

EGTC – the EU's new instrument of European Territorial Cooperation Programmes

Master Thesis

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Eisenstadt, on 06.06.2009

Declaration of Authenticity

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Abstract

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The aim of this paper is to describe and analyse the recent legal instrument provided by the European Union regarding territorial cooperation that can be observed on the international and supranational level in Europe: the EC Regulation on a European grouping of territorial cooperation (EGTC) adopted in 2006. In the paper, the evolution of the territorial cooperation in the European Union is described. Different instruments are presented to illustrate the possibilities of territorial cooperation before the introduction of the Regulation on an EGTC. The paper presents a recently created EGTC on the Hungarian-Slovak border, the Ister-Granum EGTC. It discusses the advantages of the creation of this legal status applying for the Ister-Granum EGTC and aims to recognise its weaknesses. It also investigates in which aspects the EGTC can bring new dimensions into cross-border cooperation projects. Concrete examples of cross-border cooperation projects are presented and the facilitation of territorial cooperation projects by the EGTC is demonstrated.

Keywords: territorial cooperation, cross-border cooperation, European groupings of territorial cooperation, EGTC, multi-level governance

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1. Introduction

1.1 Background

In the Community Strategic Guidelines on Cohesion¹, the territorial dimension of cohesion policy is seen as having the potential to help the development of sustainable communities and to prevent uneven regional development from reducing overall growth potential.

In the programming period 2007-2013, the European Territorial Cooperation (ETC) is becoming the third objective of the European Union's Regional policy, and together with the Convergence and Competitiveness objectives receives significant place in the actions taken by the European Union (EU) to achieve the Lisbon strategy.

Cross-border cooperation, supported to a great extent by the European cohesion policy, is one of the most successful actions undertaken on the European territory. However, during the last years it has become more evident that a legal framework is needed to structure it and to enhance its positive results.²

During the existence of the Interreg Community Initiative Programmes supporting cross-border, interregional and transnational cooperation, it became evident that there are serious barriers of legal and political nature, hindering the cooperation of cross-border regions in the EU, generally called border effects.

To facilitate and follow up the implementation of territorial cooperation actions in the EU and in order to overcome the obstacles hindering territorial cooperation the European Parliament and Council, acting under the co-decision procedure, adopted a new

¹ COM (2005) 0299: Community Strategic Guidelines, 2007-2013, p.30

² Jan Olbrycht, MEP Vice-Chairman of Regional Development Committee, European Parliament's rapporteur on the EGTC regulation, http://www.espaces-transfrontaliers.org/docdivers/actu_com_Cahier_GECT_EN.pdf, 2.5.2009

Regulation enabling the creation of a cooperation instrument with legal personality called the European Grouping of Territorial Cooperation (EGTC)³.

The new tool of the EU provides a legal framework for future territorial cooperations, improves cross-border, trans-national and/or interregional cooperations between its members and promotes economic and social cohesion in the EU.

1.2 Objectives and Benefits

The aim of this paper is to describe and analyse the recent legal instrument provided by the EU regarding territorial cooperation that can be observed on the international and supranational level in Europe: the EC Regulation on an EGTC adopted in 2006. Which future perspectives for territorial cooperation in Europe does this new tool offer and what could be the added value of having this legal status? These questions are aimed to be answered by describing and analysing the creation of the Ister-Granum EGTC, previously functioning as a Euroregion at the Hungarian-Slovak border. How did this step influence their cross-border activities and facilitate implementation of projects? What did they expect to be the main improvement by the regulation on EGTC in comparison with their previous form of cooperation, the Euroregion, regarding concrete implications for their ongoing or future cooperation projects?

The paper is also aimed to discuss the advantages of the creation of this legal status applying for the Ister-Granum EGTC and to recognise its weaknesses. It also investigates the aspects in which the EGTC can bring new dimensions into cross-border cooperation projects.

Is the EGTC a tool that can facilitate territorial cooperation in the border regions of the European Union, is it an instrument that helps to overcome difficulties in the implementation of European Territorial Cooperation projects?

These are the issues that are going to be dealt with.

³ Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC)

1.3 Methodology and structure

1.3.1 Methodology

To describe the EGTC as a legal instrument and its use for ETC programmes and projects, analytical methods were used.

For the collection of data about the Ister-Granum EGTC a qualitative method was used. To get answers to the academic questions, a questionnaire was prepared and provided to a member of the Ister-Granum EGTC (the director of the Ister-Granum Regional Development Agency and at the same time one of the main initiators of the establishment of the former Euroregion and the present EGTC). The questionnaire was structured to answer the main questions that had arisen at the initial stage of research; nevertheless the paper was prepared by constant communication with the key actors of the cooperation (mainly with the director of the Ister-Granum Regional Development Agency, but also with the mayor of Štúrovo and the present director of the Ister-Granum EGTC).

This method is considered to be appropriate since the interviews and discussions undertaken have provided an in-depth understanding of the subject matter

1.3.2 Structure of the Master Thesis

In the theoretical part of the master thesis the evolution of the territorial cooperation in the EU is described. Different instruments are presented to illustrate the possibilities of territorial cooperation before the introduction of the EGTC; among others the Madrid Outline Convention, the Interreg Community Initiative Programmes and other community instruments are mentioned. This part also introduces the EU's new legal instrument, the Regulation on the EGTC and its features. The basic characteristics of the Regulation are listed together with its expected advantages and disadvantages.

The analytical part of the paper presents a recently created EGTC on the Hungarian-Slovak border, the Ister-Granum EGTC. The history of the region introduces the motivation of the cross-border region to set up an EGTC, and the steps to reach this

goal are described. The nature of the Ister-Granum EGTC is explained by illustrating its' objectives, structure and financial issues. In this part the perceived added value of this form of cooperation by the Ister-Granum EGTC is discussed.

In the forth chapter concrete examples of cross-border cooperation projects are presented and the facilitation of territorial cooperation projects by the EGTC is demonstrated. The expected advantages and disadvantages of this legal instrument are discussed and applied to the model of the Ister-Granum EGTC.

The conclusion of the thesis is dedicated to philosophical reflections on future implications of the Regulation on the EGTC, as a possible tool of new European governance.

2. EGTC – a new instrument of ETC programmes

2.1 Territorial cooperation in the European Union

Europe is characterized not only by its diverse, but nevertheless often shared culture and history, but also by its many borders. The patchwork of historic landscapes forming during the Middle Ages developed during the 19th and 20th centuries into the characteristic structure of European states. Different policies on either side of the border, especially concerning law, administration, taxation, economics, culture and social affairs, supported the transformation from state borders into actually noticeable barriers between national states. The people in the border regions, who were most affected by the consequences of historic conflicts, developed mutual fears and animosities. These conditions, in turn, had negative effects on the willingness to cooperate and to establish closer contacts.⁴

Although the EC Treaty does not lay down any basis for specific powers in the field of territorial cooperation⁵, Europe already has a long-standing tradition of cooperation between regional and local authorities on opposite sides of its national borders. Whilst cross-border cooperation in particular is already decades old, transnational and interregional cooperation has also become increasingly important over the past 10 to 15 years in the context of EU programmes.⁶

The key focal point of the European integration process has been to considerably reduce the importance of national borders for European economic players, in order to create a large market in which national borders no longer hinder the free movement of workers, goods, services and capital. This phenomenon, which has proved a great success, has been strengthened by the accomplishment of economic and monetary union, and the elimination of border controls (Schengen area).

⁴ Practical Guide to Cross-border cooperation, European Commission, 2000, p. 14

⁵ The EGTC, CdR 117/2007 Study, p. 38

⁶ AEBR Summary Position Paper, Towards a new community legal instrument facilitating public-law-based transeuropean cooperation among territorial authorities in the European Union (www.aebr.net), p.1

Although Regulation (EC) 1082/2006 represents a primary attempt within the Community legislation to establish a legal framework for cross-border, interregional, transnational or territorial cooperation, these matters have in fact been the subject of a number of acts, in particular in association with the Structural Funds, which are also vital factors in explaining the structure and extent of certain provisions of the Regulation on an EGTC.

2.1.1 The Council of Europe

The first legal act to recognise the right of territorial neighborhoods to combine forces beyond national boundaries was the Council of Europe law, based upon the Madrid Outline Convention of 1980, which was opened for signature in May 1980 and entered into force in December 1981.⁷

The Outline Convention was the result of long lasting discussions within the CoE, which started in 1966, when the CoE's Consultative Assembly recommended that a committee of experts should elaborate a draft convention on cooperation between local authorities, and gained more substance in 1975, when the European Ministers for Local Government proposed the preparation of a European Outline Convention.⁸

This Convention has in fact international origin and its main aim was to fill in a legal gap – namely, to provide local, regional and national actors (and thus both already existing forms and possible future developments of CBC) with a general legislative framework for transfrontier cooperation. The consideration of both the huge variety of regional and local forms of government in the various states and the principle of state sovereignty resulted in the particular structure of the Outline Convention, consisting of a set of 12 Articles that make up the real treaty defining the main principles and minimum common standards, on the one hand, and of a series of appended model and outline

⁷ The European Outline Convention on Transfrontier Cooperation between Territorial communities or Authorities, opened for signatories by Member States of the Council of Europe on 21 May 1980 in Madrid, ETC No. 106

⁸ Explanatory Report to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, at <http://conventions.coe.int/Treaty/en/Reports/Html/106.htm>, 15.3.2009

agreements, which according to Article 3(1) are intended for guidance only and have no treaty value,⁹ on the other hand.

The Convention was expected to encourage and facilitate the conclusion of cross-border agreements between local and regional authorities. Such agreements may have sheltered regional development, environmental protection, the improvement of public services, etc., and may have included the setting up of transfrontier associations of local authorities.

To allow for variations in the legal and constitutional systems in the Council of Europe's member States, the Convention set out a range of model agreements to enable both local and regional authorities as well as States to place transfrontier co-operation in the context best suited to their needs.

Under the Convention Parties undertook to seek ways of eliminating obstacles to transfrontier co-operation and to grant to authorities engaging in international co-operation the facilities they would have enjoyed in a purely national context.

The additional protocol to the Madrid Convention, which was opened for signature in November 1995 and entered into force in December 1998¹⁰, represented the first important step towards the clarification of the legal relationships between the territorial authorities concerned and the powers and responsibilities of the entities established.

The Second Protocol provides a legal basis for cooperation between non-adjacent local and regional authorities (i.e. interterritorial cooperation) and confirms "the right of territorial communities or authorities to conclude mutual agreements within the framework of interterritorial co-operation".¹¹

⁹ Art. 2(1) of the Outline Convention

¹⁰ Additional protocol to the European Outline Convention on transfrontier co-operation between territorial communities or authorities, Strasbourg, 9. 9. 1995, European Treaty Series – No. 159

¹¹ Art. 2 of the Second Protocol, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/169.htm>, 16.5.2009

The most recent draft Protocol No. 3 “intended to supplement the Madrid [Outline] Convention by instituting a harmonized status ... for associations of local and regional authorities so as to enable them to manage transfrontier co-operation as effectively as possible.”¹²

The main feature of this instrument (and at the same time its main difference to previous instruments) is that it provides – similarly to the EC Regulation – for the establishment of a concrete form of cross-border cooperation – namely, for the establishment of Euroregional Co-operation Groupings.¹³

Despite its limited binding force, the Convention is considered to have an important role because:¹⁴

- it is the only international instrument of this type dealing with this issue.
- it creates an international framework for transfrontier, and to some extent interregional, co-operation.
- it contains model co-operation agreements for the use of territorial communities and authorities.

While this Outline Convention was not successful in Europe (has not been adopted by all EU Member States), its indirect impact (mainly political) on the development of transfrontier cooperation in Europe has been considerable.

Efforts to find legal solutions, that have mainly concentrated on cross-border cooperation also include¹⁵:

¹² Charles Ricq, Handbook of Transfrontier Co-operation, 2006

¹³ Alice Engl: Future Perspectives on Territorial Cooperation in Europe, European Diversity and Autonomy Papers, 03/2007, p.21

¹⁴ The legislative and institutional framework for Regional Partnership, Assembly of European Regions, Report, September 2003, www.a-e-r.org, 21.3.2009, p.7,

¹⁵ Towards a new community legal instrument, Summary position paper, www.aebr.net, 21.3.2009, p.3

- The Nordic Agreement (1977) on cross-border cooperation between municipalities;
- Bilateral agreements such as the Benelux Agreement, the German/Dutch Anholt Agreement or the Karlsruhe Agreement (each based on the Madrid Outline Convention), which facilitate cooperation in cross-border regional and/or local structures and the implementation of cross-border programmes based on public law;
- Numerous conventions, treaties, agreements and protocols at bilateral and trilateral level, which include national and/or regional or local authorities. These often contain declarations of goodwill on friendly neighbourly cooperation, but do not confer decision-making powers on cross-border structures;
- Regional and local agreements, which have led to the formation of many border and cross-border working communities (Euroregions and similar structures) on the EU's internal and external borders.

2.1.2 Community legal structure

Another example of legislation facilitating territorial cooperation in the European Union is the possibility of a creation of a European Economic Interest Grouping (EEIG)¹⁶, which is a project-specific co-operation, mainly facilitated through direct bilateral regional and/or local agreements, and, in some cases, through European and national legal instruments.

The aim of the EEIG is to develop economic activities of its members by pooling resources, activities or skills. Although a few successful experiments have been nonetheless carried out using this tool, this form of cooperation does not really have a structure suited to the needs of cross-border, transnational or interregional cooperation between subnational public authorities. Moreover, unlike the EGTC, the European Economic Interest Grouping has to have recognized legal capacity but does not

¹⁶ Council Regulation (EEC) No. 2137/85 on the European Economic Interest Groupings

necessarily have to have recognized legal personality, which is a hindering factor in territorial cooperation activities.

In the context of completing the internal market, the European legislation also offers the possibility of establishing the "European company"¹⁷, which is better suited to the dimensions of enterprises established in several Member States, since it is governed by European law and no longer subject to different legislative systems simultaneously.

The statute for the "European cooperative society"¹⁸ allows cooperatives to develop their business on a European scale as well. The objective of the Statute for a European company is to create a European company with its own legislative framework. This allows companies incorporated in different Member States to merge or form a holding company or joint subsidiary, while avoiding the legal and practical constraints arising from the existence of 27 different legal systems¹⁹.

The European Cooperative Society (SCE, for Latin Societas Cooperativa Europaea) is a European co-operative type of company, related to the European Company. European Cooperative Societies may be established, and may operate throughout the European Economic Area (including the European Community). The legal form was created to remove the need for co-operatives to establish a subsidiary in each Member State in which they operate and to allow them to move their registered office and head office freely from one Member State to another, keeping their legal identity, and without having to register or wind up any legal persons. No matter where they are established, SCEs are governed by a single EEA-wide set of rules and principles which are supplemented by the laws on co-operatives in each Member State, and other areas of law²⁰.

