

REGULATION (EC) No 1082/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 July 2006
on a European grouping of territorial cooperation (EGTC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 159 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) The third subparagraph of Article 159 of the Treaty provides for specific actions to be decided upon outside the Funds which are the subject of the first subparagraph of that Article, in order to achieve the objective of social and economic cohesion envisaged by the Treaty. The harmonious development of the entire Community territory and greater economic, social and territorial cohesion imply the strengthening of territorial cooperation. To this end it is appropriate to adopt the measures necessary to improve the implementation conditions for actions of territorial cooperation.
- (2) Measures are necessary to reduce the significant difficulties encountered by Member States and, in particular, by regional and local authorities in implementing and managing actions of territorial cooperation within the framework of differing national laws and procedures.
- (3) Taking into account notably the increase in the number of land and maritime borders in the Community following its enlargement, it is necessary to facilitate the reinforcement of territorial cooperation in the Community.
- (4) The existing instruments, such as the European economic interest grouping, have proven ill-adapted to organising structured cooperation under the INTERREG initiative during the 2000-2006 programming period.

- (5) The Council of Europe *acquis* provides different opportunities and frameworks within which regional and local authorities can cooperate across borders. This instrument is not intended to circumvent those frameworks or provide a set of specific common rules which would uniformly govern all such arrangements throughout the Community.
- (6) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽⁴⁾ increases the means in support of European territorial cooperation.
- (7) It is likewise necessary to facilitate and follow up the implementation of territorial cooperation actions without a financial contribution from the Community.
- (8) In order to overcome the obstacles hindering territorial cooperation, it is necessary to institute a cooperation instrument at Community level for the creation of cooperative groupings in Community territory, invested with legal personality, called 'European groupings of territorial cooperation' (EGTC). Recourse to an EGTC should be optional.
- (9) It is appropriate for an EGTC to be given the capacity to act on behalf of its members, and notably the regional and local authorities of which it is composed.
- (10) The tasks and competencies of an EGTC are to be set out in a convention.
- (11) An EGTC should be able to act, either for the purpose of implementing territorial cooperation programmes or projects co-financed by the Community, notably under the Structural Funds in conformity with Regulation (EC) No 1083/2006 and Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund ⁽⁵⁾, or for the purpose of carrying out actions of territorial cooperation which are at the sole initiative of the Member States and their regional and local authorities with or without a financial contribution from the Community.
- (12) It should be specified that the financial responsibility of regional and local authorities, as well as that of Member States, with regard to the management of both Community funds and national funds, is not affected by the formation of an EGTC.

⁽¹⁾ OJ C 255, 14.10.2005, p. 76.

⁽²⁾ OJ C 71, 22.3.2005, p. 46.

⁽³⁾ Opinion of the European Parliament of 6 July 2005 (not yet published in the Official Journal), Council Common Position of 12 June 2006 (not yet published in the Official Journal) and Position of the European Parliament of 4 July 2006 (not yet published in the Official Journal).

⁽⁴⁾ See page 25 of this Official Journal.

⁽⁵⁾ See page 1 of this Official Journal.

- (13) It should be specified that the powers exercised by regional and local authorities as public authorities, notably police and regulatory powers, cannot be the subject of a convention.
- (14) It is necessary for an EGTC to establish its statutes and equip itself with its own organs, as well as rules for its budget and for the exercise of its financial responsibility.
- (15) The conditions for territorial cooperation should be created in accordance with the subsidiarity principle enshrined in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objectives, recourse to an EGTC being optional, in accordance with the constitutional system of each Member State.
- (16) The third subparagraph of Article 159 of the Treaty does not allow the inclusion of entities from third countries in legislation based on that provision. The adoption of a Community measure allowing the creation of an EGTC should not, however, exclude the possibility of entities from third countries participating in an EGTC formed in accordance with this Regulation where the legislation of a third country or agreements between Member States and third countries so allow,

HAVE ADOPTED THIS REGULATION:

Article 1

Nature of an EGTC

1. A European grouping of territorial cooperation, hereinafter referred to as 'EGTC', may be established on Community territory under the conditions and subject to the arrangements provided for by this Regulation.
2. 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 as set out in Article 3(1), with the exclusive aim of strengthening economic and social cohesion.
3. An EGTC shall have legal personality.
4. An EGTC shall have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law. It may, in particular, acquire or dispose of movable and immovable property and employ staff and may be a party to legal proceedings.

