



## **Work Package 2**

### **“Institution Building”**

#### **Main results**

*November 2007/EN*



## **Work Package 2 – “Institution Building”**

The mission of Work Package 2 was to produce a proposal for future institution building in the AAP area, which is based on requirements of partners and suited to grasp new opportunities provided by European legislation.

The present document contains the main results from this work, which has been produced by a team composed of representatives of the project partners in close cooperation with external experts. This team met ten times during the implementation period of the project and the draft findings were discussed at meetings of the project's Management Board.

### ***I. Analysis of the legal conditions and institutional settings***

The co-operation area has a heterogeneous institutional structure: the administrative levels range from Nation states to NUTS II regions and counties at NUTS III level, which have different legislative conditions and regulations of activities of territorial co-operation in force. The vertical analysis presents an overview of the situation in Austria, Croatia, Hungary, Italy and Slovenia. It describes the legal framework, the division of competences and the allocation of powers between different levels.

### ***II. Viability of and Draft Statutes for an “EGTC”***

The “analysis of preconditions” has shown that a variety of legal agreements exist, but no public-law based instruments which would be directly applicable to all kinds of co-operation. Therefore the possibility offered by the new legal instrument EGTC - Regulation (EC) No 1082/2006 - and its viability as regards future co-operation in the AAP area was explored.

To this end, proposals for a better organization and intensification of cross-border, trans-national and interregional cooperation were listed, focusing on:

- competencies in relation to central governments;
- potential creation of “Euroregion” or other cross-border and trans-national functional entities on sub-level towards the “Euroregion”
- listing of common key topics/tasks of cooperation areas.

Finally a draft model statute for an EGTC was elaborated, which can be used for different levels / institutions in the AAP area. Convention and Statutes for an EGTC can only be drawn up after a political decision has been reached, according to the envisaged type of an EGTC. Thus the attached draft statutes and the remarks contained therein could serve as a basis for further consideration and detailed work and illustrates what MATRIOSCA partners consider as minimum requirements for an EGTC to be established in the AAP area.



# I. Analysis of the legal conditions and institutional settings

## INTRODUCTION

The Regulation EC n. 1082/2006 (hereinafter: “**EGTC Regulation**”) defines the procedures to institute a cooperation instrument at the Community level, called “European Grouping of territorial Cooperation” (EGTC), its tasks and competences. EGTC is defined as a transnational body with legal personality, able to act on behalf of its members, notably the regional and local authorities of whom it is composed. The tasks delegated to it must be defined in a „convention“, which is the operative instrument of the EGTC, stipulated by prospective members, belonging to at least two Member States. Entities from third countries may participate in an EGTC when the legislation of a third country or agreements between prospective Member States allows that. The establishment of an EGTC is dependent on the consent of each national authority of prospective members.

### 1. Relation between EGTC Regulation and Member States’ national law

The EGTC Regulation could provide for a substantial progress **as it can reinforce the cooperation while respecting the internal legal order of the Member States.**

As a matter of principle, EC law – in contrast to bilateral or multilateral treaties, which have to be transposed into national law – enjoys „direct effect“. Thus, provisions in EC regulations **can** be the legal basis for any measure of state authorities. Moreover, according to the doctrine established by the European Court of Justice, EC law also enjoys „supremacy“. Supremacy doctrine simply says that the rules of EC law have priority over conflicting rules of national law so that the national law can no longer be applied by the national authorities. The supremacy doctrine comes into play only if there is a conflict between rules of EC law and national law.

The text of the EGTC Regulation reveals that the „supremacy“ doctrine cannot be applied in the usual sense, i.e. that conflicting national law simply has to give way. For whatever reason, the text of the EGTC Regulation as it has been adopted refers itself to the national law and **gives possibilities to make use of the EGTC instruments only within the limits of the respective national law.** The text of Art. 3 par. 1 and Art. 4 par. 3 of the EGTC Regulation reads that „an EGTC shall be made up of members, within the limits of their competences under national law...“ and the second provision foresees that the Member state has the right to prohibit the regional or local authorities’ participation in an EGTC, if such participation „is not in conformity with ... national law...“ In conclusion, the EGTC Regulation does not convey more powers to the regional and local authorities, which they do not already have under their respective constitutional law.

### 2. Establishment of an EGTC

Each prospective member of the EGTC should **notify the Member State** under whose law it has been formed **of its intention to participate in the EGTC.** At the same time, it has to **send** that Member State a **copy of the convention and statutes**, with the aim of gaining the approval by Member State of the member’s participation in the EGTC.

This *de facto* means that even though the members conclude the convention and adopt the statutes, both documents have to be approved by respective Member States in advance.

The adoption of a Community measure allowing the creation of an EGTC should not prevent the entities from third countries from participating in an EGTC, if legislation of the third country and agreements between Member States and third country so allow.

### 3. Applicable law

The EGTC shall be ruled primarily by the EGTC regulation. Secondly the provisions of the convention and the statute have to be taken into account. On the matters not regulated (or partly regulated) by the EGTC regulation, the (still existing or new) law of the Member State where EGTC has its registered office shall apply.

### 4. Tasks of the EGTC

EGTC shall act within the confines of the tasks given to it, which consists in facilitating and promoting territorial cooperation in order to strengthen economic and social cohesion:

- specifically, the tasks shall be limited to the implementation of the territorial cooperation programmes and projects co-financed by the Community,
- an EGTC may also carry out other specific actions of territorial cooperation between members, with or without Community's financial contribution.

At the same time, the **tasks** shall be **determined by its members** on the basis that they **all fall within the competence of every member under its national law**.

The institution of EGTC **may not regulate** the exercise of certain public law powers or duties whose object is to safeguard the general interests of the State. This means that it may not *directly exercise* (be the holder of) legislative or jurisdictional powers, nor affect the police or foreign policy, although it is not ruled out that the convention may set clauses relating to the *enforcing procedures* of public functions.

The members of EGTC could have limited liability. In that case, each Member State may prohibit the registration on its territory of an EGTC whose members have a limited liability.

## AUSTRIA

### 1. Legal framework

All foreign policy power is, with some exception, concentrated on national i.e. federal level. Art. 16 of the Austrian Federal **Constitution** (B-VG) however **provides some treaty making power to the Länder** (but NOT to the municipalities). Länder can conclude international treaties with **neighbouring** states or their sub-units on matters which fall into their “own sphere of competence”. Due to the EGTC Regulation this treaty making power is extended beyond “neighbouring states and regions” to any kind of transnational co-operation within the EU territory.

In addition, Art. 9 (2) Constitution provides (even though this is not absolutely clear from the wording) that only national level, but not Länder, have the power to conclude agreements for the establishment of trans-national public law institutions. Länder have therefore a very restricted power to conclude international treaties.

