

SECOND REGIONAL SEMINAR  
ON THE INTRODUCTION OF PROTOCOL No. 3 TO THE EUROPEAN OUTLINE CONVENTION  
ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR  
AUTHORITIES CONCERNING EUROREGIONAL CO-OPERATION GROUPINGS (ECGs)

**REPORT ON THE IMPACT  
OF MADRID OUTLINE CONVENTION  
AND ITS PROTOCOLS  
ON CROSS-BORDER COOPERATION  
BETWEEN HUNGARY AND ITS NEIGHBOURS**

BUDAPEST, 2014

## INTRODUCTION

In this document we give a short summary on the achievements Hungary made on cross-border institutionalised cooperation in the light of the Madrid Outline Convention.

The elaboration of the document fits into the process launched by the Department of Democratic Institutions and Governance of the Council of Europe with a view to supporting the adoption of 3rd Protocol of the Convention in Croatia, Hungary and Serbia. Two seminars have been organised so far in the topic: the first one was held in Ljubljana on 19th February, the second in Budapest on 30th June, 2014. CESCO has been commissioned to give a report on the situation in Hungary at the second seminar and to elaborate a more detailed document on the same topic by 15th July.

The following brief analysis aims at showing the evolution of cross-border cooperation from the point of view of institutionalisation, the role of the Madrid Outline Convention in this process, and a comparison of the tools of EGTC and ECG. At the end of each chapter a summary presenting the Hungarian situation can be found.

With this report, we would like to facilitate the fulfilment of the process mentioned above, the adoption of related legislations and a better understanding of territorial processes around Hungary.

# 1. ON THE EVOLUTION OF CROSS-BORDER COOPERATION IN EUROPE

The fifty-year-long history of European cross-border cooperation can be characterised by gradual institutionalisation. The initial phase of this process stands in ad hoc (so-called project or event based) partnerships. Cooperation was then defined by the geographical proximity and the common historic and cultural heritage. The activities were aimed at strengthening personal relations mainly through joint events and ad hoc actions.

More steady relations have been established in parallel with the enlargement of the European Union when (due to the gradual opening of internal borders) more and more local stakeholders got involved in cooperation activities, and started to make use of a wider access to financial resources supporting the implementation of international projects. These projects created long-term partnerships between actors from different countries interested in similar fields of cooperation.

Through the gradual opening of borders, the players of the initial, informally organised entities recognised that their functional handicaps stemming from the peripheral situation of the regions in question can be overcome by institutionalising these forms of cooperation. The first such functional models of cooperation appeared after the beginning of the 1980s and they aimed at utilising certain complementary capabilities in the interests of the development of regions at both sides of the border. For example, a joint secondary education system was established at the Swedish-Finnish border, joint fire brigades were set up at the Czech-German border and, since the Millennium the number of cross-border community traffic and health service systems has substantially been increased. Besides the people-to-people types of cooperation functional models of transfrontier cooperation have spread in growing numbers.

The proliferation of these structures demonstrates the need, at a local level, for legal-institutional solutions for long-term partnership with a view to managing diverse functions with a higher level of territorial functionality and territorial economy, as well as with an improved effectiveness.

The functioning of these new types of cross-border regional and interregional organisations, however, is hindered even today by a number of national regulations. Therefore the bottom-up initiatives need to rely on the active cooperation of state-level legislation. Thus the cross-border forms of regional cooperation have gradually reached the normative level following the functional one, namely, the level at which territorial-statistical regions within nation-states are in operation, too.

## THE CASE OF HUNGARY

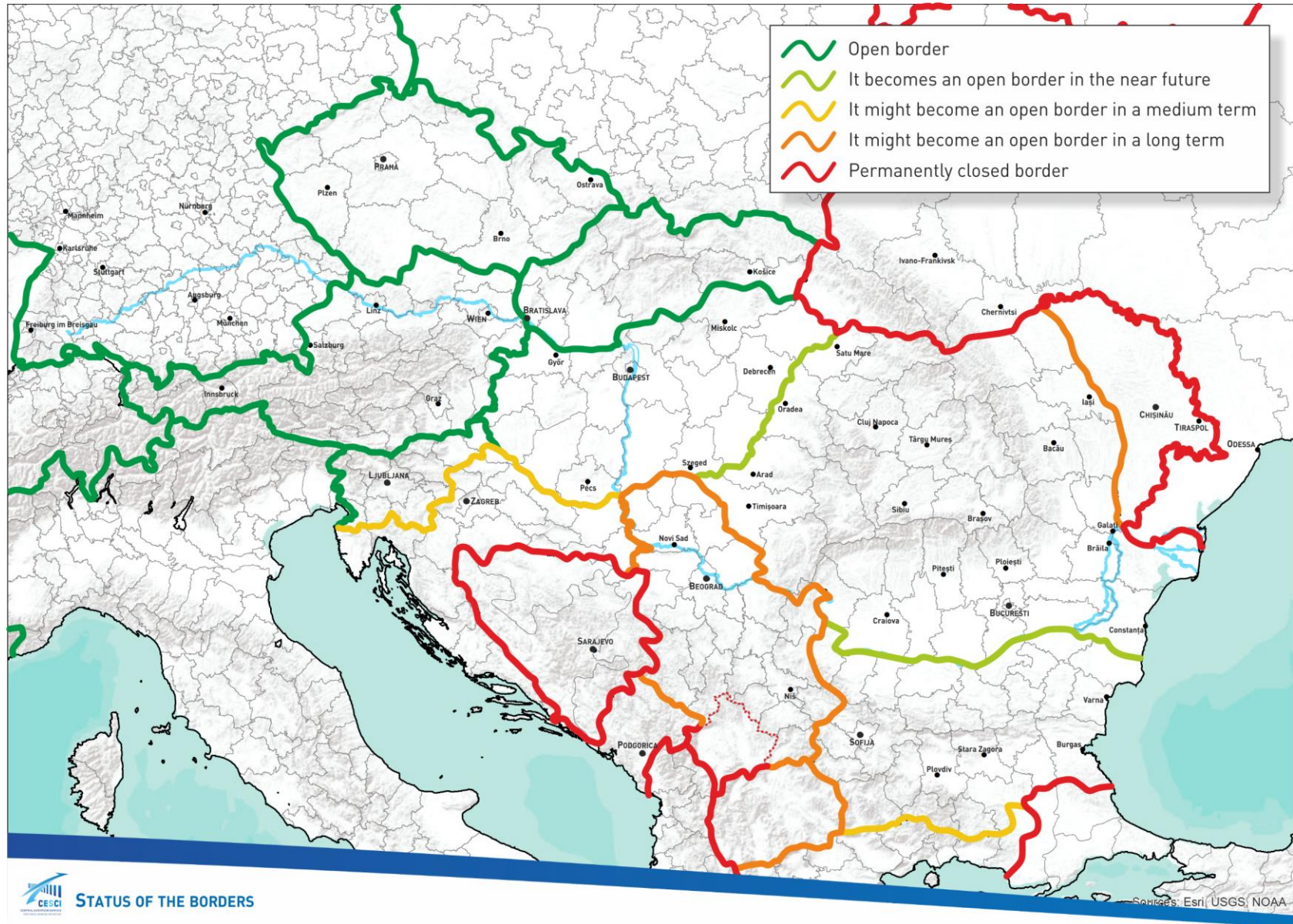
The case of Hungary is unique as the country has common borders of very different status with a total of 7 neighbours. Some of the neighbouring countries (Austria, Slovakia and Slovenia) are members of the EU and they are part of the Schengen zone as well. Romania has been an EU member state since 2007 but has not been allowed to join the Schengen zone for the moment. Croatia joined the EU in 2013 but it is not yet member of the Schengen zone, either. Serbia started the accession process in 2013 so border crossing will be eased significantly in the foreseeable future. And, finally, there is Ukraine whose joining the EU is very much disputed these days and it is not likely to take place in the near future.

