



EUROPEAN PARLIAMENT

2009 - 2014

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*Plenary sitting*

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**A7-0309/2013**

27.9.2013

**\*\*\*I**

## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings (COM(2011)0610/2 – C7-0324/2011 – 2011/0272(COD))

Committee on Regional Development

Rapporteur: Joachim Zeller

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings  
(COM(2011)0610/2 – C7-0324/2011 – 2011/0272(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0610/2),
  - having regard to Article 294(2) and Articles 175, 209(1) and 212(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0324/2011),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 25 April 2012<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 15 February 2012<sup>2</sup>,
  - having regard to Rules 55 and 37 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development (A7-0309/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

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<sup>1</sup> OJ C 191, 29.6.2012, p. 53.

<sup>2</sup> OJ C 113, 18.4.2012, p. 22.

## Citation 1

*Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular the third subparagraph of Article 175 ***in conjunction with Articles 209(1) and 212(1)*** thereof,

*Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular the third subparagraph of Article 175 thereof,

## Amendment 2

### Proposal for a regulation Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) It should be noted that EGTCs may have the potential to enhance the promotion and achievement of the harmonious development of the European Union as a whole and the economic, social and territorial cohesion of its regions, in particular and to contribute to meeting the objectives of the Europe 2020 strategy. They may also contribute positively to reducing barriers to territorial cooperation between regions which suffer from severe and permanent natural or demographic handicaps including the specific situation of outermost regions and may be instrumental in strengthening the cooperation between third countries, overseas countries and territories and EU border regions, including through the use of external cooperation programmes of the EU.***

## Amendment 3

### Proposal for a regulation

## Recital 5

*Text proposed by the Commission*

(5) Experience with EGTCs set up so far shows that the new legal instrument is also being used for cooperation in the implementation of other **European** policies. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs.

*Amendment*

(5) Experience with EGTCs set up so far shows that the new legal instrument is also being used for cooperation in the implementation of other policies **of the Union, including by implementing programmes or parts of programmes using EU financial support other than Cohesion Policy**. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs, **removing persisting barriers and facilitating the establishment and operations of EGTCs while maintaining the Member States' possibility to limit the actions that EGTC's may carry out without the EU financial support**. **It is recalled that under Regulation (EU) No 1083/2006 EGTC's have in each Member State the most extensive legal capacity, including also the possibility to conclude agreements with other EGTCs or other legal entities for the purposes of carrying out joint cooperation projects to, inter alia, provide for more efficient operation of macro-regional strategies.**

## Amendment 4

### Proposal for a regulation Recital 6

*Text proposed by the Commission*

(6) EGTCs operate by nature in more than one Member State. Consequently, **while Article 2(1) of the EGTC Regulation before amendment** allows that the convention and statutes **may** state the applicable law on certain issues **and while** such statements privilege - within the hierarchy of applicable law laid down in that Article - the national laws of the Member State where the EGTC has its

*Amendment*

(6) EGTCs operate by nature in more than one Member State. Consequently, EGTC Regulation allows that the **possibility for the** convention and statutes **to** state the applicable law on certain issues. **It should be clarified where** such statements privilege - within the hierarchy of applicable law laid down in that Article - the national laws of the Member State where the EGTC has its registered office.

registered office, *this should be clarified*.  
At the same time, the provisions on applicable law should be extended to the acts and activities of an EGTC.

At the same time, the provisions on applicable law should be extended to the acts and activities of an EGTC *subject to legal scrutiny by Member States in each individual case*.

## Amendment 5

### Proposal for a regulation Recital 8

#### *Text proposed by the Commission*

(8) While *point (d) of* Article 3(1) of the EGTC Regulation allows that bodies established under private law may become members of an EGTC provided that they are considered as being ‘public law bodies’ in terms of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, EGTCs may be used in the future to manage jointly public services of general economic interest or *infrastructures*. Other private or public law actors may therefore also become members of an EGTC. Consequently, ‘public undertakings’ within the meaning of Article 2(1)(b) of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors should be covered as well.

#### *Amendment*

(8) While Article 3(1)(*d*) of the EGTC Regulation allows that bodies established under private law may become members of an EGTC provided that they are considered as being ‘public law bodies’ in terms of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, EGTCs may be used in the future to manage jointly public services *with a particular focus on services* of general economic interest or *infrastructure*. Other private or public law actors may therefore also become members of an EGTC. Consequently, ‘public undertakings’ within the meaning of Article 2(1)(b) of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, *and, undertakings entrusted with the operation of services of general economic interest, in fields such as, education and training, of medical care, of social needs as regards health and long term care, childcare, access to and reintegration into the labour market, social housing and the care and social inclusion of vulnerable groups* should be covered as well.

## Amendment 6

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

**(9) The third subparagraph of Article 175 of the Treaty does not foresee the inclusion of entities from third countries in legislation based on that provision. The EGTC Regulation did not explicitly exclude the possibility of entities from third countries to participate in an EGTC formed in accordance with this Regulation where the legislation of a third country or agreements between Member States and third countries so allow.**

*Amendment*

**(9) Regulation (EC) No 1082/2006 does not contain detailed rules concerning the participation of entities from third countries in an EGTC formed in accordance with this Regulation, i.e. between members from at least two Member States. Given the further alignment of the rules governing the cooperation between one or more Member States and one or more third countries - predominantly in the context of cross-border cooperation under the European Neighbourhood Instrument (ENI) and the Instrument for Pre-accession Assistance (IPA II), but also in the context of complementary financing from EDF, and of transnational cooperation under the European territorial cooperation goal where allocations from ENI and IPA II will be transferred to pool these allocations with allocations from the European Regional Development Fund (ERDF) under joint cooperation programmes - the participation of members from third countries neighbouring a Member State including its outermost regions in EGTCs set up between at least two Member States should be explicitly provided for. This should be possible where the legislation of a third country or agreements between at least one participating Member State and a third country so allows.**

## Amendment 7

### Proposal for a regulation

## Recital 10

*Text proposed by the Commission*

*(10) Experience shows that the involvement of authorities or other bodies from third countries equivalent to those eligible inside the Member States has given rise to implementation difficulties. However, such involvement in EGTCs set up by members drawn from two or more Member States constitutes only an ancillary element to the cooperation inside the Union and between Member States. Consequently, such involvement should be clarified without recourse to a different legal basis in the Treaty.*

*Amendment*

*(10) In order to strengthen Union's economic, social and territorial cohesion and in this respect to reinforce in particular the effectiveness of territorial cooperation, including one or more of cross-border, transnational and interregional cooperation between members of an EGTC, the participation of third countries neighbouring a Member State (including its outermost regions) should be allowed in an EGTC. Operations under European territorial cooperation programmes, where co-financed by the EU, should therefore, continue to pursue cohesion policy objectives, even if they are implemented, partly or in their entirety, outside the territory of the Union, and, thus, the activities of an EGTC are carried out at least to some extent outside the Union territory. In this context and where relevant the contribution by the activities of an EGTC having also members from third countries neighbouring at least one Member State (including its outermost regions) to the objectives of EU external actions' policies (eg. development cooperation or economic, financial and technical cooperation objectives) remain merely incidental, as the centre of gravity of subject cooperation programmes and consequently the activities of an EGTC (even with the participation of third countries neighbouring at least one Member State (including outermost regions) should focus primarily on EU cohesion policy objectives.*

*Consequently, the possible development cooperation or economic, financial and technical cooperation objectives between only one Member State, (including its outermost regions), and one or more third countries are only ancillary to the cohesion policy-based territorial*

*cooperation objectives between Member States (including outermost regions). Therefore, the third subparagraph of Article 175 TFEU is sufficient legal basis for the adoption of the Regulation.*

## **Amendment 8**

### **Proposal for a regulation Recital 11**

*Text proposed by the Commission*

*(11) Since 1990, European territorial cooperation has been supported by financial instruments under Cohesion policy and in this context cooperation has always been possible in a limited number of cases between only one Member State and a third country. Consequently, the legal instrument EGTC should also be opened to such a cooperation context.*

*Amendment*

*deleted*

## **Amendment 9**

### **Proposal for a regulation Recital 12**

*Text proposed by the Commission*

*(12) Taking into account that, for the 2014 to 2020 **period, there will be** a special additional allocation **for** the cooperation of the outermost regions of the Union, **alongside authorities and bodies from third countries, authorities and bodies from overseas countries and territories** as listed in Annex II to the Treaty (**‘overseas territories’**) **should also be involved. Such cooperation is permitted by Article 203 of the Treaty.***

