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Local and Regional Democracy

**Good practices
in intermunicipal co-operation
in Europe**

Good practices in intermunicipal co-operation in Europe

Report of the European Committee
on Local and Regional Democracy (CDLR)

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Situation in 2007

Contents

	<i>Page</i>
I. Introduction	1
II. Summary	7
III. Institutional aspect of intermunicipal co-operation	9
1. Structure of intermunicipal co-operation.....	9
1.1 Nature of intermunicipal co-operation	9
1.1.1 <i>General features of intermunicipal co-operation.....</i>	<i>9</i>
1.1.2 <i>Initiating the setting up of intermunicipal bodies.....</i>	<i>12</i>
1.2 Foundations of intermunicipal co-operation.....	14
1.2.1 <i>Rationalising the number of bodies.....</i>	<i>15</i>
1.2.2 <i>Management effectiveness.....</i>	<i>17</i>
1.3 Structural categories of intermunicipal co-operation.....	19
1.3.1 <i>Public co-operation bodies</i>	<i>19</i>
1.3.2 <i>Mixed public and private co-operation bodies.....</i>	<i>22</i>
1.3.3 <i>Private co-operation bodies</i>	<i>25</i>
1.3.4 <i>Types of co-operation differentiated by area of establishment</i>	<i>25</i>
2. Intermunicipal co-operation and autonomy	26
2.1 Territorial autonomy.....	26
2.1.1 <i>Territorial boundaries.....</i>	<i>26</i>
2.1.2 <i>Transfrontier co-operation.....</i>	<i>27</i>
2.2 Legal autonomy	29
2.2.1 <i>Voluntary action by local authorities.....</i>	<i>30</i>
2.2.2 <i>Controls.....</i>	<i>32</i>
3. Democracy and intermunicipal co-operation.....	33
3.1 Democratic legitimacy	34
3.2 Direct citizen participation	35

IV.	Functional aspect of intermunicipal co-operation	39
1.	Competences in the area of intermunicipal co-operation	39
1.1	Nature of competences	39
1.1.1	<i>Single-purpose and multi-purpose entities.....</i>	<i>39</i>
1.1.2	<i>Delegated competences and compulsory competences</i>	<i>40</i>
1.1.3	<i>Opportunities for experiment and innovation</i>	<i>45</i>
1.2	Areas of competence	46
1.3	European Union influence.....	49
2.	Management of intermunicipal co-operation.....	51
2.1	Resources	51
2.1.1	<i>Fiscal autonomy.....</i>	<i>52</i>
2.1.2	<i>Absence of fiscal autonomy.....</i>	<i>53</i>
2.2	Staffing.....	55
3.	Effectiveness of intermunicipal co-operation	57
V.	Current practices and trends	60

I. Introduction

This report has been prepared "with a view to identifying and promoting good practices and drawing up guidelines on this topic". Its objective is to review machinery and practices in intermunicipal co-operation. It endeavours to provide an overview of institutional and functional aspects of co-operation between first-level local authorities for each national context, covering the machinery, powers and responsibilities, operation, effectiveness and development of intermunicipal co-operation. The report can be used as a source of comparative information for all member countries and at a later stage could provide a basis for guidelines on intermunicipal co-operation practices. It focuses particularly on horizontal forms of co-operation but does not exclude vertical relations between intermunicipal bodies and higher-level authorities where these are an essential element in intermunicipal co-operation.

The report proceeds from a well-defined theoretical framework.

In the first place it deals with intermunicipal co-operation. This involves two or more municipalities and institutionalises their common structural and operating features. Co-operation between them, or first-tier local entities, is thus given a formal basis and, in functional and social terms, covers two or more communities. In European terms we are talking about co-operation between the authorities closest to the community, often municipalities, with a view to joint management of matters regarded as of general interest to all the participants. These matters may appertain to the public sphere or to the private sphere as each state chooses. This report therefore deals with quite developed co-operation between geographically close communities but also with the more institutionalised and organised inter-authority co-operation that may be said to exist when a self-governing body is assigned the task of jointly managing various major services and is governed by various specific rules.

Secondly the report has a well-defined geographical framework.

It is based on answers to a questionnaire by 23 member states of the Council of Europe Steering Committee on Local and Regional Democracy (CDLR) : Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Finland, France, Georgia, Germany, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Norway, Portugal, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

The questionnaire contained several key headings on which the report is based: the nature of intermunicipal co-operation (foundations, degree of independence, nature of the bodies involved, the law applicable), powers and responsibilities – competences – in intermunicipal co-operation (nature of competences, areas, territorial boundaries), management and effectiveness of intermunicipal co-operation (assessment, resources, staffing), democracy and intermunicipal co-operation (citizen participation and information). Only the principal areas of co-operation are highlighted in the questionnaires and the stress is therefore on the delivery of public services and on particularly interesting experiences and innovations.

This synopsis, made despite the inevitable heterogeneousness of European data and practices concerning intermunicipal co-operation, aims to identify characteristic features and interesting experience/experiments. To show how intermunicipal co-operation operates in reality and how it is evolving in Europe, an endeavour has been to provide an overall picture of the process through the questionnaire headings and also to indicate striking examples of intermunicipal co-operation design or organisation.

The most original or representative ideas in this report are shown in italics.

To try to provide a picture of intermunicipal co-operation in Europe two essential aspects, the institutional and the operational, may be considered.

The first part covers the institutional machinery, its autonomy and democracy as practised in intermunicipal co-operation, while the second part adopts a functional approach to intermunicipal co-operation, focusing on competences, forms of management and the effectiveness of intermunicipal co-operation.

Overview: The structure of local authorities / municipalities of member States having participated in the survey on intermunicipal co-operation

Member State	Total number in 1950	Present total number in 2007	Surface in km ² (most recent figure available)			Population (most recent figure available)		
			Maximum	Minimum	Average	Maximum	Minimum	Average
<i>Austria</i>	4 039	2 357	466.88	0.11	35.58	1 664 000	60	3 521
<i>Belgium (municipalities)</i>	2 669 ¹	589	21 373 (Tourmai)	1.13 (Saint-Josse-ten-Node/Sint-Joost-ten-Noode)	51.20	464 038 (Antwerp)	84 (Herstappe)	17 898
<i>Bulgaria (municipalities)</i>	In 1979 – 291 (before that – 1389)	264	1 349	44	-	1 208 930	1 405	-
<i>Cyprus</i>								
<i>Czech Republic (obec)</i>	11 459	6 244 municipalities + 5 military domains	496	0.42	12.6	1 181 610	19	1 641 (contain military domains)
<i>Finland (municipalities)</i>	547	416	15 185	6	706	564 521	120	12 685

¹ At 31 December 1949 (figures for 31 December of the year requested are not available)

Member State	Total number in 1950	Present total number in 2007	Surface in km ² (most recent figure available)			Population (most recent figure available)		
			Maximum	Minimum	Average	Maximum	Minimum	Average
<i>France (communes)</i>	38 000	36 783	18360	0.04	17	2 125 246	0	1 636
<i>Georgia</i>								
<i>Germany (kommunen)</i>	24 156	12 340	891.85	0.40	28.94	3 395 189	5	6681
<i>Hungary (települések)</i>	3 032	3 152 municipalities (3 128 villages, cities + 23 cities with county ranks +capital); Number of local governments: 3 194, which consist of 3 175 municipal+19 county self governments.	525.16 (Budapest)	1.54 (Bücsüszentlászló)	29.51 if the capital city is taken into account as one municipality	1 697 343 (capital city Budapest)	14 (Iborfia)	3 229 if the capital city is taken into account as one municipality 3 206 if the capital city is taken into account as having 23 districts/local authorities
<i>Italy (comuni)</i>	7 781 (1950) 7 827 (official data of 1952)	8 101	Roma 1 285.30	Atrani (province of Salerno) 0.1		Roma 2 546 804,00	Monterone (province of Lecco) 33.00	7 035

Member State	Total number in 1950	Present total number 2007	Surface in km ² (most recent figure available)			Population (most recent figure available)		
			Maximum	Minimum	Average	Maximum	Minimum	Average
Lithuania (municipalities)	87	60	2 179	9	1 088	552 930	2 731	56 721
Luxembourg (communes)	126	116	113.36 (Wincrange)	5.29 (Remich)	21.92	76 618 (Luxembourg-ville)	270 Neunhausen	3 961
Netherlands								
Norway (commune)	744 (in 1957)	431	9 704	6	751 (median 465)	548 617	214	10 861 (median 4 435)
Portugal (municipios)	303	308	1 720	8	319	519 795	461	35 491
Russian Federation	none	24 219	~ 500	0.1	705	1 400 000	105	5 895
Slovak Republic (obce)	3359	2891	404.75	0.48	17.00	8 423	8	873
Slovenia	371	210	555	7	96.5	258 055	357	9 455
Spain (municipios)	9 214	8 111	1 750.33 (Cáceres)	0.03 (Emperador)	62.50	3 128 600 (Madrid)	6 (Illán de Vacas)	5 512.13
Sweden (kommun)	2281	290	19447	9	1417	765 044	2588	31073

<i>Switzerland (communes)</i>	3 101 communes	2 758 communes	282.25 (Bagnes VS)	0.32 (Kaiserstuhl)	41 284.47 / 2 758 communes = 14.97	347 517 (Zürich)	17 (Corippo TI)	7 459 128 / 2 758 communes = 2 705
<i>UK (England) 2007: Shire Districts</i>	1 118	238	Shire Districts 2 226.08 (Durham)	Shire Districts 21.42 (Watford)	Not available	194 000	24 500	96 500

II. Summary

Intermunicipal co-operation institutionalises co-operation between municipalities, or other local authorities close to the community, allowing them to jointly manage certain important services. Despite the heterogeneity of models and practices in the 22 countries covered by this report, some common tendencies emerge.

Three main models of intermunicipal co-operation may be distinguished:

- A highly integrated, mainly public-law model, with specific intermunicipal entities, predetermined key functions concerning basic services, and considerable management resources. State supervision, in both financial and legal matters, is well developed and the legal framework is very detailed (France, Spain, Portugal).
- Another more flexible model, based on the freedom of lower-tier authorities to opt pragmatically for joint delivery of services of varying technicality. This model is based on existing entities such as associations, unions or enterprises – or even on informal co-operation arrangements – and comes under ordinary law; the law applicable is not specific to it and supervision is limited. Most of the rules applying or the contractual procedure are laid down in the statutes (Bulgaria, Czech Republic, United Kingdom).
- Lastly, an intermediate model, adopted by the majority of countries and borrowing from the two preceding models.

In describing the intermunicipal co-operation under study two key aspects may be singled out – the institutional and the functional.

The institutional aspect of intermunicipal co-operation has to do with the type of entity, the member authorities' autonomy, and guarantees of internal democracy.

Most countries have opted for a mixed model of intermunicipal co-operation involving both, public-law and private-law bodies, the former chosen for their democratic legitimacy and reliability of resources, the latter for their flexibility. The geographical context may also prompt intermunicipal co-operation. The rules for setting up such co-operation are generally initiated, or at least supervised, by central government. The basic arguments for intermunicipal co-operation lie in rationalising local management: reducing the number of

management bodies and managing at an appropriate level. Local autonomy in matters of intermunicipal co-operation is a recognised principle, and there is energetic policy on transfrontier co-operation. Within intermunicipal co-operation municipalities generally have freedom to decide as they see fit. Numerous administrative or financial controls have nonetheless been introduced. Democracy within intermunicipal entities appears insufficiently developed: the members representing the municipalities are not directly elected and procedures to ensure democratic local participation are few and little used.