It is obvious that there are very diverse conditions for cooperation between Hungary and its neighbours. However, since the transformation of its political and economic system in the early-1990s Hungary has always had flourishing cross-border cooperation structures along its borders.

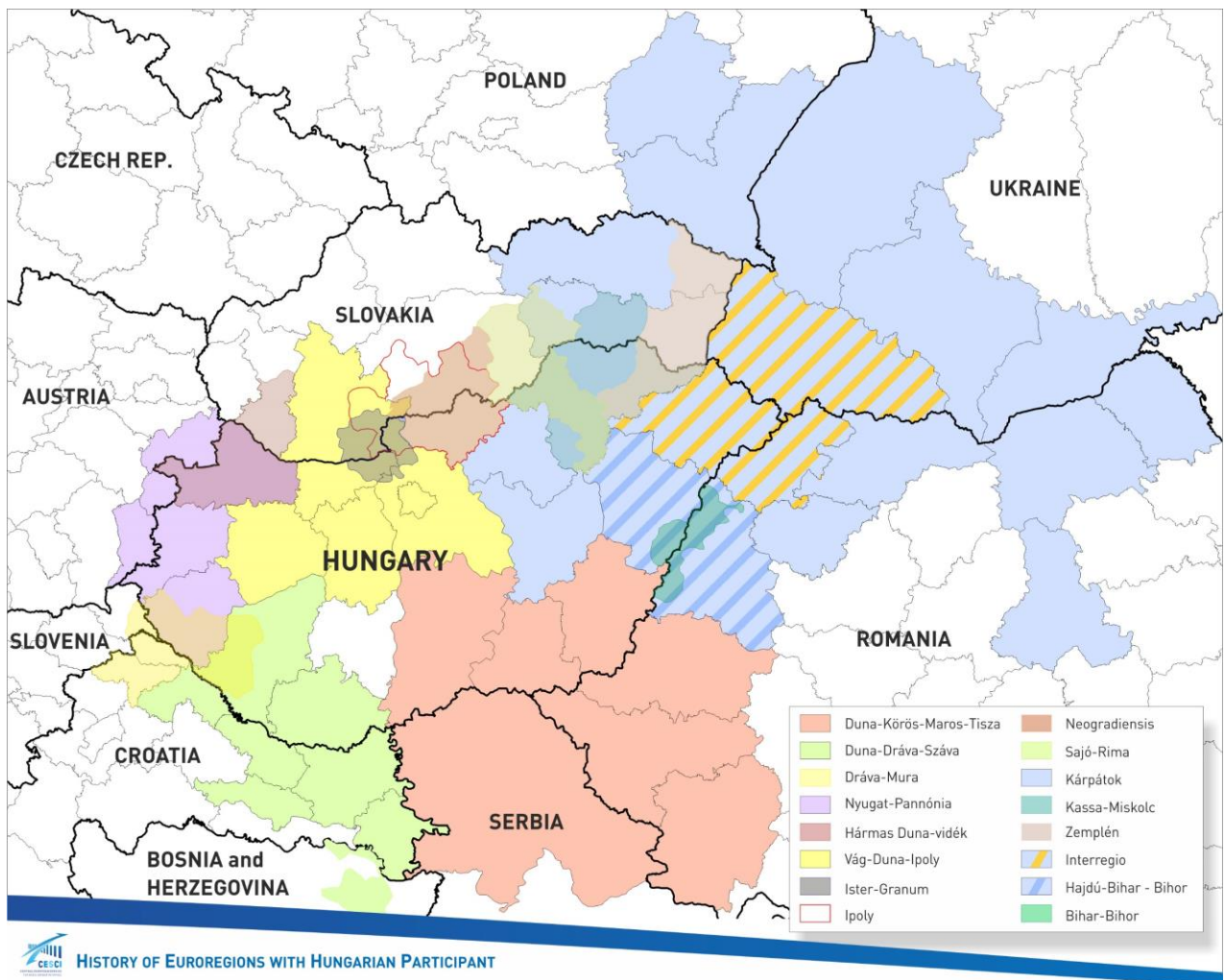
The first generation of cooperation meant the practice of the twin city arrangements. As there are Hungarian speaking minorities in all neighbouring countries the most adequate form of cooperation was that of agreements between local and regional municipalities. These connections focus mainly on joint cultural or sport activities and during the last decade they have been expanded to other ethnic groups, as well.

