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TEXTS ADOPTED

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**P8\_TA(2019)0118**

**Mechanism to resolve legal and administrative obstacles in a cross-border context \*\*\*I**

**European Parliament legislative resolution of 14 February 2019 on the proposal for a regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context (COM(2018)0373 – C8-0228/2018 – 2018/0198(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0373),
- having regard to Article 294(2) and third paragraph of Article 175 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0228/2018),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 19 September 2018<sup>1</sup>,
- having regard to the opinion of the Committee of the Regions of 5 December 2018<sup>2</sup>,
- having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on Regional Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0414/2018),

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<sup>1</sup> OJ C 440, 6.12.2018, p. 124.

<sup>2</sup> OJ C ...

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P8\_TC1-COD(2018)0198**

**Position of the European Parliament adopted at first reading on 14 February 2019 with a view to the adoption of Regulation (EU) .../... of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 175 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>1</sup> OJ C 440, 6.12.2018, p. 124.

<sup>2</sup> OJ C ...

<sup>3</sup> Position of the European Parliament of 14 February 2019.

Whereas:

- (1) The third paragraph of Article 175 of the Treaty on the Functioning of the European Union (TFEU) provides for specific actions to be decided upon outside the Funds which are the subject of the first paragraph of that Article, in order to achieve the objective of social and economic cohesion envisaged by the TFEU. The harmonious development of the entire Union territory and greater economic, social and territorial cohesion imply the strengthening of territorial cooperation. To this end it is appropriate to adopt the measures necessary to improve the implementation conditions for actions of territorial cooperation.
- (2) Article 174 TFEU recognises the challenges faced by border regions and provides that the Union should pay particular attention to these regions, when developing and pursuing actions leading to the strengthening of the Union's economic, social and territorial cohesion. Due to the increase in the number of land and maritime borders, the Union and its immediate neighbours in the European Free Trade Association ('EFTA') have 40 internal land borders.

***(2a) To improve the life of citizens in cross-border regions on maritime borders or in cross-border regions between the Member States and third countries, the application of this Regulation and the use of a mechanism to resolve legal and administrative obstacles should be extended to all border regions of the Union, while respecting Union law. [Am. 1]***

(3) In its Communication 'Boosting growth and cohesion in EU border regions'<sup>1</sup> (the Border Regions Communication') the Commission sets out that over the past decades, the European integration process has helped internal border regions to transform from mainly peripheral areas into areas of growth and opportunities. The completion of the Single Market in 1992 has boosted Union productivity and reduced costs through the abolition of customs formalities, harmonisation or mutual recognition of technical rules and lower prices as a result of competition; intra-EU trade has increased by 15 % over 10 years; additional growth has been generated and around 2,5 million more jobs have been created.

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<sup>1</sup> Communication from the Commission to the Council and the European Parliament 'Boosting growth and cohesion in EU border regions' - COM(2017)0534, 20.9.2017.

- (4) The Border Regions Communication has also given evidence of the fact that there still exist a number of legal barriers in border regions, especially those related to health services, labour regulation, taxes, business development, and barriers linked to differences in administrative cultures and national legal frameworks. Neither European Territorial Cooperation funding nor the institutional support to cooperation by the European groupings of territorial cooperation (EGTCs) is sufficient alone to address the resolution of those barriers which constitute real obstacles to effective cooperation.

- (5) Since 1990, programmes under the European Territorial Cooperation goal, better known as 'Interreg'<sup>1</sup> have supported cross-border cooperation programmes along Union border regions, including those with EFTA countries. It has financed thousands of projects and initiatives that have helped improve European integration. The main achievements of Interreg programmes include: increased trust, higher connectivity, improved environment, better health and economic growth. From people-to-people projects via infrastructure investments and support to institutional cooperation initiatives, Interreg has made a genuine difference to border regions and has contributed to their transformation. Interreg has also supported cooperation on certain maritime borders. However, legal obstacles are much less an issue for maritime border regions because of the physical impossibility to cross the border daily or several times per week for work, education and training, shopping, the use of facilities and services of general economic interest or a combination or for rapid emergency interventions.

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<sup>1</sup> Five programming periods of Interreg have succeeded each other: INTERREG I (1990-1993), INTERREG II (1994-1999), INTERREG III (2000-2006), INTERREG IV (2007-2013) and INTERREG V (2014-2020).

- (6) Financial support by Interreg to cross-border cooperation has been complemented by the EGTCs, set up since 2006 under Regulation (EU) No 1082/2006 of the European Parliament and of the Council<sup>1</sup>. However, pursuant to the first subparagraph of Article 7(4) of Regulation (EC) No 1082/2006, EGTCs cannot exercise regulatory powers to resolve legal and administrative obstacles in cross-border context.
- (7) In its Border Regions Communication, the Commission referred among other measures to an initiative started under the Luxembourg Presidency in 2015: A number of Member States are considering the merits of a new instrument to simplify cross-border projects by making it possible, on a voluntary basis and agreed by the competent authorities in charge, for the rules of one Member State to apply in the neighbouring Member State. This would apply to an individual project or action limited in time, located within a border region and initiated by local or regional authorities.

