



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:	Gabbe, Jens
Complete contact details: (address, phone, fax, e-mail)	Address: Enscheder Str. 362 City: D-48599 Gronau Phone: +49 2562 702 19/-22 Fax: +49 2562 702 59 E-mail: b.gabbe@aebr.eu
Type of contributor	<input checked="" type="checkbox"/> Member State <input type="checkbox"/> EGTC setups <input type="checkbox"/> EGTC under preparation <input type="checkbox"/> Regional / Local authority <input type="checkbox"/> Association <input checked="" type="checkbox"/> Researcher / expert <input checked="" type="checkbox"/> Other (specify): European regional association
On behalf of the organisation:	Association of European Border Regions (AEBR)
Organisation's website:	www.aebr.eu
Organisation's e-mail	info@aebr.eu
Country:	Germany

2. Are you participating or have you participated in an EGTC?
<input checked="" type="checkbox"/> Yes, an existing one <input type="checkbox"/> Yes, it is under constitution <input type="checkbox"/> No Single purpose association
If yes, please: Indicate the name (or future name) of the EGTC: EUREGIO, already established before the EU-regulation. Member State in which the EGTC has (or will have) its registered office: Germany Date (expected) of establishment: 1958 (1991 the statutes were revised because of the German-Dutch Treaty) 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 checked="" 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 checked="" 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): Many of the today's problems in the regulation occurred in negotiations with the member states. The basic study of the AEBR on the proposal of the European Commission for a regulation of the European Parliament and the Council establishing a European Grouping of cross-border cooperation (EGCC) (KOM(2004) 496 - C6-0091/2004 - 2004/0168 (COD)) gives very practical recommendations for overcoming these problems.

3.2. Description of the problem(s).

Max. 500 characters.

- An EGTC is only reasonable; if it can operate under public law (private law does not need the EU).
- No private actors in an EGTC: EU-law is already existing (European Economic Interest Grouping – EEIG).
- Implementation of an EGTC: It should allow first of all **general** territorial cooperation, including management of EU-programmes/projects (at present it is reciprocal).

- An EGTC must have own staff. Problems only occur when staff is delegated by the public sector.
- In the future, third countries must be able to cooperate with only one EU-member state (e.g. today it is not possible to establish an EGTC between Germany/Switzerland or Sweden/Norway).

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.

Article 1(2) of the regulation: “The objective of an EGTC shall be to facilitate and promote cross-border, transnational and/or interregional cooperation, hereinafter referred to as „territorial cooperation“, between its members”. **The rest of the article should be omitted.**

Reasons: The EGTC is especially designed for EU-programmes. But the regulation allows also cooperation aside the EU-programmes. The EFRE-regulation already defines “territorial cooperation”. Therefore, it is not necessary to do this again and restrictively. This has already led to misunderstandings.

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): [Membership of states in an EGTC.](#)

4.2 Description of the problem(s).

Max. 500 characters.

- [The EU-regulation for the EGTC was elaborated inter alia because of the differences in national regulations. According to the EU-regulation they have to be adapted that way that an EGTC is able to function.](#)
- [An EGTC can only create public law for public authorities \(see 3.2\).](#)
- [States as member in an EGTC: An EGTC is a single purpose association with voting rights. But states do not let themselves being overruled by the regional/local level.](#)
- [So, an EGTC creates no added value compared with up to now private agreements for EU-programmes \(unanimity\) of the partners involved.](#)

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

Max. 500 characters.

[Article 1\(4\) of the regulation: It makes no sense to limit the EGTC according to the law of each member state, as **minimum two states** are participating. It would always be cooperation on the **lowest common denominator**. A global cooperation, covering all fields of everyday life has to be possible. Even EU-programmes include fields like infrastructure, education and rescue. These fields rarely belong to the competences of region/local authorities. Nevertheless, such cross-border projects are realised in the framework of decentralised INTERREG A programmes or decentralised development strategies.](#)

[So, it is not about shift of national competences to regional/local authorities, but about fulfilling cross-border tasks by common decisions on regional/local level which then are](#)

implemented in the framework of the respective national competences and structures on both sides of the border.

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:

- Legal entity with external (state, EU) and internal (all private actors) liability.
- Right to be heard of the EGTC in all public topics in the region.
- An EGTC is suitable for cross-border programmes.

Risks/disadvantages:

- In cross-border cooperation the state is usually not member, but partner.
- Concerning the necessary unanimity in EU-programmes an EGTC is not favourable compared with the hitherto existing regulation (private agreement).
- An EGTC is hardly suitable for interregional and transnational programmes (too heavy legal instrument).

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:

- Territorial projects can considerably better be implemented, controlled and are more successful.

Risks/disadvantages:

- Not necessary in “weak” projects.

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:

See 5.2

Risks/disadvantages:

See 5.2

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:

- As the state guarantees in principle the co-financing to the EU, it plays a dominant

role in EU-programmes/projects, whether with or without an EGTC.

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.

Article 4(3) should be omitted.

Reasons: An EU-regulation has to be implemented unrestricted by all member states. Only if all regional and local authorities, already defined by the respective national constitution, can take part without restrictions, added value is created by an EU-regulation and the EGTC.

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.

- The EGTC has to allow territorial cooperation **generally**; regardless if it is financed with or without EU-funds.
- Necessary adaptations of national law/regulations have to take place for territorial cooperation generally and not especially for EU-programmes (they would be included automatically).

