



European Committee  
of the Regions

# Guidebook on registering EGTCs



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## List of abbreviations

<b>Abbreviation</b>	<b>Full term</b>
AEBR	Association of European Border Regions
BMVI	Bundesministerium für Verkehr und digitale Infrastruktur
CESCI	Central European Service for Cross-border Initiatives
COFUND	Co-Funding of regional, national and international programmes under Horizon2020
CoR	European Committee of the Regions
CPS	Cross-border public services
DG	German-speaking Community of Belgium
EAFRD	European Agricultural Fund for Rural Development
EDA	Swiss Federal Department of Foreign Affairs
EEIG	European Economic Interest Grouping
EGTC	European Grouping of Territorial Cooperation
ENI	European Neighbourhood Instrument
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
ETC	European Territorial Cooperation
EU	European Union
ITI	Integrated Territorial Investment
LRA	Local and regional authorities
MS	Member State
MOT	Mission Opérationnelle Transfrontalière
NGO	Non-governmental organisation
OCTs	Overseas countries and territories
OJEU	Official Journal of the EU
POCTEP	Interreg Programme VA Spain-Portugal
RIS3	Research and Innovation Strategies for Smart Specialisation
SCE	European Cooperative Society
SE	European Company
SGEI	Services of general economic interest
TEN-T	Trans-European Transport Network
UNESCO	United Nations Educational, Scientific and Cultural Organisation
VAT	Value added tax



# Executive Summary

The EGTC guidebook addresses information needs of local and regional authorities (LRAs) wishing to set up an EGTC and authorities in EU Member States and neighbouring countries responsible for the approval of EGTCs or memberships. To facilitate these different information needs, the guidebook separates the phases of setting up an EGTC and offers both general and Member State specific information.

The EGTC instrument was introduced in 2006 with the adoption of Regulation (EC) 1082/2006 and aimed to improve the implementation conditions for territorial cooperation. As a legal instrument it complements European Territorial Cooperation (ETC). The EGTC is characterised, above all, by

- the possibility to create an individual *legal person* for activities across national borders,
- its focus on *public bodies*,
- its objective to facilitate territorial cooperation to strengthen economic, social and territorial *cohesion* in the EU.

The EGTC instrument allows its members to benefit from multiple benefits. The concrete benefits and advantages depend on the context of an EGTC and are linked to its tasks and objectives. The detail of rules to transmit EU EGTC Regulation to the national context varies greatly between Member States and implies different legal and liability regimes for EGTCs. These differences account for the need to shed light on different approval and registration procedures applied by Member States.

Before an EGTC may obtain a legal personality, public institutions, especially LRAs, must go through the founding process. The model roadmap differentiates three phases with multiple steps that are interrelated and may require feedback loops. The first phase is a needs assessment during which prospective EGTC members should reflect whether the EGTC instrument is suitable for their activities and objectives. Next is the preparation phase during which prospective members should develop a common understanding on their specific objectives and tasks, the legal framework they may face in different Member States participating in the EGTC, where to register their office and how to finance the EGTC. The final phase (prior to formal approval and registration) is the implementation phase, when prospective members develop the founding documents, i.e. the EGTC convention and statutes. These documents describe the structures, legal framework and working routines of the EGTC. This phase is closely linked with approval procedures in the corresponding national authorities.

In view of national specifics, approval and registration procedures are detailed in a separate chapter, the approval and registration guide. This differentiates between a model for these procedures and Member State specific information.

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The model elaborates eleven steps for this process from the formal decision of prospective EGTC members to registration at Member State and EU level. This illustrates the time overlap between steps in the roadmap (Chapter 3) and the approval and registration guide (Chapter 4). The formal decision of prospective EGTC members should be taken after the needs assessment (phase I of the roadmap) and informal consultation with approval authorities may take place in parallel to other phases. The first four proposed steps form the basis for effective implementation of the subsequent formal steps. To structure the process, it is useful to differentiate actors involved in these processes, namely internal decision-making bodies of the EGTC members, EGTC members, the EGTC with its director and assembly, national approval authorities of all members, the approval authority where the EGTC will have its registered office and the European Committee of the Regions (CoR).

Approval and registration procedures are not only needed when setting up an EGTC but also for certain modifications of an existing EGTC. Particularly relevant are implications stemming from a change of membership in an EGTC. For model procedures it matters whether a new EGTC member is in a Member State with an existing member in the EGTC, from a different Member State or a neighbouring country. The model shows that especially in the last case, a member from a non-EU country requires more steps which may be time-consuming.

In the EU, 54 authorities have been appointed to approve and register EGTCs. Individual descriptions for most of these authorities illustrate particularities between Member States. Due to a lack of experience some Member States do not have procedures for approval and registration but refer back to the EGTC regulation. For some Member States, procedures refer to the legal basis, especially the EGTC Regulation and national implementation rules and sometimes other national legislation under which EGTCs are considered. Finally, some Member States have elaborate procedures that may inspire those that are less experienced. This includes step-by-step descriptions complementing the main approaches detailed in the model.

Neighbouring countries are not obliged to implement the EGTC regulation. Their experience with approvals of EGTC memberships is still limited. Most experience is in Switzerland and some candidate countries are making progress with respect to approving EGTC membership.

Any EGTC registration or modification is finalised with registration at EU level. CoR conducts these processes based on information provided by the EGTCs.

Both the roadmap to setting up an EGTC and the approval and registration guide in this guidebook illustrate the potential complexity of processes to found an EGTC. For further information, the guidebook concludes with an overview of other publications on EGTC founding processes. Some of these provide more detail on certain Member States and are available in different languages. They also address particular aspects, such as looking into the relation of EGTCs to cohesion policy, model solutions for specific legal or taxation questions, or other practical guides.

# 1. Introduction

The European Grouping of Territorial Cooperation (EGTC) was established in 2006 by Regulation (EC) 1082/2006. Since then, the EGTC instrument has been widely implemented and now 21 Member States either have EGTCs with a registered office or members in an EGTC that is registered in another Member State. As an EU instrument subject to national implementation, governance of the EGTC instrument is complex. A total of 54 national and regional administrations can approve and register EGTCs. This does not count additional authorities from non-EU countries with members that may also participate in EGTCs. As a result, local and regional authorities (LRAs) wishing to set up an EGTC may find it challenging to contact the right authority and apply the appropriate procedures. Likewise, authorities in charge of approving EGTC membership and registration face difficulties in coordination between Member States.

This guidebook aims to facilitate these processes by providing an overview of the applicable rules and processes in EU Member States. As far as possible information from neighbouring countries has also been collected. For the benefit of LRA information needs this guidebook provides structured insights into the process of setting up an EGTC. Given the differences in implementation between EU Member States these general processes require further specification.

This guidebook details the general to more specific information required. It starts with a short description of the EGTC instrument including its characteristics and benefits (Chapter 2). The chapter closes with an overview of principle differences between national implementation rules. Chapter 3 is devoted to a detailed roadmap of setting up an EGTC. It provides step-by-step guidance and shows where ambiguities may occur, or where different national implementation rules require caution. Once the members have developed the EGTC documents the EGTC requires approval and registration. The guide to these procedures is laid out in Chapter 4. It starts with a model illustration outlining the principles of these procedures. The latter parts of the chapter present more detail per Member State. In addition to the model on approval and registration, this chapter also describes the procedures for amending an existing EGTC considering different alternatives. Again, this is first described in general and then complemented by Member State specific information. The chapter closes with insights from neighbouring countries that may also admit members to an EGTC. The overall registration process concludes with registration at EU level as described in Chapter 5. LRAs wishing to obtain more detailed information and guidance will find additional resources in Chapter 1.

## 2. Introduction to the EGTC Regulation

The EGTC legal instrument was introduced in 2006 with the adoption of Regulation (EC) 1082/2006 and aimed to improve the implementation conditions for territorial cooperation by reducing difficulties encountered by public authorities. Introduction of the EGTC instrument acknowledged that existing instruments were ill-adapted to organising and implementing territorial cooperation and looked to fill this gap. These aims were considered in the legally defined characteristics of the EGTC.

Experience during the first years after introducing this legal instrument showed shortcomings in terms of the territories covered, objectives and nature of EGTCs. This triggered Regulation (EU) 1302/2013 amending Regulation (EC) 1082/2006<sup>1</sup> with main amendments regarding:

- clarification about the participation of members from third countries and overseas countries and territories (OCTs);
- broadening the nature of the EGTC instrument regarding the managing of cross-border public services (CPS);
- clarifications on setting up and approval of EGTCs;
- a consistent and complementary structure of founding documents;
- adjustments of liability rules to address different Member State legislation.

The following section gives a brief overview of EGTCs. In particular, it highlights limitations of the EGTC instrument. Further details of EGTCs are in Chapter 3, as they are crucial for the setting up process. Section 0 summarises the benefits EGTCs can provide for territorial cooperation. Illustrations using experience provide a better understanding of the benefits. The chapter concludes with an overview of the state of national implementation rules, with insights into the main types of rules.

### 2.1 Main characteristics of EGTCs

The EGTC instrument offers the possibility in all EU Member States to create an individual *legal person* (Art. 1(3), EGTC regulation) for activities *across national borders*. As such, it complements existing legal instruments at EU level. However, in contrast to these other legal instruments the EGTC limits membership to primarily *public* authorities and institutions. This limitation and the corresponding tasks of EGTCs characterise the legal form of this instrument. Although an EU level instrument it is subject to national implementation rules. The EGTC regulation does not specify the legal form. This depends on the applicable Member State law, which then also defines whether the EGTC is subject to public or private law. In consequence, the legal form depends on the Member State where the EGTC has its registered office. In some Member States the implementation rules explicitly consider an EGTC as a public entity. Examples are Spain, Italy and France. Implementation rules of many Member States do not make such explicit reference (Kubicki, 2017). This implies that EGTCs may be considered as *public or private legal entities* in different Member States.

As indicated above, primarily public bodies may become members of an EGTC. EGTC Regulation Art. 3 and 3a specify the membership regarding the *number of Member States* and countries involved and the *type of bodies* permitted as members. With few exceptions, where an EGTC may be made up of members from one Member State and a third country or overseas countries or territories (OCTs), any EGTC must have members from at least two Member States (Art. 3(2), EGTC regulation). The following entities in Member States and their equivalents in third countries may be members of EGTCs (Art. 3(1), EGTC regulation):

- national, regional and local authorities;
- public undertakings or bodies governed by public law; and
- associations consisting of bodies of any of these groups.

Members of one EGTC may represent one or more of any of these groups. This list implicitly excludes private undertakings and bodies that are not dominated by public influence.

The principle *objective* of any EGTC shall comply to Art. 1(2) of the EGTC regulation, namely *'to facilitate and promote, in particular, territorial cooperation, including one or more of the cross-border, transnational and interregional strands of cooperation, between its members ... , with the aim of strengthening Union economic, social and territorial cohesion'*. Within this objective an EGTC may formulate more specific objectives.<sup>2</sup> This overall objective limits the activities of EGTCs. Apart from the requirement that the EGTC may only act within the competences of its members and in conformity to its convention, EGTC Regulation Art. 7 details the tasks an EGTC may implement including:

- the facilitation and promotion of territorial cooperation, and
- activities to overcome internal market barriers

to contribute to strengthening economic, social and territorial cohesion in the EU.

<sup>1</sup> In the following, Regulation (EC) 1082/2006 as amended by Regulation (EU) 1302/2013 will be described as 'EGTC regulation'.  
<sup>2</sup> For examples see Table 3-2.

More specifically, this may include:

- territorial cooperation activities with and without EU financial support,
- implementation of cooperation programmes or parts thereof (e.g. a small project fund or projects),
- implementation of operations supported by the EU through the European Regional Development Fund (ERDF), European Social Fund (ESF) or the Cohesion Fund,
- management of infrastructure, and
- provision of services of general economic interests (SGEI).

At the same time EGTCs may not implement all types of activity supporting economic, social and territorial cohesion in the EU:

- Member States may limit the tasks of EGTCs carried out *without EU financial support* if these are not covered under the Regulation on European Territorial Cooperation. (Art. 7(3), EGTC regulation)
- EGTCs shall not exercise powers or duties that safeguard the general interest of a Member State or its authorities. Thus, any tasks of police and regulatory powers, justice and foreign policy are explicitly excluded. (Art. 7(4), EGTC regulation)

These three cornerstones of an EGTC – possible membership, its objectives and possible tasks – limit the use of the EGTC instrument. At the same time, the EGTC Regulation uses open formulations, e.g. for the nature of the EGTC. This facilitates flexible implementation of the instrument according to the legislative frameworks of the EU Member States involved in an EGTC. In other words, whatever is not ruled by the Regulation aims for flexibility. To some extent this may also contribute to misconceptions of the instrument. The box below summarises and clarifies more frequent misconceptions.

<p><b>WRONG:</b> An EGTC can automatically access EU funding and may especially benefit from Interreg.</p>	<p><b>CORRECT:</b> The EGTC is a legal rather than financial instrument. It does not entail any claim for financial support. It may only provide easier access to funding by easing formalities when applying for Interreg projects (see Section 3.2.4).</p>
<p><b>WRONG:</b> Authorities lose control through transferring competences to a cross-border entity.</p>	<p><b>CORRECT:</b> Authorities do not lose any control. Competences and political accountability remain with the members of the EGTC. Members only transfer tasks to the EGTC.</p>
<p><b>WRONG:</b> All members of an EGTC must have the same competences.</p>	<p><b>CORRECT:</b> Competences may vary between members. However, the EGTC can only carry out tasks for which all members have the competence. Thus, the competences shared by all members may limit the transferable tasks (see Sections 3.2.1 and 3.2.2).</p>
<p><b>WRONG:</b> All members of an EGTC have to be of the same nature, e.g. all are local authorities, or all are regional authorities</p>	<p><b>CORRECT:</b> Members may represent different types of entities, bringing together all competences required for the EGTC tasks. Indeed, they can be multi-level governance entities. The only requirement is that all members are public entities in accordance with Art. 3 of the EGTC regulation. This also includes national authorities (see Section 3.2.2).</p>
<p><b>WRONG:</b> All members must be subject to the same liability rules.</p>	<p><b>CORRECT:</b> The liability aspect of an EGTC is complex and may require legal advice. EGTC members may be subject to different liability. It is necessary to differentiate between the liability of the EGTC, its members and its organs. There are various ways to overcome differences between members (see Section 3.2.3).</p>
<p><b>WRONG:</b> EGTCs must cover a continuous territory in a cross-border area.</p>	<p><b>CORRECT:</b> The territory does not need to be continuous. In consequence, the EGTC instrument can also be used for transnational and interregional cooperation between Member States and/or neighbouring countries. It is, however, not applicable for cooperation within one Member State (see Section 3.2.2).</p>
<p><b>WRONG:</b> An EGTC is an expensive solution to facilitating cross-border, transnational or interregional cooperation and integration.</p>	<p><b>CORRECT:</b> Setting up an EGTC may take some time, however running it is not expensive. It can use existing resources of the involved entities. Its structure allows an EGTC to act across the border for the benefit of the whole region or its members. This way, it can even contribute to a more efficient use of resources.</p>

## 2.2 Benefits of EGTCs

The EGTC instrument allows its members to benefit from various benefits. The concrete benefits and advantages depend on the context of an EGTC and are linked to its tasks and objectives. At the core of EGTC benefits is the legal personality that brings advantages compared to other forms of cooperation. The following summarises benefits and advantages as identified by previous research. Not all benefits are equally relevant for all EGTCs. Some EGTCs create benefits mostly at the level of members and others for citizens in the area. Some benefits are direct and others more indirect. These differences are illustrated by further details of EGTC experience.

Benefits and advantages of EGTC are<sup>3</sup>:

1. EGTCs can act as strategic players that integrate different activities in a joint policy approach. It is thus a means to deepen existing cooperation activities that may also receive further acknowledgement.
2. An EGTC offers a sustainable framework with permanent structures that facilitates continuity for activities. This benefit is closely linked to legally binding decisions due to the long-term commitment of members.
3. Joint decision making across borders enhances participation in and ownership of cross-border activities. So, the EGTC identity-building may also combat renationalisation tendencies.
4. The EGTC instrument creates transparency and visibility for cooperation activities. The European nature of the instrument contributes to visibility and the opportunity to promote local and regional interests at EU level.
5. Vice versa, the EGTC can act as vehicle improving access to EU information for members.
6. With members from different Member States an EGTC may find it easier to participate in tendering under EU programmes. It improves the capability to benefit as a single beneficiary in Interreg programmes.
7. The legal personality offers the opportunity to employ staff directly for the benefit of all EGTC members. In 2019, 58 EGTCs of the then 75 existing EGTCs used this opportunity (Zillmer, Hans, Lüer, & Toptsidou, Maria, 2020, p. 85).
8. The joint structure can enhance a more efficient use of public money. The joint use of public infrastructure is a prominent example of this benefit.
9. Similarly, by overcoming internal market barriers or regional development obstacles due to the location in a border area, it also facilitates resource efficiency or regional development.

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Below are illustrations of some general benefits. Many benefits can be linked in different ways to the above general benefits as indicated by the numbers in brackets<sup>4</sup>. The examples show how benefits may be linked by individual EGTCs.

The EGTC PROUD was founded to develop a high-speed railway infrastructure reducing travel times and overcoming logistic bottlenecks. Thus, the overarching long-term benefit will be improved connectivity for inhabitants and the economy in the region (9) to which, inter alia, EU funded projects contribute (6). On the way to achieve this long-term benefit the EGTC instrument created a framework for continuous action that builds on the political intent of the state of Saxony and the Czech Republic (2). Apart from the State of Saxony and the Czech Republic regional and local authorities have been included in the membership of the structure to enhance participation and transparency at local level for the infrastructure planning (3 & 4). (CoR, 2018, p. 94; Zillmer, Hans, et al., 2020, p. 45)

Another example of benefits for inhabitants is the Eurocity of Chaves-Verin. With its Eurocitizen Card, co-funded by the Interreg Programme VA Spain-Portugal (POCTEP) (6), the EGTC has created a 'free social zone' for inhabitants who have access to more public services. This helped to increase attractiveness of the Eurocity and contributes to a more efficient use of resources for public services (8). The EGTC initiated further benefits for inhabitants by initiating a regular passenger transport service for which cross-border coordination had been lacking due to unequal competences and knowledge on both sides of the border, but which could be facilitated by the EGTC as an acknowledged cross-border player (1 & 9). (European Committee of the Regions, 2018, pp. 12–13; Zillmer, Hans, et al., 2020, p. 35)

The Eurodistrict Strasbourg–Ortenau also developed benefits by initiating a public transport service. In this case, a special regular bus service facilitates cross-border commuting, which in turn reduces unemployment and the cost of unemployment benefits on one side of the border and enhances the labour supply for companies on the other side of the border (8 & 9). In view of its cross-thematic objective the EGTC is a strategic cross-border player bringing together activities to benefit its members and citizens on both sides of the border (1). A joint action programme benefiting from the participation of inhabitants and associations is one example for transparency and visibility of the cooperation (4). Through activities and initiatives providing information to inhabitants, the EGTC contributes to cross-border regional development (9). The latest of these initiatives may be the weekly update on COVID-19 rules and regulations for commuters, cross-border transport, business support, etc.<sup>5</sup> In this context the EGTC acts as a one-stop shop for cross-border information. (CoR, 2018, p. 30; European Committee of the Regions, 2018, p. 28; Zillmer, Hans, et al., 2020, pp. 29, 48)

3 If not cited otherwise, the following is based on Zillmer & Lüer (2017, p. 15), which used other research (Committee of the Regions, 2010, 2014; Engl, 2014; Fink, 2014; Janssen, 2012; Mission Opérationnelle Transfrontalière, 2008) describing the potential advantages of EGTCs.

4 Further illustration of such benefits for numerous EGTCs is available in e.g. European Committee of the Regions (2018) and Zillmer et al. (2020).

5 <http://www.eurodistrict.eu/de/aktuell/ma%C3%9Fnahmen-gegen-die-corona-pandemie-%E2%80%93-20202021>

For Eurodistrict SaarMoselle early foundation of the EGTC structure mattered. This created a different external perception compared to other Eurodistricts at that time (4). The EGTC has been acknowledged as having contractual capability towards the respective national institutions. Support for preserving cross-border infrastructure, creating new forms of cross-border cooperation and services and presenting the cross-border area as one economic region create benefits for regional development and inhabitants (3, 8 & 9). (European Committee of the Regions, 2018, p. 36; Zillmer & Lürer, 2017, pp. 18–19)

The EGTC Secrétariat du Sommet de la Grande Région provides yet another type of benefit in relation to overcoming border obstacles. One example is the EGTC's activity as facilitator of a B-solutions project addressing a lack of interoperability for geodata across borders (9). At the same time, setting up an EGTC ensured continued institutional cooperation among its members, since the EGTC is in charge of communicating the members' summit and provides continuous support between political presidencies (2). Since the EGTC builds on several decades of inter-institutional cooperation among its members, it is also a vehicle to identity building as a truly integrated European region (3). (CoR, 2018, p. 64; European Committee of the Regions, 2018, p. 58; Zillmer, Hans, et al., 2020, p. 77)

ZASNET EGTC manages a transboundary biosphere reserve and thereby offers other specific benefits. The EGTC foundation in 2010 facilitated adoption of the reserve under the United Nations Educational, Scientific and Cultural Organisation framework (UNESCO) in 2015 (1). The strategic role of the EGTC is also visible in its integrated approach, since it has the mandate to preserve and protect the environment, conserve, promote and develop natural and cultural heritage and support job creation to avoid migration. To implement actions in support of the EGTC's objective, it is a single beneficiary of the Interreg POCTEP programme projects (6). (CoR, 2018, p. 32; Zillmer, Hans, et al., 2020, p. 53)

EGTC TATRY is an example for the EGTC instrument's ability to deepen previous cooperation, bringing it to a qualitatively higher and quantitatively more intensive level (1). The EGTC's director is a member of the Monitoring Committee of the Polish-Slovakian cross-border Interreg programme (4 & 6). Further public visibility has been achieved by the EGTC's flagship project 'Cycling route around the Tatra Mountains' (3). (European Committee of the Regions, 2018, pp. 52–53)

Another example of an EGTC acting as single beneficiary is EGTC GO that implements the sole cross-border Integrated Territorial Investment (ITI) (6) as a means to implement the territorial strategy of the cross-border region (1). The EGTC structure has changed the perspective of municipalities through investments in new services and infrastructure to benefit the whole region rather than individual municipalities (8). (CoR, 2018, p. 43; European Committee of the Regions, 2018, p. 24)

LRAs make up the majority EGTC members. EUCOR – The European Campus is an example for an EGTC with another membership structure, in this case consisting of higher education and research institutions, which comes with other benefits. The member universities benefit from joining forces when applying for and managing EU research projects (8). Comparison with other tertiary education and research cooperation (e.g. the Greater Region University) shows that the EGTC instrument was beneficial for visibility of the cooperation (4). The joint structure has furthermore led to COFUND support within Horizon 2020. That is available only for single beneficiaries and could not be implemented as a joint programme without a common legal personality of the member universities (6). (Zillmer, Hans, et al., 2020, p. 63)

Few EGTCs have a wider territorial coverage. The Interregional Alliance for the Rhine-Alpine Corridor EGTC is one example of a transnational EGTC. Its overarching objective is to facilitate cooperation in support of integrated spatial development along the Rhine-Alpine Corridor (1). The EGTC instrument offered a unique opportunity for creating more durable solutions following a transnational project cooperation (2). The EGTC offers its members access to the Trans-European Transport Network (TEN-T) Corridor Forum and its European Coordinator, which would not be feasible for most individual members. It provides information both ways – representing local and regional interests at higher levels and informs EGTC members about EU level policy and development (4 & 5). As an entity representing various stakeholders affected by TEN-T corridor development it also taps additional funding sources from EU programmes including e.g. the Connecting Europe Facility (6). (European Committee of the Regions, 2018, p. 53; Zillmer & Lürer, 2017, pp. 16–17)

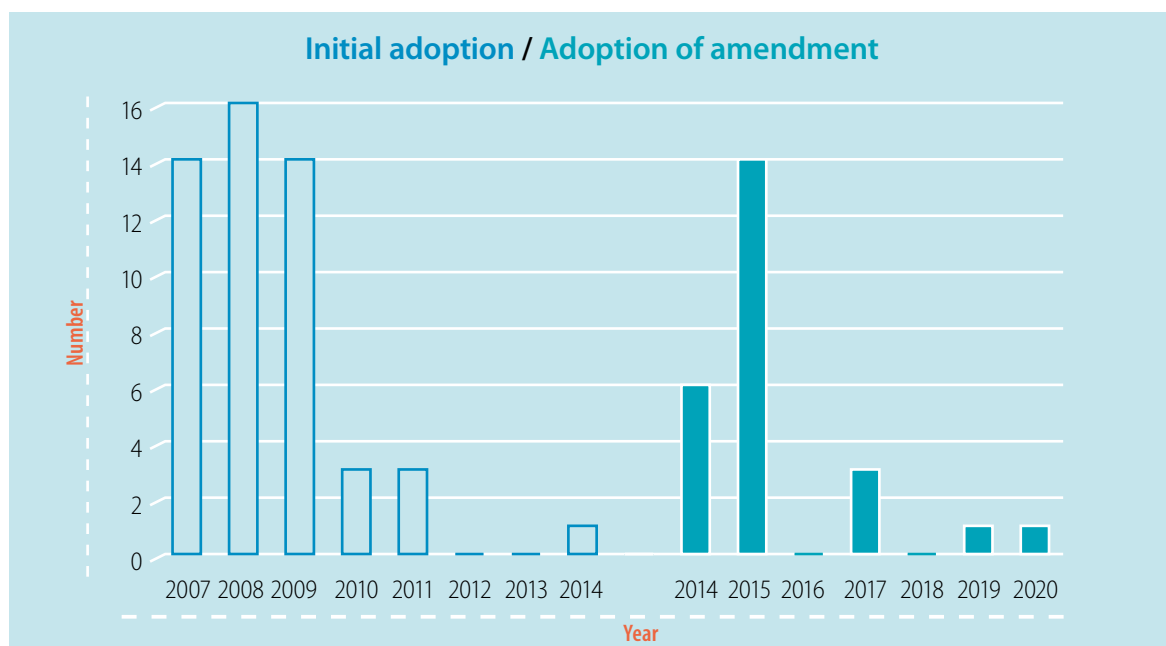
## 2.3 Implementation of national provisions

All EU Member States have adopted the initial EGTC Regulation following the launch of the instrument in 2006.<sup>6</sup> The majority of implementation rules were adopted between 2007 and 2009 (Figure 2-1).

Some of these designated only the responsible authority whereas others provided for more detailed rules translating the EU Regulation into the national context. Croatia was the last Member State to adopt the then amended EGTC Regulation in 2014 after its EU accession in 2013. About half of approval authorities had adopted the amendment of the EGTC Regulation by 2020, mostly in the two following years, i.e. 2014 and 2015. Adoptions of the amended EGTC Regulation in later years were frequently driven by clarifications for setting up EGTCs in the corresponding jurisdictions. Examples are the implementation rules of the German federal states of Bavaria (2017), Saxony (2019) and Brandenburg (2020).<sup>7</sup>

Many implementation rules do not specify the law under which an EGTC will be considered. This leaves room for manoeuvre in several countries to adjust an EGTC's legal consideration according to the membership and tasks. For instance, running a hospital may be considered under a different legal framework than a cross-border Eurodistrict.

**Figure 2-1 Implementation of the EGTC Regulation and its amendment in EU Member States by years\***



\* For two German federal states identification of the year was not possible. These are excluded from the figure.  
Source: own elaboration based on Zillmer et al. (2020) and updated with information from approval authorities

Similarly, a decision about liability rules is frequently not conclusive. A final assessment may have to consider further national legislation. The following table gives an indication of potential liability assessments by Member States based on the EGTCs founded so far. In most Member States where EGTCs have a registered office they are subject to unlimited liability. Only in Poland and the Netherlands have EGTCs so far always had limited liability. In some Member States both liability regimes have been used for EGTCs registered. Most of these tend to favour one regime over the other (bold X in the table). These insights are, however, only examples based on experience and do not provide a conclusive answer to whether EGTCs in the corresponding Member States have to be founded under one or other liability regime.

The different Member State approaches to the EGTC instrument are also visible in the appointed authorities. About one third have appointed the government or a general office without assigning approval to a policy sector. A similar number of EU Member States has appointed the task to an office or ministry responsible for European affairs, or regional or territorial development. In eleven cases ministries or offices for economic affairs or finance are responsible. Most of these are at the level of federal states in Germany. Other appointed authorities include those responsible for either internal or external affairs.

6 In Austria, Belgium and Germany, only federal states rather than the national level adopted the EU regulation.  
7 See the legal dispositions <https://portal.cor.europa.eu/egtc/about/Pages/National-dispositions.aspx>.



**Table 2-1 Existing EGTCs by liability regime and EU Member State**

Member State	Limited liability	Unlimited liability
Austria*	X	
Belgium*		X
Germany*		X
Greece		X
Spain	X	X
Finland		X
France		X
Hungary	X	X
Italy	X	X
Luxembourg		X
Netherlands	X	
Poland	X	
Portugal		X
Slovakia	X	X

*\* Refers to the experience of the federal states with EGTCs with a registered office.*

**\*\* According to Art. 12(2a) of the EGTC regulation, any EGTC with members subject to limited liability has to carry an indication on the limited liability in the EGTC name.**

Source: own elaboration based on the List of European Groupings of Territorial Cooperation as of 03 February 2021\* ([https://portal.cor.europa.eu/egtc/CoRAactivities/Documents/Official\\_List\\_of\\_the\\_EGTCs.pdf?Web=0](https://portal.cor.europa.eu/egtc/CoRAactivities/Documents/Official_List_of_the_EGTCs.pdf?Web=0))

The picture of applicable rules and appointed authorities in neighbouring countries is even more blurry. Apart from the United Kingdom that adopted rules while a Member State, implementation rules tend to be agreed when an application has been made (see Section 4.4). Similarly, few neighbouring countries have designated the responsible authorities. Most of them have members in existing EGTCs.

### 3. Roadmap to setting up an EGTC

Since establishing the EGTC instrument in 2006, different guidance outlines the steps to create an EGTC from first thought to registration. The guidance differs in detail and perspectives. The table below provides an overview of guidance, without claiming to be exhaustive. Since they have been drafted from different perspectives, e.g. EU, German or Hungarian, solutions and steps vary slightly and are presented in different detail.

**Table 3-1 Overview of guidance for setting up an EGTC**

Title	Year	Perspective	Source
<b>Interact Handbook – The European Grouping of Territorial Cooperation (EGTC)</b>	2008*	Differentiates 3 phases of setting up (preparation – decision – implementation) with 14 steps and a focus on programme management and EGTCs implementing European Territorial Cooperation (ETC) projects	<a href="https://www.interact-eu.net/library#371-handbook-egtc-what-use-etc-programmes-and-projects">https://www.interact-eu.net/library#371-handbook-egtc-what-use-etc-programmes-and-projects</a>
<b>Guideline for the establishment of an EGTC for stakeholders of transnational cooperation (BMVI)</b>	2014	Differentiates 3 phases (needs – basic questions – details for establishing) with 22 questions and focusing on transnational cooperation structures (available in English and German)	<a href="http://www.kooperation-ohne-grenzen.de/wp-content/uploads/2020/07/EVTZ_TransEngl.pdf">www.kooperation-ohne-grenzen.de/wp-content/uploads/2020/07/EVTZ_TransEngl.pdf</a>
<b>Guideline for the establishment of an EGTC for stakeholders of cross-border cooperation (BMVI)</b>	2014	Differentiates 3 phases (needs – basic questions – details for establishing) with 22 questions and focusing on cross-border cooperation, particularly along the German-Polish border (available in German and Polish)	<a href="https://iif.deutsche-digitale-bibliothek.de/binary/ea6c9785-2a38-430f-9288-f36aaef8097">https://iif.deutsche-digitale-bibliothek.de/binary/ea6c9785-2a38-430f-9288-f36aaef8097</a>
<b>Practical guide on the establishment of EGTCs</b>	2021	Contains 7 principal steps for setting-up after the needs assessment; provides proposals for alternative solutions to certain questions and details 7 questions related to the founding documents	<a href="https://egtcmonitor.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtc/">https://egtcmonitor.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtc/</a>

\* The handbook does not consider implications of the EGTC Regulation amendment in 2013.  
Source: own elaboration

In addition to this guidance further literature details different aspects of EGTCs that may provide additional valuable insights for setting up an EGTC (see Chapter 1). The following sections detail the most important steps building on the guidance listed in above table.<sup>8</sup> The questions and actions may be considered as guiding steps rather than detailing everything in the setting up process. The roadmap differentiates three phases that are further broken down into sub-questions and steps:

1. *Needs analysis*;
2. *Preparation*, to answer basic questions about the EGTC;
3. *Implementation*, to develop the founding documents.

