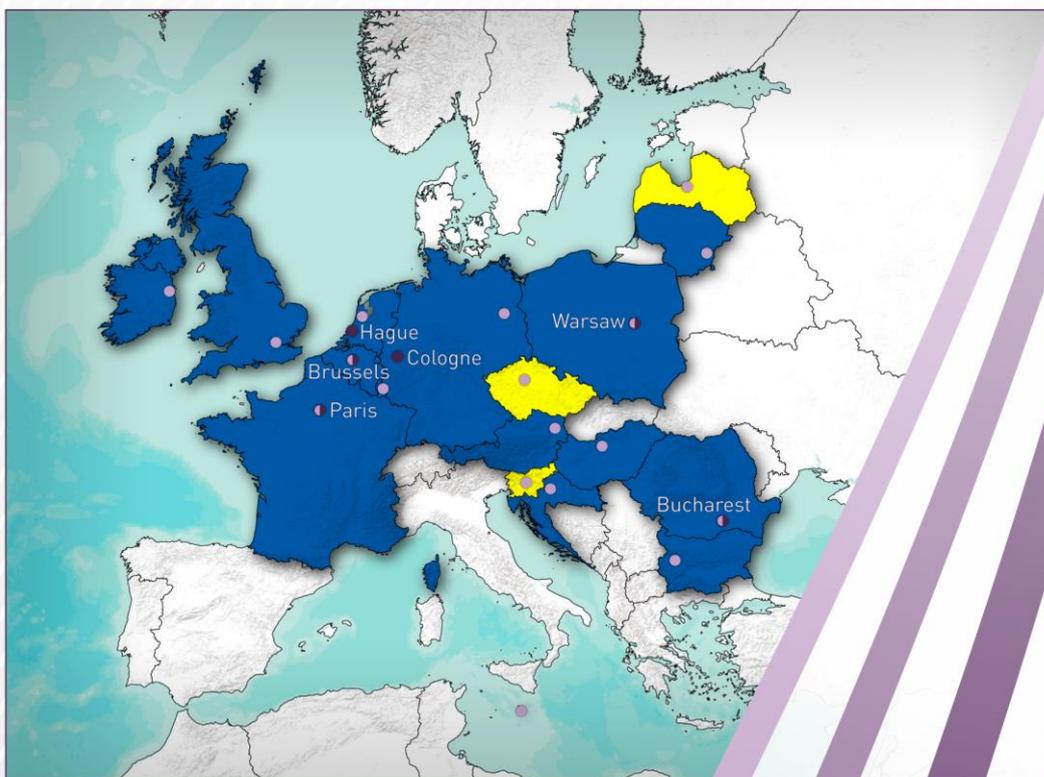


Central European Service for Cross-Border Initiatives
(CESCI)

Decision supporting background study for the establishment of the ECR EGTC



Budapest, 2016

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List of Abbreviations

AA	Administrative Arrangement
BG	Bundesgesetz
CESCI	Central European Service for Cross-Border Initiatives
CETC EGTC	Central European Transport Corridor EGTC
CoR	Committee of the Regions
CT	Corporate taxation
EASA	European Aviation Safety Agency
(EC)	European Community/Communities
ECR	Euro Contrôle Route
EG	Europäischen Gemeinschaft
EGCC	European Grouping for Cross-border Cooperation
EGTC	European Grouping of Territorial Cooperation
ERDF	European Regional Development Fund
ESPO	European Observation Network
ETC	European Territorial Cooperation
EU	European Union
EUKN EGTC	European Urban Knowledge Network EGTC
EUR	Euro
EUROJUST	The European Union's Judicial Cooperation Unit
EUROPOL	European Police Office
EUROSTAT	Statistical Office of the European Communities
EXCO	Executive Committee
FDI	Foreign direct investments
GA	General Assembly
GDP	Gross domestic product
IR	Internal Regulations
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organization
PG	Project Group
SC	Social contributions
SC	Steering Committee
SME	Small and medium-sized enterprises
TWG	Tacho Web Group
UN	United Nations
VAT	Value-Added Tax
WG	Working Group

Executive summary

Background

At its meeting held in Sofia on 26–27th November 2013, the Steering Committee of the Euro-Contrôle Route network made the decision to intensify and improve the level of cooperation within the framework of the new tool of the EGTC (European Grouping of Territorial Cooperation).

The creation of the envisaged new legal entity is laid down by **Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation** and the subsequent **Regulation (EU) No 1302/2013 of the European Parliament and of the Council**, as well as the related national statutory provisions through which the member states validated these two EU regulations.

The tender addressing potential consultants assisting the establishment process of the EGTC was published on 15th October 2014. The Central European Service for Cross-Border Initiatives (CESCI) was selected for contract at the SC meeting held on 09/04/2015 and the decision on the selection was confirmed after a written procedure on 05/05/2015. The service contract was signed by the Benelux Secretariat at the beginning of July and on behalf of the contractor in the middle of August. The contractor started the implementation of the project according to the Inception report delivered on 02/06/2015. In line with the report, the project has been divided into two phases the first of which contains the elaboration of a preliminary study concentrating on three main issues:

- (1) analysis on the alternatives of the seat
- (2) proposal on administrative arrangements and internal regulations
- (3) information on the establishment procedure.

The comprehensive study below contains all these three topics, completed with an analysis on the legal background of the establishment and the operation of the planned EGTC.

This summary highlights all the relevant conclusions of the study.

The legal background

EGTC presents an independent legal entity in all of its member states, if the candidate country's government agrees to its adhesion to the grouping. Accordingly, the EGTC can employ workforce, establish institutions and operate public enterprises on its own in each of the EGTC member countries. Within the meaning of the 2013 amendment of the EGTC Regulation, the grouping can freely determine the fees of the services provided by it or by its institutions / companies.

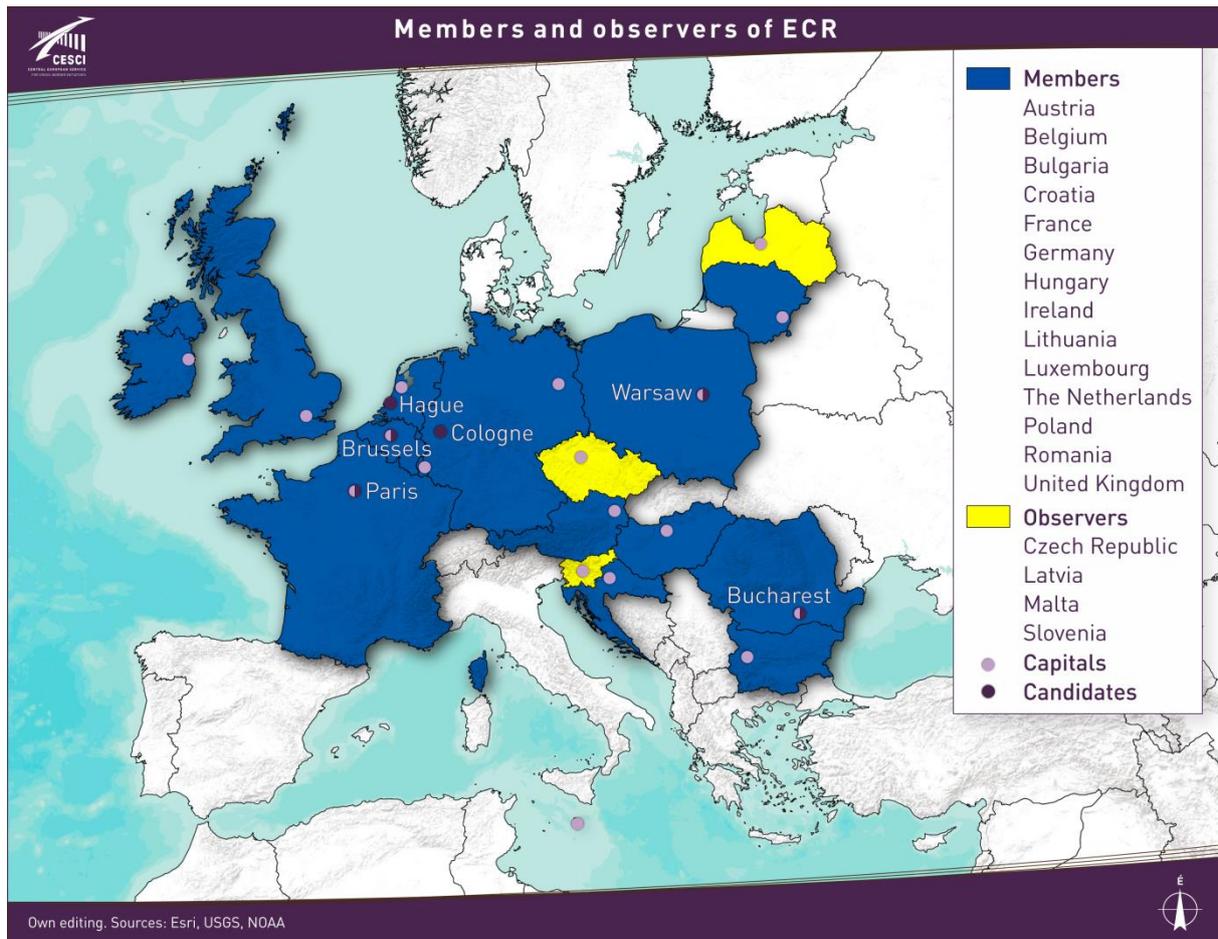
The establishment and the operation of the groupings are ruled by

- the Regulation 1082/2006/EC on a European Grouping of Territorial Cooperation (EGTC) was adopted by the European Parliament and the Council of the European Union on 5 July 2006 which was amended by the EGTC Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 (the revised EGTC Regulation applies from 22 June 2014);
- the relevant national provisions in force in each of the member countries;
- and the Convention and the Statutes as founding documents of the groupings.

With a view to starting the operation, the EGTC members shall adopt the two lastly mentioned documents which must be in harmony with the EU Regulation referred to above and the relevant national provisions – notably with those being in force in the seat-country.

The seat

According to the information received from the Steering Committee (SC) meeting held in Vilnius on the 11th and 12th of November 2014, six cities/countries are identified as candidates for the status of the seat of the planned EGTC. These are: *The Hague* (the Netherlands), *Brussels* (Belgium), *Bucharest* (Romania), *Cologne* (Germany), *Paris* (France) and *Warsaw* (Poland).



In order to enable the founding members to make a well-based decision on the seat, the study investigates the alternatives from different viewpoints: accessibility, economic stability, diplomatic power / reputation, operational factors, legal aspects. All these aspects have been analysed (benchmarked) with a weighted scaling method approved previously by the ECR EXCO with a view to guaranteeing a selection procedure as objective as possible. As it was mentioned before, the identification of the seat determines the relevant national provisions to be taken into account when setting up the Grouping. At the same time, also the legal background defines the identification of the seat since the Steering Committee has decided not to establish an EGTC under private law. Among the relevant regulations in force within the six candidate countries, the Romanian one falls under the force of a private law provision. Consequently, Bucharest cannot be the seat of the ECR EGTC. However, the members of the ECR network can make the decision to set up the Secretariat separately from the seat – even in Bucharest. It is the reason why the analysis also includes the data on Bucharest.

In order to compare the conditions of the six candidate cities, the consultant performed a desk research and invited the representatives of the relevant national institutions to fill-in a questionnaire the content of which had previously been agreed upon with the EXCO. Five of the six candidates have sent back the questionnaire filled-in at least partly, no answers were received from France. However, the information has not always proved to be comparable. Consequently, the results of the analysis can be considered reliable with reservation, only.

Regarding accessibility, we examined the air and ground (car, coach and rail) traffic parameters of each candidate city. Our analysis shows that from the perspective of accessibility, the best choice is Paris which can be accessed the easiest from all the member countries of the ECR network. From this aspect the eastern European capital cities are far less attractive. The ECR members should select **Paris, The Hague or Brussels** if they would consider accessibility as the most significant factor of selection.

In the field of economic factors two basic features of the relevant national economies are worth considering:

- the dynamics of the national economy (performance of the gross domestic product in the course of the last 5 or so years, and, further, both short term and medium term forecasts, also in terms of GDP growth levels) and
- the level of general openness of the national economy in question (expressed in terms of the ratio of foreign trade, mainly exports, in GDP and also on that of the importance of foreign direct capital in the generation of GDP, as well as the rate of foreign controlled enterprises).

The results of the analysis have shown apparent differences: while the rate of economic growth is the most spectacular in the east European countries (**Poland and Romania**), in the respect of openness, **Belgium and the Netherlands** produced the best values. Furthermore, from the point of view of diplomacy and para-diplomacy, **Cologne and Paris** are in the best position.

When analysing the operational factors (operational costs, schooling opportunities, language skills), the best selections seemed to be **The Hague** (where the office would be provided during the first few years free), **Cologne** or **Bucharest**.

In addition, also the legal factors and the experiences in the field of approving and registering EGTCs have been taken into consideration. The following aspects were analysed:

- competences of the members (which defines the room for manoeuvring in the field of activities);
- controls of public interest (which also can reduce the field of activities);
- provisions on tax burdens (which influences the financial burdens);
- and the number of approved and registered EGTCs.

The investigations show that there are no significant differences between the national legislations regarding the potential competences delegated to the members and the controls over the operation of the EGTC in relation with the public interest. Two legislations make an exception, where the rules are stricter in the latter case: The Netherlands and Romania. When comparing the tax burdens, the Eastern European countries proved to be in a more favourable conditions than the western ones. The index generated from these three aspects has brought out **Warsaw, Bucharest and Paris** as the best options.

Also in the respect of the experiences in the field of EGTCs, **Paris and Warsaw** seemed to be the best alternatives.

In line with the agreement made with the EXCO in Vilnius on 12th November, the following weighting has been applied when summarising the results on the seat:

Name of the factor	Weight in assessment
EGTC experience	5%
Geographic and transport factors	35%
Economic and political factors	15%
Operational factors	25%
Legal factors	20%
TOTAL	100%

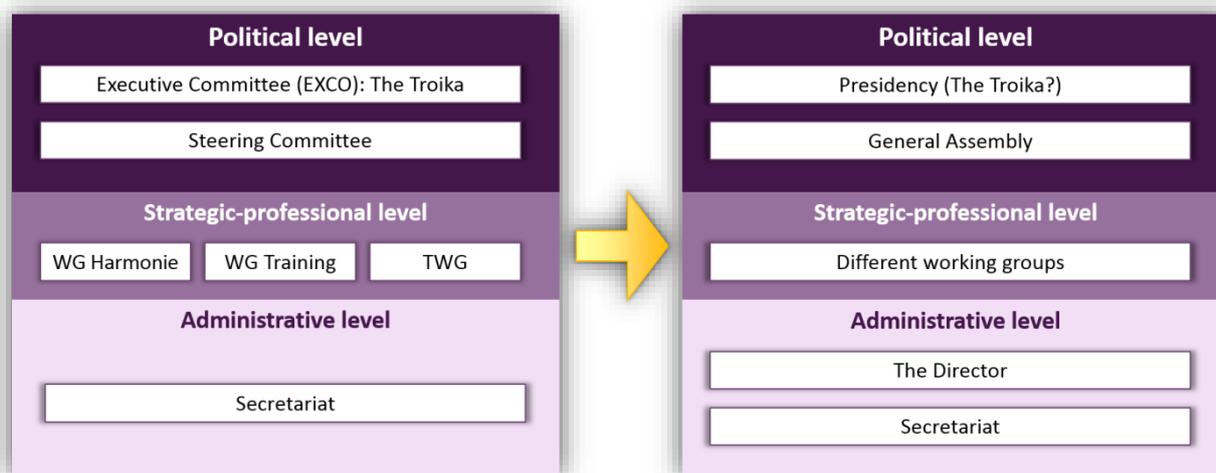
Generated table of the factors of selection of the seat

Candidate city	Brussels	Bucharest	Cologne	The Hague	Paris	Warsaw
EGTC experience	3	2	3	1	5	4
Multiplier	0,05	0,05	0,05	0,05	0,05	0,05
Weighted value	0,15	0,1	0,15	0,05	0,25	0,2
Accessibility	5	2	3	5	5	3
Multiplier	0,35	0,35	0,35	0,35	0,35	0,35
Weighted value	1,75	0,7	1,05	1,75	1,75	1,05
Economy and diplomacy	3,75	3	3,75	3,75	3	3,5
Multiplier	0,15	0,15	0,15	0,15	0,15	0,15
Weighted value	0,5625	0,45	0,5625	0,5625	0,45	0,525
Operation	3	4	3	3	1	4
Multiplier	0,25	0,25	0,25	0,25	0,25	0,25
Weighted value	0,75	1	0,75	0,75	0,25	1
Legal background	2	4	2	2,4	4	5
Multiplier	0,2	0,2	0,2	0,2	0,2	0,2
Weighted value	0,4	0,8	0,4	0,48	0,8	1
Total	3,6125	3,05	2,9125	3,5925	3,5	3,775

As a result of the benchmarking, **Warsaw** was awarded with the highest score, slightly overtaking **Brussels and The Hague**. Certainly, the ECR members can make a different decision taking into account diverse points of view of their own.

Administrative arrangements and internal regulations

Briefly, the changes expected from this new form of cooperation can be presented as it follows:



Factors taken into account when drafting the new structure were:

- the legal provisions prescribing mandatory elements of the EGTCs;
- the current structure of the ECR network;
- the results of the on-line questionnaire evaluating the current structure by the members;
- the models of the EGTCs registered so far.

The EGTC as a Community government development model unifies the 3 levels of tasks ahead.

The *political level* includes the EGTC tasks and representation related to governance. The related regulatory questions affect the decision-making processes within the association, the potential officers of the association and the connection between these two. It is also at political level that questions on responsibility and competence come to the surface.

The *strategic or professional level* means the common workshops on professional activity. These workshops serve as a basis for and realise foreseen common projects, as well as add professional content to the operation of the EGTC. Contrary to the political level, the related regulations do not describe management tasks but assure the conditions enabling professional activities. Even though there is an obvious and strong connection between these two levels, it is advised to separate the two functions.

The *administrative level* integrates the functions related to the daily operation of the EGTC. The administrative centre of the EGTC (the Secretariat) is usually led by the Director. He/she is also the representative of the association. However, the administrative centre's tasks can be clearly separated from the decision-making and strategic functions. It is the Secretariat's responsibility to assure the necessary conditions to operate the political and strategic level activities.

The planned EGTC has to include all three functions at the same time in accordance with the Statutes.

At political level, the EGTC Regulation prescribes as mandatory the setting up of the General Assembly which will take over the role of decision making body from the Steering Committee. The GA will decide on issues which have definitive weight in the operation of the EGTC, like

- the amendment of the Convention and the Statutes;
- the selection of the officers;
- definition of the methods and the amount of members' contributions;
- the set and the competences of the organs;
- the voting procedures;
- the approval of the annual plans and annual reports;
- the winding-up of the EGTC; etc.

The ECR members have also to decide how the voting power should be defined. According to the on-line questionnaire, there are member states which find better solution to set out the members' contribution along the GDP per capita of the given country. The lower contribution can be linked with lower voting power.

In addition, the members have to define the rate of the quorum, with a view to guaranteeing the legitimacy of the decisions made. Also procedures for the cases of the lack of the quorum are to be laid down.

Since the ECR members are satisfied both with the Secretariat (administrative level) and the Executive Committee (political level), there is no reason to wind up these organs. However, in line with the practice of the EGTCs registered so far, the Executive Committee can be replaced by a Presidency (involving the past, the current and the next President the same way as it is

now within the Troika). In order to guarantee the smooth operation of the EGTC it is worth examining whether delegating larger competences to the Presidency is more advantageous.

At strategic-professional level, no concrete mentioning of working groups in the Statutes is recommended. On the one hand, the ECR members casted the biggest doubts on maintaining the current working groups also within the structure of the EGTC. On the other hand, the fix listing of working groups in the Statutes might incapacitate the EGTC in its ability to responding to changes and emerging challenges. It seems to be satisfactory to open the opportunity to set up working groups if needed.

At administrative level, it is obligatory to inaugurate the Director who represents administratively the EGTC and manages the work of the Secretariat. At the same time, the Director can be authorised to act as the leader of professional activities of the ECR (like the coordination of the work of the working groups, managing joint projects, organising professional events, trainings, publication of professional studies, etc.). However, according to the results of the on-line questionnaire, the ECR members would rather see in the seat of the director someone who is more familiar with administrative than professional management.

A further topic explained in the relevant chapter is financing. To sum up the conclusions of that subchapter, the safe operation of the EGTC requires the separation of the operational and project costs, as well as the diversity of the resources.

Diversified financing can be built up of the following resources:

- members' annual contribution
- members' (i.e. countries') extra contributions
- projects
- fees for services provided by the EGTC.

The costs related to daily operation of the EGTC should be covered by the members' contributions, notably during the initial phase of the grouping. Projects should be considered as additional resources of financing, as a kind of 'bonus'. Further resources can be ensured by the provision of services (like training courses, international conferences with a registration fee, publication of professional materials, development of EU projects for the member authorities or external actors, making educational films, etc.).

Chapter 4.3 gives a comprehensive overview on the issues to be discussed during the establishment process by the members, providing a large number of examples for different solutions from the arsenal of the EGTCs registered so far.

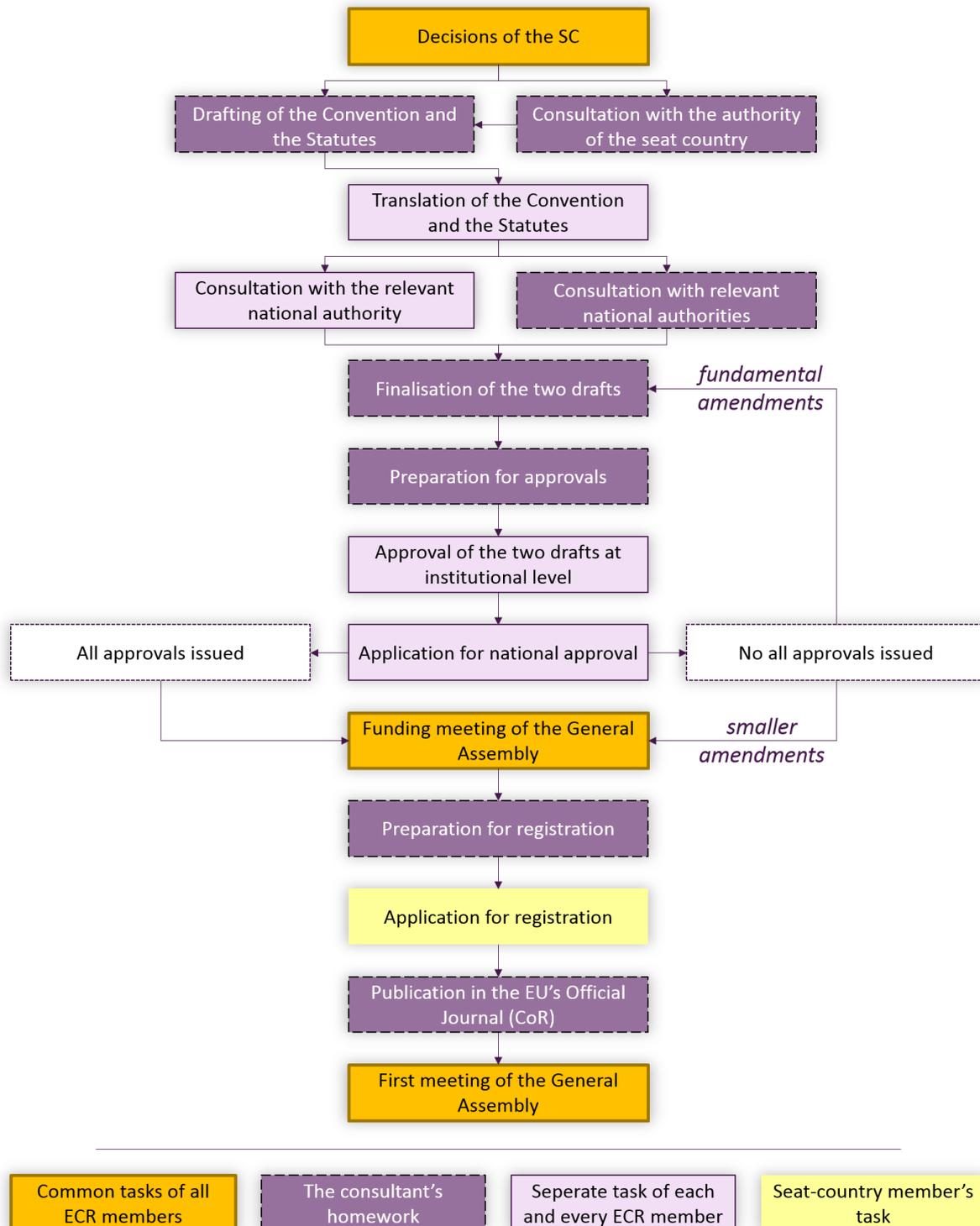
The table below summarises the questions to be answered at the Steering Committee meeting where the decisions necessary for drafting the Convention and the Statutes will be made.

