



REPUBLIC OF BULGARIA
COUNCIL OF MINISTERS

**DECREE No 199 OF 29 AUGUST 2007 ON ADOPTION OF NATIONAL RULES
ON EUROPEAN GROUPINGS OF TERRITORIAL COOPERATION**

In force since 04.09.2007.

Promulgated in SG, issue 72 of 4th September 2007, amended - SG, issue 92 of 24th October 2008.

THE COUNCIL OF MINISTERS DECREED THE FOLLOWING:

Article 1. (1) European Grouping of Territorial Cooperation, hereinafter referred to as EGTC, with a registered office in the Republic of Bulgaria, shall be established to facilitate and promote territorial cooperation - cross-border, transnational and interregional cooperation, and it shall comprise the following members:

1. Member States;
2. regional authorities;
3. local authorities;
4. bodies governed by public law;
5. associations consisting of bodies belonging to one or more of the categories under item 1, 2, 3, and 4.

(2) The European Grouping of Territorial Cooperation shall be established by at least two legal entities – a Bulgarian and a foreign one, set up under the national law of a European Union Member State with the exclusive aim of strengthening economic and social cohesion.

(3) (Amended - SG, issue 92 of 2008) The Republic of Bulgaria and Bulgarian legal entities under Paragraph 1, item 2 – 5 shall participate in an EGTC with a registered office in the Republic of Bulgaria or in another Member State, in which EGTC third countries – non EU Member States, their regional and local authorities and organizations governed by public law participate upon signing an intergovernmental agreement between the Member States and the third countries for membership in the EGTC.

(4) (New - SG, issue 92 of 2008) The Republic of Bulgaria shall participate in an EGTC under decision of the Council of Ministers and a follow-up ratification by the National

Assembly. The Decision shall set the amount and manner of deposition of the property contributions from the state budget and the state representatives in the EGTC organs - general assembly and managing board.

(5) (New - SG, issue 92 of 2008) Regional and local authorities shall participate in an EGTC by decision of the Council of Ministers. The Decision shall set the amount and manner of deposition of the property contributions from the state budget and the representatives of the administrative district in the EGTC organs - general assembly and managing board.

(6) (New - SG, issue 92 of 2008) When on the Bulgarian side, an association participates in an EGTC composed of subjects under Article 1, Paragraph 1, item 1, the decision for approval of its participation shall be adopted under the procedures of Paragraph 4.

Article 2. (1) The European Grouping of Territorial Cooperation shall be established on the initiative of its prospective members which shall draw up and unanimously approve a draft convention and statutes.

(2) The convention shall specify:

1. the name of the EGTC and its registered office;
2. the subject of activity, objectives and tasks of the EGTC, and the means for their attainment;
3. the extent of the territory in which the EGTC may execute its objectives and 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 of administrative acts and court decisions, including for the purposes of financial control and audit;
7. the law applicable to disputes between the EGTC's members and to the interpretation and implementation of the convention;
8. the law applicable to disputes in which the EGTC is a party in accordance with the requirements of Article 15 of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation ("OJ" L 210, 31/07/2006, page 19 - 24);
9. the procedures for amending the convention observing the terms and conditions of EGTC registration and the procedures for notification of the respective European Union Member States.

(3) The statutes of the EGTC shall be adopted unanimously and shall contain, as a minimum, the provisions of the convention together with the following components:

1. the branches and managing organs of the EGTC, the operating provisions of the organs and their competences, as well as the number of representatives of the members in the relevant organs;
2. the decision-making procedures of the EGTC and the rules on the manner of representation of the association;
3. the working language or languages;
4. the terms and conditions of staff appointment and management;
5. the budgetary and accounting rules, including the arrangements for determining the amount and the manner of deposition of the property contributions;
6. property liability of the members in case of liquidation, insolvency, cessation of payments;
7. the manner of distribution of the remaining property after satisfaction of creditors;

8. origination and termination of membership in an EGTC as well as the ensuing rights and obligations;

9. procedure and units for the selection of a registered auditor for the performance of an independent external audit;

10. the procedure for amending the statutes observing the terms and conditions of EGTC registration and the procedures for notification of the respective states – members of the European Union.

