Multiple levels, multiple streams: how border regions made it into the Treaty of Aix-la-Chapelle

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Abstract

The Treaty of Aix-la-Chapelle, signed in 2019 by the French President Macron and the German Chancellor Merkel, is widely seen as a major step for border regions on their way towards being fully acknowledged as political entities. However, while much ink has been spilled on the relevance of the treaty for future cross-border cooperation, we know surprisingly little about how that particular aspect actually became the Chapter 4 of the treaty. Given the centralized architecture of the French 5th republic, the new stipulations are actually a giant's leap, which is difficult to explain. In this paper, we draw on evidence from policy documents and expert interviews to trace how cross-border cooperation was set on the government's agendas as an issue to be integrated in the Aix-la-Chapelle Treaty. Building on the Multiple Streams Framework as theoretical lens, our analysis shows that actors from the French and German border regions were instrumental for the inclusion of cross-border cooperation in the Treaty. They used different channels in the multi-level system to push both central governments towards the integration of cross-border cooperation. Hence, the story how border regions made it into the Aix-la-Chapelle Treaty is a prime example of the dynamics of multi-level governance.

Keywords Treaty of Aix-la-Chapelle · Multiple streams framework · Multi-level governance · Cross-border cooperation · France · Germany

Introduction

Although covering 40 per cent of the EU's territory and accounting for 30 per cent of its population (European Commission 2017), border regions and the question of enhancing cross-border cooperation have for a long time been only of minor interest in national politics in most big European countries. Instead, they have usually been

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discussed on the level of the European Union and its regional policies (Christiansen and Jørgensen 2000; Gänzle et al. 2018; Engl and Evrard 2019)—not least because the European Commission has identified strengthening cross-border cooperation as a way to push European integration from the subnational level (European Commission 2017, 2021). Scholars of European Integration have also argued that subnational regions will gain autonomy and influence through the process of European integration, which will enable them to bypass national capitals and form alliances with other subnational regions and the European level and, eventually, push European integration from below even further (Bartolini 2004; Hooghe and Marks 1996, 2003). Hence, it seems straightforward that actors on the European and the subnational level advocated further cross-border cooperation, whereas the issues has not been of high relevance to national politics.

Yet, surprisingly, in 2019, the German and the French government agreed on a bilateral Treaty of Aix-la-Chapelle, which featured an entire chapter on border regions. In its articles 13–17, both governments not only acknowledged the relevance of border regions as such, but also pointed to the need to overcome obstacles of cross-border cooperation by giving special competences to these regions, especially in the areas of the economy, environment, health, energy and transportation. Moreover, and importantly, the treaty included an "experimentation clause" by stating that special legal and administrative derogations can be taken to enable border regions to cooperate with their neighbours (Peyrony 2020)—a clause that can be read as a rather far-reaching derogation from the principle of national sovereignty.[1] Hence, the fact that Germany and France actually took this step raises an intriguing puzzle—namely why the chapter on border regions and the related stipulations actually found their way into the Treaty. This article contributes to filling this gap by investigating *how we can explain that the French and German government were ready to include cross-border cooperation as a rather unexpected theme in the Treaty of Aix-la-Chapelle*.

Our contribution is twofold: First, theoretically, building on the multiple streams framework (MSF) (Herweg et al. 2023) as theoretical foundation, we develop a framework of how policy decisions on a higher level of governance (here: a bilateral treaty between two national governments) can be influenced by dynamics and actors on multiple levels, namely two national governments, two national Parliaments as well as a wide range of actors on the regional level in both countries. Importantly, we theorize that those actors who connect levels ("cross-level policy entrepreneurs") are particularly well suited to influence policy decisions as they can link as well as bypass certain decision-making venues depending on their strategic aims. Moreover, we argue that cross-level spill-over, where dynamics at one level (e.g. regional) affect the dynamics at another level (e.g. national), also increases the chances of a policy to be adopted in a multi-level setting. These theoretical innovations add to the emerging literature that refine the MSF to study multi-level governance (Knaggård and Hildingsson 2023).

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[1] Several studies have discussed what these stipulations actually mean for the future of cross-border cooperation (see e.g. Deutsch-französisches Institut 2020) and how the ideas can be implemented in real-life practice.

Second, empirically, we shed light on a highly relevant but understudied case—namely the policy process towards the Treaty of Aix-la-Chapelle and the inclusion of border regions in this Treaty. Based on the evidence gathered through process tracing, it seems that both a group of very engaged and well-connected politicians in the German and French Parliament as well as the multi-level structure with many policy venues to push the idea of border regions on the agenda were key in explaining why national governments were ready to adopt the stipulations concerning cross-border cooperation. These results are not only relevant to policy scholars who study policy processes in multi-level settings. But they show also how steps towards increased integration in border regions which have been dubbed as "living labs of European integration" (European Commission 2021) can be pushed forward not only by the regions themselves and European actors, but also by skilful entrepreneurs who succeed in pushing the issue on the agenda of national governments.

The remainder of this article is organized as follows. The next section presents the theoretical framework, namely the MSF, and connects it to the literature on multi-level governance. In the third section, we first briefly introduce the general content of the Treaty of Aix-la-Chapelle, the section of border regions and the general policy process that led to its adoption. Afterwards, we present the empirical analysis as seen through the lens of the MSF. A final section discusses our findings and concludes.

Explaining policy change in multi-level systems: complementing the multiple streams framework

Before we depict and interpret the policy process leading to the Treaty of Aix-la-Chapelle and the inclusion of the chapter on border regions in particular, we will first lay out how the MSF can be used to explain policy processes in general and how it can be applied to multi-level systems.

Building blocks of the multiple streams framework

In public policy research, the MSF has been widely used as a theoretical approach that helps to understand political decision-making processes. The framework is based on the ideas of the garbage can model and assumes that decision-making in politics resembles an "organized anarchy" characterized by problematic preferences, unclear technology, and fluid participation (Cohen et al. 1972: 1). Hence, policy change depends on how actors in the process interpret a certain situation (is there a problem and what kind of problem is it?), available alternatives (what are possible solutions to the problem?) and the strategic behaviour of actors (can I make use of a policy I prefer in a certain situation by selling it as a solution to a problem?); Or—citing John Kingdon, the founding father of the theory—policy change depends on whether "the stars [a]re right" (Kingdon 2011: 166).