*Amendment*

*(12) **Following the authorization for participation of national, regional, sub-regional and local authorities and organizations, as well as, where appropriate, other public bodies or institutions ( including public service providers) from an overseas country or territory ( "OCT") in an EGTC, based on Article [...]¹ of Council Decision No..(EU)../2013 on the association of OCT with the EU ("Overseas Association Decision") and taking into account the intention** that for the 2014 to 2020 **programming period** a special additional **financial** allocation **will reinforce** the cooperation of the outermost regions of the*

Union *with neighbouring* third countries *and some of the neighbouring OCTs* as listed in Annex II to the Treaty *the legal instrument of EGTC* should *be also opened to members from OCTs. For the sake of legal certainty and transparency special approval procedures for the accession of members from an OCT to an EGTC should be established including in this regard, where necessary, special rules on applicable law to the concerned EGTC with members also from an OCT.*

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<sup>1</sup> *Exact reference to be determined at a later stage in light of progress in negotiations on the Overseas Association Decision.*

## Amendment 10

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

(13) The EGTC Regulation *distinguished* between the convention laying down the constitutive elements of the future EGTC and the statutes setting out the implementation elements. However, the statutes *still had* to contain all the provisions of the convention. It should *therefore* be clarified that the convention and the statutes are distinct documents and - although both shall be sent to Member States - the approval procedure should be limited to the convention. In addition, some elements presently covered by the statutes should be covered by the convention instead.

*Amendment*

(13) The EGTC Regulation *distinguishes* between the convention laying down the constitutive elements of the future EGTC and the statutes setting out the implementation elements. However, the statutes *have* to contain all the provisions of the convention. It should be clarified that the convention and the statutes are distinct documents and - although both shall be sent to Member States - the approval procedure should be limited to the convention. In addition, some elements presently covered by the statutes should be covered by the convention instead.

## Amendment 11

### Proposal for a regulation

## Recital 14

### *Text proposed by the Commission*

(14) Experience from the setting up of EGTCs shows that the three months period for approval by a Member State has rarely been respected. The period should therefore be extended to six months. On the other hand, in order to create legal certainty after that period, the convention should be deemed to be approved by tacit agreement. While Member States may apply national rules on the procedure for such approval or may create specific rules in the framework of the national rules implementing the EGTC Regulation, derogations to the provision concerning tacit agreement after the period of six months should be ruled out.

### *Amendment*

(14) Experience from the setting up of EGTCs shows that the three months period for approval by a Member State has rarely been respected. The period should therefore be extended to six months. On the other hand, in order to create legal certainty after that period, the convention should be deemed to be approved by tacit agreement, ***where applicable, in accordance with the national law of the Member States concerned (including their respective constitutional requirements). However, the Member State where the proposed registered office of the EGTC will be located should have to formally approve the convention.*** While Member States may apply national rules on the procedure for such approval or may create specific rules in the framework of the national rules implementing the EGTC Regulation, derogations to the provision concerning tacit agreement after the period of six months should be ruled out ***except as provided for in this Regulation.***

## Amendment 12

### **Proposal for a regulation**

#### **Recital 15**

### *Text proposed by the Commission*

(15) It should be clarified that Member States should approve the convention unless it considers the participation of a prospective member is not in conformity with the EGTC Regulation, with other provisions of Union law concerning the EGTC's activities as laid down in the draft convention or with the national substantive law ***concerning the*** competences of the prospective member, ***unless such*** participation is not justified for reasons of

### *Amendment*

(15) It should be clarified that Member States should approve the convention unless it considers the participation of a prospective member is not in conformity with the EGTC Regulation, with other provisions of Union law concerning the EGTC's activities as laid down in the draft convention or with the national substantive law ***relating to the powers and*** competences of the prospective member; ***it considers that*** participation is not justified

public interest or public policy of that Member State, while excluding from the scope of the scrutiny any national law requiring other or stricter rules and procedures than those foreseen by the EGTC Regulation.

for reasons of public interest or public policy of that Member State, ***or it considers that the statutes are not consistent with the convention***, while excluding from the scope of the scrutiny any national law requiring other or stricter rules and procedures than those foreseen by the EGTC Regulation.

## Amendment 13

### Proposal for a regulation Recital 16

#### *Text proposed by the Commission*

(16) As the EGTC Regulation cannot apply in third countries ***or overseas territories***, it should be specified that the Member State where the proposed EGTC's registered office will be located should ***ensure***, when approving the participation of prospective members established under their law, ***that the third countries or overseas territories*** have applied equivalent conditions and procedures to those in the EGTC Regulation or in accordance with international agreements, ***especially under the Council of Europe acquis***. It should also be specified that in the case of the involvement of several Member States and one or more third countries ***or overseas territories***, it should be sufficient that such an agreement has been concluded between the respective third country ***or overseas territory*** and one participating Member State.

#### *Amendment*

(16) As the EGTC Regulation cannot apply in third countries, it should be specified that the Member State where the proposed EGTC's registered office will be located should when approving the participation of prospective members established under their law, ***satisfy itself, in consultation with the other Member States concerned (being those Member States under whose laws prospective members have been formed), that the third countries*** have applied equivalent conditions and procedures to those in the EGTC Regulation or in accordance with international ***bilateral or multilateral agreements concluded between Member States of the Council of Europe, whether or not they are also Member States of the Union, based on the Madrid Outline Convention and the additional Protocols adopted thereupon***. It should also be specified that in the case of the involvement of several Member States and one or more third countries, it should be sufficient that such an agreement has been concluded between the respective third country and one participating Member State.

## Amendment 14

### Proposal for a regulation Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) The procedures for approval of participation of prospective members from OCTs should, given links between OCTs and Member States of the Union, involve those Member States. In accordance with the specific governance relationship between the Member State and the OCT, the Member State should either approve the participation of the prospective member or provide written confirmation to the Member State where the registered office is located that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in this Regulation. The same procedure should apply in the case of a prospective member from an OCT that wishes to join an existing EGTC.***

## Amendment 15

### Proposal for a regulation Recital 17

*Text proposed by the Commission*

*Amendment*

(17) In order to encourage the accession of additional members to an existing EGTC, the procedure to amend conventions in such cases should be simplified. Consequently, such amendments should not be notified to all participating Member States, but only to the Member State under whose national law the new prospective member is established. However, this simplification should not apply in case of a new prospective member from a third country or overseas territory in order to

(17) In order to encourage the accession of additional members to an existing EGTC, the procedure to amend conventions in such cases should be simplified. Consequently, such amendments should, ***in the case of a new member from a Member State that has already approved the convention***, not be notified to all participating Member States, but only to the Member State under whose national law the new prospective member is established ***and the Member State where***

enable all participating Member States to check whether such accession is in line with its public interest or public policy.

*the EGTC's registered office is located. The subsequent amendment of the convention should be notified to all Member States concerned.* However, this simplification should not apply in case of a new prospective member *from a Member State that has not already approved the convention or* from a third country or overseas territory in order to enable all participating Member States to check whether such accession is in line with its public interest or public policy.

## Amendment 16

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) The purpose of an EGTC should be extended to cover the facilitating and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion and other Union policies, thus contributing to the Europe 2020 strategy or to the implementation of macro-regional strategies. In addition, it should be clarified that a given competence needed for the efficient implementation of an EGTC should be represented by *at least one* member in each of the Member States represented.

#### *Amendment*

(19) The purpose of an EGTC should be extended to cover the facilitating and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion and other Union policies, thus contributing to the Europe 2020 strategy or to the implementation of macro-regional strategies. *An EGTC should therefore be able to implement operations with financial support other than that provided by the Union's cohesion policy.* In addition, it should be clarified that a given competence needed for the efficient implementation of an EGTC should be represented by *every* member in each of the Member States represented *unless the Member State or third country approves participation where the member is not competent for all the tasks specified in the convention.*

## Amendment 17

### Proposal for a regulation

## Recital 22

### *Text proposed by the Commission*

(22) While it is laid down that the tasks do not concern, among others, 'regulatory powers', which may have different legal consequences in different Member States, it should nevertheless be specified that an EGTC's assembly may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, including the tariffs and fees to be paid by the users.

### *Amendment*

(22) While it is laid down that the tasks do not concern, among others, 'regulatory powers', which may have different legal consequences in different Member States, it should nevertheless be specified that an EGTC's assembly may, ***if the EGTC Convention specifically so provides, and, in compliance with national and Union law***, define the terms and conditions of the use of an item of infrastructure the EGTC is managing, ***or the terms and conditions according to which a service of general economic interest can be provided*** including the tariffs and fees to be paid by the users.