¹⁷ Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society

¹⁸ Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company

¹⁹ <http://europa.eu/scadplus/leg/en/lvb/l26018.htm>, 7.3.2009

²⁰ http://en.wikipedia.org/wiki/European_Cooperative_Society, 7.3.2009

Summing up the above, in the past strategic, long-term cross-border co-operation at regional and/or local level has largely been rooted in private law²¹.

2.1.3 Cohesion policy - Interreg Community Initiatives

From the establishment of the ERDF in 1975, cross-border cooperation had a minor role in the development of regional policy in the European Community. In a booming and politically stable Europe, local players on either side of European borders, dependent on different systems but sharing common problems and interests (border-workers, cross-border pollution, land-use planning or security issues, etc.), have tried to join forces in order to find practical, fast solutions to their requirements, without having to use the traditional channels of inter-State relations. In other words, the aim is to solve a problem that is as well a cross-border as a local problem, without turning it into an international affair in which the local players would be forced to hope that the Ministry for Foreign Affairs would be interested in this local issue²².

With the intensifying discussion on Eastern enlargement of the European Union in the late 1990's the awareness of the territorial dimension started to grow. Governments and enterprises along borders and especially along the Eastern external border of the European Union became aware that there are comparative advantages and disadvantages linked to the location of competitors in neighbouring countries. Nonetheless knowledge about what would really happen following Eastern enlargement was limited.²³

To face the challenges of development along both the internal and external borders of the EU, the Interreg Community Initiative Programme was launched in 1990, and over the time it was structured in three priority action areas: the implementation of cross-border programmes for integrated development between neighboring regions (cross-border cooperation); the collaboration between national, regional and local authorities in broad groupings of European regions (transnational cooperation); the creation of

²¹ Jens Gabbe: Legal status of cross-border co-operation structures – past, present and prospects, p.4

²² The EGTC, CdR 117/2007 Study, p.18

²³ Graute, Ulrich: European territorial co-operation to improve the competitiveness of the Union, 2006, p.7

cooperation networks and exchange of experiences throughout the entire Union territory (interregional cooperation).

2.1.3.1 Interreg (1990-1993)

The main objective of the Interreg as a Community Initiative Programme (CIP) was to help both the Community's internal and external border regions to overcome specific development problems resulting from their relative isolation within national economies and the Community overall.²⁴ The goal of the Regen Initiative launched in the same year was to help fill in some of the missing links in the trans-European networks for transport and energy distribution in the Objective 1 regions.

2.1.3.2 Interreg II (1994-1999)

The programme's extension (Interreg II, 1994-1999) widened its scope by introducing a strand B, relating to the completion of energy networks²⁵ and later on in 1996, adding to a strand C as a "transnational cooperation on spatial planning"²⁶.

Interreg II combined the functions of Interreg I and Regen. It had three distinct strands with a total budget allocation of ECU 3,519 million in 1996 prices:

- Interreg IIA (1994-1999): cross-border co-operation
- Interreg IIB (1994-1999): completion of energy networks
- Interreg IIC (1997-1999): co-operation in the area of regional planning, in particular management of water resources

Strand A, under Interreg II, represented an extension of Interreg I but supported a much larger number of programmes (59), including 16 maritime programmes. Of the 59 programmes, 35 concerned internal borders and 24 programmes external borders of the Community (5 of which were external maritime borders);

²⁴ Communication C(90) 1562/3, OJ C215, 30.8.1990, p.4

²⁵ Also entitled REGEN (OJ C 200, 10.7.1996, p. 23)

²⁶ OJ C 200, 10.7.1996, p. 23

Strand B concerned the completion of energy networks and represented the continuation of the Community Initiative Regen (1989-1993);

Strand C differed from the other strands of Interreg II as it promoted transnational cooperation over broader areas, as well as in terms of its objective, involving the territory more deeply and specifically on questions of regional and spatial planning.²⁷

Phare CBC

The Phare CBC (Cross-Border Cooperation) Programme was established in 1994 for the promotion of cross-border cooperation between regions in the CECs and the EU. The eligible regions were those CEC regions bordering Member States of the EU. In the 1994-99 period, Phare CBC programmes covered 15 national borders and received €1 billion EU funds – in excess of EU funds allocated to counterpart INTERREG IIA programmes. Phare CBC programmes supported actions mainly in the fields of infrastructure (transport and environment) and economic development. Some programmes also supported small, people-to-people projects and other small-scale actions²⁸.

2.1.3.3 Interreg III (2000-2006)

In the programming period 2000 – 2006 interregional cooperation in the EU was stimulated under the INTERREG III Community Initiative.

Financed by the ERDF, this INTERREG initiative was designed to strengthen economic and social cohesion throughout the EU, by fostering the balanced development of the continent through cross-border (strand A), transnational (strand B) and interregional cooperation (strand C). Special emphasis was placed on integrating remote regions and those which share external borders with the new Member States.

²⁷ Ex-Post Evaluation of the Interreg II Community Initiative (1994-99), Brief Report, p.4

²⁸ Practical Guide to Cross-Border Cooperation, European Commission, Third Edition, 2000, p.51

Strand A: was oriented to cross-border cooperation between neighboring authorities in order to develop cross border economic and social centers through joint strategies and was particularly concerned with the following topics:

- promoting urban, rural and coastal development,
- encouraging entrepreneurship and the development of small firms
- promoting the integration of the labour market and social inclusion,
- sharing human resources and facilitates for research, technological development, education, culture, communications and health to increase productivity and help create sustainable jobs,
- encouraging the protection of the environment,
- improving transport, information and communication networks,
- cooperation in the legal and administrative spheres, etc.

Strand B (transnational cooperation between national, regional and local authorities): this strand aimed to promote a higher degree of territorial integration across large groupings of European regions, with a view to achieving sustainable, harmonious and balanced development in the Community and better territorial integration with candidate and other neighboring countries.

Strand C (interregional cooperation): was intended to improve the effectiveness of policies and instruments for regional development and cohesion through networking, particularly for regions whose development is lagging behind and those undergoing conversion.²⁹

²⁹ 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 Interreg III (2004/C 226/02)

Phare CBC

Phare CBC programmes for 1999 and 2000 were prepared under the new Regulation, but they did not have the benefit of counterpart actions under INTERREG. In the new period of the EU Structural Funds (2000-06), Phare CBC is meant to match Strand A of Interreg. Cross-border strategies and Joint Programming Documents have been under preparation during most of 2000, especially since the publication of the EC's Guidelines for INTERREG III in April 2000, and in some cases are continuing.³⁰

2.1.3.4 European Territorial Cooperation – Third objective of the regional policy

The 2004 enlargement of the EU made the restructuring of the Regional policy necessary, and owing to the efforts of the Committee of the Regions the concept of territorial cohesion was incorporated in the Reform Treaty signed in Lisbon on 13 December 2007, becoming the third objective of the European Union next to economic and social cohesion.

As regions in the Member States which joined the EU in 2004 were considerably less prosperous than those in the old Member States, the rules defined for distributing Structural Funds (only regions whose per capita GDP was below 75% of the Community average could benefit from this financial aid) would have automatically resulted in almost all the funds being allocated to the new Member States, and thus no longer paid to the regions in the old Member States which used to share this much appreciated aid.

It was therefore necessary to find new criteria for allocating these resources, so that the distribution of funds for 2007-2013 would be balanced more geographically. One of the criteria for priority allocation of the structural funds was therefore based on the cross-border nature of actions, as borders represent an obstacle to regional development. This context explains why the older Member States supported the development of new criteria for the awarding of the Structural Funds. Among these, the cross-border nature of actions would appear to be a self-evident and non-discriminatory criterion, as the

³⁰ Practical Guide to Cross-Border Cooperation, European Commission, Third Edition, 2000, p.52

border regions of new Member States are also confronted by these border effects and could, therefore benefit from the new priority Objective 3 of the Structural policy for the programming period 2007-2013.³¹

The enlargement in 2004 and the ensuing reform of structural funds opened new scenarios and generated a radical change in the approach of the EU to cooperation: the necessity of concentrating expenses and redirecting financial flows led to the abandonment of community initiative programmes and the promotion of cooperation between territorial authorities as a Priority objective of the 2007-2013 cohesion policy.

The introduction of the European Grouping of Territorial Cooperation in the Community legislative framework is inserted in this process of substantial redefinition of European regional policies and arises from the desire to introduce an effective instrument to proactively achieve the harmonious development of the Union's territory in its whole and strengthen the cohesion between regions.

In this way, territorial cooperation has emerged (along with its accompanying legal instrument – the European Grouping of Territorial Cooperation).

The European territorial cooperation objective has, similarly to the Interreg Community Initiatives before, three strands:

- cross-border cooperation, which concern neighbourhood relation between territories on either side of land borders (or of maritime borders for coastal areas separated by less than 150 kilometres),
- transnational cooperation, contributing to integrated territorial development on the scale of transnational spaces defined by the European Union (for example the Alpine space),
- inter-regional cooperation on the development of networks for experience-sharing and transfer of good practices.

³¹ The EGTC, CdR 117/2007 Study, p.23

The fact of becoming the ETC as an Objective 3 of the Cohesion policy of the EU is seen being an important aspect of the territorial dimension of cohesion policy and of the contribution that this can make to the objectives of the Lisbon and Gothenburg Strategies. The importance accorded to cross-border cooperation within this wider context is reflected by the fact that it will attract 74 percent of the funding allocated under the new Objective 3, European Territorial Cooperation.³²

The Cohesion policy in the programming period 2007-2013 should contribute to the achievement of the goals of the Lisbon and Gothenburg Strategies for jobs, growth and sustainable development in the EU. The cooperation objective is seen as having an important role to play in ensuring the balanced and sustainable development of the community, reducing so-called barrier effects through cross-border, transnational and inter-regional cooperation and the exchange of best practice. Such actions should be based on shared development strategies of the territories concerned at national, regional, and local level and on networking especially to ensure the transfer of ideas to mainstream national and regional cohesion programmes³³.

In addition to the renewed emphasis on territorial cooperation, the EU member states have been working on a parallel process of developing a new Territorial Agenda of the EU³⁴. The document suggests that putting the concept of territorial cohesion into practice will involve the better positioning of regions in Europe, both by strengthening their profile and by trans-European cooperation aimed at facilitating their connectivity and territorial integration³⁵.

³² Oliver Sykes: The evolving context of European Territorial Cooperation, Town and Country Planning, October 2006, p.287

³³ COM (2005) 0299: Community Strategic Guidelines, 2007-2013, p.11

³⁴ Territorial Agenda of the European Union: Towards a More Competitive and Sustainable Europe of Diverse Regions, Agreed on the occasion of the Informal Ministerial Meeting on Urban Development and Territorial Cohesion in Leipzig on 24.-25. May 2007

³⁵ Territorial Agenda of the European Union: Towards a More Competitive and Sustainable Europe of Diverse Regions, p.1

The Interreg programmes and their co-funding system give regions access to important sources of funding, enabling them to boost their limited resources and carry out small-scale and large-scale projects.

However, the effectiveness of these measures is often hampered by inappropriate management, project creation and funding measures. Furthermore, the weight of bureaucracy, the complex and technical nature of regulations and the lack of coordination between the various programmes along with the lack of a legal framework for overseeing the work often delay the implementation of projects³⁶.

³⁶ The legislative and institutional framework for regional partnership, Report, September 2003, www.a-e-r.org, 22.3. 2009, p.8

Table 1: International and Community cross-border cooperation instruments

Council of Europe		European Union		
International Conventions	^ 2008	Community legal structure	Cohesion Policy	
Proposed 3 rd Protocol to the Madrid Outline Convention	2007	European Grouping of Territorial Cooperation	European Territorial Cooperation Objective (2007-2013)	
	2006		Interreg III programme (2000-2006)	
	05			
	04			
	03			
	02			
	01			
	00			
	99			
	2 nd Protocol to the Madrid outline convention			1998
97				
96				
1 st Protocol to the Madrid outline convention	1995	European association proposal	Interreg I programme (1991-1993)	
	94			
	93			
	1992			
	91			
	90			
	89			
	88			
	87			
	1986			
Madrid outline convention	1985	European Economic Interest Grouping (EEIG)	Introduction of the cohesion policy (Single European Act)	
	84			
	83			
	82			
	81			
Madrid outline convention	1980			

Source: Mission Opérationnelle Transfrontalière (MOT)

2.1.4 Euroregions

During the last few decades, cooperation has led, in different areas of Europe, to the creation of the so-called Euroregions, the definition of which is not however unambiguous.

Euroregions are associations of local and regional authorities that, as defined by the Association of European Border Regions, have a permanent secretariat and a technical and administrative team with its own resources. They sometimes also have Parliamentary assemblies and a Presidency, but all their participants are members of the regions involved³⁷.

In fact, they can be associations of local and regional authorities in border areas endowed with strong decisional power, or cross-border associations with a permanent secretariat and with their own administrative, technical and financial resources, or even associations governed by private law in agreement with national agencies.

The differences between Euroregions do not concern only their legal nature, but also their goals which can be simply to strengthen the exchange of information between the border regions or, instead, to put into effect common projects. In any case, today it does not seem that the Euroregions (even those with more integrated structures) are endowed with political powers that go beyond the competence of the local and regional collectivities that form them.

Euroregions can be based on private law and incorporate not-for-profit associations or foundations that are subject to the relevant national law on either side of the frontier. Alternatively, they can be based on public law established by inter-state agreements dealing with the participation of territorial authorities. This means that the idea of a

³⁷ Draft report on the role of "Euroregions" in the development of regional policy (2004/2257 (INI)), p.5

Euroregion can cover everything from a simple brand to a real integrated structure. They can take the form of:³⁸

- communities of interest with no legal status,
- European economic interest groupings,
- not-for-profit associations,
- not-for-profit undertakings,
- public bodies.

The Association of European border regions, supplying a definition commonly adopted also at the European Commission level, specifies that Euroregion, despite not having a univocal legal or organizational form, have a host of common features: "they are permanent, they have a separate identity from their respective Member States, they have their own administrative, technical and financial resources and they have internal decision-making mechanisms."³⁹ In particular, they may take the following legal forms:

- Associations of local and regional bodies, set up on both sides of the national borders, in some occasions with a representative assembly.
- Cross-border association with a permanent secretariat and a technical and administrative staff with own resources.
- Private law bodies, headed by non-profit associations or funds set up on both sides of the national borders, in compliance with the respective national regulations.

³⁸ The legislative and institutional framework for regional partnership, Report, September 2003, www.a-e-r.org, p.27

³⁹ J. Gabbe "The Euroregion as a place for transfrontier cooperation" Cooperation and Euroregions, ISIG, 2004, p.97

- Private law bodies based on international agreements, also operating with the involvement of territorial bodies⁴⁰.

