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**"INTERREGIONAL AND TRANSFRONTIER CO-OPERATION: PROMOTING DEMOCRATIC STABILITY AND DEVELOPMENT"**

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# REPORT

# "ADMINISTRATIVE AND LEGAL FRAMEWORK FOR TRANSFRONTIER CO-OPERATION AT THE EUROPEAN LEVEL – THE CoE AND EU LEGAL INSTRUMENTS"

**by**

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1. I have been asked to make a presentation on recent developments in legal instruments concerning cross-border co-operation between European states. In my capacity as chair of the committee of experts on local and regional government institutions and co-operation I have indeed promoted and steered recent work at the level of the 47 member states of the Council of Europe in the field of transfrontier co-operation. At the same time, as representative of the Netherlands in a number of working parties of the European Union I have also followed the discussions and work in the European Union on such instruments as regulation 1082/2006 on the European Grouping of territorial co-operation. I see therefore the similarities and differences of approach in dealing with cross-border issues at both the European Union's and Council of Europe's levels.

2. In my presentation I will not deal with the details of the legal instruments available, but rather present the approaches followed by both the European Union and the Council of Europe in order to arrive to quite similar results. I will also describe the main features of the third protocol to the Madrid convention as this is the convention that your countries, as members of the Council of Europe, are most likely to use in their relationships with their neighbours, be they members of the European Union or not.

I.

3. When speaking of transfrontier or cross-border co-operation, several types of co-operation come to mind. The first one is the standard, bilateral co-operation between states. This is what one could term "foreign relations" in the widest sense. A more concrete dimension is represented by the relationships that individuals, in their daily life, may establish across the borders: useful examples are those of persons living on one side of the border and commuting daily to work on the other side, or persons living on one side and using utilities and services – such as an hospital, for instance – established on the other side of the border. Very often, the legal implications of such situations – at the level of social insurances or taxation – are also covered by interstate agreements. A third possibility, which is complementary to the first two, is that not just the states, or individuals, co-operate across the borders, but local and regional authorities too.

4. This is a relatively recent development in legal practice in Europe. Territorial authorities or communities, such as municipalities, provinces, counties or regions, are not entitled to "foreign relations". These are not sovereign entities and cannot establish relations or conclude agreements as states do. But they do have functions and powers to implement them for the benefit of their citizens. Primary education, local transport, social services, housing and roads are very often the fundamental and almost universally recognized competences of local authorities across Europe. Neighbouring authorities across the border have the same or almost the same responsibilities. And co-operation between the two is often not a luxury, but a necessity.

5. How then to enable local authorities to co-operate in their respective fields of competence without granting local authorities the "treaty making power" that only sovereign states possess?

6. The answers to this question have been two-fold. In socialist states, where local government was broad in scope but very limited in terms of autonomy, the solution consisted of establishing interstate committees within which all issues of bilateral co-operation would be discussed. Local government being a branch of state power, this method enabled states to find a solution to problems encountered which local government could easily implement. Their role was minimal, as their autonomy was. In Western Europe, where local governments were empowered with a varying degree but certainly a high degree of autonomy vis à vis the central state, the solution was to enable local authorities themselves to engage in co-operation and conclude agreements, as necessary.

7. Local governments had experience of this co-operation though. Since the Sixties, many local authorities starting with my own country, the Netherlands and its neighbours, Belgium, Luxemburg and Germany, engaged in dialogue and co-operation with nearby municipalities. Other countries followed that example. The first steps of co-operation were perhaps symbolic: mayors exchanging visits, municipal councils holding joint sessions, organisation of events to which the neighbours would be invited. In many cases, twinning of municipalities were established, and on this basis the need to discuss more in depth issues of common interest developed.

8. Experience showed that local authorities were keen on implementing their functions having due regard to the existence of a neighbouring local authority whose cooperation was sough in order to provide globally better services to their citizens. They were not interested in nor seeking break-away action from the state.

