



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 21 December 2005

15943/05

**Interinstitutional File:
2004/0168 (COD)**

LIMITE

**REGIO 59
CADREFIN 271
CODEC 1200**

NOTE

from : Presidency
to : Structural Actions Working Party

No. prev. doc. : 15019 REGIO 54 CADREFIN 252 CODEC 1099
 13551/05 REGIO 52 CADREFIN 205 CODEC 911
 11937/05 REGIO 47 CADREFIN 161 CODEC 696
 7663/1/05 REGIO 16 CADREFIN 54 CODEC 201

No. Cion prop. : COM(2004) 496 final (11689/04 REGIO 6 CADREFIN 26)

Subject : Proposal for a Regulation of the European Parliament and of the Council
 establishing a European grouping of territorial cooperation (EGTC)
 - Presidency compromise

Delegations will find in annex a compromise text on the proposal for a Regulation of the European Parliament and of the Council establishing a European grouping of territorial cooperation (EGTC) following the discussions at the Working Party meeting on 1 December 2005.

MT entered a parliamentary reservation.

GENERAL REMARKS

1. At the meeting on 25 November and 1 December, delegations made the following general remarks on the Presidency compromise texts (docs. 13551/05 and 15019/05).
2. DE, EE, IE, NL and FI entered a general reservation. NL saw no added value and several problems in this Regulation. It suggested that several articles could be deleted. DE found that the existing instruments were enough for fulfilling these tasks and questioned the proposed legal base. NL and FI suggested that an "opt-in" clause could be envisaged and NL suggested a wording in this direction to Article 1.
3. CZ, DK, DE, EL, LT and NL entered a scrutiny reservation. LT suggested at the same time that it did not particularly favour this Regulation but would not impede an agreement on it. CZ mentioned in particular problems: composition, role and arrangements around audits and controls and liability.
5. HU, in general, considers that this Regulation should not be called "optional" as it was misleading and reiterated its concerns over its incompatibility with the HU constitutional provisions.
6. CZ, IE, EL, PT, SK, SI and FI insisted on the fact that the discussion on the EGTC should not be linked and potentially delay the adoption of the "cohesion policy package". The Presidency and the Commission representative that the EP had indicated its intention of treating the five Regulations as a package.
7. DE had doubts about the structure of the Regulation. UK wondered how Member States would benefit from using this instrument. NL and SE doubted of the added value of the EGTC.

8. BE, EL, ES, FR, LU AT and SI expressed positive views on the instrument. AT underlined the added value of this instrument for the border regions. FR, supported by BE, however suggested that the Regulation should be simpler and have rather a "framework character". It suggested reverting back to the " compromise put forward in September¹.
9. CION defended its proposal and broadly supported the current Presidency compromise. It was however opposed to article 3(3) and article 11(1) 3rd subparagraph in the latest Presidency text.
10. CZ, DK, HU, PL and SK insisted on the fact that it supported the idea of the EGTC in general, but it found it should not create additional burden, including for those who would not use it as the state itself would have to prepare the national legislative framework. SK insisted moreover on the need to strike the right balance between the possible added value and possible burden it creates.
11. ES expressed its great good will towards the adoption of this instrument. ES and PT suggested mentioning the existing instruments and stating that the adoption of this instrument should not hamper the use of the existing instruments. They suggested that this idea could be expressed in a recital.
12. CZ, DK and EE wondered about the limits of the scope of this Regulation.

¹ Doc. 11937/05

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a European grouping of cross-border cooperation (EGCC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 159, third paragraph thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) 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 co-operation. To this end it is appropriate to adopt the measures necessary for improving the implementation conditions for actions of cross-border co-operation.
- (2) Taking into account the important difficulties encountered by the Member States, in particular by the regions and local authorities, in implementing and managing actions of cross-border, trans-national or inter-regional co-operation within the framework of differing national laws and procedures, measures to reduce these difficulties are necessary.

¹ OJ C (...), (...), p. (...).

² OJ C (...), (...), p. (...).

³ OJ C (...), (...), p. (...).

⁴ OJ C (...), (...), p. (...).

