



An analysis of the external and internal legal regulations governing the EGTC



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On the 26th May 2010, the Steering Committee of the CETC consortium in its meeting in Varaždin (Croatia) approved a letter of intent to establish a European Grouping of Territorial Cooperation (EGTC).

It is expected that this new organization will intensify the cooperation, provide Europe wide publicity for the initiative, make the common work more effective and successful, and by creating common institutions it will lay down the basis for a long term spatial development programme.

The Technical Secretariat of the consortium has charged the Central European Service for Cross-Border Initiatives (CESCI) with the preparation works of the EGTC. For the first step CESCI has elaborated an analysis of the external and internal legal, organizational and financial conditions of the establishment procedure.

This document contains 3 chapters. In the first chapter (reasoning), we analyse the circumstances in which the CETC consortium, or more precisely its members made the decision to create an EGTC.

In the second we summarize the most important information regarding the EGTC regulation (what it can be used for).

Finally, in the 3rd chapter we provide a proposal concerning the establishment of the EGTC (how to launch it). This part of the work deals with legal, financial, structural and operational questions.

The aim of the document is to facilitate a well-founded decision.



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1. The CETC Initiative

1.1. Brief introduction to the Initiative

The CETC Initiative was established in April 2004 in Szczecin (Poland) by Swedish, Polish, Bohemian and Slovak regions after these regions had expressed their willingness to cooperate for the establishment and promotion of the Central European Transport Corridor in 2001. During 2007 the first Hungarian and Croatian counties joined the declaration.

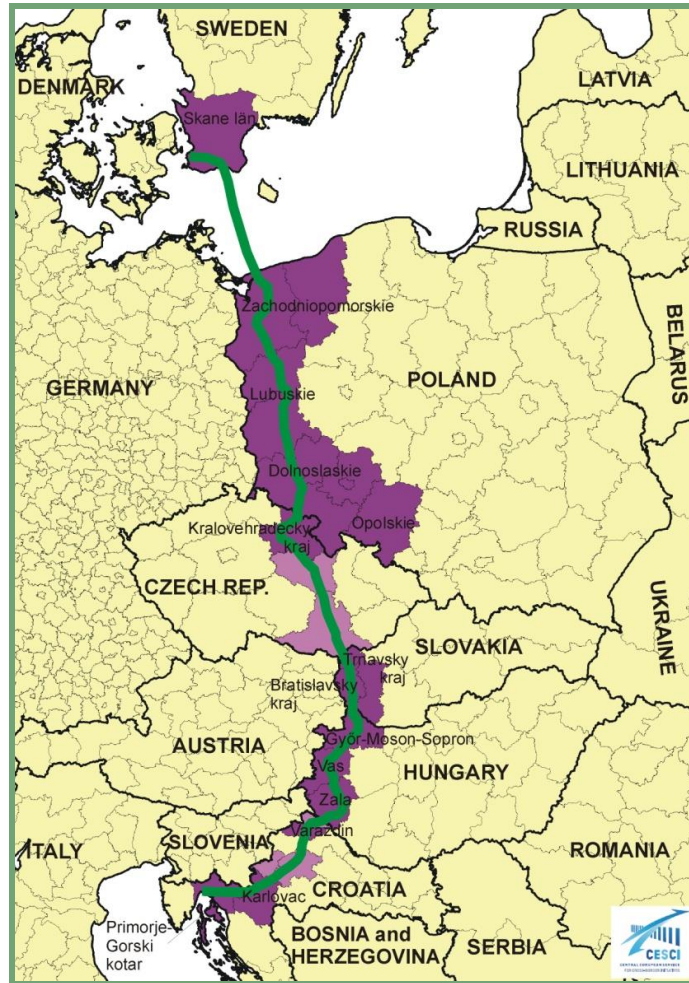
The initiative's aims are to develop a system of multi-modal infrastructure and economic links, allowing sustainable growth and increasing the competitiveness of this region. The emergence of the CETC-ROUTE65 development belt will noticeably increase the competitiveness of its regions, strengthen structurally weak areas, and thus reduce unemployment, develop tourism and regional economies.



The axis of the Corridor is the international route E65, which starts in Malmö in Sweden and ends in Chaniá in Crete. The initiative plans to create a transport corridor between the Baltic Sea and the Adriatic Sea. The members are Swedish, Polish, Bohemian, Slovak, Hungarian and Croatian regional local governments of NUTS level II and III that are associated with the corridor's route.

Currently, the Agreement includes 14 partners from five European Union countries and one EU candidate country. Partner regions: Skania; Zachodniopomorskie; Lubuskie; Dolnośląskie; Opolskie; Hradec Kralove; Trnava; Bratislava; Győr-Moson-Sopron; Vas; Zala; Varazdin; Karlovacka; Primorsko-goranska.

1. Map: Members of the consortium



Aims of the CETC Initiative

- Striving for lasting regional cooperation within the Central European Transport Corridor (CETC-ROUTE65) as a means to revive economies of member regions, increase employment, improve the quality of the natural environment and living conditions of its inhabitants.
- Ensuring the compatibility of the transport infrastructure of the entire Corridor region in order to reduce development barriers to new transport technologies in various regions of the CETC-ROUTE65 area.
- Promotion and development of intermodal transport links as well as stimulating efforts to transfer freight from road to multi-modal, sea – land connections, which are more environment and people friendly.
- Increasing economic growth among Baltic countries by finding new markets and use of the shortest ferry connection across the Baltic Sea, linking Northern Europe with Southern Europe.

1.2. Planning environment

1.2.1. The requirements for the decision

The Steering Committee made its decision on the EGTC at a particularly appropriate moment:

- the EGTC is a brand new institutional solution for managing cross-border, transnational and interregional projects, and development programmes; this novelty provides the initiators with Europe wide publicity;
- the TEN-T network and the European Transport Policy is undergoing transformation, there is still space for new ideas;
- the new Cohesion Policy and the budget of the next planning period are under preparation providing the opportunity to influence the decisions and to form proper institutions able to receive support between 2014–2020 (EGTC may receive subsidies from the European Territorial Cooperation programmes under the best conditions).

Apart from good opportunities there are some circumstances that made this decision necessary:

- the CETC is not the only initiative aiming to create a Baltic-Adriatic corridor in this area, furthermore there are corridors which unite more populated cities (see the map below);
- greener and smarter systems will be preferred by the new European transport policy under preparation, so the initiative of a green corridor (13 October 2010: conference in Brussels on the Green Corridor Route65; 2 July 2010: agreement of conference of ministers) has preference at a European level;
- the method for managing the CETC consortium has been proved not to be sufficiently effective for answering the new challenges, the cooperation needs a more integrated and more powerful solution;
- the manager of the Technical Secretariat does not possess sufficient competencies to operate the consortium effectively, as it works under Polish law without any direct governing connections with the members (this factor has been causing problems concerning the level of involvement of the members, the speed of administration, the willingness (or the lack of it) to transmit the membership fees, participation in official meetings etc.).

2. Map: Plans to create a Baltic-Adriatic corridor



1.2.2. The future of the European transport policy

The core element of the European Transport Policy is the TEN-T network; the decision to develop it being taken in 1996. The list of the projects built-in to the TEN-T network was amended in 2004 with the review of the network starting in 2008. During the revision process new considerations have arisen. According to these new considerations the European Commission has drawn up a concept for the future transport policy of the EU. The Green Paper published at the beginning of 2009 proposed significant changes.

- a) Instead of priority projects it suggested the creation of priority networks as projects are too isolated. A transport system cannot be built up from isolated projects. This approach makes necessary a more integrated planning method.

- b) The document made a distinction between the core and comprehensive level of the TEN-T network. As it is stated in the Commission document on the TEN-T policy (2010, 6):

“The ‘core network’ would include axes and nodes of vital importance for transport flows within the internal market and between the EU, its neighbours and other parts of the world.”

- c) The Green Paper has placed emphasis on the environmental issues. According to the strategic aims of ‘Europe 2020’ more and more documents highlight the importance of the environmental effects of transport. It is suggested to create a new TEN-T network based on “green” issues. The Commission insists on the planning of green corridors.

The key elements of the CETC corridor are included in the planned European transport network but it is not the part of the TEN-T system. From the key points of the new transport policy, it is at a disadvantage. At the same time it has been a good decision to put the emphasis on environmental issues and to launch a green corridor (see the Szczecin Declaration signed 28th June 2010).

Strong competition between the alternative routes from North to South is expected during the preparation of the core network. This fact makes more important

- to strengthen the cooperation between the members of the CETC initiative;
- to make the consortium more integrated, more steady;
- to organise the common activities more precisely;
- to enhance the common lobbying activities on national as well as on EU level.

An EGTC may provide a proper institutional solution for these challenges.

3. Map: Planned road network in Europe



Source: Draft proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Community guidelines for the development of the trans-European transport network

4. Map: Planned railway network of Europe



Source: Draft proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Community guidelines for the development of the trans-European transport network

1.3. Recent structure of the CETC Initiative

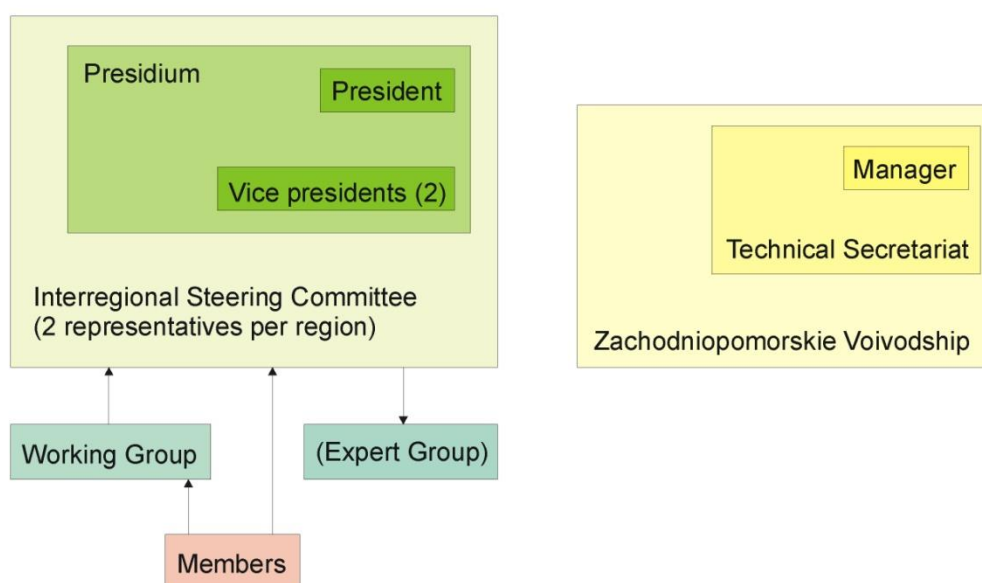
In order to initiate and coordinate the activities, member regions of the CETC consortium have set up an Interregional Steering Committee (SC), which comprises two representatives from each region and their deputies. They are appointed by their regional institutions. The Presidency of the Steering Committee consists of the Chairperson and two deputies appointed by the members. The Committee meets twice a year and the presidency is handed over every six months from one region to another.

The important decisions are prepared by the Working Group (WG) which is the operative organ of the consortium. Following the background preparation, the decisions are made by the SC.

The most important organ of the consortium is the Technical Secretariat (TS) which prepares and manages the meetings of the WG and the SC, prepares the documents for decision making, manages the daily operation of the consortium as well as the strategic and tendering activities. The TS is situated in Szczecin and it is incorporated into the organizational structure of the Zachodniopomorskie Voivodeship. This fact complicates the operation of the body. It means that the manager of the TS has to negotiate on the decisions concerning the operation of the TS with the Board and (in financial matters) the Treasurer of the Voivodeship. There are also decisions that are necessary to negotiate on with the Ministry of Infrastructure or the Ministry of Foreign Affairs.

1. Figure: Current structure of the CETC initiative

The current structure of the CETC consortium



The new organisation has to resolve the problems as follows:

- achieve deeper identification and involvement of the members,
- ensure permanent and independent operation of the organization at a professional and financial level,
- create clear circumstances of responsibilities within the structure,
- ensure the execution of the decisions at the level of the members,
- ensure the ability to react in a faster and flexible way to the changing needs and circumstances,
- make the initiative more visible on a Community level, thus further the success of lobbying activities,
- intensify the cooperation at the planning, strategic and project level.

In the following chapters we are going to examine the possibilities provided by a new legal and institutional instrument of the European Union, the European Grouping of Territorial Cooperation (EGTC).

2. EGTC Regulation

The Regulation 1082/2006/EC on a European Grouping of Territorial Cooperation (EGTC) was adopted by the European Parliament and the Council of the European Union on 5 July 2006. The EGTC Regulation is a very important stage of the process, the essence of which is the gradual institutionalisation of cross-border cooperation.



The initially informal ways of cross-border cooperation have been increasingly formalised: when they started to perform tasks and functions, in respect of which, due to their peripheral location, they were in a disadvantaged position. Through the INTERREG initiative and the European Territorial Cooperation programmes the European Union also has been providing the financial conditions for these forms of functional cooperation.

The creation of the EGTC Regulation was necessary exactly for the reason that this type of cooperation also required the legislative background necessary for stability. This was indicated by solutions such as Eurodistricts along the French borders and agreements as that of Karlsruhe or Brussels. These agreements as well as the second optional protocol to the Madrid Convention made the establishment of associations with legal personality with a cross-border nature possible.

The next stage of the process was the EGTC Regulation, which ensures legal personality of the organisations managing the cross-border cooperation as binding rules, in all of the member states of the European Union.

