



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

Brussels, 9 December 2013
(OR. en)

2011/0272 (COD)

PE-CONS 84/13

REGIO 184
CADREFIN 222
CODEC 1960

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings

**REGULATION (EU) NO .../2013
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of

**amending Regulation (EC) No 1082/2006
on a European grouping of territorial cooperation (EGTC)
as regards the clarification, simplification and improvement
of the establishment and functioning 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 paragraph of Article 175 thereof,

Having regard to the proposal from 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 191, 29.6.2012, p. 53.

² OJ C 113, 18.4.2012, p. 22.

³ Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) In accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council¹, the Commission adopted on 29 July 2011 a report for the European Parliament and the Council on the application of that Regulation. In that report, the Commission announced its intention to propose a limited number of modifications to Regulation (EC) No 1082/2006 to facilitate the establishment and operation of EGTCs, as well as to propose 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 policy coherence and cooperation between public bodies without creating an additional burden on national or Union administrations.
- (2) The establishment of an EGTC is a matter to be decided by its members and their national authorities, and is not automatically linked with any legal or financial advantages at Union level.
- (3) The Treaty of Lisbon added a territorial dimension to Cohesion Policy and 'Community' was replaced by 'Union'. The new terminology should therefore be introduced into Regulation (EC) No 1082/2006.

¹ 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) (OJ L 210, 31.7.2006, p. 19).

- (4) EGTCs can have the potential to enhance the promotion and achievement of the harmonious development of the Union as a whole and the economic, social and territorial cohesion of its regions, in particular, and to contribute to meeting the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth ('Europe 2020 strategy'). EGTCs can also contribute positively to reducing barriers to territorial cooperation between regions which suffer from severe and permanent natural or demographic handicaps, including the specific situation of outermost regions, and can be instrumental in strengthening the cooperation between third countries, overseas countries and territories ('OCTs') and Union border regions, including through the use of Union external cooperation programmes.

- (5) Experience with EGTCs established so far shows that, as a legal instrument, EGTCs are also being used for cooperation in the context of Union policies other than Cohesion Policy, including by implementing programmes or parts of programmes with Union financial support other than that under Cohesion Policy. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs, removing persistent barriers and facilitating the establishment and operation of EGTCs while maintaining the Member States' ability to limit the actions that EGTCs are able to carry out without Union financial support. Under Regulation (EC) No 1082/2006 EGTCs have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law, including the possibility of concluding agreements with other EGTCs, or other legal entities, for the purposes of carrying out joint cooperation projects to, inter alia, provide for more efficient operation of macro-regional strategies.
- (6) By definition, EGTCs operate in more than one Member State. Consequently, Regulation (EC) No 1082/2006 provides for the possibility for the EGTC's convention and statutes to state the applicable law on certain issues. The cases in which such statements are to give priority, within the hierarchy of applicable law laid down in that Regulation, to the national law of the Member State where the EGTC has its registered office should be clarified. At the same time, the provisions of Regulation (EC) No 1082/2006 on applicable law should be extended to the acts and activities of an EGTC that are subject to legal scrutiny by Member States in each individual case.

- (7) As a result of the differing status of local and regional bodies in Member States, competences that are regional on one side of a border can be national on the other, especially in smaller or centralised Member States. Consequently, national authorities should be able to become members of an EGTC alongside the Member State.
- (8) While Regulation (EC) No 1082/2006 allows for bodies established under private law to become members of an EGTC provided that they are considered as being bodies governed by public law as defined in Directive 2004/18/EC of the European Parliament and of the Council¹, it should be possible to use EGTCs in the future to jointly manage public services with a particular focus on services of general economic interest or on infrastructure. Other private or public law actors should also be able, therefore, to become members of an EGTC. Consequently, 'public undertakings' as defined in Directive 2004/17/EC of the European Parliament and of the Council², and undertakings entrusted with the operation of services of general economic interest, in fields such as education and training, medical care, social needs in relation to health care and longterm care, childcare, access to, and reintegration into, the labour market, social housing and the care and social inclusion of vulnerable groups, should be covered as well.

