

Case studies: description, analysis
and consequences of the legal
organisation of the programmes
and structures in the sample

3. Case studies: Description, analysis and consequences of the legal organisation of the programmes and structures in the sample

Objective and content of the chapter

Having drawn up the main lines of the legal organisation and structuring of all INTERREG IIIA programmes, the objective of this part of the study is to analyse more closely the legal and organisation structuring of a sample of programmes in order to draw attention to the advantages and drawbacks of each of the models studied, and also to point out the good practices developed under INTERREG III that could be useful for INTERREG IV.

3.1 Presentation of the sample and objectives of the analysis

In order to carry out this analysis, a representative sample group of 25 programmes was established:

- 1) 1- (FI/SE) Skargarden
- 2) 3- (AT/DE) Austria – Germany/Bavaria
- 3) 5- (AT/SI) Austria – Slovenia
- 4) 12- (DE/CZ) Saxony – Czech Republic
- 5) 13- (NL/DE) EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north
- 6) 15- (IT/AT) Italy – Austria
- 7) 16- (IT/FR) Italy – France (ALCOTRA)
- 8) 17- (IT/FR) Italy – France (Islands)
- 9) 18- (IT/SI) Italy – Slovenia
- 10) 19- (IE/UK) Ireland – Northern Ireland
- 11) 21- (FR/DE) PAMINA
- 12) 22- (DE/FR/CH) Upper Rhine Centre-South
- 13) 28- (DE/FR) Saarland – Mosel (Lorraine) – Western Palatinate

- 14) 29- (ES/PT) Spain – Portugal
- 15) 30- (ES/MA) Spain – Morocco
- 16) 32- (SE/DK) Oresund Region
- 17) 35- (EL/BG) Greece – Bulgaria
- 18) 37- (DE/PL) Mecklenburg-Vorpommern/Brandenburg – Western Pomerania
- 19) 38- (BE/DE/NL) Euregio Meuse-Rhine
- 20) 42- (FR/ES) France – Spain
- 21) 44- (FI/EE) Southern Finland – Estonia
- 22) 45- (BE/NL) Flanders – Netherlands
- 23) 49- (FR/BE) France-Wallonia-Flanders
- 24) 53- (IT/HR/BA/CS**/AL) (as approved by EC Decision C(2004)5554) Adriatic New Neighbourhood Programme
- 25) 55- (PL/SK) Poland – Slovakia

The following criteria were taken into consideration so as to ensure a representative sample group:

- the type/level of organisation of the programme (State/national, regional, cross-border);
- the involvement of one or more cross-border cooperation structures in the management of the programme;
- the geographical distribution of the programmes on the European territory;
- the longevity of the programmes (previous participation in INTERREG I and/or II) and of cross-border cooperation in general in the concerned area;
- the involvement of new Member States or third countries in the programmes.

** Including Kosovo, under the auspices of the United Nations, pursuant to UN Security Council Resolution 1244 of 10 June 1999.

The analysis of the programmes in the sample group is based on two types of sources:

- documentary sources: programming documents, mid-term evaluations of the programmes and analyses of the programmes made available by INTERACT Point Tool Box⁶²;
- distribution of a questionnaire and telephone interviews undertaken with leaders of several programmes, to complement the documentary sources⁶³.

It is worth specifying that out of the 25 programmes contacted, 11 responded by returning the questionnaire and/or by seeking a telephone interview. We were therefore able to take recent and precise qualitative information into account in the analysis of these 11 programmes. Conversely, for the 14 other programmes in the sample group, the analysis was based exclusively on the documentary resources and, thus, on qualitative information that was less precise or a little older, as it were. The map below shows the programmes making up the sample group:



○ Programmes of the sample (● Programmes that have replied to the survey)

⁶² Information on cross-border structures and legal arrangements for programme implementation, taken from the analyses of 52 INTERREG IIIA programmes, realised by INTERACT Point Tool Box in 2004 and 2005 and downloadable on the INTERACT Website: <http://www.interact-eu.net> (section 'Management Support', then 'Material sets', and finally 'Programme Summaries').

⁶³ The standard questionnaire sent to the 25 programmes in the sample group is available in the Annex 4.

The object of this section is to present the main results of the analysis of the programmes in the sample group in the form of a comparative analysis. More detailed information regarding the programmes studied is available either in the 'programme data sheets' annexed to the present study (**Annex 5** on the CD-ROM), describing all the INTERREG IIIA programmes, or in the detailed analysis of the programmes previously carried out by INTERACT Point Tool Box⁶⁴.

3.2 Comparative analysis of the programmes and structures in the sample

In order to determine the advantages and drawbacks of the legal organisation and structuring of the programmes in the sample group, these were classified according to the **level at which most implementation tasks and responsibilities are taking place**, as described at the beginning of Part 2. They are:

- programmes managed at State level;
- programmes managed at regional level⁶⁵;
- programmes managed at cross-border level.

This simple approach was chosen in order to provide clear and easily-used keys to understanding. It takes into account the two central elements guiding the analysis of the programmes in this study:

- The **level of management of a programme** (State, regional, cross-border) and its degree of cross-border integration: this criterion comes across in the three categories of classification of the programmes studied, and also within the different themes tackled in each category (cf. below).
- The **degree of delegation and sharing of missions** within a programme: whatever the management level of a programme (State, regional or cross-border), we can find, in each category, programmes

where the missions are implemented in a centralised manner by the same structure or, on the contrary, programmes in which the management functions of the programmes (MA, PA and JTS) are taken on by different structures, indeed even in some cases where they resort to Intermediate Bodies to aid them in the implementation.

It is important to specify that this classification, while useful for the needs of the study, does not allow for all situations to be taken into account. For example, the programmes that have chosen to confer the main programme management functions (MA, PA and JTS) to three structures from different levels, does not enter into only one of the categories chosen.

In those scenarios, the programmes were classified according to the nature of the structure most involved in the administrative and financial management. An implicit distinction was thus used between the **level of responsibility** for implementation of the programme (MA) and the **level of effective implementation** of missions (sometimes different from the level of the MA). This is the case, for example, in the **Oresund Region** and **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north Programmes**, which were classified in the 'programmes managed at cross-border level' category, although in these two cases the MA is at regional level.

Furthermore, within each category, the broad diversity of programmes in terms of cross-border integration and the level of delegation is taken into account in the context of a precise and nuanced comparative analysis tackling the following points:

- a) the organisation and sharing of tasks in the programmes and a reminder of the longevity of the cooperation in the border area; to illustrate this first point, standard models schematising the administrative organisation and the sharing of tasks within the programmes have been created. The following key helps to understand these diagrams:

⁶⁴ Information on cross-border structures and legal arrangements for programme implementation, taken from the analyses of 52 INTERREG IIIA programmes, realised by INTERACT Point Tool Box in 2004 and 2005 and downloadable on the INTERACT Website: <http://www.interact-eu.net> (section 'Management Support', then 'Material sets', and finally 'Programme Summaries').

⁶⁵ It is worth specifying that in the context of this study, the federate states/regions of federal or regionalised States (German and Austrian Länder, Belgian and Italian regions in particular) were considered as coming from regional level (as opposed to State or central level), so that the programmes managed by these federate states/regions were classified in this second category).

Key for the organisation diagrams of the programmes

	Capital city of the State
	Boundary
	Eligible area of the programme
	Intervention of cross-border cooperation structure(s)
	Administrative bodies of the programme (MA, PA, JTS)
	Intermediate Body

- b) the main difficulties encountered in the management of the programmes;
- c) the involvement of cross-border cooperation structures in the management of the programmes;
- d) agreements between programme partners;
- e) prospects linked to INTERREG IV.

Analysis of the programmes from these different viewpoints not only allows us to consider their diversity, but also to underline certain common tendencies, according to similar contexts, which will serve as a support for the recommendations in the final section.

Consequently, the reminder, at the beginning of each analysis, of the longevity of the programme and of cross-border cooperation as a whole on the territory of the programmes, is useful when we tackle the organisation mode of their implementation. As we will realise throughout the course of the discussions that follow, and in line with the analyses carried out in the first section of this study, **the choices of INTERREG programme partners concerning the sharing of tasks and responsibilities are influenced by the general context of cooperation in which the programmes are implemented.**

Thus, the analysis which follows allows this interesting statement to be underlined: it appears that **the older a programme is, and above all the more it can rely on well-established and structured cross-border cooperation, the more the model for organising and shar-**

ing out tasks set up within a programme will tend to be concentrated. In this case, the partners more readily accept to confer effective implementation of the programme missions to a limited number of partners or to a single cross-border cooperation structure in the context of cooperation based on longstanding trusted relations.

Conversely, **programmes relying on a more recent tradition of cooperation generally choose a more decentralised ('delegated') organisation model**, bringing in an often significant number of Intermediate Bodies from each side of the border, which allows all programme partners to be represented and to get effectively involved in its implementation (as is the case, for example, in the programmes involving one or several new Member States).

3.2.1 Programmes in the sample group managed by a State authority

The first category of programmes in the sample group relates to those whose management is carried out essentially by a structure at central State level. The following programmes were classified in this category:

- 5- (AT/SI) Austria – Slovenia
- 29- (ES/PT) Spain – Portugal
- 30- (ES/MA) Spain – Morocco
- 35- (EL/BG) Greece – Bulgaria
- 55- (PL/SK) Poland – Slovakia

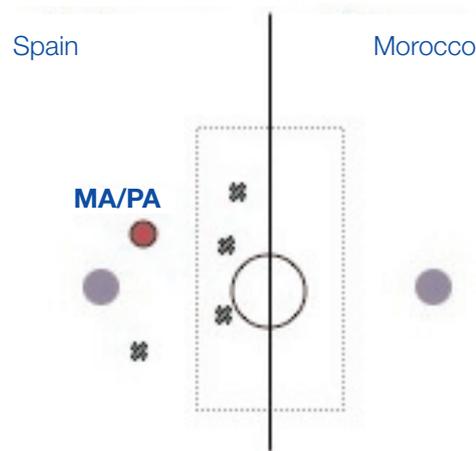
A) Longevity of the cooperation, organisation and sharing of tasks in the programmes

The longevity of the cooperation is quite significant in these programmes, taking into account the fact that these countries entered the EU in the third (1986), fourth (1995) and fifth (2005) waves of enlargement, but it **nevertheless remains relative** when we compare it to that of certain programmes in the other two categories (cf. points 3.2.2 and 3.2.3), which fall back on a tradition of cooperation that sometimes goes as far back as the 1950s.

Consequently, the **Spain – Morocco** Programme has existed since the INTERREG II period. Cooperation on the territory of the **Spain – Portugal** Programme has existed since 1987 and has been carried out in the context of INTERREG since 2001. For the **Austria – Slovenia** Programme, cooperation dates back to the phase of INTERREG IIA Phare-CBC. Finally, the **Poland – Slovakia** and **Greece – Bulgaria** Programmes have benefited from the prior experience of cooperation in the context of the Pre-accession programmes, in particular Phare-CBC.

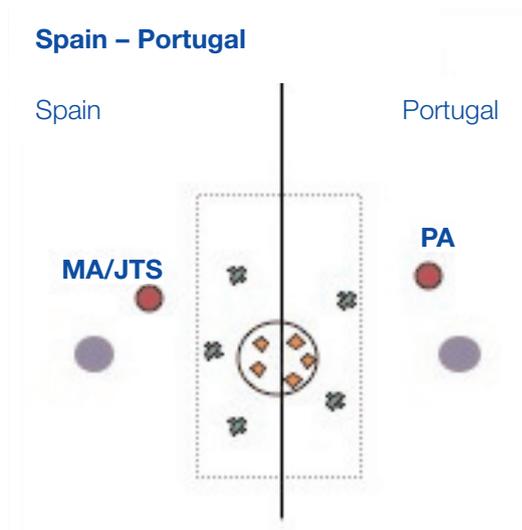
Now, in conformity with the statement explained in the introduction, it appears that the methods for organising and sharing tasks chosen by the partners for implementing their different programmes take into account the rather recent tradition of cooperation, **by actually involving, though the apparent concentration of the functions of the MA, PA and JTS in the hands of the same structure at State level, an often high number of Intermediate Bodies**, and thus different partners in the actual undertaking of programme missions.

Spain – Morocco

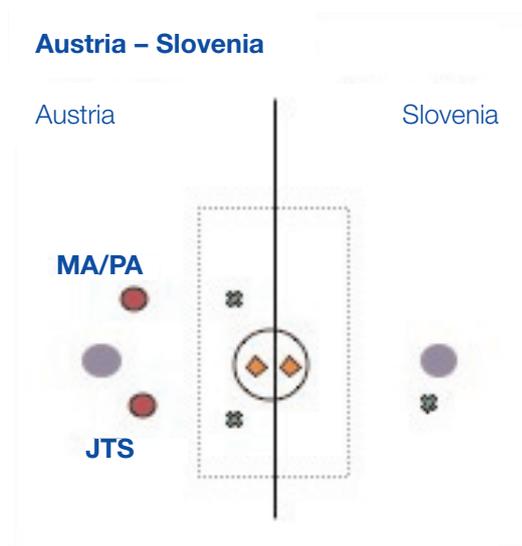


Consequently, the organisation of the **Spain – Morocco** Programme certainly is concentrated in the Spanish Ministry of Economy and Finances, which is MA and PA of the programme and also ensures the JTS mission. In reality, **it delegates the effective undertaking of the JTS missions to Intermediate Bodies** (the *Junta de Andalucía* and the autonomous towns of Melilla and Ceuta), which guide and monitor the projects affecting their respective territories. Within each of the regions affected by the programme, we can also note the participation of other structures in the assessment and monitoring of projects, like the *Diputacion provincial de Cadiz* and *Malaga* for example, local public authorities, but also two private firms. Mainly due to the necessity of involving all institutional partners in its implementation, the management of this programme seems to be taking place more at the level of intermediate institutions/organisations than of territories.

In the **Spain – Portugal** Programme, it is also the Spanish Ministry of Economy and Finances which takes on the MA and JTS functions. On the other hand, the PA function is carried out by the Portuguese Ministry of Finances.



While being managed at State level, **the programme itself also undergoes a significant amount of delegation**, as a management unit (entitled ‘management sub-committee’) and a delegated JTS were set up in the offices of each of the partner regional administrations covering the five sub-programmes of the programme. The five management sub-committees and the JTSs of the five regional sub-programmes implement most of the missions of the MA and the central JTS. The five delegated JTSs are actually made up of two satellites, allowing them to be represented on each side of the border. As for the central JTS, it acts as a relay between the national administrations of the two partner States and helps the MA and the joint national management sub-committee, which is involved in the activities of the programme as a whole (‘national sub-programme’) and coordinates the ‘regional sub-programmes’.



For the **Austria – Slovakia** Programme, the Austrian Federal Chancellery carries out the MA and PA functions. The banking missions of the PA were conferred, through a call for tender, to the Vienna Funds, a private structure that also carries out final certification of the programme. The JTS function is taken on by the *Österreichisches Institut für Raumplanung (ÖIR)*, another private body recruited through a call for tender, which cooperates with *NARD*, the Slovenian National Agency for Regional Development. The *NARD* is additionally the Slovenian National Authority for the programme and, as such, carries out a certain number of missions covering the functions of the MA and JTS. Here we find the characteristic organisational model of the programmes involving one or more new Member States.

Concretely, **the technical and financial management of projects is thus entirely separated** between the two countries, with for instance the obligation to submit the application forms in the two countries. At the same time, **there is strong delegation in the exercise of missions, in particular on the Austrian side**, where the *Länder* actively participate, as Intermediate Bodies and in the context of an agreement signed with the federal level, in the operational management of the programme at project level (guidance, assessment of projects, monitoring, etc.).

As with the previous programme, the **Poland – Slovakia** Programme follows the organisation model of programmes involving new Member States: it is managed by the Polish Ministry of Economy and the Ministry of Finances (MA and PA of the programme respectively), in collaboration with the Slovakian **National Authority** (Ministry for Construction and Regional Development) and a **delegated PA** in Slovakia.



This programme, nevertheless, involves **substantial delegation of missions** to the Polish Marshall's Offices and the *Voidvoship* (regional level) and some specialised Intermediate Bodies on the Slovak side (regional development agencies at regional or local level), which helps project promoters in the structuring and monitoring of their dossiers. The JTS function of the programme is carried out by a Phare-CBC/INTERREG office, made up of agents from the two countries. The first level controls are carried out in each State by the *Voidvoship* and the Slovak National Authority respectively. The second level controls are carried out under the supervision of the *Bureau for International Treasury Relations* of the Polish Ministry for Finances. It should be noted that accounts are operated in euros to avoid currency exchange losses.

In addition to the effective delegation in undertaking certain missions, management by the authorities at State level in the case of a programme involving two new Member States of the EU is easily explained by the fact that the authorities at regional level in these countries have not yet acquired sufficient experience or obtained enough competences and means internally to manage European Structural Funds. This statement, moreover, is certainly an important issue for the next programming period.

Finally, the **Greece – Bulgaria** Programme also grants **an important place to all the programme partners**. It confers a **central role to the Greek Ministry of Economy and Finances**, MA and PA for the programme. But this programme does not have a 'real' JTS.

The JTS missions are fulfilled, in this programme, by different technical secretariats within each of the partner regions of the programme. They are:

- On the Greek side, two regional technical secretariats (one in the region of Eastern Macedonia – Thrace and the second in the region of Central Macedonia). These secretariats are physically located in the regional MA managing the Objective 1 Programme but support the B1 unit of the Greek national MA of the INTERREG programme;
- On the Bulgarian side, by the four Bulgarian districts involved in the programme.

It is also interesting to note that for this programme, the Monitoring and Steering Committees are common both to the INTERREG and to the Phare-CBC programmes. The first level controls are carried out at regional level, but the other controls are under the responsibility of the Greek ministry.

The organisation of these State-managed programmes is therefore interesting to study. *A priori*, it constitutes a **model which does not appear particularly adapted** to the specificity of INTERREG programmes, which cover cross-border territories often distant from the capitals of the partner States and the central administrative level.

Now, it can be seen that, in practice, State management of a programme does not necessarily mean concentration of missions at central level: consequently. The effective imple-

mentation of a greater or lesser number of missions in these programmes is carried out through delegation to entities closer to the cooperation territory, with the activity being coordinated at central State level, which bears overall responsibility for the whole programme.

The participation of numerous Intermediate Bodies in the implementation of these programmes is related to the rather recent character of cross-border cooperation on these territories, and it allows all the institutional partners to the programme to be involved in its implementation. At the same time, this high level of delegation can also be the source of certain difficulties, as is shown in the following paragraph.

B) Main difficulties encountered in the management of the programmes

The difficulties encountered by the different programmes managed at national level vary according to the situation in terms of location, organisation and composition of the partnership. Nevertheless, we can note **a common origin to these difficulties, partly due to a lack of coordination and concentration of certain missions/information, while the involvement of different institutions in the management of the programmes** does not lead to a truly cross-border integration or synergy and veritable clarity in the sharing out of tasks (who does what).

Consequently, for the **Spain – Morocco** Programme, the main difficulties encountered result essentially from the management of the programme by partner institutions, and not by territories: long delays for the assessment of projects, problems in completing and monitoring evaluation indicators or lack of precision of the obligations on the final beneficiaries in the context of the programme controls.

The mid-term evaluators of the **Spain – Portugal** Programme noted that the Spanish project promoters seemed better oriented towards their management structures than the Portuguese promoters. In addition, the large number of regional sub-programmes and Intermediate Bodies complicates the situation in this programme in terms of management levels. Furthermore, the difficulties resulting from differences of competences between the regional partners concerned (strong competences in the

Spanish regions, weaker competences for the Portuguese regions) are particularly significant in this programme, even though overall the programme managers are satisfied with its organisation and results.

In the **Austria – Slovenia** Programme the mid-term evaluators underlined, in particular, the different opinions on projects that sometimes arise between the Austrian and Slovenian regional authorities responsible for the assessment of projects. In the same fashion, some natural difficulties linked to the starting up of a new programme were also noted in the **Poland – Slovakia** Programme, which joins two new Member States, on the basis of a recent tradition of cross-border cooperation. An element to be underlined, moreover, regarding this programme is the use of English for its management, which in itself constitutes a loss for the linguistic and cultural cross-border integration of the programme.

Finally, regarding the **Greece – Bulgaria** Programme, the absence of a JTS has led to communication difficulties between the MA, project promoters and the regional technical secretariats, the latter having encountered problems in making their mark and becoming involved in the programme. In this programme, the lack of staff at the level of the central Greek MA, responsible for 13 different programmes, poses a particularly acute problem. The main problem, nevertheless, stems from the fact that the projects fall within two different EU funds (Phare-CBC and INTERREG), which creates differences in interpretation in terms of procedures, delays, eligibility rules or levels of co-financing.

Overall, considering the nature of the difficulties encountered by the partners of programmes in this category, it seems that the origin of the problems is to be found less in the management of these programmes at State level than in the diversity of actors involved in their implementation and above all in the **absence of single joint management structures**. The involvement of different structures from each side of the border to accomplish identical missions allows for a good representation of partners in the implementation of the programme, but also implies circuits, procedures or criteria that function in parallel (and not in an integrated manner), which can lead to differences in management and, consequently, difficulties specific to these programmes.

C) Involvement of cross-border cooperation structures in the management of the programmes

Programmes in this category are based on a State management model and on rather recent traditions of cross-border cooperation; they **do not necessarily experience strong involvement of cross-border cooperation structures** in their management. Nevertheless, the involvement of these structures **is not non-existent**: when they exist on the programming territory, these structures are generally called upon to participate in the general promotion of the programmes and/or to manage Small Projects Funds, as is the case in particular in most of the programmes involving new Member States.

Consequently, two associations of regional and local authorities present on the territory of the **Austria – Slovenia** Programme, each called *Euroregio* in their own country, signed cooperation contracts between themselves to create a cross-border ‘Euregio’, which has no legal personality. The Euregio is entrusted with the **management of a Small Projects Fund** and as such carries out guidance, project evaluation, support in project development and monitoring missions for micro-projects; the Euregio has also set up a Sub-Steering Committee for micro-projects, which takes decisions on the basis of its own criteria.

A similar scenario is to be found in the **Poland – Slovakia** Programme, in which two Euroregions, Beskidy and Tatry, are also tasked with **management of a Small Projects Fund**.

Likewise, the Euroregion Nestos Mesta brings its support to technical secretariat missions of the **Greece – Bulgaria** Programme corresponding to its area of intervention.

In the **Spain – Portugal** Programme, five working communities participate informally in the implementation of the programme by carrying out **guidance, information exchange and cooperation missions** in the sub-programme corresponding to their intervention territory. These working communities are cross-border cooperation structures with no legal status, created through agreements

between institutional partners of the different sub-zones of the programme. They are assisted in their missions by two cross-border initiative companies (*Gabinete de Iniciativas transfronteiras* or GIT) co-financed by INTERREG.

At last, no cross-border structures seem to be involved in the **Spain – Morocco** Programme.

D) Conventions between programme partners

The programmes in this category generally involve a large number of Intermediate Bodies, and we might also expect to find a corresponding number of conventions or legal texts sealing the sharing of missions and responsibilities between all actors involved. In practice, it seems that **in spite of the involvement of numerous actors, the signing of conventions between programme partners is not systematic in these programmes**. The implementation is above all based on programming documents and/or certain outline agreements for cross-border cooperation. This absence of specific agreements in certain programmes⁶⁶ can help to explain certain difficulties noted, which sometimes result in insufficient clarity in the sharing of roles.

In the context of the **Spain – Portugal** Programme, the cross-border relations are henceforth marked by the Treaty of Valencia of 2004, which allows the creation of cooperation bodies with legal status. The signing of this treaty has, in particular, led the President of the Autonomous Community of Andalusia to propose to his Portuguese neighbours, in May 2006, the creation of a Euroregion. More specifically for the programme, we note the existence of constitutive protocols signed by each of the regions belonging to one of the sub-zones of the programme, but without specific agreement regarding the implementation of the programme.

Likewise, no trace of specific agreements was found for the **Spain – Morocco, Poland – Slovakia and Greece – Bulgaria** Programmes.

On the other hand, even though no interstate agreement providing a framework for decentralised cross-border cooperation covers the cooperation territory of Austria and

⁶⁶ It is worth restating here that, since information about the existence or not of specific partnership agreements regarding the management of the programmes studied is not entirely exhaustive, for reasons already stated, the elements put forward are thus to be considered cautiously.

its eastern neighbours, a protocol agreement was signed between Austria and Slovenia regarding the overall implementation of the **Austria – Slovenia** Programme. Agreements were also signed between the programme partners and the JTS as well as with the *ERP Vienna Funds*, which is involved in financial management of the programme. Finally, specific agreements were signed in Austria between the Federal Chancellery and the *Länder*, covering the sharing of competences in the implementation of INTERREG programmes affecting them and thus constituting **the necessary legal framework for the delegation of missions from central State level to regional level in Austria**.

E) Prospects linked to INTERREG IV

No valid information could be gathered regarding the future for the **Spain – Morocco, Poland – Slovakia, Greece – Bulgaria** and **Austria – Slovenia** Programmes.

In order to reinforce the impact of the programme on the territory, the new financial context of INTERREG IV will see the following changes for the **Spain – Portugal** Programme:

- more concentrated involvement with a reduced number of themes and increased selectivity in the choice of projects;
- a greater level of intervention seeking to reinforce the impact of the programme in the cross-border area;
- strengthening the criteria for the financial viability of the projects.

From an organisational point of view, it is suggested to keep the same Managing Authority (the Spanish Ministry of Economy) and the same Certifying Authority, based in Portugal. Provision is made on the other hand to create a JTS, which will constitute a significant modification in comparison to INTERREG III. Moreover, cooperation between Spain and Portugal is expected to increase in visibility and weight through the Treaty of Valencia (see above) and the Agreement of Vila Viçosa⁶⁷. Finally, according to information gathered from the programme partners, an EGTC will probably be created for the management of the INTERREG IV programme.

⁶⁷ This agreement is the result of a meeting on the Spanish-Portuguese cross-border cooperation which took place in January 2006 in Vila Viçosa (Portugal), with the participation of the Spanish and Portuguese regional authorities affected by cross-border cooperation between the two countries. The objective of this meeting was to promote reinforced cooperation, with a view to harmonised economic development, in pursuit of the dynamic initiated by the signing of the Cooperation and Friendship Treaty of Madrid (1997) and the Treaty of Valencia (2002).

3.2.2 Programmes in the sample group managed by a regional authority

The second category of programmes in the sample group is the most represented among all the INTERREG IIIA programmes.

Although all of the programmes in this category are characterised by being managed essentially at regional level, there are some **important differences** in the field of task sharing between the administrative bodies (MA, PA, JTS) of the programme and Intermediate Bodies, and thus diverse degrees of concentration/separation-delegation of the missions.

As for the programmes in the first category, **a link also appears here between the longevity of cooperation in the areas concerned, and the level of involvement of Intermediate Bodies in the management of the programme**: the programmes involved in territories that have a longstanding tradition of cooperation seem to adopt a more concentrated mode of management, at regional level, than the programmes in which new Member States participate, for example.

Nevertheless, some of the programmes in this category have also chosen a rather decentralised mode of management while relying on an older tradition of cooperation. These programmes present some particularities, of institutional nature (for example, strong tradition of decentralisation in the partner States, like with the Austria – Germany/Bavaria or Italy – Austria Programmes) or of geographical nature (for example, the insularity of the France – Italy (Islands) Programme). Others have simply **chosen to organise partner representation in the implementation of the programme in an original way**, for example, via the use of ‘cross-border accompanying committees’ in the France-Wallonia-Flanders Programme.

For the clarity of the analysis we can split the programmes of this second category into the following two groups:

- Programmes showing a **rather high degree of concentration of missions** in the hands of one or few partners:
 - o 1- (FI/SE) Skargarden
 - o 16- (IT/FR) Italy – France (ALCOTRA)
 - o 22- (DE/FR/CH) Upper Rhine Centre-South
 - o 45- (BE/NL) Flanders – Netherlands

- Programmes based on a **high degree of role-sharing** between different partners for the effective undertaking of missions, among which we can distinguish:
 - programmes with a recent tradition of cooperation, involving one or more new Member States:
 - o 12- (DE/CZ) Saxony – Czech Republic
 - o 18- (IT/SI) Italy – Slovenia
 - o 37- (DE/PL) Mecklenburg-Vorpommern/Brandenburg – Western Pomerania
 - o 44- (FI/EE) Southern Finland – Estonia
 - o 53- (IT/HR/BA/CS/AL) Adriatic New Neighbourhood Programme
 - programmes relying on an older tradition of cooperation but having chosen to make broad use of task-sharing:
 - o 3- (AT/DE) Austria – Germany/Bavaria
 - o 15- (IT/AT) Italy – Austria
 - o 17- (IT/FR) Italy – France (Islands)
 - o 42- (FR/ES) France – Spain
 - o 49- (FR/BE) France-Wallonia-Flanders

3.2.2.1 Regional management programmes with a tendency towards concentration of missions

A) Longevity of the cooperation, organisation and sharing of tasks in the programmes

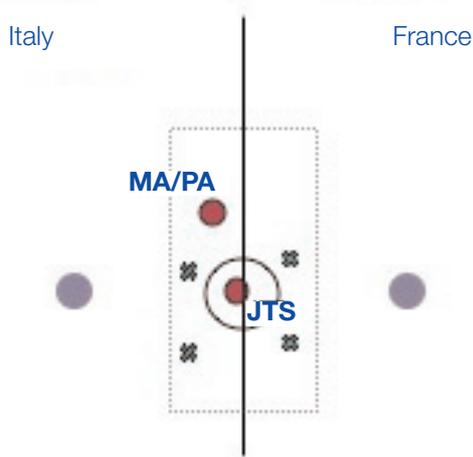
On the whole, the programmes in this group are based on a **relatively old tradition of cooperation**, inside and out with the INTERREG Initiative. Relations of trust between the partners in these programmes have led them, like in the Upper Rhine Centre-South Programme, to **entrust the effective implementation of the programme missions**

to a limited number of actors. Nevertheless, representation of all of the partners in the implementation of the programmes remains guaranteed, not through recourse to numerous Intermediate Bodies, but through recourse to **other more or less original forms of representation.**



Consequently, the **Skargarden** Programme between Finland and Sweden has existed since INTERREG IIA, but is based on cooperation dating back to 1977. Its management is very concentrated, as the Aaland Executive Council, alone, is in charge of the three main management functions (MA, PA and JTS), together with offices in some of the partner regions, supporting the JTS. Nevertheless, participation of local partners in the implementation of the programme is ensured, beyond committee meeting participation, by the **involvement of an Executive Committee** in the preparation of the decisions of the Steering Committee. This particular executive committee is, at the same time, the executive office of the Archipelago Cooperation cross-border cooperation structure.