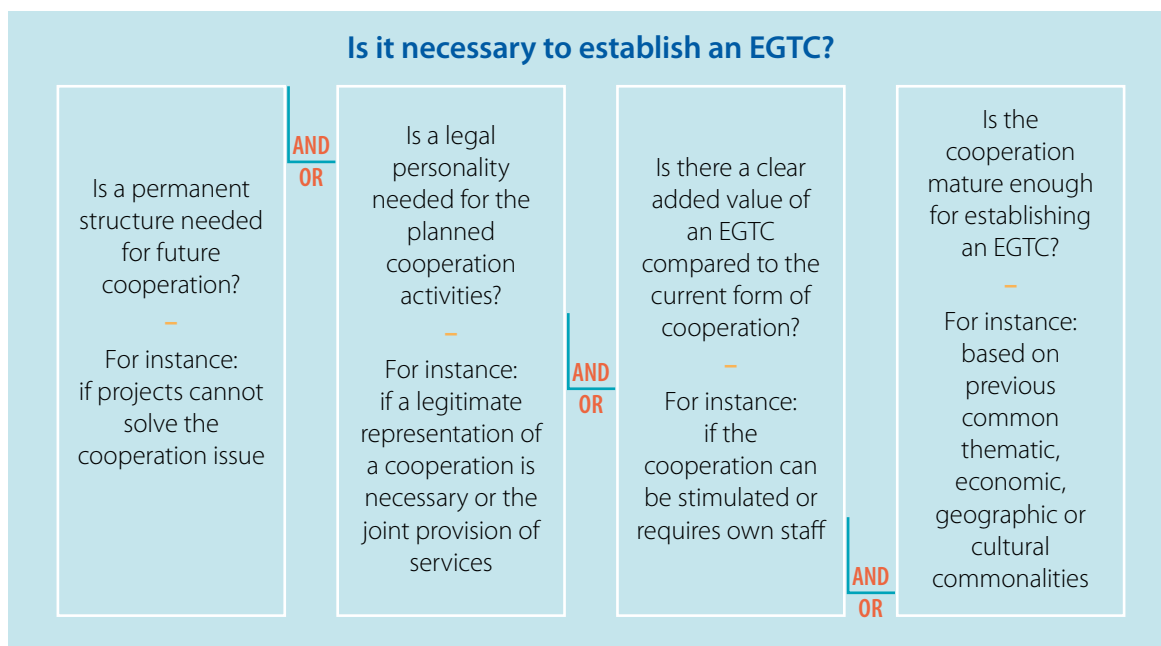
These phases lead to approval and registration as detailed in Chapter 4.1. Further details of the three phases depend very much on the individual EGTC and cannot be raised in a general roadmap. Thus, in addition to following this roadmap additional advice is mentioned (see also Chapter 1) and the experience of comparable EGTCs should be considered. Finally, despite this differentiation of phase and steps, these are interlinked and can be dealt with in different order.

8 If not otherwise cited, the roadmap refers to INTERACT (2008) and Zillmer et al. (2014) as these provide the most detailed guide for most steps and phases.

### 3.1 Needs analysis

The first step, whether considered as separate phase or as a first step within the preparation phase, is the needs analysis. This should reflect the usefulness of the EGTC instrument, possibly by answering four guiding questions as summarised in Figure 31.

**Figure 3-1 Guiding questions for the needs assessment**



*Source: adopted from Zillmer et al. (2014, p. 6)*

Answering these questions helps to build common grounds for the following steps when setting up an EGTC and acknowledges the complexity often perceived during the setting up process. A need for an EGTC exists especially if there is consensus about the added value of an EGTC and/or a permanent structure is necessary due to the permanent or specific character of the planned activities.

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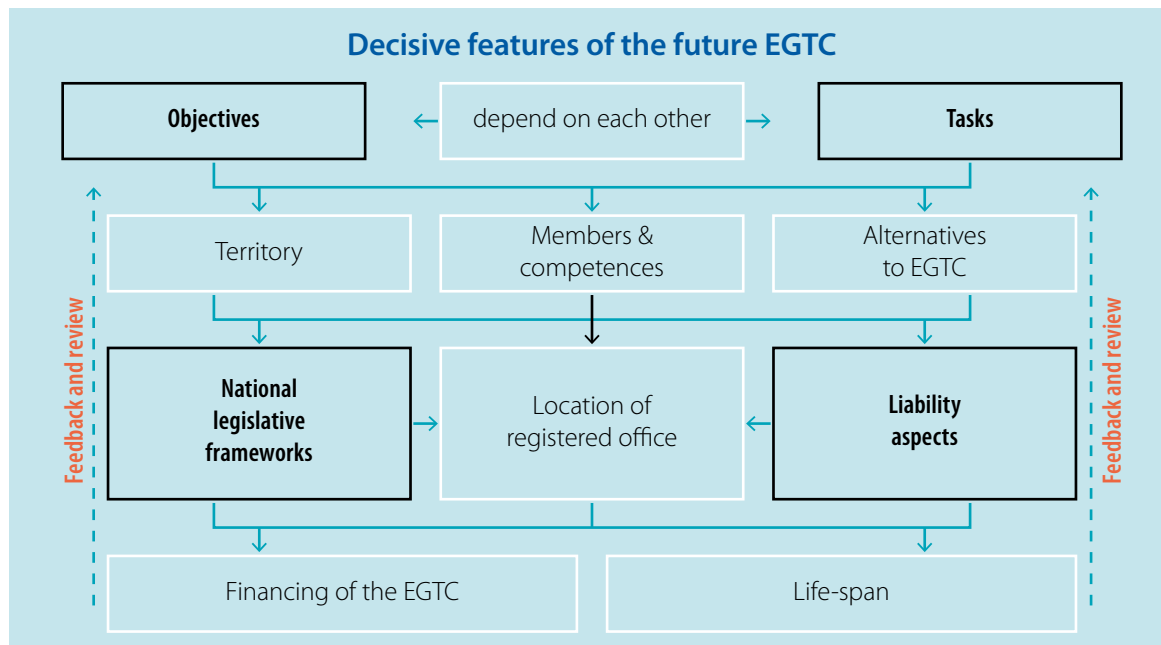
If a need for setting up an EGTC is identified, a formal decision by the political representatives of members and possibly by the decision-making bodies of future EGTC members is recommended (see step 2a in Section 4.1). This step prepares the ground for all further steps and confirms the willingness of partners to engage in the setting up process and provide resources.

If none of the four questions in the above figure is answered positively, it is recommended to stop the process.

## 3.2 Preparation phase answering basic questions

Setting up an EGTC requires answering multiple questions that in turn feed into developing the founding documents (i.e. convention and statutes). During this phase the decisive features of the future EGTC should be defined and agreed such as the objectives and tasks, liability and national frameworks (Figure 3-2), thereby deepening the common understanding.

**Figure 3-2 Overview of decisive features of the future EGTC**



Source: own elaboration based on Zillmer et al. (2014, p. 6)

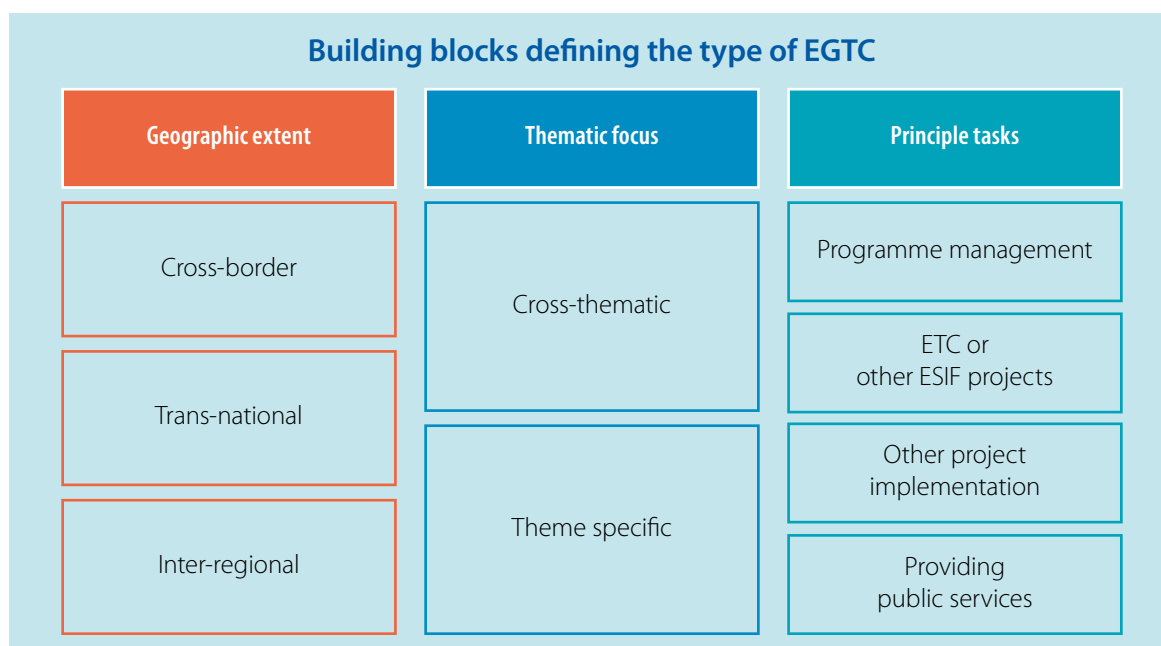
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In addition to these features some elements only required when drafting the founding documents should also be considered during the preparation phase. This refers to questions which experience shows can be critical in the setting up process. The features and questions of this phase are highly interlinked and typically not addressed in a clear sequence. Nevertheless, Figure 3-2 proposes a sequence to some degree as indicated by downward and horizontal arrows. The process may require feedback loops and refinement between objectives and tasks of the EGTC and relevant competences of its members in the setting up process. The upward dotted arrows in Figure 3-2 indicate these feedback loops and refinement processes. The aspects highlighted with a bold frame tend to be most time-consuming.

### 3.2.1 Objectives and tasks of an EGTC

The EGTC instrument aims to provide a standardised opportunity to stakeholders for territorial cooperation anywhere in the EU where they can contribute to strengthening economic, social and territorial cohesion. These objectives should be detailed and agreed on by the potential EGTC members. The degree of detail in the objectives may vary and depends on the type of EGTC. The building blocks in Figure 3-3 can be combined in different ways to specify the type of EGTC and its objectives and tasks. Table 3-2 illustrates examples of how EGTCs formulate their objectives individually in accordance with their type and focus and developing the grounds for describing the tasks.

**Figure 3-3 Elements defining the type of EGTC**



Source: own presentation

**Table 3-2 Examples for objective formulations of EGTCs**

EGTC	Objectives
<b>EGTC Hospital de la Cerdanya</b> (thematic cross-border for public service provision)	The overall objective is the construction, commissioning and operation of a cross-border, general and county-wide hospital in the Spanish district of Cerdanya (Puigcerdà, Spain) to provide health services for patients in the territory of Cerdanya (Spain) as well as Cerdanya and Capcir (France). The EGTC also aims at contributing to the development of the joint sanitary project of the territory.
<b>Europaregion Tirol-Südtirol-Trentino</b> (cross-thematic cross-border)	In addition to the general objective of facilitating cooperation of the members in support of economic and social cohesion, the EGTC aims at <ul style="list-style-type: none"> <li>■ strengthening economic, social and cultural relations;</li> <li>■ promoting territorial development (especially: education, culture, energy, sustainable mobility, health, research &amp; innovation, economy, agriculture &amp; environment);</li> <li>■ better coordination of joint participation in ETC and other thematic EU funded programmes;</li> <li>■ ...</li> </ul>
<b>Interregional Alliance for the Rhine-Alpine Corridor EGTC</b> (thematic transnational spatial development)	The objectives and tasks of the EGTC are: <ul style="list-style-type: none"> <li>■ Combining and focusing the joint interest of its members towards national, European and infrastructure institutions;</li> <li>■ Evolution of the joint development strategy for the multimodal Rhine-Alpine Corridor;</li> <li>■ ...</li> </ul>

Source: Convention of the Interregional Alliance for the Rhine-Alpine Corridor EGTC (as of 2020) and Zillmer et al. (2015) based on statutes and conventions of the EGTCs

The EGTC may only act within the competences of its members. This affects the step defining the tasks of the future EGTC. The final formulation of tasks needs to be consistent with the objectives as well as with the competences of the members. Formulating the tasks also facilitates common understanding among members on their expectations towards the EGTC. At the same time, early agreement on the tasks is necessary to facilitate subsequent steps concerning legal implications.

Table 3-3 summarises the main aspects, questions and actions when defining objectives and tasks of the prospective EGTC.

**Rule of thumb.** Based on a common understanding among prospective EGTC members, make task formulations as flexible as possible to avoid changes in the convention due to minor task adjustments.

**Table 3-3 Overview of questions and actions in this phase**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Objectives	The objective of an EGTC shall be to facilitate and promote territorial cooperation between its members to strengthen economic, social and territorial cohesion.	Art. 1(2)	<ul style="list-style-type: none"> <li>■ Do the proposed objectives correspond to the identified needs?</li> <li>■ What are the geographic, thematic and funding building blocks of the EGTC?</li> </ul>	<ul style="list-style-type: none"> <li>■ List of objectives and needs.</li> <li>■ Defining the general strategy, vision or mission of the EGTC.</li> <li>■ Defining the building blocks.</li> </ul>
Tasks	The members give tasks to an EGTC in accordance with the EGTC Regulation and define them in the convention.	Art. 7(1)	<ul style="list-style-type: none"> <li>■ Do the tasks correspond to the objectives?</li> <li>■ Do the members have sufficient competence for the tasks?</li> <li>■ Could any task be subject to limitations by a Member State?</li> </ul>	<ul style="list-style-type: none"> <li>■ List of tasks</li> <li>■ Comparison of tasks and members' competences</li> <li>■ If necessary, feasibility check for tasks</li> </ul>
	Tasks of an EGTC facilitate the overall cohesion objectives and overcoming internal market barriers. The tasks are principally within the competence of all members.	Art. 7(2)		
	Tasks may primarily concern the implementation of cooperation programmes, or parts thereof, or other EU funded operations. Tasks without EU support may be limited if outside EU investment priorities.	Art. 7(3)		
	An EGTC may not carry out tasks exercising powers under public law, e.g. police, regulatory powers, justice and foreign policy. However, an EGTC may manage infrastructure or provide services of general economic interest under specified terms.	Art. 7(4)		

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

### 3.2.2 Scope and alternatives

The scope of the EGTC needs to be agreed upon regarding the membership and the territory in which the EGTC may act. Both are highly related as the territory depends on members' areas of competence and jurisdiction. Thus, the territory may be continuous or discontinuous. At the same time, it does not need to correspond to the entire territory of all future members. Furthermore, the formulation of the territory may also consider changes of membership to avoid adjustments in the convention – with implications for approval procedures – if the membership changes. This may be relevant especially for EGTCs working in a transnational or interregional cooperation or where for practicality reasons the initial EGTC foundation is limited to few members with others expected to join once the EGTC is working.

Art. 3 of the EGTC Regulation defines the authorities and institutions that may become members of an EGTC. As member competences affect the tasks of an EGTC – as outlined above – it is crucial to reflect who is required and the size, in terms of members or area, that still allows effective and efficient work of the EGTC. Apart from regular membership, additional stakeholders can become involved through committees, working groups, advisory boards or as associated partners, for example. This can facilitate a small membership with lean structures if competences of the members are sufficient to formally implement the tasks. Still, it allows for additional expertise if required.

Involving members from third countries or OCTs in an EGTC requires particular attention to members from Member States. Art. 3a of the amended EGTC Regulation details the requirements for different cases.

The EGTC instrument was designed to facilitate territorial cooperation between public authorities by improving the conditions for territorial cooperation activities across all EU territories and including neighbouring countries. It was meant to fill a gap in existing instruments not sufficiently adapted to territorial cooperation (Regulation (EC) No 1082/2006, 2006, Recitals 3-4). Nevertheless, the EGTC instrument is not the only EU instrument that can facilitate territorial cooperation and other alternatives are possibly less costly to set up. Thus, prospective members should reflect whether another instrument would equally fulfil the requirements of the cooperation and could be established at less cost. The alternatives include cooperation structures based on:

- partnership agreements etc. that have however no legal personality;
- registered associations of which public authorities may be members but not all Member States allow membership of these in another country;
- bilateral or multilateral interstate agreements that are however not available for all regions in the EU and neighbouring countries;
- other EU instruments such as the European Economic Interest Grouping (EEIG), the European Company (SE) or the European Cooperative Society (SCE), which are tailored to other actors' needs and vary in their adaptability to territorial cooperation actors (see INTERACT, 2008, pp. 112–117).
- Table 3-4 summarises the main aspects, questions and actions when defining the membership and territory of the prospective EGTC, elaborating possible alternative solutions to founding an EGTC.

**Table 3-4 Overview of relevant questions and actions in this phase**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Territory of EGTC activities	An EGTC shall be usually made up at least of two members located in two Member States	Art. 3(2)	<ul style="list-style-type: none"> <li>■ What is the appropriate territory for EGTC activities?</li> <li>■ If there are members from third countries, what are the territorial implications?</li> </ul>	<ul style="list-style-type: none"> <li>■ Decide on type of formulation regarding the territory covered</li> </ul>
	Members may also be located in third countries or OCTs and under certain conditions at minimum, this requires the membership of one member of one Member State and one member from a third country or OCT	Art. 3a		
Membership & partners	Members of an EGTC can belong to one or more of the following categories: national, regional and local authorities, public undertakings or bodies governed by public law, undertakings entrusted with operating services of general economic interest	Art. 3(1)	<ul style="list-style-type: none"> <li>■ Do the prospective members have the necessary competences and skills?</li> <li>■ Are additional partners needed?</li> <li>■ If members from 3<sup>rd</sup> countries or OCT are involved: are the specific requirements met?</li> </ul>	<ul style="list-style-type: none"> <li>■ Review the understanding of 'public undertakings' (if relevant) in respective Member States</li> <li>■ Assess the way to involve additional partners if required</li> <li>■ Check conformity and membership requirements if third countries or OCTs are involved</li> </ul>
Alternatives to an EGTC	The EGTC may not be the best and sole instrument facilitating the proposed tasks and objectives		<ul style="list-style-type: none"> <li>■ Are there existing alternative cooperation structures sufficient for the future cooperation?</li> <li>■ What are the advantages and disadvantages of the alternatives?</li> </ul>	<ul style="list-style-type: none"> <li>■ Comparison of alternatives (possibly as a feasibility study)</li> </ul>

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

### 3.2.3 Principal legal framework and location of registered office

Although it is an EU instrument every EGTC is subject to national legislation. This refers to the implementation rules adopted by the Member States involved in the EGTC. For the Member State with the prospective registered office other legislation and practices may further specify the legal character of the EGTC. Above all, this asks for an assessment and comparison of EGTC implementation rules in all involved Member States. In federal countries (i.e. Austria, Belgium and Germany) regional implementation rules usually apply. This implies that members from different federal states in one of these countries are subject to different implementation rules.

The location of the registered office is decisive for various rules, in particular:

- the legal form, e.g. whether the EGTC is subject to public or private law;
- liability rules, e.g. whether limited or unlimited liability of the EGTC is required;
- financial management and auditing, e.g. what are the control bodies;
- public tendering procedures, e.g. regarding complexity and requirements;
- fiscal rules, e.g. whether the EGTC is subject to value added tax (VAT);
- recruitment and payment of staff, e.g. on procedures or the level of payment on either side of the border;
- social security rules, e.g. what is covered under which system.

Regarding liability, furthermore, coherence between implementation rules of all involved Member States needs to be ensured. Different solutions exist for seemingly incoherent legislation (see Zillmer, Lüer, & Krzymuski, 2020, pp. 28–32). A preliminary assessment of the legal framework of the registered office country may have to be deepened later in the setting up process to feed into drafting the founding documents (see section 3.3). To compare the rules of the involved Member States legal advice is recommended if the decision about the registered office is not subject to other criteria, for instance due to a political decision or practical considerations. In any case, the decision on the location of the registered office has far reaching implications and should be taken with care.

#### **Principles and model solutions when addressing the liability assessment**

The assessment should differentiate between the liability of

- the EGTC itself;
- its members for obligations of the EGTC;
- the Member State with the registered office for obligations of the EGTC.

The liability of EGTC members is frequently considered a challenge due to different rules in the involved Member States. Here different aspects and solutions could be considered:

- Members have only a subsidiary liability if the EGTC cannot meet its obligations. It is however not clarified whether this requires a notice for insolvency or an agreement on liquidation of the EGTC.
- Members may be subject to an absolute or facultative exclusion of liability. This depends on national law.
- Public sector or private insurance may be used to cover risks. They may be relevant for the EGTC and/or its members. The type of insurance depends, inter alia, on the law under which the EGTC is considered.
- A Directors' and Officers' liability insurance (D&O insurance) may be recommended at the level of the EGTC to cover property damage by the organs and managing bodies.
- Especially when concluding contracts, liability may be limited for the contract purpose, if possible in the respective Member State.
- Another option to reduce the liability of members is to use an associated company with limited liability.

For a more detailed description see Zillmer et al. (2020, pp. 28–32).

If the members of an EGTC are subject to limited liability, the name of the EGTC has to carry an extension detailing this, i.e. include the word 'limited'. Apart from this restriction the decision about the name is not defined. Often EGTC names refer to the geographic area, a historical name of the covered territory, its main objective or are an abbreviation based on either of these characteristics. It is recommended to consider the sensitivities of all parties involved and aim for a positive message to prospective members and other partners.<sup>9</sup> Table 3-5 summarises the main aspects, questions and actions when discussing and deciding about the liability requirements, registration of the office and the corresponding legal framework of the prospective EGTC.



**Table 3-5 Overview of questions and actions in this phase**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Legal framework	The acts of the organs of an EGTC are governed by the EGTC Regulation, the convention and the national law of the Member State where the EGTC is registered.	Art. 2(1)	<ul style="list-style-type: none"> <li>■ What are the national provisions in the Member States?</li> <li>■ What are the liability requirements of the implementation rules in all involved Member States?</li> <li>■ What are the pros and cons of the legal frameworks of relevant Member States for establishing the EGTC?</li> <li>■ Which may be most favourable or easiest to adapt for the EGTC?</li> </ul>	<ul style="list-style-type: none"> <li>■ Assessing the principal legal consideration of an EGTC in the relevant Member States (i.e. subject to public or private law)</li> <li>■ Conducting a preliminary comparative analysis of implementation rules using legal advice and/or a feasibility study</li> </ul>
	The convention shall specify the applicable Union law and Member State law where the EGTC is registered for the purposes of the interpretation and enforcement of the convention	Art. 8(2)(g)		
	The convention shall specify the applicable Union law and Member State law where the organs of the EGTC act	Art. 8(2)(h)		
	The convention shall specify the applicable Union law and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention	Art. 8(2)(j)		
Liability	An EGTC shall be liable for all its debts. If assets of an EGTC are insufficient to meet its liabilities, the members shall be liable according to the proportion of financial contribution	Art. 12(2)	<ul style="list-style-type: none"> <li>■ What is the status of the prospective EGTC members' liability?</li> <li>■ What are the national provisions applicable for the liability of EGTCs?</li> <li>■ Does the liability affect the name of the EGTC?</li> </ul>	<ul style="list-style-type: none"> <li>■ Assessment of liability requirements of relevant Member States and the prospective members</li> <li>■ Deciding how to meet the liability requirements set out by the Member States</li> <li>■ Consider the liability status when defining the EGTC's name</li> </ul>
	If the liability of at least one EGTC member from a Member State is limited due to its national law, other members may also limit their liability when the corresponding national implementing rules allow for this	Art. 12(2)(a)		
	If members of an EGTC have limited liability any concerned Member State may require an appropriate insurance covering risks of the EGTC activities	Art. 12(2)(a)		
Location of the registered office	The registered office of an EGTC shall be located in a Member State under whose law at least one EGTC member is established	Art. 1(5)	<ul style="list-style-type: none"> <li>■ In which Member State or state of a federal country where a prospective member is located shall the EGTC have its registered location?</li> </ul>	<ul style="list-style-type: none"> <li>■ Decide on the registered office based on the above legal reflections and possibly other rationale</li> </ul>
	The registered office of an EGTC also determines the applicable law and financial control procedures	Art. 6 & Art. 8 as above		
	If the setting up of the EGTC builds on existing cooperation structures that shall be transformed, other practical or political considerations may be relevant for the decision			

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

## 3.2.4 Financing and duration

The EGTC instrument is not a funding instrument. Establishing an EGTC does not entail any claim to receive an automatic financial support from whatever source or funding programme. Consequently, to implement any activities the EGTC needs financial and human resources. Project funding is usually not sufficient to ensure continuous working of an EGTC, not least because applying for projects requires resources. Thus, an EGTC relies on its own financial resources, possibly except for EGTCs established to implement an EU programme. Such EGTCs can benefit from the programme's technical assistance. More generally, sources for financing EGTC activities are usually:

- membership fees, which may be defined in different ways;
- fees from the provision of services, and
- project funding from Interreg, other funding from European Structural and Investment Funds (ESIF) or other programmes.

The EGTC needs to establish an annual budget. So a list of expected types of costs (see e.g. Zillmer, Lüer, et al., 2020, p. 40) should be established for a realistic budget assessment. Above all the budget should consider all running costs facilitating continuous work of the EGTC.

**Rule of thumb.** In most cases a stable financial basis is only ensured through membership fees. Rules for defining these fees can be very flexible. Project funds should be mostly used to finance additional activities within the defined tasks.

### Model solutions for defining membership fees

Different principles may guide the amount to be paid by each member:

- **Equal contributions by each member.** This may be the most suitable agreement to achieve equal treatment of members which is mirrored by equal voting rights in the assembly (e.g. one vote per member). The exact membership fee should then consider the financial capacities especially of members with lower budgets and resources.
- **Equal contributions by each member country.** Partners may agree that they want to facilitate equal roles per member country in the EGTC not only through equal votes per country but equal financial contributions. This solution may be suitable in cross-border contexts when financial resources are comparable on both sides of a border.
- **Contributions proportionate to the population represented by each member.** This addresses different financial resources of public authorities due to their administrative structures. For instance, this may be suitable if different government levels are involved on either side of a border (e.g. regional vs. local authorities).
- **Possibility for additional contributions.** Members may also agree on the possibility for additional financial contributions for specific tasks that may be provided by members individually. This could address a particular interest of a member as well as different financial capabilities between members.
- **Contributions in kind.** Members may finally agree on contributions through seconding staff and covering corresponding costs (e.g. management costs, travel costs) individually. These contributions are not considered in the liability share of the membership (amended EGTC Regulation Art. 12(2)).

Membership fees may also be subject to further decisions and are usually agreed by the assembly. Adjustments should search a balance between flexibility (e.g. changed EGTC needs and costs) and planning security. Some EGTCs agree every year on the contribution from members and others agree on a rolling basis or for period of e.g. five years.

See Zillmer et al. (2020, pp. 40–41) and <https://egtmonitor.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtc/>.

Finally, the duration of the EGTC needs to be decided, which in turn depends on the objective. Most EGTCs to date have been founded for an unlimited period of time. They may be closed upon a decision by the EGTC members, for which rules must be defined in the founding documents (see next section). However, some EGTCs may have objectives that can be achieved either at a certain moment or in a specific situation, for example:

- a programme management EGTC may be limited for the duration of the programme;
- an EGTC aiming to develop a certain infrastructure could limit its duration to the realisation of the infrastructure.

The duration of an EGTC covers the date of its establishment and the conditions for dissolution. Table 36 summarises the main aspects, questions and actions when dealing with the financing and duration of the prospective EGTC. The preparation phase ends with an agreement of all preparatory questions that facilitate development of the founding documents.

**Table 3-6 Overview of questions and actions in this phase**

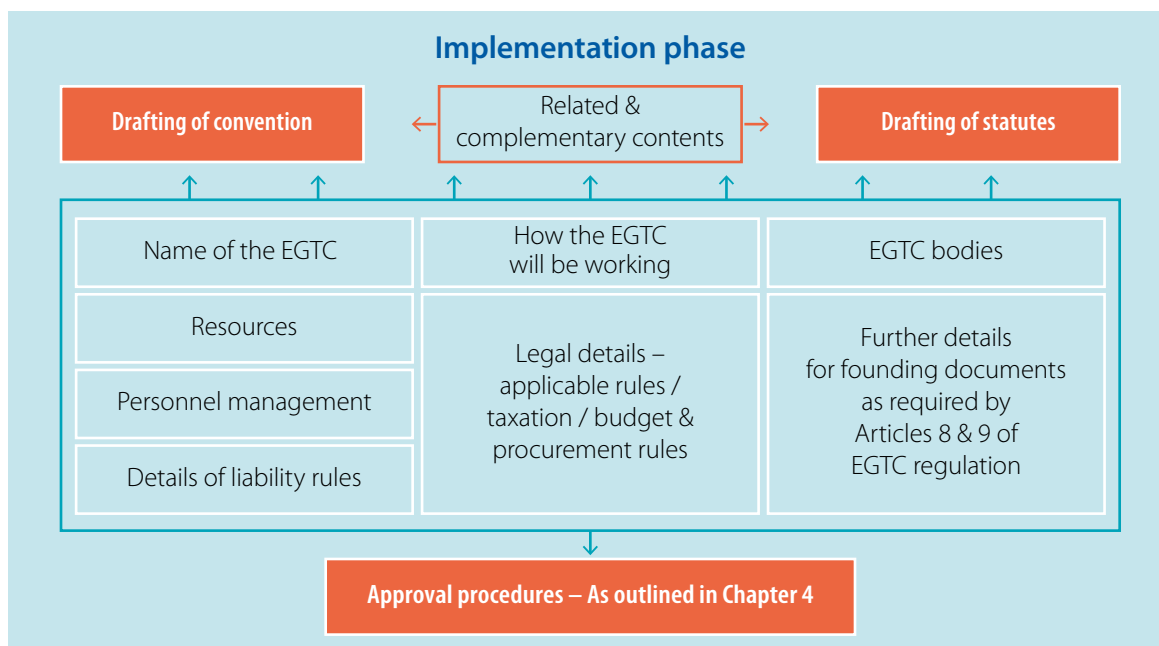
Step	Description	Art. in regulation*	Questions for discussion	Actions
Financing	An EGTC shall establish an annual budget to be adopted by the assembly	Art. 11(1)	<ul style="list-style-type: none"> <li>What is the type and amount of anticipated costs?</li> </ul>	<ul style="list-style-type: none"> <li>Develop a draft annual budget</li> <li>Decide on the rules and extent of membership fees</li> <li>Decide on accounting, control and auditing processes</li> </ul>
	The preparation of the accounts and the annual report, if required, auditing etc. are governed by the national law of the Member State where the EGTC has its registered office	Art. 11(2)	<ul style="list-style-type: none"> <li>What are feasible financial contributions from members?</li> <li>For how long should they be fixed?</li> </ul>	
	Arrangements for financial contributions shall be fixed in the statutes	Art. 12(2)	<ul style="list-style-type: none"> <li>What are the rules to define members' financial and other contributions?</li> <li>What are the procedures if a member cannot pay the fees as agreed?</li> </ul>	
	If the EGTC manages public funds the control is to be organised by the authorities of the Member State where the EGTC has its registered office. Controls in other Member States may be necessary depending on corresponding national requirements. All controls must fulfil international audit standards	Art. 6	<ul style="list-style-type: none"> <li>What control procedures have to be considered and preparatory measures taken?</li> </ul>	
Duration of the EGTC	The convention shall specify the duration of the EGTC and the conditions for its dissolution	Art. 8(2)(d)	<ul style="list-style-type: none"> <li>Shall the duration of the EGTC be unlimited or limited for a specific time or event?</li> </ul>	<ul style="list-style-type: none"> <li>Define the duration of the EGTC</li> <li>Develop processes for dissolution under different circumstances (using legal advice)</li> </ul>
	The Member State where the EGTC has its registered office may be dissolved if acting outside its approved tasks or cannot comply with other requirements	Art. 14	<ul style="list-style-type: none"> <li>What would be appropriate processes for dissolution?</li> </ul>	

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

### 3.3 Implementation phase – preparing the founding documents and working on details

In previous steps and phases the prospective members have built the cornerstones of their future EGTC. These need to be deepened and finalised in the last phase of setting up an EGTC prior to its approval. The approval procedures are detailed separately in Chapter 4. The phase described in this section is about implementing the preliminary decisions in the founding documents and refining them as required. Figure 34 summarises implementation steps. Some elements only need to be dealt with for the first time in this phase. Other elements with preliminary decisions taken during previous phases may require finalisation or even revision. There is no preferred order for organising the following steps as they are linked with each other. *The ultimate objective of this phase is to elaborate founding documents that can be approved by the Member States.*

**Figure 3-4 Main steps during the 3rd phase of setting up an EGTC**



Source: own elaboration based on Interact (2008), Zillmer et al. (2014, p. 6), and Zillmer et al. (2020)

#### 3.3.1 Drafting the founding documents

Convention and statutes are the founding documents of an EGTC. These are subject to approval procedures (see Chapter 4) before an EGTC obtains its legal personality. Therefore, it is recommended to contact approval authorities for informal consultation at the latest when a first draft of the founding documents is available.<sup>10</sup> Art. 8 and 9 of the EGTC Regulation list the required content of each document (see Table 37). Using the order of content as outlined in these articles is recommended. Additional elements may be included if useful. It is, however, recommended to include these possibly in the statutes rather than the convention, since any change in the convention is subject to approval by national authorities. Several of the corresponding items have been introduced in previous steps. When drafting the two founding documents consistency is extremely important.

