



Cross-border aspects for Integrated Coastal Zone Management - Evidence from the Oder estuary and theoretical implications

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Abstract

Integrated Coastal Zone Management (ICZM) as new approach to spatial planning in Germany faces several challenges that can only be solved through cooperation with neighbouring countries. The opportunities to create cross-border institutions are very different among the various border regions. There is a frame agreement among Germany, the Netherlands, Switzerland, France, and Luxembourg that allows the local administrations to seal public contracts. Such an instrument was never established for the German-Polish border area.

In 2006 the European Union created with the European cross-border cooperation groupings (EGCC) a new frame instrument for cross border activities. The option to organize cross-border developments with the EGCC will be discussed in the following for the implementation of an ICZM in the Oder Estuary Region.

1 Legal limitations of transboundary cooperation

There is a long tradition of cooperation across borders in the European Union (EU). After the Second World War many local, regional and national transboundary initiatives were established in Western Europe to strengthen interaction.

The Basic Law for the Federal Republic of Germany or intergovernmental contracts are the legal foundation, but agreements and treaties set out by the European Union such as the Madrid Convention, CEMAT guidelines or the European Spatial Development Perspective (ESDP) also provide a legal foundation.

Further agreements were necessary for a more focused collaboration among Western European states for the formation of joint public-administrative amalgamations.

The Anholt Agreement regulating Dutch and German cooperation was signed in 1991. The Karlsruhe Agreement to govern cooperative work among Germany, France, Luxembourg and Switzerland was sanctioned in 1996.

However, there are no such agreements governing the EU internal border between Germany and Poland. Consequently transboundary agreements and public-administrative associations could not be established. Cooperation was only possible on an unofficial level with no legal obligations. Unfortunately the more focused joint projects are, the more they become restricted by the lack of a legal foundation (Knippschild 2008, Kotzur 2006: pp. 58f., Malchus 2006: pp. 20-37).

The establishment of an Integrated Coastal Zone Management (ICZM) programme along the German Coast has been in the works for several years. Recent studies have concluded that ICZM along the Coast of the Baltic Sea, especially in the area of the Oder estuary and the Pomeranian Bay, can only be effective if the management is conducted across borders (compare Dehne/Fichtner 2008, pp.12f.).

This raises questions about the possible administration and operational arrangement of such a management approach.

2 ICZM as a new acting field of the spatial planning in Germany and the cross-border co-operation with Poland

The implementation of ICZM as a new instrument of the spatial development system has become very common among the member states of the EU since the publication of the Recommendation of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe. This recommendation aims for permanent establishment of ICZM as a strategic principle (Official Journal L 148, 06/06/2002 P. 0024 – 0027). The European Commission defines ICZM as “a dynamic, multi-disciplinary and iterative process to promote sustainable management of coastal zones. It covers the full cycle of information collection, planning (in its broadest sense), decision making, management and monitoring of implementation.” (European Commission 2000, p. 25). By this there was created a general framework. Nevertheless there is the necessity for an operative concretisation under the specific different conditions and national guidelines by the member states of the EU.

In Germany there are several spatial planning documents that contain statements about the implementation of ICZM along the German coasts. These statements allow a more detailed view of where ICZM could be placed in the German planning system¹ (compare Fichtner 2008, p. 7):

Defined core features:

- ICZM is process-orientated.
- ICZM is continuing.
- The spatial dimension is in the foreground. The main task of ICZM is to deal with spatial development aspects.
- The entire approach to ICZM is a non-legal informal process.
- ICZM is not an additional planning tool.

Realization demands:

- ICZM follows a comprehensive approach in a thematic and spatial manner.
- The integration of the different thematic interests is a main target of ICZM.
- All (relevant) stakeholders shall participate in the realization of ICZM.
- ICZM relies heavily on communication.
- Important operative tasks of ICZM are moderation and mediation.

From this there are several consequences to describe the ICZM approach in Germany:

- ICZM is not a project itself (nevertheless there is the possibility to carry out ICZM work in a project-orientated way).
- Because of its non-legal character ICZM can be regionally formed and adapted. There is no universal implementation form.
- ICZM is not an additional planning tool. It must be integrated into existing structures (on the regional level).

(compare Fichtner, 2008., p. 8)

There are a lot of named contents that should be part of ICZM. These are harbour and settlement development, coastal protection needs, fishery, nature protection, tourism, energy, marine pipelines, and navigation, among others. These topics are only exemplary because of the specific regional needs for the implementation of an ICZM process.

¹ Analysis by the University of applied Sciences Neubrandenburg of planning documents of the Federal Government and the Bundesländer towards ICZM implementation statements from 2008.

