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European groupings for territorial cooperation as the instrument of cross-border cooperation activation in Ukraine

The article dwells on EGTCs advantages over other similar structures in the sphere of cross-border cooperation. The European experience of EGTC establishing and their geographic distribution are outlined. The types of EGTCs are defined depending on their nature and those, which can be the most efficient in Ukraine, are determined. In order to facilitate the process of interested parties' organizing themselves under the EGTC the detailed procedure of establishing the EGTC is developed. Necessity of extended informational campaign to introduce local authorities and public organizations to the nature and advantages of EGTCs and of finishing the administrative and territorial reform is emphasized.

Keywords: cross-border cooperation, European Groupings for Territorial Cooperation, Regulation 1302/2013, EGTC Tisza.

The role of territorial cooperation is constantly growing in the European Union as it constitutes the basis of economic and social cohesion policy promoted in the Community. Territorial cooperation development is stipulated by the change of borders nature and by the interest of national and regional or local participants. Schengen agreement, joint internal market and common currency contribute to emergence of numerous new cross-border projects and to development of cross-border territories. Territorial cooperation is a diverse phenomenon characterized by variability of forms and structures depending on concrete objectives of local and regional participants and their liabilities spectrum (therefore – on national legislation).

Unfortunately, currently we cannot observe the systematic development of cross-border cooperation in Ukraine as well as elimination of border's barrier function. There is no single vision of solution of problems peculiar to our country and the neighbouring ones and cross-border cooperation is of spontaneous nature. Nowadays administrative and territorial reform is the most essential issue for Ukraine in general and for its cross-border cooperation perspectives in particular. However, although the reform has already started, it takes slower paces than it was expected due to different understanding of the process by scientific elite and authorities and voluntary nature of communities' combining, which often leads to emergence of too large or too small and inefficient communities. It is much harder to achieve the goals of cross-border cooperation without the administrative and territorial reform, because local authorities, which play key role in this cooperation sphere, are still over-dependent on central authorities in terms of decision making and responsibilities.

Euroregions are currently the most developed form of cross-border cooperation in Ukraine, but their activity shows the range of problems hampering their efficient functioning. We can name the large number of participants with different cultural and economic systems, disparities in legislation and countries' administration and low level of entrepreneurship structures' and nongovernmental and public organizations' engagement in cooperation among them. Such issues as the lack of systemic approach to organization of Euroregional cooperation, poor level of regional authorities' staff preparation and absence of financial support are also worth mentioning.

Ukraine is in constant search for the new possibilities of promotion and elimination of obstacles to cross-border cooperation. Europe is far ahead in terms of development of numerous cross-border cooperation forms, namely the cross-border

regions of knowledge, cross-border innovative projects, cross-border partnerships, in particular EURES-partnerships, cross-border clusters, Euroregional Cooperation Groupings, etc. But the European Groupings for Territorial Cooperation (EGTC) have proved to be one of the most efficient forms of cooperation since their establishment in 2006.

A lot of Ukrainian scientists pay their attention to the problems and perspectives of Euroregions' and clusters' development in Ukraine, but the issue of EGTCs remains to be unresearched in Ukraine neither in terms of their nature and role nor in terms of their establishment in Ukraine. The only institution to make significant steps in examination of this area is the M.I. Dolishniy Institute of Regional Research of the NAS of Ukraine.

The article aims to reveal the nature of the EGTCs and their advantages for implementation in Ukraine and to outline the procedure of EGTC establishment. For this matter the legislation applicable to this form of cooperation and Europe's experience of their development should be examined.

In July 2006 the European Union (Council of Europe and European Parliament) adopted the Regulation №1082/2006 on European Groupings for Territorial Cooperation (EGTC) [1]. Its adoption is deemed to be a significant step towards territorial cooperation development, because the participation is open to the actors of different levels (central, regional and local authorities) with broad responsibilities in terms of territorial cohesion policy implementation at cross-border, transnational and interregional levels. It allows public entities from at least two states to organize themselves under an entity with legal personality. The number of such entities has been steadily growing since 2006 and also gained new momentum in 2013 with adoption of new Regulation 1302/2013, which amended the previous one introducing new provisions over the membership of certain private actors and non-EU members.

