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European Grouping of Territorial Cooperation – Report on EGTC

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European Grouping of Territorial Cooperation

Report on EGTC (2011)



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Introduction

The need to find new and alternative forms for establishing cross-border cooperation has kept pace with the growing EU integration process. Due to national legislation, cities and regions situated along national borders have not only found it hard to develop durable cross-border partnerships, but also found themselves impaired during day-to-day relationships. Border areas are historically often peripheral in the various states and often has weaker development compared to the central parts of the nation state. The European Union encourages different cross-border programs, such as the so-called Interregional programs. Such programs are adopted between multitudes of border regions today across EU-27. These cross-border programs have taken various shapes and forms, ranging from irregular forums for discussion to more structured collaborations through committees or the alike. The last ones are normally built around decision through consensus, and as a result often hold a weak position.

One of the forms used in order to manage cross-border cooperation is what is known as Euroregions. The form is used throughout Europe, but often faces problems that originate from the fact that the decisions are reached through consensus. Cross-border cooperation is of international character, and therefore it has until recently been a political area within the exclusive role of the nation state. After an initiative from the Council of Europe, the so-called Madrid Convention of 1980 however gave sub-national bodies the right to maintain international contacts.

During a number of years there have been discussions within the EU on how to construct a stronger legal framework for cross-border cooperation. This led to Regulation No 1082/2006 of the Council and the European Parliament of 5 July 2006 that opened up for the possibility to create a special legal body for cross-border cooperation, namely European Grouping of Territorial Cooperation (EGTC). EGTC is a Community legal instrument that has been directly applicable in all EU Member States since 2007. The convention is incorporated into the Swedish legislation, which subsequently allows for such constellations to be formed with Swedish participants.

The purpose of this report is to describe the EGTC instrument from a legal and political perspective, with special consideration to the legal aspects. We have also chosen to describe the origin of EGTC in order to illustrate how it has grown relatively fast. Then we will put forward how the EGTC tool is used in other cross-border regions today and how it could be used in future co-operations.

However, the EGTC is a relatively new tool and therefore it is difficult to draw any extensive conclusions at this early stage. There can be no closer conclusion than the one that the existing EGTC regions of today seem to have multiple forms, purposes and areas of use.

Historical Background

EGTC stands for European Grouping of Territorial Cooperation. EGTC has officially existed since the signing of the EGTC Regulation (Regulation 1082/2006) in 2006 and was launched the 1 of January 2007. It was the result of a lengthy planning phase coloured by several attempts to define suitable solutions for organized collaboration between cities and regions across borders throughout the EU.

Hence, the EGTC projects of today derive from a number of collaborative attempts that have not reached desired results, such as some Euroregions or others using bilateral inter-state agreements. Different structures of the civil service and contradictory legislation between nation-states are well-known problems, which are also recognized in the Öresund Region.

Besides the EGTC there is an estimated number of seventy cross-border co-operations in the EU, of which one is the Öresund Region. These cross-border projects are partly funded through the EU structural funds, costing approximately 700 million euros yearly. The EU's regional development fund has functioned since 1975. The promotion of territorial cooperation is one of the three main guidelines for EU's Regional and Cohesion Policy for the 2007 – 2013 budgetary period. EGTC was created to facilitate this purpose¹.

Hence, EGTC is designed to diminish some of the problems described above, which have been allowed to impair cross-border projects for far too long. The first implementation of the EGTC framework is the EGTC Eurometropole Lille-Kortrijk-Tournai, which has now been active for approximately three years. In its path, some fifteen more implementations have followed in cross-border regions between for example Spain and Portugal, France and Germany, and Italy, Spain and Cyprus. There appears to be a heavier weight in favour for the EGTC tool in Southern and South Eastern Europe, and there are similar observable trends with the current roughly twenty constellations under subject for implementation.

EGTC is the first legally binding cross-border instrument with direct effect in all Member States. EGTC can be used to apply for and manage EU's Structural funds, but also for other EU funded projects and programmes and for territorial cooperation outside EU-funding. Hence, the absence of EU funding does not prevent the implementation of EGTC. In comparison to other forms of cooperation, the presence of EGTC can ease the creation also of non-EU funded projects, not least because EGTC is a highly independent framework that provides good space for initiative.

¹ At the same time the EU adopted Regulation 1083/2006 that concerned the structural funds.

EGTC participants must be a public legal entity (municipalities, cities, regions) in more than one Member State. However, in order to initiate the project they must have an official support from their respective government. Single states can become members as well. Third country participation of states outside the EU is possible, but this has not yet occurred. Even if it has practical benefits, there is no rule stating that the members have to be national neighbours. So far, however, all existing EGTCs are of the neighbouring kind.

The actors participating in the EGTC must sign a combined agreement and draw up charters that will govern the venture (Art. 7 in regulation 1082/2006). According to Art. 7.2, the grouping must also be directed at facilitating territorial cooperation and strengthening economic and social cohesion. Areas such as police, regulatory powers, justice and foreign policy are restricted to national concerns, and therefore not subjects under EGTC. An examination of the existing collaborations at hand shows that cooperation is happening in areas such as – apart from distributing and managing EU funds – transport, environment, IT, research and education, culture, tourism and health care. Another commonly occurring theme is the promotion of the regions' economic interests, not least by co-operation in the area of enterprise.

