



**INTERact**

*Sharing Expertise*

# The European Grouping of Territorial Cooperation

What is it?

Legal framework (existing and new options/updates)

Roadmap to set up and run an EGTC

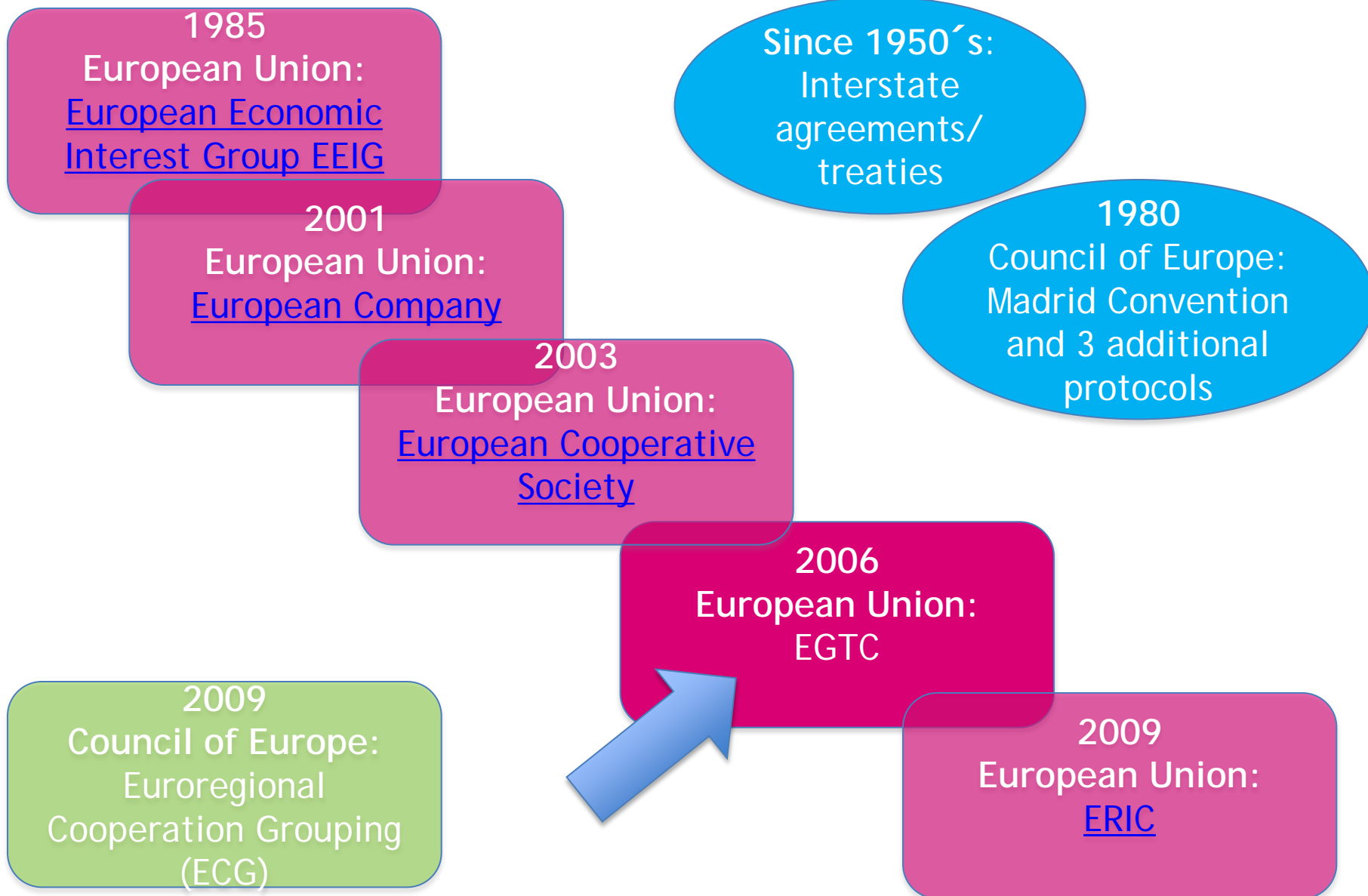
Training material - December 2012





# The EGTC in a nutshell

# Legal instruments for territorial cooperation





## Regulation (EC) No 1082/2006 on the EGTC

- Created the first European cooperation structure
  1. with legal personality
  2. defined to facilitate and promote territorial cooperation
  3. between national, regional and local authorities and other public-law bodies
  4. with the aim of strengthening economic & social cohesion in the European Union
- Adopted in July 2006, applicable since July 2007
- Direct application in all 27 EU Member States





## 1. Legal personality:

- Can act on behalf of its members
  - Can hire own personnel
  - Has its own budget
  - Can receive grants (e.g. EU grants), loans
  - Can rent/buy offices/equipments
  - Can contract supplies, works and services
  - Can take and be part of legal actions
- *EGTC has the «most extensive legal capacity» under the legislation of the Member State where it has its seat*
- *Status (private/public) is determined by the legislation of the Member State of the seat*





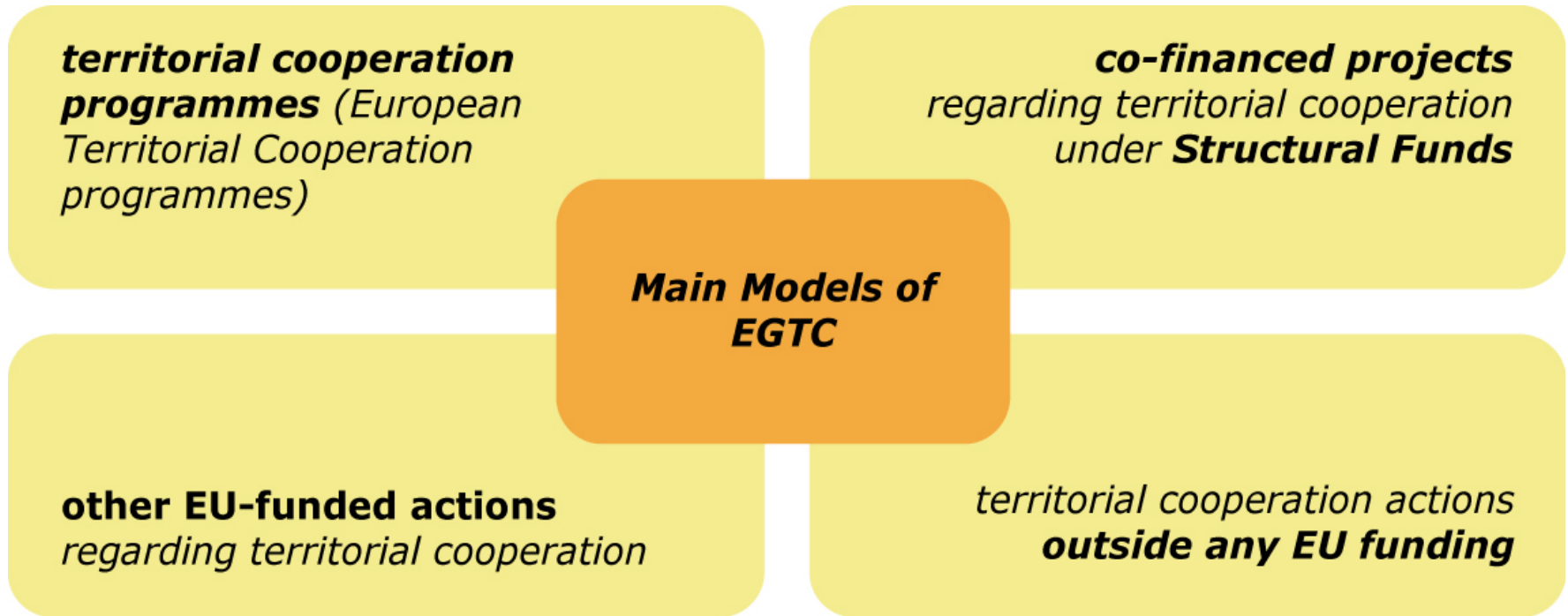
## 2. To facilitate and promote territorial cooperation



- Cross-border, transnational and interregional scale
- At least 2 members from 2 EU Member States -
- Territorial cooperation:
  - European Territorial Cooperation
  - Interregional cooperation in Objective 1-2 (article 37(6)(b))
  - Other (with or without EU financing)



## There are 4 models of EGTC (art. 7):



- Member States may restrict to EU-funded EGTCs only (the first 3 categories above)
- Reality check: most EGTCs in place are not EU-cofunded!