2.1. The EC Regulation

According to the Regulation, EGTC has a legal personality in the relevant countries, it can hire own employees, start and lead institutions as well as enterprises in all member countries. This means that an EGTC is not a consultative or ad-hoc arrangement, but a long-term form of cooperation with common strategic goals, joint project or programme management and with institutions operated jointly by the members. Consequently, members have the obligation to finance its operation and they have the (limited or unlimited) financial liability for its transactions.

The EGTC is a new legal and institutional instrument of the European Territorial Cooperation for managing programmes, projects and governing institutions created during the realization of the programme or project as well as within the frame of a more institutionalized cross-border, transnational or interregional cooperation.

The most significant provisions of the Regulation are the following:

Master documents

- The EGTC shall have a Convention and Statutes (the latter also contains the full text of the Convention); the content of these documents is specified in accordance with the Regulation.

Members

- An EGTC can be established by a minimum of two EU member states and the entities within their territories (primarily municipalities and regional authorities of different levels - thus public entities), however the territorial entities of non-union (third party) countries can also join (but not the third countries themselves!) subject to certain conditions.

Organisation

- The minimum numbers of bodies that need to be established are the Director and the General Assembly, however the members may agree on the establishment of further bodies and institutes.
- Head office: in the territory of one of the member states.

Applicable law, subjection, legal remedies

- If any of the member states becomes a home member state, they shall provide the most extensive legal capacity for the EGTC according to their national law.
- Applicable law:
 1. EC Regulation,
 2. Relevant legislation of the home member state,
 3. Convention, Statutes,
 4. Legislation of a territory within a given member state with own legislation (e.g. province) (however still with consideration to the constitutional law of the given member state).
- In the case if an entity with limited liability from any of the member states (usually for the protection of public funds managed by them) wishes to join the Grouping, the given EGTC organisation should be registered as a limited liability organisation (in this case the other member as well as members can be free to decide whether to limit their own liabilities).
- Legal remedies:
 1. in disputes between members: Community legislation, or if they do not provide for the specific case, the competent courts of the home member state;
 2. in disputes between members and a third party: the competent courts of the member state providing rights of appeal under their constitution for third parties.

Establishment, termination

- Establishment: from the part of the member states the approval procedure is mandatory for the admission of all future members to the EGTC organisation, whilst the registering procedure only takes place before the designated body of the home member state;
- Termination: in accordance with the relevant provisions of the Convention, with the decision by a competent court and authority, as well as on the initiation of another competent body of the member state.

2.2. Advantages and disadvantages of the EGTC

The EGTC is a radically new solution for cross-border cooperation. This novelty gives it advantages as well as disadvantages.

- One of the most important advantages is that the EGTC has the opportunity to involve not only self-governments of different levels but also the state. This does not denote pure theoretical support, as even a ministry can be a member of an EGTC. On the one hand this fact gives authority to the organisation; on the other hand it provides a steady financing background to it. Finally, it positively affects the effective power of the EGTC. (A CETC (Central European Transport Corridor) initiative might involve the ministries of transport from each country.)
- The institution of the EGTC makes really simple and completely legal the operation and financing of the common institutions. It means that if the local or regional stakeholders create an EGTC, this EGTC may have own employees (e.g. the Secretariat), institutions (e.g. a strategic management body) and enterprises (e.g. project-development company). The operation of these institutions can be financed by membership fees, common tender incomes, incomes produces by the joint enterprises and direct subventions of state. The organs and institutions established by the CETC initiative will be owned and controlled by all members.
- A very important advantage is that the regulation is obligatory in every member state. Up to now only 34 European countries have adopted the Madrid Convention on cross-border cooperation even though the European Council has 47 members. Two additional protocols of the Convention have been adopted in even less countries. The third protocol was approved last September, and makes it possible to establish Euroregional Cooperation Groupings. However this protocol will not be an obligatory rule in every member state either. Conversely, the EGTC regulation forms part of Community Law, so every member state approves the EGTC as an independent legal entity. The operation of the EGTC is protected by the legal system of the Union and



signing bilateral contracts is not necessary at all; an EGTC with a seat in any member state can start its operation in every member country immediately after its registration.

In case of third countries (e.g. Croatia), the 16th article of the Preamble of the Regulation gives an opportunity to sign bilateral agreements and to elaborate proper national provisions concerning the issue. However, regarding Croatia, the close connection of the state to the EU ensures an obligation to create own EGTC-rules. There are further initiatives aiming to establish an EGTC with a membership of Croatian entities (e.g. Adria Euroregion, Pannon EGTC, Alpen-Adria). These developments may accelerate legal harmonizing processes.

So in conclusion, the EGTC is an organization which articulates local or regional interests and it is at the same time a Community level organization. This duality makes its operation uniquely effective.

- An EGTC is able to guarantee the smooth operation of bottom-up (local, regional, national and European Union stakeholders), top-down (Brussels requirements, local implementers), as well as horizontal (integrating the preferences of stakeholders) communication.
- As must be clear from the types of EGTCs (see below), it is a highly adaptable instrument. There are only two compulsory organs defined by the Regulation. An EGTC may be applied to changing needs as it has a flexible structure. In the case of emerging new information during the implementation of a development programme, the main targets, decision-making processes and institutions can also be amended.
- Finally, the EGTC is the most proper instrument to receive financial support from the ETC programmes. By its formal fundamentals it obtains these subsidies with more preferable conditions than other cooperation forms. This is the case because an EGTC fulfils automatically the requirements for common projects; as a long term institutional cooperation it guarantees sustaining the results of the projects, as well as the common financing. All these facts ensure that an EGTC takes part in calls for tenders with higher scores than other partnerships.

We have to add to these advantages that because of its novelty, the EGTC has a relatively free range for operation. This field as yet has not been ruled so strictly as others, giving freedom for creativity in institutional solutions.

But this novelty also creates several problems, hindering the successful operation of the new instrument.

- Official organs and administrative bodies of the member states are not able to interpret this new institution. Furthermore, it needs a lot of new rules in order to create the operating framework of the EGTCs. For example, in the case of the planned French-Spanish hospital, it is not sufficient just to construct the building; the regulations allow the reimbursement of the costs of treatment for the citizens of both countries.
- Even the national EGTC provisions show big differences. For instance Czech EGTC law does not allow the creation of an EGTC with limited liability, in Hungary and in Poland however, members are allowed to participate in an EGTC with limited liability only. These discrepancies cause insecurity and cautiousness.
- Regulation refers at several points to the national provisions which may differ from each other so deeply that it makes cooperation impossible in certain fields.

It is very important to be aware that the EGTC is similar to an enterprise. In case of a cooperation of a consultative sort, one partner can undertake financing of the operational costs, however in the case of an EGTC the financing is not optional, it is obligatory for every member.

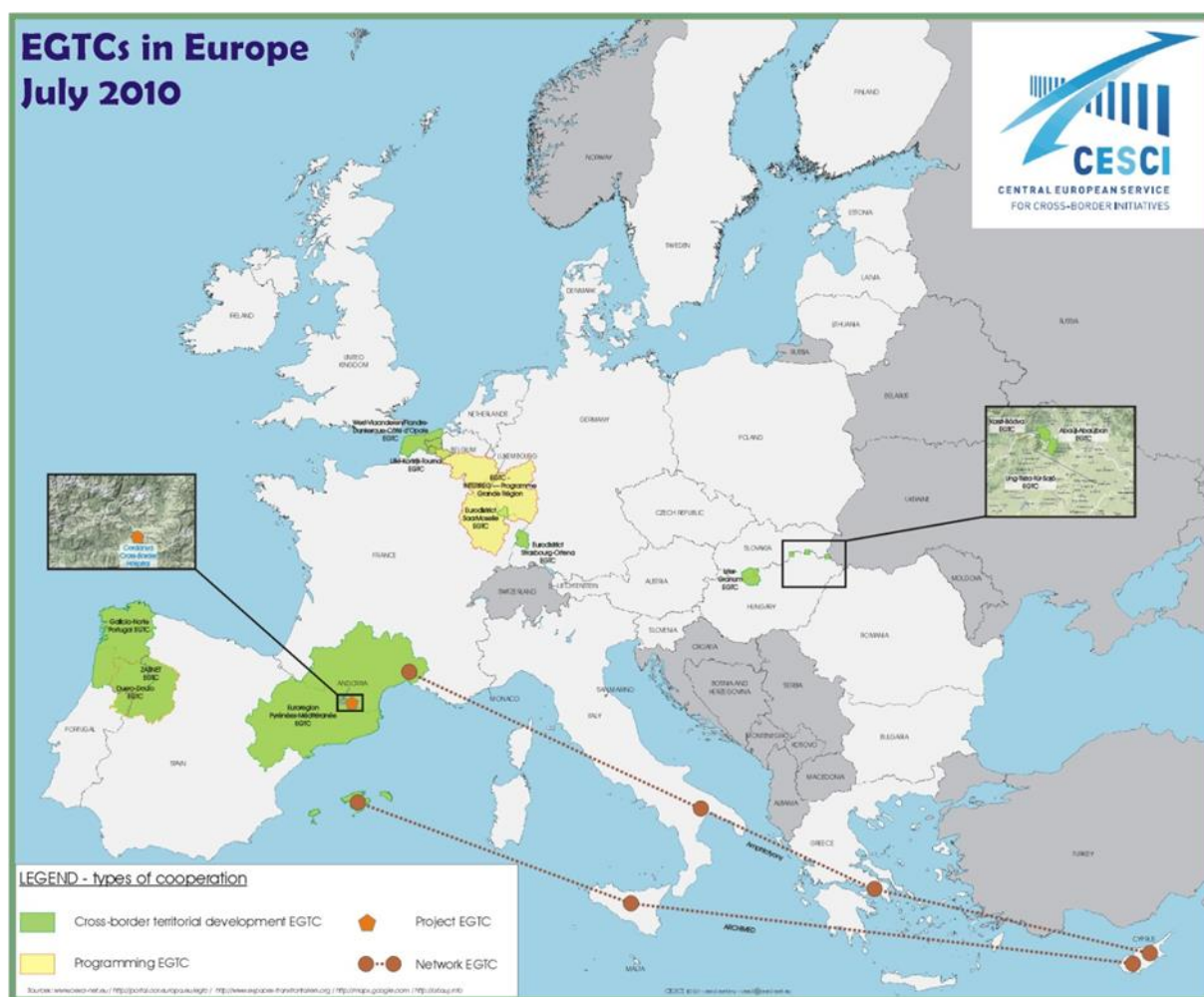
2.3. Main types of the EGTCs

Even the Regulation has divided the EGTCs by their main purposes into four groups. These groups are: EGTCs managing European Territorial Cooperation programmes; EGTCs aiming to realise common projects supported by European Territorial Cooperation programmes; EGTCs realizing common projects financed by other EU funds; EGTCs realizing activities financed from outside of EU funding.

Up to the end of 2010, 16 EGTCs have been registered in the European Union. The operation of these EGTCs has already outgrown this classification as most of them fulfil governance duties as well.

Functionally, the EGTCs registered up to now could be divided into four groups.

5. Map of registered EGTCs (2010)



Most of these EGTCs form the type of spatial development initiatives that follow former Euroregions. They are geographically continuous cross-border development areas, generally reaching into the territory of two states. The aim of these EGTCs is to realise a common development programme and to create and operate permanent common institutions. The Lille-Kortrijk-Tournai EGTC and the Ister-Granum EGTC, the first and second EGTC's respectively to be registered in the EU are typical examples.

The second group is the project EGTC. Only one single project EGTC has been registered up to now. The Pyrenees-Cerdagne EGTC's aim is to create a hospital service which will provide medical treatment to patients from both sides of the French-Spanish border.

Similarly we know only one single example of a programming EGTC. The Great Region (Grande Région) has set as its aim to manage the ETC CBC programme on the French-German-Belgian-Luxemburg border area.

We can also classify the EGTC as another group, the network EGTCs. This cooperation is not based on geographical but thematic "proximity" where the basis of cooperation is composed of certain themes; interests that unite the participants. Network EGTCs can also be built up at a transnational and interregional level. The CETC consortium aims to establish such an EGTC.

Certainly, there are big differences between the structures of EGTCs depending on the national provisions defined by the seat and on the main objectives of the EGTCs. In addition to this, the short time that has passed since the launch of national provisions means that we cannot point to one specific example of best practice to be followed in establishing new EGTCs.

2.4. Introduction to the network EGTCs



The first two network EGTCs have been set up in the Mediterranean: The Amphyctiony EGTC unites the former colonies of Ancient Athens, with culture being the main joint field of cooperation.

The ArchiMed EGTC aims to unite the islands situated in the Mediterranean basin

as there are typical problems that these islands are faced with, and solutions can be elaborated commonly.

The stakeholders of European transport corridors such as the No. 5, No. 8 and the CETC try to create a proper legal form to plan, coordinate and manage their common work. It is the same situation in the case of the European Danube Strategy where Ulm, Budapest, Vienna, Bratislava and Voivodina (Serbia) plan to create a programme management EGTC.

In these cases the common field is a complex programme management which contains planning, programming, project development, interest harmonizing, lobbying activities etc. These activities compose a complex and multilevel group of functions and must be integrated within a stable legal entity.

An EGTC is the proper institutional solution:

- to manage programmes of a larger programming area (including the preparation and the realization of the programme);
- to harmonize the different interests, planning methods and decision-making processes of the stakeholders;
- to use the capacities owned by the participants of the cooperation in a more integrated and economic way;
- to create a sustainable institutional background for a long-term development programme.

The past 30 years of the regulation of the cross-border cooperation show that an EGTC is a tool of the future.

3. Proposal for the establishment of the CETC EGTC

3.1. Analysis of the legal environment: compulsory elements of the Regulation

The EGTC Regulation (1082/2006 EC) – adopted by the European Parliament and the Council of the European Union on July 5 2006 – summarizes the rules which can be achievable in every member country concerning the different legal regulations.