At the end of the 90s a new generation of Euroregions completed the first level of cooperation. The first Euroregion was established in 1993 (the Carpathian Euroregion) and after that time other 14 structures have been established with Hungarian participation covering nearly the entire territory of Hungary.





Map 1: The status of the borders in Central and Eastern Europe



Map 2: Euroregions along the borders of Hungary in 2008

In some cases these Euroregions were able to achieve the level of functionality. E.g. the DKMT Euroregion established a common news agency, managed to involve the representatives of the economic and the civil sector; within the Ister-Granum Euroregion the development of a cross-border enterprise-logistics zone started to unfold and a cross-border association of Wine Riders launched its activity; the West Pannon Euroregion established a cross-border territorial employment pact, etc.

Nevertheless, at the beginning of the 2010s the majority of the Hungarian Euroregions terminated its operation. With the exception of DKMT Euroregion we cannot report on successful cooperation of this kind.

## 2. THE ROLE OF THE MADRID OUTLINE CONVENTION AND ITS PROTOCOLS

Until the EU level regulations entered into force, diverging national regulations constituted the main obstacles hindering cross-border cooperation. Several efforts were made to eliminate these impacts and to establish the necessary legal frameworks. These efforts ranged from establishing preparatory committees (like, for example, BENELUX in 1969), through setting up inter-governmental committees (for example France-Germany-Switzerland in 1975), to signing inter-state agreements (for example the Helsinki Treaty in 1962).

It was a milestone in this process when the Council of Europe adopted the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities<sup>1</sup> on 21<sup>st</sup> May, 1980, in Madrid, known and regarded as one of the basic norms of international law. This Convention entered into force on 22<sup>nd</sup> December, 1982.

The Convention highlights the initiatives of local authorities and public bodies of several development areas, while presenting models of co-operation agreements and the development of solutions.

Model and framework agreements proposed by the Convention cover the following areas:

- samples of interstate agreements;
- framework agreements, policies and agreements for intergovernmental co-operation.

The significance of the Convention was that within the framework of international law it offered norms how to regulate cross-border cooperation as well as it developed examples of legal solutions (model inter-state agreements). These norms made it possible for bureaucrats both at state and local level to think about how to interpret such initiatives and thus gave a considerable „push” towards institutionalisation.

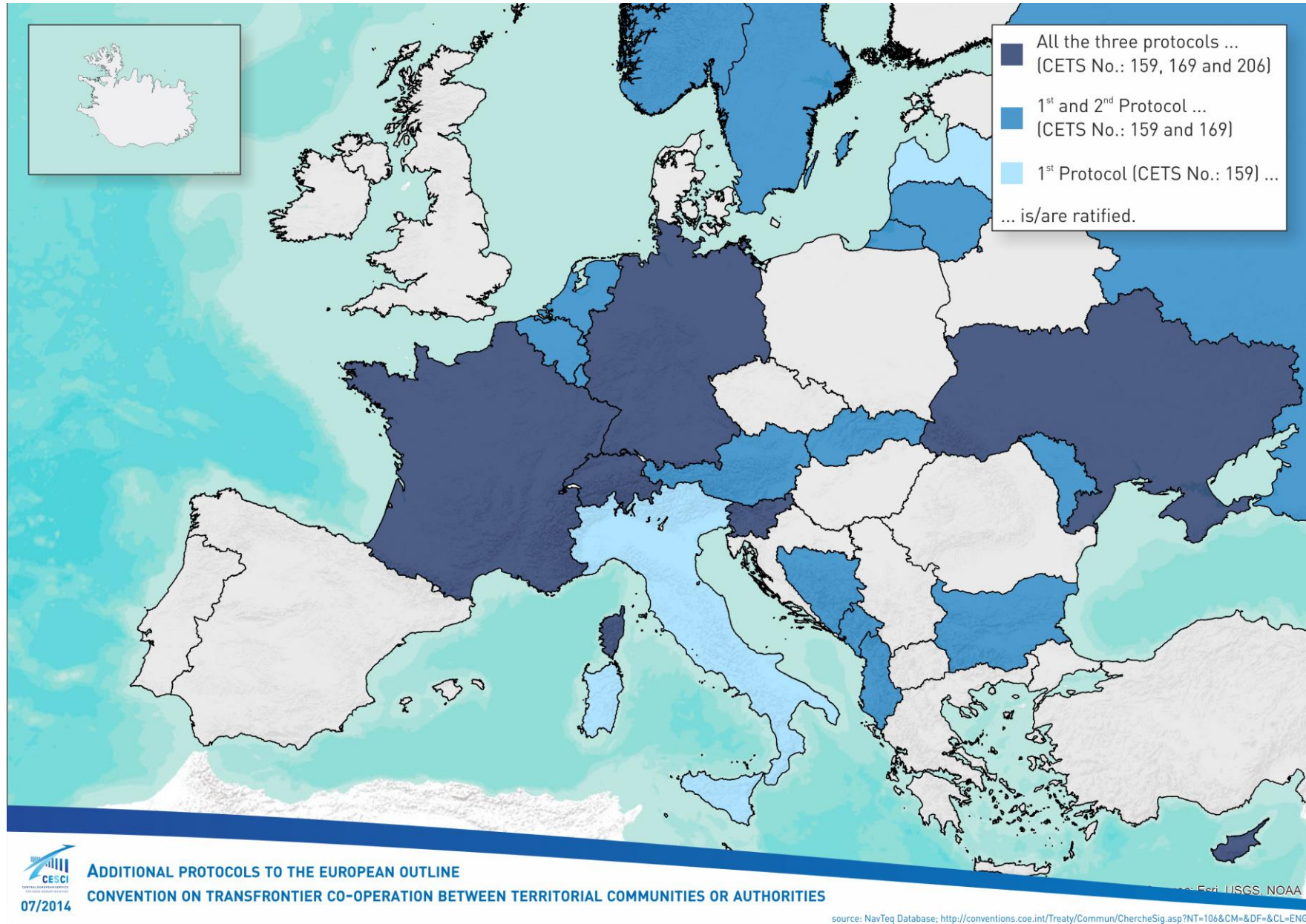
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<sup>1</sup> The Council of Europe Treaty Series – CETS No. 106.  
<http://conventions.coe.int/Treaty/en/Treaties/Html/106.htm>









Map 4: Status of the Protocols to the Madrid Outline Convention in Europe (July 2014)

Three Additional Protocols were issued to present day in respect of the Madrid Convention.

