

Spatial Foresight Brief 2014:5

**POTENTIAL AND LIMITS OF THE EGTC INSTRUMENT
FOR ENHANCING INTEGRATION ACROSS BORDERS**

Sabine Zillmer and Maria Toptsidou

BRIEF



Spatial Foresight GmbH

7, rue de Luxembourg
L-7330 Heisdorf
Luxembourg

www.spatialforesight.eu

© Spatial Foresight and the authors

Reproduction of the content, partial or as a whole is permitted for non-commercial, personal and academic purpose with prior permission, provided the source is acknowledged as follows:

Zillmer, S. and Toptsidou, M. (2014): *Potential and Limits of the EGTC Instrument for Enhancing Integration across Borders*. Spatial Foresight Brief 2014:5. Luxembourg.
www.spatialforesight.eu



POTENTIAL AND LIMITS OF THE EGTC INSTRUMENT FOR ENHANCING INTEGRATION ACROSS BORDERS

This Spatial Foresight Brief derives from the results of the study “Potentials for transnational and cross-border partnerships by using the EGTC instrument” (original title: “Potenziale für transnationale und grenzüberschreitende Partnerschaften durch Nutzung des Instruments der EVTZ”) carried out for the Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) and the Federal Ministry for Transport and Digital Infrastructure, former Federal Ministry for Transport, Building and Urban Development (BMVI) of Germany. It was additionally inspired by discussions about further development of the EGTC instrument at the annual conference of the Academy for Spatial Research and Planning (ARL) in Karlsruhe in 2014.

After the adoption of the Lisbon Treaty, territorial cohesion has become the third objective of the European Union next to those on economic and social cohesion. Not least because of these objectives, cooperation at a cross-border, transnational or interregional level plays an important role in promoting European Cohesion Policy.

The European Groupings of Territorial Cooperation (EGTC) instrument is a European cooperation structure with a legal personality defined by European law and designed to facilitate and promote territorial cooperation in the European Union. Regional and local authorities of at least two Member States of the European Union can form an EGTC for carrying out actions of territorial cooperation with or without the contribution from EU funding sources.

Altogether 45 EGTCs existed at the end of 2013, according to the EGTC register of the Committee of the Regions (CoR)¹. A lot has changed since the implementation of the first EGTC in the Lille-Kortrijk-Tournai region between France and Belgium. This Spatial Foresight Brief aims at making the reader familiar with the evolution of the EGTC instrument since its initial introduction in 2006. The brief will also present the EGTC instrument in practice and explains how it can improve cooperation across borders.

Establishing the EGTC instrument

The European Grouping for Territorial Cooperation legal instrument (EGTC) was created with the adoption of the EU regulation 1082/2006 on the 5th of July 2006. During 2011 and 2013, this regulation has been revised in order to clarify and improve the establishment of EGTCs. The amended regulation was adopted in December 2013 and came into force on the 22nd of June 2014. The EGTC regulation aims to create an instrument that allows institutions under public law to cooperate across Member State borders and to act with one name. This has been realised by providing EGTCs with an extensive legal capacity including a legal personality (Regulation (EC) No 1082/2006 2006: article 1 paragraph 3). The introduction of this new Cohesion Policy instrument was based on the recitals that aim at harmonious development of the EU and at overcoming handicaps for territorial cooperation (Regulation (EC) No 1082/2006 2006). Therefore, the legal instrument aims at facilitating and promoting territorial cooperation between the members of the respective EGTC. Thereby it shall

¹ <https://portal.cor.europa.eu/egtc/news/Pages/45-EGTCs-established-by-the-end-of-2013-getting-ready-for-the-new-Cohesion-Policy.aspx>



strengthen Economic, Social and Territorial Cohesion of the European Union (Regulation (EC) No 1082/2006 2006; Regulation (EU) No 1302/2013 2013: article 1 paragraph 2).

