



**MINISTRY FOR THE ENVIRONMENT, TERRITORIAL PLANNING
AND REGIONAL DEVELOPMENT**

Decree Law No. 376/2007

of 8 November

Regulation (EC) No. 1082/2006, of the European Parliament and Council, of 5 July, establishes the juridical figure of the European Grouping of Territorial Cooperation (EGTC). It is a new juridical instrument for territorial cooperation within the framework of the European Union, permitting the establishment of public entities with a juridical personality with the aim of facilitating and promoting territorial cooperation among its Members with a view to strengthening economic and social cohesion.

Three different realities are inherent in the notion of territorial cooperation referred to in the abovementioned Community Regulation: cross-border cooperation, transnational cooperation, and inter-regional cooperation. The EGTC is a juridical figure that is particularly suited for the execution of cooperation actions or projects involving established partners in different Member States, namely those with access to European Union co-financing through structural funds.

Regulation (EC) No. 1082/2006 determines that the Member States must adopt the necessary regulations within their respective legislation to ensure effective application. In this context, the goal of the present decree law is to ensure the effective application in Portugal of Regulation (EC) No. 1082/2006, defining which Portuguese entities may be Members of an EGTC, and which procedures must be followed to constitute an EGTC, or which must be followed to enable Portuguese entities to participate in an EGTC that is

constituted in another Member State of the European Union.

The present Decree Law also fulfils the provisions outlined in Regulation (EC) No. 1082/2006 regarding the designation of the national authority that is competent to receive notifications of the future establishment of an EGTC, and the indication of the national authority that is competent to control of the management of public funds by an EGTC.

The National Association of Portuguese Municipalities was heard.

Thus:

According to Article 198 Paragraph a), no. 1 of the Constitution, the Government decrees the following:

Article 1

Aim

The present decree law adopts the measures that are necessary to ensure the implementation of Regulation (EC) No. 1082/2006 of the European Parliament and Council, of 5 July, on European territorial cooperation groupings (hereinafter referred to as EGTC).

Article 2

Nature and Mission

1 – An EGTC is a public collective associational body constituted by entities of two or more Member States of the European Union, the mission of which is to facilitate and promote cross-border cooperation, transnational cooperation and inter-regional cooperation among its members, with the exclusive aim of strengthening economic and social cohesion on the territory of the European Union.

2 – An EGTC is an entity with a legal personality enjoying the broadest possible juridical capacities available to collective entities in accordance with Portuguese law.

Article 3

Attributions

1 – The specific mandate of an EGTC is to execute territorial cooperation projects or actions co-financed by the European Union through the European Regional Development Fund, the European Social Fund or the Cohesion Fund.

2 – An EGTC can also promote studies, plans, programmes and projects, or establish other types of relationships between agents, structures and public entities that are in a position to contribute to the development of the territories at stake, with or without public, national or community co-financing, and also manage infrastructures and equipment and provide services that are in the public interest.

Article 4

Members of an EGTC

1 – The following can be members of an EGTC:

a) The State, through the services and entities it encompasses in direct and indirect administration, respectively;

b) Local authorities;

c) Inter-municipal authorities;

d) Metropolitan areas;

e) Public law entities, as described in Article 1, Paragraph 2, Point 9 of Directive No. 2004/18/EC, of the European Parliament and Council, of 31 March, about the coordination of processes of adjudication of public works contracts, public supply contracts, and public service contracts.

2 – It is also possible for associations constituted by the entities belonging to

one or more of the categories referred to above to be members of an EGTC.

Article 5

Participants in an EGTC

1 – The participation in an EGTC of the entities mentioned in the foregoing article is subject to the procedures provided for in the following numbered paragraphs:

2 – Entities aiming to participate in an EGTC must notify the Financial Institute for Regional Development (IFDR), I.P., of their intention.

3 – The above notification must be undertaken with the following elements:

a) A copy of the proposed agreement, elaborated in accordance with Article 8 of Regulation (EC) No. 1082/2006, of the European Parliament and Council, of 5 July;

b) A copy of the draft statutes, elaborated in accordance with the relevant national legislation and with Article 9 of Regulation (EC) No. 1082/2006, of the European Parliament and Council, of 5 July;

c) Complete information about the identity, nature, and limited or unlimited liability of the members of the EGTC, and about their respective functions within the future EGTC;

d) An explanatory record of the future activity of the EGTC, the way in which it proposes to strengthening economic and social cohesion within the European Union, and the legal framework covering the functions of the Portuguese members of the EGTC, with reference to the territorial cooperation competences established in national law;

e) Indication of the operative period of the future EGTC.