The Euroregions with the most closely integrated structures are those which operate in the largest number of fields; they work not merely on socio-economic development and cultural co-operation but also on issues facing frontier populations, social affairs, health, education, training, waste management, transport and others. This means that the role of some Euroregions is limited to exchanging information and consultation, while others are in a position to undertake specific projects⁴¹.

Finally it is also important to say that Euroregion partners are not necessarily authorities of the same level. These can be municipalities or associations of municipalities, higher territorial units, etc.

2.2 European Groupings of Territorial Cooperation – history, characteristics of the EGTCs, Regulation of the EC 1082/2006

2.2.1 Background and genesis of the EGTC

It has been acknowledged in the European Community for some considerable time that the existence of national borders has negative consequences for the areas directly adjoining them.⁴² Today there are more than seventy cross-border regions in Europe, operating under names such as Euroregions, European Regions, euroregions, Working Communities, etc. Although some of these initiatives date back to the 1950s, the 1990s saw a large increase in cross-border regions all over Europe, thanks to the Community initiative Interreg, which was set up in 1990. In fact, today there are virtually no local or

⁴⁰ P. P. Proto: Survey on Euroregions and EGTC: what future for the Adriatic area?, September 2009, p. 7

⁴¹ The legislative and institutional framework for regional partnership, Report, September 2003, www.a-e-r.org, 3.4.2009, p.27

⁴² Zonneveld, W. (2005): Expansive Spatial Planning: The New European Transnational Spatial Visions. In: European Planning Studies Vol. 13, No. 1, 2005, p.3

regional authorities in border areas that are not somehow involved in cross-border cooperation⁴³.

Until the end of the programming period 2000-2006, very few Interreg programmes were directly managed by a joint integrated management body, e.g. in the form of Euroregion or other cross-border structures with legal personality (only 6% of the Interreg IIIA programmes were managed this way⁴⁴).

Instead, management functions (primarily Managing Authority, Paying Authority and Joint Technical Secretariat) were usually fulfilled by regional or national institutions (regional councils, ministries, etc.) from one or more participating countries.

Numerous reasons can be stated for this, the main one being the absence or lack of an appropriate legal framework for the setting-up of such joint management structure.

Long-term cross-border, transnational and interregional forms of cooperation and networks generate considerable European, political, institutional, economic and socio-cultural value added. These forms of cooperation provide Europe with a structure and, in doing so, are very efficiently supplementing the activities of national, international and supranational institutions.

A public law basis for cross-border cooperation means⁴⁵:

- a guarantee that cooperation can take place in the future at any time, in any place, on any topic and in any form;
- that cooperation does not depend on changing majorities or opinions at government, political and/or administrative level;
- that there is full scope for long-term strategic cooperation;

⁴³ Haselsberger, B.: European Grouping of Territorial Cooperation, a new future perspective for European regions, 2007, p.2

⁴⁴ INTERACT Point Tool Box: Study on organizational aspects of cross-border INTERREG programmes – Legal aspects and partnerships, 2006, p.2

⁴⁵ AEBR Summary position paper, p.4-5

- that regional and local authorities in joint structures are responsible for the democratic monitoring of the practical implementation of cross-border cooperation;
- binding forms of cooperation involving social partners and citizens;
- joint, binding decisions taken by the cooperating parties, followed by their implementation;
- that tasks/responsibilities may be delegated to local and/or regional forms of cooperation;
- that the basis of cooperation is not the lowest common denominator (each participant can only work within the framework of their respective national authority); instead full cooperation is possible;
- that this full cooperation also includes the management of EU programmes;
- that the decentralisation of EU programmes becomes possible because regional and/or local cooperation structures have a basis in public law and can assume liability and undertake management tasks;
- that a common place of jurisdiction is possible, as are shared headquarters, joint finances and equal authority to appoint and dismiss staff, etc.;
- that a structure for cooperation under public law is subject to supervision under that same public law.

The Madrid Outline Convention, the Nordic Agreement, and bilateral/trilateral interstate treaties, conventions and agreements have been all useful and helpful, however, they contain such a range of different regulations and undertakings that it would have taken a great deal of time to harmonise these agreements.

The solutions provided by EU law such as the European Economic Interest Grouping (EEIG) and European Cooperative Society (SCE) were mainly aimed at economic forms of cooperation and private/public partnerships based on private law.

Therefore there was a clear need (especially with regard to cross-border cooperation) for a new EU legal instrument that could provide a new basis under public law for cross-border cooperation and could generally allow all forms of cooperation, including EU support programmes and projects⁴⁶.

The European Court of Auditors, the European Parliament and the European Commission therefore saw the need to create an adapted instrument and on 14 July 2004, the European Commission proposed a Regulation to create a European Grouping of Cross-border Cooperation (EGCC)⁴⁷. This proposal by the European Commission was part of the Cohesion legislative package for the programming period 2007-2013, which also included a General Regulation on the European Regional Development Fund (ERDF)⁴⁸ and a Regulation for the European Social Fund (ESF), the Cohesion Fund and the European Regional Development Fund (ERDF)⁴⁹. The focus of the draft regulation on cross-border cooperation was soon abandoned and the scope of the instrument was enlarged to include all types of territorial cooperation. The instrument was thus renamed to European Grouping of Territorial Cooperation (EGTC), and was eventually approved, in the form of a Regulation of the Council and the European Parliament, on 5 July 2006⁵⁰.

The EGTC Regulation, unlike the other Regulations on Structural Funds, relates to a normative instrument whose validity is not limited to the programming period 2007-2013⁵¹.

⁴⁶ AEBR Summary position paper, www.aebr.net, 10.4.2009, p.5

⁴⁷ COM (2004) 496 final

⁴⁸ Draft version: COM (2004) 495 final – Approved version: Regulation (EC) No 1080/2006 of 5 July 2006

⁴⁹ Draft version: COM (2004) 492 final – Approved version: Regulation (EC) No 1083/2006 of 11 July 2006

⁵⁰ Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation

⁵¹ Interact Handbook: The European Grouping of Territorial Cooperation, What use for ETC programmes and projects?, November 2008, p.8

Following the approval of the Regulation, which has been directly applicable in all 27 EU Member States since 1 August 2006, Member States had to make national provisions to ensure the effective application of this Regulation within one year.

2.2.2 The nature of the Regulation of the EC 1083/2006

The regulation No 1083/2006 is a response of the EU to problems that were identified by programme and project partners in the past. The instrument aims to simplify administration, cooperation and financial control of territorial cooperation in Europe⁵². The newly proposed instrument for territorial cooperation has been established in moment, where cohesion policy in general and territorial cooperation in particular is subject to significant changes.

The EGTC is a new legal instrument that allows territorial authorities belonging to the European Union States to establish "cooperation groups" with a real legal personality, able to act in the name of and on behalf of its members. The intention is to facilitate and promote the broadest territorial cooperation possible:

- cross-border or of proximity, through land or sea borders;
- transnational, considering an extensive geographic area;
- interregional, between non-contiguous territories⁵³.

Thus it takes into account the needs and wishes of the European Union as well as those of local and regional authorities.

The regulation on the EGTCs has been set up with the objective to overcome the obstacles hindering territorial cooperation and offers many characteristics that are unique in the Community law:

⁵² CoR: The European Grouping of Territorial Cooperation – State of play and perspectives, June 2008, p.15

⁵³ Article 1 of the Regulation (EC) No 1082/2006 of 5 July 2006

1. The first and most important characteristic is that it is made up of members located on the territory of at least two Member States, while these members are Member States, local, regional authorities, and bodies governed by public law.
 2. The EGTC have legal personality and legal capacity. It may, in particular, acquire or dispose of movable and immovable property and employ staff and may be party to legal proceedings.
 3. The EGTC establishes a single registered office located in the Member State under whose laws at least one of the members is formed;
 4. The EGTC has at least the following organs:
 - a) an assembly, which is made up of representatives of its members;
 - b) a director, who represents the EGTC and acts on its behalf
2. The EGTC has its own budget – adopted by the assembly. Thus, the EGTC is also liable for its debts whatever their nature is.
 3. The EGTC is governed by a convention concluded unanimously by its members. The convention specifies⁵⁴:
 - a) the name of the EGTC and its registered office;
 - b) the extent of the territory in which the EGTC may execute its tasks;
 - c) the specific objective and tasks of the EGTC, its duration and the conditions governing its dissolution;
 - d) the list of the EGTC's members;

⁵⁴ Article 8 of the Regulation (EC) 1082/2006

- e) the law applicable to the interpretation and enforcement of the convention, which shall be the law of the Member State where the EGTC has its registered office;
 - f) the appropriate arrangements for mutual recognition, including for the purposes of financial control; and
 - g) the procedures for amending the convention.
4. On the basis of the convention, the EGTC adopts the statutes, that contains, all provisions of the convention together with the⁵⁵:
- a) the operation provisions of the EGTC's organs and their competencies, as well as the number of representatives of the members in the relevant organs;
 - b) the decision-making procedures of the EGTC;
 - c) the working language or languages;
 - d) the arrangements for its functioning, notably concerning personnel management, recruitment procedures and the nature of personnel contracts;
 - e) the arrangements for the members' financial contributions and the applicable accounting and budgetary rules, including on financial issues, of each of the members of the EGTC with respect to it;
 - f) the arrangements for members' liability
 - g) the authorities responsible for the designation of independent external auditors; and

⁵⁵ Article 9 of the Regulation (EC) 1082/2006

h) the procedures for amending the statutes.

2.2.3 Membership in the EGTC

The EGTC must be made up of members from at least two Member States belonging to the following categories:

- Member States,
- regional authorities,
- local authorities,
- bodies governed by public law.

Participation of private entities is excluded as such. However, entities fulfilling the criteria listed in Art. 1(9) of Directive 2004/18/EC can be considered as bodies governed by public law and are therefore eligible for participation in an EGTC.

A body governed by public law within the meaning of the second subparagraph of Article 1(9) of Directive 2004/18/EC of The European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts⁵⁶ means any body:

- established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character,
- having legal personality and
- financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than

⁵⁶ OJ L134, 30.4.2004, p. 114. Directive as last amended by Commission Regulation (EC) No 2083/2005 (OJ L 333, 20.12.2005, p.28)

half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.

Non-exhaustive lists of bodies and categories of bodies governed by public law which fulfill the criteria referred to in (a), (b) and (c) of the second subparagraph are set out in Annex III. Member States shall periodically notify the Commission of any changes to their lists of bodies and categories of bodies’.

The participation of Member States alongside regional or local authorities in a legal structure subject to national law is an unprecedented phenomenon. The Member States as such can play up to three different roles in the process of establishing an EGTC⁵⁷:

- they have to designate responsible authorities for the approval of national EGTC⁵⁸ and the participation of prospective members falling under their jurisdiction;
- they have to designate competent authorities for the control of the management of public funds by the EGTCs registered in their territories⁵⁹;
- they can also become member of an EGTC⁶⁰.

2.2.4 Objectives and tasks of an EGTC

The establishment of an EGTC should not be a goal in itself but a means to reach other goals, such as long-term strategic developments, managements of public services, programme management, etc. The EGTC can be used as an instrument for integrated territorial (multi-level) governance in coherent areas split by borders.

An EGTC can be established to manage a specific action or project (uni-functional EGTC), or it may function as a cooperation platform with several missions/tasks (multi-

⁵⁷ Interact Handbook: The European Grouping of Territorial Cooperation, What use for ETC programmes and projects?, November 2008, p.15

⁵⁸ With the registered office in its own territory

⁵⁹ Art. 6 of Regulation (EC) No 1082/2006

⁶⁰ Art. 3 (1) of Regulation (EC) No 1082/2006

functional EGTC), including coordinating a joint development and/or solving common problems arising in the cooperation area.⁶¹

EGTCs are established mainly to carry out the following three tasks:

- 1) managing the Structural Funds;
- 2) carrying out strategic cooperation;
- 3) if appropriate, acting as a vehicle for the operational implementation of a cooperation project.

The EGTC is primarily aimed at achieving the objective of European territorial cooperation, which is structural policy priority number 3 for the period 2007-2013. However, it can also be useful for actions relating the Community policies other than structural policy, or to carry out cross-border, transnational or interregional cooperation, without Community funding. It could also be a useful instrument for developing European governance, continuing along the lines of the White Paper on this subject adopted by the European Commission in 2001⁶².

It should be specified that the powers exercised by regional and local authorities as public authorities, notably police and regulatory powers, cannot be subject of a convention. This provision aims to prevent territories to deal with issues that fall under the sovereignty of states.

2.2.5 The establishment of an EGTC

For matters not explicitly treated by the Regulation (EC) No 1082/2006, the EGTC is treated as an entity of the Member State where it has its registered office.

The EGTC as such is governed by:

⁶¹ Interact Handbook: The European Grouping of Territorial Cooperation, What use for ETC programmes and projects?, November 2008, p.16

⁶² White paper on European governance, European Commission, COM 2001 (428), 25.7.2001

- the Regulation (EC) No 1082/2006;
- the provisions of the convention and statutes;
- the laws of the Member State where the EGTC has its registered office.

The decision to establish an EGTC is taken at the initiative of its prospective members. The prospective members are supposed to notify the Member State under whose law it has been formed of its intention to participate in an EGTC and send that Member State a copy of the proposed convention and statutes.

Following the notification by a prospective member, the Member State concerned approves the prospective members' participation in the EGTC, unless it considers that such participation is not in conformity with the Regulation (EC) No 1082/2006 or national law. In deciding on the prospective member's participation in the EGTC, Member States apply the national rules.⁶³

The EGTC acquires legal personality on the day of registration of publication, whichever occurs first.

2.2.6 The EGTC and the Lead Partner Principle

With the programming period 2007-2013, the Lead Partner Principle (LPP) has become compulsory⁶⁴. The main reason for implementing the LPP is to ensure the genuine joint development and implementation of cross-border, transnational and interregional projects, which was not always ensured in the past (e.g. single or mirror projects are strictly excluded). Cross-border and transnational projects must be composed of at least two partners from two different Member States and satisfy a minimum of two of the four cooperation criteria (all four criteria in interregional projects)⁶⁵:

- joint development

⁶³ Article 4 of the Regulation (EC) 1082/2006

⁶⁴ Handbook on EGTC, Interact, November 2008, p.32

⁶⁵ Art. 19(2) of Regulation (EC) No 1080/2006 on the European Regional Development Fund

- joint implementation
- joint financing
- joint staffing

Under the LPP, the project activities are carried out by different partners, one of whom acts as the so-called Lead Partner. A subsidy contract is signed between the Lead Partner and the Managing Authority (MA). The Lead Partner is responsible for the implementation of the project vis-à-vis the MA and ensures the administrative link between the project and the programme. Each partner remains fully responsible for his own actions and expenditures, which must be controlled by a designated controller. In many programmes, partnership agreements are usually signed by the projects partners.

