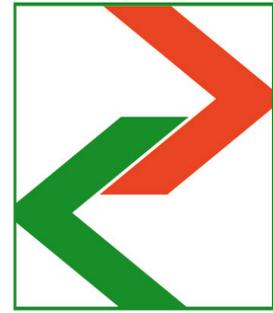




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(Draft 5.0)

AEBR Position Paper on the draft New Regulations for European Cohesion 2014-2020

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**Association of European Border Regions
Gronau, Westphalia
October 2012**

Preliminary remark

The AEBR distributed this document amongst its members and friends in order to get contributions, remarks and comments to enhance the contents and recommendations that we are addressing to European institutions and Member States. We are also identifying concrete obstacles and difficulties that may have not been sufficiently taken into account, but they create problems on the ground (to border and cross-border regions) in a daily basis. To this end, the AEBR organized a Seminar on 20th April 2012, at the Committee of Regions, where a good set of these practical cases were presented and analysed.

AEBR members and interested experts and institutions can still make comments and provide with good examples, interesting cases, failures and main obstacles faced, or any other remark in order to fine tune a useful Position Paper. In the times of ICTs, these documents should be appropriately updated to keep their usefulness. The present version (October 2012) is the result of an update and review by the AEBR Secretariat and the Advisory Committee, including contributions from several AEBR members.

We should thank the EU Commission for its efforts, the Parliament for supporting a similar focus while asking for more flexibility, and the Polish, Danish and Cypriot Presidencies for a good understanding of Cohesion Policy and its links with the EU2020 Strategy.

We are also quite satisfied with the attention paid to discuss the different proposals in consultation with many stakeholders, including the associations of regions and municipalities. We should also acknowledge the role that the Committee of the Regions plays, addressing main issues of interest for European local and regional authorities and organizing a Structured Dialogue jointly with the European Commission and the associations, amongst many other actions. The coordination of this complex meta-network of entities is not always easy, but it is crucial for an efficient discussion amongst them and the implementation of their inputs in European policies.

It does not seem to be expected any substantial progress until the end of 2012 (or even in 2013). In the meantime, we keep on discussing our main positions with interested stakeholders, gathering their opinions and identifying interesting practical cases, while keeping an eye on the development of urban issues. There has been (and there are) many workshops, symposia and conferences debating the Commission's proposal, and a high level of consensus has been achieved by many stakeholders to generally support it.

In an effort to simplify AEBR's position, this minimalistic material has been produced in various languages: the "AEBR's *Ampel* on the proposed regulation ofr EU Territorial Cooperation 2014-2020":



AEBR'S

**AMPEL ON THE PROPOSED
REGULATION FOR EU
TERRITORIAL COOPERATION
2014-2020**



No, thanks!

The size of projects will be much bigger, and cross-border approaches could be lost, particularly for small cross-border infrastructures and people-to-people projects

Funds not allocated per programme, but still per Member State. So, financial control is still under MSs, even if there is a common account for a given programme

Watch out!

The size of programmes becomes bigger, consensus is much difficult, and bottom-up approach is missing

Multi-level governance of programmes to be guaranteed in all decision-making processes

Focusing only EU 2020 could risk touristic and people-to-people projects

On-going discussions on macro-regions, mixing up CBC, TNC and IRC

Yes, please!

Own regulation for ETC, and not just a chapter on ERDF

Emphasis on quality, and not only financial issues

Allocated funds a bit higher

Simplification of procedures at all levels. Control, lump sums and flat rates are very much welcome

1. Framework AEBR position

European main priority is overcoming the current crisis of trust, and we feel therefore committed with the general EU effort to face most immediate challenges, while keeping a reasonable cruising speed in European cohesion policies. We can see the aim towards **more coherence** of EU action in the harmonisation of rules related to different funds, including rural development and maritime and fisheries.

Therefore, the AEBR **welcomed the Commission's proposal of Multiannual Financial Framework (MFF) provisions** for 2014-2020 presented in the summer of 2011 because Cross-border cooperation (CBC) keeps at least a similar funding than in the previous period. We have welcomed in the MFF too, that there are other possibilities for border and cross-border regions, for Euroregions and for other CB structures (working communities, CB cabinets, EGTCs and others) to have access to European support in several fields (health, R&D and innovation, transports, etc.).

However, there is still an important obstacle regarding the attitude of some Member States towards this financial proposal. Some of them ask for **austerity and reduction in the EU budget** (pointing out at Cohesion Policy as a targeted budget to be reduced). However, in our opinion, some more "national" investments in EU programmes can lead to savings at European level because of the economies of scale and synergies developed through the Union, as President Barroso has repeatedly declared.

A stronger national lobby is very much needed by border and CB regions —Euroregions, EGTCs and other CB structures, politicians, experts and interested people and institutions— to keep a growing awareness in national governments about the need of CBC as an efficient instrument for regional development, European added value and integration. Interreg cooperation areas are still crucial for European integration and growth. Interreg means are of special importance to the entire European Cohesion. This document was intended to mobilize AEBR members and friends by providing with a documentary base for them to lobby their national and regional authorities in order to better understand the importance of keeping CBC during the next funding period at least at the level proposed by the European Commission.

We also **welcome the draft regulations on cohesion policy, European Regional Development Fund (ERDF) and European Territorial Cohesion (ETC)**. In particular, a new and separate regulation for the **ETC** objective is still needed, especially in those fields that CBC is complicated or real cross-border results are hampered to date. Until their final adoption, improvements (a stronger bottom-up approach, clarification of the INTERREG agreement, a set of priority areas tailored to the needs of ETC and more flexibility) are possible. We have already elaborated concrete and practically applicable proposals in different consultations during the last years (summarized in this set of draft AEBR positions on the proposed draft regulations).

In addition, it is still needed that more AEBR members and friends provide with practical examples and concrete cases in order to illustrate our analyses, arguments and recommendations. As a result of the contributions gathered up to now we have been able to

stress in this document the lack of references to the euroregions. As pioneers (and still very relevant instruments) for CBC, their experience has been crucial for the development and current understanding of CBC in our continent. Their genuine expertise in the implementation of programmes and projects (including people-to-people initiatives) on the ground has provided with very relevant information regarding the practical implementation of CBC strategies, programmes and projects for the benefit of border citizens. For example, their perception of overlapping procedures and bureaucracy, the lack of a clear bottom-up approach, the establishment of thematic quotas, as well as the added value of small-scale projects and soft measures, makes very appropriate to listening very carefully to them before establishing definitive regulations for the next programming period.

In general, regional policy **keeps its scope to benefit all European regions**, and has clarified a bit the typology with the creation of the “**intermediate regions**”, instead of the complex issue of phasing-in and phasing-out regions. We do not see major problems with the introduction of this “transition” region category. However, there are some concerns on the **partnership contracts**, particularly to include ETC, because two neighbouring states may include different priority areas, resulting in difficulties to match them at cross-border level.

An **increased focus on** the concentration on certain priority areas seems reasonable, reinforcing the EU2020 Strategy with better European coordination and easing the monitoring of the real impact of European funding. The AEBR fully agrees with the general purpose of getting an **impact on growth** (focus on results and effectiveness), bringing benefits to most of the Member states with a clear EU added value, while keeping a reasonable support to all territories. But, based on our experience and the contributions of border regions, we draw the attention to the fact that some general provisions are not realistic for ETC, especially CBC. In the final regulation for ETC, the full set of priority areas and measures have to be listed, adapted to the needs of ETC, especially CBC. This catalogue of issues and objectives should consider aspects such as the development of rural areas, tourism, regional development, civil protection, flood prevention, etc.