In conclusion ICZM could be described as a regional governance approach with a specific coastal orientation. There are several similarities and differences with “classical” regional management, which can be seen as operative realization of the regional governance concept (compare Diller: Regional Governance by and with Government. 2005 p. 10):

Table 1: Similarities and differences between regional management and ICZM in Germany

| Similarities | Differences | |
|---|---|--|
| | Regional management | ICZM |
| <ul style="list-style-type: none"> - Linking of regional stakeholders as core task - Moderation as important stylistic device - Non-legal background | <ul style="list-style-type: none"> - (Economic) Development function in foreground - Project-creation as important task | <ul style="list-style-type: none"> - Sustainability orientation more in foreground - Balance and moderation of positions and interests -Conflict management |
| Comparable success factors (for example regional will for cooperation, awareness of common problems and solution options) | <ul style="list-style-type: none"> → item-oriented working → Using of regional development potentials | <ul style="list-style-type: none"> → stakeholder-oriented working → agreement function |

The complexity of the ICZM task profile demands a high level of coordination. Therefore an ICZM process needs professional working structures with a regional mandate to deal with coastal aspects.

In the german-polish border areas there are currently no cross-border structures for regional development aspects besides (timely limited) projects and initiatives. This is caused to the enormous difficulties for local (and by this regional) administrations to seal public contracts with administrations from neighbour states. The European cross-border cooperation groupings are a new option to create such cross-border acting structures.

3 Requirements for legal commitments for continuous cooperation

To create transnational relationships the following aspects have to be focused on throughout the period of the cooperation: content, organisation and inhibiting factors. The development of cooperation between Poland and Germany shows how important these aspects are and that they should be incorporated into the design of the project and the management structure (Knippschild 2008).

At the beginning of every development, aims are vague and difficult to quantify. These include: finding and establishing contact points as well as exchange of knowledge in the field of investigation. Continuous teamwork will lead to more specific outcomes resulting in joint priorities and strategies. Shared actions are a main concern. At the same time organisation is shifting into formal structures. At the commencement of any mutual work, communication is key. However, authorized building blocks are necessary to achieve set objectives. This can be done by regulating shared projects by means of contracts and joint managerial boards. Interestingly, factors that may inhibit the progress also change throughout the different cooperation stages. At the beginning participants have to overcome language, cultural and mental barriers. This changes during cooperation, and individuals begin to value these barriers as an asset. The lack of regulation at the beginning does not restrain any communication aims; however set rules are essential to meet the aims and objectives (Knippschild 2008).

At the beginning an informal organisation is adequate. In later stages the lack of regulation inhibits cooperation. Particular developments necessitate a formal and controlled organizational framework. This is the current stage of cooperation along the border between Germany and Poland. The framework is no longer sufficient, especially on the polish side. The reason is a lack of

intergovernmental agreements. Polish authorities are not permitted to cooperate with German partners without having international contracts (Czarnecka-Zawada 2008: pp. 187).