These rules are the following:

In accordance with subsidiarity (Preamble (15))

This is the adequate adaption of the principle of subsidiarity and the proportion in the national qualitative law-creation, which is essential – among others – to ensure the expectations of the national governments and the local governments, and bring the decision-making processes closer to the citizens.

Territorial scope (1. article 1. paragraph; 3. article (2))

The EGTC can be created within the territory of the European Union, but it is possible for the entities of the third countries to join the Grouping.

Members, personal scope (Preamble (16), 3. article (1))

The EGTC can be created by entities (principally local governments and regional authorities, so public entities) located in at least two EU-countries. Furthermore the entities of non-EU member countries (called third countries) can join (but not the third country) the Grouping in case of some fulfilled criteria.

The legal entity (1. article (3)-(4))

It is needed to ensure the entire legal entity for the registered EGTCs.

Law applicable (2. article (1)-(2))

The law applicable can be defined in a multi-level approach as

1. EC Regulation
2. The national regulation of the seat of the EGTC
3. Convention, Statute
4. The law of a certain territory within a member country (but in this case we have to be aware of the constitutional right of the certain country)

Name (Preamble (8) 1. sentence, 12. article (2) paragraph, 5 subparagraph)

The official name of a grouping should contain the title of the EGTC ('European Grouping of Territorial Cooperation') and in case of the existence of certain requirements also the 'limited liability' term.

Organisation (10. article (1))

The bodies that must be established are the Director and the General Assembly (but the members can agree to create more bodies).

Seat (8. article, 2. paragraph, a) point)

The seat must be located in the territory of the region whose law was the official law in case of the EGTC-establishment process.

The main documents (Preamble (10), 8. article (1)-(2); 9. article (1)-(2))

The EGTC should have a Convention and a Statute (the latter one also contains the whole text of the Convention). The contents of the documents are defined by the Regulation.

Tasks (7. article, 16. article (1))

The EGTC can operate within a range of duties which is prescribed by the Regulation. The main task of the EGTC besides the co-financing of the Community (ERDF; ESF and/or the Cohesion Fund) is the implementation of the territorial programmes, moreover the implementation of the tasks that do not belong to the mentioned group of national and community subsidies or which are financed by own resources.

The registration process (4. article, 5. article, 13. article, 16. article (2))

The approval process is necessary for each expected member of the affiliation (the registration process occurs only in the country where the seat is located).

The competent authority has to make the decision regarding the request of an expected member (suitable for the consideration) within 3 months.

Approval process

The expected member of the EGTC must inform its own country about the affiliation. The specific country – through the competent authority – approves or declines the request according to the analysis of the harmonization of the request and the Regulation, the national law and the public interest of the specific country.

Registration (in the seat country)

The Regulation does not detail the process of the registration, but it orders that the Grouping is registered according to the national law of the country where the seat is located. Furthermore in 10 working days after the registration and / or the publication of the Statute, a request should be submitted to the Publications Office of the European Union in order for publication in the EU Official Journal. The Regulation orders more obligatory information, but without any deadline.

Management questions (11. article)

The EGTC creates an annual budget approved by the General Assembly. The national law where the seat located is authoritative in the creation of the financial statements.

Control (6. article)

If the tasks cover the community presence, the law referring to the certain fund must be adopted. The competent authority of the country where the seat is located has to ensure the financial control and supervision of the competent authorities of the other concerned countries and the exchange of the necessary information.

The controls must be fulfilled according to the international standards.

Liability (10. article (3), 12. article)

Concerning liability, the EGTC is mainly responsible, but the Regulation can also define the responsibilities of the members. The main rule is unlimited liability, but limited liability has to be signed on behalf of the EGTC. In case of limited liability the Convention, the Statutes, and the Financial Statement of the EGTC have to be published as the documents of similar legal entities with limited liability of the country where the seat is located. The EGTC is responsible for its activities towards third parties even if the actions do not belong to the tasks of the EGTC.

Public interest (13. article)

During the activity of the EGTC, consideration must be given to public order, public health public security and the public morality of the specific country, it must not harm the public interest of the member country. Failure to observe this rule (by activity or default) can result in sanctions being taken by the defined organisations. Only the competent authority is allowed to forbid the activity.

Legal redress, legal dispute (15. article)

The Community Regulation is the authoritative law in case of disputes among the members. If the Regulation does not contain any instruction, they have recourse to the competent national court. In disputes between members and/or third parties – according to the constitution which guarantees appeal rights – the court in the country where the seat is located has jurisdiction.

The appeal rights of citizens remain with the authorities which are located in one of the countries of the members. The courts that consider the legal redress are in this case the courts of the specific countries

Dissolution (14. article)

The Regulation only provides several examples in this case, although members can expand the scope of the rules. In normal cases, under this process, the authoritative law is the national law of the specific country where the seat is located.

3.2. Comparison of the national EGTC provisions

National provisions

<i>Kingdom of Sweden (Member State of the EU from 1995)</i>	
Member of the CETC	Expected member in the future
Skåne Region	-

Topic	Legislation
Adopted national provision	<p><u>Multilevel regulation (law and government decree)</u></p> <ul style="list-style-type: none"> - Law of the European Grouping of Territorial Cooperation (SFS 2009:704); - Government decree amending the Regulation (2007:1110) with instructions for Bolagsverket (SFS 2009:706); - Government decree on the register of European grouping of territorial cooperation (SFS 2009:705); - Law amending the Audit Act (1999:1079), (SFS 2009:703);
Approval authority	Government of Sweden
Registration authority	Bolagsverket (Swedish Companies Registration Office)
Application	<p>The application for registration has to be signed by the competent representatives of each member in the grouping.</p> <p>The application for registration has to contain</p> <ul style="list-style-type: none"> – the memorandum and – the statutes of the grouping as well as – data on the grouping’s name and address, seat, members of the grouping, – name and personal ID number of the director and – name and personal ID number of the accountant or – registered auditing company acting as the auditor (the registration number and the person responsible for the audit has to be named). <p>Applications can be made by electronic means; in this case an electronic signature has to be used. Electronic documents can be attached to the application electronically.</p> <p>All copies of documents shall be certified copies.</p>

An analysis of the external and internal legal regulations governing the EGTC

<p>Registration</p>	<p>For all groupings, the register shall contain</p> <ul style="list-style-type: none"> – the memorandum and the statutes of the grouping, – data on their official seat and registration number, – members of the EGTC, – date of registration, – goals of the grouping’s activity, – name and personal ID number of the director and the accountant. <p><u>Data in the register shall be updated in the following cases:</u></p> <ul style="list-style-type: none"> – changes in the memorandum/statutes – Government’s decision on changes in the memorandum/statutes, – at the end of a director’s mandate – information on transfer of administrative tasks related to territorial cooperation programmes co-financed by the EU to a grouping – Government-imposed ban on activities in the home state’s territory – application of an authority to wind up the grouping – Government’s decision on groupings to be wound-up or deadline to rectify a situation leading to the application for the winding-up – grouping’s decision on initiating a winding up and dissolution – court’s decision on bankruptcy.
<p>Registration fee(s)</p>	<p>Bolagsverket's operations are not financed by public funding; and it therefore charges fees for the products and services it provides. These fees are as follows:</p> <ul style="list-style-type: none"> – application for registration: 1000 SEK – registration of a new member, changes in the memorandum/statutes, changes in data of director/auditor, second registration: 500 SEK <p>No fees are paid for change of address, change of surname, announcement of decision for winding-up/dissolution and announcements from the Government or courts.</p>

Director	If the director of the grouping is not a Swedish resident, a copy of the passport or other ID has to be attached.
Approval and registration duration	Unspecified (according to Regulation (EC))
Data change	Changes in the data contained in the register have to be announced as soon as possible after the corresponding changes. Changes have to be announced by the grouping and signed by the director or other competent representatives in line with the grouping's statutes.
Required language(s)	Documents shall be in Swedish or contain a Swedish translation. If the applicant wishes to be registered in a language other than Swedish, they shall provide a translation of all data and documents in the language they want the grouping to be registered in. Translations shall be made either by a certified translator or a person with a corresponding nationality.
Accounting system	With regard to the accounting system, annual accounts and auditing, provisions of the law 1999:1078 on accounting, law 1995:1554 on annual accounts and law 1999:1079 on auditing shall apply. The accountant of any EGTC shall be a registered or certified accountant.
Responsibility	Unspecified (according to Regulation (EC))
Public funds, co-financing by the EU	When a grouping is administered by public funds, a Government-appointed authority will supervise the activity. The authority reports the results of the control to the Government, Bolagsverket and the grouping itself. Should a grouping deal with administrative data on the administration of programmes co-financed by the EU, provisions of the law 1986:223 on administration shall apply for a number of issues (incoming documents, right to oral announcements, justification of decisions, appeal etc.). The government can transfer administrative tasks related to territorial cooperation programmes co-financed by the EU to a grouping. These tasks can imply decision-making on granting subsidies from the EC's structural funds.

<p>Winding-up and dissolution procedure</p>	<p>In the memorandum of the grouping, provisions for a winding-up and dissolution procedure should be in place. Any grouping with a seat in Sweden wishing to be wound-up or dissolved has to make an announcement to the Government and Bolagsverket.</p> <p>Data on winding-up and dissolution must be recorded in the register.</p>
<p>Publication and information</p>	<p><u>Within the country:</u> The register contains data on the Government's decision and data registered is published in the Post- och Inrikes Tidningar (Official Gazette). Data contained in the register shall be available to the public. Bolagsverket can provide personal data from the EGTC register to non-EU/EEC states.</p> <p><u>Outside the country:</u> Office for Official Publications of the European Communities (Journal of the European Union, (within 10 working days from registration and/or publication of the statutes), Member States, Committee of the Regions</p>

Summary

The executive rules (registration, registration fees, auditing conditions etc.) have been created through a multi-level regulation (law and regulation).

The approving and the registering authority are different institutes. The Government provides approval, meanwhile the registration process is completed by the Bolagsverket (Swedish Companies Registration Office).

Bolagsverket is the central office of the registration issues. Its main functions are: to register business enterprises and associations, to receive and store annual reports, to register corporate mortgages, to make decisions in liquidation, to make information from registers available.

Regarding deadlines, the regulation is not detailed and nor does it handle the case when authority exceeds the time frame defined by the EC Regulation. During the registration process, a written form is not obligatory. Registration and announcement of changes may be made in an electronic way. Procedure by the authority is subject to fees. The 1082/2006/EC Regulation makes it possible as follows:

“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 thereof.”
(Final provision, 2. Article 16.)

Not only the registration authority but the Government also has to be informed about the start of any liquidation procedure.

Republic of Poland (Member State of the EU from 2004)

Member of the CETC:

West Pomeranian Voivodeship (*Zachodniopomorskie*)

Lubuskie Voivodeship (*Lubuskie*)

Lower Silesia Voivodeship (*Dolnośląskie*)

Opole Voivodeship (*Opolskie*)

Topic	Legislation
Adopted national provision	Act 1390 of 7 November 2008 on the European Grouping of Territorial Cooperation (the act came into force on January 9, 2009.)
Approval authority	Ministry of Foreign Affairs (the minister competent for foreign affairs in agreement with the minister competent for the interior, minister competent for public finance and minister competent for issues of regional development).
Registration authority	Ministry of Foreign Affairs (the register is run by the minister competent for foreign affairs).
Application	The application for registration has to be signed by the competent representatives of each member in the grouping. The application for registration has to contain the memorandum and the statutes of the grouping as well as data on the grouping’s name and address, seat, members of the grouping, name and personal ID number of the director and the accountant. A registered auditing company has to act as the auditor, the registration number and the person responsible for

	<p>the audit have to be named.</p> <p>All copies of documents shall be certified copies.</p>
Registration	<p>The grouping having its registered office within the territory of the Republic of Poland shall be entered into the register.</p> <p>The grouping can be declared to the register by a person authorised by the members of the grouping.</p> <p>The declaration shall include the following:</p> <ol style="list-style-type: none"> 1) convention and statutes of the grouping; 2) resolutions or decisions of the grouping members on adopting the statutes; 3) authorisations to carry out activities related to entering the grouping into the register; 4) agreements from all its members concerning accession to the grouping issued in line with Article 4(3) of the Regulation. <p>The grouping acquires legal personality upon registration.</p> <ol style="list-style-type: none"> 5) Members of a grouping, which has its registered office outside the territory of the Republic, acting on the basis of Polish law inform the minister competent for foreign affairs on the convention and registration, as well as publication of the statutes of the grouping.
Registration fee(s)	Unknown
Director	The director of the grouping shall inform the register when a member leaves the grouping or in case of its dissolution following a decision of its members.
Approval and registration duration	Within 3 months following the date of obtaining the resolutions or decisions referred to in Article 5(2).
Period for amendments	Within 14 days following the day of receiving the request by the minister competent for foreign affairs.
Data changes	Changes in the data contained in the register have to be announced as soon as possible after the corresponding changes. Changes have to be announced by the grouping and signed by the director or other competent representatives in line with the grouping's statutes.