Regarding the main concern for DG Regio about the impact of Territorial Policy, more visibility is needed both top-down and bottom-up. Furthermore, different needs and capacities of border and cross-border regions, including the stress on capacity building in many areas, have to be taken into account.

Conditionality and cross-compliance arrangements should be better defined, orientated towards the future possibilities of many territories currently deeply affected by the crisis, and not as coercive measures. Macroeconomic considerations should not be the main regulator for CBC approaches. In fact, Structural Funds could be part of the solution for Member States and local and regional authorities (LRAs) with budgetary problems, and the recent reduction of co-financing rates for most affected countries is a good example for this.

Regarding **macro-regions**, cross-border structures (euroregions, EGTCs, etc.) can successfully contribute to realize these strategies if they are properly involved in the planning of national and macro-regional strategies. Here we agree with the three noes (no new structures, no additional funding and no new legislation).

The new **Connecting Europe Facility** designed to boost investments in transport, energy and ICTs, could be a perfect instrument to fill cross-border gaps, adding enormous European value to current national networks which still suffer from connection dysfunctions with their neighbourhood to address major investments in energy, transport and advanced communications. If this is to be allocated to fill dysfunctional gaps according to a territorial approach, it would be an enormous step for the development of many regions which are not central.

We would also like to draw the attention on the need for a stronger focus on the cross-border impact of programmes and projects, a growing multi-level governance with a focus on bottom-up approach in cross-border programmes and less bureaucracy.

It is also very important to stress some practical issues affecting CB programmes, as it is the case of “**people-to-people projects**”. This could be considered a minor issue for national governments, but it is crucial in the practice of day-to-day cooperation, as it has very much to do with the involvement of civil society in daily CBC. Flexibility in the implementation of EU2020 Strategy’s objectives is crucial for these projects.

The current Presidencies (Danish and Cypriot) and EU institutions show an extraordinary attention to urban issues. While accepting the importance of the urban element (there are also many cases of CB urban cooperation), EU Cohesion Policy has also been understood as a main element for the development of more challenging European territories (rural, affected by industrial transition, sparse populated, cross-border and mountain) as it has been stated in article 158 of the Treaty of Lisbon. In fact, most border areas are rural, peripheral, yet with infrastructural gaps to overcome.

2. Overview on the draft Financial Framework and Regulations on the future cohesion and related EU debates

2.1 A European budget for Territorial Cohesion

The Commission's budget proposal is allocating € 376 billion for spending under the instruments for Cohesion Policy:

| | | |
|---|---|-----------------|
| - | Convergence regions | € 162.6 billion |
| - | Transition regions | € 38.9 billion |
| - | Competitiveness regions | € 53.1 billion |
| - | Territorial cooperation | € 11.7 billion |
| - | Cohesion Fund | € 68.7 billion |
| - | Extra fund for outermost and sparsely populated regions | € 0,926 billion |
| - | New Connecting Europe Facility | € 40 billion |

It also includes € 40 billion for a new **Connecting Europe Facility** (CEF) designed to boost investment in **transport, energy and ICTs**. Some relevant actors have shown their criticism with the idea of deducting money from the regional cohesion funds to finance the European energy and transport infrastructure networks. We could support this CEF provided that cross-border regions will not become transit areas only. Secondary networks and CB links have to be designed in consultation with local and regional authorities involved, as well as cross-border structures operating in the area.

The **European Social Fund** (ESF) will represent at least 25% of the cohesion envelope, not taking into account the Connecting Europe facility, i.e. € 84 billion.

Main elements of the proposed Multi-annual Financial Framework to be taken into account in the area of cohesion policy are:

- Reinforced focus on results and effectiveness, with a systematic link between cohesion policy and the EU 2020 Strategy.
- New conditionality provisions to ensure that funds are used to meet the Europe 2020 objectives, affecting both the initial allocation of funds and the release of additional funds. This is the other big concern, the question of conditionality linked to the aid, as the proposed cross-compliance arrangements seem to be rather complex.
- The introduction of a new 'transition region' category including regions with a GDP per capita of 75-90% of the EU-27 average.
- Partnership contracts between the Commission and the Member States to set out the commitments of partners at national and regional level and the Commission.
- Measures to improve the absorption of funds by Member States.

You can find here the Policy Fiches of the proposed MFF:

http://ec.europa.eu/budget/library/biblio/documents/fin_fwk1420/MFF_COM-2011-500_Part_II_en.pdf

In general, regional policy **keeps its scope to benefit all European regions**, and has clarified a bit the typology with the creation of the “**intermediate regions**”, instead of the complex issue of phasing-in and phasing-out regions. We do not see major problems with the introduction of this “transition” region category. The **European Parliament** has also shown its support to the creation of the intermediate category of regions in the future cohesion policy, as well as on some degree of conditionality, a strong monitoring of irregularities, and the system of thematic priorities.

Cohesion is one of the EU largest policies, with more than one third of the EU budget. Only the Common Agricultural Policy (CAP) is bigger. At the end of June 2011 the Commission presented its Budget Proposal, the **Multi-Annual Financial Framework** (MFF) for the period 2014-2020. In this time when some Member States are facing severe fiscal challenges, as well as regional and local authorities, it is crucial that European policies focus on areas bringing benefits to everyone with a clear EU added value, while keeping a reasonable support to all territories. European Territorial Cooperation (ETC), as the cement of the European house and motor of integration, is a key issue to reach these objectives.

The AEBR kept meetings with Director General Dirk Ahner in the middle of June, and with Commissioner Hahn on the 18th of July in order to exchange first impressions on this proposal. Important improvements are included in the new Draft Regulation. What is the impact of Territorial Policy is a main concern for DG Regio and it should be ours, too. More visibility is needed both top-down and bottom-up.

Up to now, the thematic orientation of Interregional Cooperation has been determined by the Lisbon Agenda and the EU 2020 Strategy, being most of the projects related to innovation and technology, SMEs and entrepreneurship, energy, transport networks and climate change. One of the problems detected by the direction of the program is the amount of energy devoted to the selection process (high number of applications) by the Interreg management workforce, and not enough to measure the impact of the projects. For the future, it is expected that more attention will be paid to long-term outcomes in order to illustrate the European added value within regional/local development processes, as well as the long-term impact in the lives of European citizens. Next programme should focus more on the thematic priorities of the EU 2020, but it should also include topics as governance and administrative capacity building, while keeping flexibility enough to facilitate the implementation of projects according to the needs of local and regional authorities, as well as other stakeholders in border regions.

On the other hand, it seems very evident the necessity to differentiate between the needs and capacities of border and cross-border regions, and the need to stress capacity building in many areas. Border and cross-border regions, euroregions and other CB structures should pay a lot of attention to the developments at national level, and try to influence these processes. The same can be said about macro-regional strategies. These will include many cross-border aspects, and **the regional/local level should be very much aware of them**. Both the European and the national levels should be followed very carefully in this crucial moment for the future of European CBC.

On the **partnership contracts**, there are concerns about including ETC, because two neighbouring states may incorporate different priority areas, resulting difficult to match them at cross-border level.

In any case, it seems fundamental to incorporate the NUTS 3 level, CBC structures (Euroregions, EGTCs) and local authorities in decision-making processes related to the implementation of the ETC. The participation of the different levels of governance in the management of the programmes should be balanced, in order to guarantee a bottom-up approach. This should also be the case if an EGTC is the administrative authority.