## Amendment 18

### Proposal for a regulation

#### Recital 24

### *Text proposed by the Commission*

(24) It should be specified that the convention should not only repeat a reference to the applicable law in general as already laid down in Article 2, but should list the ***specific*** Union or national rules applicable to the EGTC as a legal body or to its activities. In addition, it should be specified that such national legislation or rules may be those of the Member State where statutory organs exercise their powers, especially where the staff working under the responsibility of the director is located in a Member State other than the Member State where its office is registered, or ***where*** the EGTC ***carries out its activities*** including where it is managing public services of general ***economic*** interest or infrastructures.

### *Amendment*

(24) It should be specified that the convention should not only repeat a reference to the applicable law in general as already laid down in Article 2, but should list the Union or national rules applicable to the EGTC as a legal body or to its activities. In addition, it should be specified that such national legislation or rules may be those of the Member State where statutory organs exercise their powers, especially where the staff working under the responsibility of the director is located in a Member State other than the Member State where its office is registered, ***or the applicable Union and national law directly relevant to the EGTC activities carried out under the tasks specified in the convention***, including where it is managing public services of general

interest or infrastructures.

## Amendment 19

### Proposal for a regulation

#### Recital 26

*Text proposed by the Commission*

(26) It should be clarified that the convention - ***and given the importance of this issue***, not the statutes - should indicate the rules applicable to the EGTC's staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures. ***Several options*** should be ***available to the EGTCs***. ***However***, the specific arrangements concerning personnel management and recruitment procedures should be addressed in the statutes.

*Amendment*

(26) ***Given their importance***, it should be clarified that the convention, not the statutes, should indicate the rules applicable to the EGTC's staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures. ***It*** should be ***possible to provide that different options as the choice of rules may be laid down in the convention***. The specific arrangements concerning personnel management and recruitment procedures should be addressed in the statutes.

## Amendment 20

### Proposal for a regulation

#### Recital 27

*Text proposed by the Commission*

(27) Member States should further exploit the possibilities foreseen under ***Article 16 of*** Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems to provide by common agreement for exceptions to ***Articles 11 to 15*** (Determination of the legislation applicable) ***of*** that Regulation in the interest of certain persons or categories of persons and to consider the staff of EGTCs as being such a category of persons.

*Amendment*

(27) Member States should further exploit the possibilities foreseen under Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems to provide by common agreement for exceptions to ***the*** determination of the legislation applicable ***according to*** that Regulation in the interest of certain persons or categories of persons and to consider the staff of EGTCs as being such a category of persons.

## Amendment 21

### Proposal for a regulation Recital 28

*Text proposed by the Commission*

(28) It should be clarified that the convention - ***and given the importance of this issue***, not the statutes - should cover the arrangements for members' liability in case of an EGTC with limited liability.

*Amendment*

(28) ***Given their importance***, it should be clarified that the convention, not the statutes, should cover the arrangements for members' liability in case of an EGTC with limited liability.

## Amendment 22

### Proposal for a regulation Recital 31

*Text proposed by the Commission*

(31) EGTCs whose members have limited liability should be more clearly distinguished from those whose members have unlimited liability. In addition, in order to enable EGTCs whose members have limited liability to implement activities that might generate debts, Member States should be allowed to require that such EGTCs take appropriate insurance to cover the risks specific to the activities thereof.

*Amendment*

(31) EGTCs whose members have limited liability should be more clearly distinguished from those whose members have unlimited liability. In addition, in order to enable EGTCs whose members have limited liability to implement activities that might generate debts, Member States should be allowed to require that such EGTCs take appropriate insurance ***or that they be subject to an appropriate financial guarantee*** to cover the risks specific to the activities thereof.

## Amendment 23

### Proposal for a regulation Recital 33

*Text proposed by the Commission*

(33) A new deadline for the next report should be fixed. In accordance with the Commission's move towards more evidence-based policy-making, this report should address the main evaluation questions including effectiveness,

*Amendment*

(33) A new deadline for the next report should be fixed. In accordance with the Commission's move towards more evidence-based policy-making, this report should address the main evaluation questions including effectiveness,

efficiency, European added value, relevance and sustainability. It should also be specified that taking account of the first subparagraph of Article 307 of the Treaty this report should also be forwarded to the Committee of the Regions.

efficiency, European added value, relevance and sustainability. *Effectiveness is understood as also covering the attempts inside the different Commission services and between the Commission and other bodies such as the European External Action Service to disseminate the knowledge about the EGTC instrument.* It should also be specified that taking account of the first subparagraph of Article 307 of the Treaty this report should also be forwarded to the Committee of the Regions.

## Amendment 24

### Proposal for a regulation Recital 34

#### *Text proposed by the Commission*

(34) It should be clarified that existing EGTCs *are not obliged to* adapt their convention and statutes to amendments to the EGTC Regulation.

#### *Amendment*

(34) It should be clarified that existing EGTCs *may not* adapt their convention and statutes to amendments to the EGTC Regulation.

## Amendment 25

### Proposal for a regulation Recital 36

#### *Text proposed by the Commission*

(36) In order to adapt existing national rules to implement this Regulation before programmes under the European territorial cooperation goal have to be submitted to the Commission, the starting date of *its* application should be **6** months after the date of its entry into force.

#### *Amendment*

(36) In order to adapt existing national rules to implement this Regulation before programmes under the European territorial cooperation goal have to be submitted to the Commission, the starting date of *this Regulation's* application should be **six** months after the date of its entry into force. *When adapting their existing national rules Member States should ensure that competent authorities responsible for approval of EGTCs are determined and that, in accordance with their legal and administrative arrangements, these*

*should be the same bodies responsible for receipt of notifications in accordance with Article 4 of this regulation.*

## Amendment 26

### Proposal for a regulation Recital 36 a (new)

*Text proposed by the Commission*

*Amendment*

*(36a) In order to consider the effectiveness, efficiency, relevance, European added value and scope for further simplification of this Regulation, the Commission should prepare a report on the application of this regulation for submission to the European Parliament, the Council and the Committee of the Regions not later than 1 August 2018. This report should be prepared on the basis of appropriate consultation, including at expert level. The Commission should be empowered to adopted delegated acts laying down a list of indicators for use in the evaluation of the application of this Regulation.*

## Amendment 27

### Proposal for a regulation Article 1 – point 1 - subpoint a Regulation (EC) No 1082/2006 Article 1 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The objective of an EGTC shall be to facilitate and promote territorial cooperation, including one or more of cross-border, transnational and interregional cooperation, between its members as set out in Article 3(1), with the aim of strengthening economic, social and territorial cohesion.”

2. The objective of an EGTC shall be to facilitate and promote *in particular* territorial cooperation, including one or more of cross-border, transnational and interregional cooperation, between its members as set out in Article 3(1), with the aim of strengthening *Union* economic, social and territorial cohesion.”

## Amendment 28

### Proposal for a regulation

#### Article 1 – point 2

Regulation (EC) No 1082/2006

#### Article 2 – paragraph 1

##### *Text proposed by the Commission*

"1. **An EGTC and its acts and activities** shall be governed by the following:

(a) this Regulation **and, where applicable, other Union law concerning activities of the EGTC;**

(b) **where** expressly authorised by this Regulation, **the provisions of the convention referred to in Article 8;**

(c) in the case of matters not, or only partly, regulated by this Regulation, the law of the Member State where the **EGTC has its** registered office **or, where allowed under this Regulation, the law of the Member State where statutory organs exercise their powers or where the EGTC carries out its activities.**

An EGTC shall be considered to be an entity of the Member State where it has its registered office **for the purposes of determining** the applicable law."

##### *Amendment*

"1.**The acts of the statutory organs of an EGTC** shall be governed by the following:

(a) this Regulation;

(b) **the convention referred to in Article 8, when it is** expressly authorised by this Regulation; **and,**

(c) in the case of matters not, or only partly, regulated by this Regulation, the **national** law of the Member State where the registered office **of the EGTC is located."**

An EGTC shall be considered to be an entity of the Member State where it has its registered office **where it is necessary to determine** the applicable law **under Union or private international law.**

## Amendment 29

### Proposal for a regulation

#### Article 1 – point 2a (new)

Regulation (EC) No 1082/2006

#### Article 2 – paragraph 1a (new)

##### *Text proposed by the Commission*

##### *Amendment*

**(2a) the following paragraph shall be inserted:**

**"1a. Activities of the EGTC for carrying**

*out tasks referred to in Article 7(2) and (3) inside the Union shall be governed by the Union law and the national law specified by the convention referred to in Article 8.*

*Activities co-financed from the Union budget shall comply with the requirements set out in applicable Union and national law relating to its application."*

## **Amendment 30**

### **Proposal for a regulation**

#### **Article 1 – point 3- - subpoint a**

Regulation (EC) No 1082/2006

Article 3 – paragraph 1 – subparagraph 1 - point e

#### *Text proposed by the Commission*

(e) national, regional or local authorities or bodies or public *enterprises* equivalent to those referred to under point (d) from third countries *or overseas territories*, subject to the conditions laid down in Article *3a(1)*."