At the level of local self-government, the basic institutions and structures are already regulated by the Constitution itself. Hence, in striking contrast to the Länder, **the municipalities are not granted any of these types of general treaty-making power** as public law authorities.

Furthermore the Austrian Law for establishing Associations on private law (BGBl. I. Nr. 2002) empowers also the Länder and the Austrian municipalities (or any kind of association of them) in their function as legal persons to participate or to found an – private law based – association. The establishment is limited to competences of exclusive private character. According to the provisions of this law associations with limited liability are not allowed.

### 2. Division of competences

The allocation of powers between Federation, Länder and municipalities is based on:

- an enumeration of exclusive federal powers (in the Constitution),
- powers where legislation and administration are divided between the federal level and the Länder level,
- what is not explicitly mentioned in the Constitution as task of the federal level, can be dealt with at Länder level, meaning that the “rest” of the powers are left to the Länder’s legislation.
- furthermore all public authorities (federation, Länder and municipalities, or groupings of them) are empowered to act freely as private legal entities according to Art. 17 B-VG (Privatwirtschaftsverwaltung). As such they can participate in associations, companies and groupings as well agree conventions, if there are not concerned any public powers or duties. They are not restricted by the division of competences given by the Constitution.

Even in the field of exclusive federal powers the Länder can develop so-called sector programmes or sector plans. These sector plans must not be legally binding and Länder cannot enact laws in these fields, but they can provide special support measures. This means that in various fields federal level is responsible for enacting the law, but Länder can design their own support measures within the framework of the law. And in fact these support measures are essential with respect to regional development.

## 2.1. Federal level

The federal level is responsible in fields such as science, higher education, social policy, a large part of labour market policy and the high-ranking transport routes. At federal level, the main financing organisations (funds) are located e.g. for industrial development (ERP-Fund), R&D, tourism etc.

- The **Federal Chancellery** is in general responsible for policy co-ordination between Federal Ministries. The policy co-ordination responsibility includes the regional policy by the **Department for co-ordination of regional policy and territorial development**. Since Austria's EU accession this department is the federal-level contact point with the European Commission on EU regional policy, including all issues of Structural Funds (besides those issues addressing directly managing authorities).
- The other federal level organisation with direct regional policy responsibilities is **Spatial Planning Conference** (Österreichische Raumordnungskonferenz, **ÖROK**). The primary role of ÖROK is to act as a forum for co-operation between the different actors in the field of regional policy. It has a membership comprising the federal government (all Ministries), the Länder governments, representatives from the city associations and social partners. The decisions of ÖROK itself are recommendations only and are not legally binding but act as a framework for practitioners in this area. The ÖROK has two committees (Unterausschüsse) – for spatial planning and for regional development – and thus acts as the link between regional development and spatial planning. A function of ÖROK with increasing importance is to act as platform for EU-programme administration.

## 2.2. Länder:

Austrian nine *Länder* are relatively small. The Länder have their own government and a direct elected parliamentary assembly as well as financial resources.

Spatial planning competencies are located at local and the Länder level, except those fields which are in exclusive competence of the federal level. Even in federal level fields, such as transport, energy policy, environmental policies etc., the Länder can develop so-called sector programmes or sector plans, providing special support measures e.g. for promotion of bio-energy, of new forms of public transport, special support measures aiming at the protection of the environment.

The Länder have **exclusive** power to regulate and to administer the following matters: primary education (predominantly), transport infrastructure (except motorways), nature protection, waste management (predominantly), spatial planning, building construction, electricity organisation and management, tourism, fishery, hunting, dancing and skiing schools, cinemas, public welfare, public health (predominantly), disaster prevention, fire-fighters.

Since Austria's EU accession numerous **intermediary organisations** have been developed besides the regional management. These intermediaries (e.g. public consultancy for agriculture projects or ecological community development etc.) are directly linked to the administration of the Länder.

## 2.3. Regional level

There are district authorities between the Länder and the local level in Austria without any legal personality, which act exclusively as administrations offices of first instance. With the aim to overcome these shortcomings, 25 **Regional development organisations** have been

founded from 1995 onwards. They are mainly based on co-operation of communities and municipalities or groupings of the latter and act as regional managements. Their key tasks are information, consultancy, project development and building regional networks. In fact, the regional management acts as “co-ordinator” within the regions. It is able to organise discussion / negotiations between actors of the region as well as between the region and the Länder level.

Regional management is financially supported by Land administration only to a certain extend, while the main financial contribution has to come from the region itself.

#### 2.4. Local level

The establishment of local self-government institutions and their responsibilities at the local level is already pre-determined by the Constitution<sup>1</sup>. In particular, the Constitution „guarantees“ certain matters to local self-government bodies as „exclusive competences“<sup>2</sup>.

The Land legislation is then responsible in its own sphere of competence to enact laws on the organisation of municipalities or groupings of municipalities as public law entities. In addition, Land laws can designate the administration of certain matters into the municipalities' sphere of competence.

#### 3. Possibilities to conclude contracts on the basis of private law

Länder can act in forms of civil law (Art. 17 B-VG). In these cases they are not restricted to the division of competences as defined in the Constitution.

#### 4. Current restriction for the use of the EGTC regulation

The procedural requirements are rather strict, if the Länder are going to co-operate on **public** tasks at the transnational level. The respective Land government has to inform the Federal Government even before negotiations are started. Before the conclusion of the treaty, approval has to be obtained from the Federal Government which can – in theory – object without any reasoning. This is also the reason why this treaty making power is not used by the Länder in practice. In addition, the President of the Republic can delegate the power to conclude an international treaty to the Land government only in case that such a treaty does not amend or complement existing laws.<sup>3</sup>

Some possibilities of concluding agreements and joining a “grouping” are given by the Austrian Association Law 2002 already in conformity to the EGTC regulation. It is restricted to a “grouping” or “association”, which has its registered office in Austria and which is acting only **private** law tasks. The perspective members have to notify their intention together with the statute to the local district authority, which can object it on reasons of non-compliance with the “legal order”.

Concerning the national provisions to ensure the effective application of Regulation (EC) No 1082/2006 on a European Grouping of Territorial cooperation (EGTC), Austria intends to adopt 1 law on national level and 9 laws on Lander level. The adoption of these laws will take carefully into account the restriction of art. 7 par 4 of the EGTC Regulation (prohibition of the transfer of tasks exercising powers of public law). Regarding Art. 17 B-VG this assumption allows all entities of territorial self-government to participate in an EGTC.