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<sup>1</sup> Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

- (8) Even though a number of effective mechanisms for cross-border cooperation already exist at inter-governmental, regional and local level in certain regions of the Union, they do not cover all border regions in the Union. In order to complement the existing systems, it is therefore necessary to set up a voluntary mechanism to resolve legal and administrative obstacles in all border regions ('the Mechanism'), ***but this does not prevent the creation of alternative comparable mechanisms according to specific needs at national, regional or local level.*** [Am. 2]
- (9) In full respect of the constitutional and institutional set-up of the Member States, the use of the Mechanism ~~should be~~ ***is*** voluntary ~~with regard to those border regions of a given Member State where another effective mechanism exists or could be set up with the neighbouring Member State.~~ It should consist of two measures: the signature and the conclusion of a European Cross-Border Commitment (the 'Commitment') or the signature of a European Cross-Border Statement (the 'Statement'). ***It should be possible for Member States to choose using an instrument which they consider to be more beneficial.*** [Am. 3]

***(9a) The competent authorities of the Member States, countries, entities or regions involved should adopt, in accordance with their constitutional and legally defined specific competencies, the proposed ad hoc legal solution before concluding and signing the Commitment or signing the Statement pursuant to this Regulation.***  
**[Am. 4]**

(10) The Commitment should be self-executing, meaning that pursuant to the conclusion of the Commitment certain legal provisions of one Member State are to be applied on the territory of the neighbouring Member State. It should also be acceptable that the Member States are to adopt a legislative act to allow for the conclusion of a Commitment, in order to prevent national legislation formally adopted by a legislative body from being derogated from by an authority other than that legislative body and in breach of legal clarity and transparency or both.

- (11) The Statement would still require a legislative procedure in the Member State. The authority concluding the Statement should make a formal statement that it will trigger by a certain deadline the legislative procedure necessary to amend the normally applicable national law and to apply, by way of an explicit derogation, the law of a neighbouring Member State, ***in order to remove obstacles to the implementation of joint cross-border projects.*** [Am. 5]
- (12) Legal obstacles are predominantly felt by persons interacting on land borders, ***such as cross-border workers***, because people cross borders on a daily or weekly basis. In order to concentrate the effect of this Regulation to the regions closest to the border and with the highest degree of integration and interaction between neighbouring Member States, this Regulation should apply to cross-border regions within the meaning of the territory covered by neighbouring land ***or maritime*** border regions in two or more Member States at NUTS level 3 regions<sup>1</sup>. This should not prevent Member States from applying the Mechanism also to ~~maritime~~ and external borders other than those with EFTA countries, ***on a voluntary basis in relation to all parties concerned.*** [Am. 6]

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<sup>1</sup> Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (13) In order to coordinate the tasks of different authorities which in some Member States will include national and regional legislative bodies, within a given Member State and between those of one or more neighbouring Member States, each Member State ~~which opts for the Mechanism~~ should be obliged to set up a national and, where applicable *appropriate*, regional Cross-border Coordination Points and define their tasks and competencies during the different steps of the Mechanism covering initiation, conclusion, implementation and monitoring of Commitments and Statements. **[Am. 7]**
- (14) The Commission should set up a coordination point at Union level, as announced in the Border Regions Communication. That coordination point should liaise with the different national and, where relevant, regional Cross-border Coordination Points. The Commission should set up and maintain a database on Commitments and Statements in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>1</sup>.

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<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(15) This Regulation should set out the procedure to conclude a Commitment or Statement and describe in detail the different steps; preparation and submission of an initiative document, a preliminary analysis by the Member State which is to apply the legal provisions of the neighbouring Member State, preparation of the Commitment or Statement to be concluded and finally the conclusion procedure both for the Commitment and the Statement. The elements to be covered in the initiative document, the draft and final Commitments and Statements should also be set out in detail as well as the applicable deadlines.

(16) More specifically, this Regulation should define who can be an initiator of a joint project. As the Mechanism should improve the implementation of joint cross-border projects, the first group should be bodies initiating or both initiating and implementing such joint project. The term project should be understood in a broad sense, covering both a specific item of infrastructure or a number of activities with regard to a certain territory or both. Secondly, a local or regional authority located in a given cross-border region or exercising public power in that cross-border region should be empowered to take the initiative to apply national law which constitutes an obstacle, but the amendment of or derogation from that law is outside their institutional competence. Thirdly, bodies set up for cross-border cooperation located in or covering at least partially a given cross-border region, including EGTCs, or similar bodies to organise cross-border development in a structured way should be initiator. Finally, bodies specialised in cross-border cooperation which may also be aware of effective resolutions found elsewhere in the Union for a comparable issue should also be enabled to start an initiative. In order to create synergy of bodies directly affected by the obstacle and those expert in cross-border cooperation in general, all groups may initiate the Mechanism jointly.

(17) The key actor in the Member States requested to conclude a Commitment or Statement should be the respective national or regional Cross-border Coordination Point which is to liaise with all competent authorities in its Member State and with its counterpart in the neighbouring Member State. It should also be clearly established that the Cross-border Coordination Point may decide whether a procedure leading to the conclusion of a Commitment or a Statement is to be launched or whether for one or more legal obstacles a resolution has already found which could be applied. On the other hand, it should also be established that the Member State the legal provisions of which are to be applied in the other Member State may refuse such application outside its territory. Any decision should be *duly* justified and communicated *in due time to all the partners*.

**[Am. 8]**

(18) This Regulation should establish detailed rules on the implementation, application and monitoring of Commitments and Statements to be concluded and signed.

- (19) The implementation of a self-executing Commitment should consist in the application of national provisions of another Member State *when implementing joint projects*. This should mean either the amendment of legally binding administrative acts already adopted in accordance with the normally applicable national law or, where this has not yet been done, the adoption of new administrative acts based on the legislation of another Member State *within a deadline agreed by all the partners in order to be able to launch joint projects in due time*. Where several authorities are each competent for different aspects of a complex legal obstacle, the Commitment should be accompanied by a timetable for each of these aspects. Respecting the subsidiarity principle, the adoption and transmission of those amended or new administrative acts should follow the national law on administrative procedures. **[Am. 9]**
- (20) The implementation of Statements should mainly consist in the preparation and submission of a legislative proposal to amend existing national law or to derogate from it. After adoption, those amendments or derogations should be made public and then also implemented like the Commitments by the amendment and adoption of legally binding administrative acts.

