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CONSULTATION



The review of the EGTC Regulation (European Grouping for Territorial Cooperation)

By participating in this consultation, you will contribute to the own-initiative opinion "The review of the EGTC Regulation" that the Committee of the Regions will deliver at the beginning of 2011, and to the consequent legislative work of the institutions. Regulation EC No. 1082/2006 on EGTC foresees that by 1 August 2011 the Commission shall forward a report to the European Parliament and the Council on the application of the EGTC Regulation and proposals for amendments, where appropriate.

This consultation is a joint initiative of the Committee of the Regions, the Trio of Presidencies of the Council of the European Union (Spain-Belgium-Hungary), the European Commission and the INTERACT programme. It intends to collect the opinions of Member States, EGTC setups and EGTC under preparation, Local and Regional Authorities and other stakeholders concerning EGTC in the perspective of the review of the Regulation. The consultation focuses mainly on the legislative aspects that should be improved or modified in view of the next revision, and also considers the added value and potentialities of the EGTC.

The results will be presented in Brussels the 6 October 2010 during the 8th edition of the Open Days (www.opendays.europa.eu).

EU Member States, EGTC setups and EGTC under preparation, Local and Regional Authorities implementing EGTC and other stakeholders are invited to fill in the below form in any of the EU official languages and submit it by **20 July 2010 the latest.**

Please send your contribution to egtc@cor.europa.eu in a Word format (doc).

Further information can be found at www.cor.europa.eu/egtc

BASIC INFORMATION

1. Identification of the contributor	
Name and surname of the sender:	Schneider-Français Françoise and Salambo Ludivine
Complete contact details: (address, phone, fax, e-mail)	Address: MOT, 38 rue des Bourdonnais City: 75001 Paris, France Phone: 00 33 1 55 80 56 80 Fax: 00 33 1 42 33 57 00 E-mail: francoise.schneider@mot.asso.fr ; ludivine.salambo@mot.asso.fr
Type of contributor	<input type="checkbox"/> Member State <input type="checkbox"/> EGTC setups <input type="checkbox"/> EGTC under preparation <input type="checkbox"/> Regional / Local authority <input checked="" type="checkbox"/> Association <input type="checkbox"/> Researcher / expert <input type="checkbox"/> Other (specify):
On behalf of the organisation:	Mission Opérationnelle Transfrontalière
Organisation's website:	www.espaces-transfrontaliers.eu
Organisation's e-mail	mot@mot.asso.fr
Country:	France

2. Are you participating or have you participated in an EGTC?
<input type="checkbox"/> Yes, an existing one <input type="checkbox"/> Yes, it is under constitution <input checked="" type="checkbox"/> No
If yes, please: Indicate the name (or future name) of the EGTC: Member State in which the EGTC has (or will have) its registered office: Date (expected) of establishment: Tick the participating countries of all the members of the EGTC: <input type="checkbox"/> AT <input type="checkbox"/> BE <input type="checkbox"/> BG <input type="checkbox"/> CY <input type="checkbox"/> CZ <input type="checkbox"/> DE <input type="checkbox"/> DK <input type="checkbox"/> EE <input type="checkbox"/> EL <input type="checkbox"/> ES <input type="checkbox"/> FI <input type="checkbox"/> FR <input type="checkbox"/> HU <input type="checkbox"/> IT <input type="checkbox"/> IR <input type="checkbox"/> LT <input type="checkbox"/> LU <input type="checkbox"/> LV <input type="checkbox"/> MT <input type="checkbox"/> NL <input type="checkbox"/> PL <input type="checkbox"/> PT <input type="checkbox"/> RO <input type="checkbox"/> SK <input type="checkbox"/> SL <input type="checkbox"/> SV <input type="checkbox"/> UK If there are entities from countries not members of the EU, identify the country(ies):

LEGAL ASPECTS

3. Which are your main doubts and difficulties concerning the Regulation 1082/2006/EC on the EGTC?

3.1. Legal aspects identified.

Several choices allowed.