2.2 Draft Regulations for EU Cohesion Policy 2014-2020

In October 2011 the Commission adopted a **draft legislative package** which will frame **EU Cohesion Policy for 2014-2020**. The new proposals are designed to reinforce the strategic dimension of the policy and to ensure that EU investment is targeted on Europe's long-term goals for growth and jobs ("Europe 2020"). This regulation's package also harmonises the rules related to different funds, including rural development and maritime and fisheries, to increase the coherence of EU action. A main issue is the **Partnership Contract** to be agreed between the Commission and Member States in order to commit to focussing on fewer investment priorities in line with the EU2020 objectives. You can find here all legislative proposals for regulation of the Cohesion Policy 2014-2020:

http://ec.europa.eu/regional_policy/what/future/proposals_2014_2020_en.cfm

We agree, in principle, with the Commission's proposal, and also acknowledge most remarks posed by the European Parliament. However, we miss the reference to cross-border structures and their role in the integration across European border areas. Instead, a misbalanced attention to the urban dimension and a growing interest in interregional and transnational cooperation make us worry about the impact of these mainstreaming approaches in future cross-border programmes. Here we have a main remark: we should pay attention how the priorities are going to be implemented, and they should be applicable to ETC Programmes with flexibility enough to address daily needs of CBC citizens and structures. People-to-people projects should be carefully taken into consideration when defining priorities and procedures (application, management, monitoring and control). Bureaucracy increases the administrative efforts up to unbearable levels for many structures.

During the negotiations of the future Structure Fund regulations between the Commission and the Parliament, the main conflict was caused by the **concentration in some** previously defined **objectives** (the thematic objectives), and the minimum quotas for these objectives. The proposed 11 thematic objectives of the Cohesion Policy 2014-2020 are:

- Research, technological development and innovation
- Information and communication technologies
- Competitiveness of SMEs and the agricultural sector
- Low-carbon economy
- Climate change
- Environmental protection
- Sustainable transport
- Employment
- Social inclusion and combating poverty
- Education and training
- Institutional capacity and efficient public administration

The REGI Committee of the Parliament has considered this proposal too rigid (22-23 November). In fact, this seems quite contradictory with the Commission's call for flexibility, and it can affect very much the implementation of programmes and projects on the ground.

Not only Member States expressed doubts at the General Affairs Council (16 December), but also the MEPs were sceptical at the REGI Committee on the Commission's proposal to **concentrate a large part of support under ERDF** (at least 80% for developed and transition regions and 50% for less developed regions) **on three key priorities:**

- research, technological development and innovation;
- strengthening of the competitiveness of SMEs; and
- support for the shift to a low-carbon economy.

Macroeconomic conditionality is another source of debate, as Structural Funds could be part of the solution for countries with budgetary problems. There were other question marks: the performance reserve (5% of the fund), the "delegated acts" procedure, ... So, REGI will keep on discussing this during next meetings. This debate was also present at the Informal Meeting of Ministers responsible for EU Cohesion Policy (regional policy), territorial and urban development, on 24-25 November 2011 in Poznan. They also asked for more flexibility to take into account the needs of the different regions. Particularly intense was the position of the Committee of the Regions.

General rules are ok, but too many cross-references on different regulations, regarding in particular with fixed priorities, contracts, etc., can complicate very much the overall understanding of procedures, mainly for ETC.

A minimum percentage would have to be devoted to the **ESF** (25 to 50 %, depending on the regions' level of development).

For many MEPs, mandatory quotas from the start are against the needed flexibility. They do not reject greater thematic concentration to achieve the main objectives of growth and employment, but it is indispensable to involve the regions and other actors (as it is the case of cross-border structures) in the selection of priorities. This can be done by including them in the future partnership contracts to determine the investment priorities for each member state (taking into account already mentioned concerns about including different national priorities with resulting increased difficulties to match them at cross-border level).

In any case, the effects and deepness of the crisis have affected all discussions up to the point that the informal EU Summit on 30 January 2012 stressed the need to **reprogramming current available Structural Funds** (around € 80 billion) to invest more in measures to boost employment (particularly youth unemployment and training needs) and growth.

This proposal raised some strong reactions amongst MEPs, not about the substance of the proposal, but on the way to implement it. A first remark is the rejection to refer to these funds as "unspent" money. In fact, most of funds non-committed formally, are already allocated to priorities in each national programme. So, there could be a mixed risk of creating uncertainties over already approved programmes and also false expectations in direct

beneficiaries and the public opinion. The final decision whether to adapt their programmes to the new reality should be taken by each member state.

Conditionality and cross-compliance arrangements should be better defined, orientated towards the future possibilities of many territories currently deeply affected by the crisis, and not as coercive measures. Macroeconomic considerations should not be the regulators of CB approaches.

Then, the always present question is **macro-economic conditionality**, due to the difficulties to find an agreement. We have discussed this issue intensively with other Associations and the Committee of the Regions, and the main concern lies in the fact that, while cohesion policy should help less developed regions, this macro-conditionality can affect them if their member states do not fulfil the conditions established in the Stability Pact. Instead of promoting growth and competitiveness, it will lead to a vicious circle. On the other hand, growth and employment is the overall purpose of the cohesion policy, thus it is that on-going projects are reflecting this. The decision will last for a while, as the Danish Presidency did not produce any outcome in its semester (Danish Minister for European Affairs, Nicolai Wammen, was very eloquent during his address to the REGI Committee on 25 January 2011). But the Parliament has clearly expressed its opinion, even insisting in the need to increase the funds for ETC.

The recent proposal to suspend part of the Cohesion Fund for Hungary in 2013 (almost half a billion €) due to the excess of deficit seems to be a precedent to extend macro-economic conditionality to all Structural Funds in the next period. All political groups at the Committee of the Regions rejected this proposal, even if it only address the cohesion fund (managed at central level), as it would certainly have an impact on LRAs benefiting from projects co-financed by it.

The AEBR fully agrees with the general purpose of getting an **impact on growth** (focus on results and effectiveness), bringing benefits to most of the Member states with a clear EU added value, while keeping a reasonable support to all territories. But, based on our experience and the contributions of border regions, we draw the attention to the fact that some general provisions are not realistic for ETC, especially CBC. In the final regulation for ETC, the full set of priority areas and measures have to be listed, adapted to the needs of ETC, especially CBC (such as rural and regional development, tourism, civil protection, flood prevention, etc.).

And, there are growing voices asking for a more comprehensive set of criteria for the allocation of EU funds. Using GDP as the single measure is quite an outdated procedure. For instance, the UNDP uses a more complex (and accurate) one to establish Human Development in a global scale (Human Development Index). Therefore, demographic and health status of the regions, income inequality, education level, environmental status and physical constraints could also be integrated in a more aggregate criterion for the allocation of funds.

3. Draft AEBR Opinions on:

3.1. *The “Proposal for a Regulation of the European Parliament and of the Council on the Cohesion Fund and repealing Council Regulation (EC) No. 1084/2006”*

The Association of European Border Regions (AEBR) welcomes the proposal of the EU-Commission for a “Regulation on the Cohesion Fund”, especially in this moment of challenges about the future EU policies and architecture.

As a general approach to Cohesion Policy, the AEBR underlines the need for **better coordination** between the **European policies and financial instruments**.

