













Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Awaiting Council's 1st reading position
Mechanism to resolve legal and administrative obstacles in a cross-border context	
Subject 2.80 Cooperation between administrations 4.70.05 Regional cooperation, cross-border cooperation 7.40.02 Judicial cooperation in civil and commercial matters	
Legislative priorities Multiannual Financial Framework 2021-2027	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Regional Development	 GOZI Sandro	02/07/2019
		Shadow rapporteur	
		 DORFMANN Herbert	
		 CREU Corina	
		 CUFFE Ciarán	
		 PANZA Alessandro	
		 TOMASZEWSKI Waldemar	
	Former committee responsible  Regional Development		20/06/2018
		 VAN MILTENBURG Matthijs	
	Former committee for opinion  Environment, Public Health and Food Safety		21/06/2018
		 VĂLEAN Adina-Ioana	
	 Legal Affairs	The committee decided not to give an opinion.	

Key events

29/05/2018	Legislative proposal published	COM(2018)0373	Summary
11/06/2018	Committee referral announced in Parliament, 1st reading		
22/11/2018	Vote in committee, 1st reading		
22/11/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
29/11/2018	Committee report tabled for plenary, 1st reading	A8-0414/2018	Summary
10/12/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
12/12/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
14/02/2019	Results of vote in Parliament		
14/02/2019	Decision by Parliament, 1st reading	T8-0118/2019	Summary
02/10/2019	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
09/10/2019	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		

Technical information

Procedure reference	2018/0198(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the EU TFEU 175-p3
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	REGI/8/13509

Documentation gateway

Legislative proposal		COM(2018)0373	29/05/2018	EC	Summary
Economic and Social Committee: opinion, report		CES2790/2018	19/09/2018	ESC	
Committee draft report		PE628.357	25/09/2018	EP	
Amendments tabled in committee		PE629.379	23/10/2018	EP	
Committee opinion	ENVI	PE629.597	26/10/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0414/2018	29/11/2018	EP	Summary
Committee of the Regions: opinion		CDR3596/2018	05/12/2018	CofR	
Text adopted by Parliament, 1st reading/single reading		T8-0118/2019	14/02/2019	EP	Summary
Commission response to text adopted in plenary		SP(2019)354	16/04/2019	EC	
Supplementary legislative basic document		COM(2023)0790	12/12/2023	EC	Summary

Additional information

Research document

[Briefing](#)

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

PURPOSE: to create a mechanism to resolve legal and administrative obstacles in a cross-border context.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: since 1990, programmes under the 'European territorial cooperation' objective, better known as 'Interreg', have supported cross-border cooperation programmes in EU border regions, including those with EFTA countries. Thousands of projects and initiatives that have helped to improve European integration have been funded.

In recent decades, the European integration process has helped internal border regions to transform themselves from mainly peripheral areas into areas of growth and opportunities.

However, the evidence gathered by the Commission shows that, in general, border regions generally perform less well economically than other regions within a Member State. Access to public services such as hospitals and universities is generally lower in border regions. Navigating between different administrative and legal systems is often still complex and costly. These programmes alone can hardly compensate for these differences.

In its [Communication](#) of 20 September 2017 on EU border regions, the Commission highlighted ways in which the EU and its Member States can reduce the complexity, length and costs of cross-border interaction and promoted the pooling of services along internal borders.

In 2015, the Luxembourg Presidency and several Member States studied the possibility of creating 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 a specific project or action limited in time, located within a border region and initiated by local and/or regional public authorities. The Commission supports this idea and therefore proposes a voluntary mechanism to address legal obstacles in border regions.

IMPACT ASSESSMENT: the Commission considers that a voluntary mechanism to remove legal and administrative obstacles in all border regions would provide a cost-free legal framework in order to reduce the costs and time to complete certain cross-border projects. If 20% of existing legal and administrative obstacles found along internal borders were addressed, border regions would increase their GDP by 2%.

CONTENT: the proposal for a Regulation sets up a mechanism to allow for the application in one Member State, with regard to 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 legal obstacle hampering the implementation of a joint project.

Characteristics of the mechanism: the mechanism shall consist of the conclusion of a European Cross-border Commitment, which is self-executing, or a European Cross-border Statement which requires a further legislative procedure in the Member State.