(4) For the purposes of registration, it is obligatory that documents and/or permits shall be enclosed to the statutes certifying, for each of the prospective EGTC members, that the Member State under whose jurisdiction it has been set up approves its participation in the EGTC.

(5) (Repealed - SG, issue 92 of 2008)

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

(2) To the extent that the assets of the EGTC are insufficient to meet its liabilities to the creditors, each member shall assume a joint and unlimited liability for the repayment of the EGTC's debts in proportion to its property contribution.

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

1. a general assembly, acting as the supreme organ of the EGTC;

2. a managing board, which comprises at least three persons – representatives of the EGTC members;

3. a director who shall be elected by the general assembly; the director shall represent the EGTC and shall act on its behalf and at its expense.

Article 5. (1) The decision to establish an EGTC shall be taken at the initiative of its prospective members and for each of the prospective members of the EGTC it shall be required that the Member State under whose jurisdiction it is set up approves its participation in the EGTC.

(2) (Amended - SG, issue 92 of 2008) A Bulgarian legal entity which shall co-found or join an EGTC with a registered office on the territory of the Republic of Bulgaria or in a European Union Member State shall be obliged to notify the Minister of Regional Development and Public Works about its intention and shall submit enclosed copies of the draft convention and statutes. The notification shall be performed by means of an application form approved by the Minister of Regional Development and Public Works in coordination with the Minister of Finance.

(3) (Amended - SG, issue 92 of 2008) When the prospective founders and members of the EGTC are the Republic of Bulgaria and/or regional authorities or associations in which they participate, the competent ministers and/or district governors shall draw up a draft decision of the Council of Ministers and shall inform the Minister of Regional Development and Public Works following the procedures of Paragraph 2, who, within a month, shall issue an opinion to the Council of Ministers for EGTC membership approval or refusal.

(4) (New - SG, issue 92 of 2008) When the prospective founders and members of the EGTC are Bulgarian legal entities under Article 1, Paragraph 1, item 3 - 5, the Minister of Regional Development and Public Works, after coordination with the Minister of Finance, shall give an approval in writing within 3 months from the date of receipt of the applications under Paragraph 2, unless the Minister considers that the participation of the applicant in the EGTC is in

contradiction with the applicable legal provisions of the Republic of Bulgaria and/or the European Union. In this case the applicant shall be notified in writing about the reasons for refusal.

(5) (New - SG, issue 92 of 2008) Each amendment of the statutes and the convention of the EGTC shall be approved following the procedure of Paragraphs 3 and 4.

Article 6. (1) (Amended - SG, issue 92 of 2008) European Groupings of Territorial Cooperation with a registered office on the territory of the Republic of Bulgaria shall be registered under the Law on Legal Entities of a Noncommercial Character as "associations", pursuing activity of general interest .

(2) (Amended - SG, issue 92 of 2008) The European Grouping of Territorial Cooperation shall acquire the status of a legal entity on the day of its registration in the register of legal entities of noncommercial character of the district court in which area the EGTC has its office registered.

(3) (Amended - SG, issue 92 of 2008) Within 10 days after the entry in the Central Register of the Ministry of Justice the person representing the EGTC shall submit an application for entry in the public register of the Ministry of Regional Development and Public Works. The application shall be submitted following a template approved by the Minister of Regional Development and Public Works.

(4) (New - SG, issue 92 of 2008) The Ministry of Regional Development and Public Works shall keep and maintain:

a) a Register of European Groupings of Territorial Cooperation with registered office in the Republic of Bulgaria;

b) a Register of Bulgarian legal entities - members of an EGTC whose registered office is located in a European Union Member State.