Name of the EGTC	
Fields of cooperation	1
	2
	3
	4
	5
	6
	7
	8
	9
	10
Membership	Identification of the full members
	Difference between full and observing member status
	Acquisition, withdrawing and loss of membership
	Definition the way and amount of membership fee
	Representation of the members at the General Assembly
	The right of proxy or substitution
General Assembly	List of the competences of the GA
	Quorum
	Frequency of the meetings
	Decision-making models
	Electronic voting and communication
	Official language
Leadership 1 Presidency	Role and competences of the President
	Way of election of the President
	Substitution of the President

	Co-presidency, the question of the Troika
	Rotation
	The share of competences between the President and the Director
	Duration of the office
Leadership 2 Director	The way of selection: open competition or appointment
	Selection criteria
	Employment or outsourcing
	Duration of the office
	Status of the Director (political / strategic / administrative)
	Limitation of the right of remittance
Professional bodies	Existence and appearance in the Statutes
	Fields
	Members
	Leadership
	National contact points?
Secretariat	At the seat? Elsewhere?
	Own secretariat or outsourcing?
	Rotating secretariat or national coordination points?
Supervisory Board	Supervisory Board or external auditor
	Number of the members
	Selection criteria

The next steps toward the start of operation

In order to start the operation of the planned EGTC, the following steps are to be taken:



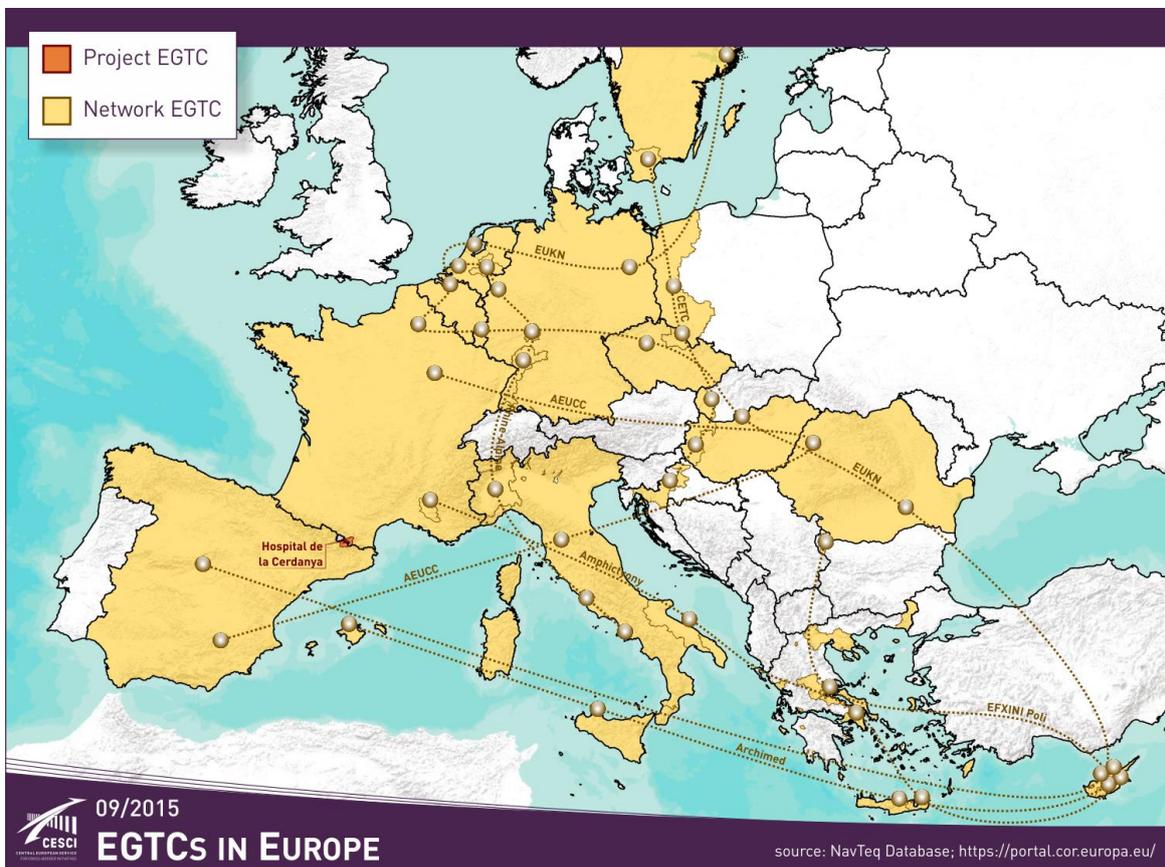
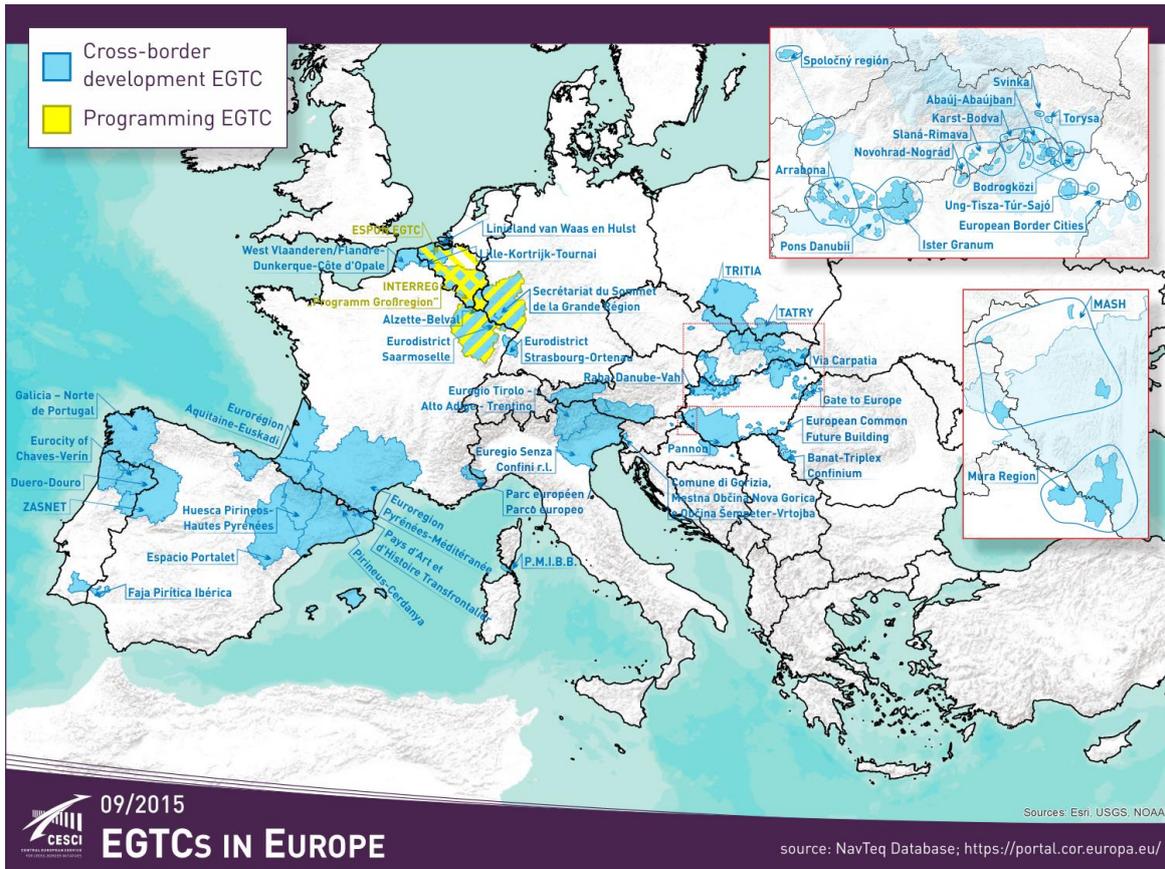
1. Introduction

At its meeting held in Sofia on 26–27th November 2013, the Steering Committee of the Euro-Contrôle Route network made the decision to intensify and improve the level of cooperation within the framework of the new tool of the EGTC (European Grouping of Territorial Cooperation).

The creation of the envisaged new legal entity is laid down by **Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation** and the subsequent **Regulation (EU) No 1302/2013 of the European Parliament and of the Council**, as well as the related national statutory provisions through which the member states validated these two EU regulations. In order to enable the authorities involved, undertaking the founding of the new association, to make their decisions based on all the relevant information, we find it important to summarise what novelties the new legal instrument holds.

The initial aim of the initiators of this new regulation in 2004 was to create a direct cross-border development association (European Grouping for Cross-border Cooperation: EGCC). During the debate on the draft regulation, the content of the instrument was broadened by two other territorial dimensions of the ETC-priority (ETC: European Territorial Cooperation), in parallel with the fact that territorial cooperation became the third priority of EU-level cohesion policy. Accordingly, direct *cross-border*, *transnational* and *interregional* EGTCs can be formed today and ETC programmes enable the realisation of projects in the same dimensions as well. It can thus be seen that the original intention of the legislators was to establish the Grouping as a form of cooperation destined to manage cross-border, transnational and interregional projects and programmes. However, most of the local participants did not found groupings of this kind to manage specific projects or programmes but mostly to realise integrated cross-border developments. Until the date of the amendment of the EU Regulation (2013) only one so-called “project” and one “programme” EGTC were created.

Among the 56 EGTCs registered until the finalisation of this study, only one was created with the aim of realising a specific project (to build and successfully operate a hospital in a border area), and two for the management of EU programmes. A further 7 such groupings coordinate one network-like form of cooperation each, whilst the remaining 46 EGTCs (82%) were founded specifically with the goal of facilitating cross-border development, envisaging not one, but several common projects.



The EGTC to be established by the ECR does not aim for the management of a programme or project either. Functionally, the ECR EGTC will be a network grouping, the common features of which are:

- it is not territorial, but thematic-functional proximity that serves as a connecting factor of the cooperation,
- the partners working together for thematic-functional reasons create the grouping in order to achieve their long-term professional goals, as a certain kind of common professional management,
- it undertakes and carries out tasks which have, at the same time, an administrative (operation of the specific network and its bodies), a professional (coordination of common professional activities, realisation of common actions, projects, professional events, initiatives with or without EU subsidies) and a political (as institutions of policy coordination and EU-level lobbying) character.

In order to understand the functions of the EGTC, we must go back to the point where the 'founding fathers' originally decided to create an instrument that could take the already existing cross-border cooperation to a higher institutional level. From this point of view, the grouping fits well into the evolutionary process that started out with informal models in the '60s, then along the lines of the structures induced by the Madrid Outline Convention (just like the *Consortio* or *Eurodistrict*, or other forms that can be linked to the second generation of *Euroregions*) getting to creating common cross-border institutions made possible by the European Union's decree on EGTCs and the 3rd Protocol of the Council of Europe.

EGTC presents an independent legal entity in all of its member states, if the candidate country's government agrees to its adhesion to the grouping. It is not necessary to found parallel institutions in all member states. Accordingly, the EGTC can employ workforce, establish institutions and operate public enterprises on its own. Within the meaning of the 2013 amendment of the EGTC Regulation, the grouping can freely determine the fees of the services provided by it or by its institutions / companies.

The creation of the grouping presupposes mutual trust and long-term commitment from the members, as the EGTC resembles a business joint venture – except for the fact that it is not

profit oriented. The resemblances of the EGTC to a business joint venture are best seen upon its dissolution, when the common assets are being dealt with (together).

In line with the above, it is worth founding an EGTC if

- the initiators' cooperation is sufficiently grounded and reaches a level of trust of that of a joint venture;
- the existing operating conditions can no longer be assured on the required level without creating an OWN joint institution;
- the partners are considering a long-term, strategic cooperation controlled by its own management, they wish to acquire common assets, operate joint institutions, or would at least like to increase the transparency, reputation or professionalism of the cooperation through an independent association.

In each case of founding a new EGTC, its initiators have to first answer 3 questions:

- (1) is the cooperation on a level to meet the conditions above?
- (2) if the answer to Question (1) is 'Yes', is an EGTC really the best solution to overcome the obstacles hindering the further development of the cooperation?
- (3) are the members willing to assure the financing of the joint institution?

On 5 March 2014 in Brussels, the Steering Committee of the ECR gave a positive answer to all 3 questions, thus allowing for the founding process to start based on this unanimous intention. This study has been prepared as part of this process, and we have now reached the stage to clarify the founding and operational criteria of the new EGTC soon to be created.

This study aims at identifying the framework conditions for the establishment of the ECR EGTC which is planned to become the common management structure of 14 European national level transport authorities (at the starting phase). The framework conditions to be examined include

- the legal framework ruling the establishment procedure and the functioning of a Grouping (at both European and national levels),
- the aspects defining the identification of the seat of the new institution,
- the governance structure and internal regulations based on the current system and the related experiences.

The main mission of the study is to ease the decision making process and to ensure appropriate information for the founding members on the future EGTC. For this purpose, the experts of the

Central European Service for Cross-Border Initiatives (CESCI), as contractors, compiled a comprehensive analysis with the following structure:

- (1) **Analysis of the legal provisions ruling the establishment and the functioning of the EGTC.** In this chapter we summarise the provisions of the relevant European regulation approved in 2006 and amended in 2013, and the national legislations currently in force in the founding members' countries – including a brief overview on the differences between them. Each and every member has to apply to the relevant national approving authority to acquire the official approval needed for full membership. These approvals require the founding documents (and also arrangements and internal regulations) to be matched with the national EGTC regulations. In addition, the comparison helps to understand the problems of legal harmonisation and facilitates the decisions.
- (2) **Analysis of the seat.** According to the information received from the Steering Committee (SC) meeting held in Vilnius on the 11th and 12th of November 2014, six cities/countries are identified as candidates for the status of the seat of the planned EGTC. These are: *The Hague* (the Netherlands), *Brussels* (Belgium), *Bucharest* (Romania), *Cologne* (Germany), *Paris* (France) and *Warsaw* (Poland). In order to enable the founding members to make a well-based decision on the seat, this chapter investigates the alternatives from different viewpoints: accessibility, economic stability, diplomatic power / reputation, operational factors, legal aspects. All these aspects have been analysed (benchmarked) with a weighted scaling method approved previously by the ECR EXCO with a view to guaranteeing a selection procedure as objective as possible. Identification of the seat determines the relevant national provisions to be taken into account when setting up the Grouping. (As it was mentioned before, there can be big differences between particular national EGTC regulations.)
- (3) **Analysis of the structure and internal provisions of the EGTC.** This chapter is dedicated to the presentation of different models used by the EGTCs currently existing in Europe regarding the structure and the internal provisions defining the operation of the Groupings. These models stand for proposing appropriate solutions for the ECR EGTC members. The chapter also includes the introduction of the current structure and internal provisions of the ECR network and the evaluation thereof, based on
 - the interview with the representatives of the EXCO in Vilnius,

- the results of the on-line questionnaire filled in by the founding members and
- the legal provisions defining the elbow-room for structuring and governing the Grouping.

(4) **Presentation of the founding process.** The last chapter is dedicated to the presentation of the establishment process of the EGTC highlighting the tasks to be done by the members and giving a rough timing thereof. At the same time, this chapter envisages the next steps to take.

2. Legal analysis

The first chapter of the study is dedicated to present the legal background of the establishment and operation of the EGTC. On the one hand, we summarise the main points of the EU Regulation; and, on the other hand, we introduce the relevant national legislations. The main objective of the chapter is to make it clear for the ECR members, what kind of obligations will emerge during the implementation of the „EGTC project“.

2.1 The EGTC Regulation

The Regulation 1082/2006/EC on a European Grouping of Territorial Cooperation (EGTC) was adopted by the European Parliament and the Council of the European Union on 5 July 2006. On 17 December 2013 in the Official Journal of the EU the revised EGTC Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation as regards the clarification, simplification and improvement of the establishment and functioning of such groupings was published. The revised EGTC Regulation applies from 22 June 2014 (hereinafter: Regulation).

The EGTC Regulation is a very important stage of the process, the essence of which is the gradual institutionalisation of cross-border cooperation.

The initially informal ways of cross-border cooperation have been increasingly formalised: when they started to perform tasks and functions, in respect of which, due to their peripheral location, they were in a disadvantaged position. Through the INTERREG initiative and the European Territorial Cooperation programmes the European Union also has been providing the financial conditions for these forms of functional cooperation.

The creation of the EGTC Regulation was necessary exactly for the reason that this type of cooperation also required the legislative background necessary for stability. This was indicated by solutions such as Euro-districts along the French borders and agreements as that of Karlsruhe or Brussels. These agreements as well as the second optional protocol to the Madrid Convention made the establishment of associations with legal personality with a cross-border nature possible.

The next stage of the process was the EGTC Regulation, which ensures legal personality of the organisations managing the cross-border cooperation as binding rules, in all of the member states of the European Union.

According to the Regulation, an EGTC has a legal personality in the relevant countries, it can hire own employees, start and lead institutions as well as enterprises in all member countries. This means that an EGTC is not a consultative or ad-hoc arrangement, but a long-term form of cooperation with common strategic goals, joint project or programme management and with institutions operated jointly by the members. Consequently, members have the obligation to finance its operation and they have the (limited or unlimited) financial liability for its transactions.

The EGTC is a new legal and institutional instrument of the European Territorial Cooperation for managing programmes, projects and governing institutions created during the realisation of the programme or project as well as within the frameworks of a more institutionalised cross-border, transnational or interregional cooperation.

In the followings, we give an extraxt on the most significant provisions of the Regulation.

2.1.1 Master documents

The EGTC shall have a Convention and Statutes; the content of these documents is different and it is specified in accordance with the Regulation.

The convention shall specify:

- (a) the name of the EGTC and its registered office;
- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the objective and the tasks of the EGTC;
- (d) the duration of the EGTC and the conditions for its dissolution;
- (e) the list of the EGTC's members;
- (f) the list of the EGTC's organs and their respective competences;
- (g) the applicable Union law and national law of the Member State where the EGTC has its registered office for the purposes of the interpretation and enforcement of the convention;

- (h) the applicable Union law and national law of the Member State where the EGTC's organs act;
- (i) the arrangements for the involvement of members from third countries or from Overseas Countries and Territories (OCTs) if appropriate including the identification of applicable law where the EGTC carries out tasks in third countries or in OCTs;
- (j) the applicable Union and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention;
- (k) the rules applicable to the EGTC's staff, as well as the principles governing the arrangements concerning personnel management and recruitment procedures;
- (l) the arrangements for liability of the EGTC and its members;
- (m) the appropriate arrangements for mutual recognition, including financial control of the management of public funds;
- (n) the procedures for adoption of the statutes and amendment of the convention.

The statutes shall specify, as a minimum, the following:

- (a) the operating provisions of its organs and those organs' competences, as well as the number of representatives of the members in the relevant organs;
- (b) its decision-making procedures;
- (c) its working language or languages;
- (d) the arrangements for its functioning;
- (e) its procedures concerning personnel management and recruitment;
- (f) the arrangements for its members' financial contributions;
- (g) the applicable accounting and budgetary rules for its members;
- (h) the designation of the independent external auditor of its accounts;
- (i) the procedures for amending its statutes.

2.1.2 Members

An EGTC can be established by a minimum of two EU member states and the entities within their territories however the territorial entities of non-union countries can also join one EU member (but not the third countries themselves!) subject to certain conditions.

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 or bodies governed by public law;
- (e) undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law;
- (f) national, regional or local authorities, or bodies or public undertakings, equivalent to those referred to under point (d), from third countries.

2.1.3 Organisation

Mandatory organs

The minimum numbers of bodies that need to be established are the Director and the General Assembly, however the members may agree on the establishment of further bodies and institutions.

Tasks

An EGTC shall act within the confines of the tasks given to it, namely the facilitation and promotion of territorial cooperation to strengthen Union economic, social and territorial cohesion, and the overcoming of internal market barriers.

Each task shall be determined by its members as falling within the competence of every member, unless the Member State or third country approves the participation of a member established under its national law even where that member is not competent for all the tasks specified in the convention.

2.1.4 Applicable law, subjection

If any of the member states becomes a home member state, they shall provide the most extensive legal capacity for the EGTC according to their national law.

Applicable law:

1. the EU Regulation,

2. convention referred to in Article 8 Regulation, where it is expressly authorised under this Regulation to do so,
3. in the case of matters not, or only partly, regulated under the Regulation, the national law of the Member State where the EGTC has its registered office.

Public interest

During the activity of the EGTC, consideration must be given to public order, public health, public security and the public morality of the specific country. It must not harm the public interest of the member country. Failure to observe this rule (by activity or default) can result in sanctions being taken by the defined organisations. Only the competent authority is allowed to forbid the activity.

Management questions

The EGTC creates an annual budget approved by the General Assembly. The national law where the seat of the EGTC is located is authoritative in the creation of the financial statements.

Liability

In the case if an entity with limited liability from any of the member states (usually for the protection of public funds managed by them) wishes to join the Grouping, the given EGTC organisation should be registered as a limited liability organisation (in this case the other members may also limit their liability in the convention where national law implementing this Regulation enables them to do so).

Control

The competent authority of the country where the seat is located has to ensure the financial control and supervision of the competent authorities of the other concerned countries and the exchange of the necessary information.

Legal redress, legal dispute

The Regulation is the authoritative law in case of disputes among the members. If the Regulation does not contain any instruction, they have recourse to the competent national court. In disputes between members and/or third parties – according to the constitution which guarantees appeal rights – the court in the country where the seat is located has jurisdiction.

The appeal rights of citizens remain with the authorities located in one of the countries of the members. The courts that consider the legal redress are in this case the courts of the specific countries.

Termination

Termination should be performed in accordance with the relevant provisions of the Convention, with the decision by a competent court and authority, as well as on the initiation of another competent body of the member state.

2.1.5 Reporting obligations

The frameworks for the EGTC's reporting obligations are stated in the two founding documents; detailed rules are specified in the national EGTC legislations of member states.

The following elements of the Statutes and the Constitution are concerned by the reporting obligation:

- (a) the operating provisions of its organs and those organs' competences;
- (b) the EGTC's activities;
- (c) decision-making procedures;
- (d) the arrangements for its members' financial contributions;
- (e) the applicable accounting and budgetary rules for its members;
- (f) the designation of the independent external auditor of its accounts.

Documents usually linked to the reports and their content:

- (a) *annual report*: it summarizes the performance of the activities, assets, liability, cash flow of the EGTC for 12 months - essentially the fiscal year of the activity; but regarding the period of time of the EGTC's registration the fiscal year does not necessarily coincide with the calendar year.
- (b) *financial statement with auditing*: it is „the bread and butter” of the annual report; this is where the EGTC presents its financial performance data for all to see; at minimum, they expect to see an income statement, a balance sheet, and a cash flow statement. It contains often valuable information about the organization's structure and financial status that has not been publicized in the annual report.

The preparation of its accounts including the accompanying annual report, and the auditing and publication of those accounts shall be governed by the national law of the Member State where the EGTC has its registered office.

Preparing and submitting the reports to an authoritative body (usually to the authorities actually approving the EGTC membership of a state), as well as other ways of publication are done according to the specific national EGTC legislation and/or other national fiscal-financial regulations.

Accordingly, we can distinguish two types of reports and reporting periods:

- (a) *mandatory report*: reporting at a given period of the year; the reports have to be submitted in written form before the appointed deadline to the relevant authority, and the minimally prescribed excerpt of the report has to be published (usually between February and March of the reference year);
- (b) *case report*: the authority shall have the right to request from both the EGTC and the institutions involved in its functioning to provide at any time any data, information and documents regarding the activities carried out by EGTC, to check for compliance with the requirements set out in the Regulation.

The annual report of the EGTC is public and is available for inspection. The obligatory venue and date of its publication shall be set by the relevant legislation of the home member state. The publication of the annual report of the EGTC, in addition to the obligatory venue, may take place by inclusion on the EGTC's website or displaying on the notice board of the EGTC.

Organs involved in reports

- (a) *General Assembly*: taking into account the fact the General Assembly is the highest authority of the EGTC, it has exclusive competence of accepting the annual budget and the annual report.
- (b) *Supervisory Board*: the Supervisory Board is the EGTC's monitoring body, which is responsible for controlling the operation of the officers and the members of the EGTC, the general management of the EGTC, furthermore for ensuring that the EGTC works in compliance with the applicable regulations according to the seat location, and in certain cases in accordance with other regulations.

Consequently, the Supervisory Board specifically examines the yearly settlements, the year-end reports, budgetary concepts, and puts forth its opinions to the General Assembly.

(c) *Director*: the Director manages the administrative operation and activity of the EGTC, representing it in its internal and external relationships. Furthermore, he partakes in the elaboration and realization of the strategic processes acting on behalf of the EGTC as coordinated with the leader of the General Assembly.

During the fulfilment of the tasks the Director's obligations in particular are (in connection with the reports):

- supplying information to the General Assembly and the other organs of the EGTC;
- completion and the supervision of the financial and other management settlements;
- preparation of decisions falling under the jurisdiction of the General Assembly; the collection of reviews and reports to the decisions to be rendered by the General Assembly; the preparation of combined interim and final reports;
- keeping proper books of the EGTC;
- compliance with all reporting and disclosure obligations based on current regulations, applicable to the EGTC.

2.1.6 Assets and liquidation of the EGTC

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.

It is the Statutes that address EGTC assets – directly and indirectly. Typically, the initial asset of the EGTC is the total sum of the membership fees paid after starting the operation. This can later be complemented by assets purchased or donated to the EGTC by its members, as well as assets the association was given for use and those gained through tenders.

The assets (revenues) of the EGTC can be in particular:

- membership fees;
- other cash (bank notes, coins, current account);
- mobile and immobile property;
- property rights;
- claims;
- securities;
- aid at EU or member state level, funds obtained through tenders;
- income from other economic or entrepreneurial activities;
- donations;
- income from events and publications;
- revenues from marketing activities.

In respect of the accounting and budgetary rules applicable for the members of the EGTC, for the utilisation of Community financial resources, the relevant regulations of the European Union - otherwise the relevant legislation of the Member State where the EGTC has its registered office - are applicable (e.g. legislations on corporate taxation and capital return tax, on obligations of accountancy and financial reports; Civil Codes in different Member States).

The basis of the legal operation of the EGTC is to manage assets according to legislation, in the light of which the obligations of the EGTC can most probably continuously be met with the use of the assets at the association's disposal.

In case the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for its debts irrespective of the nature of those debts, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed in the statutes.

With regard to insolvency, cessation of payments and similar procedures (e.g. liquidation), an EGTC shall be governed by the laws of the Member State where it has its registered office (see above), unless otherwise stated in the Regulation.

Notwithstanding the provisions on dissolution contained in the convention, or on an application by any competent authority with a legitimate interest, the competent court or authority of the

Member State where an EGTC has its registered office shall order the EGTC **to be wound up if it finds that the EGTC no longer complies with the requirements laid down in the Regulation** or in particular, if the EGTC is **acting outside the confines of the tasks laid down in the Regulation**.

The EGTC may be terminated only without legal successor, and shall be followed by **final liquidation** – except for certain cases of application of different national provisions (e.g. laws on bankruptcy and liquidation). The cases where the liquidation procedure is initiated are governed by Regulation and national provisions.

According to the typical articles of different Statutes the EGTC is terminated by final liquidation in the case of:

- (a) *voluntary winding up*: Members of the EGTC unanimously decide to terminate the EGTC without a successor;
- (b) *compulsory winding up*: after Members leave the EGTC, all remaining Members are from the same Member state;
- (c) *court decision*: a national court or authority of competent jurisdiction rules to terminate the EGTC according to paragraph 14 of the Regulation.

Essentially after dissolution, the EGTC will stop fulfilling its activities/business as well as employing people and will not exist once it has been removed from the state or *companies register*. When the members liquidate the EGTC, its assets

- *primary*: are used to pay off its debts,
- *secondary*: any asset/money left goes to the Members in proportion to their contribution from the past until the moment of dissolution.

Looking at the EGTC legislations of the seat-candidate countries, there are not many indications as to what will happen to the association's assets in the case of a windup. Where it is mentioned however, it mostly concerns the start of the liquidation procedure and appointing the liquidator.

The liquidator is an authorised insolvency practitioner who runs the liquidation process. As soon as the liquidator is appointed, it will

- take control of the activities/business of the EGTC;
- settle any legal disputes or outstanding contracts;

- if necessary, sell off the EGTC's assets and use any money to pay creditors, debts;
- meet deadlines for paperwork and keep authorities informed;
- pay liquidation costs and the final tax bills;
- bring together people who were owed money (creditors) and hold meetings where necessary;
- (in the absence of legislation) decide which creditors should be paid first;
- interview the director of the EGTC and report on what went wrong in the activity/business of the EGTC;
- get the EGTC removed from the state or companies register.

2.2 Overview of the relevant national legislations

This analysis takes into account the different characteristics of the provisions of the 14 Member States, highlighting the individual national procedural rules. Because of these characteristics are detailed in other parts of this study the table below compares only those with organizational and operational elements that may be relevant to the activity of the ECR EGTC.

The analysis clearly shows that while no text-size intolerance is punished in Member States in connection with the legislation, some provisions are detailed and long-text, others are very brief and specific only to define the name of the acting authorities. Regarding the structure of the national legislations, it is observed that the detailed rules can be more transparent and more accurate with regard to the management control system and the procedural deadlines or procedural stages. However, there is a real danger that a detailed provision may be containing “subjective rules” undermining the objectivity of the provision in question, for example they may allow for the representative of approval authorities to prohibit the activity of an EGTC or to withdraw the membership rights of a member established in its territory based on a statement of the authority that “the EGTC does not fit its purpose”.

On the contrary, the essential characteristic of shorter provisions is that their rules are only just compliant with the baseline requirements of the Regulation. We regard these not entirely satisfactory solutions as a bottleneck of the establishment process of an EGTC because the goal would be to achieve as clear a national legal procedure as possible. Of course, the establishment of an EGTC to be allowed with a brief provision but defining the powers of the competent authority and the elaboration of the control management system could provide a powerful support to the EGTC founders and the competent authorities as well.

In the table below we provide with an overview on all the national EGTC provisions, highlighting the most important issues.

Main elements of the national provisions	Austria	Belgium	Bulgaria	France	Germany
Adopted national provision	Bundesgesetz über Europäische Verbände für territoriale Zusammenarbeit (EVTZ Bundesgesetz, EVTZ-BG) (2009) -EVTZ Gesetz of the Lands	Ordonnance, Dekret and Decreet on the EGTC / EGTS / GECT	Decree N° 199 on adoption of national rules on European Groupings of territorial Cooperation	Loi n° 2008-352	Berlin Senatsbeschluss and Landesverordnungs (typically short texts, only defining the acting authorities)
Approval and registration authority/ authorities	Different authorities at federal or provincial levels	Governments of the different regions	Ministry of Regional Development and Public Works, Ministry of Justice	State Representative at the regional level: Préfectures de région.	Different authorities at federal or provincial levels (Bundesministerium / Regierungspräsidium, Senatsverwaltung, Ministerium, Senator, Behörde, Landesverwaltungsamt)
The legal nature of the EGTC	Under public law	Under public law	Under public law	Under public law (explicit authorization prior to joining the EGTC is still required in French law, even if the EGTC is to be based in another country!)	Under public law

Main elements of the national provisions	Austria	Belgium	Bulgaria	France	Germany
Responsibility for obligations	Home=unlimited liability, abroad=unlimited liability as a primary rule, referring to the Regulation	Home=unlimited liability, abroad=unlimited liability as a primary rule, see Regulation	Home=unlimited liability, abroad=unlimited liability as a primary rule, referring to the Regulation	Home=unlimited liability, abroad=unlimited liability as a primary rule, see Regulation	Home=unlimited liability, abroad=unlimited liability as a primary rule, see Regulation)
Public interest, supervision	The inspection shall cover in particular the following areas: a) the existence of transparent accounting systems; b) the proper use of public funds; c) the exercise of statutory tasks by the organs.	Not specified	When an EGTC carries out any activity in contravention of public interest of the state, the Minister of Regional Development and Public Works shall notify the EGTC to cease immediately the activity in question. The control of an EGTC's management of public funds shall be assigned to the Minister of Finance as the competent authority without affecting the functions of other competent authorities in the Republic of Bulgaria, of other Member States concerned and at European Union level.	Not specified	Not specified

Main elements of the national provisions	Austria	Belgium	Bulgaria	France	Germany
Winding-up and dissolution procedure	Not specified, reference is made to the EGTC regulation. Appeals against decisions to the Unabhängige Verwaltungssenat.	Not specified	The Council of Ministers shall take decision on the withdrawing of approval for participation of the respective Bulgarian legal entity in the EGTC which is registered on the territory of the Republic of Bulgaria or in a European Union Member State.	Not specified	Not specified

3. Analysis on the seat

The chapter is dedicated to ease the decision on the seat of the EGTC. As it can be obvious from the previous chapter, definition of the seat has many consequences on the legal environment of the EGTC's operation. According to the information provided by the EXCO in Vilnius, six cities are candidating to be a seat. Although, for legal reasons, one of these cities, Bucharest should be excluded from the analysis, we included the Romanian capital city in the investigations because

- (1) there can be new considerations which can modify the direction of the decisions within the network;
- (2) despite of that the seat and the Secretary should operate in the same city, the General Assembly can make the decision to set the Secretariat in a town distinct of the seat.

In line with the methodology agreed previously with the EXCO, the analysis comprises four aspects: accessibility of the candidate city; economic and diplomatic power of the given country; legal background; operational factors. The chapter ends with a benchmark of the six candidate cities.

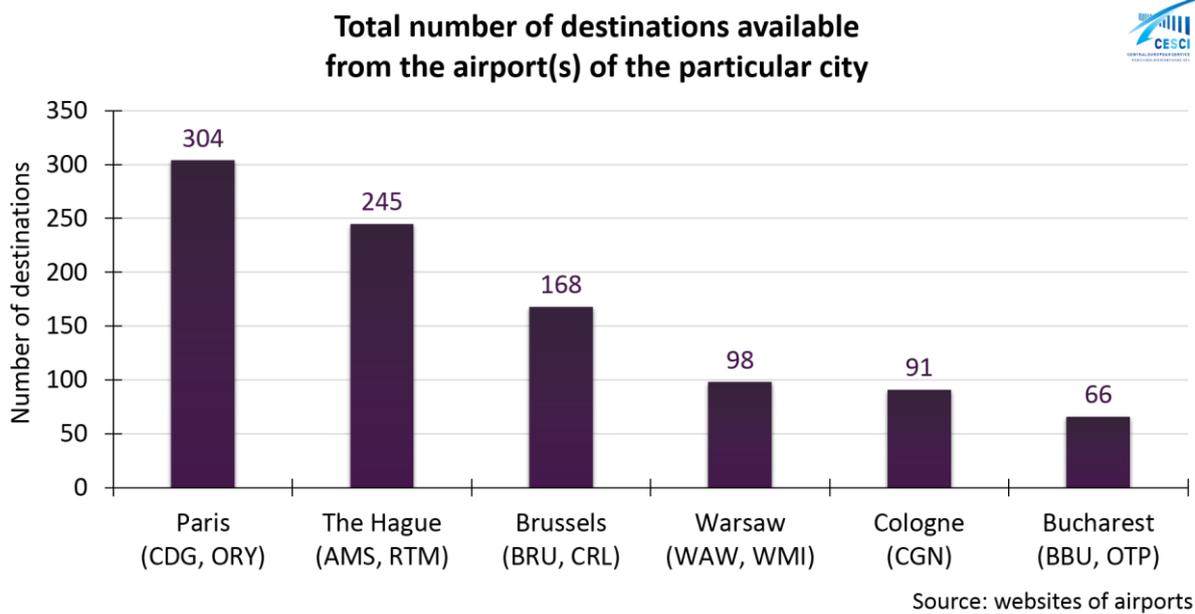
3.1 Accessibility

Among the factors to be taken into consideration when deciding on the seat of the future EGTC, accessibility is one the significance of which is not to be underestimated. Since the network has 14 member countries from Bulgaria to Ireland and from Lithuania to France (a distance of 2-3000 km), geographic accessibility of the seat can be of the highest importance from different aspects. First, if a seat is not accessible easily, some members may make the decision not to travel to the meetings of the EGTC. Secondly, the distance influences also the travel costs. Furthermore, rare flights to a destination can hamper the organisation of the meetings from the aspect of the time schedule, etc.

When defining the best choice in respect of accessibility we examined not only but also the accessibility of the seat on the ground because some people have aviophobia. Of course, it is not the most important aspect, consequently we calculated with accessibility by car / rail /

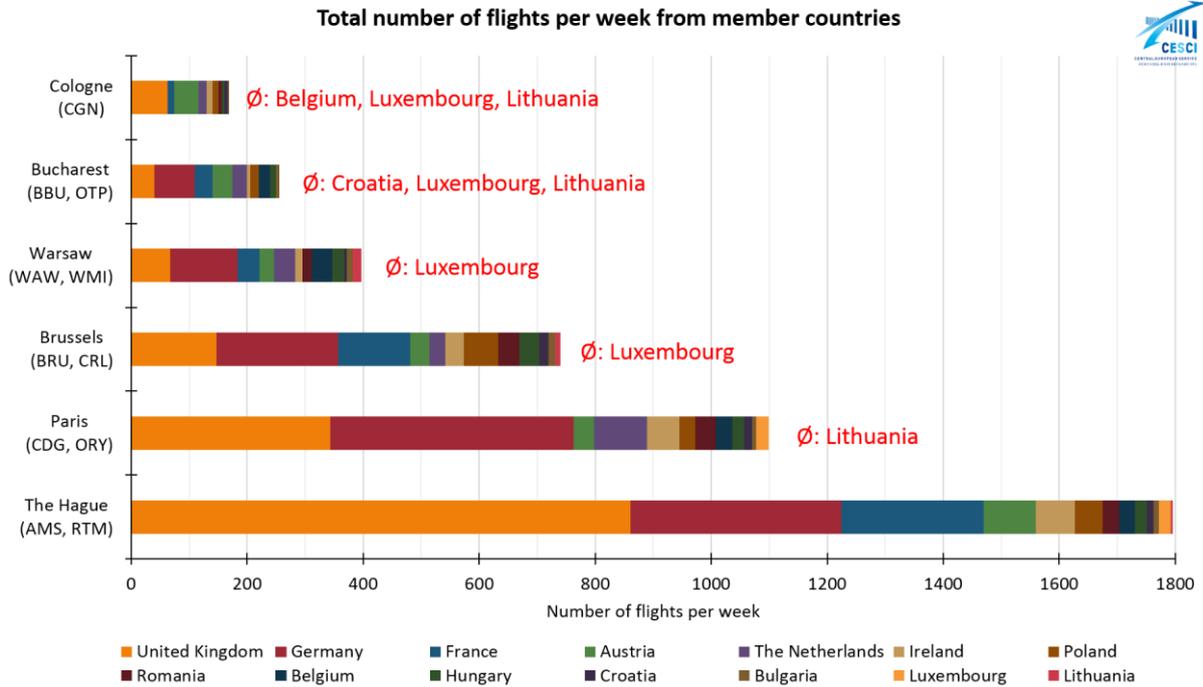
coach with a less weight than by air. At the same time, in some cases (as we will see later), travelling by car or by rail can be a better solution for some of the members than take a plain.

From the point of view of accessibility by air we have taken into account the total number of destinations available from the particular (candidate) city and the total number of the flights from / to ECR member countries per week.

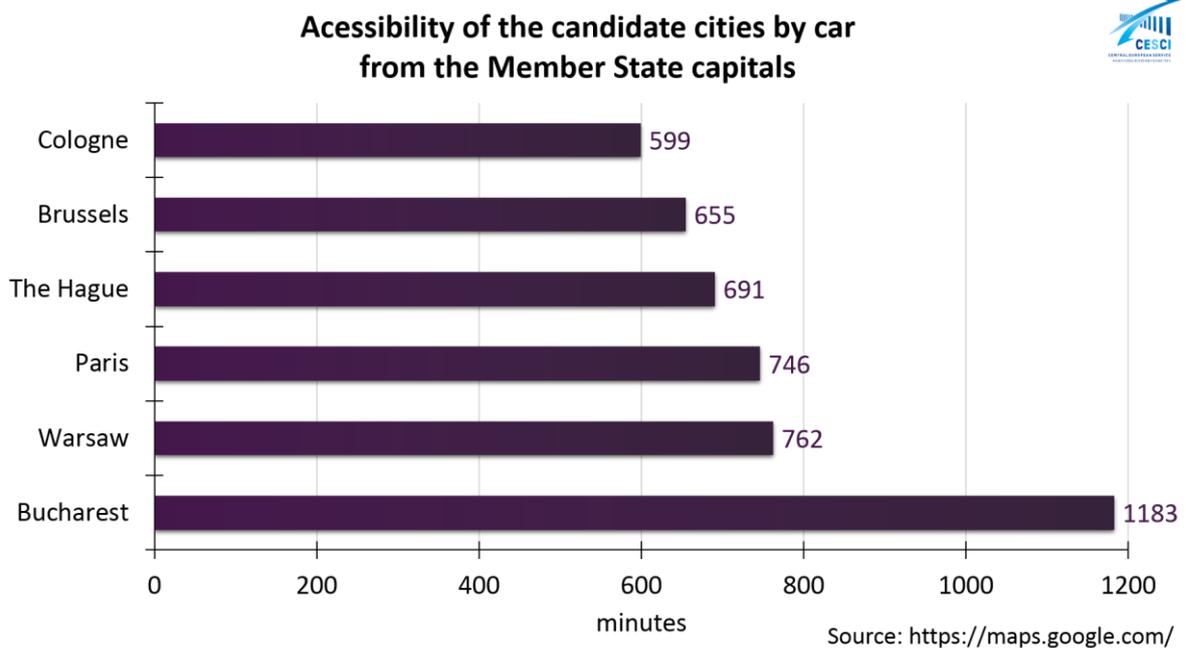


As it can be seen, the most frequent airports are located in the core area of the European Union: it is the easiest to get to The Hague (Amsterdam and Rotterdam), Paris and Brussels from anywhere in the world. If the seat is located in one of these cities (together with the Secretariat), building international relationships, involving third parties and managing the work of the ECR is the most economical from the point of view of travelling time.

The picture is similar when analysing the accessibility of the given seat from the ECR member countries. This is a more important aspect than the previous one because the geographic position of the seat is the most important for the members themselves. In this regard, the situation of Cologne, Bucharest and Warsaw is the least favourable, and again, the conditions of The Hague, Paris and Brussels are in the most favourable position. We also indicated in the figure if the particular city is not available by direct flight from one or more capital cities of the members. Obviously, this fact makes more difficult to operate the Secretariat in the affected cities than in others which are easily to get to from all the ECR member countries.



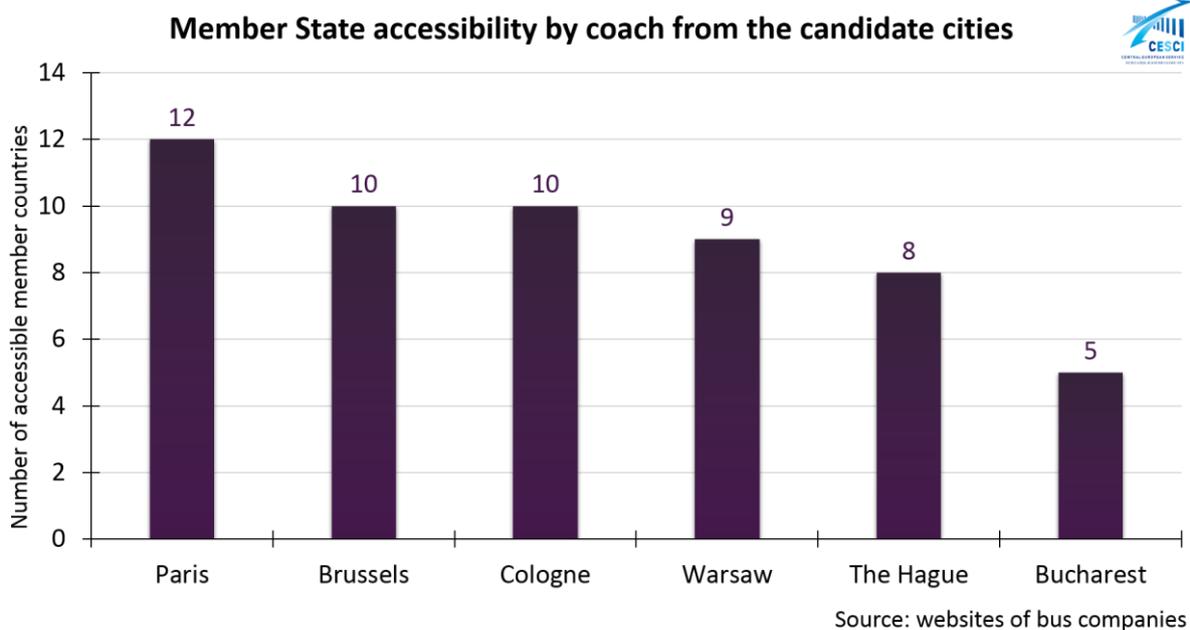
The above described picture can be shaded by the data on travelling opportunities by car, coach or train.



When examining accessibility by car, we have taken into account the average travelling time from all the capital cities of all member countries (along the data gained from Google Route Planner).

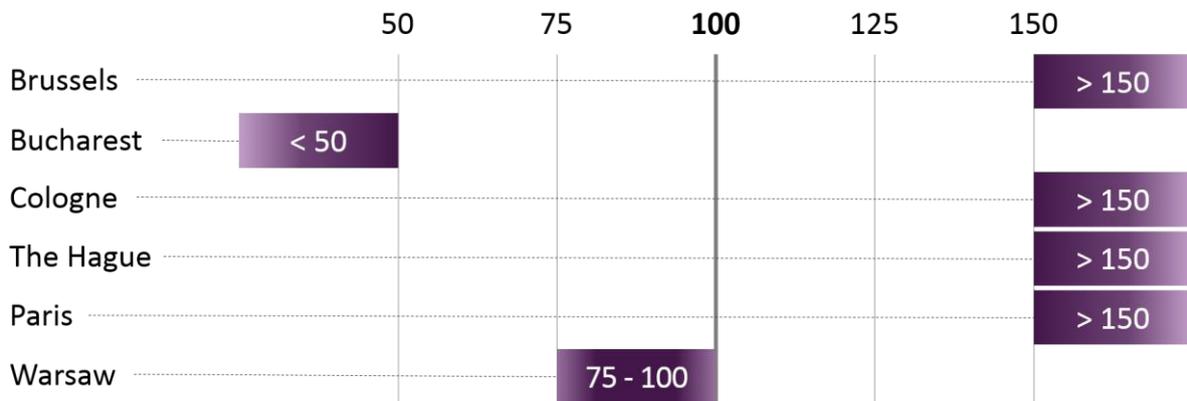
Whilst Cologne was one of the worst choices along flight accessibility, it comes out first when travelling by car. Although, the city is not available directly by flight from the neighbouring countries and from Lithuania, it is the easiest to access by car from all the six alternatives.

The picture on the accessibility of the potential seats by bus is slightly different from that of flight accessibility. However, here Cologne is at the same level like Brussels, and Warsaw produces very similar result to the former ones. From this perspective, The Hague proves not so attractive than the other cities.



Finally, accessibility by train has been benchmarked based on the ESPON Atlas which compares the countries (not the cities!) along their European accessibility potential. From this perspective again (not surprisingly) the western European countries are in a far better position than the eastern ones.

European accessibility potential travel, rail, 2011, ESPON
average = 100



This indicator measures accessibility of a region as the sum of population in all (ESPON) regions always weighted by a function of travel time to reach the regions. The accessibility indicators are standardised to the ESPON average which is set to 100. The highest accessibility by rail is mainly visible along major rail corridors.

Source: ESPON

Our analysis shows that from the perspective of accessibility, the best choice is Paris which can be accessed the easiest from all the member countries of the ECR network. From this aspect the eastern European capital cities are far less attractive. The ECR members should select **Paris, The Hague or Brussels** if they would consider accessibility as the most significant factor of selection.

	Paris	The Hague	Brussels	Cologne	Warsaw	Bucharest
All destinations*	7,5	9	6	3	4,5	1,5
ECR destinations*	7,5	9	6	1,5	4,5	3
Car	3	4	5	6	2	1
Coach	6	2	5	5	3	1
Rail	6	6	6	6	5	4
Total score:	30	30	28	21,5	19	10,5

*Calculated by weighted value (1,5x)

3.2 Economy and diplomacy

The aim of this sub-chapter is to identify the best possible alternative regarding the future seat of the EGTC to be set up from the point of view, on the one hand, of economic stability and openness and, on the other hand, of the intensity of diplomatic and other relations.

3.2.1 Economy

In the field of economic factors two basic features of the relevant national economies are worth considering:

- the dynamics of the national economy (performance of the gross domestic product in the course of the last 5 or so years, and, further, both short term and medium term forecasts, also in terms of GDP growth levels) and
- the level of general openness of the national economy in question (expressed in terms of the ratio of foreign trade, mainly exports, in GDP and also on that of the importance of foreign direct capital in the generation of GDP).

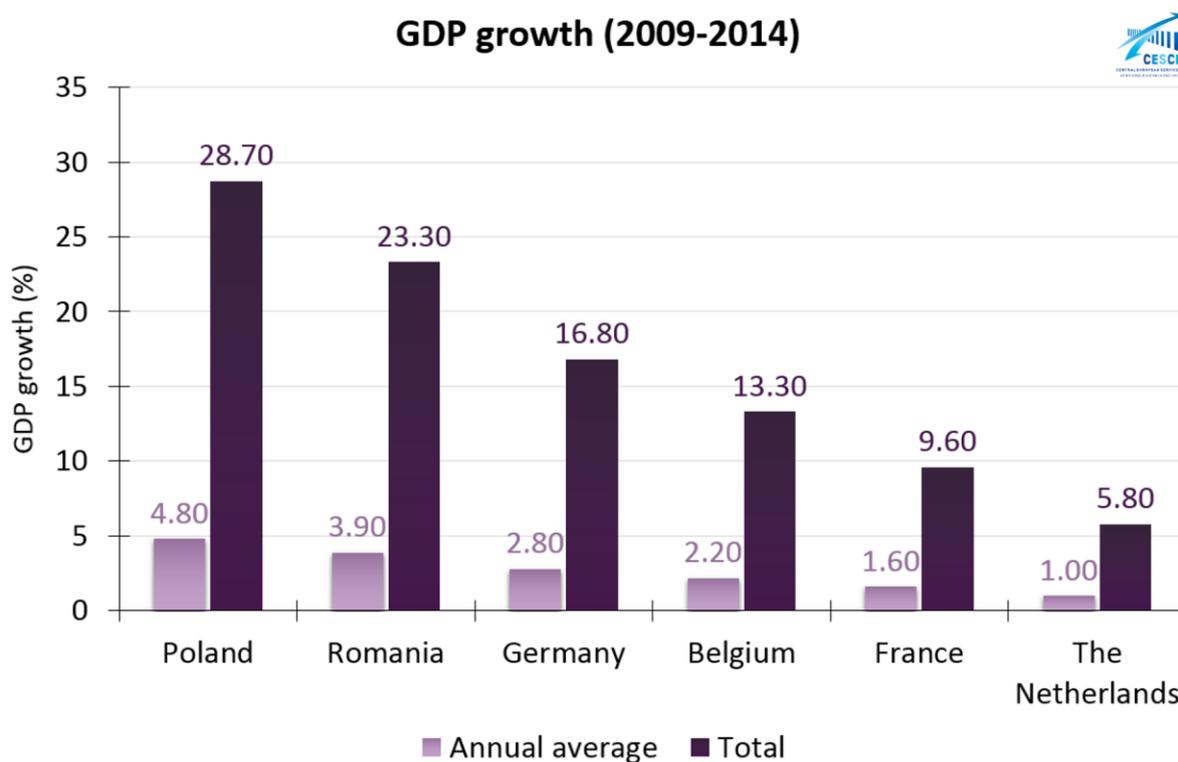
Economic dynamism

The basic assumption here is that the EGTC to be set up will work more efficiently and its appraisal and formal and informal “prestige” as one of the actors (institutions) in the economy in question is certainly higher if this national economy is, in general terms, more open to the world economy in general and to the neighbouring countries and EU-members surrounding it in particular. It is also assumed that this very same EGTC will be able to expect a “smoother run” in its external and local-regional activities in a more stable and, at the same time, more dynamic economic environment expressed in a summative way by higher growth rates both in retrospect and in the medium-term future. Stable economic backgrounds are likely to safeguard and allow a stable performance of the EGTC in the future.