¹ 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 (OJ L 134, 30.4.2004, p. 114).

² 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 (OJ L 134, 30.4.2004, p. 1).

- (9) Regulation (EC) No 1082/2006 does not contain detailed rules concerning the participation of entities from third countries in an EGTC formed in accordance with that Regulation, i.e. between members from at least two Member States. Given the further alignment of the rules governing the cooperation between one or more Member States and one or more third countries, predominantly in the context of cross-border cooperation under the European Neighbourhood Instrument (ENI) and the Instrument for Pre-accession Assistance (IPA II), but also in the context of complementary financing from the European Development Fund, and of transnational cooperation under the European territorial cooperation goal, where allocations from the ENI and the IPA II are to be transferred in order to pool such allocations with allocations from the European Regional Development Fund (ERDF) under joint cooperation programmes, the participation of members from third countries neighbouring a Member State, including its outermost regions, in EGTCs established between at least two Member States should be explicitly provided for. This should be possible where the legislation of a third country, or agreements between at least one participating Member State and a third country, so allows.

- (10) In order to strengthen the Union's economic, social and territorial cohesion and therefore to reinforce, in particular, the effectiveness of territorial cooperation, including one or more of the cross-border, transnational and interregional strands of cooperation, between members of an EGTC, the participation of third countries neighbouring a Member State, including its outermost regions, should be allowed in an EGTC. Operations under European territorial cooperation programmes, where co-financed by the Union, should therefore continue to pursue Union Cohesion Policy objectives, even if they are implemented, partly or in their entirety, outside the territory of the Union, and, as a consequence, the activities of an EGTC are also carried out at least to some extent outside the territory of the Union. In this context, and where relevant, the contribution by the activities of an EGTC that also has members from third countries neighbouring at least one Member State, including its outermost regions, to the objectives of Union external action policies, such as development cooperation or economic, financial and technical cooperation objectives, remains merely incidental, as the centre of gravity of the cooperation programmes concerned and consequently the activities of that EGTC should focus primarily on Union Cohesion Policy objectives. Consequently any development cooperation or economic, financial and technical cooperation objectives between only one Member State, including its outermost regions, and one or more third countries are only ancillary to the cohesion policy-based territorial cooperation objectives between Member States, including their outermost regions. Therefore, the third paragraph of Article 175 of the Treaty on the Functioning of the European Union (TFEU) is a sufficient legal basis for the adoption of this Regulation.

- (11) Following the authorisation for participation of national, regional, sub-regional and local authorities and organisations, as well as, where appropriate, other public bodies or institutions, including public service providers, from an OCT in an EGTC, based on Council Decision 2013/.../EU¹⁺ and taking into account that, in the case of the 2014-2020 programming period, a special additional financial allocation under the multiannual financial framework is to reinforce the cooperation of the outermost regions of the Union with neighbouring third countries and some of the OCTs listed in Annex II to the TFEU and neighbouring those outermost regions, EGTCs, as a legal instrument, should also be opened up to members from OCTs. For the sake of legal certainty and transparency special approval procedures for the accession of members from an OCT to an EGTC should be established including in this regard, where necessary, special rules on the law applicable to the relevant EGTC with members from an OCT.
- (12) Regulation (EC) No 1082/2006 distinguishes between the convention laying down the constitutive elements of the future EGTC and the statutes setting out the implementation elements. However, under that Regulation the statutes currently have to contain all the provisions of the convention. Although both the convention and the statutes are to be sent to Member States, they are distinct documents, and 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.

¹ Council Decision 2013/.../EU of on the association of the overseas countries and territories with the Union ('Overseas Association Decision') (OJ L...).

⁺ OJ: please insert number (in the body text and in the footnote), date and OJ reference (in the footnote) of the Decision contained in 14907/13.

