



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 16 March 2012**

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**Interinstitutional File:  
2011/0272 (COD)**

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**15251/1/11  
REV 1**

**REGIO        87  
CADREFIN   91  
CODEC       1636**

**PROPOSAL**

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No Cion doc.:	COM(2011) 610 final/2
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending 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) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings

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Delegations will find attached **a new version** of document COM(2011) 610 final.

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Encl.: COM(2011) 610 final/2



EUROPEAN COMMISSION

Brussels, 14.3.2012  
COM(2011) 610 final/2

2011/0272 (COD)

**CORRIGENDUM:**

Annule et remplace le document COM(2011) 610 du 6.10.2011

Concerne: toutes les versions linguistiques

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending 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) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

The proposal is the second part of the fulfilment by the Commission of the obligation imposed by Article 17 of Regulation (EC) No 1082/2006. On 29 July 2011, the Commission transmitted a Report on the application of the Regulation<sup>1</sup>. The report identified areas that could be improved and this draft amending Regulation embodies the specific changes that will effect those improvements.

The philosophy behind the changes can be expressed in three keywords: **Continuity; Clarity; Flexibility.**

- **Continuity:** because the basic nature of an EGTC will not be changed and no existing EGTC should need to change its statutes or ways of operating;
- **Clarity:** because the Regulation will be modified (a) to take account of the Lisbon Treaty, (b) to simplify and clarify certain aspects that have been shown to cause confusion and (c) to ensure more visibility and communication on the formation and operation of EGTCs;
- **Flexibility:** by opening up EGTCs to any aspect of territorial cooperation (and not ‘primarily’ the managing of ERDF-funded programmes and projects) and by providing legal bases for the participation of authorities and regions from third countries to participate as members.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES**

This Regulation draws on extensive consultation with stakeholders, including Member States, regions and members of existing and planned EGTCs. The Committee of the Regions, which operates a ‘Platform’ for the exchange of information on EGTCs<sup>2</sup>, has been a particularly valuable partner. Among the specific events that have contributed to the findings of the Report and the content of the present proposals are: a wide consultation of all stakeholders conducted in cooperation with the Committee of the Regions on the operation and added value of the EGTC instrument<sup>3</sup>, the European Conference on European Groupings of Territorial Cooperation (EGTCs) on 27 and 28 January 2011, the Conference on EGTC and Multi-level Governance organised by the Hungarian Presidency on 21-23 March 2011 and a number of meetings with committees and groups of the European Parliament, most recently on 22 June 2011.

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<sup>1</sup> Report from the Commission to the European Parliament and the Council: The application of the Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation (EGTC), COM(2011) 462 final, 29.7.2011.

<sup>2</sup> <http://portal.cor.europa.eu/egtc/en-US/Pages/welcome.aspx>

<sup>3</sup> Results published in *Conclusions of the Committee of the Regions about the joint consultation – The review of regulation (EC) 1082/2006 on the European Grouping of Territorial Cooperation*, Committee of the Regions, 2010, [http://www.cor.europa.eu/COR\\_cms/ui/ViewDocument.aspx?contentid=366960dd-3c03-4efa-9230-665455fa6bb5](http://www.cor.europa.eu/COR_cms/ui/ViewDocument.aspx?contentid=366960dd-3c03-4efa-9230-665455fa6bb5)

The message from all groups, and most especially the active EGTCs and those under preparation, was clear: the instrument is useful and has potential going beyond its anticipated functions, but the procedures for operating and especially setting up EGTCs are more complex and uncertain than they should be.

While the Committee of the Regions in its opinion adopted in January 2011<sup>4</sup> suggested that financial and other incentives might be used to promote usage of EGTCs, and some active groupings endorsed this, the Commission is of the opinion that recourse to an EGTC should be a free and unbiased choice of the parties concerned, without specific incentives beyond the inherent utility of the instrument.

### 3. LEGAL ELEMENTS OF THE PROPOSAL

Article 175 of the Treaty on the Functioning of the European Union (TFEU) invites the Council to adopt such specific actions as may be necessary to promote economic, social and territorial cohesion.

