

# **Connecting Europe Facility**

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# List of abbreviations

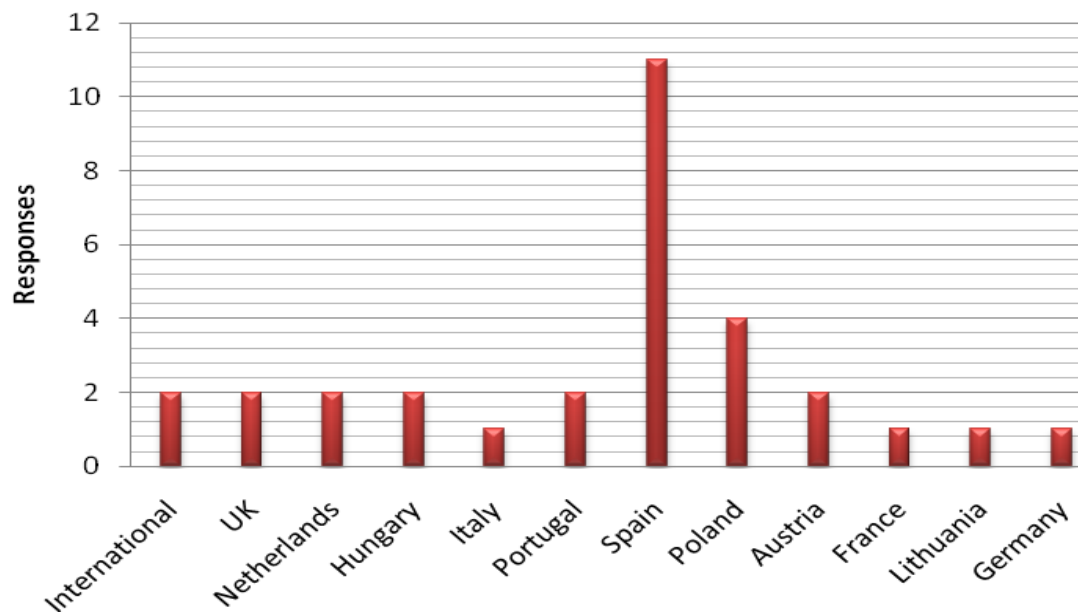
CF	Cohesion Fund
CoR	Committee of the Regions
CEF	Connecting Europe Facility
EC	European Commission
EGTC	European Grouping for Territorial Cooperation
ERDF	European Regional Development Fund
EU	European Union
EU12	Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania,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

