



Plenary sitting

A8-0414/2018

29.11.2018

*****I**
REPORT

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))

Committee on Regional Development

Rapporteur: Matthijs van Miltenburg

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	29
OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY	31
PROCEDURE – COMMITTEE RESPONSIBLE.....	35
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	36

DRAFT EUROPEAN PARLIAMENT 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 (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 in particular 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 2018¹,
 - having regard to the opinion of the Committee of the Regions of ... ²,
 - having regard to the written and reasoned opinions 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),
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.

Amendment 1

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

¹ OJ C ... / Not yet published in the Official Journal.

² OJ C ... / Not yet published in the Official Journal.

(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.

Amendment 2

Proposal for a regulation Recital 8

Text proposed by the Commission

(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').

Amendment

(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.***

Amendment 3

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) In full respect of the constitutional and institutional set-up of the Member States, the use of the Mechanism ***should be*** 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***

Amendment

(9) In full respect of the constitutional and institutional set-up of the Member States, the use of the Mechanism ***is*** voluntary. It should consist of two measures: the signature and the conclusion of a European Cross-Border Commitment (the 'Commitment') or the signature of a

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').

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.***

Amendment 4

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(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.

Amendment 5

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(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.

(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.***

Amendment 6

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Legal obstacles are predominantly felt by persons interacting on land borders, 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 border regions in two or more Member States at NUTS level 3 regions²⁶. This should not prevent Member States from applying the Mechanism also to **maritime and** external borders others than those with EFTA countries.

²⁶ 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).

Amendment

(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 regions²⁶. This should not prevent Member States from applying the Mechanism also to external borders others than those with EFTA countries, **on a voluntary basis in relation to all parties concerned**.

²⁶ 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).

Amendment 7

Proposal for a regulation

Recital 13

Text proposed by the Commission

(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 States 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**, regional

Amendment

(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 States and between those of one or more neighbouring Member States, each Member State should be obliged to set up a national and, where **appropriate**, regional Cross-border Coordination Points and

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.

define their tasks and competencies during the different steps of the Mechanism covering initiation, conclusion, implementation and monitoring of Commitments and Statements.

Justification

The obligation to set up National Cross-border Coordination Points is imposed on all MS's.

Amendment 8

Proposal for a regulation

Recital 17

Text proposed by the Commission

(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 Points 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 justified and communicated.

Amendment

(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 Points 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***.

Amendment 9

Proposal for a regulation

Recital 19

Text proposed by the Commission

Amendment

(19) The implementation of a self-executing Commitment should consist in the application of national provisions of another Member State. 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. 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.

(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.

Amendment 10

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) In order to establish a database according to Article 8, 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 Council²⁸. For practical and coordination purposes, the ‘Coordination Committee for the European Structural and Investment Funds’ should be the committee competent for the procedure of

Amendment

(24) In order to establish a database according to Article 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 Council²⁸. 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.

adoption of implementing acts.

²⁸ 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).

²⁸ 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).

Amendment 11

Proposal for a regulation Recital 25

Text proposed by the Commission

(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.

Amendment

deleted

Amendment 12

Proposal for a regulation Recital 26

Text proposed by the Commission

(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

Amendment

(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).

freedom to conduct business (Article 16), access to social security and social assistance (Article 34), access to health care (Article 35), 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).**

Amendment 13

Proposal for a regulation Recital 28

Text proposed by the Commission

(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 is voluntary. Where a Member State decides, **on** a specific **border** 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** a specific **border** 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. 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

Amendment

(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, **for** a specific **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, **for** a specific **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**

place,

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.

Amendment 14

Proposal for a regulation Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) This Regulation should comply with the subsidiarity principle. It does not affect, by any means, the sovereignty of Member States nor contradict their constitutions.

Amendment 15

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This 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 ('the Mechanism').

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 *one or more* legal *obstacles* hampering the implementation of a joint Project ('the Mechanism').

Justification

The wording in the proposal raises doubts about the interpretation whether a member state may opt for the ECBM for each single "joint project" or is obliged to decide on the application of the mechanism for all possible "joint projects" along a border. The rapporteur wants to avoid that MS's that currently have no existing mechanisms, have no other choice than to choose for the ECBM. The application of the ECBM should be on a voluntary basis based on a case-by-case assessment of the MS.

Amendment 16

Proposal for a regulation

Article 1 – paragraph 3 – point c

Text proposed by the Commission

(c) the legal protection of persons resident in a cross-border region with regard to the Mechanism.

Amendment

(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.