Articles 209 and 212 allow the European Parliament and Council to adopt measures allowing cooperation, whether for development purposes or not, with third countries.

### 4. BUDGETARY IMPLICATION

The EGTC Regulation is not a financial regulation and carries no budgetary implications for the Union or for Member States. EGTCs may be funded by local, regional or national funds and may carry out actions that are co-funded by European funds.

### 5. SUMMARY OF CONTENT OF THE REGULATION

This amending Regulation makes changes, on the one hand, to respect the terminology introduced by the Treaty on the Functioning of the European Union and on the other hand in response to the weaknesses and areas of potential improvement identified in the Report referred to above.

These changes concern the **Membership**, the content of the **Convention** and **Statutes** of an EGTC, its **purpose**, the process of **approval** by national authorities, applicable law for **employment** and for **procurement**, approach for EGTCs whose members have different **liability** for their actions and more transparent procedures for **communication**.

On Membership, new legal bases are employed to permit regions and bodies in non-Member States to be members of an EGTC, whether the other members are from one or many Member States. The eligibility of membership of bodies under private law is also clarified.

The convention and statutes of an EGTC are re-defined and the distinction in approval procedure underlined.

The criteria for approval or rejection by national authorities are specified, and a limited time for examination proposed (this is the single most frequently heard complaint from existing and planned EGTCs).

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<sup>4</sup> Own-Initiative Opinion of the Committee of the Regions on New Perspectives for the Revision of the EGTC Regulation (CdR 100/2010fin), Rapporteur: Alberto Núñez Feijóo.

Solutions, in line with the *acquis* of the Union, are proposed for tax and social security regimes for employees of an EGTC, who may be employed in any of the Member States whose territories comprise the EGTC. A similar approach is proposed for procurement rules.

And for liability, where some local or regional bodies are required by their national laws to have limited liability and others, in different Member States, are required to have unlimited liability, an insurance-based solution modelled on that used for European Research Infrastructure Consortia (ERIC)<sup>5</sup> is proposed.

Finally, Member States will be required to inform the Commission of any provisions adopted to implement the EGTC Regulation, as amended, and each newly established EGTC should inform the Commission of its purpose and membership, for publication in the Official Journal (C Series).

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<sup>5</sup> Article 14(3) of Council Regulation (EC) on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p.1): "*If the financial liability of the members is not unlimited, the ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of the infrastructure.*"

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending 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) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third subparagraph of Article 175 in conjunction with Articles 209(1) and 212(1) thereof,

Having regard to the proposal of the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the Opinion of the European Economic and Social Committee<sup>6</sup>,

Having regard to the Opinion of the Committee of the Regions<sup>7</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In accordance with Article 17 of 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)<sup>8</sup> (hereinafter the 'EGTC Regulation'), the Commission adopted on 29 July 2011 the "Report from the Commission to the European Parliament and the Council - The application of the Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation (EGTC)"<sup>9</sup>.
- (2) In that Report, the Commission announced its intention to propose a limited number of modifications to the EGTC Regulation to facilitate the establishment and operation of EGTCs, as well as clarification of certain existing provisions. Obstacles to establishing new EGTCs should be removed while maintaining continuity in and facilitating the operation of existing ones, thus allowing more extensive use of EGTCs to contribute to better cooperation and policy coherence among public bodies without additional burden on national or European administrations.

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<sup>6</sup> OJ C , , p. .

<sup>7</sup> OJ C , , p. .

<sup>8</sup> OJ L 210, 31.7.2006, p. 19.

<sup>9</sup> COM(2011) 462 final.