The mechanism shall:

- remain voluntary: Member States may opt for the mechanism or use other effective mechanisms to resolve legal border barriers;
- focus on intra-EU land borders, while allowing Member States to also apply the mechanism to maritime and external borders;
- cover joint projects for any item of infrastructure with impact in a cross-border region or any service of general economic interest

provided in a cross-border region.

Member States opting for the Mechanism set up under the proposed Regulation are obliged to establish a national or, in the case of federal states, regional Cross-border Coordination Points.

Procedure: the procedure for concluding a commitment or statement consists in:

- the preparation and submission of the initiative document, to be drafted by the initiator (for example, the public or private body responsible for initiating or both initiating and implementing a joint project or one or more local or regional authority located in a given cross-border region or exercising public power in that cross-border region);
- a preliminary analysis by the Member State which is requested to pull over the border the legal provisions of the neighbouring Member State;
- the drafting of the Commitment or Statement to be concluded;
- and finally the conclusion of the Commitment or Statement and its signing by the competent authorities of both Member States.

Implementation: the Commitment is implemented by, where relevant, amending existing administrative acts based on the normally applicable law or adopting new administrative acts based on the law pulled over the border.

The Statement must be implemented by one or more submissions of proposals to the competent legislative body in order to amend the national law to cover the necessary derogations.

In both cases, once all steps planned are implemented, the Cross-border Coordination Point must inform its counterpart in the other Member State and the EU coordination point.

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

The Committee on Regional Development adopted the report by Matthijs VAN MILTENBURG (ALDE, NL) 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.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Voluntary mechanism: Members wanted to clarify certain aspects, in particular as regards the voluntary nature and scope of the mechanism, as well as the subsidiarity and proportionality of the proposal. They considered that the application of the mechanism shall be on a voluntary basis based on a case-by-case assessment by Member States of a specific joint project in a cross-border region.

To remove legal obstacles to the implementation of a joint project in cross-border regions on one of its borders with one or more neighbouring Member States, Member States may thus decide to activate the mechanism or use other means.

Cross-border coordination points: Members suggested that coordination points shall be required in all Member States. Since the application of the mechanism is voluntary, it shall be possible for Member States to choose using an instrument which they consider to be more beneficial. The Commission shall create a database of all national and regional cross-border coordination points. The implementation of the Regulation shall be accompanied by an information campaign providing clear and practical information that will facilitate its application by stakeholders.

Own-initiative document: if an initiator identifies a legal obstacle to the planning, development, financing, staffing and operation of a joint project, he should draw up an own-initiative document describing the joint project and its context, the legal obstacle or obstacles in the Member State of application and the decisive reasons for removing these legal obstacles. Within six months (rather than three months) of receipt of the initiative document, the competent cross-border coordination point in the implementing Member State shall send a written reply to the initiator.

Report: by the 1st of the month following the date of entry into force of the Regulation plus three years, the Commission shall report on the application of the Regulation. Prior to the preparation of this report, the Commission shall carry out a public consultation of the various stakeholders involved, including local and regional authorities and civil society organisations.

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

The European Parliament adopted by 489 votes to 55, with 82 abstentions, a legislative resolution 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.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal as follows.

Voluntary mechanism

Parliament wanted to clarify certain aspects, in particular as regards the voluntary nature and scope of the mechanism, as well as the subsidiarity and proportionality of the proposal. It considered that the application of the mechanism shall be on a voluntary basis based on a case-by-case assessment by Member States of a specific joint project in a cross-border region. The Regulation shall not affect, by any means, the sovereignty of Member States nor contradict their constitutions.

To remove legal obstacles to the implementation of a joint project in cross-border regions on one of its borders with one or more neighbouring Member States, Member States may thus decide to activate the mechanism or use other means.

Cross-border coordination points

Members suggested that coordination points shall be required in all Member States. Since the application of the mechanism is voluntary, it shall be possible for Member States to choose using an instrument which they consider to be more beneficial. The Commission shall create a database of all national and regional cross-border coordination points. The implementation of the Regulation shall be accompanied by a

supporting communication strategy with the aim of promoting the exchange of best practices; providing practical information and interpretation of the subject area and the thematic focus of this Regulation; and clarifying the precise procedure for concluding a Commitment or Statement.