The basic logic of the MSF originally aimed at explaining agenda change (rather than decision-making) and involves five elements: The famous three streams (problem, political and policy stream), the policy entrepreneur and the policy window. Over the years, numerous conceptual and empirical advances have increased our knowledge considerably (Herweg 2017; Howlett et al. 2015; Jones et al. 2016; Zohlnhöfer et al. 2016; Herweg et al. 2023) focussing mainly on agenda setting (Kingdon 2011) and decision-making (Zahariadis 2003), but also on policy implementation (Fowler 2022, 2019) or termination (Geva-May 2004; Wenzelburger and Hartmann 2021). However, as this study is mainly concerned with explaining a bilateral treaty agreement, which is mainly an exercise of the executives, we focus on agenda setting stage of the policy process [the first part of the coupling process as in the most recent version of the MSF (Herweg et al. 2023)].

The first main element of the MSF concerns the question whether a certain situation is considered to be problematic by political actors (Kingdon 2011: 109). Several mechanisms contribute to this: Deteriorating indicators, focussing events or negative feedback from existing policies (Kingdon 2011: 90–102). In this phase of problem definition, interpretation processes are crucial, which is why "problem brokers" (Knaggård 2015) compete about how to define a problem in "framing contests" (Boin et al. 2008). If a condition is interpreted as problematic, the problem stream can be considered as ready for coupling and a policy window opens, that is "an opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems" (Kingdon 2011: 165). If policy entrepreneurs succeed in attaching policies as solutions to the problematic conditions, "consequential coupling" (Zahariadis 2003: 72) occurs and agenda change is probable.

Yet, agenda change can also come about through "doctrinal coupling" (Zahariadis 2003)—a process that starts in the political stream. In this case, political dynamics such as "public mood, pressure group campaigns, election results, partisan or ideological distributions in Congress and changes of administration" (Kingdon 2011: 145) generate occasions in which new issues enter the agenda. Hence, if politicians sense that the people want policies to be changed ("public mood") or when governments change and new administrations take office, this will strongly increase the chances for new policy ideas to reach the decision agenda.

Finally, agenda change will not occur if there is no policy proposal ready to be coupled. It is in the policy stream, where such proposals, that have been discussed in subsystems by the respective policy communities, float around in a "policy primaeval soup" (Kingdon 2011: 116). Proposals have to reach the status of a "worked-out alternative" if they are to be coupled to problems or reach agenda status due to a government change, for instance. For a proposal to reach this status, it has to be technically and budgetary feasible as well as normatively acceptable within the policy community and in the public (Kingdon 2011: 151).

Besides the three streams and the policy window, policy entrepreneurs are a key element of the MSF. These entrepreneurs seize the opportunity of an open policy window and try to push their pet policy on the agenda—be it by linking it to a certain problem or by simply taking advantage of the public mood, for instance.

Entrepreneurs engage in framing and benefit from access to policy-makers. They are more successful if they are skilled in negotiating and if they are persistent: "sheer tenacity pays off" (Kingdon 2011: 181).

In sum, the core hypothesis of the MSF (see Herweg et al. 2023: 40) suggests that agenda change is more probable if a policy window opens in the problem or the political stream and if all streams—including the policy stream—are ready for coupling. The presence of a policy entrepreneur additionally increases the chances for policy change as she will recognize open policy windows, have access to policy-makers and skilfully (as well as persistently) present a worked-out proposal to these politicians. Agenda change results from this process: a policy proposal will rise to the governmental decision agenda.

Applying the MSF to the study of policy making across multiple levels

The MSF has been applied for the analysis of policy making across multiple political levels by several authors (Ackrill and Kay 2010; Herweg 2017; Rietig 2021; Knaggård and Hildingsson 2023). In fact, a meta-analysis finds that 27 per cent of MSF studies focus on two or more political levels in their analysis (Jones et al. 2016). Thus, while the MSF is not per se conceptually restricted to one political level (Knaggård and Hildingsson 2023), it is helpful to specify how the MSF logic operates when studying multi-level systems.

Not confined to, but especially present in the European Union, policy making in multi-level systems is characterized by an interdependence and continuing negotiations among governments at different nested political levels, usually referred to as *multi-level governance* (Marks 1993; Hooghe and Marks 2003). Such multi-level policy processes can be modelled using the MSF, as depicted in Fig. 1. For each political level, unique problem, politics and policy streams can exist parallelly. Starting with the *problem stream*, indicators, focussing events and policy feedback can be perceived differently according to the respective tier of government. For example, during the Covid-crisis, border regions were affected negatively by closed borders. Thus, a policy decided on the national level created negative feedback for the regional level. In cases like this, for a policy response at the national level to take place, it is vital that political actors at the affected level bring the issue to the awareness of responsible actors at the national level and justify why it needs to be dealt with at this tier of government (Herweg 2017: 40)—thus introducing it to the problem stream on this level, as well. In other words: Events on one level can open policy windows on another level (Knaggård and Hildingsson 2023).

Next, *political streams* exist on all levels of government. In this regard, elections can change government composition at different levels at different points in time. Therefore, the political stream on a subnational level can become ready for coupling when the balance of power and the public mood on this level shifts. If a new subnational government or interest groups find that an issue needs to be addressed on the national or supranational level, the chances of it being lifted on the agenda at the respective level increase. Depending on the specific institutional design of the multi-level system in which the analysed policy process takes place, changes in

the political stream on one political level can also directly influence the political stream of another political level, for example when subnational elections shift the composition of the second chamber representing lower levels of government, which in turn influence the chances of success of certain policy initiatives.

Lastly, the *policy streams* can differ between the political levels, too. Usually, the "policy primaeval soup" (Kingdon 2011, see above) is situated at the same level as the problem. When an issue primarily exits within the problem stream of the local level, then the respective policy community will operate on this level, as well. When an issue is dealt with at multiple levels of government, either multiple separate communities are involved or the policy community involves actors which are connected to multiple levels, either institutionally or through personal ties. With policy making in multi-level systems, *policy entrepreneurs* are confronted with more challenges and more chances at the same time: On the one hand, the task of softening-up can be more difficult because actors on multiple levels have to be included, connected and convinced. Therefore, negotiating skills and political connections, either through institutional position or informal ties, are even more important than when operating on one single political level. On the other hand, the multi-level structure presents policy entrepreneurs with unique possibilities as it enables venue shopping (Knaggård and Hildingsson 2023; Rietig 2021) or bypassing of the national level (Keating et al. 2015).

For the *coupling* of the streams to be successful, three conditions need to be met according to the MSF: The streams need to be ready for coupling, a policy window needs to be open and policy entrepreneurs need to actively engage in the coupling process (Herweg 2017: 29). In a multi-level system, we argue that two additional conditions will make agenda change more probable, namely the occurrence of a cross-level *spill over*—which means that a dynamic on one level (e.g. a focussing event on the regional level) will have repercussions on another level (e.g. on the national level). Clearly, this will be particularly relevant if the policy to be coupled is situated on another level than the problem. Secondly, *cross-level policy entrepreneurs* will affect the likelihood of agenda change. Such policy entrepreneurs can for instance lift an issue from the problem stream of a lower level of government to the respective higher level and problematize it there, too. To be successful, such cross-level policy entrepreneurs need to be connected to multiple levels of government and make use of the opportunity structure of the multi-level system parallel to other political factors, such as elections or the national mood. Hence, more concretely, we can formulate the following two expectations for agenda coupling in multi-level systems[2]:

E1.   If cross-level spill-over occurs, agenda change is more likely to occur.
E2.   If cross-level policy entrepreneurs are present to connect streams across levels, agenda change is more likely.

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[2]   Evidently, the general conditions of the streams being ready for coupling also need to be met, too (see Herweg et al. 2023). As our contribution is mainly interested in the multi-level dynamics, we only formulate the two expectations related to multi-level application of the MSF here.
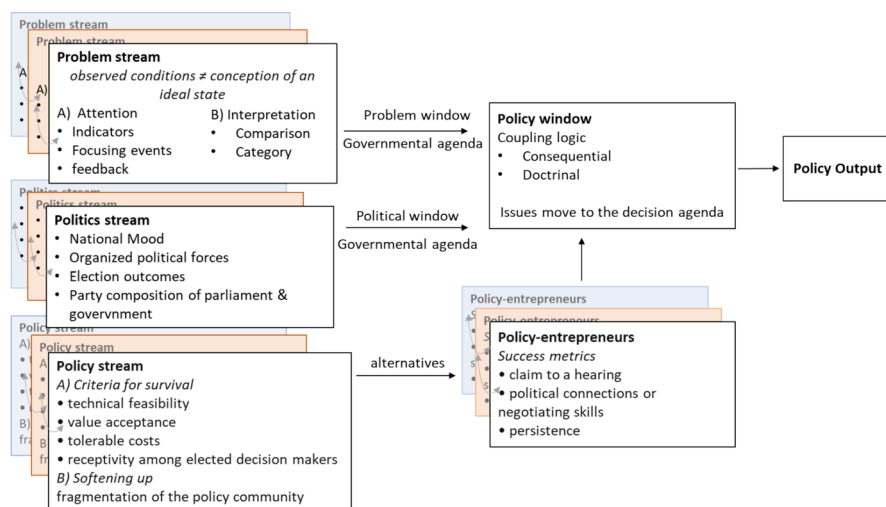
Fig. 1 Adapted MSF for multi-level dynamics

Evidently, the extent to which streams at different levels have been connected prior to the beginning of a policy process will differ in the empirical world. For example, while some focussing events will have enough impact to reach all political levels, some other will only be relevant for certain political levels, at first, and will only break through if problem brokers upload them to the higher level. Thus, empirical studies need to be attentive to the specific conditions at stake and include them in their analysis.

How did the border regions make it into the Treaty of Aix-la-Chapelle?

In order to answer our main research question, namely why and how exactly the issue of cross-border cooperation was taken up in the Treaty, we will first give a broad empirical overview of the policy process. Thereafter, building on the theoretical expectations of the MSF discussed in the previous section, we will present an in-depth analysis of the dynamics explaining why and how cross-border cooperation was included so prominently in the Treaty.

Methodologically, we will employ process tracing (George and Bennett 2005; Blatter and Haverland 2014) in order to pinpoint what precise steps led to the inclusion of the cross-border region chapter. Process tracing employs the idea that within-case analysis is an adequate tool to conduct robust causal analyses. The primary challenge in process tracing therefore lies in gathering fine-grained data to track individual decisions within the policy process and in cross-referencing information from multiple sources to ensure its accuracy (Zohlnhöfer et al. 2022: 40). To gain a holistic understanding of the process, different types of data such as archival documents, newspaper articles and interviews should be consulted

(George and Bennett 2005). In our case, we focussed mainly on newspaper articles, press conferences, and parliamentary documents to gain a first understanding of the process. We then conducted eight semi-standardized expert interviews with political actors involved in the development of the Treaty in order to retrace their recollection of the agenda setting and the negotiation process. Expert interviews can be a valuable tool for gathering first-hand accounts from key participants of a policy process that go beyond official narratives and they allow to compensate for gaps in documentary evidence. However, interviews with decision-makers can also suffer from some general difficulties, notably power asymmetries and hindsight bias (Starke 2023; Tansey 2007). Therefore, we cross-checked information in two ways. First, we selected actors from different backgrounds, more specifically actors from the executive and the legislative branch, as well as civil servants from relevant bureaucracies (see "Appendix"). Second, we were able to receive non-disclosed internal documents directly related to the policy process, such as preparatory notes for decision-makers or email exchanges between members of the preparatory groups. While these documents allowed us to check the validity of information received from the interviewees, we cannot directly include them in the analysis, as non-disclosure was promised. By organizing the data chronologically and by triangulating insights from the interviews and documents, we were able to map the sequence of events and form a clear understanding of the key decisions made throughout the policy process. From a bird's eye perspective (see the overview in Fig. 2), the Treaty of Aix-la-Chapelle signed in January 2019 seems to be the endpoint of a process that started with the speech of the Sorbonne by French President Macron in September 2017, just a couple of days after the German federal election (Seidendorf 2019). In this speech, Macron not only pointed out his vision of the future of Europe with a special emphasis on European sovereignty (Bora and Lequesne 2023), but he also emphasized the need for a strong French-German tandem and put forward the idea of a new bilateral cooperation treaty—but without any mention of border regions:
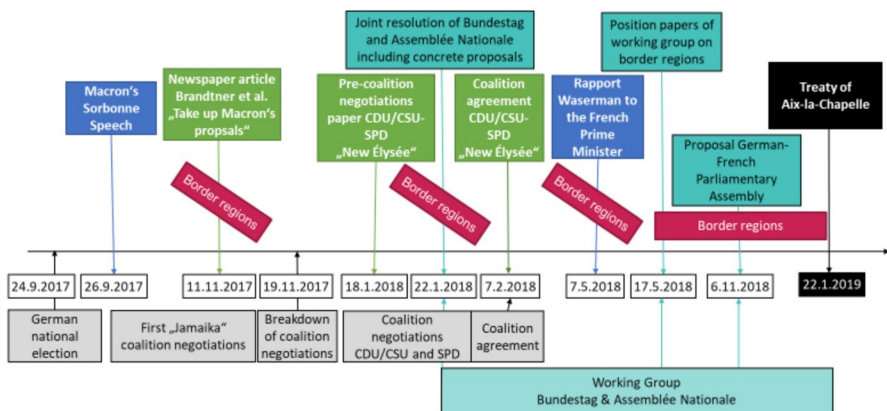