The international economic and financial crisis in 2008 was obviously a breaking point in practically all European national economies, among them in all the six candidate countries applying for the seat of the future EGTC. Therefore it is expedient to briefly examine the growth performance of these countries since the outbreak of the 2008 crisis. The most synthetic and comprehensive indicator for this is the rate of economic growth.

Recent trends

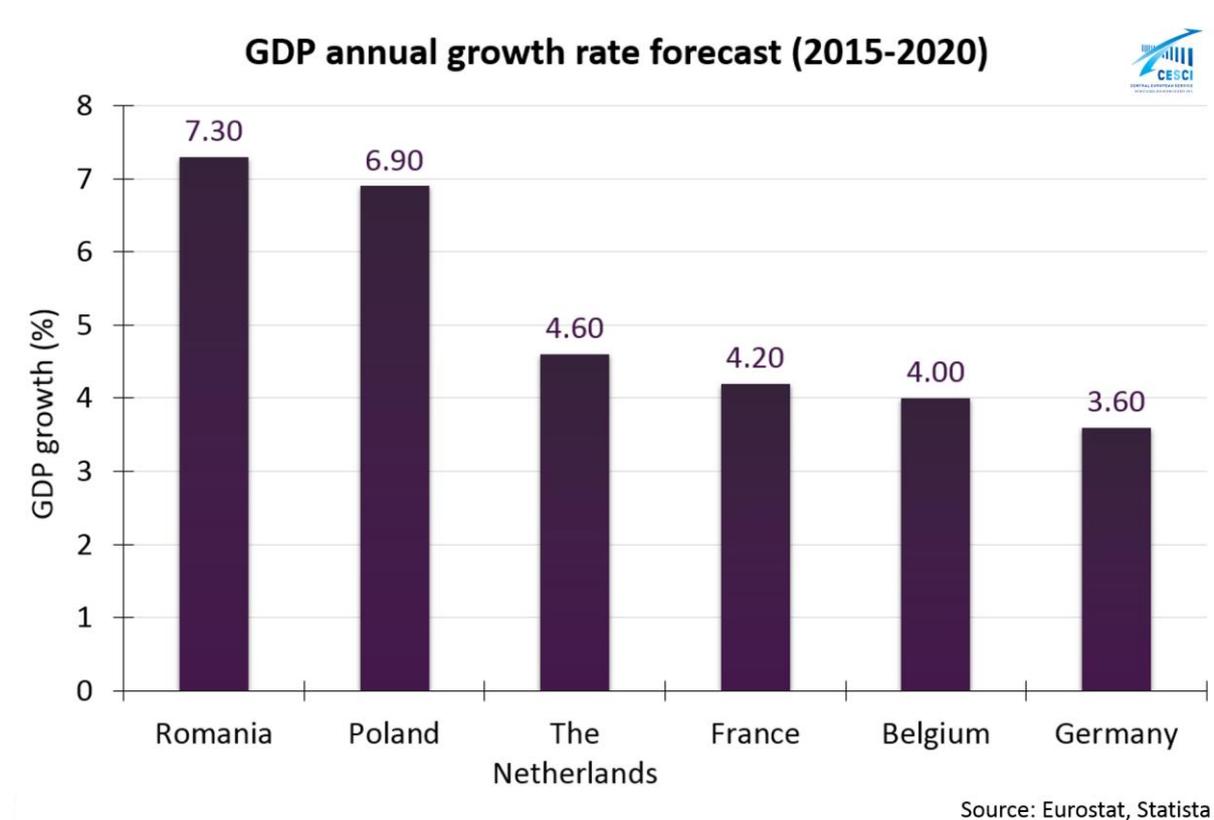
In the years between 2009 and 2014 the national economy of Belgium grew by a total of 13.3 per cent, an average rate of growth of approximately 2.2 per cent per annum. In the same period Germany's economy grew by a total of 16.8 per cent (annual growth rate: 2.8 per cent), that of France by 9.6 per cent (annual rate: 1.6 per cent) and the Netherlands by 5.8 per cent (roughly 1 per cent per annum). The two newly emerging candidate national economies reached a significantly higher rate of growth in the 2009-2014 period: Poland grew by an astonishing 28.7 per cent (an impressive 4.8 per cent growth per year) and Romania at an equally fast pace, by 23.3 per cent (almost 3.9 per cent per annum)¹. The difference in the pace of economic progress between the West European and the East Central European economies examined is the combined result of at least two factors: the rapid catching up process with the West from a lower starting level of both Poland and Romania after joining the European Union (in 2004 and 2007, respectively) and the "late-comers' advantage" of both economies after the transition from the centrally planned to the full-fledged market economy since the early-1990s.



¹ All data are derived from, and based upon, Eurostat figures

Future trends

Future economic dynamism is yet another factor to be considered. In this field a similar picture is unfolding: the two relatively new members of the EU (Poland, Romania) are expected to achieve a significantly higher growth rate until 2020. According to most reliable international forecasts² all the four highly developed West European national economies will grow in the second part of the 2010s, *ceteris paribus*, between the years 2015 and 2020, at a pace falling into the 3.5 to 4.5 per cent range.



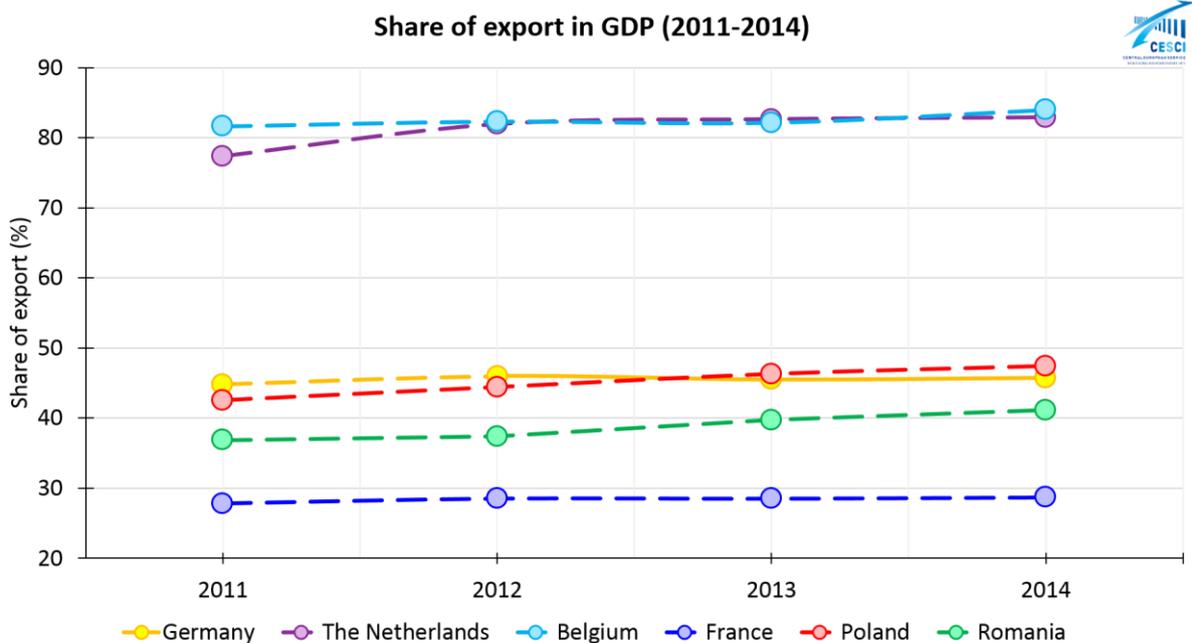
Belgium is expected to achieve a growth rate of 4.0 per cent per annum. Germany is forecast the relatively most modest rate at 3.6 per cent per annum. Both France and the Netherlands fall into the +4 per cent range at 4.2 per cent and 4.6 per cent per annum rate of economic growth (GDP), respectively. The two newly emerging national economies, Poland and Romania are expected to achieve GDP growth rates around the 7 per cent per annum mark: Poland is expected to grow at a rate of 6.9 per cent per year while Romania may surpass, according to

² Source: www.statista.com

international forecasts, the 7.0 per cent limit with a forecast of 7.3 per cent per year growth rate of its Gross Domestic Product in the 2015 through 202 period³.

Openness of the national economy

A further factor in determining the most suitable candidate for the seat of the future EGTC in the economic field is the outward orientation, the openness and the adaptability of a national economy to international influences, currents, movements and changes. The more open is the economy of the given country, the more appropriate solution is to set an EGTC as a form of international institutionalised cooperation therein. It can best be identified by briefly examining the role foreign trade (first of all, exports), foreign capital and foreign companies play in the development of the country in question.



Source: World Bank

The share of exports in the generation of Gross Domestic Product is the highest, not surprisingly, in the case of two relatively small, traditional trading, sea-faring countries, namely in Belgium (84 per cent) and the Netherlands (82.9 per cent), based on the average of the years between 2011 and 2015. They are followed by two “big exporter” national economies, Poland (47.4 per cent) and Germany (45.7 per cent). In this respect, Romania falls in the same category

³ European Commission, European Economic Forecast, Economic and Financial Affairs, Winter 2015 http://ec.europa.eu/economy_finance/publications/

(41.1 per cent). Finally, France is featured by the relatively lowest share of exports in the generation of gross domestic product (28.7 per cent per year between 2011 and 2015).

The other factor worth examining here is the weight of foreign direct investments (FDI) in GDP⁴, also based upon the years between 2011 and 2015. In this respect once again one of the most outward-looking and export-oriented economies worldwide lead the way: foreign investments represent over 5.5 per cent of gross domestic product in the case of the Netherlands. Belgium's figure for the 2011-2015 period shows -3.8 per cent/GDP which is the result of relatively significant levels of disinvestment after a big influx of foreign direct investments in the country (around 30 per cent of GDP) in the early years of this decade⁵.

Both Poland and Romania have greatly relied on foreign capital in the last twenty, twenty-five years (financial inflow of capital, manufacturing, services, innovation, job-creation, assembly-type production, etc.) and this trend is reflected in their relatively high shares of FDI/gross domestic product: 3.2 per cent and 1.9 per cent, respectively. In the case of the two most developed and biggest economies of the European Union, boasting of extremely strong domestic capital markets, Germany and France, the relative weight of foreign investments is smaller: in Germany it was only 0.2 per cent while in France it was 0.3 per cent in the years between 2011 and 2015.

Another characteristic, albeit less useful, parameter is the total number of foreign controlled enterprises in the six national economies under investigation: in Germany over 25 thousand such companies are registered, while those registered in France are about 20 thousand. There are slightly less than 10 thousand foreign controlled enterprises working in the Netherlands, however, the number in Belgium is only about 1500 (it refers to the fact that, owing to the traditionally stronger, more outward-oriented, export-intensive and versatile SME-sector in Holland there are significantly more small enterprises with foreign capital in the Netherlands). In the middle of the 2010s there are about 6600 enterprises with foreign control registered in Poland and over 26 thousand such companies in Romania.

⁴ Net FDI (new investment inflows less disinvestment)

⁵ FDI data and trends are based on World Bank figures

3.2.2 Diplomatic and “para-diplomatic” relations

In order to select the seat of the future EGTC in the most balanced and unbiased way possible the consideration of the diplomatic weight of the candidate countries seems necessary too. Important information in this field can be obtained from examining the level and intensity of the presence of various European-level institutions and, at the same time, from those of other members of the Euro Control Route in a given country. Likewise, the candidature of a given city is significantly reinforced if other official (i.e. registered, other than diplomatic) representations of ECR-countries are also present and work actively in the candidate city or country.

The reasoning behind these factors is that the formal or informal representation of the interests of the EGTC to be established is likely to be easier and certainly more efficient if other EU delegations, representative offices and other forms of bilateral and multilateral, governmental or non-governmental, organisations, institutions have already ‘paved the way’ in front of a newly set-up body which is destined to work in conformity with all European legal, political and economic regulations.

The rationale behind briefly examining diplomatic and the so-called “para-diplomatic” relations is that the interests of the EGTC to be established are represented more efficiently if there are already other EU institutions active in the same country, in the close neighbourhood of the EGTC. Experiences can be exchanged, best practices, useful techniques of work can be more rapidly and easily be adopted, local knowledge can be more smoothly obtained, as well as, lobbying activities in the favour of the new EGTC are thus more economical than they would be from a significantly bigger distance.

At the same time, based on the diplomatic presence of other ECR members in the country (city) involved, the smooth operation of the EGTC to be set up can be facilitated through their respective diplomatic and “para-diplomatic” network in the host country. Thirdly, the same, or similar, facilitating activity can unfold through other professional bodies, institutions, representations of ECR members operating in the host country.

Based on the above, the level and intensity of the presence of various European institutions operating in the host country are compared in this part of the study. A similar comparison is made regarding the overall diplomatic presence of other ECR members as well. Lastly, other

forms of official (meaning: legally accepted and approved) representation (cultural, economic, civic, regional, etc.) of fellow ECR members is also to be compared.

The evaluation is based on the responses received by the CESCI from the representatives of the candidate countries for the seat of the future EGTC. Two of the six candidate countries have nominated a city other than the capital: Germany and the Netherlands. In the case of Germany Köln (Cologne) has been nominated, hence the reference in the following table to the city of Cologne and neighbouring Bonn (approximately 20 km from Cologne, former capital of the Federal Republic of Germany, still hosting a high number of embassies, consulate generals, consulates and other international and regional institutions). The Netherlands has nominated The Hague, albeit not the capital of the country but nevertheless functioning as the seat of both the national government, the parliament, the Supreme Court and the State Council of Holland. In the case of all the other four candidate countries (Belgium, France, Poland and Romania) the capital cities will be considered as the possible seat of the future EGTC.

Diplomatic and “para-diplomatic” factors

	Level and intensity of EU institutions in the country (Number of EU institutions operating in the city and close environs)	Diplomatic presence of other ECR countries (Number of the embassies and/or consulates of the ECR members)	Other official forms of representation of ECR members (Number of professional bodies, institutions of ECR members in the city)
Germany	Cologne EASA (European Aviation Safety Agency) Bonn 19 UN + 170 institutions	Cologne 5 consulates	---
Belgium	Brussels hosts the official seats of the European Commission, Council of the European Union and European Council as well as a seat of the European Parliament	About 180. With the permanent representation to the EU and NATO more than 280. About 5000 diplomats live in Brussels with their families	all ECR members have several institutions in Brussels
Romania	representatives of EU institutions: 3 (European Commission, European Parliament, European Investment Bank)	15 embassies / 2 consulates	---
Poland	3	104	1242

	Level and intensity of EU institutions in the country (Number of EU institutions operating in the city and close environs)	Diplomatic presence of other ECR countries (Number of the embassies and/or consulates of the ECR members)	Other official forms of representation of ECR members (Number of professional bodies, institutions of ECR members in the city)
France	n.a.	n.a.	n.a.
Netherlands	3 (EUROPOL, EUROJUST, European Patent Office) and various NGOs	all the 15 ECR members have embassies in The Hague	At least five, namely Benelux Patent Office, Lloyds, TUF, Dekra, EUKN

Source: responses received from representatives of candidate ECR members applying for the seat of the future EGTC. No data were received about the levels, intensity, and presence in general, of diplomatic and 'para-diplomatic activities in France.

The following points deserve particular attention:

- In terms of the overall 'intensity' of diplomatic and "para-diplomatic" presence Belgium leads the group. The two biggest and most influential international organisations (European Union, NATO) both have their headquarters in the capital of Belgium with over 5 thousand diplomats and their families living and working in the area. This is completed by a high number of other international and regional organisations, NGOs and embassies including all the 15 members of the ECR. As a matter of fact, by the way, all candidate countries host embassies from all the other ECR members as well.
- Germany, the "twin cities" of Bonn and Köln (Cologne) appear to come in strong second in terms of diplomatic intensity and presence hosting between them close to 200 various international and national representations and institutions.
- In both cases where the candidate city is not the capital of the country seems to be no disadvantage at all: due to the size of the Netherlands and to the highly developed transport and communication network maintaining intensive (formal or informal) diplomatic contacts poses no problem whatsoever and, as far as Germany is concerned, besides the equally flawless transport and communication network and facilities the presence of a high number of international and regional organisations and institutions offer sufficient networking opportunities.
- The level and intensity of diplomatic presence in both Poland, Romania and the Netherlands appears to be rather similar with apparently somewhat stronger representation, in the case of the Netherlands, in certain fields 'adjacent' to the core

activities of the ECR like insurance, patenting, police and justice, and, last but not least, a relatively high number of NGOs.

As a result of the above, as far as formal and informal diplomatic environment, relations, possibilities to 'liaise' and cooperate with other organisations, institutions, lobby-groups and think-tanks are concerned Belgium (Brussels) and Germany (Köln/Bonn) have the upper hand closely followed by the other candidate countries.

3.3 Operational factors

This subchapter is dedicated to the analysis on the operational factors influencing the selection of the seat. On the one hand, we have invited the representatives of the candidate countries to answer a few questions on their previous experiences on international cooperation because the more international activities the candidate institution has carried out, the bigger the chances are for their smart implementation of the ECR project. On the other hand, we have gathered some data (partly also from the candidate countries) on the circumstances related to the expected functioning of the planned EGTC.

Unfortunately, not all the candidate members answered our questions making the benchmarking very complicated and imperfect. As a result, the national level data are not fully comparable. In order to get a better-based picture, we had to leave some of the information we gathered without consideration. For instance, we asked the candidates about their membership in further international professional networks. We have got answers from The Netherlands („multiple networks and organisations”), Belgium („a dozens”), Romania (2), Germany (3) and Poland (5). It is obvious, that the information gained does not allow the comparison of the strengths of the candidates.

Similarly, regarding the information requested on the professional events organised by the particular institution during the last 5 years, concrete data arrived from Poland (115), Germany (25), Belgium (4) and Romania (0). From The Netherlands we obtained an estimation („multiple events”). No answer has been delivered from France.

The Romanian authority organised 1 major international project (during the last 5-year term), the German 3, the Polish 13. The Dutch institution has realised “at least” 2 projects, while the Belgian partners have not indicated any concrete data in this respect.

As a consequence of the missing information, the candidates cannot be compared and the selection cannot be based on the previous experiences the relevant institutions have in the field of international cooperation and management.

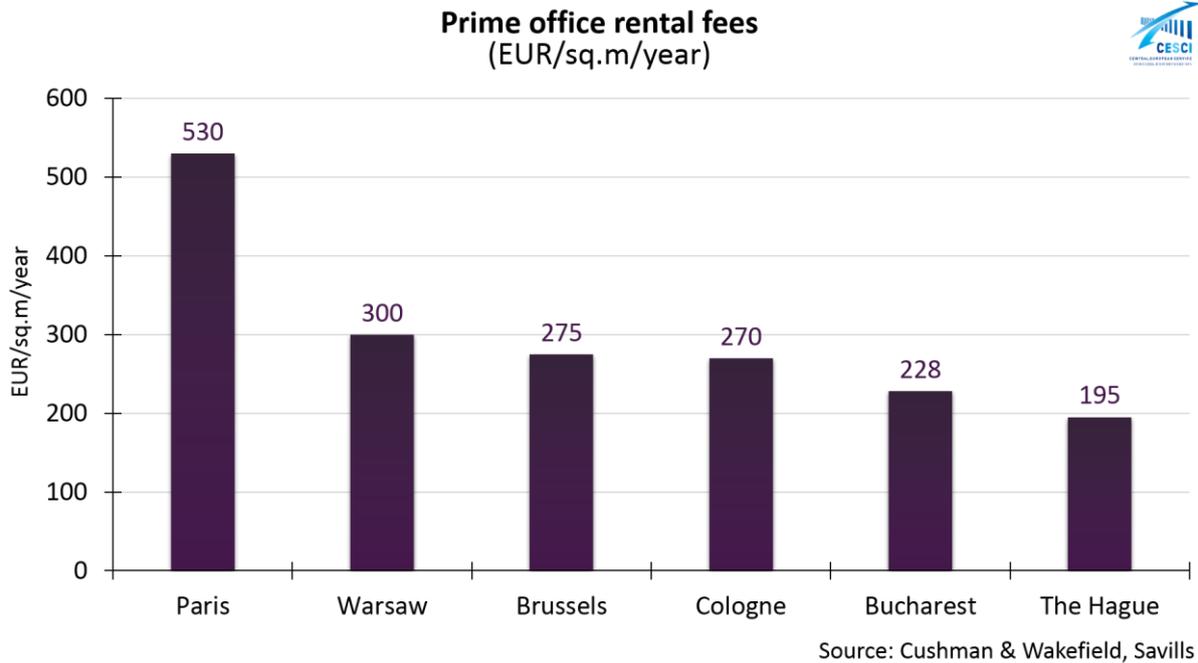
Another point of was about the costs and the services related to the operation of the office.

The aspects taken into consideration were the following:

- **personal costs:** the selection of the seat is influenced by the costs to be spent by the members on the employment of the staff, so the average wages and the tax burdens related to employment have been compared;
- **rental fees:** in order to ensure the smooth functioning of the Secretariat, an office must be rented: we have compared the average rental fees of an office of 100 m², from city to city;
- **office facilities:** the candidates have been asked about the facilities they can provide with like equipment, furniture etc. for the purposes of the Secretariat (no all the candidates answered);
- **schooling opportunities:** in case of an international staff to be hired, the schooling opportunities for the staff's children in foreign languages can influence the success of the campaign;
- **language skills:** the selection of the seat of an international organisation can be influenced by the average language knowledge level of the population of the given country since the staff members shall manage the EGTC's businesses in an ordinary way.

Not surprisingly, this part of the study resulted in different conclusions than the previous one.

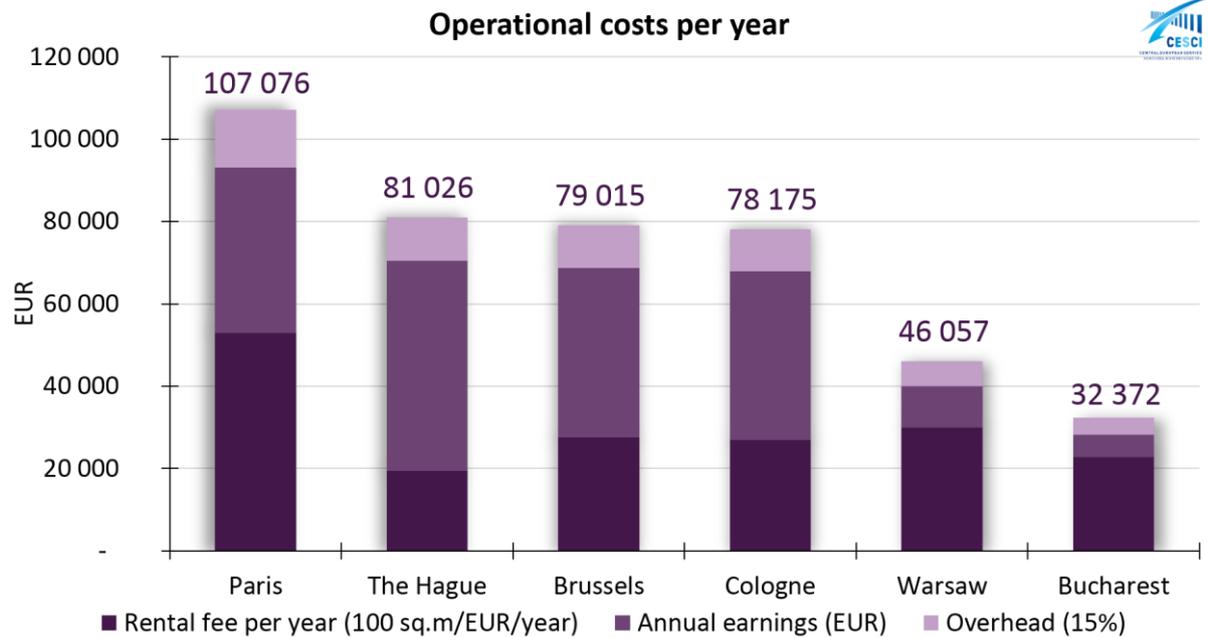
Regarding the average price of offices, the best choice would be The Hague or Bucharest where the average rental fee is less than a half of that in Paris.



When summarising the annual operational costs of the Secretariat, the rental fees have been completed by the average personal costs, country by country (personal taxes included) and we calculated also with an overhead of 15% in each case as a frequented rate of daily operational expenses like electricity, water, stationary, communication, etc.