The functional aspect of intermunicipal co-operation has to do with the responsibilities exercised, the management arrangements (staffing and resources), and lastly effectiveness. Intermunicipal entities may be single-purpose or, more often, multi-purpose. They may perform functions delegated by the member municipalities or compulsory functions laid down in legislation. Generally, intermunicipal entities are not entitled to experiment with the scope of their competences.

The areas of responsibility are often similar: water, waste, transport, emergency services, environment, tourism, the economy, culture. European Union influence is considerable, and application of the competition rules is a key management issue.

The resources for intermunicipal co-operation generally consist in contributions from the member authorities, but cross financing is increasingly found. Few intermunicipal entities have fiscal autonomy. The staff may have public-law or private-law status and may be shared between the municipalities and the intermunicipal bodies. The effectiveness of intermunicipal entities is not always evaluated; there are no indicators for this; although results seem positive overall, some countries are more critical, for example, about costs.

III. Institutional aspect of intermunicipal co-operation

The institutional aspect of intermunicipal co-operation covers several fields: the very structure of intermunicipal co-operation, its internal organisation, autonomy and specific nature and, finally, the connections between democracy and intermunicipal co-operation, the place of the citizen in intermunicipal co-operation.

1. Structure of intermunicipal co-operation

The internal organisation of intermunicipal co-operation is based on the latter's nature, foundations and structure used. An attempt will be made to establish a typology.

1.1 Nature of intermunicipal co-operation

Most countries opt for mixed intermunicipal co-operation combining a public aspect (for greater democratic legitimacy and means of action) with a private aspect (for greater flexibility). Co-operation is generally initiated or at least legally regulated by central government.

1.1.1 General features of intermunicipal co-operation

All countries pursue a policy of intermunicipal co-operation of varying degrees of complexity. It may remain informal and develop through mere agreements or it may be totally institutionalised and involve bodies for managing co-operation and developing and perpetuating it. The latter model can be referred to as integrated intermunicipal co-operation.

Integrated intermunicipal co-operation

The most integrated intermunicipal action is performed by a specific autonomous body, centralising a large number of key competences and enjoying significant resources and wide decision-making powers. Such a body is generally located in the public sphere. The aim is co-operation between local authorities, which are public corporations, within a specific public body wholly designed for the joint management of services that are usually of general benefit. That public body is designed to be able to take decisions itself on behalf of member municipalities via integrated internal mechanisms, which somewhat limits those authorities' autonomy. The initiative for this comes mainly from

central government, although it is for the local authorities to take the decision on setting it up, on the duration of co-operation and sometimes on the forms it takes and the areas of responsibility concerned. Such intermunicipal co-operation is found in France, Spain and Portugal.

Many European countries also employ private management bodies, sometimes in addition to a public body, in the interests of greater latitude and flexibility. In such cases intermunicipal co-operation is still highly integrated in part and based on sovereign autonomy of the local authorities, but it may be implemented through private bodies. Many countries have opted in this way for mixed public-private intermunicipal co-operation (Finland, Russia, Netherlands, Sweden, Norway, Italy - see the analysis of structure).

In Norway, in addition to public-law bodies, there are a number of intermunicipal co-operation bodies governed by private law (eg the electricity companies). They come under the Limited Liability Act. Others take the form of associations and are not regulated by a specific act; certain types of co-operation are governed by a special act, the Local Partnership Act.

In other countries, co-operation between municipalities or similar authorities tends to be more flexible, no particular type of body is laid down and co-operation rules are highly elastic and undeveloped; co-operation is based on mutual agreement, the competences exercised are limited, and so are the means of exercising them. Intermunicipal co-operation may be in its early stages, or the emphasis may deliberately be put on a very flexible form of intermunicipal co-operation based solely on voluntary agreement between the municipalities concerned and on the contractual procedure. Intermunicipal bodies are not then really integrated at the structural and functional levels. This is the case in Bulgaria, Lithuania, Georgia, Czech Republic, Cyprus and the United Kingdom.

Mention should be made of the case of federal states like Austria and Germany, which have separate policies for each federal component and are difficult to situate in the above analysis. Their management of intermunicipal co-operation is ultimately based more on geography.

Formal and informal practices

Co-operation may also be based on formal or informal practices. Intermunicipal co-operation is generally formal, for example when co-operation is integrated, but informal co-operation is also common; it is used in addition to institutionalised co-operation and may also precede it.

In France, the various forms of co-operation are laid down by law but not all lead to setting up specific institutions with legal personality. There are intermunicipal arrangements (ententes), agreements (conventions) and conferences. Arrangements are instigated by municipal councils, by the deliberative bodies of public establishments for intermunicipal co-operation (EPCIs) or by 'syndicats mixtes' (joint ventures between municipalities etc.) and deal with matters of municipal or intermunicipal concern. If it is concerned with private property, the arrangement may be governed by private law. The same bodies may enter into agreements for carrying out works or operating institutions of common interest at joint expense. Issues of common interest are debated by conferences at which each municipal council or deliberative body of an EPCI or 'syndicat mixte' is represented by a special committee. Decisions are enforceable when ratified by the different deliberative bodies concerned. Intermunicipal co-operation is here very flexible.

In Norway, there is also informal co-operation, with no institutional structure, on the new information and communication technologies and purchasing; in Bulgaria, where no truly suitable intermunicipal co-operation structure exists, informal co-operation occurs mainly in certain areas (infrastructure, culture and youth policy).

Likewise, informal co-operation is found in the Netherlands, Spain, Switzerland, Sweden, the Russian Federation, Belgium, Slovenia, Austria, Luxembourg and the Czech Republic.

Solely informal forms of co-operation may exist where there is no specific body, apart from an association, deemed to represent the interests of the country's municipalities at national and even international level, as in Lithuania.

Such co-operation is based entirely on voluntary agreement by the municipalities. In the United Kingdom, section 101 of the 1972 Local Government Act allows one or more local authorities to discharge certain functions jointly if the arrangements in force permit; principal councils also have the power to co-operate among themselves for the greater economic, social and environmental well-being of their districts. These bodies set up strategic local partnerships. There are also national associations for improving co-operation between local authorities (Local Government Association, Association of London Councils, National Association of Local Councils).

However, in Slovakia, Portugal, Italy, Finland and Hungary, intermunicipal co-operation is formal only and regulated by legislation.

Evolving intermunicipal bodies

An intermunicipal body can generally evolve into another form of intermunicipal co-operation. Flexible types of co-operation structure can evolve on the basis of voluntary action by the member municipalities. This will be more difficult in the case of integrated intermunicipal co-operation. In Hungary it is possible for a body, generally an association, to convert into another type of body, though in such cases the initial basic agreement must be amended.

In France, conversions are possible provided the conditions (eg population threshold) for the category are met; a specific conversion procedure is laid down by law. Conversion of an EPCI with its own tax system into another category of EPCI with its own tax system is encouraged by law.

In Spain it is normally not possible for one type of entity to convert into another type, though in the case of the Aragon Community the laws establishing the *comarcas* provide for disbandment of the *mancomunidades*, the other type of structure possible. However, no development is possible in Slovakia, Slovenia or Portugal.

1.1.2 Initiating the setting up of intermunicipal bodies

Co-operation is generally initiated by central government, eg in France, Italy, Sweden, Slovakia, the Czech Republic, Spain, Portugal, and Luxembourg. This framework, which is initiated from the "top", is also found in Slovakia, Cyprus, the Czech Republic and Hungary.

In federal countries co-operation is based on laws passed by the component states – for example laws on intermunicipal co-operation enacted by the Länder in Germany.

In Spain legislation has always permitted intermunicipal co-operation under highly flexible rules that respect municipal autonomy; an intermunicipal movement has developed on the basis of this relaxed legislation.

The examples of Portugal and France are particularly eloquent.

In Portugal the legal basis of intermunicipal co-operation is found in the 1976 Constitution, which provides for associations of municipalities and other possible forms of local autonomy in the major urban areas. Parliament subsequently (1981) set up associations of municipalities, which have developed into other forms of organisation as a result of Law 172/99.

Law 11 of 2003 introduced new forms of co-operation between municipalities and strengthened integration. Two metropolitan areas covering Lisbon and Oporto were created in 1991; these were the subject of new regulations in 2003 which led to the creation of the greater metropolitan zone and the urban community. Tourism regions of which municipalities may be members were introduced in 1982.

In France the initiative has lain with central government. Intermunicipal structures organised by central government were created as early as 1890, when the Law of 22 March 1890 established single-purpose associations of municipalities ('syndicat de communes') for operating common services. A 1959 law introduced multi-purpose associations of municipalities. Two pieces of legislation now regulate intermunicipal co-operation, namely the Law of 6 February 1992 on the territorial administration of the Republic and the Law of 12 July 1999 "strengthening and simplifying intermunicipal co-operation", which lays down a large number of common rules. It also introduced intermunicipal project co-operation with its own tax system.

This goes beyond joint management of services. It involves carrying through a development project on the basis of intermunicipal co-operation and with funds earmarked for that specific purpose.

Co-operation may also be initiated at local level and subsequently regulated at central level by legislation (Russia, Netherlands, Finland, Switzerland, Austria, Slovenia or Bulgaria and Lithuania); the legal framework is of varying flexibility in such cases.

In Finland intermunicipal co-operation has always existed and municipalities have obtained the right to practise voluntary bilateral or multilateral co-operation based on their own needs. The state regained the initiative and encouraged co-operation through a reform which began in 1970; it gave it solid support from 1990 onwards through special projects and programmes and various types of grants.

In a number of areas co-operation has got under way on the basis of legislation, with the government making it compulsory to organise certain intermunicipal services. However, municipalities have often themselves realised that they could not organise certain services.

In Bulgaria a novel situation exists: the initiative normally comes from the municipalities but is regulated by central-government legislation. However, the initiative may also come from NGOs, private businesses or associations. This situation resembles that found in Lithuania; in both cases there are only vague rules on groupings; the initiative therefore comes from the municipalities themselves, for joint construction of infrastructure or joint project development.

1.2 Foundations of intermunicipal co-operation

Countries usually have the same reasons for setting up intermunicipal co-operation structures.

The chief motive for intermunicipal co-operation may be a desire for management effectiveness so as to ensure that local structures are realistic and relevant as far as the exercise of competences is concerned. It is vital to ensure

that holding key competences is matched by performing them responsibly and effectively. Rationalisation of this kind has generally started in European countries with a reduction in the number of municipal authorities.

1.2.1 Rationalising the number of bodies

While not reducing their numbers as a matter of policy, Georgia and Lithuania now have fewer local authorities. The same goes for Belgium (2672 in 1976, 589 in 2006). In the Flemish Region there is provision for mergers of municipalities where they so request. In a small number of countries there has been neither a reduction in the number of municipalities nor any genuine merger policy (Austria: 2300 municipalities in 1976, 2358 now). The number of municipalities has also remained steady in Cyprus but consideration is being given to reducing it.

In the United Kingdom local authorities at one level have been set up. A two-tier structure was introduced in 1972 with services divided between county councils and district councils; in 1985 metropolitan counties were abolished in order to create authorities at one level. In 1992 proposals were made for new unitary structures.