<sup>1</sup> Art. 115 through 120 B-VG

<sup>2</sup> Art. 118 (3) B-VG

<sup>3</sup> according to Article 66 (3) B-VG



## ITALY

### 1. Legal framework

In order to fully understand the foreign competences of the regions, some remarks shall be introduced: first, a distinction shall be made between *community relations* and *international practices*; secondly, the current issue shall be analysed according to the principles of *domestic law*, which is considering the relations between the State and the Regions.

The constitutional provisions regulating the relations between the State and the Regions in terms of foreign functions are contained in Art. 117 of the Italian Constitution, modified in the year 2001 by the constitutional law 3/2001, implemented by national law 131/2003. These measures have a general character and concern both ordinary and special Italian Regions, except some cases. Veneto is an ordinary Region (disciplined by the Constitutions and relative statutes), whereas Friuli Venezia Giulia is a Region with special status (the statutes are approved by a constitutional law in order to permit exception to the general rule).

Art. 117, paragraph 5 establishes **that Regions and Autonomous Province may participate, within their fields of competence, in to the decision making community (EC) legislative process and to the executing community acts, as well as application of international agreements complying with procedural rules provided by national laws;**

Art. 117, paragraph 9 concerns the power of Regions, within their fields of competence, to sign agreements with State and “understanding” (so called “intese”) with sub-state level entities of other States, in accordance to modalities and cases provided by national laws.

Consequently two national laws have been approved to implement the constitutional provisions already mentioned: the law 11/2005 gives actuation to the paragraph 5 of the Art.117, whereas the law 131/2003 establishes the cases and forms to exert the “foreign powers” by the Regions (in particular paragraph 6 of the law regarding territorial cooperation, institutional understanding with other territorial entities from other States, agreements between Region and foreign States).

Given this legal framework, some useful consideration shall be drawn from a broad analysis of the constitutional case law regarding promotional activities having a purely international profile: we may underline that most of these activities are inspired by the protection of the principle of “loyal cooperation” between the State and the Regions,

### 2. Division of competences

The Constitution (after the 2001 Constitutional reform):

- lists subjects under State exclusive competence,
- lists subjects that are divided between the competences of the State (defining principles) and the Region (detailed provisions),
- establishes that anything not included in the above mentioned lists is of regional competence.

#### 2.1. State level

The State has predominance in terms of foreign policy functions. Anyway the constitutional recognition has been given to the so called “foreign power of the Regions”, that is, the power of establishing agreements with corresponding foreign bodies as well as full agreements with

other countries, in full respect to the relevant national laws. The State can exert a “control” on regional initiatives.

## 2.2. Regional level

The law 131/2003 establishes the cases and forms to exert the “foreign powers” by the Regions, distinguishing two instruments for Regions to regulate their international relations: a) the understanding (so called “intesa”) and b) the agreement.

a) In case the Region establishes new agreements with domestic territorial bodies of another State, aiming at supporting the economic, social and cultural development or concerning activities having a purely international profile, the Region shall be required to give preliminary notice to the Government, which may elaborate by 30 days opinions for the Regions.

b) In case the Region intends to establish operational agreements with another State, as well as agreements for the application of international agreements (already in force), technical or administrative agreements or programming agreements, it shall immediately inform the Government, so that the Ministry of Foreign Affairs in cooperation with the Department for Regional Affairs may indicate the principles and criteria to comply with during the negotiations. Before any agreement is undersigned, the Region shall inform the Government about the projects; the Government shall assess the political context and legitimacy of the project and confer the Regions the full powers of signing, foreseen by the general international law and the Vienna Convention on the Law of Treaties.

Subjects eligible for agreements are no longer determined by the State, as the Constitution establishes that the Regions may stipulate agreements within their fields of competence. Each Region may therefore exert its foreign duties in the same fields it exerts its powers at the internal level.

As far as the EC legislation is concerned refers to the previous paragraph 1.

## 2.3. Local level

Moreover Legislative Decree (D.Lgs) 9/1997, approved under the implementation of Constitutional Law 2/1993 (providing the Regions with exclusive legislative powers for the organisation of local bodies) shall also be taken into account, in analysing cross-border relations of local bodies.

## 3. Possibilities to conclude contracts on the basis of private law

Under the Italian legal system, the territorial bodies (State, Region, Province and Municipality) have a general capacity of private law. It means that they may, in order to achieve the institutional aims, sign contracts under Italian private law.

An **understanding** (“intesa”) is an act not foreseen by international law<sup>4</sup>; it corresponds to an internal law instrument - real “contract” (even public law one), though it can be used in the field of external relations. It could be defined as a cross-national convention between public bodies (considering that it exerts typically public activities and functions) and having legal effect only among the partners which signed it (i.e. the region, not the State).

<sup>4</sup> article 6, paragraph 2, law 131/2003

#### 4. Current restriction for use of the EGTC Regulation

The possibility to take advantage of an instrument such as the EGTC is clear and leads to several benefits as compared to alternative route outlined by the international law. First of all, the incorporation procedure was strongly simplified and, since it belongs to the field of community relations, Regions are directly charged with the task of enforcing it. In the second place, community regulations allow the participation of States in addition to regions and local authorities: this allows for instance immediately considering Slovenia as an EGTC partner without having to wait for the completion of the institutional process of the local authorities in Slovenia. Finally, one further positive aspect is the possibility to involve Third Counties (and their relevant local authorities), thus allowing to involve also other territories in the co-operation institution until their adhesion to EU.

Of course it is necessary to wait the internal and national measures of application of the EGTC. Some restrictions in terms of procedure could be derived by the national implementing measures compared to those adopted by other Member States.

Concerning the national provisions to ensure the effective application of EC Regulation 1082/2006 the Italian Government adopted a scheme of internal regulation on 3th August 2007. Such preliminary proposal is still under institutional negotiation between State and the interested territorial Authorities, so that it is too premature define exactly the contents of such provision.

## SLOVENIA

### 1. Legal framework

The **Constitution** of the Republic of Slovenia does not explicitly regulate cross-border cooperation of municipalities and other entities of local self-government.

The basic legal act governing cross-border cooperation is therefore the **Local Self-Government Act**, which **leaves the initiative to individual municipalities without imposing limitations or providing guidance**. Slovenian local self-governing communities, including their associations and groupings, may enter into cooperation with local communities of other States and international organizations of local communities only within the framework of their jurisdiction and with legal consequences that are identical to those applicable in Slovenia.

### 2. Division of competences

According to the Constitution, local self-government falls under the responsibility of **municipalities and other local communities**. The competences of a municipality comprise local affairs which may be regulated by the municipality autonomously and which affect only the residents of the municipality. This places local communities in the position of overall competence in the sphere of public affairs, with the exception of those public affairs that, pursuant to the Constitution, fall under the competence of the State.

