
EUROPEAN GROUPING OF TERRITORIAL COOPERATION AS THE EUROPEAN UNION INSTRUMENT OF COHESION POLICY IMPLEMENTATION

by Daniel Wacinkiewicz

I. INTRODUCTION

Observing the political processes taking place in the modern European Union, one can see the anchoring of the position of the cohesion policy¹ as one of the most important policies of the organization, and within it its growing role of “territorial cohesion”². In legal terms this is reflected even

¹ The term “cohesion policy” is often treated as synonymous to the term “structural policy” (a term used since the 50s of the twentieth century referring to EU intervention, and before 1993 – to European Communities) and to the concept of “regional policy” (the term reflecting activities focused on increasing economic and social cohesion in the EU). The debate on cohesion policy has been going on for many years now. Formally, the actions associated with the cohesion policy should be associated with the 1968 merging of the European Regional Development Fund, that had been in place since 1975, with, among others, the European Social Fund and thus the creation of “common regional policy.”

² As for the territorial cohesion, the attention is drawn to a number of important acts of secondary legislation of different legal ranks, in particular: Communication from the Commission to the Council, the European Parliament, the Committee of the Regions

in art. 3 of the Treaty on European Union (in the version set by the Lisbon Treaty)³, indicating explicitly that the EU supports the economic, social and territorial cohesion and solidarity among Member States. This normalization clearly confirms the same meaning given to the territorial dimension as economic and social dimensions were given in previous treaties. This fact in turn, at least potentially, can have a significant impact on the shaping of the future of European territorial cooperation – its priorities, benchmarks, implementation forms and purposes. Being aware of this increasing importance of territorial cooperation, and recognizing the dynamics of its expansion (by taking up an increasing number of local and regional powers and socio-economic partners) – it is worth considering the legitimacy of the thesis put forward in 2007 by the Chairman of the Committee of Regions, that it, that it is also due to these very specific measures that Europe can meet the objectives of cohesion, competitiveness and solidarity⁴. What's more, it must be observed that one of the most important new instruments for its implementation, European Grouping

and the European Economic and Social Committee: Green Paper on Territorial Cohesion – Turning territorial diversity into strength), COM(2008) 616, as well as documents which result from the work of ministers of the member states: European Spatial Development Perspective – ESDP, a document agreed upon by EU ministers responsible for spatial development in 1999, Territorial Agenda of the EU, approved at the Informal Ministerial Meeting on Territorial Cohesion in Leipzig, 25 May 2007, and First Action Programme for the Implementation of the Territorial Agenda of the European Union, approved at the Cohesion and Regional Policy in Ponta Delgada (the Azores, Portugal), 23–24 November, 2007.

³ Article 1 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ of 2009, No. 203, item 1569 – amending the content of article 3, paragraph 3, sentence 5 of the Treaty of 02.07.1992 on the European Union OJ 2004, No. 90, item 864/30.

⁴ Michel Delebarre, Introduction to the Analysis “European Grouping for Territorial Cooperation” made by the GEPE (Groupe d'études politiques européennes – Group of European Policy Studies) by prof. Nicolas LEVRATA in the research program of the CR, under the supervision of the Department for the Analyses of Policies, Research and Interinstitutional Legislative Planning (Gianluca Spinaci, Jaroslaw Lotarski and Lucia Cannellini) and the Secretariat of the COTER (Damian Lluna Taberner) in 2007, p. I – further referred to as Analysis of 2007. It should be added that the Analysis was done by external experts and does not constitute an official position of the Committee of Regionp.

of Territorial Cooperation (EGTC), is in the “revising” phase. The effect of this measure will be of crucial importance for the “application value” of the instrument in the new programming period (2014–2020). Just these considerations beg to reflect on the role of the EGTC in the context of territorial cooperation in Europe – and thus, in the EU cohesion policy. To what extent will the planned legislative changes allow for the development of groupings of this type? For achieving which wider objectives of the EU may EGTC be useful? What is the added value of applying of this instrument? Consideration of these issues was made the primary objective of this study.