9. Thus, the demand for recognition of this possibility and the authorisation, where necessary, to engage in such co-operation, came from local governments themselves. In the Council of Europe, the Standing conference (now the Congress) of local and regional authorities asked the Committee of Ministers to prepare a convention that recognize the right of territorial authorities and communities to engage in co-operation with neighbouring authorities across a state border.

10. This convention was concluded in 1980 and signed in Madrid, hence its “nickname” of Madrid Outline convention on transfrontier co-operation between territorial communities or authorities. This was at the time and still is the first and only international treaty whereby states commit themselves to enabling their territorial authorities to engage in cross-border co-operation. The convention uses the terms of “facilitating and fostering”. This not the same thing as recognising the “right” of local authorities to engage in cross-border co-operation. Rather the convention places the duty on the state, to take all appropriate action in order precisely to “facilitate and foster" the co-operation.

11. In practice, these expressions have been understood as meaning on the one hand the obligation for the parties to remove the obstacles that stand in the way of making this co-operation possible. Sometimes, the obstacles are of legal nature: from sheer prohibition to the need to require prior authorisation before engaging in dialogue or agreements, or the obligation to follow complicated procedures – via the Ministry of Foreign affairs, for instance in order to contact similar authorities abroad. Sometimes the obstacles are factual or practical: different languages spoken, cultural differences, lack of easy communication points, such as roads or bridges. Very often a mix of the two.

12. On the other hand, the obligation is also to “foster”, which means to encourage, promote, and to make it easier. For this to happen, states may wish to conclude bilateral treaties specifying which authorities are covered by this engagement, which are the areas of co-operation open to them, and possibly also which tools are created in order to make it possible. Interstate committees are also created – so that we are back to the experience of some of our member states, but in a different set of rules.

13. The Madrid convention does not establish a “right” for local authorities to engage in co-operation but acknowledges the possibility for them to conclude agreements that materialize this co-operation. The implementation of these agreements falls within the competence of each party, i.e., the territorial authorities concerned, and the state takes no responsibility for these agreements. In other terms, it is clear that these contacts and agreements are not treaties, they do not engage the responsibility of the states and do not make the local authorities concerned subjects of international law.

14. The Madrid convention is important because it has validated a practice that existed in Europe – while at the same time surrounding it with guarantees for the states concerned. What was missing, so to speak, from the Madrid convention, was the recognition of the right for local authorities to engage in such co-operation. Logically, the Madrid convention only says that the Parties, i.e. the States, shall consider the advisability of granting to territorial authorities engaging in cross-border co-operation "the same facilities as if they were co-operating at national level". We are close to the recognition that intermunicipal co-operation at domestic level and cross-border co-operation ate to be treated equally, but not yet.

15. This recognition will come later, in 1985, in the framework of another Council of Europe convention, the Charter of Local Self-Government. This is the "magna charta libertatum" of municipalities in Europe. It encapsulates the fundamental freedoms that local authorities must enjoy vis-à-vis central governments. This lecture is not the place for an analysis of the Charter but a reference to its article 10 needs to be made. It is the article that recognises the right of local authorities to co-operate with other authorities and join international associations to promote their goals and defend their interests as well as "to co-operate with their counterparts in other States".

16. Consequently, in the additional protocol to the Madrid outline convention, stipulated in 1995, the parties undertake to "recognise and respect the right of territorial authorities to conclude agreements" and in protocol No 2 of 1998, they also recognise the right of the same authorities to "engage in discussions and draw up agreements".

II.

