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

2004/0168(COD) - 13/06/2006 - Council position

The common position, adopted by unanimity, approves the objectives of the proposal and incorporates most of the 41 amendments proposed by the European Parliament at first reading. These include the definition of territorial cooperation, the need to specify the Member States' financial liability, the applicable law and the provision to publish and/or register the statutes of the EGTC.

It should also be noted that the Council decided to follow the European Parliament's suggestion, i.e. replacing, in the whole document, the name of the instrument "European grouping of cross-border cooperation" by "European grouping of territorial cooperation".

The Council decided to follow the idea of the European Parliament to apply to the EGTC the law of the Member State where it has its registered office.

The most significant changes introduced by the common position are outlined below:

- The first significant change concerns the ex-ante control by the Member States when their regions or local authorities intend to set up an EGTC. Article 4(3) foresees that a Member State agrees to the proposed member's participation in an EGCT, unless it considers that such participation is not in conformity with the Regulation or national law (more or less corresponding to the Commission's modified proposal) or is not justified for reasons of public interest or public policy (ordre publique) of that Member State. An appropriate justification of refusal shall always be provided.

- The second significant change concerns the scope of the Regulation. The common position of the Council has added that Member States may limit the tasks EGTCs may carry out without a Community financial contribution. However, this limitation cannot concern the core actions of territorial co-operation.

- The system of financial liability of the EGTC as such and of its members has been reshaped: concerning the organs, it states that the EGTC shall be liable for the acts of its organs towards third parties, even where such acts do not fall within the tasks of the EGTC. The liability of the EGTC in general and the residual liability of its members in case the assets of the EGTC are insufficient to meet its liabilities are now covered by Article 12(2). In principle the members have an unlimited residual liability. However, the national law may exclude or limit the liability of members formed under it.

- A transitional period added for Member States to adapt their national legislation to the requirements of the Regulation.