With the new EGTC instrument, project partners may decide to create an EGTC for the management of the project. The EGTC would be the Lead Partner of the project and the project partners would be the members of the EGTC. In this case, the project proposal would be submitted and the project would be managed by a single body, the EGTC, on behalf of the EGTC members. The question of the compatibility of the LPP with the EGTC instrument was answered positively in November 2007 by the European Commission services.

2.2.7 The EGTC and third countries participation

While the non-EU Member States are not concerned by this new instrument as such, participation of entities from third countries in an EGTC may be possible under certain conditions:⁶⁶

1. The third country adopts national legislation to create an instrument similar or close to the EGTC. (This could be of particular relevance for candidate and pre-candidate countries).

⁶⁶ Kaartinen, E.: Report Setting up a EGTC at the EU's external borders, CoR, 2008, www.venice.coe.int, 12.4.2009, p.5

2. The third country may alternatively sign agreements with EU Member States in order to enable their authorities to participate in EGTCs.
3. Participation of entities from third countries in an EGTC is also subject to the national provisions of the concerned Member States, whether they allow or not such participation.
4. It should be noted that the freedom has been left to national provisions to cover or not participation of third countries. National provisions may also completely deny participation of the third countries.

2.3 New dimensions of European Territorial Cooperation

The EU's land and maritime borders have increased considerably following enlargement. Regions face a number of serious difficulties when trying to co-operate with one another across national borders. These include differences in legal frameworks, administrative structures and financial arrangements. Such difficulties can lead to serious problems for regions that are trying to implement EU-funded programmes such as Interreg, as well as when pursuing bilateral links with one another. Existing instruments, such as the European Economic Interest Grouping (EEIG), have proved themselves to be unsuitable for the implementation of territorial co-operation programmes⁶⁷.

In many cases, the conditions for territorial co-operation cannot be created in an efficient way by Member States, due to its transboundary nature. Whilst some regions have developed their own administrative arrangements to address these problems (for example through the creation of Euroregions), regions with less experience of cross-border co-operation often lack the know-how or facilitative framework to address these problems adequately. In other countries, Member States have the power to prevent territorial co-operation and often stand in the way of legal agreements being signed with regional and local counterparts in other countries⁶⁸.

⁶⁷ European Grouping for Territorial Cooperation, Explanatory Note, www.aer.eu, 12.4.2008, p. 1

⁶⁸ www.aer.eu, 12.4.2009

Until the creation of the EGTC, there existed no public law-based legal instrument that was European-wide and directly applicable to all forms of decentralised co-operation. The creation of the EGTC goes beyond the current solutions offered by national law or inter-state agreements, and has the potential to contribute to the sustainability of regional partnerships. The Council of Europe is firmly in favour of the creation of the EGTC, believing that it is complimentary to the Madrid Outline Convention, the Council's own tool for cross-border co-operation.

Among the advantages of forming an EGTC are⁶⁹:

- Provides common legal basis for all local and regional authorities and Member States and is applicable in all Member States, even those that have not signed the Madrid Outline Convention⁷⁰. The EGTC responds to the need to further deepen the process of European integration by strengthening cooperation between and within the borders of the States. In particular, with the creation of a single legal framework it is meant to overcome the enormous obstacles and management of territorial cooperative actions within the context of different national legislations and procedures.
- Allows members to create a single legal body, using a single set of rules to implement joint initiatives in two or more Member States. This means, for instance, a single staff employment contract, and common procedures for procurement. Such measures make it far easier for contractors to work with an EGTC.
- Allows stakeholders in two or more Member States to cooperate on joint initiatives without the need to sign an international agreement needing ratification by their parliaments. EGTC members can choose the activities over

⁶⁹ Interact Handbook: The European Grouping of Territorial Cooperation, What use for ETC programmes and projects?, November 2008, p.77

⁷⁰ European Outline Convention on Transfrontier co-operation between territorial communities of 21 May 1980. European Treaties Series/106, Strasbourg 1999

which they will cooperate, and specify the decision-making process and internal rules.

- Allows EGTCs to respond directly to calls for projects launched by EU territorial programmes and to act as the single Managing Authority for them.
- The EGTC covers all types of European Territorial Cooperation and extended field of action: cross-border, transnational and interregional. Thus, unlike most of the existing instruments in this field, it is not limited to cross-border cooperation, even it is expected that the EGTC could be more often used under this first type of cooperation.
- Third countries can be involved in an EGTC if their legislation and agreements between Member States and the concerned third country allow it, and if the concerned Member States do not exclude this possibility.
- The EGTC provides an official label recognized by the European Commission and within the European Union in general. It gives more visibility to cooperation.
- The EGTC also allows for the implementation of measures under Community policies other than the structural policy.
- The ECTC creates a new level of governance. The model of European governance adopted until now has been indeed limited, wedged between the European and national level. EGTC intends to be a new instrument able to facilitate the emergence of a third dimension: a dimension characterized by the cooperation between entities pertaining to different institutional levels and nationalities, which with its variable geometry is in a position to respond to the extreme heterogeneity of the problems arising in the territories from time to time⁷¹.
- Gives a clear political signal that cooperation with partners in other Member States is important and supported at the highest political level.

⁷¹ Luc Van den Brande, First Meeting of the EGTC Expert Group, Brdo (Slovenia) - 17 January 2008

The EGTC supplements the already existing legal toolbox containing the legal instruments that can be used in national law. This instrument is of particular interest for the local authorities that do not have a long experience in managing border and decentralization and have not benefited from a cross-border agreement based on the Madrid convention⁷².

The disadvantages of the creation of an EGTC can be:⁷³

- Private law entities cannot become EGTC members. However, public-private partnerships can be set up between the EGTC and a private actor.
- Legal uncertainty can occur as there are no experiences with such a legal tool. There are several references by the Regulation to national legislation, which means that members may have difficulties in finding common ground. The creation of an EGTC requires solid legal knowledge of different national frameworks and expertise, as well as investment in time and legal advice.
- The law applicable to the interpretation of the convention, statutes are that of the country where the EGTC has its registered office, which does not ensure that the parties to the convention are treated equally.
- Unpreparedness of national authorities to implement the Regulation.

In addition to these, it is important to say that the EGTC⁷⁴:

- is optional;
- Member States are free to delegate management of cross-border programmes to an EGTC;

⁷² MOT: EGTC baseline study, September 2008, p.13

⁷³ Interact Handbook: The European Grouping of Territorial Cooperation, What use for ETC programmes and projects?, November 2008, p.79

⁷⁴ Jens Gabbe: Legal status of cross-border co-operation structures – past, present and prospects, p.6

- other existing instruments for cross-border cooperation remain possible (e.g. based on Madrid Outline Convention);
- if an EGTC is chosen, the whole Regulation on EGTCs applies.

Other advantages and drawbacks of establishing a European Grouping of Territorial Cooperation are intended to be discussed on the example of Ister-Granum EGTC, the second EGTC set up in the European Union, made of 88 municipalities on the Hungarian and Slovakian border.

2.3.1 The implementation of the EGTC Regulation in the EU

The Regulation (EC) No 1082/2006⁷⁵ was published in the Official Journal of the European Union on 31st July 2006 and entered into force the subsequent day, becoming applicable as from 1st August 2007. According to the provisions of Community legislation, the Member States had one year to adopt national legislation measures suited to guarantee the direct and effective application of Regulation No 1082/2006 on a national level. In fact, only two Member States had actually fulfilled this requirement by this date.

As of 31st March 2009 only 17 Member States have adopted the necessary regulations, while in the other cases the bills are either under consideration by the respective national Parliaments, or they have not been prepared yet.

Interestingly the first EGTC established (Eurométropole Lille-Kortrijk-Tournai) was set up without the national provisions in France and Belgium being in place. The timing of the set-up of the second (Ister-Granum EGTC) and third EGTC (Galicia – Norte de Portugal) however suggests that the adoption of the national provisions can be considered the actual kick-off for the realization of EGTC initiatives.

In the case of Hungary and Slovakia, which is of importance for this study, Hungary was the first country adopting the national measures for the implementation of the EGTC on

⁷⁵ Regulation (EC) 1082/2006 on a European grouping of territorial cooperation

15th July 2007⁷⁶, while Slovakia only adopted his national law only on 15th February 2008⁷⁷.

⁷⁶ Act XCIX. of 2007, http://cor.europa.eu/document/activities/egtc/Hungary_EN.pdf

⁷⁷ Act 90/2008 Z.z.

3. Case Study: Ister – Granum EGTC set up at the Slovak-Hungarian border

3.1 Introduction of the region

In the middle of Europe and in the heart of Central-Europe, at the intersection of migrating nations and cultures lays the Ister-Granum Euroregion. When choosing a name for the regional cooperation giving consideration to the geopolitical and geographical conditions and also to the potential national sensitivities, the authorities tried to choose a neutral name. Ister is the Latin name from Roman times for the Danube (of eastern origin), Granua is of Garam, another significant river in the area⁷⁸.

Ister Granum EGTC was the second EGTC set up in the European Union. The cities of Esztergom (30 261 inhabitants) and Štúrovo (11 290 inhabitants) are located at the Hungarian-Slovak border, which is framed by the rivers Danube and Ipoly/Ipel. Together, with other towns (Dorog, Nyergesújfalu, Lábatlan...) they form a conurbation (about 90.000 inhabitants) which is the centre of the cross-border Euroregion Ister-Granum, composed by 102 municipalities, of about 218 000 inhabitants. The Hungarian side, more urbanised and inhabited (69% of the population of Euroregion) contrasts with the Slovakian side, with small villages except from two towns (Štúrovo and Želiezovce)⁷⁹.

⁷⁸ http://www.istergranum.hu/index.php?k=admin_en/data/00000000/fix/00000002&id=0 , 14.3.2009

⁷⁹ MOT: EGTC baseline study, September 2008, p. 57

Figure 1: Map of the region



Source: Ister-Granum EGTC

3.1.1 History of the region

The contemporary history of cross-border collaboration is relatively young. The first step of cooperation started with the twinning of the towns of Štúrovo and Esztergom in 1991. The two settlements were already twinned towns in the 11th century when they both belonged to the Hungarian kingdom. Links were strong till the Second World War. The communist era has cut long terms connections. The ending of the cold war and the vision of entering the European Union has enabled to reconnect both sides of the Danube River. A deepening of the political cross-border network took place as years

passed by. In 2000, the two national subregions established a consultative cross-border council which was replaced by the Ister-Granum Euroregion council in 2003. The latest structure had a mayoral parliament and a presidency shared by 14 members of the parliament, the two subregional development agencies supporting the Euroregion in its works⁸⁰.

In terms of existing actions, the opening of the Maria Valeria Bridge with the financial support of the European Union in 2001 was the most central project contributing to territorial integration. The previous bridge was destroyed during the last world conflict. The re-building of it more the 50 years later has enabled cross-border mobility. The end of systematic police control on the bridge due to the entry of Hungary and Slovakia in the Schengen zone in 2007 was also a crucial step in support of cross-border urban conurbation⁸¹.

3.1.2 Overall situation

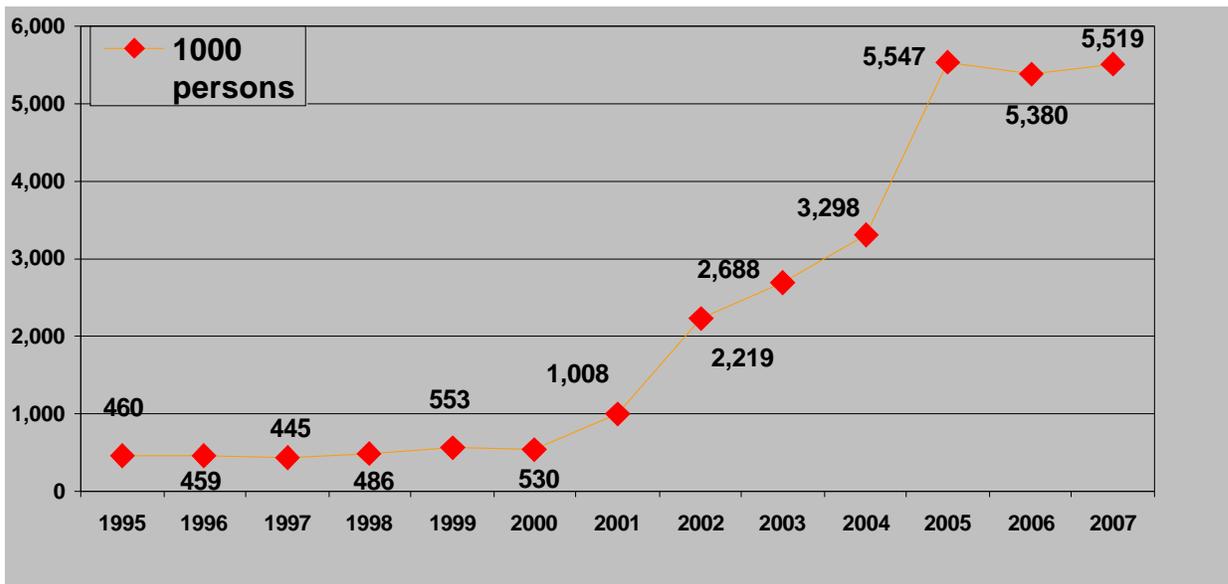
Esztergom and Štúrovo (Hungarian: Párkány) were twinned towns in the Hungarian Kingdom from the 11th century and after in the Austria-Hungary Empire. The two towns have belonged to two separate states since 1920 following the peace treaties ending World War I (Štúrovo to Czechoslovakia since 1992 and then to Slovakia; Esztergom to Hungary). Nowadays, Hungarians are the largest ethnic minority of Slovakia (9,7% of the population). They are mostly concentrated in the southern part of the country, like in the Slovakian part of the Euroregion of the population. The reconstruction of the Maria Valeria Bridge in 2001, destroyed during the World War II, is the initial point of the recent integration of the two towns in a cross-border area. Since this date, the number of cross-border flows deeply increased in both ways, especially concerning the workers. Today, about 2500 persons of Štúrovo cross the border everyday to work in Esztergom (mainly in the Suzuki factory)⁸².