Language(s)	Documents shall be written in Polish. In case the documents submitted for registration are in a foreign language a certified translation into Polish shall be annexed to them.
Accounting system	The grouping keeps accounts in line with the rules determined in the Act of 29 September 1994 on Accounting (Dz. U. of 2002 No 76, item 694, as amended 3). The financial report of the grouping shall be analysed and published according to Article 70 of the Act. The accountant of any EGTC shall be a registered or certified accountant.
Responsibility for obligations	Limited liability. 1. The State Treasury shall not be responsible for obligations of a grouping in which the Republic of Poland acts as a member. 2. Territorial local-governmental units, state legal persons and local-government legal persons shall not be responsible for obligations of a grouping of which they are members.
Supervisory authority	The minister competent for foreign affairs acts as a supervisory authority for the grouping.
Public funds, co-financing by the EU	The control of the management of the grouping's public resources is performed on the basis of separate provisions. Without a Community financial contribution, the grouping having its registered office within the territory of the Republic of Poland may carry out activities only within the scope defined in Article 6 of Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 (OJ L 210, 1783/1999/EK (HL L 210., 31.07.2006, p.1).
Winding-up and dissolution procedure	The statutes of the grouping shall establish the rules of liquidation of the grouping, in case of: 1) dissolution of the grouping following from a decision of its members; 2) deleting a grouping, which has its registered office within

	<p>the territory of the Republic of Poland, from the register as a result of carrying out activities referred to in Article 13 of Regulation by the grouping ;</p> <p>3) deleting a grouping from the register for reasons referred to in Article 14 (1) of the Regulation.</p> <p>In cases referred to in Article 14(1) of the Regulation, the supervisory authority deletes the grouping from the register and designates a liquidator for this grouping. The liquidator of the grouping informs the supervisory authority on initiating a winding-up procedure of the grouping.</p>
Public interest	<p>1) If a grouping having its registered office within the territory of the Republic of Poland carries out activities against the public interest, the supervisory authority will delete the grouping from the register.</p> <p>2) If a grouping having its registered office outside the territory of the Republic of Poland carries out activities against the public interest, the supervisory authority repeals the decision, which was issued in connection with a member of this grouping.</p>
Publication and information	<p><u>Within the country:</u> The convention and the statutes of the grouping, as well as their amendments shall be published in the Official Gazette of the Republic of Poland “Monitor Polski B”. The publication shall be made by the minister competent for foreign affairs.</p> <p><u>Outside the country:</u> Office for Official Publications of the European Communities (Journal of the European Union, within 10 working days from registration and/or publication of the statutes), Member States, Committee of the Regions</p>

Summary

The Regulation at Ministry level only determines the most necessary procedures, it refers further questions of procedure and ruling to other laws. It lacks the detailed and integrated regulation of financial management and supervision. It does not define what happens if the registering authority exceeds the 3 month deadline for consideration.

Czech Republic (Member State of the EU from 2004)

Member of the CETC

Hradec Králové Region

(Královéhradecký kraj)

Expected member in the future

1. Pardubice Region (*Pardubický kraj*)

2. South Moravian Region (*Jihomoravský kraj*)

Topic	Legislation
Adopted national provision	154 ZÁKON (ze dne 7. 7 května 2009) kterým se mění zákon č. 248/2000 Sb. o podpoře regionálního rozvoje, ve znění pozdějších předpisů, zákon č. 218/2000 Sb. , o rozpočtových pravidlech a o změně některých souvisejících rozpočtových zákonů (rozpočtová pravidla), ve znění pozdějších předpisů, a zákon č. 89/1995 Sb., o státní statistické službě, ve znění pozdějších předpisů
Approval authority	Ministry for Regional Development
Registration authority	Ministry for Regional Development
Application for approval	<p>The application for approval has to be signed by the competent representatives of each member in the grouping.</p> <p>(In case of participation of the state or lower level authorities (county, municipality), in an EGTC, state regulation or resolution passed under the law of municipalities are required.)</p> <p>The application for approval has to contain the convention and the statutes of the grouping as well as data on the grouping's name and address, seat, members of the grouping.</p> <p>All copies of documents shall be certified copies.</p>
Registration	<p>The grouping having its registered office within the territory of the Czech Republic shall be entered into the register.</p> <p>The grouping can be declared to the register by a person authorised by the members of the grouping.</p> <p>The declaration shall include the following:</p> <ol style="list-style-type: none">1) convention and statutes of the grouping (certified copies);2) the grouping's name and address (or email address)3) duration of activity of the grouping

	<p>4) mission, aims, tasks of the grouping</p> <p>5) members of the grouping</p> <p>6) name and address of the director</p> <p>7) agreements from all its members concerning accession to the grouping issued in line with Article 4(3) of Regulation.</p> <p>The register is freely accessible to the public by Internet.</p> <p>The grouping acquires legal personality upon registration or publication.</p>
Registration fee(s)	There is no indication regarding fees.
Director	Unspecified (According to EC Regulation)
Approval and registration duration	Unspecified (According to EC Regulation, within 3 months following the date of obtaining the resolutions or decisions referred to in Article 5(2).)
Period for amendments	Unknown
Data change	<p>Changes in the data contained in the register have to be announced within 7 days after the corresponding changes.</p> <p>Changes have to be announced by the grouping and signed by the director or other competent representatives in line with the grouping's statutes.</p>
Language(s)	<p>Documents shall be in Czech.</p> <p>In case the documents submitted for registration are in a foreign language, a certified translation into Czech shall be annexed to them.</p>
Accounting system	The grouping keeps accounts in line with the rules determined in the Act of 563/1991 on Accounting. The financial report of the grouping shall be analysed and published according to Act 93/2009.
Responsibility for Obligations	Unspecified (According to EC Regulation)
Supervisory authority	The supervisory authority for the grouping is performed on the basis of a separate provision (see law 320/2001 on financial control).
Public funds	The control of the management of the grouping's public resources is performed on the basis of separate provisions.

Winding-up and dissolution Procedure	Unspecified (According to EC Regulation) The winding up of the EGTC may be initiated in the knowledge of the court of competent jurisdiction. Deadline for the liquidation is defined by the court.
Public interest	In this regard the minister competent for the interior is competent.
Publication and information	<u>Within the country:</u> The convention and the statutes of the grouping, as well as their amendments shall be published in the register created by the Ministry for Regional Development for EGTCs. This register also has to be available via the Internet. <u>Outside the country:</u> Office for Official Publications of the European Communities (Journal of the European Union, (within 10 working days from registration and/or publication of the statutes), Member States, Committee of the Regions

Summary

The provision enters the registration process and the register and it chiefly deals with the issues of the audit, as well as the annual report. This document is not too detailed concerning the deadlines (except for the deadline for announcing any changes which is 7 days); in this regard the EC Regulation is authoritative. Concerning the issues of legal and financial responsibility, the provision refers to the competent laws. Publication has to be carried out through the competent Ministry. The regulation does not deal with the legal representation and the occasion when the registering authority exceeds the deadline of 3 months on making a decision. The provision provides flexibility when defining the objectives/tasks; it does not restrict the scope of tasks carried out without Community subsidies.

Slovak Republic (Member State of the EU from 2004)

Member of the CETC

Trnava Region (*Trnavský kraj*)

Bratislava Region (*Bratislavský kraj*)

Expected member in the future

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Topic	Legislation
Adopted national provision	Act of 15 February 2008 on a European grouping of territorial cooperation and on the amendment of Act No 540/2001 Coll. on state statistics, as amended
Approval authority	Originally the Registering Office shall be the Ministry of Construction and Regional Development of the Slovak Republic. This Ministry was wound up on the 30 June 2010. The duties concerning the EGTC are managed by the <u>Government Office of the Slovak Republic</u> .
Registration authority	Originally the Registering Office would be the Ministry of Construction and Regional Development of the Slovak Republic. This Ministry was wound up on the 30 June 2010. The duties concerning the EGTC are managed by the <u>Government Office of the Slovak Republic</u> .
Application	The application for registration of an EGTC shall be submitted by the founding members or by an elected representative to the Registering Office. The scope of the competencies of the elected representative shall be specified in an appointment letter issued by the founding members. The following documents must be attached to the application: <ul style="list-style-type: none"> a) a certified copy of the convention; b) a certified copy of the statutes; c) a certified copy of the consent by the relevant body to become a granted member.
Registration	The following data shall be entered into the register: <ul style="list-style-type: none"> a) name and registered office of the EGTC; b) identification number; c) date of registration; d) period of time, for which the EGTC has been established, unless established for an indefinite period of time; e) names of the members of the EGTC and their registered offices, stating the Member State, in which the members have their registered offices and the Member State, in

	<p>which the EGTC has its registered office;</p> <p>f) monetary contributions of individual members, in-kind contributions of individual members and the financial value thereof, determined by an expert appraisal;</p> <p>g) name, surname and permanent residence address of the EGTC director;</p> <p>h) objects (activities) pursuant to Article 26, paragraph 10;</p> <p>i) date of entry into liquidation and date on which liquidation was completed;</p> <p>j) date of deletion from the register;</p> <p>k) information on the limitations to the authority of the director to act on behalf of the EGTC and the extent of such limitations.</p> <p>The grouping acquires legal personality upon registration.</p> <p>2. A legal person having its registered office outside the territory of the Slovak Republic, which is an EGTC pursuant to specific regulation and the laws of the state, on whose territory it has its registered office, may operate on the territory of the Slovak Republic under the same conditions and to the same extent as an EGTC established pursuant to Slovakian provision for an EGTC and the specific regulation.</p>
Registration fee(s)	There are no fees

<p>Director</p>	<p>The director shall be elected and removed from office by the assembly. The election or removal from office of the director requires the affirmative vote of two thirds of all members of the assembly; The term of office of the director shall be four years, starting from the moment of election.</p> <p>The office of the director shall cease:</p> <ul style="list-style-type: none"> a) by removal from office; b) by the lapse of the term of office; c) by resignation; d) on the day, on which the director no longer meets the requirements pursuant to Article 18, paragraph 7; e) upon death or upon being declared dead; f) for reasons provided for in the convention or in the statutes. <p>The director shall be removed from office by the assembly:</p> <ul style="list-style-type: none"> a) if he acts in violation of the provisions of the specific regulation, this Act, the convention or the statutes; b) if he does not discharge his duties for at least six consecutive months; c) if he is involved in an activity referred to under Article 23, d) for reasons provided for in the convention or in the statutes. <p>The director may be removed from office by the assembly,</p> <ul style="list-style-type: none"> a) if he is, according to a medical report, not able to discharge his duties for health reasons for more than six consecutive months; b) if the removal from office was proposed by the supervisory board or by the inspector or a member of the EGTC; c) for reasons provided for in the convention or in the statutes.
<p>Approval and registration duration</p>	<p>The Registering Office shall issue a decision on registration and complete the registration within 30 days after the receipt of the application (term of preclusion)</p>

Data change	Any change or cancellation of the data stored in the Register shall be entered into the Register without undue delay. The director shall be obliged to notify the Registering Office of the change or cancellation of registered data within 14 working days. If the director fails to fulfil this obligation the Registering Office may impose a penalty on the EGTC up to the amount of SKK 20,000; such fine shall be revenue of the national budget.
Language(s)	Documents shall be produced in Slovak. In case the documents submitted for registration are in a foreign language a certified translation into Slovak shall be annexed to them.
Organs	An EGTC shall have the following bodies: a) an assembly (The assembly shall, from among its members, elect the Chairman and a Deputy Chairman, who shall represent the Chairman in his absence. The term of office shall be four years.); b) a director (The director shall be elected and removed from office by the assembly. The election or removal from office of the director requires the affirmative vote of two thirds of all members of the assembly; The term of office of the director shall be four years, starting from the moment of election); c) a supervisory board or an inspector; d) other bodies defined by the statutes.
Accounting system	An EGTC shall keep accounts in accordance with the specific regulation. The annual financial report must be audited by an auditor, if a) the funds of the European Community, from the national budget, from the budget of a state fund, from the budget of a higher territorial unit or a municipality exceed SKK 1,000,000 in the year, for which the accounts have been prepared; b) all revenues of the EGTC exceed SKK 5,000,000 in the year, for which the accounts have been prepared. If the director fails to submit the annual report within the

	<p>deadline, the Registering Office may impose a penalty on the EGTC up to the amount of SKK 20,000; such fine shall be revenue of the national budget.</p>
<p>Responsibility for obligations</p>	<p>1. Before the registration</p> <p>The founding members shall be jointly and severally liable for any obligations assumed by the founding members or by the representative elected by them on behalf of the EGTC until acquisition of legal personality.</p> <p>The obligations and the liability incurred pursuant to paragraph 2 shall pass to the EGTC on the day of registration, unless rejected by the assembly within three months.</p> <p>2. After registration</p> <p>a) An EGTC shall be liable for its obligations with all its assets.</p> <p>b) Members of an EGTC, which are Slovak entities, are liable for the obligations of the EGTC up to the amount of their subscribed unpaid contributions.</p>
<p>Supervisory board/inspector</p>	<p>1. The supervisory board must be set up if the value of the EGTC's assets exceeds SKK 3,000,000 or if its assets include priority assets pursuant to § 28. In the other cases, it may be set up, if provided for in the statutes. The supervisory board shall have three members, unless the convention or the statutes provide for a higher number of members. Only natural persons with full legal capability, who have completed second level university education in law or economics and have at least five years of previous experience in the field of financial control and internal audit and have no criminal record may become the inspector or a supervisory board member.</p> <p>2. If no supervisory board is set up, its powers shall be exercised by an inspector.</p>
<p>Supervisory authority</p>	<p>Originally the Registering Office shall be the Ministry of Construction and Regional Development of the Slovak Republic. This Ministry was wound up on 30 June 2010. The duties concerning the EGTC are managed by the <u>Government</u></p>

