



## 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 8<sup>th</sup> edition of the Open Days ([www.opendays.europa.eu](http://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](mailto:egtc@cor.europa.eu) in a Word format (doc).**

Further information can be found at [www.cor.europa.eu/egtc](http://www.cor.europa.eu/egtc)

## BASIC INFORMATION

<b>1. Identification of the contributor</b>	
<b>Name and surname of the sender:</b>	Euroregion Baltic
<b>Complete contact details:</b> (address, phone, fax, e-mail)	Address: Euroregion Baltic International Permanent Secretariat Sw. Duchy 3-4 City: 82-300 Elbląg Phone: 0048 55 641 27 70 Fax: 0048 55 235 55 99 E-mail: slawekdd@euroregionbaltic.eu
<b>Type of contributor</b>	<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): .....
<b>On behalf of the organisation:</b>	Sławomir Demkowicz-Dobrzański
<b>Organisation's website:</b>	www.euroregionbaltic.eu
<b>Organisation's e-mail</b>	slawekdd@euroregionbaltic.eu
<b>Country:</b>	Poland

<b>2. Are you participating or have you participated in an EGTC?</b>
<input type="checkbox"/> Yes, an existing one <input type="checkbox"/> Yes, it is under constitution <input checked="" type="checkbox"/> No
<b>If yes, please:</b>  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): Lack of national transposition

#### 3.2. Description of the problem(s).

Max. 500 characters.

- o) By adopting unlimited liability in their national legislations some Member States rule out the possibility of registering an EGTC on their territory with partners from the Member State which decided only on limited liability. This can be significant hindrance to a decision to set up an EGTC taken in consideration of other aspects.
- s) The regulation does not allow opting for application of the law of the place where personnel work requiring that the law of the place of the registered office be applied.
- t) General conditions of the Regulation make the participation from the third countries only theoretically possible. There have not been any examples as yet of EGTCs created with participants from the third country.
- u) The EGTC Regulation does not provide a uniform community territorial cooperation law. In several articles the Regulation refers to national legislations which means that different legal consequences may apply in different countries. Therefore, prospective members should

choose the most appropriate national legal framework available which requires solid legal knowledge and expertise, as well as investment in time and legal advice.

**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.

o) Member States should work on the introduction of some kind of a coordination mechanism between their authorities responsible for processing EGTC establishment requests.

s) With regard to the law governing the personnel (recruitment, contract, taxation, career, social security), the regulation should allow opting for application of the law of the place where personnel work (instead of the law of the place of the registered office).

t) The Regulation should stipulate that inter-state agreements can be the legal basis for such participation. Furthermore, there should be draft (exemplary) inter-state agreements made available by the Commission to facilitate the establishment process. The European Commission could take itself (or delegate to the Committee of the Regions) a more active and supporting role towards prospective partners aiming at setting up an EGTC with partners from the third countries.

u) Again, some kind of a coordination mechanism between the authorities responsible for processing EGTC establishment requests in the Member States should be introduced.

**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.

.....

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

Max. 500 characters.

.....

<p><b>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.</b></p>
<p><b>5.1. What would be the main benefits of setting up an EGTC for the management of European Territorial Cooperation <u>programme</u>? What could be disadvantages/risks associated?</b></p> <p>Max. 250 characters each</p> <p>Benefits: EGTCs can be important instruments in the management of the EU funds. This is not the case now mainly because the Regulation was adopted only a few months before the onset of the current financial perspective. EGCTS can be a lot more effective bodies to manage the ETC programmes as they are less bureaucratic and multi-governed and cooperate around strategically agreed objectives, offering a long-term development perspective for the territories in which they operate.</p> <p>Risks/disadvantages: Concerning the programme management a lot will depend if the MS, that at the moment manage many EU financial programmes, will accept to leave the financial programme management to EGTCs.</p>
<p><b>5.2. What would be the main benefits of setting up an EGTC for European Territorial Cooperation <u>project</u> management? What could be disadvantages/risks associated?</b></p> <p>Max. 250 characters.</p> <p>Benefits: Concerning the use of the EGTC for project development and management, the EGTC represents an effective solution. It is a body with legal personality, its own statute, its own organs and staff, its own budget and these elements facilitate the coordination among the partners. The partners attribute to a unique common body the management of the common projects and/or activities overcoming the obstacles derived from the different administrative structures and legislations. In addition, with an EGTC acting as a sole partner institution, project application and implementation becomes significantly simplified, both for the project and the programme.</p> <p>Risks/disadvantages: With more permanent structures like euroregions transformed into an EGTC, not all the members might be interested in implementing next projects.</p>
<p><b>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?</b></p> <p>Max. 250 characters.</p> <p>Benefits: EGTCs can promote bottom-up strategies, which effectively address the needs of regions and make better use of their endogenous potential through such instruments like Local Action Groups of the LEADER. In terms of project application and implementation, EGTCs are definitely an effective solution with one legal personality for the whole project partnership, which to a great extent simplifies the process, both for the project and the programme.</p> <p>Risks/disadvantages: Withdrawal of an EGTC member may pose a serious threat to the EGTC implementing a project.</p>
<p><b>5.4. What problems in European Territorial Cooperation programme and project management does the EGTC instrument, in its current setup, NOT solve?</b></p> <p>Max. 250 characters.</p> <p>Benefits: .....</p> <p>Risks/disadvantages: .....</p>

**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.

National legislation should shorten the time allowed for the registration of EGTCs as the creation of an EGTC requires now a long period and it is very difficult to create it within the relative short time foreseen for the development of a project co-financed by the EU.