(21) Based on the legally binding acts, the respect for the obligations and rights of the addressees thereof should be monitored. Member States should be allowed to decide whether that monitoring is entrusted to the authorities of the Member State which transferred its legal provisions because those authorities are more familiar with those rules or whether that monitoring is entrusted to the authorities of the Member State where those provisions are applied because those authorities are more familiar with the remaining legal system of the committing Member States and the law governing the addressees.

(22) The protection of persons resident in cross-border regions directly or indirectly affected by the application and monitoring of a Commitment and the amended legislation pursuant to a Statement, who consider themselves wronged by acts or omissions by the application should be clarified. Both for Commitment and Statement, the law of the neighbouring Member State would be applied in the committing Member State as incorporated into its own legislation and the legal protection should therefore be in the remit of the courts of the committing Member States even where persons have their legal residence in the transferring Member State. The same principle should apply for the legal redress against the Member State whose administrative act is challenged. However, a different approach should apply to legal redress against the monitoring of the application of the Commitment or Statement. Where an authority from the transferring Member State has accepted to monitor the application of the amended legal provisions of the committing Member State and can act with regard to persons resident in the cross-border area on behalf of the authorities of the committing Member State, but in its own name, the competent courts should be those of the Member State where those persons have their legal residence. On the other hand, where the competent transferring authority cannot act in its own name, but in the name of the competent committing authority, the competent courts should be those of the committing Member State, regardless of the legal residence of the person.

- (23) This Regulation should set out rules on its implementation, the monitoring of its application and on the obligations of the Member States with regard to their national implementing rules.
- (24) In order to establish a database according to Article 8-7, implementing powers should be conferred on the Commission to lay down rules on its running, on the protection of data and the model to be used when information on the implementation and on the use of the Mechanism is submitted by Cross-border Coordination Points. Those powers should be exercised in accordance with the advisory procedure under Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. For practical and coordination purposes, the ‘Coordination Committee for the European Structural and Investment Funds’ should be the committee competent for the procedure of adoption of implementing acts. **[Am. 10]**
- ~~(25) The national implementing rules are to specify which border regions of a given Member State are covered by the Commitment or the Statement. Consequently, the Commission will be in a position to assess whether for the border which is not mentioned the Member State has opted for a different mechanism. **[Am. 11]**~~

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(26) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data (Article 8), the right to education (Article 14), the freedom to choose an occupation and the right to engage in work (Article 15), in particular the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State, the freedom to conduct business (Article 16), access to social security and social assistance (Article 34), access to health care (Article 35), ~~and~~ access to services of general economic interest (Article 36) ***and a high level of environmental protection in accordance with the principle of sustainable development (Article 37).*** [Am. 12]

(27) The conditions for territorial cooperation should be created in accordance with the subsidiarity principle enshrined in Article 5(3) of the Treaty on European Union (TEU). Member States have undertaken individual, bilateral or even multilateral initiatives to resolve legal border obstacles. However, those mechanisms do not exist in all Member States or not for all borders of a given Member State. The financing instruments (mainly Interreg) and the legal instruments (mainly EGTCs) provided at Union level so far have not been sufficient to resolve legal border obstacles throughout the Union. The objectives of the proposed action can consequently not be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. Further action by the Union legislator is therefore needed.

(28) In accordance with the principle of proportionality, as set out in Article 5(4) TEU, the content and form of Union action should not exceed what is necessary to achieve the objectives of the Treaties. The recourse to the specific Mechanism set up under this Regulation ***to resolve legal obstacles in cross-border regions*** is voluntary ***and in no way precludes the use of alternative comparable instruments***. Where a Member State decides, ~~on~~ ***for*** a specific ~~border~~ ***joint project*** with one or more neighbouring Member States, to continue to resolve legal obstacles in a specific cross-border region under the effective mechanisms it has set up at national level or which it has set up formally or informally, together with one or more neighbouring Member States, the Mechanism set up under this Regulation does not need to be selected. Likewise, where a Member State decides, ~~on~~ ***for*** a specific ~~border~~ ***joint project*** with one or more neighbouring Member States, to join an existing effective mechanism set up formally or informally by one or more neighbouring Member States, provided that mechanism allows for accession, again, ***the Mechanism set up under this Regulation does not need to be selected***. ***Finally, where a Member State decides together with one or more neighbouring Member States, to set up formally or informally a new effective mechanism to resolve legal obstacles hampering the implementation of a joint project in cross-border regions***, the Mechanism set up under this Regulation does not need to be selected. This Regulation does therefore not go beyond what is necessary in order to achieve its objectives for those cross-border regions, for which Member States have no efficient mechanisms to resolve legal obstacles in place. [Am. 13]

*(28a) This Regulation should comply with the subsidiarity principle. It does not affect, by any means, the sovereignty of Member States nor contradict their constitutions.*

[Am. 14]

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### General provisions

#### Article 1

##### Subject matter

1. This Regulation sets up a **voluntary** mechanism to allow for the application in one Member State, with regard to **a single joint project in** a cross-border region, of the legal provisions from another Member State, where the application of the legal provisions of the former would constitute ~~a~~ **one or more** legal ~~obstacle~~ **obstacles** hampering the implementation of a joint Project ('the Mechanism'). [Am. 15]

2. The Mechanism shall consist of one of the following measures:
  - (a) the conclusion of a European Cross-Border Commitment, which is self-executing,
  - (b) the conclusion of a European Cross-Border Statement which would require a legislative procedure in the Member State.
  