Fig. 2 Timeline of the Treaty policy process

"So, first of all, I am making the proposal to Germany for a new partnership. We will not agree on everything, or straightaway, but we will discuss everything. […] This pioneering, practical spirit is found in the Élysée Treaty. So, let's get to work and put these joint commitments into a new cooperation treaty which we could sign together for the 55th anniversary of that founding treaty, on January 22, 2018. Let's produce another Élysée Treaty on January 22 next year." (Macron 2017).

This proposal, which was intended to influence the upcoming negotiations for the formation of a new German government, remained unanswered by the German executive for a rather long time, due to laborious coalition negotiations which delayed government formation until 2018, when a new "Grand Coalition" of Christian Democrats and Social Democrats finally took office. However, both the pre-coalition paper of the CDU/CSU and the SPD published in January 2018 and the final coalition agreement only briefly mentioned the elaboration of a "New Élysée Treaty" without referring to any concrete content.

In contrast, legislators were much more active in this respect: First, shortly after the Sorbonne speech, three Parliamentarians wrote a newspaper article welcoming Macron's ideas and calling for a strengthening of cross-border cooperation (Brandtner et al. 2017). Second, both the German and French Parliaments took advantage of the 55th anniversary of the Elysée Treaty on January 22—the date Macron had explicitly named in his speech (see above) —to ask the German and the French government to work on a new Élysée Treaty mentioning a list of key elements—including border regions and the need to give them proper competencies, e.g. by including respective experimentation clauses in the national legal frameworks. Besides, a more extensive collaboration between the Parliaments was started by creating a working group not only to oversee the elaboration of a new Élysée Treaty but also to prepare a Convention between both Parliaments as a starting point for a deeper future collaboration.

During 2018, several further steps were taken. In France, Sylvain Waserman, deputy from the border city Strasbourg, prepared a report on cross-border cooperation for the Prime Minister. The German–French working group also came up with two "position papers" for the Treaty negotiations in May, mainly focussing on border regions.

The final steps were taken in fall 2018 with the proposal for the creation of a permanent German–French Parliamentary Assembly and further negotiations behind closed doors. The final Treaty was signed by French President Macron and German Chancellor Merkel in Aix-la-Chapelle on January 22, 2019, that is on the 56th anniversary of the Élysée Treaty and one year after the original date announced in Macron's Sorbonne Speech. The final Treaty consists of seven sections whereof five are concerned with concrete proposals in the area of European integration (1), peace, security and development (2), culture, education, research and mobility (3), regional and cross-border cooperation (4), as well as environmental affairs, climate, economy and sustainable development (5). Whereas chapters 1, 2, and 3 clearly reflect the emphasis of the original Élysée Treaty, the sections on environment and economy attend to the "big questions" of the time. Clearly, and as argued above, the inclusion of a section on cross-border cooperation was more unexpected as it had neither been mentioned in the Sorbonne speech nor was it a classic theme of

bilateral agreements. Building on the MSF as a theoretical lens, we will discuss in the next sections how this issue found its way in the Treaty.

Problem stream

The key question that defines the problem stream is whether political actors consider a situation as problematic and in need of political action. For the question of cross-border cooperation, obstacles hindering further integration of border regions had been identified as problematic by local actors for years and the need to give more competencies to cross-border institutions as the Aix-la-Chapelle Treaty proposes, has been a long-standing claim of actors from French-German border regions (for the health sector, see e.g. Eurodistrikt Strasbourg-Ortenau 2013). As local solutions were limited to narrowly defined policies—such as building a tram connection between Strasbourg and Kehl or allowing cooperation between hospitals in the Eurodistrict SaarMoselle, to cite just two examples—local and regional actors asked for a general regulation that would facilitate cross-border cooperation by giving border regions particular competencies within the legal framework of a country (Toscani 2020). However, this seemed out of reach as it would have needed a joint effort of both the French and German national governments and local actors were quite frustrated (see for instance PAMINA 2018: 6–7). Hence, while indicators pointed to a problematic situation on the local level, this situation did not reach national or intergovernmental levels in a way that it would be interpreted as necessitating immediate action.

Clearly, the Sorbonne speech of Emmanuel Macron changed the situation quite drastically and affected the problem stream on the national levels. As the President openly called for an update of the Elysée Treaty, the German–French relationships were put on the table as being in need for revision. Moreover, given that Macron had set a concrete date with January 2018, it was clear that proposals for possible elements to be included in the revised Treaty would be needed. And finally, Macron's general position on decentralization—with the clear idea to give the local representatives of the central state (*Préfets*) and the local and regional actors more leeway to find efficient policy solutions on the ground—was also signalling an openness of the national executive to allow locally grounded policy solutions.[3]

At any rate, policy actors from the local level clearly interpreted the Sorbonne speech as a possibility to give a new dynamic to the French-German relationship. The Eurodistrict PAMINA, for instance, published a document in 2018 clearly stating that it felt "obliged to contribute to the revision of the Elysée-Treaty and especially to the section on cross-border cooperation […] reflecting the wish that the French President Emmanuel Macron had formulated in his Sorbonne speech" (PAMINA 2018: 5). For three German Parliamentarians from border regions in the South-West of Germany and well connected to the local the cross-border networks, the speech was the occasion to define the situation of cross-border cooperation as problematic and being in need of being addressed:

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[3] Interview, 16.1.2024.