Own-initiative document

If an initiator identifies a legal obstacle to the planning, development, financing, staffing and operation of a joint project, he should draw up an own-initiative document describing the joint project and its context, the legal obstacle or obstacles in the Member State of application and the decisive reasons for removing these legal obstacles.

Within six months (rather than three months) of receipt of the initiative document, the competent cross-border coordination point in the implementing Member State shall send a written reply to the initiator in which it may: (i) redirect the initiator to opt for an existing mechanism 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; (ii) 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.

Report

By the 1st of the month following the date of entry into force of the Regulation plus three years, the Commission shall report on the application of the Regulation. Prior to the preparation of this report, the Commission shall carry out a public consultation of the various stakeholders involved, including local and regional authorities and civil society organisations.

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

This proposal amends the Commissions 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 (the ECBM proposal) including amending the title for a Regulation on Facilitating Cross-Border Solutions.

On 14 September 2023, Parliament adopted an [own-initiative legislative resolution](#) with recommendations to the Commission on amending the ECBM proposal.

This amended proposal combines elements of the initial Commission proposal with new elements brought in following the own initiative legislative resolution of the Parliament.

Subject

The amended proposal therefore provides a legal framework applicable to all Member States to help find solutions to legal and administrative obstacles that potentially undermine cross-border interaction and the development of cross-border regions.

The proposed regulation establishes a procedure to facilitate the resolution of cross-border obstacles that hamper the establishment and functioning of any item of infrastructure necessary for public or private cross-border activities or of any cross-border public service provided in a given cross-border region and provided it fosters economic, social and territorial cohesion in the cross-border region.

Setting up cross-border coordination points (CBCPs)

The amended proposal requires setting up cross-border coordination points in all Member States for reporting cross-border obstacles and assessing files submitted by initiators. Initiators are public law or private law entities or natural persons who prepare a cross-border file by setting out the cross-border interaction and describing the obstacles for the consideration of coordination points.

Member States may identify current or new bodies and they may choose to set up one or several coordination points, including joint bodies with neighbouring Member States, in line with their institutional framework and preferences.

Cross-border coordination points should act as one-stop shops for the initiators and be their privileged contact point in the respective Member State. If a given Member State sets up several CBCPs, one should take the role of the main CBCP and the others should support its tasks and transmit the necessary information.

The cross-border coordination point is tasked with assessing the cross-border obstacle described by the initiator. If it concludes that there is an obstacle, it looks at what cooperation structures are available to resolve the identified obstacle. If there is no institutional structure for cross-border cooperation to resolve the obstacle or if the existing ones are not sufficient to solve it, Member States may opt to use the Cross-Border Facilitation Tool set up under this Regulation.

At any procedural step, the cross-border coordination point may choose not to resolve the obstacle, even if it concludes that the obstacle exists. If so, it will inform the initiator accordingly and explain why the obstacle described in the file will not be addressed. After assessing a cross-border file, the cross-border coordination point must forward the conclusion of the assessment to the initiator within a reasonable timeframe.

The Cross-Border Facilitation Tool

The Cross-Border Facilitation Tool consists of a single procedure to tackle obstacles of a legislative or administrative nature. After assessing the obstacle and identifying the nature of the provision at the origin of the obstacle, the cross-border coordination point is responsible for contacting the competent authority to first verify the interest and feasibility of resolving the obstacle through the identified administrative or legal provision(s) and for informing the initiator and the cross-border coordination point of the neighbouring Member State accordingly.

If a decision is taken to resolve the identified obstacle, the procedure may vary depending on the nature of the provision at the origin of the cross-border obstacle:

- in the context of an administrative provision, the authority contacted by the CBCP may decide to change the provision or practice, including its interpretation. In this case, the CBCP notifies the initiator in writing;
- in the context of a legislative provision, the authority contacted by the CBCP may only suggest adapting the legislative framework to resolve the obstacle. In this case, the CBCP should inform the initiator in writing of the steps of the legislative procedure that might be envisaged.

If two or more neighbouring Member States conclude that they each want to launch a legislative procedure or change an administrative provision or practice to resolve the same obstacle, they will need to do so in close coordination, possibly including parallel timing and the setting up of a joint committee, in accordance with their respective legislative frameworks.

The decision as to whether to resolve an administrative or legal obstacle remains voluntary.