



**REPORT ON THE CONSULTATION OF  
THE SUBSIDIARITY MONITORING NETWORK ON  
CONNECTING EUROPE FACILITY**

Rapporteur: Dr Ivan Žagar (SL/PPE)



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# **Connecting Europe Facility Final Report 13/02/2012**

Commissioned by:  
Committee of the Regions

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CDR/ETU/198/2008

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Vienna, 13/02/2012

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**List of abbreviations**

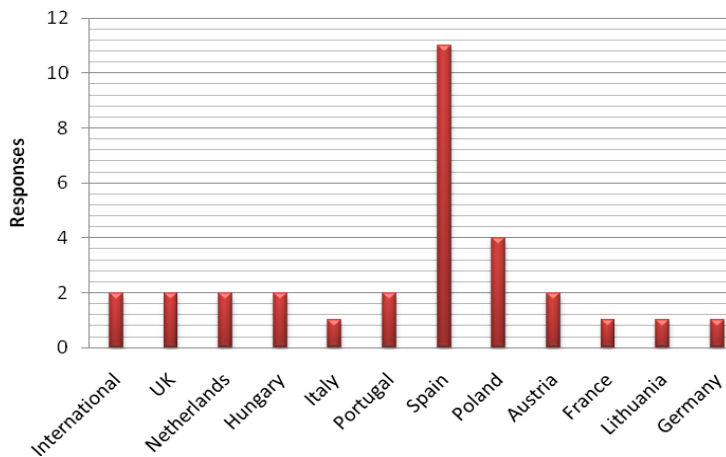
CF	Cohesion Fund
CoR	Committee of the Regions
CEF	Connecting Europe Facility
EC	European Commission
EGTC	European Grouping for Territorial Cooperation
ERDF	European Regional Development Fund
EU	European Union
EU12	Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania, Slovakia, Slovenia
EU15	Austria, Belgium, Denmark, Finland; France Germany, Greece, Italy, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden, UK
MS	Member States
TEN	Trans European Network
PPP	Public Private Partnership
SMN	Subsidiarity Monitoring Network
TEN	Trans-European Networks
TEN-T	Trans-European Transport Networks

## 1 Introduction

The report summarizes the main findings of the consultation process about the Connecting Europe Facility (CEF) proposal<sup>1</sup> of the European Commission. The consultation process has been launched at the request of the CoR rapporteur Dr Ivan Zagar (SI/EPP) on 29 November 2011. Based on the request, the consultation has been open to the partners of the Subsidiarity Monitoring Network (SMN), the CoR EGTC Platform, CoR EU2020 monitoring platform, additional CoR members willing to participate, regional offices based in Brussels and permanent representations of the Member States.

The consultation was closed on 27 January 2012. 31 contributions of 11 Member States and 2 international groupings have been submitted. By far the highest amount of contributions came from Spain (see Graphic 1)

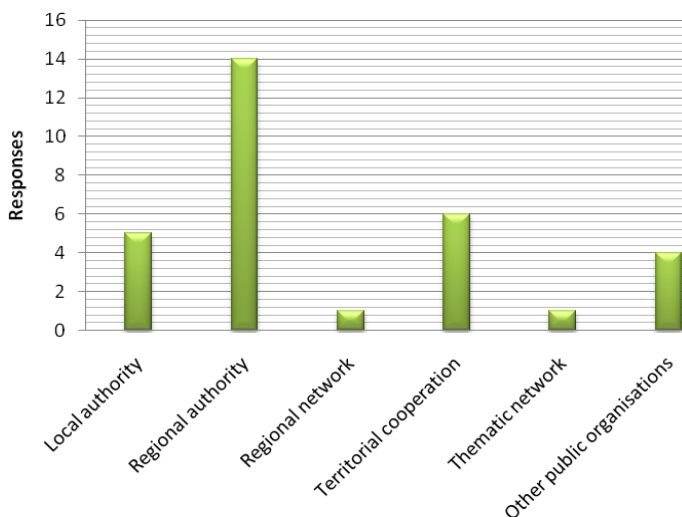
Graphic 1: Member State respondents



Source: Metis 2011

The respondents were mainly regional authorities and local authorities, followed by Territorial Cooperation Groups (see Graphic 2).