4 – The IFDR, I.P., verifies whether the notification meets the abovementioned requirements, accepting it, or rejecting it when any of the required elements is missing, in which case the notification is returned to the entity that aims to establish the EGTC, so that existing gaps can be filled.

5 – Once the notification has been accepted, the IFDR, I.P., proposes to the Member of the Government who is responsible for regional development, that a consultation be held with the Member of the Government responsible for foreign affairs, and with those Members of the Government with responsibilities on account of the matters of cooperation covered by the EGTC, so that these may verify, respectively, the conformity of the draft agreement with European community law and the international commitments of the Portuguese State, as well as with domestic law.

6 – The Members of the Government that are consulted must pronounce themselves about the draft agreement no later than a month after receiving them.

7 – At the end of the abovementioned period, if the sending entity has received no communication, it is to be understood that there are no objections to participation in the EGTC.

8 – The IFDR, I.P., sends the proposed decision to the Member of Government responsible for regional development.

9 – The decision about the participation of an EGTC must be taken, and the interested parties notified, no more than three months after the date of the reception of an admissible candidacy.

10 – There can be no approval of any alterations to the agreement establishing the EGTC or of any alterations to the statutes, with the necessary adaptations, that is not in accordance with the provisions of the above paragraphs.

Article 6

Applicable Law

For all that is not regulated by Regulation (EC) No. 1082/2006, of the European Parliament and Council, of 5 July, and by this decree law, the principles and the legal dispositions applicable to public associations cover any EGTC that is legally headquartered in Portugal.

Article 7

Form

- 1 – An EGTC with legal headquarters in Portugal must be constituted by public writ.
- 2 – The constitution of an EGTC is published in the second series of the *Diário da República* (the Portuguese official journal).

Article 8

Organs

- 1 – Any EGTC constituted in accordance with Portuguese law must have the following organs:
 - a) A General Assembly, in which all members of the EGTC are represented;
 - b) A Director, who represents the EGTC and acts in its name;
 - c) A Fiscal Council.
- 2 – The statute may provide for other organs, as long as their competences are defined clearly.

Article 9

Prohibition of Activity in Portugal

- 1 – If an EGTC undertakes any activity that violates any public order, public safety, public health, public morality or public interest dispositions, the member of the Government responsible for regional development can prohibit the activity of that EGTC in Portugal, or demand that participating Portuguese entities withdraw from that EGTC, unless the latter ceases all such activities.
- 2 – The prohibition referred to above must not constitute an arbitrary or covert restriction on territorial cooperation.
- 3 – The decisions proffered in accordance with the provisions in 1 – may be

contested in a court of law.

Article 10

Cessation of Functions

The functions of any EGTC that is legally based in Portugal may cease as a result of a decision by a member of the Government responsible for regional development, if that EGTC has ceased to fulfil the requirements established in Article 1 (2) or Article 7 of Regulation (EC) No. 1082/2006, of the European Parliament and Council, of 5 July, or if it has violated any Portuguese legal disposition that threatens the continuation of the activities of the EGTC on national territory.

Article 11

Extinction

The extinction of an EGTC must follow the terms provided for by the applicable agreement or statutes.

Article 12

Control

1 – The Inspectorate General of Finance is the competent national authority to control the execution of public funds by an EGTC, as provided for in Article 6 of Regulation (EC) No. 1082/2006, of the European Parliament or Council, of 5 July.

2 – Notwithstanding the provisions outlined in 1 – above, when the functions of an EGTC include actions co-financed by the European Union, national and community legislation governing the control of community funds shall apply.

Article 13

Entry into Force

This decree law enters into force on the day after its publication.

Read and Approved at the Council of Ministers of 27 September 2007. – *José Sócrates Carvalho Pinto de Sousa – Luís Filipe Marques Amado – Fernando Teixeira dos Santos – Francisco Carlos da Graça Nunes Correia.*

Promulgated on 26 October 2007

Order to Publish

The President of the Republic, Aníbal Cavaco Silva

Voted on, 30 October 2007

The Prime Minister, José Sócrates Carvalho Pinto de Sousa