However, European countries generally have set about reducing the number of local entities and have introduced merger policies designed to create single municipalities from several. Most countries wish to reduce the number of municipalities even further through mergers, whilst at the same time developing intermunicipal co-operation policies (Switzerland, France, Finland, Sweden, Italy, and Slovakia).

In Finland there were 475 municipalities in 1976; in 2007 there will be 416. The last compulsory mergers were carried out in 1977 at central-government instigation, provision for mergers subsequently being made in legislation. The principal incentive for mergers is currently the large central grants to municipalities that merge. The size of the grant depends on the population size of the merging municipalities and may amount to as much as €8.4 million. A government proposal in January 2007 provides for a change in the law: new grants will depend on the number of municipalities taking part in the merger and on the municipalities' size. Grants will vary between 2 and

€18.54 million. Under the Municipalities Act, a merger of municipalities can only take place on the basis of a law. In practice, any merger of municipalities is voluntary. The new system is developing mergers so as to constitute large municipalities and it promotes mergers of more than 2 municipalities. State funding will fall progressively between 2008 and 2013.

The example of Sweden is also pertinent. Sweden has made a genuine effort to reduce the number of municipalities by means of boundary reform (2,281 municipalities in 1950 and by 1952 less than half that number). A second boundary reform took place between 1962 and 1974 (the number of municipalities fell from 1037 to 278). During that period, decisions to merge municipalities were taken by central government.

In Italy mergers have been rare but Law No 142/1990 halted the upward trend in the number of municipalities by stipulating a minimum number of inhabitants (10,000) for the creation of a new municipality. Nevertheless, 57% of municipalities have fewer than 3000 inhabitants; applying relevance as the criterion, central government and the regional authorities have adopted provisions encouraging unions of municipalities.

France, following mergers of municipalities, has introduced an innovative mechanism for mergers of intermunicipal bodies on a number of conditions.

In France there were 36,685 municipalities in 2006; in 1968 metropolitan France had 37,708; the number of municipalities has remained stable for the past 40 years (after a slight drop in the 1970s there has been an increase in the past 30 years). France has pursued a policy of merging municipalities since the 1970s, with a compulsory-merger policy. However, these policies have failed and there have even been "demergers". The 2006 initial Finance Law provides for merged communes to receive an increased development grant. The Law of 13 August 2004 provided for mergers of intermunicipal bodies, which are still rare. At 1 January 2006, out of 2,572 public intermunicipal co-operation establishments (EPCIs) with their own tax system, only seven had applied to merge and only 4 were the result of mergers in 2005. The intention behind allowing mergers

of the most integrated intermunicipal entities is to facilitate changes in types of co-operation. A merger will be possible if at least one of the two EPCIs which merge is of the own-tax-system type.

The initiative lies with the municipal councils, the deliberative body of one of the two EPCIs or with the Prefect. The merger mechanism provides a financial incentive in that the most integrated EPCI is taken as the model; thus the type of EPCI with the highest tax potential is the one adopted. France is thus now attempting to rationalise not municipal authorities but rather the intermunicipal co-operation map, possibly because of the large number of municipalities and intermunicipal entities.

In contrast, some countries have not reduced the number of municipalities. Russia has an exceptionally large number of them (24,210 in 2006 compared with 11,376 in 1995) despite repeated merger incentives. The number of municipalities has increased in the Czech Republic, Slovenia and Hungary. Spain and Portugal have not reduced the number of municipalities either, although reduction projects are under study. Moreover, in Spain the question concerns only a few regions, considered individually.

1.2.2. Management effectiveness

Among the other general reasons for encouraging intermunicipal co-operation, similar trends are again found at European level.

States are motivated chiefly by concern for greater management effectiveness: more services and better delivery at lower cost. The idea is also to make joint work possible, in the form of partnerships with various players (United Kingdom). Service provision is also a possible answer to population or isolation problems (Czech Republic).

Administrative and financial factors may dictate co-operation – for example, to make use of state or European Union grants. In Finland reform of municipal authorities was prompted mainly by development of the welfare state, a local-authority responsibility. It was necessary to create large-scale organisations in order to deliver services effectively and meet the demands imposed by the increased number of functions which central government assigned to them. Co-

operation also allows economies of scale by reducing average costs per user, particularly as regards major infrastructure.

Co-operation also involves pooling knowledge and improving administration by means of benchmark comparisons and a further aim is being able to recruit qualified staff, leading to corresponding further improvement in service quality. The reasons may also be political: co-operation enables municipalities to meet growing demand for services in the face of non-increasing or falling financial resources.

In Italy two additional principles govern the distribution of competences – subsidiarity and appropriateness; municipalities must be capable of exercising the competences conferred on them.

Finally, there may be geographical factors: co-operation makes it possible first of all to choose an appropriate scale for performing given types of function, and geography may dictate a particular type of co-operation structure, as in Italy's mountain communities.

In France intermunicipal co-operation serves as a response to the break-up of a municipality and differences in size of authorities (out of 36,685 municipalities, 33,912 have fewer than 3500 inhabitants and only 37 have over 100,000 inhabitants), enables the joint development of vital transport systems, and can help solve urban problems. In such cases integrated or federative forms of co-operation are the right way to implement a local-development project.

Some countries report more novel factors.

Italy, unlike the French report, stresses e-government as a factor in intermunicipal co-operation; one of the objectives of creating new intermunicipal associations often being to set up networks for inter-institution exchange of information and for development of services to the public.

France also mentions economic motives based on the fact that an EPCI levies taxes at a flat rate in its intermunicipal area; this contributes to tax harmonisation in the different municipalities and avoids possibly harmful tax competition resulting from differences in economic attractiveness.

In Russia, where a co-operation system is being introduced, motives seem more mixed: uniform requirements concerning organs and the legal and financial

status of intermunicipal co-operation are being imposed but ways are also being sought of reducing the problem of economic and social under-development in border authorities.

The desire for better quality of service is also a motive (France, Bulgaria, and Hungary). France considers that municipalities have a duty to provide continuous regular public services. This is easier where local public services are the responsibility of an intermunicipal body.

Finally, a 2005 study in the Netherlands on recent trends in intermunicipal co-operation summarises the aims of European countries which are developing intermunicipal co-operation. Two motives are paramount: setting and achieving common objectives, and greater ambition. As regards implementation of policy, delivery of services and performance of administrative duties, the two chief considerations are achieving benefits of scale and raising quality of service. Management capability seems to be a dominant factor in all cases.

1.3 Structural categories of intermunicipal co-operation

If functional categories (see II) are ignored, the internal composition of intermunicipal entities is generally modelled on that of local/regional authorities, with an executive and a deliberative assembly. Several types of intermunicipal bodies as such exist and can be classified as public-law bodies, mixed bodies, private-law bodies or bodies based on geographical distinctions.

1.3.1 Public co-operation bodies

Countries which have opted for institutionalised bodies that are totally public and specifically designed for the management of intermunicipal co-operation and its mainly public-service functions (France, Portugal, Spain, Luxembourg, Belgium) are fairly rare. Structural intermunicipal co-operation is highly integrated in such cases.

In France, intermunicipal co-operation institutions are set up as “territorial” (sub-national) public establishments. They are EPCIs, which are legal entities governed by public law, but are not local authorities; they are not directly elected and their functions are normally not as general. There is no private-law entity dealing with intermunicipal

co-operation, apart from ententes (arrangements), which may be covered by private law.

A distinction must be drawn between the different types of bodies with their own tax system – urban communities, “agglomeration” communities and communities of municipalities. Certain types of entity have disappeared: districts and town communities (only 5) had to convert into one of the above three types of entity before 1 January 2002. “Agglomeration” communities and urban communities are subject to a population-threshold requirement before they can be set up: in the former case it is a population of 50,000 around a central municipality with at least 15,000 inhabitants, in the latter case a population of 500,000.

The other bodies do not possess their own tax system and are funded by budget contributions from the member municipalities (unions of municipalities composed of single-purpose unions, which manage a single service, and multi-purpose unions, which manage several). There are two types of mixed union – closed ones (composed of EPCIs and municipalities) and open ones (which may incorporate other entities in addition to municipalities and EPCIs). In mixed associations there is vertical collaboration between bodies and no longer just horizontal collaboration between bodies of the same type. In 2006 there were 2,388 communities of municipalities (29,724 municipalities and 26.1 million inhabitants), 164 “agglomeration” communities and 14 urban communities. There are six “new-agglomeration” unions. Unions of municipalities consisted in 1999 of 14,885 SIVUs (single-purpose intermunicipal unions), 2,165 SIVOMs (multiple-purpose intermunicipal unions) and 1,454 mixed unions. France is also introducing another distinction between EPCIs with their own tax system and EPCIs which do not belong to that category, quite apart from their method of financing. Own-tax-system EPCIs engage in project-based intermunicipal co-operation; their purpose is to develop urban and spatial development. EPCIs without their own tax system engage in joint provision of

certain services assigned to them by the member municipalities.

In Spain formal manifestations of intermunicipal co-operation take the form of public-law corporations with legal personality and their own budget and resources (*mancomunidades* and *comarcas*). They are similar to local authorities, which is not the case elsewhere. On the basis of minimum basic rules, each *mancomunidad*, which is a voluntary structure, must adopt its own statutes, regulate its organisation and operation and define its activities. The *comarcas* are compulsory structures and have activities defined by the Autonomous Communities Act; the power to regulate their structure and operation is likewise restricted. There are 1011 *mancomunidades* and 81 *comarcas*.

Each model is, of course, fairly specific but fairly timid beginnings of private participation in intermunicipal management can be discerned (Portugal, Luxembourg, Slovenia and Belgium).

In Portugal, co-operation entities are public and autonomous and enjoy legal personality plus their own budgets and resources. The 1976 Portuguese constitution provides for associations of municipalities and other possible forms of co-operation in the major urban areas. The different types are: metropolitan areas, consisting of the seven major metropolitan areas and the 10 urban communities; intermunicipal communities, comprising two general-purpose intermunicipal communities and 30 special-purpose associations of municipalities; and 19 tourism regions, which can include municipalities. All these entities are created by legislation and fall within the public sphere as regards their legal system. They have a common organisational model; as in the majority of countries, there is a deliberative body and an executive body, as well as - something more novel - a consultative body made up of members of the executive, state representatives and various parties belonging to civil society. However, it is possible to detect the beginnings of private participation in that intermunicipal bodies can form associations and can draw up agreements, contractual programmes and protocols with other public or private bodies for the management of public

interests. The law also allows them to participate in decentralised-co-operation projects and action.

Belgium offers a model which is predominantly of a public-law nature but which lies on the borders of public and private law; the model varies according to the region because of the country's federal make-up, but the bodies, which sometimes adopt a private form, come under public law and are not allowed to engage in commercial activity. Nevertheless, private individuals can take part in them, except in the Flemish Region. The basis of the structure is an agreement which includes the statutes. There are also project-based associations with legal personality, which have a simplified structure without transfer of management. This type of entity is also used for limited projects. In the Flemish Region there are also service-providing associations with legal personality and without transfer of management. They carry out activities whose management the municipalities do not wish or are unable to transfer. Finally there are associations responsible for carrying out specific tasks; these associations represent a form of co-operation endowed with legal personality with transfer of management. The municipalities renounce their right to execute tasks which have been entrusted by their own decision to the association.

For example, in the Walloon region, the intermunicipal associations, of which there are 117, including nine interregional associations, are public-law corporations which have to take the form of a private co-operative company, a public limited company or a non-profit association. They are never of a commercial nature. Again in the Walloon Region, municipalities may also enter into a straightforward co-operation agreement without legal qualification.