17. The Madrid convention and its two protocols establish the basic legal foundations for cross-border and inter-territorial co-operation between territorial authorities and communities. It is important to note that the cooperation is allowed not only between neighbouring authorities (cross-border co-operation) but also between non adjacent authorities (inter-territorial co-operation). This evolution signals a change of perspective. If the co-operation between neighbours serves basically the aim of improving the quality of life of local populations by making access to services easier or improving their interoperability (a bus line that serves two cities, an hospital or a waste disposal equipment that covers a cross-border broad geographical area), inter-territorial co-operation aims at facilitating the transfer of know how between communities and establishing networks of co-operation. The concept of territorial policy is not too distant. And this is the area where the European Community has gradually developed its own policies which include a distinct transfrontier dimension.

18. For the European Community, cross-border co-operation is not a goal in itself, but a component of other policies whose goals – balanced social and economic development, reduction of inequalities – can be attained inter alia by addressing the specific shortcoming that affect border areas. This corresponds to an evolution that began with the first regional policies and in particular with INTERREG I (1991-1993) one of whose strands was devoted to cross-border co-operation. INTERREG I was based on the assumption – which was almost a "discovery" at the time – that territories along the internal borders of the Community suffered from a distinct lack of co-operation, that central governments did not really see the specificity of their situation and there was only limited interest in, and capacity for cross-border co-operation. INTERREG I was a "'pilot"' program in this respect in the sense that it contributed first and foremost to raising awareness about the specific situation of border areas and the need for member states and the Community to address it if the Community as a whole were to prosper.

19. Subsequently, INTERREG II (1994-1999) developed three strands of action the first one being devoted to the promotion of cross-border actions already covered by the previous programme both as regards the internal and the external frontiers of the European Community. For the external frontiers, though, two specific programmes – TACIS and PHARE – were launched. The most significant change in perspective and operability comes with INTERREG III

(2000-2006) whose aim is to strengthen the social and territorial cohesion of Europe through co-operation and development. In INTERREG III attention is specifically paid to peripheral and extremely peripheral areas as well as to the external border of the Community, with a view to improving the conditions of the neighbouring areas of states expected to become members of the Community shortly.

20. INTERREG III identifies the three main levels of co-operation within the EU: transfrontier – i.e., between neighbouring territories along a common border; trans-national – i.e., states, regions and other territorial authorities within broad European regions; and inter-regional – i.e., the establishment of networks for the exchange of information and experience.

21. The lessons of the various INTERREG programmes have been used in order to promote, as from 2007 and until 2013, a three-pronged approach: the cohesion policy (formerly, regional policy), the enlargement (or pre-accession) policy and the neighbourhood policy. The cohesion policy has three objectives: Convergence, Regional competitiveness and Territorial co-operation. It in the framework of the Territorial co-operation objective that transfrontier, trans-national and interregional co-operation activities are pursued. To this end, European resources are available through the Regional Development Fund, the Social Fund and the Cohesion Fund. The European Investment Bank can also participate. For the objective of Territorial co-operation, the Regional development fund is its appropriate financial instrument. In order to make it possible for states and territorial authorities to effectively implement and fund transfrontier and trans-national projects, a European Grouping of Territorial Co-operation has been established.

22. This short overview of the stages rather than the content of the European cohesion policy – details of which will be given to you by other speakers at this seminar – serves my purpose of explaining that European member states, in the Council of Europe on the one hand, and in the European community and European Union nowadays on the other, have followed to distinct but converging approaches.

23. Through the Madrid Outline convention and its protocols, the Council of Europe has aimed at enabling the development of co-operations between local authorities, with the aim of enhancing their capacity to provide services to citizens and improve the effectiveness of their action. The EU instruments serve a broader and more ambitious objective of territorial cohesion across Europe – the Twenty-seven and beyond, if one looks at the Neighbourhood and Pre-Accession policies – that can be pursued also by enabling local and regional authorities to co-operate. This approach reflects the acknowledgment that not only states but also regions and other tiers or government within member states are actors of the cohesion policies. They have functions that enable them to operate for the benefit of their populations, they are closer to citizens, and they are willing and ready to act in the name of subsidiarity.