When it comes to the finance of the grouping, Regulation 1082/2006 does not say how the financial burden should be divided between the members and there are obvious distinctive characteristics among the existing groupings. For example, one or more Member State may enter as a co-financer together with the regional bodies². This option is demonstrated in the Eurometropole Lille-Kortrijk-Tournai case, where France and Belgium has a stake of 25% in the budget. The regional bodies finance the rest. In some other groupings the costs are fully divided between the regional bodies, without governmental aid.

Due to the youth of the existing groupings, it is still too early to evaluate how the EGTC framework functions in reality. It is however without doubt that the European Commission and the Committee of Regions view this as a key instrument in order to shape the future regional policy within the EU. Therefore it is not unthinkable that EU-funds will be channelled through EGTC projects in the future, perhaps as soon as in the next budgetary period that will be decided and implemented in 2013. According to Art. 17 of Regulation 1082/2006, the Commission is to present an evaluation of EGTC before the European Parliament and the Council of Ministers, by August 1st of 2011.

² They can also at the same time be members of the EGTC

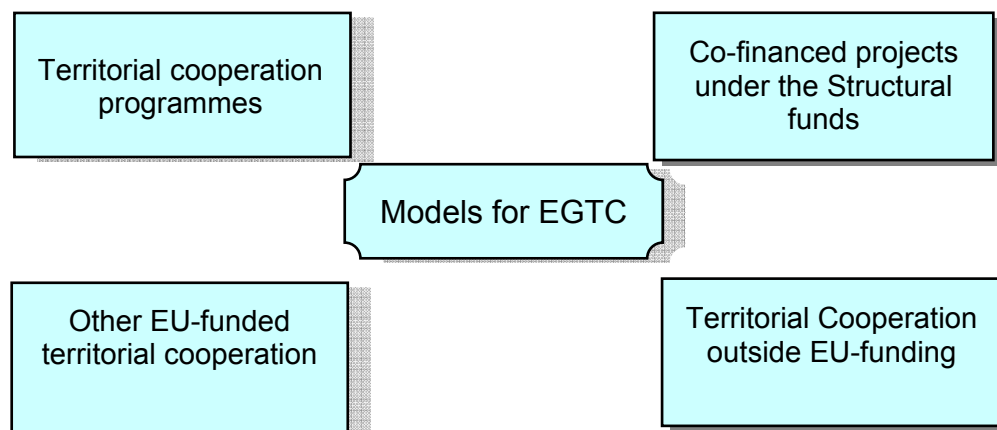
Activities within EGTC

In this section, operational possibilities within EGTC, provided by Regulation 1082/2006 are discussed. Also, the EGTC setups already in place are described in order to illustrate what kind of activities that can and cannot be conducted within the EGTC framework.

As mentioned, EGTC was launched through Regulation 1082/2006 by the European Parliament and the Council of Ministers of June 5 2006. EGTC is the first legal community act in the area of regional cooperation with direct effect in all Member states. It thus offers a concrete form of cross-border co-operation.

EGTC derived from a wish to implement an effective instrument for establishing sustainable development across the European territory, and strengthening the cohesion between regions. EGTC introduces new tools for the interregional, transnational and cross-border levels and is foremost a tool for managing the structural funds. However, there are four main principal operational models, see figure 1 below.

Figure 1. Main models for EGTC, according to Art. 7.3



The normal foundation of a grouping's activity is through carrying out programs/projects that are co-funded by the European Union, namely the European Structural Fund, European Cohesion Fund and the European Social Fund. However, it is not demanded that the projects are co-funded by EU, as long as they are aimed at strengthening the regions' territorial cohesion. However, the Member States are able to restrict operations that are not founded in EU financial contribution.

EGTC can be divided into multifunctional groupings and unifunctional groupings. The unifunctional model is used for groupings that are aimed at managing a specific project for financial support. Thus, the existence of the grouping is tied to the programme period. Multifunctional groups are then organized for a wider purpose and for an extensive time period. The difference between an EGTC and a

Euroregion is that the Euroregion is perceived more like a “brand” and lacks the legal structure of the EGTC. It is possible for an EGTC to also be a Euroregion, but then it is expected to have a multifunctional purpose.

One factor that characterizes a grouping is that it may include several political levels, e.g. the national level, regional level and local level. It is also open for existing collaborations between these bodies and public authorities. The potential gain from this is that the competences of multiple levels are collected into one organisation. The expected gains from different EGTC groupings vary from one constellation to another, depending on the partnership’s situation, e.g. its previous experience, political support and the need for a legal instrument. It further depends on the reasons for establishing the formation; is it a long-term or short-term cooperation, does it involve programme leading, project leading etc?