# 1. Introduction

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

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

Figure 1: Member State respondents

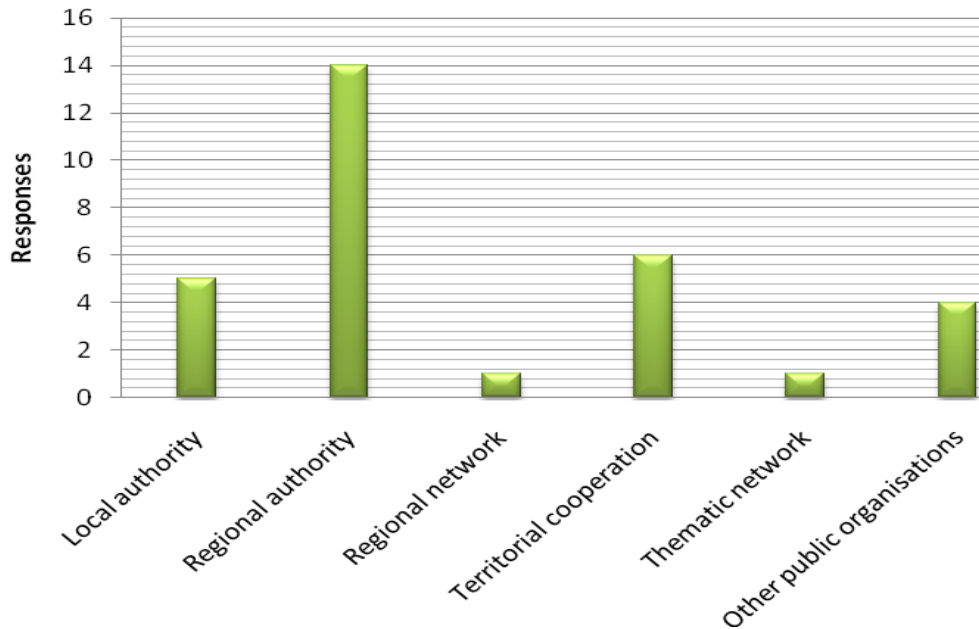


Source: Metis 2011

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

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

Figure 2: Types of respondents



Source: Metis 2011

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

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

The general view of the CEF was positive. There is general agreement about the added value of centralised and more focused infrastructure development. The CEF is expected to provide significant support for cross-border infrastructure development, which hitherto has been accompanied by various difficulties. However, the main aspects highlighted are:

- The Commission's provisions on core projects are seen as too **top-down**, **thereby** endangering the **principle of subsidiarity** if the corridor coordinator role makes it possible to direct Member States in their decisions about infrastructure projects.
- The **predefinition of infrastructure corridors** seems too rigid and does not allow the inclusion of other projects in the preparation phase. This would endanger funding of projects within the overall infrastructure network.
- Especially in the light of **current budget constraints**, it is problematic to force Member States to complete pre-defined TEN projects by binding deadlines.
- While for the **EU15** the **additional funds** in principle offer **new opportunities** for financing TEN, **EU12** countries have great **concerns** about the **necessary national co-financing** that will burden the available budget substantially.
- The Cohesion Fund budget is seen as a significant pillar of many EU12 regions, and the fear of **reducing the CF budget** in order to finance CEF projects instead is seen as a significant disadvantage for “new Member States”.
- It is important that the proposal takes into account **Member States' existing regulations, timetables and budgets** available for infrastructure development.
- The current proposal does not offer any procedure for **linking central CEF projects with CF and ERDF projects**. A critical factor is giving priority to TEN-T infrastructure projects since it endangers the development of other important infrastructure networks.
- The **cross-border approach** of CEF is widely acknowledged. Nevertheless, a clear and distinctive procedure for tackling legal constraints across borders is not yet visible.

- The influence of CEF procedures on **public procurement is unclear** to many respondents. However, some expect it to have a significant impact on procurement procedures, especially in terms of cross-border projects.
- The current proposal does **not include any serious mechanism for involving regional and local actors in the participation process**. However, most of the comments imply that involvement of regional and local actors is a matter for the Member States. Other respondents see participation in the corridor platform as an important contribution.



## 2. Brief description of relevant CEF topics

The final regulatory proposal to the European Parliament and to the Council to establish the Connecting Europe Facility (CEF)<sup>2</sup> sets out a common framework to support specific infrastructure projects in Europe. The proposal includes infrastructure projects at European level that are important for moving towards high-level interconnectivity between Member States, enhancing conditions for the internal market and boosting global competitiveness. The instrument should help to end the current stalling of work on the TEN Network.

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

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

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

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

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<sup>2</sup> The European Commission's proposal was submitted to the European Parliament in October 2011 and is currently being scrutinised by the national parliaments. The deadline for scrutiny is mid-February 2012.

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

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

The **main budget** (EUR 31.7 bn of which EUR 10 bn is to be transferred from the Cohesion Fund) is allocated to transport. Another EUR 9 bn is allocated to energy and EUR 9 bn to telecommunications.

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

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

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

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

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

**Public procurement** rules are currently being **reviewed**, and a new proposal was published in December 2011 with the aim of simplifying procedures. However, it is not yet clear how those rules will influence the current CEF proposal.

The proposed regulation does not specify any involvement of **different tiers of Member State authorities**. Member States will manage implementation of the CEF on a regional and local level.

## 3. Comments in detail

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

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

#### *Summary of the comments*

In general, the added value of the CEF is acknowledged: particularly in terms of increasing the effectiveness of Europe's wide infrastructure, centralised management of funding management and better exchange of know-how should boost development. The added value is expected with economic growth, thanks to better high-level infrastructure networks in areas that at present are still insufficiently connected.

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

Spanish and Portuguese respondents in particular expressed their expectations about the instrument boosting employment in the construction industry and indirectly by facilitating economic prosperity in the connected regions. The CEF should stimulate PPPs and attract (institutional) investors to participate in funding TEN-T projects and support the reduction of CO<sub>2</sub> emissions.