24. There is no reason to see the two approaches as being opposed or even different. Insofar as the functions of local and regional authorities evolve – at least at the level of the 27 – in order to accommodate also the implementation of Europe-inspired and funded policies, the Council of Europe remain fully valid. In other terms, if the competences of local and regional authorities are not only those that domestic legislation prescribes but also those that derive to them – as implementing authorities – from European law, the Madrid convention and its protocols continue to operate. It is the content and purpose of the co-operation that evolves in line with the growing of responsibilities of territorial authorities, not the power to engage or not in cross-border and inter-territorial co-operation.

III.

25. There is a point however, where a decision has to be taken as to what tool to use in order to achieve the goals of stronger territorial cohesion. Cross-border and inter-territorial co-operation can develop along several lines of action.

26. There are activities that are base on and limited to contacts, exchanges of experience, parallel adoption of measures that pursue the same goal of bringing together neighbouring authorities and communities. The goals of good neighbourly relations, better mutual understanding, overcoming of stereotypes can be served by the adoption of the right policies of openness, communication and exchanges.

27. When the need is felt to take common action in order to address together a problem that affects two or more communities, more sophisticated tools need to be envisaged. It may be necessary to examine together and analyse the situation, draw up plans for joint or parallel action, financing has to be sought from central government or other sources. A minimum of infrastructure may be necessary. At this stage, a convention like the Additional protocol to the Madrid convention provides the solution. The protocol enables local and regional authorities to set up a co-operation body that may have or not the legal personality, in other term, act as just an informal forum for co-operation, or become a legal entity that performs the tasks that its members have entrusted to it.

28. If the body has legal personality, this can be of private law of public law. The difference reflects the varying traditions in member states. In some states, local and regional authorities are public law entities in the sense that they have the power to take decisions that impact on citizens. They serve public interest and are therefore endowed with a certain degree of authority over citizens. A public law body is therefore a body that can take decisions on citizens. It is also subject to greater guarantees in terms of decision-making power, review of decisions, and transparency in the use of public funds. In some countries, local and regional authorities can only co-operate with other local authorities within public law entities. In other countries, they can also establish private law entities with similar authorities and/or private companies.

29. The protocol leaves this option open to the authorities concerned, it being understood that the law applicable to the functioning of this body shall be that of the state (a contracting party to the protocol) where the body has established its headquarters, like any other company or individual. The protocol draws however a line that these bodies cannot trespass.

30. Transfrontier co-operation bodies cannot take measures which apply generally or which might affect the rights or freedoms of individuals, nor they can impose levies of fiscal nature and shall receive the resources for their functioning from the budgets of the territorial authorities that are members of it. In case these bodies are established under “public law”, in other terms, they have powers and functions similar to those of other authorities, the Contracting parties may decide that the decisions and acts of these bodies shall have the same legal force and effects as if they had been taken by the authorities that concluded the agreement establishing such a body. But even in this case, the Parties may decide that these legal force and effects shall not include "general responsibilities" or measures that apply “generally”.

31. What we see is therefore a series of possibilities moving from the lower, simpler stage – a body without legal personality at all – to the higher, more complex stage – a public law body empowered to take measures that apply generally. It will be at each stage for the contracting parties to enable or not the bodies in question, to execute or not the whole range of powers to which they are entitled. With this protocol, the states have acknowledged that cross-border co-operation bodies may perform the same tasks as those of the authorities that compose them, but want to remain in control of this system and grant or not, to the various types of bodies, the full range of powers to which their territorial authorities are entitled. Clearly, there is no wish, nor the possibility, to establish through the use of the protocol, a new type of territorial authority.

32. Between the stage of simple co-operation and coordination of action, witch does not require the establishment of a body, and that of joint action within a new, separate legal entity, there are various degrees of co-operation that can be pursued by making use of existing procedures open to territorial authorities, without creating bodies or entities.

