, the expectations of exchange are being fulfilled (North, 2005). Otherwise, it could hardly occur. Therefore, the establishing of defined rules, procedures and coordination mechanisms that facilitate the activities of the agents on both sides of a border is critical.

In this regard, the aforementioned "European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities" (CMECT, 1980) defined the regulatory framework for cross-border cooperation between European regions, reflecting the agreement of the signatory States to facilitate and promote border cooperation, and also to impel the conclusion of agreements and protocols for this purpose. It will also define and regulate the concepts of "cross-border cooperation"¹¹ and "territorial communities or authorities"¹². Similarly, it defines the models of cross-border agreement, delimits the interstate agreements, and includes references into the obligations of information exchange. Likewise, it incorporates the mechanisms for resolving difficulties of the legal, administrative or technical order (MMHH, 2014).

Following **Beltran** (2007), the CMECT left some loose ends that would be concretized or specified by a series of Additional Protocols to the Framework Convention. Thus, the Additional Protocol No.1 (1995)¹³ has defined the thematic contents of the cross-border cooperation, establishing as an essential requirement that it would be carried out by entities that share a common border without specifying the subjects on which such cooperation can deal with. Moreover, it enables the possibility of creating agencies-border cooperation.

¹¹ Defined in art. 2 (CMECT) as "*all concerted action designed to reinforce and develop neighbourly relations between territorial communities or authorities which belong to two or more contracting parties as well as to the conclusion of agreements and arrangements suitable for this purpose ...*". For its part, the ARFE (1997) defines the cross-border cooperation as "*direct neighbourhood cooperation between regional and local institutions along a border, in all areas of life and with the involvement of all actors.*"

¹² Territorial communities or authorities should be understood to mean "*the communities or authorities or organisms which exercise local or regional functions and which are regarded as such in the domestic law of each State*"

¹³ *Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities*, 9 de November de 1995, CETS n. 159

Given the huge boom of cooperation by local authorities with other similar entities within and outside the European Union, a new protocol, the Additional Protocol No.2 (1998)¹⁴, which would complement the previous regulatory instruments including the so-called inter-territorial cooperation¹⁵, became necessary, being a form of cooperation that goes beyond the "traditional" cooperation on both sides of the border.

The European Charter of Border Regions (AEBR, 1994), raised the idea that intra-European borders are "scars of history", characterized by a peripheral situation and pejorative conditions of life regarding the central territories. It also was considered to develop the cooperation between border areas from a multilevel perspective (including economic, infrastructural, environmental or cultural aspects, income and living standards, etc.) with a view to overcome that situation of underdevelopment. It was also intended to promote the knowledge and understanding of the "others", their characteristics and singularities (cultural, linguistic and economic of adjacent territories particularities), promoting the closeness and mutual understanding in order to overcome historical prejudices and hostilities. The first objective of cross-border cooperation for the Charter lies in the increasing of mutual trust to enable the greater and more effective cooperation at all levels.

The arrival of the so-called European Grouping of Territorial Cooperation (EGTC)¹⁶ sets up a further deepening phase in the development of the cross-border cooperation institutions. Conceptualized as "grouping of territorial entities with legal personality, which aims to facilitate and promote the cross-border, transnational and/or interregional cooperation, called "territorial cooperation", between its members". The EGTC can be formed either by Member States or by regional authorities, local authorities and bodies governed by public law, that belong to at least two Member States of the European Union, being its purpose the promotion of the cross-border cooperation, with

¹⁴ Protocol n. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning inter-territorial co-operation, May 5, 1998, CETS n. 169.

¹⁵ Defined as "*any concerted agreement designed to establish relations between territorial entities of two or more Parties, other than the relations of border cooperation between neighbouring entities, including the conclusion of agreements with local authorities of other States*".

¹⁶ Established by Regulation (EC) No 1082/2006 of the European Parliament and of the Council, of 5 July 2006.

the exclusive aim of strengthening the economic and social cohesion (MMHH, 2014).