	<u>Office of the Slovak Republic.</u>
Public funds, co-financing by the EU	The control of the management of the grouping's public resources is performed on the basis of separate provisions.
Priority Assets	<p>Emphasized regulation</p> <p>In accordance with Article 28, the liquidator shall first offer for sale any priority assets to the state, the higher territorial unit or the municipality, on whose territory the EGTC has its registered office or on whose territory is the seat of the member of the EGTC, who contributed the assets to the EGTC, and only then to another EGTC having its registered office in the state, where such priority assets are located; such offer shall be made for a price, which shall not exceed the value determined by an expert appraisal.</p>
Winding-up and dissolution procedure	<p>Multilevel control</p> <p>A competent court shall, at the proposal of the Registering Office, a public authority or another person that proves legal interest, decide on the dissolution of an EGTC or its liquidation, if:</p> <ol style="list-style-type: none"> a) the EGTC does not serve the purpose for which it was established for a period exceeding one year; b) the expenditures and expenses of the EGTC are disproportionately high relative to the purpose for which it was established; c) the EGTC uses revenues from its activities and the assets entrusted to it in violation with the Act or specific regulation; d) the EGTC no longer meets the requirements of registration <p>A competent court may, at the proposal of the Registering Office, a public authority or another person that proves legal interest, decide on the dissolution of an EGTC and its liquidation, if:</p> <ol style="list-style-type: none"> a) no meeting of the assembly was held in the past 12 months;

	<p>b) no new organs of the EGTC were elected within 6 months after the expiry of the previous term of office;</p> <p>c) the EGTC fails to send the annual report to the Registering Office</p> <p>The court shall send its decision on the dissolution of an EGTC to the Registering Office within ten working days after the decision becomes final.</p>
<p>Publications and information</p>	<p><u>Within the country:</u> The convention and the statutes of the grouping, as well as their amendments shall be published in the Commercial Journal within ten working days after the registration. Within the same period of time, the EGTC shall submit the same data to the Statistical Office of the Slovak Republic.</p> <p><u>Annual report</u></p> <p>A printout of the annual accounts audited by an auditor shall be sent by the EGTC for publication in the Commercial Journal each year not later than the 15th of April.</p> <p>The annual report must be published in the manner specified in the statutes not later than the 15th of July of the following year. One printout of the annual report shall be sent by the EGTC to the Registering Office each year not later than the 15th of July.</p> <p><u>Outside the country:</u> Office for Official Publications of the European Communities (Journal of the European Union, (within 10 working days from registration and/or publication of the statutes), Member States, Committee of the Regions</p>

Summary

Compared with other national provisions the Slovak law contains unusually detailed rules that could give wide ranging provisions to the approving authority. The increase in the number of the required bodies is notable; the penalty paid in case of failure of duties concerning data provision and other issues; the rigour of certain reasons for liquidation (e.g. the grouping may be wound up if it does not fulfil its foundation aims over the course of one year); classing inadequate the operation of the General Assembly into law and determining of the term of the Director are all significant. In addition, the rules concerning financial issues are not inconsiderable.

Republic of Hungary (Member State of the EU from 2004)

Member of the CETC

Expected member in the future

Győr-Moson-Sopron County

Vas County

Zala County

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Topic	Legislation
Adopted national provision	Act XCIX of 2007 on the European Grouping of Territorial Cooperation (The act came into force on 1 August 2007.)
Approval authority	<p>The Metropolitan Court, Budapest (the right of appeal to the <u>Regional Court of Budapest</u> (Tribunal))</p> <p>Changes to provisions are under consideration. By the proposed law Nr. T/1248 the government appointed body substitutes the Metropolitan Court during the approval process. (The body is expected to be a Ministry.)</p>
Registration authority	The Metropolitan Court, Budapest (the right of appeal to <u>Regional Court of Budapest</u> (Tribunal))
Application for approval and registration	<p>The following dates and documents must be attached to the application:</p> <p>1) <i>Approval phase</i></p> <ul style="list-style-type: none"> a) name and seat of applicant; b) name and seat of grouping; c) objectives and responsibilities of the grouping; d) in case of members pursuant to Sections a) and b) of Paragraph (1) of Article 22 of the Public Procurement Act, save for the state, the consent of their superior organisation to their participation in the grouping under the proposed convention and statutes as members; e) in case of members as budgetary organisations of national minority governments, of local governments and of local minority governments, the consent of the council of representatives (general assembly) to their participation in the grouping under the proposed

	<p>convention and statutes as members;</p> <p>f) in case of local governments, the extract of the minutes containing the decision of the council of representatives on participation in the grouping;</p> <p>g) should they be produced in a language other than Hungarian, the translation of the proposed convention and statutes into Hungarian.</p> <p>2) <i>Registration phase</i> (in case of Hungarian seat)</p> <p>a) original copies of the convention and the statutes, their authenticated Hungarian translation, if not produced in Hungarian;</p> <p>b) the original copies and authenticated Hungarian translations of the approvals pursuant to Paragraph (3) of Article 4 of the Regulation;</p> <p>c) name and seat of grouping;</p> <p>d) names and seats of the members of the grouping;</p> <p>e) objectives and responsibilities of the grouping</p> <p>f) duration of operation of the grouping;</p> <p>g) name and place of residence of the director of the grouping, method of exercising the right of representation (independently or jointly);</p> <p>h) date of convention and statutes;</p> <p><u>Notes:</u> <u>Legal representation is mandatory in the proceeding.</u> <u>The grouping acquires legal personality upon registration.</u></p>
<p>Legal guarantee in the case of default of the authority</p>	<p>Emphasized regulation</p> <p>1) Should the court fail to meet its decision-making obligation within the deadline, the head of the court must take, within eight days calculated from the expiry of such deadline, the necessary measures to consider the application.</p> <p>2) Should an application fail to be considered, <u>registration shall come to existence</u> on the ninth (9th) day following the</p>

	expiry of the deadline specified <u>with content as stated in the application.</u>
Registration	<p>The records shall include the following data of the grouping:</p> <ul style="list-style-type: none"> a) name and seat of the grouping; b) names and seats of the members of the grouping; c) objectives and responsibilities of the grouping; d) duration of operation of the grouping; e) name and place of residence of the director of the grouping, method of exercising the right of representation (independently or jointly); f) date of convention and statutes; g) date of registration of the grouping; h) registration number of the grouping; i) if the grouping is subjected to bankruptcy, liquidation, final settlement or debt settlement proceedings or termination pursuant to Article 14 of the Regulation, then reference to such fact and the date of commencement of such proceedings; j) date of termination of the grouping. <p>Existing and deleted data of the records and the proposed convention and statutes are public, anyone may access them and take notes on them (it is not available on the Internet).</p>
EGTC as a public benefit organisation	<p>Emphasized regulation</p> <p>A registered European grouping of territorial cooperation may be classified as a public benefit organisation. By Hungarian provisions these organizations may receive financial support from profit oriented companies with preferable tax conditions.</p>
Registration fee(s)	No registration fee or stamp duty.
Director	According to the Regulation.

<p>Approval and registration duration</p>	<p><i>Approval phase</i></p> <p>The court shall examine the application within thirty (30) days calculated from the receipt of the application by the court, and if the application has not been submitted by the authorised entity, the participation of the applicant in the grouping would be inviolate of the law, the deadline for supplementing the application has not been met or the application was supplemented in an incomplete or erroneous manner, the court shall reject the application in an order, otherwise shall grant the approval in an order.</p> <p>Duration of the approval phase in practice is 15 days.</p> <p><i>Registration phase</i></p> <p>The court shall decide the registration or the rejection of the application within thirty (30) days calculated from the receipt of the application by the court.</p> <p>Duration of the registration phase in practice is 15 days + 8 days (the possibility of the prosecutor's objection).</p>
<p>Data change</p>	<p>Changes in data entered in the records must be notified to the court within thirty (30) days calculated from the change.</p>
<p>Language(s)</p>	<p>Documents shall be made in Hungarian.</p> <p>In case the documents submitted to registration are in a foreign language a certified translation into Hungarian shall be annexed to them.</p>
<p>Bodies</p>	<p>According to the Regulation.</p>
<p>Accounting system</p>	<p>The reporting, book-keeping and accounting obligations of the grouping are governed by the Accounting Act and legislation based on its authorisation.</p>
<p>Responsibility for obligations</p>	<p>The liability of a local government, a local government's partnership with a legal entity and a local government's budgetary organisation may not exceed the extent of its material contribution (limited liability)</p>

Supervisory authority	<p>The public prosecutor shall exercise statutory supervision over the operation of the grouping under the rules applicable to the public prosecutor. In case the lawful operation of the grouping cannot be provided otherwise, the public prosecutor may turn to the Metropolitan Court.</p> <p>The State Audit Office is authorised to control the lawful operation of the financial management of the grouping.</p> <p>If the State Audit Office detects any unlawful act by the grouping within the scope of its financial management, then it will request restoration of the statutory condition</p> <p>The State Audit Office may contact the competent authority of the Member State of establishment with a view to conducting controls in case a member under the laws of Hungary takes part in a grouping established abroad.</p>
Public funds, co-financing by the EU	<p>The control of the management of the grouping's public resources is performed on the basis of separate provisions.</p>
Winding-up and dissolution procedure	<p>A grouping may terminate only without a legal successor. In case a grouping terminates, save for a liquidation proceeding, a final settlement proceeding is appropriate.</p> <p>A <u>final settlement proceeding</u> shall be initiated if</p> <ol style="list-style-type: none"> a) the fixed term specified in the convention has elapsed or another condition of termination specified in the convention has occurred, including a decision by the grouping on termination without a legal successor; b) the court ordering termination of the grouping pursuant to Article 14 of the Regulation; c) the court ordering termination of the grouping in a litigation aimed at this. <p>Prior to the ordering of termination, the court may set forth a maximum deadline of three months for the grouping to take measures required to remedy the situation.</p> <p>For the purposes of Article 13 of the Regulation, the organisation with authority to exercise official control over the</p>

	<p>particular activity is authorised <u>to prohibit the activity of the grouping.</u></p> <p>In case of a severe violation of the law or if the grouping fails to fulfil such request, the public prosecutor may file a case before the Metropolitan Court for the termination of the grouping upon a request from the President of the State Audit Office.</p> <p>In case the conditions for approval cease to prevail, the Metropolitan Court shall order the withdrawal of the member under the laws of Hungary from the grouping in a non-litigation proceeding, ex officio or on request from the public prosecutor or the organisation granting consent.</p>
<p>Publications and information</p>	<p><u>Within the country:</u></p> <p>Pursuant to Paragraph (2) of Article 12 of the Regulation: “Publication of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to that required for other kinds of legal entity whose members have limited liability, formed under the laws of the Member State where that EGTC has its registered office.”</p> <p><i>Annual report</i></p> <p>The grouping shall publish its accounts in the Official Notice published as a supplement to the Hungarian Official Journal within one-hundred-and-fifty days reckoned from the date of the balance sheet of the particular business year.</p> <p><i>Termination of an EGTC</i></p> <p>All publication obligations related to the proceeding shall be fulfilled in the Official Notice published as a supplement to the Hungarian Official Journal.</p> <p><u>Outside the country:</u> Office for Official Publications of the European Communities (Journal of the European Union, (within 10 working days from registration and/or publication of the statutes), Member States, Committee of the Regions</p>

Summary

One of the most powerful elements of the provision is the independence from political influence and the involvement of controlling bodies of the highest level (the Metropolitan Court belongs to the judicial power; the Public Prosecutor is a body operating independently of the branches of power; the State Audit Office is the highest body of financial control).

The Hungarian EGTC law came into force simultaneously to the 1082/2006/EC Regulation announced in Strasbourg on 5 July 2006 and came into force on the 1 August 2007 as the first national provision in the European Union.

The law orders in an integrated way on all the important rules concerning EGTCs, i.e. approving and registering authority, referring (duty-exempt) procedures, legal remedy, supervision and control, on the main rules of management, on the cases of liquidation affecting national law and on the changes required by coming into force (referring to other provisions).

Regarding the deadlines, one of the most important elements of the EGTC law is in the case of the registering authority exceeding the date of 3 months for consideration; in this case the registration shall come to existence on the ninth (9th) day following the expiry of the deadline specified under the Act with the contents as stated in the application.

Republic of Croatia (“third country”, candidate country for EU membership, after 2010)

Member of the CETC

Varazdin County

(Varaždinska županija)

Karlovac County

(Karlovačka županija)

Primorje-Gorski Kotar County

(Primorsko-goranska županija)

Expected member in the future

1. Međimurje County *(Međimurska županija)*

2. Zagreb County *(Zagrebačka županija)*

3. City of Zagreb *(Grad Zagreb)*

Adopted national provision: No

Joining of Croatian legal entities is based on the following article of the EC Regulation:

“(16) The adoption of a Community measure allowing the creation of an EGTC should not, however, exclude the possibility of entities from third countries participating in an EGTC formed in accordance with this Regulation where the legislation of a third country or agreements between Member States and third countries so allow.”

(Regulation (EC) No1082/2006 of the European Parliament and of the Council of 5 July 2006 of 5 July 2006 on a European grouping of territorial cooperation (EGTC))

Croatia has an international agreement on territorial cooperation with Italy. It might provide an example for agreements between the Croatian and other entities along the CETC axis. The soon joining of Croatia to the EU makes it necessary to work out the national EGTC law. Members of the CETC consortium might accelerate this process. Before adopting the proper rules the CETC EGTC may provide an associated member status for the Croatian counties.

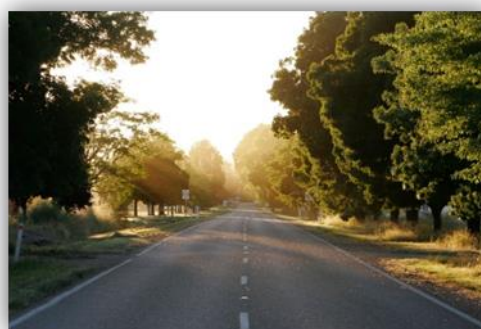
3.3. Structure

The final structure of the CETC EGTC depends on the choice of the seat but there are some functions required by the main objectives of the initiative that will be standard in any case. We treat in this chapter the question of the seat, the functions to be fulfilled by the new organization, the structure proper to the functions, decision making processes and the working organization.

In the closing parts of the chapter we give a proposal for the financing and timing of the establishment process.