Based on this regulation, the use of an EGTC is optional, since no region is bound to join an EGTC if it does not have a specific scope for doing so. In other words, public authorities of the members of the European Union are free to choose the instrument with which they want to facilitate their cooperation across their borders. Unlike older, existing agreements on cross-border cooperation that are bound to certain border regions,² the EGTC may be applied anywhere in the EU.

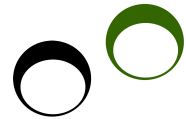
Before taking a closer look at the EGTC legal instrument it is necessary to clarify a number of basic definitions and concepts. Following the principal idea of the EGTC regulation and its amendment in 2013, different types of EGTCs may be differentiated according to the four following perspectives:

- **Financial differentiation.** An EGTC may be founded for cooperation that is co-financed by European Territorial Cooperation (INTERREG) as well as for general cooperation without financial contributions of the EU.³
- **Territorial differentiation.** The EGTC regulation includes all three types of territorial cooperation – cross-border, transnational and interregional. They may either be supported by the EU or be part of the general cooperation.
- **Institutional differentiation.** Within the territorial cooperation supported by the EU the EGTC regulation explicitly differentiates between EGTC dealing with programmes and projects. EU programme cooperation usually occurs across themes and has a medium and strategic orientation (e.g. management of programme, project approval, financial management). In contrast, project cooperation is often more theme specific and often also limited to implementing a plan or other undertaking.
- **Thematic focus.** This goes along with different degrees of thematic specifications. The EGTC regulation is rather unspecific when it comes to the general cooperation referring to 'actions'. In practice, however, general cooperation occurs as cross-thematic cooperation (e.g. strategic long-term cooperation on cross-border structures) as well as theme specific cooperation.

Further differentiations may be applied to other characteristics such as the legal forms of the EGTC. The different types of EGTC are created by combining the different characteristics of these perspectives. For example, an EGTC may be founded for strategic long-term cooperation in the frame of different projects in a cross-border region relying on EU and non-EU funds. EGTCs may also be established to manage funds for territorial cooperation. In this case an EGTC acts as Management Authority that covers the territory and themes subject to the Territorial Cooperation Programme under question.

² Examples of such agreements bound to the cooperation of specific border regions are the Karlsruhe agreement (1997), Mainz agreement (1998), Isselburg-Anholt agreement (1991) or the Benelux agreement (1991).

³ These types of cooperation (according to financing) may be named 'EU supported territorial cooperation' and 'general cooperation'. Latter also refers to territorial cooperation in line with the EGTC regulation, thereby distinguishing this cooperation from private law and other forms of international cooperation.



What has been changed with the amended regulation in 2013?

The creation of different EGTC types, according to the above perspectives, was possible already under the initial EGTC regulation. This is still valid after its amendment.

Most articles of the EGTC regulation of 2006 have been amended and a few new articles have been added in order to overcome previous problems, uncertainties and hindrances for establishing an EGTC.

The most important amendments may be summarised as follows:

- Some amendments are related to the wording of the regulation resulting from the Lisbon treaty. For instance, in article 1 of the amended EGTC regulation, the objective of territorial cohesion was added.
- In article 3 the explanations on possible members of an EGTC were clarified and additional members are listed such as national institutions and public enterprises. Now and under certain conditions enterprises may also become an EGTC member if they provide services of general economic interest.
- In the new article 3a the conditions for the participation of institutions from third countries have been clarified.
- The procedures for establishing an EGTC described in article 4 have been changed and simplified. Among others, this also includes the procedures for the accession of new members to an existing EGTC.
- The new article 4a clarifies the establishment procedures for members from overseas countries or territories.
- Acquisition of the legal personality and publication procedures of article 5 have been updated and clarified.
- Several changes concern the possible tasks of an EGTC as described in article 7. Among others it is no longer necessary that all EGTC members have the competences for all tasks of the EGTC and EGTC may raise tariffs or fees for the use of services provided by the EGTC.
- Articles 8 and 9 list the items of the EGTC convention and statutes. The assignment of some items has been adjusted and new items were added to the articles to support clarity of EGTC conventions and statutes.
- Certain exceptions of the liability rules of article 12 have been removed and Member States may now request a guarantee or insurance for EGTC with limited liability. Liabilities shall now be distributed among the members of the EGTC according to their financial contributions.