From a general point of view, the gain of an EGTC formation lies with the creation of a legal (EGTC)person, which facilitates cross-border operations and enables the participants to enter into legal procedures. Also, the economic responsibilities are made clear within the partnership and towards a third party. An EGTC can also make the cooperation more visible on the regional and European arena, and is neutral as it is a community instrument independently of which state it is registered in. Also, the grouping is able to apply for EU funding. Under the current rules, it is not a requirement to register an EGTC as a means to access EU funds. EGTC is an instrument among others, and registration is voluntary. When a partnership submits an application to form a grouping, all members sign a pardon for cooperation in order to confirm their participation and commitment.

The goal of an EGTC is, according to Article 1 in Regulation 1082/2006, to facilitate and promote cross-border, transnational and/or interregional cooperation. A grouping should be committed to organizing and managing cross-border collaborations with or without the support of the European Union. The group should simply carry out the tasks that the members initially agreed upon. What a grouping can commit to depends on the EU regulation, the national law in the country of registration, and also on the agreements and charters signed between the participants - which are approved by the members’ national governments. National legislation in the country of registration governs the EGTC in areas that are not covered by Regulation 1082/2006. If the grouping wants to make significant changes in the agreement and/or charter, it must be done with the consent of all involved Member States. This means that the collaboration may be expanded with time, but only after a Member State consensus, and without opposing the EU regulation.

The Member States are able to make decisions concerning the grouping’s code of conduct, and decide which collaborative tasks that are available to group members. In addition to appointing a director and assembly, the grouping is free to form new management bodies and assign mandates to them. The group is also able to collect property, hire staff and voice its own opinion.

EU Regulation 1082/2006 is the highest source for defining the EGTC, which the grouping may not exceed. It may also not go against the agreement, the charters signed between members and the national legislations. The grouping must also not work against the general interest of the Member States, or a Member State's regulation of public order, safety, health or morals.

In accordance with Article 4 in Regulation 1082/2006, the initiative to form an EGTC should come from the proposed members, who are to inform and apply to their Member State. The individual Member State then has a 3-month period to make a response. If the state does not approve of the formation it must give an official explanation for this refusal.

Legal Structure

EGTC does undoubtedly contain some legal peculiarities, both generally and through a perceived Swedish context. We may point e.g. to the potentially inhabited contradiction that lies with the fact that two cities or regions located in two or more countries may still have to seek permission from their national governments, who may obviously be more sceptical due to having a national perspective, in order to start the project. Nevertheless, this does not appear to have been a problem in the groupings that have been established so far.

The legal fundamentals of EGTC is thus Regulation 1082/2006, which has in judicial context come about as a measure for cross-border cooperation outside the frameworks of the EU's structural funds; in accordance with Art. 175 Sect. 3 in the new treaty on the functioning of the EU (Art. 159 Sect. 3 in the old EC-treaty) 3. This regulation is fully operational after an EGTC establishment.

In Sweden, EGTC is regulated through "Lag (2009:704) om europeiska grupperingar för territoriellt samarbete" and in Denmark through "lov om administration af forordning om oprettelse af en europæisk gruppe for territorielt samarbejde" of 2008. Swedish law, like the Danish, can be said to complete the EU regulation. This is apparent in paragraph 6 of the Swedish law, which states that if an EGTC is to be established in Sweden, it will be regulated by the Administrative Act (1986:2223). Paragraph 3 of the Swedish law gives the government the mandate to distribute concrete administrative management tasks to the EGTC, but as of now these must concern programs for territorial cooperation that are partly financed by the EU. The Danish law is of a similar character, but it is noteworthy that the approval of an EGTC application will not be decided by the government, but rather by the Erhvervs- og Byggestyrelsen after consultation with relevant ministers.

As mentioned, those actors that will take part in the EGTC collaboration must sign an internal agreement and draw up an organizational charter. This is regulated by Art.4.1 in Regulation 1082/2006. Hence, a legal (EGTC)person is created that carries the cooperation and consequently its current operations. In its turn these operations thus derive from the agreement and charters that govern the collaboration. (Art. 7 in regulation 1082/2006).

³ Interesting from a legal point of view is the unanimous acceptance of Regulation (1082/2006), and the reference to Art 308 (now Art. 352 in the new functional treaty of EU). This is an article that is used when EU needs to extend its competence given by the treaty. Regardless of whether this was legally necessary or not, it thus illustrates the innovative character of EGTC as a new form of cooperation.

When regional and local bodies have filed a request for EGTC-implementation with their national governments, the governments have three months to respond (Art. 4.3). The system indicates a kind of veto power for the governments. However, the regulation is so formulated that the government is presumed to grant the request if it does not oppose Regulation 1082/2006, national law or goes against the national public interest or public policy⁴. In the latter case, the government is required to give an official motivation for its rejection.

The applying bodies are eligible to continue and even deepen their cooperation during the three-month period. Art. 8 states that the agreement must describe the involved actors and their location on the border, the geographical area, purpose, background and duration, and finally rules for editing the agreement. The charters set to govern the collaboration face even tougher requirements; these must according to Art. 9 contain details of the participants, their number and area of competence, number of representatives in the bodies of the newly formed agency, decision-making process (which can take the shape of a general assembly or county council (or similar), and the choice of language(s). Other areas that require consideration are employment and recruitment terms for staff, budgetary rules and cost division between actors (and their economic responsibilities), and finally responsibility for revision of operations and regulations as well as for altering the agreement and charters. Activities must then proceed within this framework.