3.3.1. Seat of the EGTC

Legal background is important but not the only point of view when looking for the appropriate seat of the EGTC. The members, being aware of certain facts are those who have to define the seat. Our aim is to contribute to the making of this.



3.3.1.1. Evaluation of the legal background

Methodological background

During the evaluation process of the national EGTC Regulations of the CETC ROUTE65 members, we use the relative evaluation method. This means that the allocation of the scores depends on the relationship between the regulations analysed by different factors, so the definition of the scores of a certain regulation is calculated according to its own relationship between the most advantageous and the most disadvantageous legal regulation.

As with all other types, the relative evaluation method also has some advantages and disadvantages. This method was chosen because of the following reasons:

- it is consistent
- its calculation method is simple, and it expresses exactly the ordinal differences between the national regulations
- it takes only the elements of the certain analysed factor into account.

A disadvantage of the method is that the assessment system of the evaluation process is not entirely established. To avoid the analysis being unfounded we tried to filter these limitations as much as possible. Ultimately this evaluation method is only one element besides the further professional arguments (see also in the next chapter).

We have chosen rankings from among the relative evaluation methods because we working without specific numerical values. According to this, the provisions have been scored by a sequence of evaluation. During the scoring we have not divided the scale gradually but have proportioned the regulations to each other.

In this way we have striven to create a simple, reliable and well arranged system. Although it is impossible to say what the value of a certain regulation is, it is possible to state that one of the regulations is better (i.e. more effective, more rational, more simple, being in a more close harmony with the spirit of the Regulation etc.) and in which measure is better than the other one.

Of course, there are certain considerations where we can not differentiate between the regulations, in these cases it has not been possible to rank them.

We developed the specific evaluation by placing the analysed five national regulations (Czech Republic - CZE, Hungary - HUN, Poland - POL, Slovakia - SVK, Sweden - SWE) into an order according to each aspect. The best rule within the regulations has been scored with a 5, the values of other rules referred to this one. (Equal points were not excluded.)

In the end, the points concerning the each regulation were totalled, with the final order created in this way.

2. Figure: The results of the comparison

Point of view	CZE	HUN	POL	SVK	SWE
Independence of the rule (elaboration; preferably one level rule)	3	4	4	5	2
Thematic richness of the EGTC (measure of freedom to choose own theme)	5	5	5	3	4
Prevention of political influence (branches of power)	3	5	3	3	3
System of approval and registration procedures (detailed but not over burdening rules; the status of sanctions; without financial penalties)	4	5	4	3	3
Specification of deadlines	3	5	4	4	2
Specification of the rules concerning financial management	4	4	3	5	2
Elaboration of controlling procedures, independence from the authorities	3	5	3	4	3
Elaboration of financial responsibility	3	5	4	5	4
Arrangement of the system of legal remedies	3	5	3	2	3
Objectivity of the reasons of winding up an EGTC	4	5	4	3	4
Total	35	48	37	38	30

From the examined points of view of effectiveness, applicability and legal security, the Hungarian national provision could be considered as the best option. The virtue of the law is that it regulates uniformly all the important rules (especially the registration procedure, the legal remedies, supervision and control as well as the main rules of financial management). Regarding the financial management, controlling authorities from the highest level have been appointed. This guarantees the supervision of public money.

Concerning the deadlines, it is notable that in the case of a default by the registering authority, the EGTC is considered as registered organization. It is a unique rule of the Community. (We should note that studies made on the issue consider the Hungarian EGTC law as the one of the best sets of regulations.)

The next best regulation has been elaborated in Slovakia. It is a high level but at the same time unusually detailed document. It enlarges the number of obligatory bodies and prescribes

penalties in case of default of data service and other duties. In addition, some aspects are regulated at times very rigorously e.g. the reasons for winding up and EGTC.

The Polish regulation seemed to more balanced but it included only the most necessary procedures and it lacks the detailed and uniform regulation concerning financial management and supervision.

3.3.1.2. Other points of view

Before the decision, representatives of the members have to take into consideration some additional factors.

- *Influencing power.* Due to the competitive situation of the North-South corridors it is very important to lay emphasis on the message to be delivered. This emphasis might be enhanced according to the influence of the seat country in the European Union and by the positions filled by the politicians of this country. Thus the size (the Europe wide authority) of the country is an important factor.
- Another argument that might be advanced is that of the geographical position. It is not recommended to set the seat in the countries situated at the two ends of the corridor. It is a more economic solution to establish an EGTC in a country with a central position, being relatively close to each partner.
- *Experiences.* Recent experiences could provide another reason to set the seat in Poland. The Technical Secretariat of the consortium in Szczecin has gained appropriate experiences that the new EGTC and its Director may successfully use.
- *Financial reasons.* What about the administrative costs of the EGTC? Which country could ensure the most economic solution in this case (wages, taxes, overheads)? Which partner can co-finance the operation of the EGTC financially or by in-kind support?

In this case it is worth taking into account the hourly labour costs by country.

3. Figure: Hourly labour costs in the public sphere in 2007 (EUR, average)

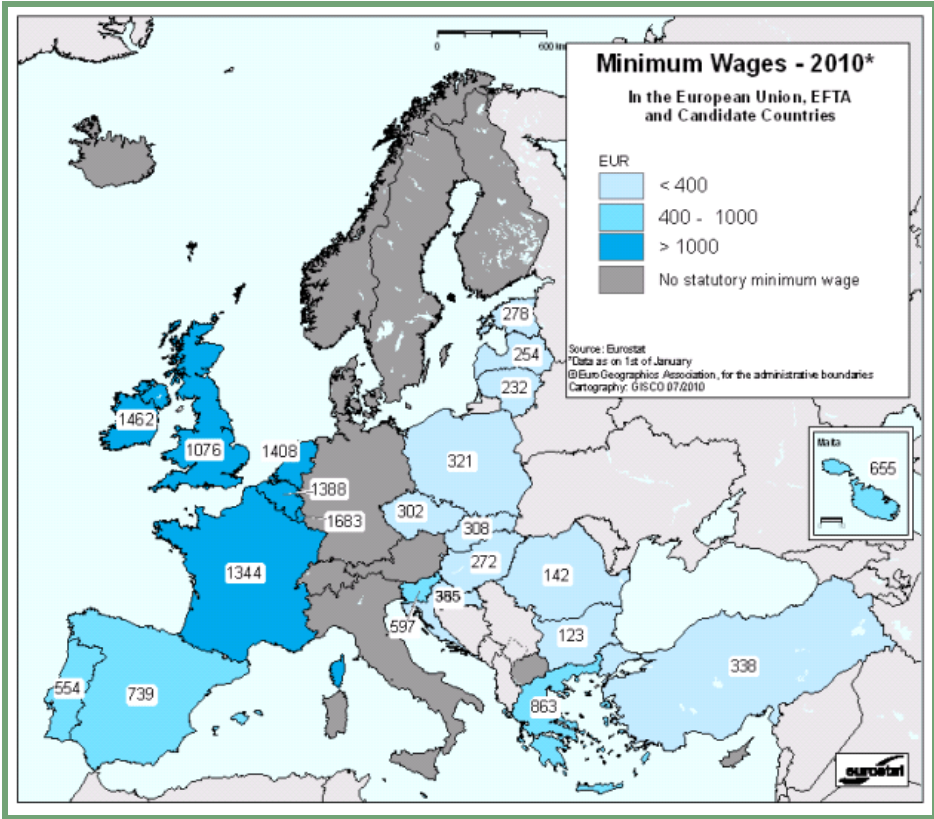
	SWE	POL	CZE	SVK	HUN
Hourly labour cost	26.89	7.69	7.12	5.25	6.94
In total per year per person	50 550	14 460	13 390	9 870	13 050
In the case of four employees	202 200	57 840	53 560	39 480	52 200

Source: Eurostat

Certainly, the situation has changed a lot since 2008 (the average costs in Slovakia are now higher than in Hungary) but it is obvious that in a Central European Country the labour costs are a quarter of those of Sweden.

Regarding the official minimum wages indicating an overall level of labour costs, there are no significant differences between the Central European countries (in Sweden there is no minimum wage).

6. Map: Minimum Wages in Europe (2010, in EUR)



Source: Eurostat

3.3.2. Functions, structure, decision-making

The EGTC regulation specifies minimal organisational conditions only, allowing a wide margin for different innovative organisational solutions. Due to the characteristics of the planned EGTC we propose the establishment of a multi-level organizational structure, which takes into consideration:



- compulsory elements of the Regulation,
- the variety of the planned functions,
- operational deficit resulting from geographical distances,
- the need for assertion of interests of each member,
- the most economic way to manage the programme.

3.3.2.1 Functions to be carried out

The potential tasks of the planned EGTC are the followings:

- **programme management:** management of the complex development programme of the “Green Corridor”, representing and harmonizing the interests, strategies and planned projects of the members, creation of joint strategic documents;
- **project management:** implementation and management of specific comprehensive (border crossing) projects;
- **running the organization:** long-term operation of programmes and institutions, networks, workshops etc. established as a result of the projects (sustainability criterion);
- **establishment and operation of professional networks** and cooperation bodies within the development programme of the CETC initiative;
- **political issues:** representation of the consortium in front of national authorities (lobbying for harmonizing the development plans, planning methods, provisions, standards of transportation of member states etc.) and EU institutions (lobbying for accrediting the CETC as a TEN-T corridor, managing the representation of the initiative at the European institutions etc.);

- **ensuring the political operation:** prepare and execute the decisions, operate the bodies of the organization;
- **PR activities:** ensure large publicity and a social awareness of the initiative (organizing conferences, operating a common web site in every member language, printing brochures, production and sharing of PR articles etc.);
- **fulfilling daily functions** associated with the day to day operation of the EGTC (administration).

Based on this, the clearly distinctive task levels are as follows:

1. **political management:** decision making, management of the network, lobbying;
2. **strategic management:** programme management, project management, operation of professional networks and workshops;
3. **administrative management:** running the institution, preparation of decisions, carrying out daily operational tasks, PR.

The **political management** involves several tasks. It represents the operation of the decision-making bodies of the EGTC. This level is responsible for the lobbying activities (‘diplomacy’) and the general management of the network. The operation of the political management is connected with the seat of the organization. However, the meetings of the General Assembly or the Board might be held in any member country.

Similarly, the **strategic management** may be set up in any member country. The functions to be filled by the strategic management are: develop and implement common strategy and projects, create and operate professional networks along the axis as well as to organize professional events. The main tasks of strategic management do not make it necessary to operate at the same location as the administrative one. Additionally, it is important to develop this area to include all the member states of the corridor. However, the members might make a decision to create a strategic office network (set up in each member state) instead of one single office.

It is recommended to establish the **administrative management** of the EGTC led by the Director at its head office, as it is easier to maintain liaison with the competent national authorities.

(NB! It is not possible to transfer the seat of the EGTC to another country. By transferring the seat, the given EGTC ceases to exist.)

3.3.2.2. Network EGTCs in Europe

Until now two network EGTCs have been set up: the Amphyctiony and the ArchiMed.

Amphyctiony was established in 2008 by 53 (Greek, Cyprian, Italian and French) municipalities with a seat of Athens. The EGTC aims to realize mainly soft projects concerning the environment protection, human rights, culture, participation etc. The long running objective of the initiative is to unite all the nations around the Mediterranean.

ArchiMed was initiated by Sicily in 2009. The name (Arcipelago Mediterraneo) refers to islands situated in the Mediterranean basin, the organization unites the Balearic Islands, Sicily and Cyprus (3 members only). The fields of the cooperation also include transport.

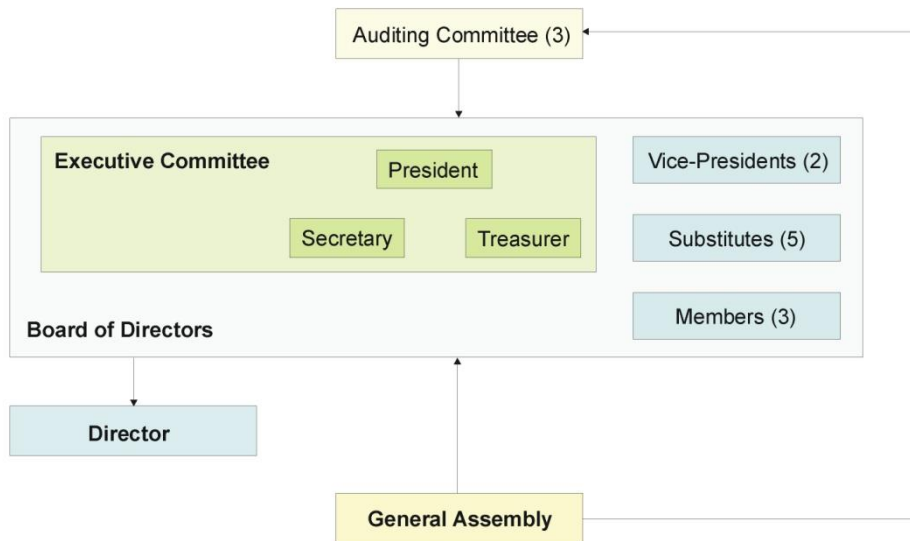
The main decision making body of the Amphyctiony EGTC is the General Assembly that consists of the representatives of each member. The operative body is the Board of Directors (with 13 members) elected by the GA for a two year term. The members of the Board elect from among them the President, two Vice-presidents, a Secretary and a Treasurer. The President, the Secretary and the Treasurer compose the Executive Committee of the EGTC which is charged to manage the organization. The Director is appointed by the Board.

The President has the right to represent the EGTC with the Director executing actions decided by the Board. The Board of Directors also has the right to create working committees.

A three member Auditing Committee is responsible for financial control.