Italy – France (ALCOTRA)

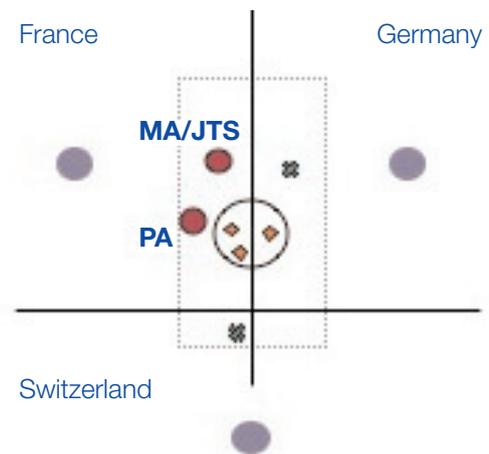


The **Italy – France (ALCOTRA)** Programme has existed since the INTERREG I period. Its management is also rather concentrated: the Piedmont Region (Regione Piemonte) jointly carries out the MA and PA functions. It is assisted by a JTS based in France in Menton, on the border area, but which does not have its own legal status and which is directly linked to the MA. This programme does not bring in **any specific Intermediate Body** linked to the programme partners. On the other hand, representation of all the partners to the programme is ensured by the **collegial functioning of the MA**, which acts by executing the decisions of the Collegial Organism (*Organisme collégial* or *Organismo collegiale*), made up by a representative from each of the three Italian regions and the main French partners to the programme. This is **an interesting particularity of this programme**, which ensures the **representation of the partners in the implementation without at the same time multiplying the amount of Intermediate Bodies**.

The partners of the **Upper Rhine Centre-South** Programme have strong experience in cooperation matters, not only because the programme has existed since the first INTERREG phase, but also because it is based on a **long tradition of Franco-German-Swiss cross-border cooperation**, which goes back to the 1960s and has seen the creation of a number of specific bodies and structures like, for example, the Upper Rhine Conference (a particularity of this programme is moreover the involvement of Swiss partners, non-members of the EU). This strong tra-

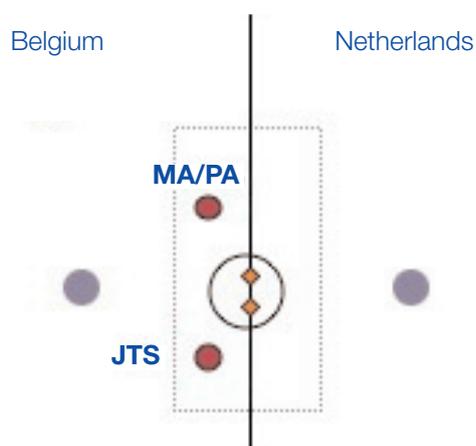
dition of cooperation between the programme partners explains why the **organisation is relatively centralised** despite the sharing of missions between the MA/JTS on the one hand, taken on by the *Région Alsace* (French territorial authority), and on the other the PA missions, which have been entrusted by the Alsace Region to a regional branch of a French public bank: the *Caisse des dépôts et consignations (CDC)*.

Upper Rhine Centre-South



Indeed, besides the MA/JTS and the PA and apart from the establishment of a working group bringing together all partners for discussions before decision-making, **no Intermediate Body has been specifically formed** to participate in the effective implementation of the missions. Some German and Swiss national correspondents have been appointed, though (*Regierungspräsidium Freiburg* (DE) and *Regio Basiliensis* (CH)), but effective undertaking of all missions is ensured by the Alsace Region. Nevertheless, we can note the participation of certain cross-border cooperation structures, present on the territory and ensuring the promotion of the programme (cf. point C below). Lastly, final certification of the programme is carried out by a ministerial body of French public auditors: the *Commission interministérielle de coordination des contrôles (CICC)*.

Flanders – Netherlands



Finally, the **Flanders – Netherlands** Programme is also involved in a territory marked by a long tradition of cooperation, one of the culminating points of which was the Benelux Agreement of 1986, which frames the cross-border cooperation of regional and local authorities in the area. The programme, moreover, also relies on an experience of cooperation in the context of INTERREG going back to INTERREG I, the current programme being the result of a merger of two distinct programmes under INTERREG I and II. It is to be noted that this previous split has not completely disappeared and still comes across in the division of the current programme into two sub-programmes. At first sight, **management of this programme seems rather shared, in particular because of its division into two sub-programmes**. Different authorities get involved in its implementation: the Province of Antwerpen (Antwerp) carries out the MA/JTS functions on behalf of the Flemish Community, while the PA function is carried out by the Province of East-Flanders (Oost-Vlaanderen), chosen after an unfruitful call for tender procedure, while under INTERREG II the PA function was carried out by a private bank. The partner provinces are also involved in particular in the assessment of projects and decision-making stage.

In practice though, **a large part of the programme's operational management and monitoring is concentrated at the level of the two sub-programmes**, in the hands of cross-border cooperation structures, namely the Euregios Scheldemond and Benelux Middengebied (BMG). The secretariats of the structures are JTS for each

of the two sub-programmes and are in charge of guidance, support in project development, assessment, monitoring and first level controls of projects that are within their fields of competence. The role of the central JTS, called 'Central Programme management', is essentially to guarantee coordination of the entire programme. The committees of the two Euroregions also serve as Steering Committees of the INTERREG sub-programmes, coordinated by a joint Monitoring Committee. What is original about this programme is the fact that **it combines two levels of management, namely regional and cross-border**. The involvement of all partners is guaranteed through the important role given to the Euroregions present in the area.

B) Main difficulties encountered in the management of the programmes

As was explained in the introduction to this third section, **the choice of concentrating management of a programme in the hands of a limited number of bodies, although it can avoid certain complications inherent in the participation of numerous actors in the implementation of a programme, is not necessarily a guarantee of efficient and smooth management**. On the contrary, the limited involvement of certain partners in the effective implementation of these programmes can be the source of particular difficulties.

So for instance, the practise of the **Upper Rhine Centre-South** Programme shows that there are certain difficulties in involving all partners in the programming decisions. Moreover, the Alsace Region, being alone in charge of all MA and JTS missions, feels that its investment is higher than what technical assistance actually enables to co-finance.

In the **Italy – France (ALCOTRA)** Programme the *Provence-Alpes-Côte d'Azur (PACA)* regional authority partner to the programme, is not involved in the control activities since most of the functions are carried out by a 'delegated' State department at regional level: the Regional Prefecture. Another problem in the programme is due to different rates of co-financing between the partner regions. Finally, the mid-term evaluation showed there was certain slowness in the process of obtaining the co-financing from the French side.

The problem of partner representation in the implementation of the programme has also arisen in the **Skargarden** Programme, but in other ways: this particular programme has also encountered some linguistic problems, some of the partners judging that use of Swedish was not sufficient, which could disadvantage a share of the Finnish population on the cooperation territory who do not speak Swedish.

Finally, the main difficulties encountered in the **Flanders – Netherlands** Programme have less to do with the concentrated nature of the implementation of the programme than with the numerous changes brought about at the launch of the INTERREG III phase, whose aim was to ensure a balanced and efficient partnership organisation (delegation of the MA from the Flemish Community to a province, setting-up of the PA and secretariats for each sub-programme, etc.), but which have actually caused sometimes significant delays.

C) Involvement of cross-border cooperation structures in the management of programmes

The concentration of missions which characterises the management of regional level programmes in this first group also, by definition, involves a less significant involvement of cross-border cooperation structures in the implementation of the programmes.

One exception, of course, is the **Flanders – Netherlands** Programme, where two cross-border cooperation structures, as JTS of each sub-programme, are tasked with effective implementation of the main management and monitoring missions for the projects in their respective area. These cooperation structures thus carry out the guidance, assessment of projects and monitoring of decisions made by the Sub-Steering Committees (which are *de facto* the Steering Committees of the two structures). They take part in the first level controls along with external controllers and are also tasked with the management of a Small Projects Fund. From a legal point of view, it is interesting to notice that although both structures fulfil the same role within the programme, the Euregio Scheldemond has no legal personality of its own, while the Euregio BMG has been constituted as *Grensoverschrijdend Openbare*

Lichaam (public institution for cross-border cooperation, within the context of the Benelux Agreement) since 2002. Furthermore, it is also worth underlining that the management of INTERREG funds is actually one of the statutory objectives of the Euregio BMG, created specifically for this purpose. This Euroregion does not have any organs apart from INTERREG bodies (sub-programme's JTS and Steering Committee), its daily management being carried out by departments from the provinces members of the structure and its existence being closely linked to that of the INTERREG programme (its statutes lay down that the mid-term evaluation of the structure should decide its future, in accordance with that of the INTERREG programme).

In the other three programmes in this group, the involvement of cross-border cooperation structures is less important in the effective management of the programme, although that is not to say that it does not exist.

Consequently, the cross-border structures covering the Upper Rhine cooperation zone do not directly participate in the management of the **Upper Rhine Centre-South** Programme, although they certainly have an impact on it. The Upper Rhine Conference, under the authority of State departments in the three partner countries, gives an opinion and initiates projects that could benefit from INTERREG co-financing. The *Conseil Rhénan*, composed of regionally elected officials from the area, gives policy orientations to the cooperation in the context of INTERREG. Furthermore, the Upper Rhine region is currently experiencing a process for structuring of cross-border cooperation at regional or infra-regional level, with the creation of four 'Eurodistricts'. These structures are likely to play a role in the project assessment phase in the future programming period. For the moment, a network of three 'INFOBEST', local structures with no legal status of their own, though created on the basis of cross-border agreements, is involved in guidance and support to project promoters in the sub-zones of the future **Upper Rhine** Programme⁶⁸.

The **Skargarden** Programme itself benefits from the support of the Archipelago cooperation structure, which was at the origin of the first INTERREG programme in 1994.

⁶⁸ The INTERREG IIIA PAMINA and Upper Rhine Centre-South Programmes are going to merge into a single programme covering the entire Upper Rhine area, for the 2007-13 programming period. The current zones will become cross-border sub-zones in the new programme.

The Archipelago participates essentially in the promotion of the programme and projects, and the structure itself is also one of the main beneficiaries of INTERREG funds in the area. Furthermore, we can note that interaction between the cooperation structure and the programme is quite strong due to participation of the executive office of the structure in the programming process, as Executive Committee preparing INTERREG Steering Committee meetings and giving its opinion on the projects presented.

Finally, although cross-border cooperation structures do exist in the cooperation area of the **Italy – France (ALCOTRA)** Programme, no information was spotted regarding their official participation in the implementation of the programme.

D) Conventions between programme partners

Even though the programmes in this group do not call on a large number of actors for their implementation and in spite of the rather longstanding tradition of cooperation and the existence of framework cooperation agreements covering these territories, recourse to specific written agreements to define the rules framing the cooperation and the sharing of tasks in the INTERREG programme is quite frequent.

For the **Skargarden** Programme, a protocol agreement was signed between the Finnish and Swedish governments, with the consent of the Aaland Parliament as MA of the programme, to define the common management rules of the programme. Another agreement was signed between the regional authorities and the local partners.

For the **Italy – France (ALCOTRA)** Programme, we can note in 2000 a cross-border cooperation agreement along the continental border between France and Italy, in the context of INTERREG, approving the programme, structures, missions and the delegation of responsibility to regional actors for its implementation. In addition, there is a bilateral agreement between the Italian PA of the programme and the French partner regions (Provence Alpes Côte d'Azur and Rhône-Alpes). Furthermore, we can also note that the establishment of a Public Interest Grouping

(PIG)⁶⁹ was envisaged at the outset for this programme, but in the end has not come to light.

In the **Upper Rhine Centre-South** Programme, the delegation to the Alsace Region of the MA and PA (before delegating it to a bank) functions was made possible by a directive from the French Prime Minister. Furthermore, a framework agreement for management of the programme was prepared between partners but was never signed, the partners considering that the CIP (Programme Document) and their relations of trust were strong enough links. The absence of agreement was nevertheless called into question by the French authority in charge of final certification (CICC).

Finally, for the **Flanders – Netherlands** Programme, an agreement was signed in 2002 between all partners, deciding in particular the allocation of the main programme functions as well as the cooperation rules in this context; this agreement also gave rise to the drafting of a detailed manual for the administrative organisation of the programme. Furthermore, the Flemish Community, State level authority responsible for the implementation of the programme, delegated the exercise of the MA and JTS missions to the Province of Antwerp and the PA mission to the Province of East-Flanders, through an agreement signed in 2002.

E) Prospects linked to INTERREG IV

No essential information could be gathered with regards the future of the **Skargarden, Italy – France (ALCOTRA)** or **Flanders – Netherlands** Programmes.

Regarding the **Upper Rhine Centre-South** Programme, we can underline that it will undergo a significant modification due to its merger with the neighbouring **PAMINA** Programme. The partners of the two programmes have come to an understanding that the Alsace Region will continue to carry out the MA and JTS missions in the new programme, but the choice of structure for carrying out the PAVCA function has not yet been made. The *Caisse des dépôts et consignations* currently carrying out the PA function for the Upper Rhine Centre-South Programme will per-

⁶⁹ Cf. Annex 3 point No 3.

haps again be a candidate to carry out this function in the context of INTERREG IV. A new feature might be the creation of sub-zones within the programme, in particular a PAMINA sub-zone (as there will be no more MA/PA/JTS in the PAMINA area) in order to ensure proximity with project applicants and owners throughout the new territory.

3.2.2.2 Regionally managed programmes with a tendency to a separation/share of missions

Besides regionally managed programmes showing a tendency towards the centralisation of missions in the hands of one or a few institutions, we can also find a number of regionally managed programmes that have, on the other hand, chosen to set their organisation based on an extended share of tasks between different partners.

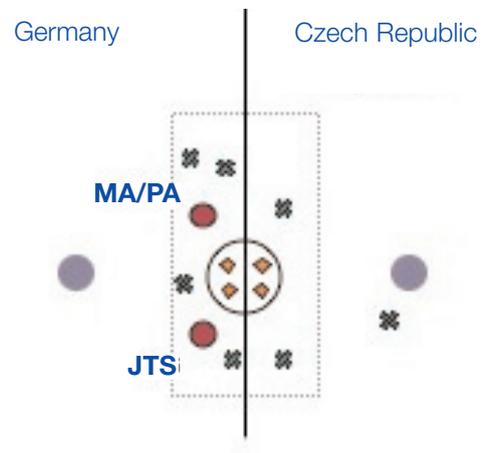
A) Longevity of the cooperation, organisation and sharing of missions in the programmes

The first group of programmes within this category brings together programmes involving an ‘older’ Member State, on one hand, and one or more new Member States or third countries from central or eastern Europe on the other hand. These programmes all have fairly similar methods for partnership organisation, based on the sharing of responsibilities and missions between the three main administrative bodies (MA, PA, JTS) on one side of the border and their homologues on the other side of the border in the form of National Authority (MA’s counterpart) and/or Sub-Paying Authority or delegated PA (PA’s counterpart), and often involving a fairly significant number of regional or local level Intermediate Bodies.

The **Saxony – Czech Republic** Programme is an illustration of this model. It is the successor of an INTERREG IIA Phare-CBC programme, which also stretched over the border region of Saxony and Poland, today covered by the INTERREG Programme Saxony – Lower Silesia (DE/PL). **Its management is shared between the different partners of the programme:** the MA and PA functions were thus conferred to the Economy and Employment Ministry of the *Land* of Saxony, which is assisted by its Czech homologues, the Ministry for Regional Development, **National**

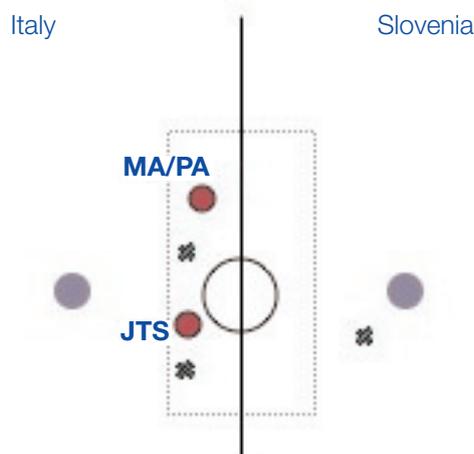
Authority, and the Ministry of Finances, **delegated PA**. As for the JTS function, it is carried out by the Development Bank of the *Land* of Saxony.

Saxony – Czech Republic



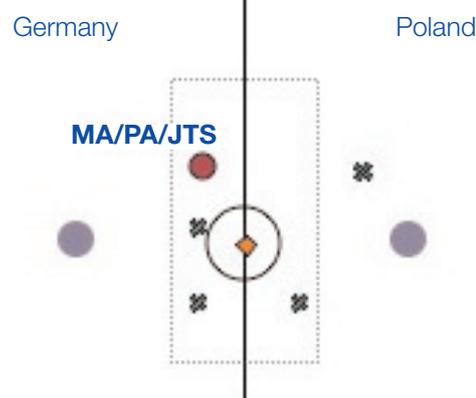
Furthermore, in the two countries, **Intermediate Bodies** assist the JTS: these are six regional assistance offices situated within partner institutions (on the German side) or development agencies (on the Czech side), which carry out diverse missions ranging from assessment of projects to first level control. The Czech data is transmitted to the central JTS to be able to be reintegrated in the monitoring system of the *Land* of Saxony. Finally, different Euroregions also actively participate in the implementation of the programme (cf. point C below).

The **Italy – Slovenia** Programme also dates from the INTERREG IIA Phare-CBC period, launched in 1994. Cross-border cooperation began prior to this in 1978, through a structure called *Alps Adriatic Working Community*, with positive results.

Italy – Slovenia

The programme is managed by the autonomous Region of *Friuli Venezia Giulia*, which carries out the MA, PA and JTS functions, though in collaboration with the Slovenian **National Authority and the delegated PA** (the National Agency for Regional Development, *NARD*, at central level, and the Finance Ministry respectively) as well as an Intermediate Body on the Italian side, the Veneto Region. These three bodies are very much involved in the effective management of the programme. In addition to the central JTS, a representative is based in the Veneto Region and another with the Slovenian partners. On the other hand, contrary to most other programmes involving partners from new Member States, no cross-border cooperation structure of the Euroregion type is officially involved in the management of this programme.

The **Mecklenburg-Vorpommern/Brandenburg – Western Pomerania** Programme is based on a recent tradition of cooperation, illustrated by the creation of the Pomerania Euroregion in 1998. Like other programmes in this group, it is characterised by a **fairly shared out management method**, even though the **MA, PA and JTS functions are concentrated** in the hands of the Ministry of Economy of the *Land Mecklenburg-Vorpommern*.

**Mecklenburg-Vorpommern/
Brandenburg – Western Pomerania**

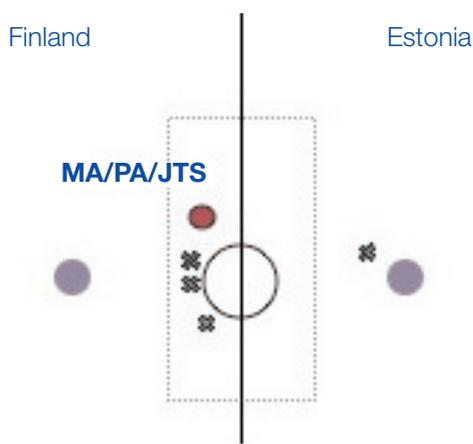
Indeed, the *Land Mecklenburg-Vorpommern*, as MA of the programme, works in close collaboration with the neighbouring *Land Brandenburg* as well as with the **Polish National Authority**, the Ministry for the Economy and Employment, responsible for the implementation of the programme on the Polish side but which has delegated effective implementation of its missions to the Polish region of Western Pomerania (*Woiwod Western Pomerania*), both **Intermediate Body** of the programme and regional contact office. Regarding the PA function, **sub-PAs** were set up in the *Land Brandenburg* and at the level of the Polish Ministry of Finances, which has also delegated the effective implementation of this mission to the *Woiwod* of Western Pomerania, which carries out all the PA functions for the Polish side, under the control of the central PA.

The role of the sub-PAs is mainly to verify the accuracy of the expenditure and to ensure that the final beneficiaries receive Community funds as quickly as possible. Furthermore, on the German side, the operational management of the programme was transferred by the two *Länder* to **two Intermediate Bodies**, called *Bewilligungsbehörde* (which are the *Landesförderinstitut*, for the programme involving the *Land Mecklenburg-Vorpommern*, and the *Investitionsbank*, for the programme involving the *Land Brandenburg*). Finally, the Pomerania Euroregion also performs an active role in this programme, by encouraging the emergence of projects and by giving its

opinion on INTERREG projects, within a 'Euregional Project Committee'⁷⁰.

A similar type of organisation can be found in the **Southern Finland – Estonia** Programme, which is based on fairly longstanding cooperation, accelerated in the INTERREG II period and reinforced with Estonia's entry into the EU.

Southern Finland – Estonia

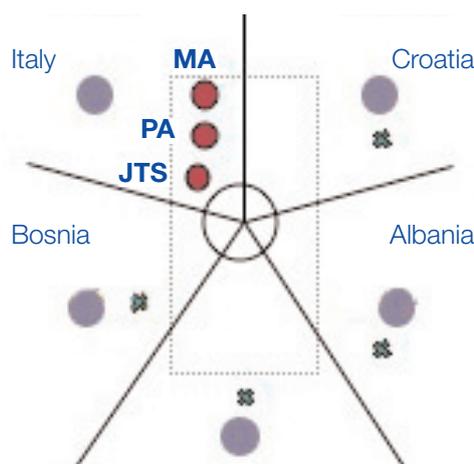


As with the previous programme, the management method of this programme appears **rather concentrated**, as the very same structure, namely the Regional Council of South-West Finland (*Varsinais Suomen liitto*) fulfils the three main functions of the programme (MA, PA and JTS). However, in actual fact, we can also notice that there is a **certain amount of delegation in the effective undertaking of missions, which nevertheless seems a little less pronounced** than for other programmes in this category. At MA level, the Estonian Ministry of the Interior fulfils the role of **National Authority** and is thus responsible for the implementation of the programme on the Estonian side. The central JTS of the programme, with its two local satellites in Finland and in Estonia, carries out a large number of missions that range from assistance to preparation of calls for projects, and including preparation of payments.

The programme authorities highlight that, under the influence in particular of the **complexity of the system of Finnish national co-financing**, which involves a large number of authorities, the implementation of this programme is based on a **relatively complex system, bringing a significant number of different actors into play**.

Finally, the **Adriatic New Neighbourhood Programme (NNP)** is the most recent programme in the sample group and it did not participate in any of the previous INTERREG programmes. This is a specific programme that regroups numerous EU third countries, in which the INTERREG and the CARDS/Phare sides are managed in a coordinated manner. The four third countries (Croatia, Bosnia, Serbia and Albania) have, moreover, signed a contract with the European Commission to coordinate INTERREG with the CARD/Phare programmes and each country has designated a contracting and financing authority. These authorities are, at the same time, national authorities for the INTERREG programme: consequently, the Italian Region Abruzzo takes on the MA function of this programme, though in collaboration with the **national authorities** at ministerial level of the third country partner States, which contributes to the **delegated character of the implementation of this recent programme**.

Adriatic NNP



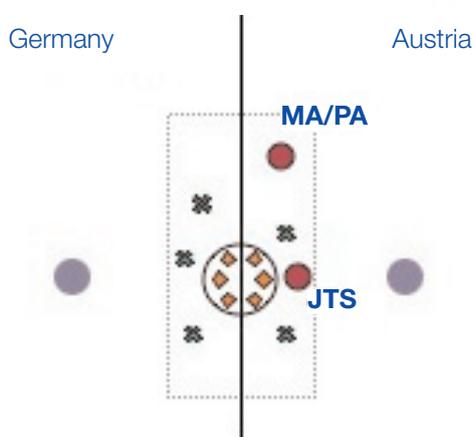
Serbia and Montenegro (based on Programme Document approved by EC Decision (C(2004)5554)

⁷⁰ In 2004, a meeting took place between the INTERREG and Phare-CBC programmes to harmonise the systems for monitoring projects and to make the Polish system compatible with the German eREporter system. To this end, it is important to specify that to date and for all the programmes concerned (i.e. those involving one or more new Member States previously eligible under Phare), the Phare-CBC sides of the programmes are either closed or in the process of phasing out.

These national authorities are linked by **local and regional management units** to the partner authorities to the programme, which are the contact points for project promoters and help the MA and JTS in their missions. We can also note **a separation between the MA, PA and JTS functions** in this programme, as the PA is taken on by a group of financial institutions regrouped under the A.T.I FIRA (*Finanziara Regionale Abruzzo*), selected by a call for tender, while the JTS is located in the ‘Interregional cooperation observatory for development’, an Italian public law body financed by the Italian regions participating and including agents from each of the partner countries. Furthermore, **local payment units** were also set up in each of the regions of the programme to redistribute the funds transferred by the PA. Finally, the controls in this programme are carried out by an independent controller named by the MA under the supervision, for the ERDF contribution, of a control body made up of representatives of the Italian partner regions.

The second grouping of programmes within this group characterised by a relatively high level of delegated missions is more heterogeneous. It brings together different programmes implemented in territories with a rather strong tradition of cooperation but which, to respond to a specific context or particular characteristics, or simply because of the will of the partners, opted for an organisation based on extended distribution of tasks between the different partners to the programme.

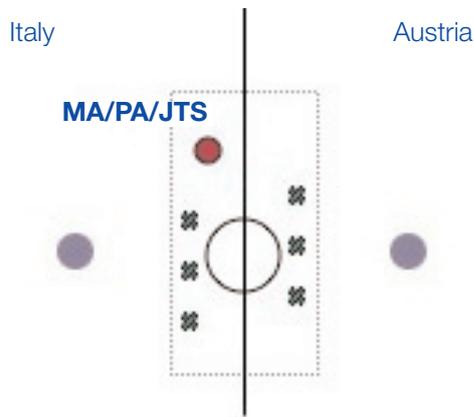
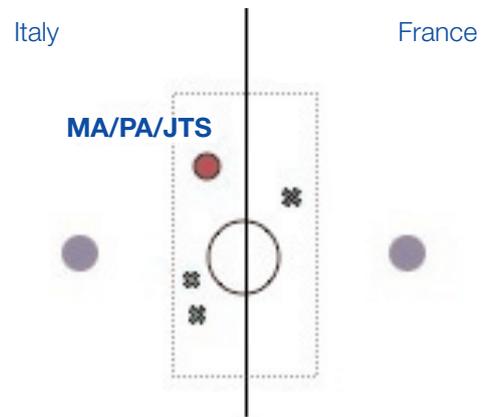
Austria – Germany/Bavaria



Consequently, for example, the **strong tradition of decentralisation** that characterises the federal States of Germany and Austria shows its mark in the **strongly delegated** implementation of the **Austria – Germany/Bavaria** Programme, which makes extensive use of Intermediate Bodies. In this programme which has existed since Austria joined the EU in 1995, we note first of all a separation of the MA/PA functions on one hand and the JTS function on the other: the *Land Oberösterreich* (AT) has the MA and PA functions, the JTS has been entrusted to the *Salzburger Institut für Raumordnung und Wohnen*, a private law structure, chosen upon a European call for tender. However **numerous other actors participate in the management of this programme**. Consequently, the operational part of the PA functions, and in particular the execution of payments, was delegated to *ERP Fonds* of Vienna which also undertakes the final certification and monitoring functions of the programme.

At the level of the MA, the *Land Oberösterreich* has devolved execution of the programme to **12 regional coordination authorities**, situated at the level of German and Austrian local or regional partner authorities, which are involved in the guidance, assessment and monitoring of projects as well as for undertaking first level controls regarding their intervention territory. In the context of this delegation, the *Land* of Bavaria, which is in other respects strongly involved in the implementation of the programme, has re-delegated its missions to **three inter-communal level structures**, the *Bezirksregierungen*, called *Förderstellen* (support offices). Finally, two other elements come to balance the highly devolved character of the management of this programme: the fact that the level of intervention can be different from one region to another and the effective involvement of the Euroregions of the area in the implementation of the programme (cf. point D below).

These are roughly the same reasons that help explain **the high degree of delegation and sharing of missions** characterising the implementation of the **Italy – Austria** Programme, which also brings together two States with a strong tradition of delegation.

Italy – Austria**Italy – France (Islands)**

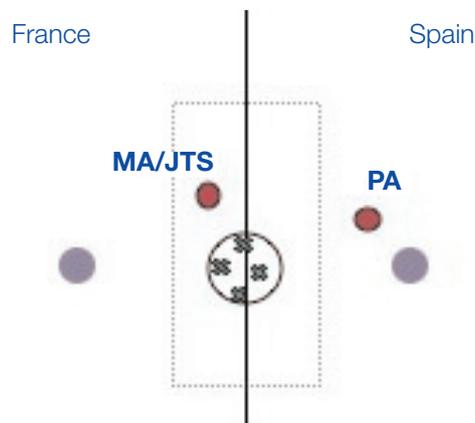
This programme, which benefits from the Italian experience of cooperation going back to INTERREG I and since INTERREG II for the Austrian partners, also makes use of different actors for its implementation. Contrary to the previous programme, **here the three main programme functions are grouped together within the same structure**, the Province of Bolzano. But the central MA and PA **rely on six local management and paying units to carry out their missions** in each of the six partner regions of the programme. These units receive the dossiers on behalf of the MA, help the project promoters to structure their application and provide the initial assessment. They are also tasked with the first level control. Moreover, the local PAs gather the national co-financing and transfer the funds to the beneficiaries after having carried out a control on the eligibility. It should be noted that these regional management and payment units can also delegate their tasks to specific agencies as **Intermediate Bodies** (*Förderstellen*).

In the **Italy – France (Islands)** Programme, which has existed since INTERREG I, it is essentially the **insular character of the programming territory** that explains the original organisation of the programme. Indeed, it is a regional authority, the autonomous Region of Sardinia (Regione Sardegna) that carries out the MA, PA and JTS functions, in a rather classical manner, apparently revealing the **concentrated and centralised character** of this programme.

Nevertheless, implementation of this programme is **also decentralised**, with **the establishment of Auxiliary Authorities**: consequently, the central MA is assisted by three Auxiliary MAs in the partner territories (Sardinian province of Sassari, Tuscan province of Livorno and the *Collectivité Territoriale de Corse* in France), which also fulfil the role of Auxiliary PAs for the programme. These different auxiliary bodies in fact fulfil most of both the MA and the JTS missions of the programme. As a result, the role of the central JTS of the programme is above all to act as secretariat of the committees, while the tasks of **guidance, assessment of projects, evaluation and control are delegated to the level of the Auxiliary MAs**. Likewise, the role of the autonomous Region of Sardinia, as MA/PA of the programme is, above all, to ensure general coordination of the programme and to oversee the monitoring of the projects that cover the entire programming territory. It is interesting to note finally that for this, the autonomous Region of Sardinia is supported by an Italian Special Advisory Company (ISRI).

The **France – Spain** Programme is **a little atypical in its organisation**. Although it has functioned since INTERREG I and it is based on fairly longstanding cross-border cooperation (the Pyrenees Working Community was created in 1983), this programme seems to indicate **a tendency to share responsibilities** for its main functions: it is in fact one of the rare programmes in which **the MA and PA functions are not only separated, but also carried out in two different countries**, the Regional Council of Aquitaine (FR) being MA/JTS of the programme, while the Spanish Ministry of Finance has been entrusted with the PA function.