These fairly extensive charters and proceeding changes in them shall, presuming that they are approved and implemented, according to Art. 5 be registered and stated in accordance with national law, in the state of which the grouping is registered. The collaboration will henceforth become a legal person with legal mandate and competence from the day of registration. Members are obliged to inform the national governments of their agreements and charters, and within ten days they must ensure the release of a statement in the EU's Official Journal.

Some of the required points above deserve further commenting. It is clear that EGTC collaborations will under any circumstances require a general assembly (Art.10), which will act as a higher decision-making body with representatives from all registered members. The group shall also assign a director that represents and acts on the behalf of the EGTC-group and within its external relations. Budgetary plans should be agreed between one-year intervals (Art.11). The national law in the collaboration's registered home state governs consequences in case of bankruptcy, insolvency, or during other demands for economic

⁴ With reference to Art. 13, governments are also able to abort an EGTC grouping on its territory if it begins to go against "public policy, public security, public health or public morality" or any other form of "public interest".

accountability. The appropriate national agency in the same state will oversee management and distribution, or other responsibilities that the EGTC group has been delegated. It should also be mentioned that the EGTC could be dissolved additionally, other than by national states that find it contradictory to other interests (Art. 13), after petition by participating members or other competent agencies in the host country, see Art. 14.1. This may become a reality if for example the grouping should not operate in accordance with its own agreement and purpose, or exceeds its mandate (Art.7). In line with Art. 14.2, it is apparent that the grouping may be provided a time-limit to solve the alleged problems.

Legal construction in Northern Europe

As mentioned, EGTC is a formal and legal innovative cooperation instrument directed at cross-border cooperation within the EU, which appears to be able to resolve some of the problems that previously inhibited such constellations. At the same time, it may have the ability to tie the national governments closer to existing cross-border collaborations, and from a Swedish and Danish perspective also enable a venture to incorporate a third party from outside the EU into such a cooperation. Furthermore, it appears that EGTC has, compared to its predecessors, the possibility to be implemented by potential groupings on a variety of subject areas. The potential for developing an EGTC must therefore be seen as significant, not least if the EU should signal a wish to focus on the EGTC instrument during the next budgetary period, starting in 2013.

However, after a closer study of the legislation in Sweden, Denmark, Finland, Germany and the potential partner, Norway several obscurities are revealed that hint to future difficulties in collaborations between Sweden and the others. One example of this is that Germany lacks a national EGTC legislation. This can in itself be solved as regulation 1082/2006, like other EU regulations, is directly applicable and it does appear natural for Germany to pass over the legislative mandate to the relatively independent regions. Sweden and Denmark also appear more willing than Finland to incorporate third countries, e.g. Norway.

On a more detailed level, there seems to be a disagreement between the Nordic countries concerning which bodies that are able to participate, and Finland is the only state that has incorporated a system for review of the approval or disapproval of an EGTC registration⁵. Sweden also seems to have a more generous view on activities and organizations without EU-funding. Finland has ruled out the

⁵ It may also be noted that such decisions are made by the government in Sweden, but in Denmark and Finland they are taken by national agencies.

possibilities for third country participation. It is an important but open question which kind of practical issues that will arise from this legislative disharmony. In Germany, the states (Länder) that are likely to form future EGTC groupings together with Swedish bodies have naturally been given all the decision-making tools for the relevant issues. Hence, the potential future problems should be limited, as long as the Swedish government does not oppose such cooperation. Judging by conducted comparative studies, the legislations in Finland and Norway are potential obstacles of a varying degree for EGTC constellations.

Conclusions

Although it is too early in the current EGTC process to give an extensive evaluation of the development, it is possible to conclude that EGTC is an innovative cooperation instrument that owns the potential tools for eliminating existing formal and legal problems in today's cross-border projects. One of the bigger advantages is that it could possibly tie the national governments closer to the cross-border projects that have been proceeding in recent years. Additionally, EGTC seems to be more adaptable, thus enabling itself to be used for cross-border collaborations focusing on a variety of subject matters, as has been described above.

The adoption of a legal (EGTC) person and the selection of which national legislation to follow should facilitate adaptability between the participants, not least from an administrative perspective. This will also imply that the groupings will have different characteristics throughout Europe, which is logical in today's regionally already asymmetric Europe. EGTC does indeed appear to have a bright future, especially if the EU signals a wish to put a higher stake in EGTC during the next long-term budgetary period.

EGTC setups already in place

At the time of writing there are 16 groupings in place, and several others going through the implementation and negotiation process.