Table 3-8 summarises the main aspects, questions and actions when drafting the founding documents.

**Table 3-7 Overview of contents in the EGTC convention and statutes**

Convention (Art. 8)	Statutes (Art. 9)
Name & registered office	Operating provisions of EGTC organs, competences & representation of members in them
Territory	Decision-making procedures of the organs
Objective(s) & tasks	Working language(s)
Duration & conditions for dissolution	Other functioning arrangements
List of EGTC members	Personnel management and recruitment procedures
List of EGTC organs & their competences	Arrangements for members' financial contributions
Applicable Union law & law of the Member State where the office is registered	Applicable accounting & budgetary rules
Applicable Union law & law of the Member State where the EGTC organs act	Designated external auditor
Arrangements for involvement of members from third countries or OCTs and relevant law	Procedures for amending the statutes
Applicable Union law & national law relevant for the EGTC activities	
Rules applicable to EGTC staff & the main governing arrangements	
Liability arrangements	
Arrangements of mutual recognition, for financial control & public funds	
Procedures for adopting statutes and amending the convention	

Source: Elaboration based on Regulation (EC) 1082/2006 as amended by Regulation (EU) 1302/2013

**Table 3-8 Overview of questions and actions for drafting**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Convention	An EGTC shall be governed by a convention concluded unanimously by its members	Art. 8(1)	<ul style="list-style-type: none"> <li>■ Have all elements listed in Art. 8(2) of the amended EGTC Regulation been agreed?</li> <li>■ Are the formulations clear but not too limiting, to avoid amendments?</li> </ul>	<ul style="list-style-type: none"> <li>■ Drafting the convention proposal</li> <li>■ Review for consistency of articles within the convention</li> <li>■ Unanimous agreement to the proposal by all members</li> </ul>
	Any amendment to the convention or to the statutes shall be notified by the EGTC to the Member States under whose law the members are established. Any amendment to the convention, except for the accession of a member in a Member State that has already approved, is subject to approval by the relevant Member States	Art. 4(6)		
Statutes	The statutes shall be adopted in accordance with the convention unanimously by the EGTC's members	Art. 9(1)	<ul style="list-style-type: none"> <li>■ Have all elements listed in Art. 9(2) of the amended EGTC Regulation been agreed?</li> <li>■ Are any additional elements necessary to be considered in a binding document?</li> <li>■ If so, must this be included in the statutes or could this be in a separate internal (self-committing) document?</li> </ul>	<ul style="list-style-type: none"> <li>■ Drafting of the statutes</li> <li>■ Review for consistency of articles between convention and statutes</li> <li>■ If required, drafting a self-committing document for additional agreements not necessarily included in the statutes</li> <li>■ Unanimous agreement to the proposal by all members</li> </ul>

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

### 3.3.2 Elaborating the working routines of the EGTC

Most aspects of the working routines will be laid down in the statutes. However, some have to be included in the convention, i.e. the rules and arrangements related to EGTC staff. The following focuses especially on aspects in Figure 34 that have not yet been addressed at least implicitly.

#### EGTC bodies and decision-making procedures<sup>11</sup>

According to the EGTC Regulation only two organs are mandatory – the assembly and the director. Other organs or bodies may be added. This may also depend on national rules in the Member State with the registered office or other needs by the prospective EGTC. Frequent other organs or bodies are:

- president or chair;
- vice-president(s) or vice chair(s);
- managing or executive committee or board;
- general secretariat or joint office;
- advisory or auditing board or other advisory committees.<sup>12</sup>

Since the statutes of an EGTC can be amended more easily than the convention, it is recommended to only include the list of organs and their competences in the convention. Further details on the composition, tasks and working processes should be described in the statutes. The same holds for additional bodies that are not necessarily organs of the EGTC. This allows for more flexibility if later adjustments of working procedures become necessary.

<sup>11</sup> If not specified the following draws on findings from Zillmer et al. (2020, pp. 21–24).

<sup>12</sup> For examples and relationships between bodies see e.g. Zillmer et al. (2015) and <https://egtcmonitor.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtc/>.

Overall, a structure should be developed that fulfils the requirements of the EGTC in terms of its membership structure, objectives, tasks and national legislation. This is required to define the decision-making procedures and functioning of the EGTC in the statutes as required by the amended EGTC Regulation (Art. 9(2)(b) and (2)(d)). Developing a scheme<sup>13</sup> to visualise the intended organisational set up may support the drafting of corresponding articles in the EGTC statutes. It also helps ensure transparency and develop a common understanding of internal roles, rules and relations. In addition, the differentiation of three levels of an EGTC may be helpful:

- political level for internal decision-making;
- strategic level for designing and structuring activities and joint projects;
- administrative level for everyday operations.<sup>14</sup>

Table 3-9 summarises the main aspects, questions and actions when defining the bodies and working procedures of the prospective EGTC.

**Rule of thumb.** Apart from meeting the legal requirements, the prospective structure of bodies and rules should aim at balancing democratic representation and workable lean structures.

**Table 3-9 Overview of questions and actions for organs and decision-making procedures**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Organs	An EGTC shall have at least two organs: an assembly with representatives of the members and a director acting on behalf of the EGTC	Art. 10(1)	<ul style="list-style-type: none"> <li>■ Are all members included in the assembly and is a balance of votes ensured?</li> <li>■ Should the director be subject to rotating rules?</li> <li>■ Should power be distributed through additional organs (deputies)?</li> </ul>	<ul style="list-style-type: none"> <li>■ Defining rules for a balanced member's presentation in the assembly</li> <li>■ Agree on the director, possible deputies and rotation rules</li> </ul>
	Additional organs with specific powers may be defined in the statutes	Art. 10(2)		
	An EGTC is liable for the acts of its organs	Art. 10(3)		
Decision-making procedures and functioning	The functioning of the EGTC requires clear and transparent procedures facilitating trust and ensuring workability (i.e. avoid an overload with administrative processes and tasks)		<ul style="list-style-type: none"> <li>■ What are the responsibilities of the bodies?</li> <li>■ What are the working routines of the bodies?</li> <li>■ How and when do they meet?</li> <li>■ How do they take decisions?</li> <li>■ What are the working languages?</li> </ul>	<ul style="list-style-type: none"> <li>■ Developing a scheme with links between the EGTC bodies</li> <li>■ Defining responsibilities, decision-making rules and working routines for each body</li> <li>■ Agreeing on working languages</li> <li>■ Checking for consistency and simplicity of the rules and relations</li> </ul>

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

## Staff related arrangements<sup>15</sup>

Staff related arrangements of EGTCs face specific challenges due to the need for cross-border work or possible differences in salary levels and rules for staff on either side of the border. Apart from employing its own staff an EGTC may rely on external staff through secondment and deployment or service contracts.

An EGTC may combine different solutions and has a free choice for choosing the applicable law (Knöfel, 2017). If not explicitly decided, staff employed by the EGTC are usually subject to the rules of the Member State for the usual work location,

<sup>13</sup> For inspiration see empirical examples e.g. in Zillmer et al. (2015, pp. 91–117) or Zillmer and Lüer (2017, pp. 40–41).

<sup>14</sup> See <https://egtcmirror.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtcs/>.

<sup>15</sup> If not specified the following draws on findings from Zillmer et al. (2020, pp. 37–39).

which does not have to be the Member State with the registered office. Any staff changing working location may be affected in terms of payment, labour law, holiday entitlement and social insurance. Especially to ensure consistent rules for all staff, it is also possible to combine legal rules of the involved Member States. For instance, it is possible to use the rules for holiday entitlement of one country and define public holidays in line with another country and include special holidays according to the country of origin of staff (Knöfel, 2017, pp. 208–209). These rules can contribute to harmonisation but may not disadvantage employees. It is recommended to list all relevant national legislation in the founding documents and to specify their application further in an internal service regulation. Table 3-10 summarises the main aspects, questions and actions in relation to staff arrangements of the prospective EGTC.

**Table 3-10 Overview of questions and actions for staff related arrangements**

Step	Description	Art. in regulation*	Questions for discussion	Actions
Staff	An EGTC may employ staff	Art. 1(4)	<ul style="list-style-type: none"> <li>■ Shall the EGTC employ its own staff?</li> <li>■ What are the most suitable rules framing employment contracts and supporting equal treatment of staff?</li> <li>■ What should be included in the founding documents and what is better suited for an internal service regulation?</li> </ul>	<ul style="list-style-type: none"> <li>■ Agree on the main sources of EGTC staff (in-house vs. external)</li> <li>■ Analyse the alternatives for designing processes and rules applicable for staff</li> <li>■ Detailing the relevant rules related to payment, labour law, social insurance etc. possibly in an internal service regulation (adding to information in the convention and statutes)</li> </ul>
	If staff are to be employed by the EGTC the <b>principles</b> governing the arrangements for staff management and recruitment procedures have to be defined	Art. 8(2)(k)		
	<b>Procedures</b> of personnel management and recruitment have to be laid down in the Statutes	Art. 9(2)(e)		

\* Regulation (EC) No 1082/2006 as amended by Regulation (EU) No 1302/2013

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### 3.3.3 Refining preliminary decisions

Preliminary decisions may require revision throughout the drafting process. This may result from:

- initial (informal) feedback from approval authorities regarding their requirements;
- identification of inconsistencies between or within the convention and the statutes;
- feedback loops with individual member decision-making bodies requesting adjustments;
- (informal) feedback from approval authorities may lead to revision in the overall setup including e.g. the location of the registered office;
- reactions from one member or authority to requirements and feedback raised by another member or authority, i.e. repercussions and follow-up feedback.

Apart from refining preliminary decisions this phase may also be used to obtain further clarity on legal details affecting the future work of the EGTC. This includes, inter alia, taxation, procurement and the provision of public services.

**Rule of thumb.** The possibilities of the EGTC to act as an economic player affect the applicable national law and implications for taxation and budget considerations. Thus, early clarification of the perception of the Member State's approval authority with the proposed registered office is crucial for consistency in the founding documents.

## Taxation<sup>16</sup>

As mentioned above, the law of the Member State where the registered office is located is decisive for the legal assessment of the EGTC and affects the rules for taxation. Above all, it matters whether the EGTC is subject to public or private law, which may differ not only between countries but may also differ from case to case (see Section 2.3). An EGTC considered as a:

16 The following is based on Zillmer et al. (2020, pp. 33–34) and Kudert & Kopec (2017) and information kindly provided by MOT and CESCL.



- private legal person is typically subject to corporate income tax, business tax, other taxes for private entities in a Member State and VAT – depending on the taxes applicable for private corporate entities in a certain Member State. If a private legal person has a non-profit status, they may benefit from tax reductions or exemptions;
- public entity has to be assessed in an even more differentiated way. To assess whether the EGTC is subject to any or several taxes for private legal persons not only on the status as a profit or non-profit entity matters. Other decisive factors may be the character of EGTC tasks or the volume of business activities. In principle, business activities tend to be subject to different tax regimes than typical public tasks. This requires individual assessment case by case.

Experience shows that this assessment is Member State specific and difficult to understand by EGTC members from Member States other than the one where the registered office is.

EGTCs act across borders and may be subject to different tax regimes, for instance if the main activity is not in the Member State where the registered office is located, or if the registered office and the management office are in different Member States. The latter also happens if more than one office is responsible for implementing the tasks of the EGTC. In this case, an EGTC that is subject to corporate income tax has to consider the relevant treaties to avoid double taxation.<sup>17</sup>

## Procurement rules<sup>18</sup>

As an entity with a legal personality the EGTC may conclude contracts with other entities and persons. In some cases, procurement rules come into play with the EGTC acting as a public purchaser of market goods and services.

If the EGTC acts on its own or on behalf of its members, the EGTC may choose the national procurement law of the Member State with the registered office or where the EGTC implements its activity. The national law may even change over time depending on agreement by the assembly or on individual contracts. The reference to the applicable procurement law in the convention is thus decisive for future flexibility – it may explicitly name one national law or allow for ad hoc decisions of the assembly by naming alternatives. To assess the most suitable national procurement law, legal advice is recommended.

If the EGTC buys goods or services on behalf of its members, national procurement law of the Member State applies where the members are located.

Finally, the EGTC may provide services for one, several or even all members. Here public procurement rules must be applied, except where an in-house procedure can be justified (see box below) or specific relations between the EGTC and the purchaser can be assumed. For instance, a horizontal cooperation between an EGTC and other public entities can be agreed without procurement if it is a public obligation without a market-relevant performance. Also for vertical cooperation, where the EGTC requests a service from a controlling member, no public procurement is required.

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### Criteria for in-house procedure without public procurement

Three criteria may be used to assess whether a public procurement is necessary if members request a service from the EGTC. The so-called in-house procedure is justified under the following conditions:

- **Control criterion.** The purchasing entities exercise control over the EGTC similar to their own offices. This can be assumed if the purchaser decisively influences strategic objectives and important decisions of the EGTC.
- **Materiality criterion.** The EGTC implements most of the activities for its members.
- **Investment criterion.** The member has no direct private investment in the EGTC, which is always ensured for EGTCs since all members have to be public.

See Zillmer et al. (2020, pp. 36–37) and Klinkmüller (2017, pp. 268–272)

## Provision of cross-border public services<sup>19</sup>

EGTCs may contribute to the provision of CPS in different ways. The amended EGTC Regulation defines in Art. 7(4) that the assembly of an EGTC may define the conditions for using an infrastructure managed by the EGTC or for providing SGEL, including payment by users.

EGTCs may thus contribute to CPS provision across all relevant sectors of public services and to a very different extent. Their focus is usually on a cross-border context. The following four types of contribution may provide some guidance:

<sup>17</sup> For a detailed assessment (from a German perspective) see e.g. Kudert & Kopec (2017, pp. 289–293).

<sup>18</sup> The following is based on Zillmer et al. (2020, pp. 35–36) and Klinkmüller (2017). The latter provides a detailed assessment of the different feasible relations.

<sup>19</sup> The following is based on Zillmer et al. (2020, pp. 51–55), European Committee of the Regions (2018) and Zillmer, Hans, Lüer & Toptsidou (2020). These references include examples for EGTCs providing such services.

- **The EGTC brings stakeholders together who are responsible for providing public services.** This is the most indirect contribution to service provision but may be crucial for initiating cross-border services. EGTCs often facilitate contacts between sectors and understand local and regional responsibilities in the involved Member States.
- **The EGTC initiates SGEI provision through interim solutions.** Piloting cross-border service provision can be facilitated by an EGTC if this is covered by its task description. This helps to specify the cross-border need for a joint service and identifies particularities that should be considered when establishing a continuous service through the responsible authorities on either side of the border.
- **The EGTC provides SGEI under specific conditions or as part of its tasks.** For some EGTCs public service provision is crucial as an EGTC task. This happens most frequently if an EGTC has been founded to enhance cross-border environmental protection or manage a natural landscape or other protected area. The objectives require typically environmental services or sometimes cultural services for valorisation of the protected area.  
An EGTC may also facilitate the joint offer of SGEI principally provided by public authorities on either side of the border. This may include the coordination of services and cross-border use of infrastructure.
- **The EGTC is founded explicitly to provide SGEI.** This often requires a particular membership and organisational structure that deviates from the majority of existing EGTCs. So far, only the EGTC Hospital Cerdanya was explicitly founded for such a purpose but similar EGTCs could also be set up in other policy fields.

The 'implementation phase' ends with formal submission for approval in all involved Member States and possibly third countries along with registration in the Member State with the registered office.

## 4. Approval and registration guide

A follow-up question to setting up an EGTC concerns application and registration procedures for a new EGTC or modification of an existing EGTC if new members seek to join it. This question complements the previous chapter as registration is part of the establishment process. The previous chapter focused on content-related aspects defining the *characteristics of an EGTC*. The first section of this chapter focuses on the *process* to prepare and implement a smooth registration (section 4.1). As a general guide, it will provide answers on the sequence of steps and illustrate them using a theoretical example of an EGTC with members from three countries, one a federal country with an approval authority at regional level. In the next section, further information will be provided on modifying an existing EGTC, distinguishing three cases (section 4.2). The last three sections provide country specific insights about procedural requirements for EU Member States (section 4.3), neighbouring countries (section 4.4) and also present the current status of countries for which no further information is available (section 4.5).

### 4.1 How to approve and register an EGTC

The different steps towards registering a newly established EGTC differ between Member States and may vary even from case to case. They depend on individual requirements and consulting procedures in the Member States involved in the foundation process. Nevertheless, key steps can be identified and described. These cover both formal and informal processes. The formal steps are essential to achieve approval for all prospective members. Informal steps support and facilitate the setting up process and smooth the transition between the steps. Deviations from the suggested order might be necessary and even useful. Some steps might also run in parallel or stretch over a longer period of time during which other steps can be concluded and/or started.

Figure 41 gives an overview of the entire approval and registration process, from submitting internal notifications about the intention to establish an EGTC to concluding the registration. Under each theoretical step, a text box with a theoretical example of three regional entities illustrates the general information.

**(1) Internal notification about intention.** If a cross-border, transnational or interregional partnership wishes to establish an EGTC, it is important that each prospective member notifies its own internal decision bodies to enable it to join. Form, content and procedures of this notification depend on the prospective member.

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*This and the following boxes give an example of the principal steps for founding an EGTC with three counties/districts in a trilateral border area with centralised G-Country and D-Country, and federal F-Country where the F-Region administration is the approval authority.*

After a positive needs' assessment (see Section 3.1) the three districts decide to intensify cross-border cooperation at local level to improve the accessibility and quality of public services for citizens in the border area. The administrations of the three districts agree to collaborate in different fields, from tourism and business development to education and public transport. To plan and prepare future activities in these fields, the three districts intend to establish an EGTC. Each district administration informs its own legislative body of this intention.

**(2) Internal, formal decision about intention.** As a second step, the decision bodies of all prospective members individually take the formal decision about their intention to become a member of the EGTC. After the decision has been taken, the representative responsible for the EGTC foundation process informs all other prospective members. The members may then make a joint declaration to announce their intention. While not formally required this joint declaration may be beneficial for transparency.

The responsible administrative units in the three districts develop a text for a formal decision of each district about the intention to establish an EGTC in all three languages. This helps to achieve consistent formulations and decisions in the three district parliaments. These parliaments and responsible legislative bodies individually take the formal decision. After adoption, the administrative units representing the three districts inform each other about the formal decision. To underline political support and reach out to a wider public, they draft an additional political declaration. Key political representatives of the three districts sign this declaration at a joint symbolical event.

**(3) Informal notification to approval authorities.** When all formal decisions about the intention are taken by the decision bodies, each prospective member may inform the approval authority for the respective jurisdiction. For this step, a first

informal notification is sufficient. The main purpose is to initiate informal exchange with the approval authority and prepare the formal process. Two aspects are relevant which imply that this step may be handled very differently from case to case:

- In some EU Member States, informal exchange between an interested prospective partner and the responsible approval authority is not possible or expected due to the political-administrative structures, processes and responsibilities.
- In some EU Member States, the approval authority is not the only authority to be involved. If other ministries and/or authorities have to be consulted later in the formal process, the approval authority may also want to consult them in informal exchanges about the EGTC foundation. Regardless of the actual involvement of other ministries and/or authorities, it is helpful to be aware of who will be involved.

Each district informs its approval authority about the formal decision and intention to establish an EGTC. In the theoretical example, the following authorities are responsible:

- the Ministry for Spatial Development in C-Country,
- the Ministry of Foreign Affairs in D-Country and
- the Regional Office for Local Affairs of F-Region in F-Country.

**(4) Preparation and implementation of the coordination process.** It is important to organise and ensure a smooth procedure that involves all prospective members and, preferably, all approval authorities. The coordination process is important on two levels. First, bilateral exchange between each prospective member and the approval authority and second, exchange between the prospective members to keep track of progress. Although beneficial, the first level may not be feasible for all members due to the reasons outlined in step 3 above. The second level is however crucial and deals with the characteristics described in Chapter 3. Some key elements can be beneficial to setting up a good coordination process:

- From a practical perspective, it can be useful to share contact details of all prospective members, approval authorities and other bodies involved in the process. This facilitates direct exchange among prospective members and approval authorities. This is only important, of course, if the approval authorities agree to cooperate and exchange directly.
- A master document can help monitor progress on the convention and statutes. Controversial issues can be identified more easily, e.g. when different approval authorities raise conflicting concerns about the content of the documents.
- To avoid endless loops of comments on draft founding documents (convention, statutes), it is beneficial to develop a shared understanding of the entire process. This can result in a written document with details of the steps to be taken and specific guidance for the foundation process. It can be shared with all prospective members and approval authorities.
- Especially in EU Member States where direct informal exchange with the approval authority is not possible, other channels need to be identified and explored to get a better understanding of the requirements. This can be done by consulting, for example, with non-governmental institutions (NGOs) that work on the EGTC instrument and/or cross-border cooperation, existing EGTCs or organisations with further advanced foundation processes. If prospective members are not aware of any such institutions in their Member State, the European Committee of the Regions (CoR) might provide further information and contact details.

As soon as all the players are informed, the preparation process as well as drafting the convention and statutes begin. Representatives of the three districts organise a coordination meeting, also inviting representatives from the approval authorities. The objective of this meeting is to get to know each other, as well as agree on the timeline and details of the process, e.g. who communicates with whom and how.

Over the next weeks, the three districts agree on the principal characteristics of the EGTC as outlined in Section 3.2. Based on these characteristics, the three districts draft a rough outline of the convention and statutes that is presented and discussed with each other and with the approval authorities. The three districts agree, *inter alia*, that the office of the EGTC will be registered in C-Country.

Once the three districts find common ground on most characteristics, the drafting process begins. Approval authorities from C-Country, D-Country and F-Region are invited to submit their comments on the draft convention and statutes, involve additional authorities (if necessary) and ask the three districts to develop the convention and statutes further. The districts keep track of incoming comments, identify controversial issues and organise further coordination meetings to clarify these issues. They also ensure that the latest draft is always available for the three approval authorities. As soon as all comments are incorporated and all players agree, the drafting process is concluded.

**(5) Official request for approval.** After all prospective members and, possibly, all approval authorities informally agree on the statutes and convention, each prospective member can submit an official request for approval of its EGTC membership to its approval authority. This request must include the agreed convention and statutes (Art. 4(2)(b), EGTC regulation).

Usually, all prospective members can take this step in parallel, including prospective members in the Member State where the office will be registered.

In some Member States, however, the approval and registration processes are interlinked. These Member States combine step (6) on formal approval of membership for the prospective member and step (9) on registration. If this is the case in the Member State where the registered office of the EGTC will be, involving the Member State approval authority informally from the very beginning (see steps (3) and (4)) is strongly recommended. Otherwise, the approval authority will see the final version of the convention and statutes only for the official request for registration (step (9)). It would not have the opportunity to comment on the convention and statutes in due time. As a consequence, it might deny both approval and registration, which would lead to considerable delay and additional approval procedures by the other Member States after amending the founding documents.

The three districts and their national/regional approval authorities agree on the convention and statutes. Each district now drafts and submits an official request to its approval authority.

**(6) Formal approval.** Each approval authority decides within six months on all prospective members in its jurisdiction.<sup>20</sup> This approval covers the prospective members' participation in the EGTC as well as the convention (Art. 4(3), EGTC regulation). The approval authority approves participation and the convention unless (i) either or both does not conform with EGTC regulation, EU or national law, (ii) is not justified for reasons of public interest, or (iii) the statutes are inconsistent with the convention (Art. 4(3)(a-c), EGTC regulation).

For the approval procedure, the approval authorities for G-Country, D-Country and F-Region follow their internal provisions. If necessary, they request additional documents and/or evidence. Within six months each approval authority informs the respective district about the decision and submits formal approval.

**(7) First meeting of the assembly.** If all approval authorities have submitted their official approvals, the members can organise the first assembly meeting. Beforehand, each member must decide who represents the partner in the assembly. The purpose of the first meeting is twofold. First, the assembly members officially adopt the final version of the convention and the statutes as approved by the approval authorities. Second, they elect or appoint the director who represents the EGTC and acts on its behalf. This way, the two mandatory organs are established (Art. 10(1), EGTC regulation). The EGTC has however not yet accomplished its own legal person.

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The three districts regularly exchange on progress of the approval process. As soon as all three approvals are provided, they organise the first assembly meeting following the provisions in the convention. This includes various preparation steps, e.g. the three district parliaments elect members for the assembly and the three districts agree on a director who acts on behalf of the EGTC. At the first assembly meeting, the assembly approves the convention and statutes and appoints the director who will be responsible for EGTC activities at operational level. In addition, the three districts agree to establish a board of presidents which consists of the three leading politicians of the counties. The leading politician from the district of G-Country will be the first president as the districts previously agreed that the registered office will be in G-Country (see under (4)). During the presidency of the district of G-Country, leading politicians from the districts in D-Country and F-Region will be vice-presidents. The presidency rotates every three years between the three members.

**(8) Final versions of convention and statutes.** The director who represents the EGTC and acts on its behalf, sends the final versions of the convention and the statutes, as adopted by the assembly, to the approval authority in the Member State where the office will be registered and requests registration of the EGTC and/or the publication of the convention and the statutes.

After the assembly meeting, the newly appointed director contacts the approval authority of G-Country, i.e. the Ministry for Spatial Development by letter asking to register the EGTC in G-Country and submitting the convention and statutes approved by the assembly.

**(9) Registration and legal personality.** The approval authority of the Member State where the office will be registered registers the EGTC and/or publishes the convention and statutes in accordance with national provisions. Whether registration and publication are needed or either is sufficient, is subject to national implementation of the EGTC regulation. The

<sup>20</sup> Art. 4(3) of the EGTC Regulation allows for tacit approval: 'If the Member State (...) does not raise an objection within that period, the participation of the prospective member and the convention shall be deemed to be approved.' Experience from existing EGTCs shows however that this is not a suitable option. Entities intending to establish an EGTC should always seek explicit approval.

EGTC acquires legal personality on the date of registration or publication of the convention and statutes, whichever occurs first (Art. 5(1), EGTC regulation). At this point the EGTC exists officially.

This step assumes the approval authority of the Member State where the office is registered (i) was involved in the coordination process and (ii) separately approved participation of the EGTC member(s) in its jurisdiction. In some Member States, however, the approval and registration processes are interlinked (as described above). In these countries, the approval authority does not decide on the approval and registration in separate processes. In such cases, the Member State where the registered office will be located, will only now approve the membership and convention as described in step 6 and immediately also register and/or publish the EGTC. In this case steps 6 to 8 have to be adjusted.

According to the national implementation rules of the EGTC regulation, acquiring legal personality requires both registration of the EGTC and publication of the founding documents. The Ministry for Spatial Development in C-Country as approval authority of the country where the EGTC is registered, carries out the internal procedures to register the EGTC in the national register. It also forwards the convention and statutes to the ministry responsible for the official national journal for public announcements.

**(10) Information about registration at national level.** Despite having acquired legal personality, all EGTC members and national approval authorities still need to be informed about the registration of the EGTC and/or publication of the convention and statutes. The approval authority that registered the EGTC and/or published the convention and the statutes informs the director of the EGTC. The director informs all other EGTC members, and each EGTC member informs its approval authority (Art. 5(1), EGTC regulation). If more than one member falls under the jurisdiction of an approval authority, it is sufficient the approval authority is notified once. The respective EGTC members should coordinate their activities in this regard. This step of maintaining information flows ensures full transparency among all institutions involved and allows all relevant approval authorities to trigger follow-up activities, e.g. internal notifications or registrations of EGTC memberships, or setting up control structures.

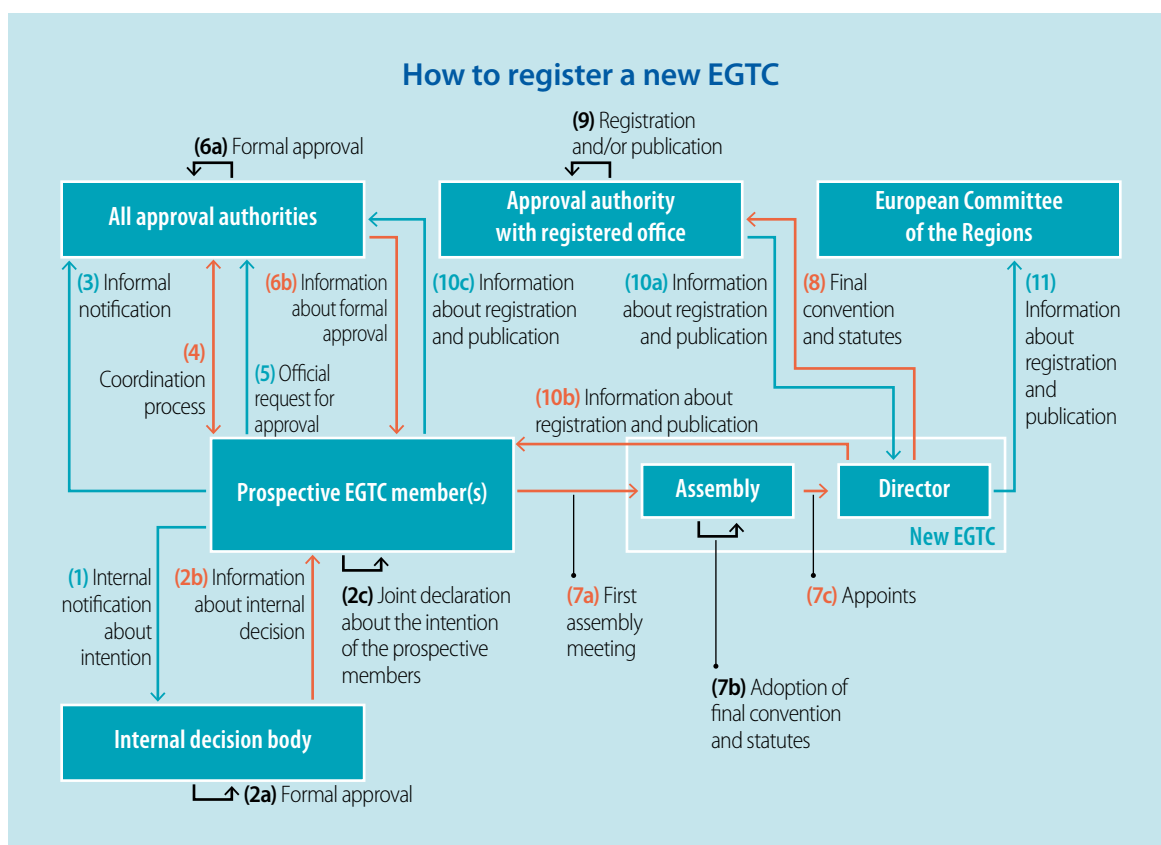
The Ministry for Spatial Development in C-Country informs the director of the EGTC that the EGTC was successfully registered and the convention and statutes were officially published. The director informs the contact persons in the districts in D-Country and F-Country who forward the information to the Ministry of Foreign Affairs of D-Country and, respectively, the Regional Office for Local Affairs in F-Region.

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**(11) Information about registration at EU level.**<sup>21</sup> Within ten working days, the EGTC director submits a request to CoR to announce establishment of the EGTC in the Official Journal of the European Union (Art. 5(2), EGTC regulation). For this, the director can use the form on the EGTC Platform. For further information, see chapter 5. Submission of the form concludes the establishment and registration process.