## 3. For cooperation between national, regional and local authorities and other public-law bodies

- An EGTC can be even among all the political and administration levels involved: State, Region, Local
- Private bodies are not excluded if they comply with public procurement directive
- Cooperation with partners from third countries under specific conditions







## 4. With the aim of strengthening social and economic cohesion, e.g.



- Cooperation in the field of transport, education, environment, administration, research, etc
  - *Exclusion of regulatory powers (justice, police, foreign policy)*
  - Common/joint management of funds
  - Common/joint management of territorial institutions and services
  - Common/joint exploitation of territorial resources (nature, culture, business)
- *EGTC can work on one or several fields of action*



## Applicable legislation

1. EGTC Regulation 1082/2006
2. Provisions of convention and statutes of the EGTC, where authorised by the Regulation
3. Other applicable EU legislation (e.g. public procurement)
4. National rules of Member State of the seat:
  - National provisions on application of the EGTC Regulation: all available on INTERACT website
  - National rules on control/audit, budgetary rules, public procurement )etc



## Let's keep in mind!



- ✓ Recourse is optional
- ✓ Other instruments remain available
- ✓ EGTC does not replace existing levels of administration!
- ✓ EGTC is not an instrument of diplomacy -EGTC is a tool, not an objective!
- ✓ Creating an EGTC does not give automatic access to (EU) funding!

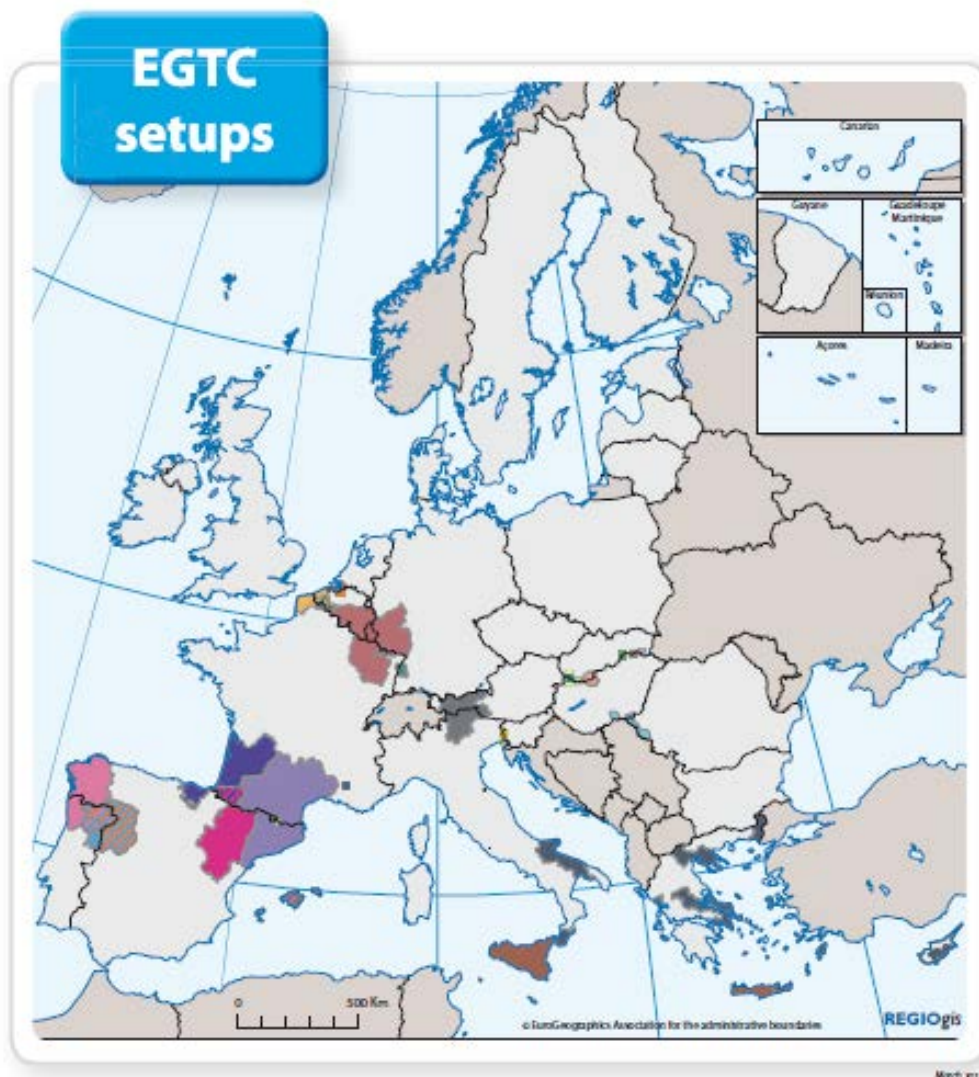


## The pros of the EGTC

1. EU-wide legal instrument
2. Sole EU instrument targeted to the needs of territorial cooperation
3. Single structure with capacity of action (staff, budget): real cooperation is possible + economies of scale
4. Very few requirements for set up: 2 organs, statutes and convention, financial management
5. It works: there are already experiences to learn from
6. EGTC guarantees legitimacy, transparency/liability, more visibility for territorial partnerships
7. Sustainable: guarantees long-term commitment of partners