Figure 2. The structure of the groupings already in place

EGTC	Member States	Members	Political levels
Abaúj-Abaújban	HU, SK	14	Multiple
Amphictyony	CY, FR, EL, IT	50	Local
ArchiMed	<u>IT</u> , ES, CY	3	Multiple
Cerdanya	<u>ES</u> , FR	7	National
Duero-Duoro	<u>ES</u> , PT	175	Local
Eurodistrict SaarMoselle	<u>FR</u> , DE	8	Regional
Eurodistrict Strasbourg-Ortenau	<u>FR</u> , DE	7	Local
Eurométropole Lille-Kortrijk-Tournai	BE, <u>FR</u>	14	Multiple
Euroregion Pyrénées-Méditerranée	ES, <u>FR</u>	4	Regional
Galicia-Norte Portugal	<u>ES</u> , PT	2	Regional
GECT-INTERREG – Programme Grande Région	<u>FR</u> , DE, BE, LU	11	Multiple
Ister - Granum	<u>HU</u> , SK	85	Local
Karst - Bodva	HU, <u>SK</u>	3	Local
Ung-Tisza-Túr-Sajó (UTTS)	<u>HU</u> , SK, RU, UA	4	Local
West Flanders-Dunkerque-Côte d'Opale	BE, <u>FR</u>	13	Multiple
Zasnet	ES, PT	5	Regional

* Underlined indicates country of registration

The established groupings of today are all border regions, but are distinguishable through several aspects. Some of them have a great number of members, e.g. Amphictyony, while others only have a few, such as Kast-Bodva. In some groupings, the Member States themselves are members, e.g. in Eurometropole Lille-Kortrijk-Tournai, but not in others, e.g. in Euroregion Pyrénées-Méditerranée. The groupings also differ in geographical spread, number of inhabitants and subject matter. The currently existing groupings also have other factors in common. For example:

- Most of the EGTCs are driven both by short-term perspectives and long-term visions.

- Almost all of them have been project-based cooperations before the EGTC implementation, e.g. Interreg.
- Most of the groupings have a long history of economic, social and cultural cooperation.
- Many of them see EGTC as a means for lobbying for EU support.
- The groupings are viewed as a way to institutionalize and unite the cross-border region.

Most of the established groupings have a larger organization than what is demanded in Regulation 1082/2006. The regulation states that a general assembly and a director are required, but many have taken the opportunity to create extra bodies. These are different types of working committees (for example Ister-Granum has a counselling body with representatives from private enterprise).

Cerdanya has attracted attention on the European level lately because of its uni-functional structure that has only one purpose, which is to build a large regional border hospital. The purpose of Cerdanaya is to improve the residents' health and build a cross-border organization based on benefitting of the good aspects of both the French and Catalan health care systems. The activities in Cerdanaya are built on an asymmetrical financial structure, by having the French state paying for 40% while the Catalan is paying 60%. Another aspect that sets Cerdanaya apart from the others is that it has a running period of ten years after establishment. The EGTC of Grande Region has also drawn attention to itself since it expands through four Member States: France, Germany, Belgium and Luxemburg.

Figure 3. Activities in EGTC setups already in place

EGTC	Main goals	Cooperation themes
Abaúj	Regional development	Tourism
Amphictyony	Democracy, justice, freedom Economic and social cohesion Territorial cooperation Exchange of information and knowledge	Research cooperation Culture EU-funds Participation of social/local organisations
Cerdanya	Creation of an organisation for running a cross-border hospital	Improve public health Collective hospital system Equal treatment of patients Advantages of both healthcare systems

Duero-Duoro	Territorial cooperation Economic and social cohesion	Programs co-financed by EU Public jobs Rural employment Environmental protection, tourism, culture Research, innovation, development
Eurodistrict SaarMoselle	Regional development	Tourism Health Transport
Eurodistrict Strasbourg-Ortenau	Political lobbying Project management Political representation	Culture Infrastructure Support socio-economic networks Promoting Strasbourg as EU Capital
Eurométropole Lille- Kortrijk-Tournai	Political dialogue Border regional cohesion Project management Improve daily life of inhabitants	Transport Highways Urban ecology Tourism
Euroregion Pyrénées - Méditerranée	Territorial cooperation Collective projects Economic and social cohesion Sustainability	Technologic innovation, research Culture, tourism Administrative and judicial cooperation
Galicia-Norte Portugal	Territorial cooperation Economic and social cohesion Sustainability	Transport Maritime sector Competitiveness
Grande Région	Cross-border cooperation	Run Interreg projects
Ister - Granum	Economic and social cohesion Regional development	Territorial projects

Karst - Bodva	Territorial cooperation Economic and social cohesion Infrastructure	EU financed programs Competitiveness Tourism, culture Environmental protection Transport, energy, water supply
Ung-Tisza-Túr-Sajó (UTTS)	Economic and social cohesion Diminish regional differences Cross-border cooperation	Environmental protection Energy
West-Flandersen-Dunkerque-Côte d'Opale	Territorial cooperation Political representation	Developing strategies See to the need of the inhabitants
Zasnet	Economic development Sustainable development	Culture, tourism Marketing of the region Demographic development

Groupings under preparation

In addition to the groupings already in place there are a number of groupings that are now being formed in Europe. According to the Committee of Regions, which keeps registration of EGTC regions, there are 19 such regions. The French – Italian Euroregion Alpes-Mediterranean, which most likely will become an EGTC shortly, is a multifunctional region and resembles Öresund Regional Development Strategy (ÖRUS), as the Euroregion Alpes-Mediterranean five main themes are: accessibility and mobility, innovation, environment and sustainable development, education and culture.