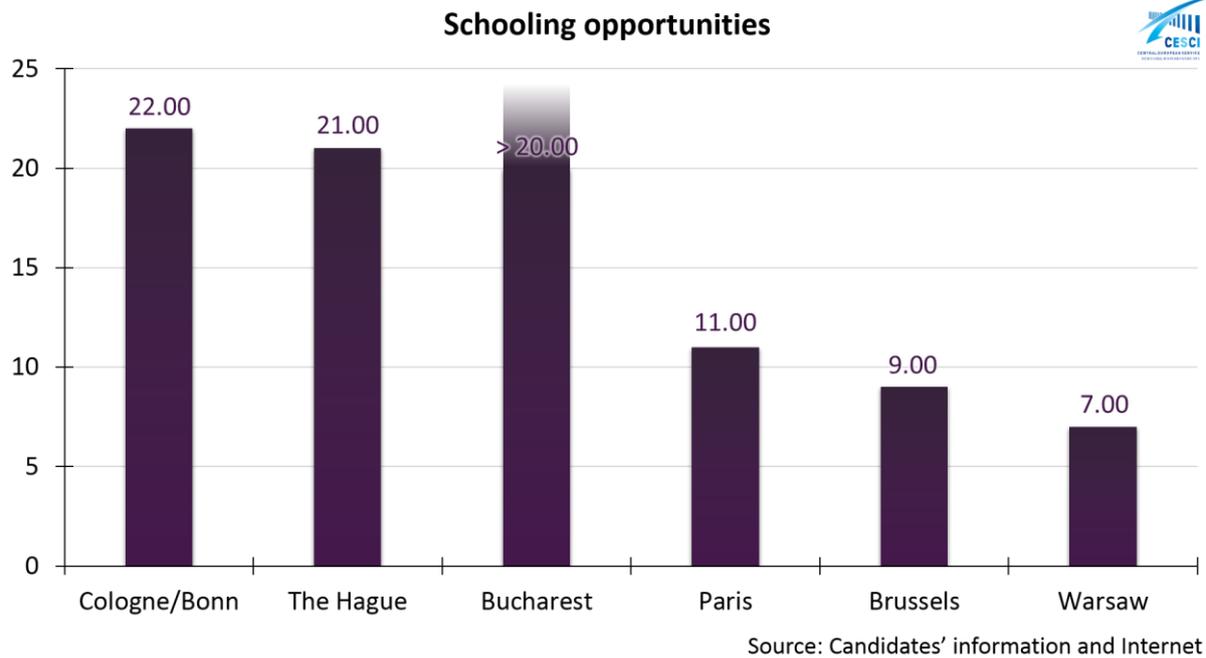
According to our cumulated indicator, the most economical choice would be Warsaw (where the office rental is quite expensive but the costs of employment are far lower than in the western countries) or in Bucharest (where all the costs are the less among the candidates). There are no differences between The Hague, Brussels and Cologne where the three budget lines more or less equalise each other. Obviously, the operation of the seat / Secretariat in Paris would be the most expensive. The difference in costs is almost three times higher compared to Bucharest.

Let us add that the Dutch candidate is ready to ensure the use of the office for free during the first few years. It means that the costs of an office in The Hague would be at the same level than in Warsaw (during the initial phase of the operation of the EGTC).



With reference to the facilities provided by the candidates for the purpose of the office, we obtained the most detailed description from Poland, where beside a cabinet for the Director and an office room, 3 conference rooms can be used, equipped with every facility needed (video-conference equipment included - which can be very important when starting daily operation together with a President living in a far-away country). The answers given by the Dutch, the Romanian and the German candidates are more general: „as required”, „as needed”, without any concrete detail. This qualitative information does not make possible to make a well-based comparison. On the other hand, the detailed answer from Poland justifies the most serious commitment among the candidates.

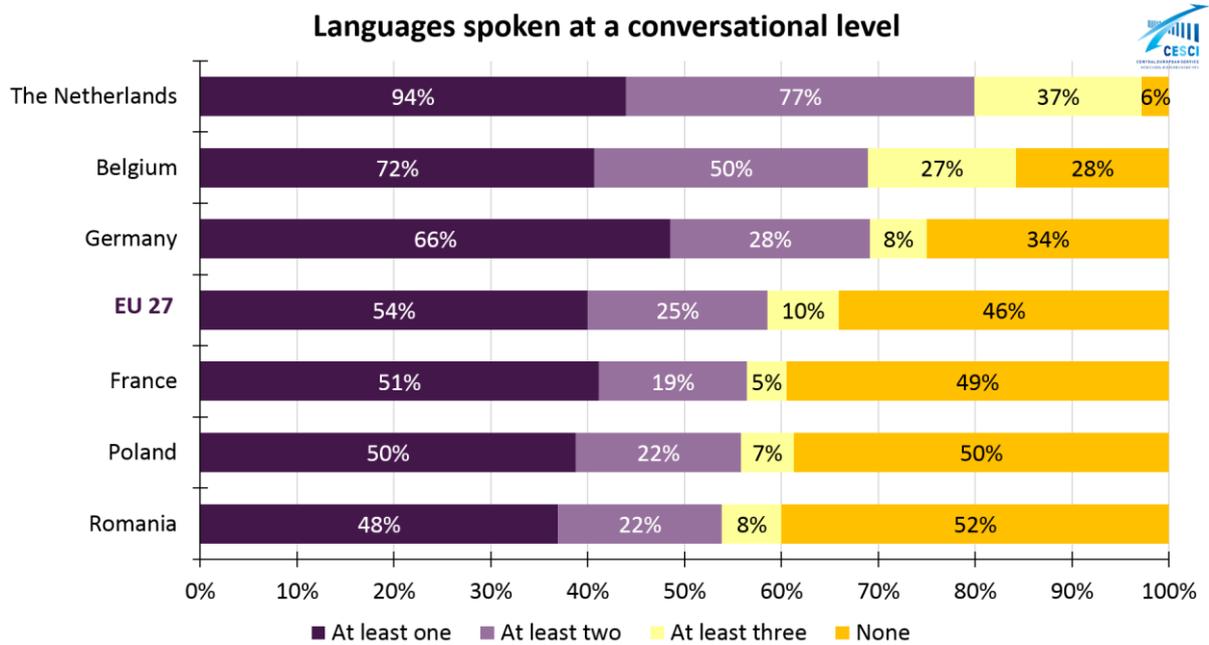
According to the information available on the internet, schooling opportunities are the best in Germany where we can count with schools functioning both in Cologne and Bonn (22). Similar frequency of international schools can be observed in Romania („over 20”) and The Netherlands (21).



Source: Candidates' information and Internet

Brussels is listed among the least favourable cities from this point of view which is surprising considering the large number of international institutions operating in the town.

Finally, among the circumstances influencing the standard of the operation of the EGTC office, we have also evaluated the average level of knowledge of languages in the given countries. Certainly, in Germany and France, and partly in Belgium the population speaks one of the internationally used languages as their mother tongue, which is a big advantage. From this perspective, the most instructive figures are those about people speaking at least three languages and the share of population not speaking any other languages than their mother tongue. The situation is extremely favourable in The Netherlands where the language skills exceed the EU average level almost four times, and in Belgium where more than one third of the population uses at least three languages. The communication conditions are the least favourable in Poland, Romania and France where half of the population does not speak any foreign languages. In France, the situation is better because of the international status of French language.



Source: Special Eurobarometer 386

To summarise, in respect of the operational factors, The Hague, Cologne or Bucharest would be among the best choices, Paris the least favourable one.

3.4 Legal factors

This chapter gives an overview on the legal aspects influencing the establishment and the operation of the EGTC. These aspects are:

- the status of the EGTC: as the Steering Committee made a decision not to establish an EGTC under private law, in the case of countries where the EGTC falls under the force of private law (in line with the national legislations), it is not possible to become the seat of the new organisation;
- liability: in some cases, the controversy between limited and unlimited liability makes impossible to set up an EGTC within a country;
- competences: the member states can limit the competences the members are allowed to delegate to the EGTC; this fact also limits the list of potential seats;
- controls on public interest: the Regulation allows to make limitations on the setting up of EGTCs with reference of safeguarding public interest of the given country; the stricter is the national legislation in this respect, the less stable the operation of the EGTC will be;
- legal background of tax burdens: higher taxes influence unfavourably the operation of the EGTC.

3.4.1 Limited liability, public or private law

As far as the legal nature (public or private law) and the liability (limited or unlimited) of an EGTC are concerned, it goes without saying that for all legal certainty it must be established as legal person regardless of the various solutions of legal nature and liability. As far as the the legal nature of the ECR EGTC is concerned the most obvious solution would be its public legal nature (limited/unlimited liability is only of secondary importance in this regard). For the ECR EGTC having public legal nature would allow its members to manage public services more easily.

In the table below we summarised the relevant rules from member states legislations regarding liability and the status of law.

The list of Member States according to the date of accession to ECR	Liability	Public or private law
	<p>Primary rule in accordance with the Regulation=the members shall be liable for its debts, each member's share being fixed in proportion to its financial contribution (unlimited liability)</p> <p>Secondary rule in accordance with the Regulation= If the liability of at least one member of an EGTC from a Member State is limited as a result of the national law under which it is established, the other members may also limit their liability in the convention where national law implementing this Regulation enables them to do so.</p>	<p>The Member States do not specify explicitly whether an EGTC is an entity under public or private law.</p> <p>Elements may be referring to private law: place of the registration (e.g. Register of Commerce) background legislation for the operation of an EGTC (e.g. Civil Code, Commercial Law)</p>
1999		
Belgium	<p>Brussels Capital Region, Flemish Region, German-speaking Community</p> <p>Not mentioned (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)</p>	Under public law
The Netherlands	<p>Uitvoeringswet EGTS-verordening, Artikel 5</p> <p>„De aansprakelijkheid van een Nederlands lid van een EGTS voor de schulden van de EGTS waarvan het lid is, is niet uitgesloten of beperkt, tenzij in de statuten van de EGTS anders is bepaald.”</p> <p>The liability of a Dutch member of EGTC is excluded or limited, unless the statutes of the EGTC otherwise provides (home or abroad=the possibility of limited liability)</p>	Under public law

The list of Member States according to the date of accession to ECR	Liability	Public or private law
Luxemburg	Loi portant diverses mesures d'application du règlement (CE) N°1082/2006 relatif à un groupement européen de coopération territoriale (GECT) Not mentioned (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)	Under public law
France	Loi n° 2008-352 Not mentioned (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)	Under public law
2001		
Germany	Berlin Senatsbeschluss and Landesverordnungs Not mentioned (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)	Under public law
Ireland	Statutory Instruments. S.I. No. 533 13. An application to establish an EGTC may be refused in accordance with Article 12 (2) if a member has limited liability. (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)	Under private law In the Statutory Instrument an EGTC is called "company". 10. The EGTC shall meet its obligations in terms of Annual Budget, Annual Report and Auditing in accordance with Article 11 and Article 2.1 of the EC Regulation having regard to the relevant section of the Companies Act. 12. The auditor must be a person who is eligible for appointment as a company auditor under the relevant section of the Companies Act.

The list of Member States according to the date of accession to ECR	Liability	Public or private law
2002		
Spain	<p>Real Decreto 37/2008 por el que se adoptan las medidas necesarias para la aplicación efectiva del Reglamento (CE) n° 1082/2006</p> <p>c) En su caso, la documentación acreditativa de la personalidad jurídica de los futuros miembros, así como de la posible limitación de responsabilidad.</p> <p>(home or abroad=unlimited liability unless the convention or statutes of the EGTC otherwise provides)</p>	Under public law
UK	<p>Statutory Instrument - 2007 No. 1949</p> <p>8. A UK EGTC may not be formed with a member that has limited liability.</p> <p>(home=unlimited liability, abroad=unlimited liability as a primary rule, referring to the Regulation)</p>	<p>Under private law</p> <p>Prospective UK participants in an EGTC should notify the Business, Innovation and Skills Secretary of State.</p> <p>An EGTC whose registered office is located in the UK is generally subject to the provisions of Part 15 (accounts and reports) of the Companies Act 2006 (“the 2006 Act”) as if it were a small company within the meaning of the 2006 Act.</p> <p>If an EGTC whose registered office is located in the UK becomes insolvent it may be wound up as if it were an unregistered company.</p>
2004		
Austria	<p>EVTZ Gesetz of the Lands</p> <p>Not mentioned (home=unlimited liability, abroad= unlimited liability as a primary rule, referring to the Regulation)</p>	Under public law

The list of Member States according to the date of accession to ECR	Liability	Public or private law
Poland	<p>1390 USTAWA z dnia 7 listopada 2008 r. o europejskim ugrupowaniu współpracy terytorialnej Art. 19. Skarb Państwa nie ponosi odpowiedzialności za zobowiązania ugrupowania, którego członkiem jest Rzeczpospolita Polska.</p> <p>2. Jednostki samorządu terytorialnego, państwowe osoby prawne oraz samorządowe osoby prawne nie ponoszą odpowiedzialności za zobowiązania ugrupowania, którego są członkiem.</p> <p>1. The State Treasury shall not be liable for the liabilities of the grouping, a member of which is from the Republic of Poland.</p> <p>2. Units of local government, public legal persons (≠authorities at national level!); and local legal entities are not liable for the obligations of groups of which they are a member.</p> <p>(home=unlimited liability except entities above, abroad= unlimited liability as a primary rule except entities above)</p>	Under public law

The list of Member States according to the date of accession to ECR	Liability	Public or private law
2007		
Romania	<p>EMERGENCY ORDINANCE regarding the European Grouping of Territorial Cooperation</p> <p>Art. 14 (3) The EGTC members shall be jointly unlimitedly liable for EGTC's debts, each member's share being fixed in proportion to its contribution.</p> <p>(home=unlimited liability, abroad=unlimited liability as a primary rule, referring to the Regulation)</p>	<p>Under private law (Art. 2 (1)</p> <p>"Art. 2. - (1) GECT reprezinta, in sensul prezentei ordonante de urgenta, persoana juridica romana de drept privat, constituita pe teritoriul Romaniei, fara scop lucrativ, cu patrimoniu propriu, prin care este facilitata si promovata in special cooperarea teritoriala, transnationala si interregionala intre membrii sai, in scopul consolidarii coeziunii economice, sociale si teritoriale a Uniunii Europene.</p>
Bulgaria	<p>Decree N° 199 on adoption of national rules on European Groupings of territorial Cooperation (English)</p> <p>Article 3 (2) To the extent that the assets of the EGTC are insufficient to meet its liabilities to the creditors, each member shall assume a joint and unlimited liability for the repayment of the EGTC's debts in proportion to its property contribution.</p> <p>(home=unlimited liability, abroad=unlimited liability as a primary rule, referring to the Regulation)</p>	<p>Under public law</p>

The list of Member States according to the date of accession to ECR	Liability	Public or private law
2008		
Hungary	Act LXXV. of 2014 on the European Grouping of Territorial Cooperation Art. 3 (4) Within the EGTC, the liability of the association of the local governments and the budgetary organisation of the local government may not exceed the extent of its material contribution (limited liability). (home=unlimited liability except entities above, abroad= unlimited liability as a primary rule except entities above)	Under public law
2010		
Lithuania	Lietuvos Respublikos Europos Teritorinio Bendradarbiavimo Grupiu I Statymas 4. Lietuvos Respublikoje įregistruotų juridinių asmenų – ETBG narių – atsakomybė už ETBG prievolės yra ribota (home or abroad=limited liability for members of EGTC registered in The Republic of Lithuania)	Under public law

Regarding the list of the potential applicants of the registered office of the EGTC the following options are shown:

(1) The favourites to become the seat (under public law):

- Belgium with unlimited liability
- The Netherlands with excluded or limited liability, unless the Statutes of the EGTC provide otherwise
- France with unlimited liability
- Germany with unlimited liability
- Poland with unlimited liability except certain entities

(2) No favourite to become the seat (under private law):

- Romania with unlimited liability

3.4.2 Competences of the members

Theoretical background

The matter of the EGTC members' competences is closely linked to the fulfilling of duty of the already existing EGTCs. This relation manifests in the first phase of the founding procedure, where the members – among others – establish goals and specify tasks which will later be laid down in the Statutes and the Constitution.

The definition of tasks is the more important step of the preparatory work as the EGTC will be conducting its activities in the frame of the tasks it is given. The scope of tasks is rigid, *namely the facilitation and promotion of territorial cooperation to strengthen Union economic, social and territorial cohesion, and the overcoming of internal market barriers*. To further narrow it down, 3 activity domains that may (even multiply) be overlapping make up the final set of tasks:

(a) Tasks defined by the legislation

aa) *basic tasks*= tasks related to cooperation programmes or its segments, as well as operations supported by the EU's European Regional Development Fund, the European Social Fund and/or the Cohesion Fund

ab) *tasks that cannot be disregarded by member states* certain investment priorities, legislative basis of which is provided by

- Article 7 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal,
- as well as Article 5 of Regulation (EU) No 1301 /2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 cited in Art. 7 of the article above.

(b) Tasks defined by the members

Tasks imposed on the EGTC are fundamentally determined by the future members in a way that as a primary rule it has to feature in the national/federal/provincial/regional

sphere of authority of all future members.

The scope of tasks and authority bestowed upon the EGTC come from the EGTC members' own constitutions with the general interdiction saying that the tasks given to an EGTC by its members shall not concern the exercise of powers conferred by public law or of duties whose object is to safeguard the general interests of the State or of other public authorities, such as police and regulatory powers, justice and foreign policy.

Restrictions concerning the transfer of authority are not a new phenomenon during the EGTC founding procedures, since Art. 7, par. (2) of the Regulation already mentions it: „An EGTC shall act within the confines of the tasks given to it, which shall be limited to the facilitation and promotion of territorial cooperation to strengthen economic and social cohesion and be determined by its members *on the basis that they all fall within the competence of every member under its national law.*”

It can sometimes be the case however that an EGTC is registered in a way that its members do not specify the scope of authorities or tasks transferred to the grouping (meaning that these so called foreign tasks can only be derived by certain members to the EGTC from their own authority). This difference is by default not possible unless the Member State (national/federal/provincial/regional approving authority) approves the participation of a member established under its national law approved even where that member is not competent for all the tasks specified in the convention.

Even so, it has to be accentuated that besides the restriction of meeting obligations aimed at the protection of the global interest of the state or any other administrative body, as a result of the Regulation, the Assembly of the EGTC can determine the conditions of the infrastructural elements managed by the EGTC or the conditions to provide services of general economic interest, such as energy, transport and telecommunications, including the tariffs and fees paid by consumers.

After the EGTC has started its operation, defining potential further tasks taken on by members is also to be taken from the founding documents of the members themselves, taking into account the indicated restrictions.

(c) Adjusted set of tasks applied by member states

The scope of tasks taken up by member states and that can be accomplished without EU funds can be modified (limited) by member states during the founding process of the EGTC, as well as during its operation but only with respect to the restriction prohibition stated in paragraph ab).

Like always, it is the examples and restrictions that have to be primarily examined.

From the above list we have to highlight the tasks that cannot be disregarded by member states.

If a member state wishes to adjust (limit) the tasks taken on without EU funds of the relevant EGTC on its own territory, it cannot – as a primary rule – realise these adjustments in the case of the indicated European territorial cooperation priorities.

The following summary shows examples of these priorities:

- research, strengthening of technological development and innovation;
- increasing compatibility of SMEs;
- supporting the switch to a low carbon-dioxide emission economy in all sectors;
- preserving and protecting nature and supporting resource effectiveness;
- supporting sustainable transport and eliminating bottlenecks from the essential network infrastructure;
- investing in education, training related to specific skills, professional education and lifelong learning by developing education and training infrastructure;
- increasing institutional capacity of authorities and stakeholders and developing effective administration by strengthening the effectiveness and institutional capacity of administrative systems and public services related to accomplishing ERDF tasks.

It needs to be enhanced that the investment priority scope stated in the cited legislation is nothing but a *general frame* from which an EGTC can/must choose its tasks in accordance with its goals and (legal) nature.

A further important rule is that if the prohibition of member state adjustment breaches Art. 13 of the Regulation, that is to say the **public interest of a specific member state is endangered**, the

member state adjustment (restriction of obligations) can be done but only concerning the task(s) responsible for the public offence.

Apart from the indicated task management, Art. 16. paragraph (1) of the Regulation has to be mentioned as well, which states that *the Member State may establish a comprehensive list of the tasks which the members of an EGTC within the meaning of Art. 3 (1) established under its laws already have, as far as territorial cooperation within that Member State is concerned.*

There are no practical experiences yet concerning the practical importance of this list, it most probably falls under the statistical relation between the member state and the European Union.

The scope of tasks of the EGTC are legally well built up, which is why the breach of restrictions or interdictions by introducing a new task that is incompatible with the existing legislation, or by conducting a task other than the stated obligation can be punished by several sanctions: from the call to seize the activity to the exclusion of the member from the EGTC, or even the discontinuation of the EGTC as an association.

Standpoint taken up by the ECR concerning the competences of the member state authorities

Following the consultation on 12 November 2015, a possibility came up concerning the 6 remaining seat candidate countries to see if there is a member state representing a certain kind of liberal point of view *approving the participation of a member established under its national/regional law even where that member is not competent for all the tasks specified in the convention.*

During this research, it was presumed that members define the future common EGTC tasks by synchronising the tasks falling under member state jurisdiction, taking as basis the national/regional/federal regulations and proper internal structural-organisational system, whilst consulting with the leading authorities if needed.

We consulted the relevant approving authorities of the member states, contacting them by e-mail, briefly describing the background of the research, asking about the scope of authority/tasks thematically, with special attention to the following:

- how many possibilities do you have to match the content identity of the national competences of an EGTC member (which is established under your national law) and specified tasks of the EGTC during its establishment;

- have you ever had to give your approval to a member of an EGTC while the member's competences did not match the tasks of the EGTC? If yes, what was the reason for it?

From the statements, we also expected answers concerning the question what formal and informal methods are used by the authorities within the approval solutions stated above to examine the harmony between member competences and the EGTC's scope of tasks.

We did not receive any full-scale responses from the approving authorities, but it can be seen from the submitted answers that in the foundation period of the EGTC, their authorities are usually involved in the process of the informal establishment of an EGTC and there are administrative supervisions once an EGTC is formally established.

Summary

The submitted answers do not provide a sufficient image on the approving authorities' practices concerning the management of member competences. It can thus be presumed that the scope of tasks that can be deduced from members' authority and the scope of tasks that can be bestowed upon the EGTC are at least formally verified during the founding process. Undoubtedly, if the members consult informally with their own relevant approving authority before their official request, it provides an opportunity for a more direct form of research which can help eviting the need to fill in the deficiencies coming up during the official procedure in the future.

According to the above, we can establish that concerning the member competences, all member states have equal chances to become the seat country.

3.4.3 Controls to protect the public interest

Theoretical background

One of the ways for the State and its authoritative bodies to control an EGTC is through the protection of public opinion. Its significance lies in the fact that all member states involved in the founding of the EGTC have to be given the opportunity to verify if the admission of a founding or joining member to the EGTC is in accordance with the public interest or public policy represented by the member state or its wider community.

With regard to an EGTC, control of the protection of public interest features on at least two levels: firstly the founding process, secondly the control over the activities of the legally registered, operating EGTC. Form and content display of this control is in alignment with the legislation of the specific country as well as the rules of procedure of the related authorities (except for some forms of EU control).

According to the related 1082/2006/EC regulation modified by regulation (EU) no. 1032/2013 ('Regulation'), protection of public policy first appears upon the examination of the membership request (Reg. Art. 4 par. 3/b):

„A prospective member, the Member State which has received that notification shall, taking into account its constitutional structure, approve the prospective member's participation in the EGTC and the convention, unless that Member State considers that:

a)

b) such participation is not justified for reasons of public interest or of public policy of that Member State;”

What public interest exactly means is explained by the Art. 13 of the Regulation:

„Where an EGTC carries out any activity

in contravention of a Member State's provisions on public policy, public security, public health or public morality;

in contravention of the public interest of a Member State.”

It has to be mentioned that the exact meaning of the terms public policy, public security, public health and public morality (and especially public policy and public security) have not consistently developed yet, which is why there is a certain legal uncertainty concerning their use. Yet, public or private interest related to legal certainty require these terms to have specific, concrete meanings because if a certain behaviour or activity is threatening public policy or public security, it is vital to know what the specific condition or phenomenon is that the given activity or omission is endangering.

With regard to the rejections and interdictions, presumably also due to the insecurities above, several controls have been introduced to the system of membership request rejections and

authoritative interdictions during the operation of the EGTC. This created, pro and contra, for room for manoeuvre for the supervisory body and the requesting member of the association.

These controls/counterbalances can be summed up as follows:

Scope of a Member state	Scope of Member
Rejecting membership	Justification and guidance for amendments
In the case of an already operating EGTC, prohibition of a certain activity	a) the EGTC abandons the prohibited activity in question; b) multi-level (national, EU) legal appeal to a decision.
Exiting members from the EGTC that have rightful admission of which has been granted by said member state	

Concerning requests for member approval, the Regulation explicitly states that „in the event of non-approval, the Member State shall state its reasons for withholding approval and shall, where appropriate, suggest the necessary amendments to the convention”. All this undoubtedly works in favour of legal security and the better protection of the member’s interests. Looking at today’s legal practice, this kind of help mostly only features in rather global, corrective measures from the part of the approving authority, specific guidance is very rare.

Further restrictions for the member state or any of its bodies is the fact that these prohibitions shall not constitute a means of arbitrary or disguised restriction on territorial cooperation between the EGTC’s members. This rule would decrease in theory the scope of rejections related to public interest, yet, even without legal experience, it can well be perceived that the overly global phrasing of the interdiction will not dissuade any member from hindering or slowing down the creation of an unwanted EGTC. Experience on the other hand shows that this rule is not willingly breached by member states – they rather build their interest into unnecessarily prolonged approval procedures. They are aided in their efforts by national rules of procedure used during the approval processes authorised by the Regulation.

All in all, it can be perceived that concerning EGTCs, the content “elaboration” of conceptual elements of “public policy” in specific legal cases will primarily be the task of procedural authorities, and will be included into the explanation of possible rejections and the amendment guidelines. Application of more profound legal context and case-law analogies can be expected in the legal remedy phase.

Control activities related to public interest of the seat-candidate ECR member states

During the examination of the legal requirements for analysing the seat, it was presumed that the 6 countries' national measures effectuated in favour of public policy protection are not overly represented other than what is stated in the Regulation. The reason for this presumption was that it can be seen that a good amount of the member states' national EGTC legislations broadly examined by the writers of this study plainly strived for the composing of minimal rules. That is to say that these legislations did not state anything in the matter other than to name the procedural authorities and refer back to the Regulation regarding other procedural matters. Even so, the EGTC legislation of some member states, especially regarding matters of responsibility, supervision is remarkably elaborated. However, this does not reflect the general tendency, even though detailing the foundation procedure according to the member states' rules of procedure, defining the qualifications of the procedural body and elaborating the rules related to the supervision of the administration would significantly and effectively help other EGTC founding members and procedural authorities.