II. THE ROLE OF THE EUROPEAN GROUPING OF TERRITORIAL COOPERATION IN THE CONTEXT OF EUROPEAN COHESION POLICY

The analysis should start from the positioning of the EGTC in the network of EU cohesion policy objectives⁵. Its primary goal (essence) is

⁵ See notes on this subject in the context of Polish participation in the EU in: *Efekty polityki spójności UE w Polsce. Dokument problemowy*, Ministerstwo Rozwoju Regionalnego, Warszawa 2009, p. 3. See also: J. Łacny, *Ochrona interesów finansowych Unii Europejskiej w dziedzinie polityki spójności*, Oficyna 2010, J. Kundera, W. Szymt, *Leksykon polityki regionalnej Unii Europejskiej*, Oficyna 2008, H. Jahns, *Komentarz do aktów prawnych regulujących wdrażanie funduszy strukturalnych i Funduszu Spójności 2007–2013*, Ministerstwo Rozwoju Regionalnego, Warszawa 2008, A. Zakrzewska, *Komentarz do rozporządzenia 1083/06*, [in:] *Zbiór aktów prawnych WE w zakresie funduszy strukturalnych i Funduszu Spójności na lata 2007–2013*, ed. H. Jahns, Warszawa 2008, K. Kasprzyk, *Komentarz do aktów prawnych Wspólnot Europejskich w zakresie funduszy strukturalnych i funduszu spójności na lata 2007–2013*, Ministerstwo Rozwoju Regionalnego, Warszawa 2006, M. Klamut, E. Pancer-Cybulska, *Spójność społeczna, gospodarcza i terytorialna w polityce Unii Europejskiej*, Wrocław 2006, I. Pietrzyk, *Polityka regionalna Unii Europejskiej*, Warszawa 2006, K. Gawlikowska-Hueckel, *Polityka regionalna – rozwój, finansowanie i przyszłość* [in:], *Regiony*, ed. Z. Brodecki, Warszawa 2005, H. Jahns, *Reforma polityki spójności w latach 2007–2013 – wstępna analiza implikacji dla systemu wdrażania funduszy strukturalnych w Polsce*, “*Wspólnoty Europejskie*” 2005, No. 7/8, K. Wojtaszczyk, *Fundusze strukturalne i polityka regionalna Unii Europejskiej*, Warszawa 2005, T. Kierzkowski, *Fundusze pomocowe dla Polski po akces-*

to reduce the adverse development disparities between EU regions (and in consequence, between the quality of life of the inhabitants), and key instruments in the implementation are operational programs. At the heart of cohesion policy is (with empirical confirmation) the concept that acceleration of social and economic development of regions with low GDP⁶ results in increased competitiveness of the whole EU. Cohesion policy is carried out by an appropriately targeted intervention, particularly by distributing EU funds in such a manner,

ji, fundusze strukturalne i Fundusz Spójności, Warszawa 2004, B. Wieliczko, Polityka regionalna w Unii Europejskiej i w Polsce, Warszawa 2003, K.G. Głębicka, Europejska polityka regionalna, Warszawa 2003, G. Kuźnik, Prawne aspekty rozwoju regionalnego w Unii Europejskiej i w Polsce, [in:] *Rozwój regionalny w perspektywie integracji europejskiej*, ed. A.M. Zagórska, Bytom 2001, I. Steinerowska-Streb, *Rozwój polityki regionalnej Unii Europejskiej*, [in:] ed. M.K. Zagórska, *Rozwój regionalny w perspektywie integracji europejskiej*, Bytom 2001, M. Rudnicki, *Polityka regionalna Unii Europejskiej: zagadnienia prawno-finansowe*, Poznań 2000, M. Kozak, *Polityka regionalna i fundusze strukturalne w Unii Europejskiej*, Łódź 1998, R. Martin, *EMU and Enlargement. Twin Threats to European Regional Policy*, [in:] *Accountability and Legitimacy in the European Union*, ed. D. Arnulf, Oxford 2002, C. Rumford, *European Cohesion. Contradiction in EU Integration*, London 2000, N. Vanhove, *Regional policy: a European approach*, Ashgate 1999, I. Bache, *The Politics of European Union Regional Policy: Multi-Level Governance or Flexible Gatekeeping?*, Sheffield Academic Press 1998, G. Glöckler, *Regional Policy and Cohesion*, Blackstone Press Limited 1998, L.M. Hooghe, *A House with Differing Views: The European Commission and Cohesion Policy*, [in:] N. Nugent, *At the Heart of the Union*, Studies of European Commission, New York 1997, L.M. Hooghe, *Cohesion Policy and European Integration: Building Multi-Level Governance*, Oxford University Press 1996, A. Evans, *The law of EU regional policy*, Copenhagen 1995, M. Pollack, *Regional Actors in an Intergovernmental Play. The Making and Implementation of EC Structural Policy*, [in:] C.M. Rhodes, *Building a European polity?*, Colo: Lynne Rienner 1995, J. Scott, *Development Dilemmas in the European Community: Rethinking Regional Development Policy*, Open University Press 1995, C.C. Mellors, *Regional policy*, London–New York 1990.

