

# Deficits in EU transboundary crisis management and how to address them

Lydie Cabane and Martin Lodge point to the agenda for the future of EU transboundary crisis management

Whether it is the financial meltdown or refugee flows, recent transboundary crises have highlighted the political and administrative limits of existing European Union (EU) crisis management arrangements. They have strained understandings of member state solidarity, given rise to debates over appropriate policy responses, and led to conflicts over the direction of future EU transboundary crisis management capacities within and across policy domains.

Transboundary crises pose problems for any regulatory system as they cut across jurisdictions, challenge disciplinary boundaries, and require coordination and shared understandings regarding causes and potential solutions. In the context of the TransCrisis consortium's work, transboundary crises were identified in a number of areas, ranging from the 'traditional' emergencies, such as terrorist attacks or natural disasters, the consequences of enhanced market liberalization and integration (such as banking crises) to the explicit rejection by member states of key liberal democratic commitments associated with EU membership, so-called backsliding. Based on TransCrisis research, we diagnosed four kinds of deficits across transboundary crises in the context of the EU; these translate into four corresponding strategies to address these deficits.

## Diagnosing transboundary crisis management deficits

**A central authority deficit:** There is a diagnosed lack of oversight and leadership across EU domains that have experienced transboundary crises over the past decade. Central authority refers here both to a lack of overall leadership and a lack of administrative capacity at the EU-level. The financial crisis highlighted the need for a harmonized, if not common, banking regulatory and crisis management framework. A lack of central authority was evident in the decision-making gridlock created by deep cleavages across different member states and regions of the EU, placing northern creditor countries at odds with southern debtor countries (such patterns were also evident in the development of approaches dealing with youth unemployment). Similarly, concerns about the stability of electricity supplies have led to repeated calls (in particular from the European Commission) for the adoption of more centralized risk and crisis preparedness measures to reduce regional differences and enhance cooperation. In addition, across policy domains there have been concerns about the lack of (comparative) information about the state of play in terms of actual implementation in different member states (as for youth unemployment). This is especially in areas where

the lack of capacity to act might be a source of, or an extra factor in, aggravating transboundary crises (as in the case of invasive species).

**A prescriptiveness deficit:** There is a diagnosed lack of consistency in administrative context, especially in terms of member state requirements. Transboundary crises over the past few years have given rise to complaints about the discretionary ways in which member states have responded to crises and also the lack of detailed guidance from the centre, i.e. the European Commission, that would enable information exchange and other forms of coordination. One example here is the uncoordinated nature of policy responses across member states during the financial crisis or during the 2018 delay of electric clocks due to conflicts in the Serbia-Montenegro region and the lack of willingness of other transmission operators to compensate for that problem.

**A flexibility deficit:** EU transboundary crisis management regimes are also said to lack flexibility. The centralization of authority and one-size-fits-all frameworks fit uneasily with crises that are unevenly felt across member states (or where different regions are vulnerable in different ways), and where there are differences in administrative capacities to deal with transboundary crises. In some cases, more discretionary approaches may be more supportive of effective transboundary crisis management than demands for strict uniform rule adherence. For example, Italy has been calling for ad hoc measures to tackle its non-performing loans crisis. Elsewhere, as for example in the area of invasive alien species, there has been considerable criticism of a uniform list given the diverse ecologies across EU member states.

**A subsidiarity deficit:** One of the central debates across EU governance is the appropriate level of competence. On the one hand, demands for more EU capacity have traditionally focused on questions as to the supranational or intergovernmental character of particular arrangements. On the other hand, the criticism has been made that the EU lacks an effective appreciation of the capacity of arrangements that sit outside the EU. The Pentalateral Forum in energy is such an example of a multi-lateral intergovernmental arrangement. In other words, the EU needs to acknowledge the existence of European-level capacities that reside in member states and potential bilateral and multi-lateral levels that are however not governed by EU provisions.