The division of competences between the State and local communities is regulated by legislation in various sectors. The functions or municipalities' original competences are defined precisely in the above-mentioned laws and are subject to the principle of subsidiarity, according to which local communities perform only those duties for which they consider themselves competent.

The Constitution also stipulates that, with the prior consent of the municipality, the State may vest specific duties within the State jurisdiction to the municipality, if the State provides financial resources for this purpose.

#### 2.1. Federal level

*Decree on Cooperation, Communication and Coordination of Positions in Foreign Affairs and International Relations* stipulates that municipalities or local self-governing communities which plan meetings with representatives of other States<sup>5</sup>, should **inform the Ministry** of Foreign Affairs, on their own initiative, on any foreseen activities and **ask for opinion on the content of the discussions**. Local self-governing communities may, under the aforementioned Decree, benefit from the services of the consular missions of the Republic of Slovenia abroad through the Ministry of Foreign Affairs.

#### 2.2. Regional level

The present administrative system in Slovenia, with its centralistic orientation, cannot be compared with the systems in neighbouring countries, notably due to the lack of an intermediate administrative phase at regional level (i.e. NUTS 2 and NUTS 3 according to EU provisions). Although the Constitution has been amended, providing the legal framework for

<sup>5</sup> or important meetings of local self-governing communities concerning cross-border contacts or foreign affairs of the Republic of Slovenia under the jurisdiction of the Ministry of Foreign Affairs

establishing the provinces at NUTS 3 level, the necessary laws are yet to be written. The timeline for the first elections of provincial bodies is supposed to be in year 2008.

### 2.3. Local level

Similarly to Austrian Constitution, the Slovenian Constitution places under the jurisdiction of the municipality local affairs which mainly affect its residents (subjective element) and which the municipality may regulate autonomously (objective element). In legal terms, the notion “local affairs” is insufficiently defined and as such requires further concretization that may be regulated through determining an indicative scope of the municipality’s activities under sectoral laws<sup>6</sup>.

Unlike the State, which mainly functions as an authority, municipalities exercise almost exclusively non-authoritative functions – i.e. their service and promotion (development) functions.

Original competences of municipalities can be divided in 5 sections that municipalities are entrusted with as entities under public law, responsible for satisfying local needs. These functions are: (i) service function, (ii) infrastructure management, (iii) housing function, (iv) promotion function, (v) spatial function and (vi) regulatory function.

In each individual sector (spatial planning and management, environment protection, agriculture, economy, etc.), the legislator should determine which affairs may fall under the original competence of the municipality. The Local Self-Government Act contains only a few provisions indicating the original scope of municipalities’ activities.

As a rule, a municipality is financed from its own resources; municipalities and peripheral local communities that are unable to completely provide for the performance of their duties due to insufficient economic development are assured additional funding by the State.

### 3. Possibilities to conclude contracts on the basis of private law

Local self-governing communities constitute public entities. As such, they are holders of rights and obligations and may enter contractual relations in their own right. For those relations, where municipalities act as public authorities or government entities, public law is applied. Private law is applicable in other cases. There are, however, cases where the nature of a relationship cannot be clearly determined.<sup>7</sup>

### 4. Current restriction for use of the EGTC Regulation

There is at present **no material obstacle for cross-border cooperation** of Slovenian and Italian, Austrian, Hungarian or Croatian municipalities. Neither the Constitution nor domestic legislation on local self-government imposes any limitations on such form of cooperation. Real problems in establishing cooperative relations appear in practice, where certain laws not directly concerning cross-border cooperation may, in fact, considerably hinder such cooperation (e.g. legislation on financial flows, etc.).

<sup>6</sup> The competences of municipalities are determined, for example, in Environment Protection Act, Municipal Utility Service Act, Transitional Spatial Planning and Management Act, Small Business Development Act, Organisation and Financing of Education Act, Kindergarten Act, Health Services Act, Pharmacies Act, Housing Act, Construction Land Act, Trade Act, Social Security Act.

<sup>7</sup> The granting of right to specific use of public good is subject to public law - in respect of public utility contractors, the contractual obligation is not established pursuant to the general regulations of the obligation law, but pursuant to special provisions of the *Public Utilities Act*, providing for an administrative approach.

## HUNGARY

### 1. Legal framework

There are two basic levels of local self-government:

- municipalities (towns and villages) and
- counties.

The local self-governments differ from each other by their responsibilities, nevertheless they enjoy equal basic rights and there is no hierarchy to subordinate any one to another. However, while the Act on Local Self-Government brought independence and autonomy to municipalities it strongly reduced the functions of counties. The counties have only a subsidiary status and county can assume only functions which municipal self-governments cannot perform or refuse to assume.

In recent years, there has been discussion about the establishment of 6 larger regions that would comply with EU territorial structures. The establishing of the 7 planned-statistical regions by the edict of Parliament and the modification of the law of regional development in 1999 secured the minimum for EU compatibility. Still, the problem of the middle-level was not fully solved.

### 2. Division of competences

Since Hungary is a simple state, competences are concentrated in central level. Any competences are delegated by these organs to local and regional bodies.

The law of regional development and ordering defines the up to date institutional system of regional policy and the tasks of certain organisms in each level.

#### 2.1. Federal level

The institutions of the regional development at national level are:

- **Parliament** as the main organ defining policy for the regional development. The parliament defines the national conception of regional development and the basic principles. Within its competence the Parliament, moreover, enacted *the Act XXI of 1996 on Regional Development and Land Use Planning* in the interest of promoting balanced regional development throughout the country and facilitating the social, economic and cultural development of the country's regions, furthermore, as well as implementing a uniform regional development policy and coordinating national and regional responsibilities related to regional development, with due consideration of the regional policy of the European Union.
- **Government** – the main aim is the execution of the regional development policy. The government executes legal control on the regional organs of the regional development throughout the magistracy;
- **Prime Minister's Office** – After the elections in the year 2002 the Parliament delegated the Prime Minister's Office with the governmental control of the regional development. Within the Prime Minister's Office the political under-secretary of State is in charge;
- **National Office of Regional Development** is a department of the Prime Minister's Office under the control of the under-secretary of State. It provides support needed to serve the tasks of regional development and ordering;
- **National Council of Regional Development** as the decision-preparing, suggestion-/opinion-making, and coordinating body of the regional development policy.

## 2.2. Regional level

In Hungary now a region means a territorial unit defined for planning and statistical and development purposes covering one or more counties (or the city of Budapest), that is treated as a single unit for social, economic or environmental purposes. A micro-region means a territorial unit defined for regional development and statistical purposes on the basis of the functional relations between neighbouring communities. Micro-regions are defined to cover the entire area of the country without any overlap, and it interfaces with the boundaries of regional development and statistical districts, counties and other micro-regions. The administrative area of any settlement shall comprise a part of only one micro-region.