(5) (New - SG, issue 92 of 2008) The register under Paragraph 4 shall contain the following circumstances:

1. under letter "a":

a) decision of the registration court;

b) data on the entity – number and batch of court registration, company file number, name, seat, and contact data;

c) Unique Identification Code under BULSTAT;

d) a certificate by the Ministry of Justice for entry in the Central Register of Legal Entities of a Noncommercial Character pursuing activity of general interest;

e) convention and statutes;

f) managing organ – names and mandate of the members;

g) type of activity performed;

h) comments on the circumstances entered;

2. under letter "b":

a) decision of the registration court;

b) data on the entity – number and batch of court registration, company file number, name, seat, and contact data;

c) a certificate by the Ministry of Justice for entry in the Central Register of Legal Entities of a Noncommercial Character pursuing activity of general interest;

d) convention and statutes;

e) managing organ – names and mandate of the members;

f) Unique Identification Code under BULSTAT;

g) convention and statutes, managing organ, names and mandate of the members of an EGTC, established in another Member State of the European Union and contact data for the managing organ of the EGTC in the foreign state;

h) comments on the circumstances entered.

(6) (New - SG, issue 92 of 2008) The Minister of Regional Development and Public Works following coordination with the Minister of Finance and the Minister of Justice shall issue rules on keeping the registers under Paragraph 4.

(7) (Former Paragraph 4 - SG, issue 92 of 2008) The EGTC members shall inform the Member States concerned and the Committee of the Regions on the convention and the registration completed.

(8) (Former Paragraph 5 - SG, issue 92 of 2008) Within 10 working days from the registration date in the competent court, the EGTC shall send a request 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. The notice shall contain the name, objectives, members, and registered office of the EGTC.

Article 7. (Amended - SG, issue 92 of 2008) (1) Republic of Bulgaria and Bulgarian legal entities can be members of an EGTC, registered in the Republic of Bulgaria or in another European Union Member State, which has the following objectives:

1. under the European territorial cooperation objective in compliance with the provisions of Article 3, item 2, letter "c" of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, an EGTC carries out functions related to the management of cross-border, transnational, and interregional cooperation programmes or projects financed under these programmes in compliance with the rules on state aid;

2. under Convergence and Regional Competitiveness and Employment objective under Article 3, item 2, letters "a" and "b" of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, an EGTC performs functions related to the management of:

a) projects for interregional cooperation funded under national operational programmes with the participation of at least one regional or local authority of another Member State;

b) interregional or transnational projects funded under national operational programmes with the participation of national, regional, or local authorities of at least one more Member State.

(2) In the implementation of its objectives, the EGTC registered in the Republic of Bulgaria can be supported and promoted by the state by means of tax, credit – interest rate, customs, and other financial and economic concessions in compliance with the rules on state aid.

Article 8. (1) The control of an EGTC's management of public funds shall be assigned to the Minister of Finance as the competent authority without affecting the functions of other competent authorities in the Republic of Bulgaria, of other Member States concerned and at European Union level. The control shall be exercised by Audit of European Union Funds Directorate of the Ministry of Finance while coordination with other financial sources and

instruments shall be carried out by Management of European Union Funds Directorate of the Ministry of Finance.

(2) All control activities shall be carried out in compliance with the applicable auditing standards.

(3) (Amended - SG, issue 92 of 2008) Cooperation with authorities of other interested European Union Member States and information exchange on possible or realized participation of the EGTC under Objective 3 "European Territorial Cooperation" shall be carried out by the Minister of Regional Development and Public Works who shall respectively inform the Minister of Finance.

Article 9. (New - SG, issue 92 of 2008) (1) Where an EGTC carries out any activity in contravention of the provisions of the Republic of Bulgaria on public order, public security, public health, public morality, or in contravention of the public interest of the state, each citizen or organization can signal the Minister of Regional Development and Public Works or the respective competent authority with a copy to the Ministry of Regional Development and Public Works.

(2) Such signals shall be submitted in writing, in person or by an authorized proxy, by post, by fax, or by e-mail.