The **First Additional Protocol** (Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, CETS No.: 159, opened for signature: 9th November, 1995, entry into force: 1st December, 1998) supported the establishment of cross-border cooperation with a basis of public or even private law beside decision-making powers.

Reservations were not addressed to the Protocol, but the acceding States were required to declare whether they wish to apply (i.e. in case of accession, undertake a sense of subjectivity) provisions of Article 4 and/or 5 (operational rules of the institutions established under the form of private law and public law).

The **Second Additional Protocol** (Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation, CETS No.: 169., Opened for signature: 5th May, 1998, entry into force: 1st February, 2001) regulated cooperation between greater, non-contiguous territorial units replacing the term “cross-border co-operation” with the so-called “interterritorial co-operation”.

*“Article 1*

*For the purpose of this Protocol, ‘interterritorial co-operation’ shall mean any concerted action designed to establish relations between territorial communities or authorities of two or more Contracting Parties, other than relations of transfrontier co-operation of neighbouring authorities, including the conclusion of co-operation agreements with territorial communities or authorities of other States.”*

Along with the accession, the Contracting States have also agreed to apply provisions of the Madrid Convention and the First Additional Protocol to interregional co-operation including rules for institutionalisation (i.e. on common ground, creating two levels of co-operation).

According to the provisions of the **Third Additional Protocol** (Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial

Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs), CETS No.: 206, opened for signature: 16th November, 2009, entry into force: 1st March, 2013), published in 2009, it is the most forceful additional protocol of the Madrid Convention establishing a new common institution for transfrontier cooperation. Based on the nature of this new legal institution, it is related most to the legal form of the European Grouping of Territorial Cooperation (EGTC) applied in Community law.

Thanks to the adoption of the Madrid Outline Convention and partially its Protocols, the proliferation of bilateral or multilateral agreements (e.g. Benelux Convention: 1986, Isselburg-Anholt Agreement: 1991, Karlsruhe Convention: 1996, Carpathian Convention: 2003 etc.) and new cross-border structures (working communities, Eurodistricts, consortia etc.) could be observed in Europe.

## THE CASE OF HUNGARY

Hungary signed the Convention on 6<sup>th</sup> April, 1992, ratified on 21<sup>st</sup> March, 1994, and it entered into force on 22<sup>nd</sup> June, 1994. Article 2, paragraph 2 of the Convention made it possible to specify Contracting States and the range of associate and controlling organisations individually. Hungary's declaration on 21<sup>st</sup> March, 1994, and then on 10<sup>th</sup> December, 1998, has provided all necessary assertions, but did not support the participation of local governments in international co-operation.

The Convention was used as a model when signing the bilateral agreement between Hungary and Ukraine on cross-border cooperation (11<sup>th</sup> November, 1997)<sup>2</sup>. In the agreement the parties declare their interest in supporting cross-border cooperation of local authorities and eliminating legal and technical obstacles hindering cooperation. For this purpose a Joint Committee has been set up which holds its meetings regularly.

The Agreement defines the territories of cooperation (13 territories in sum, from local development to humanitarian cooperation) and the notions of both 'cross-border cooperation' and 'local authorities' as well.

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<sup>22</sup> The agreement was ratified by Hungary by the Government Decision No. 68/1999.(V.21.).  
[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=99900068.KOR](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99900068.KOR)



While the Joint Committee has been functioning permanently during the last years, territorial cooperation structures have not been set up so far between Hungary and Ukraine.

Hungary has not ratified any of the three protocols. The main reason for this is that there is a controversy between the content of the first two protocols and the Act LXV of 1990 on Local Governments.

However, the representatives of the Hungarian Ministry of Public Administration and Justice participate in the process launched by the Department of Democratic Institutions and Governance of the Council of Europe on the ratification of the 3<sup>rd</sup> Protocol. Ratification is expected soon because the construction is very similar to the EGTC which is a success story in Hungary.

### 3. EGTC AND ECG AND THE TERRITORIALITY OF FUNCTIONS

Healthy and well balanced territorial development and sustainable economic progress is impossible without the healthy territorial share of living and business conditions. Polycentric urban network is the guarantee for this territorial share of functions. At the same time, borders marking out the boundaries of different administrative systems create truncated urban influencing areas not only bringing on territorial-legal ruptures in the fulfilment of functions but also worsening the territorial economy and effectiveness of the provision of these functions.

The handicap of border (peripheral) regions can explain the change in the interpretation of the meaning of the EGTC as a tool which has been limited during the last years to the initial function of ECG.

The elaboration of the EGTC Regulation cannot be separated from the process of European Territorial Cooperation becoming the 3<sup>rd</sup> Objective of Cohesion Policy during the 2007–2013 budget period. The INTERREG programme launched in 1990 as a Community Initiative not only provided smaller amounts allocated for cross-border territorial cooperation, but its weight within the policies was also considerably less than that of the ETC in the budget cycle after 2007.

According to the original intentions of the initiators, the EGTC is a tool for managing cross-border, transnational and interregional **projects and programmes**. However, regarding the main potential areas for cooperation, most of them need a stable institutional background (e.g. cross-border health services, joint management and operation of border crossing transport infrastructure or public transport systems etc.) and a management capacity with appropriate legal licenses. **This means that there are no projects or programme management without a certain level of governance.**

According to the documents published by the Committee of the Regions on the subject of multi-level governance (MLG), EGTC is mentioned as an appropriate legal and institutional tool of MLG in border areas. According to the community principle of subsidiarity the *White Paper on multi-level governance* presents the EGTC as a tool that „allows public

authorities to be brought together, according to a variable institutional geometry, by virtue of their levels of responsibility and to promote an enlarged partnership with socio-economic actors". (CdR 89/2009 fin, 30). At the same point in the documents, it explicitly states that the EGTC fits into the MLG priority: „The dimension of multi-level governance is at the heart of the process to launch, establish and manage an EGTC."