⁶ Cohesion policy, influencing the main factors of the competitiveness of the national and regional economy (entrepreneurship, innovation, human capital, the level of technical and social infrastructure), improves the socio-economic situation. At the same time, it contributes to the institutional and systemic changes (institutional convergence). More on this topic: *The effects of cohesion policy...*, p. 4.

that most of them go to the most disadvantaged regions (regions with low GDP⁷)⁸.

Among the objectives of cohesion policy that have been adopted in the current programming period 2007–2013⁹, one is of particular importance to the objectives of this study. It is the European territorial cooperation¹⁰. It consists of supporting, promoting and implementing joint projects with international character throughout the EU. In this context the innovative cooperative instrument, EGTC¹¹, certainly deserves special attention. It should be emphasized that this is a legal instrument dedicated to the territorial cooperation between partners from different member states.

The creation of the concept of this type of grouping was the expression of the search for methods and instruments to strengthen and improve territorial cooperation. Basically, the EGTC was created to fulfil the functions of: management of structural funds, conducting strategic cooperation, and (possibly) playing the role of the collaboration project application tool¹². As it seems, however, its formal qualities – a new type of supranational institutions on the one hand having precedential qualities, on the other (due to the nature of ties between members and the nature of participation: membership and

⁷ EU sets out regional economic parameters for entitlement to the funds based on their level of GDP (GDP per capita less than 75 per cent of the EU average in the EU entitles the region to receive support from EU subsidies).

⁸ <http://www.funduszeuropejskie.gov.pl/> (updated: 20.09.2012).

⁹ In the current programming period (2007–2013), cohesion policy is achieved primarily through two structural funds, namely: the European Regional Development Fund (ERDF), European Social Fund (ESF) and Cohesion Fund (CF).

¹⁰ The other objectives of cohesion policy were indicated as: convergence (support for the development of infrastructure, economic and human potential of the poorest regions) and boosting regional competitiveness and employment (support for innovation and research, sustainable development and professional training in less developed regions).

¹¹ Basic information on this topic can also be found in brochures prepared by the Committee of Regions: European Grouping of Territorial Cooperation, *The best tool for territorial cooperation*, (brochure) 2010, *The European Grouping of Territorial Cooperation, Delivering growth and opportunities* (brochure) 2012.

¹² *Analysis of 2007...*, p. 3.

not ownership) being close to the legal structure of the association¹³, make them ideal for a wider use. In this way, the EGTC could get even more useful in the activities that are the very essence of the above mentioned detailed goal of cohesion policy. (This issue will be discussed later in this article.)

III. OUTLINE OF LEGAL REGULATION ON THE ORGANIZATION AND FUNCTIONING OF EGTC – PRESENT AND PROJECTED AMENDMENTS

The basis for the organization and functioning of the grouping is the Regulation on European grouping of territorial cooperation¹⁴. Its adoption¹⁵ is sometimes referred to, on the one hand, as a serious shock to legal frameworks for territorial cooperation, on the other – as their understandable evolution¹⁶. The ground-breaking nature of the Regulation is primarily due to the fact that this is the first normative instrument for the Community (EU) in this field. Moreover, what it is worth noting, it allows for the possible participation of countries, alongside local governments, in organizations of territorial cooperation that have separate legal person-

¹³ Justification for the draft law on the European grouping of territorial cooperation together with the draft implementing legislation (Druk Sejmowy No. 893 of 07.24.2008).

¹⁴ Regulation (EC) No.1082/2006 of the European Parliament and of The Council of 5 July 2006, EU OJ L 210/19.