⁸⁰ www.istergranum.hu, 13.4.2009

⁸¹ MOT: EGTC baseline study, September 2008, p. 58

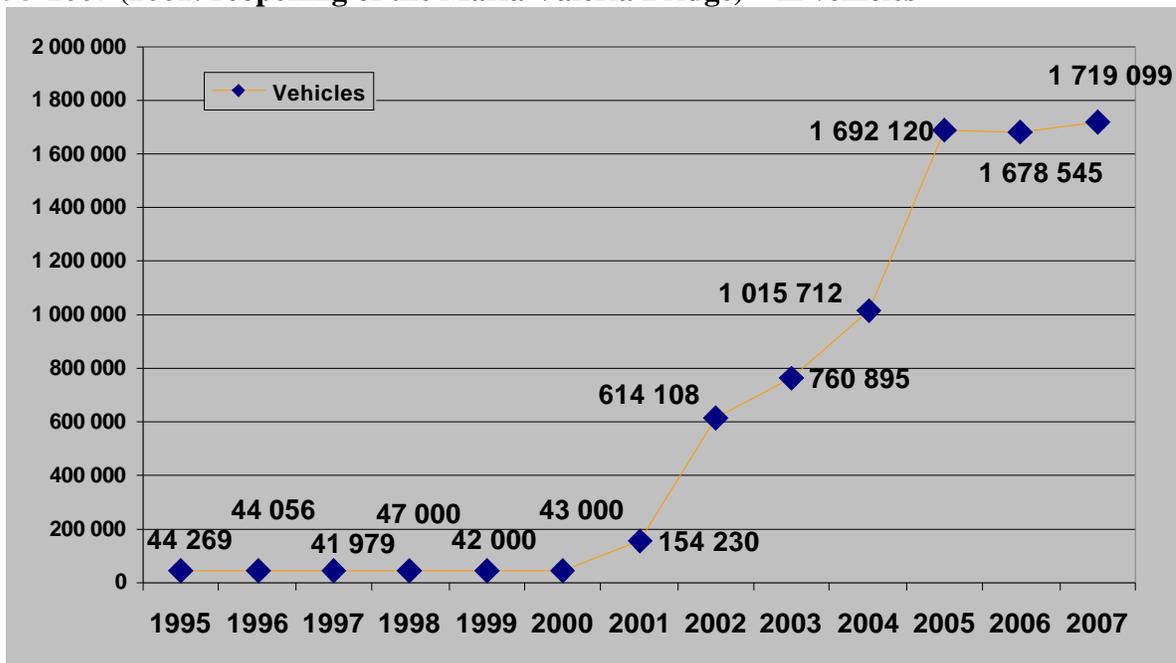
⁸² EGTC Ister-Granum, internal documents

Figure 2: Development of the traffic on the Štúrovo-Esztergom border crossing between 1995-2007 (2001: reopening of the Mária Valéria Bridge) – in persons



Source: EGTC Ister-Granum

Figure 3: Development of the traffic on the Štúrovo-Esztergom border crossing between 1995-2007 (2001: reopening of the Mária Valéria Bridge) – in vehicles



Source: EGTC Ister-Granum

The economic situation is quite good and the two parts of the Euroregion are complementary. There is a developed industrial district on the Hungarian side, with

large companies such as the Japanese Suzuki Corporation; the Swiss owned Holcim and the Zolltek, which manufactures materials for American Boeing airplanes. The Slovakian side is an undeveloped rural area, with many small villages and unemployment above the Slovakian average. On the other hand Slovakia's second largest rail freight terminal is here with a freight port also operating in Štúrovo, both facilities are missing at the Esztergom side.

The development plan of the region was completed in 2005 and it was presented in the same year in the European Parliament in Brussels. The primary purpose of the development plan is to connect the existing beneficial conditions on the two banks of the Danube by mutually strengthening each other⁸³.

3.1.3 Political organizations on both sides of the border

At the local level, Esztergom is a municipality. In Hungary, municipalities are the basic units of the system and are organized by settlements, which in Hungary include villages, cities and cities with county rights (Esztergom doesn't have this right). The municipalities benefit today from a considerable degree of autonomy. Municipal governments are no longer subordinated to county governments; notably, a county cannot overrule the decisions of a municipality. Main tasks of the municipalities are local development, urban planning, protection of the environment, housing, public transport, social services, primary schools, maintenance of the roads and public areas, water resources, fire services and culture.⁸⁴

On the Slovak side, Štúrovo is a municipality. In Slovakia, municipalities are legal entities. Their main duties are public transport, water supply, social assistance, civil status, urbanism, environment, culture and sport, health and primary schools. They may take part in international, cross-border and interior cooperation.

⁸³ EGTC Ister-Granum, internal documents

⁸⁴ MOT: EGTC baseline study, September 2008, p. 57-58

At the regional level, Esztergom belongs to the Komárom-Esztergom County. In Hungary, they are 7 NUTS II regions, 19 counties and the capital city of Budapest (NUTS III) and 173 subregions (NUTS IV), which are mainly grouping of municipalities. The main tasks of the county are county road network, social assistance, land development, culture, education and regional development. Since 2004, there are also 166 NUTS IV regions, comprising groups of municipalities that plan and implement various local activities, mainly with an aim to expand the provision of joint services⁸⁵.

On the Slovak side, Štúrovo belongs to the Nitra Region. Slovakia is subdivided in 8 regions. The main tasks of the regions are regional network, social assistance, land development, culture, education and regional development⁸⁶.

3.2 Cross-border cooperation in the region

3.2.1 Cooperation in the region before creating the EGTC

The Ister-Granum Euroregion was created in September 2003 between the municipalities on the two sides of the border. Its predecessor was a consultative council established by the two sub-regions on the two sides of the border (from 13th October 2000). The agreement creating the Euroregion was based on the Madrid Outline Convention, and the cooperation itself had no legal status. The Euroregion in fact was only a geographic notion in this case, and was not registered in any of the two states.

3.2.2 Political context and strategy

The key stakeholder in the promotion of the EGTC are the local municipalities, who recognized that the regions at the two sides of the border had similar economic problems and needs and decided to seek common solutions. They assumed that the low level of economic development of the border region can best be raised jointly, by means of common strategic planning and generating and implementing cross-border projects, and that this style of cooperation was more stable and efficient than other frameworks. Therefore, they decided to establish an EGTC.

⁸⁵ MOT: EGTC baseline study, September 2008, p. 57-58

⁸⁶ MOT: EGTC baseline study, September 2008, p. 57-58

Without a joint legal personality, decisions of the Mayoral Parliament of the former Ister-Granum Euroregion could not create legally binding effects. Therefore they agreed at the political level to establish an EGTC also in order to improve the binding force throughout its members⁸⁷.

3.2.3 Projects implemented

During the past 8 years a flourishing cooperation has developed in several areas of life between the regions of Esztergom and Štúrovo, for which the absence of joint institutes represented the largest obstacle. It is not a coincidence that the authorities have been following the Hungarian and Slovakian legislative processes from the birth of the Regulation (EC) No 1082/2006 and established the Ister-Granum EGTC at the first opportunity.

Since 2000, development to the value of approximately 3 million EUR was realized in the region. Several projects have been implemented with the purpose of strengthening the relationships between the about 1,100 civil organization operating on the two sides of the border. Since the beginning of 2008 these organizations also work together within the Ister-Granum Regional Civil Parliament.⁸⁸

The fact that a considerable Hungarian minority lives on the Slovakian side and that one of the most significant Slovakian communities outside of the border lives on the Hungarian side plays an important role in the development of lively social relations. During the past years a deep-rooted cooperation has developed in several areas of life.

The region has its own folk art festival, where the 8 nationalities living here can present themselves every year. At Euroregion level competitions are organised annually for youth drama groups and for poetry recitations. There is a separate regional cup for

⁸⁷ Interview with the Director of the Ister-Granum Regional Development Agency, 27.3.2009

⁸⁸ Ister-Granum EGTC, internal documents

footballers, gliders and also for those giving blood. The Euroregion has its own Order of Wine Knights, in which both Hungarian and Slovakian oenologists participate⁸⁹.

Since 2003, a series of projects has been carried out by different organizations located in the Euroregion. The most significant actions have consisted in:

- Connecting civil society located on the both sides of the Danube River
- Defining thematic strategies enabling a future cross-border territorial cohesion
- Implementing some specific short/medium terms projects

These actions have been related mainly to the following themes: economics/tourism, environment, logistics/transportation and the third sector/civil society (NGOs).⁹⁰

- Economics/tourism: a web portal has been developed for the 20.000 businesses located in the Euroregion with a view to give them useful information for their daily life (e.g.: information concerning the registration requirements). Tourism is highlighted on the portal. In parallel to that project, thematic bicycle routes have been created and common touristic maps on the cross-border territory have been published.
- Environment: A fish ladder on the River Ipoly has been built up to enable fish migration and to reduce the environmental damage caused by the regulation of the River Ipoly dating from the mid-1980's.
- Logistics/transportation: a feasibility study has been carried out concerning the development of a cross-border business-related logistics belt leading to 10 different potential projects. Some plans have also been drawn concerning 2

⁸⁹ Ister-Granum EGTC, internal documents

⁹⁰

http://www.istergranum.hu/index.php?k=admin_en/data/00000000/ fix/00000001/ fix/00000001/ fix/00000001&id=0, 21.3.2009

future bridges crossing the Ipoly River and a renewed road network around that infrastructure.

- Third sector/civil society: the strengthening of the regional civil sphere has been considered as a major theme of co-operation; a guide on the NGO's working in the Euroregion has been published in Slovak, Hungarian and English. A bilingual newsletter is also published. Furthermore, a web portal for the NGOs located into the area has been created to initiate interactions between these organisations. Finally, a cross-border study has been carried out to know about the networks created by the NGOs in the Euroregion.

3.3 The establishment of the Ister-Granum EGTC

3.3.1 Steps to set up the Ister-Granum EGTC

The Ister-Granum Euroregion, established in 2003, covers almost all of the territory of the present Ister Granum EGTC, and this formation can be considered as a direct predecessor of the EGTC. Overall, several cross-border projects implemented within the framework of the Community Initiative INTERREG strengthened cooperation in this region. Based on this enhanced cooperation, the members of the Euroregion at the end of 2006 decided to create an EGTC, although the national regulations governing EGTC had not then been adopted⁹¹.

After this a long preparation period followed, the result of which was their Convention and Statutes ready in September 2007. At this time the Hungarian legislation for the creation of the EGTC was already adopted – being the first Member State to adopt national provisions on 25 June 2007⁹² – but the Slovak provisions were passed in the Parliament only in February 2008 and entered into force in May 2008⁹³.

Even though it was not a prerequisite - as the Ister-Granum EGTC has its registered office in Hungary - the prospective members have decided to wait for the Slovak

⁹¹ Interview with the Director of the Ister-Granum Regional Development Agency, 27.3.2009

⁹² Act XCIX. of 2007, http://cor.europa.eu/document/activities/egtc/Hungary_EN.pdf

⁹³ Act 90/2008 Z.z.

legislation to enter into force and also to wait for the president of the Committee of the Regions of the European Union to be able to attend the inauguration ceremony. This is why the Ister-Granum EGTC was created on 6 May 2008 and became the second EGTC set up in the European Union.

To create the EGTC, each member shall notify its Member State of its intention to participate in the EGTC and send a copy of the proposed convention and statutes. This happened in the case of Ister-Granum EGTC, too – the Slovakian and Hungarian local governments informed their authorities (the Ministry of Construction and Regional Development in Slovakia and the Metropolitan Court in Hungary) about their aim to be a member of the Ister-Granum EGTC.

The Ister-Granum EGTC was formed by 49 Hungarian and 36 Slovakian local governments on 6th May 2008 (since then four more Slovakian and two more Hungarian villages have joined). The order regarding the registration of the organisation that was formed in accordance with Hungarian laws became final on 12 November 2008. The notification of the foundation was published in the official journal of the European Union on 29th November 2008.

Out of the 102 municipalities that are members of the Euroregion, 89 became the members of the EGTC. The reasons why they did not join the EGTC vary – some of them do not see direct benefit of it. The membership in the EGTC would commit them to pay the membership fee and they do not feel it worthwhile to take up such liabilities.

The members of the Ister-Granum EGTC have chosen to have their registered office in Esztergom, Hungary, at the location of the Ister-Granum Regional Development Agency. The reason for this was mainly that the Hungarian legislation entered into force earlier than the Slovak one, and the Ister-Granum Euroregion was based in Esztergom, too.

The choice of the legislation was also influenced by the fact that the Hungarian legislation is concise and very flexible (all types of EGTCs are envisaged), while the

Slovak law has limitations concerning the aim of the EGTCs and can order the cancellation of the EGTC.

3.3.2 Objectives and tasks of the Ister-Granum EGTC

The general objective of the Ister-Granum Grouping for Territorial Co-operation Ltd. is the establishment and maintaining of the co-operation extending to the full range of regional development activities between its members, within the boundaries of the delineated area, and with regards to further areas affected by the cooperation, for promoting and strengthening economic and social cohesion.

The specific objective of the grouping is that by the co-financing of the EU, through the implementation of territorial co-operation programmes, by taking advantage of the legal personality of the grouping, within the administrative boundaries of the delineated area, and with regard to further areas affected by the cooperation to enable and assist promoting and strengthening economic and social cohesion.⁹⁴

The primary task of the grouping is the implementation of territorial cooperation programmes and projects co-financed by the EU.

Other tasks of the Ister Granum EGTC: ⁹⁵

- implementation of other specific actions, programmes, projects with or without financial contribution of the EU;
- the continuation of business activities to achieve its goals independently;
- raising awareness of the competitive advantages occurring at local and national level of the territorial cooperation;

⁹⁴ Statutes of the Ister-Granum European Grouping of Territorial Cooperation Ltd.

⁹⁵ Convention of the Ister-Granum European Grouping of Territorial Cooperation Ltd.

- ensuring the human and financial resources and know-how necessary for achieving the objectives and implementing the tasks, the free flow of data and information, and the widespread publicizing of the achievements of the Grouping;
- influencing of the decisions involving regional politics;
- in case if adequate financial conditions are ensured the establishment and operation of representation in Brussels.

3.3.3 Legal status and liability of the Ister-Granum EGTC

The grouping is an independently managed non-profit organization, which acquires legal personality on the day of registration, and as such it has full legal capacity. It may, in particular, have rights and obligations of any kind, acquire or dispose of movable or immovable property, and be a party of legal proceeding.

The liability of the members of the Ister-Granum EGTC is limited to the amount of the asset contribution undertaken.