Despite these clarifications, some uncertainties remain, as pointed out by Krzymuski and Kubicki (2014). This refers for instance to the choice of law for some aspects of the EGTC.

EGTCs in practice

After the EGTC regulation was adopted in 2006, the first EGTC establishment processes started and resulted in the first few EGTC foundations in 2008. Thereafter the foundation processes were intensified leading to the current number of 45 EGTCs at the end of 2013. Since the adoption of the amended regulation no new EGTCs have been registered yet but several are in the process of establishment.



The large majority of existing EGTCs were created for cross-border cooperation. Only few of these cross-border EGTCs cover larger territories on either side of the border. Most cross-border EGTCs cover relatively small areas. Corresponding examples may be found e.g. along the Slovakian-Hungarian border. The large majority of existing EGTCs can be considered as cross-sector EGTCs that focus on more than one theme of regional development and build on general cooperation. These EGTCs deal with political development, strategy development as well as specific actions. They also take new approaches of governance and tackle cohesion issues in a future oriented way. Such approaches are characterised by political debate between stakeholders that have not met regularly in the past. Implicitly they aim at overcoming purely local interests and to contribute to a broader regional development strategy (Committee of the Regions 2011: 8).

Some types of EGTCs have hardly been used so far. An example is the use of the EGTC for common management of different European Territorial Cooperation programmes, or for greater durability of EU funded territorial cooperation projects. An initial idea of the creation of the EGTC instrument has been its function as a Management Authority for the Territorial Cooperation Programmes (INTERREG). However, the only INTERREG programme that has been managed by an EGTC so far is the cross-border programme of the Greater Region, i.e. between Luxembourg and its neighbouring Belgian, French, and German regions. Currently, further uses of the EGTC instrument for EU funded programmes and projects are under investigation (e.g. ESPON, stabilising of INTERREG IVB projects). They, however, differ in their precise use of the instrument and the respective EGTC design. Overall, experiences show that this initial objective of the EGTC regulation has hardly been achieved. Furthermore, EGTCs are barely used for facilitating theme specific transnational or interregional cooperation (in general or EU-funded) so far.

The reasons for the limited use of EGTCs for the aforementioned types of cooperation vary. They range from established structures (INTERREG programmes building on past experiences) to insufficient economic, geographic, institutional and cultural commonalities and negative expectations concerning the benefits of an EGTC in large transnational or widely spread interregional cooperation. But also for those types of EGTC that are more widely used the territorial distribution varies strongly. This may be, among others, caused by the availability of other instruments in some parts of the EU and established cross-border cooperation structures.

How an EGTC may enhance cooperation across borders

Despite the limitations of using the EGTC instrument for certain forms of cooperation, this instrument has been created to realise the following advantages that may not be realised anywhere in the EU by other legal instruments (see e.g. Committee of the Regions 2011; Janssen 2012):

- creating a strategic approach for integrating several actions under the framework of mutual policy;
- stabilising cooperation structures and continuity of actions;
- legally binding decisions and long-term engagement of the partners;
- participation of the partners in decision-making processes and creating ownership;
- transparency and visibility of the structure;
- improving the efficiency when using public funds;



- better democratic legitimization due to the general assembly;
- easier access to tendering and acquisition procedures;
- improved possibility to participate in EU programmes as single beneficiary;
- possibility to employ staff directly.

Some EGTCs can achieve more democratic legitimacy or public responsiveness through an enhanced participative approach. In these cases mechanisms for improving the relation to the civil society are foreseen by establishing a civil parliament or a mayors' conference (Committee of the Regions 2010: 5f.).