Amendment 17

Proposal for a regulation

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

(1) 'cross-border region' means the territory covered by neighbouring land border regions in two or more Member States at NUTS level 3 regions;

Amendment

(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;

Amendment 18

Proposal for a regulation

Article 3 – paragraph 1 – point 2

Text proposed by the Commission

(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;

Amendment

(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;

Amendment 19

Proposal for a regulation

Article 3 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'initiator' means the actor who identifies **the** legal **obstacle** and triggers the Mechanism by submitting an initiative document;

Amendment

(5) 'initiator' means the actor who identifies **one or more** legal **obstacles** and triggers the Mechanism by submitting an initiative document;

Amendment 20

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

1. Member **State shall either** opt for the Mechanism or opt for **existing** 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.

Amendment

1. Member **States may** opt for the Mechanism or opt for **other** ways to resolve legal obstacles hampering the implementation of a joint project in cross-border regions with one or more neighbouring Member States.

Amendment 21

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

2. A Member State may **also decide**, with regard to a **specific border** 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.

Amendment

2. A Member State may, with regard to a **joint project in cross-border regions**, with one or more neighbouring Member States, 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.**

Amendment 22

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. Member States may also *use* the Mechanism *in cross-border regions on maritime borders or* in cross-border *regions* between one or more Member States and one or more third countries or one or more overseas countries and territories.

Amendment

3. Member States may also *apply* the Mechanism *to a joint project* in a cross-border *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*.

Amendment 23

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. *Where a* Member State *opts for the Mechanism, it* shall establish one or more Cross-border Coordination Points in one of the following ways:

Amendment

1. *Each* Member State shall establish *or designate* one or more Cross-border Coordination Points in one of the following ways:

Justification

In the proposal of the rapporteur, the CBCPs will be key in order to assess if and how to resolve legal obstacles. The rapporteur therefore proposes the mandatory setting-up of CBCPs in each MS. Since the application of the ECBM will be triggered on a voluntary basis, it is up to the MS's to decide on how substantial the administrative capacity of these CBCPs has to be.

Amendment 24

Proposal for a regulation

Article 6 – paragraph 1 – point d

Text proposed by the Commission

(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

Amendment

(d) *liaise* 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

powers of its own Member State or another Member State;

of its own Member State or another Member State;

Amendment 25

Proposal for a regulation

Article 6 – paragraph 2 – point c

Text proposed by the Commission

(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;

Amendment

(c) upon request from a given competent committing authority located in another Member State, perform the preliminary analysis of an initiative document;

Amendment 26

Proposal for a regulation

Article 7 – paragraph 1 – point b

Text proposed by the Commission

b) publish and keep an up-dated ***list*** of all national and regional Cross-border Coordination Points;

Amendment

b) ***create***, publish and keep an up-dated ***database*** of all national and regional Cross-border Coordination Points;

Amendment 27

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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.

Justification

The implementation of the Regulation should be accompanied by an information campaign providing clear and practical information that will facilitate its application by stakeholders.

Amendment 28

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. The initiator shall identify **the** legal **obstacle** with regard to the planning, development, staffing, financing or functioning of a joint project.

Amendment

1. The initiator shall identify **one or more** legal **obstacles** with regard to the planning, development, staffing, financing or functioning of a joint project.

Amendment 29

Proposal for a regulation
Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) a description of the joint project and of its context, of **the** corresponding legal **obstacle** in the committing Member State as well as of the rationale for resolving **the** legal **obstacle**;

Amendment

(a) a description of the joint project and of its context, of **one or more** corresponding legal **obstacles** in the committing Member State as well as of the rationale for resolving **one or more** legal **obstacles**;

Amendment 30

Proposal for a regulation
Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) a list of the specific legal provisions of the transferring Member State resolving **the** legal **obstacle** or, where no appropriate legal provision exists, a proposal for an ad hoc legal resolution;

Amendment

(b) a list of the specific legal provisions of the transferring Member State resolving **one or more** legal **obstacles** or, where no appropriate legal provision exists, a proposal for an ad hoc legal resolution;

Amendment 31

Proposal for a regulation

Article 10 – title

Text proposed by the Commission

Preliminary analysis of the initiative document by the committing Member State

Amendment

Preliminary analysis of the initiative document by the committing **and transferring** Member State **or States**

Amendment 32

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. The competent Cross-border Coordination Point 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.

Amendment

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.

Amendment 33

Proposal for a regulation

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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.

Amendment 34

Proposal for a regulation

Article 10 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within **three** months after receipt of the initiative document the competent Cross-border Coordination Point shall take, one or more of the following actions, to be transmitted to the initiator in writing:

Amendment

2. Within **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:

Justification

The assessment of the initiative document may be complicated and more time consuming than the proposed three months, especially taking into account summer and/or holiday periods.