Despite of the fact that we have suggested **minor changes** for concrete articles of this draft regulation, the proposed **areas for intervention** meet with general **approval**. Nevertheless, adaptation and a certain degree of flexibility in the development of these priorities within Territorial Cooperation would be the most appropriate behaviour if a territorial- and multi-level based approach is necessary.

We also appreciate the definition of a negative list of tasks that will not be eligible for support.

It has also been very welcomed to connect this draft regulation with the consultations on the future Trans-European Transport Network (TEN-T). Our opinions are elaborated on behalf of our members and focus therefore on cross-border cooperation (CBC).

Cross-border infrastructure links should belong to the group of **projects of common interest** which should be prioritised. In creating trans-European infrastructures it has turned out to be very **helpful** to decide, plan and realise **border-crossings first**. This causes a pull effect in the national centres and a more European rationality of transport networks, whereas if initiated in central areas, the implementation of these infrastructures slows down towards the border (see AEBR statement submitted at the time of TEN-T consultation).

Furthermore, **trans-European transport** axes can only **unfold their full potential** (European, national, and regional) when simultaneous **good regional links** are implemented. Thereby, **bottlenecks** within transport flows, and at the connections between regional networks and trans-European axes, could be **overcome**. Thus, **border regions** would not be condemned to the mere function of **transit areas**. Instead, good links between regional networks and large-scale axes would **improve** the **accessibility** of border regions (location factor) and the **mobility** of their citizens (prevention of migration). Also, **trend-setting projects** along these axes could be better realised (transport and logistic centres, logistics projects, cross-border business parks).

3.2. *“Proposal on a regulation of the European Parliament and of the Council on specific provisions concerning the ERDF and the Investment for Growth and Jobs Objective and repealing regulation (EC) No 1080/2006”*

3.2.1 General comments

The Association of European Border Regions (AEBR) welcomes this proposal and appreciates that the EU-Commission proposes a common **strategic framework** for the different European policies (for a better cooperation and coordination between them). In this regard, the horizontal cohesion policy is the most important European instrument to support the objectives and priorities of the Europe 2020 Strategy.

The AEBR explicitly supports the efforts to enhance the **added value of the European cohesion policy**, to improve the programme planning and to encourage the thematic concentration and the institutional and administrative capacity.

In the framework of EU programmes, funding of **all European regions** despite their size and living standards (see also Territorial Agenda) is still considered necessary.

The new financial instruments need **flexibility** and **differentiation** with regard to territorial peculiarities and particularly cross-border cooperation (CBC). In CBC a wider range of measures applies than in the general regional policy (ERDF), and these are essential for success. Like the last INTERREG evaluation showed, soft and socio-cultural measures are of great importance for effective economic cooperation. Forms of financing assuring sustainability and durability through economic projects are useful and highly appreciated in CBC. There have to be possibilities for differentiation in the cross-border Operational Programmes to finance socio-cultural projects, that are usually aimed at mobilising and informing on CBC to the actors on the ground.

In the introduction to the regulation and also in article 5 “Summary” it should be specifically pointed out that **partnership and subsidiarity still have to be improved**, as European cohesion and regional policy can be effectively strengthened by:

- A direct and accountable **involvement of regional and local authorities** and other CB actors (Euroregions, EGTCs, etc.) in defining the objectives, managing and implementing EU programmes, as well as monitoring the results. This is necessary given the shortcomings that still can be discovered in the implementation of partnership and subsidiarity.
- **Definition of clear rules** on the role and responsibilities of the regional and local level in the elaboration/implementation of EU-programmes.
- A considerable **simplification** of administrative procedures and an **increased efficiency** of organisational processes.

The AEBR agrees with a stronger **orientation to results** and the proposed **eligible areas of intervention**, while pointing out that, in exceptional cases, limited **flexibility** is needed. This is particularly the case if other measures can verifiably lead to success and could contribute to the Europe 2020 Strategy in order to fully exploit specific endogenous regional potentials (very much stressed by the European Commission).

Specific funds for **SMEs** and for areas with **regressive industrial development** (structural change) are welcomed. Even the stronger focus on sustainable **urban development** seems to be justified. But it should not be overlooked that metropolitan areas/urban agglomerations and rural areas are mutually linked. Metropolitan areas and urban agglomerations can not exist without a corresponding rural hinterland. On the other side, rural areas can not develop

without a dynamic centre in the vicinity (even in the neighbouring country, if CBC works properly). This promotes mobility, but does not necessarily lead to excessive migration from the border/rural areas (home/workplace) to the agglomeration.

Many **rural areas**, particularly border regions, are also threatened by the new challenges (climate and demographic changes, energy supply, financial crisis), with a weak economic structure that, in turn, affects their capacity for services, educational institutions, etc.

Therefore, it should not only be about industrial and urban development in structural change, it is also about **new concepts for rural development**, urban-rural partnership and polycentric development. It is about a complex place-base approach to exploit all potentialities and not to add more challenges by promoting differentials between urban and rural areas.

The **Connecting Europe Facility** (transport, energy and ICT) is supported if it is linked with the objectives of **TEN-T** that focus on cross-border links (especially realisation of border crossings first). Nevertheless, it is not only about trans-European links within the transport network, but also about **regional connections**. Otherwise border areas would become only **transit zones**, without profiting the advantages of mobility and labour market by improved regional transport connections to the trans-European networks.

The AEER underlines the necessity of targeted **interaction of the European funds** to achieve the main objectives of the Europe 2020 Strategy and supports the proposal to define minimum shares for the European Social Fund (ESF) for each category of regions, as the social framework can be considered an essential location factor in regional competition.

3.2.2 Proposals and remarks to specific points and articles

ad 5. „Summary“

It is welcomed that not only **areas of intervention** will be defined, but also a **negative list** is going to be issued.

The concentration of funds on a few priorities for regions in transition and advanced regions, as well as the possibility of a broader range for less advanced regions, seems to be justified. In this context the above mentioned essential **flexibility** in well founded and understandable cases (regarding special endogenous potentials) and the specificities of territorial cooperation are stressed.

The AEER agrees with the remark of the EU-Commission concerning regions with specific and permanent natural or demographic **disadvantages** in the Operational Programmes as well as the special rules for **ultra peripheral regions**.

In the Treaty of Lisbon and in the latest reports on cohesion policy, besides border regions, also mountain, island, and sparsely populated regions are listed as areas with specific problems. Many of them are at the same time border regions. This means that many border regions are not only affected by one, but by several **challenging conditions for disadvantages areas** (burdened with migration, brain drain, as well as national and, sometimes even European, periphery).

In general, the proposed **increase of EU-funds** for territorial cooperation is welcomed. However, especially the percentage allocation to every strand of cooperation and the extra share for ultra peripheral regions, meet approval.

But it has to be pointed out that it is about comparably small funds and, according to the last INTERREG evaluation, **considerably higher funds** are needed to realise main targets, especially by using cross-border potentials, not exploited so far.

We refer here only to numbers and articles that have not been discussed up to now.

ad (10)

The AEBR welcomes that the EU-Commission deals with the problems of **accessibility and remoteness** from large markets to cope with some specific difficulties, particularly in border regions (that often show multiple challenging conditions).

ad article 3

In general, the **areas of intervention** are considered correct, with the exception that **flexibility** is required in some points:

- (c) In some areas and under specific conditions, **cultural institutions** can be the **decisive factor** for social infrastructure and for the general positioning of a region (image).

ad article 5

The proposed **investment priorities** offer a sufficient range of possibilities.

It should be considered to include in (7) a new subitem (f): "Exploitation and/or new utilisation of **raw material deposits** that are or could become rentable in the course of increasing world prices".