- (3) The creation of an EGTC is a matter to be decided by its members and their national authorities, and is not automatically associated with any legal or financial advantages at the Union level.
- (4) The Treaty of Lisbon has added the territorial dimension to Cohesion Policy and replaced "Community" by the "Union". The new terminology should therefore be introduced into the EGTC Regulation.
- (5) Experience with EGTCs set up so far shows that the new legal instrument is also being used for cooperation in the implementation of other European policies. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs.
- (6) EGTCs operate by nature in more than one Member State. Consequently, while Article 2(1) of the EGTC Regulation before amendment allows that the convention and statutes may state the applicable law on certain issues and while such statements privilege - within the hierarchy of applicable law laid down in that Article - the national laws of the Member State where the EGTC has its registered office, this should be clarified. At the same time, the provisions on applicable law should be extended to the acts and activities of an EGTC.
- (7) Differing status of local and regional bodies in different Member States results in the fact that competences may be regional on one side of a border, but national on the other side, especially in smaller or centralised Member States. Consequently, it should be clarified that national authorities may become members of an EGTC alongside the Member State.
- (8) While point (d) of Article 3(1) of the EGTC Regulation allows that bodies established under private law may become members of an EGTC provided that they are considered as being 'public law bodies' in terms 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<sup>10</sup>, EGTCs may be used in the future to manage jointly public services of general economic interest or infrastructures. Other private or public law actors may therefore also become members of an EGTC. Consequently, 'public undertakings' within the meaning of Article 2(1)(b) of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors<sup>11</sup> should be covered as well.
- (9) The third subparagraph of Article 175 of the Treaty does not foresee the inclusion of entities from third countries in legislation based on that provision. The EGTC Regulation did not explicitly exclude the possibility of entities from third countries to participate 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.
- (10) Experience shows that the involvement of authorities or other bodies from third countries equivalent to those eligible inside the Member States has given rise to

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<sup>10</sup> OJ L 134, 30.4.2004, p. 114.

<sup>11</sup> OJ L 134, 30.4.2004, p. 1.

implementation difficulties. However, such involvement in EGTCs set up by members drawn from two or more Member States constitutes only an ancillary element to the cooperation inside the Union and between Member States. Consequently, such involvement should be clarified without recourse to a different legal basis in the Treaty.

- (11) Since 1990, European territorial cooperation has been supported by financial instruments under Cohesion policy and in this context cooperation has always been possible in a limited number of cases between only one Member State and a third country. Consequently, the legal instrument EGTC should also be opened to such a cooperation context.
- (12) Taking into account that, for the 2014 to 2020 period, there will be a special additional allocation for the cooperation of the outermost regions of the Union, alongside authorities and bodies from third countries, authorities and bodies from overseas countries and territories as listed in Annex II to the Treaty ('overseas territories') should also be involved. Such cooperation is permitted by Article 203 of the Treaty.
- (13) The EGTC Regulation distinguished between the convention laying down the constitutive elements of the future EGTC and the statutes setting out the implementation elements. However, the statutes still had to contain all the provisions of the convention. It should therefore be clarified that the convention and the statutes are distinct documents and - although both shall be sent to Member States - the approval procedure should be limited to the convention. In addition, some elements presently covered by the statutes should be covered by the convention instead.
- (14) Experience from the setting up of EGTCs shows that the three months period for approval by a Member State has rarely been respected. The period should therefore be extended to six months. On the other hand, in order to create legal certainty after that period, the convention should be deemed to be approved by tacit agreement. While Member States may apply national rules on the procedure for such approval or may create specific rules in the framework of the national rules implementing the EGTC Regulation, derogations to the provision concerning tacit agreement after the period of six months should be ruled out.
- (15) It should be clarified that Member States should approve the convention unless it considers the participation of a prospective member is not in conformity with the EGTC Regulation, with other provisions of Union law concerning the EGTC's activities as laid down in the draft convention or with the national substantive law concerning the competences of the prospective member, unless such participation is not justified for reasons of public interest or public policy of that Member State, while excluding from the scope of the scrutiny any national law requiring other or stricter rules and procedures than those foreseen by the EGTC Regulation.
- (16) As the EGTC Regulation cannot apply in third countries or overseas territories, it should be specified that the Member State where the proposed EGTC's registered office will be located should ensure, when approving the participation of prospective members established under their law, that the third countries or overseas territories have applied equivalent conditions and procedures to those in the EGTC Regulation or in accordance with international agreements, especially under the Council of Europe acquis. It should also be specified that in the case of the involvement of several



Member States and one or more third countries or overseas territories, it should be sufficient that such an agreement has been concluded between the respective third country or overseas territory and one participating Member State.