#### *Amendment*

(e) national, regional or local authorities or bodies or public *undertakings* equivalent to those referred to under point (d) from third countries, subject to the conditions laid down in Article *3a*."

## **Amendment 31**

### **Proposal for a regulation**

#### **Article 1 – point 3 – subpoint a**

Regulation (EC) No 1082/2006

Article 3 – paragraph 1 – subparagraph 1 – point e a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*(ea) undertakings entrusted with operations of services of general economic interest in compliance with applicable national or Union law."*

## Amendment 32

### Proposal for a regulation

#### Article 1 – point 3 - subpoint b

Regulation (EC) No 1082/2006

Article 3 – paragraph 2

#### *Text proposed by the Commission*

“2. An EGTC shall be made up of members drawn from the territory of at least two Member States, except as provided for in Article **3a(2)**.”

#### *Amendment*

"2. An EGTC shall be made up of members drawn from the territory of at least two Member States, except as provided for in Article **3a, paragraphs (2) and (5)**."

## Amendment 33

### Proposal for a regulation

#### Article 1 – point 4

Regulation (EC) No 1082/2006

Article 3a

#### *Text proposed by the Commission*

##### “Article 3a

Accession of members from third countries or overseas territories

1. In accordance with Article 4(3a), an EGTC may be made up of members drawn from the territory of at least two Member States and of one or more third **country or overseas territory**, where those Member States and third countries **or overseas territories** jointly carry out territorial cooperation actions or implement programmes supported by the Union.

#### *Amendment*

##### "Article 3a

Accession of members from third countries or overseas **countries** or territories (**OCTs**)

1. In accordance with Article 4(3a), an EGTC may be made up of members drawn from the territory of at least two Member States and of one or more third **countries neighbouring at least one of the Member States including its outermost regions** where those Member States and third countries jointly carry out territorial cooperation actions or implement programmes supported by the Union.

***1a. For the purposes of this Regulation, a third country or an OCT is considered as neighbouring a Member State including its outermost regions where the third country or an OCT and the Member States share a common land border or where both the third country or and OCT and a Member State are eligible under a joint maritime cross-border or***

2. An EGTC may be made up of members drawn from the territory of only one Member State and of one third ***country or overseas territory***, where that Member State considers such an EGTC consistent with the scope of its territorial cooperation or bilateral relations with the third ***country or overseas territory***.”

***transnational programme under ETC or under another cross-border, sea-crossing or sea-basin cooperation programme, including where separated by international waters.***

2. An EGTC may be made up of members drawn from the territory of only one Member State and of one ***or more*** third ***countries neighbouring the Member State including its outermost regions***, where that Member State considers such an EGTC consistent with the scope of its territorial cooperation ***in the context of cross-border or transnational cooperation*** or bilateral relations with the third ***countries concerned***.”

***2a. For the application of paragraphs (1) and (2) of this Article, third countries neighbouring a Member State including its outermost regions include maritime borders between the countries concerned.***

***2b. In accordance with Article 4a and subject to the conditions set out in paragraph (1), an EGTC may also be made up of members drawn from one or more Member States including its outermost regions and one or more OCT, with or without members from one or more third countries.***

***2c. In accordance with Article 4a and subject to the conditions set out in paragraph (2), an EGTC may also be made up of members drawn from only one Member State including its outermost regions and of one or more OCT, with or without members from one or more third countries.***

***2d. An EGTC may not be set up only between members from a Member State and one or more OCT linked to that same Member State."***

## Amendment 34

### Proposal for a regulation

#### Article 1 – point 5 - subpoint a

Regulation (EC) No 1082/2006

Article 4- paragraph 3

#### *Text proposed by the Commission*

“3. Following notification under paragraph 2 by a prospective member, the Member State **concerned** shall approve the **convention, taking into account its constitutional structure, and the** prospective member's participation in the EGTC, unless it considers that such participation is not in conformity with this Regulation, other Union law concerning the activities of the EGTC **or** national law **concerning the competences of the prospective member or** that such participation is not justified for reasons of public interest or of public policy of that Member State. In **such a case**, the Member State shall give a statement of its reasons for withholding **agreement or** shall suggest the necessary amendments to the convention **to enable the prospective member's participation.**

#### *Amendment*

"3. Following notification under paragraph 2 by a prospective member, the Member State **which has received the notification** shall, **taking into account its constitutional structure**, approve the prospective member's participation in the EGTC **and the convention**, unless:

(a) it considers that such participation **or the convention** is not in conformity with:

(i) this Regulation;

(ii) other Union law concerning the **acts and** activities of the EGTC; or

(iii) national law **relating to the powers and competences of the prospective member;**

(b) **it considers** that such participation is not justified for reasons of public interest or of public policy of that Member State;  
**or**

(c) **it considers that the statutes are not consistent with the convention.**

In **case of non-approval**, the Member State shall give a statement of its reasons for

The Member State shall reach its decision within a deadline of six months from the date of receipt of *an application* in accordance with paragraph 2. If the Member State *concerned* does not *respond* within the time limit laid down, the convention shall be deemed to be approved.

In deciding on the prospective member's participation in the EGTC, Member States may apply their national rules."

## **Amendment 35**

**Proposal for a regulation**  
**Article 1 – point 5 – subpoint b**  
Regulation (EC) No 1082/2006  
Article 4 – paragraph 3a

*Text proposed by the Commission*

"3a. In the case of an EGTC with prospective members from third countries

withholding *approval and* shall, *where appropriate*, suggest the necessary amendments to the convention.

The Member State shall reach its decision within a deadline of six months from the date of receipt of *a notification* in accordance with paragraph 2. If the Member State *which has received the notification*, does not *raise any objection* within the time limit laid down, the convention shall be deemed to be approved. *However, the Member State where the proposed registered office of the EGTC will be located shall formally approve the convention before the EGTC can be established.*

*Any request for additional information from the Member State shall interrupt the time limit. The period of interruption shall start on the day following the date on which the Member State has sent its observations to the prospective member and shall last until the prospective member has responded to the observations. However, an interruption of the time limit shall not occur as long as the prospective member has submitted a reply to the observations by the Member State within ten working days following the start of the period of interruption.*

In deciding on the prospective member's participation in the EGTC, Member States may apply their national rules."

*Amendment*

"3a. In the case of an EGTC with prospective members from third countries

*or overseas territories*, the Member State where the proposed registered office of the EGTC will be located shall **ensure** that the conditions laid down in Article 3a are fulfilled and that the third country *or the Member State under whose laws the prospective member from an overseas territory is established* have approved the prospective member's participation **according to** equivalent conditions and procedures to those laid down in this Regulation, or **in accordance with** an agreement concluded between at least one Member State under whose law a prospective member is established and such third country *or overseas territory*. **Paragraph 3 of this Article shall apply.**"

the Member State where the proposed registered office of the EGTC will be located shall, **in consultation with the other Member States concerned, satisfy itself** that the conditions laid down in Article 3a are fulfilled and that the third country **has** approved the prospective member's participation **in accordance with:**

- (i) equivalent conditions and procedures to those laid down in this Regulation; or
- (ii) an agreement concluded between at least one Member State under whose law a prospective member is established and such third country."

## Amendment 36

### Proposal for a regulation

#### Article 1 – point 5 – subpoint c

Regulation (EC) No 1082/2006

Article 4 - paragraph 5

#### *Text proposed by the Commission*

"5. The members shall agree on the convention referred to in Article 8 ensuring consistency with the approval *or the amendments suggested by the Member States* in accordance with paragraph 3 of this Article.

#### *Amendment*

"5. The members shall agree on the convention referred to in Article 8 ensuring consistency with the approval in accordance with paragraph 3 of this Article.

## Amendment 37

### Proposal for a regulation

#### Article 1 – point 5 – subpoint c

Regulation (EC) No 1082/2006

Article 4 - paragraph 6

#### *Text proposed by the Commission*

6. Any amendment to the convention or to the statutes shall be notified by the EGTC to the Member States under whose law its members are established.

Any amendment to the convention shall be approved by *the* Member States according to the procedure set out in this Article.