- (3) Taking into account notably the increase in the number of land and maritime borders in the community following its enlargement, it is necessary to facilitate the reinforcement of cross-border, trans-national and inter-regional co-operation in the Community.
- (4) The existing instruments, such as the European economic interest grouping, have proven ill-adapted to organising a structured co-operation of structural fund programmes within the INTERREG initiative during the 2000-2006 programming period.
- (5) The Council of Europe aquis provides different opportunities and frameworks within which local and regional authorities can co-operate across borders and that therefore this instrument is not intended to circumvent such other frameworks nor provide a set of specific common rules which would uniformly govern all such arrangements throughout the Community.
- (6) Council Regulation (EC) No (...) laying down general provisions for the European regional development fund, the European social fund and the Cohesion fund, increases the means in support of European territorial co-operation.
- (7) It is likewise necessary to facilitate and follow up the implementation of cross-border co-operation actions, without financial participation by the Community.
- (8) In order to overcome the obstacles hindering cross-border co-operation, it is necessary to institute a co-operation instrument at the community level, which allows the creation of co-operative groupings in the community territory, invested with legal personality, called "European groupings of cross-border co-operation" (EGCC). Recourse to the EGCC should be optional.
- (9) It is appropriate for the EGCC to be given the capacity to act on behalf of its members, and notably the regional and local authorities of which it is composed
- (10) The tasks and competencies of the EGCC must be set out in a "Convention of European cross-border co-operation".

- (11) 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.
- (12) The EGCC must be able to act, either for implementing programmes of cross-border co-operation co-financed by the Community, notably within the structural funds in conformity with Regulation (EC) No (...) and Regulation (EC) No (...) on the European Regional Development Fund, as well as trans-national and inter-regional co-operation programmes, or for carrying out cross-border co-operation programmes which are at the sole initiative of the Member States and their regional and local authorities, without financial contribution by the Community.
- (13) It should be specified that the financial responsibility of regional and local authorities, as well as that of the Member States, is not affected by the formation of an EGCC, with regard to both the management of Community funds or national funds.
- (14) It should be specified that the powers exercised by regional and local authorities as public authorities, notably police and regulatory powers, cannot be the subject of a convention.
- (15) It is necessary for the EGCC to establish its statutes, and equip itself with its own organs, as well as rules for the budget and for the exercise of its financial responsibility.
- (16) Since the conditions for cross-border co-operation, as specified in this regulation, cannot be created in an efficient way by the Member States, and are thus better established at the community level, the Community can take measures, in accordance with the subsidiarity principle enshrined in article 5 of the treaty. In accordance with the proportionality principle set out in that article, this regulation does not exceed what is necessary for achieving its objectives, recourse to the EGCC being optional, in accordance with the constitutional system of each Member State,

HAVE ADOPTED THIS REGULATION:

Article 1

Nature of the EGTC

1. A European grouping of territorial co-operation¹, hereafter referred to as “EGTC”, may be established on Community territory² under the conditions and according to the modalities envisaged by this Regulation.
2. The ³objective of the EGTC is to facilitate and promote cross-border, transnational and/or interregional co-operation, hereafter referred to as "territorial co-operation" between its members as set out in Article 2(1) with the exclusive aim of strengthening economic and social⁴ cohesion.
3. The EGTC shall have legal personality⁵.

¹ DE preferred the original title of this instrument, i.e. “European grouping of cross-border cooperation”.

² DE suggested deleting “on Community territory” as they would like to open up this possibility to third countries.

³ NL, IT and SE suggested that the scope/objective should be limited to structural funds only.

⁴ BE, MT and NL suggested adding “*territorial*”.

⁵ NL and IT suggested adding “*of public law*”. HU suggested that it wanted to precise the kind of law that would apply. EL had doubts about the “legal personality” DE saw no reason for an instrument with legal personality.

4. An EGTC shall have in each Member State the most extensive legal capacity¹ accorded to legal persons in that Member State's national law; it may, in particular, acquire or dispose of movable and immovable property, employ staff, and may be a party to legal proceedings².