¹⁵ The main reasons for adopting the regulation on the EGTC and the adaptation process is characterized by G. Luciani, *European Grouping of Territorial Cooperation*, Master Thesis: College of Europe, Bruges Campus, European Political and Administrative Studies Department, 2008/2009 p. 25–29. See also the cited documents and studies, in particular: European Commission, Proposal for a regulation of the European Parliament and of the Council establishing a European Grouping of Cross Border Cooperation (EGCC), COM(2004)0496, 2004/0168(COD), European Parliament, Committee on Regional Development, Report on the proposal for a regulation of the European Parliament and of the Council establishing a European Grouping of Cross Border Cooperation (EGCC), Doc. No. A6–0206/2005, Committee of the Regions, Resolution on cooperation beyond national borders make Europe a reality – an appeal to adopt the Regulation on the European Grouping on Territorial Cooperation, CdR 72/2006 fin.

¹⁶ Analysis of 2007..., p. 1.

ality. It is – compared to previous regulations on cross-border cooperation – a complete change of perspective. Finally, the ground-breaking nature of this adjustment is reflected in the changes in the status of cooperation between authorities in different Member States form a marginal phenomenon – towards one put in the centre of the integration process.¹⁷ This is a change in the philosophy of the implementation of territorial cooperation. Besides the Regulation, the legal basis for the organization and functioning of EGTC are contained in the provisions of the convention¹⁸ and statute¹⁹, and in the case of matters not covered by the Regulation (or only partly regulated there) – by the law of the Member State where the EGTC has its registered office²⁰.

In the current state of the law, one can specify a number of design features of the EGTC²¹. Putting aside the indicated above question of the legal basis of the grouping activity, one should pay attention to: 1. the cross-boundary nature of the organization – the members come from at least two Member States, where the state, regional authorities, local authorities and public bodies may have membership status; 2. The objective of the grouping which is to facilitate and promote territorial cooperation, which, in turn, should be understood as cross-border, transnational, as well as, interregional cooperation between members of the EGTC so as to strengthen economic and social cohesion; 3. having legal status of Community law and (where appropriate) legal personality status of public or private rights under national law; 4. having legal capacity and

¹⁷ *Ibidem*.

¹⁸ The Convention, adopted unanimously by the EGTC members, specifies the name of the grouping, its registered office, territorial extent, the specific objective and tasks, its duration and conditions governing its dissolution, the list of members, etc.. See art. 8 of the Regulation.

¹⁹ The Statute, adopted on the basis of the convention by its members acting unanimously, includes, as a minimum, all provisions of the Convention and also provisions for the EGTC's organs, operating provisions and their competences, decision-making procedures, working language or languages, arrangements for the functioning of the EGTC and members' financial contributions, accounting and budgetary rules, etc. See Art. 9 of the Regulation.

²⁰ Art. 2 of the Regulation.

²¹ On this subject, see also the Analysis of 2007..., pp. 2–3.

capacity to act in law with the most extensive scope accorded to legal persons under national law; 5. having one registered office, the choice of which has serious legal consequences (it determines in particular the competent law, having auxiliary application in the EGTC and bodies responsible for its control); 6. EGTC structure based on two organs: an assembly, made up of representatives of members and a director, who represents the EGTC and acts on its behalf (and possibly additional organs with clearly defined powers provided in the statute); 7. administering of the annual budget; 8 the functioning of the EGTC in the tasks entrusted to it by its members and defined in the Convention. These actions are performed based on the principle according to which all tasks fall within the competence of each member under its national law.

An over-five-year-long period of the Regulation's standing establishes a basis for the creation of assessments of both the act itself, as well as functioning of the EGTC on the basis of it. For these reasons, the European Commission, acting on the intention to facilitate the establishment and functioning of the EGTC and to optimize its operation, proposed changes to the Regulation²² (European Commission Proposal on the Revision of the Regulation²³).

The Commission included the essence of the proposed changes²⁴ in three points: firstly, continuity – because the basic nature of an EGTC will

²² Submission of proposals for changes in the Regulation was preceded by the Report from the European Commission and the Council. The Application of the Regulation (EC) Regulation No.1082/2006 on the European Grouping of Territorial Cooperation, Brussels, 07.29.2011, COM (2011) 462 final – referred to as the Commission Report .

²³ Proposal for a Regulation of the European Parliament and of The Council amending Regulation (EC) No. 082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings, Brussels, 14.03.2012, COM (2011) 610 final / 2 – referred to as the EC Proposal.