- a) ☒ Dispositions concerning the nature of the EGTC: Public or private Law
- b) ☒ Assessment procedure by the central Authority of the Member State (e.g. 3 months deadline)
- c) ☐ Eligibility for European Territorial Cooperation programme management
- d) ☐ Eligibility for European Territorial Cooperation projects
- e) ☐ Eligibility for other EU funded projects.
- f) ☐ Acquisition of legal personality and publication
- g) ☐ Control of management of public funds
- h) ☒ Scope, objectives and practical tasks or activities.
- i) ☐ Tasks excluded (art. 7.4 of the regulation).
- j) ☐ Lack of own competences.
- k) ☐ Convention, statutes and organisation
- a) ☒ Staffing
- b) ☐ Public procurement
- l) ☐ VAT
- m) ☐ Definition of organs for the organisation of an EGTC.
- n) ☐ Budget, accountability and audit
- o) ☐ Limited/Unlimited liability
- p) ☐ Financial liability
- q) ☐ Public interest of the Member State
- r) ☐ Dissolution
- s) ☐ Jurisdiction
- t) ☒ General conditions for participation from third countries, if allowed by Member States
- u) ☒ Other (specify): law applicable to the GECT, distinction between a GECT dedicated to a network and a GECT with a limited territory.

3.2. Description of the problem(s).

Max. 500 characters.

Art. 1.2: provisions are the same for an EGTC with a limited territory and an EGTC dedicated to a network, whose partnership is increasing.

Art. 2_1_b) and c) and 8 (e): these articles do not determine to what extent the convention and the statutes may derogate from the law of the place of the headquarter of the EGTC (e.g. to use employees whose contracts would be governed by the law of the place where they work).

Art 4.6 and 4.1: does each modification of the convention require a decision from each Member State in accordance with article 4.1?

3.3. Which are your suggestions to improve the European regulatory framework on EGTC?

If possible, identify the article to be improved. Max. 500 characters.

Art. 1.2: insert simplified provisions for networks: decision by written consultation, "associated member" participating without vote pending formal membership status etc ...

Art. 2.1_b) and c) and 8 (e): define the provisions for which the convention and the statutes may derogate from the law of the EGTC registered office's place (duration, personal, organs, budgetary procedure...)

Art. 4.6: specify that the convention is modified by a decision of the EGTC approved by the concerned Member States.

4 Which are your main doubts and difficulties concerning how the Member States have implemented the Regulation 1082/2006/EC on EGTC?

4.1 Legal aspects identified.

Several choices allowed.

- c) ☐ Adoption of national provisions
- d) ☒ Differences between national provisions in the Member States
- e) ☐ Dispositions concerning the nature of the EGTC: Public or private Law
- f) ☐ Acquisition of legal personality and publication
- g) ☐ Control by the Member State of management of public funds
- h) ☐ Dispositions concerning the convention, statutes and organisation
- i) ☒ Staffing
- j) ☐ Public procurement
- k) ☐ VAT
- l) ☐ Budget, accountability and audit
- m) ☐ Limited/Unlimited liability
- n) ☐ Financial liability
- o) ☐ Public interest of the Member State: definition and practice
- p) ☐ Dissolution
- q) ☐ Jurisdiction
- r) ☐ Participation of members from third countries
- s) ☐ Other (specify):

4.2 Description of the problem(s).

Max. 500 characters.

Art. 4.3 §1: in the facts, the convention and the statutes comply with the most restrictive provisions applying to the members, even if these provisions do not apply in the country where the headquarter of the EGTC is located; e.g. an EGTC with Italian regions must include in the convention an initial 15-year term even if its headquarter is not in Italia.

Art. 4.3 §2: indicative time approval of 3 months is rarely respected, because of the lack of coordination's mechanisms between States.

4.3 Which are your suggestions to improve the provisions related to the implementation of the EGTC in the Member States?

Max. 500 characters.

Create a European procedure defining procedures for exchanges of information between the authorities responsible for examining requests for creation of the EGTC.

Write a model of convention and statutes with the compulsory provisions (articles 8, 9, 10.1, 10.2, 11 and 12), in order to harmonize the content of the statutes and conventions and facilitate the creation procedure.

Organize an annual Conference for MS allowing them to exchange on the implementation of the regulation 1082/2006 and the provisions they have taken.

5. The EGTC as an instrument for programmes and projects of territorial cooperation financed by the European Regional Development Fund, the European Social Fund and other EU funds.

5.1. What would be the main benefits of setting up an EGTC for the management of European Territorial Cooperation programme? What could be disadvantages/risks associated?

Max. 250 characters each

Benefits: the EGTC helps partners' programme to create an appropriate structure fulfilling the function of programme managing authority: the members are represented and decide in EGTC's organs, they can hire staff and sign contract.

Risks/disadvantages: the Community regulation does not define EGTC relations with JTS and the Monitoring Committee, which remain autonomous from the EGTC. The State is both member and supervisory authority of the EGTC.

5.2. What would be the main benefits of setting up an EGTC for European Territorial Cooperation project management? What could be disadvantages/risks associated?