Article 1 bis

Applicable law

1. An EGTC shall be governed by the following³:
- (a) this Regulation;
 - (b) where expressly authorised by this Regulation, the provisions of the convention and the statutes⁴;

¹ EL, ES, IE and AT suggested replacing "the most extensive legal capacity " by "*the same legal capacity*".

² DK, EL, IE, NL and AT expressed doubts on the meaning of "the most extensive legal capacity". The Council Legal Service reminded that this provision came from Article 282 of the Treaty and could by no means extend the scope of actions of the EGTC. EL and IE suggested adding a provision stipulating that the EGTC shall comply with the laws of the Member State. FR suggested replacing "the most extensive legal capacity" by "*the legal capacity recognised by the laws of the Member States governing national groupings of a similar nature and purpose in the Member States*". NL suggested including a more detailed list.

³ IE, FR and IT suggested reversing the order of b) and c).

⁴ IE and NL suggested replacing "the convention and the statutes" by "*cooperative agreements and rules*".

- (c) in the case of matters not, or only partly, regulated by this Regulation, the laws of the Member State where the EGTC has its registered office which apply to national groupings of a similar nature and purpose ².

Where it is necessary to establish the choice of law which governs an EGTC's acts, an EGTC shall be treated as a body of the Member State where it has its registered office.

3

2. Where a Member State, taking into account its constitutional structure, comprises several territorial entities each of which has its own rules of law applicable to national groupings of a similar nature and purpose, each territorial entity shall be considered separately for the purpose of identifying the national law applicable under this Article.

¹ SE suggested adding "*if structural funds are to be used, the general Regulation should apply*".
² DE, IE, IT, LV, NL, FI and SE suggested deleting "which apply to national groupings of a similar nature and purpose". ES and AT suggested deleting "and purpose".
³ FI requested a reference to the respect of the principles of good governance in relation to citizens: this refers to the right to use one's mother tongue, publicity and access to documents as well as the national material law of the field in question in connection with the use of public powers in general. The law applied to these issues should be determined on the basis of citizen's forum domicile.

Article 2

Composition of the EGTC

1. The EGTC shall be made up of members, within the limits of their competences under national law,¹ belonging to one or more of the following categories:
 - (a) Member States;
 - (b) regional authorities;
 - (c) local authorities;
 - (d) bodies governed by public law within the meaning of Article 1, paragraph 9, second subparagraph of Directive 2004/18/EC of the European Parliament and the Council of 31 March 2004 on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts².

³

Associations consisting of bodies belonging to one or several of these categories may also be members.

2. The EGTC shall be made up of members located on the territory of at least two Member States.

¹ CION suggested deleting "within the limits of their competences under national law" as the scope of this Article is just to define the potential members of an EGTC, whereas Art. 3 aims at the control of the concrete participation in a proposed EGTC

² NL suggested deleting this paragraph. HU and AT suggested opening up this possibility to private entities. HU mentioned foundations or associations.

³ BE and HU suggested opening up this possibility to third countries.

Article 3¹

Establishment of the EGTC

1. The decision to establish an EGTC shall be taken at the initiative of its proposed members.
2. Each proposed member shall:
 - (a) notify the Member State under whose law it has been formed² of its intention to participate in an EGTC; and
 - (b) send that Member State a copy of the proposed convention and statutes³ referred to in Articles 5 and 6 of this Regulation;⁴

¹ DE entered a scrutiny reservation.

² NL suggested replacing "has been formed" by "*is operating*".

³ CION requested deletion of the reference to the notification of the statutes.

⁴ LU suggested merging a) and b) in one paragraph.

3. Following notification under paragraph 2 by a proposed member, the Member State concerned shall agree, taking into account its constitutional structure, to the proposed member's participation in the EGTC, unless it considers that such participation is not in conformity with this Regulation, or national law, including the proposed member's powers and duties¹. In such a case, the Member State shall give a statement of its reasons for withholding agreement.²

The Member State shall reach its decision within a deadline of three months³ from receipt of the proposed convention and statutes.