Table 2: Ister-Granum EGTC setup - work break-down structure

Source: WBS created by the author, Interact Handbook on EGTC 2008

Project ISTER GRANUM EGTC 1				
Phase	Phase	Phase	Phase	Phase
1.1 Preparation	1.2 Decision	1.3 Implementation	1.4 Performance	1.5 Dissolution
WP	WP	WP	WP	
1.1.1 Analysis of the needs and objectives of the cooperation	1.2.1 Consideration of other instruments and cooperations structures	1.3.1 Location of the registered office	1.4.1 Budget and control of financial management of public funds	
WP	WP	WP	WP	
1.1.2 Definition of the territorial scale	1.2.2 Verification of the legal feasibility of the planned proposal	1.3.2 Drafting of the convention	1.4.2 Liquidation, insolvency and cessation of payments	
WP		WP	WP	
1.1.3 Identification of essential competencies and skills		1.3.3 Drafting of the statutes	1.4.3 Liability	
WP		WP	WP	
1.1.4 Identification of the partners		1.3.4 Notification of the convention and statutes	1.4.4 Evaluation	
WP		WP		
1.1.5 Exploration of the available national legislation		1.3.5 Publication of the convention and statutes		
WP		WP		
1.1.6 Consideration of the timing and potential risk of delays		1.3.6 Launching the EGTC		

3.3.4 Ister-Granum EGTC setup - work package specification

1. Preparation

Identification of the needs and objectives: Common cross-border structures already exist, in the framework of a Euroregion, the cooperation of the region started with the reconnection of Štúrovo and Esztergom towns by a bridge in 2001. The aim of the EGTC is to intensify cross-border cooperation in the area. The envisaged fields of cooperation are: tourism, health care, transport, communication, energy policy, industry and others.

Territorial scale: The EGTC would include the territory of the region Nitra in Slovakia and district of Esztergom in Hungary.

Partners: Štúrovo (Slovakia) and Esztergom (Hungary) and the surrounding municipalities (47 Hungarian and 39 Slovak local governments)

National legislation: Act XCIX of 2007 on EGTC in Hungary and 90/2008 Z.z. on EGTC in Slovakia

2. Decision

Legal feasibility of the planned proposal: study of the relevant legislation and requirements

3. Implementation

Location of the registered office: in Esztergom, at the location of the Ister-Granum Euroregion

Drafting of convention and statute – experts of the Development Agency in Esztergom contributed to the drafting of the Convention and Statutes of the EGTC – in close collaboration with Ministry of Local Governments in Hungary

Notification and publication – Hungarian Metropolitan Court, Ministry of Construction and Regional Development in Slovakia

4. Performance

Launching the EGTC: November 2008

Implementation of projects: industry, health care, public transport, communication, etc.

Results: territorial cooperation has new dimension.

Table 3: EGTC setup milestone plan

WBS Code	Milestone	Date (plan – actual)
1.1	Decision about establishing the EGTC	End of 2006
1.1.1	Decision about the scale and content of the EGTC	February 2007
3.3	Drafting of convention and statutes	September 2007
3.5	Registration	8th May 2008
4.1	Launching of the EGTC – common projects	12th November 2008

Source: created by the author

3.3.5 Obstacles encountered

The main obstacle consisted of the unpreparedness of the national authorities mainly in Hungary, where the members decided to have registered office. The Metropolitan Court in Hungary in fact did not know how to deal with such a request of creating an EGTC. They tried to treat it as a demand to register an association and asked for documents that the Hungarian law on EGTC does not mention but the law on associations requires. The process of notification was much easier in Slovakia (Slovak municipalities informing the Ministry of Construction and Regional Development about their intention to become a member of an EGTC), nevertheless the Slovak legislation has limitations concerning the activities of the EGTC.

3.3.6 Structure of the Ister-Granum EGTC

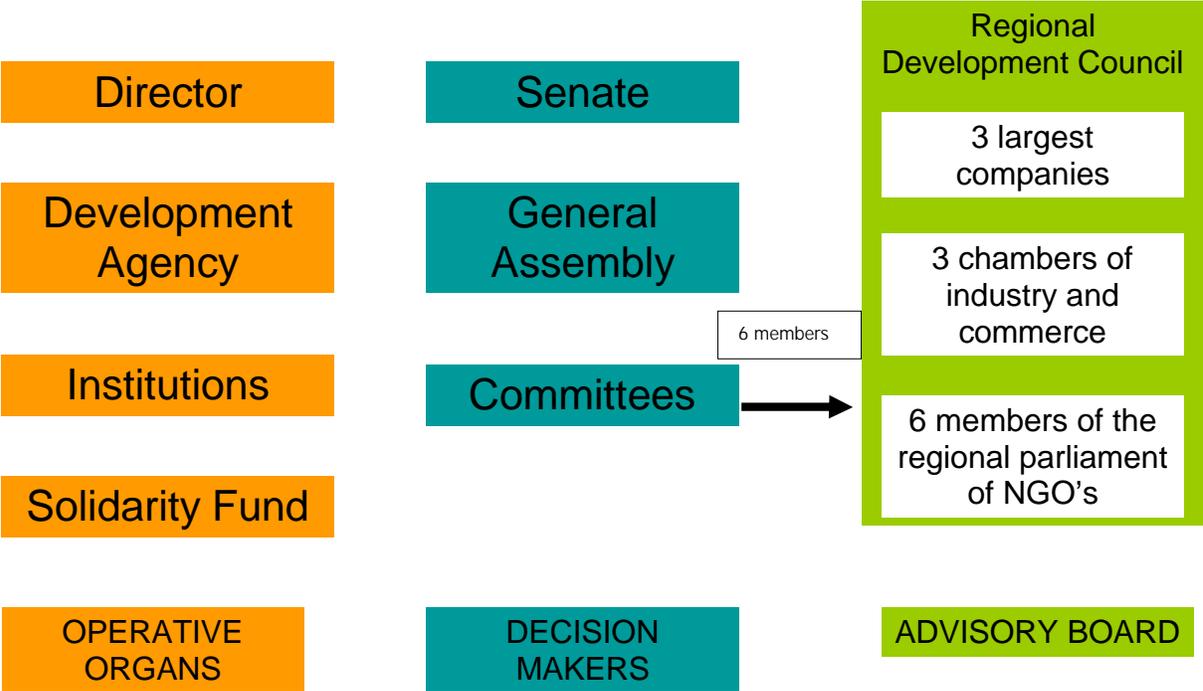
The statutes of Ister-Granum EGTC show that the executive power is exclusively shared by the local municipalities of the Euroregion. Subregional authorities and national

governments are not members. The decision-making process in the EGTC is under the responsibility of 3 instruments⁹⁶:

- The General Assembly is in charge of the statutes of the EGTC, the budget of the structure, the integration and exclusion of members, the choice of the EGTC director, the choice of an auditor and the election of the Senate's members. The assembly is made of all mayors of municipalities and meets at least twice a year.
- The Senate is the managing body of the General Assembly and therefore it represents the assembly between meetings. The head of the Senate is the chairman of the General Assembly. The Senate has 8 members chosen among the members of the assembly, an equal number coming from both sides of the border. The Senate prepares the decisions of the assembly and it implements them. It is also an instrument making proposals and delivering opinions concerning cross-border projects, especially the ones prepared by the Committees.
- The permanent professional committees are expertise networks helping the EGTC in the definition/implementation of its working programme. They are connected with external organisations and they can organise conferences/workshops on specific issues. 6 different committees have been established: External relations – Human Resources Policy – Economic and Assets Management – Environmental Protection – Industry and Transport – Culture and Tourism.

⁹⁶ Statutes of the Ister-Granum EGTC Ltd.

Figure 4: The structure of the Ister-Granum EGTC



Source: EGTC Ister-Granum

The Region of Ister-Granum has created a tool enabling to officialise connections between its executive instruments and external organisations, that is to say, The Regional Advisory Council, which is a consultative body. That instrument is used also to connect to the civil society. Its members are as follows: the chairmen of the 6 professional committees, 3 representatives of the Ister-Granum Regional Civil Parliament, the representatives of the chambers of commerce and industry (3 persons representing the counties Komárom-Esztergom, Pest and Nitra) and 3 representatives of the largest employers of the Region, that is to say, a total of 15 people. The group supports the work of the professional committees and expresses external organisations' interests (employers – employees – professional organisations).

The technical management of the EGTC is put under the responsibility of a Director employed by the structure. Finally, the two subregional development agencies covering both sides of the Euroregion also support actively the actions plans of the conurbation.

It is also important to mention that the Hungarian language is used locally as the lingua franca of the cross-border cooperation at the political and technical levels because of the importance of the native Hungarian-speaking communities on both sides of the border. Non-Hungarian speakers are few on the Slovak side of the Euroregion and the Slovak-speaking minority living in the Hungarian region of Esztergom is bilingual. The use of Slovak is mainly necessary to connect with external Slovak organisations located at the regional and national scales. An equal use of both languages is above all limited to written communication, especially when official documents are produced⁹⁷.

Ister-Granum Regional Civil Parliament Association

There are nearly 1,000 civil organisations operating in the territory of the EGTC. It was for this reason that the cross border regional civil parliament was formed as an umbrella organisation, the registration of which took almost 5 years. The parliament has been operating since February 2008 and for now just with small numbers⁹⁸.

The role of the office network is to support and strengthen the civil organisations that operate in the region and its development started at the end of 2008 due to winning a Norwegian Fund tender. The network of the non-profit service providing offices will assist the work of civil organisations in the given sub-region through consultancy, preparation of projects, publishing material and organising training as well as in several other ways. Operation of the office network is the responsibility of the civil parliament. The 6 members of the committee of the civil parliament are also members of the regional advisory body of the EGTC.

3.3.7 Expected influence

The Ister-Granum EGTC members anticipate more influence at national as well as European stage due to the improved effectiveness and transparency in the decision-making structure among the partners. The EGTC is seen as an instrument for expressing the position of the Euroregion so that is even more perceived as one entity.

⁹⁷ MOT: EGTC Baseline Study, September 2008, p. 59

⁹⁸ Ister-Granum EGTC internal documents

The Ister-Granum EGTC is made of municipalities situated along the border and their objective is to officialise their existing cooperation. The EGTC is open to other local governments in the border region, which meet the criteria for membership under the Regulation and fully accept the convention and statutes. In reality, there is no logic for membership in the Ister-Granum EGTC for municipalities others than neighboring ones. The Ister-Granum EGTC was created to support the interests of the members in the Hungarian-Slovak border region, addressing their needs and contributing to solve their problems.

3.3.8 Performance – personnel, budget, financial management

In terms of financing the EGTC's activities, differences sources of funding arise⁹⁹:

1. Membership Fee: this is paid per capita by each of the members of the EGTC. This amounts to 20 HUF/inhabitant/year, which is actually a very modest amount. From this contribution overheads are financed (personal, administrative costs, events, project preparation costs – translations, planning, etc.).
2. The Solidarity Fund is expected to finance the management of the structure and its working programme. In Hungary the local governments collect local business tax from the enterprises that operate there, the sum of which for the city was 16 million EUR in 2007. Since the employees of these companies are primarily not from Esztergom, the local government of the City made the decision to return 1 % of this tax by means of tenders to the member settlements of the EGTC for them to be able to realise their smaller developments. The Local Government of the City of Esztergom also asked for a similar gesture from the other developed industrial settlements of the region. The first tender to allocate this money was realised in November 2008 and they received 29 proposals from which 14 were chosen to be supported.

⁹⁹ Interview with the Director of Ister-Granum Regional Development Agency, 30.4.2009

3. Regional Development Fund: is meant to pre-finance the projects that are supported from the EU. The local governments often have problems to co-finance and pre-finance projects that have won a contribution from the EU. The Regional Development Fund is supposed to represent a reserve fund for financing projects. The representatives of the EGTC would like to achieve that the companies of the region contribute also to this fund and therefore to the development of the region. It is clear that the projects will be playing a definitive role in financing institutions created by the EGTC, for that reason is so important to have such a fund.

The management cost of the two subregional development agencies involved in the Euroregion has been paid by local municipalities. European funding have been asked only to support cross-border projects.

Except for the Director, there are no employees yet working for the EGTC. The administrative tasks and the development works are performed by two regional development agencies on both sides of the Danube. Recently, these agencies are operating for a minimal fee paid by the EGTC. This situation cannot be sustained for a long term but seems to be useful in overcoming difficulties of the beginning.

3.3.9 Problems identified and possible solutions¹⁰⁰

- Before establishment the Ister-Granum EGTC, its predecessor, the Euroregion had 8 professional committees, 6 of them functioned well, actively. After creating EGTC, these committees gave up their operation. However, at the beginning the committees were marked out for prepare important decisions, now it seems to have to change their mission because the lack of interest of mayors.

The leaders of the municipalities participating in the work of the EGTC are interested mostly in such projects that have a tangible benefit for them. It will be so more acutely at the time of crisis, when the main purpose for the leaders is to guarantee the liquidity

¹⁰⁰ Ister-Granum EGTC internal documents

of local budget. While during the preparation of the EGTC the aim of cooperation was quite tangible – the establishment of a new, efficient structure after a long time of isolation – by now, purposes of the cooperation became a bit less visible for the participants. In parallel to this phenomenon unprecedented size of European funding has been made available for local municipalities through national Operational Programmes and, understandably, local leaders concentrate more on developing fundable projects that bring these tangible benefits on the short run instead of putting more efforts on creating long term cooperation for long term benefits.

By experiences, the mayors participate with pleasure in bodies or committees preparing and implementing, real, tangible projects. Therefore it seems to be logical to terminate – or suspend – the work of the professional committees and – instead of these – to use committees organized around projects or group of projects that the mayors are involved in. These committees can work together by Internet, as well and can also discuss “strategic” issues. After a while when – expectedly – project work results in an improved and more experienced partnership and – expectedly, again – the need of strategic planning becomes visible again (e.g. by linking availability of national or European funding to strategies) committees will be operational again.

- Mostly because of the occlusion for long time – and also as a consequence of their involvement in national politics and administration - the leaders living on both sides of the border, have only superficial knowledge on the way the political, social or legal system of the other country operates. It is a real obstacle against the cooperation.

In order to diminish lack of knowledge regarding the administrative and legal systems of the other country they intend to organize training for the decision-makers and administrators working in the region. The Slovak participants will study the Hungarian legal, bureaucratic and political system and vice versa. In a closing workshop series they can compare the two systems and formulate proposals concerning the various elements

of the system to be changed in favour of improving cross-border institutional cooperation.

- The Ister-Granum EGTC has no well-funded contact network neither among higher level technical experts nor higher level members of the administration neither in Hungary nor in Slovakia. That is why the specific purposes of the EGTC cannot appear in national and regional strategies.

The EGTC has to build up a political and high level professional's network in both countries. In order to make this network more stable, their aim is to create an EGTC lobby club including decision makers, professionals, leaders of big companies and branch banks situated in the region. This club unifies people dealing with development of the EGTC. It ensures the promotion of the specific interests of the EGTC on higher level. At the same time, this instrument can serve as a framework for new projects initiatives and specific professional or thematic cooperation networks.

The Local Action Plan has to contain an itinerary – based on an updated analysis of various stakeholder interests – on addressing decision makers and decision-preparatory bodies on regional and national level in both countries.

- In spite it was declared at several occasions what EGTC is, most of the mayors do not understand what EGTC means in practice. They have unclear ideas about the real purposes, the opportunities and the responsibilities of this instrument. They are enthusiastic about the cooperation but they do not see what the benefit of this cooperation is in the daily life.