Graphic 2: Types of respondents



Source: Metis 2011

<sup>1</sup> European Commission (2011), Proposal for a regulation of the European Parliament and of the Council establishing the Connecting Europe Facility, COM(2011) 665 final, 2011/0302 (COD), {SEC(2011) 1262 final}{SEC(2011) 1263 final}, Brussels, 19.10.2011

The aim of the consultation was to identify the respondents' perception of the CEF Regulation draft in terms of the

- general added value of CEF
- involvement of local and regional governance
- compatibility of CEF with ERDF
- impact of CEF implementation on the public budget
- effects on public procurement
- effects on cross-border regions

The general response about CEF has been positive. There is a common agreement about the value added by a centralised and more focused infrastructure development. CEF is expected to provide significant support for cross border infrastructure development which so far is accompanied by various difficulties. However, the major aspects, which have been highlighted, are:

- The directive of the European Commission to core projects is seen as too **top down, thereby** endangering the **Principle of Subsidiarity** if the corridor coordinator role would allow directing Member States in their decisions about infrastructure projects.
- The **predefinition of infrastructure corridors** seems to be too rigid and does not allow the inclusion of other projects in the preparation phase. This would endanger funding of projects within the comprehensive infrastructure network.
- Especially in the light of the **current budget constraints** it is problematic to force Member States to realise predefined TEN projects by binding deadlines.
- While for **EU15** the **additional funds** in principle offer **new opportunities** for financing TEN, **EU12** have great **concerns** about the **necessary national co-financing** amount that will burden the available budget substantially.
- Cohesion Funds budget is seen as a significant pillar of many EU12 regions, and the fear to **reduce CF budget** in order to finance instead CEF projects is seen as a significant disadvantage for "new Member States".
- It is important that the proposal takes into account the **existing Member States regulations, timetables and budgets** available for infrastructure development.
- The current proposal does not offer any procedure how to **link central CEF projects with CF and ERDF projects**. Again, it is critical to give priority to TEN-T infrastructure projects since it endangers the development of other important infrastructure networks.
- The **cross-border approach** of CEF is widely acknowledged. Nevertheless, a clear and distinctive procedure how to tackle legal constraints across borders is not yet visible.
- The influence of CEF procedures on **public procurement is not clear** to many of the respondents. However, some expect it to have a significant impact on procurement procedures, especially in terms of cross-border projects.
- The current proposal does **not imply any serious mechanism** for **involving regional and local actors in the participation process**. However, most of the comments imply that involvement of regional and local actors is in the responsibility of the Member States. Other respondents see the participation in the corridor platform as an important contribution.

## 2 Brief description of relevant CEF topics

The final regulatory proposal to the European parliament and to the Council to establish the Connecting Europe Facility (CEF)<sup>2</sup> sets out a common framework to support specific infrastructure projects in Europe. The proposal includes infrastructure projects at European level that are important to move towards high level interconnectivity of MS to enhance conditions for an improved internal market and increased global competitiveness. The instrument should boost the current floundering process of pushing forth the TEN Network.

In this respect the proposal tackles issues in the field of transport (rail, road, shipping) along the “core-network” TEN Network. It specifically supports infrastructure corridors, cross-border connections, high level energy facilities and telecommunication networks.

The instrument – though centrally managed by the European Commission – should be implemented in close cooperation with the MS.