The Act XXI of 1996 on Regional Development and Land Use Planning defines the aims of regional development as follows: 1. supporting of the building of social market-economy in all of the regions of the country; 2. moderating of significant differences between the capital and the cities, towns and villages, developed and underdeveloped regions; 3. supporting of the harmonic development of settlements; 4. preserving and strengthening of the national and regional identity-conscience.

For receiving the regional and structural funds of the EU 7 planning-statistical regions were formed (as NUTS II levels). Since they do not have self-governance on their respective territory, they are not listed in the Act LXV of 1991 on Local Governments. The Act on Regional Development and Land Use Planning, however, defines the set up an institutional system of regional policy and the tasks of certain organs in each level.

The regional organs of the regional development are the followings:

- *Regional Development Councils*: draw up the development strategy and program for their respective region. They are vested with legal personality in terms of financial management and reporting obligations. The members of the regional development council are – among others – the followings: a) directors of the county development councils; b) the respective ministers; c) one representative per county of the multi-purpose micro-region associations and micro-region development councils concerned; d) the mayor(s) of the town(s) of county rank located in the council's area of competence.

The Regional Development Councils took over the role of the Area Councils of Regional Development<sup>8</sup> after the modification of the Law of regional development and ordering. Practically, with this step the NUTS 2 level was established which was essential for the consumption of the EU resources. The duty of the Regional Developing Councils is to elaborate programs and develop concepts which, as part of the National Development Plan, can secure a possibility to compete for the resources of the EU Structural Funds. It cooperates in handling of the socially and economically critical situations in the region. It gives opinion about the national concepts and programs at regional level and about the regional ordering plans within its territory.

- *Territorial Development Council*: The regional development council or the county development council may establish a territorial development council for the purpose of fulfilling certain regional development duties that reach beyond the boundaries of the district or the county upon adopting its organizational and operational regulations. The territorial development council is vested with legal personality.

County self-government is controlled by a directly elected County General Assembly (until 1994, the representatives were delegated by local governments). The state interests on the county level are represented by prefects, appointed by the president on the recommendation

<sup>8</sup> The Area Development Councils helped the cooperation of members of the regional development; before the reform, the Regional Development Councils were built on the planning-statistical work defined in the National Conception of Regional Development.

of the prime minister. The most important task of the prefect is the legal supervision of local governments.

### 2.3. Local level

The **County Council of Regional Development** (19+1) is the decision-making board of the regional development on a county level. It plays a synchronizing role in the implementation of development concepts of the government and self-governments, their associations and economical units.

In managing of its tasks it cooperates with the self-governments, with the regional governing units which are working on developing the county directly or indirectly, with the interested social and professional boards, and with the County Labour Council.

– Micro Regions' Development Council

Micro-region development councils are set up for the coordination of regional development projects, for adopting the regional development strategy for the micro-region and for drawing up joint regional development programs in the micro-region. Micro-region development councils are vested with legal personality. Micro-region development councils are seated in the town designated in specific other legislation as the seat of the micro-region.

– Association of Local Governments for Regional Development

The representative bodies of local self-governments may establish a regional development association vested with legal personality for working out common objectives for regional development.

The duties of the local self-government - especially in the area of public services - are as follows:

- community development, community ordering, protection of built and natural environment, housing management, waterworks, draining, maintenance of cemetery, maintenance of the public road-system and public areas, securing of public transport and cleaning, local fire-protection, securing of local public safety, cooperation in the local energy-service and in the solving of employment, caring for nursery, primary schools, education, medical and social service, children and youth, securing of public area, promoting of public culture, art and sport, securing of the rights of ethnic minorities, supporting of the conditions of healthy lifestyle in public.
- In the duties described above, the local self-government decides to what extent and in what way it fulfils the chosen duties in accordance with the demands of the inhabitants and with its financial potential.
- The local self-government has to care for drinking water supply, nursery, primary education, medical and social service, public lights, maintenance of cemetery and public road-system and for the securing of the rights of ethnic minorities.
- The law can obligate the local self-governments to fulfil distinct local duties and public services. These obligations can be defined depending on the size and population of the location and on other conditions.

### 3. The implementation of the EGTC in Hungary

The Parliament approved the Act on European grouping of territorial cooperations in July, 2007. The Act enters into force on 1st August, 2007. With this Act the Hungarian legislation met the requirements of ensuring the possibility for local and regional authorities to act commonly in a form of a European grouping with legal personality. The Act is applied to



European groupings having their seat in Hungary. The members of a European Grouping can be local governments, their institutions, non-profit companies, all kind of development councils, chambers of different professions etc.

The members shall have the prior consent of their monitoring bodies to be able to participate in a European grouping, and they elaborate the convention and the statutes of the European grouping. In Hungary the members of the EGTC have to inform the Court of the Capital (Fővárosi Bíróság) of the intent of establishing an EGTC and send the convention and statutes to it in Hungarian. The Court in its procedure will approve the convention and the statute. The aims of the approval are: to examine that the EGTC is in line with EU and national law.

The EGTC has legal personality, so is entitled to have rights and obligations. With this Act the Hungarian legislation ensured such a form for these cooperations that did not need the modification of the Constitution and the Act on Local Self-governments, without giving the right to different administrative levels to conclude international public agreements establishing cross-border cooperations with legal personality. The legislation chose to create by law a new legal personality with civil law character for being able to manage the programs of the EU and the state.

## CROATIA

### 1. Legal framework

The constitutional provisions regulating the organization of local and regional self-government are contained in Articles 128 to 131 of the Constitution. Units of local and regional self-government are **counties, municipalities** and **towns**.

The organization and responsibilities of the bodies of local and regional self-government units are regulated by their statutes in conformity with the law. Units of local and regional self-government are independent in the conduct of local affairs and subjected to the supervision of legality by competent bodies of the Republic of Croatia.

The basic legal act governing the field of local and regional self-government, international and cross-border co-operation among counties, towns and municipalities, is the Law on Local and Regional Self-government (hereinafter: LRSB Law)

It is important to emphasize that the LRSB Law regulates the co-operation of municipalities, towns and counties with the respective local and regional self-government units of other States within the framework of their self-governing scope of activities, in accordance with the law and international treaties. Decision on the establishment of mutual co-operation has to be passed by the representative body of a local or regional self-government unit, in accordance with its general acts and LRSB Law. Every decision must be delivered to the central state administration body competent for the local and regional self-government, which performs the supervision of the legality of that decision.

### 2. Division of competences

Local and regional units basically perform two types of activities. These are: (i) self-government duties and (ii) delegated scope of public duties.