Article 2

Applicable law

1. An EGTC shall be governed by the following:

- (a) this Regulation;
- (b) where expressly authorised by this Regulation, the provisions of the convention and the statutes referred to in Articles 8 and 9;
- (c) in the case of matters not, or only partly, regulated by this Regulation, the laws of the Member State where the EGTC has its registered office.

Where it is necessary under Community or international private law to establish the choice of law which governs an EGTC's acts, an EGTC shall be treated as an entity of the Member State where it has its registered office.

2. Where a Member State comprises several territorial entities which have their own rules of applicable law, the reference to the law applicable under paragraph 1(c) shall include the law of those entities, taking into account the constitutional structure of the Member State concerned.

Article 3

Composition of an EGTC

1. An EGTC shall be made up of members, within the limits of their competences under national law, belonging to one or more of the following categories:
 - (a) Member States;
 - (b) regional authorities;
 - (c) local authorities;
 - (d) bodies governed by public law within the meaning of the second subparagraph of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽¹⁾.

Associations consisting of bodies belonging to one or more of these categories may also be members.

2. An EGTC shall be made up of members located on the territory of at least two Member States.

Article 4

Establishment of an EGTC

1. The decision to establish an EGTC shall be taken at the initiative of its prospective members.
2. Each prospective member shall:
 - (a) notify the Member State under whose law it has been formed of its intention to participate in an EGTC; and
 - (b) send that Member State a copy of the proposed convention and statutes referred to in Articles 8 and 9.

⁽¹⁾ OJ L 134, 30.4.2004, p. 114. Directive as last amended by Commission Regulation (EC) No 2083/2005 (OJ L 333, 20.12.2005, p. 28).

3. Following notification under paragraph 2 by a prospective member, the Member State concerned shall, taking into account its constitutional structure, approve the prospective member's participation in the EGTC, unless it considers that such participation is not in conformity with this Regulation or national law, including the prospective member's powers and duties, or that such participation is not justified for reasons of public interest or of public policy of that Member State. In such a case, the Member State shall give a statement of its reasons for withholding approval.

The Member State shall, as a general rule, reach its decision within a deadline of three months from the date of receipt of an admissible application in accordance with paragraph 2.

In deciding on the prospective member's participation in the EGTC, Member States may apply the national rules.

4. Member States shall designate the competent authorities to receive the notifications and documents as set out in paragraph 2.

5. The members shall agree on the convention referred to in Article 8 and the statutes referred to in Article 9 ensuring consistency with the approval of the Member States in accordance with paragraph 3 of this Article.

6. Any amendment to the convention and any substantial amendment to the statutes shall be approved by the Member States according to the procedure set out in this Article. Substantial amendments to the statutes shall be those entailing, directly or indirectly, an amendment to the convention.

Article 5

Acquisition of legal personality and publication in the Official Journal

1. The statutes referred to in Article 9 and any subsequent amendments thereto shall be registered and/or published in accordance with the applicable national law in the Member State where the EGTC concerned has its registered office. The EGTC shall acquire legal personality on the day of registration or publication, whichever occurs first. The members shall inform the Member States concerned and the Committee of the Regions of the convention and the registration and/or publication of the statutes.

2. The EGTC shall ensure that, within 10 working days from registration and/or publication of the statutes, a request is sent to the Office for Official Publications of the European Communities for publication of a notice in the *Official Journal of the European Union* announcing the establishment of the EGTC, with details of its name, objectives, members and registered office.

Article 6

Control of management of public funds

1. Control of an EGTC's management of public funds shall be organised by the competent authorities of the Member State where the EGTC has its registered office. The Member State where the EGTC has its registered office shall designate the competent authority for this task before giving its approval to participation in the EGTC under Article 4.