***However, in case of accession to an existing EGTC of a new member from a Member State that has already approved the convention, such accession shall only be approved by the Member State under whose laws the new member is established. Paragraph 3 of this Article shall apply.***

In case of the accession of a new member from a third country ***or overseas territory*** to an existing EGTC, such accession shall be ***approved*** by all the Member States ***that have already approved the convention. Paragraph 3a of this Article shall apply.***"

#### *Amendment*

6. Any amendment to the convention or to the statutes shall be notified by the EGTC to the Member States under whose law its members are established. Any amendment to the convention, ***except solely in the cases of accession of a new member covered by paragraph 7 (a),*** shall be approved by ***those*** Member States according to the procedure set out in this Article.

***6a. The following provisions shall apply in the case of accession of new members to an existing EGTC:***

***(a) In case of accession of a new member from a Member State that has already approved the convention, such participation shall only be approved by the Member State under whose laws the new member is established in accordance with the procedure set out in paragraph 3 and notified to the Member State where the EGTC has its registered office.***

***(b) In case of the accession of a new member from a Member State that has not already approved the convention, the procedure set out in paragraph 6 shall apply.***

***(c) In the case of accession of a new member from a third country to an existing EGTC, such accession shall be subject of examination by the Member State where the registered office of the EGTC is located in accordance with the procedure***

*set out in paragraph 3a."*

## **Amendment 38**

### **Proposal for a regulation**

#### **Article 1 – point 5 a (new)**

Regulation (EC) No 1082/2006

Article 4 a (new)

*Text proposed by the Commission*

*Amendment*

*(5a) the following Article shall be inserted:*

*"Article 4a*

*Participation of members from an OCT*

*In the case of an EGTC with a prospective member from an OCT, the Member State to which the OCT is linked shall satisfy itself that the conditions of Article 3a are fulfilled and, taking into account its relationship with the OCT, either:*

*(a) approve the prospective member's participation in line with Article 4(3); or*

*(b) confirm in writing to the Member State where the proposed registered office of the EGTC will be located that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in this Regulation."*

## **Amendment 39**

### **Proposal for a regulation**

#### **Article 1 – point 6**

Regulation (EC) No 1082/2006

Article 5

*Text proposed by the Commission*

*Amendment*

1. The convention and the statutes and any subsequent amendments thereto shall be registered or published, or both, according to the applicable national law in the

1. The convention and the statutes and any subsequent amendments thereto shall be registered or published, or both, according to the applicable national law in the

Member State where the EGTC concerned has its registered office. The EGTC shall acquire legal personality on the day of registration or publication, whichever occurs first. The members shall inform the Member States concerned, *the Commission* and the Committee of the Regions of the registration or publication of the convention.

2. The EGTC shall ensure that, within ten working days from the registration or publication of the convention, a request is sent to the *Commission* following the template set out in the Annex to this Regulation. The *Commission* shall then transfer this request to the Publications Office of the European Union for publication of a notice in the C series of the Official Journal of the European Union announcing the establishment of the EGTC, with the details set out in the Annex to this Regulation."

## Amendment 40

### Proposal for a regulation

#### Article 1 – point 8 –subpoint a

Regulation (EC) No 1082/2006

Article 7 – paragraphs 2 and 3

#### *Text proposed by the Commission*

"2. An EGTC shall act within the confines of the tasks given to it, which shall be the facilitation and promotion of territorial cooperation to strengthen economic, social and territorial cohesion and be determined by its members *on the basis* that they fall within the competence *under national law of at least one member from each Member State represented in that EGTC.*

Member State where the EGTC concerned has its registered office. The EGTC shall acquire legal personality on the day of registration or publication *in the Member State where the EGTC concerned has its registered office*, whichever occurs first. The members shall inform the Member States concerned and the Committee of the Regions of the registration or publication of the convention.

2. The EGTC shall ensure that, within ten working days from the registration or publication of the convention, a request is sent to the *Committee of the Regions* following the template set out in the Annex to this Regulation. The *Committee of the Regions* shall then transfer this request to the Publications Office of the European Union for publication of a notice in the C series of the Official Journal of the European Union announcing the establishment of the EGTC, with the details set out in the Annex to this Regulation."

#### *Amendment*

"2. An EGTC shall act within the confines of the tasks given to it, which shall be the facilitation and promotion of territorial cooperation to strengthen economic, social and territorial cohesion, *overcoming internal market barriers*, and be determined by its members so that they fall within the competence *of every member, unless the Member State or third country approves the participation of a member formed under its national law even where that member is not competent for all the*

3. An EGTC may carry out specific actions of territorial cooperation between its members in pursuit of the objective referred to in Article 1(2), with or without a financial support from the Union.

*Specifically*, the tasks of an EGTC may concern the implementation of cooperation programmes or parts thereof or of operations supported by the Union through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund.

Member States may limit *the actions* that EGTCs may carry out without a financial support from the Union. However, Member States shall not exclude those *actions covered by* the investment priorities *under the Cohesion Policy of the Union as adopted for the period 2014-2020.*"

*tasks specified in the convention.*

3. An EGTC may carry out specific actions of territorial cooperation between its members in pursuit of the objective referred to in Article 1(2), with or without a financial support from the Union.

*Primarily*, the tasks of an EGTC may concern the implementation of cooperation programmes or parts thereof or of operations supported by the Union through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund.

Member States may limit the *tasks* that EGTCs may carry out without a financial support from the Union. However, *without prejudice to Article 13*, Member States shall not exclude those *tasks concerning* the investment priorities *referred to in Article 6 of Regulation No ... [ETC].*"

#### Amendment 41

##### Proposal for a regulation

##### Article 1 – point 8 – subpoint b

Regulation (EC) No 1082/2006

Article 7 – paragraph 4

*Text proposed by the Commission*

"However, the assembly referred to in Article 10(1)(a) of an EGTC may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, including the tariffs and fees to be paid by the users."

*Amendment*

"However, *in compliance with applicable national or Union law*, the assembly *of an EGTC* referred to in Article 10(1)(a) of an EGTC may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, *or the terms and conditions according to which a service of general economic interest is provided*, including the tariffs and fees to be paid by the users."

#### Amendment 42

##### Proposal for a regulation

## Article 1 – point 9

Regulation (EC) No 1082/2006

Article 8 – paragraph 2

### *Text proposed by the Commission*

“2. The convention shall specify:

- (a) the name of the EGTC and its registered office;
- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the objective and the tasks of the EGTC;
- (d) *its* duration and the conditions for its dissolution;
- (e) the list of *its* members;

(f) the *specific* Union *or* national law *applicable to the* interpretation and enforcement of the convention;

(g) the arrangement for the involvement of members from third countries or *overseas territories* if appropriate;

(h) the *specific* Union or national law *applicable to its* activities, *while the latter may be the law of the Member State where statutory organs exercise their powers or where the EGTC carries out its activities*;

(i) the rules applicable to the EGTC’s staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures;

(j) *in case of an EGTC liability with limited* , the arrangements for liability of

### *Amendment*

“2. The convention shall specify:

- (a) the name of the EGTC and its registered office;
- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the objective and the tasks of the EGTC;
- (d) *the* duration *of the EGTC* and the conditions for its dissolution;
- (e) the list of *the EGTC’s* members;

*(ea) the list of the EGTC’s organs and their respective competences*;

(f) the *applicable* Union *law and* national law *of the Member State where the EGTC has its registered office for the purposes of* interpretation and enforcement of the convention;

*(fa) the applicable Union and national law of the Member State(s) where the statutory organs of the EGTC act*;

(g) the arrangement for the involvement of members from third countries or *in OCTs* if appropriate *including the identification of applicable law where an EGTC carries out tasks in third countries or in OCTs*;

(h) the *applicable* Union and national law *directly relevant to the EGTC* activities *carried out under the tasks specified in the convention*;

(i) the rules applicable to the EGTC’s staff as well as the principles governing the arrangements concerning personnel management and recruitment procedures;

(j) the arrangements for liability of the *EGTC and its* members in accordance with

the members in accordance with Article **12(3)**;

(k) the appropriate arrangements for mutual recognition, including for financial control of the management of public funds; and

(l) the procedures for **amending** the convention, including compliance with the obligations set out in Articles 4 and 5.