Figure 4. EGTCs under preparation

EGTC	Member States
Alpen-Adria	IT, AT, SI, HU, HR
Alzette-Belval	FR, LU
Bratislava – Niederösterreich	SK, AT
Bulgaria-Romania EGTS on common navigation on the Danube	BU, RU
Donauhanse	DE, AT, HU, BG, RO, RS, UA

Euranest	BE, IT, FR, AT
Euregio Meuse-Rhine EGTS	DE, FR
Eurocidade Chaves-Verin	PT, ES
Eurodistrict Oderland Nad Odrze	DE, PL
Europaregion Donau – Moldau	DE, CZ
Euroregion Alps-Mediterranean	IT, FR
Euroregion Corridor VIII	IT, BG
Euroregion Neiße-Nisa	DE, PL, CZ
Euroregion Tirol- Alto Adige- Trentino	AT, IT
National park Area Alpi Marittime / Mercantour	FR, IT
Territorio dei Comuni: Comune di Gorizia, Mestna Obcina Nova Gorica, Obcina Sempeter-Vrtojba	IT, SI
Tritia	SK, PL, CZ
Ulm-Vienna Budapest	DE, HU, AT
Ung-Tisza-Túr (UTT)	HU, SK, RO, UA

Once the above-listed partners have gone through the initial application process, there will be, together with the existing 16, about 30 EGTCs in Europe, which means that EGTC will soon become a common term in regional Europe. The Committee of Regions is working on a network to facilitate contacts between EGTC regions for the purpose of cooperation and sharing experiences. This kind of networking and symbolically evaluation of EGTC has the potential, except for the practical advantages, to result in alienation and possibly marginalisation of other border regions choosing not to form an EGTC.

Discussion

EGTC is a new instrument, and the design may vary in different states depending on how the State has chosen to implement Regulation 1082/2006. Our review of the subject shows that the advantages of organising cross-border cooperation through EGTC seems to be more of a political nature than legal. EGTC can have a symbolic value but also a long-term stability of the cross-border cooperation.

Today there is a high amount of cross-border cooperation taking place on the European level, e.g. the Baltic Strategy and other macro-regional strategies. These collaborations deal with the same issues as EGTC, but closer to the national level, even when the regional level is involved. These macro-regional projects are in reality meant to coordinate existing projects, and from that perspective EGTC may be a tool for this kind of commitment.

The political discussion

The mandate comes in the form of the initial objective, but how an EGTC is constructed depends on the agreement between the participants. Still, the members' original area of competence also restrains the grouping. Under Swedish legislation, an EGTC can be formed by its members for any subject matter, and is only limited to obey the EU regulation. In Sweden the groupings are largely governed by the administrative legislation, and the legislation of transparency does not extend to groupings registered outside of Sweden. However, both Sweden and Denmark have a legislative tradition of transparency within the public administration. Another unique aspect of EGTC is that the members of the groupings are subject to instances of other governments; e.g. Swedish members are subject to the Danish Ombudsman of Justice if the grouping is registered in Denmark.

The purpose of EGTC is to strengthen the border regions, but it can be difficult to create something that is binding across national borders, even in a purely legislative sense. The tool is sprung from the strong agenda of the Committee of the Regions to manifest these groupings. This may make it difficult to build a coherent meaning of what EGTC actually signifies. EGTC is furthermore a new tool, which makes it interesting and exciting to try on smaller constellations, both from a regional and national perspective.

EGTC can be useful when involving multiple participants, as it creates a sense of value and symbolic inspiration. However, it is quite possible to reach agreements between actors without EGTC. Taking turns of "presidency" regulates daily routines within regional border collaborations today. With an implementation of EGTC, the regulatory powers would come from the same place at all times. But through EGTC, the problem of regional border politics concerning which national law that applies in specific situations would be largely eliminated.

One problem that may arise from EGTC is the decision on which national law that should be applied where. For instance if Swedish law is decided to be regulatory, the question of which Swedish law to apply in a specific situation remains. For example, an EGTC registered in Sweden is stated not to be a public authority, but it is not further stated what it is instead. The national level does not necessarily have to become a member, only provide its approval or disapproval. It is thus important to investigate which role a non-member national government will have in the partnership.

Through the perspective of legitimacy, the question may be raised if EGTC is ready to solve problems related to decision-making in today's cross-border programs – when all parties must be unanimous. EGTC does not approach the problematic power of civil servants, who have an extensive role in the EU and today's cross-border collaborations. The weight of legitimacy lies with the purpose of the grouping. If the grouping is operating on a political level, legitimacy becomes an important issue, but if the purpose is to draw border regional tourist maps the issue of legitimacy more or less loses its relevance.

Regional border cooperation normally signifies indirect democracy, since the elected representatives appoint the representatives in the cross-border cooperation system.