In the same way, both the document prepared by the Committee of the Regions (*EGTC Developments on the ground: added value and solutions for the problems*, June 2010, 3, 4) and the analysis by Gianluca Spinacci and Gracia Vara-Arribas (*The European Grouping of Territorial Cooperation (EGTC): New Spaces and Contracts for European Integration?*; Eipascope 2009/2, 5, 7, 10) sees the EGTC as the subject of MLG. According to the latter EGTC Regulation „is a forerunner in supporting territorial cohesion through an innovative multi-level governance format." (Ibid. 7)

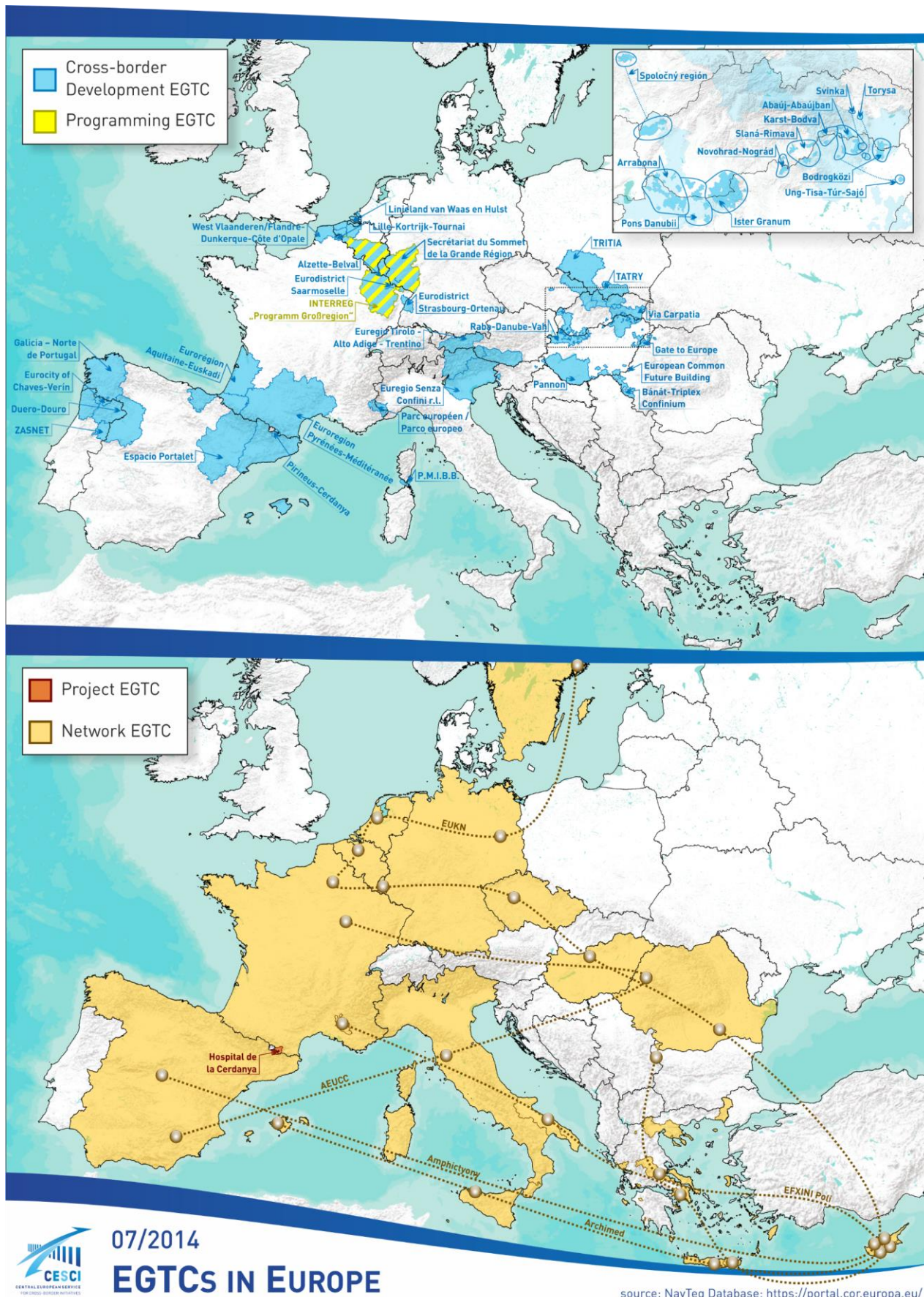
All these examples strengthen that the EGTC (unlike the original interpretation of the „founding fathers") has been recently considered as a significantly important stage in the decentralisation process of the European Union as the subject of MLG, **it is not a simple programme or a project management body.**

Since the entry into force of the EGTC regulation in 2007 four types of EGTCs have been established as far as *functional* considerations are concerned. The decisive majority of EGTCs registered until the summer of 2014 can be regarded as the new generation of former *Euroregional cooperation* because their aim is the comprehensive development of the given border area, already in the framework of an institution of joint legal personality. These EGTCs can be identified as ones of integrated cross-border territorial development.

Another type of cooperation is the network-type EGTC in the case of which the common feature is not geographical but thematic proximity. The most important initiative in this field is the European Urban Knowledge Network EGTC (EUKN) with the participation of 10 EU Member States. The network type EGTCs established in the Mediterranean are operating primarily on the basis of cultural and tourist aims.

The third group of EGTCs is the so-called project EGTCs. Two EGTCs of this type have been registered so far. The example most frequently mentioned is Cerdanya EGTC which has built and will manage a joint hospital in the French-Spanish border area. -





07/2014  
**EGTCs IN EUROPE**

source: NavTeq Database; <https://portal.cor.europa.eu/>

Map 5: Types of EGTCs



The last type (the so-called programming EGTC) is represented by Euroregion „Grande Region” EGTC, functioning also earlier as the Managing Authority coordinating the cross-border programmes at the given (French-German-Belgian-Luxembourg) border. Similar developments are also expected in the case of the Pyrenees Working Community and in the frameworks of the ESPON programme too.

It is clear that the vast majority of the EGTCs established so far should be considered as a kind of Euroregion 2.0. Consequently, these EGTCs are very similar to the ECG set by the Third Protocol of the Madrid Outline Convention.