Max. 250 characters.

Benefits: the EGTC allows creating a legal body dedicated to the project with a "tailor-made" functioning. Members are represented and decide in organs. The EGTC may implement the project by itself: it manages the budget, signs contracts and hires its own staff.

Risks/disadvantages: future members don't know how much time it will take to create the EGTC, which can compel them to launch the project before the creation of the EGTC. Any change in the partnership or the tasks of the EGTC requires starting again the procedure of creation, which limits any rapid evolution of the project.

5.3. What would be the main benefits of setting up an EGTC for the management of projects co-financed by other EU funding? What could be disadvantages/risks associated?

Max. 250 characters.

Benefits: the use of the EGTC allows members to benefit from any co-financing corresponding to the partnership and the tasks of the EGTC; they are the same benefits as for an EGTC dedicated to territorial cooperation projects management.

Risks/disadvantages: they are the same disadvantages as an EGTC dedicated to dedicated to territorial cooperation projects management.

5.4. What problems in European Territorial Cooperation programme and project management does the EGTC instrument, in its current setup, NOT solve?

Max. 250 characters.

Benefits:

Risks/disadvantages: Project management: an EGTC can't associate members who fulfill missions of public service with an industrial and commercial activity, as they don't apply public procurement rules (e.g. some public establishments or companies).

5.5. What changes (in the EGTC Regulation, in national provisions, others) would be needed to make the EGTC more suitable for the management of programmes and/or projects of Territorial Cooperation?

Max. 250 characters.

Programme: next programming period: better definition of relationships between EGTC as managing authority and other instances of the programme.

Project: reduce EGTC creation time (better co-ordination) and define less restrictive provisions for EGTC dedicated to networks.

5.6. What changes (in the EGTC Regulation, in national provisions, others) would be needed to make the EGTC more suitable for the management of projects co-financed by EU funds other than territorial cooperation?

Max. 250 characters.

Reduce EGTC creation time (better co-ordination) and define less restrictive provisions for EGTC dedicated to networks.

6. Do you consider that the Regulation 1082/2006/EC should foresee means of communication, information and/or technical assistance related to the EGTC?

☒ Yes ☐ No

If yes, do you have any suggestion? (max. 250 characters):

It would be interesting to combine these resources at European level and to offer EGTC and future EGTC members a platform for technical assistance, whose action could be relayed by platforms at national level.

7. Should the Regulation 1082/2006/EC contain detailed provisions concerning staffing to be employed by an EGTC?

☒ Yes ☐ No

If yes, do you have any suggestion? (max. 250 characters):

For the law governing staff (recruitment, contract, taxation, career, medical and social insurance) the regulation should allow members to opt for the application of the law of the place where the staff is carrying out its activities (instead of the law of the EGTC headquarter' place.

8. Participation of non-EU Member States in the EGTC

8.1 Should the Regulation 1082/2006/EC more precisely define the conditions for participation of partners from non-EU Member States in an EGTC?

☒ Yes ☐ No

If yes, which are your suggestions? (max. 250 characters)

- when there is a territorial continuity between members, allow EGTC between one/several member(s) belonging to a Member State and one/several member(s) belonging to a third State,
- convert paragraph 16 in an article and precise that the existing Interstate agreements can be the legal basis for such participation (after revision, if necessary)

8.2 Should the Regulation 1082/2006/EC define which non-EU Member States are allowed to participate in an EGTC?

☒ Yes ☐ No

If yes, please indicate which one (multiple choice possible)

- a) ☒ EU Candidate and potential candidate countries
- b) ☒ All the Member States of the Council of Europe
- c) ☐ All the States of the European Neighbourhood Policy
- d) ☒ Neighbour countries of outmost regions.
- e) ☐ Entire world.

9. Should a private entity be allowed to participate in an EGTC?

☒ Yes ☐ No

If yes, please describe briefly under which conditions (max. 250 characters):

- If the private entity, without being a contracting authority, fulfill missions which are implemented by contracting authorities in other Member States (some foundations or associations, for example in the field of health),
- and if the majority of the other members of the EGTC are contracting authorities

10. Final overall estimation

Give your estimation about what kind of changes are needed in the legislative framework
(Only one choice)

No modification	Minor changes	Major changes	Total change
<input type="checkbox"/> 0	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3

- 0 No modification: The legislative framework works well and no changes should be introduced.
1 Minor changes: The legislative framework requires some adjustments to make the EGTC work better.
2 Major changes: The legislation should be modified concerning essential aspects of the EGTC.
3 Total changes: The EGTC should be replaced by something new and different.