Municipalities, towns and counties are independent in deciding on the tasks from their **self-government activities** in accordance with the Constitution of the Republic of Croatia and LRSB Law. Their statutes regulate in more detail the scope of self-government activities.

From the year 2001 there is a legal presumption that **all public affairs are the responsibility of local authorities unless they have been prescribed to other levels of government**. This so-called «general clause» method, in theory, gives wide opportunities to local units to develop specific programmes that could have influence in their development.

#### 2.1. Federal level

In the present institutional setting, the main responsibility for regional development on the central government level lies with the **Ministry of Sea, Tourism, Transport and Development**. However, due to the strong sectoral approach of the central government institutions, a number of ministries and institutions are directly responsible for policy development, programming, implementation and evaluation.

## **2.2. Regional level**

The counties, within their self-government activities, perform the tasks of regional significance, particularly the tasks referring to the following (i) school system, (ii) health system, (iii) zoning and urban planning, (iv) economic development, (v) traffic and traffic infrastructure, (vi) planning and developing the network of educational, health, social and cultural institutions.

## **2.3. Local level**

Local self-government units, within their self-government activities, perform the tasks of local significance, which directly fulfil the citizens' needs, and which were not assigned to the state bodies by the Constitution or law, particularly the tasks referring to the following: (i) urban design of settlements and dwelling, (ii) zoning and urban planning, (iii) communal activities, (iv) child care, (v) social welfare, (vi) primary health care, (vii) personality development and primary education, culture, (viii) physical culture and sports, (ix) consumers protection, (x) protection and improvement of the natural environment and (xi) fire and civil defence.

## DRAFT PROPOSAL FOR THE “EGTC-AAP” STATUTE

### Introduction

An EGTC Statute must – according to Art. 9 of the EGTC Regulation – contain all the provisions of the Convention together with the points mentioned in Article 9.

A Statute must thus contain:

- the name of the EGTC and its registered office;
- the extent of the territory in which the EGTC may execute its tasks;
- the specific objective and tasks;
- its duration and the conditions governing its dissolution;
- the list of the EGTC’s members;
- the law applicable to the interpretation and enforcement of the Convention (which is the law of the Member State where it has its seat);
- arrangements for mutual recognition, including for the purposes of financial control;
- procedures for amending the Convention and the Statute, complying with art. 4 and 5;
- the operating provisions of its organs and their competencies as well as the number of representatives in the organs;
- decision making procedures;
- working language(s);
- arrangements for its functioning (personnel management, recruitment procedures and nature of personnel contracts);
- arrangements for member’s financial contributions and applicable accounting and budgetary rules;
- member’s liability;
- authorities responsible for the designation of independent external auditors
- the procedure for amending the statutes, which shall comply with the obligation set out in Article 4 and 5 Regulation.

DRAFT PROPOSAL FOR THE "EGTC – ADRIA ALPE PANNONIA" STATUTE	Remarks
<p style="text-align: center;"><b>Preamble</b></p> <p>The <b>EGTC –ADRIA ALPE PANNONIA (EGTC-AAP)</b> is based on a tradition of cooperation that made the AAP area one of the most dynamic in transnational co-operation at European scale. The EGTC-AAP seeks to improve co-ordination and strategic focus in the whole co-operation area. Thus it is to be understood by its members as a frame for the development of strategic issues.</p>	<p>To be approved and defined by the Members</p>
<p style="text-align: center;"><b>Article 1</b> <b>Name, Members, Legal Form, Registered Office</b></p> <p>(1) The EGTC-AAP is a European Grouping of Territorial Cooperation according to the Regulation (EC) No. 1082/2006.</p> <p>(2) The EGTC-AAP consists of:</p> <ul style="list-style-type: none"> <li>- Republic of Slovenia</li> <li>- Friuli Venezia Giulia Autonomous Region</li> <li>- Veneto Region</li> <li>- Burgenland</li> <li>- Carinthia</li> <li>- Styria</li> <li>- Zala County</li> <li>- Baranya County</li> <li>- Győr – Moson – Sopron County</li> <li>- Somogy County</li> <li>- Vas County</li> <li>- Tolna County</li> <li>- Koprivnica – Krizevci County</li> <li>- Istria County</li> <li>- Varazdin County</li> <li>- Autonomous Province of Vojvodina</li> </ul>	<p>Further territorial units (particularly members of the Alps-Adriatic Working Community) should be invited from the very beginning of further considerations. According to the paragraph (16) of the regulation 1082/2006 preamble the third Members may participate in <b>an EGTC formed</b> if the legislation of a third C. or agreements between concerned States allow it. Therefore it may be necessary to incorporate a specific provision, which takes into account any condition laid down in the concerned legislation or agreement.</p>

<p>(3) ....</p> <p>(4) THE EGTC AAP may execute its tasks within the territory of its members. Its duration is unlimited.</p> <p>(5) The EGTC-AAP's registered office is in xxx</p> <p>(6) The working languages are all the languages of the EGTC-AAP's members. All written documents for purposes of financial control, like financial reports and statements of accounts must, however, be translated into (language of registered office).</p> <p>(7) The law applicable to the interpretation and enforcement of the Convention and the Statute is.....</p>	<p>To be considered a limited duration (see art. 8 point c) of regulation)</p> <p>It could be more operative to provide English as common language</p> <p>Depends on laws of Member State where EGTC registered office).</p>
<p style="text-align: center;"><b>Article 2 Objectives</b></p> <p>The EGTC-AAP aims at</p> <ul style="list-style-type: none"> <li>(1) promoting prosperity in the AAP area, characterised by strong regional and cultural diversity, taking advantage of the challenges and opportunities of recent and future EU-enlargement</li> <li>(2) facilitating and promoting the activity of territorial cooperation between its members, in order to strengthen the social and economic cohesion and become more competitive in the enlarged Europe</li> <li>(3) gaining mutual advantage through collaboration, avoidance of duplication and overlap of territorial cooperation activities, intensifying post-enlargement collaboration, achieving critical mass in many domains, and becoming more competitive in the enlarged Europe.</li> </ul>	