Realising the benefits of EGTCs

In order to realise the aforementioned potential and benefits of EGTCs a number of obstacles need to be overcome – the foundation of an EGTC is anything but easy. It is time consuming and may afford intensive and comprehensive agreement processes among the involved stakeholders, prior to the actual establishment of an EGTC. In order to help regional and local authorities, different guidelines have been developed. The most prominent ones are those of the CoR (2007), the Mission Opérationnelle Transfrontalière (2008) and INTERACT (2012). However, they do not differentiate between different contexts and types of EGTCs.

Spatial Foresight in cooperation with EureConsult has developed two more specific and extensive guidelines for structuring the process of an EGTC foundation within the study on *Potentials for transnational and cross-border partnerships by using the EGTC instrument*, carried out for the *Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) and the Federal Ministry for Transport and Digital Infrastructure, former Federal Ministry for Transport, Building and Urban Development (BMVI, former BMVBS)*. The first guideline focuses on the specific context of transnational project cooperation that aims to continue transnational cooperation beyond the INTERREG B project lifetime.⁴ The second guideline considers the establishment of cross-border EGTCs independently of INTERREG and shows at the example of the German-Polish border how national conditions may affect different decisions when founding an EGTC.⁵

These two examples indicate some of the variations of EGTC foundation processes and the differences between the occurring questions. These variations and previous experiences show that recommendations for founding an EGTC (e.g. in form of a guideline) need to be as specific as possible in considering the needs of interested stakeholders. At the same time any guideline needs to be general enough to be useful for multiple stakeholders, rather than only being useful for the stakeholders of one specific EGTC. In order to provide a sufficiently specific guideline that is interesting for many stakeholders of territorial cooperation, it was decided to focus the guidelines on territorial cooperation beyond the EU programme level. Both guidelines focus in particular on German stakeholders of territorial cooperation – one on those involved in transnational projects, the other on

⁴ This guideline for transnational projects is published as BMVI-Special publication and available in German (http://www.bbsr.bund.de/BBSR/DE/Veroeffentlichungen/BMVI/2014/EVTZ_Trans.html?nn=748610) and English (http://www.bbsr.bund.de/BBSR/EN/Publications/BMVI/2014/EVTZ_TransEngl.html?nn=796908).

⁵ The guideline for cross-border cooperation in the German-Polish border area is as well published as BMVI-Special publication. It is available in German (http://www.bbsr.bund.de/BBSR/DE/Veroeffentlichungen/BMVI/2014/EVTZ_Grenz.html?nn=748610) and Polish (http://www.bbsr.bund.de/BBSR/DE/Veroeffentlichungen/BMVI/2014/EVTZ_TransPolnisch.html?nn=748610).



stakeholders of German-Polish cross-border cooperation – who aim to deepen and stabilise their collaboration for selected themes or cross-thematically. However, many explanations of the latter may either be transferred to other cross-border regions or at least indicate those questions for which the respective national framework conditions need to be considered.