- (17) In order to encourage the accession of additional members to an existing EGTC, the procedure to amend conventions in such cases should be simplified. Consequently, such amendments should not be notified to all participating Member States, but only to the Member State under whose national law the new prospective member is established. However, this simplification should not apply in case of a new prospective member from a third country or overseas territory in order to enable all participating Member States to check whether such accession is in line with its public interest or public policy.
- (18) As the statutes will not contain all the provisions of the convention, both convention and statutes should be registered and/or published. In addition, for reasons of transparency, a notice on the decision setting-up an EGTC should be published in the C series of the Official Journal of the European Union. For reasons of coherence, that notice should be established in accordance with a common template.
- (19) The purpose of an EGTC should be extended to cover the facilitating and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion and other Union policies, thus contributing to the Europe 2020 strategy or to the implementation of macro-regional strategies. In addition, it should be clarified that a given competence needed for the efficient implementation of an EGTC should be represented by at least one member in each of the Member States represented.
- (20) In this context, it should be confirmed that this instrument is neither intended to circumvent the framework provided by the Council of Europe acquis offering different opportunities and frameworks within which regional and local authorities can cooperate across borders including the recent Euroregional Co-operation Groupings<sup>12</sup>, nor to provide a set of specific common rules which would uniformly govern all such arrangements throughout the Union.
- (21) Both the specific tasks of an EGTC and the possibility of Member States to limit the actions that EGTCs may carry out without a financial support from the Union should be aligned with the provisions governing the Structural Funds during the period 2014-2020.
- (22) While it is laid down that the tasks do not concern, among others, 'regulatory powers', which may have different legal consequences in different Member States, it should nevertheless be specified that an EGTC's assembly may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, including the tariffs and fees to be paid by the users.

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<sup>12</sup> Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs), opened for signature on 16 November 2009.

- (23) As a consequence of the opening up of EGTCs to members from third countries or overseas territories, it should be specified that the convention should contain arrangements for their involvement.
- (24) It should be specified that the convention should not only repeat a reference to the applicable law in general as already laid down in Article 2, but should list the specific Union or national rules applicable to the EGTC as a legal body or to its activities. In addition, it should be specified that such national legislation or rules may be those of the Member State where statutory organs exercise their powers, especially where the staff working under the responsibility of the director is located in a Member State other than the Member State where its office is registered, or where the EGTC carries out its activities including where it is managing public services of general economic interest or infrastructures.
- (25) This Regulation should not cover problems linked to cross-border procurement encountered by EGTCs.
- (26) It should be clarified that the convention - and given the importance of this issue, not the statutes - should indicate the rules applicable to the EGTC's staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures. Several options should be available to the EGTCs. However, the specific arrangements concerning personnel management and recruitment procedures should be addressed in the statutes.
- (27) Member States should further exploit the possibilities foreseen under Article 16 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems<sup>13</sup> to provide by common agreement for exceptions to Articles 11 to 15 (Determination of the legislation applicable) of that Regulation in the interest of certain persons or categories of persons and to consider the staff of EGTCs as being such a category of persons.
- (28) It should be clarified that the convention - and given the importance of this issue, not the statutes - should cover the arrangements for members' liability in case of an EGTC with limited liability.
- (29) The different arrangements referring to the control of management of public funds on one hand and of the audit of the EGTC's accounts on the other hand should be clarified.
- (30) It should be specified that where an EGTC has as its exclusive objective the management of a cooperation programme or part thereof supported by the ERDF, or where an EGTC concerns interregional cooperation or networks, information concerning the territory in which the EGTC may execute its task is not required. In the former case, the territory will be defined (and amended) in the relevant cooperation programme. In the latter case, while in most cases concerning immaterial activities, the requirement for such information would jeopardize the accession of new members to interregional cooperation or networks.

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<sup>13</sup> OJ L 200, 7.6.2004, p. 1.