France – Spain

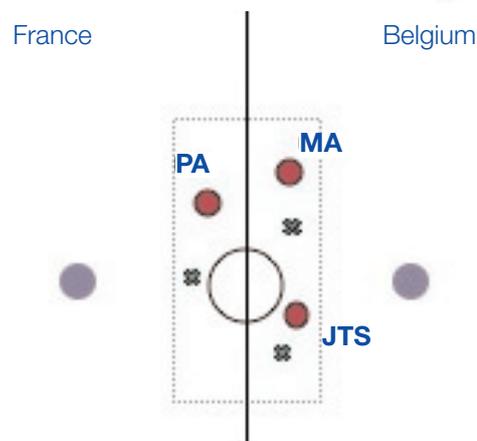


Above all, **the three main functions of this programme are carried out by structures that are not situated on the programming territory**, a characteristic that is more generally found in programmes that are managed at State level and in particular in programmes that bring together two partner States from central and eastern Europe. Nevertheless, the presence of the programme on the eligible area as well as its 'delegated' nature are ensured by the involvement of **three trans-national pre-programming committees** along the border (west, centre and east), assisted by **three technical units**, two of which being situated in Spain, one in France. These committees involve socio-economic partners and give a cross-border opinion on the eligibility of the projects that were prepared by the technical units. They also follow projects that are currently being undertaken. The technical units are also tasked with undertaking a first level pre-control before sending the documents to the central JTS/MA, which certifies expenditure. The official submission of application forms is, on the other hand, done exclusively before the central JTS.

Lastly, the **France-Wallonia-Flanders** Programme, even though it takes place in a region marked by cross-border cooperation dating back to the 1980s, adopted **a mode of management that is shared and original rather than concentrated, guaranteeing active participation of all the partners** in the implementation of the programme. The involvement of two of the three Belgian regions, that are strongly autonomous in this federal State, can help to explain this situation, likewise the fact that the INTERREG

IIIA France-Wallonia-Flanders Programme is the result of the merger of three separate INTERREG I and II programmes (Nord-Pas de Calais (NPC) – West Flanders; NPC – Picardie – Hainaut; Champagne-Ardenne – Wallonia) and thus institutional partners each having proven experience in the management of an INTERREG programme. In this programme, **the main functions of the programme are shared**. The Walloon Region is MA of the programme; it benefits from having experience of INTERREG since 1991 and also manages the INTERREG IIIA Wallonia – Lorraine – Luxembourg Programme. However, it has entrusted the PA function to a French public bank, the *Caisse des dépôts et consignations (CDC)*⁷¹, chosen after a call for tender. For programme partners, entrusting the PA function to a banking structure from a State other than the one which manages the MA is rare enough to be worth pointing out. As for the JTS, it was entrusted to a body with Belgian association status, functionally dependent on the MA but located in Namur. The cross-border nature of the JTS is guaranteed by the fact that its administrative council, other than Walloon members, includes a French and Flemish representative and its financing is carried out by all the partners. Furthermore, **an 'Institutional Lead Partner'** has been designated in each of the regional areas of the programme: for France this is the Nord-Pas de Calais Region, for Flanders the Province of West Flanders, and for Wallonia the Walloon Region.

France – Wallonia-Flanders



The MA and JTS of this programme have, among others, the task of coordinating the different authorities involved at

⁷¹ The CDC has a specific public status as it was created by a specific law but, as its activities in the field of the management of structural funds falls within a competitive sector, we have classified it with the other banking establishments that arise directly from private law.

the level of the **three sub-programmes** (France-Flanders / France-Wallonia / Tripartite sub-programme). These three sub-programmes were created with their own respective Steering Committee, but without strict separation as in other programmes of this type: the three SCs consist to 80% of the same members. Concretely, the meetings of the three SCs are organised on the same day, allowing members to attend or leave the meeting depending on whether they are concerned by the projects presented. Besides that, **seven technical teams were set up**, in each of the regional or local partner authorities. They carry out alone the missions of support in project preparation and project assessment and also participate in the monitoring and preparation for the first level controls.

The full-time members of these technical teams meet regularly with the project Lead Partners and the concerned certification units (first level control), within '**cross-border accompanying committees**', a significant originality and good practice of this programme (cf. details in Part 4). Overall, **these original Intermediate Bodies therefore allow them to ensure the active participation of partners to the programme, and also to set up an efficient system for monitoring project promoters.**

The participation of all the partners in the implementation of the programmes of this first group is thus ensured thanks to the nomination of national authorities and Sub-PAs, as well as by **mobilising a significant number of Intermediate Bodies or relay teams within the partner authorities**, which participate in an effective manner, in particular in the monitoring and management of projects falling in their territory or field of competence. This advantage can nevertheless also turn into a disadvantage as shown by the specific difficulties encountered by these largely 'delegated' programmes, presented hereafter.

B) Main difficulties encountered in the management of programmes

The participation of not only numerous but varied actors (at State, regional or even cross-border level) in the management of a programme often involves, as we have just seen, quite complex organisations. Indeed, this **organisational complexity, often doubled by the co-existence of dif-**

ferent rules and procedures which are not coordinated between two countries or even between two authorities within a country, can lead to all sort of specific difficulties: discrepancies in the coordination between the actors involved, lack of clarity in the sharing of roles, misunderstandings between partners, delays in project assessment or payments, etc.

A good example to illustrate clearly these difficulties is that of the **Italy – Slovenia** Programme. As it was, the different regional partners involved did not agree on the interpretation of new provisions in the Programme Complement relating to joint selection procedures, introduced after the entry of Slovenia in the EU. The issue was finally resolved through the publication, by the MA of the programme, of a final interpretation on this point, which shows **the importance of having a single MA that can give a clear context to the programme** – provided of course that it has a certain amount of **legitimacy** among the partners and other structures of the programme.

Furthermore, certain difficulties are also linked to the participation of large number of different actors to the programme: problems arise between the monitoring bodies on one or other side of the border, selection procedures are adjudged too long in particular because of the large number of structures involved and certain difficulties result from a lack of common terminology and the absence of a common software.

We can find the same type of specific difficulties in the **Southern Finland – Estonia** Programme, which is also a good example. Beyond the language problem, which occurs in this programme as in others, the involvement of numerous structures in the implementation of this programme, coming from two countries with different management practices and rules, has posed specific problems. Among them, we can notice differences in the rules, practices and degree of involvement of the national authorities in the monitoring of projects on each side of the border (support in project development, project assessment and first level control – monitoring of running projects is more developed on the Finnish side of the border, but it is based on more bureaucracy and rules that are constantly evolving) as well as (classic) differences of understanding

between programme leaders regarding certain questions of eligibility, the application of second level controls (which do not begin at the same time on each side of the border) or regarding the role and missions of the JTS. Overall, according to the authorities responsible for this programme, a **clarification in the sharing of missions, tasks and responsibilities would be necessary, not only between the different structures involved in the programme, but also within these structures.** Consequently, for example, the large number of potential Finnish co-financers involved in the monitoring of projects is in itself a positive element. Nevertheless, their number tends to complicate monitoring procedures. Another difficulty in this programme was in defining proper common strategies for the programme, because of the diverse degrees of involvement of the partners in the programme. Lastly, the programme has not yet been able to establish the Lead Partner Principle. Overall, however, in spite of the difficulties resulting essentially from the participation of numerous actors in the programme, good **cooperation and communication** between programme partners means that until now significant problems have been avoided.

However, the difficulties arising from the participation of numerous actors in the management of the programmes **are not solely the prerogative of programmes based on a recent tradition of cooperation:** programmes benefiting from a more significant experience of cross-border cooperation are also affected, even though experience can, in fact, sometimes facilitate communication between partners, the coordination of the involvement of each partner and the daily management of the programmes.

For example, for the **Austria – Germany/Bavaria** Programme, the mid-term evaluators noted the problem of the substantial workload involved in declaring expenditures when different IBs are involved; this burdens the Lead Partners of projects.

For the **Italy – Austria** Programme, the mid-term evaluator noted difficulties linked to the split of project assessment structures, which gave rise to differences in the duration of project assessment from one side of the border to the other and complicated the visibility of the programme,

reinforced by the absence of a common and overall monitoring system. On the Italian side, the centralisation of European funds was considered as slowing down the transfer of funds while at the same time, the administrative status of the three Italian regions is different, with one region having normal status, another with special status and the last one being an autonomous region. According to the programme authorities, the participation of numerous actors sometimes also leads to disagreements concerning the timing and selection procedures of the projects (continuous call for projects on one side of the border, sporadic calls for projects on the other). Lastly, the differences of administrative and legal systems between the two States also lead to a certain number of difficulties that could be overcome, according to the programme authorities, through the creation of an EGTC.

For its part, the **Italy – France (Islands)** Programme suffers in particular from a lack of common monitoring system between the partners involved. The geographical particularities of this territory thus strongly influence its organisation, which leaves each region with significant autonomy in the selection of projects, even though they are ratified by a common Steering Committee.

Among the worries mentioned in the mid-term evaluation of the **France – Spain** Programme, on top of the linguistic issues, essentially it was the physical difficulties caused by the barrier of the Pyrenees that were mentioned. Furthermore, this programme experienced the difficulties inherent in the fact that the MA and PA are not situated in the same country. This has, for example, complicated the establishment of a common monitoring system, each State using its own system: PRESAGE for France and FUNDOS 2000 for Spain, with the JTS having put a database in place on Access. These harmonisation and coordination difficulties were reinforced by the fact that none of the three administrative bodies are situated in the eligible zone of the programme. The experience of this programme showed that certain factors such as the **physical separation between partners can, in spite of modern means of communication, constitute an obstacle in the organisation of the programme.**

Lastly, the much ‘shared’ management of the **France-Wallonia-Flanders** Programme itself also leads to communication problems between the different technical teams in charge of the three sub-programmes or between the 15 institutional partners to the programme. The payment delays are long, as much because of slowness at the level of the certification units as because of the administrative inadequacies of the project owners, which are often small structures. Additionally, the programme authorities also note a backlog at the certification units, because the Lead Partner does not centralise all documents, but instead each partner sends its own documents to the competent control unit. One of the objectives of the programme is to remedy this problem during the next programming period.

C) Involvement of cross-border cooperation structures in the management of the programmes

Regarding the involvement of cross-border cooperation structures in these programmes managed at regional level and based on an extended sharing/delegation of tasks, **various scenarios are encountered**. Recourse to numerous Intermediate Bodies situated directly alongside the programme partners could make additional participation of cross-border cooperation structures less necessary; at the same time, the logic of ‘separation’ and delegation that underlie the organisation of these programmes is reinforced, for some of them, through the additional mobilisation of cross-border cooperation structures to undertake certain specific missions.

As for programmes involving new Member States, we find a tendency that has already been noted, the involvement of cross-border cooperation structures in the management of a Small Projects Fund.

Thus, for example, the four Euroregions active in the intervention territory of the **Saxony – Czech Republic** Programme (Neisse, Elbe-Labe, Erzgebirge and Egrensis) are tasked with the management of Small Projects Funds and, for this, undertake guidance, project assessment, decision-making, monitoring and control missions. However, their role goes beyond that: they also participate in the pro-

motion of the INTERREG programme and their representatives sit in the decision-making structure of the programme.

In the **Mecklenburg-Vorpommern/Brandenburg – Western Pomerania** Programme, the Pomerania Euroregion, constituted as an association, actively participates in the implementation of the programme: it sits on the programme committees as a representative of the socio-economic partners of the programme, it participates in guidance and support in project development, manages a Small Projects Fund and gives an opinion on all the projects from the perspective of its local and regional Polish and German member authorities⁷². On the German side of the border, the Pomerania Euroregion was additionally entrusted with certain JTS functions (for example, drafting and sending subsidy contracts). A Polish national was sent to the Euroregion office where a JTS contact point was set up, whose role is to coordinate the actions between the German and Polish authorities as well as between the members of the Euroregion.

On the other hand, in the **Southern Finland – Estonia, Italy – Slovenia** and **Adriatic New Neighbourhood Programme**, it seems that no cross-border cooperation structure officially participates in the management of the programme. Nevertheless, the structures present in the cooperation zones concerned are, like in all programmes, potential project promoters.

As for programmes showing a significant level of delegation of missions while only involving older Member States, it would seem that recourse to numerous Intermediate Bodies allows them to guarantee representation of partners in the implementation of the programme, compensating for the absence of cross-border structures on the territory or for their non-participation in the programme.

Consequently, no structure of this type is actively involved in the **Italy – Austria, Italy – France (Islands), Italy – France (ALCOTRA), France – Spain** and **France-Wallonia-Flanders** Programmes, even though more or less institutionalised structures are present on the territories of these programmes and sometimes participate indirectly in

⁷² It should be noted that the intervention of the Pomerania Euroregion is not well balanced in the field of pre-assessment of projects because this Euroregion works mainly on the German side. Actually, in Poland, it is the regional contact office that carries out the main part of guidance and project assessment.

their development. Consequently, the autonomous Province of Bolzano, MA of the **Italy – Austria** Programme, has good experience of cooperation with cooperation groupings like the Working Communities (*Arbeitsgemeinschaften*) *Alpe Adria* and *Arge Alp*. In the **France-Wallonia-Flanders** Programme, inter-municipality cross-border cooperation structures are project promoters.

The exception in this group is the **Austria – Germany/Bavaria** Programme, in which six Euroregions present in the programming territory are involved. These structures are full members of the Monitoring and Steering Committees of the programme (except regarding financial questions dealt with within the Monitoring Committee). Thanks to their good knowledge of the cooperation territory, they play an important intermediate role between the project Lead Partners in the two countries and the institutional partners to the programme and in advising in project development and monitoring. Finally, the programme partners have entrusted these Euroregions with responsibility for management of Small Projects Funds, the objective being to involve them better in the management of the programme.

D) Conventions between programme partners

To minimise the dysfunctions inherent in the participation of numerous different actors in the implementation of a programme, one solution can be **recourse to a written agreement** to guarantee the clearest possible sharing and definition of the missions and responsibilities of all actors and to seal the legal and partnership organisation of the programme. Certainly, the drafting of conventions **can prove to be ever more difficult and complex as the number of structures involved is high**, and while this drafting work completes the general reflection on the legal and partnership organisation of the programme, it can lead to important delays in the implementation of the programme.

Nevertheless, in view of the experiences of the sample group of programmes analysed in the context of this study, it would seem that **recourse to a specific agreement for the implementation of a programme is a step that is considered useful, indeed inescapable** by most partners that have experienced it, especially where multiple

actors are involved. This solution certainly does not allow all difficulties to be avoided, but it nevertheless contributes to creating a certain degree of legal security and to bring certain responses to problems encountered, in cases where solution through negotiation or consultation has failed.

The examples below illustrate the efforts made to facilitate the signing of conventions, on different scales (between central States, between programme partners, with the administrative bodies of the programme, within the same State, etc.) in most of the programmes in the sample group involving a large number of different actors.

Consequently, an agreement was signed between the *Land* of Saxony (MA) and the Czech National Authority regarding the implementation of the **Saxony – Czech Republic** Programme, and in the **Italy – Slovenia** Programme a technical administrative agreement, developed by the MA, was signed between the programme partners in 2005. In this programme, the bodies tasked with the second level control in each State have signed an agreement aiming at the cooperation and harmonisation of their common practices.

In the **Mecklenburg-Vorpommern/Brandenburg – Western Pomerania** Programme, the mid-term evaluators felt that the common declarations on cross-border cooperation between the *Mecklenburg-Vorpommern* and *Brandenburg Länder* on one hand, and the *Voidvoship Pomerania* on the other, should be completed by a specific agreement regarding the implementation of the programme to clarify the distribution of tasks. Delegation agreements have, nevertheless, been signed between the *Land Mecklenburg-Vorpommern* and the *Land Brandenburg*, respectively with the programme's Intermediate Bodies (*Bewilligungsbehörde*) which are the *Landesförderinstitut Mecklenburg-Vorpommern* and the *Investitionsbank Brandenburg*.

For the **Southern Finland – Estonia** Programme, an agreement was concluded at State level between the Finnish and Estonian governments to give a general framework to the programme and to define the responsibilities for the management and control tasks. Another agreement

was signed between the Finnish MA/PA and the Estonian Ministry of the Interior (national authority). The authorities responsible for the programme underline the efficiency of this regulatory framework, and also the **necessity to regularly update it** according to developments on the ground.

In the **Austria – Germany/Bavaria** Programme, a general agreement was signed at central State level between Austria and Germany, for the common implementation of European programmes benefiting from Structural Funds. At the level of the partner authorities of the programme, a specific convention was signed to define the procedures for implementing the programme, completed by an agreement between the MA, JTS and regional coordination authorities on the execution of the programme. Lastly, in Austria, an agreement was signed between the Federal State and the *Länder* regarding the overall sharing of tasks in the management of European Structural Funds, and in particular in undertaking second level controls.

In the **Italy – Austria** Programme, we can note that a convention on the sharing of functions and responsibilities between programme partners as well as a specific convention between the six regions was signed in 2002 to delegate the MA, PA and JTS missions to the Province of Bolzano.

The **Italy – France (Islands)** Programme is organised on the basis of a general convention between the three partner regions for the implementation of the programme and on specific conventions for the adoption of common monitoring software or the sharing of competences between the central MA/PA and the auxiliary authorities.

The **France-Wallonia-Flanders** Programme is also based on an agreement signed by the 15 institutional partners to the programme that defines the roles and missions of each of them. This convention governs in particular the questions of **responsibility in cases of financial difficulties** and guarantees proper legal security of the programme. It is completed by a convention between the MA and PA of the programme, situated in two different countries, as well as by internal agreements signed by the French partners, giving the Nord-Pas de Calais Region a mandate to carry out first level controls on behalf of all the

French partners. Regarding the programme, it is interesting to underline that the creation of an international public institution, in the form of a cross-border ‘Public Interest Grouping’ was foreseen to manage the programme. Nevertheless, the partners felt that it would take too long and that the procedures for setting it up would be too burdensome and thus they abandoned the project, knowing that the EGTC project was being prepared.

On the other hand, no specific convention was spotted for the **France – Spain** Programme and the **Adriatic New Neighbourhood Programme**.

E) Prospects linked to INTERREG IV

Lastly, regarding the future of the programmes in this group, **most of them will experience more or less significant changes** in their area of intervention, their strategy or in their management. The issue of adaptation of the partnership organisation and the legal structuring of the future programmes is raised everywhere, on the basis of the experience of current programmes, but most of these programmes are still at the negotiating stage regarding these points and, generally, no decision has yet been taken. Nevertheless, some interesting information that is available can be given as an example.

The INTERREG IV **Italy – Slovenia** Programme will have new management structures and new partnership models, the details of which are still under discussion. What has been decided is that the area of the programme will be extended to the Emilia Romagna region and to new parts of the Veneto region and of Slovenia. The opportunity to modify the cooperation structures, in particular by putting an EGTC or a joint structure in place, has not been excluded but is still under discussion and no details have been given by the programme leaders on this point, with no official decision having been taken to date.

The **Southern Finland – Estonia** Programme will become sub-programme in an even larger new programme in the region. The programme leaders would have wished for stricter Community accompaniment for the next programming period, regretting that the new Community regulations do not frame the national rules better and do not

insist more on common cross-border management at the risk of giving free rein to overly bureaucratic national regulations (cf. the complexity of the Finnish system of national match-funding already discussed). Furthermore, recourse to a specific agreement as well as to the solution offered by the EGTC have not been excluded here either, if the conditions are met – whatever happens, the setting up of an EGTC will require time as the Finnish constitution will have to be modified to allow this.

For the **Italy – Austria** Programme, the differences linked to legal and administrative differences between the two States could be lifted by the creation of an EGTC, which has been discussed in some meetings. However, no definitive decision has yet been taken. One of the main changes to the programme, at any rate, will be the establishment of the Lead Partner Principle and the introduction of a prior declaration of commitment on the progress rate of the project.

The **France-Wallonia-Flanders** Programme will retain its current configuration with a slight extension to its area. *A priori*, the Walloon Region should remain MA (agreement in principle), and the PA should, once again, be chosen through a European call for tender. On the other hand, the programme leaders intend to remedy a certain number of difficulties encountered in the current programming period, in particular concerning the first level control, which currently uses too many actors in the different partner regions. The idea would be to sub-contract to external controllers, or to concentrate more the certification of the first level by limiting the number of actors involved in this process, and also to oblige the Lead Partners to collect all the documents from all partners before submitting them to the controlling body. Furthermore, a new specific agreement regarding the implementation of the programme will certainly be signed, following improvement and adaptation of the model currently in operation, in response in particular to the regulation changes, welcomed moreover by the leaders of this programme who feel that the new Community regulations are better adapted to the specificities of INTERREG. Lastly, we can also note that the question of creating an EGTC, even if it has yet to be tackled by the partners of this programme, does not seem to have been excluded, all the more so as it would appear that this tool could bring a real added value to the programme. In

the specific context of this programme, nevertheless, the EGTC formula could, a priori, be better applied to the JTS than to the MA, although the Belgian associative structure (ASBL) currently chosen as the legal form for the JTS, is sufficiently flexible and appears to be perfectly appropriate.

3.2.3 Programmes managed at cross-border level

The third and final group of programmes in the sample group corresponds to those where management is mainly undertaken by one or more cross-border cooperation structures. These structures either are entrusted with the functions of MA, PA and/or JTS of the programme, or tasked with the operational implementation of the programme, under the responsibility of an MA situated within one of the national partners but which has delegated the undertaking of its missions.

The following programmes can be found in this category:

- 13- (NL/DE) EUREGIO – Euregio Rhine-Waal – Euregio Rhine-Meuse-North
- 19- (IE/UK) Ireland – Northern Ireland
- 21- (FR/DE) PAMINA
- 28- (DE/FR) Saarland – Mosel (Lorraine) – Western Palatinate
- 32- (SE/DK) Oresund Region
- 38-(BE/DE/NL) Euregio Meuse-Rhine

The characteristics of the legal organisation and structuring of these programmes is particularly interesting to study **as it is a priori the model best adapted to the cross-border specificities of INTERREG programmes**. This model in fact makes use of structures that are cross-border in their organisation (which brings a certain number of practical advantages, cf. Part 4 of the study), that represent the partners, benefit from the necessary experience in the management of cross-border programmes and projects and are situated as close as possible to the cooperation territory and to the cooperation actors.

However, as we shall see, these programmes **can also encounter difficulties due to their own method of functioning that is, by nature, integrated from a cross-border point of view but sometimes also complex**.

A) Longevity of the cooperation, organisation of the programmes, nature and functions of the cross-border cooperation structures involved in the management of the programmes

From the point of view of their partnership organisation, it is interesting to note that the majority of the programmes in the last category are implemented in **territories that have a rather longstanding tradition of cooperation** and that have reached a rather high level of structuring outside of INTERREG programmes, in particular with framework agreements for cross-border cooperation covering the territories concerned and with the setting up, in this context, of cross-border cooperation structures often based on real and solid legal bases.

This element **directly explains the possible recourse, for the partners of the programmes concerned, to these pre-existing cross-border cooperation legal tools**, when deciding the organisation of the management of the programmes, either by entrusting the main programme functions to one or more existing cooperation structures⁷³, or by making use of framework cooperation agreement to create such a structure to manage a programme⁷⁴. The organisation and sharing of tasks within these programmes is therefore largely influenced by the involvement of cross-border cooperation structures in their management, hence the parallel treatment of these two themes in this section.

Furthermore, the strong tradition of cooperation in the programmes of this group also explains **the rather low level of delegation and sharing of tasks within the programmes**, as most of the missions are concentrated in the hands of the cross-border cooperation structures, which take responsibility for guaranteeing representation of all partners in the implementation of the programme, instead of making use of Intermediate Bodies.

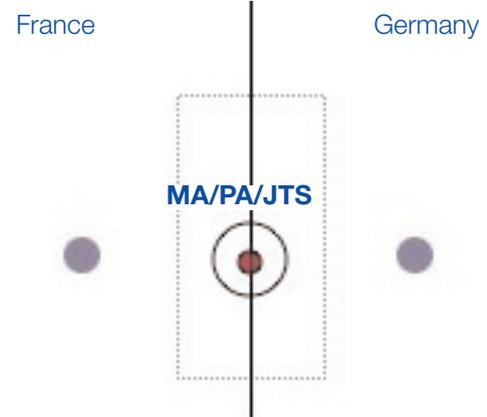
Overall, we can therefore distinguish **two types of programmes within this final category**:

- on one hand those in which a cross-border cooperation structure was tasked with undertaking (at least) the MA functions: here we find the **PAMINA, Saarland – Mosel (Lorraine) – Western Palatinate, Euregio Meuse-Rhine** and **Ireland – Northern Ireland** Programmes;
- on the other hand, those in which the cross-border cooperation structures are not officially MA of the programme, but to whom the MA has delegated the effective implementation of the main management missions of the programme: here we also find the **EUREGIO – Euregio Rhine-Waal – Euregio rhine-meuse-north** and **Oresund Region** Programmes.

• Programmes in which a cooperation structure is MA of the programme

The **PAMINA** Programme is based on an important tradition of cooperation between the German and French partners. The programming territory is situated in the zone covered by the Karlsruhe Agreement.

PAMINA



Furthermore, the programme has a long history in the context of INTERREG programmes as it was one of the few pilot programmes before the beginning of INTERREG I. This experience of PAMINA programme partners explains the setting up, for this programme, of an **extremely simple and clear organisation**, based on **the creation of a specific cross-border cooperation structure** for the

⁷³ This is the case for the EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north, Oresund Region and Euregio Meuse-Rhine Programmes.

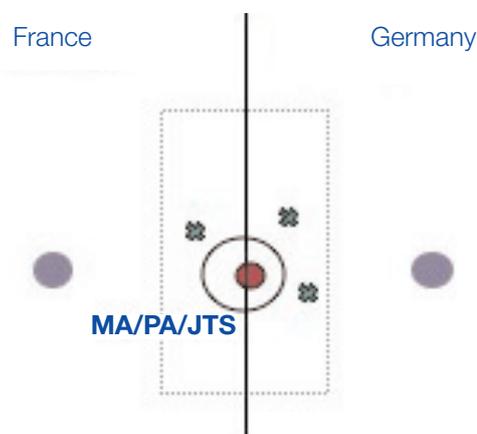
⁷⁴ This is the case for the PAMINA, Saarland – Mosel (Lorraine) – Western Palatinate and Ireland – Northern Ireland Programmes.

needs of the programme, which is at once MA, PA and JTS. This structure, entitled Local Cross-border Cooperation Grouping (LCCG) REGIO PAMINA, has a public law legal status based on the Karlsruhe Agreement and was created specifically, in the course of the INTERREG IIIA programming period in 2003, for the implementation and promotion of the programme as well as cross-border actions in general. Thus, this programme is characterised by a **high degree of concentration of the missions within a unique institution, and also a high level of cross-border integration of these missions.**

Apart from the involvement of a working group in the project assessment procedure and the informal participation of more long-standing cross-border cooperation structures in programme guidance, **most missions, including first level controls, are therefore implemented by the LCCG REGIO PAMINA, representative of all the programme partners.**

More generally, it is interesting to underline that besides managing INTERREG, the creation of the LCCG has also allowed other missions outside of INTERREG to be grouped together within the same structure. Prior to the LCCG, a cooperation structure with no particular legal form, created on the basis of an agreement between programme partners, carried out the management of the JTS of the programme as well as the general guidance of cross-border cooperation on this territory. **The INTERREG Initiative has thus finally allowed the cross-border cooperation to be better structured** in the area of the **PAMINA** Programme and to give it more successful tools. Henceforth, the partners now have **a stronger legal base for their cooperation.**

Saarland – Mosel (Lorraine) – Western Palatinate

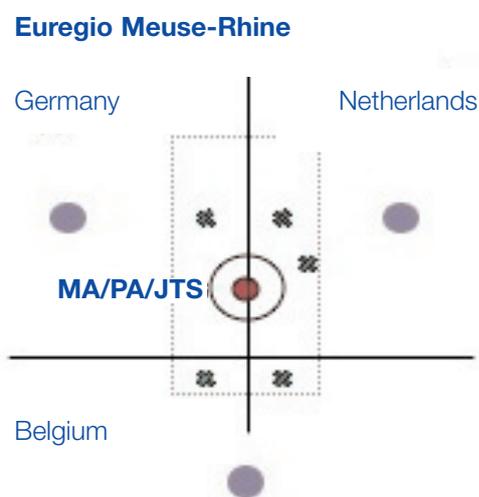


Quite close in its organisation to the PAMINA Programme, the **Saarland – Mosel (Lorraine) – Western Palatinate Programme has also undergone an important institutional modification** during the current programming period with the creation, in 2005, of an *ad hoc* cross-border cooperation structure to undertake the MA, PA and JTS functions of the programme, in the form of a **cross-border Public Interest Grouping (PIG)** based on French public law, as presented in point 1.2.2 of this document.

As with the PAMINA Programme, the German and French partners of the **Saarland – Mosel (Lorraine) – Western Palatinate** Programme, which has existed since INTERREG I, have fallen back on a long history of cross-border cooperation in the area (institutionalised since 1971 with the creation of a Regional Commission in the Saar-Lor-Lux-Westpfalz area) and have benefited from the Karlsruhe Agreement, and also from resources in French law, to set up their own structure, after nonetheless a long starting-up period during which the Lorraine *Regional Prefecture* carried out the MA and PA functions for the programme (it took three years for the new structure to be accepted by the French national authorities). As with the PAMINA Programme, all the programme partners are represented within the cross-border P.I.G. which, **because of this, centralises a large majority of the programme missions in its hands.** Nevertheless, contrary to the PAMINA Programme, the **Saarland – Mosel (Lorraine) – Western Palatinate** Programme also makes use, for each project, **of a reference person from one country and a refer-**

ence department from the other country, recruited among the partner authorities, tasked with support in project development and monitoring and participating in the completion of first level controls.

The **Euregio Meuse-Rhine** Programme is certainly one of those that benefit from the longest experience of cooperation in the creation of the cross-border cooperation structure Euregio Meuse-Rhine in 1976 and through its participation in all stages of INTERREG since 1991. Set up as a Dutch private law foundation (*Stichting*) in 1991, the Euregio Meuse-Rhine (EMR) was delegated, by the Dutch Ministry of Economy, in the context of a specific agreement, responsibility for the implementation of the INTERREG I, IIA and IIIA **Euregio Meuse-Rhine** Programme, for which it thus undertakes the MA, PA and JTS functions, in the context of an **organisation marked by a high level of cross-border integration**. This programme is particular because it shows **both a relatively high degree of concentration of missions and also a certain level of delegation and sharing of missions with other actors**.



Consequently, the EMR, which covers a large partnership notably in its board of directors, undertakes most of the programme missions. But besides the central office of the EMR, which takes care of the coordination and management at programme level, regional project managers were designated within each of the five partner regions, for guidance, support in project development, assessment and monitoring of

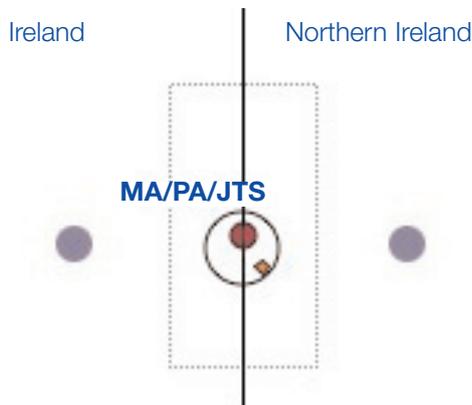
projects. From this point of view, **the programme does not have a single identifiable JTS structure**, but the JTS functions are jointly carried out by the programme managers in the central office of the Euregio Meuse-Rhine foundation and the regional project managers in the five regions. They meet regularly to discuss the progress of the projects and the programme. Furthermore, in terms of partnership, it is also interesting to note that **the coordination mission of this programme at the level of the Foundation is carried out, through a three-year revolving system, by an agent of one of the five partner regions**.

