Cross-border cooperation, economic and social cohesion: European Grouping of Territorial Cooperation (EGTC)

2004/0168(COD) - 29/07/2011 - Follow-up document

The Commission presents a report on the application of the Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation (EGTC), which has been fully applicable since 1 August 2007, and is intended to facilitate territorial cooperation, particularly by providing a way to operate across borders, avoiding the blockages potentially created by incompatible legal and administrative systems. The Commission has consistently underlined the importance of effective governance in ensuring territorial cohesion Second progress report on economic and social cohesion, and the European Parliament, in its own-initiative report on Objective 3: a challenge for territorial cooperation, notes that the EGTC works satisfactorily and has met the need expressed by regional and local authorities for structured cooperation covering financing, the legal status of projects and multi-level governance. Specific sectoral reports such as one on sport encourage the use of the EGTC for cross-border, transnational, and inter-regional cooperation.

This report states that experience since 2007 shows that the EGTC instrument responds to clear needs. It has been used for inter alia:

- managing specific projects, whether in receipt of Community funds or not;
- planning development strategies for cross-border and multi-national zones;
- operating facilities of common interest;
- providing a locus for multi-faceted, multi-level communication and cooperation;
- ensuring the visibility and durability of cooperation going beyond ETC programmes.

The existence of this instrument has provided a means of moving from a desire to cooperate to concrete expressions of cooperation. The gradually accelerating move to create EGTCs shows that local and regional entities are finding more and more ways in which EGTCs can help achieve their aspirations. Reactions of existing EGTC to the instrument are positive but uptake to date falls well short of potential.

Scope: the scope of activities currently undertaken by the EGTCs is very broad, ranging from the joint management of natural resources, to improved access to cross-border transport systems, management of services of general interest (such as health or education) and other territorial matters. Many EGTCs plan to implement growth and sustainable development strategies, in line with the Europe 2020 Strategy. EGTC activities in many cases go beyond the implementation of cooperation programmes in the framework of cohesion policy and are now proposing projects for funding under ETC or other EU programmes.

Practical difficulties in the application of the EGTC Regulation: time-consuming and complex procedures are reported as the most important negative drivers when establishing an EGTC. Some EGTCs complained about insufficient awareness of the instrument amongst the national authorities and Commission services when requesting practical information or applying for support. It seems that respect of the three month period for decision by a Member State on an application to create an EGTC is the exception rather than the general rule specified in the Regulation. The document sets out the main problems.

- **Creation of an EGTC**: the legal difficulties linked to the EGTC formation process, mostly stemming from a perception of incompability of differing national rules and a lack of coordination between Member States, are among the most important obstacles discouraging stakeholders from establishing an EGTC. The variation in cross-border structures, local and regional authorities and associations highlights the need for an instrument such as the EGTC. At the same time, this variation creates great problems in applying a single model that will satisfy all the constraints.
- **Differing status of local and regional bodies**: tasks that fall under regional or local competence on one side of the border may be viewed as national responsibilities on the other side.
- **Liability:** the EGTC Regulation allows Member States to take different decisions in the process of national implementation which leads to differences in questions of limited or unlimited liability. The regime may be different in two neighbouring States.
- **Membership of third countries and their regional and local bodies**: the Regulation specifies that members of EGTCs must be Member States, regional or local authorities or public law bodies or their associations, drawn from at least two Member States. However there are several cases where the members or prospective members would see advantages in adding members from a third country or even setting up an EGTC between regions of one Member State and a third country;
- certain reported hindrances seem to derive from a **lack of awareness** of the detail of the EGTC Regulation. For example, there has been confusion between what should be contained in the convention forming an EGTC and what should be included in its statutes. Similarly, the mistaken belief that private entities cannot participate in an EGTC has limited some operations. Some stakeholders have reported delays in the publication process for EGTCs, signalling a possible need for clarification of the notification process.

The Commission envisages a **limited number of specific improvements to the Regulation**.

- ***Amendments to the EGTC Regulation***: these would not require changes in the activity of current EGTCs but would on the one hand adapt the language to the TFEU and on the other be centred on simplifying and accelerating the setting up process and implementation. For example, EGTCs between public bodies from only one Member State and from non-Member States could be authorised if the scope of the legal act were broadened. A system of tacit response allowing EGTCs to be established in the absence of reasoned objections by national authorities within a reasonable time, might replace the current requirement to respond within three months as a general rule. The purpose of an EGTC could be extended to cover strategy and the planning and management of regional and local concerns in line with EU policies. An insurance-based solution could address the problem of setting-up of EGTCs with limited liability, allowed in some Member States, but not necessarily in neighbouring Member States.
- ***Possible clarifications***: the Commission will make it clearer that the convention establishing an EGTC must state clearly under which laws it will operate, including any provision for exceptions, that private bodies submitted to public procurement rules may be members of EGTCs and that the statutes controlling an EGTC's operation must clearly set out the rules under which it will operate, such as applicable national law for employees.
- ***Improvements linked to other EU regulations and policies***: in its proposals for the revision of Cohesion Policy regulations the Commission intends to ensure that no obstacles are placed in the way of the use of EGTCs. This could enable EGTCs to become more prominent in delivering interventions requiring cooperation among regions in different countries.
- ***Extensive use of EGTCs*** in delivering other Union policies should also be encouraged, whether in the fields of environmental improvement, research collaboration, education and culture or others.
- In the ***revision to Public Procurement Directives*** the Commission will consider how to address problems linked to cross-border procurement encountered by such bodies among others.
- ***Improvements to gathering and dissemination of information***: the Commission intends to collect and distribute information on the implementation of the EGTC Regulation in Member States, and actively collaborate with the Committee of the Regions on the EGTC Platform.

- ***Encourage sharing of know-how, networking and regular exchange*** of views among all the stakeholders concerned for example by a programme like INTERACT.

The Commission believes that these adaptations will allow more extensive use of EGTCs without additional burden on administrations.