The Local Action Plan suggests elaborating a medium and long term vision about the Ister-Granum EGTC. While the EGTC has got a development plan, it shall be updated in a way that involves local communities to the most possible extent to the planning process. Updating shall also include the formulation – or reinforcement – of visionary objectives of the EGTC. In working out this vision, the mayors have got a perspective on the nature and the possibility of further development of the EGTC, besides becoming

more committed to its objectives. This is a beneficial moment because everyone is open to cooperate actively. But without a clear and widely assumed vision this enthusiasm can disappear. Results of strategic planning can influence post-2013 development strategies regarding the use of European funding of both countries.

- While in General Assembly all the municipalities have equal vote, the executive agencies of the EGTC belong to individual municipalities. The Hungarian regional development agency (The Ister-Granum RDA) is owned by 2 Hungarian municipalities only and the EGTC has no vote in the Slovakian regional development agency, either. As a consequence of this, Esztergom has got a decisive influence on the work of the agency that has been criticized by the member municipalities several times.

Naturally, the leading role of Esztergom can't be abolished. But it can be reduced. The aim is that all institutions working for the EGTC shall be supervised by the EGTC itself. If the EGTC owns the institutions, Esztergom has got one vote only, not the whole leadership. Leaders of other settlements can feel then that these institutions work for them, too. Of course, it means a kind of common financing model, as well.

The Ister-Granum EGTC intends to create and operate several institutions (currently in planning phase: Health center and service network; energy agency; regional HR-management office network; regional public transport association; regional service network of NGO's) and enterprises (regional tourist destination management offices; company for developing logistical-industrial services in the region) and a joint news agency. Institutions and enterprises will be directly linked to the decision-making structure of EGTC.

3.4 The added value of the EGTC

3.4.1 Assessment of good practice and impact

The members of the Ister-Granum EGTC expect that this form of cooperation will contribute to the eradication of the internal boundaries of the EU and lead to the

establishment of joint regional public service system in the region. With this legal status, they would like to promote the development of a regional identity in the population and to abolish the prejudices between the two neighboring nations. They also hope to have a more strategic planning approach in the whole territory of the region and achieve more efficient cooperation. The generation and implementation of cross-border projects are anticipated to be performed in a more structured manner, therefore contribute to the minimalization of possible risks that could occur in other, unrestricted forms of cooperation.

The members of the Ister-Granum EGTC also expect greater efficiency in their cooperation on the higher level, from lobbying for EU assistance through to the implementation of projects. The EGTC in their view is the instrument whereby the region can turn into an even more vital player on the European regional and cohesion policy scene and a suitable governance form for cross-border cooperation. From the practical point of view, the EGTC provides the possibility of running European projects as a lead partner.

The members of the Ister-Granum EGTC have chosen this form of cooperation as a natural continuation of their existing cooperation. This EGTC is a good model for the horizontal integration linking comparable partners (municipalities). The predictable advantage for the municipalities consists primarily of joint projects and initiatives for EU funding. It will also help to reduce the border effects in the area.

The variety of actions planned by the Ister-Granum EGTC promises to face the daily challenges of the life of inhabitants of the region. It ensures better coordination of policies and provides effective solutions to problems such as commuting, cross-border health services etc.

3.4.2 Perceived opportunities of using EGTC for territorial policies

In the long run, the EGTC has the potential to implement territorial policies. With the establishment of the EGTC, the informal cooperation structure became more stable,

which makes the development and carrying out of coordinated territorial development projects and programmes more efficient and effective and enables the cooperation to play a more decisive role in the planning and implementation of comprehensive territorial development programmes. The Ister-Granum EGTC primarily uses this legal status to implement projects on territorial cooperation which are co-funded by the European Community. Some of these are infrastructure projects (cycle routes, bridges) in the border regions. Furthermore, the EGTC provides services for businesses located in the region and the establishment of a hospital is also among the plans.

4. Implementation of ETC projects – how this legal instrument can facilitate cross border cooperation in and outside the EU – its strengths and weaknesses

How does this structure work in reality? What are the main problems and obstacles of stakeholders regarding the existing institutionalization of their cooperation and what do they expect? To answer these questions, several interviews have been undertaken with stakeholders of the Ister-Granum EGTC.

4.1 Implementation of projects

4.1.1 Cross-border cooperation projects

By creating a legal body the members of the Ister Granum EGTC expected to be able to manage EU funded projects as a competent lead-partner¹⁰¹.

Following registration, the EGTC immediately started to work and submitted 5 joint applications for the tender of the Hungarian-Slovakian territorial cooperation programme. Amongst these, applications for a regional tourist destination management organization, a cross-border employment office network and a joint energy agency represent the establishment of independent institutes.

4.1.1.1 Projects that have recently won contribution from the Hungary-Slovakia ETC programme

Regional Tourist Destination Management

The regional tourist destination management organisation covers two tourist agencies (on both sides of the border), as well as a development agency. The development of tourism products of a cross border destination, preparation of projects as well as coordinating the marketing activities are the tasks of the development agency. The Ister-Granum EGTC is planning to create a total of 9 thematic workshops for the tourist enterprises and civil organisations that operate in the territory of the EGTC and amongst these four have already started their operations (wellness tourism, village tourism,

¹⁰¹ Interview with the Director of the Ister-Granum Regional Development Agency, 30.4.2009

green tourism, bicycle tourism). The building of the system takes place gradually. The body directing the tourist development of the EGTC shall be made up of the leaders of the 9 thematic workshops and the EGTC's own tourist committee. The enterprises and civil organisations participating in the workshops will form a joint association with the EGTC: this will implement the tourist developments concerning destinations.

The Cyclists' Paradise. Development of bicycle network in the heart of Europe
Within the project an integrated cycle route network will be realised in the area between Budapest and Banská Štiavnica. The project initiators' common aim is to create a multilevel integrated cycle route network in the meeting point area of the EuroVelo[®] 6 corridor and the Amber Trail Greenways.

Self-sufficient energy ports

The energy agency will support conversion to renewable energy sources. The Ister-Granum EGTC is planning to set up two offices, one in Hungary in Máriahalom and another in the Slovakian Gbelce. The tasks of the energy agency include the preparation and management of projects assisting conversion together with all the necessary resources to educate the local population on the benefits of using renewable energy. The agency will have an independent legal personality with the EGTC as its owner

„The laboratory of the European cohesion“: generation of project cooperation in the Ister-Granum EGTC

The project seeks to find solutions for administrative barriers of cross-border cooperation by analysing the legal basis of the cooperation: what is allowed by the laws of both countries on the field of public services (such as education, health care, public transport, common administration etc.), economy (cooperation between SME's, tourism, clusters etc.) and the social cooperation (NGO's, institutions etc.). These conceptions will lay a foundation of the institutionalization of the EGTC.

4.1.1.2 Short description of the projects in preparation:¹⁰²

Cross-border employment office network

For the management of employment problems, within the framework of the Synergy programme the Ister-Granum EGTC plans develop a joint office, which also will have information points in the territory of the EGTC. These info points will provide information on taking up employment, training, requalification, starting a business and also on investment, naturally with regards to both sides of the border. The Pilis-Garam EXPO-office will further organise the HR-markets of the EGTC. The offices will be financed directly by the EGTC with the employees employed by the EGTC.

Ister-Press: The news agency of the Euroregion

Area involved in the project: Esztergom (the entire Euroregion)

The objective of the project is to establish a news agency of the Euroregion, the formation and starting of a bilingual radio and television transmitter, development of the regional daily paper, therefore the development and strengthening of regional identity. The news agency, according to the plans, shall utilise a wide European network for obtaining and providing news.

A Regional Hospital: health integration

Area involved in the project: Esztergom and the network of the regional health centres (the entire Euroregion)

The objective of the project: the organisation of patient care at a regional level with a network of surgeries and cooperation between the hospitals; digital information management of patient organisation; integration of patient transportation; the establishment at a regional level of the organisations for further training, prevention, screening etc.; the establishment of joint emergency services, joint water ambulance services etc.

¹⁰² Ister-Granum EGTC internal documents

Short description of the project: the following activities shall be carried out: regional surveying of health services, preparation for integration; the establishment of the system for regional patient management, provision for electronic and transportation infrastructure; the establishment at a regional level of the organisation for screening, further training and prevention services, network building; the establishment of joint emergency services, joint water ambulance services.

Public Services for the Euroregion

Area involved in the project: the entire Euroregion

The objective of the project: the examination of the regional integration of public services; the design of the institutional system of the public operator region, commencing the development of the system; ensuring the accessibility of public services through an electronic network, of the conditions for two-way interactivity; development and management of regional databases.

Short description of the project: the creation of a public service portal (the economic portal of the region was completed by 2005, the non-profit portal was implemented in 2006; establishment of the portal making public services accessible is carried out); assembling and loading of the databases; commencing the establishment of the regional public service institutional system, its elements are: integration (rationalisation, consolidation and integration of institutes), decentralization (dismantling of centrally organised institutional structures), the establishment of connection elements (often there is not only missing relationship between the institutes of two countries but also within one single country), the establishment of own institutes (in the interest of increasing the quality of services that are available within the Euroregion, the establishment of a new, own institute could also be important); provision for a bilingual service providing background, assembling a Hungarian-Slovakian public service dictionary.

Ister-Granum Enterprise- Logistic Belt

Area involved in the project: the industrial core area of the Euroregion (Sütto, Lábatlan, Nyergesújfalu, Tát, Tokod, Tokodaltáró, Esztergom, Šturovo, Obid)

The objective of the project: utilisation of the complementary advantages of the logistic-industrial potential that exists or is possible to establish on the two banks of the Danube in the interest of the development of the Euroregion. The strong industrial potential that already exists on the Hungarian side is weakly supported logistically, and on the Slovakian side even the quite favourable logistical circumstances did not develop the conditions for extensive industrial developments. As a result of the balanced and harmonised development of the two banks of the Danube they expect the eradication of the differences in the stage of development, improvement of employment statistics; improvement in the quality of services provided for investors, a jump in the amount of invested capital, and the strengthening of the geo-political weight of the Euroregion.

Short description of the project:

- A. the infrastructural base for the investment zone shall be developed: freight ferry between the two banks; Ro-La station in Obid next to Šturovo; logistical distribution centre and industrial park in Obid; logistical storage base in Esztergom; Cargo Ship port in Šturovo; institutional and IT network for the operation of the zone; establishment of a business airport in Esztergom; industrial park in Šturovo; infrastructure developments in the existing industrial zones; development of an agricultural logistic centre in Obid;
- B. development of the integration of the investor zone commences: joined marketing activity; one-stop-shopping administration at regional level; joined presence of the industrial areas on the world wide web and professional fairs; organisation of investor seminars; publications; investor intermediation, property sale.

4.1.2 Submitted Interreg IVC project

The project EUROMOT- EUROpean MObility and employment in Transborder areas aims at bringing together the key players on employment and training (local authorities, public employment services, social partners, training institutions, etc...) within a cross-border territory wishing to optimize the development of cross-border labour market areas.

The overall objective of the project is to allow local stakeholders to develop cross-border projects that meet the needs for the workers and companies involved in economic development. It should also enable them to coordinate their actions and bring in their professional competences.

The partners will have to deal with the proposal of innovative cross-border initiatives that facilitate access to employment, the recognition of education/training and qualifications, as well as optimizing the mobility of cross-border workers. In this context, cross-border territories are laboratories for whole Europe.

In this project the Ister-Granum EGTC acts as a project partner in a partnership with:

- Mission Opérationnelle Transfrontalière (France) – lead partner
- Caisse des Dépôts et Consignations (France)
- City Twins Association (CTA) (Finland)
- Euroregion Pro Europa Viadrina, Mittlere Oder e.V. (Germany)
- Euregio Maas-Rijn (Netherlands)
- Diputación de Badajoz (Spain)
- Annemasse Agglo (France)
- City of Gyula (Hungary)

- Lorraine EURES CRD, Resources and Documentation Centre on cross-border EURES (France)
- Association for cooperation between Science and Working World (Germany)
- EURO-Institute Kehl/Strasbourg (Germany)

4.1.3 Participation in the EGTC (Expertising Governance for Transfrontier Conurbations) project

The founding of the Ister-Granum EGTC received European publicity, as Mr Luc Van Den Brande, President of the Committee of the Regions of the EU, was also present at the foundation ceremony. As a result of this the Ister-Granum EGTC can participate in the URBACT¹⁰³-project, with the title of EGTC and managed by the Paris based Mission Opérationnelle Transfrontalière organisation.

The EGTC URBACT project aims to enable cross-border conurbations to exchange on innovative governance tools based on a partnership that brings together, on the same territory, the competent authorities necessary to the development of common objectives¹⁰⁴.

The project pushed the boundaries that had already challenged by the EGTC Regulations itself: it supports cross border services in place of national institutes. The project with the objective of the development of cross border conurbations, the establishment of public services of a higher standard for those living is fundamentally important for the further strengthening of the Ister-Granum EGTC.

The new governance system expected in the Ister-Granum EGTC should lead to a certain level of legislative flexibility to test formulas benefiting to both sides of the border. The Urbact EGTC project will help the Ister-Granum area to get experiences from the other European territories facing the same issues and the dynamics powered in

¹⁰³ URBACT is a European programme which aims to encourage the sharing of experiences between European cities and to disseminate knowledge on sustainable urban development. The second cycle of the Programme, URBACT II (2007/2013), follows in the footsteps of URBACT I (2002/2006)

¹⁰⁴ MOT Press release – 21 November 2008

the first EGTC of Eastern Europe will also be a source of ideas for the other territorial partners¹⁰⁵.

4.1.4 Added-value of the EGTC concerning project preparation

The fact that the projects were submitted by the Ister-Granum EGTC and not by a partnership of municipalities as applicants has facilitated the preparation of projects to a great extent. To collect the required documents from all of the applicants in case of partnership always requires huge effort. It is regarded to be the biggest advantage that the legal status of the EGTC meets all criteria of ETC projects (joint development and joint implementation of cross-border projects) and the EGTC can act as a lead partner. At the same time, the EGTC is regarded as an innovative structure and the institutional sustainability is guaranteed. This advantage is only applicable to the projects submitted in the framework of the EGTC to the cross-border cooperation programme of Hungary and Slovakia. In case of the Interreg IVC and Urbact project the EGTC acts as a project partner and does not enjoy any benefits from its legal status.

The projects that have already won support from the European Territorial Cooperation Programme Hungary-Slovakia will be the first projects implemented under the legal status of the Ister-Granum EGTC. It is anticipated that the implementation of the projects will be enhanced at least as much as the preparation of the projects was. The subsidy contracts are going to be signed with the Ister-Granum EGTC as a lead partner and payment claims are going to be administered and submitted by the EGTC as well. The Ister-Granum EGTC will act as a Lead Partner and the members of the EGTC will be acting as project partners. As such, the Ister-Granum EGTC will be responsible for the implementation of the projects and the Managing Authority of the ETC HU-SK programme and will ensure the administrative link between the projects and the programme.

