European grouping of territorial cooperation (EGTC): clarification, simplification and improvement of the establishment and functioning of such groupings

2011/0272(COD) - 17/12/2013 - Final act

PURPOSE: Improvement of the judicial instrument of the European grouping of territorial cooperation (EGTC).

LEGISLATIVE ACT: Regulation (EU) No 1302/2013 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.

CONTENT: the Regulation is part of **a package of measures** relating to the cohesion policy comprising the following Regulations:

- Regulation (EU) No 1303/2013.of the European Parliament and of the Council sets out the provisions common to five European structural funds, the ERDF, the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF).

- The Regulations specific to the five funds for the ERDF, the ESF, the Cohesion Fund, the European Territorial Cooperation and **the European grouping of territorial cooperation (EGTC).**

The main changes made to Regulation (EC) No 1082/2006 are the following:

Nature of EGTCs: it is specified that the objective of an EGTC is 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, with the aim of strengthening Union economic, social and territorial cohesion. 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.

Composition of EGTC: the following entities can become members of a EGTC:

- Member States or authorities at national level;

- regional and local authorities;

- **public service provider undertakings including those governed by private law**. The amendments on this point include 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 as well as the care and social inclusion of vulnerable groups;

- national, regional or local authorities, or bodies or public undertakings, equivalent to third country equivalents.

In principle, the members of an EGTC shall be located on the territory of at least two Member States.

Applicable law: the acts of organs of an EGTC shall be regulated by: a) this Regulation; b) the agreement referred to in the Regulation, where the latter is expressly authorised; c) for issues that are not governed by the Regulation, or are in part, the national law of the Member State in which the EGTC headquarters is situated.

Where it is necessary to determine the applicable law under EU law or private international law, the Regulation provides that the EGTC is seen as an entity of the Member State in which it has its headquarters.

Accession of members from third countries or overseas countries or territories (OCTs): the Regulation introduces a clear, precise and more comprehensive definition regarding the participation of third countries.

Third countries neighbouring the Union may become members of an EGTC, **including neighbours of outermost regions and overseas territories**, so long as the other members come from a single Member State or more.

Taking into account the links between the countries and the overseas territories of Member States, the approval procedures for the participation of potential members of an EGTC must involve these Member States.

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.

S**implification measures**: the current three-month period for the Member States' approval procedure in terms of establishing an EGTC is extended to **six months**.

In addition, **the convention** should be deemed to be approved by tacit agreement, where applicable, in accordance with the national law of the Member States concerned. However, the Member State where the proposed registered office of the EGTC is to be located should have to formally approve the convention.

In order to encourage the accession of new members to an existing EGTC, **the procedure to amend conventions is 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.

The convention and statutes and any subsequent amendment thereof should be registered or published, or both, in the Member State where the EGTC has its headquartes. 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.

Report: no later than 1 August 2018, the Commission should make a report on the application of Regulation evaluating, on the basis of indicators, the effectiveness, efficiency, relevance, European added value, and scope for simplification of this Regulation.

ENTRY INTO FORCE: 21.12.2013. EGTCs established before 21 December 2013 shall not be obliged to align their convention and statutes with the provisions of Regulation (EC) No 1082/2006 as amended.

DELEGATED ACTS: the Commission may adopt delegated acts in order to lay down a list of indicators for use in the evaluation and preparation of the report on the application of the Regulation. The power to adopt delegated acts shall be conferred on the Commission **for a period of five years from 21 December 2013**. The European Parliament or the Council may object to a delegated act within a period of **three months** from the date of notification (this period can be extended for three months). If the European Parliament or the Council make objections, the delegated act will not enter into force.