3. This Regulation also lays down
  - (a) the organisation and tasks of Cross-border Coordination Points in the Member States,
  - (b) the coordinating role of the Commission with respect to the Mechanism,
  - (c) the legal protection of persons resident in a cross-border region *or those who live there for a limited period* with regard to the Mechanism. **[Am. 16]**

## Article 2

### Scope

1. This Regulation applies to cross-border regions as defined in point (1) of Article 3.
2. Where a Member State comprises several territorial entities with legislative powers, this Regulation shall also apply to those territorial entities including their respective authorities or legal provisions.

## Article 3

### Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'cross-border region' means the territory covered by neighbouring land *or maritime* border regions in two or more Member States at NUTS level 3 regions; [**Am. 17**]

- (2) 'joint project' means any item of infrastructure with an impact in a given cross-border region or any service of general economic interest provided in a given cross-border region, *regardless of whether this impact appears on both sides of the border or only on one side thereof*; [Am. 18]
- (3) 'legal provision' means any legal or administrative provision, rule or administrative practice applicable to a joint project, regardless whether adopted or implemented by a legislative or executive body;
- (4) 'legal obstacle' means any legal provision with regard to the planning, development, staffing, financing or functioning of a joint project that obstructs the inherent potential of a border region when interacting across the border;
- (5) 'initiator' means the actor who identifies ~~the~~ *one or more* legal ~~obstacle~~ *obstacles* and triggers the Mechanism by submitting an initiative document; [Am. 19]
- (6) 'initiative document' means the document prepared by one or more initiators to trigger the Mechanism;

- (7) 'committing Member State' means the Member State on the territory of which one or more legal provisions from a transferring Member State will apply under a given European Cross-border Commitment (the "Commitment") or European Cross-border Statement (the "Statement") or where, in the absence of an appropriate legal provision, an *ad hoc* legal resolution will be established;
- (8) 'transferring Member State' means the Member State whose legal provisions will apply in the committing Member State under a given Commitment or Statement;
- (9) 'competent committing authority' means the authority in the committing Member State competent to accept the application of the legal provisions of the transferring Member State on its territory under a given Commitment or, in the case of a Statement, to commit itself to starting the legislative procedure needed for a derogation from its domestic legal provisions;
- (10) 'competent transferring authority' means the authority in the transferring Member State competent for the adoption of the legal provisions which will apply in the committing Member State and for its application on its own territory or for both;

- (11) 'area of application' means the area in the committing Member State where the legal provision of the transferring Member State or an *ad hoc* legal resolution shall apply.

#### Article 4

##### Member States' options for resolving legal obstacles

1. Member ~~State shall either~~ **States may** opt for the Mechanism or opt for ~~existing~~ **other** ways to resolve legal obstacles hampering the implementation of a joint project in cross-border regions ~~on a specific border~~ with one or more neighbouring Member States. **[Am. 20]**
2. A Member State may ~~also decide~~, with regard to a ~~specific border~~ **joint project in cross-border regions**, with one or more neighbouring Member States, ~~to join an existing effective way set up formally or informally by one or more neighbouring Member States~~ **or shall apply the Mechanism in respect of the Statement.** **[Am. 21]**

3. Member States may also use *apply* the Mechanism ~~in cross-border regions on maritime borders or~~ *to a joint project* in ~~a~~ cross-border regions *region* between one or more Member States and one or more third countries or one or more overseas countries and territories *on a voluntary basis in relation to all parties concerned*.  
[Am. 22]
4. Member States shall inform the Commission about any decision taken under this Article.

## Article 5

### Cross-border Coordination Points

1. ~~Where a~~ *Each* Member State ~~opts for the Mechanism,~~ it shall establish *or designate* one or more Cross-border Coordination Points in one of the following ways:  
[Am. 23]
  - (a) designate, at national or regional level or at both levels, a Cross-border Coordination Point as a separate body;

- (b) set up a Cross-border Coordination Point within an existing authority or body, at national or regional level;
- (c) entrust an appropriate authority or body with the additional tasks as national or regional Cross-border Coordination Point.

2. Committing Member States and transferring Member States shall also determine:

- (a) whether it is the Cross-border Coordination Point or a competent committing/transferring authority which may conclude and sign a Commitment and decide the applicable national law will be derogated from the date of the entry into force of that Commitment; or
- (b) whether it is the Cross-border Coordination Point or a competent committing/transferring authority which may sign a Statement and state formally therein that the competent committing authority will do the necessary as to legislative or other acts be taken by the competent legislative bodies in that Member State by a given deadline.

3. The Member States shall inform the Commission of the designated Cross-border Coordination Points by the date of the start of application of this Regulation.

## Article 6

### Tasks of Cross-border Coordination Points

1. Each Cross-border Coordination Point shall have at least the following tasks:
  - (a) implement the procedure set out in Articles 10 and 11;
  - (b) coordinate the preparation, signature, implementation and monitoring for all Commitments and Statements concerning the territory of its Member State;
  - (c) build up and maintain a database covering all Cross-border Coordination Points concerning the territory of its Member State;
  - (d) liaise, ~~where they exist,~~ with the Cross-border Coordination Points in the neighbouring Member State or States and with the Cross-border Coordination Points in other territorial entities with legislative powers of its own Member State or another Member State; **[Am. 24]**

- (e) liaise with the Commission;
- (f) support the Commission as regards its database on Statements and Commitments.