Lastly, in this programme, the first and second level control functions and the final certification are given out to a firm of private controllers and auditors who have their own desk in the premises of the Foundation, which makes contact with the programme managers easier.

The only programme that is a slight exception within this group is the **Ireland – Northern Ireland** Programme, which has functioned since the launch of INTERREG I in 1991. It has **in effect a specific organisation**, marked, in particular, by the peculiar history of the cooperation territory covered. Although the structure which manages the programme, the **Special EU Programmes Body (SEUPB)**, responds to the definition of a cross-border cooperation structure given in this study⁷⁵, it is a **specific structure, marked by a particular context and closely linked to the central administration of the two partner States**, which have delegated the missions relating to the implementation of the INTERREG programme to it. The SEUPB is in effect one of the six cross-border cooperation structures arising from an agreement (the Belfast Agreement) signed between the two States in 1999. This body, financed by the Finance Ministries of the two States, was specifically created to manage, among others, the INTERREG programme and the PEACE II Programme.

⁷⁵ Cf. Note 1 in the introduction of the document.

Ireland – Northern Ireland



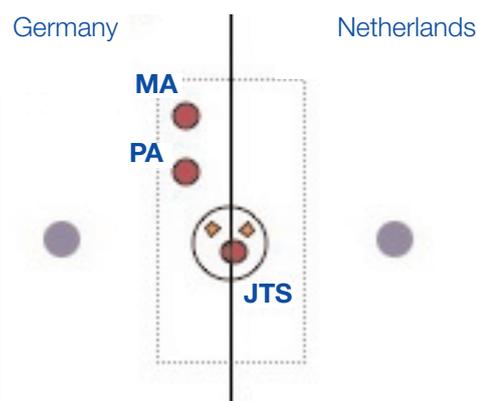
Management of this programme seems at first sight to be strongly centralised, as the SEUPB carries out the three administrative functions (MA, PA and JTS) and chairs the programme committees, although for reasons of separation of functions, the MA and JTS are situated in Ireland while the PA sits in Northern Ireland. At the same time, the programme partners have set up a **relatively important number of Intermediate Bodies**. Consequently, for example, the NGO *Ireland Cooperation* is tasked with management of a specific measure of the programme and to this end has been delegated a certain number of missions and responsibilities in matters of guidance and in assistance for project structuring in particular. Furthermore, the programme also relies on a number of **Implementing Agents**, based within the partner territorial authorities and also other cooperation bodies.

- **Programmes in which a (or the) cross-border cooperation structure(s) is not MA of the programme, but carries out the main missions of it**

The EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north Programme is an interesting example of programme whose management is essentially cross-border, although the MA is not a cross-border cooperation structure. This border region is one of the oldest areas of cross-border cooperation in Europe. Covered by the Anholt and Mainz Treaties, it is notably the registered office of the oldest Euroregion in Europe (EUREGIO), created in an informal

way from 1958. The border zones were involved in three distinct programmes under INTERREG I and II, before merging in the current programming period. This programme is organised in an atypical manner as it is the *Land Nordrhein-Westfalen* (NRW) that is nominally MA of the programme.

EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north



However, in practice, **the operational management of the programme was entrusted, at the level of the three sub-programmes, to the three Euroregions** which cover the cooperation area. These are the EUREGIO, Euregio Rhine-Waal and euregio rhine-meuse-north. It is the central role played by the three Euroregions which justifies the classification of this programme among the **programmes managed at cross-border level**, but also among the programmes that have a **rather high degree of concentration of missions**. Indeed, although the *Land NRW* remains responsible *in fine* for the implementation of the programme and retains, for example, the signing of important documents, **the Euroregions take care of the effective implementation of the programme in their territory of intervention** and for this fulfil a great number of missions traditionally reserved for the MA and/or the JTS: guidance, assistance for project development, project assessment, decision-making within the Sub-Steering Committees, monitoring, first level controls, etc.

Additionally, they have a voting right within their **respective Sub-Steering Committees** and the Monitoring

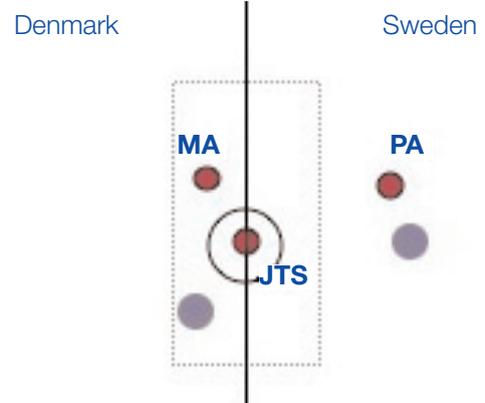
Committee for the programme, this voice being the result of a 'euroregional' consensus established in advance, following a democratic procedure within each Euroregion.

The Euregio Rhine-Waal, in addition to managing the sub-programme of the same name, also takes on the **JTS function** for the entire programme. However, as the traditional missions of the JTS were delegated to the three Euroregions, the role of the central JTS is limited to support work for the Monitoring Committee and for the MA of the programme, coordination of the work of the three Euroregions, monitoring of the large projects covering the three sub-areas and as a go-between for the European Commission. It is interesting to underline that within the Euregio Rhine-Waal, a distinction is made between the staff carrying out the missions of the central JTS of the programme and those carrying out the management and monitoring missions for the sub-programme.

Lastly, **the PA function** is carried out by the bank of the *Land*, the *Investitionsbank Nordrhein-Westfalen*. But despite the institutional separation between the MA, the JTS and the PA, the organisation of the latter shows **a significant degree of concentration and cross-border integration of missions, made possible through relations of trust stemming from a long tradition of cooperation in this programme**. Consequently, the common German PA not only manages the European funds for the German and Dutch parts of the programme, but also most of the national match-funding for the two States. Moreover, a specific agreement was signed between the German PA and the Dutch partners to allow it to manage the Dutch funds. **The advantage is obvious for the final beneficiary, who receives all credits from one single source.**

The second programme that was classified in this group is the **Oresund Region** Programme. It has existed since INTERREG II, even though, as with the above programme, cooperation between Sweden and Denmark dates back to the 1960s and was institutionalised in 1993 with the creation of the Øresund Committee.

Oresund Region



First of all, the organisation of the **Oresund Region Programme appears fairly shared and original**: the MA is a regional authority (the *HUR*, *Greater Copenhagen Authority*), the PA is a private structure answerable to the Swedish State (the *NUTEK*, Swedish Economic Development Agency and thus responsible for Swedish structural funds) and the JTS function is carried out by a cross-border cooperation structure, the **Øresund Committee**. However, the *Øresund Committee* not only fulfils the traditional missions of the JTS, but it is also **in some ways the executive body of the MA**, as it also fulfils most of the traditional MA missions, which were delegated to it by the HUR in the context of a specific agreement (the JTS carries out roughly 90% of the MA missions, which only keeps the responsibility for concluding subsidy contracts with final beneficiaries).

This explains the **high level of both the cross-border integration and concentration of the execution of missions within this programme**, in spite of the institutional separation between the MA, PA and JTS, and thus its classification within this third category of programmes. It should also be noted that, according to programme leaders, the management of the programme by the Øresund Committee is a good thing, the partners of this structure are used to cooperating and the agents are involved daily in cross-border cooperation. Overall, **recourse to this cooperation structure allows truly horizontal management of the programme.**

With regards to the elements described above, and in comparison with the methods of organisation chosen by certain programmes managed at State and regional level, recourse to one (or more) cross-border cooperation structures to implement the main INTERREG missions **seems to be a solution that guarantees a certain simplicity in the organisation of the implementation of the programmes**, in particular because they make it less necessary to set up numerous Intermediate Bodies to involve the partners in the management of the programme.

Nevertheless, here too, this organisation model is not perfect and the partners that chose it have also encountered a **certain number of difficulties in daily programme management**. Difficulties vary from one programme to another, but some of them are inherent in the use of cross-border cooperation structures.

B) Main difficulties encountered in the management of the programmes

One of the main difficulties encountered in the programmes that have specifically set up a cross-border cooperation structure for the needs of the INTERREG programme is the **consequent programming delay, because of the time necessary for establishing such a structure**.

The **PAMINA** Programme encountered such difficulties at the beginning of the INTERREG III programme. Between 2000 and 2003, the programme was managed by the Bas-Rhin General Council, before the management was transferred to the LCCG REGIO PAMINA, specifically created for this purpose. The setting-up of the LCCG was a long process and **cost the partners a lot of time and energy and temporarily threatened the security and efficiency of the programme procedures**, which partly led to the automatic decommitment suffered by the programme. Once in place, **the main advantage of the partnership structure of the LCCG was to allow it to carry out proper coordination of the partners and a homogeneity of practices across the border**, in particular in the area of control, the different partners of the grouping having entitled the personnel of the LCCG to carry out on-the-spot checks both in Germany and in France.

Nevertheless, difficulties of harmonisation persist in the programme like, for example, those linked to **different interpretation of the eligibility rules on either side of the border**. Indeed, European regulations apply in the absence of more binding national regulations. Now, although the French national and German federal rules were known to the programme from the beginning, the German *Länder* have put in place more restrictive rules whose application started in the middle of the programming period.

The same type of situation can be found in the **Saarland – Mosel (Lorraine) – Western Palatinate** Programme, which experienced **significant delays** until the French authorities agreed to set up a cross-border P.I.G. to manage the programme. The creation of the P.I.G. slowed down the start up of the programme and notably led to large automatic decommitments. Furthermore, the P.I.G. has only been created until 31 December 2009, which **raises questions about the final operations for closure of the programme**, which are likely to happen after that date. Moreover, the fact that French regulation on P.I.G.s. lays down that French partners must have a majority of voices in the general assembly and the administrative board of the structure is a significant disadvantage, inherent in the P.I.G. structure, which **was enough to dissuade other INTERREG programmes involving France from using the same legal form**. Nevertheless, beyond these few difficulties the programme authorities underline that **cooperation between the programme partners is good**. This clearly is reflected in the selection process of projects, which is generally the object of a political consensus. **The sources of disagreement linked to procedures were settled when the control and management system was developed**, which took over a year. The most frequent divergences occur with differences between the national regulations.

The difficulties encountered by the **Ireland – Northern Ireland** Programme illustrate again the singularity of the programme within this category: these are in effect less related to the creation of a cross-border cooperation structure to manage the programme than to more 'classical' reasons, stemming from the participation of diverse actors of different nationality in the implementation of the pro-

gramme. Consequently, the main difficulties encountered by this programme are linked to the significant delays that are entailed in the signing of **agreements between the SEUPB and the Intermediate Bodies** (Implementing Agents), while these agreements are necessary for the activity of the Implementing Agents. Furthermore, the large number of contributors in the control and payment procedures, with the risk of differences that it implies, has led the programme partners to set up a **Central Payment Unit** at the level of the SEUPB.

In the second group of programmes which have had recourse to pre-existing cross-border cooperation structures, the advantage of relying on established habits and cooperation structures must also be counterbalanced by some difficulties encountered by these programmes. This tends to prove **that recourse to a pre-existing joint structure is not synonymous with the disappearance of all problems inherent in the management of an INTERREG programme.**

Consequently, the **Euregio Meuse-Rhine** Programme, due to its rather complex partnership organisation and the need for unanimous decisions, sometimes encounters **difficulties gaining consensus among the partners** on INTERREG projects to be selected. Certain project owners have also pointed up relatively long **project assessment delays**, due to the fact that the projects must, first, be examined by each region, then by the central office of the EMR Foundation (MA), and also by thematic Euregio-commissions before passing to the Steering Committee. The programme leaders, however, do not point to **a particular problem**, apart from a lack of financial means for technical assistance (the budget is considered low, taking into account the number of regions and technical teams involved in programme management) as well as a lack of consensus, at times, in decision-making.

Within the **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north** Programme, the fact that there are three different programming sub-areas, each covered by different Euroregions with their own legal form and functioning rules, necessarily involves **differences of appreciation on the respective eligibility of projects**, differences of interpretation on certain texts or legal differences on matters of

rights and obligations for project owners from either side of the border. However, beyond these difficulties inherent in cross-border cooperation, according to the programme leaders, no major problem arises in its implementation, **the partners benefiting from longstanding and well-grounded cooperation, each positive vis-à-vis cooperation as well as communication between them**, many positive points that have eased implementation of the programme and allowed any potential difficulties to be swallowed rapidly.

Lastly, one of the complexities of the **Oresund Region** Programme stems not so much from recourse to a cross-border structure for the effective exercise of its missions, but from the **splitting of the programme bodies between three partners** (*HUR*, *NUTEK* and *Øresund Committee*). This split involves, for example, difficulties harmonising monitoring software for the programme or national disagreements on questions of eligibility of certification of expenditure. Furthermore, the **Oresund Region** Programme has above all experienced difficulties because of differences between Danish and Swedish eligibility and control rules (the former being stricter and more restrictive), problem which is relatively independent of the choice of organisation made for the implementation of the programme.

C) Agreements between partners and legal structuring of programmes managed at cross-border level

With the programmes of this third category categorised by the concentration of the main management missions in the hands of one or more cross-border cooperation structures, they do not generally make use of a large number of actors. Specific agreements concerning the management of programmes have been signed in most programmes of this category, to which are added the specific legal bases (conventions and statutes) of the cross-border cooperation structures tasked with managing the programmes, giving rise to **somewhat new methods of legal structuring.**

Several agreements thus frame the functioning of the INTERREG **PAMINA** Programme. The legal structuring of the **PAMINA** Programme was modified in the course of the 2000-06 programming period, with the creation of the LCCG REGIO PAMINA by a '*Prefectoral decree*' on 22

January 2003, followed by the constitutive assembly in March 2003. Consequently, a specific agreement transferring the MA and PA functions to the LCCG was signed between the General Council of Bas-Rhin (MA and PA of the programme from 2000 to 2003) and the newly set up structure. Specific conventions and agreements relating to the creation of the LCCG and its involvement in the programme were also signed between programme partners and members of the LCCG.

The LCCG itself is a mixed structure under French public law, with its own legal personality and resources, organised with a constitutive assembly of member partners, which decides on the budget and missions entrusted to the President and to the executive office of the structure. As such, it is an **original cross-border legal form**, in relation to those adopted by other INTERREG programmes, as it stems directly from the Karlsruhe Agreement, a quadripartite agreement signed in 1998 between France, Germany, Luxembourg and Switzerland. This agreement expressly lays down the possibility of creating a legal form stemming from the public law of one of the partners States (more precisely the State where the structure is based), in order to carry out cross-border cooperation actions between regional and local authorities (including the German *Länder* or Swiss *Cantons*). It is nevertheless interesting to note that although the Karlsruhe Agreement prevents the French State from participating in a LCCG, it is nevertheless involved through its controlling function, notably financial, over the LCCG. Thus, **the accountant for the LCCG structure is necessarily an agent of the State**, which means, in the specific case of INTERREG, that once the order is given by the LCCG to pay a beneficiary, the payment itself is carried out by the Treasury department of the French State, which receives the Community funds via an account opened in the name of the LCCG.

Regarding the **Saarland – Mosel (Lorraine) – Western Palatinate** Programme, an agreement was signed between the partners when the ‘Public Interest Grouping’ (P.I.G.) was set up in 2005. The P.I.G. of the programme, which stems from a French legal instrument whose cross-border usage was made possible by the Karlsruhe Agreement, is **unique in France** as, at the present moment, it is the only structure under the P.I.G. format that includes partners from another

State. Like all P.I.G.s., it was created for a limited duration and with a specific goal, i.e. to manage the INTERREG programme. It is, moreover, a **truly integrated structure**, organised with a general assembly that can notably dissolve the P.I.G. or expel a member), an administrative board (four members elected by the general assembly), a president, a director and a permanent team. The particularity of the P.I.G. is that it uses, as with the LCCG stemming from French law in the case of the PAMINA Programme, a **public accountant who carries out the financial management of the Community programme** on a deposit account opened with the French Public Treasury in the name of the P.I.G. The advantage of this financial control, in particular, by the services of the French State is that it reassures the German partners to the programme.

Besides the difficulties already mentioned⁷⁶ tied to the creation of the structure and some of its particularities, as well as the significant administrative burden linked to the management of a specific structure (providers, accountancy, administrative formalities, etc.), several advantages of the P.I.G. can be cited here. It allows for a **perfectly balanced partnership** between all national partners (unanimity rule in the general assembly), but also presumes active involvement of all partners, even though they have to respect the French public and administrative accountancy regulations. The P.I.G., created by an inter-ministerial decree and having a public accountant, is moreover **extremely secure**.

For their part, the programme leaders are satisfied with the P.I.G. format and underline, in particular, the following positive points:

- the completely integrated aspect (including a bilingual and bi-national team);
- the administrative flexibility (although the team spent a lot of time on internal management of the P.I.G., notably in the launch phase);
- the speed of the financial circuits (two days for payment after certification);
- distinct legal personality that gives greater legitimacy (although the support and weight of partners remains necessary);
- linking of all partners to the programme, as decision-making is taken unanimously.

⁷⁶ See also Annex 3.

In the context of the **Euregio Meuse-Rhine** Programme, two overall agreements were signed between the programme partners to ensure and frame the sharing of responsibility and the rules for the functioning of the programme and to define the conditions for its financial execution. Furthermore, the Dutch State, responsible *in fine* for the proper management of the programme, has entrusted the MA, PA and JTS missions to the Euregio Meuse-Rhine Foundation through a specific convention.

Regarding the cross-border cooperation structure involved in the management of the programme, namely the **Euregio Meuse-Rhine** Foundation, this Dutch **private law** Foundation (*Stichting*) was set up in 1991, following 15 years of informal cooperation. The partners considered giving the structure a public status, but became aware of the following points:

- first of all, the establishment of a public law structure would require the prior signing of an interstate agreement;
- secondly, the private structuring gives certain advantages that are not negligible, including the grouping of INTERREG management activities and the general activities of the Euroregion within the same structure; and the common management of personnel originating from several States.

This private status also makes organisation much easier from an accounting and financial point of view (choice of the EMR's bank, control of activities, etc.) and at the same time allows it, on the basis of a convention with the Dutch Ministry of Economy, to carry out the MA, PA and JTS missions of the programme.

The **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north** Programme is based on a **well-developed system of agreements**. A main agreement was signed between programme partners (including the Euroregions) regarding its implementation and also covering questions relating, in particular, to the financial responsibility of the actors in case of difficulties. In parallel to this, an agreement was signed between the MA of the programme (*Land NRW*) and each of the three Euroregions regarding the delegation of certain missions. An additional agreement ties

the MA to the Euregio Rhine-Waal specifically concerning the JTS function. Moreover, an agreement was signed between the MA and the *Investitionsbank NRW*, which carries out the PA function. Lastly, an agreement ties the German PA and the Dutch co-financing authorities, which entrusting the management of Dutch co-financing to the German PA. According to the programme leaders, this system functions well and ensures good legal security of the programme.

Regarding the status of the Euroregions participating in this programme, it is interesting to underline that the three Euroregions involved, **although they carry out the same daily functions, do not have the same legal status**. Thus, the EUREGIO, the oldest of the three, which is also the registered office of the AEBR (Association of European Border Regions) since 1987, is set up as a German private law association (e.V.), while the Euregio Rhine-Waal and the euregio rhine-meuse-north have opted, respectively, since 1993 and 2004 for the status of *Zweckverband*, a public law cross-border cooperation structure, on the basis of the Anholt Treaty, which gives them broad legal capacities. According to programme leaders, the involvement of these structures in the management of the INTERREG programme has not directly influenced their legal status, indeed inversely: **what is important is the acceptance of the structure by the partners and actors on both sides of the border and their establishment on a solid legal basis and according to a bottom-up logic**. Nevertheless, the legal tools made available by the Anholt Treaty have effectively made management of the programme easier, likewise for the good relations between the three Euroregions which cooperate closely by trying to harmonise their procedures, to coordinate their activities and to meet regularly (through their Directors).

The **Oresund Region** Programme is also based on a **well-developed system of agreements**. It is implemented in the context of a State level agreement between the Kingdom of Denmark and the Kingdom of Sweden concerning the implementation of the programme. However, several other conventions were also signed: a convention delegating missions between the *HUR* (Danish MA) and the Øresund Committee (cross-border JTS), already mentioned; an agreement between *NUTEK* (Swedish PA) and

the JTS concerning in particular the financial controls, as well as an agreement between the Danish MA and the Swedish PA regarding the financial management of the programme.

Regarding the cooperation structure involved in the programme, the Øresund Committee has an associative status in Danish private law. It is therefore a cross-border cooperation structure with a general interest objective. This Committee, which functions with working bodies, groups together 32 locally and regionally elected Swedish and Danish officials concerned with the area and thus serves as a political platform. The Secretariat of the Committee is situated in Copenhagen. The objectives of the Committee are relatively large and concern all the issues of daily life in a cross-border zone (transport, environment, cross-border labour market, culture, etc.).

Finally, as regards the particular case of **Ireland – Northern Ireland**, an interstate agreement was signed in 1999 in the context of the programme, notably creating the SEUPB and which followed from the Belfast Agreement of 1998.

D) Prospects linked to INTERREG IV

As for the programmes in the other categories, to date there is not much definitive information regarding the future of programmes under INTERREG IV available. Nonetheless, here too certain elements can be highlighted regarding the maintenance or not of strong involvement of cross-border cooperation structures and thus the strongly integrated nature, from a cross-border perspective, of these programmes.

For the **PAMINA** Programme, INTERREG IV will constitute a revolution as the programme will be merged with the neighbouring Upper Rhine Centre-South Programme. In terms of organisation, the Alsace Region (currently MA and JTS of the INTERREG III Upper Rhine Centre-South Programme) will undertake the MA, PA and JTS functions of the new INTERREG programme. To date, the question of the exact distribution of the guidance and project assessment tasks for the PAMINA sub-area within the new programming zone has not yet been answered.

The **Saarland – Mosel (Lorraine) – Western Palatinate** Programme will also be integrated into a larger programme, within the 'Grand Region', which will bring together the three current INTERREG programmes Saarland – Mosel (Lorraine) – Western Palatinate, Wallonia – Lorraine – Luxembourg and DeLux⁷⁷. *A priori*, the partners of this new large programme have a real desire to work together at the technical level. The advantage of this large programme is notably that it will enable the funding of larger regional projects, which until now were blocked by the restrictive boundaries of the programmes. In terms of the management and organisation, it seems accepted that within the new programme, the central JTS will be assisted by a JTS at the level of each of the sub-programmes, which means that the missions currently carried out by the P.I.G. will remain roughly the same. Nevertheless, the current programme managers would lose their direct contact with the European Commission. In the present state of negotiations, the Walloon Region would become provisional MA of the new programme, but creation of an EGTC is envisaged, under the presidency of the Prefect of Lorraine. An extension of the P.I.G. could have been imagined to cover the new area, but this situation would have proved to be politically difficult to implement. Regarding the PA, the choice has not yet been made. Overall, however, we can state the risk that these important changes to the structuring might complicate the management of the programme, as recently experienced with the P.I.G., potentially to the detriment of the Lead Partners, a factor that cannot be ignored.

For the **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north** Programme, although many points are still under discussion, it is accepted that it will merge with the neighbouring Ems Dollart Region Programme. The *Land NRW* will most likely remain MA of the enlarged programme (as it is currently MA of the two programmes called to merge), but the distribution of other functions remains under discussion. The Euroregions should remain involved in the management of the new programme, though no decision has yet been taken regarding the degree of this involvement. The only wish that has been clearly demonstrated is to promote better, in the future, projects that cover the entire cooperation territory, and not only a sub-programme. On the other hand, considering the

⁷⁷ 'DeLux' stand for Germany – Luxembourg – German Speaking Community of Belgium / Walloon Region

specificities of the programme and of the cooperation zone, with the presence of cooperation structures with a status that is adapted to INTERREG and with efficient cross-border cooperation agreements, there was no question of setting up an EGTC on this border. But the managers feel that the tool could be of additional help.

Lastly, the **Oresund Region** Programme will also undergo an important change with the integration of a new cooperation territory in the area of the programme, which concerns the north of Denmark and the south of Norway. The new **Oresund – Kattegat – Skagerrak** Programme will be made up of two sub-spaces, with possible problems in the different levels of co-financing between the different regions. From the point of view of the organisation of the new programme, the current JTS of the Oresund Region Programme, namely the Øresund Committee, will remain as JTS for the future sub-space concerned. On the other hand, there are still uncertainties regarding the exact organisation of the other main functions of the programme although, as things stand at the moment, the *NUTEK* may become MA and PA of the new programme. At the technical level, the programme leaders feel that the difference between the new Certifying Authority and the current Paying Authority is not yet clear and they think that, on the whole, this would function as before. Concerning the EGTC solution, it is not the subject of much preoccupation in this zone. All the same, the Danish and Swedish national authorities would be rather sceptical regarding its relevance for this zone as it would require changes in their respective constitutions. The main problem is that the financial responsibility of the States would be too high in the context of the EGTC.

Overall, the programmes in this final category **thus run the risk of undergoing a certain number of modifications in their organisation and legal structuring, not so much on the basis of evaluation of the current heavily integrated management models, from a cross-border perspective, but because of the fact that essentially the boundaries of the programmes are going to vary and be extended.**

3.2.4 Comparative and summarised analysis of all the elements in the sample group

From the different information collected and presented above, the objective of this paragraph is to look again at the two angles used for analysing the programmes presented in the introduction to this third part (management level of a programme/degree of cross-border integration on one hand, degree of delegation and sharing of missions within a programme on the other) to bring out the advantages and drawbacks of the different models of organisation and legal structuring studied.

Hereafter are summarised the main advantages and drawbacks of:

- the three levels of management of a programme (State, regional and cross-border);
- different degrees of concentration/delegation of missions encountered.

3.2.4.1 Advantages and drawbacks of the three levels of management

Note: The advantages and disadvantages listed hereafter are not necessarily a reflection of reality but they provide for general advice and warning elements, to be considered for future reflection. Indeed, the theoretical disadvantages of a system can be overcome by programme practices, while its advantages may be e.g. misused or neglected.

A) Summary of programmes managed at State level

Positive points

- A legal framing which ensures a higher level of legal security, with strong harmonisation of the rules framing the programme (for example, on the rules of eligibility of expenditure), provided that the national authorities agree on these common rules between themselves.
- Strong national support available (legal, financial, political or in expertise), especially useful if cross-border cooperation at regional or local level is in its starting phase (for example in programmes between two new Member States or third States).
- Availability of national expertise, in instances where regional or local structures have little competence, experience or human or financial means to manage an INTERREG programme.
- A guarantee of neutrality to avoid the ‘cornering’ of the programme by regional or local authorities which have not yet succeeded in assimilating the cross-border and integrated logic of the programme.
- Uniformity, if the programme covers all of a national border: it may help to avoid conflicts of power and interest between regional authorities and differences of appreciation on eligibility rules for example.
- Concentration on a national level of the management of the programme is often balanced by a strong delegation of missions to Intermediate Bodies, which can allow a combination of centralisation (of rules, for example) and presence on the ground.

Drawbacks

- Management is often very far from the cross-border area covered by the programme.
- National strategies are not necessarily those that would be followed by the territorial authorities concerned in the border area.
- An excess of formality or diplomacy between the capitals to the detriment of close cross-border relations.
- Standardisation in the management of the programme(s) all along the national borders, which may prevent the emergence of original and adapted cross-border solutions and practices.
- Potential risk of a vision prioritising large-scale infrastructure projects to the detriment of smaller projects.
- Difficulty of implementing all MA missions in neighbouring countries (in particular, the controls and recovery of amounts unduly paid).

Note: this drawback may also occur at the other levels of management.

- Difficulty in recruiting foreign staff⁷⁸ because of the public status of the MA.

Note: This drawback may also occur at the regional level of management.

⁷⁸ For questions relating to staff issues, such as contracting, salaries, turn-over problems etc, please refer to the Study by INTERACT Point Tool Box "Human resources in INTERREG III programmes" to be soon available on the INTERACT website.

B) Summary of programmes managed at regional level

Positive points

- Management close to, or situated within, the border zone.
- Bottom-up management respecting the principle of subsidiarity.
- Better knowledge of and thus stronger reactivity to the situation and needs in the eligible area.
- Better knowledge of foreign partners.
- Programming strategy that is better adapted to the needs on the ground.

Drawbacks

- Difficulty for the regional MA to exercise its authority towards other partners (notably other regional authorities from its own country).
- Difficulty implementing all the MA missions in the neighbouring countries (notably controls and recovery of amounts unduly paid).
Note: this drawback may also occur at the other levels of management.
- Risk of competition and political appropriation of the programme.
- Risk of a lack of homogeneity in the programme with different interpretations between sub-spaces and regions.
- Difficulty in recruiting foreign staff because of the public status of the MA.
Note: This drawback may also occur at the national level of management.

C) Summary of programmes managed at cross-border level

Positive points

- Strong cross-border integration, which allows for solutions to be given to difficulties arising from the co-existence of different national systems, rules and practices within the same programme, to accelerate and harmonise the procedures (project assessment, control, payment, etc.) and thus sometimes to avoid complex agreement procedures.
- Horizontal and cross-border management, good knowledge of the ground and the actors in the cooperation area, working habits and management mechanisms for cross-border programmes or projects.
- Recourse to one (or more) integrated cross-border cooperation structures for the implementation of a programme allowing at once to avoid the drawbacks inherent in the organisation models involving numerous partners while still guaranteeing balanced representation and involvement of all partners.
- Strong legal security for the partners, if based on a solid cross-border structure and written conventions between partners.
- Practical advantages (varied according to the legal format chosen): ease of employing personnel from several countries, financial autonomy, administrative flexibility, etc.
- Rationalisation and limiting of certain costs (structure costs, travel expenses, human resources, translation costs if teams are multinational) and therefore less pressure in terms of technical assistance.
- Distinct legal personality.
- Good legal and technical base for developing the cross-border cooperation in the area: on the one hand, recourse to a pre-existing cooperation structure can make the link easier between the management of the INTERREG programme and cross-border cooperation as a whole; on the other hand, the creation of a cooperation structure can allow continuation of the cooperation to be guaranteed on a solid legal basis, in case INTERREG disappears.