- (31) EGTCs whose members have limited liability should be more clearly distinguished from those whose members have unlimited liability. In addition, in order to enable EGTCs whose members have limited liability to implement activities that might generate debts, Member States should be allowed to require that such EGTCs take appropriate insurance to cover the risks specific to the activities thereof.
- (32) It should be clarified that Member States inform the Commission about any provisions adopted to implement the EGTC Regulation and to submit these provisions as well as any amendments thereof. In order to improve the information and coordination between the Commission, the Member States and the Committee of the Regions, it should be specified that the Commission will transmit these provisions to the Member States and to the Committee of the Regions. That Committee has set up an EGTC platform allowing all the stakeholders to exchange their experiences and good practices and to improve communication on EGTC opportunities and challenges, facilitating the exchange of experiences on the establishment of EGTCs at territorial level and sharing knowledge of best practices on territorial cooperation.
- (33) A new deadline for the next report should be fixed. In accordance with the Commission's move towards more evidence-based policy-making, this report should address the main evaluation questions including effectiveness, efficiency, European added value, relevance and sustainability. It should also be specified that taking account of the first subparagraph of Article 307 of the Treaty this report should also be forwarded to the Committee of the Regions.
- (34) It should be clarified that existing EGTCs are not obliged to adapt their convention and statutes to amendments to the EGTC Regulation.
- (35) It should also be specified under which set of rules those EGTCs for which an approval procedure has already been started before the application of this Regulation should be approved.
- (36) In order to adapt existing national rules to implement this Regulation before programmes under the European territorial cooperation goal have to be submitted to the Commission, the starting date of its application should be 6 months after the date of its entry into force.
- (37) Since the objective of this Regulation, namely the improvement of the EGTC legal instrument, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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 that objective, recourse to an EGTC being optional, in accordance with the constitutional system of each Member State,

HAVE ADOPTED THIS REGULATION:

## *Article 1*

Regulation (EC) No 1082/2006 is amended as follows:

(1) Article 1 is amended as follows:

(a) Paragraphs 1 and 2 are replaced by the following:

“1. A European grouping of territorial cooperation, hereinafter referred to as "EGTC", may be established on Union 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 territorial cooperation, including one or more of cross-border, transnational and interregional cooperation, between its members as set out in Article 3(1), with the aim of strengthening economic, social and territorial cohesion.”

(b) The following paragraph is added:

“5. The registered office of an EGTC shall be located in a Member State under whose law at least one of the members is established.”

(2) In Article 2, paragraph 1 is replaced by the following:

"1. An EGTC and its acts and activities shall be governed by the following:

- (a) this Regulation and, where applicable, other Union law concerning activities of the EGTC;
- (b) where expressly authorised by this Regulation, the provisions of the convention referred to in Article 8;
- (c) in the case of matters not, or only partly, regulated by this Regulation, the law of the Member State where the EGTC has its registered office or, where allowed under this Regulation, the law of the Member State where statutory organs exercise their powers or where the EGTC carries out its activities.

An EGTC shall be considered to be an entity of the Member State where it has its registered office for the purposes of determining the applicable law.”

(3) Article 3 is amended as follows:

(a) The first subparagraph of paragraph 1 is replaced by the following:

“1. The following entities may become members of an EGTC:

- (a) Member States or authorities at national level;
- (b) regional authorities;

- (c) local authorities;
- (d) public undertakings within the meaning of Article 2(1)(b) of Directive 2004/17/EC of the European Parliament and of the Council<sup>14</sup> or bodies governed by public law within the meaning of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council<sup>15</sup>;
- (e) national, regional or local authorities or bodies or public enterprises equivalent to those referred to under point (d) from third countries or overseas territories, subject to the conditions laid down in Article 3a(1)."

(b) Paragraph 2 is replaced by the following:

"2. An EGTC shall be made up of members drawn from the territory of at least two Member States, except as provided for in Article 3a(2)."

(4) The following Article 3a is inserted:

*"Article 3a  
Accession of members from third countries or overseas territories"*

1. In accordance with Article 4(3a), an EGTC may be made up of members drawn from the territory of at least two Member States and of one or more third country or overseas territory, where those Member States and third countries or overseas territories jointly carry out territorial cooperation actions or implement programmes supported by the Union.