33. On the face of it, the possibilities offered to local and regional authorities through the Additional protocol are broad enough to accommodate a wide range of needs. This protocol has been ratified so far by 21 member states, with 6 signature not yet followed by ratification. The success of this document is therefore relatively high, although there is little evidence that bodies have indeed been established by making use of the possibilities offered by the protocol.

34. The reference that the protocol makes to domestic legislation may indeed sound simple and obvious to many but is not so obvious in practice. It implies that the legal framework of a given state comprises legal entities to which individual can have recourse to when pursuing their legitimate interests and that this is also applicable to territorial authorities. In many countries, the civil code, the trade code, other laws on local government may provide for a whole array of solutions, from limited liability to full liability companies, from foundations to co-operatives, consortia, etc. In other countries, with a different tradition, this panoply may be much more limited or not exist at all.

35. The need was therefore felt at the beginning of this decade, to establish a corpus of rules applicable to this cross-border co-operation body, and therefore create the European transfrontier co-operation body that many advocated. A single set of rules, applicable in all (or almost all) European states would serve the purpose of legal certainty as regards the capacity, powers and liabilities of any body which would include territorial authorities from different countries and different legal backgrounds.

36. This need was expressed within the Council of Europe and work started on a statute of the European co-operation grouping. Almost at the same time, as we have seen, the European Community developed and adopted its policies and the Commission felt it appropriate, at the request of the European parliament and the Committee of the regions, to propose a European Grouping of territorial Co-operation as part of the package of the new Cohesion policy.

37. To cut a long story short, the two projects have made progress more or less in parallel and, not surprisingly, given the fact that the 27 member states of the European Union are all members of the Council of Europe, the results are similar, although not identical.

38. On the one hand, Regulation 1082/2006 establishes the European Grouping of territorial co-operation (EGTC), for the 27 member states and their local and regional authorities, for the purpose of facilitating and promoting transfrontier, trans-national and interregional co-operation, with the exclusive goal of strengthening the economic and social cohesion.

39. On the other, protocol No 3 to the Madrid convention establishes the Euro-regional co-operation grouping (ECG) with the purpose of promoting, supporting and developing, for the benefit of populations, transfrontier and inter-territorial co-operation between its members in their common areas of competence.

40. Regulation 1082 further specifies that the EGTC's tasks are limited to facilitating and fostering territorial co-operation with a view to strengthening social and economic cohesion and that these tasks are primarily limited to the implementation of programmes or projects of territorial co-operation co funded by the Community, via the Regional development, the Social or the Cohesion funds.

41. It is clear that the ECG has a broader remit than the EGTC whose scope is limited, in theory, to the implementation of projects co-funded by the European funds. The latter is seen from the outset, as an operational tool that territorial authorities can use when implementing EU projects, in order to avoid the spreading of competences, resources and responsibilities among all the authorities involved. The EGTC can be the "implementing agency" on behalf of all its members. This is the logic of the instrument and accordingly, detailed rules are established for its functioning which include strict provisions on accountability and liability. Since the EGTC is

primarily intended for the management of EU funds, it is obvious that all possible guarantees must be given on the one hand that these funds will be used in accordance with the relevant Funds' prescriptions and that on the other the members and the members only will support the financial consequences of their action, including all debts incurred by the EGTC.

42. The ECG has a broader scope. It pursues all the goals that its members want to entrust it with, provided that they fall within their competences as prescribed by domestic law. It may not exercise regulatory powers nor take measures that might affect the rights and freedoms of individuals nor impose levies of fiscal nature. It may however, exercise functions that states, if members of the ECG, confer to it.

43. Both the EGTC and the ECG may have states as members, in addition to local and regional authorities and other bodies. For the EGTC, this includes the public law bodies listed in Directive 2004/18 covering public tenders, for the ECG it covers legal entities serving general interest.