- (13) Experience gained from establishing EGTCs shows that the three-month period for the Member States' approval procedure has rarely been respected. That period should therefore be extended to six months. On the other hand, in order to ensure legal certainty after that period, the convention should be deemed to be approved by tacit agreement, where applicable, in accordance with the national law of the Member States concerned, including their respective constitutional requirements. However, the Member State where the proposed registered office of the EGTC is to be located should have to formally approve the convention. While Member States should be able to apply national rules on the procedure for approval of a prospective member's participation in the EGTC or to create specific rules in the framework of the national rules implementing Regulation (EC) No 1082/2006, derogations to the provision concerning tacit agreement after the six-month period should be precluded, except as provided for in this Regulation.
- (14) The grounds for a Member State not approving a prospective member's participation or the convention should be set out. However, any national law requiring other rules and procedures than those provided for in Regulation (EC) No 1082/2006 should not be taken into account when deciding on that approval.

- (15) As Regulation (EC) No 1082/2006 cannot apply in third countries, the Member State where the proposed registered office of the EGTC is to be located should, when approving the participation of prospective members from third countries, established under the law of those third countries, satisfy itself, in consultation with those Member States under whose laws other prospective members of the EGTC have been established, that the third countries have applied equivalent conditions and procedures to those laid down in Regulation (EC) No 1082/2006 or acted in accordance with international bilateral or multilateral agreements concluded between Member States of the Council of Europe, whether or not they are also Member States of the Union, based on the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980, and the additional Protocols adopted pursuant thereto. In the case of the involvement of several Member States of the Union and one or more third countries, it should be sufficient that such an agreement has been concluded between the respective third country and one participating Member State of the Union.

- (16) In order to encourage the accession of new members to an existing EGTC, the procedure to amend conventions in such cases should be simplified. Consequently, such amendments should, in the case of a new member from a Member State that has already approved the convention, not be notified to all participating Member States, but only to the Member State under whose laws the new prospective member is established and the Member State where the EGTC has its registered office. Any subsequent amendment of the convention should be notified to all Member States concerned. However, such simplification of the amending procedure should not apply in the case of a new prospective member from a Member State that has not already approved the convention, a third country, or an OCT, because it is necessary to enable all participating Member States to check whether such accession is in line with its public interest or public policy.
- (17) Given the links between Member States and OCTs, the procedures for approval of participation of prospective members from OCTs should involve those Member States. In accordance with the specific governance relationship between the Member State and the OCT, the Member State should either approve the participation of the prospective member from the OCT or provide written confirmation to the Member State, where the proposed registered office of the EGTC is to be located, that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in Regulation (EC) No 1082/2006. The same procedure should apply in the case of a prospective member from an OCT that wishes to join an existing EGTC.

- (18) As the statutes are no longer to contain all the provisions of the convention, both the convention and statutes should be registered or published, or both. In addition, for reasons of transparency, a notice concerning the decision establishing an EGTC should be published in the C series of the *Official Journal of the European Union*. In the interests of consistency, that notice should contain the details set out in the Annex to Regulation (EC) No 1082/2006 as amended by this Regulation.
- (19) The purpose of an EGTC should be extended to cover the facilitation and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion Policy and other Union policies, thus contributing to the Europe 2020 strategy or to the implementation of macro-regional strategies. An EGTC should therefore be able to implement operations with financial support other than that provided by Union Cohesion Policy. In addition, every member in each of the Member States or third countries represented should be required to have each competence needed for the efficient functioning of an EGTC unless the Member State or third country approves the participation of a member established under its national law even where that member is not competent for all the tasks specified in the convention.

- (20) As a legal instrument, EGTCs are not 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 Groupings¹, or 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 for Member States to limit the actions that EGTCs can carry out without financial support from the Union should be aligned with the provisions governing the ERDF, the European Social Fund and the Cohesion Fund during the 2014-2020 programming period.
- (22) While it is laid down in Regulation (EC) No 1082/2006 that the tasks of an EGTC do not concern, among others, 'regulatory powers', which can have different legal consequences in different Member States, nevertheless an EGTC's assembly should be able to define, if the convention specifically so provides, and, in compliance with Union and national law, the terms and conditions of the use of an item of infrastructure the EGTC is managing, or the terms and conditions subject to which a service of general economic interest can be provided, including the tariffs and fees to be paid by the users.