The EGTC is a facilitator and dynamic instrument for territorial cooperation within the EU, it is supposed to be a new generation of instruments in relation to CMECT (1980) that tries to overcome its limitations. In this regard, the cooperation, raised by the CMECT, requires the prior conclusion of bilateral or multilateral international treaties that would develop and specify the provisions of the Framework Convention, without allowing the Member States' participation (as such) but only of its territorial, local and regional bodies. Similarly, the cooperation is limited to contiguous or adjacent entities on each side of the border, always between member states of the Council of Europe.

These limitations are overcome by means of the EGTCs, and it makes possible much more flexible formulas for cooperation in the field of the European Union, adapted to the current global circumstances. With the reform of the EGTCs (2013)¹⁷, on the one hand, the instrument is perfected expanding its thematic fields and it allows the participation in an EGTC of members from third countries that must be neighbours of a Member State and of so-called OCT¹⁸. Also, their horizons are widened towards the promotion of regional cooperation as a whole, including the strategic planning and the management of regional and local issues in line with cohesion policy and other EU policies, following the coordinates of the Europe 2020 Strategy.

3.- Overview of cross-border cooperation on the Iberian Raya: from Working Communities to the Euroregions

An overview of the regulatory changes and the institutions derived therefrom, in the peculiar case of the Spanish-Portuguese border, should start from a diachronic perspective because, despite its relative youth, the phenomena of cross-border

¹⁷ Through the Regulation (EU) No 1302/2013 of the European Parliament and of the Council, of 17 December 2013, by which the Regulation (EC) No 1082/2006 about the European Grouping of Territorial Cooperation (EGTC) is amended.

¹⁸ OCT (Overseas Countries and Territories) listed in Annex II TFEU.

cooperation¹⁹ in the Iberian Raya begins in the early nineties, after the final entry of the two Iberian states in the EEC (1986). From this moment, significant changes in the initial budgets of cross-border cooperation have been producing. Moreover, it is an extremely "alive" matter where the changes happen with enormous vitality and even excitement, no doubt, motivated by the enormous pressure of globalization towards the European countries and by its own membership to the EU, which largely benefits and stimulates those changes.

In this regard, it should be distinguished into three phases in the development of Transfrontier cooperation in the lands of the Iberian Raya, the first one is substantive and is referred to the Portuguese-Spanish joint Working Communities developed from the European Outline Convention (1980) and its recognition by the Spanish State (1990). It is substantive, insofar as the basis and foundations of later buildings are made. The second phase marked by the entry into force of the Treaty of Valencia (2002) and a third phase, from 2005, where the tremendously present initiation of the Euroregions on the Portuguese-Spanish border, connected to the emergence of EGTCs, is produced.

As regards the first phase, it is characterized by the emergence of the Working Communities, that arise from the various Protocols for Cooperation signed under the *European Framework Convention on Transfrontier Cooperation between Territorial Communities or Authorities* (1980), between Portuguese and Hispanic regional authorities, i.e. between the Spanish Autonomous Communities bordering Portugal²⁰ and its Portuguese correlates Regional Commissions of Coordination²¹.

Table N.1 Normative Regulation and cross-border derived institutions

¹⁹ We must point out that when we talk about cross-border cooperation, we refer to institutional interactions between border administrations and agencies of regional, local or municipal level.

²⁰ That are Hispanic CCAA (from north to south) of Galicia, Castilla y Leon, Extremadura and Andalusia

²¹ Therefore, the *Regiões* (from north to south) North of Portugal, Central Portugal Region, Alentejo Region and Algarve Region .