The **value added** by the new facility should be the simplification of the EU legal framework concerning TEN infrastructure, and with increasing efficiency should attract more private capital. The aim of CEF is to:

- provide a common framework, leading to the simplification of the EU legal framework concerning TEN infrastructure funding,
- provide a coherent and transparent approach to EU funding,
- enable the realisation of economies of scale,
- exploit cross-sector synergies at project development and implementation level,
- enable cost savings and/or more efficient exploitation and higher returns,
- and draw on lessons learned and best practice sharing across sectors<sup>3</sup>.

In order to leverage European funding and financial support, the CEF should link different financial instruments. Actions and projects supported by financial instruments shall be selected on a **first-come, first-served** basis, but should **consider gradual geographical diversification** across MS. **Financial support** should be grants combined with other financial instruments. Grants include **CEF, CF, Structural Funds as well as Horizon 2020**. Financial instruments include **equity instruments, loans and/or guarantees facilitated by risk-sharing instruments** or other financial instruments. Financial instruments may be combined with grants.

The **main budget** (€ 31,7 bn of which € 10 bn shall be transferred from the Cohesion Fund) is allocated to transport. Another € 9 bn is allocated to energy and €9 bn to telecommunication.

The funding **eligibility criteria** cover individual Member States or several Member States, international organisations, joint undertakings or public private partnerships.

**Funding rates proposed for transport** studies shall not exceed 50%, for construction 20% to 30%.

**Funding rates for energy** studies shall not exceed 50% and can rise to 80% for specific infrastructure regulated by the Commission guidelines.

As regards **telecommunication, broadband networks** can be funded up to 50%, generic services up to 75% and, in exceptional cases, service platforms can be funded up to 100%.

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<sup>2</sup> The proposal of the European Commission has been submitted to the European Parliament in October 2011 and is currently scrutinised by the national parliaments. The deadline for scrutiny is in mid February 2012.

<sup>3</sup> European Commission (2011), Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility COM(2011) 665, 2011/0302 (COD), {SEC(2011) 1262, {SEC(2011) 1263}, Brussels 19.10.2011, p. 5



**Public procurement** procedures carried out by the Commission or by any other body which implements a funded project should not infringe public procurement principles of transparency, open competition and sound procedural management to public contract award procedures. The regulation enables multiple awards within the same procedure.

**Public procurement** rules are currently in a **review process** of a new proposal published in December 2011. This new procurement proposal intends to simplify procedures. However, it is not yet clear how those rules will influence the current CEF proposal.

The regulation proposal does not imply any involvement on **different levels of MS authorities**. Member States will manage implementation of the CEF on a regional and local level.

### 3 Comments in detail

#### 3.1 Added value of CEF in relation to TEN-T

*Question: Do you believe that the Connecting Europe Facility will bring added value to EU action in the area of TEN-T (including a leverage effect on sustainable growth and jobs and social, economic and territorial cohesion)? Please explain and provide examples to support your answer.*

##### *Summary of the comments*

In general, the added value of CEF is acknowledged: Particularly in terms of increasing the effectiveness of Europe's wide infrastructure, development should be increased via a centralised funding management and better know-how exchange. The added value is expected in economic growth with better high-level infrastructure networks in still insufficient connected areas.

*The fundamental aim of the CEF is to join up the EU's single market, irrespective of current national borders. Infrastructure planning must thus necessarily be done in the European context. In consolidating the single market, progress must also be made on standardising different national regulations. (Alicante Port Authority)*

Especially Spanish and Portuguese respondents expressed their expectations about the instrument boosting employment in the construction industry and indirectly by facilitating economic prosperity in the connected regions. The CEF should stimulate PPP's and attract (institutional) investors to participate in funding TEN-T projects and support the reduction of CO<sub>2</sub> emissions.