2. An EGTC may be made up of members drawn from the territory of only one Member State and of one third country or overseas territory, where that Member State considers such an EGTC consistent with the scope of its territorial cooperation or bilateral relations with the third country or overseas territory."

(5) Article 4 is amended as follows:

(a) Paragraph 3 is replaced by the following:

"3. Following notification under paragraph 2 by a prospective member, the Member State concerned shall approve the convention, taking into account its constitutional structure, and the prospective member's participation in the EGTC, unless it considers that such participation is not in conformity with this Regulation, other Union law concerning the activities of the EGTC or national law concerning the competences of the prospective member 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 agreement or shall suggest the necessary amendments to the convention to enable the prospective member's participation.

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<sup>14</sup> OJ L 134, 30.4.2004, p. 1.

<sup>15</sup> OJ L 134, 30.4.2004, p. 114

The Member State shall reach its decision within a deadline of six months from the date of receipt of an application in accordance with paragraph 2. If the Member State concerned does not respond within the time limit laid down, the convention shall be deemed to be approved.

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

(b) The following paragraph 3a is inserted:

"3a. In the case of an EGTC with prospective members from third countries or overseas territories, the Member State where the proposed registered office of the EGTC will be located shall ensure that the conditions laid down in Article 3a are fulfilled and that the third country or the Member State under whose laws the prospective member from an overseas territory is established have approved the prospective member's participation according to equivalent conditions and procedures to those laid down in this Regulation, or in accordance with an agreement concluded between at least one Member State under whose law a prospective member is established and such third country or overseas territory. Paragraph 3 of this Article shall apply."

(c) Paragraphs 5 and 6 are replaced by the following:

"5. The members shall agree on the convention referred to in Article 8 ensuring consistency with the approval or the amendments suggested by the Member States in accordance with paragraph 3 of this Article.

6. Any amendment to the convention or to the statutes shall be notified by the EGTC to the Member States under whose law its members are established.

Any amendment to the convention shall be approved by the Member States according to the procedure set out in this Article.

However, in case of accession to an existing EGTC of a new member from a Member State that has already approved the convention, such accession shall only be approved by the Member State under whose laws the new member is established. Paragraph 3 of this Article shall apply.

In case of the accession of a new member from a third country or overseas territory to an existing EGTC, such accession shall be approved by all the Member States that have already approved the convention. Paragraph 3a of this Article shall apply."

(6) Article 5 is replaced by the following:

*"Article 5*

*Acquisition of legal personality and publication in the Official Journal*

1. The convention and the statutes and any subsequent amendments thereto shall be registered or published, or both, according to 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, the Commission and the Committee of the Regions of the registration or publication of the convention.

2. The EGTC shall ensure that, within ten working days from the registration or publication of the convention, a request is sent to the Commission following the template set out in the Annex to this Regulation. The Commission shall then transfer this request to the *Publications Office of the European Union* for publication of a notice in the C series of the Official Journal of the European Union announcing the establishment of the EGTC, with the details set out in the Annex to this Regulation.”

(7) In Article 6, paragraph 4 is replaced by the following:

“4. Notwithstanding paragraphs 1, 2 and 3, where the tasks of an EGTC mentioned under Article 7(3) cover actions which are co-financed by the Union, the relevant legislation concerning the control of those funds shall apply.”

(8) Article 7 is amended as follows:

(a) Paragraphs 2 and 3 are replaced by the following:

“2. An EGTC shall act within the confines of the tasks given to it, which shall be the facilitation and promotion of territorial cooperation to strengthen economic, social and territorial cohesion and be determined by its members on the basis that they fall within the competence under national law of at least one member from each Member State represented in that EGTC.

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

Specifically, the tasks of an EGTC may concern the implementation of cooperation programmes or parts thereof or of operations supported by the Union through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund.

Member States may limit the actions that EGTCs may carry out without a financial support from the Union. However, Member States shall not exclude those actions covered by the investment priorities under the Cohesion Policy of the Union as adopted for the period 2014-2020.”

(b) In paragraph 4, the following sub-paragraph is added:

“However, the assembly referred to in Article 10(1)(a) of an EGTC may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, including the tariffs and fees to be paid by the users.”