¹ 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 OCTs, the convention should specify the arrangements for their involvement.
- (24) The convention should, in addition to including a reference to the applicable law in general as laid down in Article 2 of Regulation (EC) No 1082/2006, also list the Union and national law applicable to the EGTC. In addition, it should be possible for that national law to be the law of the Member State where the organs of the EGTC exercise their powers, in particular in the case of staff that work under the responsibility of the director and are located in a Member State other than the Member State where the EGTCs has its registered office. The convention should also list the applicable Union and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention, including where the EGTC is managing public services of general interest or infrastructure.
- (25) This Regulation should not cover problems linked to cross-border procurement encountered by EGTCs.
- (26) Given the importance of the rules applicable to staff of EGTCs and of the principles governing the arrangements concerning personnel management and recruitment procedures, the convention, not the statutes, should specify those rules and principles. It should be possible for different options as to the choice of rules applicable to staff of EGTCs to be laid down in the convention. The specific arrangements concerning personnel management and recruitment procedures should be addressed in the statutes.

- (27) Member States should further make use of the possibilities provided for under Regulation (EC) No 883/2004 of the European Parliament and of the Council¹ to allow by common agreement for exceptions with regard to the determination of the legislation applicable under that Regulation, in the interests of certain persons or categories of persons, and to consider the staff of EGTCs as being such a category of persons.
- (28) Given the importance of the arrangements relating to members' liability, the convention, not the statutes, should specify those arrangements.
- (29) 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 is able to execute its task should not be required. In the former case, the extent of the territory should be defined and, where appropriate, changed in the relevant cooperation programme. In the latter case, while primarily concerning immaterial activities, the requirement for such information would jeopardise the accession of new members to interregional cooperation or networks.
- (30) The different arrangements relating to the control of management of public funds on the one hand and of the audit of the EGTC's accounts on the other hand should be clarified.

¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, 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 which could potentially generate debts, Member States should be allowed to require that such EGTCs take out appropriate insurance or that such EGTCs be subject to an appropriate financial guarantee to cover the risks specific to the activities thereof.
- (32) Member States should submit to the Commission any provisions, as well as any amendments thereto, adopted to implement Regulation (EC) No 1082/2006. In order to improve the exchange of information and coordination between the Member States, the Commission and the Committee of the Regions, the Commission should transmit such provisions to the Member States and to the Committee of the Regions. The Committee of the Regions has set up an EGTC platform enabling all stakeholders to exchange their experiences and good practices and to improve communication on EGTC opportunities and challenges by facilitating the exchange of experience on the establishment of EGTCs at territorial level and sharing knowledge of best practices with regard to territorial cooperation.

- (33) A new deadline for the report on the application of Regulation (EC) No 1082/2006 should be fixed. In accordance with the Commission's move towards more evidence-based policy-making, that report should address the main evaluation questions including effectiveness, efficiency, relevance, European added value, scope for simplification and sustainability. Effectiveness should be understood as relating, inter alia, to the nature of the attempts inside the different Commission services and between the Commission and other bodies such as the European External Action Service to disseminate knowledge about the EGTC instrument. The Commission should forward that report to the European Parliament, the Council and, pursuant to the first paragraph of Article 307 TFEU, to the Committee of the Regions. That report should be forwarded by 1 August 2018.
- (34) In order to lay down a list of indicators for use in the evaluation and preparation of the report on the application of Regulation (EC) No 1082/2006, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (35) Existing EGTCs should not be obliged to align their convention and statutes to amendments to Regulation (EC) No 1082/2006 introduced by this Regulation.