The Member State may apply national rules governing the participation of a proposed member in corporate bodies to the participation of a proposed member in an EGTC in exactly the same way.⁴

4. ⁵ Member States shall designate the competent authorities to receive notifications as set out in paragraph 2.

¹ CZ, DK, EL, CY, IE, IT, NL, MT, PT, SE, SI and UK suggested that the reasons for which the Member State could disagree on the participation of the potential members in the EGTC were too limited. CZ and DK suggested the lack financial feasibility or the inconsistency with the tasks proposed should be a reason for refusal. HU requested that detailed legal controls should be done. EL suggested adding “*and with the priorities included in the NSRF and other national programming documents*”. NL suggested adding “*the principle of good governance and public interest*”. CION, supported by EL, FR and AT suggested replacing “or national law, including the proposed member's powers and duties” by “*tasks assigned to it under national law*”. In the same vein, BE suggested replacing it by “*with the proposed members' competences according to national laws.*” ES suggested replacing it by “*national legislation on its powers and duties*”. CION opposed strongly against news wording of Art. 3(3).

² IT, MT, NL and SE suggested replacing this paragraph by “*The establishment of the EGTC must be agreed by the Member States concerned*”.

³ HU, IE, IT and SE suggested replacing “three months” by “*a reasonable time limit*”. CION suggested introducing the possibility of appeal.

⁴ HU entered a scrutiny reservation on this subparagraph. CION suggested replacing this paragraph by “*In deciding on the proposed member's participation in the EGTC, Member States may apply the national rules applicable to the participation in national groupings of similar nature and purpose*”.

⁵ UK suggested adding “*This regulation shall be without prejudice to provisions in national law which give a Member State control over participation in bodies corporate listed in article 2, or allow a Member State to attach conditions to such participation.*”

5. The members shall agree the convention referred to in Article 5 and the statutes referred to in Article 6 ensuring consistency with the approval of the Member States under paragraph 3 above.
6. Any amendment of the convention, and any substantial amendment of the statutes, must be approved by the Member States according to the procedure set out in this Article¹. Substantial amendments to the statutes are those entailing, directly or indirectly, an amendment of the convention².

*Article 3 bis*³

Acquisition of legal personality and publication in the Official Journal

1. The statutes referred to in Article 6 and any later amendments thereof shall be registered⁴ and/or published according to the applicable national law in the Member State where the EGTC shall have its registered office. The EGTC shall acquire legal personality on the day of that registration or publication, whichever occurs first. The members shall inform the Member States concerned and the Committee of the Regions of the convention and the registration and/or publication of the statutes.

¹ IE and NL reiterated its point relating to paragraph 3 (on opportunity control).

² HU suggested this sentence was duplicating the first one.

³ NL entered a scrutiny reservation on this Article.

⁴ HU suggested that one registration should be enough..

2. The EGTC¹ shall ensure that, within ten working days from the registration and/or publication of the statutes², a request is sent to the Office for Official Publications of the European Union for publication of a notice in the *Official Journal of the European Union* announcing the establishment of the EGTC and including details of its name, objectives, members and the registered office.

*Article 3 ter*³

Control of management of public funds⁴

1

1. The control of the EGTC's management of public funds shall be organised by the competent authorities of the Member State where the EGTC has its registered office. The Member State where the EGTC has its registered office shall designate the competent authority for this task before giving its approval to the participation in the EGTC under Article 3.

2.. Where required under the national legislation of the other Member States concerned, the authorities of the Member State where the EGTC has its registered office shall make arrangements for⁵ the appropriate authorities in the other Member States⁶ concerned to carry out the controls on their territory for those acts of the EGTC which are performed in those Member States and to exchange all appropriate information.⁷

3. All controls shall be carried out according to internationally accepted audit standards.

¹ HU suggested it should be up to the Member State to send information about the EGTC to the *Official Journal of the European Union*.

² EL suggested adding "*and the convention*". EL suggested moreover that any modification of the statutes should be published in the OJ.

³ NL entered a scrutiny reservation on this Article.

⁴ SK suggested replacing "control" by "*audit*" in the whole Article.