¹⁰⁵ MOT: EGTC Baseline Study, September 2008, p.61

4.1.5 New suggestions for improving the cross-border infrastructure

Public transport

The public transport at the cross-border area is charged as an international transport even if the citizen buys a ticket for a trip from Štúrovo to Esztergom. It means that those commuting from one country to another are put at a disadvantage of paying more for a trip of a same distance. Other regions are already organizing cross-border public transport (i.e. Bratislava-Hainburg at the Slovak-Austrian border). The Ister-Granum EGTC suggests creating cross-border transport associations in order to be able to provide the services for the regular national (and not international) rate for the people in the region.

Public services

After entering the EU, more and more people make use of the advantages of free movements, and more and more people are moving to the other side of the border for different reasons. By doing so, they do not necessarily speak the language of the other country and thus they have difficulties while dealing with public authorities and institutions. The EGTC suggests supporting programmes that would raise the language competency of the civil servants and open kindergartens or schools teaching in Slovak language in Hungary or vice versa.

Cross-border development plans

The development plans on the two sides of the borders are not consulted with the other party, while the effects are evident. Not only the cross-border environmental influences are meant by that, but also tourism plans and other development plans can have cross-border effects. The Ister-Granum EGTC suggests to take into consideration the cross-border development plans by the other party by creating cross-border juries for the appraisal of such plans.

Eliminating legal obstacles in cross-border development

The Hungarian law number LXXXIX. of 2007 requires an inter-governmental agreement while realising a cross-border infrastructure investment. This practically means that if the EGTC wants to reconstruct a bridge in Slovakia or plan a cross-border cycle path, the two countries have to sign an international agreement for that. The Ister-Granum EGTC urges the amendment of this legislation and the elimination this obstacle. There is basically no reason for having an international agreement if the investment is included in the development plan of both of the cross-border regions; the public authorities issued the permissions and funding is available from the Structural Funds or other sources.

Border crossing points – stands' removal

Hungary and Slovakia entered into the Schengen zone in December 2007, and until now the stands at the border crossing point has not been yet removed. The Ister-Granum EGTC is willing to organise volunteers or contribute to the removal of stands as they consider it to be a shame that the stands remind the inhabitants of the area the existence of a border.

Cross-border cooperation funds managed by an EGTC

The Ister-Granum EGTC recommends to create an EGTC to manage the funds for the European Territorial Cooperation programmes on the Hungarian – Slovak border (the Regulation (EC) 1082/2009 on the EGTCs enables this). This structure would serve as a Managing Authority for the Hungary-Slovakia cross-border programme and would very much decrease the influence of Bratislava and Budapest in the allocation of funds.

Cross-border expert group

Finally, the Ister-Granum EGTC proposes to create a cross-border expert group that would uncover discrepancies in the legislation of the two countries that hinder their close co-operation. This expert group could also formulate suggestions for the removal of these barriers in the legislation.

4.2 Lessons learnt, recommendations and points to consider

4.2.1 Euroregions versus EGTC

Below, some of the most relevant aspects of the EGTC are discussed compared with the previously existing form of cooperation in the case of Ister-Granum EGTC.

To answer the question, whether the European grouping of territorial cooperation has added value compared with the Euroregion, several aspects arise.

The Ister-Granum EGTC has only been formed recently - and what we could track was the preparation of the cross-border projects – not even the implementation of them. To recognise what can be achieved with this new instrument we will have to wait several years. However as of today, several remarks can already be made.

The first and most important feature of the EGTC perceived by the members of the Ister-Granum EGTC is its legal personality. The former Euroregion did not have such a status – and not even the privileges connected with it (budget, personnel). This feature hence provides the possibility to apply for funds from the European Territorial Cooperation projects as a single applicant and at the same time fulfilling the criteria of joint preparation and implementation of projects together with the lead partner principle.

Unlike the Madrid Convention (which was the legal basis of the Euroregion), the EGTC can be applied directly in all Member States of the European Union and does not require ratification by individual states. Nevertheless, in the case of the Ister-Granum EGTC both countries signed the Madrid Outline Convention, but the form of cooperation as a Euroregion did not satisfy the member's expectations.

Other expected added value of and EGTC compared with the Euroregion was the potential greater access to EU financing. The primary task of the Ister-Granum EGTC is the implementation of territorial cooperation programmes and projects co-financed by the European Union. However, the legal status of EGTC itself does not

provide additional sources of funds; it only facilitates the preparation and the implementation of projects, and that one to a great extent.

Furthermore, as seen, the EGTCs may access directly external funds and they may be Interreg management authorities, while Euroregions without legal personality cannot be funded directly. On the other hand, Ister-Granum EGTC was not established to be a managing authority of ETC programmes, nonetheless they would welcome the possibility of having these funds managed by an EGTC in the region.

As regards non-EU countries, their role in the EGTC is not completely excluded, but requires the approval of the country outside the EU, for such reason the Euroregion seems to be a more appropriate instrument to foster cooperation outside the EU, and thus the two instruments can be considered complementary.

4.2.2 Main motivations for setting up EGTC

The Ister-Granum EGTC plans to cooperate in the areas that are hardly harmonized between the Member States (such as health care or public services). Likewise they promote EU multilevel governance and decentralization (allowing participation at different levels, relations between EU regions, Member States, and other private or public actors depending on the area and needs at stage).

It will also build trust and sympathy among the cooperating territories, and help to develop a common strategy with the associated resources.

4.2.3 Advantages – disadvantages applying for the Ister-Granum EGTC

The advantages of the Regulation (EC) 1082/2006 are perceived by the Ister-Granum EGTC as the following:

- Common legal basis for all local and regional authorities in the Member States and is applicable in all Member States, even those that have not signed the

Madrid Outline Convention¹⁰⁶. - For the Ister-Granum EGTC only the fact that the Regulation on EGTC is applicable both in Hungary and Slovakia has significant importance.

- Single legal body, using a single set of rules to implement joint initiatives in two or more Member States. – The advantage of being a single legal body very much applies to the Ister-Granum EGTC. They welcome the possibility to have a common budget and personnel. The fact of having legal personality is one of the most important advantages offered by the Regulation on EGTCs.
- Cooperation on joint initiatives without the need to sign an international agreement needing ratification by their parliaments. EGTC members can choose the activities over which they will cooperate, and specify the decision-making process and internal rules. – There is a Hungarian law that hinders the application of this advantage, as it requires the signature of an international agreement while realizing any investment in another country. The representatives of the Ister-Granum EGTC are striving for the amendment of this law to be able to fully enjoy the advantages of the EGTC.
- Direct response to calls for projects launched by EU territorial programmes and acting as the single Managing Authority for them – It is very much appreciated that the legal status of the EGTC fulfills all the criteria of the ETC programmes (joint implementation, joint financing, etc.) and at the same time the criteria of the LPP (Lead Partner Principle). There are 89 members of the Ister-Granum EGTC, which means that in the case of a project where all members are participating, they would have to provide the documents necessary for an application for funding 89 times, which requires enormous effort and time investment. Being an EGTC and a Lead Partner at the same time to a great extent facilitates the submissions for the ETC programmes without the need to

¹⁰⁶ European Outline Convention on Transfrontier co-operation between territorial communities of 21 May 1980. European Treaties Series/106, Strasbourg 1999

sign a partnership agreement. Even though the possibility to act as a single Managing Authority does not apply to the Ister-Granum EGTC, they would welcome if the European Territorial Cooperation Programmes of Hungary and Slovakia would be managed by territorial authorities. The allocation of funds by a central body (as it is the case now) does not seem to be responding to the needs of the region.

- The EGTC covers all types of European Territorial Cooperation and extended field of action: cross-border, transnational and interregional. – The objectives of the Ister-Granum EGTC are very much concentrated on cross-border cooperation and development, and even though they are involved in some transnational and interregional projects, their main focus remains on the cross-border initiatives and the development of the region of Štúrovo and Esztergom.
- Third countries can be involved in an EGTC if their legislation and agreements between Member States and the concerned third country allow it, and if the concerned Member States do not exclude this possibility. – This advantage is not applicable for the Ister-Granum EGTC as they do not have a border with a third country.
- The EGTC provides an official label recognized by the European Commission and within the European Union in general. It gives more visibility to cooperation. – As it was mentioned before, the founding of the Ister-Granum EGTC received European publicity, the President of the Committee of the Regions was present at the foundation ceremony, and as a result, the Ister-Granum EGTC was asked by the Mission Opérationnelle Transfrontalière organisation to participate in an URBACT project as one of the partners and also in one Interreg IVC project.
- The EGTC also allows for the implementation of measures under Community policies other than the structural policy. – The members of

the Ister-Granum are planning to influence in all areas of life, i.e. to create a cross-border hospital that would serve for citizens in both of the countries.

- The ECTC creates a new level of governance - The EGTC is primarily used by the Ister-Granum EGTC to implement projects on territorial cooperation which are co-funded by the European Community. In the long run, the EGTC has the potential to implement territorial policies. To what extent this option will be used is not foreseen by the members of the Ister-Granum EGTC. In their opinion, this option depends on the level of development of the two countries after the programming period 2007-2013.
- The EGTC gives a clear political signal that cooperation with partners in other Member States is important and supported at the highest political level. – In the past the members of the Ister-Granum EGTC belonged to one region and their willingness to create an EGTC is an obvious signal that they want to continue in their cooperation, and for that, a higher political support was needed.

The disadvantages of the creation of the Ister-Granum EGTC:

- Private law entities cannot become EGTC members. – This disadvantage is widely seen by the members of the Ister-Granum EGTC as a weakness for which they would have preferred to remain as a Euroregion, where there were no obstacles holding back the membership of NGOs in the agreement. The Ister-Granum EGTC very much cares about the support provided to the civil society in the region and therefore they would have opted for their membership in the EGTC (which is not possible by the Regulation (EC) 1082/2006 as they are not seen as a Body governed by public law within the meaning of the second subparagraph of Article 1(9) of Directive 2004/18/EC of The European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. On the other hand, not all members of the EGTC consider the support

of the civil society to be important and the role of the NGOs in the region significant.

- Legal uncertainty can occur as there are no experiences with such a legal tool.
 - This was the case also with the creation of the Ister-Granum EGTC. The Hungarian legislation seems to be more convenient to the needs of the regions; nevertheless it turned out to be also more complicated with its flexibility. As the creation of the Ister-Granum EGTC was in preparation together with the preparation of Hungarian legislation, the enquiries of the members to Hungarian authorities contributed to the form and context of the Hungarian law.
- The law applicable to the interpretation of the convention, statutes is that of the country where the EGTC has its registered office, which does not ensure that the parties to the convention are treated equally. – It is a natural phenomenon that the biggest city in region has the most power to influence the principal direction of implemented policies, and the leading role of Esztergom cannot be abolished, only reduced. In the Assembly of the Ister-Granum EGTC Esztergom has got one vote only, and the leaders of other settlements can feel that these institution work for them, too.
- National authorities are not prepared to implement the Regulation. – This disadvantage held back very much the creation of the Ister-Granum EGTC and therefore delayed the preparation of projects.

As a matter of fact, it also needs to be underlined, that to create an EGTC as a legal status requires effort, time and conformity of the members, and it is not considered to be worthwhile to envisage such an investment if the cooperation was not durable; even if the Regulation on the ETGCs allows one time EGTCs as well.

5. Conclusion

The issue of the cross-border cooperation is one of the most actual topics in the Regional policy of the European Union. The vision of Europe of the regions is nowadays very much promoted in the European structures; nevertheless a good cooperation very much depends on a mutual understanding and common objectives of the bordering nations.

The EGTC established by Regulation (EC) 1082/2006 is a new tool proposed by the European Commission with the aim to provide a legal instrument for territorial cooperation, where up to now various solutions have been used. This instrument enables national, regional and local authorities from different Member States to set up a cooperation structure with a legal personality that can organise and manage cross-border, transnational or interregional cooperation programmes and projects with or without a financial contribution from the EU. Though, already in the past similar cooperation structures could be established between two Member States with appropriate bilateral cooperation agreements, now, for the first time an EU-wide instrument has been created. While the EGTC members must be located in at least two Member States, the participation of third countries is in principle also possible.

The set-up of EGTCs sometimes results in rather difficult exercises from a technical point of view and might therefore be considered as an unattractive solution at first sight. However, the tool touches the very heart of cooperation obstacles between public authorities in a cross border context: These obstacles consist in different legal systems in the Member States, which are maintained in various fields.

The EGTC is a legal instrument that – at least in the Hungarian – Slovak case - is being discovered by doing. The disadvantages of the instrument are many, but so too are its benefits. The process of establishment of an EGTC is neither quick nor easy but its potential benefits should compensate the investment in time and efforts.

In reality, the registration of the Ister-Granum EGTC beyond measure facilitated the applications for funding from European Territorial cooperation funds. The EGTC as an applicant meets all the criteria of cross-border cooperation projects including the Lead Partner Principle.

Without any doubt a common budget borne by member fees provides for a – at least partial – financial independence of the territorial cooperation in relation to their members. The daily work would have been hindered substantially, if an action or project had to be funded separately. The budget of the Ister-Granum EGTC collected as membership fees is very modest, hardly enough to finance their daily activities. Nevertheless, the grouping is seeking for solutions in the form of Solidarity Fund and Regional Development Fund to be able to pre-finance the implemented projects and support other activities.

Furthermore, the whole cross-border cooperation gained visibility and received opportunity to participate in territorial cooperation projects. At the same time, the actors involved, particularly at the political level, must ensure the dissemination of the benefits achieved by the cooperation and actions reaching beyond borders.

Regarding the future positioning of the Ister-Granum EGTC the interviewed actors were rather careful in their answers. The development of the region is nowadays supported from funds from the European Union, and until the end of this programming period (2007-2013) they expect to benefit from these sources as much as possible, however, both of the countries feel the influence of the financial crisis. In the future, the members expect to achieve a more stable economical situation and become a vital player on the regional level as well as to contribute to the national and European territorial policies. They do not reject the possibility that the director might be empowered to represent the interests of the whole population towards European institutions.

The objectives of the Ister-Granum EGTC are ambitious: to ensure the common solution of the problems in the cross-border region and the first steps were already taken in the form of submitted and successful project proposals. From now on it is up to them how

they will be able to use the advantages provided by the legal status of the Ister-Granum EGTC.

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Interview with the Director of the Ister-Granum EGTC (7.5.2009)

ANNEXES:

Annex 1: Questionnaire on EGTC

Annex 2: Project Handbook Ister-Granum EGTC

Annex 3: Statutes of the Ister-Granum EGTC Ltd.

Annex 4: Convention of the Ister-Granum EGTC Ltd.