1.3.2 Mixed public and private co-operation bodies

Most countries have chosen varied models coming under public and private law. The public bodies set up are special bodies exclusively for co-operation, while the private bodies reproduce co-operation organisation models already used in the commercial or voluntary sectors.

It is difficult here to pick out standard or model types of state intermunicipal co-operation; all the nomenclature is new; various configurations are used, all of them institutionalised to varying degrees but predominantly flexible (Italy, the Netherlands, Sweden, Switzerland, Germany, Austria and Finland).

In the Netherlands there are several types of co-operation and entity. Participation is subject to the consent of the administrative level immediately above. A public body may be established under a public-law arrangement based on the Joint Provisions Act. This is the most far-reaching form of co-operation, with responsibilities and powers being delegated.

There are three further types of co-operation based on the same act: the intermunicipal authority (which is not a legal entity), municipalities of metropolitan centres based on a mandate, and the secondary scheme based on a voluntary agreement.

A private-law enterprise may be used for co-operation and the Legal Entities Act applies as described in Book 2 of the Civil Code. The bodies in question are therefore governed by private law; for municipalities to participate, the consent of the province in which the municipality is situated and of central government must be obtained.

It emerges from a study in 2005 that when the democratic dimension is significant in co-operation the public format is used; when the authorities are seeking flexible arrangements, the private legal form is preferred. Municipalities seem more satisfied with private than public co-operation as regards decision-making (69% compared with 47%) and the cost-benefit ratio (69% compared with 44%).

The models employed in Sweden, Austria and Finland are worth describing because of the diversity of models, both public and private. These countries also establish either public or private co-operation entities but in a much less formalised fashion. The emphasis is on making maximum use of existing forms and models within which intermunicipal co-operation can take place.

In Cyprus and the Czech Republic, structure is simpler and based on unions or associations.

Finland provides an original and fairly flexible public model based on municipal institutions which are independent

public bodies, namely joint town councils. This is the best-known form of intermunicipal co-operation. These joint authorities possess their own legal personality; they are independent public bodies governed by municipal legislation. They are based on a charter which must contain the decision-making procedures for the joint town council and specify the number of members of the bodies and the basis of their voting rights. The charter lays down the powers and functions of the general meeting and various other points.

There are also compulsory law-based types of co-operation which take place within a form of joint municipal authority. In addition, limited-liability companies, co-operatives and foundations are also suitable for co-operation on commercial activities. Municipalities may be joined by private partners in the interests of greater investment and a wider range of projects. For example, municipalities have established joint waste-management companies, service companies and travel agencies. A number of polytechnics operate on a corporate basis. There may also be joint associations of limited-liability companies. However, public law may re-emerge if a municipality is an important shareholder in a company or exercises a dominant influence; the municipality may set up a municipal company governed by public law.

The report also draws attention to a special-status regional intermunicipal entity set up by the autonomous government of Kainuu.

Finally, there is a wide range of forms of co-operation with a greater or lesser degree of organisation and distinctiveness; ultimately the main thing is the service delivered and not the formal model employed.

There are joint authorities, regional councils and other types of regional cooperation. We also find joint officials, regional portals and municipal offices, limited-liability companies and co-operation companies and foundations.

Contractual co-operation also exists; services may be purchased from another municipality. Finally there may be sub-regional co-operation in land-use planning, regional development, transport, communications systems, nature protection, commerce and industry.

1.3.3 Private co-operation bodies

Some countries have completely gone over to private-law entities and have not introduced specific bodies for intermunicipal co-operation. They mainly use the association formula (Slovakia, Bulgaria, Lithuania, Hungary, United Kingdom) or the contract formula (United Kingdom). The co-operation procedures used may depart from the definition of intermunicipal co-operation. Russia is one of a number of countries investigating other forms of co-operation.

1.3.4 Types of co-operation differentiated by area of establishment

Another distinction of possible relevance is based not on the entity's legal characteristics or special features but on where it is located: the distinction between rural and urban co-operation.

Among the original categories and specific criteria used to distinguish the different kinds of intermunicipal co-operation may be mentioned the case of the Netherlands, Italy, Portugal and, to a more limited extent, Switzerland. Given the population threshold for setting up certain bodies, France also draws a distinction between urban and rural areas.

The Netherlands' seven urban and metropolitan regions have a particular type of statutorily prescribed intermunicipal co-operation – the "Kaderwetgebieden" (Framework Law zones). Italy has mountain communities, which are special local entities. Switzerland draws no distinction between rural and urban co-operation machinery, but co-operation is strongly encouraged in urban areas. In the smallest municipalities, particularly in mountain regions, the tendency is towards mergers.

For co-operation in urban areas Luxembourg is planning to introduce entities that are more appropriate to urban conditions.

In Portugal the fundamental distinction in intermunicipal co-operation is between urban metropolises and other

areas. The first category comprises major metropolitan areas and urban communities. The second category is composed of intermunicipal communities, in turn comprising general-purpose intermunicipal communities and special-purpose associations of municipalities.

2. Intermunicipal co-operation and autonomy

The principle of local autonomy, embodied in the European Charter of Local Self-Government, Article 3, which has been ratified by the majority of European countries, underpins the very existence of local authorities and their right to organise themselves for co-operation purposes. Co-operation therefore gives tangible expression to both territorial and legal autonomy. Nevertheless, such autonomy is regulated and may be subject to serious limitations.

2.1 Territorial autonomy

This type of autonomy may exist both within the state and, in the case of cross-border co-operation, outside it.

2.1.1 Territorial boundaries

European countries do not always demarcate the competences of intermunicipal co-operation in territorial terms. Intermunicipal territory is the sum of municipal territories and does not normally have to fit in with the boundaries of other sub-national units such as regions or provinces. There is at least some correspondence between municipalities' and intermunicipal bodies' areas. However, the territorial scope of intermunicipal competences may extend further. It would none the less seem essential for co-operating intermunicipal bodies to belong to the same country except in cross-border co-operation. There is generally no mention of any rule of territorial continuity requiring the partner municipalities to possess common boundaries.

Some countries have not placed any regional restrictions on the scope of intermunicipal co-operation.

In Spain, for example, municipalities of different regions may form associations where this is allowed by autonomous-community legislation. In Finland joint town councils may be set up regardless of regional boundaries; there is also an experimental intermunicipal regional body. In Belgium associations of

municipalities may extend beyond the boundaries of the regions. In Slovakia and the Czech Republic intermunicipal activity is not limited by the national boundaries.

In contrast, some countries have imposed a territorial framework on intermunicipal co-operation.

In Austria intermunicipal co-operation is only allowed within the provinces; in Upper Austria the boundary is that of the administrative districts. In Switzerland, because of the country's particular structure, intermunicipal co-operation beyond the cantonal boundaries is difficult. In Germany, too, co-operation is in principle solely within the Länder. Hungary requires that micro-regional multi-purpose associations operate within the boundaries of the micro-region, although no requirement is laid down for the other co-operation entities.

Some countries (Italy, Portugal, and France) impose a geographical criterion that there must be contiguity between municipalities as a pre-condition for establishing intermunicipal co-operation.

In France the territory of public intermunicipal co-operation establishments (EPCIs) must be unitary and not contain any enclaves. This introduces a principle of territorial continuity whereby only adjoining municipalities are eligible for co-operation.

In addition, a municipality cannot belong to two EPCIs with their own tax system, and this restricts partnership combinations.

The Prefect assesses whether the area covered by intermunicipal co-operation is coherent and whether a "joint urban and spatial development project" exists; he thus decides whether there is geographical justification for the proposed grouping.

2.1.2 Transfrontier co-operation

Cross-border intermunicipal co-operation is developing and could be the subject of a study as such (other Council of Europe studies deal with transfrontier co-operation). All countries draw attention to its importance even though such activity is still mainly conducted by the regions, particularly the Euro-regions mentioned in most of the reports. Italy points out a need for common rules on this. The United Kingdom pursues a policy of a transfrontier and transnational

type, and does so in an essentially Community context (regional programmes under Objective 1 and Objective 2 of the Structural Funds, INTERREG III A and B).

Few countries do not practise cross-border-co-operation; Finland says that it does not possess any cross-border co-operation entities. However, it is developing co-operation with Sweden and Norway on the basis of conventions. Russia stresses the importance of twinned towns.

Cross-border co-operation is frequently not highly institutionalised, autonomous entities are not always set up, and in particular the types of co-operation established do not necessarily have to do with providing services. In this area more than others, voluntary agreements are the rule and the forms of co-operation adopted are flexible.

France, Sweden, Spain, the Netherlands and Austria offer more integrated models involving setting up bodies with management functions.

Transfrontier co-operation between Spanish municipalities and local authorities in France and Portugal is developing in various forms: mere co-operation agreements without establishment of any permanent bodies; setting up of associations to co-ordinate activities and policies but without supplying public services; establishment of autonomous entities with legal personality which supply services. This last formula adopts the legal forms provided for in bilateral conventions.

When the headquarters of the body are in Spain, the form laid down is the "consortium". This may take binding decisions but cannot have public-policy functions. Agreements are based on two conventions. The Franco-Spanish Convention or Treaty of Bayonne is the basis for 22 agreements and the Spanish-Portuguese Convention or Treaty of Valencia for 19. The agreements are between local authorities and between regional authorities; agreements may be mixed and also include autonomous communities in the case of the Franco-Spanish Convention. Of these agreements ten establish a body with legal personality and 34 simply create a co-operation institution.

The types of co-operation concerned may be governed by Spanish or French law but the majority come under the law of each country.

In the Netherlands municipalities and provinces may conclude agreements with their administrative counterparts on the other side of the border. Such agreements take account of each party's competences under its country's law and relate to crime, transport, tourism, development and the environment.

Under the Anholt agreement (applicable in the Netherlands and in North Rhine-Westphalia and Lower Saxony in Germany) and the Benelux agreement (applicable in Belgium, the Netherlands and Luxembourg) decentralised authorities can establish an interregional or cross-border co-operation group under an administrative agreement, an intermunicipal authority or a public body.

So far there are eight public bodies, four municipal bodies, five administrative arrangements and six cross-border co-operation groups governed by private law across the Dutch-German and Dutch-Belgian borders. Collaboration of this kind is growing, particularly at Euroregion level.

Cross-border co-operation between other countries does not normally allow the setting up of new bodies; it is conducted on the basis of mere agreements and emphasises the role of the regions (Slovakia, the Czech Republic, Portugal, Slovenia, Lithuania and Norway). In Norway the regional councils are the main bodies involved in cross-border co-operation, for example within the North Sea Commission. The regional councils of countries bordering on the North Sea co-operate in matters of ocean transport, sustainable development and polycentric development. This co-operation is based on formal agreements.

2.2 *Legal autonomy*

Municipalities are theoretically free to establish intermunicipal co-operation. Nevertheless, the state or higher sub-national entities retain more or less complete control over intermunicipal co-operation bodies and their activities. The central authorities are generally not members of intermunicipal co-

operation management bodies, which preserves a degree of autonomy (see above).

However, co-operation may be compulsory and provided for and imposed by legislation as part of a highly integrated co-operation system.