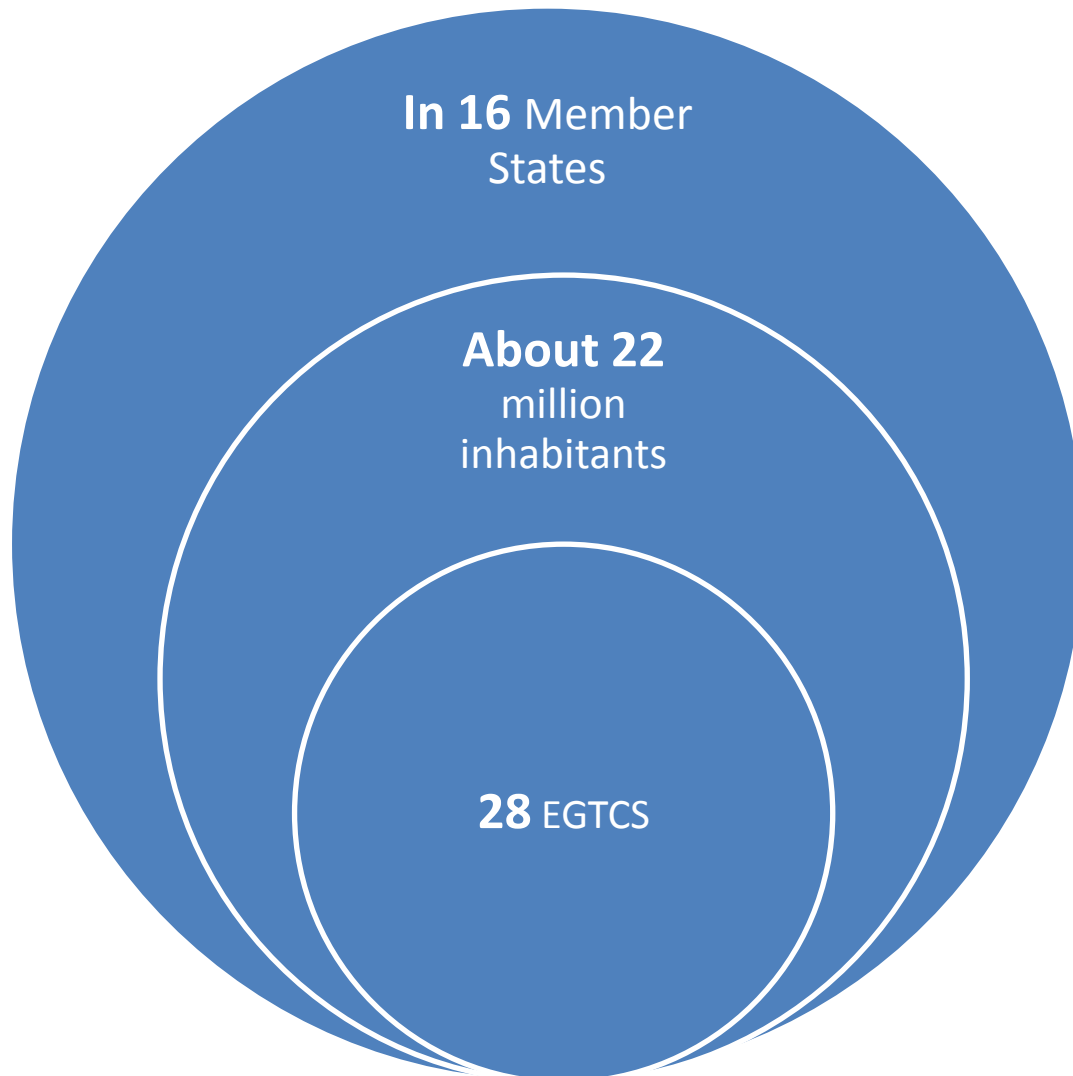
# The EGTC Family



May 2012:  
28 EGTCs



- **28 EGTCs registered as of May 2012 (CoR)**
  - 16 Member States involved - no third countries as members (but associated partners)
  - Higher involvement in France (11), Hungary (10), Spain (9), Slovakia (8)
  - Most registered EGTCs are in France and Hungary (8)
  - 26 out of 28 are bilateral EGTCs -> cross-border focus
  - Most EGTCs imply entities of same/comparable level
  - 1 EGTC is Managing Authority of an ETC programme: Greater/Grande Region



## The typical EGTC....

- 25 partners
- Multi-functional
- Governance of joint territory
- Past cooperation in the area (e.g. Euroregion, projects)
- Cross-border
- Unlimited or long duration
- Several organs (working groups, board, advisory council etc)
- No or limited EU funding





## Growth and jobs

- EGTC Galicia y Norte de Portugal: management of Cooperation Plans
- EGTC Eurometropole Lille-Kortrijk-Tournai: economic pole for development and attracting investments
- EGTC Ister Granum: regional development and economic cohesion
- EGTC Duero-Douro: economic and social cohesion





## Education

- EGTC Pyrénées-Méditerranée: creation of a joint university campus and course
- EGTC ZASNET: cooperation in the field of marketing culture i.e. for tourism purposes
- EGTC Amphictyony: cooperation on the theme of research and culture





## Culture, heritage, tourism and environment

- EGTC Pyrénées-Méditerranée: Culture Fund with annual calls for projects
- EGTC Karst-Bodva: through EU financing, implementation of environmental protection
- EGTC UTTS: energy and environmental protection projects





## Health

- EGTC Cross-border hospital Cerdanya (France-Spain)



### **Hospital de la Cerdanya / Hôpital de Cerdagne**

HOSPITAL TRANSFRONTERER DE LA CERDANYA I EL CAPOR  
HÔPITAL TRANSFRONTALIER DE CERDAGNE ET CAPOR





## Public administration and transport

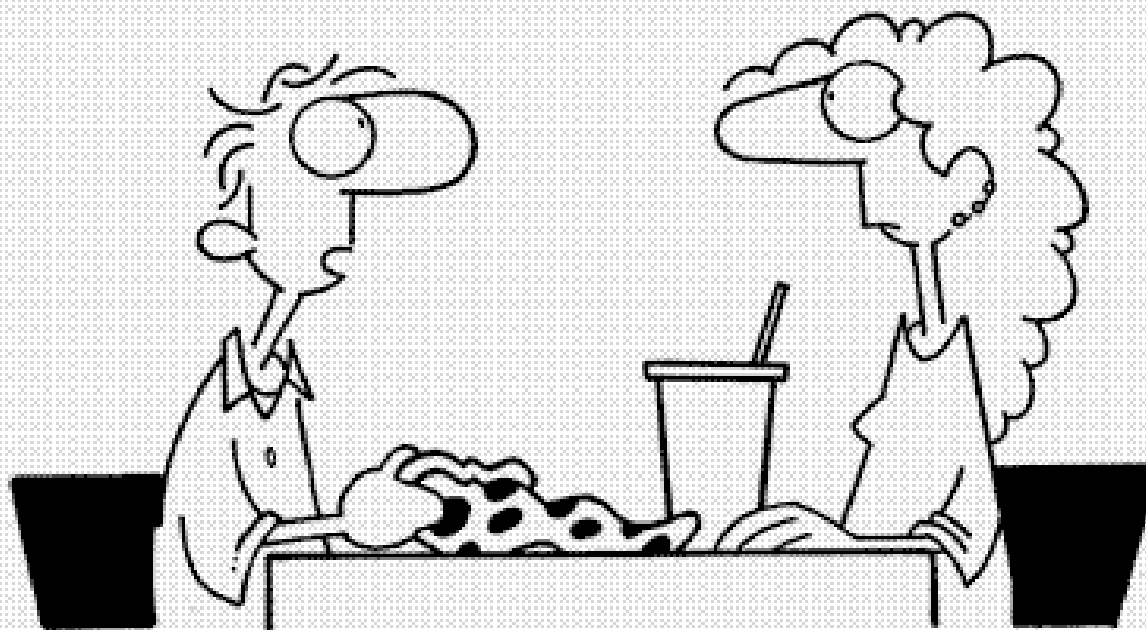
- EGTC West Flanders Dunkerque-Cote d'Opale: developing joint territorial strategies, according to needs of population
- EGTC Eurodistrict Strasbourg Ortenau: implementation of projects for the citizenship
- EGTC Grande Région: implementation of territorial cooperation projects





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**How is  
the future  
like?**



"IT MAKES NO SENSE TO WORRY ABOUT THE FUTURE.  
BY THE TIME YOU GET THERE, IT'S THE PAST!"



# Adapting EGTC Regulation

## Commission proposal 6 October 2011

**Continuity**

**Clarification**

**Simplification and flexibility**

**Opening new possibilities**





## Fields of intervention

- NEW: EGTC for „territorial cohesion“ added (new Treaty)
- NEW: Applies to „Union“ territory
- NEW: EGTCs with 3rd countries and oversea territories:
  - 2 EU members /1 non-EU member EGTC for carrying out joint territorial cooperation actions or EU programmes
  - 1 EU member /1 non-EU member EGTC if MS considers relevant
- NEW: Membership open to „public undertakings“

## Applicable law:

- Incl. relevant Union law (e.g. transport, environment) - to be mentioned in convention
- Regulation covers EGTC and its activities



## Approval procedure:

- Rejection must be based on non-compliance with substantive law (or if contravention against public interest/policy)
- Delay for assessment: from 3 to 6 months
- NEW: tacit approval

## Convention and statutes

- Notification to MS of the seat of any amendment to statutes
- New member joining existing EGTC - 3 scenarios for modification of statutes (new member from MS already involved / from other MS / from third country or oversea)
- More detailed and flexible specifications what is to be listed in convention and statutes



- **Staff:** solutions for tax and social security – staff may be employed according to:
    - national rules of country of the seat
    - National rules of country where the staff is located/working
    - National rules of country of which staff is a national
- Additional ad-hoc rules may be added
- **Liability:** insurance-based solution to current incompatibility issues



## Adoption and validity of amended regulation

- Amended Regulation will be adopted as part of legislative package for Structural Funds 2014-2020 (by mid 2013?)
- MS will have 6 months to update national rules
- No validity period - EGTC not restricted to SF



# New period, New possibilities



## EGTC in Structural Funds programmes & projects:

- EGTC can act as Managing Authority of ETC programme (not new) - What is new is that if such option is selected, FLC must be done by EGTC
- EGTC can run part of ETC programme (e.g. global grant)
- EGTC can act as sole beneficiary of EU projects (not new, but clarified) - not only ETC projects but others, e.g. "Youth in Action", etc.
- EGTC can be involved in interregional cooperation in mainstream programmes (see art. 87 draft CPR Regulation): EGTC can coordinate such cooperation on behalf of the participating OPs
- EGTC can be involved in new cooperation instruments - see next slide



## Integrated Territorial Investment (ITI)

- Source: draft Regulation on CSF, Article 99  
draft Regulation for ETC, Article 10
- ITI is a new instrument proposed by the draft regulation that allows bundling of funds and has rural-urban areas as main targets and stakeholders.
- The difficult administration of the “bundle” requires a strong coordination and monitoring of funds (ERDF, ESF, EAFRD for example)
- An intermediate body chosen by the MS or the MA must carry out the management and implementation of an ITI. This role can be played **by an EGTC in case of an ETC programme**



## Community-led local development (CLLD)

- Source: draft Reg. on CPR Art. 28 and following draft Regulation on ETC Art. 9
- Another instrument to ensure a bottom-up approach and a closer collaboration of the lowest levels of multilevel governance through fund bundling
- The MA ensures that a Local Action Group (LAG) either selects one of its partners as a leader or comes together as **a legally constituted common structure**.
- Can an EGTC be a member of a LAG? Yes as they accept both private and public partners
- Can a LAG be turned into an EGTC? Yes as it is a **legally constituted common structure**.





## Joint Action Plan (JAP)

- Source: draft Reg. on CPR Art. 93-99  
draft Regulation on ETC Art. 8
- A tool that allows a programme or programmes to set up one operation made up of several projects, bundling one or several funds. Financing shall be based on project outputs and results (not real-cost based)
- A JAP can be carried out under the responsibility of an EGTC, acting as beneficiary of the JAP.
- Decisions on projects are taken by a Steering Committee. The members of the EGTC assembly as well as members of the JTS of the ETC programme may become members of the JAP Steering Committee (but EGTC members may not hold the majority of seats in the Steering Committee)



# The EGTC roadmap

*„21 steps to set up  
and run an EGTC “*



## Phases:



## Prerequisites:

- Political support and commitment
- Previous cooperation and certain degree of integration and trust
- Do not mix up the box and its content!

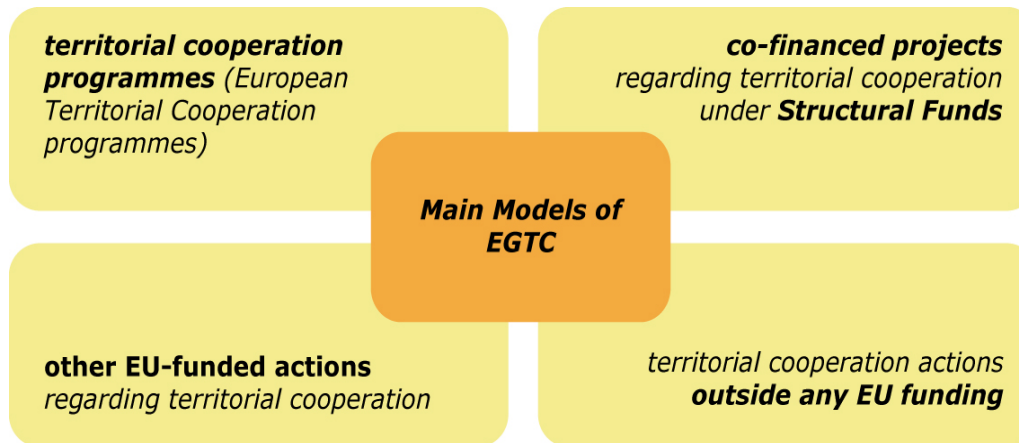




## p1 Analysis of the needs and objectives of the cooperation

- **Objectives:** To facilitate and promote territorial cooperation  
To strengthen economic and social cohesion

- **Tasks:**



- EGTC may not act in the field of justice, police, foreign policy (regulatory powers), etc.



- A possibility, not a requirement - will be strongly encouraged for next period
- Possibilities for ETC programmes (art. 18 1080/2006):
  - MA and/or JTS functions or manage a sub-programme
  - Act on behalf of the responsible MS
  - Act as interface between the participating MS



CBC Programme Greater Region (FR-BE-LU-DE): EGTC acts as MA since April 2010

- Possibilities outside of ETC:
  - To manage a global grant in the context of objective 1-2 interregional cooperation (article 37(6)b)
  - New cooperation actions...



- **EGTC fulfills all 4 cooperation criteria** (joint development, implementation, staffing, financing)
- **EGTC can act as sole beneficiary** (lead partner - no additional partners needed) or as lead partner
- **Creating an EGTC does not give automatic access to EU funding!**
- **Types of intervention:**
  - Run a cross-border service: e.g. Cerdanya cross-border hospital (FR-ES), joint waste water treatment plant, etc. EGTC can be owner and manager of the infrastructure.
  - Coordinate a transnational or cross-border network (e.g. cooperation between natural parks, employment services, etc)



According to its objectives the EGTC can be:

- **UNIFUNCTIONAL** , created to manage a specific task:
    - Programme: Greater Region CBC Programme FR/DE/LU/BE
    - Project: Cerdanya cross-border hospital ES/FR
  - **MULTIFUNCTIONAL**, tackling a number of tasks and activities:
    - Governance of a cross-border territory (14 EGTCs)
    - Network EGTC (Amphyctiony and Archimed)
- *Objectives and fields of action must be agreed by all partners  
- in convention and statutes*





## p2 Scope of cooperation

- Partners will be acting
  - in a common framework - find common denominator
  - within the limits of their competences under national law
- Any type of actions eligible under article 6 of ERDF Regulation (on ETC)



No transfer of competences to the EGTC

→ Only transfer of specific tasks/missions



## p3 Definition of the territorial scale

- Cross-border / transnational / interregional  
→ *You do not need to share a common border*
- (Parts of) territory from at least two MS  
→ *Territory of the EGTC does not have to fit the territory of its members*
- Third Countries' participation: check possibilities



- Non-EU Member States are not concerned as such
- Conditions for participation (1082/2006 preamble/16):
  - 3<sup>rd</sup> country adopts national legislation to create an instrument similar or close to the EGTC; OR/AND
  - 3<sup>rd</sup> country signs agreements with EU Member States to enable their authorities to participate in EGTCs.
- Participation also subject to national provisions of the MS
- Seat of the EGTC must be in the EU
- EGTC must include at least members from two Member States - Bilateral EGTCs (MS-Non MS) not allowed



## p4 Identification of the partners

- Possible members (art. 3):
  - Member States (national/central authorities)
  - Regional and/or local authorities
  - Associations of public authorities e.g. Euroregions, Working Communities (with legal personality)
  - Bodies governed by public law (Art. 1(9) of Directive 2004/18/EC)
- “Private”: if they fulfill the criteria of the Directive EC 2004/18/EC.
- Private partners can be associated



Restrict the circle of members to a small number of committed members!



New members can join at a later stage



## p5 Exploration of the available national legal frameworks

- Important for determining the location of the registered office  
*NB: National law of the country of the seat will determine budgetary and financial management, public procurement, tax regime, etc.*
- Other criteria must be considered too: attractiveness, partner willing to host, etc





## p6 Securing financing

- Creating an EGTC does not give automatic access to specific EU-funding!
- EGTC should start with a minimum budget covering running costs, based on members' contributions
- Additional possible sources of financing:
  - In-kind contributions of members
  - EU grants (ERDF, ESF, Cohesion Fund, FP7, etc)
  - EU, national or private loans, guarantees
  - Private contributions



## p7 What is the right timing to set up the EGTC?

- **For a project**
  - Before submitting project application? Consider timing and calls in the programmes. EGTC will then submit the application.
  - „Normal“ project partnership submits application - parallel setting up of EGTC - transfer of project management to EGTC once approved
  - At project closure - to ensure long-term stability of partnership
- **For a programme**
  - Prepare now for the 2014-2020 period!!!
- **For other actions**
  - Consider political/electoral agendas/macro-regions

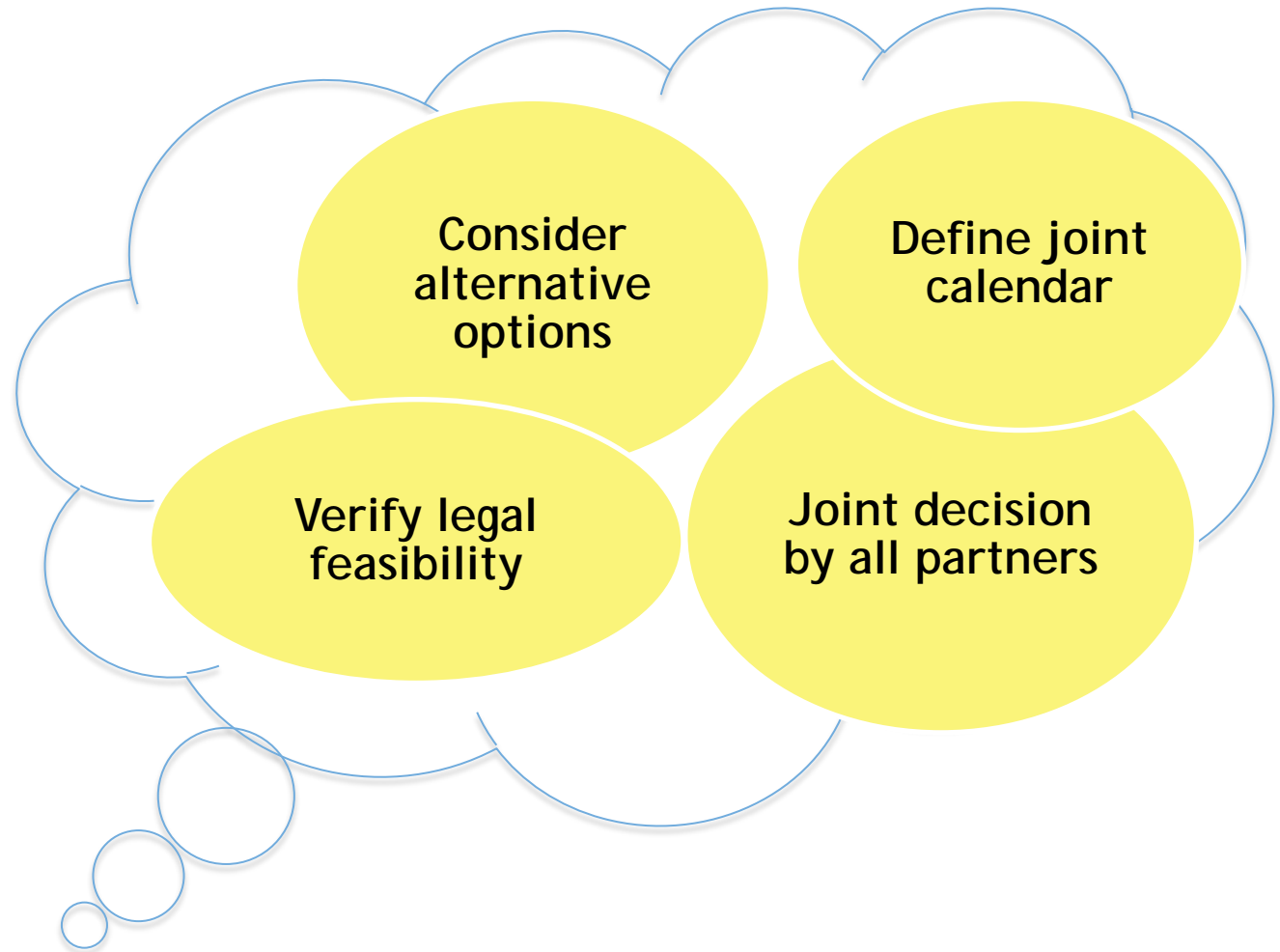


## p8 Anticipate potential risk of delays

- All partners must be committed to notifying at the same time: EGTC cannot be set up unless all partners have a go
- Member States / notification authorities to respect the 3 months deadline
- Feedback loops may be needed - clarifications. Close contact to national notification authority recommended!
- Different political and electoral agendas









## d9 Consider alternative options

- Cooperation agreements, Memorandum of understanding
  - Other cooperation structures:
    - Community instruments (EEIG, SCE, SE)
    - Instruments based on multilateral or bilateral treaties and agreements
    - Cooperation instruments based on national legislation
- What is available? What is most appropriate?



## d10 Verify the legal feasibility

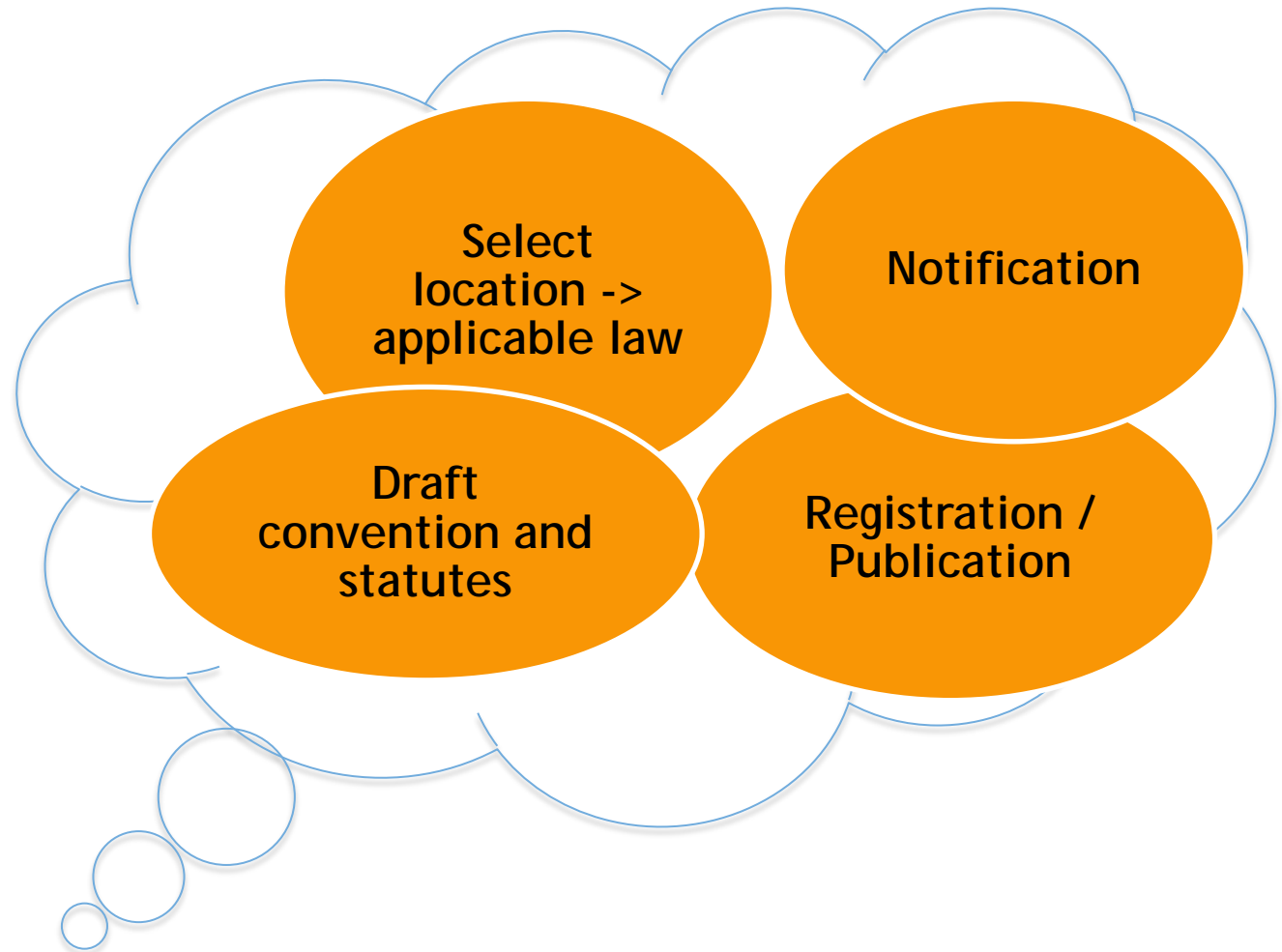
- What national provisions are applicable in the different Member States concerned?
- Which national provisions are the most appropriate/favourable for the EGTC?
- Are there incompatibilities between national rules?
- Are all partners still equally committed incl. financially?
- Can all partners agree on a joint calendar?



Carry out feasibility studies and consult supporting institutions/legal experts!

→ Decision





If you choose to create an EGTC, the entire Regulation applies!



## s11 Location of the registered office

- Seat to be in a MS of one of the members - branch offices can be set up in other countries
- Seat determines applicable law + financial control procedures
- **Decision criteria?**
  - Social/fiscal provisions
  - Working conditions
  - Accessibility
  - History of cooperation
  - Proximity to population
  - etc



## s12a Drafting of the convention



- **Unanimously** decided by members
  - Name of EGTC (mention Ltd. If limited liability), registered office
  - Territory
  - Objectives and tasks, duration and conditions on dissolution
  - Members
  - Law applicable to interpretation and enforcement of convention (MS of seat)
  - Arrangements for mutual recognition (incl. financial control)
  - Procedures for amendment of convention

KISS rule -> each amendment to be approved by MS

Give a simple name using label 'EGTC'

Consult national provisions - may require additional information



## s12b Drafting of the statutes

- Operational document
- **Unanimously** decided by members
- Statutes have to specify:
  - Organs: operating provisions + competences + members
  - Decision making procedures
  - Working language(s)
  - Arrangements for functioning (e.g. personnel management)
  - Arrangements for members' financial contributions
  - Budgetary rules
  - Liability
  - Additional articles may be added by the members



KISS rule -> each substantial amendment to be approved by MS

Consider additional document for more specifications!

Translation: be cautious!



## s13a Notification of the convention and statutes

- **Notification** by each partner to the notification authority in their MS: **submission** of convention and statutes
- MS decision within 3 months
- **What will be checked by the Member States?**
  - Completeness of request
  - Conformity with legal provisions (EU and national)
  - Any other elements based on national provisions



**Flexibility of the Member States to apply or not a strict ex-ante control**

**BUT legality check - NO opportunity check!**



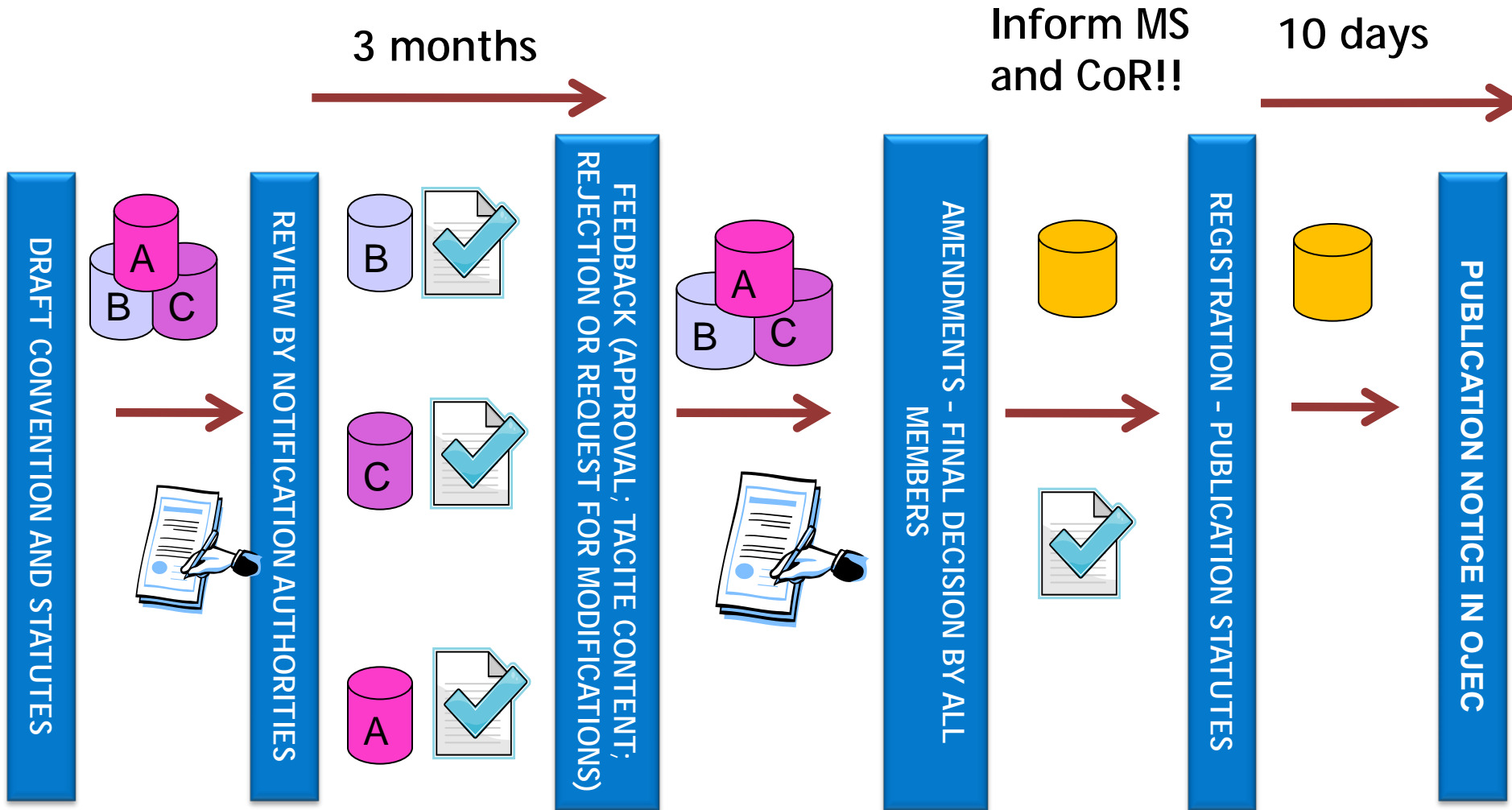


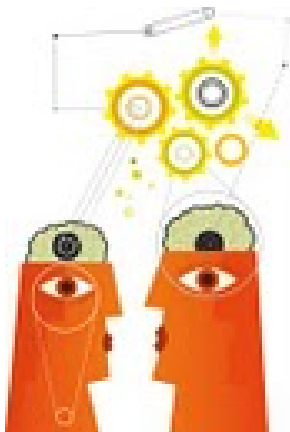
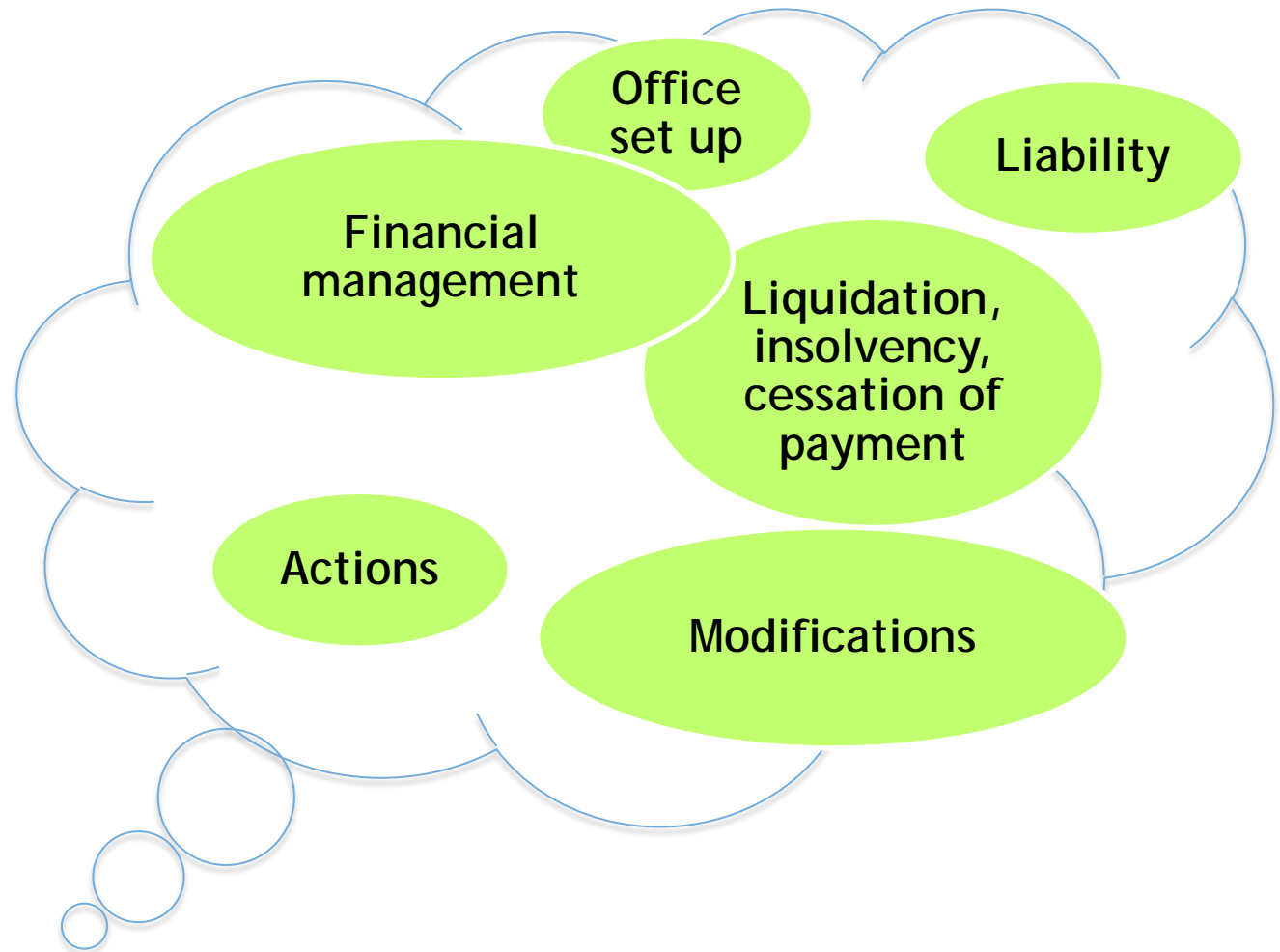
### s13b Publication of the convention and the statutes

- After approval by each concerned MS, members must validate unanimously the final convention and statutes
- **Publication** of statutes according to applicable national law (MS of the seat)
- Pass **information** on convention, registration and/or publication of statutes on to all concerned MS + Committee of the Regions
- **Publish** short notice in the Official Journal of the European Union - within 10 days

→ **legal personality - the EGTC can start!**

# Summary of the main steps





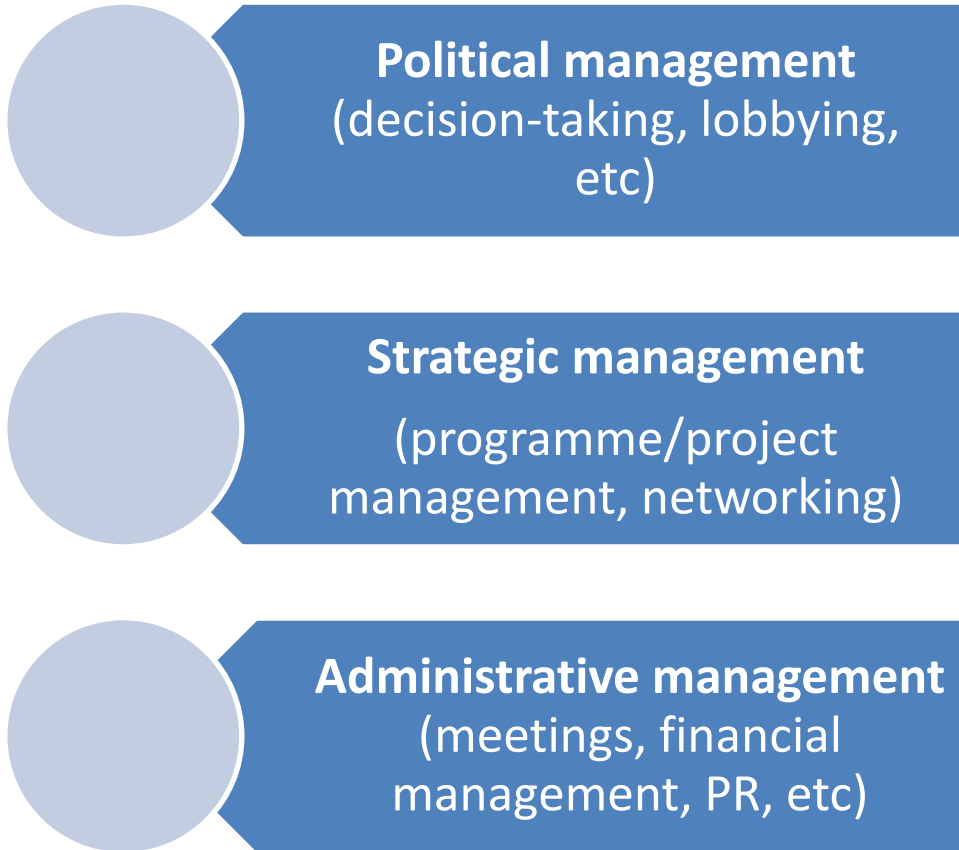


## r14 Launching the EGTC

- Establishment of the office (and branch office(s))
- Recruitment → avoid seconded staff as permanent solution!
- Opening of bank account → first contributions of members
- Administrative actions: e.g. fiscal and social registration
- Setting-up of organs:
  - **assembly**: made up of representatives of its members
  - **director**: represents the EGTC and acts on its behalf
  - additional organs possible
- Internal work flows and procedures (esp. financial management/accounting)



## r15 Actions



Annual workplan to accompany the annual budget



## r15 Actions - which rules apply?

- **Outsourcing:** national public procurement rules of the country of the seat? still grey area...
- **Construction/implementation:** Building, environmental rules of the country, where the activities take place
- **Control of expenditure:**
  - applicable EU rules
  - national rules of the country of the seat? Still grey area...
- Control by controller of the EGTC country, support by controller from the country of the actions can be provided (e.g. on-the-spot check)



## r16 Budget, control of financial management of public funds

- **Contributions by all members: not compulsory, recommended**
  - Equally or not?
  - Sufficient budget needed to guarantee capacity of action
  - Possibility of in-kind contributions
- **Budget composition:**
  - running costs (office, meetings, staff, etc)
  - operational costs (project-related budget)
- **Control:** financial control procedures, accounting and audit trail based on national rules of the MS of the seat + EU rules for EU-cofinanced actions



## r17 Liability

- An EGTC is always liable for its debts - unlimited liability
- If assets are insufficient to cover debts, residual liability of its members applies (unlimited or limited - ie. proportional to their contribution)
- If the liability of one member is **limited** (by existing national law), other members may also limit their liability provided that limited liability is authorised by their own national law and by the MS of the registered office



Name of EGTC to mention "limited liability - ltd" if applies



MS can prohibit registration of an EGTC whose members have limited liability!