*However, where an EGTC is only managing a cooperation programme or part thereof under the Cohesion Policy of the European Union, or where an EGTC concerns interregional cooperation or networks, information under point (b) is not required.*

*The following rules shall apply to the EGTC's staff as referred to in point (i),*

*(a) those of the Member State where the EGTC has its registered office;*

*(b) those of the Member State where the EGTC's staff is actually located; or*

*(c) those of the Member State of which the staff member is a national.*

*To allow equal treatment of all staff working at the same location, the national laws and rules, whether of public or private law, may be subject to additional ad hoc rules fixed by the EGTC."*

## **Amendment 43**

### **Proposal for a regulation**

#### **Article 1 – point 10**

Regulation (EC) No 1082/2006

Article 9 – paragraph 2

*Text proposed by the Commission*

In Article 9, **paragraph 2** is replaced by the following:

Article **12**;

(k) the appropriate arrangements for mutual recognition, including for financial control of the management of public funds; and

(l) the procedures for **adoption of the statutes and amendment of** the convention, including compliance with the obligations set out in Articles 4 and 5.

Where **the tasks of** an EGTC **concern only the management of** a cooperation programme or part thereof under **Regulation No ... [ETC]**, or where an EGTC concerns interregional cooperation or networks, information under **paragraph 2**, point (b) is not required.

**deleted**

*Amendment*

Article 9 is replaced by the following:

***"1. The statutes of an EGTC shall be adopted on the basis of and in accordance with the convention by its members acting unanimously.***

“2. The statutes shall contain, as a minimum, the following:

(a) the operating provisions of the EGTC's organs and their competences, as well as the number of representatives of the members in the relevant organs;

(b) the decision-making procedures of the EGTC;

(c) the working language or languages;

(d) the arrangements for its functioning;

(e) the *specific arrangements* concerning personnel management and recruitment ***procedures***;

(f) the arrangements for members' financial contributions;

(g) the applicable accounting and budgetary rules of *each of* the members of the EGTC ***with respect to it***;

(h) the designation of the independent external auditor of the accounts of the EGTC;

***(i) the arrangements for the liability of the members in accordance with Article 12(2); and***

(j) the procedures for amending the statutes, including compliance with the obligations set out in Articles 4 and 5.”

2. The statutes shall contain, as a minimum, the following:

(a) the operating provisions of the EGTC's organs and their competences, as well as the number of representatives of the members in the relevant organs;

(b) the decision-making procedures of the EGTC;

(c) the working language or languages;

(d) the arrangements for its functioning;

(e) the ***procedures*** concerning personnel management and recruitment ;

(f) the arrangements for members' financial contributions;

(g) the applicable accounting and budgetary rules of the members of the EGTC;

(h) the designation of the independent external auditor of the accounts of the EGTC; ***and***

(j) the procedures for amending the statutes, including compliance with the obligations set out in Articles 4 and 5.”

## **Amendment 44**

### **Proposal for a regulation**

#### **Article 1 – point 12**

Regulation (EC) No 1082/2006

Article 12

*Text proposed by the Commission*

Article 12 is amended as follows:

*Amendment*

Article 12 is amended as follows:

(a) In paragraph 1 the following subparagraph is added:

“An EGTC shall be liable for all its debts.”

(b) Paragraph 2 is replaced by the following:

"2. *Notwithstanding* paragraph 3, to the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for the debts of the EGTC of whatever nature, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed in the statutes.

The members may provide in the statutes that they will be liable, after they have ceased to be members of an EGTC, for obligations arising out of activities of the EGTC during their membership.

2a. If the liability of at least one member of an EGTC is limited *or excluded* as a result of the national law under which it is established, the other members may also limit their liability in the convention.

The name of an EGTC whose members have limited liability shall include the word "limited".

The requirements for the publicity of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to *those* required for other legal entities with limited liability *of their members established* under the laws of the Member State where that EGTC has its registered office.

In case of an EGTC whose members have limited liability, *the* Member *States* may require that the EGTC shall take appropriate insurance to cover the risks specific to the activities of the EGTC.”

(a) In paragraph 1 the following subparagraph is added:

"An EGTC shall be liable for all its debts."

(b) Paragraph 2 is replaced by the following:

"2. *Without prejudice to* paragraph 3, to the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for the debts of the EGTC of whatever nature, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed in the statutes.

The members may provide in the statutes that they will be liable, after they have ceased to be members of an EGTC, for obligations arising out of activities of the EGTC during their membership.

2a. If the liability of at least one member of an EGTC *from a Member State* is limited as a result of the national law under which it is established, the other members may also limit their liability in the convention *where the national law implementing this Regulation enables them to do so*.

The name of an EGTC whose members have limited liability shall include the word "limited".

The requirements for the publicity of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to *that* required for other legal entities with limited liability under the laws of the Member State where that EGTC has its registered office.

In case of an EGTC whose members have limited liability, *any* Member *State concerned* may require that the EGTC shall take appropriate insurance *or that it shall be subject to a guarantee provided by a bank or other financial institution*

*established in a Member State or be covered by a facility provided as a guarantee by a public entity or by the Member State to cover the risks specific to the activities of the EGTC."*

## **Amendment 45**

### **Proposal for a regulation**

#### **Article 1 – point 14**

Regulation (EC) No 1082/2006

Article 16 – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

"1. Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation.

#### *Amendment*

"1. Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation, *including the determination of the competent authorities responsible for the approval in accordance with their legal and administrative arrangements.*

## **Amendment 46**

### **Proposal for a regulation**

#### **Article 1 – point 14**

Regulation (EC) No 1082/2006

Article 16 – paragraph 1 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*1a. The provisions referred to in paragraph 1 insofar as they concern a Member State to which an OCT is linked shall, taking into account its relationship with the OCT, also govern the effective application of this Regulation with regard to those OCTs neighbouring other Member States or outermost regions thereof."*

## Amendment 47

### Proposal for a regulation

#### Article 1 – point 15

Regulation (EC) No 1082/2006

Article 17

#### *Text proposed by the Commission*

"By **mid-2018** the Commission shall forward to the European Parliament, the Council and the Committee of the Regions **an evaluation** report on the application, effectiveness, efficiency, relevance, European added value and scope for simplification **of this Regulation**."

***The evaluation reports shall be based on indicators*** the Commission shall adopt **by** delegated acts in accordance with Article 17a."

#### *Amendment*

"By **1 August 2018** the Commission shall forward to the European Parliament, the Council and the Committee of the Regions **a** report on the application **of this Regulation, evaluating, based on indicators, its** effectiveness, efficiency, relevance, European added value and scope for simplification].

The Commission shall **be empowered to** adopt delegated acts, in accordance with Article 17a, **laying down the list of indicators referred to in the first subparagraph**."

## Amendment 48

### Proposal for a regulation

#### Article 1 – point 16

Regulation (EC) No 1082/2006

Article 17a

#### *Text proposed by the Commission*

The following Article 17a is inserted:

“Article 17a

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegations of power referred to in **this Regulation** shall be conferred for **an indeterminate** period of **time** from the date of entry into force of this Regulation.
3. The delegations of power referred to in

#### *Amendment*

The following Article 17a shall be inserted:

"Article 17a

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegations of power referred to in **Article 17** shall be conferred **on the Commission** for **a** period of **5 years** from the date of entry into force of this Regulation.
3. The delegations of power referred to in

Article 17 may be revoked at any time by the European Parliament or by the Council.

A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. *The* delegated *acts* shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **2** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **2** months at the initiative of the European Parliament or the Council.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution that objects to the delegated act shall state the reasons for its objections."

Article 17 may be revoked at any time by the European Parliament or by the Council.

A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. *A delegated act adopted pursuant to Article 17* shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **3** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **3** months at the initiative of the European Parliament or the Council.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution that objects to the delegated act shall state the reasons for its objections."

## EXPLANATORY STATEMENT

The revision of the regulation has advanced successfully after a period of controversial, but fruitful dialogue negotiations with the Irish Presidency and the European Commission.

In line with our mandate voted in REGI last year, our negotiating team achieved to retain the outstanding objective of the revision: simplification, legal certainty and flexibility in the application of the rules, reducing red tape for EGTC and its prospective members.

In this respect, your rapporteur would like to present in a resume some of the most important achievements of the new EGTC Regulation as negotiated between the European Parliament and the Council Presidency.

One of the most significant improvements in the draft report refers to the authorisation process of an EGTC, which will be tacitly approved after a limited time of six months given to national competent authorities for examination. This change brings legal certainty for applicants, who have frequently been facing serious disruptions and unjustified delays in the procedure. (There is, however, derogation to this rule made for the Member State where the proposed registered office of the EGTC will be located where a formal approval would still be required). A Joint Declaration of the Parliament, the Council and the Commission, which will be added after end of discussions, is calling on the Member States to ensure a clear, efficient and transparent authorization of new EGTCs within the time limit.