The major features of EGTC are its cross-border nature, legal personality, availability of single headquarters located at EU territory, possibility of its members to define and characterize in its convention or statute the tasks and activity spheres as well as budget. Another major feature of EGTC is the possibility of the whole countries to participate. This is primarily important for small countries, but also plays great role if the EGTC is created in order to cope with the tasks that fall under the competence of central authorities. Besides the states and authorities at national level, the regional and local authorities, bodies governed by public law and also public undertakings in some cases (according to the Annex III of the Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 [2] and those of third countries equivalent to them) and associations consisting of bodies belonging to one or more of these categories can also be the members of EGTC.

EGTCs enjoy legal personality and the choice of being governed by private or public law falls on the entity itself. Such choice predominantly depends on the tasks the entity subjects itself to. They should be appropriately represented in the statute and convention of the entity. The decision on signing the convention or adoption of the statute should be taken unanimously. Moreover, the Regulation stipulates the most extensive legal capacity accorded to legal persons under the Member State's national law [1]. But as far as it should act in accordance with the tasks provided in its founding documents, it is obvious that such legal capacity is limited by these tasks.

The first EGTC emerged in 2008 at the French-Belgium border and 16 more entities were created in the first three years of EGTCs existence. Currently there are 63 of them and 8 more at the preparatory stage. Another one is awaiting approval. The prospective members of three more entities have undertaken exploratory actions or preliminary negotiations to set up an EGTC. Hungary and France are the most

active countries in terms of participation in EGTCs (23 and 21 respectively). Spain and Slovakia are also widely engaged in EGTCs' activity (each one participating in 15 EGTC) as well as Italy (9), Germany (8) and Belgium (6). It is interesting that 13 out of 15 Slovak's EGTCs are with Hungary. Other Ukraine's neighbouring countries – EU members, besides already mentioned Hungary and Slovakia, also participate in such entities. Romania participates in 6 of them and Poland – in 4. Overall, the countries, which joined European Community in the course of latest enlargement, are very active in solving the problems of their development and implementing the projects directed at leveling of their socio-economic development with other European countries by means of EGTC instrument. In general, geographic distribution of EGTCs is uneven, located mainly in Central Europe around Hungary, Western Europe (France, Germany, Belgium, Netherlands, Luxemburg) and Mediterranean (Spain, Portugal, Greece, Italy, Slovenia, Cyprus). Most of EGTCs are preceded by pre-existing structures (Euroregions).

The EGTC convention should stipulate its name and registered office located in the EU Member State, the territory the EGTC should perform its tasks at, special goals and tasks of EGTC, its duration and terms of dissolution, list of members, applicable law, amending procedures and competencies of EGTC members. The statute should contain the decision making procedure, the list of EGTC members and their competences, working languages, arrangements for the members' financial contributions, applicable accounting rules, procedure of amending the statute, etc.

The EGTC should have at least two bodies: an assembly made up of representatives of its members and a director, who represents the EGTC and acts on its behalf. Each entity can create other bodies in order to perform its tasks to the maximum. Their competence should be concretely defined in the statute. The Regulation does not provide any information on the interrelation between the competences of assembly and director, so each entity can solve this issue in their statute. Predominantly the statutes provide that the assembly is the major management body and that it appoints or elects a director and supervises his activity. The EGTCs are not recommended to follow the path of other cross-border cooperation structures in creating a large number of bodies. But instead they should create relevant committees under the assembly. For example, Ister-Granum EGTC structure is represented by executive council, general assembly, senate and director [3]. Organizational structure of Eurometropolis Lille-Kortrijk-Tournai consists of assembly (84 members), executive management committee (president and 3 vice-presidents) and board (32 members) [4]. Due to the fact that EGTC can have only two governing bodies it is a very flexible structure, which allows all kind of organization formulas and different levels to be combined in same body.