²⁴ The proposal referred to was the subject of opinion giving by, both the Committee of Regions and the European Economic and Social Committee, see Opinion of the Committee of Regions 2012/C 113/06, “Revision of the EGTC Regulation,” EU OJ C 113/22 of 2012 and the Opinion of the European Economic and Social Committee 2012/C 191/10 on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No.1082/2006 of the European Parliament and of the Coun-

not be changed and no existing EGTC should need to change its statutes or ways of operating; and secondly, clarity – as this Regulation will be amended, so as to, among others, take account of the Lisbon Treaty, simplify and clarify certain aspects; and, thirdly, flexibility – by opening up EGTCs to any aspect of territorial cooperation and by providing legal bases for a wider than ever before participation as a member²⁵.

Apart from the overall analysis of the proposed changes, let us simply point out those that are particularly relevant to the aim of this study. And therefore, recognizing the usefulness of the EGTC instrument, the Commission suggested – in terms of groupings' purposes – amends to extend them so that they “cover the facilitating and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion and other Union policies”²⁶. From this position of the Commission it is clear at the same time that it considers the EGTC as a tool for policy implementation. As a result, the content of article 1, paragraph 2 of the Regulation – as proposed by the Commission – reads: “The objective of an EGTC shall be to facilitate and promote cross-border, transnational and/or interregional cooperation, hereinafter referred to as ‘territorial cooperation’, between its members as set out in Article 3(1), with the exclusive aim of strengthening economic and social cohesion’.

The Commission also proposed the changing of the rule on the tasks entrusted to the implementation of the EGTC. In place of the existing rule, under which all tasks fall within the competence of every member under its national law – to adopt a rule that at least one member of the EGTC from each Member State represented in the grouping should have a range

cil of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings, COM (2011) 610 final – 2011/0272 (COD), EU OJ C 191/53 of 2012.

²⁵ EC Proposal, *op. cit.*, p.2. The proposed changes concern in particular: 1. membership; 2. the content of the Convention and Statutes of an EGTC; 3. its purpose; 4. the process of approval by national authorities; 5. applicable law for employment and for procurement; 6. EGTCs whose members have different liability for their actions; 7. more transparent procedures for communication.

²⁶ EC Proposal, the preamble, point 19.

of competencies needed for effective functioning of the EGTC²⁷. This change should be regarded as extremely valuable from a practical point of view – significantly extending the capabilities for tasks completion by the group. We should add as well, that although the tasks of the EGTC may relate to the implementation of cooperation programs or operations supported by the EU under the European Regional Development Fund, European Social Fund and the Cohesion Fund, the EGTC can lead specific actions of territorial cooperation between its members within its goal, regardless of whether the Union has provided financial support to these actions. From the perspective of cohesion policy, worth the attention is also a regulation which allows Member States to restrict the range of activities that EGTCs perform without the financial support of the Union, but it is not possible to exclude the activities falling under investment priorities of cohesion policy adopted for the period 2014–2020.

Other significant changes envisaged in the EC Proposal concern the enlargement of the directory of entities – EGTC members (according to the assumption of making the grouping formula flexible). On the one hand, it was proposed that the membership status could be obtained by public law bodies and public undertakings; on the other hand, it was proposed to allow the membership of the regions and authorities in third countries, regardless of whether the other members come from one or more Member States. As to the second aspect, it is noted that the European territorial cooperation has been supported since 1990 with financial instruments of cohesion policy and in this context, there has always been the possibility of cooperation between an individual Member State and a third country. Therefore, the legal instrument, that is EGTC, needs to open up to such opportunities for collaboration. More importantly, it needs to be kept in mind that the cooperation with the EU's outermost regions in the new programming period of 2014–2020 will be allowed a separate, additional allocation. This should attract engagement in this cooperation, of not only the authorities and entities from third countries, but also the authorities and entities of overseas countries and territories.

²⁷ EC Proposal, the preamble, point 19.

On the basis of the foregoing, the answer to the question posed in the introduction: to what extent will the planned legislative changes allow the development of groupings of this type, seems obvious. These changes can only boost the development of the EGTC, extending not only the scope of purposes that may be put in front of them, but making the scope of the duties performed by them and the selection of the members (partners) more flexible. It seems that both, the extent of the changes, their content and character – developed through broad consultation and opinion giving – are a well-chosen remedy for the properly diagnosed disease.

