

REPUBLIC OF BULGARIA
C O U N C I L O F M I N I S T E R S

COPY!

D E C R E E № 199

dated 29 August 2007

FOR making national provisions concerning the European Groupings of Territorial Cooperation

THE COUNCIL OF MINISTERS
HAS DECREED:

Article 1. (1) A European Grouping of Territorial Cooperation, hereinafter referred to as “EGTC”, with a registered office in the Republic of Bulgaria, may be established to facilitate and promote territorial cooperation – cross-border, transnational and interregional, made up of members which may be:

1. Member States;
2. regional authorities;
3. local authorities;
4. bodies governed by public law;
5. associations of bodies belonging to one or more of the above.

(2) A European Grouping of Territorial Cooperation is established by a minimum of two legal persons – Bulgarian and foreign, formed under the law of a Member State of the European Union, and with the exclusive aim of strengthening economic and social cohesion.

(3) The Republic of Bulgaria is represented by the Minister of Regional Development and Public Works, having received the consent of the Minister of Finance and having informed the Council of Ministers.

Article 2. (1) The decision to establish a European grouping of territorial cooperation shall be taken at the initiative of its prospective members, who elaborate and unanimously agree on a draft convention (founding agreement) and statutes.

(2) The convention (founding agreement) shall specify:

1. the name of the EGTC and its registered office;
2. core activity, objective and tasks of the EGTC and means for their attainment;
3. the extent of the territory in which the EGTC may execute its tasks;
4. its duration and the conditions governing its dissolution;
5. the list of the EGTC’s members;
6. the appropriate arrangements for mutual recognition, including for the purposes of financial control and audit;
7. the law applicable in cases of disputes among EGTC’s members and to the interpretation and enforcement of the convention (founding agreement);
8. the law applicable in cases of disputes whereby the EGTC is a party, in accordance with the provisions of Article 15 of Regulation (EC) 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) [OJ L 210,

31.07.2006, p. 19–24];

9. the procedures for amending the convention (founding agreement), which shall comply with the obligations with respect to the registration and notification of the EU Member States concerned.

(3) The statutes of an EGTC shall be adopted by its members acting unanimously and shall as a minimum contain the provisions of the convention (founding agreement) together with the following:

1. the branches and organs of the EGTC, their operating provisions and competences, as well as the number of representatives of the members in the relevant organs;
2. decision-making procedures of the EGTC and the rules with respect to the manner of representation of the grouping;
3. the working language or languages;
4. the arrangements for its functioning, notably concerning personnel recruitment and management;
5. the budgetary and accounting rules, including the arrangements for determining and collecting the members' financial and initial property contributions;
6. arrangements for members' liability as regards liquidation, insolvency, cessation of payments;
7. manner of distribution of the remaining property after satisfaction of creditors;
8. rules for origination and termination of membership, as well as the ensuing rights and responsibilities;
9. the procedure and authorities responsible for the designation of independent external auditors;
10. the procedures for amending the statutes, which shall comply with the obligations with respect to the registration and notification of the EU Member States concerned.

(4) For the purposes of registration the statutes shall be accompanied by documents and/or permissions certifying for each potential member of the EGTC that the Member State under whose law it has been formed, approves the prospective member's participation in the EGTC.

(5) The statutes, the convention (founding agreement) or amendments thereto shall also determine the activities to be pursued set out in Article 2 of the Law on Non-profit Legal Entities.

Article 3. (1) A European Grouping of Territorial Cooperation shall be liable for its debts whatever their nature.

(2) To the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be jointly unlimitedly liable for EGTC's debts, each member's share being fixed in proportion to its contribution.

Article 4. An EGTC shall have at least the following organs:

1. an assembly, acting as a supreme entity of the EGTC;
2. a managing board, which is made up of at least three persons representing the members of the EGTC.
3. a director, who is elected by the assembly. The leader represents the EGTC and acts on its behalf and on its account.

Article 5. (1) The decision to establish a European Grouping of Territorial Cooperation shall be taken at the initiative of its prospective members provided that for each potential member the Member State under whose law it has been formed approves the prospective member's participation in the EGTC.

(2) A Bulgarian legal entity, which co-founds or joins an EGTC with its registered office on the territory of Republic of Bulgaria or in a Member State of the European Union, is obliged to notify the Minister of the Regional Development and Public Works by means of a

request form template, approved by the Minister of the Regional Development and Public Works, accompanied by copies from the draft convention (founding agreement) and statutes.

(3) The Minister of the Regional Development and Public Works, after receiving the consent of the Minister of Finance, within three month period from the date of receiving the notifications under paragraph 2, shall provide written approval unless it considers that the prospective member's participation in the EGTC is not in conformity with national law and/or EU law. In such a case the requester shall be informed in writing for the reasons of withholding approval.