Still, especially because of the indicated tendency, if the 6 member states examined in this paper had established a detailed supervision practice concerning public policy securitisation, the increased legal security it would have resulted in could have served as a defining (legal) element for the choice on the ECR EGTC seat.

In view of this statement, we have examined the following aspects:

- (a) supervision and control prescriptions of the operative national/federal/regional/provincial regulations;
- (b) supervision and control practices elaborated by the approving bodies of the member states concerned.

In order to investigate the matter, we first went through the national/federal/regional/provincial EGTC legislations of the member states concerned, after which we contacted the different authorities via e-mail, briefly explaining the background of the research and seeking to gain information on their practices related to the supervision of public policy protection.

Analysis of legislations

Elements of the examined legislations and their supervision/control activities:

Member State	National provision	Elements of control (poor/advanced)
Belgium	1.Brussels Capital Region 2.Flemish Region 3.Walloon Region 4.German-speaking Community	<p>1. Ordonnance portant exécution du Règlement (CE) n° 1082/2006 du Parlement européen et du Conseil du 5 juillet 2006 relatif à un Groupement européen de coopération territoriale (GECT) It consists of two articles and refers back to the Regulation. (Poor)</p> <p>2. Decree of the Flemish Government of 18 January 2008 implementing the EGTC regulation, modified by the decree of the Flemish Government of 26 September 2008 Art. 2b Flemish Minister for Home Affairs has the power to prohibit de activities of an EGTC which are incompatible with the provision of article 13, first paragraph, of the EGTC regulation on the territory of the Flemish Region or demand that the members of the EGTC, for which he or she has given approval to participate in the EGTC (i.e. Flemish Regional or Local Authorities) withdraw from the EGTC, unless the EGTC stops with these activities. (Poor)</p> <p>3. Projet de décret portant exécution, pour ce qui concerne les matières dont l'exercice a été transféré par la communauté française à la région wallonne, du règlement (ce) n° 1082/2006 du parlement européen et du conseil du 5 juillet 2006 relatif à un groupement européen de coopération territoriale (Gect)(doc. 563 (2011-2012) – N° 1</p>

Member State	National provision	Elements of control (poor/advanced)
		<p>It consists of two articles and refers back to the Regulation. (Poor)</p> <p>4. Dekret über die zuständige Behörde zur Ausführung der Verordnung (EG) Nr. 1082/2006 über den Europäischen Verbund für territoriale Zusammenarbeit</p> <p>The decree refers back to articles 6. and 13. of the Regulation concerning the management of public funds and the protection of public policy. (Poor)</p>
The Netherlands	<p>512 Wet van 26 november 2009, houdende uitvoering van verordening (EG) nr. 1082/2006 van het Europees Parlement en de Raad van de Europese Unie van 5 juli 2006 betreffende een Europese groepering voor territoriale samenwerking (EGTS) (PbEU L 210) (Uitvoeringswet EGTS-verordening)</p>	<p>On the 1st of July, each EGTC submits an annual report on their tasks and operational policy. The report should be forwarded to the minister concerned. If there is a discrepancy related to public policy, ministerial consent of the annual report and the financial statement can be held back. (Art. 13 (2))</p> <p>The appointed accountant informs the minister concerned about the contents of the supervision procedures related to the financial statement. (Advanced)</p>

Member State	National provision	Elements of control (poor/advanced)
France	Loi n° 2008-352	French law has not been adapted to the amended 2013 EGTC regulation. Therefore, it does not authorize the following entity (among others) to be part of an EGTC : Authorities at national level (including Private law Authorities) Even though French Law does not refer to all of the EGTC potential members, EU regulation's direct effect provides solutions in most cases. (Poor)
Germany	Provincial regulations	Consist of a few paragraphs and generally only name the authorised procedural bodies. (Poor)
Poland	1390 USTAWA z dnia 7 listopada 2008 r. o europejskim ugrupowaniu współpracy terytorialnej	Art. 17 The supervision of public funds management is conducted according to separate legislation. (Poor)
Romania	The governmental regulation of urgency entitled Ordonanță de Urgență a Guvernului nr.127/2007 privind Gruparea europeană de cooperare teritorială and its modification by Romanian Parliament: regulation no. 9/2015	Art. 10 (2) An authorised court conducts a legislative (lawful) investigation concerning the EGTC in the last phase of the foundation and decides within 10 days on the acceptance or rejection of the foundation. Art. 15 The relevant authority can ask for data on the operation of the EGTC and its bodies and information, documents on its activities for supervisory reasons at any point in time. Art. 18 b) Reasons windup based on considered arguments, such as "the failure to reach the purpose it was established for". (Advanced)

Summary

Apart from two member states (the Netherlands, Romania), the examined national/federal/regional/provincial EGTC legislations do not elaborate on neither public policy protection, nor on supervisory questions related to the overall operation of the EGTC. Taking this into account, it can be presumed that the legislative elaboration indicates a lack of supervisory practices in most of the examined member states.

3.4.4 Tax burdens

Taxes and social contributions collected by state authorities are different across the European Union, which is why in the EGTC founding process, the various tax burdens of the seat candidate countries have to be examined as well.⁶

In the member states of the European Union there are significant differences in the level of taxation. It can generally be stated that tax burdens are higher in “old” member states than in the more recently joined ones.

Distribution of the total tax burden according to the type of tax base

Because of the different rates of tax, the direct and indirect taxes, as well as social contributions in older member states are proportionally similar to one another, while the role of indirect taxes in newly joined member states is less significant.

Direct taxes

The main property of direct taxes is the fact that the taxable entity and the person liable for payment is the same (i.e. personal and corporate income tax). Regulation of direct taxes is the sovereign right of each member state.

Personal income tax

In the more developed European countries which usually dispose of a higher income, strongly progressive personal income taxes are generally frequent. The simple average of personal income taxes in the EU-28 in 2015 was 39.3%.

⁶ Source: Taxation trends in the European Union – Data for the EU Member States, Iceland and Norway – 2015 edition, EUROSTAT

2015 - Personal income tax rates (%), (including surcharges)					
Belgium	The Netherlands	France	Germany	Poland	Romania
53,8	52	50,3	47,5	32	16

Corporate taxation (CT)

Similarly to personal income tax, the highest rate of corporate tax has decreased in the European Union, but it can be concluded that there are significant differences between the rates of this type of tax.

It can be seen that the level of corporate taxation in newly joined member states is inferior to the rate in older member states.

2015 - corporate income tax rates (%) (including surcharges)					
Belgium	The Netherlands	France	Germany	Poland	Romania
34 ⁷	25	38 ⁸	30,2	19	16

Indirect taxes

In the case of indirect taxes (e.g. VAT), the final consumer pays the tax. Indirect taxes in the European Union are regulated by a harmonised legislative system.

VAT (Value-Added Tax)

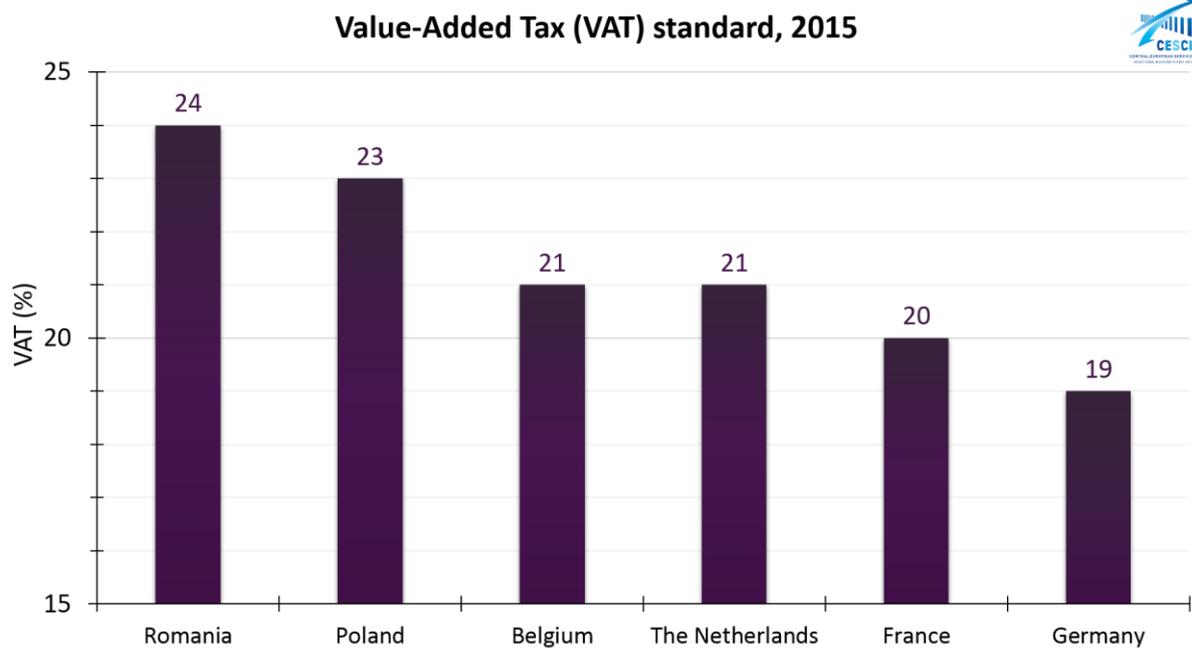
The statutes to be unanimously followed by EU member states are regulated by the VAT Directive. According to the Directive, member states may only dispose of two reduced VAT rates besides the standard VAT rate. The normal rate should at least be 15%, whereas the reduced rate at least 5%. The simple VAT average in the EU-28 in 2015 was 21.6%.

2015 - VAT, standard (%) (all non-exempt goods and services, See Article 96 VAT Directive)					
Belgium	The Netherlands	France	Germany	Poland	Romania
21	21	20	19	23	24

⁷ 24.98 % (income < EUR 25 000);
31.93 % (EUR 25 000 < income < EUR 90 000);
35.54 % (EUR 90 000 < income < EUR 322 500)

⁸ 15% for SMEs (all-in rate)

2015 - VAT, reduced (%) (goods or services listed in Annex III of the VAT Directive but not to electronically supplied services, See Article 98(2) VAT Directive)					
Belgium	The Netherlands	France	Germany	Poland	Romania
6/12	6	5.5/10 2.1 ⁹	7	5/8	5/9



Social contributions (SC)

The proportion of social contributions compared to GDP has barely changed during the last few years. In most of the member states, the social contribution paid by employers after their employees is higher than what the employees pay themselves. There are, however, some exceptions, such as for example the Netherlands.

	2015 – SC (%)					
	Belgium	The Netherlands	France	Germany	Poland	Romania
Employers' contributions	34.7	18.08	11.29-40.63	19.33	16.26	22.75
Employees' contributions	13.07	28.15	14.2	20.23	13.71	16.50

⁹ super-reduced rate

3.5 Benchmarking

In this subchapter we summarise the conclusions of the previous subchapters in order to facilitate the identification of the seat. According to the evaluation method agreed with the ECR EXCO, 5 factors are taken into consideration with different weight (the rates of factors are also agreed with the EXCO):

Name of the factor	Weight in assessment
EGTC experience	5%
Geographic and transport factors	35%
Economic and political factors	15%
Operational factors	25%
Legal factors	20%
TOTAL	100%

In addition, the evaluation also contains two excluding criteria. They both refer to the legal environment of the EGTC at national level: **the private law / public law** status and the excluding liability criterion. With regard to the former, the Steering Committee made the decision not to establish an EGTC which falls under private law. This decision would practically exclude Bucharest from the list of candidate cities. However, as it is stated above, the Romanian capital has not been excluded from the benchmarking.

All the relevant six national legislations handle the issues of **liability** very similarly to each other, not ruling out the use of unlimited liability in each of the countries which means that this factor is not excluding.

To sum up, according to the legal exclusion criteria, the Romanian capital city should not be taken into consideration when deciding on the seat of the EGTC. Further criteria are analysed below.

3.5.1 EGTC experience

The EU member countries have diverse experiences with this new legal-institutional tool. Obviously, the registration process is easier and faster when the seat is located in a country with a lot of experience on the setup of EGTCs (like France). On the contrary, we can expect a longer procedure in the case of countries where EGTCs have not been registered yet (like Romania). Based on our previous experience, authorities in countries where EGTCs have not yet been set up, very often don't even understand what does an EGTC stand for, what is to do with it and who is the responsible person, in which ministry for the various matters of the approval process. These obstacles always slow down the establishment procedure.

From this perspective, the candidate countries have different experiences. The **registration** process could be managed the smoothest in France and Poland. France is the country with the far largest number of experiences with **approvals**, followed by Belgium, Romania and Germany. In the following table we summarised the EGTC experiences country by country, highlighting the experiences gained in the field of network EGTCs.

		Belgium	France	Germany	The Netherlands	Poland	Romania
Experience with EGTCs (total)	Seat	1	11	1	1	3	0
	Further memberships	6	8	5	2	0	6
From this:							
Experience with network EGTCs	Seat	0	0	1	1	1	0
	Further memberships	1	3	1	1	0	2

The scaling has been made using the aspects below:

- 5 country with a lot of experience both in registration and approving
- 4 country with a lot of experience in registration
- 3 country with a lot of experience in approving but less experience in registration
- 2 country with no experience at all in registration
- 1 country with less experience in either the establishment or in approving of EGTCs

Candidate city	Score
Brussels	3
Bucharest	2
Cologne	3
The Hague	1
Paris	5
Warsaw	4

3.5.2 Geographic and transport factors

Accessibility is a core factor of the selection. It is underlined by the weight the EXCO members identified with this aspect.

According to the evaluation on accessibility we can identify the following degrees in scaling:

- 5 city with good accessibility parameters both by air and on the ground (to and from all ECR member capitals)
- 4 city with good accessibility parameters by air (to and from all ECR member capitals)
- 3 city with average accessibility parameters both by air and on the ground (from all ECR member capitals)
- 2 city with weak accessibility parameters in all forms of travelling
- 1 city difficult to access from the ECR member countries

The results of the particular subchapter can be summarised by the following scoring:

Candidate city	Score
Brussels	5
Bucharest	2
Cologne	3
The Hague	5
Paris	5
Warsaw	3

3.5.3 Economic and political factors

The economic factors include two aspects: annual growth rate (during the last 5 years and forecast for the coming years) and the openness of the national economy (which has been evaluated through the share of the export in GDP, the weight of FDI in GDP and the number of foreign controlled enterprises, respectively). The final scoring is made difficult by the fact that these five factors characterise the member countries in very different ways. While GDP growth is the highest in Poland and Romania, where FDI plays a highlighted role in the generation of GDP, the rate of export shows an average value. The highest rate of export in GDP can be identified in The Netherlands and Belgium, but the role of foreign companies is relatively modest in the latter. We have to add that correlation can be observed in the rate of FDI in GDP and the number of foreign controlled companies, which is not surprising.

Consequently, we developed two models of scoring: one on growth and another on openness. Regarding economic growth, the following categories have been assigned to the values:

- 5 country with a growth rate both in the recent and in the coming years significantly higher than EU average
- 4 country with a previous growth rate higher than the EU average and an average upcoming rate
- 3 country with a higher growth rate than the EU average in the past but lower than the average of the six candidate countries in the next years
- 2 country with a growth rate lower than the EU average in the previous years and an average expected growth
- 1 country with modest GDP growth rate both in the recent and in the coming years

With respect to openness, the following aspects have been taken into account:

- 5 country with a high rate of export and FDI in generating GDP and with a higher share of foreign controlled enterprises
- 4 country with a high rate of export in GDP but lower rate of FDI and foreign controlled enterprises
- 3 country with an average level of export and higher rate of FDI in the generation of GDP, accompanied by a higher share of foreign controlled enterprises
- 2 country with average level of export, FDI and foreign companies
- 1 country with lower export rate

The results are summarised within the following table:

Candidate city	Score_growth	Score_openness	Average value
Brussels	3	4	3,5
Bucharest	5	3	4
Cologne	3	2	2,5
The Hague	2	5	3,5
Paris	1	1	1
Warsaw	5	3	4

After having studied the subchapter on diplomacy and para-diplomacy one can conclude on that the information provided by the candidate countries is not satisfactory for well-balanced comparison: not all the candidates have answered all the questions and they apparently understood their “homework” differently.

However, based on daily experiences, the closer the seat is located to the central EU institutions, the higher political influencing power the institution has on European processes. Another aspect of having a diplomatic impact on the EU is the size of the country. From this perspective, Germany, France and Poland have far bigger influence on the European policy-making than the smaller countries. Also it is a daily experience that old Member States (EU-15) usually have better advocacy skills than the „newcomers”.

When taking all these factors into consideration, one can identify the following groups of countries:

- 5 old member country with large population located near Brussels
- 4 old member country with average population located near Brussels
- 3 new member country with large population
- 2 new member country with average population
- 1 new member country with low population

The table identifying the candidates along the above aspects is the following:

Candidate city	Score
Brussels	4
Bucharest	2
Cologne	5
The Hague	4
Paris	5
Warsaw	3

Summarised values of the factor:

Candidate city	Score_Economy	Score_Diplomacy	Average value
Brussels	3,5	4	3,75
Bucharest	4	2	3
Cologne	2,5	5	3,75
The Hague	3,5	4	3,75
Paris	1	5	3
Warsaw	4	3	3,5

3.5.4 Operational factors

The same phenomenon as briefly referred to above can be observed when summarising previous experiences of the candidates regarding operational factors to the case of diplomacy and para-diplomacy: the answers received cannot be compared because of the imbalanced information provided. Further operational factors, i.e. operational costs and background conditions can be compared along the following scoring:

- 5 city with low operational costs and good background conditions
- 4 city with average operation costs and good background conditions or with low costs and average background conditions
- 3 city with higher operational costs and good background conditions
- 2 city with average operational costs and average background conditions
- 1 city with higher operational costs and average background conditions

The results are the following:

Candidate city	Score
Brussels	3
Bucharest	4
Cologne	3
The Hague	3
Paris	1
Warsaw	4

3.5.5 Legal factors

The conclusions drawn from the analysis of the legal background are the following:

- there are no significant differences between the relevant national legislations regarding the competences delegated to the EGTC;
- there are two countries the provisions of which result in a stricter control over the EGTC than the others', i.e. The Netherlands and Romania;
- there are big differences in the tax burdens influencing the operation of the planned EGTC.

In order to balance between the different aspects of the legal factors, we used the following rules of evaluation:

- (1) the issues of competences have not been taken into account during scoring;
- (2) the values related to tax burdens of the two countries with stricter control are counted with a negative weighing (0,8)
- (3) the scoring of tax burdens matches 5 types of countries:
 - 5 country with a low rate of personal income tax and corporate tax but high VAT (over 21%)
 - 4 country with low corporate tax rate and average VAT (19 to 21%) but high personal income tax rate
 - 3 country with average corporate tax rate and average VAT but high personal income tax rate
 - 2 country with average VAT rate and high corporate tax and personal income tax rate
 - 1 country with high rates in all types of taxes

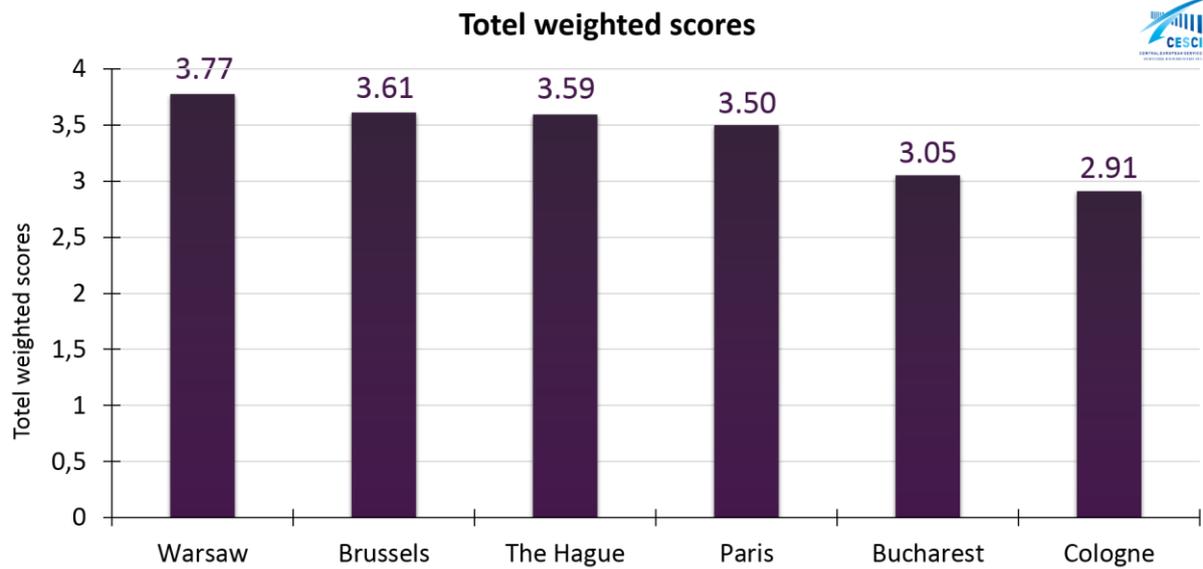
The scoring of the countries is the following:

Candidate city	Score
Brussels	2
Bucharest	$5 * 0,8 = 4$
Cologne	2
The Hague	$3 * 0,8 = 2,4$
Paris	4
Warsaw	5

3.5.6 Generation and weighing of scoring

The generation and weighing of scoring provides a quite balanced overall picture:

Candidate city	Brussels	Bucharest	Cologne	The Hague	Paris	Warsaw
EGTC experience	3	2	3	1	5	4
Multiplier	0,05	0,05	0,05	0,05	0,05	0,05
Weighted value	0,15	0,1	0,15	0,05	0,25	0,2
Accessibility	5	2	3	5	5	3
Multiplier	0,35	0,35	0,35	0,35	0,35	0,35
Weighted value	1,75	0,7	1,05	1,75	1,75	1,05
Economy and diplomacy	3,75	3	3,75	3,75	3	3,5
Multiplier	0,15	0,15	0,15	0,15	0,15	0,15
Weighted value	0,5625	0,45	0,5625	0,5625	0,45	0,525
Operation	3	4	3	3	1	4
Multiplier	0,25	0,25	0,25	0,25	0,25	0,25
Weighted value	0,75	1	0,75	0,75	0,25	1
Legal background	2	4	2	2,4	4	5
Multiplier	0,2	0,2	0,2	0,2	0,2	0,2
Weighted value	0,4	0,8	0,4	0,48	0,8	1
Total	3,6125	3,05	2,9125	3,5925	3,5	3,775



When considering all the (weighted) factors, **Warsaw** comes out as the best-scoring option. The selection of the Polish capital city can be underpinned by the relatively low operational costs, the satisfactory equipment provided, the increasing economic and political power of the country within the EU and the experience of Poland in the registration of (network) EGTCs.

However, the members of the ECR can, of course, evaluate differently the results if they consider, when finally selecting the seat, the relatively poorer accessibility of Warsaw as a core issue. Also from the diplomatic point of view, bringing the seat to **Brussels, The Hague, Paris or Cologne**, all four of them representing countries with obviously and admittedly high political and economic influence within the EU, may appear to be a more favourable decision. If, however, the EGTC experience is the most important aspect, Paris is the best choice.

These different aspects may result in a decision mentioned above: to distinguish between the seat of the EGTC and the seat of the Secretariat which is a further option. The matter is for the Steering Committee to decide.

4. Administrative arrangements and internal regulations

This chapter aims at drafting an overview on the structure and the system of internal procedures of the planned EGTC. For this purpose, it

- analyses the current system of the ECR cooperation, together with the results of the members' evaluation thereof concluded from the on-line questionnaire;
- and summarises the lessons learnt from the models of already registered EGTCs.

This way, the study provides alternatives and models for decisions what should be made by the Steering Committee.

4.1 Existing model of the ECR

The organisation of the Euro Contrôle Route is built up functionally, in accordance with its tasks in the following current structure:



Source: ECR website

The full legal-administrative background of the organisational structure is stated in the following conventions and regulations (name/date of signature):

1. First Administrative Arrangement (1st AA) (5 October 1999) - basic elements of the structure
2. Second Administrative Arrangement (2nd AA) (22 March 2007) – as a new legislation superseded the First Administrative Arrangement

3. Internal Regulations (IR) (15 June 2011) - respecting the administrative arrangements established in the internal regulations by the steering committee; the internal regulations have to be adopted unanimously).

The activities of the association are examined by taking, as a basis, the relevant paragraphs of documents 2. and 3. stated above.

4.1.1 Tasks defining the organizational structure

The tasks of the ECR cooperation:

- *Exchange of information* (exchanging data related to offences investigated in one of the countries and committed by a commercial vehicle undertaking established in another country);
- *Co-ordination of control activities* (organising the members' joint controls, or co-ordinated controls);
- *Training* (organising common training programmes to fulfil the needs of the control services);
- *Uniform check procedures* (informing each other of the developments of national regulations, developing uniform check procedures concerning the relevant regulations);
- *Equipment* (informing each other of new developments in technology and exchanging all useful information in this regard; offering recommendations towards a uniform equipment standard);
- *Consultations, legal development, proposals and recommendations* (periodic consultation between Members, taking common initiatives to adopt common positions within the EU and its Member States, communicating to the European institutions for updating and developing regulations in the area of road transport of goods and passengers).

