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### Objectives of the workshop

The EGTC instrument was created in 2006 and amended in 2013. It offers another opportunity for cross-border, transnational and interregional cooperation to improve legal certainty and planning reliability. EGTCs directly promote European Cohesion Policy.

First experiences with the amended EGTC regulation were gained at European level as well as in the Member States and the regions. In the context of this workshop, different perspectives on the amended EGTC regulation and its implementation were presented and discussed. This included both the perspective of EU and national institutions as well as the view of stakeholders involved in EGTCs and their establishment. The discussions focussed on the following questions:

- o What has changed due to the amended EGTC regulation and which expectations exist?
- o Which challenges exist with regard to both the foundation process and ongoing work of EGTCs, and how can they be overcome?
- o How may cooperation with approval authorities and between them be optimised?
- o Which support can European institutions provide for interested stakeholders?

The following paragraphs are organised accordingly. They start with the objectives of the EGTC regulation amendment. Next the benefits and different challenges that were discussed at the workshop are reflected. This is followed by the review of the role of approval authorities, which is linked to some of the challenges discussed before. The closing paragraphs refer to the future of the EGTC instrument and some recommendations as regards the key success factors for founding and



running an EGTC. Neither of the presented perspectives on EGTCs is complete but only refers to those elements that were discussed at the workshop.

### **Objectives of the amending procedure**

The amendment process of the EGTC Regulation was based on three main principles. First of all, the idea was to continue the process initiated in 2006, which aimed at creating sound structures for cross-border and transnational cooperation. Second, experience from the previous funding period showed that some procedures related to founding and running an EGTC imply a high administrative burden and did not comply with the legal and administrative routines in the EU Member States and their sub-national authorities. Thus, the aim was to simplify these procedures and ease the foundation and approving process. Third, experience also showed that several uncertainties existed both for potential EGTC players and for responsible approval authorities. The aim therefore was to clarify and specify corresponding details. While the amendment of the EGTC regulation succeeded in removing some obstacles it appears that some elements of the amended regulation need further clarification as findings presented below may indicate. For other elements of the amended EGTC regulation it is still too early to come to a final conclusion regarding their benefit – more experience will have to show how it is implemented.

### **Potential benefits**

The EGTC instrument can be used to support political and administrative multilevel governance. It provides a framework based on which existing political and administrative asymmetries can be overcome. As it empowers and strengthens regional and local authorities as well as institutional stakeholders, it is an example for European bottom-up development and contributes to Europeanisation at small scale.

Experience shows that the EGTC instrument is a flexible means that can be adjusted to various contexts. The initial idea was to found EGTC as institutions that can respond to diverse needs of local and regional authorities. Due to its laboratory character it may thus be used as an experimental tool. With an EGTC, the execution of different tasks and small-scale approaches in functional cross-border regions may be tested. One proposal for such experimental use refers to health care: Instead of introducing for instance a health care system for the whole EU, the EGTC instrument could be useful to test whether and how such approaches function at local or regional level in cross-border areas, where they are most needed. Thus, the EGTC provides the opportunity for experiments, both as regards the cooperation subject and the territory, for instance for supporting functional areas. However, in more and more cases, EGTC are successfully used also beyond the cross-border context at transnational or even European level.

### **Lack of awareness and visibility**

The main challenge refers to a lack of awareness and visibility of the EGTC instrument on different levels. Even within the European Commission the instrument is not well-known. Possibilities of



publicising that instrument were not sufficiently used so far. For instance, the term 'EGTC' was not mentioned in the Sixth Cohesion Report and also references to territorial cooperation were limited.

The EGTC instrument is hardly considered for Operational Programmes of EU Regional Policy so far except for the possibility of becoming a project partner. However, if the EGTC instrument is mentioned in Operational Programmes other challenges occur. An example are ITIs in the regional programme of Alsace: While EGTCs may become involved in ITIs, the regional programme does however not foresee the possibility to implement ITIs as cross-border projects. Therefore, one suggestion is to raise awareness among desk officers of the European Commission about the EGTC instrument so that they may take it into consideration when negotiating the respective Operational Programmes with the responsible national and regional authorities. This way they may also hint at specific provisions needed with respect to EGTCs.

At the level of EU Member States, the EGTC instrument is apparently not widely known either in many cases. Initiatives at national level are needed to raise awareness among the approval authorities. As approval authorities often do not directly deal with EU Regional Policy, it is important to include the managing authorities of ESIF Operational Programmes and other national and regional authorities working in the field of EU Regional Policy in the communication. Otherwise, the EGTC community may be at risk of becoming an exclusive, yet closed community.