2.2.1 Voluntary action by local authorities

Intermunicipal co-operation is generally based on local authorities' wishes in all countries. This is a common fundamental principle; local authorities generally take part on terms which they themselves set in the statutes governing intermunicipal co-operation, which cover such matters as winding up or withdrawal from the entity. The municipalities are represented in the intermunicipal body – in the deliberative organ, for example – often according to their population size and sometimes according to the size of their financial contribution. In general it is possible for municipalities or local entities to refuse co-operation, if only through non-participation, or to reject a project. In integrated models, provision is often made for a specific rejection procedure. Such voluntary action is a demonstration of the local autonomy accepted by all, usually in the national constitution.

Voluntary action generally takes place within an established legal framework, the preferred form for expressing this freedom of the municipalities being an association or union. This is the sole model in the absence of specific intermunicipal bodies, as in Bulgaria or Lithuania.

However, some countries have introduced special entities reflecting a particular approach to intermunicipal integration. This necessarily entails limitations on autonomy, because co-operation may be compulsory and laid down by law or because withdrawal is regulated.

Many countries have laid down withdrawal rules which are often combined with compulsory co-operation.

In Italy joining a partnership or suspending it requires a resolution of the municipal council, and in unions of municipalities the rules of procedure generally state that if a municipality suspends the partnership the union must be dissolved. There are also compulsory forms of co-operation, as in the case of mountain communities and certain types of league. In the interests of integration Portugal requires municipalities to remain in the entity for five years; this

represents the stability principle in action. In Norway a municipality wishing to withdraw from co-operation must normally give a year's notice.

In Spain co-operation is always voluntary in the case of the autonomous communities (mancomunidades). They are free to lay down their participation terms in their statutes.

However, the autonomous communities may, under the regional assembly legislation, establish compulsory groupings of municipalities which have common geographical, economic and social characteristics. To be defeated, grouping proposals must be opposed by two fifths of municipalities in the planned comarca representing over half of the electors in it. The functions performed and services provided by the new entity are laid down in the Autonomous Communities Act; the entity's powers of self-regulation, organisationally and operationally, are limited. Groupings of this kind may be established throughout the autonomous community (Catalonia, Aragon) or in only part of it (Castile and Leon). In the Community of Aragon, the laws establishing "Comarcas" provide for the automatic dissolution of the mancomunidades. The conditions for withdrawal are laid down in the statutes of the mancomunidades and if a municipality wishes to withdraw it must pay compensation for the damage caused to the other municipalities.

A special procedure for withdrawing from intermunicipal co-operation exists in France. Considerable latitude is left to the Prefect, who can accept or reject a request for withdrawal submitted by a municipality and accepted by the own-tax-system EPCI from which it wishes to withdraw. There is no supervision of the withdrawal, but there is supervision of the actual setting up and performance of municipalities' voluntary action, with the aim of promoting intermunicipal co-operation.

Other countries provide only for compulsory co-operation.

Despite the setting up of a flexible system, Finland provides, on a parity basis, for compulsory co-operation restricting the freedom of the member municipalities.

In Switzerland there is a system of both compulsory and incentive-based co-operation; the cantons can legally compel municipalities to co-operate in a specified field of responsibility. Often, however, the cantons use financial incentives for imposing co-operation.

Sweden, the Netherlands, Norway and Austria also provide for compulsory co-operation. In the Netherlands, this is only prescribed for some conurbations.

Finally, mention must be made of the existence of unregulated intermunicipal co-operation. In Slovenia for example voluntariness is total; fiscal and financial incentives are extremely limited. A number of incentives for the delivery of common services will be introduced in Hungary in 2007.

2.2.2 Controls

Most countries carry out checks on co-operation entities, generally of an administrative, legal and financial nature (Norway, the Netherlands, Sweden, Slovakia, Slovenia, Bulgaria, Finland, Russia, Switzerland, Italy, France, Germany, Portugal, Austria, Cyprus, the Czech Republic). Checks may cover founding documents, the budget, the accounts and/or the legality of measures taken. In addition, in nearly all countries, democratic control is exercised by the co-operation entity's assembly, which represents the member municipalities when members are elected by indirect suffrage.

Checks generally do not look into effectiveness of action, although some come close to doing so. Germany has legal and technical supervision, to verify that bodies are carrying out their assigned duties lawfully and appropriately. In Norway the report shows that checks are performed on effectiveness in each type of intermunicipal co-operation covered by the legislation, as in Austria (see above). Checks on the effectiveness of intermunicipal co-operation are also performed in Finland and Slovakia. Belgium has this issue under discussion.

Checks on intermunicipal co-operation bodies are generally the same as those on municipal entities (Sweden, Luxembourg, Netherlands, Hungary) but may be adapted to varying degrees; they may, for example, take the form of supervision (Belgium, Portugal, Switzerland). In Belgium a specific review applies to intermunicipal entities lying across the regional boundaries.

France has special checks on local and regional authorities; for example, there may be review of the legality of measures taken by EPCIs' executive and

deliberative bodies. Such a review is set in train by prefectoral referral and any disputes are dealt with by the administrative courts. Here, emphasis should be placed on the importance of the non-contentious phase of discussion between the prefectural administration and the doer of the act; an agreement may be reached on the basis of a letter setting out the Prefect's observations, which curbs litigation accordingly. Financial checks are performed by the regional auditing offices, again on the initiative of the Prefect.

Some countries have introduced special checks with a specific name. In Italy these were introduced following the 2001 constitutional reform; intermunicipal bodies are subject only to internal control or self-checking and to supervision, which is more external or "heteronymous" control. In financial matters the state can check, by requesting documents, whether intermunicipal bodies have actually delivered the public service for which they received central financial transfers. In addition, each region has available to it specific forms of financial control for intermunicipal bodies.

When bodies are governed by private law no special control is generally required; they are subject to the controls laid down in the statutes of the bodies chosen, as in Cyprus, where control by the Republic's chief controller and the Ombudsman is required for public-law bodies, and the Czech Republic.

3. Democracy and intermunicipal co-operation

Citizen participation in intermunicipal co-operation is one of the concerns of some countries, besides the quest for quality in service provision. Indirect participation often occurs through elections to the organs of intermunicipal bodies, or through the rule mentioned in some reports that meetings of the deliberative organs of intermunicipal bodies must be publicised (France, Luxembourg, the Czech Republic and Finland in particular).

However, direct participation in decision-making through decision-making referendums or ordinary consultations is fairly rare; some countries also refer to a right of petition and a right of access to information. The Netherlands emphasise the possibility which the citizens are given to complain of non-fulfilment of their needs.

3.1 Democratic legitimacy

Countries generally have a statutory right to information that also applies to intermunicipal co-operation. Some intermunicipal bodies also issue more for specialised information, for example through magazines, newsletters and websites.

Central government is not present in decision-making bodies at the structural level; it only intervenes at the control level or in consultative bodies, as in Portugal, where representatives of state services may attend meetings of intermunicipal bodies' consultative organs where there has been state transfer of competences.

In Luxembourg exceptional cases nevertheless exist in which the state plays a part in an intermunicipal body. Cyprus has a very singular situation in which the decision-making organs of public-law intermunicipal bodies come under the direction of a body designated by central government, generally for a 5-year period. In other cases there is an elected body, arrangements are not specified and the state is normally not represented.

The organs of intermunicipal bodies are usually elected indirectly. None of the organs result from election by direct universal suffrage, though France is thinking about it and Finland stresses the problem of lack of democratic control and lack of leadership in intermunicipal co-operation. Nor should one overlook the adverse effects of election by direct universal suffrage, such as transfers of responsibilities being restricted by the determination of mayors to retain their powers.

In France the management organs of intermunicipal bodies do not result from election by direct universal suffrage. EPCIs are administered by deliberative organs, by councils in the case of own-tax-system EPCIs and by committees in the case of unions of municipalities without their own tax system; they consist of delegates elected by the councils of the member municipalities. The chair is then elected by the deliberative organ.

The democratic deficit in intermunicipal co-operation is generally criticised in France (some reports, eg the Mauroy

report in 2000, have advocated election by direct universal suffrage). The deficit is allegedly accentuated by election methods. In the case of communities of municipalities and “agglomeration” communities each municipality’s representatives on the EPCI’s deliberative organ are elected by secret ballot from among the members of the town council, an absolute majority being required in the first two rounds, a relative majority in the third round. Conditions on standing for office and impediments to holding office are the same as for municipal councils. Renewal of the community council occurs naturally after renewal of the municipal councils. In the case of urban communities, election takes place under a single-round list system with no addition or removal of names and no changes to candidates’ order on each list. Seats are allocated among the lists by highest-average proportional representation. Majority voting does not favour representation of minorities and proportional representation allows the emergence of an opposition within the deliberative organ, which sometimes causes problems

A lack of democracy exists in certain types of intermunicipal co-operations, for example in Norway, Finland, Italy and Portugal, as well as in Bulgaria, Lithuania and Hungary.

More marginal systems exist but operate to the detriment of democracy because the members of bodies are sometimes appointed.

In the Netherlands intermunicipal co-operation bodies are composed of appointed officials – members of the municipality’s executive, for instance. They may also be councillors appointed by the elected councils, their appointment thus in reality resulting indirectly from the election.

In Russia the body’s decision-making organs are specified in its charter and the members appear to be appointed.

3.2 *Direct citizen participation*

The reports devote little attention to the topic of participatory democracy as it relates to intermunicipal bodies. The rules applicable to information, petitions, consultations or referendums are the general rules applying to intermunicipal

bodies; there are rarely any specific rules applicable to intermunicipal co-operation and there are no ongoing reforms on this point.

Nonetheless, in Belgium there is more and more debate over the adoption of machinery of local democracy in intermunicipal affairs.

Citizen participation is generally very limited; in Portugal, for example, the right of petition or referendum does not exist for intermunicipal bodies. Where these mechanisms exist, they are often little employed by intermunicipal bodies (Luxembourg, Finland).

Other countries have developed participatory democracy mechanisms for intermunicipal co-operation, though they may be disappointing in practice.

In Norway consultations may be held under the same rules as for consultations by municipalities. However, there is no such thing as a referendum nor any right of petition. Information relating to intermunicipal co-operation is limited and no study exists on how citizens perceive intermunicipal co-operation.

In Italy intermunicipal bodies may use optional, consultative referendums, which will therefore not lead to decision-making by the citizens. Provision is made in the statutes of intermunicipal bodies for consultation procedures, but in practice consultative referendums are little used in this area.

In Switzerland public consultations and referendums are provided for by law; Slovenia has a right of petition at both local and national level. In the Netherlands local consultations and a right of petition exist, but most municipalities are dissatisfied with the democratic dimension of co-operation, whatever the type and area of co-operation.

In Spain, where co-operation entities are legally territorial authorities the same participatory mechanisms are available as with all such authorities: local referendums, the right to information and the right of petition. In practice, however, Spanish municipalities make very little use of referendums and intermunicipal bodies have never held any.

Mechanisms of possibly greater originality may also be available.

In France a local consultation of an exclusively consultative nature can be held in any of an EPCI's areas of responsibility. An application for a consultation to be held may be submitted by a fifth of the electorate. The issue will be set out in an information dossier made available to the public. A period of a year must elapse between any two consultations, the period being two years when the consultation is on the same subject. Local referendums and a general right of petition are not available to EPCIs. However, practice is limited: from 1995 to 2004 only three EPCIs held or even considered a consultation: the subjects were a tourism-development project, treatment of non-recyclable waste and construction of a swimming pool. As regards more diffuse participation, consultative committees open to the representatives of local associations may be set up. Consultative commissions on local public services also exist in EPCIs of over 50,000 inhabitants and mixed unions comprising at least one municipality of over 10,000 inhabitants. The commissions are open to user associations.