4.1.2 Status of the Members

The current system of the ECR network identifies two types of members:

- Founding members (these are the signatory parties of the AA)
- Prospective members

Conditions to participate by additional country (candidate observer) are:

- a) administrative process: approving its participation by the Steering Committee;
- b) passive observer status: max. for 12 months, no voting, no annual contribution, at the end of the period the candidate observer undertakes the conditions of membership in a written official letter;
- c) active observer status: max. for 24 months, no voting, at the end of the period the normal membership starts automatically except if the active observer status is extended.

4.1.3 Organs

Steering Committee (SC)

Representatives of all signatories in this administrative arrangement constitute the Steering Committee (but limited to 3 persons per country). The Steering Committee is the decision-making board of the Euro Contrôle Route. It monitors the fulfilment of the tasks and accompanies the developments which are necessary for achieving the agreed aims, and decide about the budget.

The members of the Steering Committee meet at least twice per year;

Voting procedure:

- each country has a single vote; primary rule is the single majority vote with at least two thirds of the members participating;
- absent members' voting:
 - a) by sending in advance a vote by power of attorney to the ECR Secretariat (original document) and Chairman (copy),
 - b) in case a unanimous decision is required: a written vote within four weeks from the date of the meeting - the absence of response is regarded as an affirmative vote.

Chairmanship

The chairmanship of the Steering Committee is assumed successively by each signatory (rotation). The term of the chairmanship lasts 12 months, starting from the 1st of July until the 30th of June of the following year.

Executive Committee (EXCO)

The current chairman, his immediate predecessor and his immediate successor in rotation form the Executive Committee of the Euro Contrôle Route.

The Steering Committee may extend the Executive Committee by up to six members by electing volunteering members for a renewable 1-year term among the members of the Steering Committee (the candidacy period based on specific nomination process). The Executive Committee plans the meetings of the Steering Committee, prepares the agenda and is charged with the steering of the day-to-day running which is executed by the Benelux General Secretariat, develops proposals for the future ECR strategy and provides the external representation of Euro Contrôle Route.

The members of the Executive Committee meet as often as necessary to carry out its functions. The Chairman of the Steering Committee acts as the Chairman of the EXCO.

Voting procedure (for electing the members of the EXCO):

- voting via a paper ballot, each country has a single vote; the candidate person can vote for himself/herself;
- absent member's voting: by sending in advance a vote by power of attorney to the ECR Secretariat (original doc) and Chairman (copy);
- the votes will be counted by the ECR Secretariat and Chairman;
- primary rule is the single majority; in the case of a same number of votes, there will be a new paper ballot for remaining candidates; after that a second, third etc. ballot; the troika will issue the deciding vote.

Voting procedure of EXCO:

- primary rule is the single majority vote with at least two thirds of the members participating; a project to the European Commission requires an unanimous vote; absent members' voting:
 - a) by sending in advance a vote by power of attorney to the ECR Secretariat (original document) and Chairman (copy),
 - b) in case a unanimous decision is required: a written vote within four weeks from the date of the meeting - the absence of response is regarded as an affirmative vote;

- If an urgent decision is necessary, the member of EXCO who can be contacted may make the decision without the obligatory majority vote (but before the decision: if necessary, consulting and obtaining the approval of other members of Steering Committee, after the decision: post-information to all of the members of EXCO).

Secretariat

The secretariat of the Euro Contrôle Route is provided by the Benelux General Secretariat. Furthermore the Benelux General Secretariat can act for the Euro Contrôle Route as:

- legal entity,
- employer of personnel who are employed in the framework and at the expense of the Euro Contrôle Route,
- the administrator of the Euro Contrôle Route's finances (it acts as a financial manager, receiver and issuer of money).

For the secretariat of the Euro Contrôle Route, the Benelux General Secretariat acts in conformity with the directions given by the steering committee to which it will report about its activities.

Working Groups (WG)

The Steering Committee can set up Working Groups to achieve the aims agreed and in fulfilment of the tasks set forth.

Members of the WGs can be ECR members, active observers but they may invite passive observers, experts, or representative of other organisations.

The leaders of a Working Group are the chairman and vice-chairman (elected among the members of the Working Groups, their mandate depends on their ability or willingness to continue in the position); all proposal, resolutions must be endorsed by the Steering Committee; compulsory reporting on the activity of the Work Groups at each Steering Committee meeting.

Voting:

- each member has a single vote, primary rule is the single majority vote with at least two thirds of the members are participating;
- absent member's voting:

- a) by sending in advance a vote by power of attorney to the ECR Secretariat (original document) and Chairman (copy),
- b) in case a unanimous decision is required: a written vote within four weeks from the date of the meeting - the absence of response is regarded as an affirmative vote.

Project Group (PG)

The Steering Committee can set up project groups to study specific subjects and to prepare proposals.

Members can be volunteer members, active observers but the project manager may invite passive observers, experts, or representatives of other organisations.

The leader of a project group is the project manager who is nominated by the Steering Committee; chairman and vice-chairman; all proposals and resolutions must be endorsed by the Steering Committee; compulsory reporting on the activity of the Project Groups at each Steering Committee meeting.

Controller of the budget

The Steering Committee elects a controller from among its members for a period of 12 months (in the current financial year from the 1st of March until the end of February) for no more than three successive mandates. The controller is responsible for the auditing of the ECR budget. Co-operating partner is the Benelux General Secretariat.

Budget report: once a year in writing before the end of February to the Steering Committee.

4.2 Stakeholder evaluation of the ECR's current structure

In order to create the basis of the new EGTC's organisational structure, the CESCI staff

- (1) conducted a detailed group interview with the members of the Executive Committee and those of the Secretariat at the ECR Steering Committee meeting in Vilnius on 12 November 2015 and
- (2) composed an on-line questionnaire through which the members of the association could express their opinion on the current operation of the network and propose new ideas concerning the future structure. In the end, 13 out of 14 members filled out the form (not everyone replied to all questions), which suggests a high level of representation. These responses, and the interview conducted with the Troika, line out the view of the future EGTC's internal structure. We grouped all observations around 4 main questions: 1. what organisational changes are expected of the EGTC; 2. how could the structure of the current cooperation be changed; 3. what effect will the EGTC have on internal procedures and, 4. on financial models as well.

4.2.1 What changes are expected from the founding of the EGTC?

- One of the important conclusions of the interview was that a **higher level of operation** and **more serious involvement** from the members is expected from the future EGTC. The participation rate of members is currently not consistent and absence from different meetings, events, etc. has no consequences, even though it would be important in many cases for all members to take part. The Statutes of the new institution might help in creating regulations and guarantees which stimulate the regular presence of members.
- The other motive for founding the EGTC is to **strengthen professional autonomy** which would at the same time **improve the professionalism of the cooperation**. To reach this, the EGTC must set up its own staff, the operation of which would then be independent from the spare capacity of member states' authorities and their fluctuating number of available personnel.
- The fact that the (professional) representatives of the member states are often fluctuating posed an ever returning problem during the interview. As the people attending the meetings are often different, they might not have all the necessary

information or language skills. Along with the varying member activity, this makes effective cooperation rather difficult. A **permanent proper management structure** could eliminate these flaws, as the continuous running of the EGTC could thereby be made independent of the availability of the member state representatives. However, even the EGTC cannot solve the problem if, as a result of an organisational reform within one or another member state, the authority acting as EGTC member ceases to exist due to the lack of legal successor. For such special cases, specific regulations, clauses have to be introduced in the constitution of the EGTC.

- The association has recently been gaining more and more professional prestige; the European Commission relies more and more often on consulting it in an ever wider set of professional issues. This calls for a more professional permanent structure to replace the current, consultative character of cooperation. This would also evoke the **increase in importance and recognition** of the ECR initiative on a nation-state level.
- The EGTC could offer a solution to the **current financial model**, too. All activities of the Secretariat are, for the moment, financed by the Benelux Office, its Coordinator is also employed by this institution. The new form would enable the members to finance their common expenditures together.

4.2.2 What is to become of the current structure?

The results of the on-line questionnaire show that most of the members are overall satisfied with the current structure. There was only one reply voicing dissatisfaction concerning the Training Working Group. The operation of the other bodies was deemed satisfactory or very well functioning by the members. The minor complaint against the Training Working Group was really just aimed at further increasing the intensity of the activities (suggesting that more trainings would be necessary).

Opinions on the current bodies by members – summary (aggregated answers)

	Steering Committee	Executive Committee	Working Group Harmonie	Working Group Training	Working Group TWG	Secretariat
very well functioning	2	3	1	1	3	3
well functioning	4	2	4	5	5	6
functioning satisfactorily	5	5	5	4	2	3
not functioning satisfactorily	0	0	0	1	0	0
functioning poorly	0	0	0	0	0	0
no answer / no opinion ¹⁰	1	2	1	1	2	0

If we evaluate the answers above on a scale of 5 where the best score is +3 and the worst -2, we get the following picture:

Evaluation of the current structure on a scale of 5 (cumulated values)

	Steering Committee	Executive Committee	Working Group Harmonie	Working Group Training	Working Group TWG	Secretariat
very well functioning	6	9	3	3	9	9
well functioning	8	4	8	10	10	12
functioning satisfactorily	5	5	5	4	2	3
not functioning satisfactorily	0	0	0	-1	0	0
functioning poorly	0	0	0	0	0	0
no answer / no opinion	0	0	0	0	0	0
Total	19	18	16	16	21	24

¹⁰ Abstention can probably be related to the member's activity within the ECR. There were critical remarks concerning the activity of members during the interview in Vilnius as well as in the on-line questionnaire. The (un)willingness to answer can indirectly reflect the level of activity. According to the interviewees, about 2/3 of the members attend common events regularly.

As can be seen, the members are most satisfied with the Secretariat, there were not even any members who abstained from answering. The other bodies of the ECR achieved high scores as well: out of these, the members were most satisfied with the TWG Working Group and the Steering Committee. This means that it is advised to set up a structure within the EGTC similar to the current one, as the members do not see it necessary to initiate fundamental changes.

The conclusions above are, however, further nuanced by the subsequent questions of the questionnaire.

Namely, because upon asking whether it is worth keeping the current bodies within the EGTC, the replies were divisive.

The need to keep specific bodies (all votes)

	Maintain	Modify
Steering Committee	9	3
Executive Committee	10	1
Working Group Harmonie	6	5
Working Group Training	7	4
Working Group TWG	11	1
Secretariat	10	2

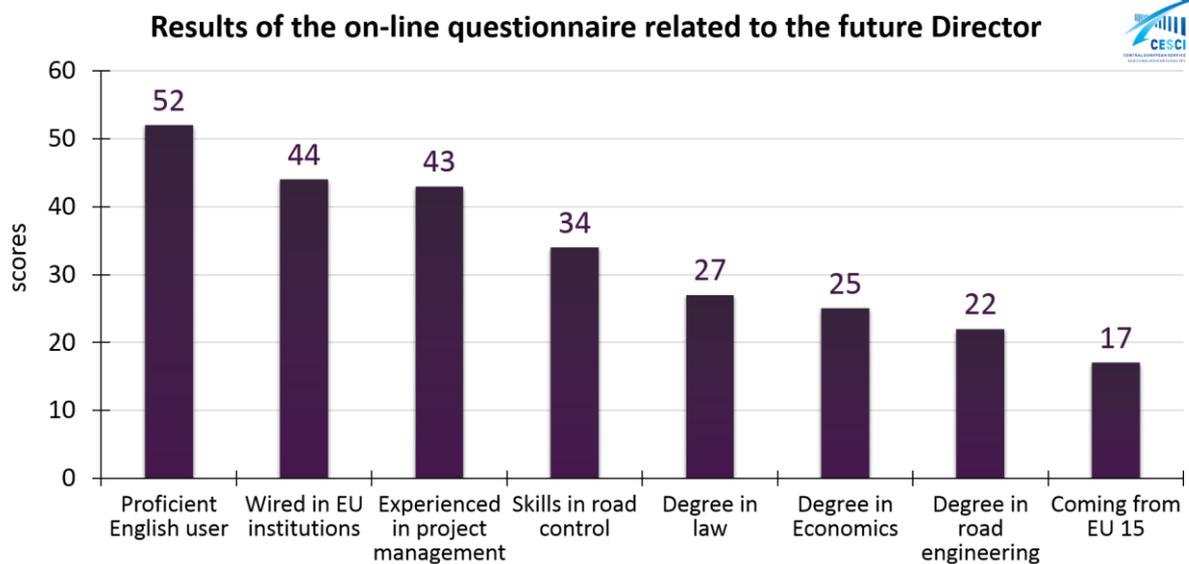
The members see the further operations of the Harmonie and the Training Working Groups as most problematic. We met a remark suggesting the merge of the Harmonie Working Group with the TWG. At the previous Steering Committee meeting a proposal has been raised to rename the “Harmonie” Working Group to “Operational Affairs” and to create 4 sub-working groups within it. A similar remark has been submitted to the on-line questionnaire, calling for the fusion of the Harmonie and Training Working Groups and to form subdivisions. The necessity of the reforms has been unanimously confirmed by the interviewees in Vilnius.

All in all, the uncertainties concerning the working groups indicate that it is not recommended to feature them in the Statutes of the association. It is preferable to choose a less specific formulation – it could be included in the Assembly’s authority to create professional working groups in order to reach its strategic goals. However, it is also possible to only include the TWG working group into the Statutes (since its acceptability and professional importance is beyond

doubt) while the creation of further, unspecified working groups could be added to the jurisdiction of the Assembly. All this is supported by an organisational-cooperational need often induced by the change of regulations. It would mean greater flexibility for professional work if the list of working groups was not a part of the Statutes and thus did not have to be modified on a regular basis and be approved by all authorities whenever a working group is created or discontinued.

A further suggestion was for the leaders of the working groups to meet on a regular basis, but the member submitting the remark did not find it necessary to create an independent body for this purpose.

The main reason for the modification of the Steering Committee was the fact that the related EU Regulation prescribes an obligatory General Assembly which would hereby take over the role of the Steering Committee. Even so, one of the members would think it useful if the Troika were to merge into the General Assembly in a way that it would be led by a president and two vice-presidents the same way it is done in the case of the Executive Committee.



Source: on-line questionnaire

Based on the questionnaire, one can conclude that the most significant expectation from the Director would be fluency in English, good connections with Brussels and project management experience. The members seem to find it far less important that he or she should know the specific field of expertise well, moreover, it was explicitly mentioned in several remarks that even his or her qualifications are quasi irrelevant. It is far more important that this person

should have proper connections and experience in management. All this indicates that the members would like to give a more representative and administrative role to the Director and the control of the professional activities of the organisation would be in the hands of the working groups and the Troika.

The interviewees in Vilnius, too, mentioned language issues among the more important aspects concerning the operation of the whole ECR network. The Director can obviously not solve the existing language barriers by himself on member level, but he or she can strengthen the association's professional leadership. Additionally, it has been mentioned that (due to the multi-national character of the association) the Director should be open-minded towards various cultural attributes, as well as should create harmony among the members he or she represents. This requires, first of all, good communicational skills as well.

4.2.3 What is to become of the internal procedures?

The General Assembly of the future EGTC would meet biannually according to the suggestions put forward by the members. There can of course be extraordinary sessions in case of emergency. During the interview in Vilnius, it was mentioned that the meetings of the General Assembly as well as those of the Troika could be less frequent once some of the organisational tasks are handed over to the Director.

In the case of the General Assembly, the quorum would be met by a simple majority. Qualified majority voting would only be applied in the case of admitting new members.

As for the Executive Committee, most of the members would keep the rotation principle applied so far. However, there have also been recommendations to replace this body by a fixed-member Presidency. Just as it is currently the case, the Troika would meet annually with a required number of representatives.

The members are unanimously in favour of keeping the equal voting power within the EGTC, and to avoid differentiation between the members' voting power. It is remarkable however that no less than 4 members would prefer the membership fee to be determined by the GDP/capita figure of a member state rather than to have an equal amount of membership fee for all members. The question is whether to keep the equal voting system in the Assembly in the case of a varied financial contribution. Only 6 replies to these questions were submitted: 4

would separate voting and financing, whereas 2 support the idea of differentiated financing in accordance with a weighed voting system.

In the questionnaire, a remark on the on-line work system was submitted – this was also mentioned during the interview in Vilnius. Electronic communication would enable smoother administration and faster decision-making. The Statutes should determine when and on what conditions this decision-making process could be used. The interviewees however drew attention to the fact that electronic communication is limited by the members' internal protocols. This is the reason why the creation of the regulation has to be based on the strictest one of national provisions.

4.2.4 What is to become of the current financial model?

A significant proportion of the members (70%) considers it possible that the state organisation they represent could make a higher contribution to the activities of the ECR EGTC than they do now. There were two negative member state opinions on this matter. However, there were 4 remarks stating that the financing of the ECR should be reconsidered along with the foundation of the EGTC. As more members suggested to increase the number of staff in the Secretariat, and because employing the Director will require additional funding to the envisaged costs, it can be expected that membership fees will increase with the founding of the EGTC.

As it was established during the interview, the annual membership fee of the Benelux states (EUR 4,000) currently differs from the other members (EUR 10,000), because the operational conditions are provided by the Benelux Office in Brussels. This is obviously going to change in case the seat of the EGTC changes and if it establishes its own working organisation with a rented office elsewhere in the future.

This seems to be the most problematic question concerning the future EGTC, our interviewees seemed to be least certain concerning this issue. Decisions on the matter might be aided by solutions applied by already existing groupings, which will be presented in detail in the following chapter.

4.3 Models of structure and functioning

Whilst establishing the structure of the planned EGTC, it is not just the current system and the related legal requirements that define the operations of the future association. The currently registered EGTCs can also serve as models and examples for solution to the initiators of the ECR EGTC.

Even though 82% of the groupings registered so far aim for the regional development of a border area and its close surroundings, and only 7 out of 56 EGTCs are operating as network EGTCs, the latter as well as all other groupings can show good practices which can help the members of the ECR to make certain important decisions.

The following network EGTCs are worth taking into consideration for the presentation of different models:

The **Amphictyony EGTC** seated in Athens was registered on 1 December 2008 for a fixed, 25 year term (the Assembly has the right to vote on the prolongation of its functioning). The main aim of this EGTC is to strengthen peaceful co-existence, prosperity, prevalence of liberty in the Mediterranean and to support the preservation of the area's common cultural identity. Its members are Greek, Cyprian, Italian and French local municipalities (regional municipalities can also join, but states cannot).

The **Archimed EGTC's** main activity is the protection of interests of the islands of the Mediterranean. It was registered on 7 July 2009 for an indefinite period and is seated in Taormina. Its members are Spanish, Cyprian, Greek and Italian islands, as well as the Italian National Association of Small Islands (ANCIM) and the Italian organisation ARCES.

Efxini Poli SolidarCity Network EGTC unites cities devoted to sustainable development. It was founded for a fixed, 25 year term. Its seat is in Acarnas, Greece. Its members are local governments, the Urban Environment and Human Capital Institution of the Panteion University, Attika Region and the Agrobusiness Centre in Vidin, Bulgaria. Its main goal is social, cultural, environmental, tourism and rural development. Its primary activities concern green topics. This EGTC concentrates on sustainable development with main focus on waste management.

The **Cities of Ceramic EGTC** was founded on 7 January 2014 with its seat in Totana, Spain. It was created for a fixed 25 years, which will automatically be extended by another 25 years if no decision on its dissolution has been reached until then. Its members are 4 thematic (ceramic) cities' associations from the concerned countries: Spain, France, Italy and Romania. The EGTC aims at creating cooperation and a common trademark of the traditional ceramic and pottery centres, whilst simultaneously developing cultural economy, as well as encouraging tourism developments related to these activities.

The **CETC EGTC** was founded by 5 regional municipalities from Sweden, Poland and Hungary. It is seated in Szczecin, Poland. It was created on 24 May 2014 for an indefinite period. Its main goal is the establishment of a North-South multimodal transport corridor between the Baltic Sea and the Adriatic Sea.

The **Rhine-Alpine Corridor EGTC** was founded on 24 April 2015 for an indefinite period with the participation of Dutch and German city and regional representatives, as well as transport companies. The EGTC is seated in Mannheim, Germany and has gained new Dutch and Italian members since its creation. Its aim is to harmonise and coordinate the development and lobby activities related to the Rhine-Alpine transport corridor.

The **European Urban Knowledge Network EGTC** was founded along with a professional network with the same name in December 2012 for an indefinite period with The Hague (NL) as its seat. This EGTC is the most important among the model groupings, because this, too, was founded by a number of national level authorities, namely those of Belgium, Cyprus, the Czech Republic, Denmark, France, Germany, Hungary, Luxembourg, the Netherlands, Romania and Spain. Its mission is to give professional support to successful city policy actions and, through this activity, to strengthen economic, social, territorial and environmental cohesion.

4.3.1 Models of structure and internal arrangements

The EGTC as a Community government development model unifies the 3 levels of tasks ahead.

The *political level* includes the EGTC tasks and representation related to governance. The related regulatory questions affect the decision-making processes within the association, the potential officers of the association and the connection between these two. It is also at political level that questions on responsibility and competence come to the surface.

The *strategic or professional level* means the common workshops on professional activity. These workshops serve as a basis for and realise foreseen common projects, as well as add professional content to the operation of the EGTC. Contrary to the political level, the related regulations do not describe management tasks but assure the conditions enabling professional activities. Even though there is an obvious and strong connection between these two levels, it is advised to separate the two functions.

The *administrative level* integrates the functions related to the daily operation of the EGTC. The administrative centre of the EGTC (the Secretariat) is usually led by the Director. He/she is also the representative of the association. However, the administrative centre's tasks can be clearly separated from the decision-making and strategical functions. It is the Secretariat's responsibility to assure the necessary conditions to operate the political and strategical level activities.

The planned EGTC has to include all three functions at the same time in accordance with the Statutes. To achieve this, we have to partially use the elements of the current structure as well as set up a new internal governance model.

Political level

The General Assembly

In accordance with EU regulations, the main legislative body of all EGTCs should be the General Assembly (GA). This body is to decide on the most important questions regarding the EGTC, like for example changes to the constitution or the Statutes, admission or exclusion of members, election of officers, budget and work plan, as well as the adoption of the annual report. Based on previous experience, the GA usually meets once or twice a year.

The ECR's Steering Committee will thus be replaced by the General Assembly as well, the authority of which will have to be laid down in the Constitution. The ECR's current legislation can serve as a basis for this.

Composition of membership

The GA is composed of the representatives of members. It is advised to appoint evenly weighed votes to all members, but other options may also be considered (e.g. in proportion with population or measured by membership fee contribution).

In the case of the Greek Amphictyony EGTC uniting local governments, the number of Assembly members is set by the population of the member municipalities, limiting the number of delegates by entity at a maximum of 3, hereby assuring more weight to the more densely populated settlements, while at the same time moderating the level of unevenness with the set upper limit.

In the General Assembly of the Cities of Ceramic EGTC, all members are represented by 5 participants. The number of representatives in the case of all other network EGTCs is 1. It is a similar system to that of the ECR, where until now, all the members were represented by three persons at maximum but only one person had a voting power. A different approach would only be possible if the members would consider it necessary to differentiate (e.g. if different financial contributions were met by a different level of voting power).

Additionally, the Statutes have to state the difference in authority between the full status members and observers. The groupings known acknowledge the terms of “associated member” (e.g. CETC EGTC) or “observer” (e.g. Cities of Ceramic) clearly appoint a consultative role to these members, without voting or executive rights. As the ECR currently has some observer members, it has to be established whether the full members would like to appoint any authority to these observers (in this case it is to be included in the Statutes) or, alternatively, if they would not like to continue with this form of participation and they would invite the observer members to only informally take part in the events of the grouping.

Additional matters of regulation concerning the members of the Assembly are substitution and proxy. According to common practice – if the Statutes allow substitution at all – a full member may only be authorised by another full member at the Assembly, and only on an ad hoc basis. In this case, the representative has two votes in the given Assembly.

Quorum of the GA

The Statutes have to specify when a quorum is formed within the Assembly and what to do in case it is not met. Most of the hitherto registered EGTCs require the presence of at least 50% + 1 of its full members (there can be exceptions in border-area EGTCs due to the equal representation of the two member states concerned).

In the case of network EGTCs, Amphictyony links quorum to the presence of 50% + 1 of the **members having already paid their membership fee**. If the quorum is not met, the Assembly has to be convened for a second meeting within one day, which will have a quorum regardless of the number of people present.

To have a quorum at the CETC EGTC, **all full members need to be present**. If a meeting is adjourned because these conditions are not met, the Assembly has to be convened again within 30 days.

At the Cities of Ceramic EGTC, the quorum is linked to the **absolute majority of its members**. In the case of the Rhine-Alpine Corridor EGTC, **2/3 of the General Assembly** constitutes a quorum. The Statutes of these two groupings do not mention the term of a reconvened meeting, which lets us presume that the Assembly has to be summoned according to the original regulations.

EUKN requires a 2/3 presence of its members to reach a quorum. If the 2/3 quorum is not met, a simple majority suffices at the next GA meeting. However, the Statutes do not give specifications on the date of the reconvened assembly.

In the case of non-network EGTCs (i.e. where geographical proximity is assured) we can find solutions that allow a quorum regardless of the number of participants for assemblies that are reconvened on the same day and same location when and where the first meeting has failed its purpose. This model makes decision-making easier but may leave questions regarding the legitimacy of these decisions.

↳ Representation of the GA: the President

The Assemblies usually have a fixed-term president elected by the members. The President represents the Assembly in relation with third parties, convenes it, as well as prepares and conducts the meetings. In the case of the Europaregion Tirol-Südtirol-Trentino EGTC, the West Vlaanderen-Dunkerque- Côte d'Opale EGTC and the Banat Triplex Confinium EGTC, the President elected by the members is also the Director of the association. In order to partially relieve him/her of some of his/her duties, the EGTC in Tirol has established the office of Secretary General to fulfil administrative tasks. There is one peculiar case which concerns the first programming EGTC of the European Union: Grande Région. Here, the President obviously

represents the grouping, while the Director manages the realisation of the cross-border operative programme.