- (36) It is necessary to specify under which set of rules an EGTC, for which an approval procedure was started before the date of application of this Regulation, should be approved.
- (37) 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, this Regulation should start to apply six months after the date of its entry into force. When adapting their existing national rules Member States should ensure that competent authorities responsible for approval of EGTCs are designated and that, in accordance with their legal and administrative arrangements, those authorities should be the same bodies responsible for receipt of notifications in accordance with Article 4 of Regulation (EC) No 1082/2006.
- (38) Since the objective of this Regulation, namely the improvement of the EGTC legal instrument, cannot be sufficiently achieved by the Member States but can rather 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.
- (39) Regulation (EC) No 1082/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EC) No 1082/2006

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 ('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, in particular, territorial cooperation, including one or more of the cross-border, transnational and interregional strands of cooperation, between its members as set out in Article 3(1), with the aim of strengthening Union 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 EGTC's members is established.'

(2) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The acts of the organs of an EGTC shall be governed by the following:

- (a) this Regulation;
- (b) the convention referred to in Article 8, where it is expressly authorised under this Regulation to do so; and
- (c) in the case of matters not, or only partly, regulated under this Regulation, the national law of the Member State where the EGTC has its registered office.

Where it is necessary to determine the applicable law under Union law or private international law, an EGTC shall be considered to be an entity of the Member State where it has its registered office.';

(b) the following paragraph is inserted:

'1a. The activities of an EGTC relating to carrying out tasks, referred to in Article 7(2) and (3), inside the Union shall be governed by applicable Union law and national law as specified in the convention referred to in Article 8.

The activities of an EGTC that are co-financed from the Union budget shall comply with the requirements set out in applicable Union law and the national law relating to the application of that Union 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 point (b) of Article 2(1) of Directive 2004/17/EC of the European Parliament and of the Council* or 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**;
- (e) undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law;
- (f) national, regional or local authorities, or bodies or public undertakings, equivalent to those referred to under point (d), from third countries, subject to the conditions laid down in Article 3a.

* 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 (OJ L 134, 30.4.2004, p. 1).

** 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 (OJ L 134, 30.4.2004, p. 114).';

(b) paragraph 2 is replaced by the following:

'2. An EGTC shall be made up of members located on the territory of at least two Member States, except as provided for in Article 3a(2) and (5).';

(4) the following Article is inserted:

'Article 3a

Accession of members from third countries or overseas countries or territories (OCTs)

1. In accordance with Article 4(3a), an EGTC may be made up of members located on the territory of at least two Member States and of one or more third countries neighbouring at least one of those Member States, including its outermost regions, where those Member States and third countries jointly carry out territorial cooperation actions or implement programmes supported by the Union.

For the purposes of this Regulation, a third country or an OCT shall be considered to be neighbouring a Member State, including its outermost regions, where the third country or the OCT and that Member State share a common land border or where both the third country or OCT and the Member State are eligible under a joint maritime cross-border or transnational programme under the European territorial cooperation goal, or are eligible under another cross-border, sea-crossing or sea-basin cooperation programme, including where they are separated by international waters.

2. An EGTC may be made up of members located on the territory of only one Member State and of one or more third countries neighbouring that Member State, including its outermost regions, where the Member State concerned considers that EGTC to be consistent with the scope of its territorial cooperation in the context of cross-border or transnational cooperation or bilateral relations with the third countries concerned.
3. For the purposes of paragraphs 1 and 2, third countries neighbouring a Member State, including its outermost regions, include maritime borders between the countries concerned.
4. In accordance with Article 4a and subject to the conditions set out in paragraph 1 of this Article, an EGTC may also be made up of members located on the territory of at least two Member States, including their outermost regions, and of one or more OCTs, with or without members from one or more third countries.
5. In accordance with Article 4a and subject to the conditions set out in paragraph 2 of this Article, an EGTC may also be made up of members located on the territory of only one Member State, including its outermost regions, and of one or more OCTs, with or without members from one or more third countries.
6. An EGTC shall not be set up only between members from a Member State and one or more OCTs linked to that same Member State.';

(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 which has received that notification shall, taking into account its constitutional structure, approve the prospective member's participation in the EGTC and the convention, unless that Member State considers that:

(a) such participation or the convention is not in conformity with any of the following:

(i) this Regulation;

(ii) other Union law concerning the acts and activities of the EGTC;

(iii) national law relating to the powers and competences of the prospective member;

(b) such participation is not justified for reasons of public interest or of public policy of that Member State; or

(c) the statutes are inconsistent with the convention.

