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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 159 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(3)],

Whereas:

(1) The third subparagraph of Article 159 of the Treaty provides for specific actions to be decided upon outside the Funds which are the subject of the first subparagraph of that Article, in order to achieve the objective of social and economic cohesion envisaged by the Treaty. The harmonious development of the entire Community territory and greater economic, social and territorial cohesion imply the strengthening of territorial cooperation. To this end it is appropriate to adopt the measures necessary to improve the implementation conditions for actions of territorial cooperation.

(2) Measures are necessary to reduce the significant difficulties encountered by Member States and, in particular, by regional and local authorities in implementing and managing actions of territorial cooperation within the framework of differing national laws and procedures.

(3) Taking into account notably the increase in the number of land and maritime borders in the Community following its enlargement, it is necessary to facilitate the reinforcement of territorial cooperation in the Community.

(4) The existing instruments, such as the European economic interest grouping, have proven ill-adapted to organising structured cooperation under the INTERREG initiative during the 2000-2006 programming period.

(5) The Council of Europe *acquis* provides different opportunities and frameworks within which regional and local authorities can cooperate across borders. This instrument is not intended to circumvent those frameworks or provide a set of specific common rules which would uniformly govern all such arrangements throughout the Community.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 1082/2006 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund[(4)] increases the means in support of European territorial cooperation.

(7) It is likewise necessary to facilitate and follow up the implementation of territorial cooperation actions without a financial contribution from the Community.

(8) In order to overcome the obstacles hindering territorial cooperation, it is necessary to institute a cooperation instrument at Community level for the creation of cooperative groupings in Community territory, invested with legal personality, called 'European groupings of territorial cooperation' (EGTC). Recourse to an EGTC should be optional.

(9) It is appropriate for an EGTC to be given the capacity to act on behalf of its members, and notably the regional and local authorities of which it is composed.

(10) The tasks and competencies of an EGTC are to be set out in a convention.

(11) An EGTC should be able to act, either for the purpose of implementing territorial cooperation programmes or projects co-financed by the Community, notably under the Structural Funds in conformity with Regulation (EC) No 1083/2006 and Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund[(5)], or for the purpose of carrying out actions of territorial cooperation which are at the sole initiative of the Member States and their regional and local authorities with or without a financial contribution from the Community.

(12) It should be specified that the financial responsibility of regional and local authorities, as well as that of Member States, with regard to the management of both Community funds and national funds, is not affected by the formation of an EGTC.

(13) It should be specified that the powers exercised by regional and local authorities as public authorities, notably police and regulatory powers, cannot be the subject of a convention.

(14) It is necessary for an EGTC to establish its statutes and equip itself with its own organs, as well as rules for its budget and for the exercise of its financial responsibility.

(15) The conditions for territorial cooperation should be created in accordance with the subsidiarity principle enshrined in Article 5 of the Treaty. 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 its objectives, recourse to an EGTC being optional, in accordance with the constitutional system of each Member State.

(16) The third subparagraph of Article 159 of the Treaty does not allow the inclusion of entities from third countries in legislation based on that provision. The adoption of a Community measure allowing the creation of an EGTC should not, however, exclude the possibility of entities from third countries participating 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,

HAVE ADOPTED THIS REGULATION:

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1082/2006 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

Nature of an EGTC

[[F1]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.**]**

3 An EGTC shall have legal personality.

4 An EGTC shall have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law. It may, in particular, acquire or dispose of movable and immovable property and employ staff and may be a party to legal proceedings.

[[F2]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.**]**

Textual Amendments

F1 Substituted by Regulation (EU) No 1302/2013 of the european Parliament and of the Council of 17 December 2013 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.

F2 Inserted by Regulation (EU) No 1302/2013 of the european Parliament and of the Council of 17 December 2013 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.

Article 2

Applicable law

[[F1]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.**]**

[[F2]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.

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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.**]**

2 Where a Member State comprises several territorial entities which have their own rules of applicable law, the reference to the law applicable under paragraph 1(c) shall include the law of those entities, taking into account the constitutional structure of the Member State concerned.

Textual Amendments

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Article 3

Composition of an EGTC

[F1 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[6] 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[7];

e undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law;

[X1 f national, regional or local authorities, or bodies or undertakings, equivalent to those referred to under points (d) and (e), from third countries, subject to the conditions laid down in Article 3a.**]]**

Associations consisting of bodies belonging to one or more of these categories may also be members.

[F1 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).**]**

Editorial Information

X1 Substituted by Corrigendum to Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 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 (Official Journal of the European Union L 347 of 20 December 2013).

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1082/2006 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F1 Substituted by Regulation (EU) No 1302/2013 of the european Parliament and of the Council of 17 December 2013 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.

[F2 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.**]**

Textual Amendments

F2 Inserted by Regulation (EU) No 1302/2013 of the european Parliament and of the Council of 17 December 2013 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.