REGULATION	DERIVED INSTITUTIONS
COOPERATION PROTOCOLS	
Agreement establishing the Working Community Galicia (SPA)-North Portugal (PT) Subscription: October 31, 1991	WORKING COMMUNITY "GALICIA NORTH OF PORTUGAL"
Junta de Extremadura (SPA) with the Coordination Commission of the Alentejo Region (PT) Subscription: 17/01/1992	WORKING GROUP "EXTREMADURA-ALEMTEJO"
Junta de Extremadura (SPA) with the Commission Coordination Centre (PT) Region Subscription: 27/05/1994	WORKING GROUP "EXTREMADURA-CENTER"
Junta de Castilla y Leon (SPA) with the Coordination Commission for the Northern Region (PT) Subscription: 21/01/1995	WORKING COMMUNITY "CASTILE AND LEON-NORTH PORTUGAL"
Junta de Castilla y Leon (SPA) with the Central Region Coordination Commission (PT) Subscription: 03/03/1995	WORKING COMMUNITY "CASTILE AND LEON-CENTER PORTUGAL"
Junta de Andalucía (SPA) with the Coordination Commission of the Algarve Region (PT) Subscription: 27/07/1995	WORKING COMMUNITY "ANDALUCIA-ALGARVE"
Junta de Andalucía (SPA) with the Coordination Commission of the Alentejo Region (PT) Subscription: 25/01/2001	WORKING COMMUNITY "ANDALUCIA-ALEMTEJO"

Source: Own Elaboration based on data MINHAP (2014)

The Cross-Border Cooperation Protocols listed in Table N.1, usually are aimed to establish operational structures oriented to the development and implementation of programs and projects of common Portuguese-Spanish interest. For this purpose they take advantage of the available wide range of Community economic stimulus, getting benefit from the interactions between entities, organizations and associations on both sides of the Raya. Thus, they contribute to the socioeconomic development of border territories.

Each of these protocols represents a separate instrument of non-normative character, consequently, either mere declarations of intents (Caballero, 2009), or simple "gentlemen's agreements" (Ponte, 2001), which do not modify the prior competition regime of each signatory region to the protocol, the regime that is determined by the Spanish and Portuguese domestic laws. But they do imply the mutual and reciprocal commitment of each of the signatory regions to lay the foundations that could make possible the creation of functional and stable bodies and institutions of cross-border cooperation.

The Protocols have been generating a network of previously non-existent cross-border connections (Caballero, 2009; Corrales, 2006; Medina, 2009) through the creation of cooperation mechanisms and structures such as the so-called *Working Communities*.

These are organisms lacking legal personality, which since the early nineties, when the Working Community "Galicia-Norte de Portugal" (31/10/1991) were established, have been asserting themselves as one of the most significant institutions of the Portuguese-Spanish cross-border cooperation, insofar as they channel the economic incentives provided by the European Union (Caballero, 2009, 2009).

Despite the limitations imposed by its "political" nature, its informality and its lack of legal personality (Iglesias, 2001), the actions carried out by the Working Communities have favoured the interactions between regional and local administrations, universities and study and research centres, professionals and youth associations, businessmen from both sides of the Portuguese-Spanish border.

Table N.2 Standard Cross-border Institutions

INSTITUTIONS	ORGCHART	Management
Working Community "Galicia-North of Portugal"	Presidency + Council + Coordination Committee + Sectorial Commissions ²²	Secretary+ Secretary General
Working Group "Extremadura-Alemtejo"	Working Group+ Specific or Technical Commissions	Office of Cross Border Initiatives (GIT)
Working Group "Extremadura-Centre"	Working Group+ Specific or Technical Commissions	Office of Cross-Border Initiatives (GIT)
Working Community "Castile and Leon-North of Portugal"	Presidency + Vice Presidency+ Plenary Council + Management Committee +Sectorial Bilateral Committees	Office of Cross Border Initiatives
Working Community "Castile and Leon-Centre Region"	Presidency + Vice Presidency+ Plenary Council + Management Committee +Sectorial Bilateral Committees	Office of Cross Border Initiatives
Working Community "Andalusia-Algarve"	Presidency + Working Community Council + Working Commissions	Office of Cross Border Initiatives (GIT)
Working Community "Andalusia-Alemtejo"	Presidency + Working Community Council + Working Commissions	Office of Cross Border Initiatives (GIT)

Source: Own Elaboration based on data MINHAP (2014)

The Portuguese-Spanish Cross-Border Working Communities listed in Table N.2 have centralized its operational essentially in the selection and monitoring of operational projects within the framework of programs and Community initiatives such

²² Peer Sectorial Commissions (10) responsible for matters of common interest to the parties: regional and local administrations; agriculture, environment, natural resources and management; culture, heritage and tourism; local development; economic revitalization; education, training and employment; scientific research and universities; fishing; health and social affairs; and transportation.

as INTERREG, in its various phases. A work of catchment and endogenization of monetary funds or investment flows whose impact begins to become evident both in the provision of infrastructure and equipment (its more visible achievement) and also in the rapid growth of all kinds of Portuguese-Spanish exchanges and interactions.