*CEF is a very useful tool to support regional infrastructure for the development of intermodal transport and logistics as well as to support urban hubs taking into account regional or intermodal platforms (Region of Murcia)*

However, the approach of a single common framework for developing infrastructure across Europe triggered different reactions. Some of the obtained statements value that this single instrument will simplify processes, while others fear conflicts with the Subsidiarity Principle (e.g. City of Vienna, Lithuanian Association of Local Authorities). According to these respondents, the CEF regulation proposal might conflict with national interests. For example, the binding nature of regulations (binding deadlines) must be examined with regard to whether they constitute an unacceptable infringement on the budgetary sovereignty of the Member States on the part of the EU. Germany for example reorganised and simplified its transmission network planning and authorisation procedures with the Act on the Acceleration of Grid Expansion (NABEG). The German respondent now fears that the CEF does not correlate with the national procedures. The UK parliament also expresses great concerns about the CEF forcing Member States to deal with predefined infrastructure which might endanger the development of other comprehensive and nationally important networks. In this respect CEF should consider the development of territorial cohesion including both the development of national and regional infrastructure.

Furthermore, there are doubts whether the European proposal of splitting the authorisation process into a two- year pre-application process and a one-year formal authorisation process is practical. According to the German respondent, the proposed regulations should be restricted to the scale needed for European coordination and harmonisation. Proposed regulations that go beyond Article 171 of the TFEU are rejected.

Another criticism comes from the representative of the Conference of Peripheral Maritime Regions. It stated that the maritime aspect of the proposed regulation does not reflect the actual needs for improvement in that area. Comments note that shipping could contribute to a reduction of CO<sub>2</sub> emission, but this has not yet been considered sufficiently within the regulation proposal. Finally, one comment highlights the problem of predefined projects in the proposal excluding projects that are still in the pre-feasibility phase.

*The instrument “sustainable maritime connections” could build on the success of the Ecobonus model, benefit from an objective assessment of the Marco Polo Programme, and take on board the context created by the new restrictions on sulphur content in marine fuels (CPMR Conference of Peripheral Maritime Regions)*

Finally, peripheral regions of Europe do not deem the instrument relevant to them. According to the regional governance of Madeira, the CEF would exclude those not connected to the proposed infrastructure network.

### **3.2 Involvement of local and regional authorities**

**Question:** *Please describe how local and regional authorities will be involved in the CEF decision-making process in your Member State (including the impact of CEF on your territorial planning and development strategies).*

#### **Summary of the comments**

All statements expressed the need to involve regional and local authorities in projects which influence their territorial development. While some respondents understood that it lies within the responsibility of the Member States to include the regional and local level, other respondents demanded a more direct involvement in the CEF process. In some Member States the involvement of local and regional authorities is not yet clarified, but most others involve their LRAs according the national legal framework. Spanish respondents give a detailed description about the involvement of LRAs. However, it was stated that the value added by the corridor platforms proposed by the European Commission that should bring together all the involved stakeholders will only be effective if LRAs but also national and international groupings are participating.

There is some general criticism about the centralised management of the CEF by the Commission which does not give regional and local authorities the chance to participate in the decision-making process. Respondents expressed their fear of undercutting or counteracting territorial cohesion efforts by this centralised management. There are many regional and local infrastructure projects serving as amendments to the TEN-T. However, these connecting activities are not considered in the current proposal. Furthermore, the regulation fails to consider national legal frameworks (federal, regional system) that do not allow top down infrastructure projects such as the CEF regulation proposal foresees (e.g. Germany). This is seen as a step backwards within the overall partnership approach that characterizes cohesion policy today.

*CPMR demands for a more binding description of the role of the regional authorities within this governance system. CPMR is opposed to centralised budget allocations decisions, and believe the awarding of a bonus on the basis of the maturity of projects in a bidding procedure is in conflict with the idea of territorial cohesion and good governance (CPMR Conference of Peripheral Maritime Regions)*

### **3.3 Coherency between CEF and Structural and Cohesion Funds**

**Question:** *How could coherent compatibility be ensured between projects financed through the Structural and Cohesion Funds and those financed through the CEF? What will be the impact of the CEF on smaller projects?*

#### **Summary of the comments**

The most widely expressed concern of stakeholders concerns the sufficient coordination between European CEF managed projects and national ERDF funded projects. Most of the comments include the understanding that CEF mainly concentrates on larger projects and therefore can be easily complemented by ERDF funded smaller projects. Respondents claim that the proposal does not sufficiently describe the procedural link between CEF and Structural Fund (ERDF) projects. Most importantly overlaps between ERDF and CEF have to be avoided. In order to avoid double funding, clear criteria should be defined. Furthermore, all funding schemes should be evaluated and adapted.