The director of the EGTC uses the annex of the EGTC Regulation to draft and submit a request to the CoR and asks the CoR to announce the successful establishment of the EGTC on EU level, through the Official Journal of the European Union.

**Figure 4-1 Overview of steps to register a new EGTC**



## 4.2 How to modify an existing EGTC

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After establishing an EGTC a need for modifications may arise. Depending on the modification, different procedures must be applied. The following principal situations may be distinguished:

- The modification does not affect the convention and statutes but refers to internally defined processes. In this case, the EGTC assembly can agree on the change without further approval.
- If the statutes require a modification to adjust working routines, the members need to notify their approval authorities about the change in the statutes.
- If the convention needs a modification other than a change of members, the EGTC members must notify their approval authorities and request approval of the change.
- The convention must be modified because of a change in membership of the EGTC. Here, three different cases can be distinguished (Art. 4(6a), EGTC regulation):
  - First, the new member is in an EU Member State that has already approved the convention. If the new member is in a federal country with decentralised approval authorities, the same principle is applied at federal state instead of Member State level.
  - Second, the new member is in an EU Member State that has not yet approved the convention. If the new member is in a federal country with decentralised approval authorities, the same principle is applied at federal state instead of Member State level.
  - Third, the EGTC Regulation also allows members from non-EU countries. They may join an EGTC, whether existing or newly set up. Here, the particularities are illustrated modifying the EGTC membership but also apply for the foundation process.

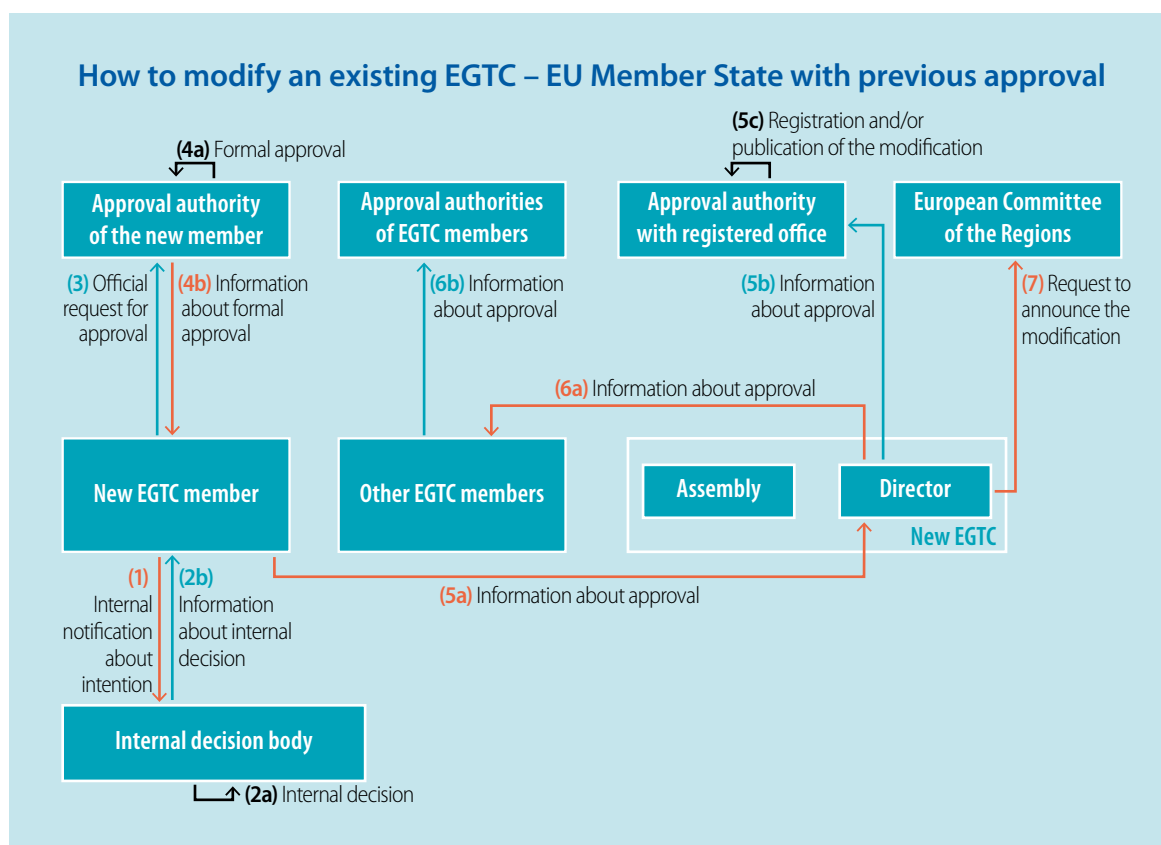
The following sub-sections detail three scenarios of a changed membership, since these are the most common changes to EGTC conventions seen so far.

## 4.2.1 EU Member State that already approved the convention

If a prospective new member is from an EU Member State that already approved the convention, the approval authority approves the accession and notifies the approval authority where the office is registered. All other authorities only receive a notification. Upon agreement between the EGTC assembly and the prospective new member, the steps are as follows:

1. The new EGTC member internally informs its own decision body about the intention to become member of an existing EGTC (for more details, see step (1) in section 4.1).
2. The decision body decides and informs the new EGTC member (for more details, see step (2) in section 4.1).
3. The new EGTC member submits a request for approval to its approval authority (for more details, see step (5) in section 4.1).
4. The approval authority decides on the request within six months and informs the new member (for more details, see step (6) in section 4.1).
5. The new EGTC member notifies the approval authority of the EU Member State where the EGTC is registered about the approval. This is usually done by the EGTC director. Depending on the national implementation rules, the approval authority of the EU Member State where the EGTC is registered may have to modify the registration and/or publish the modified convention and statutes.
6. The director informs all other EGTC members, and each member informs its approval authority. If more than one member is in the jurisdiction of an approval authority, it is sufficient that it is notified only once. The respective EGTC members should coordinate their activities in this regard (for more details, see step (10) in section 4.1).
7. The director informs the CoR about the modification and can use the form on the EGTC Platform. For further information, see chapter 5.

**Figure 4-2 Overview of steps to modify an existing EGTC – EU Member State with previous approval**





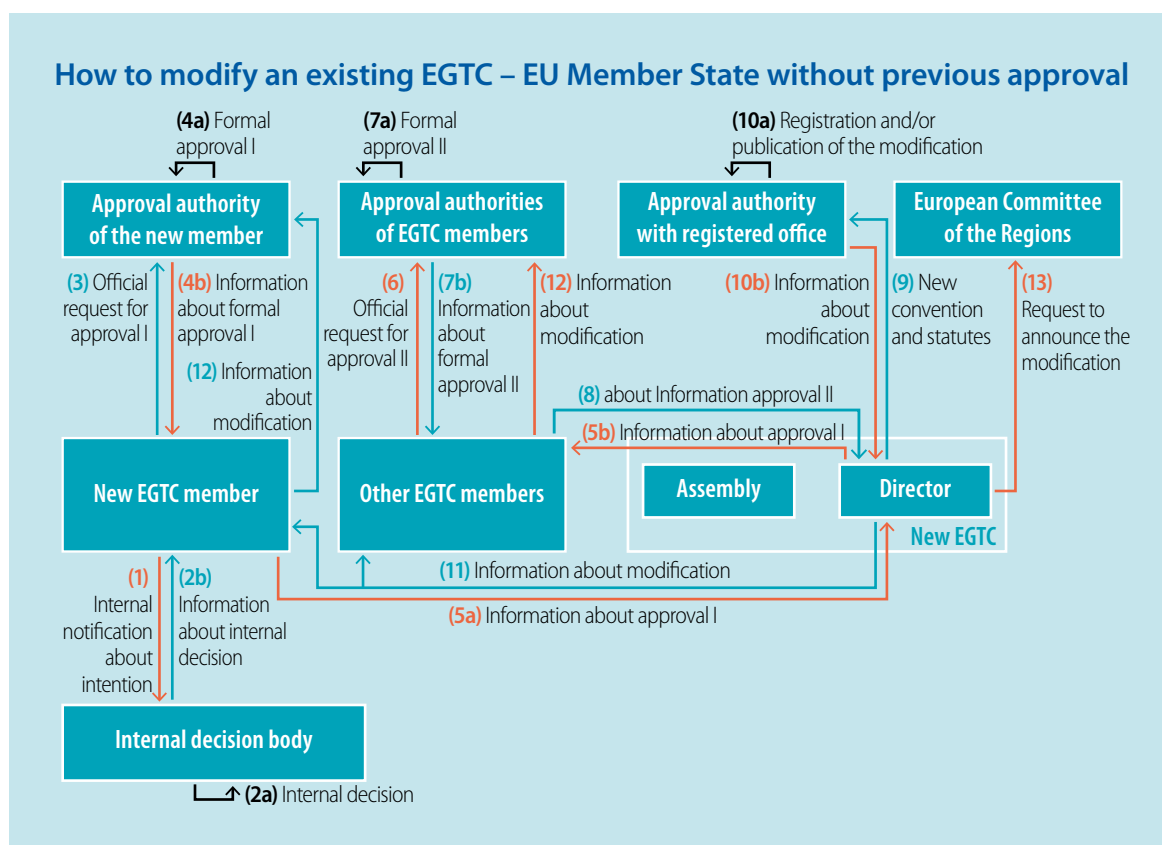
## 4.2.2 EU Member State that has not yet approved the convention

If a new member is from an EU Member State that has not yet approved the convention, all approval authorities responsible for current EGTC members shall approve the new member. The director prepares the request for approval and can send out and collect the requests for approval centrally or involve the EGTC members. If the new member and/or its responsible approval authority require substantial amendments to the convention, all other approval authorities have to approve the new version of the convention. Overall, two approval procedures can be distinguished. The first (approval I) concerns the prospective member requesting approval from its approval authority. The second procedure (approval II) concerns all other EGTC members (including the one where the registered office is located)<sup>22</sup> and their approval authorities that need to approve the amendment to the convention. The processes of approval I and approval II can be implemented in parallel (i.e. steps (1) to (4) and (6) to (7)) assuming no approval authority raises objections. Upon agreement between the EGTC assembly and the prospective new member, the steps are as follows:

1. The new EGTC member internally informs its own decision body about the intention to become a member of an existing EGTC (for more details, see step (1) in section 4.1).
2. The decision body decides and informs the new EGTC member (for more details, see step (2) in section 4.1).
3. The new EGTC member submits a request for approval to its responsible approval authority (for more details, see step (5) in section 4.1).
4. The approval authority decides on the request within six months and informs the new EGTC member (for more details, see step (6) in section 4.1).
5. The new EGTC member notifies the director who informs all EGTC members.
6. Each EGTC member individually submits a request for approval to its approval authority. If more than one member falls under the jurisdiction of an approval authority, the approval authority need only be notified once. The respective EGTC members should coordinate their activities in this regard.
7. Each approval authority decides on the request and informs their EGTC members.
8. Each EGTC member informs the director of the EGTC about the respective approval.
9. The director of the EGTC sends the new version of the convention and the statutes to the approval authority of the EU Member State where the office is registered.
10. The approval authority of the EU Member State where the office is registered publishes the amended convention and/or amends the EGTC registration and informs the director.
11. The director informs all EGTC members.
12. Each EGTC member informs its approval authority.
13. The director submits a request to the CoR to announce modification of the EGTC in the Official Journal of the European Union.

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**Figure 4-3 Overview of steps to modify an existing EGTC – EU Member State without previous approval**



### 4.2.3 Non-EU country

If a new member is from a non-EU country, the accession shall be examined by the EU Member State where the office is registered. The focus is on whether the prospective member’s participation complies with either (a) equivalent conditions and procedures to the EGTC Regulation or (b) an agreement between at least one EU Member State under whose law an EGTC member is established and the non-EU country (Art. 4(3a), EGTC regulation).<sup>23</sup> Two approval procedures can be distinguished. The first (approval I) concerns the new member that intends to join the EGTC and requests approval from its approval authority. The second approval procedure (approval II) concerns approval by the approval authorities involved in the existing EGTC. The approval authority of the EU Member State where the office of the EGTC is registered shall lead and coordinate this second approval procedure. Upon agreement between the EGTC assembly and the prospective new member, the steps are as follows:

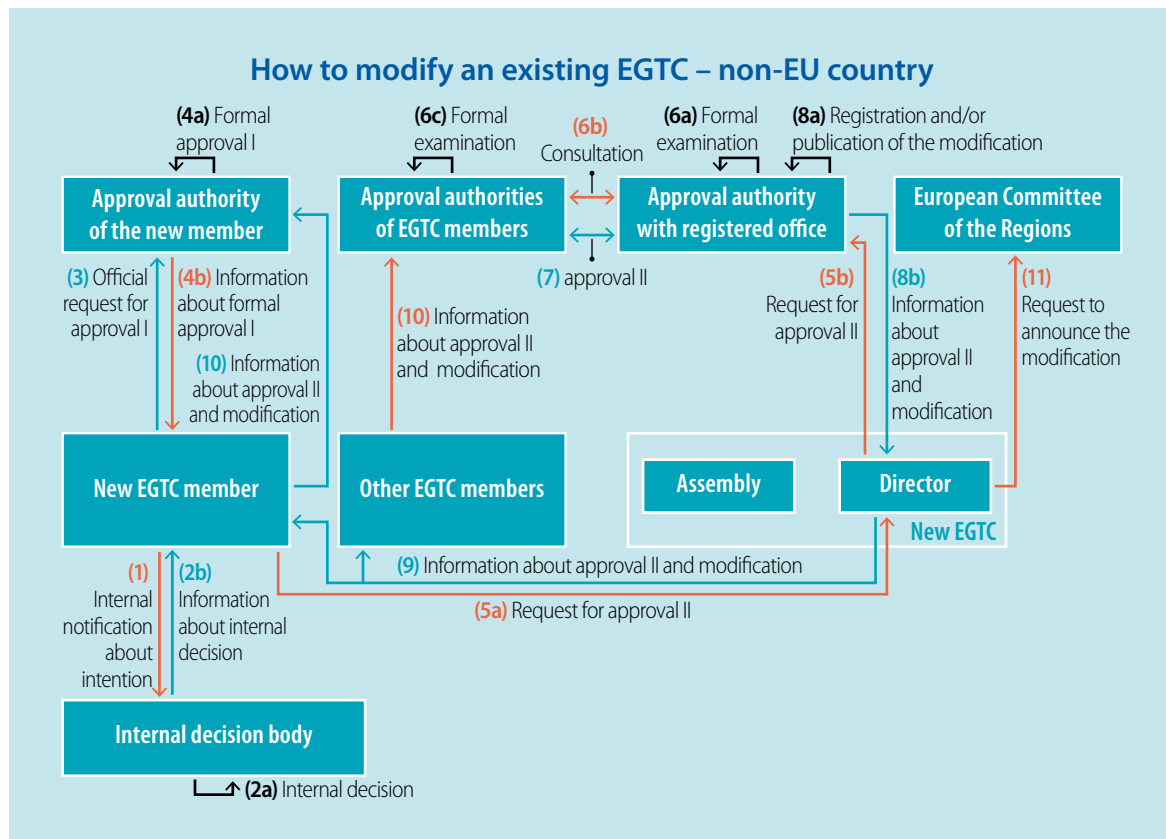
1. The new EGTC member internally informs its own decision body about the intention to become member of an existing EGTC (for more details, see step (1) in section 4.1).
2. The decision body decides and informs the new EGTC member (for more details, see step (2) in section 4.1).
3. The new EGTC member from a non-EU country submits a request for approval to its approval authority.
4. The approval authority decides on the request following national provisions and informs the new EGTC member. The approval authority also attaches information and confirms that the new members’ participation complies with either equivalent conditions and procedures to EGTC Regulation or an agreement between the non-EU country and one of the participating EU Member States (Art. 4(3a), EGTC regulation).
5. The new EGTC member submits a request for approval to the director and detailing the legal basis for the EGTC membership (equivalent conditions and procedures, bilateral/international agreement). The director forwards the request and legal basis to the approval authority of the EU Member State where the EGTC is registered.
6. The approval authority of the EU Member State where the EGTC is registered examines the legal basis provided by the non-EU country and consults with the approval authorities of the other EGTC members. If necessary, these approval authorities conduct their own internal examinations.
7. Under the leadership of the approval authority of the EU Member State where the EGTC is registered, the approval authorities decide on the approval. Ideally, the examination, consultation and approval take place in direct

<sup>23</sup> According to recital (15) of the amended EGTC Regulation (EU) No. 1302/2013, the requirement of (b) is fulfilled if any bilateral or international agreement based on the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities from 1980 (‘Madrid Convention’) including the additional Protocols, has been concluded between one of the participating EU Member States and the non-EU country.

exchange between the approval authorities. It might, however, be necessary for the EGTC director to coordinate the exchange or that all exchange is communicated via the members, i.e. approval authorities exchange information with their respective members, and members exchange information with each other.

8. The approval authority of the EU Member State where the office is registered publishes the amended convention and/or amends the registration of the EGTC. It informs the EGTC director about the approval and modification.
9. The director informs all EGTC members about the approval and the modification, including the new EGTC member.
10. Each EGTC member informs its respective approval authority about the approval and the modification.
11. The director submits a request to the CoR to announce the modification of the EGTC in the Official Journal of the European Union.

**Figure 4-4 Overview of steps to modify an existing EGTC – non-EU country**



## 4.3 Registering an EGTC in EU Member States

Some EU Member States and regions have no experience regarding the EGTC instrument. They have not received a request for an EGTC membership or registration of a body falling under the jurisdiction of the country/region. Some of these Member States and regions do not have procedures, so could not provide details on application and registration processes. They are listed in Table 41.

**Table 4-1 Countries and regions that did not yet have a request to approve and register an EGTC or did not define specific internal procedures**

Country/region	
Austria	Burgenland
	Lower Austria
Belgium	Wallonia
Germany	Berlin
	Free Hanseatic City of Bremen
	Free Hanseatic City of Hamburg
	Lower Saxony
	Mecklenburg Western Pomerania
	Saxony-Anhalt
	Hesse

Some approval authorities of EU Member States did not answer the information requests. These are listed in Table 42.

**Table 4-2 Countries and regions that could not be reached for the data collection**

Country/region	
Austria	Styria
	Upper Austria
Germany	Saxony
	Schleswig-Holstein
Netherlands	

## 4.3.1 Austria – Carinthia



### Responsible Authority

DE: Amt der Kärntner Landesregierung, Abteilung 1  
– Landesamtsdirektion, Europäische und internationale  
Angelegenheiten

EN: Office of the State Government of Carinthia

### Relevant legislation

DE: Kärntner EVTZ-Gesetz - K-EVTZG

EN: Carinthian EGTC Law

### EGTC approval and registration process with the registered office outside Carinthia

**1) Contact and inquiries:** Usually, potential members of an EGTC (municipalities) already contact the approval authority before and during their preparatory work or address the approval/registration authority with special questions on the process.

**2) Consulting and drafting documents:** No matter where the prospective registered office will be, intensive consultation and informal negotiations are necessary between potential future members of an EGTC to develop drafts for the convention and statutes. This process can take years. In parallel, internal consultations and negotiations take place between the approval authorities of different countries and internally.

**3) Consultation and information in general meetings:** Before the application is submitted to the approval authority where the EGTC will have its registered office, future potential members of the EGTC participate in meetings and receive technical advice. Also, conferences can be organised between the partners of a future EGTC in their function as legal predecessor organisation of the EGTC.

**4) Special step for Carinthian municipalities:** Carinthian municipalities (similar to other Austrian municipalities) need a separate approval of any 'assumption of liability'. If the 'potential member' is a Carinthian municipality, since 2018 the municipal supervisory law of the state of Carinthia obliges the municipality to notify about the planned liability. The supervising authority (Office of the State Government of Carinthia, Department for Municipalities) must approve this 'assumption of liability' separately. The assumption of a secondary liability according to Art. 12 of the EGTC Regulation in the convention of the EGTC is, according to the prevailing legal opinion, viewed as such a liability requiring approval of a superordinate body. Since the approval requirement resulting from EU fiscal regulations for public budgets must also include the amount and duration of any liability and the liabilities are recorded separately for each municipality, any maximum amounts for 'limited liability' are agreed informally in advance between the municipality concerned, the Carinthia Department for Municipalities and the approval authority.

**5) Decision of the potential members to participate in the EGTC:** The potential future members of the EGTC decide separately on the intention to create an EGTC based on the final version of the convention and statutes (including the German version) in their bodies in accordance with the legal requirements.

**6) Transmission of the respective decisions with the application:** The respective decisions of the potential future members and the application for approval of participation are submitted to the Office of the State Government of Carinthia by 'potential members' based in Carinthia (and the responsibility of the Office of the State Government of Carinthia). If members are municipalities, a parallel application is sent to the municipal supervisory authority requesting the approval of the assumed liability as outlined under step 4).

**7) Approval:** The request is approved by means of an official notification after reviewing the application documents and – if a municipality is concerned – submission of the official notification on the approval of the assumed liability.

**8) Notification of the approval:** An official notification of the approval is sent to the members of the EGTC, as well as a parallel information to the supervisory authority of municipalities (Department for Municipalities) and the authority in charge of registering the EGTC in the country where the seat of the EGTC is located.

#### Required documents with the registered office outside Carinthia

1) Informal application letter for approval of the intended participation of the potential Carinthian member (including the signed minutes of the meeting when the concerned body decided to become part of the EGTC). 2) Convention (final version) - usually already known/available from prior consultations. 3) Statutes (final version) - usually already known / available from prior consultations. 4) For Carinthian municipalities: separate approval notice for 'assumption of liability'

*Please note: In this case there is no 'approval and registration of an EGTC'. Only the 'participation' of a member is approved, and the underlying convention and statutes are approved.*

#### EGTC approval and registration process with the registered office in Carinthia

If the registered office of an EGTC is to be located in Carinthia, steps 1) - 4) are the same as if the registered office would be outside of Carinthia with only slight modifications for steps 2) and 3): If the convention and statutes are drafted from scratch, an EGTC can organise workshops and other information sessions to include experts from the approval authority from the very beginning (e.g. EGTC Geopark Karawanken Ltd.).

The following steps change:

**5) Contact and coordination:** the approval authority seeks contact and coordinates with other concerned approval authorities with regard to open questions, special legal situations e.g. in third countries. Basis for exchange is the largely finalised and translated documents (convention and statutes). Also, the approval authority consults with the prospective members and incorporates amendments and supplements.

**6) Decision of the potential members to participate in the EGTC:** Decisions of the potential members on the intention to participate in the EGTC based on the final version of the convention and statutes (with the German version) in their bodies in accordance with their legal requirements need to be taken.

**7) Transmission of the respective decisions with the application:** The respective decisions are submitted with the application of the EGTC for approval of participation (regarding potential members from Carinthia) and the application for approval and registration of the EGTC to the

Office of the State Government of Carinthia, Department 1 Landesamtsdirektion by a lead/commissioned, potential member. Simultaneously also the 'approval decisions' for further potential members outside the competence of the Office of the State Government of Carinthia are submitted. If it concerns Carinthian municipalities, parallel application to the municipal supervisory authority for the 'liability approval'.

**8) Approval:** Approval by means of an official notification after reviewing the application documents and - if a Carinthian municipality is affected – including the 'liability approval'.

**9) Notification of the approval:** An official notification of the approval is sent to the members, and parallel / copied information to all other concerned approval authorities.

**10) Registration in the electronic register:** As soon as possible after the deadline for appeal has expired on the website of the Office of the State Government of Carinthia, the EGTC will be registered in the electronic register. The EGTC is also informed (registered office address) about the registration (existence of the legal person) with the request to submit the registration form to the European Committee of the Regions in the Official Journal of the EU. In the case of an 'EGTC with limited liability' request for notifying in the commercial register under Austrian law are issued. Likewise, the Austrian federal government is informed in written (Federal Chancellery) about the registration.

**11) Founding meeting:** Meeting of the members of the approved and registered EGTC.

#### Required documents with the registered office in Carinthia

1) Informal application letter for approval of the intended participation of the potential Carinthian member/s. 2) Signed minutes of the meeting when the concerned body decided to become part of the EGTC. 3) Convention (final version) - usually already known/available from prior consultations. 4) Statutes (final version) - usually already known / available from prior consultations. 5) Decisions by the approval authority/ies for all other (potential) members outside the area of own competent jurisdiction (Carinthia) in the respective national language (certified translations are arranged by the Office of the State Government of Carinthia at its own expense). 6) For Carinthian municipalities: separate approval notice for 'assumption of liability' from the municipal supervisory authority of the Office of the State Government of Carinthia.

#### EGTC modification process with the registered office located outside Carinthia

Unfortunately, the process for approving a modification of an EGTC is the same as for approving an EGTC membership if the registered office is not in Carinthia (all steps 1 - 8). The consultation and preparatory phase is limited to partial changes and will therefore be significantly shorter. There has not been such a case yet, nor for a 'shortened procedure' (new entry or departure of a member). Even if only new members are included in the EGTC, the change

formally needs to be included in the convention and the statutes. If a municipality of Carinthia wishes to become a member, the liability limits also need to be specified in the convention and the special approval procedure for liability needs to be carried out.

#### **Required documents with the registered office outside Carinthia**

Same documents as for approval of a newly set up EGTC.

#### **EGTC modification process with the registered office in Carinthia**

The same steps as for approving and registering an EGTC if the registered office is in Carinthia: all steps 1 - 11 must also be taken if an EGTC is modified in Carinthia. In terms of content, the procedural steps concentrate on the amendments, which is why these can be made with significantly less effort and more quickly.

#### **Required documents with the registered office in Carinthia**

The same as with a founding procedure if the registered office of the EGTC is in Carinthia. In the case of a new member joining, only the application and the approval notice from the approval authority responsible for this new member are required.

## 4.3.2 Austria – Salzburg



*Please note: Procedures are relevant if the registered office is in Salzburg or elsewhere.*

### Responsible Authority

Amt der Salzburger Landesregierung

### Relevant legislation

DE: Salzburger EVTZ- Anwendungsgesetz - S.EVTZ-G

### EGTC approval and registration process

The individual steps of checks related to respective regulations that need to be applied if a body from Salzburg intends to become a member of an EGTC follow the EGTC Regulation and the regional law that can be found under: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrSbg&Gesetzesnummer=20000638>.

These regulations also detail the documents to be submitted. It depends on the specific application if further documents shall be provided by the bodies that wish to become a member of an EGTC. The length of the procedure varies from case to case and there is no general answer in that regards. Please refer to the approval authority if you wish to receive further information.

### EGTC modification process

For information on the steps to approve a modification to an EGTC, please see the law detailed above. Please refer to the approval authority if you wish to receive further information.



### 4.3.3 Austria – Tyrol



*Please note: Procedures are relevant if the registered office is in Tyrol or elsewhere.*

#### Responsible Authority

DE: Tiroler Landesregierung

#### Relevant legislation

DE: Tiroler EVTZ- Gesetz

#### EGTC approval and registration process

The regional authority in charge of approving and registering the EGTC receives the application of a body from Tyrol to become part of an EGTC. The application must be submitted with the convention and the statutes to the Tyrol regional government (Amt der Tiroler Landesregierung, Abteilung Südtirol, Europaregion und Außenbeziehungen - Beschlussvorlage an die Tiroler Landesregierung). After examination of the application, the official notification is prepared and published and sent to the EGTC.

#### Required documents

The application must contain the application letter, the convention and the statutes.

#### EGTC modification process

No further information was provided. Please refer to the approval authority if you wish to receive further information.

## 4.3.4 Austria – Vienna



*Please note: So far, Vienna authorities have not received an application for an EGTC membership or registration.*

### Responsible Authority

DE: Amt der Wiener Landesregierung, Magistratsabteilung 62

EN: Office of the provincial Viennese government, Municipal Department 62

### Relevant legislation

DE: Gesetz betreffend den Rahmen für die Anwendung der Verordnung (EG) Nr. 1082/2006 über den Europäischen Verbund für territoriale Zusammenarbeit (W-EVTZG)

#### EGTC approval and registration process with the registered office outside Vienna

If a body from Vienna, according to § 2(1) W-EVTZG wishes to become a member of an EGTC the Regional Government of Vienna (Amt der Wiener Landesregierung) is responsible for approval (regional law on EGTCs). The approval procedure conforms to the requirements in Art. 4 of EGTC Regulation No. 1082/2006. Duration of the approval depends on the completeness of the application.

#### Required documents with the registered office outside Vienna

Documentation that needs to be submitted conforms to the requirements in Art. 4 (2) of EGTC Regulation No. 1082/2006. This refers particularly to proposals for the convention and the statutes, according to Art. 8 and 9 of the applicable EGTC regulation.

#### EGTC approval and registration process with the registered office in Vienna

As specified in § 3 of the regional law on EGTCs, the Regional Government of Vienna (Amt der Wiener Landesregierung) needs to approve the foundation of EGTCs that will have their registered office in Vienna (see). To process the application, all bodies wanting to become a member of the EGTC need to submit authorisations as laid down in Art. 4(3)(1) or adequate evidence of the expiration of time limits, laid down in Art. 4(3)(3 – 5) of the applicable EGTC Regulation as well as the draft convention and statutes of the EGTC. Duration of the approval depends on the completeness of the application.

#### Required documents with the registered office in Vienna

Documentation that needs to be submitted conforms to the requirements laid down in Art. 4, section 3 of the applicable EGTC Regulation Nr. 1082/2006.

#### EGTC modification process with the registered office located outside Vienna

If applicable, according to § 2 W EVTZG, the Regional Government of Vienna (Amt der Wiener Landesregierung) needs to approve a modification. This may relate either to approving a member of a body from Vienna according to § 2(1)(a – c) of the regional EGTC Regulation for an EGTC with the registered office outside Vienna (see Art. 3(3) of the applicable EU EGTC regulation) or a modification of the convention and the statutes of an EGTC with the registered office outside of Vienna with at least one member from Vienna (see Art. 4(6) applicable EU EGTC regulation).

### **Required documents with the registered office outside Vienna**

Documentation that needs to be submitted conforms to the requirements laid down in Art. 4(2) of EGTC Regulation No. 1082/2006. This includes transcripts of the proposals of the convention and the statutes or if applicable the modified convention and statutes of the EGTC, according to Art. 8 and 9 of the applicable EGTC regulation.

### **EGTC modification process with the registered office in Vienna**

As laid down in § 3(2) of the regional EGTC regulation, if a new member wants to join the EGTC, only documents specified in Art. 4(6a) of the applicable EGTC Regulation need to be submitted. A modification of the convention and the statutes will be implemented as laid down in § 3(2) of the regional EGTC law and Art. 4(6) of the applicable EGTC regulation.

### **Required documents with the registered office in Vienna**

The necessary documents conform to those mentioned in Art. 4(6a) or (6) of EGTC Regulation No. 1082/2006.

## Austria – Vorarlberg



*Please note: Procedures are relevant if the registered office is in Vorarlberg or elsewhere.*

### Responsible Authority

Land Vorarlberg, Abteilung Europaangelegenheiten

### Relevant legislation

DE: Gesetz über den Europäischen Verbund für territoriale Zusammenarbeit (EVTZ-Gesetz)

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration::*  
2 months

### EGTC approval and registration process

As a first step, an assessment whether the body that wants to join the EGTC is either the federal state of Vorarlberg, a municipality of the federal state of Vorarlberg, an association of municipalities of the federal state of Vorarlberg or any other association falling under the jurisdiction of the federal state of Vorarlberg. If yes, the federal state of Vorarlberg will take the application forward, if not, the federal ministry of the Austrian Government will take on the application of the potential future member.

### Required documents

Declaration of the intention to become a member of the EGTC of the concerned body, the draft version of the convention and proof of its unanimous approval/adoption, the draft version of the statutes, which was developed on the basis of the convention and proof of its unanimous approval/adoption.

### EGTC modification process

If an EGTC needs to be modified, the same steps need to be taken as for approving an EGTC. The modification is then approved by the concerned authority of the federal state of Vorarlberg, if the body falls under the jurisdiction of Vorarlberg.

### Required documents

If new members want to join an EGTC, documents as described in Art. 4(6a) of the applicable EGTC Regulation need to be submitted.

### Legal and administrative obstacles

*Austria (federal level)*

No EGTC Regulation exists at federal level for Austria. This implies difficulties to identify the competence for approving a member that is not subject to the jurisdiction of the Austrian federal states.

## 4.3.5 Belgium – Brussels



### Responsible Authority

EN: Brussels International – Brussels Regional Public Service

### Relevant legislation

FR: 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),

NL: Ordonnantie houdende uitvoering van de Verordening (EG) nr. 1082/2006 van het Europees Parlement en de Raad van 5 juli 2006 betreffende een Europese groepering voor Territoriale samenwerking.