In most cases however, the role of the president of the Assembly is purely political-representative while the Director has mainly administrative and formal representative tasks.

Experience shows that merging the positions of the Director and the President might hinder the effective operation of the EGTC and create complications during the regulation of internal processes and competences.

In the case of the ECR EGTC (similarly to the other network EGTCs and taking into account the significant geographical distance between its member states) we propose to separate the two offices.

Decision-making

The following methods of decision-making are known in order to enforce the members' interests:

- a) *unanimity*: the proposal has a quorum if all members vote “yes” which significantly strengthens the legitimacy of decisions as well as the cohesion between members; however, it assures a veto right for all members, which can render decision-making impossible in some cases¹¹;
- b) *qualified majority decision-making*: the decisions depend on a specific ratio (linked to a specific number of people required to turn up for the vote or the voting proportion of members present)
- c) *simple majority vote*: the President has the final say in case of an equal number of votes – this speeds up the decision-making process but does not in the least serve long term cooperation because some members would constantly be in minority and it would reduce the decisions' level of legitimation.

The existing EGTCs usually combine the three methods described above.

On the issue of a possible windup of the Amphictyony EGTC the General Assembly can make a decision with a 2/3 majority. Admission of new members and termination of membership are

¹¹ This type of decision-making can be kept for certain specific matters, just like the amendment of the Statutes stated in the Regulation.

voted on with a simple majority. The Statutes can be slightly modified with a decision of a $\frac{3}{4}$ majority of the members present.

Unanimity is prescribed at the Archimed EGTC in the case of decisions on the amendments of the Statutes and the Convention, on admitting new members, on the membership fee and in the case of selection of the office holders. In all remaining issues the GA decides with absolute majority.

Members of the Efxini Poli EGTC vote on the windup of the association unanimously. It is also with unanimity that the constitution can be changed. On member admission and termination of membership, decisions can only be reached by an absolute majority. To elect the director, a $\frac{2}{3}$ majority is needed.

The GA of the CETC EGTC can only reach unanimous decisions.

In the case of the Rhine-Alpine Corridor EGTC, decisions are made by a simple majority (unless the Statutes provide otherwise). Yet the windup of the EGTC has to be proposed in unanimity, same as modifications to the Convention also require a unanimous vote. The remaining modifications to the Statutes can be decided upon by a $\frac{2}{3}$ majority.

EUKN has a consensus-based decision-making process. However, if the consensus cannot be assured, a simple majority is equally sufficient for a decision. An interesting condition is that if the members cannot come to terms on a certain question, the Director prepares a new proposal within a month that the members have another month to decide on.

Unanimity is needed for the windup of the grouping and the modification of its constitution.

In the case of the ECR EGTC, national interests may make it necessary to ensure a higher voting ratio ($\frac{2}{3}$?) in order to reach a quorum. However, there might be several questions where a simple majority suffices.

A further technical-procedural question is electronic voting. Among the network EGTCs established so far, the Statutes of the EUKN makes it possible to vote via the Internet. In the event of electronic voting, the Executive Committee decides on whether a personal confirmation on the results at the subsequent GA meeting is needed. According to the interview carried out in Vilnius in November, 2015, this option is to be followed also by the ECR EGTC.

↪ Official language

The ECR uses English as the official language. At the same time, as it became clear at the interview in Vilnius, it is a returning problem that not all the experts employed by different ministries in different countries speak English at satisfactory levels. The lack of language skills can cause misunderstandings or even inability or reluctance to take decisions (e.g. at the GA meetings) which can hinder the smooth functioning of the grouping.

It is not accidental that cross-border EGTCs in general use the official languages of both countries as official ones at EGTC level communication. English is used for resolving disputes.

Some network EGTCs, however, even allow the use of mother tongue for each member. It is the case at the Archimed and the CETC EGTC. Taking into account the relative handicap of post-communist countries in this field, and the many potential cases of misunderstanding, it is worth analysing this option. At the same time, it is a costly solution because all the GA meetings will require to procure technical equipments and translators. A possible solution can be to enlarge the competences of the Executive Committee where English can be used and to thin the competence of the GA.

Nevertheless, the ECR can follow the example of the Rhine-Alpine Corridor EGTC and the EUKN where English is established as official language.

The Presidency

Setting up a Presidency is not prescribed by the relevant EU regulations. At the same time, the current practice followed by the ECR which, using the Troika principle, beside the supreme decision-making body also operates an Executive Committee, forecasts, that a kind of Board will function also within the EGTC.

The maintenance of the Troika model is supported partly by the members' satisfaction, partly by the advantage ensuring the equal representation for each and every member as well as the enforcement of rotation. The rotating Presidency enhances the ownership of the members which serves as the basis for an appropriate activity level.

Let us mention that there are no solutions at the existing network EGTCs similar to the Troika.

The work of the Director of the Amphictyony EGTC is supported by the 13-member Board of Directors led by the President, elected for 2 years. The Board includes the President, 2 Deputy

Presidents, a Secretary (with a mission to manage the administration of the Board) a Treasurer (the „minister of finance” of the EGTC) and 8 ordinary members. The President, the Secretary and the Treasurer compose the Executive Committee responsible for the management of the professional activities.

The GA of the Archimed EGTC elects a President and a Vice President for a 2-year term.

The member countries of the Exfini Poli EGTC are represented by three Vice-Presidents. The Board also includes the President, the Secretary and the Treasurer.

The representation of the member states are guaranteed in a similar way within the Cities of Ceramic EGTC: the four city alliances delegate the President and the three Vice-Presidents along a rotation principle for two years. The first Vice-President substitutes the President, the second assumes the role of the Secretary while the third one is the Treasurer.

Obviously, there are common elements in the structure of these (southern seated) EGTCs. It seems an important issue to hold the financial management of the EGTC at presidential level, in these cases. (This solution is not foreign at cross-border grouping, either. For instance, the professional and financial management of the Duero-Douro EGTC (SP-PT) is performed by a Coordination Council.)

The representation of the Rhine-Alpine Corridor EGTC is performed by the Chair and two Vice-chairs, the so-called 'Managing Committee' elected for a 3-year term, and delegated by the three member states each. They can be re-elected for further two terms. The meetings of the EXCO are attended by the Director without, however, the right to vote. Unlike other EGTCs, the Presidency has also the right to recruit the staff of the administrative body.

The Executive Committee of the EUKN EGTC has two members (the Chair and the Vice Chair) rotating year by year among the member countries. One of them shall always be of Dutch citizenship.

Taking into account the previous experiences, we do not suggest to modify the Troika regime. The institution of the EGTC makes possible to use this model. However, it might be useful to re-treat the functions and the competences thereof, as well as, the length of the term of service.

The Supervisory Board

In order to ensure the legal and financial control over the activities of the grouping, it is advisable to set up a supervisory board. In some countries, the organ is a mandatory element of the grouping's structure, along the relevant regulations in force. In these countries, the Supervisory Board is in charge of controlling and auditing the functioning of the EGTC along the legal provisions and financing. In some countries, the General Assembly is not even allowed to approve the annual report of the grouping without the resolution of the Supervisory Board presented previously.

The Amphictyony EGTC established an Audit Committee for this purpose with 3 members who are elected by the Board for a 2-year term.

The members of the CETC EGTC delegate one expert each to the Supervisory Board for a term of 4 years. In the event if the Supervisory Board discovers any irregularity, it has the right to convene the General Assembly immediately, and to obligate the GA to terminate the particular activity.

In other countries, the audit of the EGTC is to be performed by an external expert (audit authority or audit company), like at Archimed EGTC. It is also the case in the Netherlands where the EUKN has its seat. The Statutes of the grouping also orders the regular supervision of the functioning of the EGTC in every 3 years. This arrangement can guarantee that the structure and the internal provisions can be modified in line with the changing external circumstances.

Professional – strategic level

Professional Body (or bodies)

As the ECR carries out professional activities, and as an aim it has a mission to enhance professional cooperation among its members, the Statutes should also define, beside the political level bodies and decision making procedures, the rules of the EGTC's professional activities and the functioning of relevant bodies.

Different solutions are known for the integration of professional bodies into the EGTC structure. In most cases, the Statutes refers to professional committees or working groups and sets the rules and competences of these bodies.

The Statutes of the Amphictyony EGTC gives the right of setting up working committees to the Board of Directors. Similarly, The Executive Committee of the Cities of Ceramic EGTC has the right to establish this kind of working groups. In addition, the latter grouping operates a Conference of Municipalities where the members of the member associations of the EGTC can be present and consult on different issues (without voting power).

In the case of the Rhine-Alpine Corridor EGTC the GA (not the Managing Committee) is authorised to set up expert committees and an Advisory Board which can include the representatives of public institutions and undertakings – without voting power. The mission of the Advisory Board is to support the operation of professional activities.

The CETC and the EUKN follow different routes. At the former EGTC, a Strategic Centre has been established with a task of coordination of all professional activities of the grouping. While the administrative centre is in Poland, the Strategic Centre started its operation in Hungary. This way, the Hungarian members have indirectly been provided with a higher importance within the grouping which enhances their ownership and commitment.

The role of National Focal Points of the EUKN EGTC is a bit contrary with that of the Strategic Centre of the CETC. While the aforementioned Centre has a professional coordinating mission at EGTC level, the NFPs of the EUKN serves as a kind of dissemination point where the professionalism of the EGTC can be met. On the one hand, the National Focal Points „feed” national level experiences into the network; and they share the knowledge and information on urban issues from international level with national stakeholders, on the other hand.

In the case of ECR both models can be followed because these solutions increase the scope of professional resources to involve and enhance the commitment of the members. At the same time, both models need further financial resources. The functioning of the Strategic Centre of the CETC is financed by the Hungarian members but it is possible only for the reason that in Hungary EGTCs and bodies of EGTCs can apply for government financial support.

The NFPs of the EUKN are operated and financed by the members, the joint budget is not charged by the expenses thereof.

In the case of the current ECR model, the professional level is presented by the three Working Committees. As it has been already mentioned, the members are not obliged to rule on the

operation of the professional bodies in the Statutes. As we have seen, in several cases, the right to set up working groups is delegated to some of the bodies of the EGTC but they are not specified.

The Statutes of the Duero-Douro EGTC accurately lists all the professional committees and establishes clear rules on their functioning and competences. However, this solution limits the room for maneuvering and the adaptation of changing situation. Everytime when a new committee needs to be set up, the members must modify the Statutes and these modifications are to be approved by the relevant national authorities which makes the operation very complicated.

Consequently, the best way could be to authorise the GA or the EXCO to establish professional bodies (which ones, it is to be defined) without a precise list of these bodies.

Administrative level

The Director

According to the EU Regulation, two bodies are compulsory components of an EGTC structure: the General Assembly and the Director. The Director represents the EGTC towards third parties but its further competences vary from one EGTC to another.

In some EGTCs the Director also plays a political role. It is the case notably if the person of the Director and the President is the same. He or she has the right to convene and conduct the meetings of the General Assembly as its elected representative; he / she is appointed to represent the grouping not only administratively but also at both political and professional levels; the Director prepares the decisions of the GA (and the Presidency) and coordinates the work of the Secretariat.

The network EGTCs prefer to appoint a Director for managing notably the administrative operation of the grouping and not to elect a 'political leader'. Nevertheless, the competences and responsibilities of the Director are not uniform in these cases, either. Sometimes, the role of the Director is limited to the legal representation of the EGTC and the management of the work of the Secretariat (Archimed, Cities of Ceramic, CETC, EUKN).

In other cases (Amphictyony, Rhine-Alpine Corridor), the Director is involved also in the professional management of the EGTC. It means, that he or she coordinates not only the

administration but also the activities related to the joint projects, conferences, professional publications, and participates in international professional events representing the network.

In most cases, the Director works as an employee of the grouping. However, the Statutes of the Rhine-Alpine Corridor EGTC allows to outsource both the function of the Director and that of the Secretariat. (In some countries, the relevant national legislations do not allow the outsourcing of the position of a Director.)

There are also differences in the terms of position, from 2 to 7 years.

Based on the results of the on-line questionnaire and the interview, the ECR members would prefer to appoint a Director as an employee of the EGTC and limit his/her competences to the administrative management of the grouping. It is a question to answer then, who will be responsible for the development and the implementation of the joint projects and who will represent the EGTC at European and other international professional fora.

The Administrative body

The establishment of the administrative body of an EGTC is not mandatory but, rather, it is a must of sound operation.

The status of the administrative body

The status of the Working bodies of different EGTCs can be grouped into three categories:

- a) *staff employed by the EGTC*: it is the most popular solution where the employees are hired by the grouping, employer's rights are borne by the Director (e.g. Amphictyony, Archimed, Efxini Poli, CETC, partly: EUKN);
- b) *staff employed by one of the members*: this solution may reduce the personal costs of the common budget: the institution representing the seat country undertakes the functioning of the Secretariat (e.g. Cities of Ceramic);
- c) *out-sourced service*: the staff is not hired by the EGTC but an external service provider (Rhine-Alpine Corridor, partly: EUKN).

Both pros and cons can be brought against all the three models. Outsourcing might be an economical option but it makes vulnerable the EGTC to the interests of an external entity. If the Director is an employee of the grouping, it might be very complicated to coordinate the work of the Secretariat outside the organisation. If the seat country employs the staff, it also

can have an economising impact on the annual budget but it may endanger the independent functioning of the administrative body. (Sometimes, with a view to guaranteeing the financial background, the staff has to implement also projects not falling under the competence of the EGTC.) Own staff is the most secure model but it is the most expensive, too.

Mobility of the Secretariat

The establishment of the EGTC and the setting up of the new structure will result in changes in the current working procedures. If the Director is an elected representative and the position is rotating among the members, or the Secretariat is financed by one of the partners along a rotation model, the moving of the Secretariat can be necessary. Also the implementation of projects with different geographic scope can require the Secretariat to be moved.

Let's take a fictitious example! The seat is located e.g. in Warsaw but the project is implemented in Ireland under the Irish Presidency of the EGTC. If the Secretariat and the Director are working in Warsaw, how can they manage the implementation of the project in Ireland? It is to define, if the staff of the Secretariat will be involved in project management or not. E.g. in the case of EUKN, the Statutes (which allows to outsource the relevant duties) prescribes the functions to fulfil by the employees of the administrative body, i.e. the programme manager, the programme officer, an information specialist (webmaster) and a capitalization officer. It is a question, what kind of functions are expected to fulfil by the ECR Secretariat in the future (not at the moment!).

To sum up, the members of the ECR have to decide whether they need a Secretary at the seat, or in Brussels (if the seat is different from Brussels) or they need a rotating Secretary moving along the rotation of the Presidency. The decision partly depends on the way of recruiting the staff. For instance, the members of the Archimed EGTC delegate one employee to the Secretariat by each. In cross-border EGTCs it is a quite generally accepted and implemented model.

4.3.2 Financing

The safe functioning of the planned EGTC is very deeply rooted in its financial background. Based on previous experiences it is needed to diversify the resources and to handle operational and development costs separately.

Costs

There is a clear must to separate the operational and development costs in the budget of the grouping. The operational costs must be ensured through regular payments. It means that when planning the annual membership fee, the unavoidable costs should be taken into account: the members must cover by their own contributions all necessary operational costs like staff, office rental, costs related to the organisation of the GA and EXCO meetings, travel and accommodation costs of the Director, communication, bank account fees, purchase or renting of equipment and stationary and other overheads, etc.

The membership fee should be sufficient to cover all these expenses because the potential projects cannot be guaranteed.

Project expenses should be handled differently. In case the ECR EGTC applies with success to any of the European calls for tender, a need for pre-financing occurs. There are diverse solutions for this at the existing EGTCs. The Pons Danubii EGTC involves 7 towns from Slovakia and Hungary. The annual revenue from membership fees is about EUR 50 000. During the last 2 years the grouping has implemented several projects with a total amount of close to EUR 3 M. With a view to pre-financing the projects, the members paid the membership fee for 2 more years in advance. When realising a larger infrastructural investment, the investor pre-financed the project which was re-imbursed by the National Authority to the investor through the EGTC. The grouping also managed projects realised in the territory of one or two members, where the relevant members covered the pre-financing costs. Other EGTCs owning assets are eligible for loans. So, there are different ways and methods to cover project expenses.

It is also very important to handle the operational and the project costs separately in order to guarantee the secure daily functioning of the EGTC. The Efxini Poli EGTC is the only network grouping which finances its operation exclusively from projects. It is an appropriate solution for insisting the management to apply and this way, the members are not charged with financial contributions. But if the applications fail for a longer time, it can endanger the sustainability of

the partnership. In addition, project-based operation makes the planning and the realisation of the budget quite unstable because of the long terms of re-imbusement.

Incomes

One of the biggest advantages of the EGTC compared to the current status of the ECR cooperation is that the EGTC is able to generate revenues from different resources; it can create a diversified structure of incomes, revenues from services (e.g. fees of participants of a training course) included. By our experiences, the diversification makes the operation of the EGTC more secure and it can gradually free the members from the charge of financing.

Diversified financing can be built up of the following resources:

- members' annual contribution
- members' (i.e. countries') extra contributions
- projects
- fees for services provided by the EGTC.

Members' regular contribution: the membership fee

The EGTCs registered so far have defined the membership fee along diverse practice. The following models are known.

- *Proportionated fee by population*¹²: members contribute to the budget according to the number of population represented by them. This practice is followed by the Amphictyony (total budget: EUR 100 000 per year), the Archimed (EUR 60 000 per year) and EUKN (EUR 500 000 per year) EGTCs. Additionally, in the case of Archimed, the costs related to the Director are financed by the member the Director is delegated by. (The model is popular among the cross-border EGTCs, too. The majority of the Hungarian EGTCs follow this practice.) The model is fair because of the fair weighing method. At the same time, models using a changing ratio like number of inhabitants, cause changes annually in the amount of the membership fee which makes the budget planning process slightly uncertain. In addition, the data on the population are published by the

¹² There is no EGTC where the members are obliged to contribute to the common budget by the economic situation of the given country but it is not impossible in theory to set the membership fee along the GDP per capita.

national statistical offices with a delay of half a year in average. Consequently, the annual fee should be matched against the population of two years earlier.

- *Equal contribution*: all the members' contribution is the same regardless of the size, population and economic performance of the particular country. The advantage of this model is that the amounts are constant which eases the planning of the annual budget. At the same time, the amount must fit the financially weakest member in order to guarantee that all the members are able to pay the annual membership fee. Although, let us mention again the possibility to involve more members from every country which enables the members from one country to share the financial burdens among each other (see the subchapter on eligible members). This way, also poorer countries can contribute with a higher amount of money to the operational costs.

Among the cross-border EGTCs this model is also very popular. For instance, in the case of the Zasnet EGTC (PT-SP) every member contributes to the budget with a sum of EUR 40 000 per year. The method is used at the Cities of Ceramic EGTC (where the annual fee is EUR 8000 per member) and the CETC EGTC (EUR 5000 per member). Additionally, in the last case, all the members have to pay a lump-sum founder contribution which equals the annual membership fee (additional EUR 5000) when joining the grouping. The membership fee is equal at the Rhine-Alpine Corridor EGTC but the amount is defined in every year by the GA (similarly to the Galicia-Norte Portugal (SP-PT) or the Strasbourg-Ortenau (FR-DE) EGTCs). Although this solution makes the planning process of the budget somewhat complicated but it eases the adaptation for changing conditions.

- *Lack of membership fee*: there is no fixed annual contribution but the members contribute to the costs by particular cases. This solution can be followed if the operational costs of the EGTC are covered by one of the members or an external organisation (it is the case at Abaúj Abaújban and Bodrogközi EGTCs where a regional development foundation manages the professional work and finances the operation); or the operational costs are ensured from other sources (like at Exfini Poli EGTC where running projects guarantee the financial background). Every member is happy if they do not need to finance the functioning of the cooperation while utilizing the resources of the EGTC. The dangers of a solution alike have already been mentioned before.

Beside the amount of the membership fee (or the way of defining it), the Statutes also have to set the rules concerning the members' resignation. In line with the Statutes of the Cities of Ceramic EGTC, the members have the right to resign at the budgetary turning day, only. All the EGTCs require from the leaving members to settle their debts before resignation. For this purpose, the leaving members have to announce their intention to quit with adequate anticipation (e.g. at the Cities of Ceramic this term is 6 months, at the Rhine-Alpine Corridor EGTC 3 months).

Members' extra contributions

The operation of the EGTC can require extra contributions from the members (for the organisation of a big international conference or a study trip; for publishing a document; for financing the moving of the Secretariat; for pre-financing the implementation of a project, etc.). As the members of the EGTC are national authorities their annual budget is determined by the state budget law with very narrow financial elbow-room. Extra payments are hardly manageable. For this purpose it is worth creating an internal fund where the members can gather money from different resources, extra contributions included.

Projects

The majority of the EGTCs expect additional financing and a reduction of charges of developments from the establishment of a grouping. This objective can mainly be achieved by carrying out various projects. However in the first stages, project development and implementation require human and financial resources. In this early phase, many local stakeholders lose their trust in this instrument. However, there are EGTCs where the project development activities can already guarantee the steady operation of the organisation.

Another risk results from the hardly calculable re-financing regimes. Sometimes, even one year goes by before the reimbursement arrives. For these periods, there is a need for stable financial background which can be ensured by rolling financing of several projects, in parallel.

The charges of the project can be shared along the partners participating in the implementation of the particular project or they can be divided among all the partners.

Service provision fees

An EGTC can function even as a development agency. It is not a typical model but e.g. the largest proportion of the budget of the Arrabona EGTC (EUR 122 000 in 2014) comes from services provided for the member municipalities. This way, the EGTC can create a reserve for (pre-) financing the projects and other professional activities.

The ECR is also able to develop its own services, like training courses, international conferences with a registration fee, publication of professional materials, development of EU projects for the member authorities or external actors, make educational films, etc.

To summarise, the sound operation of the EGTC can only be ensured in a diversified financing system. In the early period, the costs of the EGTC should be mainly covered by annual membership fees and services. Later on, when it gradually becomes more successful in applying for calls for tender, project-based financing of the EGTC can gradually take the role over from regular contributions. Careful planning and progressing step-by-step is a key factor for success and mutual trust.

5. Introduction of the establishment process

After having made all the decisions needed for the establishment of the EGTC, the members will be faced with a long list of tasks to be done. These steps to be taken are summarised in the following table.

Steps	Description of the activities	Responsibility and time requirement for fulfilment
PREPARATION		
Analysis of needs and goals	Definition of the motivations, exploration and definition of the mission and its goals, outlining of the tasks, competitor analysis, etc.	All members Months 1-3
Territory	Expected expansion of the operating area	All members 1 month
Members	Definition of founding members	All members 1 month
Legal and professional aspects	Overview of the legislation of the Member States	All members Months 5-6
Seat/location	Identification of possible seat, locations	All members Months 2-3
REGISTRATION		
Convention	Elaborating the draft version of the Convention	All members Months 5-6
Statutes	Elaborating the draft version of the Statutes	All members Months 5-6
Decision on participating in the EGTC	Having a decision made by the council of representatives of the candidate members on their participation in the EGTC	All members Months 1-3
Signatures	Signing of the draft versions of the Convention and Statutes	All members 1 month
Approval	Approving the prospective members' participation in the EGTC by a specified authority	All members Months 6-

Steps	Description of the activities	Responsibility and time requirement for fulfilment
Registration	The EGTC shall acquire legal personality on the day of registration	Member from Member State where the registered office of the EGTC is located Months 1-6
Notice	Announcing the establishment of the EGTC	Member from Member State where the registered office of the EGTC is located 1month
OPERATION		
Employment relationship	Signing the employment contracts	Director Months 1-3
Identification numbers	Submitting identification numbers (tax identification number, bank account number etc.) to different operational authorities	Director Months 1-3
First annual general meeting	Resolution on the first operational activities	General Assembly Months 1-3

Preparation

This phase starts with defining the mission of the future EGTC and ends with the selection of the seat of the EGTC (city and country).

The founding members and the operational scope of the EGTC (constituted by the overall operational scope of the member organisations) are being defined, and the member state where the seat will be situated is being selected according to the most relevant aspects. Deciding on the latter is important because from this point onward, the seat country's relevant legislation will provide – next to EU law – the background of the EGTC's founding documents and general legislation.

Registration

This phase starts with the elaboration of the founding documents (Statutes and Convention) and ends with the EU publication of the final registration of the EGTC. Main steps:

- Draft of the Statutes and the Convention is drawn up. At first, the texts are only proposals, as the determining authority has the right to modify them during the approval procedure (after consulting with the members). The importance of the drafts' being based on these is that the main authorities of the founding members will approve the admission of their own country to the EGTC. It is also these texts that the member candidates have to sign and attach to their application.
- The approving authorities provide the necessary authorisation for the members to take part in the EGTC. Accordingly, an inaugural assembly will be convened, where the final version of the Statutes and the Convention will be voted on (it is important to note that the eventual modifications to the Statutes and the Convention by the approving authorities will not have to be accepted again by the main authorities of the founding members, the General Assembly of the founding members is sufficient!). It is at the same inaugural assembly that the functionaries are elected (e.g. the Director, etc.), as well as where the registration request is drafted in order to be submitted to the seat country's acting authorities.
- This phase lasts from the final registration of the EGTC until the first proper General Assembly meeting.

Necessary participants

1. Founding members
2. External expert (participation recommended at all steps of the second phase)
3. Legal representative (if a member state regulation requires it during the approving and registration procedure – not always a requirement!)

Operation

The starting EGTC organisation is registered at the various authorities (for tax number and other identification number purposes).

The first proper General Assembly meeting after the foundation is held (overview of strategic and operative questions, election of members of the work organisation, etc.)