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The TransCrisis project (full name: *Enhancing the EU's Transboundary Crisis Management Capacities: Strategies for Multi-Level Leadership*) was a three-year project funded by the European Union under the Horizon2020 programme. **carr** was the co-ordination partner in this network of eight organizations. Other partners involved: Crisisplan (Arjen Boin), the University of Utrecht (Femke van Esch), Central European University (Nick Sitter), Institut Barcelona d'Estudis Internacionals (IBEI, Jacint Jordana), University of Catania (Fluvio Attina), University of Stockholm (Mark Rhinard) and ThinkTank Europa (Maja Dionigi). More information can be found at the project website: [www.transcrisis.eu](http://www.transcrisis.eu)

Looking across these four deficits, it is evident that it is impossible to address all four at the same time. They are also case specific. These deficits further highlight the fundamental tensions between criticisms of EU transboundary leadership that attack ‘too much central leadership’, those that condemn ‘too much gridlock’, or those that complain about ‘too little consistency’. Moreover, different deficits are highlighted in view of the same transboundary crises as member states have diverging views and interests on how to best solve these crises.

### Searching for solutions

Any discussion about transboundary crisis management needs to move towards the ‘where’ and ‘how’ (instead of focusing on the ‘who’). Four potential strategies towards supporting effective and legitimate EU transboundary crisis management can be illustrated (see Table 1). They are direct responses to the diagnosed deficits noted above, and they have distinct implications when it comes to the allocation of legal authority, organizational and financial resources. While each strategy has its own advantages, it is also associated with distinct pathologies. Thus, a reliance on ‘ad hoc’ responses may appear advantageous in that it avoids the set-up costs for crisis management regimes that may involve tricky redistributive conflicts among member states. However, a strategy that relies on summitry to deal with crises is unlikely to provide for anticipatory approaches that may reduce the cost of transboundary crises. Similarly, a reliance on strengthening consistency among national administrations reflects the inherent diversity of administrative arrangements across the EU, and it requires some form of monitoring of the ways in which member states actually prepare for transboundary crises. Strengthening multi-level governance approaches by relying on ‘networks’ of administrative and political actors comes at the expense of dispersed responsibilities and potential problems in ensuring coordination and overall leadership. Finally, calling for ‘central leadership’ by EU institutions may appear promising in placing responsibility in one place; however, it is not at all evident that all transboundary crises require such centralized and uniform responses across member states, and it is not evident how such an approach can easily interact with diverse national and local administrative systems.

Particular strategies are unlikely to represent appropriate responses to every transboundary crisis. When focusing on questions such as civil protection in response to terrorist attacks, then centralized arrangements might offer enhanced information exchange and central crisis rooms can be a key facility to build and mobilize leadership. However, such a centralized response would at the same time attract considerable concerns in the face of the high political profile of such activities and would require acceptance by national administrations. A reliance on ad hoc responses might work in the

face of one-off events that largely affect one member state, but is unlikely to support long term enhanced information exchange among national databases. A reliance on ‘Europeanized’ national standardization might support member states’ capacities to deal with such attacks, but is unlikely to mitigate against organizational boundary conflicts.

Conflicts arising from organizational fragmentation are prominent when considering the kind of transboundary crises that stem from critical infrastructure failure, such as electricity transmission networks. A disruption in one part of the European-wide network can have severe implications (i.e. black-outs) in other EU member states. Energy shortfalls in view of repair programmes, cold spells or heatwaves are therefore issues that require transboundary responses. However, while ensuring member state cooperation with risk and crises preparedness through centralized measures at the EU level might appear attractive, they cannot do away with questions about national energy politics (will national politicians wish to authorize the responsibility to switch off parts of their population to supranational actors?). Strengthening the nexus of multi-level governance would build on existing operator and regulator networks, but these cannot deal with wider political crises that might impact on the supply of energy across national boundaries. The same applies also to debates about the banking union. Even when leaving aside current debates about adding a financial backstop and a deposit insurance scheme, the banking union relies not just on centralized oversight by the European Central Bank (ECB), but also on the contribution of national oversight agencies in ‘joint supervisory teams’ and ‘internal resolution teams’. As revealed by the failure of Latvian bank ABLV, such authority does not extend to money laundering. In the case of less significant banks (regional savings banks, such as Sparkassen), the ECB is highly dependent on the oversight activities of national authorities. In the case of actual bank failure, resolution, despite being a centralized decision to be taken by the Single Resolution Board (SRB), still depends on national insolvency laws (as in the case of Italian banks) and national resolution authorities also preferred strategies as well as capacities to contribute to resolution planning.