⁵ CION suggested replacing "make arrangements for" by "*associate*".

⁶ DE suggested that it should be done according to respective national laws.

⁷ The Presidency indicated that this paragraph should be inserted in the ERDF Regulation. CION considered that this provision would impose a double control on Member States.

4. In addition:

- (a) Where an EGTC is the Managing Authority of an operational programme under the “European territorial co-operation” objective as defined under Art. 3(2)c) of Regulation No [General Regulation], the specific provisions of Articles 14 to 18 and 21(4) of Regulation No [ERDF] shall apply.
- (b) Where an EGTC is a lead beneficiary in the meaning of Art. 20 of Regulation No [ERDF], the responsibilities of the lead beneficiary listed in that Article shall apply.
- (c) Where an EGTC is a beneficiary in the meaning of Art. 2, point 4 of Regulation No [General Regulation], all the provisions of that Regulation or based upon it shall apply.

5. The Member State where the EGTC has its registered office shall inform the other Member States concerned of any difficulties encountered during the controls.

Article 4

Tasks

1. The EGTC shall carry out the tasks given to it by its members in accordance with this Regulation. Its tasks shall be defined by the convention agreed by its members, in conformity with Articles 3 and 5 of this Regulation.
2. The EGTC shall act within the confines of the tasks given to it, which shall be limited to the facilitation and promotion of territorial co-operation to strengthen economic and social cohesion. These shall be determined by its members on the basis that all of the tasks must be within the competence of every member under national law¹.
3. Specifically, the tasks of an EGTC's shall be limited to:
 - (a) the implementation of territorial co-operation programmes or projects co-financed by the Community, through the ERDF, ESF and/or the Cohesion Fund²;
 - (b) carrying out other specific actions of territorial co-operation between its members and within the objective referred to in Article 1(2) of this Regulation, with or without a financial contribution of the Community³.

¹ SE suggested adding "*to take part in cross-border cooperation*".

² PL suggested that provisions similar to Article 18 ERDF should be introduced in the ESF and Cohesion Fund or in the General Regulation

³ CZ, DE, DK, IT, LV, NL, PT, FI and SE suggested deleting this point.

4. The tasks given to the EGTC by its members shall not concern the exercise of powers conferred by public law and of duties¹ whose object is to safeguard the general interests of the State or other public authorities, such as the police and regulatory powers².
5. The members of an EGTC may decide to by unanimity to empower one of the members to execute its tasks. ³

Article 5

Convention

1. The EGTC shall be the subject of a convention concluded unanimously by its members in conformity with Article 3.
2. The convention shall specify:
 - (a) the name of the EGTC and its official address, which shall be located in a Member State under whose laws at least one of the members is formed;
 - (b) the extent of the territory in which the EGTC may execute its tasks;
 - (c) the objective and the tasks of the EGTC, its duration and the conditions for its dissolution;
 - (d) the list of its members;

¹ CION suggested deleting "and of duties".

² DK read this provision with Article 1(4) and expressed its doubts about the possible too much extended competences of the EGTC.

³ LV and NL suggested adding "*these tasks shall be specified in the convention*".

- (e) the law applicable to the interpretation and enforcement of the convention, which shall be the law of the Member State where the EGTC has its registered office;
- (f) the appropriate arrangements for mutual recognition, including for financial control;
and
- (g) the procedures for amending the convention, including compliance with the obligations set out in Articles 3 and 3 bis.

Article 6

Statutes

1. The statutes of the EGTC shall be adopted on the basis of the convention by its members acting unanimously.
2. The statutes shall contain, as a minimum, all the provisions of the convention together with the following:
 - (a) the operating provisions of its organs and their competencies, as well as the number of representatives of the members in the relevant organs¹;
 - (b) the decision-making procedures of the EGTC;
 - (c) the working language or languages;²

¹ EL suggested adding a provision on the appointment of the director.

² FI suggested including a reference to the principles of good governance.