A genuine information policy exists. Minutes of EPCI deliberative assemblies and EPCI budgets, accounts and chairpersons' decisions are issued. Debates approving any agreement delegating a public service or concerning economic measures will be published locally, as will outline information about an EPCI's financial position. It is compulsory for member municipalities to display the EPCI's regulatory decisions or issue a compendium of administrative decisions including the EPCI's. It is also a requirement to publish the balance sheet of acquisitions and transfers made by the EPCI in notes to the administrative accounts, as well as a summary table reporting transfers of buildings and real estate.

EPCIs are allowed to conduct an information policy, send out newsletters and operate websites. A survey in 2005 showed that around 80% of French people knew who the chair was of the own-tax-system EPCI of which their municipality was a member. However, the public are not well acquainted with the bodies concerned and their

competences; they remain greatly attached to their own municipalities even though they have considerable trust in intermunicipal co-operation, which nonetheless suffers from a democratic deficit.

The functional aspect of intermunicipal co-operation complements the institutional aspect but countries' views are certainly less divergent on this second aspect.

IV. Functional aspect of intermunicipal co-operation

The functions of intermunicipal bodies are distinctive, as also are the material, financial and staffing resources for discharging them. The real effectiveness of intermunicipal co-operation, which few countries consider satisfactory, will depend on how the above factors are combined.

1. Competences in the area of intermunicipal co-operation

Intermunicipal bodies possess specific competences and the fields of responsibility are ever wider.

1.1 Nature of competences

A functional typology of bodies similar to the one described for the structural level may be offered.

1.1.1 Single-purpose and multi-purpose entities

In general, European countries have two types of intermunicipal bodies, some single-purpose (only one activity is undertaken by two or more municipalities through institutionalised co-operation), others multi-purpose (the tasks undertaken being more numerous and varied). This is the case in the Netherlands, Russia, Norway, Slovakia, Slovenia, Bulgaria, the Czech Republic, Finland, Sweden, Luxembourg, Italy, Hungary and France (see below for an analysis of powers and responsibilities).

Some countries prefer single-purpose bodies while also developing multi-purpose ones, although Switzerland's co-operation bodies are generally limited to a specific range of tasks.

This is the case in Norway, Austria and Luxembourg. In Spain, historically, there was an initial wave of single-purpose bodies, but since the 1980s the number of multi-purpose bodies has increased greatly. At 31 December 2005 there were 511 single-purpose and 500 multi-purpose *mancomunidades*. Intermunicipal administration there is more and more multifunctional.

Other countries see the two types of co-operation, single-purpose and multi-purpose, as being on an equal footing or have a clear preference for

development of multi-purpose co-operation, which they consider to be the way forward.

In Finland co-operation bodies are single-purpose or multi-purpose; special hospital services and special services for the disabled are single-purpose but municipalities can assign other functions to them. Joint municipal bodies for physical planning have two responsibilities, physical planning and regional development.

On a voluntary co-operation basis municipalities can decide which functions and services they wish to delegate to a co-operation body; such bodies are often multi-purpose. In France, as in most European countries, single-purpose unions of municipalities are the least numerous while the most integrated, and the most strongly encouraged, intermunicipal bodies are necessarily multi-purpose.

1.1.2 Delegated competences and compulsory competences

In all countries the intermunicipal functions are delegated or transferred by the municipalities or local authorities to intermunicipal bodies. These must prove themselves capable of managing affairs and of acting in the light of economic criteria especially. They are usually delegated independently, but subject to the powers and responsibilities held by the member authorities as laid down in the national constitution or by law. Generally speaking, municipal bodies are competent to handle local matters falling within the sphere of the municipalities and this is also the case with intermunicipal bodies.

It is necessary to single out the position of certain states, which do not strictly speaking manage any services, as in Lithuania; the United Kingdom seems to be merely developing joint delivery of services in the framework of local strategic partnerships, without the creation of actual bodies.

Increasingly, however, in integrated intermunicipal co-operation and as regards public bodies in general, legislation is imposing compulsory functions to be performed intermunicipally. In Spain, mandatory functions are prescribed in the case of the mandatory intermunicipal bodies, the “comarcas”. Responsibilities here are totally transferred and not just delegated for a period; they are exclusive responsibilities not shared between the municipalities and the intermunicipal bodies; they may sometimes exceed the responsibilities of the basic local authorities.

The nature of the competences exercised may also be fairly innovative.

The example of Finland is interesting because of the partial delegation which it practises and the fact that competences are often shared between municipalities and unions of municipalities. There is no transfer of competences by municipalities to unions. The law simply provides that the union is to carry out a task which falls within the competence of the municipalities and which has been entrusted to it by the member municipalities. The municipalities remain the last links in the service chain: unions supply water to the local reservoirs, after which it is for the municipalities to supply water to the public and bill them for it. The same applies to school facilities (which are made available to the municipalities, which send pupils to them) and to waste management (while the unions look after recycling, composting, treatment and disposal, the municipalities are responsible for waste collection and charge the public for it). The unions therefore act on behalf of the municipalities. They operate sewage treatment plants but it is the municipalities that construct and manage the local waste-water disposal network and again bill the public for the service.

Under the legislation, powers and responsibilities are not transferred; what is transferred is the actual performance of functions which the municipalities are unable to handle themselves. The responsibilities remain exclusive and compulsory responsibilities of the municipalities, which can delegate their exercise. The citizens is thus always in direct contact with the municipalities. There is, however, no definition of community interest, ie of the dividing line between municipalities and joint town councils with respect to competences.

Co-operation is also compulsory and competences are totally delegated as regards hospital services (19 hospital districts and 65 joint municipal councils for organising the main aspects of health care), special services for the disabled (13 services organised in the form of joint councils)

and physical planning. Authorisations to organise vocational and polytechnic training also carry an obligation to co-operate. There are nineteen regional councils which have the form of joint municipal councils and manage development and policy at regional level. Limited-liability companies, co-operatives and foundations manage waste disposal and travel agencies and provide services to firms and businesses.

Contractual co-operation deals with waste management, water supplies, emergency services, building inspection, consumer guidance, the debt council, training, trade, industry and economic-development policy.

Bulgaria seems to have a novel approach. The report mentions that delegated competences do not originate in local authorities alone. This is also the case in Portugal, where competences are transferred by central government and municipalities to intermunicipal bodies. Competences transferred by the state have been put on a contractual basis and co-operation bodies will receive grants under such contracts. The community/collective interest – the intermunicipal bodies' sphere of responsibility – does not seem to be specified in detail in the legislation. Intermunicipal competences are bounded by the competences exercised by the member authorities and can be individually set by delegation. Finally, intermunicipal bodies may have exclusive or shared competences.

In Italy and France the responsibilities exercised by intermunicipal bodies are clearly exclusive; transfer to an intermunicipal body automatically removes responsibilities from the municipalities, and this is generally the case in the interests of rational exercise. The intermunicipal body acts in place of the municipalities, which no longer possess the responsibilities and cease to manage the relevant services. In France this exclusivity principle applies whatever the nature of the compulsory or optional responsibilities (chosen from a list) and prevents any clash of responsibilities. However, the exclusivity principle does not preclude municipalities from partially transferring a responsibility. In such cases they can exercise it concomitantly with the EPCI. Here the idea of community interest appears and can be used to demarcate each entity's responsibilities. This seems also to be the case in Slovenia and Hungary.

Some countries go further than delegation or transfer of competences. They have highly integrated intermunicipal co-operation; countries legislatively lay

down lists of competences that must compulsorily be taken over by certain types of intermunicipal co-operation (France, Spain and Italy).

France's legislation contains a detailed list of the competences exercised by own-tax-system intermunicipal co-operation bodies, which are highly integrated models of intermunicipal co-operation. In addition, competences fit into a theoretical framework and a very special system of law applies. Public intermunicipal co-operation establishments (EPCIs) have competences limited by the speciality rule, unlike local authorities, which possess general status making them competent to handle all matters of local interest; EPCIs have special responsibilities only and must confine themselves to the functions assigned to them and specified in their statutes. The legislation establishing the EPCI specifies its area of action, which is subject to a speciality rule that is both functional and territorial.

Own-tax-system EPCIs have their competences laid down in law, and they are compulsory competences. Communities of municipalities are competent for land-use planning and economic development. They also receive optional competences (chosen by the municipalities from a predetermined list; they must come under at least one of the four groups specified in the legislation: environmental protection and improvement; housing and environment policy; highway creation, development and maintenance; construction, maintenance and operation of cultural and sporting facilities and pre-elementary and elementary education facilities).

“Agglomeration” communities are automatically given four compulsory competences: land-use planning, economic development, housing policy and urban policy, including crime prevention. They must also have at least three optional competences out of a list of five (eg highways, sanitation and sporting and cultural facilities). Urban communities are the most integrated EPCIs; they are automatically given all the compulsory and optional

competences exercised by “agglomeration” communities. In addition, EPCIs may possess optional functions delegated by the municipalities. Competences held by those EPCIs which do not have their own tax system, such as unions of municipalities, are determined less restrictedly.

The competences exercised may be shared between the EPCI and the municipalities; in such a system, definition of the community interest is a basic essential and makes clear the dividing line between the competences of the member municipalities and those of the EPCI. The less precise the law’s specification of an EPCI’s competences, the more important it becomes to define the community interest. This concept is also regulated. Community interest is determined by the qualified majority required for setting up an EPCI and must be defined not more than two years after the order decreeing the transfer of competences comes into force for the communities of municipalities. For other urban communities and “agglomeration” communities, it is defined by the EPCI’s deliberative organ.

A circular stated that the community interest had to be specified at 18 August 2006; failing that, the communities would exercise the full competence transferred, always with a view to greater integration. This is a distinctive feature in comparison with the other European countries.

Another novel feature is that EPCIs can exercise competences other than those transferred by municipalities. The Law of 13 August 2004 allows competences to be delegated to EPCIs by regions, départements and the state. New competences can likewise be transferred experimentally to intermunicipal co-operation groupings (for example, ownership, development, maintenance and management of state-owned civil aerodromes).

In Italy competences are generally delegated to intermunicipal bodies by the municipalities, particularly in connection with unions of municipalities or conventions. However, while including competences delegated by the member municipalities, mountain communities also have

certain competences specified in public and regional legislation, their objective being the protection and improvement of mountain regions. The competences of intermunicipal co-operation associations are likewise specified legislatively, with the exception of those set up under conventions and programme agreements. In all cases the legislation regulates the exercise of competences and the stipulations are very detailed. Articles 27, 30, 31, 32 and 34 of the consolidated law on local entities determine respectively the role and nature of the competences of mountain communities, conventions, consortia, unions of municipalities and programme agreements

1.1.3 Opportunities for experiment and innovation

Intermunicipal bodies are generally not allowed to experiment in dealing with their competences. Such experimentation is to be construed as the ability to exercise these on a trial basis, after which there is an appraisal to an inconclusive trial or to perpetuate the arrangement following a conclusive trial. Sweden's intermunicipal bodies can only be delegated competences possessed by municipalities and normally can never try out new areas of responsibility. There are two exceptions, however: the experimental county councils of Skåne and Västra Götaland, which have been assigned new tasks in regional development. These "new" councils are governed by an act of Parliament.

France stands out in this area.

The only possibility for experimentation available to local or regional authorities and co-operation bodies is found in France. Experiment may firstly relate to competences or transfers. Intermunicipal co-operation bodies may handle competences in place of municipal bodies for a certain time and on certain conditions laid down by law.

