

Opinion of the Committee of the Regions on the Proposal for a Regulation of the European Parliament and of the Council establishing a European grouping of cross-border cooperation (EGCC)

(2005/C 71/11)

THE COMMITTEE OF THE REGIONS,

Having regard to the Proposal for a Regulation of the European Parliament and of the Council establishing a European grouping of cross-border cooperation (EGCC) adopted by the European Commission on the 14 July 2004, COM(2004) 496 final – 2004/0168 (COD);

Having regard to the European Commission's request of 15 July 2004 for an opinion on this subject under the third paragraph of Article 159 of the Treaty establishing the European Community;

Having regard to the Council's decision of 8 November 2004 to consult it on this subject;

Having regard to the letters from Commissioner Barnier and Commissioner De Palacio of 8 March 2004, asking for an opinion on the new European legal instrument for cross-border cooperation;

Having regard to the first paragraph of Article 265 of the EC Treaty, which states: 'The Committee of the Regions shall be consulted by the Council or by the Commission where this Treaty so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate';

Having regard to Article 220 of the Treaty establishing a Constitution for Europe which states: 'In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion'. [...] 'Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and areas which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density, and island, cross-border and mountain areas';

Having regard to its president's decision of 5 April 2004 to instruct the Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to the following European Parliament reports: the 1976 Gerlach report on the Community's regional policy as regards the regions at the Community's internal frontiers ⁽¹⁾; the 1984 Boot report on the strengthening of transfrontier cooperation ⁽²⁾; the 1986 Schreiber report on the Saarland-Lorraine-Luxembourg region ⁽³⁾; the Poetschki report on transfrontier cooperation at the internal borders ⁽⁴⁾; the 1988 Chiabrando report on the development programme for the frontier regions between Portugal and Spain ⁽⁵⁾; the 1990 Cushnahan report on the Community initiative INTERREG ⁽⁶⁾; and the 1994 Muru report on the Community initiative INTERREG II ⁽⁷⁾;

Having regard to the 1980 Madrid Outline Convention of the Council of Europe and its successive Additional Protocols (1995, 1998);

Having regard to the opinion of the Congress of Local and Regional Authorities of the Council of Europe submitted to the Committee of the Regions' Commission for Territorial Cohesion Policy (COTER) on *A new legal instrument for cross-border cooperation* adopted by its Bureau at the meeting of 5 May 2004, rapporteur: Herwig Van Staa (Austria, L, EPP/CD);

⁽¹⁾ OJ C 293, 13.12.1976

⁽²⁾ OJ C 127, 14.5.1984

⁽³⁾ OJ C 176, 14.7.1986

⁽⁴⁾ OJ C 99, 13.4.1987

⁽⁵⁾ OJ C 262, 10.10.1988

⁽⁶⁾ OJ C 175, 16.7.1990

⁽⁷⁾ OJ C 128, 9.5.1994

Having regard to the White Paper on European Governance presented by the European Commission in 2001 (COM(2001) 428 final), point 3.1 of which states that the Commission 'will examine how the framework for transnational cooperation of regional or local actors could be better supported at EU level, with a view to presenting proposals by the end of 2003';

Having regard to its March 2002 opinion on *Strategies for promoting cross-border and interregional cooperation in an enlarged EU - a basic document setting out guidelines for the future* (CdR 181/2000 fin) ⁽⁸⁾;

Having regard to its October 2001 study on *Trans-European cooperation between territorial authorities: new challenges and future steps necessary to improve cooperation*, drawn up in close cooperation with the Association of European Border Regions (AEBR) in preparation for the above-mentioned opinion;

Having regard to the Third Report on Economic and Social Cohesion entitled *A new partnership for cohesion - convergence, competitiveness, cooperation*, adopted by the European Commission on 18 February 2004, the conclusions of which state: 'The Commission intends to propose a new legal instrument in the form of a European cooperation structure ("Cross-border regional authority"), in order to allow Member States, regions and local authorities to address - both inside and outside Community programmes - the traditional legal and administrative problems encountered in the management of cross-border programmes and projects. The aim would be to transfer to this new legal structure the capacity to carry out cooperation activities on behalf of public authorities';

Having regard to its opinion of 16 June 2004 on the Third Cohesion Report (CdR 120/2004 fin);

Having regard to the report *Towards a new Community legal instrument facilitating public-law-based trans-European cooperation among territorial authorities in the European Union*, drawn up by the Association of European Border Regions (AEBR) for the European Commission, based on the previous work done with the Committee of the Regions in the framework of the above mentioned study;

Having regard to the pre-legislative role which it plays in close consultation with the European Commission and the points of view raised by local and regional authorities during the preliminary phase;

Having regard to its draft opinion (CdR 62/2004 rev. 3) adopted by the Commission for Territorial Cohesion Policy on 24 September 2004 (rapporteur: Mr Niessl, Governor of Burgenland, (AT/PES);