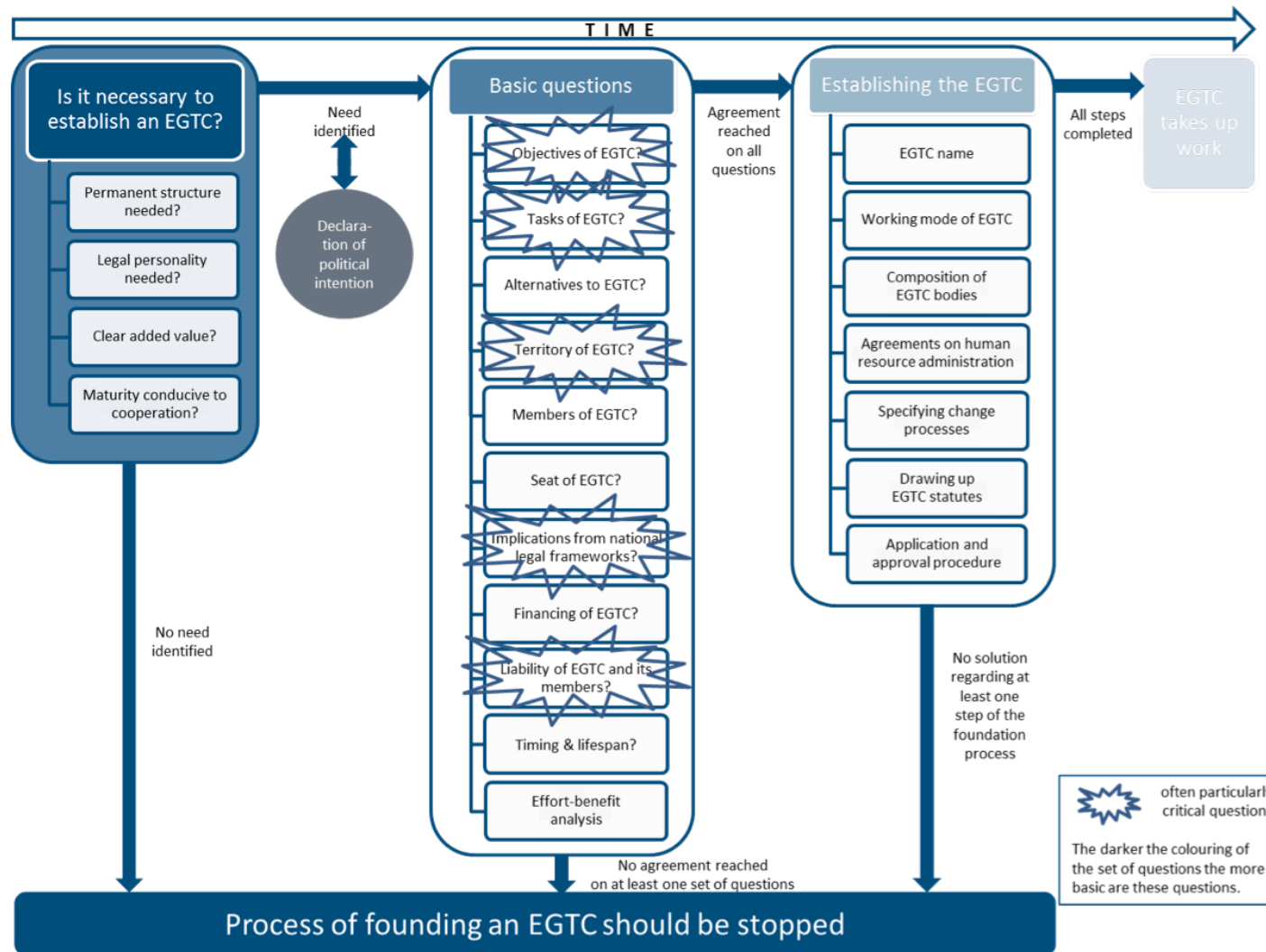
The following provides an overview of the structure of the two guidelines developed by Spatial Foresight. While being different in detailed explanations, their structure is similar. The development of these guidelines aimed at:

- providing support to German stakeholders for decision-making processes when considering the pro and cons of founding an EGTC;
- explaining the specific questions that occur when establishing an EGTC in the German-Polish border area or in a transnational project respectively;
- offering exemplified answers for the questions that evolve during the foundation process;
- supporting the search for additional information sources.

Figure 1 summarises the overall guideline structure and gives an overview of the questions that arise during an EGTC establishment process. They are differentiated into four groups of questions that are horizontally depicted in Figure 1. These four groups of questions should be dealt with from left to right over time. Following this structure, those questions that are usually relatively easy to solve will be discussed rather late in the process under the group of questions “Establishing the EGTC” followed by questions arising once the EGTC is established. Thus, it will be ensured that rather critical and time consuming questions (highlighted in Figure 1) will be considered early in the process. The basic questions (2nd grouping of questions) should however only be dealt with after reaching agreement about the principle need for establishing an EGTC. Past experiences of EGTC foundation processes show that this step-wise clarity depicted in Figure 1 often may not be followed as stringently, because updates of earlier ‘solved’ questions may be required when proceeding to the questions further right in the figure. Nevertheless, it is recommended to start with clarifying the need for an EGTC and the basic questions. These first steps provide ‘working formulations’ for the next foundation steps. These ‘working formulations’ may be adjusted at a later point of time. Updating, verifying and specifying principle agreements may however be easier to realise than finding agreements on crucial questions at a later stage of the process.