It is possible to deviate from the principle of consensus in EGTC, however it is used in most of the EGTC setups already in place. From a legitimacy perspective, this is certainly not surprising. The question is whether an EGTC solves the decision-making problems when all parties still have to agree. EGTC does not solve either the problem of officials' power, which is also high in Europe and in the border collaborations. But the importance of legitimacy in a grouping depends heavily on its purpose. If the grouping is working on a political level, it is important to discuss its legitimacy, but if for example, it will produce border regional tourist maps the legitimacy questions is not of any greater relevance.

The Öresund Region

One detail that characterizes the Öresund Region is that there is a national capital city on one side and more peripheral nation areas on the other. According to OECD, capitals are important engines that drive the whole region forward. Eurometropole Lille-Kortrijk-Tournai is of interest from a comparative point of view, as it reminds the viewer of the Öresund Region in many aspects. Lille on the French side is a city with some powerful politicians, whose political influence extends beyond the city limits. Thus, there must be political potency in the cities when opting for an EGTC.

The main reason for reforming the co-operation in the Öresund region or parts of it into an EGTC would be to manage EU-funds, around which the region already has built a structure around. EGTC may have a symbolic value from a political

point of view. An EGTC implementation would result in more attention for the region, which can be both positive and negative, something politicians should be conscious about. The Öresund Region has found functioning methods of cooperation gradually, and should it find these to work poorly, EGTC could potentially be a good solution. However, it is not certain that this would spawn more stability or clarity, thus perhaps being more of a formal solution rather than a necessary one. But EGTC could have advantages for a cooperation focusing on purely technical issues, such as statistics and information, as it can shape a foundation for cooperation between the members and the possibility for long-term visions.

Final

Regulation 1082/2006 has manifested the possibility to form a legal (EGTC) person for cross-border cooperation. During a short period of time, a relatively high amount of groupings have been established and many more border regions have come more or less far in their discussions on establishing new ones. During 2011 the Commission will evaluate the process and in August 2011 a report of this evaluation is due.

EGTC is a new instrument that varies from country to country depending on how each Member State chooses to implement the regulation into its own legislation. Our evaluation illustrates that EGTC is foremost a political instrument rather than a legal. Since it is a new instrument there are several problems that will evolve through practice and experience. The gains of using this type of instrument are mainly political. It creates a symbolic value in itself, and brings with it a certain stabilising value for the cross-border cooperation.

It is still unclear how EGTC will develop, which naturally is of high importance when considering EGTC implementation or not. This clarifies the importance of following the developing discussion within the EU, especially concerning whether EGTC will achieve a stronger role in macro-regional strategies or in the seven-year budgetary period following 2013, which is a future circumstance that cannot be ignored.

Contemporary cross-border cooperation is normally conducted through committees that are built on agreements or similar. They are collaborations built on consensus, which often inhibits decision-making when agreement is not possible, while at the same time ensuring that decisions are well anchored. However, there exist advantages for some border regions to implement the EGTC model, especially for the regions that lack long-term experience with cross-border cooperation. EGTC contains a concrete framework that can offer assistance in such cases, especially so if the potential partnership involves multiple (more than two) Member States. We also see the possibility for EGTC to have advantages in cross-border collaborations that focus on purely technical issues, such as statistics and information. It can shape a foundation for cooperation between the members and the possibility for long-term visions.

References

Printed sources

Erwin Vetter – Cottin, Bernard Cottin: Deutsch-Französische Mission, Eurodistrikt Strasbourg-Ortenau

Franz-Joseph Peine – Thomas Starke: Der europäische Zweckverband. Zum Recht der Europäischen Verbünde für territoriale Zusammenarbeit, Landes- und Kommunalverwaltung 2008, p. 402–405

Gerold Janssen: European Groupings of Territorial Cooperation (EGTC) – Experiences and Prospects, German Annual of Spatial Research and Policy, 2009, p. 177–181

Gernold Janssen: Grenzüberschreitende Regionalkooperation. Europäische Verbünde für territoriale Zusammenarbeit, Osteuropa 2007, p. 133–144

Gernold Janssen: EVTZ auf dem Prüfstand: Diskussion rechtlicher, praktischer und materieller Aspekte, i: Gernold Janssen (utg.): Europäische Verbünde für territoriale Zusammenarbeit (EVTZ), Münster 2006, p. 147–154

Giacomo Luciani – Master Thesis: European Political and Administrative Studies at the College of Europe in Bruges (2009) EGTC European Grouping of Territorial Cooperation

Giuseppe Spinaci Vara Arriba, The European Grouping of Territorial Cooperation (EGTC), New Spaces and Contracts for European Integration? i EIPASCOPE 2009/2, p. 5–13

Johannes Maier: Master of European Integration and Regionalism M.E.I.R - Bolzano/Luxembourg/Graz/Barcelona (2008) - Master Thesis European Grouping of Territorial Cooperation (EGTC) – Regions' new instrument for 'Co-operation beyond borders' A new approach to organize multi-level-governance facing old and new obstacles

Markus Kotzur: Rechtsfragen grenzüberschreitender Zusammenarbeit, i: Gernold Janssen (utg.): Europäische Verbünde für territoriale Zusammenarbeit (EVTZ), Münster 2006, p. 55–76.