Furthermore, involving other players, the OECD for example, may provide new insights and support for raising more visibility and awareness beyond the EGTC community.

### **Further challenges**

The lack of awareness and visibility is closely related to a lack of knowledge and understanding. Many regions and municipalities still seem to believe that the EGTC is a financial instrument. Some EGTCs are inactive because they were founded while assuming it to be a funding tool. The EGTC instrument is, however, a legal instrument. In how far it can be used to apply for financial funding from different sources depends on (a) the capacity of the EGTC players to apply and (b) the characteristics of the respective funding programme. With regards to cross-border cooperation in the context of Interreg (Territorial Cooperation Programmes), an EGTC can apply for funding as single beneficiary. In transnational programmes, this is also foreseen. However, in some cases, some adjustments to the programmes may still be needed to make this possibility operational.

So far, the national implementation of the EGTC regulation seems to be inconsistent. With regards to the amended regulation, only four EU Member States answered the request of the European Commission for clarifications on the national implementation. Among these states is Germany. The majority of German federal states do not envisage adopting new implementation provisions. The current provisions and administrative instructions, however, do not yet seem to be fulfilling their purpose fully. Only the approval authority is listed but no details for approval procedures etc. are specified. This implies a constant uncertainty for interested EGTC players and can cause various coordination problems in case of an actual approval procedure. In the case of Luxembourg, the Luxembourgish ministry is convinced that its current national legal basis is sufficient. Considering that



Luxembourg takes part in various EGTCs, this seems to be a valid point. The Spanish government, however, did not report to the European Commission but to the Committee of the Regions. These three examples show that the EGTC regulation and its implications for the national level are interpreted quite differently.

The example of Hungary underlines that the success of an EGTC depends also on the national level and approval authorities. The Hungarian-Slovakian border is characterised by a long and intense cooperation history. In addition, the approval authorities affirm and engage in cross-border cooperation. Their general attitude towards more intense cooperation structures is positive. At the Hungarian-Austrian border, however, no EGTC has been established yet. National differences in the implementation of the EGTC regulation so far seem to prevent the establishment of an EGTC. It was pointed out, for instance, that for interested Hungarian players and concerned authorities it is unclear which Austrian authorities have the proper competencies.

Several challenges result from national legal provisions not only as regards the EGTC provisions but other national legislations. One example is the field of transport. Here it has to be considered that cross-border transport lines are international rail lines. Legal provisions for international lines, however, are more complex and differ from inland rail lines. The same is valid for food chains, for which special requirements have to be fulfilled. Many of these and similar problems can be rooted back to national sovereignty.

Besides the EGTC-specific challenges, interested EGTC players and cross-border cooperation as such face also more general challenges. It was highlighted that EGTCs could play a role against tendencies of re-nationalisation. Some EU Member States are more active and more interested in territorial development. They are willing to take a leadership role in territorial cooperation, whereas other Member States focus more on their national interests. It was felt that in some cases this may slow down and hamper the European integration process.

EGTCs make the tension visible between the general idea of European integration and the difficulties of practical approaches to enhance integration. Nevertheless, EGTCs are an instrument particularly useful to experience European integration and to give life to the idea. This overall objective should not be left out of sight. In order to do so, a diversity of EGTC applications is worthwhile to be supported and irritations about the instrument need to be reduced.

Similarly, the willingness of public authorities to cooperate across borders with other administrations of different levels (e.g. national authority with regional authority in neighbouring country) needs to be enhanced for successful EGTC establishments. There is a need for acknowledging the differences in institutional systems.

### **The role of approval authorities**

For many approval authorities, the EGTC is still a new legal instrument. As they are not experienced with the procedures and even authorities and stakeholders from other countries are involved, some players report that some approval authorities act carefully, sceptically and sometimes even



mistrustfully. Several existing EGTCs state that convincing partners to participate in the EGTC and developing the convention and statutes were easy tasks as compared to the approval procedure.

A certain degree of uncertainty may for instance be mirrored by the question which documents are subject to approval: Only the convention is to be approved by the approving authority. The statutes only need to be consistent with the convention – they are not to be approved. The uncertainty of approval authorities becomes furthermore apparent when they seek to extend their allowed time period for approval. Despite the changed approval procedures with a six months period it is still easy for approval authorities to extend this period, e.g. if the approval authority requests additional documents on the last day of the period.