4. Figure: The Amphyctiony EGTC

The organizational structure of the Amphyctiony EGTC

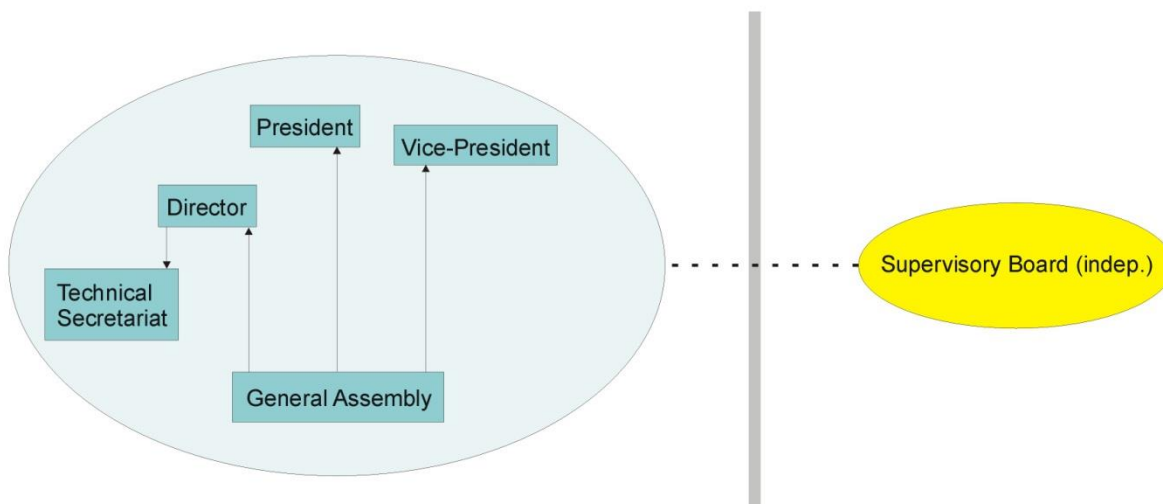


The main organs of the ArhiMed EGTC are the General Assembly, the President and the Vice-President, the Director, the Technical Secretariat and the Supervisory Board.

The President represents the EGTC, manages the operation of the GA and has control over the bank account. The Director appointed by the GA has an executive power only. In addition, the Director manages the work of the Technical Secretariat of a further three employees.

5. Figure: The ArchiMed EGTC

The organizational structure of the ArchiMed EGTC



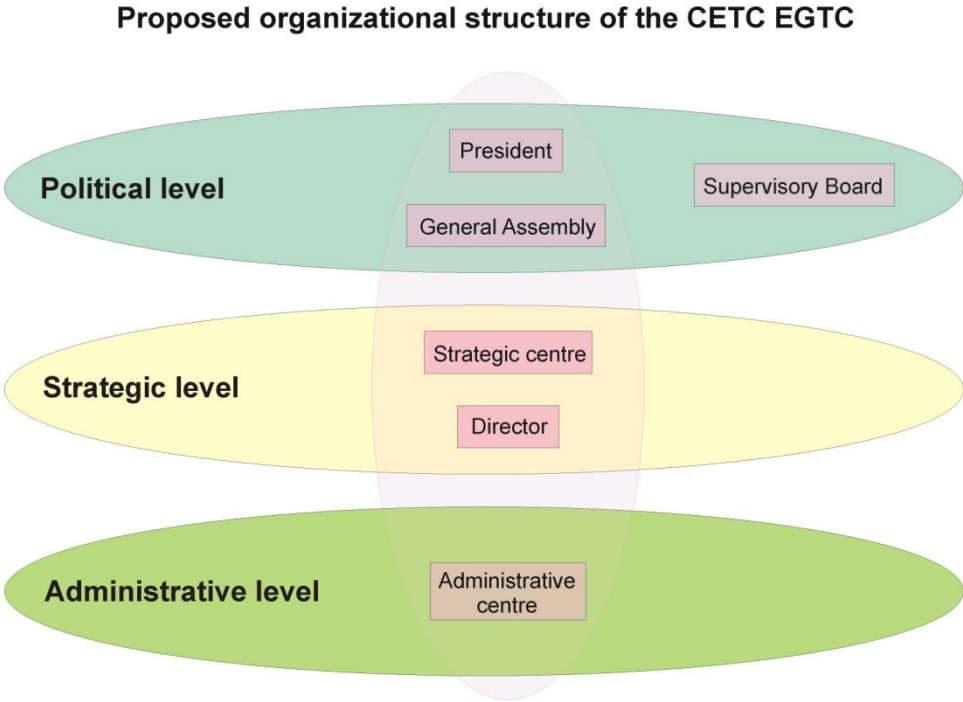
Although, these examples are useful in planning the organization of the CETC EGTC we have to fit the new structure to the specific needs of the CETC. There are significant differences between the situations of the network EGTCs for example:

- the members of the Amphyctiony and the ArchiMed EGTCs are situated at significant distances from each other, there is no direct connection between them
- the fulfilment of the main purposes of the Amphyctiony requires mainly soft projects
- the CETC initiative needs a direct approval from the EU institutions to start to work
- the differences between the number and the status of the members.

Thus we propose a different organizational structure fitting into the objectives of the CETC Consortium.

3.3.2.3. Proposed organs of the EGTC

6. Figure: The CETC EGTC (proposal)



General Assembly (compulsory): political level

This should be the main decision-making body representing all members. The right to vote can be attached to the financial contribution of the member.

The GA can be led by the Director or President of the EGTC. From the experiences of operating EGTCs it seems to be a better solution to divide the political and professional

representation. Thus the GA should be led by the President. (There are EGTCs where the positions of the President and the Director are not divided.)

To ensure equal opportunity for each member, the decision making processes should be defined by the following alternatives.

- *Consensual decision making*: a resolution comes into force if every member supports it. It is the slowest approach but consensus makes the cooperation strong and predictable. In the case of a programme of such a large financial content it is one of the most important guarantees.
- *Decision making on national level (electorate)*: each country elaborates its opinion on the questioned issue and an elected person represents the country during the voting. This procedure makes it possible to negotiate on the national approach before voting, so the national state point of view has the opportunity to be declared. In this case decisions do not depend on the number of stakeholders representing a country.
- *Qualified majority voting*: for the sake of well-founded decision-making the members have the possibility to use the procedure of qualified majority voting in certain cases or in every case.
- *Simple majority voting*: it is the simplest and fastest way to decide (50% + 1 ps) but it does not serve for the interest of a long-term cooperation because it lacks the deeper identification.

These procedures can also be used in a mixed version. The most important things to be considered: the speed and the depth (i.e. the satisfaction of the members) of the decision-making processes.

Board (not compulsory): political level

Regarding the distances between the members' seats it would seem useful to establish a Board leading and representing the organization between the GA meetings. To ensure equal representation of each member it is recommended to create a co-presidential or a rotating presidential system.

- *Co-presidency*: founders can decide to delegate 1-1 member to the Board representing all countries concerned. The co-presidents might be responsible for different fields of

cooperation (divide of duties; e.g. strategic planning, ‘foreign affaires’, communication etc.) or they can be responsible commonly for all fields.

- *Rotating presidency*: similarly to recent practice the presidency can rotate between members’ representatives.
- *Corporative presidency*: in this case there is no president but all decisions are made by a leading body.

Certainly, the founders have the possibility to decide that the prevailing representative of the seat should be the president of the cooperation. It makes it easier to resolve the daily problems.

Director (compulsory): administrative level

According to Article 10 of the EGTC Regulation, the GA of the EGTC has to elect “a director, who represents the EGTC and acts on its behalf.” The Director is the manager of the organization who is responsible for preparation and execution of the decisions of the GA and represents the organization before official institutions in every member country. These conditions make it possible not to elect a President, thus to authorize the Director to comprehensively represent the EGTC; or this allows the establishing of a rotating presidency as the President has no executive power (e.g. signing contracts, disposal of bank accounts etc.).

The Director should be elected after an international application for the vacancy. The main skills required of the Director are as follows: legal, financial knowledge, language skills, experience on regional development and / or transport studies, managerial skills.

Administrative centre (not compulsory): administrative level

As must be clear, the tasks to be fulfilled require massive administrative support for the Director. The big difference between the consortium of a consultative level and a permanent institution is that an EGTC is recognised in each member country as an independent legal personality. It has to be able to react to any challenges in each country in each language by each legal system. The administrative centre is recommended to be set at the seat of the EGTC.

Strategic centre or network (not compulsory): strategic level

It is strongly recommended to create an own strategic centre that is responsible for the implementation of the development programme on a professional level. In the case of starting common development programmes including all members, numerous common strategic plans and concrete projects will need to be elaborated and realized. Preparation for this is necessary with the process being coordinated by the administrative centre; during the implementation phase the EGTC will also need a professional body.

Supervisory Board or Controller (compulsory or not): political level

Depending on the seat of the EGTC, national provisions may require the election of a supervisory board or a controller responsible for the legal and financial control of the regular operation.

3.3.2.4. The status of the members

The planned EGTC will be established by the current members, i.e. territorial local governments of NUTS II or NUTS III level. All members have their own annual budget, territorial authority competences and different institutions. By their nature they are similar to each other.

However, it is worth examining the possibility to involve at national level, the ministries that are responsible for transport issues. It might give an authority to the initiative, making it clearly unanimous that the axis is supported by the governments, making it easier to lobby at Community level and providing professional and political tools for the initiators.

In this case the organizational structure and the roles played by the members must be changed.

Another question is the situation of the Croatian counties as there is no EGTC provision in operation in Croatia and the state has no signed bilateral contracts with the member states of the CETC that could make it possible for the counties to join an EGTC. The solution may be a status of Associated Member. The Associated Member has no right to vote and is not obliged to contribute financially to the operation of the organization.

Despite this, from our experiences the establishment procedure of an EGTC lasts at least one year, so the EGTC will not start its operation before the hoped for Croatian admission to the EU.

3.3.3. Work organization

After the establishment of the EGTC current working organization (Technical Secretariat), it will be replaced by one or two new bodies. The new administrative centre should be set up at the seat of the EGTC. It will be responsible for the daily operation of the EGTC. The name of the centre might be the same (Technical Secretariat) or it can be changed (Directorate, Administrative Centre, Secretariat etc.).



Important: As the administrative centre it will be a direct body of the EGTC and not a body of one of the members (as it is now),

- it has to be able to communicate with any authorities of each country
- it has to represent clearly the interest of each member
- the employees will get their salaries directly from the EGTC.

Currently, the Technical Secretariat is responsible for the administrative and strategic tasks as well as for the preparation and implementation of the decisions of a political level. Within the EGTC it is worth dividing these functions and to create an administrative centre (responsible for the daily operation and the decision making processes) and a strategic centre (dealing with strategic issues: planning, programming, project management). From experience this duality makes for a more effective operation of an international body.

Of course, the strategic centre can be set up in any member state.

3.4. Financing

3.4.1. Potential incomes

In this chapter we try to give an overview on the potential financial resources of the EGTC.

Membership fees

EGTCs established up to now have defined the membership fees differently.

- a) *Per capita fee*: each member pays its contribution according to the number of the population living in the given area. The amount varies in each case. (Example: Ister-Granum EGTC)
- b) *Balanced contribution*: the annual budget is divided by the countries equally; each country pays the same amount. (Example: Lille-Kortrijk-Tournai EGTC and West-Vlaanderen / Flandre-Dunkerque – Côte d’Opale EGTC)
- c) *Equal contribution*: each partner pays the same amount. (Example: Galicia Norte Portugal EGTC, Zasnet EGTC)
- d) *Changing method*: there are EGTCs where the method of contribution varies depending on the annual budget. In the case of the Amphyctiony EGTC, the General Assembly has the right to define the type of contribution each year. This is a flexible approach. If a common project is planned to be realized, the sum of own contributions can be shared by the level of involvement with the project.
- e) *Mixed solutions*: in the Strasbourg-Ortenau EGTC the annual budget is financed by the German and the French party equally but within the territory of both partners the membership fee is shared by the number of the population.



Own incomes

EGTCs are not allowed to run profit oriented businesses. However, it has the right to set up enterprises for public benefit (e.g. a project management company which can operate as the strategic centre of the EGTC; a planning company or even a joint railway company). These companies may produce incomes for the EGTC.

Other resources

One of the most significant disadvantages of the Regulation is that it excludes the participation of the representatives of the civil and business sector. However, an EGTC could use financial resources produced by the latter for public benefit. There are attempts to involve two sectors in the work of the EGTC. The Lille-Kortrijk-Tournai EGTC has established a Forum where the representatives of the civil society may influence the decisions. The Ister-Granum EGTC has a civil parliament and the EGTC also plans to create a public fund. The public fund will be financed and governed by the largest companies operating in the region, and will be used for financing specific cross-border projects.

In the case of the CETC EGTC it is more important to involve larger companies in lobbying for the realization of the new corridor. It is in their interest and they can influence it on their behalf in a more effective way than regional local governments. They should also contribute to the success financially.

If the initiators also decide to involve ministries, it might open new perspectives for national financing.

3.4.1. Expenses

The measure of expenses depends on several factors.

These are:

- the location of the seat (national tax rules)
- number of own institutions
- number of employees hired by the organization
- equipment ensured for the sake of operation
- intensity of operation of the organs
- value of realized projects etc.



Taking into consideration the changing factors we have concentrated on the most necessary items.

The EGTC has to hire a Director. Being aware the functions the new EGTC has to employ a staff of at least 4 members (including the Director).

7. Figure: The wages by countries in EUR (following average monthly wages in 2009)

Country	SWE	POL	CZE	SVK	HUN
Amount of the average wage (gross)	2 924	867	895	751	705
Four persons per year	140 352	41 616	42 960	36 048	33 840
Difference rate	414,8%	123%	127%	106,5%	100%*

* Based on the lowest salary.