Drawbacks

- Long and complex setting-up of the structure (notably for the public structures), which has led to automatic decommitment for some INTERREG programmes. The 'timing' of an INTERREG programme (seven to eight years) and that for creating a cross-border structure are different, as the creation of such a structure can be a very long process. The question is to decide on the right moment to create such a structure: at the end of the programming period to prepare for a possible new programme, which involves a certain degree of uncertainty? At the beginning of the new programming phase, with the risk of 'sacrificing' the start of the programme (guidance, establishment of management procedures, etc.) to the legal structuring?
- The fact that the law applicable to the structure is the domestic law of the host State (State where the structure has its registered office) may perturb or threaten the security of foreign partners.
- The problem of financial responsibility of the structure and that of its members.
- The occasional lack of legitimacy of the structure in relation to project partners and Lead Partners, depending on the context of the cooperation; this lack of legitimacy may also arise in case of conflict of interest, where a structure is both involved in programme management and as final beneficiary.
Note: This drawback may also occur at the other levels of management.
- The limits of certain legal tools used and the necessity for a prior interstate agreement in certain cases.
- The risk of favouring form and management tools over the content of the programming, and the problem of the time-consuming daily management of the structure (providers, administrative formalities, accountancy, etc.), which risks being carried out to the detriment of the programming and the strategic aspects.
- Mergers envisaged for INTERREG IV risk ruining the efforts made to create these specific structures.

3.2.4.2 Advantages and drawbacks of more or less concentrated management

Note: The advantages and disadvantages listed hereafter are not necessarily a reflection of reality but they provide for general advice and warning elements, to be consid-

ered for future reflection. Indeed, the theoretical disadvantages of a system can be overcome by programme practices, while its advantages may be e.g. misused or neglected.

A) Summary of shared management programmes

Positive points

- Equal representation and effective involvement of all partners in the implementation of the programme, which can reinforce the efficacy of the management and programming (essential in particular for programmes located in an area of recent cooperation).
- Recourse to Intermediate Bodies in partner institutions allows for an increased proximity with projects and may contribute to reinforcing the efficacy of the programme and project management, thanks to a greater sharing of tasks, and the availability of more technical and human resources for instance. As stated before though, recourse to Intermediate Bodies in the future programming period should be avoided/limited, in order to avoid interference with the principle of 'single management'.

Drawbacks

- Risk of co-existence, within the same programme, of different rules and procedures (monitoring, software, transfers, etc.) and of differing interpretations (regarding eligibility rules or the role of the JTS for example) within each body involved in programme management, which can result in unequal treatment of project owners (according to their contact authority) and also misunderstandings between partners, procedural delays, etc.
- Risk of complexity and a lack of clarity in the organisation and distribution of tasks due to the spread of actors participating in the management of the programme, which may result in overlaps and/or tasks not fulfilled.
- Stronger necessity for a written agreement regarding the implementation of the programme, but a risk of greater difficulties in agreeing on a text acceptable to all.
- The presence of systems functioning in a parallel and not concerted manner can reduce the synergy effects of the programme, and may even lead to compartmentalisation within the same programme.

B) Summary of concentrated management programmes

Positive points

- Reinforcement of the clarity of management and organisation both for the partner institutions, the project owners and the border population, limits the risk of complexities and different treatments inherent to programmes experiencing a broad distribution of tasks.
- Can allow procedures to be speeded up (project assessment, control, payment, etc.) by avoiding too many intermediary steps. If all three management functions are performed by the same authority, the same rules will be applied, all information and documents are centralised in one place (e.g. payment, contracting, controlling documents etc) and project dossiers can be managed in a more integrated manner.
- Economies of scale in terms of management (no duplication of staff positions in all partner authorities, less travel costs between administrative bodies etc), which reduces the burden on the limited technical assistance budget.

Drawbacks

- If equal participation of all partners in the implementation of the programme is not guaranteed (at least in the programme committees), this can harm the quality of the partnership and the quality of the management and programming.
- Risk of political appropriation of the programme by the authority in charge of its management, including the risk of limited sharing of information with the other partners.

The surveying the advantages and drawbacks of these different organisation models for INTERREG IIIA allows us to formulate, in Part 4 of this study, recommendations for optimising the management of the programmes or to evaluate whether a change in structuring would be useful in light of the new generation of INTERREG programmes, and under what conditions.

Before that, nevertheless, it would still be useful to carry out a comparison between the current rules and the new Community rules that will frame the 2007-13 programming period, with particular attention on the new EGTC.

Legal and partnership aspects of
the organisation and implementation
of INTERREG IV programmes:
Tools and recommendations

4. Legal and partnership aspects of the organisation and implementation of INTERREG IV programmes: Tools and recommendations

Objective and content of the chapter

- INTERREG IV: Which changes, new missions and implications for the partners?
- The implementation of a cross-border cooperation structure in the framework of INTERREG IV, the advantages and the limits of the EGTC.
- Recommendations and tools aiding the decision-making process. What advice should be given to the partners of the new programmes?

4.1 The new legal obligations for the management of INTERREG IV programmes

In this part, the legal challenges of the new programming period for programme partners will be presented, on the basis of a comparative analysis between INTERREG III and INTERREG IV in terms of administrative bodies/functions and the missions to be fulfilled. Like in Part 1, the approach is based on an analysis of missions common to all programmes, which will allow, at a later stage, to compare more easily the implication of the different programme actors and particularly that of cross-border cooperation structures in the management of the programmes.

Under the new programming period, a new set of management functions and tasks will appear, especially with the new Certifying and Audit Authorities. However, in terms of legal nature of the bodies to perform these various functions, there is no significant change. Article 59 of the new General Regulation⁷⁹ gives a general definition of the term 'authority', which is 'a *national, regional or local public authority or a public or private body designated by the Member State*'. In this regard, Member States will still have the possibility to entrust the management of the pro-

grammes to different types of and to several institutions – in line with the principle of '**separation**' previously developed.

However, the principle of '**concentration**' will also be of application, as the same institution (a ministry for example) can assure the role of several authorities (MA, CA, AA, and JTS) under the conditions mentioned by the Article 58 of the new General Regulation. These conditions are mainly a clear definition of the functions exercised, the respect of the principles of separation within the institution in question and the implementation of the procedures ensuring an adequate audit trail.

Therefore, the Community new Regulation distinguishes:

- **The administrative bodies:** A Managing Authority (MA), a Certifying Authority (CA) and an Audit Authority (AA) in charge of the management and the control of the Operational Programmes (Article 59 of Regulation (EC) No 1083/2006⁸⁰). The missions to be accomplished by these different authorities are respectively detailed in the Articles 60, 61 and 62. Moreover, specifically in the framework of the European Territorial Cooperation Objective, the new ERDF Regulation⁸¹ specifies, in its Article 14(1), the nature and the functions of the Joint Technical Secretariat (JTS).
- **The political actors:** To these four bodies is added one more responsible for the monitoring of the programmes, the Monitoring Committee. Its composition and its missions are detailed in Articles 63 to 68 of the General Regulation.
- **Final beneficiaries:** These are the project Lead Partners and other project partners. It is important to note that the ERDF Regulation (EC) No

⁷⁹ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1260/1999. This regulation is also referred to as the 'General Regulation'.

⁸⁰ Under INTERREG III the programming document was called Community Initiative Programme (CIP), it is entitled Operational Programme (OP) under the 2007-13 programming period.

⁸¹ Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999. This regulation is also referred to as the 'ERDF Regulation'.

1080/2006, in its Article 20, uses henceforth the term '*lead beneficiary*' when referring to the Lead Partner and the term '*other beneficiary*' when referring to its partners.

The object of this part of the study is to remind briefly the role of each of the authorities in the implementation of an INTERREG programme and to present the evolutions which will be brought as a result of the implementation of the INTERREG IV programmes. These changes will have to be taken in consideration for the organisation of the programmes.

It is necessary to specify that the new generation of the INTERREG IV programmes will have to present joint managing structures (and not parallel structures – therefore, the terms of delegated/auxiliary MA or PA should disappear) and a single budget for the programme (not divided into national parts). As a result, **the structures responsible for the management of the programmes will have to define precisely their relations and their respective responsibilities vis-à-vis the other institutional partners of the programmes and the European Commission.** This new demand justifies therefore the reflections about the managing structures, the creation of single cross-border structures and the notion of transfer (by a delegation agreement) of the management functions to a single partner. It will also be important to pay attention to the interpretation of the new texts which were recently published. In effect, we noted for the 2000-06 programming period that the regulations had been modified in the course of the period⁸², as it has also already been the case for the new General Regulation (EC) No 1083/2006 which was modified shortly after its publication (the Corrigendum to Annex 4 of the above-mentioned Regulation was published in the OJEU on 1 September 2006). It will also be necessary to be prudent, as the Community's Implementing Regulation has not yet been published and national decisions are still on the way.

4.1.1 Administrative bodies

A) The Managing Authority (MA)

In the framework of the INTERREG IV programmes, Regulation (EC) No 1080/2006 in relevance to the ERDF mentions in its Article 14 that '*the Member States participating in an Operational Programme will have to designate a single Managing Authority*'. The main reasons justifying the constitution of a single MA are the following:

- only one MA assuming the responsibility vis-à-vis the Member States and the Commission should be designated in order **to avoid dilution of responsibilities**;
- it is preferable that a single authority is responsible in order to assure equality of standards and data compatibility. The electronic accounts of the MA have to cover the expenditures and the payments done in all the areas covered by the programme, favouring in this way a global and complete monitoring.

What is new concerning the Regulation for the period 2007-13 is the fact that it is explicitly made mention of a **single** MA, whereas, in the current INTERREG III regulations, this aspect is only implicit in the texts, with the exception of the point No 47 of Regulation (EC) No 1260/1999 which indicates '*whereas there should be a single Managing Authority for each assistance, with defined responsibilities*'.

Therefore, as the analysis of the previous parts has shown, some programmes have adapted the rule and function *de facto* with **auxiliary MA's**, which are responsible for the funds used on their part of the territory. We can mention for example the INTERREG IIIA **France – Italy (Islands)** Programme or the programmes associating new Member States (for example, the **Poland – Slovakia** Programme) even if *in fine*, the central MA remains responsible for all the Community credits vis-à-vis the Commission and the Member States.

It is therefore probable that the explicit reference to a single MA in the new texts will obstruct or limit in the future

⁸² For example, the General Regulation (EC) No 1260/1999 was modified twice, in 2001 (Regulation (EC) No 1047/2001) and in 2003 (Regulation (EC) No 1105/2003). It is also the case for Regulations (EC) No 438/2001 (modified by Regulation (EC) No 2355/2002) and No 1685/2000 (replaced by Regulation (EC) No 448/2004).

this type of auxiliary organisation. However, this point needs to be clarified and has to be confirmed in practice.

Actually, it is still possible to delegate all or part of the tasks of the MA to one or several **Intermediate Bodies**, under the MA's responsibility, by virtue of Article 59(2) of Regulation (EC) No 1083/2006. The obligation of a single MA would only therefore have a real impact on the principle of responsibility. A system of auxiliary MA's could therefore be put in place, on the condition that the single MA preserves the role of coordination, centralisation and only if it remains responsible for all the credits of the programme in the framework of its regulatory competences.

A far as the legal nature of the MA is concerned (cf. Article 59 above), there is no significant evolution in comparison to the current regulation. The reference to the current Regulation (EC) No 1260/1999 according to which the State can assure itself the role of the MA is not reminded, however this has no significant consequences as a Member State can entrust the mission of MA to any 'authority' in the sense of Article 59, thus including for instance a State ministry or department.

Concerning the tasks entrusted to the MA, the new regulations do not introduce a clear innovation. The list of the missions figures in Article 60 of Regulation (EC) No 1083/2006. It is necessary to mention that in the specific framework of the INTERREG IV programmes, by virtue of Article 15 of ERDF Regulation (EC) No 1080/2006, the MA is not concerned by the point b of the Article 60 of Regulation (EC) No 1083/2006. Therefore, in the framework of INTERREG IV, **the MAs will no longer be responsible for verifying the legality and the regularity of the expenditures declared by the beneficiaries nor for controlling that the expenditures declared are in accordance with the applicable Community and national rules** (which is the case for the MAs of the Objectives 'Convergence' and 'Regional Competitiveness and Employment'). The role of the MA, in this specific case, will be to **verify that the expenses incurred have indeed been validated by the control authorities** which will be designated within each State and which will be competent on the State's territory in question (Article 16(1) of Regulation (EC) No 1080/2006). This exception is

justified by the multinational nature of the INTERREG programmes and by the fact that controls are carried out on the national level. The practical modalities of the controls are not yet known. These will be detailed in the Implementing Regulation which will be soon published.

In the perspective of the new programming period and like in the current period, the MA will have to pay attention to the quality of the programming documents (including the new SWOT analysis) which will constitute the framework for defining the priorities of the programme. As far as **evaluation** is concerned, the MA (on behalf of the responsible Member State) will be responsible of *ex-ante* evaluation (Article 48(2) of Regulation (EC) No 1083/2006) as well as the evaluations intervening during the programming period - it is on these points that the new regulations introduce a change in relevance to INTERREG III. In effect, under INTERREG III, as well as for the other programmes co-financed by the ERDF and the ESF, two evaluations were provided for by Regulation (EC) No 1260/1999: a mid-term evaluation intervening at the end of 2003 and a mid-term evaluation update at the end of 2005. It was noted that, for the INTERREG III programmes in particular, because of the late starting of the programmes following CIP validation, the evaluation for 2003 concerned often only a reduced number (or nil) of projects, a fact which limited the impact of its recommendations. In order to avoid reproducing this situation, if Regulation (EC) No 1083/2006 continues to specify that evaluations are provided for in the course of the period of the implementation of the programme, it does no longer fix the number of evaluations to be carried out nor the moment at which these will have to intervene. These decisions will be taken by the partner Member States of the programme (Article 48(3)). The ex-post evaluation will however remain a competence of the European Commission.

At last, the general principle of the **separation of the management and control functions** within the MA will remain a norm, by virtue of the Article 58(b) of Regulation (EC) No 1083/2006. This does not mean that the same MA cannot be designated for the management of several OPs (Article 59(1)), as it is currently the case for the programmes managed in Greece for example.

Recommendations and conclusions

- It is important that all partners acknowledge the MA as a single one, responsible for the programme vis-à-vis the Commission and therefore as the main interlocutor of the Commission. It seems, from the missions to be accomplished and the experiences of the INTERREG III programmes, that the nature of the MA (private or public, State, regional or cross-border structure) is not a determining factor. It is important however to be assured that the MA has the legal, financial and organisational capacity to manage the programme on behalf of all the partners.
- For 2007-13, each Member State has to designate *'the controllers responsible for verifying the legality and regularity of the expenditure declared by each beneficiary participating in the operation'*. Therefore, the function and the responsibility of the MA will be reduced in the field of controls. This new situation can make access to the function of MA easier for different kinds of institutions – this still needs to be confirmed in practice.

B) The Certifying Authority (CA) (previously Paying Authority)

For each programme 2000-06, the Member States have designated a public or private national body (or a cross-border structure), regional or local, responsible for the function of Paying Authority whose mission was mainly to submit the payment requests and receive the payments from the European Commission, as well as to transfer the Community funds to the final beneficiaries. The PA has therefore to ensure that the beneficiaries receive the European funds *'as quickly as possible and in full'*⁸³.

In the framework of INTERREG IV, the regulations introduce a new element. The current Paying Authority becomes Certifying Authority (CA). Of course, this authority will keep an essential role in the paying procedure, as it will receive the payments done by the European Commission and proceed, *'as a general rule'*, to the payments to the project Lead Partners.

But will be also clearly involved in final control of declared expenditure as **it has to certify the statements of expenditure and the applications for payment before they are addressed to the Commission for reimbursement**. It is specifically for this reason that the present Paying Authority will be called Certifying Authority. This novelty shows the European Commission's willingness to insist on this certification phase in order to be assured of the eligibility of the expenses presented to it (Commission).

Moreover, based on the experiences of the current period, it seemed necessary to give a better definition of the **difference between MA and CA** in order to clarify the extent of their respective functions and to avoid any risk of duplication. This was done by listing precisely the missions of the CA in Article 61 of Regulation (EC) No 1083/2006. The CA is therefore responsible for approving the project payment requests on the basis of the first level controls. It also certifies these requests by carrying out a control of the information which is at the origin of the request, and submits statements of expenditures and applications for payment to the Commission⁸⁴.

In addition, the CA is responsible for the gathering of electronic accounting records, and eventually the recovery of amounts unduly paid, jointly with the Lead Partners and the Member States.

It is important to mention at this point, some of the conditions of the effective implementation of the financial management of the programme by the Certifying Authority (CA). Regulation (EC) No 1080/2006 clarifies in its Article 17 in relevance to the financial management, the following elements:

'1. The ERDF contribution shall be paid into a single account with no national sub-accounts.

2. Without prejudice to the Member States' responsibility for detecting and correcting irregularities and for recover-

⁸³ Article 32(1) of Regulation (EC) No 1260/1999.

⁸⁴ In terms of certification, it is necessary to wait until the Implementing Regulation of the European Commission comes out, in the near future, in order to have at our disposal some complete elements concerning the procedure to be carried out.

ing amounts unduly paid, the Certifying Authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead beneficiary. The beneficiaries shall repay the lead beneficiary any amounts unduly paid in accordance with the agreement existing between them.

3. If the lead beneficiary does not succeed in securing repayment from a beneficiary, the Member State on whose territory the beneficiary concerned is located shall reimburse the Certifying Authority for the amount unduly paid to that beneficiary.'

It is therefore interesting to note that the Member State concerned acts as the guarantor for the beneficiary in question and that it is implicated in the financial management, especially when the CA (and the MA) do not have their registered offices on its territory. This therefore will have some consequences on the legal relations that will be formed between the Member States and the future bodies of the programmes.

In contrast to the current Regulation (EC) No 1260/1999, which explicitly mentions, in its Article 9(o), that the Paying Authority's mission could be entrusted 'to one or more bodies', and to the Communication of the Commission in relevance to INTERREG⁸⁵ (2004) which mentions explicitly, in point 25, the possibility of 'auxiliary PAs', the new regulations impose a **single CA** (Article 14 of Regulation (EC) No 1080/2006). The consequences are similar to these in relevance to the single MA, meaning that the **delegation of all or part of the missions of the CA to Intermediate Bodies will remain possible and under the responsibility of the CA**. The notion of single CA refers to the necessity of coordination and responsibility in the framework of regulatory competences.

At last, it is necessary to mention that it will be possible, as it is the case for the MA, for the same CA to intervene on various OP's (Article 59(1)). This type of solution allows, as it is currently the case for some PAs, an exchange of experiences and resources.

Recommendations and conclusions

- It is necessary to assure that the CA has the financial solidity necessary for the management of the INTERREG programme. In effect, despite the 5% or 7% pre-financing (according to the economic situation of the programme area concerned), which will be transferred in two or three instalments in the beginning of the programming period, INTERREG III programme experiences showed that the Commission's interim payments have been delayed in some cases (e.g. for the reason that the payment requests were incomplete or not exact), which led to obvious treasury difficulties in some cases.
- It is also necessary to verify that the CA has the possibility to transfer Community funds directly to all beneficiaries, in each Member State of the programme. If this is not the case, we can envisage to put in place an Intermediate Body which would assure the role of payment to the beneficiaries in the other States, as this is the case in numerous programmes already, which make use of regional sub-PAs'.
- The CA is responsible for the recovery of amounts unduly paid, in cooperation with the project Lead Partner and the Member State in question.
- Links between MA and CA: the two authorities, even if they do not necessarily have to be in the same Member State, have to be at least capable of working together on a common/single monitoring system, in order to have at their disposal a coordinated monitoring of the projects and to be able to coordinate all the accounts. Experience has shown that, in some cases, each authority situated in a different State, uses the national system of monitoring available, but that the different systems are rarely compatible, something that makes it difficult to have a global view on the progress of the programme.

⁸⁵ Communication from the Commission to the Member States of 2 September 2004 laying down guidelines for a Community Initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory (2004/C 226/02).

C) The Audit Authority (AA)

The Audit Authority is the only real novelty set out by the new European Regulation concerning the INTERREG IV programme authorities. This structure is however similar to the current Financial Control Group. The legal basis of this new authority is the Article 59 of Regulation (EC) No 1083/2006 which presents it as follows:

'A national, regional or local public authority or body, functionally independent of the Managing Authority and the Certifying Authority, designated by the Member State for each Operational Programme and responsible for verifying the effective functioning of the management and control system'.

The functions of the AA are presented in the Article 62 of the abovementioned Regulation. Its main role is to **ensure that audits are carried out** to verify the appropriate functioning of the management and control system of each OP, as well as to verify the expenditure declared (via sample checks on operations (projects)). The AA will have an important role of coordination jointly with the European Commission, from the moment of the OP's approval to its closing date.

In the framework of the future INTERREG IV programmes, in which partners from different States will be implicated, the AA will be characterised by some particularities. Firstly, in order to assure a better coordination, **the AA will have to be situated in the same State as the MA** (as for CA, this could be situated in another State) by virtue of Article 14(1) of Regulation (EC) No 1080/2006. This clause will have to be in all cases respected but it does not exclude the case where an AA is designated as responsible for several OPs (Article 59(1) of Regulation (EC) No 1083/2006), as in the case of the MA or the CA.

Secondly, the AA will be assisted by a **Group of Auditors**. In this regard, Article 14(2) of Regulation (EC) No 1080/2006 indicates that the Members participating in an INTERREG IV programme can choose one of the two following types of organisation:

- **Option No 1 – with a group of auditors:** The Member States participating in the programme want to keep a national representative in terms of audit. In this case, the AA does not carry out the whole of the missions described in the Article 62 of the General Regulation but transfers this task to the group of auditors, composed of one auditor by State partner. This group is chaired by the AA and elaborates its own rules of procedure, on the basis of which each auditor will carry out a list of audit tasks on its territory, the AA having a coordinating role. The Community regulations do not give any precisions on the mode of functioning of this group of auditors. This method, by which group of auditors has the responsibility to adopt its own rules of procedure, leaves more flexibility to the Member States which are willing to proceed in this way. If necessary, it is possible in the future that the European Commission gives precisions on the mode of functioning of this type of structure.
- **Option No 2 – without a group of auditors:** The Member States participating in the programme agree by unanimity to put together their common resources and entrust the AA to carry out audits in all Member States. In this case, the AA exercises directly the powers listed in the Article 62 of the General Regulation and as a result, the constitution of the group of auditors is no longer necessary.

It is necessary to note that, in the two cases mentioned above, by virtue of the principle of separation of functions in the framework of the implementation of the programmes, the auditors' missions have to be clearly **separated** from the functions of management and control of the programme.

As mentioned previously, one of the main functions of the AA will be to assure efficient cooperation with the European Commission's services. Article 73 of Regulation (EC) No 1083/2006 gives a clear definition of the modalities of this cooperation. This Regulation mentions that the Commission and the AA have to meet at least once a year, unless they decide differently. The Commission will also have a role of appreciation of the audit strategies carried out for each OP in order to give priority to the controls of the OPs which are likely to present weaknesses. This

means that the Commission counts on the activities of the AA in order to make its own controls on the spot better targeted, therefore more efficient. In addition, if a problem occurs, the European Commission will be able to, either request an audit from the Member State concerned, or proceed itself to an audit.

It is important to mention that, currently, no precisions have been yet made on the different elements or on the criteria retained for the future audits. It will be necessary to wait for the effective implementation of the programmes in order to present the elements of good practice in relevance to this function.

Recommendations and conclusions

- The choice of the mode of organisation of the AA (option 1 or 2) has to be guided by the motivations of the partners and it would be best to present in writing the '+' and '-' of each option, as well as the option chosen, by specifying the consequences of this choice (rules, procedures, etc).
- If there is a preference for the option 2, it is necessary to consider the extent to which one of the States of the programme is capable to carry out this mission on the territory of the other States. It is evident that the partners will have to, by common consent, approve the same rules for the entire territory in terms of audit. It will be eventually necessary to anticipate the modalities of the implementation of the audits and, more particularly, make sure that the reports will be valid / recognised in each Member State. To this regard, Article 62(2) of Regulation (EC) No 1083/2006 requires that *'the audit works take account of internationally accepted audit standards'*.

D) The Joint Technical Secretariat (JTS)

The Joint Technical Secretariat is a function that only applies to INTERREG programmes. It is in principle composed of staff representing the various national partners of the programme concerned (a guarantee for good practice). The functions of the JTS are not treated in detail by the 2000-06 Community Regulations concerning the Structural Funds. The only reference made to the JTS is in the Commission Communication of 2004 in relevance to INTERREG III.

In effect, in the present programmes, the setting-up of a JTS was not compulsory. This is precisely mentioned in point 30 of the Communication of 2004 which states that: *'In the implementation of its tasks, the Managing Authority is assisted by the Joint Technical Secretariat where it does not assume the secretariat function itself'*. In some programmes there is no JTS body as such, but it is 'included' in the MA, meaning that its functions are carried out by the MA and/or other(s) partner authority(ies). This is for instance the case of the **France – Spain** or the **Euregio Meuse-Rhine** Programmes. On the contrary, in other pro-

grammes, the JTS is functionally and physically separated from the MA and assures several important functions under the authority and the responsibility of the MA (as it is the case for example for the **Oresund Region** Programme).

For the INTERREG IV programmes, the main novelty concerning the JTS is to give a **clear definition to its existence from a regulatory point of view**. This point is clearly mentioned in Article 14(1) of Regulation (EC) No 1080/2006, which states that: *'The Managing Authority, after consultation with the Member States represented in the programme area, shall set up a Joint Technical Secretariat. The latter shall assist the Managing Authority and the Monitoring Committee and, where appropriate, the Audit Authority, in carrying out their respective duties'*.

The above Regulation, therefore, does not mention explicitly the position of the JTS vis-à-vis the other authorities. However, this could be interpreted as a need to separate the JTS from the MA, at least as far as the functioning within the same institution is concerned, mainly in the case where the JTS is entrusted the task of assisting the AA. A

precision is necessary on this point, as the regulations do not mention clearly the position and the way in which the JTS is associated to the other authorities of the programme. Concerning the functions of the JTS, the new regulations do not seem to introduce any change. In effect, the missions

entrusted by the MA to the JTS will be varying depending on the programmes and could range from limited missions to an important level of intervention. In respect to this, **the Regulation does not impose a specific legal mode of association between the JTS and the MA.**

Recommendations and conclusions

- By absence of clarification of the extent of the JTS's missions in the Community Regulations, it is recommended to give a clearer definition of these missions concerning each programme, as these missions may be very extended or very limited, depending on the programme's configuration and the partners' choice. A list of the JTS's missions should figure alongside these of the other bodies in order to assure that there is no duplication of the functions or absence of fulfilment of some missions.
- The structure that will be selected to ensure the JTS function should have the legal capacity to hire, without much complexity, staff originating from all programme partner States, as it is important to have a multinational JTS. In this regard, making use of a joint cooperation structure (Euroregion, EGTC, etc.) might be a good solution.

4.1.2 The political bodies

A) The Monitoring Committee (MC)

The Monitoring Committee⁸⁶ is the political 'guarantor' of the good implementation of the programme. This organ is set up by the partner Member States of the programme, in agreement with the MA and after consultation of all the partners. It is composed of the main partners of the programme. The Monitoring Committee is the privileged interlocutor with the European Commission, which participates in its meeting in an advisory capacity.

The MC is presented in the Articles 63 and 64 of Regulation (EC) No 1083/2006 and its missions are detailed in the Article 65 of the same Regulation. The MC members, in the framework of the INTERREG IV programmes, will continue to be designated by the Member States (Article 14(3) of Regulation (EC) No 1080/2006). The functions as well as the composition of the MC have not substantially changed in comparison to the current regulations.

We can however note two changes in relevance to the current regulations. First of all, the necessity for the MC to

ensure '*balanced participation of women and men*' (Article 35(1) of Regulation (EC) No 1260/1999) was abandoned as in reality it was not always put into practice. Moreover, the Article 63(1) of Regulation (EC) No 1083/2006 introduces the possibility to establish a **single MC for several OPs**, something that was not provided for by the current regulation. It is however difficult to evaluate the effective impact of this change in the future INTERREG IV programmes, for the reason that two OP never include exactly the same areas and as a consequence, cannot include the same partners. It is therefore probable that this case may not be exploited. In the context of enlargement of cooperation area of the INTERREG programmes (mergers), there may be a preference for an inverse situation, as already used by some programmes such as **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north**, with the setting-up of sub-committees for each sub-space. The future Regulation does not explicitly provide for this possibility, but it does not forbid it either.

The other important change will be the possibility to **entrust the missions of Steering Committee** to the Monitoring Committee in the future, as explained in the next paragraph.

⁸⁶ Regulation (EC) No 1260/1999 of the Council of 21 June 1999 laying down general provisions on Structural Funds, Article 35.

Recommendations and conclusions

- In terms of legal structuring, it is necessary to mention in the internal rules of procedure of the MC and/or in the convention linking the partners of the programme which option was chosen: separate MC and SC or joint MSC, MC for one or several programmes, etc.
- Moreover, as far as the partnership aspect is concerned (participation of all cross-border partners (including social and economic partners) to the MC, decisions by unanimity) and the cross-border aspect (selection of projects in respect to the four principles of partnership mentioned in the new Regulation) should figure in the MSC's internal rules of procedure.
- In order to ensure the proximity with the territory and the equal participation of all partners, the meetings should take place in the area covered by the programme (and not in the capital cities, even if the programme is for example managed by a Ministry) and should be organised in turns in each partner region.

B) Steering Committee (SC) (or Programming Committee)

The Steering Committee is the body which selects the projects: with the support of the administrative services of the Managing Authority, it establishes the list of the projects retained, gives its opinion on these projects and takes decisions concerning the fund.

The frequency of the Committee's meetings varies depending on the INTERREG programmes. For the programmes which chose to proceed with calls for proposals, the meetings' frequency depends on the calls for propos-

als issued. It is necessary to note that the Community Regulations offer two possibilities: whether to confer this function directly to the Monitoring Committee or to a separate Steering Committee under its responsibility. This point is mentioned in the Article 19(3) of Regulation (EC) No 1080/2006 in relevance to the ERDF, according to which '[...] *the Monitoring Committee or a Steering Committee reporting to it shall be responsible for selecting operations*'. As a consequence, **the selection of projects can be either implemented directly by the Monitoring Committee or by a separate Steering Committee, which is optional.**

Recommendations and conclusions

- For the new programming period, it seems that the possibility to merge the two bodies in one and only body responsible for the general coordination of the programme and the selection of the projects is a good opportunity as it enables: coordination of two strategic complementary functions, reduction in the number of meetings (positive for the partners) and reduction of administrative tasks (positive for those managing the programme).
- In terms of legal organisation, single internal rules of procedure, distinguishing the functions of the Steering Committee (responsible mainly for the selection of the projects) to those of the Monitoring Committee (general coordination of the programme) would be sufficient.

4.1.3 Project owners: project Lead Partner and its partners

The project Lead Partner receives the Community funds. In collaboration with its partners, it is responsible for the implementation and the development of the project, before the programme's authorities. It has to mainly submit the declarations of expenditure validated by the national controllers, inform the MA on the progress of the works, communicate the indicators, be subject to the controls and obligations of publicity.

It is necessary to note that the notion of Lead Partner does not figure explicitly in the current Regulation. In fact, the only reference made to this notion is that of point 31 figuring in the Communication of 2004 in relevance to INTERREG III. However, this point does not make explicit reference to the notion of project Lead Partner, but identifies it as the '*final beneficiary*' that has to elaborate with its partners '*possibly in the form of an agreement*' the sharing of responsibilities. The project partnership agreement is therefore not compulsory at present.