<p style="text-align: center;"><b>Article 3 Tasks</b></p> <p>(1) Without prejudice to the competences given to each member by its national law the EGTC-AAP facilitates, elaborates and implements projects, particularly of strategic relevance in the following fields using EU-funds as far as possible:</p> <ul style="list-style-type: none"> <li>• territorial development and polycentric systems,</li> <li>• spatial planning including planning tools and procedures,</li> <li>• material and immaterial infrastructure,</li> <li>• transport, particularly appropriate secondary public connections between subregions,</li> <li>• excellence knowledge networking,</li> <li>• cultural and natural heritage as part of the regional development,</li> <li>• joint natural resources management including renewable energies</li> <li>• innovative SME clustering beyond borders, cooperation and internationalisation,</li> <li>• networking of public administrations, particularly of those responsible of external relations</li> <li>• the importance of minorities as the two way bridge between the people,</li> </ul> <p>.....</p> <p>(2) The EGTC-AAP may prepare and implement actions which are co-financed by the Community, particularly by the Structural Funds of the European Union.</p> <p>(3) The EGTC-AAP elaborates common positions in the fields of strategic mutual interest of their members.</p> <p>(4) The EGTC-AAP strengthens the visibility of the social, economic and cultural interests of their members within the territory, particularly by means of “people to people projects” as well externally.</p>	<p>To be further defined and better specified.</p> <p>To be provided the procedure for the common decision</p>
<p style="text-align: center;"><b>Article 4 Acquisition of Membership</b></p> <p>(1) The founding members are the units of territorial self-government referred in Article 1.</p>	

<p>(2) The units of regional or national territorial self-government, which are not part of the EU-territory ...</p> <p>(3) Any further unit of regional or national territorial self-government, which shares the objectives and tasks of the EGTC-AAP can apply for the membership according to the provisions of the Regulation and the Statute.</p> <p>(4) ...</p>	<p>According to the legislation of the third C. and/or the international agreement further provisions have to be made</p>
<p style="text-align: center;"><b>Article 5</b> <b>Rights and Obligations of the Members</b></p> <p>(1) Each member shall support the implementation of the tasks and contribute to the fulfilment of the objectives of the EGTC-AAP within its competencies to its utmost effort.</p> <p>(2) Each member shall provide for its annual fee to the common budget until every ..... the latest.</p> <p>(3) Each member enjoys equal representation and participates equally in the organs according to this statute.</p>	<p>It is to be considered if it must be the same for all, or it must vary according to, for instance, the population of each member, the respective GNP, or according to other parameters</p>
<p style="text-align: center;"><b>Article 6</b> <b>The Organs</b></p> <p>The EGTC-AAP has the following organs:</p> <ul style="list-style-type: none"> <li>• The Assembly</li> <li>• The Director</li> <li>• The Supervisory Board</li> </ul>	<p>For the provisions for Organs and staff 2 options are offered, which may be chosen by political level</p>
<p style="text-align: center;"><b>Article 6</b> <b>The Organs and Office</b></p> <p>The EGTC-AAP has the following organs:</p> <ul style="list-style-type: none"> <li>• The Council</li> <li>• The President</li> <li>• The Supervisory Board</li> </ul> <p>The EGTC-AAP has the Office</p>	

<p style="text-align: center;"><b>Article 7 The Assembly</b></p> <p>(1) The Assembly is composed of the legal representatives of the members of the EGCT, in accordance with their national legislation.</p> <p>(2) In its first meeting, the Assembly, acting unanimously, elects its President and approves its internal Rules of Procedures.</p> <p>(3) The Assembly, with a ..... frequency, elects by rotation with unanimous vote a President among its members, according to the decisions taken during the first session.</p> <p>(4) The Assembly shall meet on the convocation of the President at least once a year. The Assembly is also summoned when the majority of the members request it. In case of need and urgency, the Director can summon the Assembly communicating the agenda also by means of telecommunications.</p> <p>(5) The Assembly</p> <ol style="list-style-type: none"> <li>1. adopts unanimously the Statute and its amendments,</li> <li>2. decides unanimously on the application for membership,</li> <li>3. passes the working guidelines, strategies and annual work programme,</li> </ol>	<p style="text-align: center;"><b>Article 7 The Council</b></p> <p>(1) The Council is the highest organ. Its members are the Presidents or Heads of the member units according to the national law or appointed alternate, who hold an electoral mandate.</p> <p>(2) The Council shall meet on the convocation of the President according to Art. 8 at least once a year and is chaired by the President.</p> <p>(3) The Council</p> <ol style="list-style-type: none"> <li>1. adopts unanimously the Statute and its amendments,</li> <li>2. decides unanimously on the application for membership,</li> <li>3. passes the working guidelines, strategies and annual work programme,</li> <li>4. passes the annual budget and the annual financial statement on the closing of accounts,</li> <li>5. passes the amount of the member fees,</li> <li>6. adopts – if necessary – orders on the interpretation of the Statute,</li> <li>7. decides on projects,</li> <li>8. establishes – if necessary – Groups of Experts and decides on the scope of their work; this may notably include the elaboration of project proposals and the implementation of projects or thematic groups on technical or political level,</li> <li>9. examines the realization of the work programme,</li> </ol>	<p>Any national and regional legal order define their own representatives</p> <p>To be evaluated the modalities of voting: it could be considered case by case in order to prevent possible block of action.</p>
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<p>4. passes the annual budget and the annual financial statement on the closing of accounts,</p> <p>5. passes the amount of the member fees,</p> <p>6. adopts – if necessary – orders on the interpretation of the Statute, after following the EC regulation 1082, Convention, Statute and State law where the EGTC has seat,</p> <p>7. decides on projects,</p> <p>8. may institute Groups of Experts and decides on the scope of their work in order to elaborate and implement project proposals or make solution to technical and political issue;</p> <p>9. examines the realization of the work programme,</p> <p>10. examines the reports on the work of Groups of Experts;</p> <p>11. adopts resolutions and opinions on issues of relevance for the EGTCAAP,</p> <p>12. adopts the content and scope of co-operation with other networks of similar nature and purpose,</p> <p>13. passes unanimously the voluntary dissolution of the EGTC-AAP and the liquidation;</p> <p>14. decides on any act not explicitly entrusted to an other organ according to the Statute,</p> <p>15. elects and dismisses the Director determining the related remuneration;</p> <p>16. decides on the organisation of the personnel, notably its rules of recruitment, management and funding</p> <p>17. appoints the members of the supervisory board determining the related remuneration,</p>	<p>10. examines the reports on the work of Groups of Experts,</p> <p>11. adopts resolutions and opinions on issues of political relevance for the EGTCAAP,</p> <p>12. adopts the content and scope of co-operation with other networks of similar nature and purpose,</p> <p>13. passes unanimously the voluntary dissolution of the EGTC-AAP,</p> <p>14. decides on any act not explicitly entrusted to an other organ according to the Statute,</p> <p>15. appoints the members of the supervisory board,</p> <p>16. appoints unanimously the Head of the Office for a term of five years,</p> <p>17. decides on the organisation of the Office, notably its rules of procedure, funding and staff.</p> <p><b>(4)</b> Each representative of a member unit has the right of one vote. The Council decides with the absolute majority of its present members, except in cases where unanimity is explicitly regulated.</p>
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<p>(6) Each representative of a member unit has the right of one vote. The Council decides with the absolute majority of its present members, except in cases where unanimity is explicitly regulated.</p>	
<p><b>Article 8</b> <b>The Director</b></p> <p>(1) The Director represents the EGTC and acts on its behalf.</p> <p>(2) He is responsible for the implementation of the work programmes of the EGTC and prepares the work of the Council</p>	<p><b>Article 8</b> <b>The President</b></p> <p>(1) The office of President shall be held in turn by each Member in the Council for a term of two years in the order decided by the Council acting unanimously.</p> <p>(2) The President</p> <ul style="list-style-type: none"> <li>- represents the EGTC and acts on its behalf,</li> <li>- shall convoke and chairs the sessions of the Council,</li> <li>- signs the acts as far as they are not delegated to the Head of the Office and</li> <li>- prepares and coordinates the work of the Council together with the Head of the Office.</li> </ul>
<p><b>Article9</b> <b>The Supervisory Board</b></p> <p>(1) The five members of the Supervisory Board are appointed by the Council for a term of five years. The Chairman/woman and his/her Vice-Chairman/woman shall be elected among them.</p>	<p>To be commonly decided the years</p>