The data above do not contain additional allowances such as travel costs, meals etc.

There are expenses required for the normal operation of the EGTC, these are:

- administrative costs (renting an office, communication, overheads, bank expenses);
- costs related to the meetings of the GA and the Board (renting a conference room, accommodation, travel, catering, technical assistance, translation etc.);
- procurement and work of equipment;
- PR (web page, printing brochures, press conferences etc.)
- services related to the daily operation (accountancy, service of equipment, design, procedural costs etc.).

We estimate these expenses being between 50 000 and 100 000 EUR per year.

We would like to emphasize that the level of costs depends on the intensity of the operation, so the amount counted below might vary. In the very beginning the initiators can only count on the membership fees.

3.5. Timing of the establishment process

The steps to be taken before the start of operations are assumed within the following matrix. These steps have to be done independently of the location of the seat. The length of the complete registration procedure depends on many factors but it is expected that it will take more than a year.

REGISTRATION	Convention	Drawing-up of the draft Convention (synchronise content of general nature, nomenclature etc.)
	Statutes	Defining the details of the operational process (bodies and competencies, decision making procedure, working language(s), work organisation, supervisory bodies etc.)
	Member decision on admission	The decision of the member candidates and their bodies authorised for this purpose on the admission, adoption of the draft then final version of the Statutes and the Convention
	Foundation	The members shall sign the Statutes and the Convention previously approved by their bodies authorised for this purpose, define their personal and professional requirements regarding the director and work organisation, decide to issue an invitation for applications for the post of director
	Approval	Requesting approval from the designated bodies of the member states and of territories within member states with own legislation
	Registration	Registration procedure before the authority specified by law in the home member state, with the attaching approvals of the member states
	Publication, information providing	The competent member states and the Committee of the Regions shall be informed regarding the commencement of operation, as well as a publication shall be submitted to the Office for Official Publications of the European Communities

Of course, there are some differences between the procedures in each country. These differences are listed below.

Regulation parts	Czech Republic	Republic of Poland
Registration process (documents)	<p>1. <u>Documents (approval)</u>:</p> <ul style="list-style-type: none"> - convention and the statutes of the grouping, - data on the grouping's name and address, - seat, - members of the grouping, - names). <p>2. <u>Documents (registration)</u>:</p> <ul style="list-style-type: none"> - attested copies of the approved Statutes and Convention - the name and the address of the EGTC - the name and the address of the director - the documents which prove the participation of the members 	<p>1. <u>Documents</u>:</p> <ul style="list-style-type: none"> - convention and statutes of the grouping; - resolutions or decisions of the grouping members on adopting the statutes; - authorizations to carry out activities related to entering the grouping into the register; - agreements from all its members concerning accession to the grouping issued in line with Article 4(3) of Regulation. <p>2. The approval and the registration parts are not regulated separately and they are not detailed.</p>
Registration process (deadlines)	According to the Regulation in 3 months, but it is not detailed.	According to the Regulation in 3 months, plus once 14 days completion.
Registration process (registration)	<p>1. The content of the register is detailed.</p> <p>2. <u>Publicity</u></p> <ul style="list-style-type: none"> - introspection documents - Internet 	<p>1. The specific content of the register is not known.</p> <p>2. <u>Publicity</u></p> <p>Not detailed.</p>
Registration process (fees)	Not regulated.	Not regulated.
Publication	<p>1. Within the country The registration of the competent authority.</p> <p>2. Outside the country Office for Official Publications of the European Communities (within 10 working days) Member States, Committee of the Regions</p>	<p>1. Within the country “Monitor Polski B”.</p> <p>2. Outside the country Office for Official Publications of the European Communities (within 10 working days) Member States, Committee of the Regions</p>

Regulation parts	Republic of Hungary
<p>Registration process (documents)</p>	<p>1. <u>Documents (approval):</u> - name and seat of applicant, - name and seat of grouping, - objectives and responsibilities of the grouping, - the approval of the authority</p> <p>2. <u>Documents (registration):</u> - Original copies of the convention and the statutes, their authentic Hungarian translation, if not produced in Hungarian, - original copies and authentic Hungarian translations of the approvals pursuant to Paragraph (3) of Article 4 of the Regulation - name and seat of grouping; - names and seats of the members of the grouping; - objectives and responsibilities of the grouping; - duration of operation of the grouping; - name and place of residence of the director of the grouping, method of exercising the right of representation (independently or jointly); - date of convention and statutes;</p>
<p>Registration process (deadlines)</p>	<p>Detailed deadlines for the approval parts. The fault of the competent authority is regulated by the national law 5. § (9).</p>
<p>Registration process (registration)</p>	<p><u>1. The content of the register is detailed.</u> 2. <u>Publicity</u> - introspection documents - public, but not Internet- and electronic-based registration (it is expected to be modified this year. According to this the registration will work as Internet-based)</p>
<p>Registration process (fees)</p>	<p>No fees. According to the final part of the Regulation it will be regulated by a special law.</p>
<p>Publication</p>	<p>1. Within the country The registration of the competent authority. The place of the publication refers to the economic activities is the Official Report (Hivatalos Értesítő), which is the appendix of the Magyar Közlöny.</p> <p>2. Outside the country Office for Official Publications of the European Communities (within 10 working days) Member States, Committee of the Regions</p>

Regulation parts	Kingdom of Sweden	Slovak Republic
<p>Registration process (documents)</p>	<p>1. <u>Documents (registration request)</u>:</p> <ul style="list-style-type: none"> - the memorandum and the statutes of the grouping, - data on the grouping's name and address, seat, - members of the grouping, - name and personal ID number of the director, - name and personal ID number of the accountant or registered auditing company act as the auditor <p>The approval and the registration parts are not regulated separately and they are not detailed.</p>	<p>1. <u>Approval part</u></p> <ul style="list-style-type: none"> - a certified copy of the convention; - a certified copy of the statutes; - a certified copy of the consent by the relevant body to become a member. <p>2. <u>The Registration part</u></p> <ul style="list-style-type: none"> - Statutes and Convention - the name and the address of the Grouping - the working period of the Grouping - the names, the address and the countries of the members - the data of the paid deposit - the name and address of the director, the date of the appointment, the order of the General Assembly, certificate of clean record - the subject of the enterprise activity (if exists) - approval of the non-Slovak member-countries <p>The approval order of the executive body of the Slovak members.</p>
<p>Registration process (deadlines)</p>	<p>According to the Regulation in 3 months, but it is not detailed.</p>	<p>The Register Office shall issue a decision on registration and make registration within 30 days after the receipt of the application.</p>
<p>Registration process (registration)</p>	<p>1. According to the registration request.</p> <p>2. <u>Publicity</u></p> <p>Not detailed.</p>	<p>1. According to the data of the registration request</p> <p>2. <u>Publicity</u></p> <p>The Register is public. The Registration Authority allows that if somebody's interest is concerned by the activity of the Grouping, this person or group can obtain an extract regarding the Grouping.</p>

Regulation parts	Kingdom of Sweden	Slovak Republic
Registration process (fees)	<p>Subject to fees.</p> <ul style="list-style-type: none"> - application for registration: 1000 SEK - registration of a new member, changes in the memorandum/statutes, changes in data of director/auditor, second registration: 500 SEK 	None.
Publication	<p>1. Within the country</p> <p>Through the registration of the Bolagsverket (Swedish Companies Registration Office).</p>	<p>1. Within the country</p> <p>By Commercial Journal within ten working days after the registration. Within the same period of time, the EGTC shall submit the same data to the Statistical Office of the Slovak Republic.</p>
	<p>2. Outside the country</p> <p>Office for Official Publications of the European Communities (within 10 working days) Member States, Committee of the Regions</p>	

Summary

In this closing chapter we summarize the questions that the members of the consortium have to consider.

1. The name of the EGTC

As the name of the CETC initiative has become a brand it would seem to be a good choice to keep this name.

2. The seat

In this matrix we have summarized the main points of view enumerated in the document. In each case the best choice has been given the highest score.

Of course, there might be further factors to be taken into account and one can emphasize certain considerations more than others but by the factors and the evaluation method proposed by the CESCO the best choice is a Polish seat.

8. Figure: Evaluation criteria of the choice of the seat

Point of views	CZE	HUN	POL	SVK	SWE
Legal background	2	5	3	4	1
Influencing power (size)	4	3	5	1	2
Geographical position	4	1	5	2	3
Experiences in the EGTC consortium	1	2	5	3	4
Financial reasons	2	5	3	4	1
Total	13	16	21	14	11

It is important to choose the location of the seat because it defines the text and the legal environment of the Convention and the Statutes of the EGTC.

3. Members

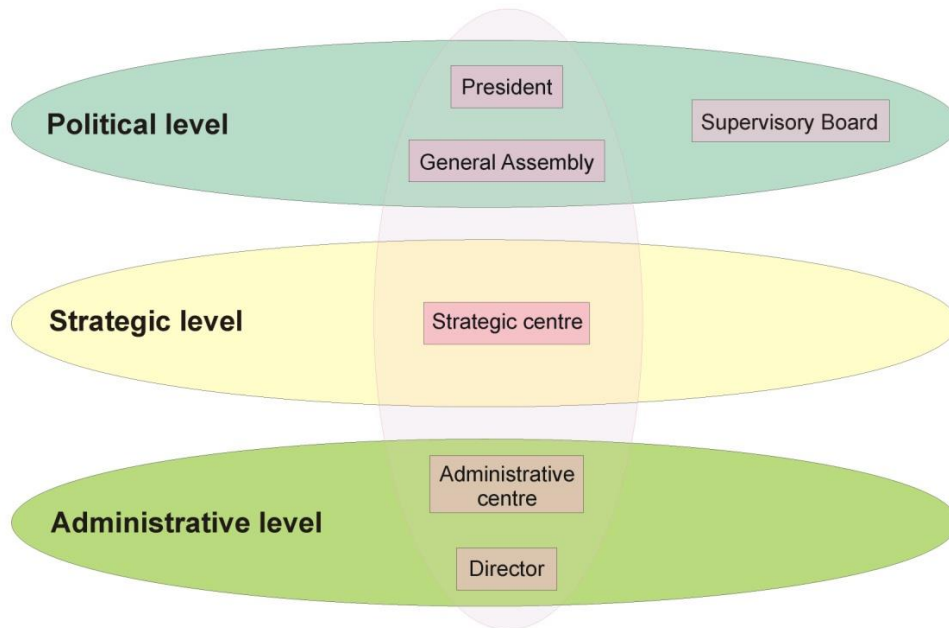
The initiators have to decide on the composition of the membership. Do they want to involve the ministries responsible for transport? Do they give associated member status for the Croatian partners or not? If not, which solution might be offered to them?

4. Organizational structure, bodies

We suggest building up a three level management dissociating the political, strategic and administrative level of functions.

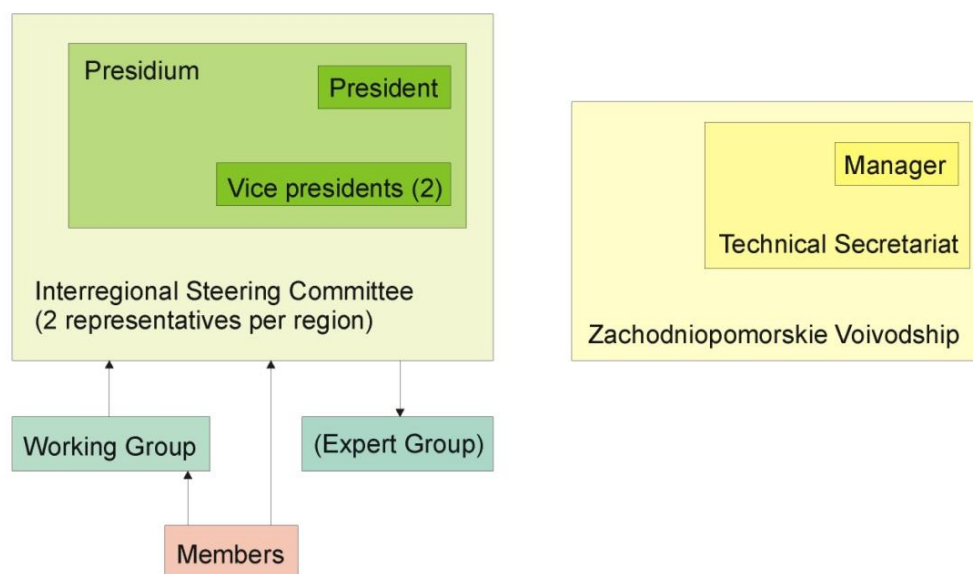
9. Figure: The proposed organs of the CETC EGTC

Proposed organizational structure of the CETC EGTC



10. Figure: Recent structure of the CETC consortium

The current structure of the CETC consortium



The questions to be answered:

- a) definition the organs of the EGTC (name, functions);
- b) the method for decision-making (simple majority, qualified majority, electoral, consensual);
- c) the form of presidency (permanent presidency, co-presidency, rotating presidency, corporative presidency, mixed solution);
- d) the method for choosing the leaders (open election, election by countries, delegation);
- e) the method for choosing the Director (open call – appointment; decision by the GA – decision by a committee);
- f) the relationship between the Presidency and the Director;
- g) voting power (it may depend on the amount of the membership fee but it can be shared equally);
- h) in case of dissociated functions: the potential territorial dissociation of the organs.

5. Membership fees

In this case the members have to answer two questions:

- a) the contribution methodology (per capita fee, balanced, equal contribution, changing method, mixed solution);
- b) the amount of the fee (after deciding the method).

6. Timing

After defining the main issues the members need to make decisions on the following steps: approval of the Convention and the Statutes, procurement of the approval of national authorities, the launching seat of the EGTC, election of the leaders and the Director, registration, publication, setting up the administrative centre.