EGTCs are predominantly financed by membership fees and EU funding. They are created mostly not to solve some global issues like democracy promotion, socio-economic development, security, etc, which is peculiar to Euroregions. They are created to solve narrow problems or even to dwell on some single concrete task. The Serdanya cross-border hospital EGTC at Spanish-French border can serve as the example of such one-task entity [5]. It covers the territory with 30 thousand residents, 17 thous. of them are Spanish and 13 – French. They all will enjoy equal rights to use the services of this hospital. In September 2014, the cross-border hospital opened its doors in the commune of Puigcerda (Catalunya) not far from the French border.

The EGTCs are the platform for implementation of hundreds of interesting and efficient projects, among them creating an international education network to help SME-s (Abaúj-Abaújban EGTC: Hungary; Slovakia), development of territorial and transnational cooperation in the field of ceramic art and craft (Associations

of Ceramics Cities EGTC: Italy, France, Spain, Romania), content development of the SMEs related services and the establishment and operation of a unified business development network (Bánát-Triplex Confinium EGTC: Hungary, Romania and Serbia), ensuring support and conditions for the development of intermodal transport connections (Central European Transport Corridor EGTC Ltd.: Croatia, Hungary, Poland, Sweden), integration and sustainable recovery of cross-border natural heritage (Duero Douro EGTC: Portugal, Spain), improvement of recycling performance through consistent comparisons and an exchange of good practices (Efxini Poli - SolidarCity Network EGTC: Bulgaria, Cyprus, Greece), promoting an innovative forest management system (European Mycological Institute: Spain, France), cross-border planning and implementation regarding the recovery and development of urban river landscapes (Eurodistrict SaarMoselle EGTC: France, Germany), promotion and mobility of young entrepreneurs (Euroregion Pyrenees-Mediterranean: France, Spain), etc.

Overall, six types of EGTCs can be observed currently depending on their nature [6].

1. Directed at strategy, policy and project development in a cross-border context. It is the most frequent type.

2. EGTCs in the Mediterranean basin directed at strategy, policy and project development in a transnational context. They are focusing on culture, social services, tourism, sustainable development, waste and job creation at the local level.

3. Directed at planning, governance and management for cross-border conurbations.

4. Directed at planning and management of cross-border infrastructure.

5. Directed at management of the cross-border cooperation program.

6. Intergovernmental networks.

The first, fourth and sixth types of EGTCs the most advantageous for the participation of Third countries. The first one allows the partners from the third countries to gain experience in capacity and strategy building at the level of regional and local authorities. Lack of relevant infrastructure in third countries is a huge problem, so the fourth type of EGTCs can find supporters in the Third countries. The third group of existing EGTCs can be considered the most consolidated, however, there are no large conurbations at eastern external border of the EU, and so the participation of Third countries is questionable.

Although participation of third countries was allowed in EGTCs from the very beginning, the Regulation 1082 stipulated that it should be possible only if there were two more EU member countries involved. Therefore, it eliminated the possibility of bilateral EGTC for Ukraine. As a result the EGTCs with Ukrainian participation would have covered large territory with a lot of participants and thus face the same problems suffered by Ukrainian Euroregions, leading to their poor efficiency. This provision also meant that our country could not solve through EGTCs some concrete narrow problems, peculiar to us and some neighbouring country, but only global ones, which contradicted the very nature of the entity.

However, things changed drastically for Ukraine in 2013, when the new Regulation 1302 was adopted permitting creation of EGTC with only one EU member country involved. The entities from third countries may participate under the condition of sharing a border with one of the EU member states, being eligible for the same cross-border or transnational program of European Territorial Cooperation or being eligible for the same cross-border, sea-crossing or sea-basin cooperation program as one of the Member states involved.

So in general, the new Regulation stipulates four major changes compared to the previous one [7].

1. The EGTC establishment procedure becomes easier and faster due to introducing the tacit approval procedure after 6 months as a formal approval, except in the Member state where the EGTC has its headquarters.