Adopted the following opinion at its 57th plenary session of 17 and 18 November 2004 (meeting of 18 November):

The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

1. **supports** the European Commission's intention to make sustained improvements to the legal and institutional environment for cross-border, transnational and interregional cooperation (trans-European cooperation) at national, regional and local level, and **thinks** that, under the proposal for a regulation now on the table, the difficulties that remain in this field can be tackled more effectively than has been the case so far;

2. **would nonetheless propose** that the new legal instrument should be called the European grouping of trans-European cooperation (EGTC) instead of the European grouping of cross-border cooperation (EGCC), as this name also reflects its potential use in transnational and interregional cooperation as set out in Article 1 of the proposal for a regulation;

3. **agrees with** the European Commission that the conditions for trans-European cooperation cannot be improved either adequately or effectively by the Member States on their

own and that Community action is warranted under the second paragraph of Article 5 of the Treaty establishing the European Community (*subsidiarity principle*) given the transnational elements involved and the clear advantages of a Community approach over action taken at the level of the 25 Member States;

4. **agrees with** the European Commission that the proposal for a regulation does not go beyond what is necessary to achieve the objectives of the Treaty within the meaning of the third paragraph of Article 5 of the Treaty establishing the European Community (*proportionality principle*) as it merely provides an optional framework for trans-European cooperation and lays down only minimum requirements for setting up and operating a European grouping of trans-European cooperation;

5. **welcomes** the fact that the European Commission is basing the proposed regulation on Article 159 of the EC Treaty; this brings the Article 251 co-decision procedure into play, under which the Council acts by a qualified majority;

⁽⁸⁾ OJ C 192, 12.8.2002, p. 37

6. **is pleased** that the European Commission has opted for a regulation as the legal instrument in this instance, as that means that any regional and local authority wishing to set up a European grouping of trans-European cooperation can do so without the need for transposition measures and/or individual Member States' approval;

7. at the same time, however, **is pleased** that the Member States – and not just the regional and local authorities – can also be involved in setting up a European grouping of trans-European cooperation and can thus play a part in boosting economic and social cohesion in Europe through cross-border, transnational and interregional cooperation;

8. also **welcomes** the fact that, under the proposed regulation, the EGTC may be made up not only of Member States and regional and local authorities, but also of other local public bodies;

9. **is pleased** that the European Commission has taken up the Committee of the Regions' proposal that the remit of an EGTC should not be restricted to cross-border cooperation alone, but may also cover transnational and interregional cooperation as well; it **would urge, however**, that appropriate changes be made in the text of the regulation – as already proposed for the title – to bring out this objective more clearly;

10. **welcomes** the fact that the regulation creates uniform conditions for the establishment of EGTCs in all EU Member States; it **calls upon** the Commission to ensure that existing bilateral trans-European cooperation agreements remain applicable;

11. **backs** the wording used by the European Commission in Article 3(1) of the proposed regulation regarding the tasks and competence of an EGTC, whereby members themselves decide what the EGTC's remit is to be;

12. **welcomes** the fact that a choice may be made as regards the applicable national law; it does, however, call upon the Commission to seek ways of preventing possible conflicts with existing national law. If EGTC headquarters are located in a Member State whose national law is not to apply, the European Commission is asked to take the requisite steps to avoid any potential conflicts between provisions;

13. **recommends** that the regulation authorise Member States, where necessary, to make appropriate provision, in line with constitutional arrangements, for transferring tasks to and supervising the EGTC;

14. **applauds** the fact that an EGTC may be given the task not only of implementing Community-financed programmes but also of carrying out other general trans-European cooperation measures, as this can give a major boost to the further development of trans-European activities in Europe; but **notes** that the provisions of the proposed regulation can only be effective if it is possible for third parties to give an EGTC the task of implementing Community-financed programmes;

15. **backs** the proposal to invest the EGTC with legal personality, but also **supports** the possibility of assigning the practical execution of EGTC tasks to one of its members, since that can prevent the emergence of any new, inflated, bureaucratic structures;

16. **considers, however**, that it should be possible not only to assign EGTC tasks *en bloc* to the grouping's members, but also to assign only some of them or share them out among the members, and **asks** that Article 5(3) be amended accordingly;

17. **asks** that an EGTC be obliged to establish an assembly made up of representatives of its members which, in a spirit of transparency and democratic accountability, bears responsibility for the grouping's activities;

18. **considers it necessary** to stipulate in Article 6 of the regulation that the EGTC director is answerable, both politically and legally, to the members acting as representatives in the EGTC assembly;

19. **asks** that the trans-European cooperation conventions adopted under this regulation be notified not only to all members and Member States but also to the Committee of the Regions. The Committee of the Regions should keep a register of existing EGTCs so that the European institutions, the Member States, regional and local authorities and any European citizen can quickly call up specific data about any EGTC. This register could also play a valuable role in disseminating best practice across Europe.