The Working Communities have been provided with specific cross-border management instruments such as the Secretariats, specifically highlighting the so-called Border Initiatives Cabinets (known by the Spanish acronym G.I.T²³.) (Table N.2) in order to carry out such activities. They are technical bodies of administrative nature, aimed at insuring stable flows of information and permanent contacts between the various institutions that make up the Working Communities, managing the activities and the day-to-day cross-border cooperation.

The second phase in the development of the Portuguese-Spanish border cooperation begins with the entry into force in 2004 of the so-called Treaty of Valencia (2002)²⁴. Its background is the Treaty of Friendship and Cooperation between Spain and Portugal (1977), signed simultaneously with the incorporation of Spain to the Council of Europe, aimed at strengthening the bonds of friendship and solidarity between the two countries, supported by their common interests. The Spanish-Portuguese relations are intensified by a remarkable socio-economic expansion with the accession of Spain and Portugal to the European Union (1986) and the consequent disappearance of internal borders. One of the key areas of interaction lies in the cross-border cooperation, that take shape in the territories adjacent to “Iberian Raya” during the 1990s with the development of the Spanish and Portuguese interactions at autonomous, regional and local levels.

In fact, the Treaty of Valencia²⁵ is going to provide legal cover for cross-border emerging institutions such as the Communities and Working Groups, the result of the Protocols of Cooperation signed between the different Hispanic border CCAA with the Portuguese CCDR (Tables N.1 and 2).

²³ i.e. Grupo de Iniciativas Transfronterizas or Cross-border Initiatives Group

²⁴ Bilateral Treaty between the Kingdom of Spain and the Portuguese Republic *on cross border cooperation between entities and territorial authorities*, signed in Valencia on October 3rd, 2002, and that comes into force on 30 January 2004 (BOE of 12 September 2003).

²⁵ The Treaty of Valencia defines the purpose and the territorial scope of cross-border cooperation with Portugal, the legal system, the content and applicable law to cross-border cooperation agreements as well as the regulations applicable to cooperation bodies.

The Treaty of Valencia (2004) sets up the regulation of cross-border cooperation bodies, distinguishing between organizations with legal personality (Associations of Public Law and inter-municipal companies in Portugal and Consortia in the Spanish case) and organizations without legal personality (Communities Labour and Working Groups). Such distinction is significant as it assigns very specific functional subject areas. Thus, the agencies without legal personality will only be able to devote themselves to "*study issues of mutual interest*", the "*formulation and implementation of proposals for cooperation*", the "*preparation of studies, plans, programs and projects*", the "*promotion of relationship forms between agents of such type cooperation*" and the "*execution of the tasks provided for these structures*" in the Interreg Program (MINHAP, 2014: 5). While the agencies with legal personality may have different goals such as the "realization of public works, the common management of facilities or public services, and the development of actions which would allow them to benefit from European funds" (MINHAP, 2014: 5). Following Ponte Iglesias and Pueyo Losa (2006), their emergence seems to respond to the demands (on the part of border agents) of greater operability and efficiency in carrying out the activities of cross-border cooperation (Ponte and Pueyo, 2006: 151). Finally, the Treaty of Valencia carries out a very interesting work for harmonization, given the great current differences (regarding areas of operation and competence) between the entities and Portuguese and Spanish territorial agencies.