Similarly to the EGTC, the Euro-regional Cooperation Grouping (ECG) is also an excellent illustration of the process during which international organisations with cross-border character gradually gain independent legal status. The name itself, however, refers to the fact that those preparing this regulation wanted primarily to offer assistance to the Euroregional initiatives coming about in the course of the last several decades and they did not have the intention to offer the possibility for some kind of a new cooperative solution.

According to the provisions the ECG has a legal personality with the most comprehensive legal capacity, in harmony with the regulations of the State where the headquarters is located, along with a broad range of licenses and activities:

*“Article 2 – Legal personality, legal capacity and applicable law*

*1 The ECG shall be a legal person, governed by the law of the Party, Council of Europe member State, in which it has its headquarters.*

*2 The ECG shall have the most extensive legal capacity accorded to legal persons under that State’s national law.*

*3 The law applicable to the type of corporate entity chosen for the ECG by the members shall be stipulated in the agreement establishing the ECG, without prejudice to the provisions of this Protocol or to any other specific provision adopted by the party in accordance with Article 13.*

*4 The ECG shall have the right to its own budget and the power to implement it.*

*5 The ECG may enter into contracts, hire staff, acquire movable and immovable property and bring legal proceedings.”*

ECG as a potential factor of intervention adjusts well to the „top-down” character of international public law regulation. Top-down approach means the primacy of state sovereignty (see the voluntary nature of the various segments of joining the agreements, conventions or additional protocols).

The role and importance of the new legal institutions can be recognised best when comparing their contents with the institution of the European Grouping of Territorial Cooperation (EGTC) created within the legal system of the European Union from 2006.

Table 1: Comparisons between the contents of an EGTC and an ECG

Characteristics	EGTC European Grouping of Territorial Cooperation	ECG Euroregional Co-operation Grouping
Types of source of law	Generally binding rule of Community law norm	Multilateral international agreement (formally separate treaty, but it contains the Third Additional Protocol to the Madrid Outline Convention). Its legal binding power only applies to ratifying countries.
The appearance of the source of law in the Member States	The EC Regulation as a source of law determines the basic elements for which national law may only determine the modalities for implementation.	The International Convention has to be ratified and it becomes a source of law in domestic law through published legal text.
The priorities of establishment of the organisation	Participation in community funded programmes, use of community resources and strict related accountability.	Creation of a flexible, functional cross-border cooperation framework.
Scope of subjects	Member States of the European Union	Member States of the European Union



Characteristics	EGTC European Grouping of Territorial Cooperation	ECG Euroregional Co-operation Grouping
Founding documents, procedures, bodies	<ul style="list-style-type: none"> <li>• Detailed Agreement and Statute</li> <li>• Notification-approval</li> <li>• Registration</li> <li>• Minimum bodies are the General Assembly and the Director</li> </ul>	<ul style="list-style-type: none"> <li>• General agreement, including the Statute</li> <li>• Notice</li> <li>• Registration</li> <li>• Without institutional expectations</li> </ul>
Accession opportunities	Voluntary accession, subject to state approval participation, with the option of appeal against refusal.	Widespread state intervention possibilities. The government is entitled to specify which legal entities are desirable to collaborate, and there is no appeal against this restrictive declaration.
Legal Status	Fullest possible scope of the law based on the home state.	Fullest possible scope of the law based on the home state.
Legal personality	Legal person	Legal person
Geographical coverage	At least one EU Member State and a legal entity of a third state (in the latter case, the state's participation is excluded!).	Possible on a wide geographical area, all European countries with some exceptions.
Membership	Local and regional authorities.	Primarily= local and regional authorities, Secondarily= non-governmental organisations, other organisations where their creation was not in industrial or commercial nature (primary actors must have a majority of votes!)

Characteristics	EGTC European Grouping of Territorial Cooperation	ECG Euroregional Co-operation Grouping
Scope	Common, scopes of power of each member help the co-operation, but the body cannot exercise regulatory powers instead of members - regional and local governments, public authorities.	There is no minimum scope of power (delegated powers) mandatory at all times. In case of express authorisation the delegation of regulatory powers to regional governments and authorities is allowed.
Types of co-operation	„Cross-border”, „transnational” and „interregional” co-operation.	Transfrontier and interterritorial co-operation (for interterritorial co-operation the ratification of the Second Additional Protocol to the Madrid Convention is required!)
Rules of liability	Detailed (reason: the use of community resources). Limited liability and unlimited potential.	Vague (formed under the applicable national law). Limited and unlimited liability is possible.
State intervention, control	High level of intervention is possible (reason: developed EU case law of the court) based on public policy, public security, public health, public morality and public policy.	Judicial review, intervention in the event of infringement.
Language	Flexible: only the working language (s) has to be determined (it is optional to use the language of a participant)	Strict: each member’s language is an official language, but working language can be selected (in this case, it is not mandatory to use the language of a participant).

The Third Additional Protocol also requires the establishment of an Appendix (APPENDIX to Protocol No. 3 to the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities concerning Euroregional Cooperation Groupings (ECGs)), which offers organisational solutions and models for ECGs to be established. The Appendix is a non-binding instrument, individual Member States may select elements on a voluntary basis that are implemented into their own national law.