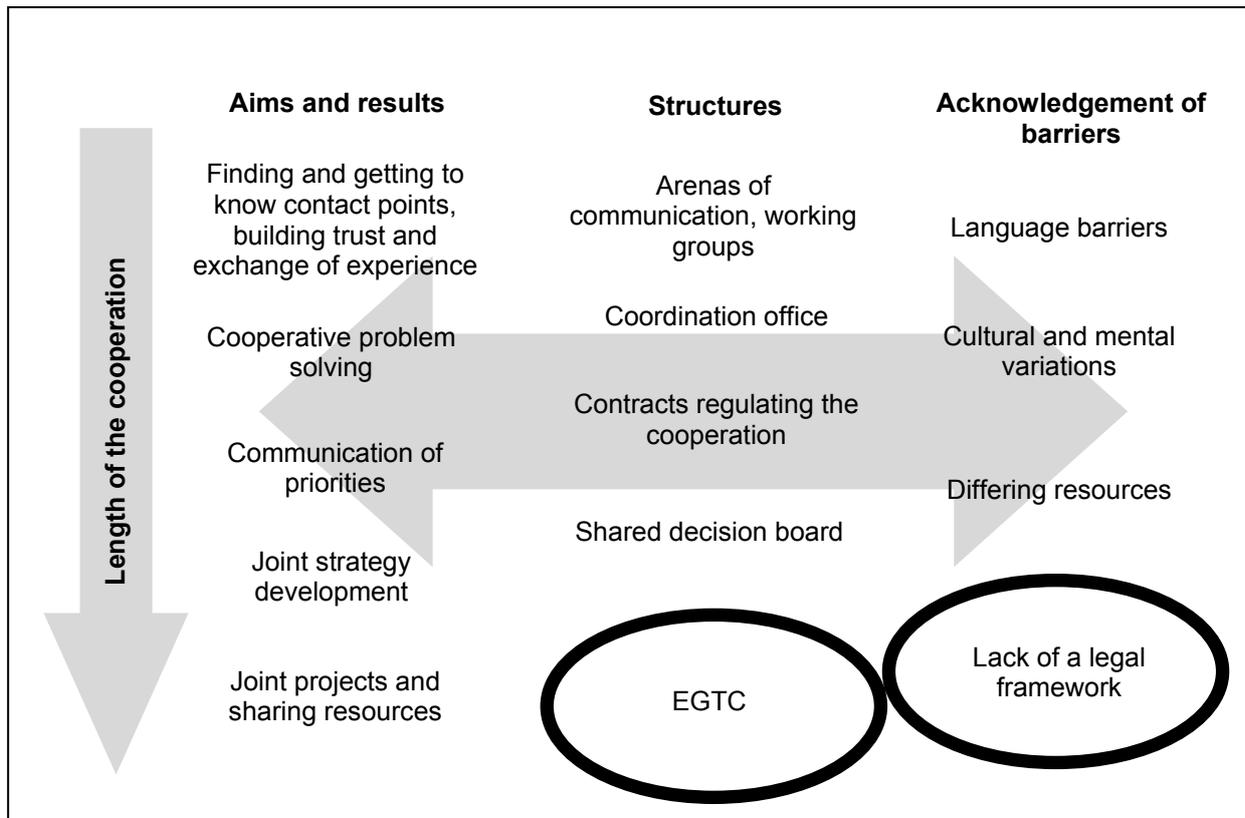


Figure 1: The importance of lacking legal framework and the EGTC at the different cooperation stages

4 European Grouping of Territorial Cooperation (EGTC): A new tool for transboundary collaboration

The illustrated issues are the reasons for the enactment of the EU Regulation on a European Grouping of Territorial Cooperation (EGTC) in July 2006.

This regulation intensifies formal cross-border cooperation of organisations and strengthens territorial cohesion within these areas. This should enable transnational programmes and projects, especially with regards to Structural Funds. The EGTC is a valuable tool to improve the governance and relationships among bordering states.

An EGTC is a legal entity that can be set-up among member states as well as local and regional governments. Private parties are excluded. The decision to create collaborations is determined by associates and then presented to the member states; they subsequently check the legal conformity of the EGTC. An EGTC is intended to improve and encourage territorial cooperation, thus strengthening economic and social cohesion within Europe. Therefore an EGTC must have a constitution, a general assembly and a managing director. In addition to this an annual budget must be authorized by the general assembly.

This minimises uncertainties related to regional corporation on a local and regional level along border areas. There are numerous regulatory areas of an EGTC. Cooperation could take place in joint regional planning as well as the implementation of the Water Framework Directive or the Habitat Directive. However, working together may become legally complex with regards to an EGTC. That is why the participants need sufficient experience and trust in each other.

Unfortunately, few people have experience with this legal instrument. The Eurométropole Lille-Kortrijk-Tournai in the boundary area between France and Belgium was the first EGTC founded. Additional EGTC's are in progress or being developed; such as the Eurodistrict Oderland-Nadodrze (EDON) along the border between Germany and Poland. Thirteen Polish and 12 German authorities are to be included. The aim is to develop the region along the border after the Lissabon Strategy.

When setting up an EGTC the following steps are recommended:

Preparation phase

- Evaluation of aims and objectives of the EGTC
- Definition of the area dimension
- Identification of competencies and partner structures
- Consideration of the national legal framework

Decision phase

- Review of alternative tools and organisational structure
- Assurance of legal feasibility

Project phase

- Establishment of the place of administration of the EGTC
- Creation of a contract draft and the status
- Announcement of the contract and the status
- Publishing of the contract and the status
- Start of the EGTC

5 EGCC as organizational basis of ICZM in the cross-border Oder Estuary region ?

The European cross-border cooperation groupings are an option to organize common cross-border development processes between protagonists under public law. Therefore the option to establish an intergovernmental ICZM for Oder Estuary region by the EGCC is conceivable. Nevertheless the EGCC (like all other forms of cross-border cooperation) should not be an end in itself. An EGCC is useful when other options to organize cross-border cooperation have become "weak" and there is a real need for a legal framework.

This could be the case when there are concrete actions to implement within a continuing cooperation. A legal tool like the EGCC should consist of concrete essential tasks. Abstract development aims could be better handled with other options like single agreements.

In the face of different planning systems and cultures between Germany and Poland on one hand and the still abstract approach of the ICZM on the other hand it is questionable whether such definite tasks and functions can be quickly developed. It would require a clear spatial development intention.

The EGCC for ICZM could be used to realize single policies that can only be solved with a legal cross-border framework. This could be a first step on the way to (legal) cross-border structures between Germany and Poland in the field of coastal development.

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