(3) When ascertained by the relevant competent authorities that an EGTC carries out any activity in contravention of the provisions of the Republic of Bulgaria on public order, public security, public health, public morality, or in contravention of public interest of the state, the Minister of Regional Development and Public Works shall notify the EGTC to cease immediately the activity in question.

(4) If the activity is not ceased, the Minister of Regional Development and Public Works shall:

1. issue an order withdrawing the approval for participation of the respective Bulgarian legal entity in the EGTC registered on the territory of the Republic of Bulgaria or in a European Union Member State;

2. inform the respective competent authority to prohibit the implementation of this activity in Bulgaria by the EGTC registered in another Member State;

3. lodge a claim for the dissolution of the EGTC registered on the territory of the Republic of Bulgaria as a legal entity of noncommercial character.

(5) When the EGTC members are the Republic of Bulgaria and/or an administrative district, the Council of Ministers shall take decision on the withdrawing of approval for participation of the respective Bulgarian legal entity in the EGTC which is registered on the territory of the Republic of Bulgaria or in a European Union Member State.

(6) The order under Paragraph 4 and the decision under Paragraph 5 can be appealed following the procedures of the Administrative Procedure Code.

(7) After the entry into force of the order under Paragraph 4 and the decision under Paragraph 5, the Ministry of Regional Development and Public Works shall:

1. erase the dissolved EGTC from the Register of European Groupings of Territorial Cooperation with registered office in the Republic of Bulgaria;

2. note down the suspension of membership of a Bulgarian legal entity in the Register of Bulgarian Legal Entities which are Members of European Groupings of Territorial Cooperation with registered office in Member States of the European Union.

Additional Provisions

§ 1. Within the meaning of this Decree:

1. (Amended - SG, issue 92 of 2008) “Regional authorities” in the Republic of Bulgaria are the administrative districts at NUTS level 3 of the common classification of territorial units for statistics (NUTS).

2. “Local authorities” in the Republic of Bulgaria are the municipalities at LAU level 1 (local administrative units) of the common classification of territorial units for statistics. The municipality shall express its will to participate as a member of an EGTC by decision of the municipal council enclosed to the application form under Article 5, Paragraph 2.

3. “Bodies governed by public law” in the cases where the prospective member of the EGTC is a Bulgarian legal entity shall be defined within the meaning of § 1, item 21 of the Additional Provisions of the Public Procurement Law.

§ 2. When the law of the Republic of Bulgaria, or respectively the European Union Member State’s law, under which the prospective member of the EGTC is established, excludes or limits the liability referred to in Article 3, Paragraph 2, the latter entity shall not participate in an EGTC with registered office on the territory of the Republic of Bulgaria.

§ 3. This Decree transposes the requirements of Regulation (EC) No 1082/2006 of the European Parliament and the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).

Transitional and Final Provisions

§ 4. Within 3 months from the entry into force of the Decree, the Minister of Regional Development and Public Works following coordination with the Minister of Finance shall approve the application form under Article 5, Paragraph 2.

§ 5. This Decree shall be adopted pursuant to Article 105, Paragraph 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 Law on the International Agreements of the Republic of Bulgaria in relation to the Accession Treaty of the Republic of Bulgaria to the European Union and Article 16 of Regulation (EC) No 1082/2006 of the European Parliament and the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).

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

§ 7. This Decree shall enter into force on the date of its promulgation in State Gazette.

Concluding Provisions

TO DECREE No 250 OF 17 OCTOBER 2008 ON AMENDMENTS TO DECREE No 199 OF THE COUNCIL OF MINISTERS OF 2007 ON THE ADOPTION OF NATIONAL RULES FOR EUROPEAN GROUPINGS OF TERRITORIAL COOPERATION

(Promulgated in - SG, issue 92 of 2008)

§ 9. Within 3 months from the entry into force of the Decree, the Minister of Regional Development and Public Works following coordination with the Minister of Finance shall approve the application templates under Article 5, Paragraph 2, and Article 6, Paragraph 3, build the registers under Article 6, Paragraph 4, letters "a" and "b", and issue rules on keeping the registers under Article 6, Paragraph 4.