<p><b>(2)</b> The Supervisory Board</p> <ol style="list-style-type: none"> <li>1. scrutinises the expenditures of the EGTC-AAP</li> <li>2. scrutinises the annual closing of accounts and expenditures regarding its economy, efficiency and expediency,</li> <li>3. informs the designated audit authorities of other members of the EGTC-AAP on any irregularities and submits them the closing of accounts,</li> <li>4. receives comments, reports on irregularities and scrutiny reports from audit authorities of the members of the EGTC-AAP concerning the activities of the EGTC-AAP and coordinates – if necessary – further examinations.</li> <li>5. submits its financial statement on the annual closing of the accounts to the Council.</li> </ol> <p><b>(3)</b> In the case of the implementation of an action, which is co-financed by the European Community, particularly by the Structural Funds, the Supervisory Board organises any necessary support for the monitoring, evaluation and controlling mechanism according to financial rules together with the Office towards the relevant authorities.</p>	
<p><b>Article 10</b> <b>The Personnel</b></p> <p>(1). The EGTC can employ its own personnel in compliance with the dispositions of the Community law, of the national law of the Member State where the EGTC has its registered office...and of the regulation of organization and management mentioned in art.</p> <p>(2.) It may have further staff directly employed by its members.</p>	<p><b>Article 10.</b> <b>The Office</b></p> <p>The Council and the President shall be assisted by the Office under the responsibility of its Head. The Office may have further staff members directly employed by the EGTC-AAP or seconded by its members.</p> <p>Employment of the public officers already employed by the Members</p>

	<p style="text-align: center;"><b>Article 11</b> <b>The Common Budget</b></p> <p>(1) The common budget shall be established in order to fulfil the tasks of the EGTC-AAP. The annual budget shall contain a component of running costs and – if necessary – an operating component.</p> <p>(2) The revenues of the common budget are</p> <ol style="list-style-type: none"> <li>1. the member fees</li> <li>2. any funds from third parties</li> </ol> <p>(3) The calculation of the member fees is based [<i>upon the number of inhabitants plus ...</i>].</p>	
<p>Has to be designated by the authority of the state, where the EGTC-AAP has its registered office</p>	<p style="text-align: center;"><b>Article 12</b> <b>Control of management of public funds</b></p> <p>The [... <i>competent authority where the EGTC has its registered office.</i>...] is entitled to designate the independent external supervision.</p>	
	<p style="text-align: center;"><b>Article 13</b> <b>Control of European Community co-financed actions</b></p> <p>In the case of actions which are co-financed by the European Community, the relevant legislation concerning the control of funds provided by the European Community shall apply.</p>	
	<p style="text-align: center;"><b>Article 14</b> <b>Mutual recognition agreements</b></p> <p>(1) The control and management of public funds by the EGTC is organized by ...</p>	

<p>(2) The authority defined in the paragraph 1 concludes the appropriate agreements with the relevant authorities concerned so that they perform controls on their territory for the actions performed there by the EGTC and for the mutual information sharing.</p>	<p>To be defined the relevant authority of the member State where the registered office of the EGTC is located</p>
<p style="text-align: center;"><b>Article 15</b> Liability</p> <p>The EGTC AAP is responsible ...</p> <p>(1) In the case of insufficient assets of the EGTC-AAP to meet its liabilities each member shall contribute to an extent proportionally to the decision on the member fees adopted at least .....</p> <p>(2) By the means of liquidation in the case of insolvency proceeded by [ .. <i>namely the competent Court designated by the EU-member state where the EGTC-AAP has its registered office ..</i>] according to the procedure laid down in [ .. <i>national Law ... Gazette ...</i>].</p>	<p>The liability may be regulated according to the nature of the EGTC respecting by the law of the member State the EGTC has its registered office. To be commonly defined the procedure. But in any case the base of the contributions of liability have to be defined in the statute (Art. 12 par. 2 EGTC Reg.)</p>
<p style="text-align: center;"><b>Article 16</b> <b>Dissolution, Withdrawal, Insolvency and Liquidation</b></p> <p>(1) The EGTC-AAP is wound up</p> <p style="margin-left: 20px;">a) voluntarily by an unanimous decision of its members, b) according to Art. 14 of the regulation.</p> <p>(2) Any member may withdraw from the membership ..... The rights and obligations of the member are effective until.....</p>	<p>To be commonly defined the procedure, also in case of general liquidation.</p> <p>To be added the case of pure insolvency. The discipline of the liquidation procedures for the stop of the activity, or for the withdrawal of a member, must be determined upon agreements of the parts.</p>

	<p style="text-align: center;"><b>Article 17</b> <b>Entry into force, publicity and revision</b></p> <p>(1) The statute shall be registered [<i>and/or published</i>] together with the convention at [ .. <i>namely the competent authority designated by the EU-member state where the EGTC has its registered office .../.. Official Gazette ...</i>] after the last competent authority of all concerned EU-member states has approved the participation and after its final adoption in the constituent session of the Assembly.</p> <p>(2) With the day of registration [<i>and/or publication</i>] the statute enters into force and the EGTC-AAP acquires legal personality.</p> <p>(3) After ten days of the registration [<i>and/or publication</i>] the EGTC-APP shall request for the announcement of its registration in the Official Journal of the European Union by a formal notice and inform the Committee of the Regions.</p> <p>(4) In the case of any amendment of the statute the above procedure shall be applied analogously.</p>
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