Thus, building trust between EGTC players and approval authorities is particularly important. In order to build trust between the EGTC players and the approval authorities, some form of dialogue – while fully maintaining the approval authorities' independence – is advisable. This includes an advisory role of the authorities, who may be able to help interested players with practical questions. As regards the convention and the statutes, for example, approval authorities may already be involved at an early stage in order to identify potential pitfalls, hint at possible solutions, and contact other authorities in due time. This makes it also easier for them to understand the objectives and motivation of the EGTC players. This way, they can be more flexible with regards to administrative procedures and possibly adjust administrative procedures to the specific context of the EGTC and its objectives. This again might prevent the EGTC players from facing different problems that cannot be solved easily at a later stage of the foundation process.

The specific case of Luxembourg highlights the potential of close cooperation: In Luxembourg the approval authority is also involved as a member in several EGTCs. Although this constellation might be unique due to the size of Luxembourg and its high level of cross-border integration, it furthermore shows that cooperation with approval authorities usually increases the chances of success.

Regular meetings on national but also at European level might help to raise awareness among approval authorities and promote the exchange between them. Such events can be initiated by the approval authorities as well as by national authorities or European institutions. According to the discussions and feedback from both workshops conducted for this BBSR study, the general demand and need for additional information and exchange to learn (from each other) is high among approval authorities.

### **The future of the EGTC instrument**

As each EGTC faces different challenges during as well as after its foundation process, it seems to be important that an EGTC community comprising all EGTCs in Europe is created where they can be brought together and share experience. The EGTC platform of the Committee of the Regions already is a good platform. It is worth to be developed further and complemented with other tools in order to provide support to existing EGTCs and interested EGTC players.



The diversity of EGTCs should be considered as an asset also for future applications. A successful future development of EGTCs should not merely to be measured in terms of numbers of EGTCs founded. The success is also about their diversity and the quality of achieved cooperation and integration. The example of the EGTC of the Greater Region, which was the first to be founded to act as Managing Authority of a cross-border programme, shows that an EGTC foundation is no one way road – since its conditions were not satisfying it will be dissolved again.

A mid-term review of the European Structural and Investment Funds (ESIF) 2014-2020 will be conducted. In the context of this mid-term review the EU Parliament intends to focus on the implementation of territorial cooperation and the use of the legal instruments. By August 2018, the European Commission has to prepare a report (i.a.) on evaluating the EGTC regulation. This includes a catalogue of suitable indicators. Although the amended EGTC regulation was adopted together with the ESIF regulations in December 2013, it is generally not part of the ESIF regulations. If considered necessary, further amendments can therefore be adopted earlier and independently from ESIF regulations past 2020. However, it was acknowledged that further amendments should be based upon more experience and evidence provided by existing EGTCs.

The EGTC instrument is not suitable to solve conflicting national competencies and legal provisions. When applying the instrument, challenges can be identified and perhaps problems can even be managed for a certain period. It was highlighted that in the long run, however, it is necessary to solve these problems by co-ordinating national legislations or at least developing joint understandings and agreeing on harmonised procedures.

The incoming Luxembourg Council Presidency intends to initiate a debate on deviating arrangements for cross-border areas. Although different agreements already exist today, most of them do not or do not sufficiently fulfil formal and legal requirements as requested by players of cross-border cooperation. Thus, this may open new ground for experimenting with cross-border integration.

Several events are already announced for the second half of 2015. On September 17<sup>th</sup>, a COTER meeting will take place on challenges for cross-border regions. For the Open Days in Brussels in October 2015 an event on EGTC will be organised. Finally, on November 19<sup>th</sup> a workshop will take place in Brussels on the participation of EGTCs in ETC programmes and contributions to the implementation of the Juncker Plan.

### **Key success factors for founding / operating an EGTC – recommendations**

When an EGTC foundation is envisaged it is above all important to answer the question, whether the EGTC will be beneficial and needed for the cooperation. It should not be forgotten that there are also other instruments that might be more suitable.

Against the background of the above mentioned potentials and challenges the first key success factor refers to the development of bottom-up structures. In many cases, the potential to develop bottom-up structures exists but it is necessary to support potential EGTC players, especially small municipalities,



so that they have sufficient resources (in terms of financial resources and time) and can build the needed structures and capacities slowly and patiently.

Even though bottom-up processes form the basis for successful cooperation structures, top-down activities by superior authorities and institutions, such as national or federal ministries, can be helpful or even necessary, if it becomes obvious that the local and regional players lack the administrative capacity and experience and, consequently, need some additional input and advice to found an EGTC successfully on their own.

In this context, the dialogue initiated with this workshop between European, national and regional level may stimulate further exchange that can contribute to enhancing European integration by means of the EGTC instrument.