The 4th Meeting of EGTC Approval Authorities

16-17 April 2015, Budapest, Hungary

PRESENTATION

I would like to begin my presentation by thanking the State Secretary for Economic Diplomacy (from the Ministry of Foreign Affairs and Trade) for the invitation to this meeting. This is a great opportunity for us to share our experiences and assess how the implementation of the amended EGTC regulation has been put into practice by different Member States after the EU Regulation 1082/2006 revised by 1302/2013 EU Regulation.

With this purpose in mind, I have chosen to divide this presentation in three parts:

1. **An update on EGTC data in Spain, what the situation is as we speak:**
	1. Map:

In this moment, Spain participates in 13 EGTC.

* 5 in the Spanish/Portuguese border (and another one, León –Bragança already authorized but not yet signed and registered)
* 6 in the border between Spain and France, one of them, EGTC Huesca-Hautes Pyrénnées that has been recently registered in November 2014, EUOJ publication pending. There is another one, EGTC Pais d’Art already authorized but not yet signed and registered, and another two: PRES-PM and EUROPEAN MYCOLOGICAL INSTUTUE (EMI) that are in process of authorization.

There are as well three EGTCs that lack the strictly cross-border dimension:

* Archimed, participated by islands coming from different Mediterranean countries (Balearic Islands, Sicily, Ciprus, Sardinia)
* Cities of Clay (Spain, Romania, France and Italy).- EUOJ publication pending
* EUKN (European Urban Knowledge): in process of authorization

Even if the number of non border EGTCs is increasing, by the moment most of them are still responding to cross-border cooperation between neighbors.

1.2 Regional/local

Taking into account the participating authority: the local perspective is very strong in the cross-border cooperation through the EGTC figure: there are 6 EGTCs participated by regions or Autonomous Communities and 9 participated by local entities, and it is very remarkable that in the last three years, only local entities have decided to participate in a EGTC.

1.3 Tendency in the creation of EGTCs

In this two graphics that show the number of applications per year and the authorized EGTCs per year, we can see the tendency in the creation of EGTCs. After four consecutive years of increasing interest in establishing EGTCs, there was an abrupt fall in 2012, but after that year, although not achieving the amounts of precedent years, a renewed and increasing interest has been detected.

1.4 Length of procedure (average)

The average length of the procedure is longer than we wished: 427 days, however the tacit agreement introduced at a European level by the new European regulation, might help to shorten the periods, it is still soon to evaluate this aspect.

**2. Domestic Spanish Regulation incorporating main changes brought by the EU Regulation: The Spanish Royal Decree 23/2015**

The new 1302/2013 EU Regulation has lead to replace the Spanish royal decree 37/2008 by a new one, the royal decree 23/2015, of 23th of January, recently published the 31 th of January of 2015. Despite this new royal decree keep the procedure and the basic elements of the old royal decree, it brings the new aspects established in the new UE regulation.

Despite the period of implementation had had to be of 6 months, the longer time used can be explained because all along the elaboration process of the new royal decree, a public information was launched, in order to consult both the Autonomous Communities and the Local Entities through their Federation (FEMP). No local entities made any observation whatsoever, and only two regions, Cataluña and Galicia made technical observations, not referred to content, that were accepted and included in the text.[[1]](#footnote-1) Moreover, the Spanish legal process requires consultation of the Council of State. All of this process made it possible to achieve a final text benefitting from broad acceptance of relevant actors.

Main innovations that are to be highlighted in the new Regulation:

In the first place, as regards legal entities entitled to take part in the EGTC:

* On the one hand, the possibility is given for legal entities of third countries and overseas territories to take part in the EGTCs
* On the other hand, there is an effort to clarify the criteria of ellegibility that will qualify private law parties for membership in a EGTC, by precising that only firms and businesses will be able to participate that have been relied upon for the provision of services of a general economic interest.

In the second place, the new provisions try and simplify the accession to already existing EGCT of new members originating in European Union Member states. In such case it will be no longer necessary to obtain approval of all participating States, but approval by the Member State of origin of the entity seeking accession will suffice.

Last but not least, if we take account of the special relevance as regards the administrative handling of approval applications for the setting up or accession to a EGCT, the European Regulation has introduced the legal possibility of a "tacit approval", if 6 months after the application of approval by the potential members of the EGCT, the relevant Member State has not issued any decision. In such event, the approval will be deemed as given.