3.3. ***”Proposal on a Regulation of the European Parliament and of the Council on specific provisions for the support of the European Regional Development Fund (ERDF) to the European Territorial Cooperation (ETC) Objective”***

The Association of European Border Regions (AEBR) welcomes this proposal of the EU-Commission and especially appreciates the permanent dialogue with the European Parliament, the European Commission and the Committee of the Regions, established in 2007 on the future Cohesion Policy. Over this long period there were intensive discussions about the possibilities to improve territorial cooperation, especially cross-border cooperation (CBC). Based on these discussions, the AEBR could **submit practical oriented and concrete recommendations and proposals**, on its own initiative and in all relevant consultations, most of which have been adopted in the new draft regulation.

The AEBR underlines the substantial **contribution** of CBC to **territorial integration and territorial cohesion (cement of the European house)** as well as the high European, political, institutional, economical and socio-cultural **added value** it creates.

According to the Green Paper on Territorial Cohesion and the 5th Cohesion Report, as well as to the Lisbon Treaty, border regions belong to especially disadvantaged areas. Consequential funding for **all border regions** has to be continued. Moreover, a **separate regulation** is still necessary, as the programmes affect more than one Member State (see also the problems of ETC in the partnership agreements). Therefore special provisions are needed to achieve the targeted results. Some of the present **weaknesses** of the cross-border programmes (already identified in the Barca Report, the INTERREG ex-post evaluation as well as in several communications of the AEBR) are due to the frequent lack of bottom-up approach and overall strategic framework, too many minor priorities, insufficient real cross-border character of projects, a non-defined joint eligibility and management description, as well as the need to enhance stakeholders’ participation. In addition, improvements and simplifications in the programme implementation and monitoring are necessary.

This proposal of **new regulation** takes up many of these points and offers **several improvements** as well as **practical oriented formulations**. They concern especially the need for specific provisions, more coordination and strategic focus, concentration on a limited number of priorities, better linking to convergence and competitiveness, as well as harmonisation and simplification of applicable rules.

However, there are some elements highlighted by the AEBR that have not been **taken into consideration** up to now:

- Cross-references to other EU regulations, for instance, between general Cohesion and ERDF provisions (addressed to national authorities) and the ETC (which address more than one national authority).
- For this same reason, ETC should not be included in the partnership contracts.
- Specific rules for **more decentralisation** of INTERREG A programmes (see Barca Report, INTERREG ex-post evaluations, and AEBR proposals for operational

programmes with mainly autonomous sub-programmes in Additional Document 3.2.2 on “Decentralization of future INTERREG Programmes”).

- Allocation of EU-funds should not go directly to Member States, but to cross-border programmes (like in 1990 and later repealed on request of the Member States).
- Regarding the **Technical Assistance** within individual cross-border programmes, financing of advice and consultation for less advanced regions, euroregions and other CB structures and networks by advanced ones should be allowed in order to close knowledge and capacity gaps or, at least, not let them grow further (e.g. cross-border strategy development, healthcare, R&D and innovation, EGTC).

Moreover, it is recommended to mention once again in the **regulation for territorial cooperation** all of the **priority areas** listed in **article 5 in the ERDF regulation**, and to present a catalogue of eligible measures specific for ETC and allowing more flexibility. In doing so, it can be avoided that the general public misunderstands the text. In fact, EU citizens are main stakeholders. Article 6 “investment priorities” in Chapter II is hardly understandable without having the ERDF regulation at hand with the other detailed investment priorities.

In general, the AEBR **welcomes** a new and separate regulation for the objective **European Territorial Cooperation**. This is a great progress, especially in those fields that CBC is complicated or real cross-border results are hampered to date. However, there is a lack of references to the **euroregions**. As pioneers (and still very relevant instruments) for CBC, their experience has been crucial for the current understanding of CBC in our continent. Their genuine expertise in realizing people-to-people projects on the ground has provided with very relevant information regarding the practical implementation of CBC strategies, programmes and projects in order to address border citizens. For example, their perception of overlapping procedures and bureaucracy, the lack of a clear bottom-up approach, or the establishment of thematic quotas, makes very appropriate to listening them carefully before establishing definitive regulations for the next programming period.

3.3.1 Proposals and remarks to specific articles

ad 4. „Effects to the budget“

In principle, **raising the EU-funds** for territorial cooperation is appreciated, particularly the **distribution by percentage** to the individual strands of cooperation and the extra allocation of funds for outermost and sparsely populated regions.

However, it is pointed out that the funding is still **comparably low**. According to the latest INTERREG evaluation, **considerably higher EU-funds** are necessary to achieve the objectives, by using especially CB potentials that were hardly exploited up to now.

The **Connecting Europe Facility** (for transport, energy and ICTs) will be supported if it is **linked to TEN-T objectives** focussing on CB links (border crossings). **Regional connections** have to be fostered as well. Otherwise border areas will become only transit

zones without profiting from growing mobility and labour market activation by improved regional transport networks and connections to trans-European networks).

ad 5. „Summary of the contents of the regulation“

The general approach for a better **strategic focus** of the programmes, the **results orientation**, the **intended thematic concentration** as well as the funding of **genuinely joint operations** are welcomed.

However, in thematic concentration **sufficient flexibility** has to be ensured to meet especially the **regional specificities** in CBC and to allow the up to now missing **bottom-up approach**.

The following formulation in the summary (...) *“The proposal sets out the financial resources available for each strand and the criteria for their allocation to Member States”* (...) is difficult to harmonise with article 25 [(...) *„payment to a joint bank account without national sub-accounts“* (...)].

The composition of Monitoring Committees should be well balance, in order to guarantee a bottom-up approach in the decision-making process. A special attention should be paid to the local level (NUTS 3, euroregions, local authorities), that should be represented to a convenient extent.

Transferring **financial resources for cooperation activities at the external borders** in connection with the European Neighbourhood Instrument (ENI) and the instrument for Pre-Accession Assistance (IPA) is necessary and right. But it has to be kept in mind that this was originally closely linked with the request of the European Parliament and the European Commission following the **rules and positive experiences of INTERREG**. This could **not be achieved** to date and needs immediate improvement, particularly as regards genuinely joint programmes and projects, a genuinely joint bank account (that is not split up any more), involvement of the regional/local level and the stakeholders of both sides of the border as well as the joint and simultaneous decision on projects and their respective financing and implementation. Attention is to be paid to some experts' opinion, arguing that Interreg procedures will not be possible to be implemented within the ENI and the IPA. An interesting debate could be opened in this regards.

A **separate regulation for ENI and IPA** like the one for territorial cooperation would be **necessary** as the general regulations for these two instruments contain too many foreign policy elements. Such a separate regulation is not foreseen until now. The European Parliament and the Committee of the Regions should take more care of this issue. Regions at the external borders should not face the risk to be treated worst in comparison to regions at the internal borders in the field of territorial cooperation.

Pointing out possible **overlapping of macro regions, sea-basins and transnational programme areas** is emphatically favoured.

Regarding all necessary support to **coastal regions** it has to be taken into account that in total (including the programmes for territorial cooperation and ENI) they already have **more funding possibilities** at their disposal than border regions along land borders.

The **simplification of the implementation modalities** with a detailed definition of tasks and responsibilities, joint indicators, harmonisation of rules with eligibility regulations and a joint approach for carrying out management verifications and audits, corresponds with numerous proposals and requests, expressed in different hearings and consultations by the AEBR and many other stakeholders.