The new Regulation aims at introducing, without naming it explicitly, the **Lead Partner Principle** in all projects, which means that some of the present structures managing the projects will have to endure changes. Therefore, it will not be possible to envisage projects which include only one partner as all the projects will have to have at least two partners from two different countries. It will be possible to implement a project in a single State, under the condition that, the project is presented by the authorities of at least two States (Article 19(1) of Regulation (EC) No 1080/2006).

In addition, the new ERDF Regulation states that all the projects will have to respect the following cooperation criteria:

- **Joint development:** The project will have to be developed by representatives from both sides of the border. The prospective partners will have to develop the project together and designate amongst them a Lead Partner that will be the interlocutor of the programme authorities.

- **Joint implementation:** The activities will have to be carried out and coordinated from both sides of the border. It is not enough to carry out the activities in parallel, these will have to be coordinated by the Lead Partner.
- **Joint staffing:** The project should not duplicate the different functions (for example administrative and financial management) in each participating institution.
- **Joint financing:** There is only one grant decision (called grant offer letter or subsidy contract) for each project and as a consequence, one budget per project. The project Lead Partner is responsible for the administration, the distribution to other partners and the use of funds transferred by virtue of this single grant⁸⁷. All partners contribute funds in the shape of co-financing.

The project Lead Partner is designated in the new regulations (Article 20 of Regulation (EC) No 1080/2006) as the '*lead beneficiary*'. It is therefore important to note that the project **Lead Partner is only the administrative 'head' of the project**, each partner and beneficiary having the same status, as far as the form and content of the project are concerned. Each partner is also responsible of the expenditures linked to its participation to the project. **In the case where irregularities appear, the sums have to be reimbursed by the partner in question.** This shows that all the partners should have an active role in the development of the project as well as in its implementation.

The new ERDF Regulation also introduces, in its Article 20, an important novelty, that is to say, the obligation for the project Lead Partner to clarify the nature of its relations with the partners, in a written **partnership agreement**, mainly in terms of appropriate financial management and potential recovery of amounts unduly paid. The regulation does not give any detail on the legal form that this agreement should take, but its compulsory nature constitutes an evolution in itself, as it used to be optional in the framework of the INTERREG III⁸⁸ programmes.

⁸⁷ For further information on this point, see the INTERACT study: 'Recommendations for the implementation of INTERREG III Subsidy Contracts', September 2005, downloadable to the following address: <http://www.interact-eu.net/download/application/pdf/1157534>.

⁸⁸ Ibid.

Conclusion – General recommendations

- **Partnership:** Associate all the partners of the programme to the reflection procedure and the preparation of the new programme, in order to obtain a consensus of opinion by all the parties on the organisation and the chosen legal form.
- **Communication:** Ask advice from the European Commission right from the start of the preparation phase of the new programmes, by submitting the drafts of the OP for opinion, particularly on the pertinence of the organisation proposed and the capacity of the legal structure provided for, etc.
- **Legal structuring:** Establish in writing the organisation and the legal form envisaged: organisation chart, conventions, internal rules of procedure of the decision-making bodies, description of the management and control procedures. In addition, it is strongly recommended to sign a convention between the programme partners. This is reminded in the Communication of the Commission of 2 September 2004 in relevance to the INTERREG (point No 25): “the joint arrangements may, for this purpose, include signature of an agreement between the various authorities of the countries participating in the programme”. This recommendation should also be taken on board in the next period.
- **Go further...?:** The partners can possibly take further steps by setting out a reflection on the decision to create a structure of cross-border integrated cooperation, to whom is entrusted the management of the programme. In this regard, a reflection about the EGTC, instrument whose main goal is to manage Structural Funds programmes, is more than recommended. See the reflexion tools presented below.

According to those responsible for the programmes in question, the new regulations seem to be generally better adapted to the specificities of the INTERREG, even if some points need to be clarified, as we are still waiting for the Implementing Regulation.

The new programming period represents a set of new challenges and opportunities in terms of:

- new missions to be fulfilled: AA, CA, application of the Lead Partner Principle, etc.;
- new possibilities: merging of MC and SC, making use of an EGTC to manage the programme, etc.

These new challenges and opportunities, presented in detail in this point, need to be tackled. For this, a discussion between the programme partners should take place, in order to find out the best possible solution in terms of organisation and legal structuring for the fulfilment of these tasks.

In this regard, although we have seen that programme management can be based on a shared repartition of tasks between multiple partners and does not need *per se* to be cross-border integrated to function well, it seems important to consider the opportunity, already used in some INTERREG IIIA programmes, to entrust the management of the programme to an integrated cross-border structure, with legal personality. This solution allows to ensure both a centralisation of the main functions in the hands of a unique institution (avoiding thus duplications of tasks and creation of many Intermediate Bodies), and at the same time it ensures an equal participation of all members in the programme via the cross-border structure.

The next paragraph explores this opportunity and gives keys for reflection, with a focus on the new Community instrument, the EGTC, which has been especially elaborated for this purpose, and thus deserves a specific treatment.

4.2 About joint structures for managing INTERREG programmes

Amongst the different examples given, the programmes managed by a joint legal body represent the form of management of the INTERREG programmes that best corresponds to the principle of partnership, by allowing a strong integration between all partners from different Member States. However, they represent a minority in the community of INTERREG IIIA programmes.

In effect, if most INTERREG programmes are managed at national and regional level, by State or regional authorities essentially, they present nevertheless some inconveniences, as presented in Part 3. The main one is that despite all efforts, the management of the programme by a national or regional authority remains a *vertical* one and does not leave much space for horizontal, cross-border management. However, this inconvenience may be met with some exceptions as is the case for the **Italy – France (ALCOTRA)** Programme in which the MA decisions are prepared by a Cross-border Committee within which the different partners are represented in a balanced way. And one should not for-

get that in all cases anyway, the main decisions regarding a programme are taken by the Monitoring and Steering Committees, in which all partners are represented.

We will first focus on the importance of the choice of integrating the missions and functions of an INTERREG programme within a joint cross-border structure, before having a more specific view of the new Community tool: the European Grouping of Territorial Cooperation (EGTC).

Before proceeding to a thorough analysis of the available legal tools, it is necessary to identify the points to be clarified for the partners of a programme willing to establish a single and integrated body for the management of INTERREG IV or willing to confer to this body a part of the functions and missions linked to the programme.

Here are some of the elements to be used as source of discussion and which are relevant to many of the reflection phases, ranging from a simple improvement on existing methods to a substantial modification concerning the organisation and legal structuring of the programme⁸⁹:

The questions to be asked and the phases to be followed...

Point No 1: Before the starting of any new programming period, it is important to know whether we change the organisation and the legal form of the programme or if we keep the one that existed before (under the INTERREG III programme). It is necessary in this case, to have a **retrospective view** on the way in which the previous programme has worked. The elements that could be used as source of reflection on this point are the following (a positive answer to several of these questions would imply a change in the organisation, whatever the type of organisation or the body to be retained afterwards):

- Do we at present need to recruit staff from the other partner States, but find this difficult?
- Do we at present meet difficulties in associating private and/or socio-economic partners to the programme, in accordance with the principle of partnership and subsidiarity?
- Have we met difficulties to ensure an efficient programme and project management (e.g. long control and financial processes, leading to a decommitment risk)?
- Are there cases where differences in appreciation of the management method between the partners have negative effects on the programme?

⁸⁹ The order of the following points is not chronological: these points are interdependent and contribute to a general strategic reflection.

The questions to be asked and the phases to be followed...

- Are there difficulties between the institutional partners and blockings in the decision making processes?
- Are there cases of litigation between the institutional partners?
- Did the conventions (if applicable) signed between the programme partners and/or with the management authorities (MA, PA, etc.) lead to misunderstandings, interpretation problems, etc.?
- Are there blockings and delays as far as the control and payment procedures to final beneficiaries are concerned?
- Do we feel at present, after the experiences we had, the necessity to change the balance between the different partners?
- Do the partners wish to set up a joint structure in order to share more joint competences?
- Are there cases where the partners feel that one of them has taken on a leadership (and is willing to keep this leadership function by taking over one or several management functions), to the detriment of the other partners (without previous consultation)?
- Do we need at present a joint structure, in order to reassure all the partners?
- Do we need a new legal instrument in order to perpetuate and/or clarify the cooperation, including outside INTERREG?
- Is this technically and legally possible (Cf. point No 5)?

> *In the case where the partners decide to modify the organisation of the programme and to confide its management to a cross-border integrated structure, we could consider the following points:*

Point No 2: Concerns the issue of the **legal form** of the structure of cooperation. This point raises two series of questions which help orientate the reflection towards the choice of a single integrated structure:

1) *On the inter-partnership relations and the choice of a management body:*

- What is the nature of the main partners and how are they linked to the INTERREG programme?
- What form should the partnership agreement between partners take and how could we guarantee a balanced sharing of responsibilities?
- Do we wish to confide the management of the programme to an existing structure (a Ministry, a regional authority, a cooperation body for example) or do we prefer to set up a new ad hoc structure?.

2) *On the joint management structure:*

- What is the extent of the missions which will be confided to this structure?
- In relevance to these missions, does the chosen structure have to have a specific legal personality? (Use can be made of the table presented in Part 1, p.29).

The questions to be asked and the phases to be followed...

Point No 3: The question of the **cooperation objectives** within the INTERREG framework is closely linked to that of the type of structure chosen. In effect, it is necessary to determine whether the chosen structure will only be in charge of the management (all or part) of the INTERREG IV programme or whether it will also take up broader cross-border missions. This choice will be crucial in the determination of the missions and resources which will be attributed to this structure.

Point No 4: This point concerns the choice of **geographic location** of the managing structure (in which State, within or outside the eligible zone), by considering the regulatory obligations (e.g. MA and AA must be in the same Member State) and the experience previously gained. The nature of the links with the Member State in which the structure is located is an important point that needs to be clarified. It is also necessary to choose the type of structure that is most appropriate to the missions to be carried out. If the missions and responsibilities are rather limited, it will not be necessary to implement a complex structure. However, if these missions are extended (e.g. MA or CA missions), it is necessary to have a structure having a strong legal and financial basis (see also the table presented in Part 1, p.29).

Point No 5: It is also necessary to consider the pertinence of the chosen structure from a **technical and practical point of view**. It is in effect important that priority is not specifically given to the form to the detriment of the content, and to evaluate the potential difficulties linked to the setting-up of a new body or to the designation of an existing one (in particular if this body has not had a previous experience in the management of INTERREG programmes). The following points should be considered:

- Is there a risk that the setting-up of a new cooperation body or the designation of a new managing body for the programme may cause delays and have negative consequences during the first years of the programme (risk for automatic decommitment in the future)? In order to estimate this risk, we can suggest establishing a detailed provisional schedule, considering the potential deadlines linked to the political (duration of the decision making procedures) and administrative constraints (signing of the conventions, elaboration of statutes, etc.).
- Will the managing of the staff be complex? We can suggest that the staff is employed by the structure itself, rather than being seconded by the different partner regions and this for various reasons: all members of the staff would have the same working conditions (salary conditions in particular). It is necessary to ensure however that the conditions fixed are in the interest of all the members of the staff, which implicates that the body should be located in the State which offers the best conditions (if not, there is a risk to have difficulties in attracting qualified staff from the other side of the border).
- Do we have at our disposal sufficient financial resources, also outside INTERREG resources, in order to assure the functioning of the structure?
- Are any specific legal authorisations necessary? This question is closely linked to the choice of the structure's location and the applicable national law in the Member State in question.
- Do some partners have difficulty in accepting to entrust the management of the programme to an ad hoc structure?

Point No 6: It is important at last to give a clear definition of the **position of the national partners** within the programme and to fix the sharing of votes within the decision-making bodies of the programme but also within the single managing body (e.g. in the General assembly or Directory board). It is, in relevance to this, important to ensure parity between the partners within the decision-making bodies (if this is authorised by the law of the State in which it is located, which is not always the case, as in the P.I.G. for instance).

In the framework of this analysis, one should consider the fact that the creation of a new cooperation tool is a long process, and it is thus necessary to examine, ex ante, the consequences of such choice and the possibilities offered by a joint structure in terms of programme management.

4.2.1 The consequences of choosing a legal common and integrated structure

There are a number of advantages for choosing a cross-border integrated structure to manage an INTERREG programme. These were partly identified in Part 3 of this study. To sum up, the choice for such a structure allows:

- to have a structure that is autonomous and relatively independent of the issues concerning each of the national and regional partners of the programme, but which takes into consideration the various national constraints and integrates them in the programme management;
- a more integrated financial management, as it is in one hand, with one budget and one monitoring and accounting system (as opposed to the parallel running of different national monitoring systems);
- to make easier the recruitment of an international management team, in which all the State partners are represented; consequently, having an international team allows to bring together all necessary resources and competences (legal, linguistic, etc.) in order to achieve effective action;
- for all the partners, to be better and equally associated to the management processes of the programme, thus increasing their ‘mastery’ over the programme;
- to reinforce cross-border integration via the existence of a body common to all regions, which will be better perceived by both the population and the project owners;
- to reinforce the feeling of belonging to a cross-border region, in which the inhabitants of the various national sub-spaces share the strengths, weaknesses, opportunities and threats which they are faced with;
- to make available a legal common basis for carrying out other cross-border cooperation missions out-

side INTERREG (the joint structure can, in addition to the management of the programme, take on the roles of project owner, coordination platform, etc.).

In return, INTERREG appears as a good opportunity for the development of such structure, not only in financial terms, but also because the management of an INTERREG programme obliges us to set up rules and procedures, which in return can be of benefit for the structuring of the joint structure. For instance, the SWOT analysis and the INTERREG programming strategy can be taken on board by the structure for its own long-term development perspectives.

The first parts of this analysis showed the diversity of legal forms available for the organisation of a cross-border structure. Some programmes have made use of these legal forms to various degrees and entrusted to cross-border structures a range of missions, from participation in the guidance of the programme to the complete management of the programme as MA/PA/JTS.

The legal integrated forms retained by the programmes are either public law entities (Local Grouping of Cross-border Cooperation, Public Interest Group, *Zweckverband*, etc.) or private law entities (Foundation, association, etc.). The choice for a public or private structure does not seem to have an impact in terms of fulfilment of the regulatory missions in an INTERREG programme. They all have their particularities, advantages and inconveniences, in function of the circumstances under which the programmes are carried out.

However, in order to provide a common and unique legal form to all the programmes willing to go for a joint management, the European Commission proposed a new regulatory instrument, the ‘European Grouping of Territorial Cooperation’ (EGTC)⁹⁰. Although this instrument can be used for cross-border cooperation actions in general, the EGTC’s tasks ‘*shall be limited primarily to the implementation of territorial cooperation programmes or projects co-financed by the Community through the ERDF, the ESF and/or the Cohesion Fund*’. We will examine below the advantages and inconveniences of this new legal form in order to make clear its potentialities.

⁹⁰ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC).

4.2.2 The impact of the Community new legal tool (EGTC)

The European Grouping of Territorial Cooperation (EGTC) is *'a cooperation instrument at Community level, for the creation of cooperative groups in Community territory, invested with legal personality, in order to overcome the obstacles hindering territorial cooperation. Recourse to an EGTC should be optional'*⁹¹.

Mrs Danuta Hübner, Regional Policy Commissioner, indicated at a conference⁹² in August 2006 that *'Our experience with INTERREG has demonstrated the need for fully joint structures for managing such programmes (...). In this role, an EGTC would operate just like any other Managing Authority – with the added bonus that it would be genuinely joint, representing both sides of the border'*.

As a matter of fact, the EGTC is mainly aimed as an instrument to manage INTERREG programmes and projects and should thus be considered carefully.

The main characteristics of the EGTC (scope, applicable law, setting-up procedures, management procedures, etc.) are presented on the INTERACT Website, in the new section '2007-2013'⁹³.

We will here focus on the main advantages and disadvantages of this new tool, to be considered as elements to reflect on for programme partners.

A) Advantages and limits of the use of the EGTC tool

The table which figures below aims at providing a parallel comparison of the advantages and inconveniences of this structure. It is necessary to note in relevance to this, that the different elements are not presented in a hierarchical way.

⁹¹ Paragraph 8 of the Preamble of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC).

⁹² Conference 'Prosperity and sustainability – local cooperation in the Baltic Sea Region', Visby (SE), 17 August 2006.

⁹³ <http://www.interact-eu.net/1177144/1177146/0/0>

ADVANTAGES

Advantage No 1

The EGCT responds without doubt to a necessity to have at our disposal a legal institutional tool of cooperation that derives from Community law. It provides a common legal basis to all local and regional authorities and Member States, and is applicable in all Member States, even in those that have not signed the Madrid convention, its additional protocols or specific bi- or multilateral agreements. The EGTC is a tool specifically conceived for the management of European Territorial Cooperation programmes and corresponds appropriately to its objectives.

Advantage No 2

This Regulation, in its Article 1(4), confers explicitly the *'legal personality'* to the EGTC in a way that it *'shall have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law'*.

Advantage No 3

The rules relating to the composition of the grouping allow the participation of all types of *'bodies governed by public law'* and aim particularly at the *'Member States'*, the *'regional'* and the *'local authorities'* (Article 3).

Advantage No 4

The EGTC makes it possible to avoid the use of private law bodies, which raises legal potentialities in the framework of the exercise of public competences by delegation of its Members.

LIMITS

Limit No 1

BUT, the possibility that other legal sources may be applied (EGTC convention and statutes, domestic law of the Member State in which the structure has its registered office) is not excluded by the Article 2 of the Regulation, without specifying the hierarchical order of the different legal provisions (the Member States are responsible, according to the article 16, for taking the relevant dispositions in order to guarantee the effective implementation of this Regulation).

Limit No 2

BUT, acquisition of legal personality of the grouping remains conditioned by a process of registration and/or publication of the statutes, in accordance with the national law of the State of the EGTC (Article 5), whereas the publication in the Official Journal of the European Union, which is compulsory, could take up this responsibility.

Limit No 3

BUT, the private law entities do not figure amongst the potential EGTC members. However the procedure of notification submits all prospective members to a State authorisation concerning their participation in the grouping. There is at least a risk to delay the procedure of the EGTC constitution due to the fact that the deadlines to be respected from the States for authorising participation lack precision (*'the Member State shall, as a general rule, reach its decision within a deadline of three months...'* (Article 4(3)).

Limit No 4

BUT, this is also a limit as the private structures may be more flexible. For some programmes such flexibility is essential.

ADVANTAGES

Advantage No 5

The missions entrusted to the EGTC mainly relate to *'the implementation of territorial cooperation programmes or projects co-financed by the Community'* (Article 7(3)), which makes the EGTC a tool liable to bring improvement and efficiency in the economic and social cohesion policy.

Advantage No 6

The organisation of such a grouping should lead to a more efficient management of the INTERREG programme, by clarifying the responsibilities, as the Regulation provides only for two organs: an assembly of representatives of its members and a director (Article 10).

Advantage No 7

The EGTC provides an official 'label' recognised by the European Commission, which should help to increase the visibility of the programme.

Advantage No 8

The EGTC allows the partners to make use of a legal instrument integrated in their domestic law. It should allow avoiding some technical difficulties, mainly in terms of recruitment of public staff from the other Member States (possibility of secondment).

LIMITS

Limit No 5

BUT, a definition of the missions of an EGTC does not include *'the exercise of powers conferred by public law'* or the *'duties whose object is to safeguard the general interests of the State or of other public authorities'* (Article 7(4) of the Regulation), which means that it will be difficult to attribute other missions of cooperation to such a grouping.

Limit No 6

BUT, the Regulation does not mention in detail the conditions under which an EGTC cohabits with the existing cross-border organisations or with new structures to be created in the future.

Limit No 7

BUT, it is probable that this tool provokes some distrust, mainly due to the fact that the EGTC system contains some legal loopholes.

Limit No 8

BUT, the EGTC does not provide solutions to all problems and largely relies on the domestic law of the State of registered office. In addition, the process for creating an EGTC risks being a rather long one.

B) Prospects linked to the EGTC

A priori, the EGTC appears as an interesting solution for the management of an INTERREG programme. However, as a result of a careful examination, it can be stated that this tool does not provide solutions to all the problems, as the EGTC will not allow creating easily a structure which will be immediately integrated, without making use of the domestic public law of the State of registered office. Nevertheless, it would have been illusory and even counterproductive to impose a common solution, as the management of an INTERREG programme implies the respect

of its specificities. The **optional nature** of the EGTC is thus well adapted to the particularity of INTERREG.

Moreover, this solution still has to prove its efficiency and particularly to convince the partners used to cooperating together for a number of years. In effect, through the interviews, in particular, carried out with the different persons responsible for the programmes (see details in Part 3), we could notice that an important number of programmes are satisfied with their current organisation and with the legal tools for cross-border cooperation which are at their disposal.

In relevance to this, the fact that this new tool has the form of a Community Regulation could reduce the reluctance of some partners to joint a structure of this type, even if has its registered office in another State. Therefore, in the course of the interviews carried out for the survey, some programmes, as for example the successor of the **France-Wallonia-Flanders** Programme or the **Spain – Portugal** Programme did not *a priori* exclude this possibility for the future, even if no decision has been taken to this day. If we summarise, the survey showed that the EGTC option was well received by the different programmes whereas, some others had already excluded it, as they considered that this tool was of little use to them, in a context of long and already well-structured cooperation.

In conclusion, we can deduce from this analysis that the EGTC is, in theory, an interesting tool and that **some programmes will without doubt be interested in making use of it**. In effect, if some programmes make the choice of this type of organisation, they will serve as an example to those which do not wish to be implicated in a process which risks delaying the starting of the programme or leading, after a number of years, to a difficult transition period (as experienced for instance by the IIIA Programmes PAM-INA and Saarland – Mosel (Lorraine) – Western Palatinate). Nevertheless, taking into consideration the fact that this tool is recent, it is at present difficult to have an objective view on it. It is necessary to wait a number of years in order to evaluate its real value, which will be done by the European Commission in 2011.

4.3 Participation of a cross-border cooperation structure in programme management – advantages and inconveniences

The previous analysis showed to what extent it was important to implicate the cross-border cooperation structures to the management of an INTERREG programme, even if implicating them can present some difficulties. Besides the participation of these structures in the exercising of the functions of administrative bodies, (MA, CA, etc.), such a structure can also participate in a programme as Intermediate Body, project promoter, managing body for a Small Projects Fund, etc. The advantages and inconveniences of the different implications are summarised below. It is necessary to note that each structure has its particularities and that some aspects considered as positive for a programme may be negative for another and *vice versa*.

The implication of a cross-border cooperation structure in the management of an INTERREG programme can therefore be a solution as it aims at implementing the management of the programme in the most appropriate way and enhance the participation of the civil society. On the contrary, in some areas of recent cooperation, it is the INTERREG programme that appears first, and can subsequently favour the development of cross-border cooperation.

As for the participation of existing joint cooperation structures in INTERREG programmes is concerned, the programme partners must first consider the capacity of these structures to carry out INTERREG missions and must all agree on this transfer. After that, they can determine the extent of missions to be transferred to the joint structures: this can range from the promotion of the programme in the border area to the transfer of one or all management functions (MA, CA, AA, and JTS).

Note: The advantages and disadvantages listed hereafter are not necessarily a reflection of reality but they provide for general advice and warning elements, to be considered for future reflection. Indeed, the theoretical disad-

vantages of a system can be overcome by programme practices, while its advantages may be e.g. misused or neglected.

The positive aspects

- The cross-border cooperation bodies make the programme benefit from the **experience** they have in terms of cooperation. This adds value to the programme and makes it, in practice, more efficient.
- These bodies offer a real **knowledge in the field**, as well as a good knowledge of the participants from each side of the border, which makes easier the promotion and monitoring of the programme.
- They are often in charge of other **cross-border projects outside INTERREG**, and this interface position can be a source of synergy between the INTERREG programme and other types of cooperation.
- **Continuity:** If INTERREG would disappear in the future, at least these bodies could 'survive' and guarantee the continuity of cooperation in the area.
- **Extension:** They extend the cooperation perspectives and objectives, by avoiding being 'obsessed' by the Community funds of the INTERREG programme. They contribute therefore in providing a more strategic vision of the cross-border area.
- The management of a **Small Projects Fund** by such a structure contributes to a great extent in reinforcing its management capacity and its knowledge of EU rules. It also allows developing proximity links through the organisation of local micro-projects.
- The implication of these structures can **increase possibilities of co-financing or political support** to the projects submitted in the INTERREG framework. These structures can also become themselves project owners and be responsible for the concrete implementation of the project (e.g. contracting of works), on behalf of their members

The negative points

- These bodies are **lacking at times experience in the management of Structural Funds**, which is very specific.
- We can notice in some cases the risk that **cooperation in favour of the institutional partners** monopolises the field, to the detriment of cooperation with civil society, whereas INTERREG encourages civil involvement. This type of trend is apparent in the choice of INTERREG projects supported.
- The implication of these bodies can sometimes lead to a risk of **confusion** between the general INTERREG and ERDF objectives in the framework of the economic and social cohesion policy and the specific objectives of the cooperation area, outside INTERREG. This confusion can be reinforced by the presence in these structures of partners with various statutes and different political legitimacy. Also observable is popular confusion by the population between the terms 'programme' and 'structure', especially when the programme and the structure have the same name (e.g. Euregio Meuse-Rhine).
- Cooperation structures risk becoming **financially 'dependent' on the INTERREG programme**, which could affect the orientation of their strategy and actions towards INTERREG only.

4.4 Recommendations and decision-making tools

The different elements provided from the Parts 2 and 3 of this study showed that a perfect model of organisation and legal structuring of the programme does not really exist. Each programme, depending on the area covered, its partners and its experience in cooperation have a number of particularities which means that an ideal model of organisation for one programme may not be adapted to another. This is the reason why it would be illusory to fix an ideal common model, but it would be more realistic to establish a list of recommendations depending on the nature of the programmes.

4.4.1 Good practices identified by the programmes

During the survey carried out in the framework of this study, some programme managers mentioned elements of good practice which they have already tested and suggest to other programmes. The object of this part of the study is to detail the good practices and then summarise the elements into recommendation points adapted to the different types of programmes.

It has to be noted that the previous part dedicated to the programmes managed by joint cross-border cooperation structures constitutes one of the possibilities considered. Therefore, the good practices mentioned below derive from the different models of organisation which have structured the approach of the study: State, regional or cross-border.

A) The good practices recommended by the programme leaders

The **EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north** Programme puts accent on good practices linked to the original organisation of this programme which is based on the cooperation of three Euroregions. Those responsible for the programme underline the efficient functioning of the programme's structuring but they also admit that this model is really linked to their history and that it would be difficult to adapt it to other programmes. The good practices therefore identified are the following:

- **Good practice No 1:** Favour the *bottom up* approach in the organisation of the management of the programmes rather than the *top down* approach. In effect, we often meet problems in cases where the central level State imposes a structure of cross-border cooperation or a system of programme management on the regional level, which is not prepared. In this case, it is necessary to implicate the regional and local actors, since they have an essential role in carrying out effectively the implementation of the programmes.
- **Good practice No 2:** Increase communication between partners, in particular in the phase of setting-up of a new legal structure.
- **Good practice No 3:** Ensure that the European Commission's requirements concerning the cross-border aspects of the programmes are respected. The programme only supports projects with a partner from each side of the border; all programme partners are active and involved in the programme.
- **Good practice No 4:** Ensure the clarity of the missions and responsibilities shared, by establishing a system of convention between programme partners. As a matter of fact, it is important to have reference documents that can be used in any case and by all signatories, especially in case of problem, so as to know how to solve the problem.

For the **Italy – Austria** Programme, the good practices recommended are the following:

- **Good practice No 1:** Provide a common framework to the project selection procedures within the territory of the programme.
- **Good practice No 2:** Create a monitoring system which is independent of a third party (Ministry for example).
- **Good practice No 3:** Make access to the programme possible to several categories of project applicants: do not limit either to the public participants or to the private ones.
- **Good practice No 4:** Limit the budget of certain regions in order to favour a financial balance of the resources on the territory and avoid funding to be excessively concentrated on a particular zone.

The **Italy – Slovenia** Programme accentuates the importance for cooperation to be carried out by structures having a solid capacity, together with a limited number of sub-structures and a clarified sharing of their respective duties and responsibilities.

In order to achieve effective communication between the partners, the **PAMINA** Programme introduced an interesting novelty by bringing the MA and the PA geographically closer to the JTS. The programme also provided for a weekly meeting between the MA, the PA and the JTS in order to favour coordination of the programme bodies.

The **Saarland – Mosel (Lorraine) – Western Palatinate** Programme elaborated several extremely integrated procedures which allowed developing new common working methods between the partners of the programme (common project planning and lobbying, concerted monitoring of the project, etc.). Such integrated procedures are in particular the following: applications and assessment in two different languages, unanimity rule in the project selection procedure. The implementation of such procedures is interesting as it favours the quality of cooperation between the national partners of the programme and gives birth to a concerted mode of management of the programme. However, this good practice presents some inconveniences, namely that the procedures are rather long. The programme suggests the following good practices:

- **Good practice No 1:** Be particularly attentive on the use of different languages and its consequences on the staff of the management and coordination authorities.
- **Good practice No 2:** Pay attention to the consequences of a too strict use of Lead Partner Principle.
- **Good practice No 3:** Increase awareness of the project Lead Partner and its partner's right from the beginning of the project to the different constraints of the programme, particularly about the n+2 rules and the reporting requirements.
- **Good practice No 4:** Provide for flexible procedures in the framework of the decision making within the Steering Committee.
- **Good practice No 5:** Choose rapid financial circuits for the transfer of funds to final beneficiaries.

- **Good practice No 6:** Compose rapidly a group of independent persons responsible for the control and envisage, within this group, the exact role of the MA in the monitoring procedure.
- **Good practice No 7:** Do not neglect the workload involved in setting-up a structure created *sui generis* in order to manage the programme (in terms of budgets and staff), and consult national legal experts about the consequences of the choice of this type of structure.

The **Oresund Region** Programme showed the added-value of involving all control services, especially the services in charge of second level control, from the beginning of the programme development. This good practice may prove to be interesting in the current phase of drafting of the new OPs.

The **Euregio Meuse-Rhine** Programme presented some good practices in terms of the functioning of the programme. In effect, in the framework of this programme, the Monitoring and Steering Committee meetings take place the same day, with largely identical membership.

The persons responsible for the **Southern Finland – Estonia** Programme noted that the general framework of the programme implementation has to be clarified in writing. Moreover, it is necessary to supervise on the regularity of the checks and the updating of the agreements, memorandums and procedures in order to improve the programme management. The regularity of the meetings between the partners of the programme is also essential in terms of communication and circulation of appropriate information.

At last, the **France-Wallonia-Flanders** Programme has a particular originality: the 'Cross-border Accompanying Committees'. The members of these committees meet every six months for each project, to discuss in presence of the project Lead Partner, the project managers of the concerned regional technical team and the controllers. The mission of this committee is to monitor each project individually and regularly. In practice, during the first committee, it is often question of the issue of eligibility. The following meetings are then focused on content issues, with the

analysis of the progress reports transmitted by the project Lead Partner and the identification of potential problems: if for example the project diverts from its original nature or if it is not sufficiently cross-border. It is therefore possible, through this method, to identify early the stagnant projects and provide a 'pedagogical' approach to the project Lead Partners.