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

However, the approach of a single common framework for developing infrastructure across Europe triggered different reactions. Some respondents consider that this single instrument will simplify procedures, while others fear conflicts with the subsidiarity principle (e.g. City of Vienna, Lithuanian Association of Local Authorities). According to these respondents, the CEF regulation might conflict with national interests. For example, the binding nature of regulations (binding deadlines) must be examined with regard to whether they

constitute an unacceptable infringement of the budgetary sovereignty of the Member States on the part of the EU. Germany, for example, reorganised and simplified its transmission network planning and authorisation procedures with the Act on the Acceleration of Grid Expansion (NABEG). The German respondent now fears that the CEF does not fit in with national procedures. The UK parliament also expresses great concerns about the CEF forcing Member States to deal with pre-defined infrastructure which might endanger the development of other comprehensive and nationally important networks. In this respect, the CEF should take account of the development of territorial cohesion including the development of both national and regional infrastructure.

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

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

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

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

## 3.2 Involvement of local and regional authorities

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

### *Summary of the comments*

All respondents expressed the need to involve regional and local authorities in projects which influence their territorial development. While some respondents understood that it is up to the Member States to include the regional and local level, others demanded more direct involvement in the CEF process. In some Member States the involvement of local and regional authorities is not yet clarified, but most others involve their LRAs in accordance with the national legal framework. Spanish respondents gave a detailed description about the involvement of LRAs.

However, it was stated that the value added by the corridor platforms proposed by the European Commission for bringing together all the stakeholders concerned will only be effective if both LRAs and national and international groupings participate.

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

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

### 3.3 CEF compatibility with Structural and Cohesion Funds

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

#### *Summary of the comments*

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

However, not all Member States have equal access to infrastructure funding from the ERDF. It must be ensured that a lack of financing for smaller and less dominant projects does not lead to peripheral infrastructure projects being excluded completely. Moreover, the concentration on the ten selected main projects is criticised as being far too rigid, neglecting other equally important matters in Europe. Concerns are expressed that smaller projects not related to the ten corridors will lose importance at European level.

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

### 3.4 CEF impact on public budget

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

#### *Summary of comments*

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

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

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

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

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

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

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

*The creation of a new facility will lead to greater centralisation of funds, making it more difficult for regions to access them directly. (Office of the Marshal of the Pomorskie Voivodship)*

*CEF priorities may hinder Member States from prioritising their own projects. Therefore the timescale should be more flexible than is indicated in the proposal. Some flexibility may be achieved by using Guidelines rather than a Regulation as per previous TEN-T projects. (Rail Network)*

Another aspect raised was the proposed involvement of private investment in TEN-T projects. Some respondents were doubtful whether the tool would provide the financially secure environment needed for investors to step in.

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

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

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

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

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

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





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

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

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

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

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

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

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

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



## 4. Conclusions

The statements submitted can be divided into different interest groups. First, there are local and regional authorities and representatives; second, territorial cooperation groups; and third, stakeholder representatives such as port networks. A second distinction can be drawn between organisations and authorities situated in Spain and Portugal that strongly support the CEF, and Central European Member States and organisations which are critical about the top-down process of the CEF. Therefore no general conclusion can be drawn other than that EU15 Member States view the CEF as an additional opportunity for infrastructure funding while the EU12 are concerned about the CEF interfering with other more pressing needs in their regions.

Another, though less strong concern, is the protection of the subsidiarity principle. This principle is defined in Article 5 of the Treaty on European Union: *Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can, by reason of the scale or effects of the proposed action, be better achieved at Union level. [...] Union action shall not exceed what is necessary to achieve the objectives of the Treaties.*<sup>4</sup>

In this respect, the Commission's provisions on core projects are seen as too top-down, and will endanger the subsidiarity principle if the corridor coordinator role makes it possible to direct Member States in their decisions about national infrastructure projects.