2. Each Member State or each territorial entity with legislative powers in that Member State may decide to entrust the respective Cross-border Coordination Point also with the following tasks:

- (a) where applicable, to conclude Commitments or Statements pursuant to Articles 16(2) and 17(2);
- (b) upon request from a given initiator, support that initiator by, among other things, identifying the competent committing authority in the same Member State or the competent transferring authority in another Member State;
- (c) upon request from a given competent committing authority located in another Member State ~~without its own Cross-border Coordination point~~, perform the preliminary analysis of an initiative document; **[Am. 25]**

- (d) monitor the implementation of all Commitments and Statements concerning the territory of its Member State;
- (e) remind the competent committing authority to comply with the deadlines established by in a given Commitment or Statement and request a reply within a given deadline;
- (f) inform the authority supervising the competent committing authority on any missed deadlines as established in a given Commitment or Statement.

3. Where at least one among several legal obstacles concerns an issue of legislative competence at national level, the national Cross-border Coordination Point shall assume the tasks set out in Articles 9 to 17 and coordinate with the relevant regional Cross-border Coordination Point or Points in the same Member State, unless the Member State has decided that the tasks set out in Articles 14 to 17 are entrusted to a competent committing authority at national level.

4. Where none of the legal obstacles concerns an issue of legislative competence at national level, the competent regional Cross-border Coordination Point shall assume the tasks set out in Articles 9 to 17 and coordinate, with the other regional Cross-border Coordination Point or Points in the same Member States, in the cases where more than one territorial entity is concerned by the joint project, unless the Member State has decided that the tasks set out in Articles 14 to 17 are entrusted to a national Cross-border Coordination Point. That competent regional Cross-border Coordination Point shall keep the national Cross-border Coordination Point informed about any Commitment or Statement procedure.

#### Article 7

##### Coordination tasks of the Commission

1. The Commission shall fulfil the following coordination tasks:
  - (a) liaise with the Cross-border Coordination Points;
  - (b) *create*, publish and keep an up-dated list *database* of all national and regional Cross-border Coordination Points; [**Am. 26**]

(c) set up and maintain a database on all Commitments and Statements.

**1a. *The Commission shall prepare a supporting communication strategy with the aim of:***

***(a) promoting the exchange of best practices;***

***(b) providing practical information and interpretation of the subject area and the thematic focus of this Regulation; and***

***(c) clarifying the precise procedure for concluding a Commitment or Statement.***  
[Am. 27]

2. The Commission shall adopt an implementing act with regard to the functioning of the database referred to in point (c) of paragraph 1 and the forms to be used when information on the implementation and on the use of the Mechanism is submitted by Cross-border Coordination Points. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 23(2).

## CHAPTER II

### Procedure for concluding and signing a Commitment or for signing a Statement

#### Article 8

##### Preparation and submission of the initiative document

1. The initiator shall identify ~~the~~ *one or more* legal ~~obstaele~~ *obstacles* with regard to the planning, development, staffing, financing or functioning of a joint project. [**Am. 28**]
2. The initiator shall be one of the following:
  - (a) the public or private body responsible for initiating or both initiating and implementing a joint project;
  - (b) one or more local or regional authorities located in a given cross-border region or exercising public power in that cross-border region;

- (c) a body with or without legal personality set up for cross-border cooperation located in or covering at least partially a given cross-border region, including European groupings of territorial cooperation under Regulation (EC) No 1082/2006, Euroregions, Euregios and similar bodies;
  - (d) an organisation set up on behalf of cross-border regions with the aim to promote the interests of cross-border territories and to facilitate the networking of players and the sharing of experiences, such as the Association of European Border Regions, the *Mission Opérationnelle Transfrontalière* or the Central European Service for Cross-border Initiatives; or
  - (e) several of the entities referred to in points (a) to (d) jointly.
3. The initiator shall prepare an initiative document drafted in accordance with Article 9.
  4. The initiator shall submit the initiative document to the competent Cross-border Coordination Point of the committing Member State and send a copy to the competent Cross-border Coordination Point of the transferring Member State.

## Article 9

### Content of the initiative document

1. The initiative document shall include at least the following elements:
  - (a) a description of the joint project and of its context, of ~~the~~ *one or more* corresponding legal ~~obstacle~~ *obstacles* in the committing Member State as well as of the rationale for resolving ~~the~~ *one or more* legal ~~obstacle~~-*obstacles*; **[Am. 29]**
  - (b) a list of the specific legal provisions of the transferring Member State resolving ~~the~~ *one or more* legal ~~obstacle~~ *obstacles* or, where no appropriate legal provision exists, a proposal for an *ad hoc* legal resolution; **[Am. 30]**
  - (c) a justification for the area of application;
  - (d) the foreseeable duration or, where duly justified, its unlimited duration;
  - (e) a list of the competent committing authority or authorities;

- (f) a list of the competent transferring authority or authorities.
2. The area of application shall be limited to the minimum necessary for the effective implementation of the joint project.

#### Article 10

Preliminary analysis of the initiative document by the committing *and transferring* Member State *or States* [Am. 31]

1. The competent Cross-border Coordination Point *of the committing Member State* shall analyse the initiative document. It shall liaise with all competent committing authorities and with the national or, where relevant, other regional Cross-border Coordination Points in the committing Member State and with the national Cross-border Coordination Point in the transferring Member State. [Am. 32]
  - 1a. *Within three months of receipt of an initiative document, the competent Cross-border Coordination Point of the transferring Member State shall send its preliminary reaction to the competent Cross-border Coordination Point of the committing Member State.* [Am. 33]

2. Within ~~three~~ **six** months after receipt of the initiative document the competent Cross-border Coordination Point *of the committing Member State* shall take one or more of the following actions, to be transmitted to the initiator in writing: **[Am. 34]**
- (a) inform the initiator that the initiative document was prepared in accordance with Article 9 and is therefore admissible;
  - (b) request, if necessary, the submission of a revised initiative document or of additional specific information while setting out why and in which aspect the initiative document is not considered sufficient;
  - (c) inform the initiator about its assessment that there is no legal obstacle while setting out the reasons and also referring to the means of legal redress against that decision under the law of the committing Member State;
  - (d) inform the initiator about its assessment that ~~the one or more~~ legal ~~obstacle~~ ~~exists~~ **obstacles consist** in one of the cases listed in Article 12(4) and describe the commitment of the competent committing authority, to change or adapt that legal obstacle; **[Am. 35]**