.../...

However, not all MS have equally access to infrastructure funding in ERDF. It should be avoided that a lack of financing of smaller and less dominant projects leads to complete dismissal of peripheral infrastructure projects. Moreover, the concentration on the ten selected main projects has been criticised as being far too rigid, neglecting other equally important matters in Europe. Concerns have been expressed that smaller projects not related to the ten corridors will lose importance on European level.

*The CEF is designed to connect regions but it is managed centrally from the Commission. With the different management systems (central CEF and regional ERDF, CF) there is a considerable difficulty in compatible project development. The linkage between the CEF and the Common Strategic Framework of Cohesion is missing (Convention of Scottish Local Authorities (COSLA))*

### **3.4 CEF impact on public budget**

**Question:** *What is the expected impact of the CEF proposal on your public budget and on the use of other National and EU Funds?*

#### **Summary of comments**

The average co-finance contribution of CEF for road and rail networks does not exceed 30%. This leads to the conclusion that the CEF proposal will not play a major role in national budgets.

*While the investments of ICT and Energy are substantially increased, we believe that the transport part will not result in a significant change from the current situation as regards to local and regional authorities. (Convention of Scottish Local Authorities (COSLA))*

Respondents from EU15 mostly consider CEF as an opportunity for additional funds for infrastructure. Some of the respondents are of the opinion that the CEF is merely an instrument for the EU15 that are able to co-finance such types of infrastructure investments while EU12 due to budget constraints have serious difficulties in co-financing those infrastructure projects.

*The impact of the CEF proposal on national budgets will be limited for those MS with existing high standard infrastructure. (City Hall Łódź)*

The CEF is seen as an indication of centralising Cohesion Funds which could increase regions' difficulties in participating in the process. CF forms an important financial instrument for the "new Member States". The proposed CEF corridors and the € 10bn allocation from CF is seen as top down directive from the European Commission which limits the flexibility of Member States in the negotiation phase.

*Of the 34 billion from the Cohesion Fund intended to finance the TEN-T, 10 billion will be allocated using the same procedure as for the CEF, in particular on the basis of calls for projects organised by the Commission. Given the risks mentioned above, it would not be the most structural projects that would be given priority, but those most likely to be completed quickly. This kind of change in the regulations can be assimilated to a backward step in the overall partnership approach (CPMR Conference of Peripheral Maritime Regions)*

Furthermore the prioritisation of the proposed TEN corridors might hinder MS to realise their own sometimes more pressing infrastructure projects. CEF project delivery timescales should be more flexible. Problems may occur when timescales of projects in the proposal are not consistent with national planning.

*The creation of a new facility will lead to greater centralisation of funds, making it more difficult for regions to access them directly (Office of the Marshal of the Pomorskie Voivodship)  
CEF priorities may hinder Member States prioritising their own projects. Therefore the timescale should be more flexible than is indicated in the proposal. Some flexibility may be achieved by using Guidelines rather than Regulation as per previous TEN-T projects (Rail Network)*

Another aspect is raised with the proposal of involvement of private investments in TEN-T projects. Respondents expressed certain doubts whether the tool will provide the necessary financially secure environment for investors to step in.

Generally it would be expected that any funding assessment for a project should seek to demonstrate a robust business case and a return on investment prior to any infrastructure embarking on a project. It is not clear whether funding from the CEF would require any level of a return on investment, and indeed whether the proposed projects should be required to demonstrate their value before a project is listed.