Article 6. (1) European Groupings of Territorial Cooperation with registered office on the territory of Republic of Bulgaria shall be registered as associations, pursuing activities for public or private benefit on the basis of the Law on Non-Profit Legal Entities.

(2) The European Grouping of Territorial Cooperation acquires legal personality on the day of its registration in the register for non-profit legal entities, on a separate account for EGTC, within the jurisdiction of the competent court by the registered office of the respective non-profit legal entity.

(3) After its establishment the EGTC, defined as such pursuing activities for public benefit, is subject to entry, on a separate account for EGTC, in the Central Register of the Ministry of Justice.

(4) The members of the EGTC shall inform the Member States concerned and the Committee of the regions of the convention (founding agreement) and the registration.

(5) The EGTC shall ensure that, within 10 working days from registration in the competent court, a request is sent to the Office for Official Publications of the European Communities for publication of a notice in the *Official Journal of the European Union* announcing the establishment of the EGTC, with details of its name, objectives, members and registered office.

Article 7. EGTC with a registered office in the Republic of Bulgaria, defined as such pursuing activities for public benefit:

1. may be assisted and encouraged by the country through tax, credit-interest, customs and other financial and economic preferences without prejudice to the applicable state aid rules;
2. may apply for grant support under the Programme Phare for Cross-Border Cooperation, where applicable;
3. may apply for grant support from the European Union, and more specifically under the Objective 3 "European territorial cooperation" without prejudice to the applicable state aid rules.

Article 8. (1) The control of the management of the public funds by the EGTC is organized by the Minister of Finance as a competent authority, without affecting the functions of other competent authorities in the Republic of Bulgaria, of other Member States concerned or at the European Union level. In the case of Article 7, paragraph 3, the control is executed by the "Audit of European Union Funds" Directorate in the Ministry of Finance, whilst the coordination with other financial sources and instruments – by the "Management of European Union Funds" Directorate in the Ministry of Finance.

(2) All controls shall be carried out according to the applicable audit.

(3) The cooperation with the authorities of other Member States concerned and exchange of information relating to the potential or undertaken participation of the EGTC in Objective 3 "European territorial cooperation", and under Programme Phare for Cross-Border Cooperation, where applicable, is performed by the Minister of Regional Development and Public Works, who in turn informs the Minister of Finance.

SUPPLEMENTAL PROVISIONS

§ 1. Within the meaning of the Decree:

1. “Regional authorities” in the Republic of Bulgaria are administrative districts that correspond to NUTS 3 level of the Nomenclature of the Territorial Statistical Units. The administrative district proves its will to participate as a member in an EGTC by the issuing of district governor’s order, a copy of which is attached to the request form under Article 5.

2. “Local authorities” in the Republic of Bulgaria are municipalities that correspond to the LAU 1 level (Local Administrative Units) of the Nomenclature of the Territorial Statistical Units. The municipality proves its will to participate as a member in an EGTC by municipal council decision, a copy of which is attached to the request form under Article 5.

3. “Bodies governed by public law”, in cases where the potential member of the EGTC is a Bulgarian legal entity, are defined according to §1, point 21 of the Supplemental Provisions of the Public Procurement Law.

§ 2. When the law in the Republic of Bulgaria or in the respective Member State, under whose law a potential member of the EGTC has been formed, excludes or limits the liability under Article 3, paragraph 2, that member shall not participate in the EGTC with a registered office in the Republic of Bulgaria.

§ 3. The Decree is makes provisions to ensure the application of Regulation (EC) 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).

TRANSITIONAL AND FINAL PROVISIONS

§ 4. Within three months as from the entry into force of the Minister of Regional Development and Public Works, after receiving the consent of the Minister of Finance, shall approve the request form – template under Article 5.

§ 5. The Decree is adopted on the grounds of Article 105, § 1 and Article 106 of the Constitution of the Republic of Bulgaria, Article 7a of the Law on Normative Acts and Article 27 of the International Contracts of the Republic of Bulgaria Act in conjunction with the Treaty of Accession of the Republic of Bulgaria to the European Union and Article 16 of Regulation (EC) 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).

§ 6. Enforcement of the Decree shall be assigned to the Minister of Justice, the Minister of Finance and the Minister of Regional Development and Public Works.

§ 7. The Decree shall take effect as from the date of its promulgation in the State Gazette.

THE PRIME MINISTER: /sgd./ Sergei Stanishev

CHIEF SECRETARY OF

THE COUNCIL OF MINISTERS: /sgd./ Sevdalin Mavrov

True

DIRECTOR OF THE OFFICE OF THE

GOVERNMENT DIRECTORATE: *sgd.ill.*

/Vesselin Dakov/

Round seal of the Council of Ministers of the Republic of Bulgaria