(9) In Article 8, paragraph 2 is replaced by the following:

“2. The convention shall specify:

(a) the name of the EGTC and its registered office;

- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the objective and the tasks of the EGTC;
- (d) its duration and the conditions for its dissolution;
- (e) the list of its members;
- (f) the specific Union or national law applicable to the interpretation and enforcement of the convention;
- (g) the arrangement for the involvement of members from third countries or overseas territories if appropriate;
- (h) the specific Union or national law applicable to its activities, while the latter may be the law of the Member State where statutory organs exercise their powers or where the EGTC carries out its activities;
- (i) the rules applicable to the EGTC's staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures;
- (j) in case of an EGTC with limited liability, the arrangements for liability of the members in accordance with Article 12(3);
- (k) the appropriate arrangements for mutual recognition, including for financial control of the management of public funds; and
- (l) the procedures for amending the convention, including compliance with the obligations set out in Articles 4 and 5.

However, where an EGTC is only managing a cooperation programme or part thereof under the Cohesion Policy of the European Union, or where an EGTC concerns interregional cooperation or networks, information under point (b) is not required.

The following rules shall apply to the EGTC's staff as referred to in point (i),

- (a) those of the Member State where the EGTC has its registered office;
- (b) those of the Member State where the EGTC's staff is actually located; or
- (c) those of the Member State of which the staff member is a national.

To allow equal treatment of all staff working at the same location, the national laws and rules, whether of public or private law, may be subject to additional *ad hoc* rules fixed by the EGTC.”

- (10) In Article 9, paragraph 2 is replaced by the following:

“2. The statutes shall contain, as a minimum, the following:



- (a) the operating provisions of the EGTC's organs and their competences, 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;
- (e) the specific arrangements concerning personnel management and recruitment procedures;
- (f) the arrangements for members' financial contributions;
- (g) the applicable accounting and budgetary rules of each of the members of the EGTC with respect to it;
- (h) the designation of the independent external auditor of the accounts of the EGTC;
- (i) the arrangements for the liability of the members in accordance with Article 12(2); and
- (j) the procedures for amending the statutes, including compliance with the obligations set out in Articles 4 and 5.”

(11) In Article 11, paragraph 2 is replaced by the following:

“2. The preparation of its accounts including where required the accompanying annual report and the auditing and publication of those accounts, shall be governed by the law of the Member State where the EGTC has its registered office.”

(12) Article 12 is amended as follows:

(a) In paragraph 1 the following subparagraph is added:

“An EGTC shall be liable for all its debts.”

(b) Paragraph 2 is replaced by the following:

"2. Notwithstanding paragraph 3, to the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for the debts of the EGTC of whatever nature, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed 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.

2a. If the liability of at least one member of an EGTC is limited or excluded as a result of the national law under which it is established, the other members may also limit their liability in the convention.

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

The requirements for the publicity of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to those required for other legal entities with limited liability of their members established under the laws of the Member State where that EGTC has its registered office.

In case of an EGTC whose members have limited liability, the Member States may require that the EGTC shall take appropriate insurance to cover the risks specific to the activities of the EGTC.”

- (13) In Article 15(2), the first sub-paragraph is replaced by the following:

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

- (14) In Article 16, paragraph 1 is replaced by the following:

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

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

The Member State shall inform the Commission of any provisions adopted under this Article and shall submit these provisions or amendments thereof. The Commission will then inform the other Member States and the Committee of the Regions by transmitting the provisions.”

- (15) Article 17 is replaced by the following:

"By mid-2018 the Commission shall forward to the European Parliament, the Council and the Committee of the Regions an evaluation report on the application, effectiveness, efficiency, relevance, European added value and scope for simplification of this Regulation.

The evaluation reports shall be based on indicators the Commission shall adopt by delegated acts in accordance with Article 17a."

- (16) The following Article 17a is inserted:

*“Article 17a  
Exercise of the delegation*

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegations of power referred to in this Regulation shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegations of power referred to in Article 17 may be revoked at any time by the European Parliament or by the Council.