#### EGTC approval and registration process with the registered office outside Brussels

When a body from Brussels wants to become part of an EGTC and the seat is not located in Brussels, the following steps need to be taken. The approval authority

- 1) receives the request for granting approval to take part in an EGTC based on the convention and statutes;
- 2) evaluates the request;
- 3) decides whether it will issue an approval based on the convention and the statutes; and
- 4) informs the body about its decision.

#### EGTC approval and registration process with the registered office in Brussels

When a body from Brussels wants to become part of an EGTC and the registered office is in Brussels, the following steps need to be taken. The approval authority

- 1) the formal decision about the intention to create an EGTC and the approvals for participation of all members as well as a proposal of the convention and statutes;
- 2) evaluates the request;
- 3) takes the decision; and
- 4) notifies the members about its decision.

## 4.3.6 Belgium – Flanders



*Please note: Procedures for the approval of EGTCs and any potential subsequent amendments are relevant if the registered office is in Flanders or elsewhere. Differences concerning the EGTC registration apply.*

### Responsible Authority

NL : Agentschap Binnenlands Bestuur

EN: Flemish Agency for Home Affairs

### Relevant legislation

NL: Besluit van de Vlaamse Regering van 18 januari 2008 houdende uitvoering van de Verordening (EG) Nr. 1082/2006 van het Europees Parlement en de Raad van 5 juli 2006 betreffende een Europese groepering voor territoriale samenwerking (EGTS) (gewijzigd bij het besluit van de Vlaamse Regering van 26 september 2008)

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration::*  
2 months

### EGTC approval and registration process with the registered office outside Flanders

If a body from Flanders wants to become part of an EGTC, it informs the Minister for Home Affairs. The application must be sent with a copy of the proposed convention and the statutes of the EGTC. Pursuant to Art. 2 of the aforementioned Decision of the Flemish Government of 18 January 2008, as amended by the Decision of the Flemish Government of 26 September 2008, the Flemish Minister for Home Affairs is authorised to agree to the participation in an EGTC of the Flemish Community, the Flemish Region, provinces, municipalities, municipal territorial bodies set up in municipalities with more than 100,000 inhabitants, associations of municipalities, public centres for social welfare, polders and wateringen, public law bodies under its guardianship, as well as associations of institutions belonging to one or more of these categories.

For public institutions of the Flemish Community or the Flemish Region which are not under the supervision of the Flemish Minister for Home Affairs, the Minister shall give his consent to participation in an EGTC following the advisory opinion of the competent supervisory minister. This minister shall give his consent if participation is in accordance with EU and Flemish law and regulations, including the powers and tasks of these authorities.

### EGTC approval and registration process with the registered office in Flanders

If the seat of the EGTC is registered in Flanders, all the above steps apply. For registration, the EGTC sends the convention and the statutes to the Flemish Minister of Home Affairs. The minister publishes the statutes of the EGTC as well as any subsequent amendment in the Belgian Official Gazette.

### Required documents

If a member from Flanders wants to join an EGTC whether the registered office is in Flanders or elsewhere, the proposed convention and the statutes of the EGTC need to be submitted.

### EGTC modification process

A modification is necessary if the convention or the statutes are changed or if new members want to become part of an EGTC.

For changes or amendments to the **convention or the statutes**:

Art. 4(6) of the EGTC Regulation of 5 July 2006 states that any amendment to the convention and any substantial amendment to the statutes must be approved by Member States in accordance with the procedure laid down in this article. Substantial amendments to the statutes are amendments which directly or indirectly entail an amendment to the convention. However, this provision has been amended by the European Parliament and Council Regulation (EU) No 1302/2013 of 17 December 2013. Since this

amendment, this provision is as follows: 'The EGTC shall communicate any amendments to the convention or the statutes to the Member States under the law of which its members are established. Any amendments to the convention, with the sole exception of the cases of accession of a new member referred to in paragraph 6a(a), shall be approved by those Member States in accordance with the procedure laid down in this article'. The amendment of the aforementioned provisions means that all amendments to the convention or the statutes must still be communicated to the Member States, but Member States will only have to approve the amendments to the convention, with the only exception being the accession of a new member referred to in Art. 6a(a). The amended provision merely mentions the adoption of 'all amendments to the convention' and no longer 'the amendments to the statutes'.

If a **new member wants to join the EGTC:**

a.) If a new member from a **Member State that has already approved the EGTC's convention:** accession shall be approved only by the Member State under whose law the new member was established, in accordance with the procedure laid down in Art. 4, paragraph 3, of the ECTC Regulation and notified to the Member State in which the ECTC has its registered office.

b.) If a new member from a **Member State that has not yet approved the EGTC's convention:** the procedure referred to in Art. 4(6), of the EGTC Regulation shall apply (see above 1)).

### Required documents

To approve and register a modification of an EGTC, the amended convention is required.

## 4.3.7 Belgium – German Speaking Community (DG)



*Please note: Currently, no further information on detailed steps for the EGTC registration process could be provided. Please refer to the approval authority if you wish to receive further information.*

### Responsible Authority

DE: Ministerium der deutschsprachigen Gemeinschaft, Referentin für grenzüberschreitende Zusammenarbeit und Europäische Förderprogramme

EN: Ministry of the German-speaking Community, Department External Relations

### Relevant legislation

DE: Dekret Über Die Zuständige Behörde Zur Ausführung Der Verordnung (Eg) Nr. 1082/2006 Über Den Europäischen Verbund Für Territoriale Zusammenarbeit

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
8 months

*Receiving the final convention until completing the registration::*  
12 months

### EGTC approval and registration process with the registered office outside the DG

*Currently, no information available.*

### Required documents with the registered office outside the DG

*Currently, no information available.*

### EGTC approval and registration process with the registered office in the DG

Process description based on recent experience: after the decision to create an EGTC was taken by the potential EGTC members, the statutes and convention were developed. After first drafts were completed and approved by all future partners of the EGTC, the drafts were sent to the competent authorities. Thereafter negotiations about financial control took place to specify the responsible body. After agreement by the competent authority, the EGTC is created through a notarial deed and registered at the chamber of commerce. The creation of the EGTC concludes with publication in the 'Moniteur Belge' (Belgian Official Gazette) and the constitutional meeting of the EGTC's assembly.

### Required documents with the registered office in the DG

For both instances where the EGTC submits documents for approval and/or registration, the convention and the statutes of the EGTC are required. When the EGTC is officially registered as a body at the chamber of commerce, the notarial deed is required.

### EGTC modification process with the registered office located outside the DG

*Currently, no information available.*

### Required documents with the registered office outside the DG

*Currently, no information available.*

### EGTC modification process with the registered office located in the DG

So far, no EGTC with members falling under the jurisdiction of the German speaking community of Belgium has been modified. Nevertheless, the process would be: The assembly of the EGTC approves the modification. Then the request for modification as well as the modified documents are submitted to the competent authorities for approval. After receiving approval from the competent authorities, the documents require a notary deed to allow for registration of the modification in the chamber of commerce commercial register.



### Required documents with the registered office in the German Speaking Community

The convention and statutes of the EGTC are required for approval and for the notary deed, which in turn is required for registering the amendment at the chamber of commerce.

### Legal and administrative obstacles

#### *Belgium*

EGTC is not known as a legal form by the chambers of commerce and cannot be typed in the system. Solution: classify as 'other European legal form'.

## 4.3.8 Bulgaria



### Responsible Authority

BG: Министерство на регионалното развитие и благоустройството / дирекция 'Управление на териториалното сътрудничество'

EN: Ministry of Regional Development and Public Works

### Relevant legislation

EN: Decree No. 199 of 29 August 2007 / Decree No. 24 of 10.02.2015 / Minor changes to the latest Decree of 22.08.2017

### EGTC approval and registration process

According to Bulgarian law, the Ministry of Regional Development and Public Works is in charge of the registration process. It maintains and stores the Register of European Groupings of Territorial Cooperation based in the Republic of Bulgaria; and the Register of Bulgarian legal entities that are members of the EGTC, whose registered office is outside the Republic of Bulgaria. Both registers contain information about: EGTC name, place of registration, headquarters, contact information, members, territorial scope, activity, aims and tasks.

### Required documents with the registered office outside Bulgaria

If the registered office of an EGTC is not in Bulgaria, the following documents are required:

- 1) constitutive act or decision of the court on the registration and statutes of the Bulgarian legal entities - members of EGTC;
- 2) management body, address of the registered office, contact details of all members of the EGTC and information on which of them have limited liability;
- 3) certificate from the Ministry of Justice for entry in the Central Register of non-profit legal entities for carrying out public benefit activity, if any applicable to Bulgarian EGTC members;
- 4) unified identification code under BULSTAT for the Bulgarian members of the EGTC;
- 5) names and mandate of the members of the managing body of the EGTC and contact details;
- 6) convention and statutes of the EGTC;
- 7) data for EGTC - name, seat and contact persons;
- 8) the type of property liability of EGTC - full or limited;
- 9) insurance or guarantee provided by a bank or other financial institution, established in a Member State or covered by an instrument provided as security by public authority or by a Member State in the case of a limited liability EGTC or an EGTC with limited liability members;
- 10) description of EGTC tasks.

### Required documents with the registered office in Bulgaria

In order to include an EGTC in the Register of the European Groups for Territorial Cooperation whose headquarters is in the Republic of Bulgaria, the following documents are required:

- 1) written notice (notification);
- 2) decision of the Council of Ministers for approval of membership in an EGTC or order of the Minister of Regional Development and Public Works for approval of EGTC membership (whichever is applicable);

- 3) information regarding the number and the date of issue of the State Gazette, which states the law ratifying the convention, where applicable;
- 4) decision of the district court on registration of the EGTC as a legal entity with non-agricultural aim;
- 5) certificate from the Ministry of Justice for registration of the EGTC in the Central register of non-profit legal entities for the implementation of a public benefit activity;
- 6) data for EGTC - name, seat and contact persons;
- 7) unified identification code according to BULSTAT;
- 8) convention and statutes of EGTC;
- 9) names and mandate of the members of the EGTC management body;
- 10) management body, address of the registered office, contact details of all members of the EGTC and information on which of them have limited liability;
- 11) the type of property liability of EGTC - full or limited;
- 12) insurance or guarantee provided by a bank or other financial institution, established in a Member State or covered by an instrument provided as security by a public authority or by a Member State in the case of a limited liability EGTC or an EGTC with limited liability members;
- 13) description of the tasks of the EGTC.

### **EGTC modification process**

At this stage, no information is available regarding the modification process.

## 4.3.9 Croatia



### Responsible Authority

HR: Ministarstvo pravosuđa i uprave

EN: Ministry of Justice and Public Administration

### Relevant legislation

HR: Zakon o provedbi uredbi Europske Unije o Europskoj Grupaciji za Teritorijalnu Suradnju

EN: Law on the Implementation of European Union Regulations on the European Grouping of Territorial Cooperation

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
4 months

*Receiving the final convention until completing the registration::*  
4 months

### EGTC approval and registration process with the registered office outside Croatia

According to Croatian law, the competent authority in charge of EGTC registration is the Ministry of Justice and Public Administration. If an entity established in Croatia intends to join an EGTC, the notice of intent to participate in an EGTC and a copy of the proposal of the convention and statutes should be sent to the ministry. Once received, the ministry consults the state administration bodies in charge of regional development and EU funds, foreign and European affairs and also the bodies whose scope include tasks covered by the purpose of the EGTC. When receiving the results of this consultation process, the ministry assesses the coherence of the EGTC convention and statutes with EU regulations, Croatian law and the legal order of the Republic of Croatia and, where necessary, formulates requests to the prospective member for modifications and amendments. The suggested modification should be considered by the prospective member and once the documents have been modified accordingly, the competent ministry proposes to the Government of Croatia to adopt the decision approving participation in an EGTC and the convention.

The authority in charge of the approval of participation in an EGTC is the Government of Croatia. The Government of Croatia takes the formal approval decision (and approves the convention) based on the proposal approved by the Ministry of Justice and Public Administration.

### Required documents with the registered office outside Croatia

In order to approve and register an EGTC, the required documents are the notice of intent to participate in an EGTC, the EGTC convention and statutes. Additionally, opinions of the competent state administration bodies are requested, but the ministry is in charge of these.

### EGTC approval and registration process with the registered office in Croatia

So far, no EGTCs have been established in Croatia. Under applicable EGTC regulations, an EGTC with the registered office in Croatia would be established as a public institution. Consequently, an EGTC established in Croatia would be subject to the Institutions Act (OG 76/93, 29/97, 47/99, 35/08 and 127/19) of Croatian law.

### Required documents with the registered office in Croatia

No experiences and processes were yet defined.

### EGTC modification process with the registered office outside Croatia

According to Croatian law, for EGTC modification, the Ministry of Public Administration receives the notice of amendments to the convention. The ministry will then consult the state administration bodies in charge of re-

gional development and EU funds, foreign and European affairs and also the bodies whose scope include tasks covered by the purpose of the EGTC. The proposals for amendments of the convention are assessed. In particular, the ministry assesses the alignment of amendments of the convention with the EU regulations, Croatian law and the legal order of the Republic of Croatia, and, if necessary, requests corrections and amendments.

If no correction is needed, the competent Ministry proposes to the Government of Croatia formal approval of the EGTC modification.

#### **Required documents with the registered office outside Croatia**

The required documents for EGTC modification are the notice of amendments to the convention and the opinions of the competent state administration bodies.

#### **EGTC modification process with the registered office in Croatia**

So far there have been no requests for the establishment and registration of an EGTC in Croatia.

#### **Required documents with the registered office in Croatia**

No experiences and processes were yet defined.

## 4.3.10 Cyprus



### Responsible Authority

EL: Γενική Διεύθυνση Ευρωπαϊκών Προγραμμάτων, Συντονισμού και Ανάπτυξης,

EN: Directorate General for European Programmes, Coordination and Development (DG EPCD).

### Relevant legislation

EL: Απόφαση 67.446 με ημερομηνία 9/7/2008

EN: Decision of the Ministerial Council 67.446 as of 9/7/2008

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval*  
3 months:

*Receiving the final convention until completing the registration::*  
3 months

### EGTC approval and registration process with the registered office outside Cyprus

According to the Cypriot Law an entity interested in joining an EGTC with a registered office outside Cyprus needs to submit to the Register of Companies and the Directorate General for European Programmes, Coordination and Development (DG EPCD) a specific form, accompanied by a copy of the draft EGTC convention and statutes. Once received, the competent committee has 3 months to approve or reject the participation of the entity in the EGTC. If the committee approves the participation, a preliminary approval is sent to the applicant. The preliminary approval states, among others, that final approval will be provided once the final convention and statutes of the EGTC are submitted and approved by the committee. For this purpose, the interested entity must submit the final version of the convention and statutes of the EGTC to the competent committee which has 3 months to examine the documents and issue a final approval or rejection.

### Required documents with the registered office outside Cyprus

Three documents are required if an entity established in Cyprus wants to take part in an EGTC whose registered office is not in Cyprus: the intention of participation (using a specific form), the EGTC convention and the statutes (both in draft and final versions).

### EGTC approval and registration process with the registered office in Cyprus

If an entity intends to register an EGTC in Cyprus, the entity needs to submit via a lawyer, a formal request of its intention of participation (by using a specific form) and the draft EGTC convention and statutes to the competent authority. The request should be submitted to the Register of Companies and the Directorate General for European Programmes, Coordination and Development (DG EPCD). The competent committee examines the documents and in case of approval, the interested body needs to submit all the documentation required by the Register of Companies Law Chapter 113, for the registration of a company. After submission of the documents, the competent committee has 3 months to approve the EGTC.

### Required documents with the registered office in Cyprus

In case of a registration of an EGTC with a registered office in Cyprus, the following documents are required:

1) Intention of registration, 2) Draft and final versions of the convention and statutes of the EGTC, 3) Forms required based on the Registrar of Companies Law, Chapter 113

### **EGTC modification process with the registered office outside Cyprus**

For an EGTC modification, the Cypriot member needs to notify the committee, that should approve the modification.

### **Required documents with the registered office outside Cyprus**

The convention and the statutes of the EGTC are required in this case.

### **EGTC modification process with the registered office in Cyprus**

There is no specific process foreseen for EGTC modification other than that stated in the Register of Companies Law, Chapter 113.

### **Required documents with the registered office outside Cyprus**

Required documents are those reported in Chapter 113 of the Register of Companies Law.

## 4.3.11 Czech Republic



### Responsible Authority

CZ: Odbor mezinárodních vztahů Ministerstva pro místní rozvoj České republiky

EN: Ministry of Regional Development

### Relevant legislation

CZ: Zákon, kterým se mění zákon č. 248/2000 Sb., o podpoře regionálního rozvoje, ve znění pozdějších předpisů, zákon č. 218/2000 Sb., o rozpočtových pravidlech a o změně některých souvisejících zákonů (rozpočtová pravidla), ve znění pozdějších předpisů, a zákon č. 89/1995 Sb., o státní statistické službě, ve znění pozdějších předpisů (154/2009 Sb.)

EN: Act. No. 248/2000 Coll. on the support of regional development

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval*  
9 months

*Receiving the final convention until completing the registration::*  
3 months

### EGTC approval and registration process with the registered office outside the Czech Republic

If the registered office is not in the Czech Republic, the registration procedures fall under the rules of the registry office.

### Required documents with the registered office outside the Czech Republic

If a Czech public entity has been approved as a member of an EGTC registered in a foreign country, the required documents are: 1) the formal request; 2) the EGTC approved convention and statute; 3) an insurance policy; 4) a statement from the criminal register. In case of registration of the EGTC if the registered office is not in the Czech Republic, the relevant minister issues the national approval, and no additional document is required.

### EGTC approval and registration process with the registered office in the Czech Republic

The process is described in §18c of Act no. 248/2000 Coll. of support for regional development. A formal request for registration should be submitted to the Ministry of Regional Development by a person authorised by the future members of the EGTC. The application shall include certified copies of the approved convention and the statutes, in accordance with Art. 8 and 9 of the EGTC regulation, the EGTC identification information (name and, where applicable, the name and address of the group director, the address of domicile) and documents containing the approval of countries of possible future members according to the law of their country of residence.

### Required documents with the registered office in the Czech Republic

Required documents are the formal request, the approved convention and statutes, an insurance policy according to Art. 12 of EGTC Regulation and the statement from the criminal register.

### EGTC modification process with the registered office outside the Czech Republic

The procedure is the same as in the approval and registration of the new EGTC. In case of an EGTC modification if the registered office is not in the Czech Republic, the relevant minister issues the national approval, and no additional document is required.

### EGTC modification process with the registered office in the Czech Republic

The process is the same as for the approval and registration of a new EGTC.



### **Required documents with the registered office in the Czech Republic**

In case of modification of an EGTC registered in the Czech Republic, the required documents are the formal request, the approved convention and the statutes.

## 4.3.12 Denmark



*Please note: Procedures are relevant if the registered office is in Denmark or elsewhere. Differences refer only to registration of the EGTC.*

### Responsible Authority

DK: Erhvervsstyrelsen

EN: Danish Business Authority

### Relevant legislation

DK: Lov om administration af forordning om oprettelse af en europæisk gruppe for territorielt samarbejde (EGTS)

EN: Administration of the Regulation on establishing a European grouping for territorial cooperation (EGTC) Act<sup>1</sup>

### EGTC approval and registration process

According to the relevant legislation, whether the registration office is in Denmark or not, section 3 of the applicable law states that applications to take part in an EGTC must be sent to the Danish Business Authority. Applications must be accompanied by a copy of the proposed agreement governing the EGTC (convention), its proposed rules (statutes), and a statement by the competent ministry or ministries concerning the compatibility of participation by the Danish member in question in the EGTC with the member's competency with respect to Danish legislation. If the proposed agreement and rules are not in Danish, they must be accompanied by a certified Danish translation. The Danish Business Authority shall decide on the application after receiving the opinion of any relevant ministries.

### Required documents

According to section 4 of the Danish EGTC legislation, the management of an EGTC based in Denmark shall declare the EGTC in question to the Danish Business Authority for registration. The declaration shall be accompanied by the authority's approval of the applications under section 3 of the applicable EGTC legislation and corresponding approvals from the competent authorities in other countries.

### EGTC modification process

In Denmark, EGTC modification has not been implemented yet. However, section 3, paragraph 2 of the relevant EGTC legislation states that amendments to the agreement governing an EGTC and significant changes to its rules, must be approved by the Danish Business Authority.

### 4.3.13 Finland



*Please note: Procedures are relevant if the registered office is in Finland or elsewhere.*

#### Responsible Authority

FI: Työ- ja elinkeinoministeriö

EN: The Registry of the Ministry of Economic Affairs and Employment

#### Relevant legislation

FI: Laki eurooppalaisesta alueellisen yhteistyön yhtymästä, EN: Act on a European Grouping of Territorial Cooperation (1340/2015)

EN: Act on a European Grouping of Territorial Cooperation (1340/2015)

#### EGTC approval and registration process

Finnish law (section 5 of law no. 1340/2015) describes the process for EGTC registration and modification. An entity that intends to become a member of an EGTC shall notify the Ministry of Employment and the Economy of its intention to join a Finnish or foreign EGTC. The notification shall be accompanied by information on the group/EGTC to which the entity intends to join and a proposal for the convention and the statutes in Finnish or Swedish. Additionally, the proposed member shall provide the EGTC decisions on accession and on the draft convention, accompanied by the statutes. The request should be provided together with a statement of the responsibility of all members of the group for the obligations of the group and a statement of any liability.

#### Required documents

The convention and the statutes are required. Additionally, if a Finnish entity intends to join an EGTC, it should provide the EGTC decision approving the accession and the draft group agreement. Lastly, a statement of responsibility and a statement of any liability should be included.

#### EGTC modification process

For an EGTC modification, section 5 of Law n. 1340/2015, specifies that the Finnish Ministry of Employment and the Economy must be notified of any changes to the EGTC convention or in case of significant changes to the EGTC statutes.

#### Required documents

The amended convention and statutes are required.

## 4.3.14 France



*Please note: Procedures are relevant if the registered office is in France or elsewhere. Differences concerning the registration of the EGTC apply.*

### Responsible Authority

FR: Ministère de la cohésion des territoires et des relations avec les collectivités territoriales / Direction générale des collectivités locales / Sous-direction des compétences et des institutions locales

### Relevant legislation

FR: Loi n° 2008-352 visant à renforcer la coopération transfrontalière, transnationale et interrégionale par la mise en conformité du code général des collectivités territoriales avec le règlement communautaire relatif à un groupement européen de coopération territoriale

### EGTC approval and registration process

An explicit authorisation prior to joining an EGTC is required by French law, wherever the proposed registered office is to be located (Art. L. 1115-4-2 of the 'Code général des collectivités territoriales'). Each member applying to join an EGTC sends an application and necessary documents to the relevant regional Prefect (Préfet de région, local authority of the central state): statutes, the deliberation of its elected assembly approving its participation in the EGTC and the draft convention and statutes of the EGTC. For public entities concerned by directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, an approval of its supervisory authority is also required.

The Prefect allows the creation of, or participation of a local authority in, an EGTC. In order to make an informed judgement, the Prefect draws on the legal expertise of the Ministry of Territorial Cohesion and Relations with Local Authorities and the Ministry for Europe and Foreign Affairs. These ministries inform the other Member States involved (in the EGTC) about their position towards the application. If necessary, there are exchanges with the competent authorities of the other Member States to clarify legal dispositions French authorities might not be familiar with. The Member States discuss until they decide on a common position.

Approval procedures for an EGTC are the same as for the control of local authority act (Art. L. 2131-6 of the CGCT). This article obliges the Central State to communicate reasons of any potential refusal. The Prefect also explains any potential legal difficulties to the local authorities involved and consults the French authorities wishing to become part of an EGTC on how to solve potential obstacles. This mechanism promotes exchanges between local authorities and the approval authorities. If necessary, the request to become part of an EGTC is amended to take into account remarks of each Central State involved. Then, every French local authority wishing to become part of an EGTC transmits the final deliberation of the local assembly and the draft convention and statutes to the Prefect as necessary for supervising local authorities. The Prefect then issues a legal authorisation ('Arrêté préfectoral') allowing the participation of French entities. If the registered office is not in France, the legal authorisation occurs before signature of the convention and statutes.

In addition to the steps detailed under the EGTC registration process if the office is not located in France then the following steps need to be taken if the EGTC office is registered in France. The Prefect of the region where the registered office is to be located decides to create the EGTC by publishing a prefectural declaration ('Arrêté préfectoral' in the official register of administrative acts ('recueil des actes administratifs'). This declaration designates the public accountant for control of the EGTC. The publication of this decision establishes the legal personality of the EGTC. The EGTC then transmits to the European Union Publications Office a request to publish an announcement about its creation in the Official Journal of the European Union. The EGTC then also informs the European Committee of the Regions. After that the first constitutive assembly of the EGTC can take place.

## Required documents

The convention and the statutes are required. Furthermore, each French entity willing to become a member of an EGTC must send their own statutes and the deliberation of the elected assembly approving the membership (request). For public entities concerned by Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, an approval of its supervisory authority is also necessary. If the application to become a member of an EGTC is amended during the approval process, the elected assembly has to vote again in a new deliberation. If a supervisory authority is concerned, it also has to approve the amended application. These documents also need to be submitted.

## EGTC modification process

The process of modifying an EGTC starts with a notification issued by the EGTC, to the Member States concerned. In France, the EGTC can inform the regional Prefect where a member of the EGTC is located. This process showcases the role of the regional Prefect as the main coordinator and contact point for every local entity interested in cross border cooperation. The process of modifying the EGTC is then similar to creating an EGTC if the registered office is in France or not (see answers above on EGTC REGISTRATION). The main difference is that the Prefect only has to approve the amended convention and not the amended statutes.

## Required documents

The draft convention and the draft statutes are required. Furthermore, each French local authority member of the EGTC must send its own statutes and the deliberation of the elected assembly approving the changes. For public entities concerned by Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, an approval of its supervisory authority is also necessary. If the application to modify an EGTC is amended, the elected assembly of the EGTC must vote again in a new deliberation. If a supervisory authority is concerned, it also has to approve the amended application. These documents also need to be submitted by local authorities.

## Germany – Federal level



*Please note: Procedures are relevant if the potential member of an EGTC is a federal institution whether the registered office is in Germany or elsewhere.*

### Responsible Authority

DE: Bundesministerium für Wirtschaft und Energie, Referat EA3, Europäische Territoriale Zusammenarbeit

EN: Federal Ministry for Economic Affairs and Energy, Section EA3 – European Territorial Cooperation

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval*  
No indication received:

*Receiving the final convention until completing the registration::*

The approval authority respects Art. 4 of the EGTC Regulation No. 1082/2006 for the processes below.

### EGTC approval and registration process

Federal agencies that wish to become a potential member of an EGTC inform the Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie (BMWi)) about their endeavour, according to Art. 4(2) of EGTC Regulation No. 1082/2006.

After the application to become a member of an EGTC is submitted, the Ministry for Economic Affairs and Energy reviews and examines the application in cooperation with the concerned authorities in a pragmatic approach.

### Required documents

Documents required are mentioned in Art. 8 and 9 of the EGTC Regulation No. 1082/2006, i.e. the convention and the statutes of the EGTC.

### EGTC modification process

Federal institutions that are members of an EGTC that wish to modify an EGTC need to inform the Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie (BMWi)) about the planned modification, according to Art. 4(3) and (6) of EGTC Regulation No. 1082/2006 and submit the documents subject to change.

### Required documents

The modified documents must be submitted, i.e. convention and/or statutes.

## 4.3.15 Germany – Baden-Württemberg



### Responsible Authority

DE: Regierungspräsidium Freiburg, Stabsstelle für grenzüberschreitende Zusammenarbeit und europäische Angelegenheiten

### Relevant legislation

DE: Verwaltungsvorschrift der Ministerien zur Ausführung der Verordnung des Europäischen Parlaments und des Rates über den EVTZ

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval*  
24 months

*Receiving the final convention until completing the registration:*  
4 months

### EGTC approval and registration process with the registered office outside Baden-Württemberg

According to Art. 5 EGTC regulation, the EGTC must be registered in the Member State where it has its registered office in accordance with the applicable national laws. If an institution in Baden-Württemberg is a member of an EGTC with its registered office abroad, the publication or registration takes place according to this law.

For the approval procedure of an EGTC that does not have its registered office in Baden-Württemberg, the following steps need to be taken:

a) Accompanying the foundation process. If a Baden-Württemberg institution wants to become a member of an EGTC with its registered office abroad, the approval authority accompanies the foundation process very closely. The authority points out open legal questions that need clarification. This concerns questions that may be relevant for approval, as well as questions that are not relevant for approval, but are nevertheless important for the EGTC and should therefore be clarified (personnel and the associated consequences under labour law and social security law, tax implications, etc.).

b) The approval authority needs to receive the documents for approval, meaning the statutes and the convention of the EGTC as well as the decisions of the members. The approval procedure according to Art. 4 of the EGTC Regulation is then carried out. Authorities with technical expertise are informed and need to give their consent. They can also impose conditionalities.

The approval authority does not use fictional approval, as described in Art 4 III of the EGTC Regulation that the approval is considered granted if the Member State does not raise any objections. In any case, the approval authority checks the documents and grants approval as far as legally possible. The approval is sent to all other authorities involved for information purposes.

### Required documents with the registered office outside Baden-Württemberg

The approval authority checks whether the requirements of Art 4(3) of the EGTC Regulation are fulfilled. In the authorisation, the authority refers to the publication and registration, which must then take place according to the applicable law in which the seat will be located.

The approval authority requires the agreement, statutes and decisions of the members in order to grant an approval. The approval authority also reserves the right to request further documents in individual cases.

### EGTC approval and registration process with the registered office in Baden-Württemberg

If an EGTC has its registered office in Baden-Württemberg, then publication of the convention and statutes is in the

Common Official Gazette of Baden-Württemberg. There is no specific register for EGTCs in Baden-Württemberg yet.

The approval authority accompanies the foundation process of an EGTC in its area of responsibility very closely and tries to clarify all legal issues in advance so the approval can be granted as smoothly as possible. The approval always includes publication and registration of the EGTC. The above-mentioned process if the seat of the EGTC is abroad, also applies here (see above).

#### Required documents with the registered office in Baden-Württemberg

The same documents as if the EGTC seat is located abroad also need to be provided if the seat is in Baden-Württemberg. In any case, the approval authority checks the documents, convention and statutes to be approved. At the same time, it also requires the resolutions and national approvals of the other potential future EGTC members. The approval authority reserves the right to request further documents in individual cases.

#### EGTC modification process with the registered office outside Baden-Württemberg

The approval authority receives a notification from a member that the convention and, if applicable, the statutes of an EGTC are to be amended. Then, it examines both documents according to Art. 4(3)(i) in combination with Art. 4(6) EGTC-Regulation. This means that the convention is examined in the sense of paragraph 3, the statutes as a technical document only in the context of the convention (Art. 4(3)(c) EGTC regulation). The approval authority grants approval, possibly with conditionalities and again refers to the publication, which in the above case does not take place according to the Baden-Württemberg law, as the seat is located abroad.

#### EGTC modification process with the registered office in Baden-Württemberg

For approving a modification to an EGTC where the seat is located in Baden-Württemberg, the documents listed above are required. If the approval authority approves the modification, all authorities involved are informed. If a new member is to be admitted and the convention is therefore to be amended, the approval must also be checked and then published in the Joint Official Gazette Baden-Württemberg.

#### Required documents

It depends on the specific case. Recently an EGTC wanted to implement changes in the statutes and convention, so the approval authority required these documents. Currently, another EGTC wants to admit a new member. In this case, the approval authority has clarified that the following documents are required: updated convention and statutes, decision of the EGTC to admit the new member, national approval of the new member.

### Legal and administrative obstacles

#### France

Questions on liability.

#### Italy, Switzerland, Austria

For these three countries, questions arise related to the applicable law, liability of an EGTC, questions on the applicable personnel law, recognition of potential location of parts of the EGTC in third countries (Switzerland), etc.



## 4.3.16 Germany – Bavaria



*Please note: Procedures are relevant if the registered office is in Bavaria or elsewhere. Differences concerning the registration and liability of an EGTC apply.*

### Responsible Authority

Regierung der Oberpfalz

### Relevant legislation

DE: Art. 13 Gesetz über die Zuständigkeiten zum Vollzug wirtschaftsrechtlicher Vorschriften / EVTZ-Durchführungsverordnung EVTZDV

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
Up to 52 months

*Receiving the final convention until completing the registration:*  
13 months

#### EGTC approval and registration process with the registered office outside Bavaria

Usually, potential future members of an EGTC from Bavaria where the registered office of the EGTC shall be outside Bavaria, seek the support of the approval authority before an application is submitted, according to Art. 4(2) of the EGTC regulation. The potential future EGTC members clarify legal details and the first drafts of the convention and the statutes with the approval authority and specify the next steps. This may require several steps as new questions may arise in coordination between members from different Member States.