Such possibility of a "positive silence" was already considered within the Spanish Regulation, now repealed. A deadline of 3 moths was retained in that case for the approval. This notwithstanding, the implementation of this legal possibility within an international legal framework, where different legal systems are applied and authorities from different countries intervene, was a difficult task. Now, the implementation of this possibility in every European Union Member State will offer a higher legal certainty and a more steady handling of approval procedures.

This notwithstanding, it has to be taken into account that both the global term for approval and the calculation of each of the partial terms are to a great extent depending upon the push given by those relevant parties interested. In accordance with Spanish Administrative Law, calculation of terms for the positive silence should be interrupted when the procedure is suspended due to the inaction of the interested parties.

The new regulation contained in the Royal Decree will be applicable to those EGCT set up after the entry into force of the amending EGCT EU Regulation.

From this date, three procedures have been applied before the Ministry for Finance and Public Administrations. Two of these include entities form the border area between Spain and France, whereas a third one is in relation to Portugal.

**3. An Exercise of assessment on how things are working until now: questionnaires being sent to the relevant interested actors in EGTC**

With the aim of deepening knowledge about the day to day reality of these EGCTs, getting to know better their operation and detecting any elements to be improved (including removal of possible existing barriers in the Spanish provisions regulating this procedure), the Directorate General for Cooperation between Public Administrations within my Ministry drafted some questionnaires of self-assessment. These questionnaires, comprising ten questions divided into two blocks, were sent by e-mail and posted on March 2014, to the already existing and operating EGTCs having their legal headquarters in Spain.

All in all, questionnaires were sent to 10 EGTC, 8 of which replied with properly filled in questionnaires.

It has to be said that within the realm of the border between Spain and Portugal, questionnaires were sent to the EGTC of Galice - Northern Portugal; Duero-Douro River; ZasNet; and Eurociudade Chaves-Verin, having received a proper reply of them all.

First 5 questions on the questionnaire dealt with more general questions on the organisation and operation of EGTC. As such, it was questioned whether the EGCT had kept a regular activity since the date of its creation, as well as on the number of times the General Assembly had met, or on the staff working for the entity. Information was also asked about the relationship with foreign members of the entity. Lastly, it was also asked whether within the EGTC single projects had been undertaken on cooperation and projects without European financing.

The last 5 questions of this questionnaire only were for reply if a positive reply had been given to the question on actual participation of the EGTC on cooperation projects and project without European financing.

It has be to underlined that all EGTC gave a reply to the last block of questions, the ones requiring detailed information on projects effectively activated and their degree of implementation, about main obstacles or difficulties identified in bringing into motion such projects, as well as on the particular regulation that could have been amended or improved. Questions about the assessment of projects completed until date (in terms of objectives, benchmarks, impact assessment…).

Main conclusions that could be drawn from the replies to the questionnaires are as follow:

* 87.5 % of EGTC confirm that they have kept a steady activity along the time after they were created, what proves that both the objectives for their at the time of their creation, as well as the subsequent objectives that were adopted are always valid after a time, which means that different actions are still being implemented in the realm of territorial cooperation.
* 87, 5 % of EGTC recruit staff working on an exclusive basis, always from the seat of the EGTC, although it should be noted that number of employees has experienced variations over time.
* 100% of EGTC are working in cooperation projects, and 87.5 % of such EGTC have completed projects withouth relying on european financing. This circumstance underlines determination of EGTC in strengthening economic and social cohesion, making it easier among their members the cross border, transnational and interregional cooperation, as well as raising funds far beyond the European Union. It has to be said, though, in this respet, that none of the EGTC have measured the degree of implementation of their projects. Only a single ECTC has even considered pursuing an impact evaluation of the projects already implemented.
* 75% of the EGTC declare that they have experienced problems arising from the co-existence of different administrative cultures together with different legal orders. Language has also been singled out as a barrier.
* 100% of EGTC express that cross border territories and populations are experienced specific and very different problems than the ones experienced by the rest of population: burdensome processes for the freedom of movement of cross border workers and personnel, inadequate transport lines, fiscal or tax systems and different legal frameworks.
* 100% of EGTC qualify the experience and the activity performed by themselves as positive or very positive.
1. No observation was received by Local Entities, whereas Autonomous Communities Catalonia and Galice made some observations of technical nature, not of content, which were included in the final text. [↑](#footnote-ref-1)