EGTC EXPERIENCE

11. Description of the EGTC, missions, tasks and future developments

This question is addressed to contributors who participate or have participated in EGTC existing or under constitution (answer Yes to Question 2).

11.1. Which were the main reasons to create an EGTC?

Max. 250 characters.

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11.2. Which are the tasks of your EGTC, according to article 7 of the Regulation?

Several choices allowed.

- a) ☐ Implementation of territorial cooperation programmes co-financed through the European Regional Development Fund, European Social Fund or Cohesion Fund.
- b) ☐ Implementation of territorial cooperation projects co-financed through the European Regional Development Fund, European Social Fund or Cohesion Fund.
- c) ☐ Specific actions of territorial cooperation with other financial contribution from the EU.
- d) ☐ Specific actions of territorial cooperation without other financial contribution from the EU.

11.3. Which are the concrete fields of cooperation of the EGTC?

Tick the different fields. Several choices allowed.

- a) Economic and territorial development:
 - ☐ Economic development, competitiveness and growth
 - ☐ Spatial planning
 - ☐ Urban development
 - ☐ Agriculture and rural development
 - ☐ Employment
 - ☐ Education and training
 - ☐ Research
 - ☐ Innovation
 - ☐ Information and communication technologies
 - ☐ Tourism
 - ☐ Other (specify):
- b) Management of resources and infrastructures:
 - ☐ Transport, logistics
 - ☐ Communications networks
 - ☐ Energy infrastructures
 - ☐ Energy efficiency and climate change
 - ☐ Exploitation of natural resources
 - ☐ Water management
 - ☐ Environmental quality and waste management
 - ☐ Nature and biodiversity
 - ☐ Civil protection
 - ☐ Other (specify):

c) Public services:

- ☐ Health
- ☐ Social services
- ☐ Mobility
- ☐ Other (specify):

d) Governance, culture and society:

- ☐ Governance and democracy
- ☐ Culture and media
- ☐ Youth
- ☐ Other (specify):

Please describe the activities undertaken in these fields (max. 250 characters):

11.4. Has the EGTC met obstacles to work in any of these fields?

☐ Yes ☐ No

If yes, please describe them briefly (max 250 characters):

11.5. Does the EGTC plan further developments?

☐ Yes ☐ No

If yes, please describe them briefly (max 250 characters):

12. Has the EGTC met administrative or legal difficulties?

This question is addressed to contributors who participate or have participated in EGTC existing or under constitution (answer Yes to Question 2).

☐ Yes ☐ No

12.1 If yes, please identify these aspects:

Several choices allowed.

- a) ☐ Dispositions concerning the nature of the EGTC: Public or private Law
- b) ☐ Assessment procedure by the central Authority of the Member State (e.g. 3 months deadline)
- c) ☐ Eligibility for European Territorial Cooperation programme management
- d) ☐ Eligibility for European Territorial Cooperation projects
- e) ☐ Eligibility for other EU funded projects.
- f) ☐ Acquisition of legal personality and publication
- g) ☐ Control of management of public funds
- h) ☐ Scope, objectives and practical tasks or activities.
- i) ☐ Tasks excluded (art. 7.4 of the regulation).
- j) ☐ Lack of own competences.
- k) ☐ Convention, statutes and organisation
- l) ☐ Staffing
- m) ☐ Public procurement
- n) ☐ VAT
- o) ☐ Definition of organs for the organisation of an EGTC.
- p) ☐ Budget, accountability and audit
- q) ☐ Limited/Unlimited liability
- r) ☐ Financial liability
- s) ☐ Public interest of the Member State
- t) ☐ Dissolution
- u) ☐ Jurisdiction
- v) ☐ General conditions for participation from third countries, if allowed by Member States
- w) ☐ Other (specify):

12.2 Description of the problem(s) identified above.

Max. 500 characters.

.....

13. Please give your opinion about the potentialities of the EGTC concerning the following EU policies:

13.1. How can the EGTC contribute to the objective of territorial cohesion?

Max. 250 characters.

.....

13.2. How can the EGTC contribute to the construction of Europe "bottom-up"?

Max. 250 characters

.....

13.3. How can the EGTC contribute to the multi-level governance in Europe?

Max. 250 characters

.....

13.4. How can the EGTC contribute to the development of macro-regions?

Max. 250 characters

.....

13.5. How can the EGTC contribute to the neighbourhood policy?

Max. 250 characters

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Thanks for your contribution!