The questions within each of the groups of questions encircled in Figure 1 may be dealt with from top to bottom as well as in any other order within the respective group. In many situations it is even reasonable to consider several questions of one group of questions simultaneously. This depends very much on the specific situation and involved stakeholders of the respective EGTC establishment process. In fact, it may even be expected that more than one question of the respective group is considered either completely or partially in parallel since the answers of some questions directly affect each other or may be quite time consuming.

Figure 1: Overview of the potential structure of an EGTC establishing process





Within the group of “Basic questions” five issues are highlighted. These questions have proved to be particularly critical and important for the establishment process. However, the question on the definition of the territory of the EGTC is usually much easier to be solved for cross-border EGTCs than for transnational EGTCs. Figure 1 furthermore points out that the process of founding the EGTC may be interrupted at any time if it is not possible to find a sound agreement on all important questions. However, the further developed the EGTC foundation, the more unlikely it is that the process is broken off. Once the process is advanced to dealing with the questions under “Establishing the EGTC”, past experiences indicate that these issues may be usually solved comparatively easy if the willingness to progress with the EGTC foundation is strong among the involved stakeholders.

Conclusions

Cooperation in border areas has specific needs, depending on regional, geographic, economic, social, cultural and other conditions related to cross-border linkages. Correspondingly, EGTCs may be used for quite different tasks and objectives and their design for facilitating territorial cooperation in border areas and beyond may differ accordingly. An EGTC may be established to conduct thematic tasks (e.g. environmental protection, transport association, managing education or health infrastructure) or cross-sectoral tasks (e.g. supporting regional development). When establishing an EGTC it is crucial to identify the need for deepening and/or steadying the cooperation in a way that previous structures are not sufficient for achieving the pursued ‘level’ of cooperation. Furthermore, the stakeholders holding the competence for the tasks that shall be transferred to the EGTC need to become members of the EGTC.

So far, very few theme-specific EGTCs have been founded. However, as indicated above, it may be reasonable to provide various services of general economic interests in cross-border areas by means of an EGTC, though further clarifications may be needed before achieving sufficient legal security for this type of EGTC application. This does not imply the transfer of competences but only the transfer of the task. Thus, it should be stressed that competences remain with the respective regional or local authorities.

Past experiences from established EGTCs, and experiences from EGTCs that are still in the process of establishment, show that the EGTC instrument is anything but easy to apply. Setting-up an EGTC is, in general, time consuming and demands considerable efforts from the stakeholders. To establish an EGTC, stakeholders on both sides of the border – or of more countries or regions in several countries – need to agree on the design and structure of the EGTC, its tasks and operation methods. In order to achieve these agreements, it is necessary to have an extensive knowledge about the legal aspects relevant for operating the EGTC in the respective countries. Furthermore, the members of the EGTC need to have a trustful collaboration that is result-oriented.

Above conclusions apply to EGTCs in cross-border areas as well as for EGTCs of transnational or interregional cooperation. Most occurring problems are similar and the same kinds of questions arise during the foundation process – though they differ in detail.



Despite these similarities, for transnational and interregional cooperation additional conclusions may be drawn with regard to the challenges of the EGTC establishment process and its daily work:

- **Commonalities.** The larger the territory covered by the respective transnational or interregional cooperation, the smaller the geographic, cultural, economic and other commonalities. However, commonalities help in formulating mutual interests that go beyond platitudes. Sufficient commonalities may be assumed most in the context of theme-specific cooperation, since in these cases the common topic is constitutive for cooperation.
- **Common tasks.** Closely linked with commonalities is the definition of common tasks that can only or best be handled in an EGTC. In principle, this is the more difficult the more partners are involved from different legal, national etc. contexts. Therefore, common tasks of the EGTC may be best defined if the members have one mutual topic of their cooperation.
- **Diversity of partners.** Especially transnational projects of European Territorial Cooperation are usually characterised by a considerable diversity of project partners. This is in line with developing horizontally and vertically integrated governance structures. However, if an EGTC shall be founded for stabilising the transnational collaboration, new questions regarding the organisation arise that go far beyond those questions occurring in the context of project implementation. If partners differ strongly with regard to their competences, financial means etc., complex processes for finding agreement on a fair share, participation and integration of partners may become necessary.
- **Diversity of national legal framework.** In transnational or interregional cooperation usually more than two national legal frameworks have to be considered when designing the EGTC. This requires more comprehensive knowledge of legal room to manoeuvre as compared to bilateral cooperation.
- **Common competences.** Even though not each EGTC member needs to hold the responsibility for all tasks of its EGTC, past experiences of different administrative systems indicate that the hierarchical homogeneity of partners is the more difficult to achieve, the more different the distribution of competences between authorities of the participating countries.
- **Cooperation culture.** Partners that are geographically closely located and that have cooperation experiences with each other often develop a common cooperation culture. The more partners from different cultural areas in Europe are involved, the more difficult it may become to develop such a common cooperation culture and the more efforts take the agreement processes as a result of different communication traditions.
- **Geographic distance.** If cooperation shall cover large geographic distances, this often implies comparatively high financial and time expenses for all partners to cooperate. This also holds at times of increasing use of digital communication technologies for bridging large distances, especially if a lot of partners are involved and regular meetings are necessary.

Summarising, it may be concluded that problems arising for EGTCs of cross-border cooperation tend to be an even bigger challenge for transnational or interregional EGTCs – no matter whether they are financed by European Territorial Cooperation. Because of these challenges as well as the objectives and tasks of transnational and interregional cooperation, the EGTC instrument may be useful for other and fewer tasks than in cross-border cooperation. Useful applications for transnational and interregional EGTCs may arise in different fields of cluster management, university cooperation, river



basin management including flood prevention and macro-regional strategic spatial development of a transport corridor, for instance. Providing services of general interest, as conceivable in border regions, appears to be less relevant for transnational or interregional cooperation.

For achieving an even deeper understanding of the challenges and options outlined above, the Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) has commissioned a follow-up project that started in autumn 2014 and will last for two years. During these two years, the communication process among stakeholders working on establishing an EGTC or otherwise interested in EGTCs will be supported. In particular, critical themes for the foundation processes or the daily work of EGTCs shall be discussed.⁶

Bibliography

BMVI (ed.) (2014): Guideline for the establishment of an EGTC for stakeholders of transnational cooperation. BMVI-Special publications.

Committee of the Regions (2007): The European Grouping of Territorial Cooperation (EGTC).

Committee of the Regions (2010): EGTC Developments on the Ground: added value and solutions to problems. Executive Summary.

Committee of the Regions (2011): EGTC Monitoring Report 2010.

INTERACT (2012): The EGTC in a nutshell.

Janssen, Gerold (2012): Rechtliche Grundlagen eines EVTZ - Diskussion rechtlicher und praktischer Aspekte. Vortrag auf dem Workshop ‚Europäischer Verbund für Territoriale Zusammenarbeit EVTZ‘ der deutschen Gruppe der Arbeitsgemeinschaft Europäischer Grenzregionen.

Krzymuski, Marcin, und Philipp Kubicki (2014): EVTZ-2.0 - Neue Chance für die grenzübergreifende Zusammenarbeit öffentlicher Einrichtungen?. *NVwZ* 20/2014:1338–44.

Mission Opérationnelle Transfrontalière (2008): The European grouping of territorial cooperation.

Regulation (EC) No 1082/2006 (2006): 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).

Regulation (EU) No 1302/2013 (2013): REGULATION (EU) No 1302/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings.

⁶ For further information see project summary on the BBSR website (www.bbsr.bund.de/BBSR/DE/FP/MORO/Studien/2014/VertiefungEVTZ/01_Start.html?nn=433580).