## ■ r18 Liquidation, insolvency and cessation of payments

- Matters governed by the national rules of the MS of the seat





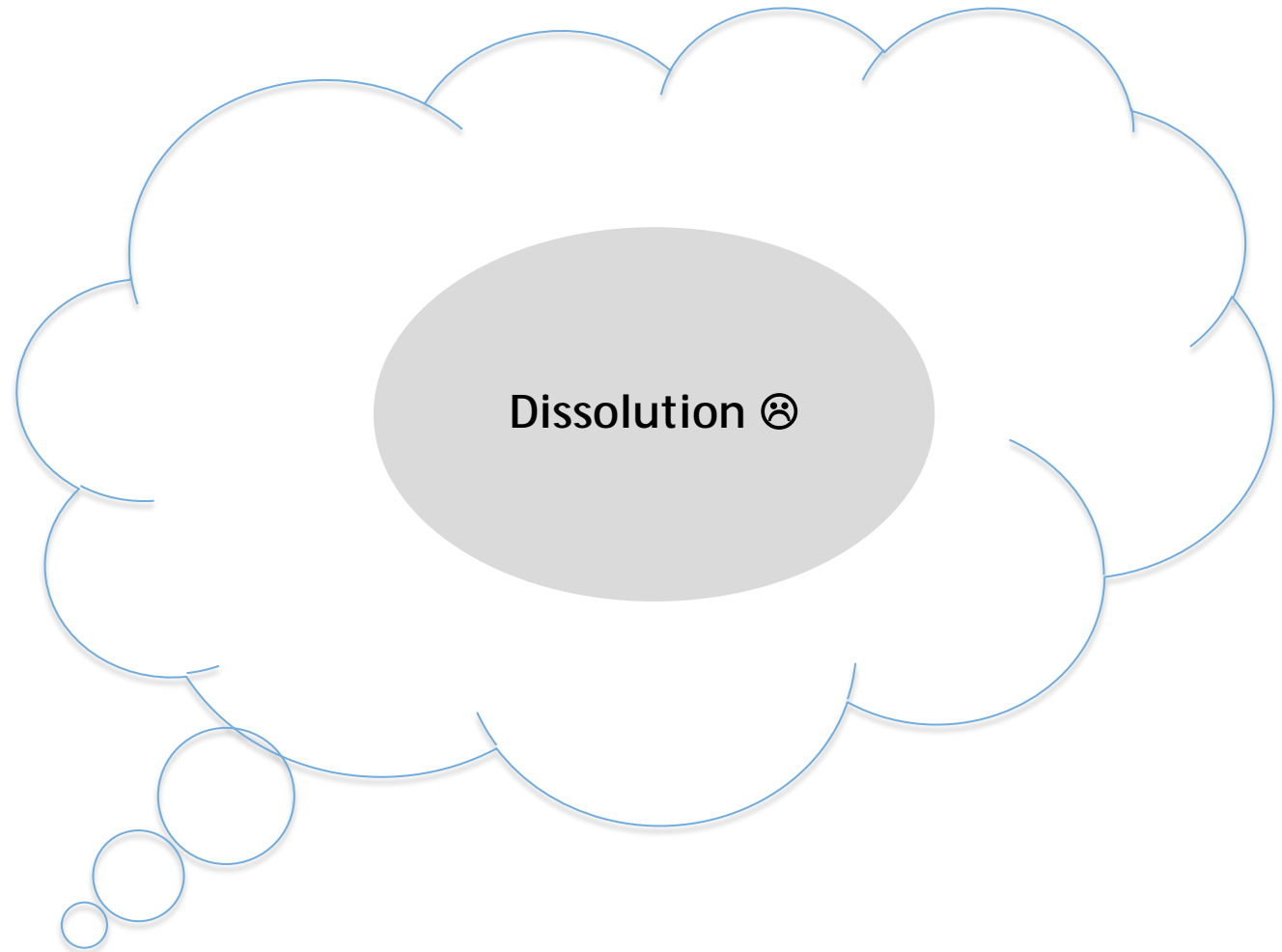
## r19 Evaluation

- Recommendation: evaluation after 2-3 years
- Members should define ex-ante:
  - **Baselines**: Where do we start from?
  - **Targets**: What do we want to reach? By when?
  - **Budget** for evaluation (if externalised)
- Possible questions for the evaluation exercise:
  - Did the set-up and the implementation of the EGTC meet the defined targets?
  - Which **difficulties** occurred and why?



## r20 Modifications

- Partnership: new members coming in, partners opting out
- Objectives and tasks
- Decision-making/governance: e.g. voting members, voting rights
- Functioning: budget changes, moving the EGTC office
  
- Major changes imply modification of convention and statutes - notification needed (expected simplification of notification for modifications)





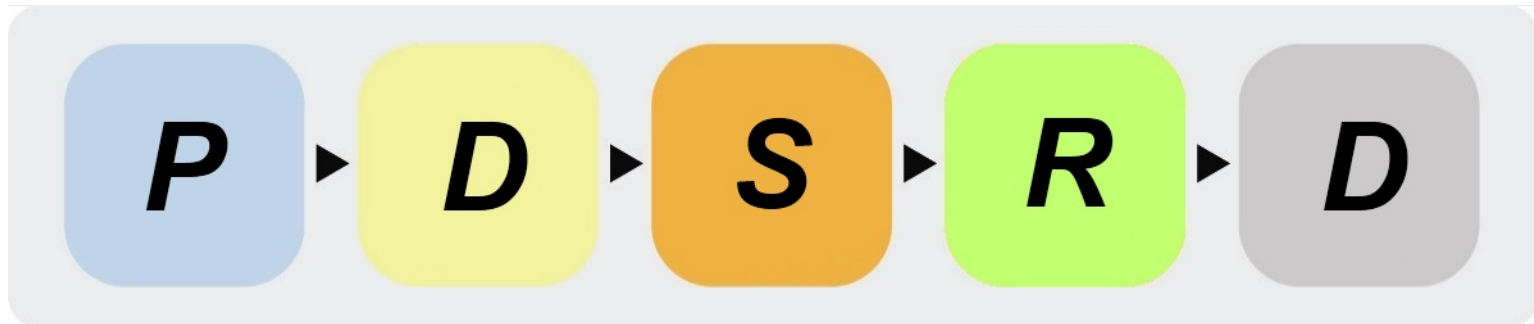
## 21a Dissolution

- **External dissolution:** Activities of an EGTC may be prohibited if they contravene public policy, security, health, morality or the public interest → even **dissolution is possible** (Art. 14 of EGTC Regulation)
- **Internal dissolution:**
  - By decision of the assembly
  - EGTC with **limited duration:** automatic dissolution at the ending date or before
  - EGTC with **unlimited duration:** upon agreement by all members



## d21b Dissolution

- **Archiving:** Who will keep files of the dissolved EGTC?
- **Legal proceedings:** What if the EGTC was party to any legal proceedings, before or after being dissolved? Legal advice should be obtained!
- **Convention + statutes:** Each EGTC member should inform their national authority of the dissolution - and COR
- If EGTC received **EU Structural funds**, dissolution must be communicated to the programme authorities





## Final recommendations

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- State a clear mission and objective of the EGTC
- Invest as much time as needed in preparation phase
- Carry out feasibility studies, get legal advice
- Cost-benefit analysis of the cooperation and of non-cooperation!
- Consider sustainability of the EGTC





**EGTC does not solve all problems**

**Do not miss the target: EGTC is the tool, not the objective!**



The official EGTC register:

- <http://portal.cor.europa.eu/egtc/>
- Incl. Template for new EGTCs



National rules, Practical handbook, template for statutes and convention, FAQ, etc:

- [www.interact-eu.net](http://www.interact-eu.net)



Register of national notification authorities:

- <http://egtc.komarny.hu>

# Questions?



Thank you very much for your attention.

Please don't hesitate to contact us  
for further information or visit  
[www.interact-eu.net](http://www.interact-eu.net)



*Sharing Expertise*



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