After the request to approve an EGTC was submitted according to Art. 4(2) of the EGTC regulation, the Bavarian approval authority coordinates with the approval authority where the registered office of the EGTC will be located, for approval of the request according to Art. 4(3) of the EGTC regulation. If additional or complementary information are required, they are requested from the potential future EGTC members. If all pre-conditions are fulfilled, the approval is issued according to Art. 4(3) of the EGTC regulation.

#### Required documents with the registered office outside Bavaria

Every Bavarian body that wants to become a member of an EGTC needs to submit a request as well as the drafts of the convention and the statutes. If it is a body under public law (municipality, city, county, district, administration union) the decision of the board to be submitted (decision and extract from the decision journal). If the body is a Bavarian state body (e.g. universities and higher education institutions), approval of the concerned Bavarian ministry is required.

#### EGTC approval and registration process with the registered office in Bavaria

All the above steps apply. In addition the approval authority coordinates with the authorities of the other Member States whether approval can be granted. After the future EGTC members have adopted and signed final versions of the convention and the statutes, the documents are submitted to the Bavarian approval authority for publication. The final convention and statutes are then published in the Official Gazette of the government of Upper Palatinate (Amtsblatt der Regierung der Oberpfalz).

#### Required documents with the registered office in Bavaria

The same documents as listed above are required. Additionally, if an EGTC has limited liability, an appropriate insurance or other warranties need to be provided to cover the risks related to the activities.

### EGTC modification process with the registered office outside Bavaria

So far, there has not yet been a request to modify an EGTC. However, and depending on the type of change, the process would be organised as if an EGTC requests approval when the registered office will not be located in Bavaria.

### Required documents with the registered office outside Bavaria

Depending on the type of change, the required documents are likely to be the same as if an EGTC requests approval where the registered office will not be located in Bavaria.

### EGTC modification process with the registered office in Bavaria

So far, there has not yet been a request submitted to modify an EGTC. However, and depending on the type of change, the process would be organised as if an EGTC requests approval where the registered office will be located in Bavaria.

### Required documents with the registered office in Bavaria

Depending on the type of change, the required documents are likely to be the same as if an EGTC requests approval where the registered office will be located in Bavaria.

## Legal and administrative obstacles

### *Switzerland*

Issues concerning coordination with Swiss approval authorities because of differences in the interpretation of applicable EGTC regulation.

### *Third countries in general*

Difficulties identifying/finding an authority that is in the position and willing to issue a declaration according to Art. 4(3a) of the EGTC Regulation of the EU.

Difficulties in clarifying whether a potential EGTC member from a third country fulfills the prerequisites according to Art. 3 of the EGTC Regulation of the EU and especially according to Art. 2(1)(3) of the Regulation 2014/24/EU.

## 4.3.17 Germany – Brandenburg



*Please note: Procedures are relevant if the registered office is in Brandenburg or elsewhere.*

### Responsible Authority

DE: Ministerium des Innern und für Kommunales des Landes Brandenburg - Referat 22

EN: Brandenburg Ministry of the Interior and for Municipalities

### Relevant legislation

DE: Brandenburgische EVTZ- Zuständigkeitsverordnung & EVTZ-Haftungsbeschränkungsgesetz - EVTZHaftbG

### EGTC approval and registration process

The approval authority organises an individual process with the bodies that want to create an EGTC. Authorities from Brandenburg, that want to become members of a prospective EGTC are asked to consult with the Brandenburg Ministry of the Interior and for Municipalities (Ministerium des Innern und für Kommunales des Landes Brandenburg) as early as possible.

### Required documents

To issue the approvals, the draft convention and statutes need to be provided. Depending on the individual case, further documents may be required.

### EGTC modification process

The approval authority organises an individual process. If an EGTC wants to modify its convention or if an authority from Brandenburg wants to become a member of an EGTC, the Brandenburg members or potential future members of an EGTC are asked to contact the Brandenburg Ministry of the Interior and for Municipalities (Ministerium des Innern und für Kommunales des Landes Brandenburg) as early as possible.

### Required documents

Generally, the documents concerning the change need to be provided to the Brandenburg approval authority. This is not necessary if a new member from outside of Brandenburg becomes a member of the EGTC where the Member State has already approved the EGTC's convention (see Art. 6a(a) of the EGTC Regulation of the EU). Depending on the individual case, further documents may be required.

### Legal and administrative obstacles

#### *Poland*

Differences concerning the liability of public authorities (the obstacle was recently mitigated through a law allowing limited liability in Brandenburg – EVTZ-Haftungsbeschränkungsgesetz).

## 4.3.18 Germany – Free Hanseatic City of Bremen



*Please note: So far, no EGTC has been registered in the Free Hanseatic City of Bremen. Therefore, no procedures have been detailed or defined either for registering an EGTC or for approving a modification of an EGTC:*

*An EGTC refers to an institutionalised cooperation of organisations across borders. Since the Free Hanseatic City of Bremen is not located in the catchment area of a border, the need for participation in an EGTC is considered very unlikely. During the past, there has not been a single request of an authority to join an EGTC in Bremen. The need for participation in an EGTC is also not apparent for the near future.*

### Responsible Authority

DE: Die Senatorin für Klimaschutz, Umwelt, Mobilität, Stadtentwicklung und Wohnungsbau, EN: Free Hanseatic City of Bremen The Ministry for Climate Protection, the Environment, Mobility, Urban and Housing Development

### Relevant legislation

DE: Landesinterne Organisationsanordnung (unpublished)

### EGTC approval and registration process

As soon as there is a concrete request of an organisation from Bremen, an internal registration process will be set-up by the Free Hanseatic City of Bremen. This may use inspiration from best practices in this guidebook. Please refer to the approval authority if you wish to receive further information.

### EGTC modification process

As soon as there is a concrete request of an organisation from Bremen wanting to modify an EGTC, an internal registration process will be set-up by the Free Hanseatic City of Bremen. Please refer to the approval authority if you wish to receive further information.

## 4.3.19 Germany – North Rhine-Westphalia



*Please note: Procedures are relevant if the registered office is in North-Rhine Westphalia or elsewhere.*

### Responsible Authority

DE: Ministerium für Wirtschaft, Innovation, Digitalisierung und Energie des Landes Nordrhein-Westfalen - Referat VIII A 3 Grundsatzfragen des Europarechts, EU-Koordinierung, Europäisches Beihilfenrecht

### Relevant legislation

DE: Verordnung zur Regelung von Zuständigkeiten nach der EG-Verordnung über den Europäischen Verbund für territoriale Zusammenarbeit (Europäische Territorialverbundverordnung - ZV EVTZ)

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration:*  
6 months

### EGTC approval and registration process

The approval authority of North-Rhine Westphalia proceeds as follows when an EGTC is to be created and/or a body from North-Rhine Westphalia wants to join an EGTC.

First, we establish contact with the responsible approval authorities of the other members of the future EGTC. Then, the EGTC needs to take following steps:

- 1) Notification of the intention to take part in an EGTC and proposal of convention and statutes are submitted,
- 2) Committee of the member takes the formal decision about the intention to take part in an EGTC based on the convention and statutes,
- 3) Request for granting approval: the EGTC submits the formal decision about the intention and the proposed convention and statutes,
- 4) Submitting the formal decision about the intention and approval for participation of the approval authority or formal recognition that the approval authority does not raise any objection within six months.

The approval authority then performs the following steps:

5) Issuing approval to participate in an EGTC and proposal of convention or assumption of approval ("Gehemigungsfiktion"). The approval of the EGTC must be considered by the North-Rhine Westphalia Ministry for Economy, Innovation, Digitalisation and Energy (Ministerium für Wirtschaft, Innovation, Digitalisierung und Energie des Landes Nordrhein-Westfalen) according to the following points: control and evaluation of the letter of approval, application, statutes, contribution regulations, agreement of the EGTC, structure and members of the respective region(s).

Also, the following points are evaluated and controlled:  
a) assessment of legal personality (according to Regulation (EU) No. 1302/2013 in conjunction with Regulation (EC) No. 1082/2006 Art. 3) if the potential future member is an institution according to Art. 3 Para. 1 S. 1 lit. c (regional / local authority) and lit. d (public company) of the regulation; b) transfer of control and steering powers; c) geographical scope and applicable law; d) liability issues / risks.

The EGTC member where the office of the EGTC will be registered in coordination with the approval authority of the respective Member State performs the following tasks:

6) Submitting the formal decision about the intention and the approvals for participation of all members and proposed convention and statutes.

The EGTC approval authority of the Member State where the office is registered gives feedback to the EGTC member where the office registered:

7) Approval of participation of the members of the Member State where the office is registered and approval of the convention.

8) The committee of a potential member takes formal decision about the final version of the convention.

If the registered office of the EGTC is not located in North-Rhine Westphalia: The newly created EGTC should not intersect partially with areas covered by existing Euregios to avoid parallel structures. It is possible that an area covered entirely by an Euregio can become member of an EGTC. If only a part of an Euregio wants to become part of an EGTC, the application will be rejected.

### Required documents

The following documents are required: 1) Letter of approval on the decision to become member/to set up an EGTC, 2) application, 3) statutes, 4) convention of the EGTC, 5) structure and future members, 6) statutes of the future member of the EGTC (public authority, etc.), 7) geographic sketch of the future EGTC, 8) proof that the EGTC is financially independent and does not rely on funding from the federal state, 9) clarification of queries.

### EGTC modification process

So far, the approval authority did not have any experience with EGTC modifications.

## 4.3.20 Germany – Rhineland-Palatinate



### Responsible Authority

DE: Ministerium des Innern und für Sport - Abteilung 3 (Kommunales und Sport)

EN: Ministry of the Interior and for Sport of Rhineland-Palatinate

### Relevant legislation

DE: Landesverordnung über die zuständigen Behörden zur Ausführung der Verordnung (EG) Nr. 1082/2006 über den Europäischen Verbund für territoriale Zusammenarbeit

### EGTC approval and registration process with the registered office outside Rhineland-Palatinate

1. The prerequisite to establish an EGTC is that the potential future members decide through an internal opinion-forming process to found an EGTC or to participate in an existing EGTC. For a new foundation, the potential future members need to agree on the modalities and then draft proposals for the convention and the statutes in accordance with European and national requirements.

2. Subsequently, the prospective member submits an application for approval of participation in the EGTC as well as the draft convention to the national (or regional) approval authority. In Germany, these are at the level of the federal states due to the federal structure. The responsibility of the federal states depends on the affiliation of the entity seeking membership to a federal state or the seat of the potential member. In Rhineland-Palatinate, the Ministry of the Interior and Sport is responsible (in accordance with § 1 Paragraph 1 Number 1 of the State Ordinance on the Competent Authorities for the Implementation of Regulation (EC) No. 1082/2006 on the European Grouping of Territorial Cooperation) for receiving the notification and documents for participation, for approving or refusing participation, and for approving any amendment to the agreement and any substantial amendment to the statutes in accordance with Art. 4 Paragraph 3, 4 and 6 of Regulation (EC) No. 1082/2006. Regulations that go beyond this competence are not contained in the relevant state regulation for Rhineland-Palatinate. The application has to include the declaration of intent of the potential member as well as the proposed convention and statutes. The subject of the approval is the participation of the potential member in the EGTC as well as the draft convention.

3. After examination of the legal requirements (and any grounds for exclusion) by the Ministry of the Interior and Sport of Rhineland-Palatinate as the competent approval authority, the approval is given in the form of a letter from the Minister of the Interior of Rhineland-Palatinate.

4. The potential future member subsequently forwards the approval and the formal decision on the intention to participate in the EGTC to the EGTC member in whose Member State the EGTC has its registered office, without the approval authority being actively involved in the process any more.

### Required documents with the registered office outside Rhineland-Palatinate

The written declaration of intention of a legal representative of the potential member to participate in an EGTC and the underlying formal decision of the competent body of the potential member and the proposed convention and statutes.

### **EGTC approval and registration process with the registered office in Rhineland-Palatinate**

So far, no EGTC has a registered office in Rhineland-Palatinate, which is why there is no experience regarding the concrete processes/procedures about the registration of EGTCs.

### **Required documents with the registered office in Rhineland-Palatinate**

The required documents are as outlined above. Potential additional documents are not known due to a lack of experience.

### **EGTC MODIFICATION EGTC modification process with the registered office outside Rhineland-Palatinate**

In this respect, too, there is insufficient experience to describe routine procedures and experience. In the past, the main amendments to the convention have only concerned the admission of new members in accordance with Art. 4(6a) (a) EGTC Regulation (simplified procedure). At this point, it is only necessary to point out that the competence of state authorities resulting from the federal structure of the Federal Republic of Germany leads to a coordination requirement between approval authorities of the federal states, if an EGTC has members from different German states.

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### **EGTC modification process with the registered office in Rhineland-Palatinate**

In Rhineland-Palatinate, no EGTCs have a registered office in Rhineland-Palatinate, which is why there is no experience regarding the concrete procedures.

### **Required documents**

The required documents are as outlined above. Potential additional documents are not known due to a lack of experience.



## 4.3.21 Germany – Saarland



### EGTC approval and registration process

Please refer to the approval authority if you wish to receive further information.

### EGTC modification process

Please refer to the approval authority if you wish to receive further information.

*Please note: The last application of a body falling under the jurisdiction of the federal state of Saarland to become a member of an EGTC was submitted in 2013. The employee in charge of the application no longer works for the ministry. Since then, no further inquiries have been recorded, so there are no updated procedures.*

### Responsible Authority

Ministerium für Wirtschaft, Arbeit, Energie und Verkehr  
- Referat E/3

### Relevant legislation

DE: Verordnung über die Zuständigkeit zur Ausführung der Verordnung (EG) Nr. 1082/2006

## 4.3.22 Greece



*Please note: Procedures for modifying an EGTC are relevant if the registered office is in Greece or elsewhere.*

### Responsible Authority

EL: ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ, ΑΥΤΟΤΕΛΕΣ ΤΜΗΜΑ ΔΙΕΘΝΩΝ ΚΑΙ ΕΥΡΩΠΑΙΚΩΝ ΣΧΕΣΕΩΝ

EN: Ministry of Interior, Department of International and European Affairs

### Relevant legislation

Law n. 4483/2017

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration::*  
3 months

### EGTC approval and registration process with the registered office outside Greece

According to the legislation on EGTC, the participation of Greek entities in EGTCs which have their registered offices abroad, is approved upon agreement of the committee referred to in paragraph 2b, Art. 4 of Greek law 3345/2005. Additionally, within six months from the submission and admissible application to the committee, accompanied by the EGTC convention and statutes, the Ministry of Interior will issue its approval. The six month deadline could be interrupted and postponed if the committee decides to request additional information.

### EGTC approval and registration process with the registered office in Greece

For EGTCs which have their registered offices in Greece, the prospective member should submit an application to the committee referred to in paragraph 2b, Art. 4 of the Greek law 3345/2005. The application should be accompanied by the EGTC convention and statutes. The Ministry of Interior, in agreement with the committee, shall approve the participation of the prospective member and the text of the convention. An EGTC acquires legal personality on the date of registration of its statutes in the Court of First Instance to which its registered office belongs, following the decision issued by the Ministry of Interior and the application submitted by its members.

### Required documents

The application should be accompanied by the EGTC convention and the statutes whether the EGTC shall have its registered office in Greece or another Member State

### EGTC modification process

Procedures are relevant if the registered office is in Greece or another Member State. All amendments to the convention, and any amendment to the statutes which implies a direct or indirect amendment of the convention, shall be approved by decision of the Ministry of Interior, following the procedures for EGTC registration.

### Required documents

In both cases (EGTC registered in Greece or another Member State), the required documents are the EGTC convention and the statutes.

## 4.3.23 Hungary



### Responsible Authority

HU: Külgazdasági és Külügyminisztérium - Regionális és Határ Menti Fejlesztések Főosztály

EN: Ministry of Foreign Affairs and Trade - Department for Regional and Cross-border Development

### Relevant legislation

HU: 2014. évi LXXV. törvény az európai területi társulásról

EN: Act LXXV of 2014 on the European grouping of territorial cooperation; and Government Decree No 485/2017 of 29 Dec 2017

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
1 month

*Receiving the final convention until completing the registration:*  
3 months

#### EGTC approval and registration process with the registered office outside Hungary

For EGTC registration, if the registered office is not in Hungary, Hungary does not deal with registration tasks at the foundation of the EGTC nor when modification is necessary. In that case, the responsible authority proceeds only as approval authority.

#### Required documents with the registered office outside Hungary

If the registered office is not in Hungary, the responsible authority simply approves the participation of an entity established in Hungary. The required document is the decree of the decision-making body of the future member on the intention of joining the EGTC.

#### EGTC approval and registration process with the registered office in Hungary

For EGTC registration with a registered office in Hungary, the competent authority is the Hungarian Ministry of Foreign Affairs and Trade. The latter acts as both approval and registration authority. Each entity that intends to join the EGTC should submit the decree of its decision-making body on participation. Once they are all received, the competent Ministry proceeds with the registration and approval process of the Hungarian members and with the registration of foreign members (when receiving the approval documents of their approval authorities). If all the necessary documents are submitted, the approval and registration process is a one-step process. Current registration data are available on [www.egtc.gov.hu](http://www.egtc.gov.hu).

#### Required documents with the registered office in Hungary

The required documents are the EGTC statutes and convention, the respective decrees of the decision-making bodies (accompanied by a translation in Hungarian, if the registered office is not in Hungary), minutes of the decision-making body of the EGTC and a formal request.

#### EGTC modification process with the registered office outside Hungary

As with the registration process, for EGTC modification, if the registered office is not in Hungary, the competent minister only gives consent to join and does not deal with the modification process.

### **Required documents with the registered office outside Hungary**

The decree of the decision-making body of the entity.

### **EGTC modification process with the registered office in Hungary**

The process is the same as for EGTC registration with a registered office in Hungary.

### **Required documents with the registered office in Hungary**

Required documents are the same as for EGTC registration.

## 4.3.24 Ireland



*Please note: Procedures are relevant if the registered office is in Ireland or elsewhere. For modification only, refer to registering.*

### Responsible Authority

Department of Public Expenditure and Reform

### Relevant legislation

Statutory Instrument, S.I. No. 138

#### EGTC approval and registration process

To date no formal application for approval has been submitted for consideration. Beyond the requirements set out in the Regulation and in the Statutory Instrument translating this into domestic law, no formal process has been set out for the registration of EGTCs.

While no formal process has been set down, prior to the request for granting approval, the member/body would be expected to seek the view of the relevant Government Department under whose aegis the public body making the application is operating (Parent Department). The Parent Department does not have the ability to adjudicate or block an application but its views would be taken into account by the Minister making the decision.

If the registered office is in Ireland, in addition, any member from a Third Country would have to show their Government's agreement. Registration steps would follow the model provided in this guidebook.

#### Required documents

To date no formal application for approval has been submitted for consideration. Beyond the requirements set out in the Regulation and in the Statutory Instrument translating this into domestic law, no list of documents has been set out for the registration of EGTCs. However, at a minimum the following documents would be expected: Formal request for approval; copy of convention and statutes; document setting out views of relevant Government Department under whose aegis the public body making the application is operating; submission setting out details of proposed EGTC, purpose, objective(s) etc.; reasons for choice of structure and comparisons with alternatives; details of other proposed members with particular attention to any third country members; planned budgets and ongoing financial requirements: and details of administrative arrangements.

#### EGTC modification process

To date no formal application for approval has been submitted for consideration. Beyond the requirements set out in the Regulation and in the Statutory Instrument translating this into domestic law no formal process has been set out for the modification of an EGTC.

#### Required documents

Beyond the requirements set out in the Regulation and in the Statutory Instrument translating this into domestic law no list of documents has been set out for the registration of an EGTC.

## 4.3.25 Italy



*Please note: Procedures are relevant if the registered office is in Italy or elsewhere.*

### Responsible Authority

IT: Presidenza del Consiglio dei Ministri – Dipartimento per gli affari regionali e le autonomie - Ufficio per le politiche urbane e della montagna, la modernizzazione istituzionale e l'attività internazionale delle autonomie regionali e locali

EN: Presidency of the Council of Ministers - Department for regional affairs and autonomies - Office for urban and mountain policies, institutional modernisation and the international activity of regional and local autonomies

### Relevant legislation

IT: Disposizioni per l'adempimento di obblighi derivanti dall'appartenenza dell'Italia alle Comunità europee - Capo III - Attuazione del regolamento (CE) n. 1082/2006

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
12 months

*Receiving the final convention until completing the registration::*  
6 months

### EGTC approval and registration process

Italian law requires the future members of the EGTC to jointly elaborate the convention and statutes. Each member of the EGTC should forward to the presidency of the Council of Ministers (PCM) - Department for Regional Affairs and Autonomies (in Italian, the 'DARA') - the request for participation in the EGTC, providing the memorandum of understanding (if signed), the EGTC statutes and convention, in the languages of the constituent bodies and in those eventually established by them. Subsequently, DARA verifies the compliance of documentation with the EC Regulation 1082/2006 and EU Regulation 1302/2013, as well as with the 2008 Community Law 7 July 2009 no.88 - Art. 46, 47, 48. After this verification of compliance, the preliminary phase formally starts and the documentation is transmitted to the competent ministries for approval and acquisition of the relevant opinions. Within six months from receipt of the notification, DARA will communicate any observation or will issue the authorisation. In case of amendments, any remarks made by the ministries or DARA must be taken into account and the documentation must be modified accordingly and shared with the foreign counterpart(s). Should any foreign party also propose modifications, DARA should be informed and will proceed with verification. The aim of this process is to achieve common and completed texts for all parties. Once the preliminary phase has been positively concluded, DARA communicates the authorisation to set up the EGTC to the proposing bodies. The proposing bodies should then sign the constitutive documents (in public form) and send them back to DARA (no later than six months from communication of the authorisation). Within the following 30 days, DARA, having verified the conformity of the documents, enters the EGTC in the register (for an EGTC registered in a foreign country, the EGTC is registered in the special section 'EGTC based abroad'). The EGTC convention and statutes will be published in the Official Gazette of the Italian Republic.

Within 10 days of the registration or publication, the EGTC will send a request for registration to the European Committee of the Regions, on the basis of the model annexed to EU Regulation 1302/2013.

The European Committee of the Regions transmits this request to the EU Publications Office for publication in the EU Official Gazette.

### Required documents

In order to approve and register an EGTC, the two most relevant documents are the EGTC convention and statutes, which should accompany the application. Additionally, DARA may request any founding documents of the members of the EGTC if at first analysis their public nature is not clearly specified. Also, DARA will request the positive opinions of the ministries asked regarding approval of the constitution of the EGTC (According to law n.88 of 7 July 2009).

### EGTC modification process

For modification of the EGTC convention and / or statutes, the EGTC should transmit the amended documents to DARA. DARA will then send the updated texts to the competent ministries, for their approval. After approval from the ministries, DARA will issue the authorisation to modify the documents. In case of remarks from the Ministries, DARA will inform the EGTC and will request the amendments. Documents must be modified accordingly and sent back to DARA. After formal verification of compliance with the observations, DARA communicates authorisation to the EGTC. Finally, DARA will report the approved modifications in the register relating to the EGTC.

### Required documents

In case of EGTC modification, required documents are the amended convention and statutes.

### Legal and administrative obstacles

*Slovenia*

Difficulties in interpretation of Procurement Directive (2014/24/EU).

## 4.3.26 Latvia



### Responsible Authority

LV: Vides aizsardzības un reģionālās attīstības ministrija

EN: Ministry of Regional Development and Local Government

### Relevant legislation

LV: Eiropas teritoriālās sadarbības grupu likums

EN: Law On European Groupings of Territorial Co-operation

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration::*  
6 months

### EGTC approval and registration process with the registered office outside Latvia

For participation of a Latvian entity in an EGTC with the registered office outside Latvia, the future Latvian member shall send a notification to the Ministry of Regional Development and Local Government ('ministry') regarding the intention to participate in the EGTC (regardless of whether the group is registered in Latvia or not). The notification should be accompanied by a copy of the EGTC convention and the statutes. The ministry shall, within three months of receipt of these documents, approve or not the participation of the member. The ministry may not approve participation in cases specified in Regulation No. 1082/2006. The EGTC not registered in Latvia, once approved, shall submit to the ministry the final formulation of the convention and Statutes.

### EGTC approval and registration process with the registered office in Latvia

The authority for EGTC registration in Latvia is the Ministry of Regional Development and Local Government. The latter is responsible for registration of the EGTC in Latvia, by including the EGTC in the Register on the basis of an application. The approval process is as above. In addition:

The application for registration of an EGTC in Latvia, should indicate 1) the name of the EGTC; 2) the names and addresses of the members of the EGTC, as well as the given name, surname, identification code, place of residence and position of the persons entitled to represent the members, as well as the scope of representation specified for these persons.

Additionally, 4) the size of the fixed capital of the EGTC should be included, if reported in the statutes; and 5) the registered office. The ministry, within three months of receipt of the documents, may register the EGTC in the Register (by issuing a registration certificate) or reject the application.

### Required documents

Whether the EGTC will be registered in Latvia or another Member State, the application should include the following documents:

- 1) the documents of foundation of the EGTC (i.e. convention and statutes);
- 2) if the EGTC statutes refer to a fixed capital, a bank statement regarding payment of the fixed capital; and
- 3) written consent of each member of the EGTC to be a member. Such consent should not be submitted if representatives of the EGTC members have signed an application for entry of the EGTC in the Register.



### **EGTC modification process with the registered office outside Latvia**

For EGTC modifications to the convention and the statutes of an EGTC not registered in Latvia, the modification should be harmonised with the ministry in accordance with the procedures specified by law, prior to the submission for registration in another Member State.

### **EGTC modification process with the registered office in Latvia**

For EGTC modifications to the convention and the statutes of an EGTC registered in Latvia, the modification should be notified to the ministry and, to be effective, registered in accordance with the procedures specified by Law. The application for amendment shall include the same information and justification as for the setting up an EGTC with an office registered in Latvia (see above). The Ministry shall, within six months of receipt of the documents, approve or not approve the amendments.

### **Required documents**

Whether the registered office is in Latvia or another Member State, the required documents are the application, accompanied by the amended convention (draft) and statutes (draft).

## 4.3.27 Lithuania



*Please note: Procedures for modifying an EGTC are relevant if the registered office is in Lithuania or elsewhere.*

### Responsible Authority

LT: Vidaus reikalų ministerijos Regioninės politikos grupė

EN: Ministry of the Interior of the Republic of Lithuania, Regional Policy Group

### Relevant legislation

LT: Lietuvos Respublikos Europos teritorinio bendradarbiavimo grupių įstatymas

EN: Law on European Grouping of Territorial Cooperation

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
3 months

*Receiving the final convention until completing the registration::*  
1 month

### EGTC approval and registration process with the registered office outside Lithuania

Art. 1 of the Law on a European Grouping of Territorial Cooperation, shall apply to members of an EGTC whose registered office is established in the Republic of Lithuania, and to members of an EGTC whose registered office is not established in the Republic of Lithuania, as well as to legal persons who wish to become members, provided they are registered in the Republic of Lithuania ([English text of the Law](#)). Therefore, when the registered office of an EGTC is to be in another country, Lithuania only issues a permit to a Lithuanian legal entity that intends to participate.

Therefore, the founder-to-be of the EGTC has to apply for approval to participate in the EGTC from the Ministry of the Interior of the Republic of Lithuania. The decision regarding the permit is made within 3 months. With approval, the legal entity will then apply to the competent authorities of the country of the registered office of the EGTC according to the laws in that country. After establishment of the EGTC, the entity has to request publication of a notice, in accordance with Art. 5 of Regulation (EC) No 1082/2006.

### Required documents with the registered office outside Lithuania

In order to get the permit from the Ministry of the Interior, the prospective member has to issue a statement about their intentions to participate in the activities. The statement must include the name of the legal entity, legal form, registered office (address), code, the register which has information about the legal entity, VAT payer code, if the entity is a payer, name of the EGTC, preliminary address, as well as the preliminary main tasks and competencies.

Additional documents that have to be provided with the statement:

- a) Copies of the establishment of the legal entity, confirmed by signature of a person, legally representing the entity.
- b) Copies of draft convention and statutes of the EGTC, confirmed by signature of a person legally representing the entity.

If the documents are not in Lithuanian, they have to be translated and confirmed by notary or other legally liable persons.

Within 10 working days from registration and/or publication of the statutes, a request is sent to the Office for Official Publications of the European Union for publication of a notice in the Official Journal of the European Union announcing establishment of the EGTC, with details of its name, objectives, members and registered office.

### EGTC approval and registration process with the registered office in Lithuania

The Lithuanian member of the EGTC must apply to participate in the EGTC from the Ministry of the Interior of the Republic of Lithuania. The decision regarding the permit is made in 3 months. The foreign authority has to receive the permit from the competent authorities of its country. The permit from competent authorities of another country (for foreign legal entities) / the permit from the Ministry of the Interior of the Republic of Lithuania have to be submitted to the Register of Legal Persons. The decision is made in 3 days. After registration of an EGTC in the Register of Legal Persons, a prospective member who has transferred the contribution for the EGTC shall become a member of the EGTC. Once the EGTC has been established, it has to request publication of a notice, in accordance with Art. 5 of Regulation (EC) No 1082/2006.

### Required documents with the registered office in Lithuania

If the registered office of the EGTC is in Lithuania, the same documents are needed as if the office were outside Lithuania (see above). Additionally, the following rules and regulations apply:

The legal basis of the establishment of an EGTC shall be a convention of the EGTC signed by the members. In order to establish an EGTC, this convention has to be submitted to the Register of Legal Person, along with the following documents (according to the point 88 of the Regulation of the Register of Legal Person):

a) the application for creating a new legal entity (the EGTC),  
b) the statutes of the EGTC, c) the permit to participate in activities of the EGTC, issued by the Ministry of the Interior of the Republic of Lithuania (for Lithuanian legal entities) or the permit issued by the competent institution of the other country.

Within 10 working days of registration and/or publication of the statutes, a request is sent to the Office for Official Publications of the European Union for publication of a notice in the Official Journal of the European Union announcing the establishment of the EGTC, with details of its name, objectives, members and registered office.

### EGTC modification process

For modification without new membership, the Lithuanian legal entity (member) that already has a permit to participate in an EGTC that is being modified, has to submit the statutes and related information to the Ministry of the Interior to recheck whether it is still eligible to participate. After that it contacts the competent institution of the country in question.

If the modification is for an EGTC with a registered office in Lithuania, in addition to the above-mentioned steps, the foreign legal entity will contact the competent authorities of its own country and registration of an amended convention of an EGTC in the Register of Legal Persons is made.

For modification due to the application of a new Lithuanian member they have to apply for permission to participate in activities of the EGTC from the Ministry of the Interior of the Republic of Lithuania. The decision regarding the permit is made in 3 months. After that it contacts the competent authority of the country in question.

For an EGTC registered in Lithuania, the foreign legal entity contacts the competent authorities of its own country for the permit. Upon registration of an amended convention of an EGTC in the Register of Legal Persons, a legal person who has transferred the contribution for an EGTC and who is not the founder of this grouping shall become a member of the EGTC.

### Required documents with the registered office outside Lithuania

For a modification without new membership, the documents required are the statutes and related information about the modification.

If it is a modification due to the application of a new member, permission from the Ministry of the Interior will require the same documents as for a body that wants to become part of an EGTC and the registered offices are outside of Lithuania.

If the registered office is in Lithuania, the amended convention should be registered in the Register of Legal Persons. The member from another country also has to provide approval to participate in the EGTC from the Ministry of the Interior and fill in the application form (stating its name, code, legal form).

## 4.3.28 Luxembourg



### Responsible Authority

EN: Ministry of Energy and Spatial Planning, Department of Spatial Planning (division for legal affairs)

### Relevant legislation

FR: Loi portant diverses mesures d'application du règlement (CE) N. 1082/2006 relatif à un GECT

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
3 months

*Receiving the final convention until completing the registration::*  
6 months

### EGTC approval and registration process with the registered office outside Luxembourg

According to the applicable EGTC law (Loi du 19 mai 2009, Art. 5. (1)), the participation of entities, referred to in Art. 2(1), in an EGTC is approved by a Grand-Ducal decree issued on the advice of the Council of State after verification of the requirements of Art. 4(3) and of Art. 13 of Regulation (EC) No 1082/2006. The procedure is:

1) Potential members send a written notification to the EGTC national approval authority of their intention to participate as a member in an EGTC registered in another country (accompanied by the internal decision by their organ or authority and drafts of the convention and statutes as agreed by all potential members). It is worth noting that if the State itself is the potential member, the competent Minister is in charge of this notification to the approval authority.