Martin Vock: Der EVTZ: eine unbekannte Körperschaft, Österreichische Steuerzeitung 2009, p. 487–489

Joakim Nergelius: Svensk statsrätt, 2:a uppl, Lund 2010, p. 366–68

Publications

Baseline Study, Urbact 2008

Conclusions of the Committee of the Regions about the joint consultation. The Review of Regulations (EC) 1082/2006 on the European Grouping of Territorial Cooperation, 2010

EGTC Expert Group – Presentation CoR Study "EGTC: State of play and perspectives"

Expertising Governance for Transformer Conurbations

Folketingstidende 2007/08 (2. Samling), tillæg A 2514, L 61, Forslag til lov om administration af forordning om oprettelse af en europæisk gruppe for territorialt samarbejde (EGTS).

Interact Handbook: The European Grouping for Territorial Cooperation (EGTC): what use for European Territorial Cooperation programmes and projects, p. 47

NU 1973:1 Kommunalt samarbete över de nordiska riksgrensarna. Rapport från nordiska kommunalrättskommittén.

NU 1976:10 Nordisk konvention om gränskommunalt samarbete. Förslag från arbetsgruppen för de gränskommunala frågorna.

Press-Kit Strasbourg-Ortenau Eurodistrict Januari 2010

Prop. 2008/09:174 Lag om europeiska grupperingar för territoriellt samarbete m.m.

Prop. 2008/09:173 Beskattning av europeiska grupperingar för territoriellt samarbete.

RP 56/2009 Regeringens proposition till Riksdagen med förslag till lag om en europeisk gruppering för territoriellt samarbete.

SOU 2002:85 Ett internationellt kommunalförbund – bilagor. Betänkande av Gränskommunutredningen.

Internet sources

Bundesministeriums für Wirtschaft und Technologie (BMWi): Europäischer Verbund für territoriale Zusammenarbeit (EVTZ), Zuständige Behörden in Deutschland, Stand: 1. April 2008, tillgänglig på Internet:<http://www.bmwi.de/BMWi/Redaktion/PDF/E/evtz-zustaendige-behoerden,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf>

Committee of the Regions [Adopted national provisions on EGTC]
<http://portal.cor.europa.eu/egtc/en-US/NationalProvisions/Pages/Adopted.aspx>

Webpages

<http://www.amphictyony.gr>

<http://www.cor.europa.eu/EGTS>

<http://www.duero-dourp.com>

<http://www.eurodistrict.eu>

<http://www.euroregio-epm.org>

<http://www.galicia-nortept.org>

<http://www.istergranum.hu>

<http://www.lillemetropole.fr>

Legal documents

Decisions from the President of the Baden-Württemberg, 21 of January 2010.

Regulation (EC) No 1080/2006 of the European Parliament and of the Council of July 5 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999

Regulation (EC) No 1082/2006 of the European Parliament and of the Council of July 5 2006 on a European grouping of territorial cooperation (EGTC)

European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CETS No. 106)

Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CETS No. 159) Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation (CETS No. 169)

Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206)

[Hamburg] Anordnung über Zuständigkeiten im Zusammenhang mit dem Europäischen Verbund für territoriale Zusammenarbeit, 17. November 2008.

Lagen om en europeisk gruppering för territoriellt samarbete (554/2009)

Lov om administration af forordning om oprettelse af en europæisk gruppe for territorielt samarbejde (EGTS) Lovbek. nr. 309 af 30. april 2008.

[Mecklenburg- Vorpommern] Landesverordnung zur Übertragung von Zuständigkeiten nach der Verordnung (EG) Nr. 1082/2006 des Europäischen Parlaments und des Rates vom 5. Juli 2006 über den Europäischen Verbund für territoriale Zusammenarbeit im Land Mecklenburg-Vorpommern (EVTZ-Zuständigkeitslandesverordnung – EVTZ-ZustLVO M-V), 18. Juni 2009.

Ustawa z dnia 7 listopada 2008 r. o europejskim ugrupowaniu współpracy terytorialnej (Dz. U. z 2008 r. Nr 218, poz. 1390)

Interviews

Brussels, 2010-03-30 Katarzyna Gawlik, European Commission DG Regional Policy B-1049 Bryssel

Lille, 2010-03-30 Nicolas Karges Lille Urban Metropolitan Area 1 rue du Ballon F-59034 Lille Cédex

Brussels, 2010-04-30 Gianluca Spinaci Committee of the Regions Bâtiment Jacques Delors Rue Belliard 99-101B - 1040 Brussels 49

Strasbourg 2010-05-20 Jean-Baptiste Schiber European and International Relations Department European Affairs Officer

Strasbourg 2010-05-20 Veronique Petitprez Press service City of Strasbourg

Offenburg 2010-05-21 Pascale Simon-Studer Eurodistrikt-Referentin "Büro des Landrats" Offenburg

Frankfurt (Oder) 2010-05-10 Klaus Baldauf Sonderbeauftragter für Internationale Zusammenarbeit Stadt Frankfurt (Oder)

Frankfurt (Oder) 2010-05-10 Sören Bollmann Bollmann & Partner Frankfurt Oder
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