The third (and the last) of the evolutionary phases of the Portuguese-Spanish cross-border cooperation derives from the emergence of the *Euroregions*²⁶ on the Spanish-Portuguese border. It is an institutional development aimed at providing greater efficiency, concretization and planning capacity (on a large territorial scale) to the "traditional" cross-border cooperation, which was being conducted by Communities and Working Groups. It also implies a further deepening of the institutionalization process of the cooperation and a clear choice for renovation of the political *pro-cooperatio* commitment of regional administrations that carry it out.

²⁶ The Council of Europe defines Euroregion as "any agreement or framework for cross-border cooperation between public entities on either side of the border with territorial responsibilities for the promotion of common interests and benefit of border populations". In a nutshell, an Euroregion is a type of cross-border cooperation structure between two or more European countries that serves for channelling it. The Euroregions do not correspond to any legislative government or governmental institution, they do not have their own legislative power and their competences are often limited to local and regional government.

The new Portuguese-Spanish Euroregions²⁷ have different legal and political formats; on the one hand, the "natural" evolution model of cross-border "traditional" cooperation, structured around the Portuguese-Spanish cross border institutions of the Communities and Working Groups (listed in Table N.2), agencies, as we remember, without legal personality, what we might consider as *Tripartite Agreements*, emerge. Model is based on the original legally Cooperation Protocols successively adapted to the Treaty of Valencia (2004).

In this brief overview about the borderline Euro-regions we cannot omit the presence of very suggestive and interesting developments such as the creation of the first European macro region²⁸ in Iberian territory, called "Regions of Southwest Europe" (RESOE). It is a macro-region integrated by Spanish CCAA of Galicia, Castile and Leon, Asturias and the Portuguese region of Northern Portugal, with the aim of establishing a strategic area that would encourage the economic development and territorial rebalancing.

The RESOE, constituted 17/09/2010 (Memorandum), is intended for being a response to the challenges of the new EU budget scenario which prioritizes the territorial alliances in order to access EU funds aimed at promoting the productive economy that create jobs. In fact, the European Commission encourages and promotes these forms of cooperation with new lines of subsidies, leading to a rationalization of public spending. RESOE is a clear political commitment by regional administrations with a view to gain critical mass (by having more administrative and demographic weight) in order to obtain funds from the European Union. What is being planned with RESOE is a cross-border instrument with a view to promote business cooperation, to develop the cooperation between universities and research centres, and to foster the institutional arrangements in order to save costs and improve the delivery of services to citizens.

²⁷ Agrupación Europea de Cooperación Territorial (GNP-AECT), Galicia-Norte de Portugal; Euroregión EUROACE Extremadura- Alentejo-Centro (Euro-Ace); Euroregión (AAA), Andalucía-Algarve-Alentejo.

²⁸ The macro-regions are innovative policy instruments that respond to the necessity to find new ways to provide more efficient public policies, encouraging and giving greater added value to cross-border and interregional cooperation, without creating new administrative structures. They are platforms for facing to common challenges that know no borders, through common projects to be presented to European and state agencies on issues relating to industry, renewable energy, food and agriculture, forestry, research, universities, tourism, transport, logistics and network of protected areas, among others.

Finally, there is the enormous vitality of cross-border initiatives at local, provincial and municipal levels, where we can find from Cross-border Associations of borderline Municipalities, cross-border provincial Agreements of cultural, touristic or historic nature, to inter-municipal borderline agreements.

Such suggestive initiatives as the *Eixo Atlántico do Noroeste Peninsular* should be added to the previous ones. It is a currently composed of more than thirty cities of the Euro-region entity aimed at promoting of territorial cohesion and socio-economic euro-regional development in general terms.

4.- Conclusions: Shadows and lights of the Spanish-Portuguese Cross-border Cooperation.

It seems clear the impact of the cross-border cooperation, of its institutions and instruments on the political and administrative scene of the Spanish-Portuguese border areas, that was unthinkable just two decades ago. The cross-border cooperation has grown in recent years, from being a social and political innovation in a border context dominated by a secular inertia to inaction and non-cooperation, to turn into something daily in the institutional and administrative activity of the borderlands, going through the purely institutional area and reaching new dimensions of reality.