In the event of non-approval, the Member State shall state its reasons for withholding approval and shall, where appropriate, suggest the necessary amendments to the convention.

The Member State shall reach its decision, with regard to approval, within a period of six months from the date of receipt of a notification in accordance with paragraph 2. If the Member State which has received the notification, does not raise an objection within that period, the participation of the prospective member and the convention shall be deemed to be approved. However, the Member State where the proposed registered office of the EGTC is to be located shall formally approve the convention in order to allow the EGTC to be established.

Any request for additional information from the Member State to a prospective member shall interrupt the deadline referred to in the third subparagraph. The period of interruption shall start from the day following the date on which the Member State has sent its observations to the prospective member and shall last until the prospective member has responded to the observations.

However, an interruption of the deadline referred to in the third subparagraph shall not occur if the prospective member submits a reply to the observations by the Member State within ten working days of the start of the period of interruption.

In deciding on a prospective member's participation in an EGTC, Member States may apply their national rules.';

(b) the following paragraph is inserted:

'3a. In the case of an EGTC with prospective members from one or more third countries the Member State where the proposed registered office of the EGTC is to be located shall, in consultation with the other Member States concerned, satisfy itself that the conditions laid down in Article 3a are fulfilled and that each third country has approved the prospective members' participation in accordance with either:

- (a) equivalent conditions and procedures to those laid down in this Regulation; or
- (b) an agreement concluded between at least one Member State under whose law a prospective member is established and that third country.';

- (c) paragraphs 5 and 6 are replaced by the following:
- '5. The members shall agree on the convention referred to in Article 8 while ensuring consistency with the approval 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 the EGTC's members are established. Any amendment to the convention, except solely in the event of accession of a new member under point (a) of paragraph 6a, shall be approved by those Member States in accordance with the procedure set out in this Article.';
- (d) the following paragraph is added:
- '6a. The following provisions shall apply in the event of accession of new members to an existing EGTC:
- (a) in the event of accession of a new member from a Member State that has already approved the convention, such accession shall be approved only by the Member State under whose laws the new member is established in accordance with the procedure set out in paragraph 3 and notified to the Member State where the EGTC has its registered office;

- (b) in the event of accession of a new member from a Member State that has not already approved the convention, the procedure set out in paragraph 6 shall apply;
- (c) in the event of accession of a new member from a third country to an existing EGTC, such accession shall be subject to examination by the Member State where the EGTC has its registered office in accordance with the procedure set out in paragraph 3a.';

(6) the following Article is inserted:

'Article 4a

Participation of members from an OCT

In the case of an EGTC with a prospective member from an OCT, the Member State to which the OCT is linked shall satisfy itself that the conditions of Article 3a are fulfilled and, taking into account its relationship with the OCT, either:

- (a) approve the prospective member's participation in accordance with Article 4(3); or
- (b) confirm in writing to the Member State where the proposed registered office of the EGTC is to be located that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in this Regulation.';

(7) 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, in the Member State where the EGTC concerned has its registered office, in accordance with the applicable national law of that Member State. The EGTC shall acquire legal personality on the date of registration or publication of the convention and the statutes, whichever occurs first. The members shall inform the Member States concerned and the Committee of the Regions of the registration or publication of the convention and the statutes.
2. The EGTC shall ensure that, within ten working days of the registration or publication of the convention and the statutes, a request is sent to the Committee of the Regions following the template set out in the Annex to this Regulation. The Committee of the Regions shall then transfer that 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, along with the details set out in the Annex to this Regulation.';

- (8) In Article 6, paragraph 4 is replaced by the following:
- '4. Notwithstanding paragraphs 1, 2 and 3 of this Article, where the tasks of an EGTC as referred to in Article 7(3) cover actions which are co-financed by the Union, the relevant legislation concerning the control of funds provided by the Union shall apply.';
- (9) 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, namely the facilitation and promotion of territorial cooperation to strengthen Union economic, social and territorial cohesion, and the overcoming of internal market barriers. Each task shall be determined by its members as falling within the competence of every member, unless the Member State or third country approves the participation of a member established under its national law even where that member is not competent for all the tasks specified in the convention.