From the different elements and the analysis carried out in the previous parts of this study, we can propose some recommendations for the legal structure and the organisation of the programmes, depending on the type of each one of them.

B) Recommendations adapted for each type of programme

Recommendations for the State management programmes

- **No 1:** Intensify the **share of missions** between partners within the programme, to avoid monopolisation and nationalisation of a programme by a single State authority.
- **No 2:** Avoid having a vision of cooperation that is **rigid or too diplomatic**.
- **No 3:** Provide **assistance** to the regional and local partners in order to simplify the programme procedure (in terms of expertise, human and financial resources and the procedure itself).
- **No 4:** Ensure that the **national rules** are adapted to cross-border specificities.
- **No 5:** Extend the competences of the local authorities in the framework of the cross-border cooperation and the programme management by **transferring them some missions**.
- **No 6:** Be conscious of the fact that having the **responsibility** *in fine* of the Structural Funds does not mean you must/can control everything.

Recommendations for the regional management programmes

- **No 1:** It is important that the region ensuring the **leadership** of the programme remains impartial vis-à-vis the other participant regional partners (partners from the State in question or those from the other States). This recommendation also concerns the State management programmes.
- **No 2:** Ensure the implication of the members of the **civil society** in general without privileging the institutional partners. This recommendation also concerns the State management programmes.
- **No 3:** Avoid a strong 'regionalisation' of the programme by **leaving space** to regional and local partners of the other participating regions.
- **No 4:** Favour the **creation of cross-border cooperation bodies** which will have a specific role in project generation and development, as well as in the initiation of cross-border policies.
- **No 5:** Have a sufficient **decision-making capacity** and the capacity to assume **the legal, financial and political responsibility** of the programme.
- **No 6:** Raise **awareness of the elected representatives** on the importance of the INTERREG programme.

Recommendations for the cross-border management programmes

In the case of delegation of the programme management to an existent cross-border body:

- **No 1:** Choose a body having already some **experience** in the management of Structural Funds.
- **No 2:** Choose a body whose **legal form** allows it to manage Community funds (including open and manage a bank account), employ personnel and be part of litigations.
- **No 3:** Choose a body whose members and the area on which it intervenes correspond as much as possible to those of the INTERREG programme.

In case of creation of a new joint structure to manage the programme:

- **No 1:** The creation of the cross-border cooperation body should **not be an aim in itself**. In effect, the wish to obtain a legal and integrated *ad hoc* form should not be considered more important than the objectives of the cooperation and should not have a negative impact on the administrative and financial management of the programme.
- **No 2:** Anticipate the **duration of the setting-up**, which can delay slightly the starting of the programme and provoke a risk of automatic decommitment. It is also necessary to consider the measures that will have to be taken when the programme management is transferred from a body to another, in the course of the programming period: inform the population, inform and reassure the project owners, modify the grants.
- **No 3:** Accept and anticipate the **partners' questions** on the body's legal form.
- **No 4:** Ensure that the **partners of the programme participate in the management** of the structure. This does not mean however that the number of bodies and meetings should increase for no reason.
- **No 5:** Give a clear **definition** and officialise the **competences** and the **responsibilities** of the body.
- **No 6:** Pay particular attention to the **management of the cross-border permanent staff** of the structure.

Note: In the three cases, the management of the programme by a single body should not mean **appropriation** of the programme by it. The State, regional or cross-border body, if responsible for the implementation of the programme, assures this responsibility **on behalf of all the partners** and on the basis of the decisions taken unanimously by all partners of the MC and the SC.

4.4.2 Conclusion: general recommendations

In conclusion, the different elements gathered as a result of the observation on the INTERREG IIIA programmes give way to a number of recommendations which the leaders of the programmes, wishing to change their organisation or their legal form, could make use of, benefiting from the experience of the other programmes.

It is therefore necessary to **avoid spending too much time** on the implementation of a structure and as a result 'forget' the programme itself and provoke an automatic decommitment, as was the case for some programmes in the beginning of the current INTERREG III programming period. The effort required to create such a body could be compensated for confiding other cross-border missions to it.

It is necessary, however, to **spend time** on the clarification and the sharing of the missions and responsibilities amongst, in particular, the partner authorities, by mode of a convention between programme partners, which has to be prepared at the same time as the OP, thus ensuring that all the partners of the programme participate in its preparation.

In all cases, it is necessary to **always consider first the content of the missions and not the organisation and the legal form retained**, in order to have at one's disposal practical tools which are adapted and which will give the

possibility for the INTERREG programme to improve the daily implementation of cross-border cooperation as well as its institutionalisation.

CONCLUSION – general recommendations

- **No 1:** Make sure that there is a **clear share of the functions / missions / responsibilities** between partners of the programme. For this, it is necessary to have at one's disposal **conventions** which are sufficiently clear and which will be useful in cases where difficulties or litigations are raised in the framework of the management, even in the cases of programmes relying on strong mutual confidence.
- **No 2:** Supervise on the **communication** between the partners of the programme (do not hesitate to indicate any points that need to be clarified) and pay attention to the linguistic or intellectual pitfalls.
- **No 3:** Elaborate early **reporting and monitoring tools** (qualitative and quantitative) for the monitoring of the programme and make them known by the partners in order to re-orientate, if necessary, the programme management.
- **No 4:** Consider the **structural impact** of the programme and strengthen the notion of belonging to a common region.
- **No 5:** Treat the partners on an **equal level** (particularly, the partners from third countries or new Member States) and keep in mind that a programme is rarely managed on one same level. This helps the partners to have a multi-level governance perception of the cooperation.
- **No 6:** Support the **cross-border cooperation staff** that participates in the management of the programmes.
- **No 7:** Provide for and **anticipate** the future inescapable extinction of the INTERREG funds.
- **No 8:** Provide for a **harmonious legal, administrative, political and financial framework** which the INTERREG programme can become part of.
- **No 9:** Do not forget the **beneficiaries** (ensure clarity of the conventions, reinforce guidance and assistance) and avoid making them find themselves in a difficult position (treasury in particular) linked to the programme.

Glossary

Glossary

In case of difficulty in understanding technical words, please refer to the glossary realised by INTERACT Point Tool Box

This document is downloadable to the following address:
<http://www.interact-eu.net/226919/0/0/0>.

Acronyms

Acronyms

MA	Managing Authority
PA	Paying Authority
JTS	Joint Technical Secretariat
MC	Monitoring Committee
SC	Steering Committee
MSC	Monitoring and Steering Committee
CA	Certifying Authority
AA	Audit Authority
PIG	Public Interest Grouping
EGTC	European Grouping of Territorial Cooperation
EEIG	European Economic Interest Grouping
LGCC	Local Grouping of Cross-border Cooperation
CICC	Commission Interministérielle de Coordination des Contrôles (French authority)
EMR	Euregio Meuse-Rhine
BMG	Benelux-Middegebied (Euregio)
NRW	Nordrhein-Westfalen (North-Rhine/Westphalia)
CDC	Caisse des Dépôts et Consignations
HUR	Hovedstadensudviklingsraad

Annexes

Annex 1: The main interstate framework outline agreements of application of the Madrid Convention in the EU-15 and their legal instruments⁹⁴

Far-reaching cross-border cooperation agreements:

These agreements propose well-developed, mostly public-based legal instruments to the territorial authorities. What these agreements have in common is that they allow for the creation of a new type of public-law cross-border body, which does not originate from an already existing domestic law structure.

- **Benelux Convention** (1986) on cross-border cooperation between local or regional authorities, signed in the context of the Benelux Economic Union; this convention gives local and regional authorities the opportunity to organise their cooperation on a public law basis (and not only private law); Article 2 authorises the creation of an institution of public law (*Openbare lichaam*), which can take decisions that are binding on its members and it may be granted administrative and regulatory powers.
- **Anholt Agreement** (1991), between the Netherlands, Germany, the Land Nordrhein-Westfalen and the Land Lower Saxony; this Treaty makes it possible to create a public law cross-border structure, with a local purpose, by the regional or local authorities of the two countries, in order to take common cooperation actions on the basis of a public law convention, but without possibility to delegate regulatory or administrative powers to the structure (*Zweckverband* and *Openbare lichaam*); this Treaty also enables the cross-border use of the *Kommunale Arbeitsgemeinschaft*, local joint working community that can be given a legal personality under public law.
- **Mainz Agreement** (1996), between the Land Rheinland-Pfalz, the Land Nordrhein-Westfalen, the Walloon Region and the German-speaking Community

of Belgium; this is an infrastate agreement, signed by quasi-state level authorities of, though without the involvement of the central States; this Treaty uses the Anholt Agreement as a basis for proposing the establishment of a public law cross-border structure, for local ends (*Zweckverband* and *Openbare lichaam*); this Treaty also creates the *Kommunale Arbeitsgemeinschaft*, a local joint working community that can be given a legal personality under public law.

- **Karlsruhe Agreement** (1996) between Germany, France, Luxembourg and Switzerland; it not only does it allow local and regional authorities to establish cooperation agreements in their common area of competences, but it also sets up a Local Cross-border Cooperation Grouping (LCCG), integrated cross-border cooperation structure of public law, which resembles the cross-border structures of public law proposed in the Anholt Treaty, the Mayence Treaty and the Benelux Convention.
- **Agreement of Brussels** (2002): This agreement, signed between Belgium and France, set up a legal framework giving local and regional authorities the capacity to conclude conventions, the applicable rules for which are defined by the agreement; Article 8 of this Treaty also defines the cross-border cooperation bodies that can be created in the context of the agreement, either without legal personality (conferences, inter-municipal working groups, etc.) or with legal personality (open to foreign local and regional authorities if allowed by domestic law) such as the French Public Interest Groups (P.I.G.) or Local Mixed Economy Society (LMES); this Treaty also extends the use of the LCCG to the French-Belgian border⁹⁵.

⁹⁴ This classification is inspired by the one developed by the AEBR in its study presented in this study, 'Towards a new Community legal instrument facilitating public-law based transeuropean cooperation among territorial authorities in the European Union', March 2004. The dates indicated are the dates of signing of the agreement/convention. One should add that several agreements of these types have also been signed between new EU Member States (EU 25), but these agreements do not, as a general rule, provide for specific legal instruments for cross-border cooperation; as a result, these agreements would be classified in the last group 'comparatively weak cross-border cooperation agreements'.

⁹⁵ See Annex 3.

Agreements defining reciprocal cooperation conventions: These agreements give local and regional authorities legal instruments for cross-border cooperation, authorising public-law based cooperation without creating a new legal instrument for cross-border cooperation (use can be made of existing structures in each State).

- **Bayonne Treaty** (1995) between France and Spain, which allows for local and regional authorities in the two countries to conclude conventions, according to procedures established by the domestic law of their country, to create or manage public equipment or services in fields of common interest, and to create cooperation bodies (P.I.G., SEML under law French or *Consortio* under law Spanish) or to participate in existing bodies, with or without (public or private) legal personality, following the conditions laid out in the Treaty.
- **Valencia Treaty** (2003) between Portugal and Spain: The content of this Treaty is very similar to the content of the Bayonne Treaty, as it created the same opportunities for the cooperation actors, notably the possibility for the Spanish authorities to participate in ‘*Associação of Dreito Publico*’ or ‘*Empresa Intermunicipal*’ under Portuguese law.

Comparatively weaker cross-border cooperation agreements: These agreements are general declarations concerning the promotion of the cooperation in the area covered, which provide for the creation of intergovernmental cross-border cooperation commissions, but not the creation of public-law based cross-border structures (only the possibility of meeting within the context of a private law structure or a structure without legal personality):

- **Nordic Convention** (1977) between Sweden, Finland, Denmark and Norway.
- **Vienna Agreement** (1993) between Italy and Austria: This agreement lists the themes opened to cooperation.
- **Rome Agreement** (1993) between France and Italy: It only foresees one cross-border cooperation mechanism, the ‘Convention of cross-border cooperation’; however, in accordance with French law, the local and regional authorities are entitled to create cross-border P.I.G.s as well as EEIGs⁹⁶.

⁹⁶ See Annex 3.

Annex 2: The place for Euroregions in cross-border cooperation

The designation of cross-border cooperation structures and the peculiarities of the Euroregions

A characteristic element of the diversity of cross-border cooperation initiatives is that the names given to the organisations by their members differ a lot. There is no standard name for the cross-border cooperation initiatives and all the names encountered often refer to different realities. In this regard, it is especially important to underline that the same name may conceal different realities, at all levels, including the legal status of the structure.

Beside terms such as 'Working community', 'Council', 'Committee', 'Conference', 'Association', 'Region', 'Eurodistrict', there is a specific name that is frequently encountered, and which is being used more and more: *Euroregion*, which itself is spelt differently (*Euroregion*, but also *Euregion* or *Euregio*).

This name is particularly commonly used in the cross-border structures involved in INTERREG programmes. But what does this concept stand for?

Where does the name Euroregion come from?

Originally, this concept was developed by the Council of Europe and was used for the first time on the Dutch-German border. It is not a protected label or a specific type of cross-border structure. On the contrary, the name *Euroregion* or its different variations is very often used, notably to qualify the more recent types of cooperation developed in Central and Eastern European countries, without always corresponding to the same reality.

The name *Euroregion* is thus more a label which certainly refers to some common characteristics, examined later, but which above all covers very, especially legal, different realities. Proof of this is that some structures that show the main characteristics of a Euroregion are called something different. For instance, 'European districts', which are being set up in the French-German-Swiss border area, or the Øresund Committee on the border between Denmark

and Sweden. On the contrary, some areas have taken the label 'Euroregions' although they do not have the main characteristics that constitute a Euroregion.

Although this name must be handled carefully, it could be interesting here to propose some defining elements of a Euroregion.

Attempt at definition

According to the definition proposed in the report of the European Parliament dedicated to the role of Euroregions, 'the ultimate aim of Euroregions is to promote cross-border co-operation between border regions or other local entities of several countries that do not necessarily have to be Member States of the European Union, on aspects such as culture, tourism and economic issues'.

On its side, the AEBR (Association of European Border Regions) proposes the following criteria to define a Euroregion⁹⁷:

- Association of local and regional authorities from either side of the national border, sometimes having a general assembly;
- Cross-border association with a permanent secretariat and a technical and administrative team and its own resources:
 - in private law, based on non-profit making associations or foundations from any side of the border, in accordance with the relevant national legislation ;
 - in public law, based on interstate agreements, allowing in particular the participation of local and regional authorities.

The Euroregion, in fact, represents a cross-border cooperation initiative between local or regional authorities like any other. It does not constitute a new level of territorial administration but a cross-border interface between existing local and territorial authorities.

⁹⁷ <http://www.aebr.net/index.php>

Often, the Euroregion is the final outcome of a longstanding cooperation, which in the beginning had been set up between local authorities on informal bases and which has progressively developed until the signing of a more integrated agreement on cross-border cooperation, often in private law, between the future partners of the Euroregion.

As such, the Euroregion is one of the many tools used for the benefit of, cross-border cooperation, but with a certain number of common peculiarities that have arisen as this concept has developed.

A Euroregion can thus become involved in the management of an INTERREG programme, whether by carrying out some of the guidance, information and/or assessment tasks, or by taking over the more important functions of MA or PA of the programme.

Peculiarities of Euroregions: The difficulty of a common typology

Besides classification of cross-border structures from the point of view of their legal nature, M. Perkmann offers another distinction between the different structures, according to the size of the territory of cooperation in which they intervene. It distinguishes two types of cooperation in particular⁹⁸:

- On the one hand the Working communities (or similar structures), structures of multilateral cooperation created between 1975 and 1985, whose territory generally extends into several States, often made up of more than two or three regional or central level partners generally, and whose activity is limited to common declarations, the setting-up of working groups or information exchanges.
- On the other hand the Euroregions (or similar structures), structures of cooperation generally more recent, limited to more restricted territories, in which a more reduced number of, more local than regional, authorities participate. The integrated character of the structure in the legal structuring and the missions entrusted is generally more pronounced.

The disadvantage of this classification by size is that it does not always apply to all situations where in some cases Euroregions have, in some border areas, a larger territory than some Working communities.

Furthermore, a third type of cooperation can be added to these two geographic levels, on the more restricted level of 'territories', employment or cross-border living basins: agglomerations or cross-border urban regions, like the ones in Lille, Basel, Geneva, and also Öresund, MAHHL-cities (Maastricht, Aachen, Heerlen, Hasselt and Liège), etc.

It is also impossible to define a Euroregion by its legal status: it can be a community of interests without legal personality or an EEIG, a non-profit making association, or a working community without legal personality or it can have moral personality in public law. Actually, most existing Euroregions have no legal personality (this is the case in particular in a large majority of Euroregions which were created in Eastern and Central Europe, which are often a grouping, without legal status, of two or more associations of local and regional authorities from either side of the border). Thus, the typical Euroregion structures that are emerging are generally less integrated and autonomous than the older structures.

From the point of view of their organisation, the Euroregions are also different. Generally, the member regions of a Euroregion are grouped in a parliamentary assembly, often supported by a council or an executive office. A permanent structure (joint secretariat) ensures the coordination activities of the partners and of other bodies of the Euroregion. The implementation of common strategies is ensured by the institutions of the partner regions.

Most Euroregions structures with legal status are permanent, with their own separate identity, distinct from that of their members, their own action strategy as well as their own administrative, financial and human resources.

From the point of view of its competences, the Euroregion intervenes in the common fields of interest of its members. Its field of competence cannot exceed, in all cases, the

⁹⁸ Nomenclature proposed by M. Perkmann in his article (cf. Bibliography). There again, it is important to underline that the terms used to name cross-border cooperation are left to the appreciation of the partners and do not necessarily respond to a given logic;; thus, some forms of cooperation, called 'Euroregions', are actually closer to the definition of working communities.

field of competence of each member (principle of parallelism of competences).

As for their composition, it can be noted that Euroregions are more or less local structures, both in terms of territory and in terms of their members. However, in accordance with the administrative organisation of the States concerned, regional authorities, as well as, at times, other institutions (consultative chambers socio-economic actors, etc.) may also participate in Euroregions.

Which are the existing Euroregions?

The AEBR has established a list of Euroregions, split into three groups⁹⁹:

- The Euroregions in Scandinavia and around the Baltic Sea; These structures are generally named *Euroregio* but are very close to Euroregions in their organisation, (associations of local authorities, in the context of the Nordic Convention, with permanent structures, various objectives and activities, and their own resources); their area is often more restricted than in ‘classical’ Euroregions.
- The Euroregions in the rest of the EU: they have generally reached a high level of integration; in particular, the example of the cooperation space between Germany, the Netherlands and Belgium can be cited, which is one of the most integrated regions of Europe, entirely covered by Euroregion-type structures and which saw the creation of the first cross-border cooperation structures at the end of the 1950s; there we find:
 - o structures without legal status : Euregio Scheldemond (BE/NL);
 - o private law structures : EUREGIO (DE/NL) and Euregio Meuse-Rhine (NL/BE/DE),
 - o public law structures: Ems Dollart Region (DE/NL), Euregio Rijn-Waal (DE/NL) and Euregio Benelux Middengebied (NL/BE).
- The Euroregions in the new Member States: many of these structures have developed since the beginning of the 1990s; their particularity is that they are less integrated than the older Euroregions and they are quite often without legal status.

⁹⁹ <http://www.aebr.net/>

Annex 3: Legal instruments for cross-border cooperation – Examples of structures of cross-border cooperation

1. Examples of cross-border structures cooperation without legal personality

- *Euregio Steiermark/Styria – Slovenia (AT/SL):*

This is a meeting forum created in 2001, on the basis of cross-border cooperation without permanent structures and without legal personality, whose objective is to institutionalise the cooperation. The Euregio is made up of two regional development associations, one Austrian and one Slovenian, both called Euregio, which have signed private cooperation conventions between themselves.

The Euregio does not have neither its own budget nor the power to sign agreements, its members are sent by the two associations and the structure has an office on each side of the border.

At the level of its organisation, the Euregio has a bilateral Council (decision-making body), a management committee and operational authorities, such as regional development agencies or working groups, which work for the development of the programme.

- *Working community Alpe Adria (IT/AT/DE/SI/HU/CR)¹⁰⁰:*

The Alpe Adria working community was created in 1978, in order to institutionalise existing informal relationships between national, regional and local authorities of Austria, Italy and Former Yugoslavia. To date, it comprises 17 member authorities and its objective is the coordination of its members actions in common fields of interest (transport, energy and environment, spatial planning, etc.). It regularly publishes reports about the results of its activities.

The Working community has neither legal personality nor a common and central administrative institution; its functioning costs are borne by the member authorities.

It is composed of a general assembly, grouping the heads of government of the partner regions, steering board, secretariats and thematic commissions. In addition, two working groups were set up at the level of the steering board, whose objective is to manage the relations between the Working community and the European Union (promotion of exchange between the EU and third countries, consultation about the opinions of the partner authorities concerning the EU policies, support and promotion of cross-border projects notably in the framework of EU funding programmes).

- *Working community Galicia-Norte Portugal (ES/PT):*

In the cooperation territory between Spain and Portugal, different cooperation protocols were signed at regional level, between the Autonomous Community of Extremadura (ES) and the Portuguese regions of Alentejo (in 1992) and Centre (in 1994), as well as between the Autonomous Community of Andalusia (ES) and the region Algarve (PT) in 1995. These different protocols have allowed the creation of five working communities on this border, including the working community Galicia-Norte Portugal.

As consultation instruments without legal personality, these five communities each participate in the guidance of the INTERREG IIIA Spain – Portugal Programme in their own territory of intervention. These territories also correspond to the five sub-programmes of this same programme. Furthermore, the coordination office of the five working communities is co-financed by the INTERREG programme (with the objective to stimulate projects, to submit common projects, etc.).

- *Permanent cross-border cooperation conference for West Vlaanderen / Vlaanderen-Dunkerque – Côte d'Opale (FR/BE):*

¹⁰⁰ <http://www.alpeadria.org/>

Main permanent cooperation body between the two sides of this part of the French-Belgian border, the permanent conference was created in June 2005, thanks to the development of cooperation actions made possible by the INTERREG programme. It constitutes a platform for consultation, exchanges of experiences and also for the generation and implementation of common projects between the member authorities, which are essentially local (municipalities and associations of municipalities – networks of cities) and regional authorities, as well as socio-economic representatives (local development agencies etc.).

Cross-border thematic working groups are put in place so as to develop concrete projects, around a permanent conference made up of an equal number of French and Belgian members.

This platform should be the pre-cursor of a future European District (Cross-border Mixed Union).

2 Examples of structures of cross-border cooperation with a legal status of private law

- Association:

The creation of a cross-border association sometimes consists of two steps: firstly, the partner authorities of each country come together in an association or a public law structure at national level, and secondly, the two national structures join together with the partners in a common private law cross-border structure.

o Regio TriRhena (DE/FR/CH)

An example is the cooperation in the southern part of the French-German-Swiss border area, also called 'Regio TriRhena' which is formed as an association under German law (with a secretariat and staff located in a border building on the French side), but which is carried out by three associations located in each of the three countries.

This common association initiates cross-border cooperation projects; it also works with thematic working groups composed of the executives and elected members of the

local and regional authorities of the three countries. It should be noted that the partners of this space, limited to the cities of Colmar (FR), Freiburg (DE) and Basel (CH), are in the process of creating in 2006, two 'Eurodistricts' on more restricted areas.

o Kvarken Council (SE/FI)

Created in 1972, the Kvarken Council is an association of cross-border cooperation between Sweden and Finland. It is part of the Nordic Cooperation; its activities are partly financed by the Nordic Council of Ministers.

As JTS of the INTERREG IIIA Kvarken-Mittskandia Programme, the Council is made up of (local and regional public administrations), universities and labour organisations. It is organised around a council (decision-making body), an executive office and a secretariat led by a project director.

o Øresund Committee (DK/SE)¹⁰¹

The Øresund Committee was set up in 1993 on the basis of a cooperation dating back to the 1960s, with the objective of creating a permanent link between Sweden and Denmark by replacing pre-existing cooperation structures and by developing a common region and to position it on the international stage.

Set-up as an association ('Interest Group' in Danish law), the Øresund Committee is essentially financed by its members and by the Nordic Council. It is made up of 23 local and regional elected representatives, representing 13 member organisations (counties and municipalities).

o Association Euroregion Spree- Neiße- Bober e.V. (DE/CZ/PL)¹⁰²

The 'Neisse' Euroregion, a German law association, was set up to promote understanding between populations and the development of cooperation on the border between Germany, Poland and the Czech Republic (detection of problems, propose common solutions, advice, etc.).

¹⁰¹ <http://www.oresund.com/>

¹⁰² <http://www.euroregion-neisse.de/>

Made up of regional and local authorities, based around a general assembly, an executive office and working groups, it was the first form of cross-border cooperation in Central and Eastern Europe, created as early as 1991.

The 'Neisse' Euroregion actively participates in the implementation of INTERREG IIIA Saxony – Poland and Saxony – Czech Republic Programmes, in which it contributes to representing the local level; it gives its opinion on the projects and ensures the management of a Small Projects Fund.

- Foundation (or similar):

- o Euregio Meuse-Rhine (DE/NL/BE)¹⁰³

The informal association of border regions in this area, created in 1976 and entitled Euregio Meuse-Rhine (EMR), became a Dutch private law foundation in 1991 of with its registered office in Maastricht.

The EMR is made up of five regional authorities from Germany, the Netherlands and Belgium. It is organised around a steering board, a 'Euregional Council' with 81 members, of thematic commissions and of a secretariat.

The EMR is MA and PA of the INTERREG IIIA Euregio Meuse-Rhine Programme; its institutions are tasked with carrying out these functions but it can also be a significant source of proposals for new INTERREG projects.

- o NGO Co-operation Ireland (IE/UK registered charity)¹⁰⁴

Co-operation Ireland was created in 1979 by businessmen and entrepreneurs, in the middle of the troubles that marked the border region for many years, with the objective of promoting peace in a new way: by making use of a charity organisation to develop reciprocal understanding, contacts and common projects between the two parts of the island.

Since then, it has become one of the largest peace-building charity organisations in Ireland. It is financed essential-

ly by public donations and through the organisation of large events, as well as by subsidies from the British, Irish and American governments as well as from the EU.

Co-operation Ireland is a non-governmental charity organisation registered in the three countries: Ireland, the UK and the USA. It manages different exchange and cooperation programmes between the populations of the partner regions. For instance, it has been entrusted with the management of ERDF funds for Measure 3.1 of the INTERREG IIIA Ireland – Northern Ireland Programme (development of common infrastructures). It also has two offices that specifically deal with European questions, by giving advice and support to (potential) project applicants.

- Local Mixed Economy Society (LMES) of law French¹⁰⁵:

It is a society that associates public and private shareholders in the framework of a public limited company under French law.

The General Code of French Local and Regional Authorities allows French local and regional authorities to participate in such a company for the implementation of specific activities such as equipment and management of infrastructures. Since a law of December 2000, this same code also authorises the equal participation of foreign local and regional authorities within SEML (with half of the shares and half of the votes), which should facilitate the use of this instrument in the area of the cross-border cooperation.

The main limits of this tool are that its objectives and its missions are necessarily limited, and that any partner is obliged to contribute to the capital of the company. From a cross-border point of view, its use is limited by the fact that foreign authorities are not allowed to have more than half of the shares, which explains why there are very few examples of SEML with participation of foreign authorities.

Example: the inter-municipal association of economic development of Tournai-Ath (BE) holds 3% of the shares of the SEML of the Haute-Borne scientific park, which is located in

¹⁰³ http://www.euregio-mr.org/emr_site/index.php

¹⁰⁴ <http://www.cooperationireland.org/>

¹⁰⁵ For more information, please refer to the bibliography, and notably to the Report of the French Senate, No 29 (2005-2006) by M. Charles GUENÉ, from the working commission on laws, submitted on 19 October 2005, concerning the bill relating to the strengthening of decentralised cooperation in matters of international solidarity.

Villeneuve-d'Ascq (FR). The Centre 'Innovation & Exchange' of the scientific park also participate in the project I-NET-I in the context of the INTERREG IIIC Programme.

- European Economic Interest Grouping (EEIG) of EU law¹⁰⁶

To this date, the EEIG is one of the only two EU-law legal instruments available in this matter (Regulation (EC) No 2137/85 of 25 July 1985). However, if the Regulation defines some modalities of implementation of the EEIG, directly applicable in the EU Member States, this tool is also governed by the domestic law of the Member State where it has its registered office, for certain aspects such as the responsibility of the members of the grouping.

The main limit of the EEIG as a tool for cross-border cooperation is that its objective is exclusively economic: it must facilitate or develop the economic activity of its members. Although the Regulation foresees the use of this tool for cooperation between public authorities, the EEIG cannot be tasked with the implementation of purely administrative activities, instead its activities must be considered as being of an economic nature.

The commercial activity must therefore be the primary reason for the cooperation, which actually limits the use of this tool in cooperation territories and in the management of an INTERREG programme in particular. As a result, there is more frequent recourse to other better adapted tools. Firstly designed for companies, the EEIG is used, in matters of cross-border cooperation to support the economic dimension and the relations between companies, or for implementing cross-border projects in the field of common promotion of activities in the areas of tourism or urban development.

Its flexible use (quick setting-up without previous authorisation, possibility to adapt the statutes to each particular situation and to constitute an EEIG with or without capital) makes it a privileged instrument to carry out economic projects, especially since the use of this structure by local and regional authorities makes them eligible for INTERREG funding.

For instance, an EEIG was created between the Walloon Region (BE) and the Regional Council Nord Pas-de-Calais (FR) to cover the staff of the JTS of the INTERREG IIIB North West Europe Programme. Also, the EEIG of the Basque Eurocity ('Eurocité Basque') (FR/ES) is Lead Partner of projects supported in the framework of the INTERREG IIIA France – Spain Programme.

3 Examples of cross-border cooperation structures with a public law legal status based on the domestic law of a Member State

- The cross-border Public Interest Group (P.I.G.) of law French

Created by a French law in February 1992, on the basis of an existing French public law legal format (which was therefore solely usable in cooperation involving French partners), the cross-border version of the P.I.G. has public law moral personality, created by convention to serve as a framework, during a limited period of time; for the cooperation between public and private actors in various areas of intervention. It can be created in particular for common implementation and management, for a fixed duration, of actions required by cross-border cooperation projects and programmes.

The rules and procedures for the cross-border use of the P.I.G. were primarily set up for the specific purpose of creating legal structures for the management of EU funds in the context of INTERREG programmes.

For instance, the P.I.G. that currently manages the INTERREG IIIA Saarland – Mosel (Lorraine) – Western Palatinate Programme is an example of use of this legal form for the management of an INTERREG programme. It was created on 9 November 2004 for a five year period, as a French public law structure able to receive and manage European funds and national co-financing. Its members are the French Republic (*Prefect* of Lorraine), the General Council of Mosel (FR), the Ministry of Economy of the Land of Saarland (DE) and the Land Rheinland-Pfalz, gathered together in a general assembly, an administrative council, with a president, a director and a secretariat.