44. There is a significant difference between EGTC and ECG. The latter are open to entities in EU member states only and be based on the territory of one EU member. The possibility exists for a territorial authority of a non member state (third state) to be a member if the domestic legislation of the third state so allows or if this is authorised by an agreement between EU member states and the third state. In the case of the ECG, a territorial authority of a state with is not Party to the protocol (third state) may become a member if the ECG is established on a state that has a border with the third state and there is agreement between the headquarters state and the third states to this effect.

45. In several other respects the two bodies are similar, the most striking common provision being that the law applicable to the functioning of both the ECG and the EGTC is the law of the state where the body has its headquarters.

46. Furthermore, the Regulation being in many respects very detailed, the other applicable provisions to be found in the law of the headquarters state may not be so numerous. On the contrary, the provisions of Protocol No 3 are drafted in broader terms and not being directly applicable like a Regulation, require to be transposed into domestic law. To facilitate the identification of the rules applicable to the ECG, the protocol provides for the establishment of additional and optional appendices that will contain model legislation for the member states to follow.

47. It is true that also the Regulation, in spite of being self-executing, needs implementing legislation at domestic level. Member states are required to do so within one year since the adoption of the Regulation. The deadline was missed by the majority of member states but now most of them have the required implementing legislation (23 as per December 2009).

48. As regards EGTC proper, 8 have been established so far: Lille-Courtrai (Belgium-France), Galicia-Northern Portugal (Spain-Portugal), Istergranum (Hungary-Slovakia), Amphyctyoni (Greece and 8 other states or entities, including non EU), Karst-Bodva (Slovakia-Hungary), West-Flanders, Flanders, Dunkirk, Cote d'Oppale (France-Belgium), Douro-Duero (Portugal-Spain), Pyrénés-Méditerranée (Spain-France), Alps-Mediterranean (Italy-France).

49. Experience will show whether EGTC will be established for the purpose of managing projects with significant use of EU finds or whether they will be used also for broader purposes, with or without access to EU funds. For the ECG it is too soon to assess its effectiveness, since the protocol has just been opened for signature on 16 November 2009 in Utrecht. However, it has already received 7 signatures which in relative terms is a good sign of the interest of member states. Furthermore, it being a protocol to the Madrid Outline Convention the signature or ratification of the latter is necessary in order to sign and ratify the protocol. And it is significant

that at least one state (Montenegro) has simultaneously signed the main convention in order to be able to sign Protocol No 3. As I said above, the Protocol provides for the establishment of appendices that could inspire and guide member states in the drafting of the domestic legislation applicable to ECGs, and that work will start shortly. Obviously nothing prevents states from ratifying the protocol even in the absence of the appendices, if they don't need them.

IV.

50. The situation is therefore that at the European level several legal instruments exist: the Madrid Outline convention, the Additional protocol on the establishment of cross-border and inter-territorial co-operation bodies, the Protocol No 3 on ECG and Regulation 1082/2006 on EGTC. The solutions available to member states – and their local and regional authorities – are therefore numerous and varied.

51. A first series of question could be: were all these instruments necessary? Was not the additional protocol sufficient for the establishment of the legal basis of cross-border co-operation bodies? And with the adoption of Regulation 1082, was not protocol No 3 redundant?

52. The reply could be that more options is better that only one. The additional protocol indeed opens a number of possibilities for the establishment of cross-border bodies, but the limitations that the states may introduce to the operations and capacities of the bodies are such that apparently very limited use has been made of its provisions. The need for clearer and easier-to-use provisions was felt in reaction to the unwieldiness of the additional protocol.

53. But the possibility exists that in a country that has ratified both protocols, local and regional authorities have the choice between using the possibilities offered by "standard" legislation on associations and intermunicipal bodies, or using the more detailed and possibly stringent provisions of protocol No 3 and the implementing domestic legislation.