The comments received may be summarised as followed:

- The predefinition of infrastructure corridors is seen as a critical factor, hindering other more pressing projects to be developed.
- The involvement of regional and local actors in the corridor platform is seen as necessary, but no support for territorial groups and other representatives is foreseen in the proposal.
- The CEF and ERDF can have potential added value if they are properly coordinated. However it is not yet clear how these two instruments are

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<sup>4</sup> European Union (2010), Consolidated versions of the Treaty on European Union and of the Treaty on the Functioning of the European Union, Article 5.

effectively linked together. This causes concerns about overlaps and undermining of ERDF projects.

- The fact that EUR 10bn is allocated to the CEF raises major concerns in the new Member States. Several local and regional authorities expressed their fear of conflicts between project proposals at national level and the proposed corridor projects.
- The implementation of cross-border projects is generally highly valued. Again, the actual implementation based on different legal systems is not clearly defined, and nor is the procedure and stakeholder involvement.
- Most respondents did not see any conflict with public procurement rules.

In general, respondents stress that the procedure for implementing the CEF has not yet been sufficiently clarified (especially in cross-border projects). This also raises the need to adapt the Commission's targets more closely to Member State interests in this respect. The comments indicate which Member State targets are met within the proposal and which countries have difficulties in adjusting the proposed projects to their national and regional targets. For example, Spain and Portugal do not seem to have any further objection to the proposal and expect the CEF to support their national and regional infrastructure budget. Comments from Hungary, Germany and Poland, however, indicate that they fear that their national and regional autonomy will be endangered by the decision-making process.

# References

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

# Respondents

NR	Name	Country	Network	Type of respondent
1.	Netwerkstad Twente	Netherlands	SMN	Regional network
2.	Independent consultant (founder member EGTCUTTS, BEFA)	Hungary	EGTC	Territorial cooperation
3.	Region of Marche (Italy)	Italy	SMN	Regional authority
4.	Agrupamento Europeu de Cooperação Territorial Galicia-Norte de Portugal	Portugal	EGTC	Territorial cooperation
5.	Valencian autonomous government, Directorate-general for transport and logistics	Spain	SMN	Regional authority
6.	Consejo de camaras de comercio de la Comunidad Valenciana	Spain	TBC	Regional authority
7.	City Hall Łódź	Poland	SMN	Local authority
8.	Planning Department, Office of the Provincial Government of Styria	Austria	SMN	Regional authority
9.	Autonomous Community of Galicia	Spain	SMN	Regional authority
10.	Extremadura Assembly	Spain	SMN	Regional authority
11.	Office of the Marshal of the Pomorskie Voivodship	Poland	SMN	Regional authority
12.	City of Vienna	Austria	SMN	Local authority
13.	Governo Regional da Madeira	Portugal	TBC (Parl. is member of SMN)	Regional authority
14.	Urban Community of Brest Métropole Océane	France	TBC	Local authority

15.	Lithuanian association of local authorities	Lithuania	SMN	Local authority
16.	Association of European Border Regions (AEBR)	International	SMN	Territorial cooperation
17.	UTTS EGTC	Hungary	EGTC	Territorial cooperation
18.	Convention of Scottish Local Authorities	UK	SMN	Local authority
19.	Conference of Peripheral Maritime Regions (CPMR)	International	TBC	Territorial cooperation
20.	Valencian Regional Government	Spain	SMN	Regional authority
21.	FEPORIS – Institute for Port-related Studies and Cooperation	Spain	TBC	Other public organisations
22.	Alicante Port Authority	Spain	TBC	Other public organisations
23.	Valencia Port Authority	Spain	TBC	Other public organisations
24.	Castellón Port Authority	Spain	TBC	Other public organisations
25.	Ministry of Baden-Württemberg	Germany	SMN	Regional authority
26.	Rail Network	UK	TBC	Thematic network
27.	Region of Murcia. Department for Public Works and Land-Use Planning: General Secretariat/Directorate-General for Transport and Ports	Spain	TBC	Regional authority
28.	Marshall's Office of Wielkopolska Region	Poland	TBC	Regional authority
29.	Region of Warmia and Mazury	Poland	TBC	Regional authority
30.	EGTC Eurometropolis	Netherlands	EGTC	Territorial cooperation
31.	Departamento de Vivienda, Obras Públicas y Transportes del Gobierno Vasco	Spain	SMN	Regional authority