"There was the Sorbonne speech of Emmanuel Macron two days after our federal election in 2017. And there was a German government, that could not really answer to this, because it was caught in the coalition negotiations. Therefore, we as a group of Parliamentarians were taking the initiative, more or less accidentally, in the Jamaika-format in which the coalition agreement was negotiated at the time […] and asked whether we should not write a response [to the Sorbonne speech, the authors] in a commentary for a newspaper. And in this commentary, we said: We have to accept the offer to develop a new German-French Treaty, but we have to fill it with concrete content. And we spoke about border regions—all were coming from border regions, and this is why it was important to us."[4]

From this quote, it is rather clear that a unique situation presented itself: Macron had called for a new Treaty, the German government could not answer, which is why the Parliamentarians could connect the issue of border regions to the focussing event of the Sorbonne speech.[5] More concretely, they wrote in the newspaper article that.

"we see a particular opportunity to give German-French border regions a stable institutional framework. They need to receive real competencies that enables them to act locally instead of taking the cumbersome detour via the distant capitals. There are many opportunities—from childcare to fighting burglaries." (Brandtner et al. 2017)

In addition, according to our interviews, this first response by the three Parliamentarians was not unilateral. In fact, the French Parliamentarian Christophe Arend, president of the "Groupe d'amitié France-Allemagne" of the French Assemblée and also elected from a border region (Forbach, next to Saarbrücken in Germany), had already talked to the head of the German–French Parliamentary Group, Andreas Jung, on October 20 and discussed the need for a response to Macron's speech and the possible inclusion of border regions.[6] The article therefore was not a purely German answer, but also reflected the French side.

In sum, the Macron speech indeed can be seen as a focussing event on the intergovernmental level that enabled the group of Parliamentarians, strongly embedded in local cross-border networks, to act as cross-level policy entrepreneurs: They strategically framed the conditions in border regions as problematic and connected them to the Treaty as policy solution. Interestingly, this occurred very early in the process via the channel of the respective French-German parliamentary groups, indicating that a channel for "bypassing" the respective national government by pitching an idea in the process at the neighbouring country—in Germany or in France depending on the receptivity of the respective governments—was opened up rather early.

Besides the Sorbonne speech, a second element in the problem stream is worth mentioning, namely the Commission proposal of a European Cross-Border

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4   Interview, 4.10.2023.

5   Interview, 27.4.2023.

6   Interview, 5.4.2023.

Mechanism (ECBM) in May 2018. In fact, as the meticulous analysis by Engl and Evrard (2019) shows, the proposal of the ECBM was drafted between late 2017 and early 2018 –at the same time when the Treaty of Aix-la-Chapelle was prepared. Indeed, this parallel process at the supranational level helped the idea of including cross-border cooperation as part of the Treaty, as one interview suggests:

> "The fact that the border regions actually were seen as important was also due to some tailwind from the European level. There were papers from the EU-commission that emphasized the importance of border regions, etc. And, clearly, that could be used in the national political discussions."[7]

Hence, summing up the insights from the problem stream, we clearly see that the Macron speech at the Sorbonne was a focussing event on the intergovernmental level that allowed cross-level policy entrepreneurs to frame the obstacles for cross-border cooperation as an important problem uploading the problem from the local/regional level to the intergovernmental level. The presentation of the Commission proposal for the ECBM can be seen as additional support, as it created cross-level spill-over from above.

Political stream

In the political stream, political dynamics on the national level with two changes of governments in 2017 during a rather short period of time (in May/June in France and September 2017 in Germany) clearly affected the policy process and opened a policy window in the political stream. Having won the Presidency on a strong pro-European platform, Macron was eager to push the French-German "tandem" to full speed in order to introduce his ideas about European integration.[8] Interestingly though, and partly due to the unexpectedly slow government formation process, the German side could not answer for a rather long time. While one could have argued that this would delay the initiative, it was actually a chance for Parliamentarians to push the idea of border regions on the agenda. And even after the formation of the new "Grand Coalition" government in Germany, the executive was rather reluctant, while the—once established—joint group of Parliamentarians set the pace. As one interviewee put it:

> "This was the open door, […] the political moment in the calendar. We knew it in 2017; we would have time until the end of 2018, fall 2018. After that: European elections in Spring 2019, then the issue would be dead. We would no longer be able to do anything."[9]

In addition, reflecting our argument about the multi-level structure allowing multiple policy venues for introducing proposals to the policy process, we clearly see that policy entrepreneurs used these points of access. First, the group of

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[7] Interview, 7.2.2023.

[8] Interview, 16.1.2024.

[9] Interview, 5.4.2023.

Parliamentarians approached gatekeepers at the respective national levels to promote their idea to include border regions in the Treaty negotiations. In France, where the preparation was mainly done in the Élysée[10], Philippe Etienne, Macron's Sherpa at the time and prime negotiator, met directly with people from the border region promoting the idea of an experimental clause allowing new competencies for border regions.[11] This was an important step, given the French constitutional principle of a united France. Moreover, the general openness of the French President for giving more competencies to local and regional actors was clearly facilitating these steps.[12] As a person directly involved in the process remembers:

> "In fact, on the French side, President Macron and his people at the Elysée were inclined to give more possibilities [to the regions, the authors], to differentiate public policies much more and especially so in terms of cross-border cooperation".[13]

This general openness of the French government was also visible in the direct negotiations with the Germans. While a possible constitutional amendment, discussed at the time, did not materialize due to resistance especially in the Senate,[14] the French side was still accepting propositions from the German negotiators (for instance on the possibility to allow special provisions for border regions) and tried to go as far as the constitutional framework would allow them.[15] In sum, the French political dynamics at the national level were clearly receptive to the idea of integrating cross-border cooperation in the Treaty.