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):

For this purpose no EU-funds are needed. Only the principle “first the task and then the suitable instrument” and not vice-versa, has to be followed.

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):

Only if staff from public administrations is delegated to the EGTC.

Risk: Delegated staff will first represent the interests of its hitherto employer (thus national) who continues to pay it. The EGTC remains weak with only small own financial resources.

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)

Article 3(2) of the regulation: “The EGTC consists of members of the sovereign territory of minimum two member states. At the external borders the participation of **one** member state is sufficient”.

The hitherto requested cooperation with two member states has to be omitted. It makes no sense and is actually constraining the establishment of an EGTC up to now.

Reasons: If neighbouring EU-member states want to establish an EGTC according to this regulation, one EU-partner has to be sufficient. Otherwise an EGTC Sweden/Norway, Poland/Ukraine, Greece/Albania, Lithuania/Belorussia, Finland/Russia is not possible.

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):

By no means. There are already EU-instruments for cooperation between public and private actors: European Economic Interest Grouping (EEIG) or Mixed Economic Company.

The EGTC-regulation indicates explicitly that its objective is not to replace existing EU-instruments. Private actors need no EU-regulations, but public authorities, because their cooperation is restricted by national public law.

The participation of private actors in EU-programmes has to be described in the management. An EGTC with private actors is just as little functioning as an EEIG.

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.

Basis for cooperation for public authorities.

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): **culture, school, language**
- 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): **own membership fees and EU-funds for the cooperation mentioned in a), c) and d).**

- c) Public services:
- Health
 - Social services
 - Mobility
 - Other (specify): [civil protection, police, customs](#)

- d) Governance, culture and society:
- Governance and democracy
 - Culture and media
 - Youth
 - Other (specify): [school, education](#)

Please describe the activities undertaken in these fields (max. 250 characters):
[Cross-border programmes/projects for more than 35 years.](#)

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):

[Basic problem:](#) To make clear that a cross-border structure is **no** new administration level and it is not about competences, but about tasks. Otherwise, cross-border cooperation becomes a basic problem for national authorities.

11.5. Does the EGTC plan further developments?

Yes No

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

<p>12. Has the EGTC met administrative or legal difficulties?</p> <p>This question is addressed to contributors who participate or have participated in EGTC existing or under constitution (answer Yes to Question 2).</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>12.1 If yes, please identify these aspects:</p> <p>Several choices allowed.</p>
<p>a) <input checked="" type="checkbox"/> Dispositions concerning the nature of the EGTC: Public or private Law</p> <p>b) <input type="checkbox"/> Assessment procedure by the central Authority of the Member State (e.g. 3 months deadline)</p> <p>c) <input checked="" type="checkbox"/> Eligibility for European Territorial Cooperation programme management</p> <p>d) <input type="checkbox"/> Eligibility for European Territorial Cooperation projects</p> <p>e) <input type="checkbox"/> Eligibility for other EU funded projects.</p> <p>f) <input type="checkbox"/> Acquisition of legal personality and publication</p> <p>g) <input checked="" type="checkbox"/> Control of management of public funds</p> <p>h) <input checked="" type="checkbox"/> Scope, objectives and practical tasks or activities.</p> <p>i) <input type="checkbox"/> Tasks excluded (art. 7.4 of the regulation).</p> <p>j) <input type="checkbox"/> Lack of own competences.</p> <p>k) <input type="checkbox"/> Convention, statutes and organisation</p> <p>l) <input checked="" type="checkbox"/> Staffing</p> <p>m) <input type="checkbox"/> Public procurement</p> <p>n) <input type="checkbox"/> VAT</p> <p>o) <input type="checkbox"/> Definition of organs for the organisation of an EGTC.</p> <p>p) <input type="checkbox"/> Budget, accountability and audit</p> <p>q) <input type="checkbox"/> Limited/Unlimited liability</p> <p>r) <input type="checkbox"/> Financial liability</p> <p>s) <input type="checkbox"/> Public interest of the Member State</p> <p>t) <input type="checkbox"/> Dissolution</p> <p>u) <input type="checkbox"/> Jurisdiction</p> <p>v) <input type="checkbox"/> General conditions for participation from third countries, if allowed by Member States</p> <p>w) <input type="checkbox"/> Other (specify):</p>
<p>12.2 Description of the problem(s) identified above.</p> <p>Max. 500 characters.</p>
<p>Mostly competence problems. But the competences of the state end at the border. There are no cross-border competences, only tasks.</p>

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.

A better bottom-up approach can be assured, if the priority for EU-programmes/projects does not apply and territorial cooperation becomes possible, regardless if it is financed with or without EU-funds.

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

Max. 250 characters

States can cooperate at any time; they do not need an EU-regulation. But public authorities on regional/local level need an EGTC; otherwise a bottom-up approach in territorial cooperation is very difficult.

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

Max. 250 characters

The EGTC is the most suitable legal instrument for multi-level governance with external (state/EU) and internal (involving all actors not being member of the EU, e.g. private ones) partnership.

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

Max. 250 characters

This is not easy. As single purpose association the EGTC is a heavy legal instrument (location, director, finances) and hardly suitable for the development of macro-regions. Because at first place the tasks have to be defined, then the suitable instrument for implementation. An EGTC can only be the last step to a functioning macro-region.

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

Max. 250 characters

Through partnership, subsidiarity, bottom-up approach, strengthening of regional/local democracy.

Thanks for your contribution!