2) After the receipt of the notification, the approval authority pre-drafts a Grand-Ducal decree approving the texts. The pre-draft is accompanied by a formal note to the Luxembourg Government Council (Council of Ministers) with a request to approve the pre-drafted decree and to authorise to submit the texts to the State Council after verifications of Art. 4.3 and 13 of the EGTC Regulation (as amended).

3) Upon approval of the Government Council, the drafts of the decree as well as the texts of the convention and the statutes of the future EGTC are sent to the State Ministry who forwards them to the State Council for a formal opinion. (accompanied by a small written note including verification of aforementioned Art. 4.3 and 13).

4) Afterwards, the State Council sends an opinion within a few months (addressed to the State Ministry and forwarded to the approval authority).

5) If there are no objections or major amendments from the State Council, the approval authority proceeds to send the draft Grand-Ducal decree annexed with the approved convention and statutes to the Minister of Spatial Planning (that is the Minister in charge of the approval authority) for formal countersignature. (Any objections will be notified to the potential member in a written letter unless the Government Council decides to ignore the State Council's objections.)

6) The countersigned decree and texts are sent by the approval authority to the State Minister who forwards it to His Royal Highness the Grand-Duke for the final signature.

7) Finally, the approval authority is informed about the place and date of the grand-ducal signature and sends the texts to the Central Legislation Service (SCL) for publication.

8) The SCL submits a first publication draft, that the approval authority approves or corrects.

9) Once approved, SCL publishes the texts in the Journal Officiel.

10) The grand-ducal decree approving participation enters into force 4 days after publication and the potential member is notified by the approval authority of the definitive approval.

### Required documents with the registered office outside Luxembourg

According to the process described above, the required documents are: 1) Formal notification letter, 2) Approved draft of the convention and the Statutes, 3) Internal decision of the national potential member to participate in an EGTC by their legal or statutory organs, 4) If available, the collective 'decision' of all potential members on the drafts to be submitted to their national approval authority, 5) The list of potential members if available, 6) A brief history of the necessity/advantage to be a member in an EGTC (e.g. what are the reasons for the potential members to create the EGTC, or what is the background of an existing cooperation), 7) Financial impact on the national budget (if applicable, mostly if the Luxembourg State becomes a member)

### EGTC approval and registration process with the registered office in Luxembourg

The procedure is basically the same as for participation of potential members in an EGTC registered outside of Luxembourg. All steps as described above need to be taken. The only slight difference lies in verification of the notification of all potential members sent to their respective national approval authority, whichever applies according to their national laws. During step 2, it is recommended to obtain notification letters of all potential members to their approval authorities and the latter's approval/ or absence of reply within 6 months of the notification, prior to continuing with the subsequent steps. This is part of the verification of Art. 4.3 and 13 and if a region or country sends a valid objection requiring amendment of the draft convention or Statutes, the whole approval procedure must start again with the amended texts especially including the State Council's opinion which otherwise would have been unnecessarily solicited.

### Required documents with the registered office in Luxembourg

The same documents are required as if the registered office is abroad. The following documents are required in addition: 8) The notifications of potential members of the other countries and regions to their respective approval authority, 9) The reply (approval) of the national approval authority (if applicable the absence of a reply within 6 months of the notification date).

### EGTC modification process

The procedure is basically the same as for the creation of an EGTC registered in Luxembourg or another Member State. Luxembourg might differentiate the modification of the convention and the statutes according to Art. 5(2) of the Loi du 19 mai 2009: 'Amendments to the convention of an EGTC in which one or more Luxembourg entities participate, provided for in Art. 8 of Regulation (EC) No 1082/2006, are approved in the form of paragraph 1. The same applies to modifications to the statutes of such an EGTC, if these lead directly or indirectly, to a modification of the agreement.' It is unclear if the modification of the statutes could be made under a lighter 'procedure' if this does not imply a direct or indirect modification of the Convention. This has never been applied, as the texts of the convention and the statutes have often been almost identical, so there has always been a direct or indirect impact. In addition, there is a difference between a modification involving 'only' a new member from a Member State that already has a member (region) in the EGTC. Here only that relevant Member State has to be notified in principle as well as the State where the EGTC is registered. But practically, all the members must approve new members, which in practice implies again a sort of notification of their respective authorities/decision taking entities (even if it is not a 'notification' under the EGTC Regulation per se). Below the steps for common modification of convention and statutes are similar to establishing an EGTC:

1) National member sends a written notification to the EGTC national approval authority of the EGTC's intention to modify the convention and the Statutes. (accompanied by the internal decision by their organ or authority approving the modifications and proposal of drafts of the convention and the statutes as agreed by all the potential members) (NB: if the Luxembourg State itself is the member of the EGTC, the competent Minister representing the State in the EGTC is in charge of this notification to the approval authority).

2) The approval authority pre-drafts a Grand-Ducal decree approving the amended texts. The pre-draft of the decree is accompanied by a formal note to the Luxembourg Government Council (Council of Ministers) with a request to approve the pre-drafted decree and to authorise to submit the amended texts to the State Council after verification of Art. 4.3 and 13 of the EGTC Regulation (as amended). (for pragmatic reasons the verification of Art. 4.3 and 13 are already included in the aforementioned note to the Government Council).

3) Upon approval of the Government Council, the drafts of the decree as well as the amended texts of the convention and the statutes of the EGTC are sent to the State Ministry who forwards them to the State Council for a formal opinion. (If needed accompanied by a small written note including the verification of Art. 4.3 and 13).

4) The State Council sends an opinion within a few months (addressed to the State Ministry and forwarded to the approval authority).

5) If there are no objections or major amendments from the State Council, the approval authority proceeds to send the draft Grand-Ducal decree annexed with the approved amended convention and statutes to the Minister of Spatial Planning for formal countersignature. (5.bis. if there are objections, they will be notified to the potential member in a written letter unless the Government Council decides to ignore the State Council's objections - in this case points 2 and 3 of the procedure need to be partially repeated).

6) The Counter-signed decree and the amended texts are sent by the approval authority to the State Minister who forwards it to His Royal Highness the Grand-Duke for final signature.

7) The approval authority is informed about the place and date of the grand-ducal signature and sends the texts to the SCL for publication.

8) SCL submits a first publication draft, and the approval authority approves or corrects the draft if there are simple typos or missing parts.

— 92 — 9) SCL publishes the texts in the Journal Officiel.

10) The grand-ducal decree approving the amended texts enters into force after 4 days of publication and notifies the national member.

The process is basically the same as for the modification process if the registered office is not in Luxembourg. The only exception is that Luxembourg has to verify that each and every member of the EGTC registered in Luxembourg has duly notified the same amendments to their respective approval authority for their approval.

### Required documents

The documents required are: 1) Formal notification letter, 2) Proposal of the amended convention and the Statutes, 3) Internal decision of the national member approving the amended versions of the convention and statutes by their legal organ, 4) EGTC's 'decision' on the amendments, 5) A brief summary of the necessity/advantage/reasons for the amendments, 6) financial impact on the national budget (if applicable, mostly if the Luxembourg State becomes a member).

## 4.3.29 Malta



### Responsible Authority

Ministry for Finance and Employment

### Relevant legislation

L.N. 8 of 2011

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
2 months

*Receiving the final convention until completing the registration:*  
1 months

### EGTC approval and registration process with the registered office outside Malta

Maltese Law covers the registration of an EGTC in Malta, but recognises EGTCs set up in other Member States.

### Required documents with the registered office outside Malta

According to Maltese law, an EGTC registered in another Member State shall be governed by a convention concluded unanimately by its members in accordance with Art. 4 of the EGTC Regulation. Such a document would need to be available to the Ministry of Finance, if one of the members is Maltese.

### EGTC approval and registration process with the registered office in Malta

According to Maltese Law, the EGTC (in Maltese REKT-Ragruppament Ewropew ta' Koperazzjoni Territorjali) will be registered with the Finance Ministry, which is the national authorising body. The order does not specify explicitly whether an EGTC is an entity of public or private law and forbids the participation of entities of limited liability. For the budget, insolvency and winding up of EGTCs, the Co-operative Societies Act is the complementary legal framework. The Order establishes a term of 10 days for a newly constituted EGTC to notify the EU institutions and request publication in the Official Journal.

No EGTCs have been registered in Malta as yet. As such, Malta has limited experience of any issues arising during registration. Nevertheless, given that the process follows procedures that are similar to setting up a company or co-operative, once all the documentation is provided, registration should take less than 7 days.

### Required documents with the registered office in Malta

For the purposes of Art. 5(1) of the EGTC Regulation, the statutes and any subsequent amendments shall be registered and upon such registration, the Minister for Finance shall as soon as possible publish the registration in the Gazette. The notice shall include the full name of the Malta EGTC, objectives, members, date of constitution and registered office. The Malta EGTC shall acquire legal personality on the day of registration or publication, whichever occurs first.

### EGTC modification process with the registered office outside Malta

There is no particular process, although the EGTC registered in the other Member State would need to notify the Ministry of any change in the EGTC Convention.

### **Required documents with the registered office outside Malta**

Required documents are the amended EGTC convention and statutes.

### **EGTC modification process with the registered office in Malta**

The EGTC will need to present the amended documentation to the Ministry. Once processed, the EGTC will be notified in the Government Gazette.

### **Required documents with the registered office in Malta**

For EGTC modification, the required documents are a copy of the amended convention and a copy of the updated statutes. Once the documents are available, the Minister of Finance will publish a notice in the Government Gazette which will include the full name of the Malta EGTC, the objectives, members, date of constitution and registered office.



### 4.3.30 Poland



#### Responsible Authority

PL: Departament Dyplomacji Publicznej i Kulturalnej Ministerstwa Spraw Zagranicznych

EN: Ministry of Foreign Affairs

#### Relevant legislation

PL: Ustawa z dnia 7 listopada 2008 r. o europejskim ugrupowaniu współpracy terytorialnej

#### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration:*  
6 months

#### EGTC approval and registration process

The EGTC registration process in Poland is organised in accordance with Art. 4 of the Regulation of the European Parliament and of the Council No. 1082/2006 of 5 July 2006 on the European Grouping of Territorial Cooperation (EGTC) (Journal of Laws UE L 210 of 31 July 2006, p. 19, as amended) and the provisions of the Act of 7 November 2008 on the EGTC (Journal of Laws No. 218, item 1390, as amended).

According to Polish law, EGTC registration requires the consent of the ministry responsible for foreign affairs, which is the competent approval authority for. The process is organised in steps: firstly, the decision-making body of a local government unit adopts a resolution by an absolute majority of votes of the statutory composition. The resolution, together with a certified translation into Polish of documents (EGTC convention and statutes) drawn up in a foreign language, is forwarded to the ministry. Within 3 months from the date of receipt of a resolution on joining a grouping of a local government unit or a decision on joining a grouping of a public law entity, the competent ministry (after having consulted the Ministry for Internal Affairs, the Ministry for Public Finance and the Ministry for Development Regional Authority) should issue an administrative decision, to agree or refuse the prospective membership of the EGTC.

#### Required documents

In order to register an EGTC, the required documents are the draft statutes and convention establishing the EGTC and the opinions of the relevant ministries.

#### EGTC modification process

So far, there are no experiences with EGTC modifications in Poland.

## 4.3.31 Portugal



*Please note: Procedures are relevant if the registered office is in Portugal or elsewhere.*

### Responsible Authority

Cohesion and Development Agency

### Relevant legislation

Decree Law No. 376/2007, Decree Law No. 60/2015

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
3 months

*Receiving the final convention until completing the registration::*  
2 months

### EGTC approval and registration process

The process is in seven steps:

1) According to the applicable law, each Portuguese prospective member, alone or together with other prospective members, notifies the Cohesion and Development Agency, of their intention to participate in an EGTC.

2) The Cohesion and Development Agency checks the completeness of the information supplied by the notifier and that it is accompanied by the proposed convention, statutes and explanatory document.

3) Depending on completeness the next step may vary. 3a) If the documentation is complete, the Cohesion and Development Agency analyses the proposed convention and statutes of the EGTC. 3b) If the documentation is incomplete, if the documents do not contain the compulsory elements or if they do not reflect the use of clear, precise, understandable and accurate language, the Cohesion and Development Agency notifies the prospective member to improve or clarify the texts (Please note that the notification results in an interruption of the assessment period, unless the prospective member submits a reply to the comments within 10 working days from the start of the interruption period). If the prospective member does not provide all the necessary additional information, or does not correct the documents, the application is rejected. 4) If accepted, the Cohesion and Development Agency proposes to the member of government responsible for regional development, consultation with the member of government responsible for foreign affairs and the member of government related to the EGTC activity to verify the conformity of the convention and statutes with applicable European Union law, international commitments assumed by the Portuguese state and national legal provisions.

5) The government members decide on the proposed convention and statutes within 30 days of receipt of the complete application.

6) If the period of 30 days elapses without a response from the government member, it is considered there are no objections on participation in the EGTC.

7) The member of the government responsible for regional development on a proposal from the Cohesion and Development Agency, formally approves participation in the EGTC and the convention and statutes whether or not the registered office is in Portugal.

There is the possibility of a tacit approval if the registered office is not in Portugal, but this has not been used until today.

## Required documents

The required documents are:

- a) Copy of the proposed convention and statutes drawn up in accordance with Art. 8 and 9 of Regulation EC 1082/2006,
- b) Information about the identity, nature and liability (limited or unlimited) of the prospective member of the EGTC, as well as the functions assigned to each member within the future EGTC,
- c) Explanatory document about the future activity of the EGTC, how it will strengthen economic and social cohesion within the European Union and the framework of functions of the EGTC Portuguese members with reference to the powers attributed in national legislation regarding territorial cooperation.

## EGTC modification process with the registered office outside Portugal

For EGTC modification with the registered office located in a foreign country, the process is the same as for of EGTC registration. Indeed, it is possible that the EGTC convention and statutes are not already known and were so far not analysed by the Portuguese government. In this case, the process of amendment of convention or statutes is the same as for EGTC registration.

## Required documents with the registered office outside Portugal

For an EGTC modification, the required documents are the same as for EGTC registration.

## EGTC modification process with the registered office in Portugal

For an EGTC registered in Portugal, the modification process may differ depending on the nature of the amendments. If the changes relate to members joining the EGTC, the Portuguese government examines the legal nature of the 'new' prospective member and checks if its competences and activity fit within the tasks of the EGTC. If substantial amendments are proposed, a full examination will take place, following most of the steps provided for the EGTC approval.

## Required documents with the registered office in Portugal

In case of EGTC modification with a registered office in Portugal, the required documents are information about the identity, nature and liability (limited or unlimited) of the prospective member of the EGTC, as well as the functions assigned to each member within the EGTC, and/or the re-

vised convention and statutes, as well as a statement justifying the request for the amendments.

## Legal and administrative obstacles

### *Spain*

Different legal system; different statutes and governance of local and regional bodies; numerous references to national law of the EGTC regulation, that make it difficult to harmonise the situation; under certain aspects, customised procedures are not specified in the regulation.

## 4.3.32 Romania



### EGTC approval and registration process with the registered office outside Romania

The EGTC registration process if the registered office is not located in Romania, is organised in accordance with Art. 6, Art. 7 alin. (2)-(8) and Art. 13 of OUG nr. 127/2007, with subsequent amendments. The Romanian applicant who intends to join an EGTC registered in a foreign country, should send the documentation listed in Art. 6 of the Regulation to the competent authority. The approval authority receives and analyses the documentation in order to verify compliance with the provisions of the Regulation and national legislation. The authority has the obligation to take the decision regarding its approval or refusal, within 6 months of the date of the receipt of the documentation. In order to approve the convention and the participation of Romanian members, the approval authority requests the consultative opinions of the central public administration authorities, depending on their competences in the field of activity of the EGTC. Advisory opinions shall be issued within 10 working days of receipt of the request from the approval authority. If, within that period, the central government authority does not deliver its opinion, it shall be deemed not to have submitted any observations concerning the documentation for the establishment of the EGTC. The approval authority shall communicate in writing to the applicant, within 30 working days of receipt of the documentation, its observations as well as copies of the consultative opinions issued by the interested authorities. The applicant must analyse and take on the observations submitted by the approval authority in the statutes and the convention. It is worth noting that the term of 6 months for approval or refusal of the request to join the EGTC shall be interrupted until the approval authority receives the reply to the observations. The time limit shall not be interrupted if the potential member has forwarded their response within 10 working days.

If potential members from third countries also participate in setting up the EGTC based in Romania, the approval authority shall request the central public authority responsible for foreign policy to promptly communicate data and information on the conditions for accession of members from third countries, provided for in the Regulation.

The decision of the approval authority regarding approval of the convention and the participation of Romanian members in the EGTC may be challenged under the conditions of the law of contentious administrative.

According to art.13 (1), to participate in an EGTC with headquarters in another Member State, the Romanian entities are obliged to request the Romanian approval authority to approve the convention and their participation in the EGTC. The approval authority takes the approval decision after the submission by the applicant of the documentation provided in Art. 6. According to Art. 13, to participate in an EGTC registered in another state, the Romanian mem-

### Responsible Authority

RO: Ministerul Dezvoltării, Lucrărilor Publice și Administrației, EN: MDLPA

### Relevant legislation

Government Emergency Ordinance no. 127/2007 / Government Ordinance no. 9/2015 regarding the European Grouping of Territorial Cooperation amending and supplementing the Government Emergency Ordinance no. 127/2007

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration::*  
2 months

bers approve the constitutive documents. If the Romanian approval authority has previously approved the convention and the participation of another Romanian entity, the EGTC shall transmit the documentation provided in Art. 6 to the approval authority and notify the State in which the EGTC has its headquarters of the convention amendment. Otherwise, if the approval authority in Romania has not previously approved the convention and the participation of a Romanian entity, the EGTC registered in another state shall request the approval authority in Romania to approve the convention and the participation of the Romanian member. According to the provisions of the Regulation, the approval authority of Romania is competent to examine the application for accession of a new member of a third country to an EGTC registered in its territory.

### **Required documents with the registered office outside Romania**

The following documents are required to establish the EGTC in Romania:

- a) request of the applicant regarding approval of the convention and participation in the establishment of the EGTC based in Romania;
- b) the constitutive documents of the EGTC, respectively the statutes and the convention, signed by all its members, which include all the elements provided by the regulation;
- c) the act issued by the competent bodies according to the law, of the entities listed in Art. 2 para. (2) (public entities), regarding participation in the EGTC;
- d) the approvals issued by the competent authorities of the States represented in the EGTC, regarding the convention and participation in the EGTC for all members.

All the above listed documents shall be sent to the approval authority, in their original, in Romanian or in a legalised translation in Romanian. The competencies that the entities provided in Art. 2 para. (2) exercise as a public authority may not be the subject of a convention under the sanction of inadmissibility of the application to establish the EGTC. Additionally, the approval authority of Romania may request the potential members of an EGTC with limited liability for a guarantee within the meaning of Art. 12 para. (2a) of the Regulation, covering the risks specific to the activity assumed by the EGTC through the statutes and the convention.

### **EGTC approval and registration process with the registered office in Romania**

The registration process of an EGTC is organised in accordance with Art. 4 and Art. 6 of OUG nr. 127/2007, with subsequent amendments.

The formal approval of an EGTC is finalised when the EGTC is registered in the EGTC Register, which is public and kept by the notifying authority. The approval authority is obliged to issue, at the expense of the applicant, copies of the entries made in the EGTC Register and of the documents submitted for incorporation, as well as other information deriving from the entries in the EGTC Register. These documents may be requested and issued by correspondence or by any other means provided by law. The fees for the release of copies and / or information, regardless of the method of transmission, shall not exceed the administrative costs involved in their release. The amount of the fees shall be approved by the head of the approval authority. The fees are treated as income to the state budget.

The approval authority receives and analyses the documentation in order to verify compliance with the provisions of the Regulation and national legislation. The authority must take the decision regarding approval or refusal within 6 months of receiving the documentation.

In order to approve the convention and the participation of Romanian members, the approval authority requests the opinions of central public administration authorities, depending on the EGTC field of activity. Advisory opinions shall be issued within 10 working days of receipt of the request from the approval authority. If, within that period, the central government authority does not deliver its opinion, it shall be deemed not to have submitted any observations concerning the documentation for the establishment of the EGTC.

The approval authority shall communicate its observations in writing to the applicant, within 30 working days from receipt of the documentation, as well as copies of the consultative opinions issued by the interested authorities. The applicant must analyse and take on the observations submitted by the approval authority in the statutes and the convention. It is worth noting that the term of 6 months for approval or refusal of the request of joining the EGTC, shall be interrupted until the approval authority receives the reply of the requesting member to the submitted observations. The time limit shall not be interrupted if the potential member has forwarded to the approval authority their response to the comments made within 10 working days of the start of the interruption period.

If potential members from third countries also participate in setting up the EGTC based in Romania, the approval authority shall request the central public authority with competences in the field of foreign policy to communicate promptly data and information on the conditions for accession of members from third countries, provided for in the Regulation.

The decision of the approval authority regarding approval of the convention and participation of the Romanian members in the EGTC may be challenged under the conditions of the law of contentious administrative.

According to Art. 8 of the Regulation, the EGTC members shall, by unanimous vote, approve the convention and the Statutes, as amended by the Romanian approval authority and, for members not established in Romania, by similar authorities in the respective Member States or third parties, as appropriate. After approval, members of the EGTC shall send to the approval authority a request authorisation to operate the EGTC, as well as the documents provided in Art. 6 para. (1) lit. b) - d), to issue the EGTC operating authorisation. Within 30 calendar days from receipt of the documents provided in Art. 8, based on approval of the convention and participation issued according to Art. 7 for the Romanian members and of the equivalent documents issued for the foreign members of the EGTC, the approval authority verifies fulfilment of the conditions in the Regulation and decides on the authorisation of the EGTC. If the approval authority finds the conditions in the Regulation are met, it shall issue the authorisation necessary to fulfil the procedure for setting up the EGTC, which shall take place before the court. Otherwise, if the approval authority does not authorise the operation, it shall communicate to the EGTC members its reasoned decision within 30 working days of submission of the application and the documents necessary for taking the decision. The decision to refuse the operating license will also include proposals to amend the convention.

The decision to refuse the EGTC operating authorisation issued by the approval authority may be challenged under the conditions of the Law on administrative litigation no. 554/2004, with subsequent amendments and completions. Within 5 working days of the operating authorisation communication, the EGTC representatives shall submit to the territorial court where the EGTC is to be established, an application for to establish the EGTC, accompanied by the operating authorisation issued by the approval authority and documents provided for in Art. 6. Within 10 working days of submission of the application for incorporation and the documents provided in Art. 6, the court verifies their legality and accepts or rejects the application. Acceptance of the application for incorporation shall be communicated to the EGTC, at the headquarters mentioned in the application, and be sent by its representatives to the approval authority, to be registered in the EGTC Register. Decisions rejecting the application for incorporation may be appealed, in accordance with the provisions of the law. The final decision of the court of appeal which admits the application for incorporation, shall be communicated to the EGTC, at the premises mentioned in the application for incorporation, which shall forward it to the approval authority for registration in the EGTC Register.

The entry in the EGTC Register shall be made within 24 hours of the date of receipt by the approval authority of the admission or the irrevocable decision of the court of appeal. The EGTC acquires legal personality from the date of entry in the EGTC Register. After registration, the EGTC sends to the Autonomous Authority 'Official Gazette', at its expense, a notice of establishment, for publication in the Official Gazette of Romania, Part IV, and informs the Member States concerned

and the Committee of the Regions on the registration of the EGTC, in compliance with the provisions of Art. 5 of the Regulation. The EGTC must send to the approval authority proof of fulfilment of the obligations provided by par. (6).

#### Required documents with the registered office in Romania

The same documents as listed above.

#### EGTC modification process with the registered office outside Romania

The process of modifying an EGTC if the registered office is not in Romania, is organised according to Art. 13<sup>^</sup>1 alin. (2) and Art. 16 of OUG nr. 127/2007, with subsequent amendments. Art. 13 <sup>^</sup>1, if the Romanian approval authority has previously approved the convention and the participation of another Romanian entity for the EGTC registered in another Member State, the EGTC shall transmit the documentation provided in Art. 6 to the approval authority and notify the State in which the EGTC has its headquarters, the amendment of the Convention. Any amendment to the EGTC's statutes and convention must be agreed by all the members. The amendments shall be transmitted by the EGTC to the approval authority, for approval, according to Art. 13 <sup>^</sup>1 and Art. 4 para. (6) and (6a) of the Regulation, accompanied by the consolidated statutes and convention and the agreement of the EGTC members.

#### Required documents with the registered office outside Romania

The required documents are listed in Art. 13<sup>^</sup>1 and Art. 16 of OUG nr. 127/2007, with subsequent amendments.

#### EGTC modification process with the registered office in Romania

The process of modifying an EGTC if the registered office is Romania, is according to Art. 16 of OUG nr. 127/2007, with subsequent amendments. Any amendment to the EGTC's statutes and convention must be based on the agreement of all EGTC members. The amendments shall be transmitted by the EGTC to the approval authority for approval according to Art. 13 <sup>^</sup>1 and Art. 4 para. (6) and (6a) of the Regulation, accompanied by the consolidated statutes and convention and the agreement of the EGTC members.

#### Required documents with the registered office in Romania

The required documents are listed in Art. 16 of OUG nr. 127/2007, with subsequent amendments.

## 4.3.33 Slovakia



### Responsible Authority

SK: Ministerstvo investícií, regionálneho rozvoja a informatizácie Slovenskej republiky sekcia centrálny koordináčny orgán Štefánikova 882/15 Bratislava 811 05

EN: Ministry of Investments, Regional Development and Informatization of the Slovak Republic Central Coordination Body Section Štefánikova 882/15 Bratislava 811 05 Slovakia

### Relevant legislation

SK: Zákon č. 90/2008 Z. z. o európskom zoskupení územnej spolupráce a o doplnení zákona č. 540/2001 Z. z. o štátnej štatistike v znení neskorších predpisov

EN: Act No. 90/2008 Coll. on a EGTC

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
6 months

*Receiving the final convention until completing the registration:*  
3 months

### EGTC approval and registration process with the registered office outside Slovakia

In the Slovak Republic, all processes regarding approval, registration, and modification of an EGTC are provided by a single competent authority, which is the Ministry of Investments, Regional Development and Informatisation of the Slovak Republic based in Bratislava (Registration Office). If an EGTC is registered in another country, members under whose law it was formed are given approval to become members of an EGTC by the Slovak Republic and at the same time, the ministry approves the text of the EGTC convention (Art. 4 (3) of Regulation (EC) No 1082/2006).

The process consists of the following steps:

- 1) A Slovak prospective member announces their intended participation in an EGTC and submits the required documents to the registry in the Slovak Republic;
- 2) When required, the Slovak Republic shall request additional information from the prospective member, or consult it about any ambiguities in the documentation;
- 3) A decision approving the participation of a prospective member in an EGTC and adoption of the EGTC convention, or not approving the participation and not adopting the EGTC convention stating the reasons for withholding approval.

The provisions of the general national regulation on administrative proceedings apply to the procedure, i.e., Act No 70/1968 Coll. Administrative Procedure Code, as amended. Decision deadlines are laid down by Regulation (EC) No 1082/2006.

Final decision on granting approval by the Slovak Republic for membership of a Slovak entity in an EGTC and a decision on approving an EGTC convention will be submitted by the prospective member to the EGTC bodies to forward them to the competent authority of the country in which the EGTC will have its registered office.

### Required documents with the registered office outside Slovakia

In order to approve and register an EGTC with registered office in a foreign country, the following documents are required:

- 1) Application for approval of the membership of a Slovak entity in an EGTC,
- 2) Officially certified copy of the proposed EGTC convention,
- 3) Officially certified copy of the proposed EGTC statutes,
- 4) Consent of the Government of the Slovak Republic is attached if the Slovak Republic is the prospective member. If

a self-governing region of the Slovak Republic (NUTS3) or a municipality (LAU2) is the prospective member, the consent of their council will also be attached.

### EGTC approval and registration process with the registered office in Slovakia

The registration of an EGTC in the Slovak Republic is preceded by approving the membership of Slovak prospective members in an EGTC, as for EGTC registration with the registered office in a foreign country. An EGTC with its registered office in the Slovak Republic is established in accordance with national legislation on the day of entry in the register.

Following the granting of consent to all prospective members of an EGTC, the procedure applied by the registry is as follows:

- 1) Delivery of the proposal for entering an EGTC in the register - the proposal is submitted to the registry by the founders of an EGTC jointly or by a representative elected by them. The application form for the registration proposal is available on the MIRDI SR website;
- 2) Examination of the completeness of the proposal. If required, the registry will request that the application or missing documentation be supplemented;
- 3) The issuance of a decision on entering an EGTC in the register/issuance of a decision on the rejection of the proposal for entering an EGTC in the register and its delivery to the parties in the procedure.

The provisions of the general national regulation for administrative proceedings apply to the registration procedure, i.e., Act No 70/1968 Coll. Administrative Procedure Code, as amended. The decision deadline is 30 days. With respect to the decision, founders or an elected representative may lodge an appeal to the minister.

4) Immediately after the decision becomes final, the registry will electronically register an EGTC in the RPO, i.e., the Register and Identifier of Legal Entities, Entrepreneurs, and Public Authorities of the Slovak Republic. It will inform the EGTC of this by delivering a copy of the registration certificate.

### Required documents with the registered office in Slovakia

In order to approve and register an EGTC with registered office in Slovakia, the following documents are required:

- 1) Proposal for entering an EGTC in the registry (application form),
- 2) Convention,

3) Statutes,

4) Consent of members in an EGTC granted under Regulation (EC) No 1082/2006,

5) Expert opinion proving that the value of the non-monetary contribution corresponds to the value of the assumed liability for the contribution to the group's equity, if a non-monetary contribution was made by a member,

6) An instrument/document proving repayment of the individual members' deposits,

7) An instrument/document proving appointment of the director,

8) Power of attorney for any elected representative submitting a proposal for entry in the register.

### EGTC modification process with the registered office outside Slovakia

For modifications to an EGTC with its registered office in another country, the process depends on the type of modification. For modification to an EGTC convention, except for admitting a new member, the steps are:

- 1) The EGTC will request approval of the modification to an EGTC convention and submit the required documents to the registry in the Slovak Republic;
- 2) When required, the Slovak Republic will request further or additional information from an EGTC, or consult it about any ambiguities in the documentation;
- 3) The issuance of a decision approving modifications to an EGTC convention/or not approving an EGTC convention and stating the reasons for withholding the approval.

The provisions of the general national regulation for administrative proceedings apply to the procedure, i.e., Act No 70/1968 Coll. Administrative Procedure Code, as amended. The decision deadlines are laid down by Regulation (EC) No 1082/2006. The final decision on approving the amendments to an EGTC convention will be submitted by an EGTC to forward them to the competent authority of the country where the EGTC has its registered office.

For accession of a new member from the Slovak Republic, the procedure is similar to modifying the EGTC convention, More specifically:

- 1) The prospective new Slovak EGTC member will announce its intention to join the existing EGTC and submit the required documents to the registry in the Slovak Republic;



2) When required, the Slovak Republic will request further and additional information from the prospective new member or consult it about any ambiguities in the documentation;

3) The issuance of a decision approving or not approving the participation of a prospective new member in an EGTC, while stating the reasons for withholding the approval.

The provisions of the general national regulation for administrative proceedings apply to the procedure, i.e., Act No 70/1968 Coll. Administrative Procedure Code, as amended. The decision deadlines are laid down by Regulation (EC) No 1082/2006. Final decision on granting approval by the Slovak Republic for new membership of a Slovak entity in the existing EGTC will be submitted by a prospective new member to the EGTC bodies to forward it for the registration amending procedure to the competent authority of the country where the EGTC has its registered office.

In case of modification for the accession of a new member from another Member State:

1) The EGTC will inform about any amendment in the statutes or accession of a new member to the EGTC and submit the required documents to the registry in the Slovak Republic.

2) When required, the Slovak Republic will request the prospective member to submit further and additional information or consult it about any ambiguities in the documentation. Otherwise, it shall take note of the notification and place it on file.

#### Required documents with the registered office outside Slovakia

For a modification to an EGTC convention, except for accession of a new member, the following documents are required:

- 1) Application for approval of the modifications to an EGTC convention,
- 2) Convention with the specified amendment, and
- 3) Statutes with the specified amendment.