In addition, the new regulation will clearly distinguish between the statutes and the convention. Only the latter (and not the statutes) will be subject to formal approval, reducing administrative burden for members by facilitating and fast-tracking the authorisation process. There will be transitional dispositions for the EGTCs in process of approval in between the adoption of the new Regulation.

The provisions on the employment of the staff of the EGTCs will be also clarified. The members are able to choose between the law of the seat of the grouping, the law where the staff works or the national law of the staff in question. This provision (which in principle has been already applicable in the past but was not implemented due to a lack of knowledge in Member States) will be supported by another Joint Declaration of the three Institutions. It will bring an end to the sometimes arbitrary and illegal interpretation of the regulation by Member States.

The EGTCs will be open to all public undertakings providing public services (Economic Services of General Interest) including those who are ruled by private law. Our respective amendments were accepted by the Council and will facilitate and incentivize territorial cooperation in areas as public transport, energy or water supply as well as health, education and vocational training.

A clear, precise and more comprehensive definition for the participation of third countries was proposed and agreed. Third countries neighbouring the EU will be able to become members of EGTCs, including neighbours of outermost regions and overseas territories, irrespective of whether partners from one or more Member States are involved (1-1 EGTCs).

Those simplified and clarified rules will lead to enhanced legal certainty and create stronger incentives for future partners to intensify the territorial cooperation within the EU and between regions of Member States and third countries.

The Committee of the Regions with its EGTC Platform will maintain its role of register of the EGTCs, providing support and advice for both, existing EGTCs and those being established.

In order to facilitate the participation of members with limited liability, Member States will be allowed to ask for an appropriate insurance or guarantee by a bank or public entity.

Coordinated efforts for awareness rising among the institutions, the Member States and the regions with regard to the potentials that the EGTCs present as tools for territorial cooperation will be undertaken, in order to improve the visibility of the various possibilities of an EGTC.

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASIS

Mrs Danuta Maria Hübner  
Chair  
Committee on Regional Development  
BRUSSELS

Subject: Opinion on the legal basis of the Amendment of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings

Dear Madam Chair,

By letter of 4 September 2013, you asked the Committee on Legal Affairs, pursuant to Rule 37 of the Rules of Procedure, to consider a possible change of legal basis for the above proposal for a Regulation.

The legal basis proposed by the Commission is Articles 209(1) and 212(1) of the Treaty of the Functioning of the European Union (TFEU) together with Article 175 TFEU.

At the vote in the Committee on regional Development on the draft report on 10 July 2013, an amendment was adopted whereby Article 175 TFEU was considered the sole legal basis for the Regulation. During subsequent trilogue negotiations on this file, all three institutions agreed on this legal basis.

### **I - Background**

Regulation (EC) No 1082/2006 instituted a cooperation instrument at Community level for the creation of cooperative groupings in Community territory, invested with legal personality, called ‘European groupings of territorial cooperation’ (EGTC), in order to overcome the obstacles hindering territorial cooperation.

In accordance with Article 17 of that Regulation, the Commission was to report by 1 August 2011 on the application of the Regulation and proposals for amendments, where appropriate.

On 29 July 2011, the Commission therefore transmitted a report on the application of the Regulation<sup>1</sup>. This report identified areas that could be improved and the Commission proposal

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<sup>1</sup> Report from the Commission to the European Parliament and the Council: The application of the Regulation (EC) No 1082/2006 on a European Grouping of Territorial Cooperation (EGTC), COM(2011)0462.

in this case therefore includes recommended amendments to the Regulation, in particular to take account of the Lisbon Treaty, to simplify and clarify certain aspects that have been shown to cause confusion and to ensure more visibility and communication on the formation and operation of EGTCs. The Commission is furthermore proposing to open up EGTCs to any aspect of territorial cooperation (and not ‘primarily’ the managing of programmes and projects funded by the European Regional Development Fund (ERDF)) and to provide legal bases for the participation of authorities and regions from third countries to participate as members.

## **II - Relevant Treaty Articles**

The following Articles of the TFEU are presented as the legal basis in the Commission proposal (emphasis added):

### ***Article 175***

*Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article 174. The formulation and implementation of the Union's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 174 and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing Financial Instruments.*

*The Commission shall submit a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.*

*If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Union policies, such actions may be adopted by the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions.*

### ***Article 209***

*1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or*

*programmes with a thematic approach.*

*[...]*

#### **Article 212**

*1. Without prejudice to the other provisions of the Treaties, and in particular Articles 208 to 211, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.*

*2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1.*

*3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.*

*The first subparagraph shall be without prejudice to the Member States' competence to negotiate in international bodies and to conclude international agreements.*

Article 174 TFEU has the following wording (emphasis added):

#### **Article 174**

*In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion.*

*In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.*

*Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, crossborder and mountain regions.*

### **III - The proposed legal bases**

Article 175 TFEU provides the legal basis for specific action to strengthen the Union's economic, social and territorial cohesion, which is necessary outside of the Structural Funds. Such action is to be taken under the ordinary legislative procedure.

Article 209 TFEU provides the legal basis for the implementation of the Union's development cooperation policy. The necessary action is to be taken by the ordinary legislative procedure.

Article 212 TFEU provides the legal basis for economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The necessary action is to be taken by the ordinary legislative procedure.

#### **IV - Case-law on legal basis**

It is settled case law of the Court of Justice that "the choice of legal basis for a Community measure must rest on objective factors amenable to judicial review, which include in particular the aim and content of the measure"<sup>1</sup>. The choice of an incorrect legal basis may therefore justify the annulment of the act at stake.

In this case, it therefore has to be established whether the proposal either:

1. pursues a twofold purpose or has a twofold component, and one of those is identifiable as the main or predominant purpose or component, whereas the other is merely incidental; or
2. simultaneously pursues a number of objectives or has several components that are indissociably linked, without one being secondary and indirect in relation to the other.

According to the case law of the Court of Justice, in the first case the act must be based on a single legal basis, namely that required by the main or predominant purpose or component, and in the second case the act will have to be founded on the various corresponding legal bases.<sup>2</sup>

#### **V. Aim and content of the proposed regulation**

The first Recital of Regulation (EC) No 1082/2006, which is being amended by the proposal, has the following wording (emphasis added):

*(1) The third subparagraph of Article 159 of the Treaty provides for specific actions to be decided upon outside the Funds which are the subject of the first subparagraph of that Article, in order to achieve the objective of social and economic cohesion envisaged by the Treaty. The harmonious development of*

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<sup>1</sup> Case C-45/86, *Commission v. Council* (Generalised Tariff Preferences) [1987] ECR 1439, para. 5; Case C-440/05 *Commission v. Council* [2007] E.C.R. I-9097; Case C-411/06 *Commission v. Parliament and Council* (8 September 2009) ([OJ C 267 of 07.11.2009, p.8](#)).

<sup>2</sup> See the above-referenced Case C-411/06, paras. 46-47.

*the entire Community territory and greater economic, social and territorial cohesion imply the strengthening of territorial cooperation. To this end it is appropriate to adopt the measures necessary to improve the implementation conditions for actions of territorial cooperation.*

Since the entry into force of the Lisbon Treaty on 1 December 2009, Article 159(3) TEC has become Article 175(3) TFEU.

Recitals 9-11 of the proposal are worded as follows:

*(9) The third subparagraph of Article 175 of the Treaty does not foresee the inclusion of entities from third countries in legislation based on that provision. The EGTC Regulation did not explicitly exclude the possibility of entities from third countries to participate in an EGTC formed in accordance with this Regulation where the legislation of a third country or agreements between Member States and third countries so allow.*

*(10) Experience shows that the involvement of authorities or other bodies from third countries equivalent to those eligible inside the Member States has given rise to implementation difficulties. However, such involvement in EGTCs set up by members drawn from two or more Member States constitutes only an ancillary element to the cooperation inside the Union and between Member States. Consequently, such involvement should be clarified without recourse to a different legal basis in the Treaty.*

*(11) Since 1990, European territorial cooperation has been supported by financial instruments under Cohesion policy and in this context cooperation has always been possible in a limited number of cases between only one Member State and a third country. Consequently, the legal instrument EGTC should also be opened to such a cooperation context.*

As a result of trilogue negotiations, Recital 11 was deleted and Recitals 9-10 were reworded as follows (emphasis added):

*(9) Regulation (EC) No 1082/2006 does not contain detailed rules concerning the participation of entities from third countries in an EGTC formed in accordance with this Regulation, i.e. between members from at least two Member States. Given the further alignment of the rules governing the cooperation between one or more Member States and one or more third countries - predominantly in the context of cross border cooperation under the European Neighbourhood Instrument (ENI) and the Instrument for Pre-Accession Assistance (IPA II), but also in the context of complementary financing from EDF, and of transnational cooperation under the European territorial cooperation goal where allocations from the European Regional Development Fund (ERDF) under joint cooperation programmes - the participation of members from third countries neighbouring a Member State*

including its outermost regions in EGTCs set up between at least two Member States should be explicitly provided for. This should be possible where the legislation of a third country or agreements between at least one participating Member State and a third country so allows.