- (d) the arrangements for its functioning, notably concerning personnel management, recruitment procedures, the nature of personnel contracts;
- (e) the arrangements for the members' financial contributions, the applicable accounting and budgetary rules, including on financial issues, of each of the members of the EGTC with respect to it;
- (f) the authorities responsible for the designation of independent external audit; and
- (g) the procedures for amending the statutes, including compliance with the obligations set out in Articles 3 and 3bis.

Article 7¹

Organisation of the EGTC

1. The EGTC shall have at least the following organs:
 - (a) an assembly, which is made up by representatives of its members ;
 - (b) a director², who represents the EGTC and who acts on its behalf.
2. The statutes may provide for additional organs with clearly defined powers.

¹ IT entered a reservation on that Article as in its national law there is a requirement for an administrative board and a body responsible for the financial control.

² IE suggested replacing “director” by “*directorate*”.

3. An EGTC shall be liable for the acts of its organs as regards third parties, even where such acts do not fall within the tasks of the EGTC.

Article 8

Budget¹

1. The EGTC shall establish an annual budget adopted by the assembly, containing, in particular, a component on running costs and, if necessary², an operational component.
2. The preparation of its accounts including where required the accompanying annual report and the auditing and publication of those accounts, shall be governed according to the provisions of Article 1 bis (1) c)³.

¹ IE suggested adding a provision stipulating that members of the EGTC would be responsible for operating costs. IT entered a reservation on this Article and suggested adding a provision that the financial law applicable should be the public law of the Member State where the EGTC has its registered seat.. Consequently, it saw a difficulty in case the EGTC was managing private funds.

² CION suggested deleting "if necessary".

³ LV suggested that there should be an obligation of annual reporting.

Article 8 bis

Liability¹

1. To the extent that the assets of an EGTC are insufficient to meet its liabilities, its members (including any body which has ceased to be a member within the 12 months prior to the date when the EGTC's assets were first deemed insufficient to meet its liabilities) shall be liable for its debts of whatever nature, each member's share being fixed in proportion to the share of the budget that it has contributed in the 12 months² prior to that date.³
2. Member States may⁴ make provision, in respect of EGTCs whose registered office is in their territory, for a liquidator to be appointed if an EGTC's assets are insufficient to meet its liabilities.
3. The circumstances in which an EGTC's assets shall be deemed to be insufficient to meet its liabilities shall be determined according to the national law of the Member State where the EGTC has its registered office.
4. Without prejudice to the financial responsibility of Member States in relation to any structural and cohesion funds entrusted to the EGTC, no financial liability shall arise for Member States on account of this Regulation in relation to an EGTC of which they are not a member.

¹ HU, PL and SK entered a reservation on this Article. DE, NL and SE entered a scrutiny reservation. IT entered a reservation on this Article and suggested adding a provision that the financial law applicable should be the public law of the member state where the EGTC has its registered seat.

² DK entered a scrutiny reservation on the 12 months period.

³ HU entered a reservation on this paragraph.. Unlimited liability of the members of the EGTC infringes the most fundamental principle of the Hungarian public finance system. HU suggests that the members of the EGTC shall have unlimited liability unless the national legislation governing local authorities or other publicly financed institutions otherwise provides.

⁴ HU wondered why this provision was optional.

Article 9

Public interest¹

Where an EGTC carries out any activity in contravention of a Member State's provisions on public policy, public security, public health or public morality², a competent body of that Member State may prohibit that activity on its territory or require those members which have been formed under its law to withdraw from the EGTC unless the EGTC ceases the activity in question.

Such prohibitions shall not constitute a means of arbitrary or disguised restriction on territorial co-operation between the EGTC's members³. Review of that competent body's decision by a judicial authority shall be possible⁴.

Article 10⁵

Dissolution

1. Notwithstanding the provisions on dissolution contained in the convention, on an application of any competent authority with a legitimate interest, the competent court or the competent authority of the Member State where the EGTC has its registered office shall order the EGTC to be wound up where it finds that the EGTC no longer complies with the requirements laid down in Article 1(2) or Article 4 of this Regulation, in particular, where the EGTC acts outside the tasks laid down in Article 4. The competent court shall inform the all the Member States under whose law the members have been formed of any application to dissolve an EGTC.