In Germany, the political situation was also supportive. For instance, the border region of the small Saarland was overrepresented on the national level with three politicians in government (with Peter Altmaier being Head of the Chancellery until the new coalition was formed, Annegret Kramp-Karrenbauer being heavily involved in the coalition negotiations and close to Chancellor Merkel as well as Heiko Maas, being new Minister of Foreign Affairs in 2018, and Minister of Justice before). According to one interviewee, this helped to make the case for border regions:

> "If you look at who acted at which position at that time in federal politics, especially the person of Peter Altmaier [the Chief of the Chancellery at the time, the authors] and his proximity to the Chancellor, one can imagine how this […] introduced a certain perspective. […] Our point was always

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[10] Interview, 2.11.2023.

[11] Interview, 5.4.2023.

[12] Interview, 16.1.2024.

[13] Interview, 2.11.2023.

[14] Interview, 2.11.2023.

[15] One tricky question was, for instance, on the wording of the "experimental clause" in Article 13 of Chapter 4. In fact, whereas "exemptions" were seen as problematic, "derogations" were considered in line with the French constitutional principles (Interview, 2.11.2023 and policy documents). In the German–French translation, the German word "Ausnahmeregelung" was therefore translated with "derogation" in French.

to say, how can the municipalities work together, what are concrete points of cooperation. And we have tried to push that in Berlin, be it via the representation of the Saarland, through our influence in the Bundesrat or, I say it again, our spearheads in the Chancellery and elsewhere."[16]

And, finally, the regional governments themselves used their access points in the German multi-level system. In fact, the governments of the three German Länder with a border to France—Baden-Württemberg, Rheinland-Pfalz and the Saarland—teamed up to bring in the *Länder* interests into the preparation of the Treaty negotiations. As the German legal framework, based on the Lindauer Abkommen, gives the *Länder* the right to participate in the preparation of international treaties if their interests are concerned, the three regions put the issue of cross-border cooperation on the table.

"Such a Treaty will always be negotiated by the federal government. But there is the *Lindauer Abkommen*. Nothing can be done without asking the Länder. And then, the federal government knew that it would be better to directly include the Länder. […] The Länder then thought that it would be preferable to give the Saarland the lead and to coordinate the negotiations between the Länder governments. […] And the fact that the border regions do play such a role in the treaty is surely due to the intervention of the Länder. Especially Baden-Württemberg, Rheinland-Pfalz and Saarland. […] We have bundled up our interests […] and synchronized what we want. So, the fact that we have the committee of border regions in the Treaty is something that the Länder had asked for."[17]

Moreover, and importantly, German regions did also reach out to their French neighbours, who had not been informed systematically about the Treaty negotiations from their own central government. But as the German *Länder* had established working relationships with their partners from France, they informed them and even met—in Brussels—to talk about aspects that should be included in the Treaty. Hence, via this channel, the French regions effectively bypassed their own governments and participated via their German partners at least indirectly in the negotiations.[18] This is also reflected in an interview with a French representative:

"As an anecdote: When the Treaty of Aix-la-Chapelle was officially signed, the president of the Department of Moselle [neighbour to Luxemburg and Saarland, the authors] was not even invited. That shows how they have looked at the German-French cross-border cooperation. […] And it is important to see, and we have to say thank you to our German friends, that the dimension of cross-border cooperation has been proposed by the German side. Because Rheinland-Pfalz, Saarland and Baden-Württemberg have said: 'Well, just a moment, but our interlocutor is not Paris. It is Strasbourg, it is Metz, it is Colmar or Nancy. It is not Paris.'"[19]

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[16] Interview 6.4.2023.

[17] Interview 7.2.2023.

[18] Interview 7.2.2023.

[19] Interview, 17.3.2023.

For the other forces that the MSF models in the political stream, namely the public mood as well as interest organizations, not much influence on the policy process can actually be found. Given that the issue of border regions and the German–French relationships were not really important with the broader public, politicians did not perceive a lot of citizen pressure to act. And similarly, interest groups did not seem to be very active on the issue.

Policy stream

The policy stream includes the "primaeval soup" of possible policy solutions to a problem that are discussed in a policy community. Importantly, given the ambiguity of the problem itself, many different policies can be framed as solutions and their destiny depends on the "criteria of survival", such as technical or financial feasibility and their normative acceptance. For the question of how to deepen French-German relationships through a new Elysée-Treaty, it is clear that enhancing cross-border cooperation by giving more competencies to the border regions was a proposal with rather good chances of survival. Technical feasibility had been shown in local projects of Eurodistricts and EGTCs, and the financial repercussions for the nation state were minor. Also, discussions on the supranational level about the ECBM coincided with the preparation of the Treaty of Aix-la-Chapelle. Therefore, softening-up had occurred on the supranational level, too, making cross-border cooperation a more probable candidate for inclusion into the Treaty.

A bigger challenge clearly was the normative acceptance, especially in France, where the unitary state is a constitutional principle. However, with decentralization having been a major pledge in President Macron's election platform and discussions about further decentralization already under way (around the "loi 3DS" adopted in 2022), the normative acceptance was certainly higher than in previous years. Moreover, the field had already been prepared on lower levels of the French administration and the "Mission Opérationnelle Transfrontalière" (MOT), which had published reports on this issue (e.g. the "Rapport Blanc-Keller" in 2010 or the "Livre Blanc Diplomatie et Territoires" which created the position of a special advisor to the state representative in the regions (the Préfet) on cross-border issues).[20] In federal Germany normative acceptance was easier to achieve, as the need to enhance cross-border cooperation had been included progressively as a topic at least on the *Länder* level. This can be seen, for instance, by the adoption of "strategy papers" aiming at promoting cross-border activities in several *Länder*, such as Nordrhein-Westfalen ("Benelux strategy"), Baden-Württemberg ("France conception"), Saarland ("France strategy"), but also Brandenburg ("Neighbourhood strategy" with regard to Poland).

In sum, the policy stream therefore provided several policy proposals that had been tried out in many small-scale projects, often financed by Interreg-funding and organized through Eurodistricts or other organizations of cross-border cooperation.