The Committee of the Regions' recommendations

Recommendation 1

Title

(also change the definition and the acronym to EGTC throughout the document as appropriate)

Text proposed by the Commission	CoR amendment
establishing a European grouping of cross-border cooperation (EGCC)	establishing a European grouping of cross-border <u>trans-European</u> cooperation (EGCC) (EGTC)

Reason

There are three kinds of cooperation between Member States, regions and local authorities: cross-border, interregional and transnational. These are subsumed under the broad term 'trans-European cooperation'. It should be possible to establish a European grouping for all three kinds of trans-European cooperation.

Recommendation 2

(recital 1)

(also change 'cross-border cooperation' and 'transnational and interregional cooperation' to 'trans-European cooperation' throughout the document as appropriate)

Text proposed by the Commission	CoR amendment
Article 159, paragraph 3, of the treaty provides for specific actions to be decided outside the funds which are the subject of paragraph 1 of that article, in order to achieve the objective of social and economic cohesion envisaged by the treaty. The harmonious development of the entire community territory and greater economic, social and territorial cohesion imply the strengthening of cross-border cooperation. To this end it is appropriate to adopt the measures necessary for improving the implementation conditions for actions of cross-border cooperation.	Article 159, paragraph 3, of the treaty provides for specific actions to be decided outside the funds which are the subject of paragraph 1 of that article, in order to achieve the objective of social and economic cohesion envisaged by the treaty. The harmonious development of the entire community territory and greater economic, social and territorial cohesion imply the strengthening of cross-border, <u>transnational and interregional</u> cooperation (<u>hereinafter referred to as 'trans-European cooperation'</u>). To this end it is appropriate to adopt the measures necessary for improving the implementation conditions for actions of cross-border <u>trans-European</u> cooperation.

Reason

This change follows on from recommendation 1.

Recommendation (new) 3

(recital 7)

Text proposed by the Commission	CoR amendment
(7) In order to overcome the obstacles hindering cross-border cooperation, it is necessary to institute a cooperation instrument at the community level, which allows the creation of cooperative groupings in the community territory, invested with legal personality, called 'European groupings of cross-border cooperation' (EGCC). Recourse to the EGCC should be optional.	(7) In order to overcome the obstacles hindering cross-border cooperation, it is necessary to institute a cooperation instrument at the community level, which allows the creation of cooperative groupings in the community territory, invested with legal personality, called 'European groupings of cross-border <u>trans-European</u> cooperation' (EGCC). (EGTC). Recourse to the EGCC EGTC should be optional. <u>Existing bilateral agreements on cross-border, interregional or transnational cooperation between local authorities, and/or regions and/or states shall remain applicable.</u>

Reason

The legal scope, as regards cross-border cooperation, of existing bilateral agreements, such as the Karlsruhe Agreement, must not be restricted by the regulation.

Recommendation 4

(recital 10)

Text proposed by the Commission	CoR amendment
The members may decide to set up the EGCC either as a separate legal entity or to assign its tasks to one of the members.	The members may decide to set up the EGCC <u>EGTC</u> either as a separate legal entity or to assign its tasks to <u>one or several</u> of the <u>its</u> members.

Reason

This change follows on from recommendation 1.

Recommendation 5

(recital 11)

Text proposed by the Commission	CoR amendment
[...] at the sole initiative of the Member States and their regional and local authorities, without financial contribution by the Community.	[...] at the sole initiative of the Member States and/or their regional and local authorities, without financial contribution by the Community.

Reason

The very nature of trans-European cooperation is that it should also be open to regions and local authorities without Member State involvement.

Recommendation 6

Article 1(1)

Text proposed by the Commission	CoR amendment
<p style="text-align: center;">Nature of the EGCC</p> <p>1. A co-operative grouping can be established on community territory in the form of a European grouping of cross-border cooperation, hereafter referred to as 'EGCC', under the conditions and according to the modalities envisaged by this regulation.</p>	<p style="text-align: center;">Nature of the EGCC <u>EGTC</u></p> <p>1. A co-operative grouping can be established on community territory in the form of a European grouping of cross-border <u>trans-European</u> cooperation, hereafter referred to as EGCC <u>EGTC</u>, under the conditions and according to the modalities envisaged by this regulation.</p>

Reason

This change follows on from recommendation 1.

Recommendation 7

Article 1(3)

Text proposed by the Commission	CoR amendment
The objective of the EGCC is to facilitate and promote cross-border cooperation between Member States, a well as regional and local authorities, with the aim of reinforcing economic, social and territorial cohesion.	The objective of the EGCC <u>EGTC</u> is to facilitate and promote cross-border, <u>transnational and interregional</u> cooperation (<u>trans-European cooperation</u>) between Member States, a well as regional and local authorities, with the aim of reinforcing economic, social and territorial cohesion.