2. The EGTC Convention becomes the main document of the EGTC, where provisions on staff, taxation, procurement and other aspects related to the functioning of the EGTC can be regulated.

3. Public undertakings of Annex III of Directive 2004/17/EC (private law) and undertakings entrusted with operations of services of general economic interest can be part of an EGTC.

4. The participation of entities from outside the EU is possible and has clearer rules - EGTCs with one entity from one Member State and another one from a non-EU Member State are possible.

The possibilities provided by new Regulation enabled Zakarpatska oblast of Ukraine to create on October 26, 2015 the Tisza EGTC with Szabolcs – Szatmár – Bereg County and Kisvárda municipality in Hungary. This event is very essential for Ukraine and for the EU as well, because this was the first time that this type of cooperation had been established between EU and non – EU countries. This step was well-awaited and welcomed as these regions already have long years of close cooperation in different spheres, including in terms of grant projects implementation. Many problems need to be solved cooperatively, like common flood protection, renovation of Transcarpathian wastewater treatment plants, transport and development of economic relations. Currently the EGTC undergoes initial activities, like conducting of presentation events of EGTC in Brussels, Kisvárda and Uzhorod, creation of web-page and preparation of documents for the calls for proposals.

In order to facilitate the process of interested parties' organizing themselves under the EGTC we have developed the detailed procedure of establishing the EGTC. In general, we have detached four main phases of EGTC establishment.

1. The first phase is preparatory. At this stage authorities, business and community should be acquainted with possibilities of this entities and informed on the best practices of EGTC functioning in Europe and perspectives of their adaptation in our country. Then interested Ukrainian participants should find consensus through conducting meetings with participants from other countries on important moments of EGTC organization, namely:

- number of participants;
- EGTC tasks;
- EGTC name;
- possible period of functioning;
- territory coverage;
- location of headquarters (not applicable in case of bilateral EGTC, because it can be located only in Member state);
- EGTC structure;
- sources of funding.

2. The next phase – technical – stipulates preparation of convention on EGTC founding and its statute that meet legal requirements of all participating countries (necessary points to mention in statute and convention have been described above).

3. The third phase – administrative – consists of four stages:

- adoption of draft statute and convention by each of future participants.
- sending the copy of statute and convention to the relevant authorities of each participating countries to approve participation in the EGTC (Ministry of Economy in Ukraine). It should make sure that the body's participation is consistent with the national law and the EC Regulation, is in the public interest and in line with Ukraine's public policy, objective and tasks of the EGTC

facilitate cross border cooperation with the exclusive aim of strengthening economic, social and territorial cohesion and the Convention and Statutes of the EGTC should contain all the information required by the EC Regulation.

- adoption of the statute by each of future participants and adoption of convention by the Member state where the EGTC seat is located. For the rest of participants the tacit approval after six months is applied.
- registration in the country with headquarters.
- the registered grouping is announced by publishing it in the EU Official Journal.

4. The last one is operational. It stipulates opening of bank account and payment of membership fees by EGTC participants, founding of the entity's bodies, hiring the staff, etc.

In order to provide new momentum for the development of EGTCs in Ukraine the necessary changes to the legislation of Ukraine need to be introduced. Primarily, it concerns the Law of Ukraine on Cross-Border Cooperation. It is important to expand the list of cross-border cooperation forms with EGTCs and other new forms of cooperation as far as only Euroregions are mentioned in the Law.

Each Member country is required to adopt national provisions to assure the effective application of the Regulation. There is no such condition for the Third countries as far as the headquarters of the entity can not be situated at their territory, so their legislation is not applicable to the EGTCs. However, such a document is still important for our country in terms of defining the crucial moments of EGTCs' establishment and functioning. It is important that it contains the detailed procedure of the entity establishment and provisions on the authorities responsible for regulating the issues related to EGTCs existence and the extended list of their competences.