This possibility was already open to some sub-national authorities like the regions (which have been managing regional rail transport on a trial basis in place of central management) or the departments (which administer the special dependency allowance). It is currently being extended, under the Law of 13 August 2004 on Local

Freedoms and Responsibilities, to municipalities and intermunicipal co-operation bodies. An assessment of practices is carried out in order to determine how such experiments should be followed up.

There is another type of experimentation which the constitution (Article 72) has allowed since 28 March 2003 – derogation experiments, which can also involve EPCIs. On certain conditions, and for a limited period and purpose, EPCIs can derogate experimentally from certain laws and regulations concerning the exercise of competences. This very complicated procedure, provided for by the Organic Law of 1 August 2003, has not yet been applied but introduces a degree of flexibility into exercise of competences even though the state retains control over the competence "experiments", activating the procedure and assessing its results.

1.2 Areas of competence

There are a number of key competences common to all countries: water and waste management, traffic and transport, planning decisions, lighting, emergency services, environmental protection, tourism development, economic and cultural development, sports facilities, medical services, sometimes social security, and, increasingly, public policy and security.

This is the case in the Netherlands, Switzerland, Norway, France, Hungary, Bulgaria, and even the Czech Republic, whose list of competences is long, even animal welfare, quarrying and energy management being taken over by intermunicipal co-operation. Education is also a key responsibility in Sweden, Slovakia, Switzerland, Portugal, Austria, Finland, the Czech Republic and Luxembourg. The activities in question are of general benefit and belong to both the public and the private spheres; moreover Austria points out that the reform in hand should make private activities for the joint structures easier to introduce.

While the areas of responsibility tend to be classic, there are certainly marginal responsibilities, such as the abattoirs in Cyprus and the Community Strategies in the United Kingdom drawn up as part of the Local Strategic Partnerships for

promoting economic, social and environmental well-being or neighbourhood renewal where “Neighbourhood Renewal Fund” is awarded.

In Norway the areas of responsibility have been much the same since 1991, ie waste-water collection and disposal (88.7%), waste collection (79.4%), purchasing (63.9%), fire protection (48.7%) and water supplies (20.8%). Municipalities receive their competences through special acts (saerlover); they explicitly provide for the competences of municipalities to be delegated to intermunicipal bodies.

A new Local Government (Municipalities and Regional Councils) Bill would increase the range of tasks discharged by public authorities to be delegated to intermunicipal bodies.

A general possibility appears to exist of delegating tasks to an intermunicipal body without investigating whether this is excluded under special laws. Municipalities can also choose several forms of organisation; they can delegate tasks and the related responsibilities to another host municipality. This model does not provide for setting up a new public entity but instead involves co-operation under a legal agreement. If, however, co-operation is not a one-off activity but of a general nature it must be carried on by a political and legal entity on which the municipalities are represented.

In France compulsory or optional competences cover the same areas as elsewhere, but competences are very broadly defined for own-tax-system EPCIs; they have to do with land-use planning and economic development, and concern housing, environment, highways, town policy, crime prevention and cultural, sports and teaching facilities. The chief purpose of intermunicipal co-operation is to allow joint management of local public services in order to avoid the costs of delegating services and deliver high-quality services. The deliberative assemblies can decide to create local public services. The setting up of consultative commissions for local public services is compulsory in municipalities of over 3,500 people and their groupings. According to a 2002 study by the Association of Mayors, the public services whose management is

usually entrusted to intermunicipal co-operation bodies are transport (73% managed by groupings and 23% by unions), sanitation (66% managed by groupings and 12% by unions) and waste treatment (63% managed by groupings and 27% by unions). Water and waste-collection services are managed to a lesser extent at the intermunicipal level (60%, but 40% continues to be managed by the municipalities). Social welfare and school canteens continue to come under the municipalities through the municipal social-action centres, but intermunicipal social-action centres are developing.

Intermunicipal bodies are tending to find their competences increased by very substantial lists of compulsory competences; unions of municipalities and EPCIs without their own tax system retain technical competences. In addition, every intermunicipal body can expand its competences by amending its statutes.

Areas of competence differ according to the nature of the managing body; there is thus a certain correspondence between the nature of the managing entity, whether public or private, and the services delivered, whether public or technical.

Germany, Spain, France and Portugal, which have for the most part chosen management by public entities, stress that public services must be the responsibility of intermunicipal co-operation. Intermunicipal co-operation is here seen as the tool for developing and managing local public services.

In Austria public services are also managed by intermunicipal bodies but private entities manage certain areas. However, a large proportion of public-interest services are managed by associations of local and regional authorities, which are public bodies. Private-sector bodies delegate the delivery of public-interest services to these associations. Two thirds of waste-water and waste management, 37% of water supply and 97% of citizenship matters are organised and managed by municipal associations. In Sweden private-law bodies and municipal enterprises tend to concentrate more on managing technical competences such as housing, water and electricity.

In the Netherlands, in the public-law sphere, the authorities co-operate mainly in the following areas: nature/environment, waste recycling and social affairs. Matters increasingly handled by the authorities are general administrative matters and security/assistance. Co-operation in the economic field and housing is declining. In the private-law sphere the commonest areas of co-operation are social affairs and PIOFACH functions (purchasing, information technology,

wage accounting, security, assistance), together with nature and environment and waste recycling.

There are, however, functional limits on intermunicipal co-operation bodies, whose powers are generally no greater than those of the municipalities. In the Netherlands, for example, powers and responsibilities may be limited depending on the intermunicipal co-operation entity; they are only delegated to intermunicipal co-operation entities which take the form of a public body based on the Joint Provisions Act; in the case of a mere intermunicipal authority duties are restricted to management and financing and that form of intermunicipal co-operation cannot make compulsory rules.

In Spain the *mancomunidades* can be delegated all municipal competences but not general tax-raising; they can only set fees and prices for services delivered. The *comarcas*, whose competences are set by the legislation on autonomous communities, cannot perform municipalities' compulsory functions unless the municipalities voluntarily delegate them, nor can the municipal competences established by the sectoral laws be delegated completely to them.

In Sweden, similarly, municipalities and county councils cannot delegate authority in any matter involving a limited-liability company, commercial partnership, incorporated association, non-profit association, foundation or other private entity which engages in co-operation.

Mention may also be made of bodies which possess extremely limited functions and which do not necessarily correspond to the traditional grouping pattern, as in Lithuania, Slovakia and Cyprus.

1.3 European Union influence

The national reports unanimously acknowledge European Union influence but without necessarily going into detail. They emphasise that it is still difficult to measure its real impact in matters of competition or public contracts or in connection with setting or winding up intermunicipal co-operation bodies (Italy, Norway, Netherlands, Sweden, France, Finland, Belgium and Austria in particular). However, they particularly stress the impact of the EU on performance of functions. A case to be singled out is the United Kingdom which apparently makes the Community's strategic orientations one of the principal aims of co-operation, under the local strategic partnerships.

Regarding more direct EU effects countries point to the EU's contributions as well as to the difficulties of knowing where one is in relation to application of Community law.

Many countries welcome EU influence, e.g. Slovakia, while others are more qualified in their views, e.g. Austria, which considers that the rules on competition are an obstacle to co-operation, although it stresses that financing by the structural funds is often the main reason for co-operation. Other countries adopt a more technical approach but one that still embodies the same basic analysis, eg Finland, which stresses that municipalities have had problems with public procurement and public-public co-operation.

It considers it necessary to reconcile the market-oriented approach and intermunicipal co-operation and determine when free competition is applicable and when there can be public co-operation without competition.

The Netherlands stresses that EU policies can affect the operation of intermunicipal co-operation entities, particularly as regards state aid when a public authority is conducting economic activities or entering into public contracts. European laws on state aid apply when a public authority carries out economic activities; thus municipalities taking part in co-operation of whatever kind have to comply with the rules on state aid and treat co-operation as a commercial enterprise. Furthermore, the Directive on Public Contracts which provides for competition is potentially applicable to co-operation. Of course, this will depend on the type of co-operation, on the public-law or private-law body employed and on the tasks set for the type of co-operation concerned. It will also depend on what is meant by "public contract", on whether the instigating body retains full enough control to treat the exercise as still an "in-house" one, and on the concept of economic activities. All these rules which do not affect the nature of the body have a significant impact on its management and activities.

France observes that the EU policy of freedom of competition has not had any obvious quantitative effect on settings and windings up of co-operation bodies. Like the

preceding countries, it stresses that the status of EPCIs has evolved, as has what they are allowed to do; EPCIs are now economic operators to which competition law applies. An EPCI could apply to be delegated a public service or awarded a public contract by a local authority. However, EPCIs can take action only if they obey the speciality rule which governs their functions and comply with commercial and industrial freedom and advertising and competition rules; further, they have to be able to show that they are operating under the same conditions as do private operators. They have to keep within their permitted functions, which are public-service functions, not commercial ones. EU policy on freedom of competition has had an effect on the local public services which EPCIs deal with. For example, the functions assigned to the municipalities and their groupings with regard to gas and electricity have been redefined on the basis of EU directives (1996, 1998). Similarly, water distribution and sanitation will henceforth be open to competition.

2. Management of intermunicipal co-operation

The management of intermunicipal co-operation is based on financial and human resources. On them will depend the effectiveness of intermunicipal co-operation.

2.1 Resources

In general the budget for intermunicipal co-operation comes from contributions by the participating authorities. They also have resources of their own, derived from service deliveries; further mention should be made of grants, while intermunicipal tax revenue is far more limited. While financial autonomy for intermunicipal co-operation activities is generally required in the case of own-budget autonomous legal bodies, fiscal autonomy is only stipulated legally in France, where intermunicipal co-operation is highly integrated and federative, and in Germany.

2.1.1 Fiscal autonomy

The French example is very instructive. France is developing a specific tax regime for such groups (full details given in the report), one that has been criticised despite the autonomy which it confers on those bodies.

France's constitutional reform of 28 March 2003 allows recognition of local authorities as financially autonomous in fiscal terms. Tax revenue and own revenue are required to form a decisive part of their total resources. However, this fiscal autonomy on the part of authorities and their groupings is limited by legislation, which sets bases and rates.

France distinguishes between own-tax system EPCIs and EPCIs without their own tax system. The former are more integrated and federalist in character. Communities of municipalities, "agglomeration" communities and urban communities levy their tax resources direct, whereas unions of municipalities are financed from the resources earmarked for them by member municipalities. This own-taxation system gives greater management and decision-making independence to bodies.

In aggregate, intermunicipal budgets account for around a quarter of total local budgets and a sixth of the national budget. The size of intermunicipal budgets is tending to increase in comparison with other budgets. Tax resources represent 35 to 40% of groupings' budgets, whereas local taxation represents 40 to 45% of local authorities' resources. Own resources (local taxes, proceeds from charges, proceeds from public services and the use of intermunicipal property, donations, legacies) amount to 60% of intermunicipal budgets. One of the largest resources for EPCIs is the tax on household waste. Borrowings by the groupings amounted to €4 billion in 2003.

Intermunicipal bodies also receive grants from the state, region, département and municipalities. In 2003 assistance funds and transfers accounted for €14 billion out of a total revenue of 47 billion, ie 30% of intermunicipal budgets.

Germany also appears from the report to be starting along this road; special-purpose co-operation associations possess their own income in addition to contributions from member municipalities; the fiscal autonomy of intermunicipal bodies is laid down by the laws on intermunicipal co-operation.