A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. The delegated acts shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution that objects to the delegated act shall state the reasons for its objections."

*Article 2  
Transitional provision*

1. EGTCs established before the entry into force of this Regulation are not obliged to align their convention and statutes with the provisions of this Regulation as amended.
2. EGTCs for which a procedure under Article 4 has been started before the date of the application of this Regulation and for which only the registration and/or publication under Article 5 is outstanding, shall be registered and/or published according to the provisions of Regulation (EC) No 1082/2006 before its amendment.

3. EGTCs for which a procedure under Article 4 was started more than six months before the date of the application of this Regulation shall be approved according to the provisions of Regulation (EC) No 1082/2006 before its amendment.
4. Other EGTCs than those under paragraphs 2 and 3 for which a procedure under Article 4 was started before the date of the application of this Regulation shall be approved according to the provisions of Regulation (EC) No 1082/2006 as amended by this Regulation.

*Article 3*  
*Entry into force*

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

It shall apply from [*Please Publications Office fill in with the date of six months from the date of the entry into force*].

Member States shall submit the necessary amendments to the national provisions adopted in accordance with Article 16(1) of Regulation (EC) No 1082/2006 no later than [...] [*Please Publications Office fill in with the date of six months from the date of the entry into force*].

*Article 4*

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **ANNEX**

### **Template of the information to be submitted under Article 5(2)**

#### **ESTABLISHMENT OF A EUROPEAN GROUPING OF TERRITORIAL COOPERATION (EGTC)**

Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006

(OJ L 210, 31.7.2006, p. 219)

*The name of an EGTC whose members have limited liability shall include the word 'limited' (Article 12(2))*

*The asterisk\* denotes mandatory fields.*

#### **I.1) NAME, ADDRESS AND CONTACT POINT(S)**

<b>Registered name*:</b>		
<b>Registered office*:</b>		
Town*:	Postal code:	Country*:
<b>Contact point(s):</b>	Telephone:	
For the attention of:		
E-mail:	Fax:	
<b>Internet address(es) (if applicable)</b>		

<b>Duration of the Grouping:</b>	<input type="checkbox"/> indefinite period  <input type="checkbox"/> until: <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (dd/mm/yyyy)
<b>Date of registration/publication :</b>	<input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (dd/mm/yyyy)

[illegible]

**Name in** (*please, indicate an appropriate country version*)

BG <input type="checkbox"/>	ES <input type="checkbox"/>	CS <input type="checkbox"/>	DA <input type="checkbox"/>	DE <input type="checkbox"/>	ET <input type="checkbox"/>	EL <input type="checkbox"/>	EN <input type="checkbox"/>	FR <input type="checkbox"/>	GA <input type="checkbox"/>	IT <input type="checkbox"/>	LV <input type="checkbox"/>
LT <input type="checkbox"/>	HU <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"/>	FI <input type="checkbox"/>	SV <input type="checkbox"/>	Other: _____ <input type="checkbox"/> <input type="checkbox"/>

**Full name (if applicable):** \_\_\_\_\_  
**Abbreviated name (if applicable):** \_\_\_\_\_

----- *Section III is to be used as many times as needed* -----

**IV. MEMBERS\***

**IV. 1) Total number of members in the Grouping\*:**

**IV.2) Member information\***

**Official name\*:**

**Postal address:**

Town:

Postal code:

Country\*:

**Contact point(s):**

Telephone:

For the attention of:

E-mail:

Fax:

**Internet address(es) (if applicable)**

**Type of member\*:**

- ☐ Member State  
☐ National authority  
☐ Regional authority  
☐ Local authority  
☐ Body governed by public law  
☐ Public undertaking  
☐ Association of:

  - Member State(s) Total:\*
  - National authority(ies) Total:\*
  - Regional authority(s) Total:\*
  - Local authority(s) Total:\*
  - Body(s) governed by public law Total:\*
  - Public undertaking(s) Total:\*

☐ Third country or overseas territory

----- *Section IV.2 is to be used as many times as needed* -----

## V. Additional information (if applicable)

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**VI. DATE OF DISPATCH OF THIS NOTICE:**  (DD/MM/YYYY)