*It is important to take into account individual capacities and the potential of local entrepreneurs and businesses (EGT CUTTS Hungary)*

### **3.5 Effects on public procurement and state aid**

*Question: Can you identify any possible effect on public procurement rules and state aid?*

#### **Summary of comments**

The majority of the statements do not see any conflicts or effects on national public procurement procedures. However, as the Office of the Marshal of the Pomorskie Voivodship stated in the case of transnational projects, differences between the legal systems of the Member States could cause significant obstacles in joint investments. The public procurement process is currently reviewed and there are some concerns that some of the new procurement procedures might increase complexity.

*It is feared that the CEF leads to a reviewed public procurement procedure specifically designed for the instrument. There is a negative opinion of specific public procurement procedures for specific tasks (e.g. green public procurement). This fragments the public procurement approach and leads to administrative burden. (Convention of Scottish Local Authorities (COSLA))*

### **3.6 Challenges and opportunities in border regions**

*Questions: What challenges and opportunities does the CEF present to border regions (including the possible use of the EGTC)?*

#### **Summary of comments**

Generally the CEF is recognised as a supportive instrument for cross-border connectivity. The fact that CEF foresees the need to support cross-border infrastructure linkages is widely appreciated. Transport connections are vitally important to help border and cross-border regions overcome the disadvantages caused by their geographical situation, at both national and European level.

*CEF is extremely welcome not only in border regions but in sea based areas. Both the Scottish Government and the North Sea coastal local authorities see CEF as a potential instrument both to develop both the grid connections with Europe as well as the indigenous generation of renewable energy with the obvious impact on local economic prosperity. (Convention of Scottish Local Authorities (COSLA))*

Cross-border projects highly depend on regional and local actors. Therefore it is even more necessary to involve them in this specific matter. Currently such an involvement is not foreseen on European level. EGTC in Hungary for example do not have the budget to participate in the project generation and evaluation process related to TEN-T. Another concern in this respect is the lack of experience and knowledge to set up necessary structures to implement cross-border projects.

*Border regions could become hostages to the absence of agreement between Member States on common projects. The CEF does not provide the conditions necessary to avoid this risk but removes Cohesion Fund resources from border regions. (Lithuanian Association of Local Authorities)*

## 4 Conclusions

The statements submitted can be divided in different interest groups. First, there are local and regional authorities and representatives; second, territorial cooperations; third stakeholder representatives such as port networks. The second difference can be drawn between organisations and authorities situated in Spain and Portugal that are strongly supporting the CEF, and Central European MS and organisations being critical about the top down process of the CEF. Therefore no general conclusion can be drawn other than that EU15 Members States do consider CEF as an additional opportunity for infrastructure funding and EU12 are concerned about CEF interfering with other more pressing needs in the regions.

Another, though not so strong concern, is the protection of the Subsidiarity Principle. The Subsidiary Principle is defined in the Treaty on European Union Article 5: *In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community. Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.*<sup>4</sup>

In this respect, the directives of the European Commission to core projects are seen as too top down, endangering the Principle of Subsidiarity if the corridor coordinator role would allow directing MS in their decisions about national infrastructure projects.

The comments received however can be summarized as followed:

- The predefinition of infrastructure corridors is seen as critical. Since they hinder other more pressing projects to be developed.
- The involvement of regional and local actors at the corridor platform is seen as necessary but no support for territorial groups and other representatives is foreseen in the proposal.
- CEF and ERDF can have a potential value added in their compatibility. However it is not yet clear how those two instruments are effectively linked together. This causes concerns about overlaps and undercutting of ERDF projects.
- The fact that € 10bn is allocated to CEF raises major concerns in the new Member States. Several local and regional authorities expressed their fear of conflicts between project proposal on national level and the proposed corridor projects.
- The implementation of cross-border projects is generally highly valued. Again, the actual implementation based on different legal systems is not clearly defined neither is the procedure and stakeholder involvement.
- The majority of statements did not see any conflicts with public procurement rules.