- (e) inform the initiator about its assessment that ~~the~~ ***one or more*** legal obstacle ~~exists~~ ***obstacles consist*** in one of the situations under Article 12(4) while setting out its reasons to refuse to change or adapt that legal obstacle and referring to the means of legal redress against that decision under the law of the committing Member State; [Am. 36]
- (f) commit itself towards the initiator to find a resolution to the legal obstacle or obstacles within six months, either by signing a Commitment with the Cross-border Coordination point of the transferring Member State or with the competent transferring authority, as designated by the transferring Member State, or by proposing an *ad hoc* legal resolution within the legal framework of the committing Member State;
- (fa) ***redirect the initiator to opt for an existing mechanism as referred to in Article 4(2) to resolve one or more legal obstacles hampering the implementation of the joint project or to directly transmit the initiative document to the competent body under the corresponding mechanism;***  
[Am. 37]

*(fb) inform the initiator that one or more of the Member States concerned have decided not to resolve one or more of the legal obstacles identified by the initiator while setting out the reasons for that decision in writing. [Am. 38]*

3. In duly justified cases, the competent committing authority may extend the deadline referred to in point (f) of paragraph 2 once, by a maximum of six months and shall inform the initiator and the transferring Member State accordingly, while setting out the reasons in writing.

#### Article 11

##### ~~Preliminary analysis of the initiative document by the transferring Member State~~

~~Upon receipt of an initiative document, the competent Cross-border Coordination Point of the transferring Member State shall also carry out the tasks listed in Article 10(2) and may send its preliminary reaction to the competent Cross-border Coordination Point of the committing Member State. [Am. 39]~~

## Article 12

### Follow-up on the preliminary analysis of the initiative document

1. Where the competent Cross-border Coordination Point of the committing Member State requests a revised initiative document or additional specific information, it shall analyse the revised initiative document or the additional specific information or both and take, within ~~three~~ *six* months after receipt thereof, the actions as if the initiative document was submitted for the first time. **[Am. 40]**
2. Where the competent Cross-border Coordination Point of the committing Member State considers that the revised initiative document is still not prepared in accordance with Article 10 or that the additional specific information is still not sufficient, it shall, within ~~three~~ *six* months after receipt of the revised initiative document, inform the initiator in writing about its decision to end the procedure. This decision shall be duly justified. **[Am. 41]**

3. Where the analysis by the competent Cross-border Coordination Point of the committing Member State or the competent committing authority concludes that ~~the~~ *one or more* legal ~~obstacle~~ *obstacles* described in the initiative document are based on a misunderstanding or misinterpretation of the relevant legislation or on the lack of sufficient information about the relevant legislation, the procedure ends by informing the initiator about the assessment that there is no legal obstacle. **[Am. 42]**
  
4. Where ~~the~~ *one or more* legal ~~obstacle~~ *obstacles* consist only in an administrative provision, rule or administrative practice of the committing Member State or in an administrative provision, rule or administrative practice clearly distinct from a provision adopted under a legislative procedure and can therefore be changed or adapted without a legislative procedure, the competent committing authority shall inform the initiator in writing its refusal or willingness to change or adapt the relevant administrative provision, rule or administrative practice within eight months. **[Am. 43]**

5. In duly justified cases, the competent committing authority may extend the deadline referred to in paragraph 4 once by a maximum of eight months and shall inform the initiator and the transferring Member State accordingly, while setting out the reasons in writing.

### Article 13

#### Preparation of the draft Commitment or Statement

The Cross-border Coordination Point or the competent committing authority of the committing Member State shall draw up a draft Commitment or a draft Statement in accordance with Article 14, based on the initiative document.

### Article 14

#### Content of the draft Commitment and draft Statement

1. The draft Commitment shall include at least the following elements:
  - (a) the description of the joint project and of its context, of ~~the~~ ***one or more*** corresponding legal ~~obstacle~~ ***obstacles*** as well as of the rationale for resolving ~~the~~ ***one or more*** legal ~~obstacle~~ ***obstacles***; [Am. 44]

- (b) the list of the specific legal provision or provisions constituting ~~the~~ ***one or more*** legal ~~obstacle~~ ***obstacles*** and which shall therefore not apply to the joint project; [Am. 45]
- (c) the area of application;
- (d) the duration of the application and a justification for that duration;
- (e) the competent committing authority or authorities;
- (f) the specific legal provision of the transferring Member State which shall apply to the joint project;
- (g) the proposal of the *ad hoc* legal resolution, where no appropriate legal provision exists in the legal framework of the transferring Member State;
- (h) the competent transferring authority or authorities;
- (i) the authority or authorities from the committing Member State competent for the implementation and monitoring;

- (j) the authority or authorities from the transferring Member State which are proposed to be designated jointly for the implementation and monitoring;
- (k) the date of its entry into force.

The date of entry into force referred to in point (k) shall be either the date when the last of the two Cross-border Coordination Points or competent authorities have signed or the date when it has been notified to the initiator.

2. In addition to the elements listed in paragraph 1, the draft Commitment shall also include a date of application which may be
  - (a) set at the same date as its entry into force;
  - (b) set with retroactive effect;
  - (c) deferred to a date in the future.

3. In addition to the elements listed in paragraph 1, the draft Statement shall also include a formal statement of the date or dates by which each competent committing authority shall submit a formal proposal to the respective legislative body in order to amend the national legal provisions accordingly.

The date referred to in the first subparagraph shall not be later than twelve months after the conclusion of the Statement.

#### *Article 15*

##### ***Transmission of the draft Commitment or draft Statement***

1. Where the competent committing authority has prepared the draft Commitment or draft Statement, it shall transmit this draft to the competent Cross-border Coordination Point of the committing Member State:
  - (a) within a maximum of ~~three~~ **six** months after having transmitted information under Article 10(2) or Article 12(1) and (2); **[Am. 46]**
  - (b) within a maximum of eight months pursuant to Article 12(4) and (5).

2. Where the competent Cross-border Coordination Point of the committing Member State has prepared the draft Commitment or draft Statement or where it has received it from the competent committing authority it shall transmit this draft to the competent Cross-border Coordination Point of the transferring Member State within the periods referred to in point (a) or (b) of paragraph 1.
3. In both cases, a copy shall also be sent for information to the initiator.

#### Article 16

##### Tasks of the transferring Member State in concluding and signing the Commitment or in signing the Statement

1. The competent Cross-border Coordination Point of the transferring Member State shall examine the draft Commitment or draft Statement received pursuant to Article 15 and, within a maximum of ~~three~~ *six* months after receipt of the draft and after consulting the competent transferring authorities, take one or more of the following actions: **[Am. 47]**

- (a) agree with the draft Commitment or draft Statement, sign two original copies and send one back to the competent Cross-border Coordination Point of the committing Member State;
- (b) agree with the draft Commitment or draft Statement, after correcting or supplementing the information referred to in points (f) and (h) of Article 14(1), sign two original copies of the revised draft Commitment or draft Statement and send one back to the competent Cross-border Coordination Point of the committing Member State;
- (c) refuse to sign the draft Commitment or draft Statement and transmit a detailed justification to the competent Cross-border Coordination Point of the committing Member State;
- (d) refuse to sign the draft Commitment or draft Statement and send back an amended draft as regards the information referred to in points (c), (d) and, where relevant, (g) of Article 14(1), as well as for the draft Commitment the information referred to under Article 14(2), with a justification for the amendments to the competent Cross-border Coordination Point of the committing Member State.

2. In Member States where the competent transferring authority shall sign a Commitment or Statement, the competent Cross-border Coordination Point of the transferring Member State shall send, in accordance with points (a) and (b) of paragraph 1, *one of* the two original copies signed by the competent transferring authority *to the competent Cross-border Coordination Point of the committing Member State*. [Am. 48]
  
3. Where the transferring Member State agrees in accordance with point (a) or (b) of paragraph 1 to sign a Commitment or a Statement, it shall, in addition, explicitly confirm or refuse that the competent authority or authorities which are proposed to be designated jointly for the implementation and monitoring of the Commitment or the Statement pursuant to point (j) of Article 14(1) shall assume those tasks to be carried out in the area of application.

## Article 17

### Tasks of the committing Member State in concluding and signing the Commitment or in signing the Statement

1. The competent Cross-border Coordination Point of the committing Member State shall examine the reply transmitted by the competent Cross-border Coordination Point of the transferring Member State and take, within a maximum of ~~one month~~ **three months** after its receipt one or more of the following actions, to be transmitted to the competent transferring authority in writing: **[Am. 49]**
  - (a) in the case of point (a) of ~~paragraph 2~~ **Article 16(1)**, finalise the Commitment or the Statement, sign ~~two~~ **three** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature; **[Am. 50]**

- (b) in the case of point (b) of ~~paragraph 2~~ **Article 16(1)**, amend the Commitment or the Statement as regards the information in the draft Commitment or the draft Statement covered by points (f) and (h) of Article 14(1) accordingly, finalise the Commitment or Statement, sign ~~two~~ **three** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature; **[Am. 51]**
- (c) in the case of point (c) of ~~paragraph 2~~ **Article 16(1)**, inform the initiator and the Commission, while adding the justification as set out by the competent transferring authority; **[Am. 52]**
- (d) in the case of point (d) of ~~paragraph 2~~ **Article 16(1)**, consider the amendments and either proceed as under point (b) of this paragraph or ~~relaunch a second procedure~~ **proceed as under Article 9 point (c) of this paragraph** setting out why some or all of the amendments could not be accepted by the competent committing authority. **[Am. 53]**

2. Upon receipt of the Commitment or the Statement, as also signed by the competent Cross-border Coordination Point or competent transferring authority in the cases of point (a) or (b) of paragraph 1 ~~or, where the competent Cross-border Coordination Point of the transferring Member State has reacted positively under the second procedure of point (d) of paragraph 1,~~ the competent Cross-border Coordination Point of the committing Member State shall: **[Am. 54]**
- (a) transmit the final Commitment or Statement to the initiator;
  - (b) transmit the second original copy to the competent Cross-border Coordination Point of the transferring Member State;
  - (c) send a copy to all competent committing authorities;
  - (d) send a copy to the coordination point at Union level; and
  - (e) request the competent service in the committing Member State responsible for official publications to publish the Commitment or the Statement.

## CHAPTER III

### Implementation and monitoring of Commitments and Statements

#### Article 18

##### Implementation of the Commitment

1. The information referred to under point (c) of Article 17(2) and sent to all competent committing authorities concerned, shall be accompanied by a timetable, by which each of those authorities shall, where relevant, amend any administrative act adopted under the applicable law with regard to the joint project and adopt any administrative act necessary to apply the Commitment to the joint project in order to apply to it the legal provision of the transferring Member State or an *ad hoc* legal resolution.
2. A copy of the timetable shall be sent to the national and, where relevant, regional Cross-border Coordination Point of the committing Member State.