*(10) In order to strengthen the Union's economic, social and territorial cohesion and in this respect to reinforce in particular the effectiveness of territorial cooperation, including one or more of cross-border, transnational and interregional cooperation between members of an EGTC, the participation of third countries neighbouring a Member State (including its outermost regions) should be allowed in an EGTC. Operations under European territorial cooperation programmes, where co-financed by the EU, should therefore, continue to pursue cohesion policy objectives, even if they are implemented, partly or in their entirety, outside the territory of the Union, and, thus, the activities of an EGTC are carried out at least to some extent outside the Union territory. In this context and where relevant the contribution by the activities of an EGTC having also members from third countries neighbouring at least one Member State (including its outermost regions) to the objectives of EU external actions' policies (e.g. development cooperation or economic, financial and technical cooperation objectives) remain merely incidental, as the centre of gravity of subject cooperation programmes and consequently the activities of an EGTC (even with the participation of third countries neighbouring at least one Member State (including outermost regions) should focus primarily on EU cohesion policy objectives. Consequently, the possible development cooperation or economic, financial and technical cooperation objectives between only one Member State, (including its outermost regions), and one or more third countries are only ancillary to the cohesion policy-based territorial cooperation objectives between Member States (including outermost regions). Therefore, the third subparagraph of Article 175 TFEU is sufficient legal basis for the adoption of the Regulation.*

The aim of the proposal is therefore, in addition to ensuring continuity and enhancing clarity, to provide explicitly for the participation of members from third countries neighbouring a Member State in EGTCs set up between at least two Member States, whereas operations under European territorial cooperation programmes should continue to pursue cohesion policy objectives, even if they are implemented outside the territory of the Union.

The proposal therefore contains amendments to the Regulation concerning the applicable law and the nature, establishment, composition, organisation, tasks and acquisition of legal personality of an EGTC, the participation of third countries, rules on publication in the Official Journal, jurisdiction issues and reporting (including the adoption by the Commission of indicators by delegated acts).

The Legal Service points out that the ERDF Regulation and the proposal for a Regulation on European Territorial Cooperation are both based on the cohesion policy legal basis and the participation of third countries is seen as merely incidental and therefore does not justify the addition of legal bases relating to the Union's development cooperation policy.

## **VI - Determination of the appropriate legal basis**

It should first be noted that all of the discussed alternatives for the legal basis in this case provide for the ordinary legislative procedure. The question at hand does therefore not relate to Parliament's role and prerogatives as a legislator since whatever the outcome would be, Parliament would still be co-legislator.

The question is rather whether the added aim of including the possibility for third countries to participate in EGTCs would alter the overall aim of the Regulation so that any aspects entailing implementation of the Union's development cooperation policy, or measures consistent with that policy, would become indissociably linked with the original aim of strengthening the Union's economic, social and territorial cohesion, without one of these aims being secondary and indirect in relation to the other.

The Commission's original proposal stated that involvement of third countries in EGTCs set up by members drawn from two or more Member States would constitute only an ancillary element to the cooperation inside the Union and between Member States. It therefore seems that the Commission included Articles 209 and 212 TFEU in the legal basis with the intention that any development cooperation aspects would only become secondary and indirect in relation to the cohesion policy. Such an approach would go against the above-mentioned settled case-law of the Court of Justice, since where a main or predominant purpose or component is clearly identified, whereas the other is merely incidental, the act must be based on a single legal basis, which is that required by the main or predominant purpose or component.

Since economic, social and territorial cohesion clearly is the main or predominant purpose and component of the act, and development cooperation is merely incidental, it is therefore not possible to include Articles 209 and 212 TFEU in the legal basis. This position is reinforced by the fact that the ERDF Regulation and the proposal for a Regulation on European Territorial Cooperation do not include these articles in their legal bases.

Against this background it should however be noted that the Recitals negotiated between the Parliament, the Council and the Commission concerning the legal basis seem rather cumbersome and unnecessarily detailed, not least considering that according to the settled case-law of the Court of Justice the choice of a legal basis for a Union measure must rest on objective factors amenable to judicial review. In the light of the smart regulation agenda, according to which simple and clear drafting must always be used, those Recitals could and should be made shorter so as only to include the relevant aim and content of the proposed measures. In particular, Recitals to a legislative act should not include wording that could be perceived as pleadings directed to the Court of Justice, not least taking into account that the stated purpose of the exercise was to correct a mistake made by the Commission concerning the legal basis in its proposal.

## **VII - Conclusion**

In light of the foregoing analysis Article 175(3) TFEU is the proper legal basis for the proposal.

Recitals 9 and 10 could be limited to stating that the aim and content of the Regulation provide for the participation of members from third countries neighbouring a Member State in EGTCs set up between at least two Member States whilst such operations continue to pursue cohesion policy objectives, even if they are implemented outside the territory of the Union.

### **VIII - Recommendation**

The committee considered the above question at its meeting of 17 September 2013. At this meeting, it accordingly unanimously decided<sup>1</sup> to recommend that the appropriate legal basis for the Amendment of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings is Article 175(3) TFEU.

Yours sincerely,

Klaus-Heiner Lehne

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<sup>1</sup> The following were present for the final vote: Raffaele Baldassarre (Vice-Chair), Luigi Berlinguer, Sebastian Valentin Bodu (Vice-Chair), Françoise Castex (Vice-Chair), Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne (Chair), Eva Lichtenberger, Antonio López-Istúriz White, Jiří Maštálka, Alajos Mészáros, Angelika Niebler, Bernhard Rapkay, Evelyn Regner (Vice-Chair), Francesco Enrico Speroni, Dimitar Stoyanov, József Szájer, Alexandra Thein, Axel Voss, Cecilia Wikström, Tadeusz Zwiefka, Olle Schmidt(pursuant to Rule 187(2)).

## PROCEDURE

<b>Title</b>	Amendment of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings			
<b>References</b>	COM(2011)0610 – C7-0324/2011 – 2011/0272(COD)			
<b>Date submitted to Parliament</b>	6.10.2011			
<b>Committee responsible</b> Date announced in plenary	REGI 25.10.2011			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	DEVE 25.10.2011	EMPL 25.10.2011		
<b>Not delivering opinions</b> Date of decision	DEVE 7.11.2011	EMPL 27.10.2011		
<b>Rapporteur(s)</b> Date appointed	Joachim Zeller 21.6.2011			
<b>Legal basis disputed</b> Date of JURI opinion	JURI 17.9.2013			
<b>Discussed in committee</b>	23.11.2011	25.1.2012	28.2.2012	20.3.2012
	29.5.2012	21.6.2012	11.7.2012	26.11.2012
	24.1.2013	19.3.2013	23.4.2013	29.5.2013
	19.6.2013			
<b>Date adopted</b>	10.7.2013			
<b>Result of final vote</b>	+: –: 0:	40 0 3		
<b>Members present for the final vote</b>	François Alfonsi, Luís Paulo Alves, Catherine Bearder, Jean-Jacob Bicep, Victor Boştinaru, John Bufton, Nikos Chrysogelos, Francesco De Angelis, Tamás Deutsch, Rosa Estaràs Ferragut, Brice Hortefeux, Danuta Maria Hübner, Filiz Hakaeva Hyusmenova, Vincenzo Iovine, María Irigoyen Pérez, Seán Kelly, Mojca Kleva Kekuš, Constanze Angela Krehl, Jacek Olgierd Kurski, Petru Constantin Luhan, Ramona Nicole Mănescu, Vladimír Maňka, Iosif Matula, Erminia Mazzoni, Miroslav Mikolášik, Jens Nilsson, Jan Olbrycht, Wojciech Michał Olejniczak, Younous Omarjee, Markus Pieper, Monika Smolková, Georgios Stavrakakis, Nuno Teixeira, Lambert van Nistelrooij, Oldřich Vlasák, Kerstin Westphal, Hermann Winkler, Joachim Zeller, Elżbieta Katarzyna Łukacijewska			
<b>Substitute(s) present for the final vote</b>	Andrea Cozzolino, Karima Delli, Cornelia Ernst, Ivars Godmanis, James Nicholson, Evžen Tošenovský			
<b>Date tabled</b>	27.9.2013			