With regard to the law governing the personnel (recruitment, contract, taxation, career, social security), the regulation should allow opting for application of the law of the place where personnel work (instead of the law of the place of the registered office).

**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.

National legislation should shorten the time allowed for the registration of EGTCs as the creation of an EGTC requires now a long period and it is very difficult to create it within the relative short time foreseen for the development of a project co-financed by the EU.

With regard to the law governing the personnel (recruitment, contract, taxation, career, social security), the regulation should allow opting for application of the law of the place where personnel work (instead of the law of the place of the registered office).

**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

The EGTC faces the challenge of inertia in some EU Member States (e.g. slow adoption procedures, formalities, little promotion of the instrument etc.). These attitudes need to be further monitored in the operational phase of the first groupings and, most of all, additional information and support activities need to be developed in the light of the relatively low priority accorded to it by some Member States.

**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): .....

**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

The Regulation should stipulate that inter-state agreements can be the legal basis for such participation. Furthermore, there should be draft (exemplary) inter-state agreements made available by the Commission to facilitate the establishment process. The European Commission could take itself (or delegate to the Committee of the Regions) a more active and supporting role towards prospective partners aiming at setting up an EGTC with partners from the third countries.

Another idea could be that framework agreements are signed between the EU and the countries willing to be included in the EGTC cooperation scheme providing for the establishment of EGTCs with the partners from these countries instead of individual agreements between the countries where EGTCs are registered and non-EU member states.

**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

Private entities should be able to participate in the EGTC. They may be carrying out public service obligations and be subject to public procurement rules. In many instances, they will be providers of valuable expertise and can also contribute to a sustainable financial situation of an EGTC through public- private partnerships (besides fees paid by its members.

**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.

.....

#### 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.

EGTC can take advantage of the territorial diversity of its prospective members, thus constituting a vital asset and contributing to the sustainable development of the entire EU. There are a number of issues which can be tackled only through joint and coordinated actions executed by several regions. EGTC could be a valuable tool for fostering and implementing more complex issues, such as regional development, thanks to significant institutional and financial potential providing better coordination and effectiveness. EGTC could also help to adopt new approaches to territorial cooperation, which would make it possible to bring about a more strategic cooperation and undertake more ambitious projects, above all in the area of public services (investment in new joint plants for urban, agricultural and industrial waste management; establishment of medical and hospital services; provision of fire-fighting and civil protection equipment; infrastructure and educational and cultural services, etc.).

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

Max. 250 characters

Greatly. Primarily because it is a new alternative to other already existing forms of cooperation and thanks to the fact that it does not create any additional administrative level and can act on behalf of all its members. EGTC is a solid institutional structure whose legal personality and financial resources could be focused entirely on bringing the added value of cooperation to all participants at different political levels.

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

Max. 250 characters

EGTCs should contribute to the multi-level governance by facilitating direct contact between sub-national administrative levels (regions, municipalities) and Member State-level and EU institutions. EGTC could also become an advanced tool for the most complex form of multilevel governance in a cross-border context by integrating various administrative levels and sectors across borders and involving a multiplicity of actors.

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

Max. 250 characters

EGTCs can be a good channel for communication between the European Commission, Member States and the regional level. Since it has a legal status it is more representative of the regions involved than most networks without legal personality which sometimes claim to speak on behalf of all regions in the Baltic Sea Region for that matter. The EGTC can also be a relevant actor to initiate and implement flagship projects within the macro-regional strategies (or in fact a legal body contracted by the EU to perform any action with reference to EU policies). The very essence of the EGTC work is to enhance the cross-border effect of the implemented cooperation initiatives. The same will apply for macro-regions where EGTCs shall facilitate integrated territorial planning, territorial, economic and social cohesion although of course they operate on a greater territory (there are already examples of EGTCs of more transnational character, e.g. Euroregion Pyrénées-Méditerranée and more macro-regional EGTC structures can be expected in the future). One other possibility can also be EGTCs with the participation of the national level to coordinate different policy areas and manage joint projects within the macro-regional strategies.

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

Max. 250 characters

In its current shape, the Regulation does not contribute to the neighbourhood policy as it clearly limits the cooperation within the framework of EGTC to the EU Member States. Once it does provide for the participation of the third countries (theoretically through revised EU legislation and practically through support given by the EU and Member States to those willing to set up an EGTC with an external partner) we may expect deeper relations with the EU's neighbours. More institutionalised results, better focus and target of the cooperation, in line with the EU policies or macro-regional strategies involving third countries (e.g. the Danube Strategy), as well as contribution to the integration of the communities on the Euroepan continent should all be more feasible and visible.

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*Thanks for your contribution!*