However, the AEBR points out that these **improvements** especially concern the **programme level**. For the **implementation at project level**, in the individual programmes for CBC clear arrangements have to be made as well regarding joint eligibility (which can be very different on national level, e.g. real estate, automobiles, etc.), project selection or audit periods.

This should be a **precondition to approve every programme**. Even better would be the **conclusion of an INTERREG agreement** per programme, regulating all these issues and being signed compulsory by all partners before the start of the programme.

ad (9)

A potential **adaption of the programme areas** to the needs can be supported, also the possibility to enlarge the **number of programmes**. This could enhance the desired bottom-up approach, and also offer regions in border triangles the chance of developing autonomous programmes.

ad (16)

The **limitation of thematic objectives** should be adapted to the needs of ETC and handled with flexibility enough according to the respective conditions of a given cross-border region (a comprehensible justification is a pre-requisite).

As the last INTERREG evaluation revealed, **soft measures like “people to people” projects or small project funds create verifiable cross-border added value**. They support the cooperation in legal and administrative subjects, as well as between citizens and institutions. In doing so, they become the motor of cooperation in questions related to economy, labour-market, R&D and innovation, and many others.

If only a **limited number** of thematic objectives remains possible – instead an own priority axis for **“people to people” actions** – it should be possible to implement such actions within every priority axis. They could be merged as a **horizontal task** of any programme through **small project funds**.

ad (25)

Joint eligibility rules have to be **obligatory** in order to avoid unnecessary and long-lasting arguments. It cannot be that, in a given project some things are eligible on one side of the border and not on the other side. In the Dutch/German border area, the Benelux-area and along the Upper Rhine between France/Germany/Switzerland this has been possible for nearly twenty years despite very different national regulations. This is defined by an INTERREG agreement.

ad (29)

A **pro-active role of the secretariat** (also of an EGTC that could receive this task) is emphatically supported.

ad (30-35)

The proposed **rules** (regarding managing authority, audit authority, liability, etc.) could bring **substantial improvements** and **simplifications** as well as **transparency** in the processes. But the AEBC should reserve the right to **comment some points in detail**, as in these issues the response of every border region with its own experience is very important.

ad article 3

The **NUTS III level has to be kept** linked with some flexibility regarding the eligibility of NUTS III areas that are not directly connected to a border.

The **150 kilometres limit for coastal regions** needs **no further general enlargement** (see results of the INTERREG evaluation), but a case-by-case appraisal of island territories is needed. This is also the case of mountain regions and ultra-peripheral territories, which need a special consideration.

ad article 6

The investment priorities of the ERDF regulation should be repeated in this article (for explanation see above).

ad article 11, paragraph 5

It is important that now **all four criteria for a cross-border project** become **compulsory**. Especially **joint financing** of actions is a prerequisite for a real cross-border project.

EuRegio Salzburg-BL-TS suggests: *Complying with all four criteria of CBC projects is considered desirable. However, only two criteria should be obligatory. Complying with more than two criteria can be "rewarded" with 5% more subvention, as this is the case in the current programme Bavaria/Austria. Complying with two criteria should be enough in the case of small project funds.*

ad article 23

The proposal to install **one audit authority, and a supporting group of auditors**, will produce substantial progress. But to date the definition of the **audit period** is missing. This is necessary to assure that the project partners will get their pre-financed expenditures within a reliable period (waiting times of more than one year in cases of national directed audits, as the EU-programmes receiving substantially more funds than territorial cooperation are audited first).

ad article 25

Paying to **one single bank account without national sub-accounts** will bring substantial **improvements**.

It would be even **better to allocate the funds directly per programme** without detour via the national Member States (see conclusion in chapter 5 "summary", paragraph 3 of the

regulation). In this way, the national rates remain, as known factor, part of possible considerations and decisions.

Summary

The proposal for a new and separate regulation for the objective “European Territorial Cooperation” is a great progress, especially in those fields that cross-border cooperation is complicated or real cross-border results are hampered to date.

Until the final adoption, improvements (particularly bottom-up approach, INTERREG agreement) are possible. This statement offers concrete proposals for this.

The AEBR agrees with points and articles that are not specially mentioned or commented.

3.3.2. Additional document: “Decentralization of future Interreg Programmes: Operational Programmes with Sub-programmes”

(Addendum to the AEBR draft Position Paper on the proposed regulation on the “support of the ERDF to the European Territorial Cooperation objective”)

A. General comments

The aim of this additional paper is to discuss some ideas regarding the implementation of decentralisation for future INTERREG A programmes. If these meet general approval, details (e.g. concrete distribution of tasks) can be further elaborated.

Our proposals are based on the best European practice available in the field of cross-border cooperation (CBC), which are to a large extent in line with the ex post evaluations of Interreg A by DG REGIO.

Both facts have shown that region-specific and decentralised managed INTERREG A programmes achieve the best cross-border results. With regard to the eligible number of programmes, in INTERREG A the European Commission tends to approve one programme per border, or even trilateral programmes.

This has meant since 1990 the enlargement of programme areas. The on-going increase of EU-funds for CBC, especially in the last 10 years, has led to a decrease of the wished decentralisation. The national governments more and more appropriate INTERREG A programmes. Thus, decisions are often taken from a national perspective and not from a cross-border point of view.

B. Proposal for solution

The principle “one programme per border” (or trilateral programmes) will be retained. But in the case of a big programme per border, sub-programmes are to be introduced, especially if this is requested by functional cross-border structures (Euroregions, EGTCs, etc.). These

sub-programmes should also receive own funds on the basis of an allocation system defined after programme approval.

One **Managing- and Paying Authority** per programme and border would remain and there should be also only one **Monitoring Committee**. Independent Steering Committees should operate for each sub-programme together with a joint secretariat. One of these secretariats would hold the Monitoring Committee for the whole Programme (for a given border).

The sub-programmes with own steering committees would then have a high degree of independence in the implementation of the sub-programmes down to the project selection and approval.

C. Model for a programme with sub-programmes

c.1 Programme development and INTERREG agreement

The elaboration of an INTERREG A programme is done by a cross-border partnership, consisting of representatives of the respective national governments and the regional/local level (e.g. Euroregions, EGTCs, etc.). This promotes a systematic place-based approach. For the areas covered by the sub-programmes, cross-border programmatic issues with priority measures are to be developed, being summarised in the main Programme (per border). The sub-programmes are oriented to the NUTS III level according to the future guidelines for INTERREG A programmes.

A cross-border partnership, acting in the preparatory phase, has to elaborate also a strategic framework for the management of the programme (with sub-programmes) and the finances.

A very good practice would be an INTERREG agreement, previously signed by all partners, regulating all relevant details in order to avoid problems in the programme implementation, as it is currently often the case.