2. Where required under the national legislation of the other Member States concerned, the authorities of the Member State where an EGTC has its registered office shall make arrangements for the appropriate authorities in the other Member States concerned to carry out controls on their territory for those acts of the EGTC which are performed in those Member States and to exchange all appropriate information.

3. All controls shall be carried out according to internationally accepted audit standards.

4. Notwithstanding paragraphs 1, 2 and 3, where the tasks of an EGTC mentioned under the first or second subparagraph of Article 7(3) include actions which are co-financed by the Community, the relevant legislation concerning the control of funds provided by the Community shall apply.

5. The Member State where an EGTC has its registered office shall inform the other Member States concerned of any difficulties encountered during the controls.

Article 7

Tasks

1. An EGTC shall carry out the tasks given to it by its members in accordance with this Regulation. Its tasks shall be defined by the convention agreed by its members, in conformity with Articles 4 and 8.

2. An EGTC shall act within the confines of the tasks given to it, which shall be limited to the facilitation and promotion of territorial cooperation to strengthen economic and social cohesion and be determined by its members on the basis that they all fall within the competence of every member under its national law.

3. Specifically, the tasks of an EGTC shall be limited primarily to the implementation of territorial cooperation programmes or projects co-financed by the Community through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund.

An EGTC may carry out other specific actions of territorial cooperation between its members in pursuit of the objective referred to in Article 1(2), with or without a financial contribution from the Community.

Member States may limit the tasks that EGTCs may carry out without a Community financial contribution. However, those tasks shall include at least the cooperation actions listed under Article 6 of Regulation (EC) No 1080/2006.

4. The tasks given to an EGTC by its members shall not concern the exercise of powers conferred by public law or of duties whose object is to safeguard the general interests of the State or of other public authorities, such as police and regulatory powers, justice and foreign policy.

5. The members of an EGTC may decide by unanimity to empower one of the members to execute its tasks.

Article 8

Convention

1. An EGTC shall be governed by a convention concluded unanimously by its members in accordance with Article 4.

2. The convention shall specify:

- (a) the name of the EGTC and its registered office, which shall be located in a Member State under whose laws at least one of the members is formed;
- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the specific objective and tasks of the EGTC, its duration and the conditions governing its dissolution;
- (d) the list of the EGTC's members;
- (e) the law applicable to the interpretation and enforcement of the convention, which shall be the law of the Member State where the EGTC has its registered office;
- (f) the appropriate arrangements for mutual recognition, including for the purposes of financial control; and
- (g) the procedures for amending the convention, which shall comply with the obligations set out in Articles 4 and 5.

Article 9

Statutes

1. The statutes of an EGTC shall be adopted on the basis of the convention by its members acting unanimously.

2. The statutes of an EGTC shall contain, as a minimum, all the provisions of the convention together with the following:

- (a) the operating provisions of the EGTC's organs and their competencies, as well as the number of representatives of the members in the relevant organs;
- (b) the decision-making procedures of the EGTC;
- (c) the working language or languages;

(d) the arrangements for its functioning, notably concerning personnel management, recruitment procedures and the nature of personnel contracts;

(e) the arrangements for the members' financial contributions and the applicable accounting and budgetary rules, including on financial issues, of each of the members of the EGTC with respect to it;

(f) the arrangements for members' liability in accordance with Article 12(2);

(g) the authorities responsible for the designation of independent external auditors; and

(h) the procedures for amending the statutes, which shall comply with the obligations set out in Articles 4 and 5.

Article 10

Organisation of an EGTC

1. An EGTC shall have at least the following organs:

- (a) an assembly, which is made up of representatives of its members;
- (b) a director, who represents the EGTC and acts on its behalf.

2. The statutes may provide for additional organs with clearly defined powers.

3. An EGTC shall be liable for the acts of its organs as regards third parties, even where such acts do not fall within the tasks of the EGTC.

Article 11

Budget

1. An EGTC shall establish an annual budget which shall be adopted by the assembly, containing, in particular, a component on running costs and, if necessary, an operational component.

2. The preparation of its accounts including, where required, the accompanying annual report, and the auditing and publication of those accounts, shall be governed as provided for by Article 2(1)(c).

