

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

(COM(2004) 496 final — 2004/0168 (COD))

(2005/C 255/15)

On the 8 November 2004 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned communication.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 March 2005. The rapporteur was **Mr Nollet**.

At its 416th plenary session, held on 6 and 7 April 2005 (meeting of 6 April 2005), the European Economic and Social Committee adopted the following opinion by 118 votes to 2 with 6 abstentions.

1. Introduction

1.1 1 May 2004 marked the opening of a new chapter in European history.

1.2 Following a long preparatory phase, ten new countries have joined the fifteen members of the European Union. This event provides new opportunities and prospects for development. In order to become more efficient, the Union's institutions must be brought closer to the general public and to local, regional and Community life. For this to happen, greater attention must be paid to the quality of Community legislation.

1.3 Creating a new legal instrument for cross-border cooperation therefore becomes a priority for deepening this dialogue and consequently a new challenge to take up.

1.4 On 14 July 2004 the Commission adopted a proposal for five new regulations updating the structural funds and instruments for the 2007-2013 period, including a proposal for a new regulation establishing a European grouping of cross-border cooperation, known as the EGCC.

1.5 The Commission considers the EGCC to be a pragmatic response to a need expressed by the Member States. It has proposed an optional instrument for establishing a cross-border management structure.

1.6 The Commission does not believe that such a measure would conflict with the powers conferred on the Member States, because these would remain responsible for the use of the Structural Funds.

1.7 The Commission has taken an informed decision not to go into the details of the convention. The parties concerned are free to draft **their own** statutes.

1.8 The Commission takes the view that the Member States do have the right to go further. The EGCC is entirely optional.

1.9 At the time of writing, the Commission has not yet sent the EESC an additional memo on the legal aspects of the matter.

1.10 The Commission has deliberately not sought to use this new instrument (the EGCC) to regulate other tax aspects. The EGCC will opt for the tax system in use in a Member State of its choice.

1.11 The Commission is not seeking harmonisation and hence confirms that it has not attempted to draw up a more detailed regulation. *Although the issue of tax harmonisation was not raised in discussions within the EESC working group, this Commission position does not address the concerns that management should be simplified.*

1.12 The Commission has no desire to take on the work of the Member States and thus emphasises that the EGCC is, and will remain, an instrument of subsidiarity.

1.13 On the basis of its experience, the Commission considers that it would be impossible to draw up a detailed model.

1.14 The Commission does not believe that NGOs perform the role of a public authority.

1.15 The Commission has thus set out a minimum framework, under which universities, for example, could be beneficiaries.

1.16 The Commission confirms that opting for an EGCC is not a prerequisite for receiving support from the structural funds.

1.17 The Commission considers that the great advantage of its EGCC proposal is that it will apply as of 2007, without having to wait for changes to legislation that might be needed in the Member States.

1.18 On 18 November 2004, the Committee of the Regions issued a broadly favourable opinion and suggested some amendments, including the following: the Committee of the Regions proposes to change the name of the new legal instrument by replacing the name 'European Grouping of Cross-border Cooperation (EGCC)' with the 'European Grouping of trans-European Cooperation (EGTC)'. The Committee of the Regions considers that this new name would have the advantage of allowing the legal instrument in question to be used for trans-national cooperation, which is inter-regional in the sense of Article 1(3) of the proposal for a regulation.

2. General comments

2.1 The EESC has taken note of the proposal for a regulation establishing a European Grouping of Cross-border Cooperation (EGCC) — or a European Grouping of trans-European Cooperation (EGTC) as proposed by the Committee of the Regions.

2.2 The EESC broadly supports the EGCC proposal and the targets set.

2.3 The EESC takes note of the case made by the Commission, in particular, the fact that establishing an EGCC would not be compulsory.

2.3.1 The EGCC is likely to make cross-border cooperation easier, for example for financial arrangements.

2.3.2 The EGCC can involve a number of partners in several countries. Given in particular the increase in the number of the Community's land and maritime borders following enlargement, closer inter-regional cooperation within the Community must be made easier.

2.3.3 The EGCC is not restrictive and does not constitute a barrier to more detailed cooperation agreements. The EGCC does not replace the Euroregion.

2.4 The EESC supports the Commission initiative for a new legal instrument to facilitate cooperation. These additional regulations are intended to facilitate effective cooperation; but in one respect they are deficient, in that there is no explicit provision for social partner involvement or that of other interested civil society organisations in monitoring arrangements.

2.5 Secondly, the legal base of this provision is unclear. The relationship between the ERDF (Article 18) and the EGCC needs to be clarified, particularly for Member States conferring the responsibilities of the managing authority on the EGCC.

2.6 The Committee also wishes to consider whether the requirements of programming, management, monitoring and operations would enable Member States to cooperate effectively and learn lessons from the Interreg programmes. The planning and documentation procedures that have been drawn up (for the period 2007-2013) should also be used to ensure greater involvement by citizens and the social partners, as well as other interested civil society organisations. The implementing provision on publicising the operational programmes (Article 12(6)(d) must therefore be drawn up on time.

2.7 The EESC considers that the EGCC could certainly be a useful tool for cross-border cooperation and provide a solution to many national problems.

2.8 The EESC does harbour doubts, however, as to recognition of the EGCC in terms of financial procedures and national managing authorities.

2.9 The Structural Funds are considered to be a vehicle for helping those involved in development to produce a strategy for implementation with the broadest possible public participation. Local and regional economic and social actors are acknowledged to be stakeholders in development. It would be useful for these to be explicitly involved in setting up an EGCC.

2.10 The EESC considers cross-border cooperation to be crucial. Even though the EGCC will be optional, the Commission should propose a model to the actors concerned. This model should not constitute a further constraint to be imposed on future EGCCs; instead, it should be a model of best practice and of support for establishing an EGCC.

2.11 The EESC wishes to highlight the proposed regulation's failure to consider an essential point — financial management. The EGCC regulation should clarify those aspects concerning the management of European funds.

2.12 This clarification does not call into question the rules on financial responsibility already in place in Member States. The EGCC is, however, intended to simplify — more flexible procedures for justifying and managing financial accounts should be proposed.

3. Specific comments

3.1 The EESC wishes to propose the following amendments to the Commission, for the purpose of clarification:

3.1.1 Article 1(3)

The objective of the EGCC is to facilitate and promote cross-border cooperation between Member States, regional and local authorities, [ADD:] and economic and social stakeholders, as well as other interested civil society organisations, and with the aim of reinforcing economic, social and territorial cohesion.

3.1.2 Article 2

The EGCC can be made up of Member States and/or regional and local authorities and/or local public bodies, [ADD:] and economic and social stakeholders, as well as other interested civil society organisations, hereafter referred to as 'members'.

3.1.3 Article 4(5)

The convention defines the law applicable to its interpretation and enforcement, [ADD:] in accordance with European regulations and with bilateral tax agreements between Member States,

until European tax arrangements are harmonised. The Commission should make this point clear.

3.1.4 Article 5

[ADD:] Staff management shall act in strict respect for the place (or places) where activities are carried out, for European regulations and for applicable social and tax legislation.

4. Conclusions

4.1 The EESC considers the EGCC to be a necessary instrument and that communication and understanding would be improved if the Commission suggested a technical and legal reference framework. It would be advisable to make a distinction between the two fundamental aspects — the legal and the strategic.

4.2 The EESC is committed to achieving genuine coherence by helping the Member States and local and regional authorities to overcome the major difficulties they experience in carrying out and managing measures for cross-border, trans-national and inter-regional cooperation, against the background of differing national laws and procedures.

Brussels, 6 April 2005.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND