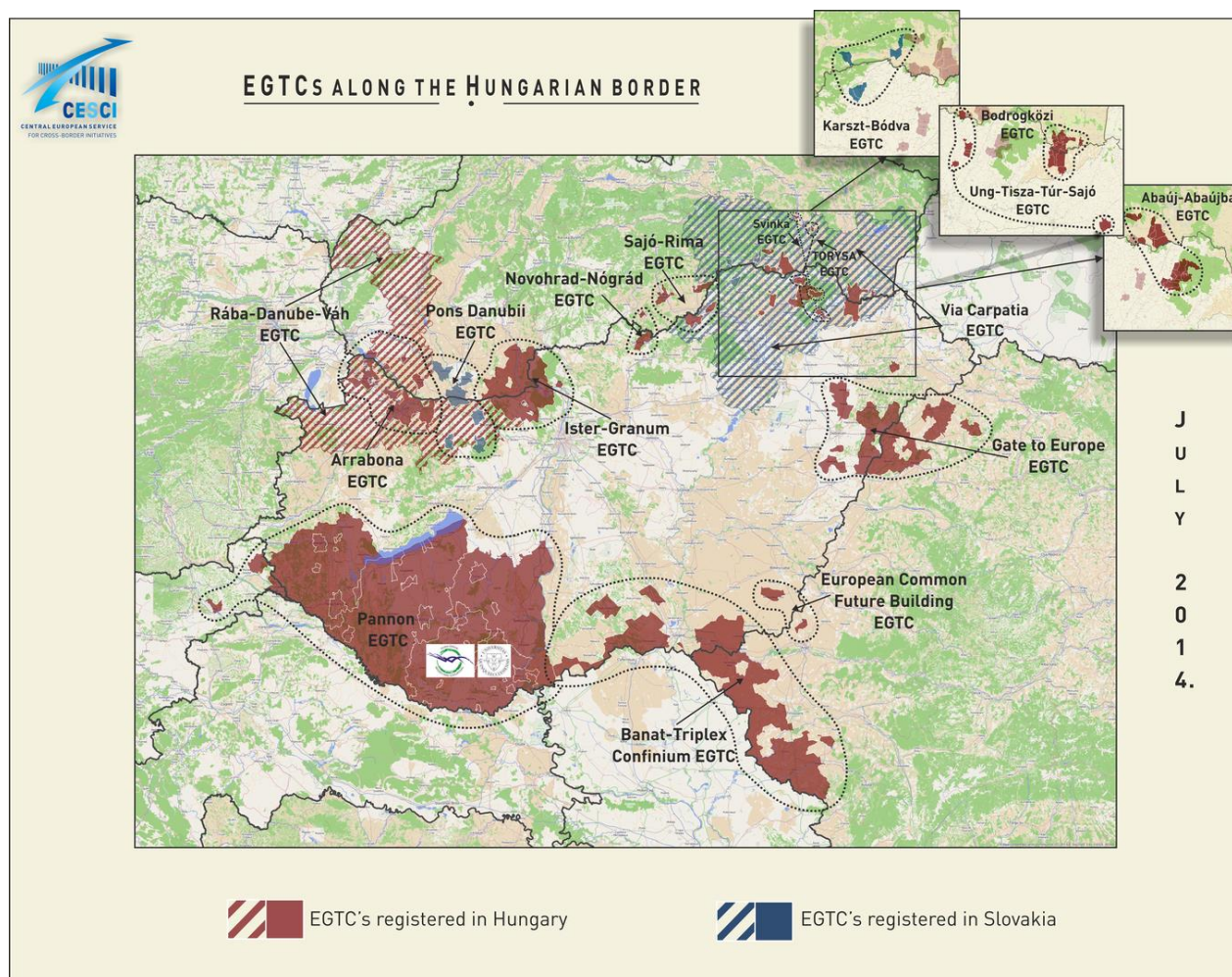
The Appendix was approved on 10<sup>th</sup> July, 2013, by the Committee of Ministers and has become part of the Protocol.

Another impressive component of the Third Additional Protocol is the so-called "Federal clause" that allows participation of constitutionally unrecognised, but terminologically equivalent autonomous territorial units for cross-border co-operation, with maintaining the possibility of government intervention.

## THE CASE OF HUNGARY

Hungary is the most frequented country of EGTCs in the EU. From 46 EGTCs established so far 18 have Hungarian members and 14 EGTCs have their seat in Hungary. The majority of the EGTCs can be classified as cross-border territorial development entities (17); one EGTC (EUKN) forms part of the group of network EGTCs. The funding of several new EGTCs is underway.

Some EGTCs are functioning very well while the performance of others is not satisfactory. Eight (8) of them have medium-term development strategies, 7 of them have been implementing concrete development projects and 2 of them have established their own enterprises.



Map 5: EGTCs along the Hungarian borders

It is conspicuous, that Hungarian EGTCs are initiated with EU member countries, regardless of the fact that EC Regulation No 1082/2006 has made it possible to set up EGTCs with the participation of interested parties from third countries as well with the following restrictions:

1. firstly, parties from a third country can be involved only as third parties: for the establishment of an EGTC stakeholders from at least two Member States are needed;
2. secondly, the participation of legal entities from a third country in an EGTC are possible “where the legislation of a third country or agreements between Member States and third countries so allow(ed)” (Preamble (16)).

The modified EGTC regulation<sup>3</sup> adopted by the European institutions in November, 2013, broadened the opportunity for involving third country members. It is possible now to set

<sup>3</sup> REGULATION (EU) No 1302/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings



up an EGTC with the participation of a member from one Member State and a third country member. The new Regulation mentions the Madrid Outline Convention which may provide a framework for the bilateral agreements facilitating third country members' participation in an EGTC:

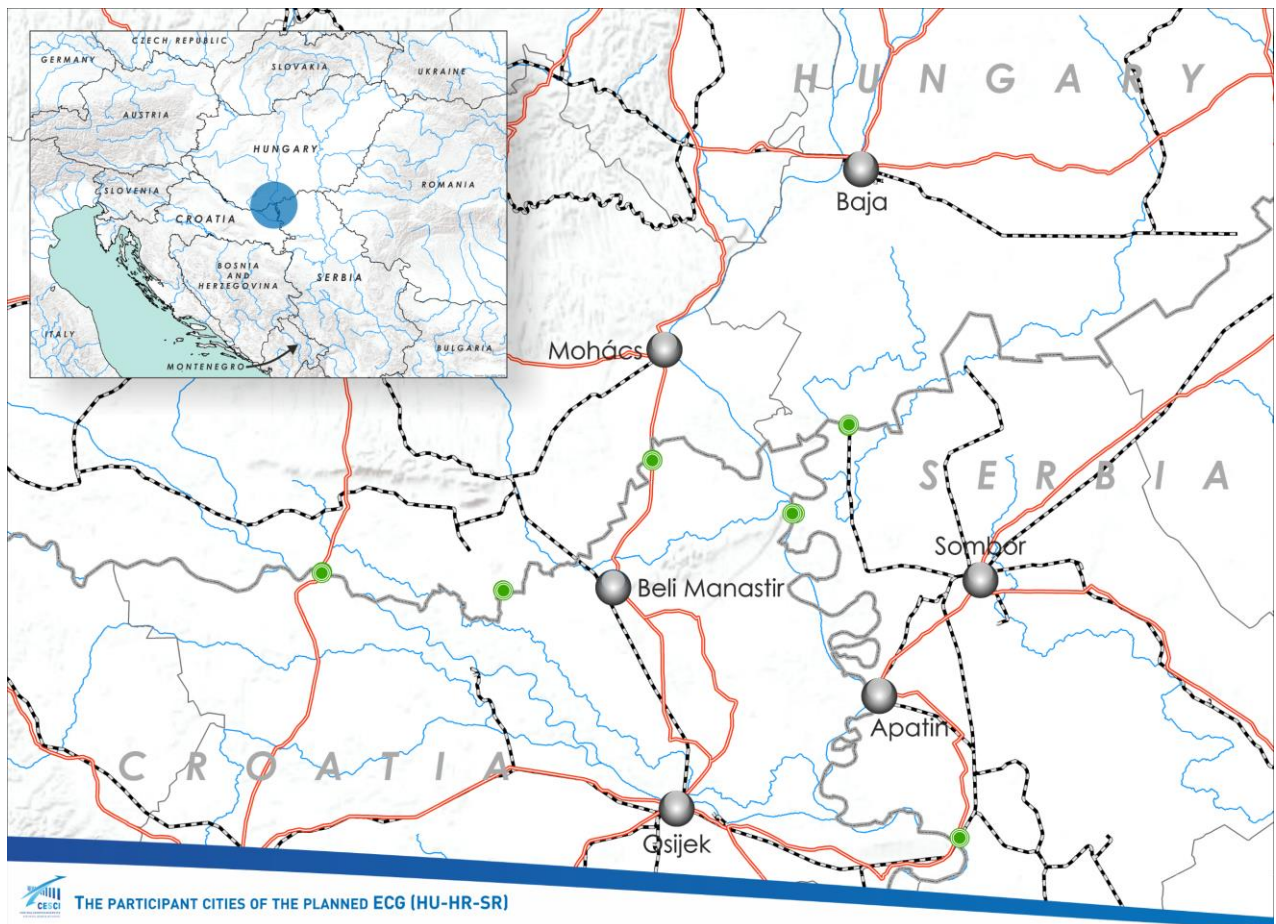
*„As Regulation (EC) No 1082/2006 cannot apply in third countries, the Member State where the proposed registered office of the EGTC is to be located should, when approving the participation of prospective members from third countries, established under the law of those third countries, satisfy itself, in consultation with those Member States under whose laws other prospective members of the EGTC have been established, that the third countries have applied equivalent conditions and procedures to those laid down in Regulation (EC) No 1082/2006 or acted in accordance with international bilateral or multilateral agreements concluded between Member States of the Council of Europe, whether or not they are also Member States of the Union, based on the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980, and the additional Protocols adopted pursuant thereto.” (Preamble, (15))*

Taking into account that

- the ratification of the Madrid Outline Convention and its protocols is optionally needed for the establishment of EGTCs with local municipalities from third countries and
- the similarities between the tools of ECG and EGTC

it seems logical to set up ECGs with the neighbours from outside of the EU instead of EGTCs.

At this moment one ECG initiative is known in the Hungarian-Croatian-Serbian border area. The parties interested in cooperation signed a Declaration of Interest on 23<sup>rd</sup> May, 2014, and decided to set up a Joint Management Body for preparing the establishment process and defining the fields of cooperation.



Map 6: The participating cities of the planned ECG (HU-HR-SR)

However, the formation of the ECG is hindered by the lack of national provisions: Serbia has not even ratified the Madrid Outline Convention yet; Hungary and Croatia have not yet adopted the 3rd Additional Protocol. In case Hungary ratifies the 3rd Protocol, it opens the possibility to set up ECGs with Ukrainian participation as well, since Ukraine has already adopted all the three protocols.

Its possible *applicability in EU programmes* like ETC, IPA, ENI, and also in the frameworks of *new integrated instruments* of EU's Cohesion Policy are the two main factors which could make the tool of ECG more attractive in the future.

(1) At the moment ECGs can participate in CBC programmes with better conditions than other beneficiaries, since Groupings automatically fulfil the requirements to joint applications, they can easily guarantee the fulfilment of cross-border impact and long-term sustainability. Furthermore, the Lead Partner principle is not in force in these cases. The ECG should have the same advantages in IPA and ENI programmes too.

(2) One of the greatest deficiencies of the EGTC is that it limits the possibility of involving the business sector and the civil sector in the cooperation. The participating members can be the entities of central and local government sectors, the organisations established by them and the subjects falling under the provisions of procurement law. Representation of private entities makes very complicated and endangered the implementation of concrete projects. However, there are cases when the participation of private entities is needed. The regulations ruling the new Cohesion Policy provide new tools for integrated territorial development: Joint Action Plan (JAP), Integrated Territorial Investment (ITI), Community-led Local Development (CLLD). Especially in the case of the last one, structures similar to LEADER LAGs should be set up for managing the integrated local development investments. At the moment there is no legal tool for setting up and managing cross-border CLLDs. The ECG makes the involvement of non-governmental organisations possible as well. It is worth to analyse the possibility of involving business sector entities with a limited character. This way ECG could be used as an instrument of cross-border CLLD.

The most important achievement of the European Union is that it breaks down the strictly guarded state borders and through this it improves not only the functioning of the Single Market, but also makes the chance for the peripheral border regions to close up with other regions. In contrast, the external borders of the EU henceforward preserve their closed nature, so the development of the territories located in these regions are hindered.

Thanks to the integration process, the internal borders of the EU become more and more permeable. After the age of Cold War when the Iron Curtain hermetically divided the two parts of Europe from each other, this process brings not only „the fresh air of freedom” to Central and Eastern Europe but also offers the chance for building up steady and fruitful contacts with Western European countries. Nevertheless, there is a need for cooperation along the external borders of the EU and the ECG and other instruments of the Council of Europe can satisfy these needs.