For modification of an EGTC with the accession of a new member from the Slovak Republic, the same documents are required as those to approve and register an EGTC if the registered office is not in Slovakia (see above).

For modification with the accession of a new member from another Member State, the following documents should be submitted:

1) Notice of an amendment of the statutes or notification of the accession of a new member with a registered office outside the Slovak Republic,

2) Convention with the specified amendment, and

3) Statutes with the specified amendments.

#### EGTC modification process with the registered office in Slovakia

If the data or convention of an existing EGTC established in the Slovak Republic are modified, the procedure is as follows:

1) Submission of a proposal to modify the EGTC data in the registry - the proposal is submitted to the registry by the statutory representative of an EGTC - the director. The application form for modifying the data is available on the MIRD SR website;

2) Examination of the completeness of the proposal to modify the EGTC data in the registry. When appropriate, the registry will request that the application or missing documentation be supplemented;

3) Issuing a decision to modify the EGTC data in the register or rejecting the proposal and distributing to the parties to the procedure;

The provisions of the general national regulation for administrative proceedings apply to the process of modifying the EGTC data in the register – Act No 70/1968 Coll. Administrative Procedure Code, as amended. The decision deadline is 30 days. The director of the EGTC may appeal against the decision, the minister decides on the appeal.

4) Immediately after the decision enters into force, the registry will make an electronic modification of the EGTC data in the RPO, i.e., the Register and Identifier of Legal Entities, Entrepreneurs and Public Authorities of the Slovak Republic. The EGTC will be informed of this in the form of a copy of the updated registration certificate.

#### Required documents with the registered office in Slovakia

Required documents are the following:

1) Proposal to modify the entry of EGTC data in the register (form),

2) Convention with the specified amendment,

3) Statutes with the specified amendment,

4) Document of proof or from which it follows that the data entered in the register are modified,

5) If the reason for modifying the entry in the register was to amend the convention, the consent of the Member States to the amendment is also required,

6) If the reason for modifying the entry was due to the accession of a new member from another Member State or from a non-EU country, the consent of the country concerned is also required.

## Legal and administrative obstacles

### *General*

The most frequently encountered issues relate to the approval process/registration or modification procedures, for EGTCs with local authorities as their members (especially small towns and municipalities).

The problem lies mainly in low quality translation of the documents and limited knowledge of EGTC legislation at EU and national levels. These often result in ambiguities and necessitate more frequent and time-consuming consultations with partners, which delays the EGTC approval/registration/modification.

Another problem concerns the unavailability of information about the final registration/further activity/modification of the convention and the statutes of EGTCs with registered offices in another country.

## 4.3.34 Slovenia



*Please note: Procedures are relevant if the registered office is in Slovenia or elsewhere.*

### Responsible Authority

SI: Ministrstvo za javno upravo

EN: Ministry of Public Administration

### Relevant legislation

SI: Uredba o izvajanju Uredbe (ES) o ustanovitvi evropskega združenja za teritorialno sodelovanje

EN: Decree on the implementation of the Regulation (EC) establishing the European Grouping of Territorial Cooperation

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
12 months

*Receiving the final convention until completing the registration:*  
3 months

### EGTC approval and registration process

The registration process for an EGTC registered in Slovenia or in a foreign country is almost the same. The municipality or other legal person falling under Art. 3 of the decree on implementation of the Regulation (EC) on establishing the European Grouping of Territorial Cooperation, contacts the competent ministry asking to establish or adhere to an existing EGTC (the 'decree'). The ministry advises what legislation is applicable.

Once the ministry receives the complete application, in accordance with Art. 8 of the decree, it prepares a proposal for the government decision referred to in Art. 7 of the decree.

### Required documents

For EGTC registration, in addition to the application, the entity should submit proposed convention and statutes for the future EGTC or the convention and statutes of the existing EGTC and the approval of the municipal council to establish or join an EGTC.

### EGTC modification process with the registered office outside Slovenia

Slovenia has no experience of EGTC modification yet and no specific process has been organised.

### EGTC modification process with the registered office in Slovenia

For amendment to the EGTC convention the Government shall decide on the approval of the amended document in accordance with Regulations 1082/2006 / EC and Art. 7, 8 and 9 of this regulation.

### Required documents

The required document is the amended convention.

### Legal and administrative obstacles

*Austria*  
Different regulation of approval procedures

## 4.3.35 Spain



*Please note: Procedures are relevant if the registered office is in Spain or elsewhere. Differences concerning the implementation of changes to EGTCs apply.*

### Responsible Authority

ES: Ministerio de Política Territorial y Función Pública,  
EN: Ministry of Territorial Policy and Civil Service

### Relevant legislation

Real Decreto 23/2015, de 23 de enero, por el que se adoptan las medidas necesarias para la aplicación efectiva del Reglamento (CE) n.º 1082/2006 del Parlamento Europeo y del Consejo, de 5 de julio de 2006, sobre la Agrupación Europea de Cooperación Territorial (AECT), modificado por el Reglamento (UE) n.º 1302/2013 del Parlamento Europeo y del Consejo, de 17 de diciembre de 2013, en lo que se refiere a la clarificación, a la simplificación y a la mejora de la creación y el funcionamiento de tales agrupaciones.

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
–

*Receiving the final convention until completing the registration::*

6 months

### EGTC approval and registration process

Prior to the creation of an EGTC, the prospective Spanish member shall submit an application to the Secretary of State for Territorial Policy and Public Function, accompanied by the documentation listed in Art. 4 of the Spanish EGTC Regulation (Real Decreto 23/2015, de 23 de enero). For a Spanish member joining an existing EGTC, the prospective member must notify the Secretary of State for Territorial Policy and Public Function of its intention to participate in the EGTC by submitting an application accompanied by the above-mentioned documentation. Once the application has been received, the Ministry of Territorial Policy and Civil Service shall request the corresponding reports by the competent ministries. In all cases, the reports of the Ministry of Foreign Affairs, European Union and Cooperation and of the Secretariat of State for Budgets and Expenditure (Ministry of Finance) shall be mandatory. The latter shall also be binding with regard to the use of European funds or the General State Administration, its companies or public bodies or other entities governed by public law.

Likewise, the report of the relevant Spanish Autonomous Community shall be mandatory in relation to applications for EGTCs in which any of the subjects referred to in Art. 3 of the royal decree corresponding to its territorial scope are included. The Ministry of Foreign Affairs, European Union and Cooperation, having received the request for a report, shall communicate to the other Member States the applications to participate in an EGTC of any of these States is planned, and shall pass on the communications received from them to the other departments and Public Administrations involved. The Ministry of Territorial Policy and Civil Service may request additional information, documentation or clarification from the prospective members of the EGTC at any time during the procedure. The prospective members of the EGTC shall coordinate and exchange information during this phase of the procedure, in order to speed up the consolidation of the texts, taking into account possible comments from the various Member States.

In applying the principle of institutional cooperation in Art. 4.1.d) of law 30/1992, of 26 November 1992, on the Legal System for the Public Administrations and Common Administrative Procedure, the Public Administrations concerned shall exchange information for the effective exercise of the powers conferred by this regulation. To this end, the General State Administration will transfer the information to the Autonomous Communities through the Secretariat of the Conference for Issues Related to the European Union, and to the local entities, through the Secretariat of the National Commission for Local Administration. Once the above-mentioned reports have been received, or after one month without them being issued, except in the case of mandatory reports that are needed to complete the procedure, the Secretariat of State for Territorial Policy and Public Function will formulate a proposal for resolution. In the case of reports issued under a procedure for the accession

of a new Spanish member to an EGTC whose convention has already been approved by Spain, the deadline for these reports is ten days. The resolution of the approval of participation and the convention will be by the Council of Ministers, at the proposal of the head of the Ministry of Territorial Policy and Public Function, if a future member of the EGTC is a State, an organ of the General State Administration, a public company or a public law body dependent on it, or one or more autonomous communities or their dependent public bodies. In all other cases, this resolution shall be made by the head of the Ministry of Territorial Policy and Public Function. The maximum period for resolution of the procedure will be six months from the application. Once this period has elapsed without a resolution being issued, the application will be understood to have been accepted. The resolution that ends the procedure shall approve or shall deny with reasons the participation of the Spanish member in the projected EGTC when compliant with Art. 4.3 of Regulation (EC) No. 1082/2006 on the EGTC, as amended by Regulation (EU) No. 1302/2013. If the EGTC is not formed within one year, the approval will expire.

If a new Spanish member is joining an EGTC whose convention has already been approved by Spain, such participation must be approved by the Spanish authorities, in accordance with Royal Decree 23/2015. Approval shall be notified to the Member State in which the EGTC's registered office is located.

If the EGTC does not have its registered office in Spain, members of the EGTC constituted under Spanish law shall notify the Ministry of Foreign Affairs, European Union and Cooperation of all information regarding the date of publication and/or registration in the State with the registered office, sending a copy of the signed agreement and corresponding statutes. The Ministry of Foreign Affairs, European Union and Cooperation shall notify the Ministry of Territorial Policy and Public Function of all entries in the Register, as well as any amendments. Registration in the Register enables the EGTC to complete the necessary administrative actions to be able to carry out its activity.

### Required documents

- 1) The text of the proposed convention, which shall be drawn up in accordance with Art. 8 of Regulation (EC) No 1082/2006 on the EGTC, as amended by Regulation (EU) No. 1302/2013.
- 2) The proposed statutes, which shall be drawn up in accordance with Art. 9 of the aforementioned European Regulation, as amended by Regulation (EU) No. 1302/2013.
- 3) If applicable, documentation proving the legal personality of the future members, as well as any limitation of liability.

4) Approval to participate in the EGTC, expressed in agreement with the Governing Council of the Autonomous Community, the Plenary of the City Council, the Administrative Council, the Board of Trustees or the corresponding body, shall include accreditation of competence in the terms of Art. 7.2 of Regulation 1082/2006, on the EGTC, in its version modified by Regulation (EU) No. 1302/2013.

The Ministry of Foreign Affairs, European Union and Cooperation shall notify the Ministry of Territorial Policy and Public Function of all entries in the Register, as well as any amendments. Registration enables the EGTC to complete the necessary administrative actions to carry out the activity for which it has been constituted.

### EGTC modification process with the registered office outside Spain

If a Spanish member is looking to participate in an existing EGTC, it must notify the Secretary of State for Public Administration of its intention in order to proceed with the approval procedure. The Ministry of Territorial Policy and Public Function shall notify the Ministry of Foreign Affairs, European Union and Cooperation of any modification that gives rise to variations to entries in the EGTC registry.

### EGTC modification process with the registered office in Spain

Any amendment to the convention or the statutes of an EGTC with one or more members constituted under Spanish law shall be notified to the Ministry of Territorial Policy and Public Function by the EGTC. Any amendment to the agreement shall be approved by the body which has given its approval for the constitution of the EGTC in accordance with the procedure in Art. 4 et seq. of Royal Decree 23/2015. The Ministry of Territorial Policy and Public Function shall notify the Ministry of Foreign Affairs, European Union and Cooperation of any modification that gives rise to variations to entries in the EGTC registry.

### Required documents with the registered office outside Spain

If a Spanish member is looking to participate in an existing EGTC, it must notify the Secretary of State for Public Administration of its intention in order to proceed with the approval procedure by submitting an application accompanied by:

- 1) The text of the proposed convention drawn up in accordance with Art. 8 of Regulation (EC) No. 1082/2006 on the EGTC, as amended by Regulation (EU) No. 1302/2013.
- 2) The proposed statutes be drawn up in accordance with Art. 9 of the aforementioned European Regulations.

3) If applicable, documentation proving the legal personality of the future members, as well as any limitation of liability.

4) The certification enabling the Entity concerned to participate in the EGTC, in agreement with the Governing Council of the Autonomous Community, the Plenary of the City Council, the Administrative Council, the Board of Trustees or the corresponding body, shall include the accreditation of competence in the terms of Art. 7.2 of Regulation (EC) No. 1082/2006, on the EGTC, as modified by Regulation (EU) No. 1302/2013.

Any amendment to the convention shall be approved by the body which has given its approval for the constitution of the EGTC in accordance with the procedure in Art. 4 et seq. of Royal Decree 23/2015. The necessary documentation is as listed above.

### Legal and administrative obstacles

#### *Portugal / France*

Delays in receiving information on the government's position on the convention and statutes governing the EGTC.

#### *France*

It is not easy to obtain authorisation from the central government in France, compared to the success of achieving the 'arret' (the local/regional permit) that makes it possible for French regions or municipalities to be members of an EGTC.

#### *Portugal*

On two occasions there was a delay of more than a year before the Portuguese Government gave its approval. These situations are particularly detrimental to members of EGTCs that are awaiting authorisation and wish to be able to cooperate without delay in joint projects that are financially supported by the European Union.

## 4.3.36 Sweden



*Please note: Procedures are relevant if the registered office is in Sweden or elsewhere.*

### Responsible Authority

SE: Näringsdepartementet

EN: Ministry of Enterprise and Innovation

### Relevant legislation

SE: Svensk författningssamling - Lag om europeiska grupperingar för territoriellt samarbete

### Expected time required for approval and registration process

*First contact until receiving the final convention for approval:*  
2 months

*Receiving the final convention until completing the registration:*  
2 months

### EGTC approval and registration process

So far, no EGTC has its registered office in Sweden. However, there are two EGTCs with Swedish participation. For these, the Ministry of Enterprise and Innovation was not in contact with the applicants/organisations applying to be members in an EGTC before receipt of their application.

The application consists of a few paragraphs stating that the entity is applying to become a member of an EGTC. The application is accompanied by the EGTC convention and statutes. Additionally, the future EGTC member also attaches the internal decision approving participation of the entity in the EGTC.

The government office assesses the application based on EGTC and national legislation. For amendments and modifications to the convention and the statutes, the proposed member should modify according to the indications given by the government. Once modified, the documents should be submitted again for approval.

### Required documents

The required documents are the EGTC convention and statutes, which should be attached to the application.

### EGTC modification process

In Sweden, there is no formal process for modifying an EGTC. According to past experience with a minor modification the government notified this to the Swedish member.

### Required documents

The required documents are the EGTC convention and statutes.

## 4.4 Registering an EGTC in neighbouring countries

Until today, few EGTCs have members from neighbouring countries although the amendment of the EGTC Regulation in 2013 explicitly included rules for neighbouring countries and OCTs. Most experience relates to Switzerland and little experience exists in Ukraine. These are detailed in the next two sections. A short section updating UK information after Brexit complements this. Thereafter, an overview touches on neighbouring countries and OCTs that are less experienced but provided information on their current assessment of the EGTC instrument.

### 4.4.1 Switzerland

*Please note: the following text has been drafted based on informed feedback from several experts that were consulted in the framework of the study. The following text does not represent the official opinion of the Swiss Cantons as procedures for EGTC approval and registration differ depending on the type of body and applicable regulations of the Cantons. If you wish to receive further information, please refer to the authorities in charge of cross-border/transnational cooperation at federal and/or cantonal level.*

Responsible Authority	
EN: Swiss Agency for External Affairs (in cooperation with Cantons)	Responsibility varies between Cantons and depends on prospective EGTC members
DE: Eidgenössisches Department für auswärtige Angelegenheiten EDA	
<a href="mailto:helpline@eda.admin.ch">helpline@eda.admin.ch</a>	

Bilateral agreements between Switzerland and the EU are in place, which regulate contractual arrangements between both parties. According to Swiss federal law, cantons can enter contracts with international bodies concerning matters of their competence. These contracts shall not conflict with federal laws and interests or interests of other Cantons. Before signing such a contract, Cantons are obliged to inform the federal level. For EGTCs, Cantons need to inform the Swiss Ministry in charge of external relations (Federal Department of Foreign Affairs, 'Eidgenössisches Department für auswärtige Angelegenheiten EDA'). Cantons can directly agree on contracts with sub-national authorities in other countries. If a Canton wants to agree on a contract with a central government of another state, the process needs to be mediated by the federal agency in charge of external relations.

For the participation of a potential future EGTC member from a third-country to be legitimate for EU Member States, the government/parliament of the potential Swiss member needs to state that the EU EGTC Regulation and potentially the understanding of the EGTC Regulation from another Member State is accepted in the jurisdiction of the Swiss member. This statement can be issued in several forms, e.g. through a mention in the EGTCs' convention or a separate agreement.

Another issue is knowing the component authority at Canton level for conducting the tasks following submission of an application for EGTC membership. As no competence at Cantonal level for EGTC is defined per se, bodies interested to become part of an EGTC and lacking the knowledge of the corresponding Canton authority may request clarification from the Swiss Department of Foreign Affairs. At Canton level, bodies can refer to the agencies in charge of external relations of the Canton state chancelleries.

When a body wants to become a member of an EGTC, different procedures apply per Canton and depending on the type of body.

In general, if the body is at Canton level (e.g. a Canton, a university, etc.), the decision to become member of an EGTC needs to be taken by the respective board, empowered to decide whether the body can join an EGTC. This also needs to be documented in some form (e.g. meeting minutes). In addition to the information from the Canton to the EDA, a statement from the EDA needs to be issued. The statement stipulates that the Swiss federal level has no objections.

Different processes may apply for decision-making in Canton-level bodies. Generally, the assessment of the application to become a member of an EGTC is delegated to the technical agencies/ministries at Canton level. To approve the participation of a Swiss member, a cantonal government decree needs to be issued. As there are no clear competences defined for EGTCs, it is unclear whether a cantonal parliament decision is required. In some cases, and where a cantonal government decree has been issued, it is sufficient to inform the cantonal parliament. However, this depends on the individual Canton regulation.

If a Canton-level body wants to become part of an EGTC, there could be parallel decisions and potential supervisory conflicts. The cantonal governments are usually present in the supervisory boards of Canton-level bodies. After a decision



to become part of an EGTC is taken by these supervisory boards, the application is sent to the cantonal government to assessing. The Canton governments are involved in the process when it comes to deciding to become a member of an EGTC and when the application is assessed. It is up to the Canton to ensure a division between decision-taking and control within the relevant bodies.

If a municipality wants to become a member of an EGTC, other procedures may apply. In the past, Cantons referred to the municipal autonomy. Subsequently, municipalities could decide on their own about their EGTC membership. No statement was issued at Canton level. It is not yet proven whether this procedure is sufficient, since no EGTC membership under this procedure has been approved so far.

In many Cantons, there is no experience of how to deal with EGTCs. So far, only a few Cantons have received concrete requests and administrations had to deal and delegate decision-making and control power. There's no inter-cantonal coordination or exchange of experiences in Switzerland and no structure with EGTC competence at federal level.

Complementing the difficulties for approval of an EGTC with Swiss members, further questions arise from rights and obligations of third-country members in an EGTC. Depending on the EGTC registered office and its other structures, different national and European laws need to be considered. This creates uncertainty for prospective Swiss EGTC members and for authorities responsible for approving Swiss membership in an EGTC.

So far, bodies from the Canton Basel-Stadt have successfully become members of EGTCs. Other Cantons with experience from previous or upcoming applications for EGTC memberships are Zürich, St. Gallen, Thurgau, Schaffhausen, Waadt, Bern and Graubünden.

## 4.4.2 United Kingdom

After careful consideration on the UK's position on EGTCs after 31 December 2020, it was decided to revoke any existing EGTC regulations. This means that UK public authorities (including those in Wales, Scotland and Northern Ireland) will no longer be able to join an EGTC. The change in legislation is brought into force by the European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021<sup>24</sup>.

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## 4.4.3 Ukraine

According to information provided to the CoR EGTC platform<sup>25</sup> following processes apply in Ukraine:

"In Ukraine the registration of union of Euroregional cooperation is carried out on the general principles of the relative legal entities' registration depending on its location in the organizational and legal form of a non-business partnership, which is not intended to obtain income (profit) for its further distribution among the founders (participants), members, employees (other than pay for their work, accrual of a single social contribution), members of management and other related persons.

Such registration is carried out by the executive bodies of rural and city councils, Kyiv and Sevastopol cities', districts', districts' in the cities of Kyiv and Sevastopol state administrations, notaries.

The Ministry of Justice of Ukraine is the main body in the system of central bodies of executive power, which provides for the formation and implementation of state policy, in particular, in the field of state registration of legal entities, public entities that do not have the status of legal entities, and individual persons - entrepreneurs."

## 4.4.4 Other Third countries and OCTs

Most other neighbouring and other contacted third countries as well as OCTs have no procedures to approve an EGTC membership under their jurisdiction. They are not required to adopt any implementation rules and thus tend to act upon request rather than developing procedures in preparation of a potential request. Table 43 provides an overview of the responses received. Neighbouring countries not listed in the table could either not be contacted or did not answer the information request.

24 See <https://www.legislation.gov.uk/ukxi/2021/153/contents/made>

25 See <https://portal.cor.europa.eu/egtc/about/Pages/National-dispositions.aspx#Non-EU-States>

**Table 4-3 Overview of EGTC relevance in neighbouring countries and OCTs**

Country / OCT	State of the EGTC instrument assessment
Bosnia and Herzegovina Monaco San Marino Andorra Egypt Neighbouring countries of EU outermost regions in the - Indian Ocean - Atlantic Area*	No legal framework defined, yet.
Montenegro	No legal framework defined, yet. However, in the framework of accession negotiations the EGTC instrument will be covered under chapter 22 'Regional policy and coordination of structural instruments' of the acquis communautaire.  Currently, the European Integration Office (EIO) of Montenegro is the contact on the topic of EGTC in Montenegro.
Turkey	No legal framework defined, yet. However, if municipalities from Turkey want to join an EGTC, the municipal regulations apply. Subject to the resolution of the municipal council, municipalities may be founding members or members of international organisations or bodies concerned with matters relating to the municipality's purview. Municipalities may carry out joint activity or service projects with such organisations and bodies and with foreign local governments or establish town partnerships. Activities of Turkish municipalities undertaken under the terms of cooperation with international organisations shall be conducted in a manner consistent with Turkey's foreign policy and with international treaties and are subject to prior authorisation by the Turkish Ministry of Environment and Urbanisation.  If a body from Turkey wants to become a member of an EGTC, the expected delays from first contact with EGTC members until receiving final approval is estimated at 5 months and from receiving the final approval until completing registration is estimated at 6 months.
Norway	No plans to include the EGTC instrument in Norwegian legislation. However, a feasibility study has been conducted for creating an EGTC between Finland, Sweden and Norway.
Sint Maarten	No legal framework defined, yet. However, two projects currently investigate opportunities to set-up an EGTC between Saint-Martin and Sint-Maarten.

*\* Information from the Managing Authorities of the corresponding Interreg Programmes  
 Source: Own elaboration based on feedback from authorities in the listed countries.*

## 5. Registering an EGTC at European Union level

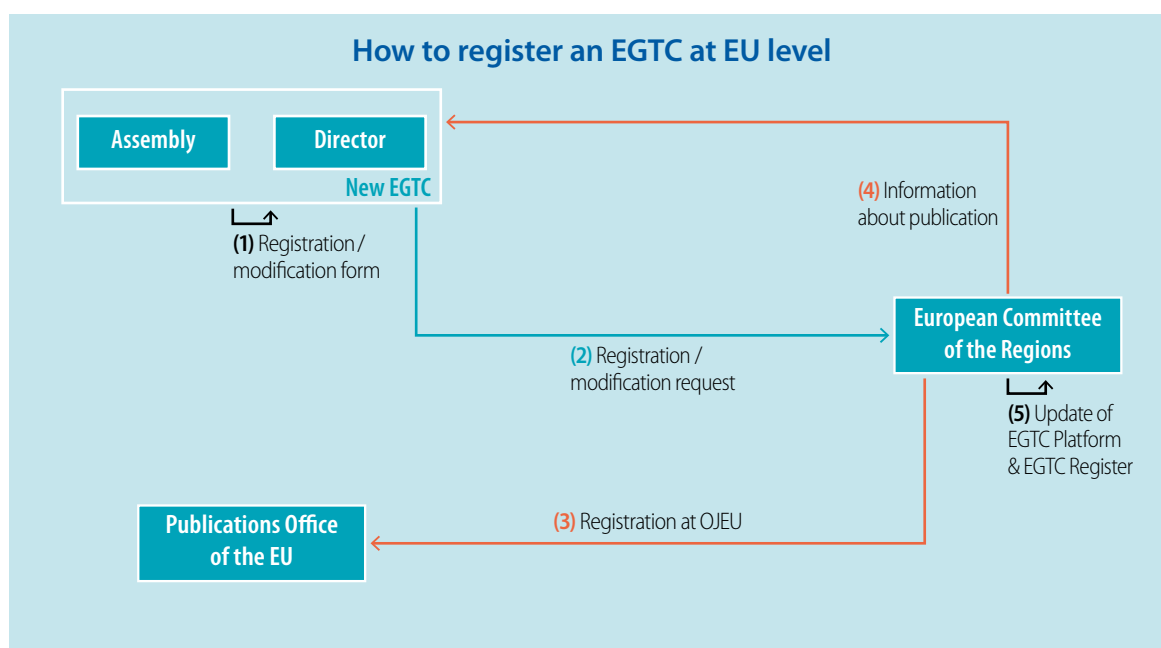
An EGTC obtains its legal personality upon registration and/or publication in the Member State where the registered office is located. However, the foundation as well as modification process is only finalised after complementing registration at EU level. This mirrors the European character of the EGTC instrument.

The CoR hosts the European Register of EGTCs.<sup>26</sup> Apart from registration at EU level, the EGTC platform, in which the EGTC Register is embedded, may provide further valuable insights during any setting up process for EGTCs.

CoR provides the forms for registration and modification on the EGTC platform (see previous footnote) in all EU languages. After filling in the form, few steps are needed to finalise registration or modification at EU level as indicated in Figure 5-1. All steps are also clearly described on the above mentioned webpage of the EGTC platform (Section 'EGTC Register'):

1. An EGTC representative fills in, sign and scans the form (registration or modification, as applicable) in the preferred language.
2. The representative then submits the signed form together with the EGTC convention and statutes to the EGTC platform ([egtc@cor.europa.eu](mailto:egtc@cor.europa.eu)). The convention and statutes shall be in all languages they were adopted in. In addition to the signed form, a Word version of the completed form is appreciated to facilitate the next steps.
3. The CoR may request additional information. If the registration/ modification documents are complete, the CoR registers the EGTC with the Official Journal of the EU (OJEU) at the Publications Office of the European Union.
4. The CoR informs the EGTC when publication of the registration is expected.
5. Finally, the CoR updates the EGTC information on its webpage in two ways:
  - It updates the official list of EGTCs (which represents the EGTC Register) and makes it available on the EGTC platform.
  - It adds a new sub-page<sup>27</sup> where important information about the EGTC becomes publicly available.

**Figure 5-1 Overview of steps to register/modify an EGTC at EU level**



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<sup>26</sup> <https://portal.cor.europa.eu/egtc/CoRActivities/Pages/welcome.aspx>

<sup>27</sup> <https://portal.cor.europa.eu/egtc/CoRActivities/Pages/egtc-list.aspx>

## 6. Further information resources

This guidebook aims to offer concise information for setting up, approving and registering EGTCs across the EU. Nevertheless, players who want to set up an EGTC or are otherwise involved in territorial cooperation may need more tailored or other information. Without being exhaustive, the following provides an overview of recent literature that takes different perspectives and focuses on varying aspects of the EGTC instrument with a view to setting up an EGTC. The overview also includes other possibly valuable information sources.

CoR is not only responsible for the EGTC platform and the EU level registration of EGTCs but provides other resources (<https://portal.cor.europa.eu/egtc/ressources/Pages/Publications.aspx>). Among them are:

- annual or bi-annual monitoring reports that give an overview of EGTC activities;
- an EGTC good practice booklet that illustrates the benefits of the EGTC instrument for ten themes, ranging from sector specific cooperation and cross-border public services to the benefits as mediator or programme manager.

INTERACT provides resources to support territorial cooperation. In this role, it offers guidance for using the EGTC instrument. The information ([www.interact-eu.net](http://www.interact-eu.net)) includes:

- a handbook that focuses on use of the instrument for Interreg programmes and projects, including a roadmap;
- different outlines and guidance documents for the relationship between EGTCs and Interreg programmes

The European Parliament study 'European Grouping of Territorial Cooperation as an instrument for Promotion and Improvement of Territorial Cooperation in Europe' complements INTERACT guidance with a focus on the relationship between EGTCs and EU Cohesion Policy in general (<https://op.europa.eu/en/publication-detail/-/publication/aff87a9d-d0f4-4b41-85a5-b56b8e95ea73>).

The handbook of Viadrina Center B/ORDERS IN MOTION (available only in German)<sup>28</sup> provides in-depth insights into the EGTC instrument, particularly with a legal focus. It assesses, inter alia, the Union legal basis, internal and external legal relations of an EGTC, international labour law, social security, procurement rules and taxation. This is complemented by insights from political science and spatial planning perspectives as well as examples of EGTC fields of activity.

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As an outcome of various research projects, the German Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) issued publications from a German perspective:

- Guidelines for the establishment of an EGTC for stakeholders of transnational cooperation (available in English and German) and for cross-border cooperation (available in Polish and German) focus on different questions for actors working in these types of cooperation and seeking to use the EGTC instrument (see Chapter 2).
- 'Experience of European Groupings of Territorial Cooperation' highlights benefits and structural features of selected EGTCs with German members.
- The most recent report 'Europäische Verbände für territoriale Zusammenarbeit: Unterstützung bei der Vorbereitung' (available only in German) develops model solutions for various questions when setting up and operating an EGTC.

Other potential contact points with relevant experience:

- Association of European Border Regions (AEBR) (<https://www.aebr.eu/>);
- Mission Opérationnelle Transfrontalière (MOT) providing information from the French perspective (<http://www.espaces-transfrontaliers.org/>);
- Central European Service for Cross-border Initiatives (CESCI) providing information for central and eastern European stakeholders, from a Hungarian perspective in particular and offering a corresponding online guide (<https://egtcmirror.cesci-net.eu/en/egtc-the-tool/practical-guide-on-the-establishment-of-egtc/>).

The following table provides a quick overview of the abovementioned documents by type of information.

**Table 6-1 Information sources by types of information**

Type of information	Information source
Overview and introduction of the EGTC instrument	<ul style="list-style-type: none"> <li>■ CoR EGTC Monitoring Reports</li> <li>■ European Parliament study</li> <li>■ BBSR publication 'Experience of EGTCs'</li> </ul>
Presentation of existing EGTCs and their activities	<ul style="list-style-type: none"> <li>■ European Parliament study</li> <li>■ CoR Good Practice Booklet</li> <li>■ CoR EGTC Monitoring Reports</li> <li>■ BBSR publication 'Experience of EGTCs'</li> </ul>
The role of the EGTC instrument in EU Cohesion Policy	<ul style="list-style-type: none"> <li>■ INTERACT handbook and guidelines</li> <li>■ European Parliament study</li> <li>■ CoR Good Practice Booklet</li> <li>■ CoR EGTC Monitoring Reports</li> </ul>
Practical guidance documents	<ul style="list-style-type: none"> <li>■ BBSR guidelines for transnational/cross-border cooperation</li> <li>■ INTERACT handbook and guidelines</li> <li>■ BBSR report 'EVTZ: Unterstützung bei der Vorbereitung' (in DE)</li> </ul>
In-depth legal information	<ul style="list-style-type: none"> <li>■ Handbook of the Viadrina Center B/ORDERS IN MOTION (in DE)</li> <li>■ BBSR report 'EVTZ: Unterstützung bei der Vorbereitung' (in DE)</li> </ul>
Knowledge centres and platforms (besides national approval authorities)	<ul style="list-style-type: none"> <li>■ EU: European Committee of the Regions</li> <li>■ Europe: Association of European Border Regions (AEBR)</li> <li>■ France: Mission Opérationelle Tranfrontalière (MOT)</li> <li>■ Germany: Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR)</li> <li>■ Hungary: Central European Service for Cross-border Initiatives (CESCI)</li> </ul>

Source: Own elaboration

## 7. Bibliography

The central source of information for the 'Guidebook on registering EGTCs' is data and information from national approval authorities through a written questionnaire and interviews. The following sources give an overview of additional literature and reports used.

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## European Committee of the Regions

The European Committee of the Regions (CoR) is the EU's political assembly of 329 regional and local representatives from all 27 Member States. Our members are elected presidents of regions, regional councillors, mayors and local councillors - democratically accountable to more than 446 million European citizens. The CoR's main objectives are to involve regional and local authorities and the communities they represent in the EU's decision-making process and to inform them about EU policies. The European Commission, the European Parliament and the Council have to consult the Committee in policy areas affecting regions and cities. It can appeal to the Court of Justice of the European Union as a means of upholding EU law where there are breaches to the subsidiarity principle or failures to respect regional or local authorities.

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