Reason

This change follows on from recommendation 1.

Recommendation 8

Article 2(3)

Text proposed by the Commission	CoR amendment
The members can decide to set up the EGCC as a separate legal entity, or to assign its tasks to one of the members.	The members can decide to set up the EGCC <u>EGTC</u> as a separate legal entity, or to assign its tasks to one <u>or several</u> of the members.

Reason

This change follows on from recommendation 1.

Recommendation 9

Article 3(1)

Text proposed by the Commission	CoR amendment
The EGCC carries out the tasks which it is assigned by its members in accordance with this regulation.	The EGCC carries out the tasks which are transferred to it <u>by its members or, with its agreement, by third parties, in accordance with this regulation.</u>

Reason

This insertion is necessary if EGTCs are to implement Community-financed programmes in future.

Recommendation 10

Article 3(3)

Draft opinion	Amendment
The formation of an EGCC does not affect the financial responsibility of its members or of the Member States, neither for community funds nor for national funds.	<u>The formation of an EGCC does not affect the financial responsibility of its members for community funds or for national funds, nor that of Member States for community funds. Member States have the right to adopt legislation or agreements enabling them to monitor compliance by the EGCC with legal and technical specifications. Responsibility for monitoring can either rest with the Community or be transferred to one of the Member States.</u>

Reason

Obviously, Member States answer to their respective national parliaments for national funds, and there is no need for the proposed regulation to mention this. However, if Member States (or the relevant federal states in Member States with a federal structure) are to be responsible for Community funds, there must be scope for comprehensive monitoring of EGCCs by Member States. Failing this, Member States might bear responsibility for situations over which they had no control.

Recommendation 11

Article 4(8)

Text proposed by the Commission	CoR amendment
The convention is notified to all its members and to the Member States.	<u>The convention is notified to all its members, and to the Member States, and to the Committee of the Regions. The Committee shall enter the convention in a public register of all conventions of trans-European cooperation.</u>

Reason

The CoR is committed to transparency in line with the EC Treaty and sees itself a 'one-stop shop' that must be readily accessible as a centre of expertise both for the European public and the European Commission departments. As such, it must also see to it that data relating to the regional and local levels – and thus to grassroots concerns – can be accessed at any time.

Recommendation 12

Article 5 and throughout the document as appropriate

Text proposed by the Commission	CoR amendment
Statutes	Translator's note: The proposal is to change the German term 'Geschäftsordnung' ('Rules of Procedure') used in this point to 'Statuten' ('Statutes'). The English-language version already uses the word 'statutes' so the amendment does not apply.

Reason

The basic principles underpinning the grouping should be laid down in statutes. Rules of procedure, on the other hand, regulate internal workings. There is nothing therefore to stop the EGTC having rules of procedure as well as statutes.

Brussels, 18 November 2004.

The President
of the Committee of the Regions
Peter STRAUB

**RESOLUTION OF THE COMMITTEE OF THE REGIONS OF 18 NOVEMBER 2004 ON THE
OPENING OF NEGOTIATIONS FOR TURKEY'S ACCESSION TO THE EU**

(2005/C 71/12)

THE COMMITTEE OF THE REGIONS:

- Having regard to the Communication entitled *Recommendation of the European Commission on Turkey's progress towards accession*, presented by the European Commission on 6 October 2004 (COM(2004) 656 final);
 - Having regard to the *2004 Regular Report on Turkey's progress towards accession* (SEC(2004) 1201);
 - Having regard to the Declaration of Ankara adopted by the CoR RELEX Commission and the Union of Municipalities in Turkey (UTM) on 11 October 2004;
 - Having regard to Committee of the Regions' *External Relations Strategy* as adopted at its extraordinary Bureau meeting in The Hague on 21 October 2004;
- 1) **welcomes** the application of Turkey on equal terms with the applications of other European countries;
 - 2) **intends** to present its views regarding Turkey's accession, from a local and regional perspective, at appropriate opportunities in the future; and urges the European Commission to consult the Committee on future regular reports;
 - 3) **recognises** that the reform efforts made by the Turkish authorities during the last years have helped Turkey to seek to fulfil the Copenhagen criteria, facilitating a decision towards the opening of negotiations for Turkey's accession to the EU;
 - 4) **encourages** the Turkish government to press ahead with its challenging reforms in order to achieve their full implementation as soon as possible in an irreversible and sustainable manner;
 - 5) **welcomes** the decentralisation efforts undertaken in Turkey, which should be in accordance with the principles of the Charter of Local Self-Government, as well as the passing of the Local Administration Reform Law in 2004 which recognises the existence of local administration as the smallest organisational unit and expects its proper implementation as well as similar efforts concerning the regional level;