In general, the statements underline that the procedure how to implement CEF is not yet sufficiently clarified (especially in cross-border projects). This also raises the need to improve adaptation between EC targets and MS interests in this respect. The comments indicate which MS targets are met within the proposal and which countries do have difficulties in adjusting the proposed projects to their national and regional targets. For example, Spain and Portugal do not seem to have any further objection to the proposal and do expect CEF to support their national and regional infrastructure budget. Comments from Hungary, Germany and Poland however indicate that they fear that their national and regional autonomy will be endangered by the decision-making process.

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<sup>4</sup> European Union (2006), Consolidated versions of the treaty on European Union and of the treaty establishing the European Community, Official Journal of the European Union, Article 5

## 5 References

European Commission (2011), Proposal for a regulation of the European Parliament and of the council, establishing the Connecting Europe Facility, 2011/0302(COD), COM(2011) 665, Brussels, 19.10.2011

## 6 Respondents

NR	Name	Country	Network	Typ of respondent
1.	Netwerkstad Twente	Netherlands	SMN	Regional network
2.	Independent consultant (founder member EGTCUTTS, BEFA)	Hungary	EGTC	Territorial cooperation
3.	Region of Marche (Italy)	Italy	SMN	Regional authority
4.	Agrupamento Europeu de Cooperação Territorial Galicia-Norte de Portugal	Portugal	EGTC	Territorial cooperation
5.	Valencian autonomous government, Directorate-general for transport and logistics	Spain	SMN	Regional authority
6.	Consejo de camaras de comercio de la Comunidad Valenciana	Spain	TBC	Regional authority
7.	City Hall Łódź	Poland	SMN	Local authority
8.	Planning Department, Office of the Provincial Government of Styria,	Austria	SMN	Regional authority
9.	Autonomous Community of Galicia	Spain	SMN	Regional authority
10.	Extremadura Assembly	Spain	SMN	Regional authority
11.	Office of the Marshal of the Pomorskie Voivodship	Poland	SMN	Regional authority
12.	City of Vienna	Austria	SMN	Local authority
13.	Governo Regional da Madeira	Portugal	TBC (Parl. Is member of SMN)	Regional authority
14.	Urban Community of Brest Métropole Océane	France	TBC	Local authority
15.	Lithuanian association of local authorities	Lithuania	SMN	Local authority
16.	Association of European Border Regions (AEBR)	International	SMN	Territorial cooperation
17.	UTTS EGTC	Hungary	EGTC	Territorial cooperation
18.	Convention of Scottish Local Authorities	UK	SMN	Local authority
19.	Conference of Peripheral Maritime Regions (CPMR)	International	TBC	Territorial cooperation
20.	Valencian Regional Government	Spain	SMN	Regional authority
21.	FEPORIS – Institute for Port-related Studies and Cooperation	Spain	TBC	Other public organisations
22.	Alicante Port Authority	Spain	TBC	Other public organisations
23.	Valencia Port Authority	Spain	TBC	Other public organisations
24.	Castellón Port Authority	Spain	TBC	Other public organisations
25.	Ministry of Baden-Württemberg	Germany	SMN	Regional authority
26.	Rail Network	UK	TBC	Thematic network
27.	Region of Murcia. Department for Public Works and Land-Use Planning: General Secretariat/Directorate-General for Transport and Ports	Spain	TBC	Regional authority
28.	Marshall's Office of Wielkopolska Region	Poland	TBC	Regional authority
29.	Region of Warmia and Mazury	Poland	TBC	Regional authority
30.	EGTC Eurometropolis	Netherlands	EGTC	Territorial cooperation
31.	Departamento de Vivienda, Obras Públicas y Transportes del Gobierno Vasco	Spain	SMN	Regional authority