### The EU in crisis

The problem with potential political opposition to centralized authority is most pronounced among the kind of transboundary crises that are related to ‘democratic backsliding’. As illustrated by the politics surrounding the Hungarian government’s activities to restrict the scope for academic freedom and NGO activities, and the initiation of proceedings by EU institutions against actions of the Polish government (under Art 7 of the Treaty that threatens to suspend voting rights if there is an agreed sustained violation of liberal democratic conventions), there is neither the political will among all EU

**TABLE 1:  
STRATEGIES FOR ENHANCING EFFECTIVE AND LEGITIMATE EU TRANSBOUNDARY CRISIS MANAGEMENT**

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| <p><b>Strengthen mechanisms to enhance consistency among member states</b></p> <p><i>Advantages:</i> Adjusts to diversity across member states and encourages consistency in goals, but not necessarily means</p> <p><i>Pathologies:</i> Limited interest among member states to report and mitigate according to set benchmarks and guidance, given also member state diversity.</p> | <p><b>Strengthen EU level capacities</b></p> <p><i>Advantages:</i> Establishes leadership responsibilities through formal authority</p> <p><i>Pathologies:</i> Information asymmetry, problems in dealing with diversity and potential lack of implementation at the national/sub-national level; legitimacy concerns</p> |
| <p><b>Rely on ad hoc responses and ‘naming and shaming’</b></p> <p><i>Advantages:</i> Limited requirements for building crisis management capacity outside times of crisis</p> <p><i>Pathologies:</i> Problems with coordination and development of timely responses; likely source of further ambiguity and conflict during times of crisis</p>                                      | <p><b>Strengthen EU-national multi-level governance</b></p> <p><i>Advantages:</i> Joint working among EU-level and national administrative actors allows for adjustment according to diverse circumstances</p> <p><i>Pathologies:</i> Lack of oversight and co-ordination</p>   |

member states to confront member states nor are such measures likely to be effective as they are likely to attract an even more sustained national political backlash.

Transboundary crises therefore pose a central problem for the European Union. The nature of such crises means that they cannot just be dealt with by setting up crisis rooms inside EU institutions, associated with some legal emergency power or another. Transboundary crisis management instead has to deal with two fundamental issues. One is the central importance of national and local administrative resources to give effect to anticipatory and actual EU crisis management activities. At present, there is little benchmarking of national administrative capacities to deal with transboundary crises across domains. Furthermore, backsliding poses a fundamental transboundary crisis for the EU. It undermines both the normative power of the EU in terms of commitment to ideals of liberal democracy, and the basis of authority for transboundary organization of transboundary crisis management. This is therefore very much a time of crisis in EU transboundary crisis management.

At the same time, those celebrating this EU crisis should take little comfort from the challenges arising from transboundary crises. Those hoping for the demise of the EU have, as yet, failed to develop any response to the basic condition of interdependence: invasive species, volcanic ash clouds and energy

networks do not recognise national border posts. Those suggesting that the crisis of the EU opens the proverbial policy window for a ‘different’ EU need to recognize the dependence on nationally diverse economic and administrative systems. Debating transboundary crisis management in the context of the EU is ultimately about debating the future shape of the EU itself.

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