Main issues of such an agreement would be, for instance:

- Modalities of INTERREG A programmes also applying to the sub-programmes.
- Specification of common monitoring, selection and control procedures.
- Provision of the co-financing.
- Commitment on a common bank account, to which preferably also the national co-financing has to be transferred, even for the sub-programmes.
- Definition of the liability.
- Right to control the other partners.
- Common eligible measures.
- Obligatory definition and interpretation of a cross-border project.

c.2 Programme structure

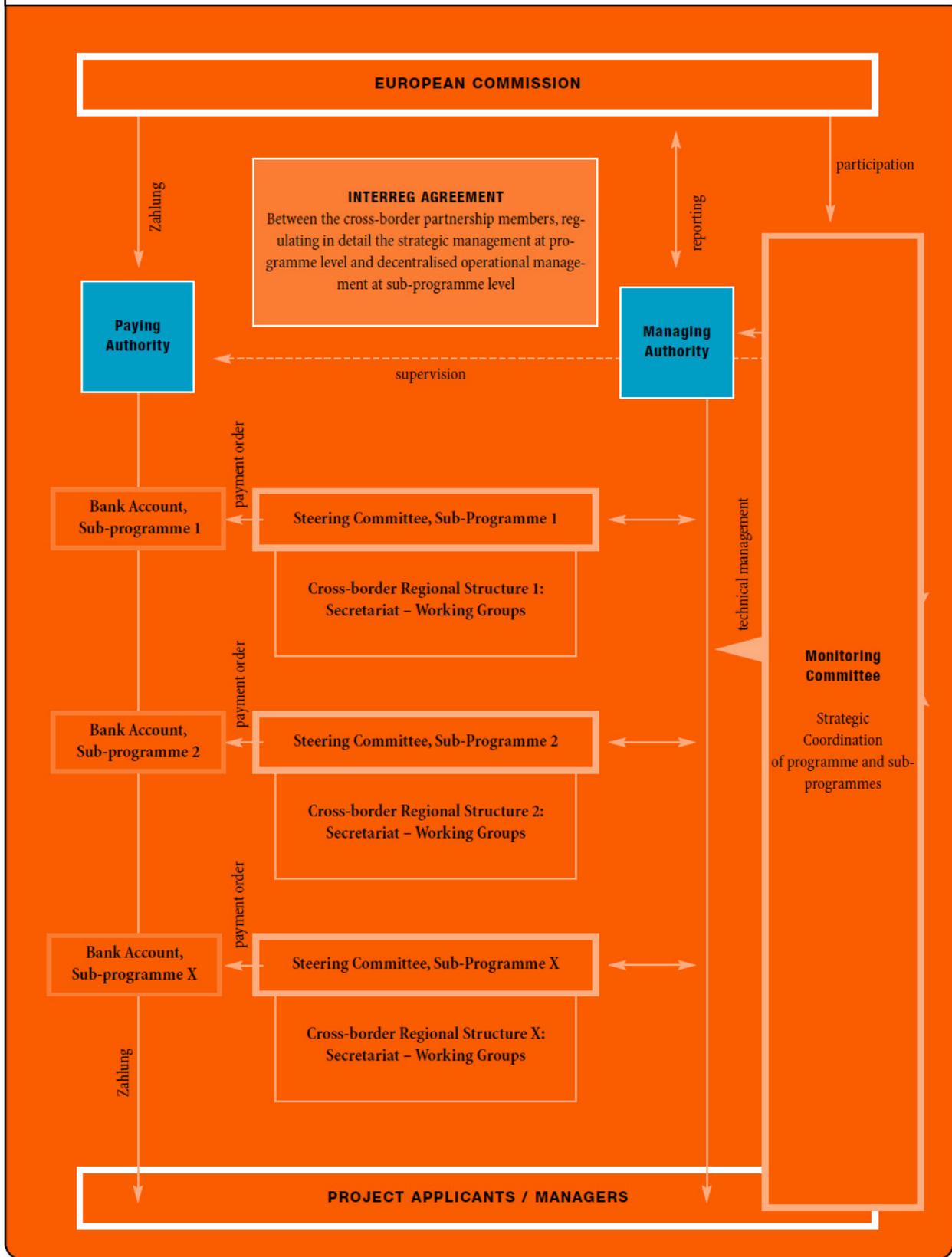
- The **Monitoring Committee** is responsible for (to be defined in the INTERREG agreement):
 - the strategic orientation , monitoring and evaluation of the programme,
 - the composition of the programme,

- the proceedings and frequency of the meetings (proposal: bi-annual meetings),
- all aspects concerning the procedures in the Monitoring Committee.
- A **Steering-Committee** and a **joint secretariat** carrying out the **operational management** for each **sub-programme**. This Steering-Committee is responsible for:
 - management and implementation of the sub-programme,
 - the final decision on project selection and approval,
 - decisions based on the principle of equality of the partners from both sides of the border (unanimity),
 - the frequency of the meetings (circa every 3 month), depending on the number of ongoing submitted projects (no call for proposals!).
- The common secretariat has to fulfil the following tasks:
 - Administrative support of the Steering Committee and other important infrastructure of the sub-programme.
 - Permanent information and concrete support for potential applicants.
 - Receipt of the projects applications and eligibility check.
 - Execution of all administrative tasks connected with submission, selection and approval of the projects.
 - Public relations and dissemination.

In each sub-programme several working groups are established with representatives of the NGOs, social partners, etc.

| SUMMARY OF PROGRAMME MANAGEMENT MODELS | |
|--|--|
| TYPE 1 | TYPE 2 |
| Interreg Partnership for the development and management of programme (regional/local cross-border partnership) comprising regional/local authorities and other authorities/bodies co-financing the programme (eg national-level Member State authorities) | |
| Interreg Agreement between the partnership members (to be presented to the European Commission) | |
| Programme(s) | |
| <i>for each national border or part of a long border</i> One programme With autonomous (in management terms), sub-programmes, each covering a cross-border region | <i>With autonomous (in management terms)</i> sub-programmes, each covering a cross-border region |
| Operational Management | |
| <i>for the Programme:</i> a Managing Authority and a joint Secretariat ('secretariat-général') <i>for each sub-programme:</i> <ul style="list-style-type: none"> • a Steering Committee • a joint Secretariat • sectoral working groups, etc, as appropriate | <i>for each programme:</i> <ul style="list-style-type: none"> • a Steering Committee • a Managing Authority • a joint Secretariat • sectoral working groups, etc., as appropriate |
| Strategic Management | |
| A Monitoring Committee for the programme | A Monitoring Committee for each programme |
| Contact points for the European Commission | |
| <i>for each programme</i> <ul style="list-style-type: none"> • one authority/body designated as 'Managing Authority' and acting as general/coordinating secretariat for all sub-programmes (could be combined with the 'Paying Authority' and the 'joint secretariat') • one body designated as 'Paying Authority' for the programme • an EU contribution (with distinctive amounts for each sub-programme) payable to a single bank account of the 'Paying Authority' (which is then transferred to separate accounts for each sub-programme) | <i>for each programme</i> <ul style="list-style-type: none"> • one authority/body designated as 'Managing Authority' (could be combined with the 'Paying Authority' and the 'joint secretariat') • one body designated as 'Paying Authority' for the programme • an EU contribution payable to a single bank account of the 'Paying Authority' |

PROGRAMME MANAGEMENT SCHEME FOR A PROGRAMME WITH AUTONOMOUS SUB-PROGRAMMES



3.4. The “amendment of the EGTC’s Regulation as regards the clarification, simplification and improvement of the establishment and implementation of such groupings”

The Association of European Border Regions (AEBR) **welcomes** the submission of the proposal for amendment of the European Commission aiming to improve the European Grouping for Territorial Cooperation (EGTC). Since the entry into force of the EGTC Regulation in 2006, 24 EGTCs have been constituted, and other 21 are under preparation. Both the Commission and the Parliament have paid a strong attention to these initiatives, strengthening them enormously with EU institutional support. Particularly effective has been the role of the Committee of the Regions, following the whole process through an experts’ group and, recently, through an EGTCs Platform, integrating political and technical representatives from existing EGTC and those under preparation, as well as experts, associations and other stakeholders. This Platform operates an online Forum and has promoted discussion groupings in the social networks (Facebook, Twitter) in order to open as many channels as possible to exchange experiences, improve communications and share all available knowledge for interested people and entities. We strongly support this approach and encourage the tasks developed by the EGTCs Platform.