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[20]   Moreover, the MOT was also instrumental in the lobbying for the ECBM on the European level, which, indirectly, paved the way for the inclusion of border regions in the Treaty of Aix-la-Chapelle (Interview 2.11.2023).

Hence, including the chapter on cross-border cooperation with a possibility to transfer certain competencies as an experiment to border regions did not seem normatively unacceptable or technically and financially unfeasible. Instead, the idea seemed in line with the development of cross-border structures and increased decentralization policies in France, as well as the policy discussions on the European level about the ECBM.[21]

The coupling process: cross-level spill-over and cross-level policy entrepreneurs, multi-level bypassing

In our theory section, we have argued that coupling process in multi-level systems are special, because problems, politics, and policies may be situated at different levels of government. In our case, the problems are at the local or regional level (constraints of cross-border cooperation), the policy is clearly situated at the intergovernmental level—the idea to achieve an agreement between France and Germany to give border regions more competencies to address their specific needs. We have argued that in such a case, the coupling process should involve cross-level spill-over to occur (E1) and should be supported by cross-level policy entrepreneurs (E2).

When we look more closely at the policy process, we indeed find evidence for our expectations. Regarding the problem stream, the empirical evidence indicates that cross-level policy actors were key in lifting the local and regional problems of cross-border cooperation to the attention of national policy-makers that were responsible for the Treaty negotiations. Without the key role of some cross-level policy entrepreneurs, local problems of cross-border cooperation would most probably have gone unnoticed by those persons sitting in the remote capitals of Paris and Berlin. A first group of such cross-level entrepreneurs were the German and French Parliamentarians (mainly Jung, Brandtner, Arend) who were all coming from border regions and took advantage of the unclear political situation (political stream) to push cross-border cooperation on the agenda. They were well connected and gained access to high-level politicians on the federal level, such as Wolfgang Schäuble (President of the Bundestag) or Philippe Étienne (close policy advisor of Emmanuel Macron). Moreover, on the German side, the fact that several politicians from the border region of Saarland were close to the Chancellor (Peter Altmaier, Annegret Kramp-Karrenbauer) or holding key ministries (Heiko Maas in the Ministry of Foreign Affairs) also seems to have helped the agenda setting endeavours of the Parliamentarians to succeed. Finally, on the French side the MOT—well connected to both the local, the national, but also the European level—had played an important role over the years convincing people in the central administration, but also

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[21] Concerning the integration of the policy community, no clear-cut results emerge. On the one hand, the policy community is rather diverse and not very integrated – at least in the German case – and the fact that there are two different national policy communities involved even makes the policy community more diverse. On the other hand, the fact that the ECBM has been discussed on the European level actually did lead to the softening-up of some ideas on the European level, such as experimentation clauses (Engl and Evrard 2019).

politicians, of the need to give more leeway to local and regional actors in border regions to develop policies adapted to their local situation. This resulted not only in a number of worked-out proposals on the French side (such as the reports), but also contributed to the emergence of the ECBM as a parallel process that clearly helped the issue of cross-border cooperation to be considered as a possible section of the Aix-la-Chapelle Treaty. Moreover, the MOT was directly involved in the negotiation process of the Treaty. Representatives of the organization participated at several preparatory meetings in the Elysée and uploaded problems from the local and regional levels into the negotiation process and used additional channels, e.g. via important local actors, to make decision-makers in Paris aware of the concrete problems of the border regions.[22] Hence, cross-level spill-over took place in the problem stream (raising awareness for cross-border problems on the regional level at the federal level) as well as in the policy stream (e.g. by introducing the idea of inclusion of special competencies for border regions to the federal policy process leading towards the Aix-la-Chapelle Treaty).

A second point of the coupling process specific to the multi-level structure also needs to be emphasized—the role of what we may call multi-level bypassing. In fact, as described above, the multi-level structure of the policy process offered policy entrepreneurs multiple access points for introducing policy ideas to the process. A case in point here is how the French regions bypassed the national policy-process with the help of the German Länder. As argued above, the German Länder were constitutionally included in the policy process leading to the Treaty via the "Lindauer Abkommen". To coordinate their activities, they reached out to their French counterparts to discuss their common interests. As the French regions did not enjoy the same possibility to directly influence their national policy process (they were even uninformed of the entire process, according to the interviews), the German regions offered their colleagues the possibility to introduce their policy ideas via the German policy process. This nice illustration of multi-level bypassing shows that the multi-level structure of the policy process can offer more venues than usual for policy entrepreneurs to push forward their ideas.

From the tracing of the policy process, the coupling process itself therefore seems to be mainly characterized by both consequential and doctrinal coupling done by cross-level and cross-national policy entrepreneurs. Well-connected members of the German–French Parliamentary Group deeply rooted in border regions took advantage of the political situation in Germany and of the non-response (political stream) to the overarching focussing event in the problem stream—President Macron's Sorbonne Speech calling for a New Élysée Treaty—to push forward their pet proposal in Germany: Namely, to include cross-border cooperation as a major issue of the Treaty allowing border regions new competencies to address their specific problems. Similarly, on the French side, Parliamentarians such as Sylvain Waserman and Christophe Arend used their access to key persons in the national government to soften up decision-makers for their policy proposals. Finally, these initiatives by cross-level policy entrepreneurs were additionally supported by cross-national actors, such as high-level bureaucrats from the Bundesländer, who reached

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[22] Interview 2.11.2023, policy documents.

out to their counterparts in the French regions and bypassed the French national level to support the common interests of enhancing cross-border cooperation via the bilateral treaty.

Figure 3 illustrates the policy process towards the Treaty of Aix-la-Chapelle as seen through the lens of the MSF. It shows how all three streams can be conceptualized in multi-level settings by modelling each stream across the respective levels. This is important as some events can affect all levels in a stream—such as the Macron speech in the problem stream; other aspects, such as the local and regional obstacles for cross-border cooperation (negative feedback) need to be lifted by cross-level policy entrepreneurs to effectively influence the policy process. In addition, the illustration shows that cross-level policy entrepreneurs are key when it comes to coupling the streams as they do not only bring together the three streams, but also do so on the appropriate level.