2.1.2 *Absence of fiscal autonomy*

However, fiscal autonomy, viewed as the ability to levy taxes, is generally not granted to intermunicipal co-operation bodies. These bodies' own resources thus come for the most part from grants by member municipalities, from state aid, and aid from other sub-national authorities or the EU. They may also come from the financing of special projects in response to invitations to tender (Bulgaria). Following the same approach, intermunicipal co-operation bodies may charge high fees for their services or products, which correspondingly reduces the contributions from the municipalities, as in the Netherlands.

Many countries report a lack of resources for intermunicipal co-operation, which is thus unintegrated, because intermunicipal bodies are not allowed to levy taxes, as in Sweden. In the United Kingdom, the quality and the effectiveness of services delivered through a joint effort at the local level are guided by regional centres of excellence, but intermunicipal co-operation is not funded as such; authorities wishing to co-operate may nevertheless apply for assistance.

Some countries (Russia and Slovakia) stress the poverty of intermunicipal co-operation budgets, which are funded exclusively by earmarked and non-earmarked grants from member authorities.

Even more countries, however, welcome the contribution made by cross-financing – from the state or regions, for instance – which ultimately offsets the inadequacy of own resources. Such is the case in Norway, the Czech Republic, Spain, Hungary and Slovenia. The approach is the same in Portugal, Belgium, Austria and Luxembourg.

In Norway, apart from the case of the electricity companies, which are a special form of co-operation and possess large budgets, the budgets for intermunicipal co-operation are limited in comparison with those of other authorities and the state. Intermunicipal co-operation bodies do not have

own resources, their resources consisting mainly in non-earmarked grants by member authorities; these depend on population size, on use of the service concerned and, in particular, on what the intermunicipal body may decide. There is also external financing available to one type of co-operation out of three. Such financing may come from the autonomous region or from the state, depending on the competences managed; such financing is allocated to economic development and travel (71%), culture (67%), primary school (53%) and the main types of medical care (41%). Companies coming under the Limited Liability Companies Act are financially independent.

The same applies in Italy and Finland, where intermunicipal co-operation is funded by elaborate grant systems.

Finland's total national budget for 2006 came to €39.8 billion. Expenditure for all municipalities and joint municipal authorities was €32.3 billion, while operating expenditure of joint municipalities came to €7.7 billion. Finance for intermunicipal co-operation generally comes from member municipalities. There are customer payments in the case of special public health provision and special care for the disabled. The maximum level of payments is fixed by government decree. Under special public health provision the municipalities pay for operations and treatment of the population. In the case of joint town councils that organise vocational and polytechnic education, basic financing comes from the state according to a unit price ratio. Joint municipal entities receive no grant from the region. The purpose appears to be to simplify the grant system; at the moment there is an extremely complex system of different grants for three main sectors. Nevertheless, the principles of the system operate well and respect municipalities' autonomy. Intermunicipal councils do not have the right to levy taxes.

2.2 Staffing

Depending on the decision as to whether intermunicipal co-operation is to be public or private, intermunicipal co-operation bodies can employ public or private staff. Generally speaking, to facilitate management, staff may be employed jointly by intermunicipal bodies and member authorities.

In accordance with a public-law model, intermunicipal entities in France can employ public servants (107,000 jobs in 2001). Staffing costs for own-tax-system groupings came to €2.3 billion in 2002. EPCIs may recruit staff direct, and the transfer of a competence from a municipality to an EPCI involves transfer of the service or part of the service responsible for its implementation.

Public servants may also be shared by intermunicipal bodies and municipalities. Local public servants are allowed to work only partially for a service transferred to an EPCI. Their situation is regulated by an agreement.

The rules have been made more flexible so that municipalities can assign all or part of one of their services to an EPCI and vice versa. The forms that such assignment may take are governed by an agreement. It is even possible for an own-tax-system EPCI to lend its staff and services to a requesting municipality. At the request of the mayors of a number of municipalities belonging to the same own-tax-system EPCI the EPCI can recruit one or more municipal police officers and assign them to those municipalities collectively.

Still in the public sphere, Portugal and Spain offer two interesting examples.

In Spain intermunicipal co-operation bodies have the same character as local authorities and employ public servants under the same rules. In most mancomunidades administrative functions (secretary, financial control, office duties) are performed by employees of the member municipalities. They add overtime to their working hours for the municipality and receive additional pay from the union. The staff is therefore jointly employed. The mancomunidades can also employ private-law staff on the same conditions as local authorities.

The staff of intermunicipal bodies may also be public-law or private-law staff, as in Russia, Belgium, the Netherlands, Norway, Germany, Austria, Slovenia, Luxembourg, Hungary and Finland.

Mixed arrangements applicable to staff also permit the use of joint staff shared between the municipalities and intermunicipal bodies. In Finland staff may be employed jointly by municipalities and joint town councils; there are shared public servants, and salaried employees may be paid out of a municipality's budget.

Slovakia, Luxembourg, Austria and Italy also offer interesting examples of joint use of staff. In Belgium, there is a specific staff for intermunicipal affairs.

In Italy municipalities and intermunicipal co-operation bodies set up joint services such as accounts departments and municipal police forces; a town-hall secretary works for two or more municipalities. Municipalities often enter into agreements on use of shared staff at different times. Intermunicipal bodies may thus employ officials, possibly under public law, who will use joint offices. The staff of unions of municipalities includes individual delegated employees of the municipalities and staff belonging to the union as such. There is no quota for jointly employed staff.

Because Italy applies private law to most local-authority staff, intermunicipal staff comes under ordinary law. Staff who jointly manages services can also be given special training.

Finally, intermunicipal staff in some countries may come exclusively under private law. In the Czech Republic intermunicipal bodies employ staff only under labour-law conditions, and municipal public servants may perform certain duties for intermunicipal bodies. The same applies in Cyprus, Bulgaria, Lithuania, Norway, Sweden and the United Kingdom.

In Norway intermunicipal bodies do not employ public servants and intermunicipal co-operation is governed by the Limited Liability Companies Act. Intermunicipal bodies may employ staff in accordance with labour law for the private sector. However, staff of municipalities may be seconded to an intermunicipal public body for specific projects.

3. Effectiveness of intermunicipal co-operation

Effectiveness and assessment of intermunicipal co-operation are key topics and each country emphasises their importance, especially as effectiveness is a main reason for developing intermunicipal co-operation. However, it can be tricky and expensive to measure the results of intermunicipal co-operation and few European countries have significant statistics in this area.

Nevertheless, there appears to be consensus that intermunicipal co-operation is positive, even if up-to-date data and figures are not available and many people regret the lack of public information and awareness. However, a few countries are more critical.

Some, like Italy and Norway, without minimising the success of intermunicipal co-operation, provide for mechanisms allowing withdrawal on the ground of ineffectiveness.

Other countries take a more qualified view of the effectiveness of intermunicipal co-operation.

France, Sweden, Finland and Switzerland have a mixed view of intermunicipal co-operation; this is also the case in the Netherlands report.

In the Netherlands the trend is to strengthen co-operation with or without private partners. Private forms of co-operation have made great strides but co-operation on public-law lines will play a more important role in future, particularly in the case of municipalities, as regards policy co-ordination and service provision. The development of co-operation has also led to a bureaucratic overload through a proliferation of meetings and debates on identical subjects.

The trend is also towards a more commercial approach, an approach which was in evidence before and should continue in the interests of greater public transparency and to balance the costs and benefits of co-operation. The commercial approach is also leading to a more flexible concept of co-operation.

From the effectiveness standpoint, decision-making capability, speed of decision-making and the cost-benefit ratio of co-operation greatly depend on the particular area of co-operation. Two thirds of municipalities are satisfied with practice, service delivery and administrative performance. Two thirds are dissatisfied with policy co-ordination. Nevertheless, there is broad agreement that it is better for a municipality to practise co-operation.

Sweden also provides a mixed picture. Certain recent university studies demonstrate that intermunicipal co-operation is economically viable and effective in environment, planning, construction and public works and technical areas. It generates advantages of scale which can strengthen organisational capacity. The broader population base created by intermunicipal co-operation makes it easier to find competent staff and managers.

Nevertheless, it appears to be less effective to co-operate in welfare assistance and individual care as these are services that must be provided in the places where people live. Here there are no advantages of scale and the high transaction costs do not change even when the sector being managed is broader. The same study assesses the advantages of different types of co-operation.

Intermunicipal co-operation based on contract offers advantages from the democratic viewpoint as it gives assemblies access to co-operation activities; it is the assemblies who take the decisions. This legal foundation also allows cost sharing and more effective use of resources. However, such contractual co-operation does not offer any opportunity of transferring municipal activities to other municipalities, quite apart from the difficulties of applying public-procurement legislation to a combination of entities.

The federation of authorities, which represents the most integrated model of co-operation, does not permit such broad participation in decision-making; a member authority may also prove dominant.

These last two types of co-operation are the most interesting at the policy level and their number is increasing. According to one study, this increase is due to the demand for greater effectiveness in the public domain. Decentralisation of state functions to the municipalities has created a greater need for specialists at the municipal level, which is an incentive for small municipalities to practise co-operation. Democracy is certainly the weak point of intermunicipal co-operation.

In the United Kingdom, the performance of management is of prime importance. Local sectoral agreements are intended to align and simplify performance management arrangements. The idea is to harmonise the levels of performance and to eliminate duplication in management. These sectoral agreements will develop in order to provide an instrument for central and local government to settle a limited number of goals of improvement for each local sector, eg strengthening of partnership, better results for the population, or greater effectiveness. These agreements are reviewed every 6 months in the form of a self-appraisal of the local partnership, besides which an evaluation is carried out as part of the collective evaluation by the UK Department for Communities and Local Government's Comprehensive Performance Assessment (CPA). But this far exceeds the intermunicipal framework, proving that intermunicipal co-operation is a key component of the central government's policies.

V. Current practices and trends

This report mainly identifies practices, and it is possible to highlight for each subject area some particularly striking practices such as the use of the contractual procedure in conjunction with a legislative or constitutional framework, mandatory types of co-operation imposed against the inclination of the municipalities, co-operation in rural areas, control of the efficiency of intermunicipal co-operation activities, or democratic practices at local level mainly. All these practices could be discussed for possible transposition to other states, or for modification in order to adjust their effects or enhance their benefits.

It is also possible to discern the general trends of intermunicipal co-operation in Europe:

- Regarding intermunicipal co-operation bodies (chap. III 1. of the report), note may be taken of the search for greater flexibility to build the capacity and increase the scope of action of the bodies in question, whether public or private in the first instance. The development of public-private partnerships is also a dominant trend of intermunicipal co-operation, out of concern for safeguarding cross financing. A flexible contractual policy is also implemented to further these aims, with all due regard for the autonomy of local government close to citizens.

- Regarding management of intermunicipal co-operation (chap. IV 2.), several aspects are worth stressing. States are looking for greater efficiency in managers, hence better balance of the costs and benefits of intermunicipal co-operation and viability of the actions undertaken, generally entailing stricter and more suitable control of intermunicipal action.

- Regarding the democratic side of intermunicipal co-operation (chap. III 3), the tendency goes towards the search of a higher degree of democratic legitimacy in the intermunicipal bodies (information, election, enhancement of transparency), but also better quality of services directly meeting the citizens' needs.

These points could provide lines of thought to explore and lay the foundation for subsequent studies on the theme