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 financial support from the Union.

Primarily, the tasks of an EGTC may concern the implementation of cooperation programmes, or parts thereof, or the implementation 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 tasks that EGTCs may carry out without financial support from the Union. However, without prejudice to Article 13, Member States shall not exclude tasks concerning the investment priorities referred to in Article 7 of Regulation (EU) No .../2013⁺ of the European Parliament and of the Council*.

-
- * Regulation (EU) No [...] /2013 of the European Parliament and of the Council of ... on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ...)'⁺⁺;

⁺ OJ: please insert the number of the Regulation contained in PE-CONS 81/13.

⁺⁺ OJ: please insert number, date and the reference to the OJ publication of the Regulation contained in PE-CONS 81/13.

- (b) in paragraph 4, the following subparagraph is added:

'However, in compliance with applicable Union and national law, the assembly of an EGTC, referred to in point (a) of Article 10(1), may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, or the terms and conditions subject to which a service of general economic interest is provided, including the tariffs and fees to be paid by the users.';

- (10) 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) the duration of the EGTC and the conditions for its dissolution;
- (e) the list of the EGTC's members;
- (f) the list of the EGTC's organs and their respective competences;

- (g) the applicable Union law and national law of the Member State where the EGTC has its registered office for the purposes of the interpretation and enforcement of the convention;
- (h) the applicable Union law and national law of the Member State where the EGTC's organs act;
- (i) the arrangements for the involvement of members from third countries or from OCTs if appropriate including the identification of applicable law where the EGTC carries out tasks in third countries or in OCTs;
- (j) the applicable Union and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention;
- (k) the rules applicable to the EGTC's staff, as well as the principles governing the arrangements concerning personnel management and recruitment procedures;
- (l) the arrangements for liability of the EGTC and its members in accordance with Article 12;
- (m) the appropriate arrangements for mutual recognition, including for financial control of the management of public funds; and
- (n) the procedures for adoption of the statutes and amendment of the convention, which shall comply with the obligations set out in Articles 4 and 5.

3. Where the tasks of an EGTC concern only the management of a cooperation programme, or part thereof, under Regulation (EU) No .../2013+, or where an EGTC concerns interregional cooperation or networks, information under point (b) of paragraph 2 shall not be required.;

(11) Article 9 is replaced by the following:

'Article 9

Statutes

1. The statutes of an EGTC shall be adopted on the basis of, and in accordance with, its convention, by its members acting unanimously.
2. The statutes of an EGTC shall specify, as a minimum, the following:
 - (a) the operating provisions of its organs and those organs' competences, as well as the number of representatives of the members in the relevant organs;
 - (b) its decision-making procedures;
 - (c) its working language or languages;
 - (d) the arrangements for its functioning;

⁺ OJ: please insert the number of the Regulation contained in PE-CONS 81/13.

- (e) its procedures concerning personnel management and recruitment;
- (f) the arrangements for its members' financial contributions;
- (g) the applicable accounting and budgetary rules for its members;
- (h) the designation of the independent external auditor of its accounts; and
- (i) the procedures for amending its statutes, which shall comply with the obligations set out in Articles 4 and 5.';

(12) 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 national law of the Member State where the EGTC has its registered office.';

(13) 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. Without prejudice to paragraph 3, to the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for its debts irrespective of the nature of those debts, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed in the statutes.

The EGTC's members may provide in the statutes that they are to 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 from a Member State is limited as a result of the national law under which it is established, the other members may also limit their liability in the convention where national law implementing this Regulation enables them to do so.