In our case of a policy output on the national or intergovernmental level, this essentially meant to uplift problems as well as policy proposals from the local and regional level to the national level and to use the national-level political dynamics (political stream) and the overarching focussing event of the Sorbonne speech (intergovernmental level) for the agenda coupling. However, in other cases, pull-down mechanisms may also be observed—if a local problem needs to be solved and a national-level event (e.g. a change in government) is used to couple a solution to the local problem. Thinking in multi-level streams therefore allows to more clearly pinpoint the mechanisms in multi-level policy processes and emphasizes the centrality of cross-level spill-overs and cross-level policy entrepreneurs in these settings.
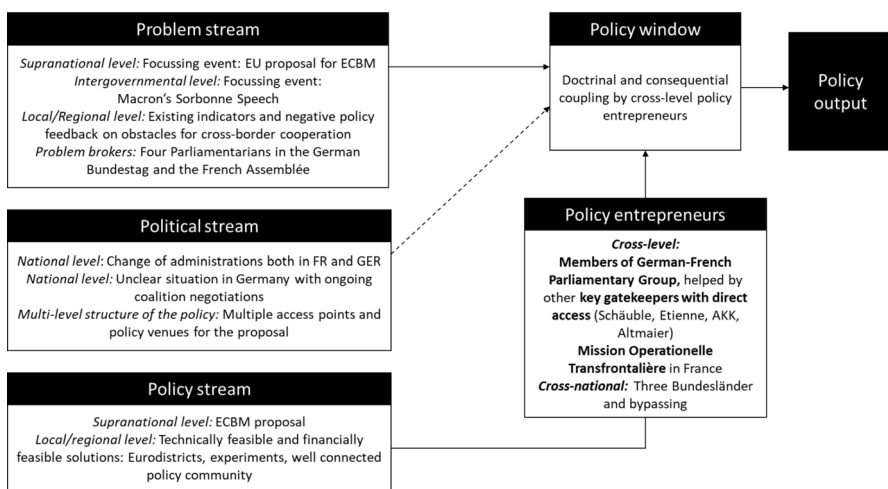

Fig. 3 The policy process leading to the Aix-la-Chapelle Treaty seen through an MSF perspective

Conclusion

When national governments want to solidify their friendship, they usually refer to high politics and the big common goals of their countries—such as securing peace, building friendships or cooperating economically (see for instance the original Élysée Treaty or German-Polish "Neighbourhood Treaty"). It therefore comes as a surprise that a rather specific issue such as improving cross-border cooperation found its way into the Treaty of Aix-la-Chapelle as a concrete low-politics-aspect of German–French cooperation. In this paper, we have leveraged the theoretical perspective of the MSF to better understand why and how the chapter on cross-border cooperation has found its way into the Treaty. Drawing on different data sources from the policy process and, not least, expert interviews with actors involved in this process, we have shown that a policy window opened by the Sorbonne speech of French President Macron has been used mainly by Parliamentary actors to push the issue of cross-border cooperation on the political agenda. It was their persistence as well as their connections to the national governments that helped include the issue of cross-border cooperation as a very concrete idea of French-German cooperation in the Treaty negotiations. The analysis emphasized the importance of cross-level spill-overs between levels of governments, as well as cross-level policy entrepreneurs that are in a position to link these levels in the policy process. The favourable constellations in the different streams—Macron's idea of a "New Élysée" (problem stream), the high freedom to act for Parliamentarians (political stream) and the presence of cross-level policy entrepreneurs linking cross-border cooperation with the Treaty negotiations and their access to the national decision-makers (policy stream) can be seen as key ingredients that led to the inclusion of the border region chapter in the Treaty of Aix-la-Chapelle. Hence, beyond the empirical contribution, our study also adds to the theoretical refinement of the MSF by introducing the concept of cross-level policy entrepreneurs and cross-level spill-over in the theoretical debate.

Whether the Treaty itself will live up to the high expectations it created by introducing the possibility for border regions to "derogate" from the national legal system, remains to be seen. After five years, the "experimentation clause" does not seem to have been used, yet (Koepf and Koopmann 2024). Hence, while the Treaty could have worked as a "focussing event" itself, the stars may not have seemed to be aligned in the right way for implementing the newly gained options for border regions. This underscores the importance to also study policy implementation, which may raise additional obstacles (Zahariadis and Petridou 2023). Nevertheless, the Treaty and its paragraph on border regions did in fact inspire at least two new bilateral treaties, namely the Treaty of Quirinal between France and Italy from 2021 and the Treaty of Barcelona between France and Spain from 2023, insofar acting as a focussing event for further policy change on the intergovernmental level. According to one interviewee, these bilateral treaties are, furthermore, not intended to stand for themselves, but can serve as groundwork for policy change on the European level:

"The idea that—it's all very well for there to be a Franco-German treaty, then a Franco-Italian treaty, then a Franco-Spanish treaty to create bilateral committees,—but that all this prefigures a process at European level where on each border there would be committees of this nature … that all this should be part of a European framework, was already there."[23]

Thus, the multi-level effort leading up to the inclusion of border regions into the Treaty of Aix-la-Chapelle might very well support the softening-up in policy processes on the European level, supporting for example the amended relaunch of the European cross-border mechanism from 2023 (European Commission 2023). This in turn could make the actual implementation of cross-border instruments addressed in the Treaty of Aix-la-Chapelle, notably the experimentation clause, more probable. Seen from this perspective, the bottom-up processes from border regions that resulted in the Treaty of Aix-la-Chapelle seem to have created a dynamic that leads to a series of bilateral treaties, which then will facilitate cross-border cooperation via derogation clauses—a policy that could not be reached on the EU level with the ECBM. For scholars interested in European Integration, the case of cross-border cooperation therefore also points to the the importance of accounting for such processes where a number of bilateral agreements replace a more general solution at the EU level, hence leading to "multi-speed Europeanization" without the need to resort to EU law making.

Appendix: List of expert interviews

Date	Position
7.2.2023	Regional administration, Germany
17.3.2023	Regional administration, France
5.4.2023	Legislation, France
6.4.2023	Regional/national government, Germany
27.4.2023	Regional government, Germany
4.10.2023	Legislation, Germany
2.11.2023	Administration, France
16.1.2024	National government, France

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[23] Interview, 02.11.2023.

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