The proposals for amendment that the AEBR has included here are clearly related to important problems that have been detected and offer practical solutions.

We agree with the three main objectives “**consistency, clarity and flexibility**”. As a summary of the contents of this regulation, Article 5 expresses this in a good way.

The AEBR shares the EU Commission’s view that **the added value of an EGTC is sufficient stimulation** and no financial or other type of inputs are needed at European level. An EGTC has to be viable on its own (e.g. through membership fees). Its members have to acknowledge that cross-border cooperation (CBC) requires own funding and that it does not only function if EU funds are provided. Furthermore, own funding is a prerequisite for the liability that is scheduled in an EGTC.

Through specific studies, elaborated on behalf of the Committee of the Regions and the EU Commission, the AEBR developed **practical oriented solutions and recommendations** that facilitated the completion of the EGTC regulation in 2006. Nevertheless, till shortly before the end of the discussions there was a danger of failure as, for the Member states, the question of competences was highly controversial. The AEBR proposed, at a hearing at the Committee of the Regions, to replace the term “**competences**” by “**tasks**”, and then a final break-through was achieved. Unfortunately, the term “competences” is again used in some passages of the new regulation.

Based on our practical experience, the AEBR submits the following recommendations and concrete proposals for amendment and improvement.

3.4.1 General recommendations for the draft regulation

The reasons to create and further develop an EGTC underline that there is a clear need to create visible and permanent legal structures for territorial (CBC) in general, allowing also the decentralised management of EU programmes.

There is a **danger to create parallel or overlapping cross-border structures** for already existing CBC, being an EGTC established only for the purpose to manage EU programmes.

Another difficulty is the **still ongoing discussion on “competences”** of an EGTC. As previously explained, it is not by coincidence that in the EGTC regulation of 2006 the term “competence” was avoided and instead the term “**tasks**” was used. Despite of the fact that differences in competences across the border will remain for decades, an EGTC will not be given competences, neither from the Member States nor from the regional/local level.

An EGTC has to fulfil necessary cross-border tasks. In well developed CBC structures the implementation of competences may even be **delegated**, but the competence will still remain to the respective national public authority.

Tasks are independent from competences at regional level on both sides of the border. In practice, also in national policies, the regional/local level is involved in many tasks (e.g. railways, large infrastructures, and those related to national plans), and acts in those fields to represent the interests of their area/their members, even if it does not have the specific competence. There is no reason why this should not be possible for a cross-border EGTC. It is above all not a legal issue, but a political one.

Therefore, in the final proposal, as in the regulation of 2006, the term “competence” should be substituted by “tasks” (number 7 of the introduction, article 4, paragraph 3, etc.). Apart from that, the proposal mainly deals with tasks, at one point even with a “list of tasks”.

While in 2006 the term „competences“ was a controversial term for the Member states, in the new regulation it could have negative effects for a EGTC to be established, provoke unnecessary discussions with the approving authority, and could be a reason for Member states to constrain the possible fields of action of an EGTC. This could cause **disparities** with regards to the implementation of EU programmes and territorial cooperation in general.

Example: An EGTC is established for CBC in general, including management of EU programmes. In a decentralised managed EU programme, infrastructural measures can be implemented. At the same time the EGTC does not get the permission for “infrastructure” tasks in general CBC (lack of competence). Legally, in both cases, it does not have the competence. But it can act in this field and fulfil cross-border tasks on behalf of its members.

Proposals for membership (including participation of institutions under private law), involvement of third countries and overseas areas, for a better distinction between agreement and statutes, for enlargement of the objective of an EGTC, for general applicable law, for rules for staff, for monitoring of the administration of public funds and for the liability, will bring substantial progress.

3.4.2 Proposals and remarks to specific articles

Ad article 1, paragraph 2:

The passage (...) „shall be to promote economic, social and territorial cohesion “ (...) should be **omitted** completely.

Justification: The objective of **territorial cooperation is already clearly defined in its specific regulation**. This could cause further and unnecessary discussions about the interpretation, and thus hamper the establishment of an EGTC. The negotiating partners of the EU Commission in the Member States are others than those approving the EGTC in every particular state. Mostly these are the Ministries of the Interior in cooperation with the Ministry of Justice and the Ministry of Foreign Affairs that are not very familiar with the term “economic, social and territorial cohesion”. An EGTC “touches” their competences. Also, they were the ones who raised substantial objections against an EGTC before 2006. Here, without any need, a possible source of discussions is created.

Ad article 5, paragraph 1:

It should be **published in all participating states** in a given EGTC, since the public and the citizens, as directly concerned parties, have the right to equal, accurate and simultaneous information.

Ad article 7, paragraph 2:

The passage (...) „shall act within the confines of the tasks given to it, which shall be the facilitation and promotion of territorial cooperation to strengthen economic, social and territorial cohesion and be determined by its members“ (...) should be **omitted**.

Justification: see above

Question of execution of rights of an EGTC in another Member State

One of the most difficult questions is, if an EGTC may act as **contracting partner for works or services in another Member State**, and how it can enforce its **claims on the other side of the border**.

This problem was already solved in 1991 in the German-Dutch Treaty (Anholt Treaty). It was agreed that a **public authority may act under instruction and on behalf of a cross-border structure or of a public authority located in the neighbouring country**. This is also of practical importance in case of litigations.

Example: A trial in issues related to the law of the state in which the EGTC is located that has an impact on another Member State. In case of refusal of one of the parties affected by that trial, the question arises on how the claim can be straightforward enforced. The **current regulation** already allows that an **EGTC can delegate tasks to one of its members**. This should be further developed.

4. Practical Cases

Excellent cases, best European practice, main difficulties and obstacles, unexpected challenges, etc., are being gathered in order to present a database with this information that will be used to illustrate main arguments, and also for others to get some inspiration.

Some of these cases were already identified by the AEBR (Secretariat, Executive Committee, Advisory Committee). Others arrived as a reaction to the present document and some were presented at the Seminar organized by the AEBR at the Committee of Regions (Brussels) on 20th April 2012 in order to analyse main obstacles and difficulties to manage Interreg programmes and projects, exchange on the different approaches, and present this to the EU institutions.

AEBR's Ampel on the proposed Regulation for European Territorial Cooperation 2014-2020

| Yes, please! | Watch out! | No, thanks |
|---|--|---|
| <p>Own regulation for ETC , and not just a chapter on ERDF</p> <p>Emphasis on quality, and not only financial issues</p> <p>Allocated funds a bit higher</p> <p>Simplification of procedures at all levels. Control, lump sums and flat rates are very much welcome</p> | <p>The size of programmes becomes bigger, consensus is much difficult, and bottom-up approach is missing</p> <p>Multi-level governance of programmes is to be guaranteed in all decision-making processes</p> <p>Focusing only EU 2020 could risk touristic and people-to-people projects</p> <p>On-going discussions on macro-regions, mixing up CBC, TNC and IRC</p> | <p>The size of projects will be much bigger, and cross-border approaches could be lost, particularly for small cross-border infrastructures and people-to-people projects</p> <p>Funds not allocated per programme, but still per Member State. So, financial control is still under MSs, even if there is a common account for a given programme</p> |