¹ CZ, EL and IE suggested rendering this control an ex-ante control. It wondered moreover if these reasons could be enough to activate Article 10. SE entered a scrutiny reservation on this Article.

² EL and NL suggested replacing " public policy, public security, public health or public morality" by "*public interest*". LV suggested adding a obligation of sound financial management. ES suggested adding "*law infringement*".

³ NL suggested deleting this sentence.

⁴ NL suggested this should be dealt with by national authorities.

⁵ SK entered a reservation on this Article. DE and SE entered a scrutiny reservation on this Article.

2. The competent court or the authority may allow the EGTC time to rectify the situation. If it fails to do so within the time allowed, the court or the competent administrative authority shall order it to be wound up.

Article 10 bis¹

Jurisdictions

1. Third parties who consider themselves wronged by acts or omissions of an EGTC shall be entitled to pursue their claims by judicial process.
2. Except where otherwise provided for in this Regulation, Community legislation on jurisdiction shall apply to disputes involving an EGTC. In any case which is not provided for in such Community legislation, the competent courts for the resolution of disputes shall be the courts of the Member State where the EGTC has its registered office.²
3. Nothing in this Regulation shall deprive citizens³ from exercising their national constitutional rights of appeal against public bodies which are members of an EGTC in respect of:
 - a) administrative decisions in respect of activities which are being carried out by an EGTC;
 - b) access to services in their own language; and
 - c) access to information.

In these cases the competent courts shall be those of the Member State where the citizens and consumers are domiciled.⁴

¹ NL and SK entered a reservation on this Article. DE, HU, AT and SE entered a scrutiny reservation.

² NL suggested that third parties should be capable of suing the EGTC in front of their national courts. HU suggested deleting this paragraph.

³ HU and PT wondered about the meaning of citizens and consumers in this context, especially when acting outside their trade or profession. HU understanding is that this provision should only apply to consumers.

⁴ FI considered that the law of the State where the citizen is domiciled would not necessary be the same of the EGTC and that the law of the Member State where the citizens and consumers are domiciled should apply. It wondered if a mutual recognition mechanism was needed for the enforcement of foreign administrative decisions affecting rights and duties of private citizens and consumers. In a case of several members from the same MS, how would the identification mechanism work. NB: Brussels and Rome conventions only concern contractual obligations and the recognition of foreign judgements on civil and commercial matters.

Article 11

Final provisions¹

1. Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation².

As a minimum, each Member State shall identify the relevant national law within the meaning of Article 1 bis and Article 3(3) and shall designate the register within the meaning of Article 3bis(1).

Where required under the terms of a Member State's national law, that Member State may establish a comprehensive list of the tasks which the members of an EGTC formed under its laws already have, as far as territorial co-operation in the meaning of Art. 2(1) within that Member State is concerned.³

4

The Member shall inform the Commission and the other Member States accordingly of any provisions adopted under this Article.

¹ SE entered a scrutiny reservation PL suggested changing the title of the Article.

² PL suggested introducing a deadline.

³ BE and CIION suggested deleting this subparagraph. Moreover, CIION indicated that this Article was not the right place for such a provision (final provisions). Furthermore, this paragraph could allow further restrictions than those already covered by Art. 3(3) and reduce the added value of the whole Regulation. **Final provisions do not rule. By the proposed wording Member States only may take a “photograph” of the tasks already existing and maybe shattered around different legal acts.**

⁴ BE and CIION suggested deleting this subparagraph. Moreover, CIION indicated that this Article was not the right place for such a provision. (final provisions). Furthermore, this paragraph could allow further restrictions than those already covered by Art. 3(3) and reduce the added value of the whole Regulation.

2. The Member States may provide for the payment of fees in connection with the registration of the convention and statutes; those fees may not, however, exceed the administrative cost thereof¹.
3. Five years at the latest after the entry into force of this Regulation, the Commission shall forward to the European Parliament and the Council a report on the application of the Regulation and proposals for amendments, where appropriate.

¹ SK suggested deleting the last sentence.

Article 11bis

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President