Article 12

Liquidation, insolvency, cessation of payments and liability

1. As regards liquidation, insolvency, cessation of payments and similar procedures, an EGTC shall be governed by the laws of the Member State where it has its registered office, unless otherwise provided in paragraphs 2 and 3.

2. An EGTC shall be liable for its debts whatever their nature.

Article 14

To the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for the EGTC's debts whatever their nature, each member's share being fixed in proportion to its contribution, unless the national law under which a member is formed excludes or limits the liability of that member. The arrangements for contributions shall be fixed in the statutes.

If the liability of at least one member of an EGTC is limited as a result of the national law under which it is formed, the other members may also limit their liability in the statutes.

The members may provide in the statutes that they will be liable, after they have ceased to be members of an EGTC, for obligations arising out of activities of the EGTC during their membership.

The name of an EGTC whose members have limited liability shall include the word 'limited'.

Publication of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to that required for other kinds of legal entity whose members have limited liability, formed under the laws of the Member State where that EGTC has its registered office.

A Member State may prohibit the registration on its territory of an EGTC whose members have limited liability.

3. Without prejudice to the financial responsibility of Member States in relation to any funding from the Structural and/or Cohesion Funds provided to an EGTC, no financial liability shall arise for Member States on account of this Regulation in relation to an EGTC of which they are not a member.

Article 13

Public interest

Where an EGTC carries out any activity in contravention of a Member State's provisions on public policy, public security, public health or public morality, or in contravention of the public interest of a Member State, a competent body of that Member State may prohibit that activity on its territory or require those members which have been formed under its law to withdraw from the EGTC unless the EGTC ceases the activity in question.

Such prohibitions shall not constitute a means of arbitrary or disguised restriction on territorial cooperation between the EGTC's members. Review of the competent body's decision by a judicial authority shall be possible.

Dissolution

1. Notwithstanding the provisions on dissolution contained in the convention, on an application by any competent authority with a legitimate interest, the competent court or authority of the Member State where an EGTC has its registered office shall order the EGTC to be wound up if it finds that the EGTC no longer complies with the requirements laid down in Articles 1(2) or 7 or, in particular, that the EGTC is acting outside the confines of the tasks laid down in Article 7. The competent court or authority shall inform all the Member States under whose law the members have been formed of any application to dissolve an EGTC.

2. The competent court or authority may allow the EGTC time to rectify the situation. If the EGTC fails to do so within the time allowed, the competent court or authority shall order it to be wound up.

Article 15

Jurisdiction

1. Third parties who consider themselves wronged by the acts or omissions of an EGTC shall be entitled to pursue their claims by judicial process.

2. Except where otherwise provided for in this Regulation, Community legislation on jurisdiction shall apply to disputes involving an EGTC. In any case which is not provided for in such Community legislation, the competent courts for the resolution of disputes shall be the courts of the Member State where the EGTC has its registered office.

The competent courts for the resolution of disputes under Article 4(3) or (6) or under Article 13 shall be the courts of the Member State whose decision is challenged.

3. Nothing in this Regulation shall deprive citizens from exercising their national constitutional rights of appeal against public bodies which are members of an EGTC in respect of:

- (a) administrative decisions in respect of activities which are being carried out by the EGTC;
- (b) access to services in their own language; and
- (c) access to information.

In these cases the competent courts shall be those of the Member State under whose constitution the rights of appeal arise.

*Article 16***Final provisions**

1. Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation.

Where required under the terms of that Member State's national law, a Member State may establish a comprehensive list of the tasks which the members of an EGTC within the meaning of Article 3(1) formed under its laws already have, as far as territorial cooperation within that Member State is concerned.

The Member State shall inform the Commission and the other Member States accordingly of any provisions adopted under this Article.

2. Member States may provide for the payment of fees in connection with the registration of the convention and statutes. Those fees may not, however, exceed the administrative cost thereof.

*Article 17***Report and review clause**

By 1 August 2011, the Commission shall forward to the European Parliament and the Council a report on the application of this Regulation and proposals for amendments, where appropriate.

*Article 18***Entry into force**

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply by 1 August 2007, with the exception of Article 16, which shall apply from 1 August 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 5 July 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

P. LEHTOMÄKI