In addition to legislative changes, the administrative and territorial reform is essential for EGTCs development in Ukraine. Regional and local authorities play crucial role in the entities, so it is important that they have the broadest scope of capacities. The process of EGTCs establishment directly depends on the pace of reform conducting.

There is also a huge need for extended informational campaign to introduce local authorities and public organizations to the nature and advantages of EGTCs.

The European Grouping of Territorial Cooperation can empower regional and local authorities to carry out initiatives and to manage a programme or a part of it. These groupings can facilitate the EU co-funding of projects and ensure that action is sustainable. Many adjoining states and regions around the EU are in a state of crisis. In this environment it will be particularly difficult to motivate EGTCs to go beyond the boundaries of the EU and to be especially willing to organize joint entities with the Third countries. Therefore, the emergence of the EGTCs with participation of non-EU members will require dedicate action from players from the European level to the regional and local authorities. The role of promoters at European and national levels will be decisive.

Our country as the participant of such entities can use their advantages over already existing Euroregions due to their smaller territory coverage, legal personality and extended participation of public organizations and other public entities in addition to regional and local authorities and because cooperation takes place at cross-border, transnational and interregional levels – all three levels of EU regional policy. This allows the broadest consideration of interests of all population at the EGTC coverage territories.

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Демедюк О. П. Європейські об'єднання територіального співробітництва як інструмент активізації транскордонної співпраці в Україні.

Транскордонна співпраця набуває все більшої ваги у розвитку території на теренах Європейського Союзу. Цьому сприяє Шенгенська угода, спільний внутрішній ринок і єдина валюта. Вона характеризується різноманітністю форм і структур залежно від конкретних цілей учасників. Однією з таких форм, які активно розвиваються в межах ЄС, є Європейські об'єднання територіального співробітництва (ЄОТС).

Стаття має на меті розкрити сутність ЄОТС та переваги і перспективи їх впровадження в Україні, а також поетапно окреслити процедуру створення таких структур.

Визначено переваги ЄОТС над іншими подібними структурами у сфері транскордонного співробітництва, зокрема євро регіонами, серед яких зазначено правосуб'єктність, наявність однієї штаб-квартири, можливість створення невеликих об'єднань, зорієнтованих на виконання конкретних завдань чи реалізацію конкретних проектів, і можливість приймати бюджет. Розглянуто європейський досвід формування таких структур та їх географічне поширення. Окреслено типи ЄОТС залежно від завдань, покладених на них відповідно до статутів. Виявлено типи ЄОТС, які можуть найефективніше функціонувати в Україні, а саме: міжурядові мережі, ЄОТС, зорієнтовані на розробку стратегій, програм і проектів, ЄОТС, націлені на планування та менеджмент транскордонної інфраструктури.

Проведено аналіз Регламенту 1082/2006 щодо ЄОТС та Регламенту 1302/2013, що вносить зміни до попереднього, та визначено, що новий регламент, зокрема, містить положення щодо спрощеної процедури участі країн, які не є членами ЄС. Це дозволило Україні у 2015 р. створити з Угорщиною перше у Європі ЄОТС за участю країни – не члена ЄС.

Для спрощення процесу об'єднання зацікавлених учасників у межах ЄОТС розроблена детальна процедура створення та реєстрації таких об'єднань, що складається з чотирьох фаз: підготовчої, технічної, адміністративної та операційної. Наведено рекомендації щодо внесення необхідних змін до національного законодавства, зокрема до Закону України «Про транскордонне співробітництво», а також щодо прийняття необхідного нормативного документа щодо ЄОТС за аналогією з країнами-членами ЄС. Також наголошується на необхідності проведення широкої інформаційної кампанії щодо можливостей та переваг ЄОТС для України та завершення адміністративно-територіальної реформи, оскільки для ефективної участі в таких об'єднаннях місцевим органам влади необхідні якнайширші повноваження.

Ключові слова: транскордонне співробітництво, європейські об'єднання територіальної співпраці, Регламент 1302/2013, ЄОТС Тиса.

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Надійшло 01.12.2016 р.