54. This is also true of the coexistence of the EGTC and the ECG. States and local authorities will assess which formula is to be preferred having regards to the goals to be pursued. In pure legal terms, the ECG formula could be used also in order to meet the requirements of the EGTC. But for clarity of purpose and legal certainty, it is preferable to opt for either legal form at the outset.

55. It is also clear that the same territorial authority may be a member of more than one EGTC and also of an EGTC and of an ECG, whether or not they are established in the same state.

56. Therefore, plurality of options is not a bad thing. As individuals and companies may choose between different types of company depending on the scope of their action and the liabilities they may incur, territorial authorities will be free to chose which legal framework suits them best having regard to the type of partners, the purpose of co-operation and the access or not to EU funds.

57. This choice includes not only the legal nature of the body per se – standard association or intermunicipal association, private law entity, public law body, EGTC, ECG – but also the legal environment in which the body will operate, in other terms, the country whose legislation will suit best the needs of the potential partners. The legislation applicable but also the remedies available to justiciables, the types of administrative controls, the effectiveness of the judiciary are all elements that will have to be taken into consideration when choosing a country where to establish the headquarters of the body in question.

58. For this reason, the harmonisation of law systems and in particular of legislation applicable to these bodies – through the appendices to protocol No 3 – looks like an appropriate solution or at least a useful contribution to the approximation of laws.

59. One last remark concerns the issue of a possible "double emploi" of EGTC and ECG for EU member states. As I said, even for EU member states a greater choice of solutions is better than one and only solution available to local authorities. Furthermore, if the introduction of the EGTC in their domestic order is a reality, although the recourse to the EGTC remains an option, the existence of EGCs depends on the ratification of the protocol, which depends in turn on each state's will. There may be EU states, therefore, where, at least for a while, only the EGTC will be available to local and regional authorities.

60. What matters however is that the ECG has been developed with the aim of enabling all member states to have access to a legal instrument similar, I would even say, "compatible" with the EGTC. It would have been unthinkable – although it has taken some time to get universal recognition of it – that only some Council of Europe member states have access to a body for cross-border co-operation, developed among themselves, while the others and in fact the whole 47 have nothing. For a Europe that aims to be "without dividing lines" as the Heads of state and government put it in 2005 at the Warsaw Summit, this would have been a shameful situation.

61. In conclusion, I would like to stress the following.
Cross-border co-operation between states and local and regional authorities has become over time a political priority of European states. They are a priority in terms of raising their level of social and economic development to the higher standards of the rest of the territory, be it the state or the European Union. They are a priority in terms of making life at the borders easier for their inhabitants, in spite of or rather overcoming the differences that exist between states. They are a priority in terms of reconciling peoples with themselves after decades of separation and sometimes wars. They are a priority in terms of peace and stability, easing frictions and promoting dialogue and co-operation between cultures.

62. In the European Union and in the Council of Europe different paths have been followed in order to produce a series of legal instruments that can suit lots of needs and situations. It has been a primary responsibility of states to draft and establish these instruments, bow it is their responsibility to make them useful and used. Having a new book on the shelf is fine, getting it read and liked is another.

63. The Council of Europe and the European Union, the latter mostly through its Committee of the Regions, should do some "after sale" service to promote awareness of these instruments and recourse to them. A recommendation of the Committee of Ministers of the Council of Europe encourages member states to do that – removing obstacles to cross-border co-operation prior and after the ratification of the legal instruments – and there is political will, expressed at the recent conference of European ministers of local and regional government in Utrecht in 2009, to do so.

64. As officials with responsibilities in the definition and implementation of your countries' policies in respect of external relations and international co-operation, you have a role to play in raising awareness of and ensuring compliance with your countries' legal obligations, from the Madrid convention to the various protocols, and the European Charter of Local Self-Government. But even where there is no "obligation", because the treaty in question has not been ratified, there is the political duty to use the membership of the Council of Europe with a view to "achieving a greater unity between its members".

65. I hope that this message finds a favourable reception in your minds.
I thank you for your attention.