3. Any administrative act referred to in paragraph 1 shall be adopted and notified to the initiator, in particular to the public or private body responsible for initiating or both initiating and implementing a joint project, in accordance with the national law applicable to such administrative acts.
4. Once all administrative acts with regard to a given joint project are adopted, the Cross-border Coordination Point of the committing Member State shall inform the Cross-border Coordination Point of the transferring Member State and the coordination point at Union level.
5. The Cross-border Coordination Point of the transferring Member State shall inform, where relevant, the competent transferring authorities.

#### Article 19

##### Implementation of the Statement

1. Each competent committing authority listed in a Statement under Article 14(3) shall submit by the respective date fixed in the signed Statement a formal proposal to the respective legislative body in order to amend the national legal provisions accordingly.

2. In case the respective date fixed in the signed Statement cannot be respected, in particular in view of upcoming elections for the competent legislative body, the competent committing authority shall inform in writing the initiator as well as the competent Cross-border Coordination Point of both the committing and the transferring Member States.
3. Once a formal proposal has been submitted to the respective legislative body, the respective competent committing authority shall up-date in writing the initiator as well as the competent Cross-border Coordination Point of both the committing and the transferring Member States about the monitoring in the respective legislative body, and this every six months after the date of formal submission.
4. Upon entry into force of the amending legislative act or its publication in the official Gazette or both, each competent committing authority shall amend any administrative act adopted under the applicable national law with regard to the joint project and adopt any administrative act necessary to apply the amended legal provisions to the joint project.

5. Any administrative act as referred to in paragraph 4 shall be adopted and notified to the initiator, in particular where this initiator is a public or private body responsible for initiating or both initiating and implementing a joint project, in accordance with the national law applicable to such administrative acts.
6. Once all administrative acts with regard to a given joint project are adopted, the Cross-border Coordination Point of the committing Member State shall inform the Cross-border Coordination Point of the transferring Member State and the coordination point at Union level.
7. The Cross-border Coordination Point of the transferring Member State shall, where relevant, inform the competent transferring authorities.

## Article 20

### Monitoring of Commitments and Statements

1. Based on the administrative acts referred to in Articles 18(1) and 19(4), the committing and transferring Member States shall decide whether the monitoring of the application of a Commitment or of the amended national legislation pursuant to a Statement shall be entrusted to the authorities of the transferring Member State, in particular due to their expertise with the legal provisions transferred, or to the authorities of the committing Member State.
2. Where the monitoring of the application of the transferred legal provisions is entrusted to the authorities of the transferring Member State, the committing Member State shall decide, in agreement with transferring Member States, whether the authorities of the transferring Member State shall act with regard to the addressees of the monitoring tasks on behalf and in the name of the authorities of the committing Member State or on behalf, but in their own name.

## CHAPTER IV

### Legal protection against the application and monitoring of Commitments and Statements

#### Article 21

##### Legal protection against the application of a Commitment or Statement

1. Any person resident in the territory covered by a Commitment or Statement or, although not resident in that territory, being user of a service of general economic interest provided in that territory ('person resident in the cross-border region'), who considers itself wronged by the acts or omissions by the application, pursuant to a Commitment or a Statement, of a legal provision of a transferring Member State shall be entitled to seek legal redress before the courts of the committing Member State.
2. However, the competent courts for legal redress against any administrative acts adopted under Article 18(3) and 19(5) shall be exclusively the courts of the Member State whose authorities issued the administrative act.

3. Nothing in this Regulation shall deprive persons from exercising their national constitutional rights of appeal against authorities which are parties of a Commitment in respect of:

- (a) administrative decisions in respect of activities which are being carried out pursuant to a Commitment;
- (b) access to services in their own language; and
- (c) access to information.

In these cases the competent courts shall be those of the Member State under whose constitution the rights of appeal arise.

## Article 22

### Legal protection against the monitoring of Commitments or Statements

1. Where the competent transferring authority has accepted to monitor the application of the legal provisions of the transferring Member State in the relevant area and can act in its own name towards persons resident in the cross-border region of the committing Member State, the competent courts for legal redress against any action or omission by that authority shall be the courts of the Member State where those persons have their legal residence.
2. Where the competent transferring authority has accepted to monitor the application of the legal provisions of the committing Member State on the territory of the committing Member State, but cannot act on its own name towards persons resident in the cross-border region, the competent courts for legal redress against any action or omission by that authority shall be only the courts of the committing Member State, including for persons having their legal residence in the transferring Member State.

## CHAPTER V

### Final provisions

#### Article 23

##### Committee procedure

1. The Commission shall be assisted by the Coordination Committee for the European Structural and Investment Funds established by Article 108(1) of Regulation (EU) No .../... [new CPR]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

#### Article 24

##### Implementing provisions in the Member States

1. Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation

2. By ... [date of application of this Regulation], Member States shall inform the Commission accordingly of any provisions adopted under paragraph 1.
3. The Commission shall render public the information received from the Member States.

## Article 25

### Reporting

1. By dd mm yyyy [*i.e. the first day of the month following the date of entry into force of this Regulation + ~~five~~ **three** years*], the Commission shall present a report to the European Parliament, the Council and the Committee of the Regions assessing the application of this Regulation based on indicators on its effectiveness, efficiency, relevance, European added value and scope for simplification.
2. ***In the report referred to in paragraph 1, the Commission shall make particular reference to this Regulation's geographical and thematic scope as defined in points (1) and (2) of Article 3 respectively.***

3. ***Before the report is prepared, the Commission shall carry out a public consultation with the various actors involved, including local and regional authorities and civil society organisations. [Am. 55]***

Article 26

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ... [the first day of the month following the date of entry into force of this Regulation + one year].

However, Article 24 shall apply from ... [the first day of the month following the date of entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*