The cited proposed changes are also partially the answer to the second of the previously identified questions – for which of the EU's broader objectives may EGTC be useful. The unambiguous position of the Commission, as evidenced in the shape of the proposed amendment to the Regulation, highlights the guiding principle of making the EGTC an essential tool for implementing the cohesion policy.

IV. THE USE OF THE LEGAL MODEL OF EGTC IN THE IMPLEMENTATION OF THE COHESION POLICY

Questions posed in the introduction – for which of the EU's broader objectives may EGTC be useful and what is the added value of this instrument – are essentially questions about processes, important from the point of view of European integration and cohesion that it can serve. This treatment is justified by a concentrated search, apparent especially nowadays, for new, alternative forms of territorial cooperation with integration processes in the EU²⁸.

Analysing the adopted legal model of the EGTC, and evaluating it in the broader context of processes and phenomena that led to its creation²⁹,

²⁸ L. Engström, J. Nergelius, V. Persson, P. Tallberg, *The European Grouping of Territorial Cooperation – Report on EGTC* (2011).

²⁹ See on this subject: G. Spinaci, G. Vara-Arribas, *The European Grouping of Territorial Cooperation (EGTC): New Spaces and Contracts for European Integration?*, EIPASCOPE 2009/2, p. 6 (The Political context and the policy agenda behind the EGTC Regulation).

there emerge a belief that the aim that pursued the vocation to life of the EGTC instrument was not in replacement of the existing instruments of regional cooperation. It was to supplement them, fill gaps and introduce significant elements of innovation that facilitate cooperation. (Perhaps, in the background of these actions, EGTC's potential in the formation of new functional macro-regions going beyond the traditional cross-border cooperation was visible from the beginning?³⁰).

Striving to ensure the effectiveness of European territorial cooperation (as a specific objective of cohesion policy) led to the search for a new, effective instrument, which at the same time would bear no flaws of the existing tools. And thus, for example, having diagnosed that one of the key barriers in the development of the existing territorial cooperation are structural (of the political, legal and administrative system) and competence differences ("asymmetries" of competence) on different sides of the border, it was decided to look for such an institutional model of cooperation which would be able to "defeat" these barriers.

The EGTC instrument's innovative nature manifests itself in this context in the possibility for cooperation between local governments and countries within a single structure. Thus, it becomes feasible to jointly perform tasks that require specified competencies on various levels of public authorities (local, regional or national) by several public entities, within the framework of territorial cooperation³¹. On the one hand, such coordination between different bodies (organs) is complicated; however, on the other hand, it is extremely important. This is because it requires the authorities of various levels to discuss the problems arising in the areas in which they perform their activities³². The possibility for the participation of Member States in the body of territorial cooperation is an absolute innovation in relation to other instruments of territorial cooperation. This innovation is particularly important not only in overcoming the resistance of Member States to territorial cooperation, but also because local and regional authorities need their support in their effective actions³³.

³⁰ G. Spinaci, G. Vara-Arribas, *The European Grouping...*, p. 10.

³¹ *Analysis...*, p. 94.

³² G. Luciani, *European Grouping...*, p. 32.

³³ *Ibidem*, p. 33.

Although the Regulation creates the possibility of the implementation of the cooperation, resulting in a growing tendency to establish EGTCs³⁴ and local and regional entities are finding more ways to fulfil their aspirations with the help of these groupings, still, these possibilities could be used more widely. Changes in the Regulation proposed by the European Commission follow in this direction. Experience with EGTCs set up so far shows that the new legal instrument is also being used for cooperation in the implementation of other European policies. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs.³⁵ From this position of the Commission it is clear that it considers the EGTC as a tool for cohesion policy implementation. Moreover, the Commission emphasizes explicitly that increasing the catalogue of groupings' action goals will contribute to the implementation of the Europe 2020 strategy or to the implementation of macro-regional strategies.

Referring to the questions posed in the introduction, that is, what added value does EGTC bring, it is worth paying attention to the position of Michel Delebarre, who noted that "Strengthening and integration of our local governments, however, require from us a spirit of innovation in the management of our cooperation activities at the European level. We should undertake more organized efforts of cooperation, also in legal terms, emphasizing the opportunities for participation open to various levels of government and for many entities of local development. In this sense, the EGTC, as a new legal instrument, forms part of the evolution of solutions for governance of European territorial cooperation and its organization, while simultaneously it contains the potential that can help us achieve significant progress in the coming years"³⁶.