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

The requirements for the publication 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 under the laws of the Member State where that EGTC has its registered office.

In the case of an EGTC whose members have limited liability, any Member State concerned may require that the EGTC take out appropriate insurance or that it be subject to a guarantee provided by a bank or other financial institution established in a Member State or that it be covered by a facility provided as a guarantee by a public entity or by a Member State to cover the risks specific to the activities of the EGTC.';

(14) in Article 15(2), the first subparagraph is replaced by the following:

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

(15) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Member States shall adopt provisions to ensure the effective application of this Regulation, including with regard to the determination of the competent authorities responsible for the approval procedure, in accordance with their legal and administrative arrangements.

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 within the meaning of Article 3(1) established under its laws already have, as far as territorial cooperation within that Member State is concerned.

The Member State shall submit to the Commission any provisions adopted under this Article, as well as any amendments thereof. The Commission shall transmit those provisions to the other Member States and the Committee of the Regions.');

(b) the following paragraph is inserted:

'1a. The provisions referred to in paragraph 1 insofar as they concern a Member State to which an OCT is linked shall, taking into account the relationship of the Member State with that OCT, also ensure the effective application of this Regulation with regard to that OCT, neighbouring other Member States or outermost regions of those Member States.');

(16) Article 17 is replaced by the following:

'Article 17

Report

By 1 August 2018 the Commission shall forward to the European Parliament, the Council and the Committee of the Regions a report on the application of this Regulation, evaluating, based on indicators, its effectiveness, efficiency, relevance, European added value and scope for simplification.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 17a, laying down the list of indicators referred to in the first paragraph.');

(17) the following Article is inserted:

'Article 17a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in the second paragraph of Article 17 shall be conferred on the Commission for a period of five years from ...[†].

[†] OJ: please insert the date of entry into force of this amending Regulation.

3. The delegation of power referred to in the second paragraph of Article 17 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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. A delegated act adopted pursuant to the second paragraph of Article 17 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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 three months at the initiative of the European Parliament or of the Council.'

Article 2

Transitional provisions

1. EGTCs established before ...⁺ shall not be obliged to align their convention and statutes with the provisions of Regulation (EC) No 1082/2006 as amended by this Regulation.
2. In the case of EGTCs, for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started before ...⁺⁺ and for which only the registration or publication under Article 5 of Regulation (EC) No 1082/2006 is outstanding, the convention and the statutes shall be registered or published, or both, in accordance with the provisions of Regulation (EC) No 1082/2006 before its amendment by this Regulation.
3. EGTCs for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started more than six months before ...⁺⁺ shall be approved in accordance with the provisions of Regulation (EC) No 1082/2006 before its amendment by this Regulation.
4. EGTCs other than those under paragraphs 2 and 3 of this Article for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started before ...⁺⁺⁺ shall be approved in accordance with the provisions of Regulation (EC) No 1082/2006 as amended by this Regulation.

⁺ OJ: please insert the date of entry into force of this amending Regulation.

⁺⁺ OJ: please insert the date of application of this amending Regulation.

⁺⁺⁺ OJ: please insert the date of application of this Regulation.

5. Member States shall submit to the Commission the necessary amendments to the national provisions adopted in accordance with Article 16(1) of Regulation (EC) No 1082/2006 as amended by this Regulation no later than ...⁺.

Article 3

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 from ...⁺.

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

Done at ...,

For the European Parliament

The President

For the Council

The President

⁺ OJ: please insert the date: six months after the date of entry into force of this Regulation.

ANNEX

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

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

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

The asterisk* denotes mandatory fields.

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

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

III. ADDITIONAL DETAILS ON NAME OF THE GROUPING (if applicable)

Name in (please, indicate an appropriate language version)

BG	ES	CS	DA	DE	ET	EL	EN	FR	GA	HR	IT	LV
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LT	HU	MT	NL	PL	PT	RO	SK	SL	FI	SV	Other: _____	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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*: <input type="text"/> <input type="text"/> <input type="text"/>

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 country or territory

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