In this regard, the initiatives and institutions, derived from the Portuguese-Spanish cross-border cooperation (such as the GIT), have generated with its activity a new tangle of relationships, interactions and common interests previously nonexistent, laying the foundation for future developments (Hernández and Alexandre, 2005). It is also true that it is a cooperation "from above", driven by regional authorities and thus perhaps too much "institutional", in certain aspects even "bureaucratic", born under the aegis of the funds and EU grants and subsidies, (Medina, 2007; Calderon, 2010; Marquez, 2012). Therefore, highly dependent on them, and, in this regard, "fragile" given their decreasing evolution, in particular of INTERREG, in view of the incorporation and increasing participation of the Eastern Europe countries, both in the program and in the structural funds (Hernández and Alexandre, 2005).

However, in general, the results of cross-border initiatives seem significant, regarding the removal of existing physical border barriers (customs, police checks, etc.).

We also observe advances in terms of road infrastructures, which benefit the territorial articulation at the State economic level, i.e. between Spain and Portugal.

Despite the remarkable increase of business contacts, investment, capital and people flows, that would make us think that the old Portuguese-Spanish economic, commercial and customs border no longer exists, the restrictions on free traffic are still present, either in the administrative fields (administrative limitations on the transport of goods, registrations of vehicles, etc.), or in fiscal fields (declarations of income, payment of taxes, etc.). Curiously not being perceived by the whole population as too significant (Gutierrez, Perez, and Mora, 2010). Similarly, still continue ending on the border the major facilities equipment such as electrical networks, telephone, energy, financial, medical, social and welfare services, etc. (Medina, 2007; 142; Gutierrez, Perez, and Mora, 2010: 144).

However, in certain aspects, the results of cross-border cooperation even if suggestive, are ambiguous and emerging. Thus marked differences persist between the administrative structures of one and another country in the administrative and institutional field, complicated by the different regional planning, so that, for example, a Spanish *municipio* does not coincide with a Portuguese *concelho* (configured from the *freguesias* or parishes that compose it) and, therefore, we are talking about different realities. Similarly, Spanish *provincias* do not correspond with the Portuguese *distritos* and the competence level of the Spanish autonomous communities does have no parallel in the Portuguese *regioes*. Also, at a statistical level the required homogenization for establishing different statistical variables does not exist. In addition, it is essential to approach (or at least coordinate) the different legal systems, since the current regulatory gap hinders the Portuguese-Spanish joint and collaborative action (Gutierrez, Perez, and Mora, 2010: 145 and 146).

We must accept that the Spanish-Portuguese cross-border cooperation takes place on a secular border, the “Iberian Raya”, a social, cultural and linguistic boundary that have halved the Iberian territory for generations, greatly conditioning the cross-border interactions, very limited in relation to other European borders. The specific weight of history, converts the Portuguese-Spanish cross-border cooperation into an instrument of mutual, continuous, constant learning with a purely procedural character, a kind of

experimental laboratory for European integration, where the results will appear gradually, if they occur.

The initiatives and cross-border projects are gradually opening their way but it is no less true the fact that people, companies and institutions get into the habit of permanent and daily contact with the other side, combining efforts with the 'others' in order to improve the common welfare, expanding the action horizon of the borders towns, so that their country no longer ends at the border, but it does extend beyond the confines and this is a Copernican (and historical) turnabout in the Spanish-Portuguese borderlands.

In this sense, the fiscal and financial difficulties of the Iberian States such as the fiscal Debt and public Deficit crises that are gripping both States, the consequent austerity policies and contractionary budgets together with the enormous dependence of the cross-border cooperation of the Structural Funds, gradually dwindling, could have a lethal effect on the Portuguese-Spanish cross-border initiatives. All this makes indispensable a commitment both at the national and European level, for providing continuity to the financial incentives and boost in favor of cross-border cooperation. An interruption in the current public investments flows on the spanish-portuguese borderlands could generate a devastating blackout effect on many existing projects and on future cross-border cooperation initiatives.

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