This position properly reflects the possibilities available in the accepted legal model of the EGTC, particularly in the context of European cohesion policy. The grouping includes a significant potential for decision making at many levels (multi-level governance), referred to in the White Paper on

³⁴ Till March 31, 2011, 16 EGTCs created.

³⁵ EC Proposal, the preamble, point 5.

³⁶ M. Delebarre, Introduction to the Analysis..., p. I.

European governance³⁷. This document became the main tool in the process of the transformation of governance in Europe³⁸.

The White Paper outlined the vision of the Union based on a system of multilevel governance in which each actor contributes to (adequately to its abilities and knowledge) to the success of the whole. Indeed, the Union cannot implement policies in the same way as national governments – it must, however, build partnerships and be based on many different actors³⁹. In a multilevel system, the real challenge is to establish clear rules for the division of powers – not their separation⁴⁰.

Multi-level governance also opens up broad prospects for the development of local governments, as much as for the implementation of territorial cohesion, and further, for the entire integration process. In this way, the EGTC is an instrument for implementation of certain rules proposed by the European Commission's White Paper on European governance⁴¹. What's more, one can say that the EGTC is an effective concrete of the concept of multi-level governance. In this context, the EGTC is seen as a kind of laboratory of management processes in the paradigm postulated by the European Commission, and the experience emerging from here (not only positive) should constitute the impetus for a solid, in-depth analysis of "the great project of European integration". Therefore, the EGTC as an instrument makes part of a wider political debate on cohesion policy and governance in Europe.

Finally, it should be noted that the EGTC could be the nucleus of the political landscape change at a local and regional level. It may, in particular, give the citizens a sense of "European neighbourhood", as well as provide local political classes with a "new European perspective." In a political sense, it is also a unique opportunity for joint actions for a new

³⁷ European governance. A white paper, Commission of the European Communities, Brussels 2001, COM(2001) 428 final.

³⁸ R. Kaiser, H. Prange, A new concept of deepening European integration? The European Research Area and the emerging role of policy coordination in a multi-level governance system, *European Integration online Papers (EIoP)*, Vol. 6, No. 18, p. 1.

³⁹ European governance..., p. 32.

⁴⁰ *Ibidem*, pp. 34–35.

⁴¹ Analysis of 2007, *op. cit.*, p. 7.

generation of politicians no longer bound by the schemata of the post-war division of borders in Europe – but treating the joint overcoming of challenges to territorial cooperation as the goal of their actions⁴².

V. SUMMARY

Legal regulation in the form of a regulation governing the organization and functioning of the EGTC has enabled the creation of the new European instrument – offering a legal structure that optimizes the collaboration between national, regional, local authorities and other public law entities in various countries. The very fact of its creation – judging from a system perspective – significantly enriched the catalogue of instruments (tools) for meeting the objectives of the cohesion policy (in particular, its specific objective of European territorial cooperation). By this, the prospect of territorial cooperation (alongside already well-established cross-border cooperation instruments for local and regional authorities created under the aegis of the Council of Europe) was extended. Taking a practical perspective it must be recognized that the role of the EGTCs – especially in the context of the forthcoming new programming period of the EU – will gain importance. This statement does not only result from a positive evaluation of legal solutions (both *de lege lata* and *de lege ferenda*) governing the organization and functioning of the EGTC instrument. It is justified on the grounds of the position adopted by the European Commission envisaging a significant role of the grouping, at least for the implementation of the Europe 2020 strategy, as well as discerning the possibility of using the EGTC to cooperate in the implementation of other European policies.

⁴² See on this subject: G. Spinaci, G. Vara-Arribas, *The European Grouping...*, p. 11.

Abstract

Observing the political processes taking place in the modern European Union, one can see the anchoring of the position of the cohesion policy as one of the most important policies of the organization, and within it its growing role of “territorial cohesion”. In legal terms this is reflected even in Treaty on European Union, and clearly confirms the same meaning given to the territorial dimension as economic and social dimensions were given in previous treaties. This fact, can have a significant impact on the shaping of the future of European territorial cooperation – its priorities, benchmarks, implementation forms and purposes. Increasing importance of territorial cooperation is strictly connected with the role of the European Grouping of Territorial Cooperation (EGTC), which is one of the most important new instruments for its implementation.