¹⁰⁶ *ibid*

The requirement for prior ministerial authorisation to its creation, the requirement for the registered office to be in France, the absence of parity in the representation of the partners (there must be a majority of French partners) as well as the control by French central level authorities of the structure are the main limits to the cross-border use of this solution, which explains the limited recourse to this instrument.

- The *Kommunale Arbeitsgemeinschaft* of German law

The use of this legal instrument of German public law for cross-border purposes is laid out in the Anholt Treaty (DE/NL) and the Mainz Treaty (DE/NL/BE). However, no example of effective implementation of this possibility in the context or on the territory of a INTERREG programme has been found.

4 Examples of cross-border cooperation structures with a public law legal status of based on an interstate agreement

- The *Consortio* of Spanish law: *Consortio Bidasoa-Txingudi*¹⁰⁷

The Bayonne Treaty between France and Spain sets out the possibility of using the *Consortio*, a Spanish public law instrument, in a cross-border context.

The *Consortio Bidasoa-Txingudi*, which brings together the cities of Hendaye (FR), Irun and Fontarrabie (ES), benefited from INTERREG funds when it was set-up in 1997. It is the first French-Spanish public cooperation body between local entities, for the implementation of different cooperation projects in the sectors of urban planning, culture and tourism. As stated in the statutes of the structure, it is an '*associative entity of local entities, with a legal personality and full legal capacity for the implementation of its objectives*' (article 2), subject to Spanish law.

The *Consortio Bidasoa-Txingudi* also takes the role of project Lead Partner in the context of the INTERREG IIIA France – Spain Programme.

- The *Openbare lichaaam* of Dutch law: *Euregio Benelux Middengebied*¹⁰⁸

The cross-border use of this structure, limited to the cooperation territory between Germany, Belgium, the Netherlands and Luxembourg, is laid out in the Benelux Convention, the Mainz Treaty and the Anholt Treaty. The *Openbare Lichaaam* is a national public law moral personality, which has the legal capacity and powers necessary for the implementation of the missions conferred on it (for instance, it can make binding decisions on its members and receive delegated administrative and regulatory powers).

The Benelux Middengebied (BE/NL) Euregio has had the status of *Grensoverschrijdend Openbare Lichaaam* (public law cross-border cooperation structure) since 2002, on the basis of the Benelux Convention. It was created for a limited duration (though this can be extended), specifically for participating in the management of an INTERREG programme.

The particularity of this structure is that its statutes specify that its objective is the financial management of INTERREG resources and other public resources. Its statutes also give the structure the legal capacity necessary to ensure the management of funds (implementation of activities, management of funds, payments, setting-up of working groups, etc.) and foresee an evaluation of the structure, with the aim of analysing the functioning of the structure and determining its future, which should be closely related to the future of the INTERREG programme: the existence of the structure and that of the INTERREG programme are thus closely interdependent.

Therefore, the Euregio Benelux Middengebied is entrusted with the management of one of the two sub-programmes of the INTERREG IIIA Flanders – Netherlands Programme. Other than the structured required for the INTERREG programme (Monitoring Committee, Steering Committee, and JTS), it does not have any other specific structures. The daily management of the structure is ensured by the government department of each regional partner, as well as by the secretariat of the structure, whose members are seconded by the five partners of the structure (five provinces, three in Belgium and two in the Netherlands).

¹⁰⁷ www.bidasoa-txingudi.com. For more information, please refer to the bibliography as well as to the study by Christian Bataillou (ICRESS, Université de Perpignan) about the '*Administrative Consortio – elements in view of a use in the framework of French-Spanish cross-border cooperation*', available on the Website of the digital library of the University of Perpignan, <http://ent2.univ-perp.fr/pde/>.

¹⁰⁸ <http://www.europawerkt.eu/>

- The Zweckverband of public law German: Euregio Rjin-Waal (DE/NL)¹⁰⁹ and Euregio rhine-meuse-north (DE/NL)¹¹⁰

Its cross-border use, limited to the cooperation territory between Germany, Belgium and the Netherlands, is set out in the by the Mainz Treaty and in the Anholt Treaty. The *Zweckverband* is a German public law instrument, a public law association, created by local and regional authorities of the partner countries for joint development of specific cooperation missions on the basis of a public law convention of, though without the possibility for these local authorities, to delegate regulatory or administrative powers to the *Zweckverband*.

The Rjin-Waal (DE/NL) Euregio and rhine-meuse-north (DE/NL) Euregio have *Zweckverband* status; they are all both in charge of the management of a sub-programme in the context of the INTERREG IIIA EUREGIO – Euregio Rhine-Waal – Euregio rhine-meuse-north Programme. In addition, the Euregio Rjin-Waal is also JTS of the programme. These two structures are strongly involved in the INTERREG programme and assure a certain number of responsibilities.

The Euregio Rjin-Waal was in the beginning a working community, which has developed until the adoption of the status of *Zweckverband* in 1993, on the basis of the Anholt Treaty. This legal form authorises the transfer of powers to the joint structure, which is a public legal entity with the capacity legal and the powers necessary to the implementation of its missions. Its members are essentially municipalities and regional authorities; it also comprises a management committee, a council, technical commissions, a secretariat and a control authority.

The Euregio rhine-meuse-north was first created as a coordination institution without legal status, attached to the city of Mönchengladbach (DE). It became a *Zweckverband* in 2003, on the basis of the Anholt Treaty, with a status independent of that of the city. Its members are essentially municipalities, regions and provinces. It has the powers necessary to carry out its missions, in particular the ability to hire personnel.

¹⁰⁹ <http://www.euregio.org/>

¹¹⁰ <http://www.euregio-rmn.de/>

¹¹¹ <http://www.regio-pamina.org/>

- The Local Cross-border Cooperation Grouping (LCCG): LCCG PAMINA¹¹¹

Establishment of the LCCG is laid out in the Karlsruhe Agreement of 1996 with its use is limited to the cooperation territory of between Germany, France, Luxembourg and Switzerland. It was recently extended to cooperation between France and Belgium by the Brussels Agreement (2002).

The LCCG can be created by local and regional authorities of two or more States with the aim of implementing general cross-border missions or services. Having a legal personality and financial autonomy, the grouping is subject to the domestic law of the State in which it has its registered office, and more particularly to the rules relating to inter-municipal cooperation structures (called 'EPCI' in France). If the registered office of the structure is not in France, a decision ('arrêté') by the 'Préfet' is necessary to allow the participation of a French authority in the grouping.

The LCCG PAMINA (FR/DE) was specifically created in 2003 to carry out the MA, PA and JTS missions of the INTERREG IIIA Programme PAMINA. Before, it was a simple working community without legal personality. It now has its own legal personality, legal capacity and its own resources. It brings together French and Germans partners within an assembly, an executive office and working groups, and it is managed by a president.

Other LCCGs exist, often involved in the management or the implementation of a cross-border project financed by INTERREG: For instance, the LGCC Centre-Hardt-Upper-Rhine (spatial planning and creation of a common network of leisure and tourism structures), the LGCC Wissembourg Bad-Bergzabern (exploitation of water table and implementation of a network of drinking water supply), etc.

Annex 4 : Sample group questionnaire

A. The management of your programme

Cross-border cooperation in the territory of the programme

- 1) How long has cross-border cooperation existed in the region (excluding INTERREG) and how long has the INTERREG programme been running?
- 2) What is the state of progress of your programme?
 - a) Programming rate
 - b) Consumption rate
 - c) Number of projects
- 3) How do you qualitatively quantify this cross-border cooperation (excluding the INTERREG programme) and in particular the impact of your programme on cooperation?
- 4) Are there sometimes points of disagreement between programme partners? If yes, on which subject(s)?

Partnership organisation of the programme

- 5) Please describe briefly, the bodies in charge of the following missions within your programme and the practical roles they fulfil.
 - a) MA:
 - b) PA:
 - c) JTS:
- 6) Besides these bodies, what other national partners or bodies (national correspondents, preparation and selection bodies, groups helping the project leader, cross-border cooperation bodies, etc.) participate in the programme in the following roles?

Functions	Partners
Guidance	
Project assessment	
Decision	
Monitoring	
Checking	
Programme level evaluation	

Any additional information:

- 7) How do you communicate and coordinate between programme partners (by intranet, regular meetings, practical guides, etc.)?
- 8) Does the programme encounter any particular difficulties carrying out these different functions? If yes, what type of problems (lack of written agreements between programme partners, clarification of the missions, allocated means etc.)?

Functions	Nature of the problems encountered
Guidance	
Project assessment	
Decision	
Monitoring	
Checking	
Evaluation	

Any additional information:

Involvement of one (or several) cross-border cooperation bodies in the management of the programme

- 9) Are one (or several) cross-border cooperation bodies (like Euroregion) involved in the implementation and management of the programme? If yes, for which functions?
- 10) If an ad hoc cross-border cooperation body was created to manage the programme: what difficulties were encountered when putting this body in place? What advice would you give to programmes wishing to set up similar cooperation?

Preparation for INTERREG IV

- 11) In total, what are the advantages/drawbacks of the current functioning of the INTERREG programme: specify from which perspective.
- From the perspective of the guidance and monitoring of the projects:
 - From the perspective of the management of the programme:
 - From the perspective of the cross-border impact of the programme:
- 12) Do you foresee any changes in the management of your programme for the next programming period (perimeter, objectives, missions, partnership, structures, etc.)?
- 13) What recommendations could you make to partners tasked with putting in place a new INTERREG programme (what errors to avoid? What good practices to implement)?

B. Legal aspects of your programme

Legal organisation of the programme (agreements/legal structures, etc.)

14) Outside Community regulations, what legal bases does your programme draw on? Please specify if these legal bases are specific to the programme.

a) *Internal legal bases:*

b) *Interstate agreements:*

c) *Specific implementation conventions/agreements between programme partners or authorities:*

15) Did you seek external help (legal advice) to put the legal structure of your programme in place?

Involvement of certain partners

16) What is the involvement of the respective national partners in the programme?

17) Did you create an ad hoc common legal structure to manage or participate in the management of the programme? If yes, on what legal bases (specific statutes, convention, etc.)?

18) Did a cross-border cooperation body pre-dating the programme participate in the management of the programme? If yes, on what legal bases (convention, etc.)?

Evaluation of the legal structuring

19) What is your opinion on the legal structuring of your programme?

a) *At the administrative management level of the programme*

b) *At the financial management level of the programme*

c) *On the level of your legal responsibility*

20) Did you encounter any particular legal problems in the implementation of your programme? At which level?

a) *At the level of the joint legal structure put in place (if applies)?*

b) *At the level of the exercise of its missions by the MA?*

c) *At the level of the exercise of its missions by the PA?*

d) *At the level of relations between authorities or partners to the programme?*

e) *Other:*

21) What (legal) advice would you give to partners tasked with preparing the legal structuring of a new INTERREG programme?

Preparation for INTERREG IV

- 22) What is your opinion on Community regulations currently framing the INTERREG programmes? Are they too detailed, too restrictive or, on the other hand, do you consider that they do not frame the legal management of the programme enough?
- 23) Do you foresee modification of the legal structure of your programme for the next programming period? At what level?
- a) *New agreement between programme partners or authorities?*
 - b) *Changes in the institutions in charge of the management missions of the programme (MA, AP/AC, etc.)?*
 - c) *Creation of a common cross-border body dedicated to the management of the programme or the transfer of the management to an existing cross-border body?*
 - d) *Other:*
- 24) Do you think the new legal structuring of the programmes foreseen in the new Community regulations (MA and CA in the same country, obligation to have an Audit Authority, etc.) is relevant?
- 25) What do you think of the new EGTC instrument? Will you make use of it? If yes, how? If no, why not?

Annex 5: Programme sheets – description of the bodies and organisational arrangements in all 64 INTERREG IIIA programmes

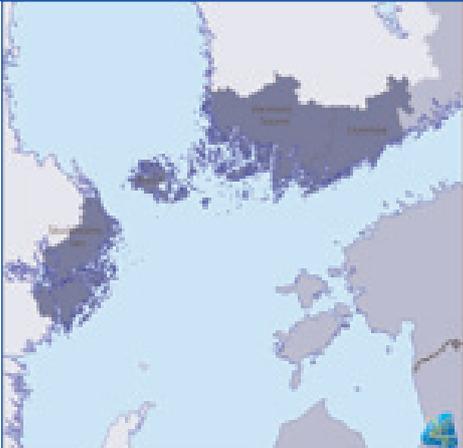
In order to elaborate these sheets presenting the organisation and the legal structure of the 64 INTERREG IIIA programmes, VIAREGIO made use of a number of documentary resources (cf. bibliography) as well as, for some of the programmes of the sample, information obtained by the interviews carried out or the questionnaires sent.

The information figuring on these sheets is in no case complete and is subject to a number of limits, particularly in terms of availability of documents. The symbol - - - indicates in the structure in question or does not exist, or that no specific information has been obtained on this structure.

Moreover, the list of the internal and external intermediate bodies participating to the implementation of the programme is not complete either: the aim here is simply to remind the principal technical units among the partners (internal IB) or the main cross-border cooperation structures or other external actors, other than the administrative bodies of the programme (MA, PA, JTS), participating in its management.

Nevertheless, these sheets allow giving an idea of the main characteristics of each of the INTERREG IIIA programmes in terms of organisation and legal structure.

Example of a programme description:

INTERREG IIIA 1 - Skargarden Finland, Sweden www.skargarden.com		
Managing Authority		
Identity	Legal status	Function carried out
Executive Council of Åland (FI)	Regional public authority	Traditional functions
Paying Authority		
Identity	Legal status	Function carried out
Executive Council of Åland (FI)	Regional public authority	Traditional functions
Joint Technical Secretariat		
Identity	Legal status	Function carried out
Executive Council of Åland (FI), with relays in some of the partner regions	Regional public authority	Traditional functions

'Internal' Intermediate Bodies – working within the partner offices		
Identity	Legal status	Function carried out
One Executive Committee of the programme – The Executive Office of the cross-border cooperation structure Archipelago Cooperation	Grouping of regional public authorities	Preparation of the applications before the Selection Committee, pre-assessment
'External' Intermediate Bodies – Cross-border cooperation structures		
Identity	Legal status	Function carried out
Archipelago cooperation	- - -	- Executive Committee of the programme - Participation in the guidance of the programme and main project owner
Other 'external' Intermediate Bodies		
Identity	Legal status	Function carried out
- - -	- - -	- - -
Framework agreement for cross-border cooperation on the territory		
Framework agreements of cooperation	- - -	
Conventions concerning the implementation of the programme		
Between States	Protocol Agreement signed between the Finnish and Swedish governments concerning the designation of the MA and the PA and the extent of their missions	
Between partner authorities or between MA/PA/JTS and partner authorities	INTERREG IIIA Agreement between the partner authorities of the programme concerning its implementation	
Between the MA and the State of registered office	- - -	
Between programme bodies (MA, PA, JTS)	- - -	

This complete annex is available on a separate CD-ROM included with this study.

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Bibliography and Internet links

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Assembly of European Regions: <http://www.a-e-r.org>. See in particular section dedicated to the EGTC: <http://www.a-e-r.org/fr/themes-majeurs/regional-partnership.html>

Association of Regional Border Regions (AEBR): <http://www.aebr.net>

INTERREG IIIA programmes websites - cf. list proposed on the INTERACT Programme to the following address: <http://www.interact-eu.net/604900/604902/656368/0>

INTERACT Programme Website – www.interact-eu.net, and notably studies realised:

- INTERACT Tool ‘Recommendations for the implementation of INTERREG III Subsidy Contracts’, <http://www.interact-eu.net/download/application/pdf/900390>
- INTERACT Tool ‘Good Practice INTERREG III: Comparative analysis of the eligibility of expenditure criteria’ - <http://www.interact-eu.net/479156/479287/675536/0>

List of Euroregions (Council of Europe):

http://www.coe.int/t/E/Legal_Affairs/Local_and_Regional_Democracy/Areas_of_Work/Transfrontier_Co-operation/Euroregions/List_of_Euroregions.asp#TopOfPage

Cross-border institutions located on the area of INTERREG IIIA programmes and/or involved in programme or project management:

1 – Skargarden (FI/SE)

- Skärgeardssamarbetet (<http://www.skargarden.com>)

2 – Kvarken – Mittskandia (FI/SE)

- Kvarken Council (<http://www.kvarken.org>)
- Barents Euro-Arctic Council-BEAC (<http://www.beac.st>)

3 – Austria – Germany/Bavaria (AT/DE)

- Euregio Bayerischer Wald Böhmerwald (<http://www.euregio.at> or <http://www.euregio-bayern.de>)
- Euregio Inn-Salzach (<http://www.inn-salzach-euregio.at> or <http://www.inn-salzach-euregio.de>)
- Euregio Salzburg-Berchtesgadener-Traunstein (<http://www.euregio.sbg.at>)
- Euregio Inntal (<http://www.euregio-inntal.com>)
- Euregio Zugspitze-Wetterstein-Karwendel (<http://www.euregio-inntal.com>)
- Euregio Via Salina (<http://www.euregio-via-salina.de>)

4 – Austria – Czech Republic (AT/CZ)

- Euregio Bayerischer Wald Böhmer Wald (<http://www.euregio.at>)
- Euregio Silva Nordica (<http://www.silvanortica.com/de>)
- Euregio Waldviertel (no website found)
- Euregio Weinviertel-Südmähren-Westslowakei (<http://http://www.euregio-weinviertel.org>)

5 – Austria – Slovenia (AT/SI)

- Euregio Steiermark-Styria (<http://www.euregio-steiermark.at>)
- Carnica-Region Rosental (<http://www.carnica-rosental.at>)

6 – Austria – Hungary (AT/HU)

- Euregio West/Nyugat Pannonia (<http://www.euregio.hu>)

7 – Austria – Slovakia (AT/SK)

- Euroregion Pomoravie (no website found)
- Euregio Weinviertel-Südmähren-Westslowakei (<http://www.euregio-weinviertel.org>)

8 – Sweden – Norway (SE/NO)

- ARKO (<http://www.arko-regionen.org>)
- Gränskommittén Östfold-Bohuslän-Dalsland (<http://www.granskommitten.org>)

9 – Ems Dollart Region (DE/NL)

- Ems Dollart Region (<http://www.edr-org.de>)

10 – Alpenrhein-Bodensee-Hochrhein (AT/CH/DE/LI)

- Arbeitsgemeinschaft Alpenländer (<http://www.argealp.org>)
- Internationale Bodenseekonferenz (<http://www.regio-bodensee.net>)
- Hochrhein Kommission (<http://www.hochrhein.org>)

11 – Saxony – Lower Silesia (DE/PL)

- Euroregion Neisse-Nisa-Nysa (<http://www.euroregion-neisse.de>)

12 – Saxony – Czech Republic (DE/CZ)

- Euroregion Neisse-Nisa-Nysa (<http://www.euroregion-neisse.de>)
- Euroregion Elbe-Labe (<http://www.euroregion-elbe-labe.de>)
- Euroregion Erzgebirge (<http://www.euroregion-erzgebirge.de>)
- Euregio Egreensis (<http://www.euregioegrensis.de>)

13 – EUREGIO – Euregio Rhine-Waal – euregio rhine-meuse-north (DE/NL)

- EUREGIO (<http://www.euregio.de>)
- Euregio Rhine-Waal (<http://www.euregio.org>)
- euregio rhine-meuse-north (<http://www.euregio-rmn.de>)

14 – Brandenburg – Lubuskie (DE/PL)

- Euregio Pro Europa Viadrina (<http://www.euroregion-viadrina.de> and <http://www.viadrina.org.pl>)
- Euroregion Spree-Neiße-Bober (<http://www.euroregion-snb.de>)

15 – Italy – Austria (IT/AT)

- Arbeitsgemeinschaft Alpenländer (<http://www.argealp.org>)
- Arbeitsgemeinschaft Alpen-Adria (<http://www.alpeadria.org>)

16 – Italy – France (ALCOTRA) (IT/FR)

- Communauté de Travail des Alpes Occidentales-COTRAO (no website found)
- Association of the French-Italian Alpine Conference (<http://www.cafiweb.net>)

17 – Italy – France (Islands) (IT/FR)

18 – Italy – Slovenia (IT/SI)

19 – Ireland – Northern Ireland (IE/UK)

- Special EU Programmes Body-SEUPB (<http://www.seupb.org>)
- Cooperation Ireland (<http://www.cooperationireland.org>)

20 – Ireland – Wales (IE/UK)

21 – PAMINA (FR/DE)

- GLCT REGIO PAMINA (<http://www.regio-pamina.org>)
- Conférence franco-germano-suisse du Rhin Supérieur (<http://www.conference-rhin-sup.org>)
- Conseil Rhénan (no website found)
- Infobest (<http://www.infobest.org>)

22 – Upper Rhine Centre-South (FR/DE)

- Regio Trirhena (<http://www.regiotrirhena.org>)
- Conférence franco-germano-suisse du Rhin Supérieur (<http://www.conference-rhin-sup.org>)
- Conseil Rhénan (<http://www.conseilrhenan.org>)
- Euro-Institut Kehl (<http://www.euroinstitut.org>)
- Infobest (<http://www.infobest.org>)
- Regio Basiliensis (<http://www.regbas.ch>)

23 – Bavaria – Czech Republic (DE/CZ)

- Euregio Bayerischer Wald Böhmer Wald (<http://www.euregio.at>)
- Euregio Egrensis (<http://www.euregioegrensis.de>)

24 – Fyn – K.E.R.N. (DK/DE)

25 – Sonderjylland – Schleswig (DK/DE)

- Region SonderjyllandSchleswig (<http://www.region.dk>)

26 – Storstrom – Ostholstein-Lubeck (DK/DE)

27 – Germany – Luxembourg – German Speaking Community of Belgium/Walloon Region (DE/LU/BE)

- EuRegion Saar-Lor-Lux Rhin (<http://www.euregio.lu>)
- Grande Région / Grossregion (<http://www.grande-region.net> and <http://www.grossregion.net>)

28 – Saarland – Mosel (Lorraine) – Western Palatinate (DE/FR)

- GIP INTERREG IIIA Saarland – Moselle (Lorraine) – Westpfalz (no website found)
- EuRegion Saar-Lor-Lux Rhin (<http://www.euregio.lu>)
- Grande Région / Grossregion (<http://www.grande-region.net> and <http://www.grossregion.net>)
- Zukunft/Avenir Saar-Moselle (<http://www.saarmoselle.org>)

29 – Spain – Portugal (ES/PT)

- Comunidad de trabajo Galicia-Norte de Portugal (<http://www.galicia-nortept.org>)
- Comunidad de trabajo Castilla y Leon - Norte de Portugal (<http://www.jcyl.es>)
- Comunidad de trabajo Castilla y Leon - Centro de Portugal (<http://www.jcyl.es> and <http://www.ccdr-n.pt>)
- Comunidad de trabajo Extremadura-Centro-Alentejo (<http://www.juntaex.es>)
- Comunidad de trabajo Andalucía-Alentejo-Algarve (no website found)

30 – Spain – Morocco (ES/MA)

- 31 – Italy – Switzerland (IT/CH)
- Regio Insubrica (<http://www.regioinsubrica.org>)
 - Regio Raetia Nova (no website found)
- 32 – Oresund Region (DK/SE)
- Öresundskomiteen (Öresund Committee) (<http://www.oresundskomiteen.dk>)
 - Euroregion Baltic (<http://www.eurobalt.org>)
- 33 – Greece – Albania (EL/AL)
- Euroregion Prespa-Ohrid (no website found)
- 34 – Greece – Former Yugoslav Republic of Macedonia (EL/MK*)
- Euroregion Belasica (no website found)
- 35 – Greece – Bulgaria (EL/BG)
- Euroregion Belasica (no website found)
 - Euroregion Nestos-Mesta (<http://www.euroregion.gr>)
- 36 – Greece – Cyprus (EL/CY)
- 37 – Mecklenburg-Vorpommern/Brandenburg – Western Pomerania (DE/PL)
- Euroregion Pomerania (<http://www.pomerania.net>)
- 38 – Euregio Meuse-Rhine (NL/BE/DE)
- Euregio Meuse-Rhine Foundation (<http://www.euregio-mr.eu>)
- 39 – Euregio Karelia (FI/RU)
- Euregio Karelia (<http://www.euregiokarelia.fi>)
 - Barents Euro-Arctic Council-BEAC (<http://www.beac.st>)
- 40 – South-East Finland – Russia (FI/RU)
- 41 – France – Switzerland (FR/CH)
- Conférence Transjurassienne (<http://www.arcjurassien-ctj.org>)
 - Conseil du Léman (<http://www.conseilduleman.org>)
 - Comité Régional Franco-genevois (<http://www.crfginfo.org>)
- 42 – France – Spain (FR/ES)
- Communauté de Travail des Pyrénées (<http://www.ctp.org>)
 - Consorcio Bidasoa-Txingudi (<http://www.bidasoa-txingudi.com>)
 - Eurocité basque San Sebastian-Bayonne (<http://www.eurocite.org>)
 - Euroregion Pyrenees-Mediterranean (<http://www.euroregion-epm.org>)

43 – North (FI/SE/NO/RU)

- Barents Euro-Arctic Council-BEAC (<http://www.beac.st>)
- Nordkalotten (North Calotte Council) (<http://www.nordkalottradet.nu>)
- Tornedalsraadet (<http://www.tornedalen.org>)

44 – Southern Finland – Estonia (FI/EE)

- Euregio Helsinki-Tallinn (<http://www.euregio-helta.org>)
- Finnish –Estonian co-operation 3+3 (no website found)

45 – Flanders – Netherlands (BE/NL)

- Euregio Scheldemond: <http://www.euregioscheldemond.be>
- Euregio Benelux Middengebied: <http://www.euregiobmg.com>
- Belgisch-Nederlands Grensoverleg-BENEGO (no website found)

46 – Wallonia – Lorraine – Luxembourg (BE/FR)

- EuRegion Saar-Lor-Lux Rhin (<http://www.euregio.lu>)
- Grande Région / Grossregion (<http://www.grande-region.net> and <http://www.grossregion.net>)
- Cities Network Quattropole (<http://www.quattropole.org>)

47 – Franco-British Programme (FR/UK)

- Arc Manche (<http://www.arcmanche.com>)
- Euroregion Kent - Nord-Pas-de-Calais – Belgique (no website found)
- Région Transmanche (<http://www.regiontransmanche.com>)

48 – Gibraltar – Morocco (UK/MA)

49 – France-Wallonia-Flanders (FR/BE)

- COPIT (Atelier transfrontalier Grootstad) (<http://www.copit-gpci.org>)
- Conférence permanente de coopération transfrontalière West Vlaanderen – Flandre – Dunkerque – Côte d’Opale (no website found)
- Euroregion Kent - Nord-Pas-de-Calais – Belgique (no website found)

50 – Italy – Albania (IT/AL)

51 – Greece – Italy (EL/IT)

52 – Greece – Turkey (EL/TR)

- Euroregion Evros-Meric-Maritsa (no website found)
- Euroregion Network Polis-Kent (no website found)
- Vorio Egeo – Turkey (no website found)
- Notio Egeo – Turkey (no website found)

53 – Adriatic New Neighbourhood Programme (IT/HR/BA/CS**/AL) (as approved by EC Decision C(2004)5554)

- Adriatic Euroregion (<http://www.adriaticeuroregion.org>)

54 – Czech Republic – Poland (CZ/PL)

- Euroregion Glacensis (<http://www.euroregion-glacensis.ng.pl>)
- Euroregion Silesia (<http://www.euroregion-silesia.pl> and <http://www.euroregion-silesia.sk>)
- Euroregion Beskydy (<http://www.euroregion-beskydy.cz> and <http://www.euroregion-beskydy.sk>)
- Euroregion Neisse-Nisa-Nysa (<http://www.euroregion-neisse.de>)
- Euroregion Praded-Pradziad (<http://www.europraded.cz>)
- Euroregion Tesinske Slazsko-Slask Cieszynski (<http://euroregion.infoereg.cz>)

55 – Poland – Slovakia (PL/SK)

- Euroregion Beskydy (<http://www.euroregion-beskydy.cz> and <http://www.euroregion-beskydy.sk>)
- Euroregion Tatry (<http://www.euroregion-tatry.pl> and <http://www.euroregion-tatry.sk>)
- Carpathian Euroregion (<http://www.carpathian.euroregion.org>)

56 – Slovakia – Czech Republic (SK/CZ)

- Euroregion Beskydy (<http://www.euroregion-beskydy.cz> and <http://www.euroregion-beskydy.sk>)
- Euroregion Bilé-Biele Karpaty (<http://www.erbbk.sk>)
- Euroregion Weinviertel-Südmähren-Westslowakei (<http://www.euregio-weinviertel.org>)

57 – Poland – Belarus – Ukraine (PL/BY/UA)

- Carpathian Euroregion (<http://www.carpathian.euroregion.org>)
- Euroregion Bug (<http://www.euroregionbug.lubelskie.pl>)
- Euroregion Niemen-Neman-Nemunas (<http://www.niemen.org.pl/euroregion/euroregion.php> and www.nemunas-euroreg.lt)
- Euroregion Puszcza Bialowieska (<http://www.euroregion-puszczabialowieska.prv.pl>)

58 – Lithuania – Poland – Kaliningrad (LT/PL/RU)

- Euroregion Baltic (<http://www.eurobalt.org>)
- Euroregion Niemen-Neman-Nemunas (<http://www.niemen.org.pl/euroregion/euroregion.php> and <http://www.nemunas-euroreg.lt>)

59 – Hungary – Slovakia – Ukraine (HU/SK/UA)

- Carpathian Euroregion (<http://www.carpathian.euroregion.org>)
- Euroregion Slana-Rimava (<http://www.euroregion-slana-rimava.sk>)
- Euroregion Podunajského Trojspolku (<http://www.euroregio.sk>)
- Euroregion Neogradiensis (<http://www.euroregion-neogradiensis.sk>)
- Euroregion Vah-Dunaj-Ipel (<http://www.euregio-vdi.sk>)

60 – Hungary – Romania – Serbia and Montenegro (HU/RO/CS**) (as approved by EC Decision C(2004)4155)

- Carpathian Euroregion (<http://www.carpathian.euroregion.org>)
- Euroregion Danube-Kris-Mures-Tisza (no website found)

61 – Slovenia – Hungary – Croatia (SI-HU-HR)

- Euroregion Danube-Drava-Sava (<http://www.ddseuro.org>)

62 – Italy – Malta (IT/MT)

63 – Estonia – Latvia – Russia (EE/LV/RU)

- Euroregion Baltic (<http://www.eurobalt.org>)
- Euroregion Saulò (<http://www.siauliai.aps.lt/saule/about.html>)

64 – Latvia – Lithuania – Belarus (LV/LT/BY)

- Euroregion Baltic (<http://www.eurobalt.org>)
- Euroregion Niemen-Neman-Nemunas (<http://www.niemen.org.pl/euroregion/euroregion.php> and <http://www.nemunus-euroreg.lt>)
- Euroregion Country of Lakes (no website found)
- Euroregion Saulò (<http://www.siauliai.aps.lt/saule/about.html>)

* Provisional code which does not prejudice in any way the definitive nomenclature for this country, which will be agreed following the conclusion of negotiations currently taking place on this subject at the United Nations.

** Including Kosovo, under the auspices of the United Nations, pursuant to UN Security Council Resolution 1244 of 10 June 1999.

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