Amendment 35

Proposal for a regulation

Article 10 – paragraph 2 – point d

Text proposed by the Commission

(d) inform the initiator about its assessment that **the** legal **obstacle consists** 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;

Amendment

(d) inform the initiator about its assessment that **one or more** legal **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;

Amendment 36

Proposal for a regulation

Article 10 – paragraph 2 – point e

Text proposed by the Commission

(e) inform the initiator about its assessment that **the** legal **obstacle consists** 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

Amendment

(e) inform the initiator about its assessment that **one or more** legal **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

committing Member State;

law of the committing Member State;

Amendment 37

Proposal for a regulation

Article 10 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(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;

Amendment 38

Proposal for a regulation

Article 10 – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

(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.

Amendment 39

Proposal for a regulation

Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

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.

Amendment 40

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

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** months after receipt thereof, the actions as if the initiative document was submitted for the first time.

Amendment

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 **six** months after receipt thereof, the actions as if the initiative document was submitted for the first time.

Amendment 41

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

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** 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.

Amendment

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 **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.

Amendment 42

Proposal for a regulation

Article 12 – paragraph 3

Text proposed by the Commission

3. Where the analysis by the competent Cross-border Coordination Point of the committing Member State or the competent committing authority concludes that *the* legal *obstacle* described in the initiative document is 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.

Amendment

3. Where the analysis by the competent Cross-border Coordination Point of the committing Member State or the competent committing authority concludes that *one or more* legal *obstacles* described in the initiative document is 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.

Amendment 43

Proposal for a regulation

Article 12 – paragraph 4

Text proposed by the Commission

4. Where *the* legal *obstacle* consists only in an administrative provision, rule or administrative practice of the committing Member State or in a 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.

Amendment

4. Where *one or more* legal *obstacles* consists only in an administrative provision, rule or administrative practice of the committing Member State or in a 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.

Amendment 44

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) the description of the joint project and of its context, of *the* corresponding legal *obstacle* as well as of the rationale for resolving *the* legal *obstacle*;

Amendment

(a) the description of the joint project and of its context, of *one or more* corresponding legal *obstacles* as well as of the rationale for resolving *one or more* legal *obstacles*;

Amendment 45

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) the list of the specific legal provision or provisions constituting *the* legal *obstacle* and which shall therefore not apply to the joint project;

Amendment

(b) the list of the specific legal provision or provisions constituting *one or more* legal *obstacles* and which shall therefore not apply to the joint project;

Amendment 46

Proposal for a regulation

Article 15 – paragraph 1 – point a

Text proposed by the Commission

(a) within a maximum of *three* months after having transmitted information under Article 10(2) or Article 12(1) and (2);

Amendment

(a) within a maximum of *six* months after having transmitted information under Article 10(2) or Article 12(1) and (2);

Amendment 47

Proposal for a regulation

Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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* months after receipt of the draft and after consulting the competent transferring authorities, take one or more of the following actions:

maximum of *six* months after receipt of the draft and after consulting the competent transferring authorities, take one or more of the following actions:

Amendment 48

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

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, the two original copies signed by the competent transferring authority.

Amendment

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.***

Amendment 49

Proposal for a regulation Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

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*** after its receipt one or more of the following actions, to be transmitted to the competent transferring authority in writing:

Amendment

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 ***three months*** after its receipt one or more of the following actions, to be transmitted to the competent transferring authority in writing:

Amendment 50

Proposal for a regulation Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) in the case of point (a) of **paragraph 2**, finalise the Commitment or the Statement, sign **two** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature;

Amendment

(a) in the case of point (a) of **Article 16(1)**, finalise the Commitment or the Statement, sign **three** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature;

Amendment 51

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) in the case of point (b) of **paragraph 2**, 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** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature;

Amendment

(b) in the case of point (b) of **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 **three** original copies and send one back to the competent Cross-border Coordination Point of the transferring Member State for signature;

Amendment 52

Proposal for a regulation

Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) in the case of point (c) of **paragraph 2**, inform the initiator and the Commission, while adding the justification as set out by the competent transferring authority;

Amendment

(c) in the case of point (c) of **Article 16(1)**, inform the initiator and the Commission, while adding the justification as set out by the competent transferring authority;

Amendment 53

Proposal for a regulation

Article 17 – paragraph 1 – point d

Text proposed by the Commission

(d) in the case of point (d) of **paragraph 2**, consider the amendments and either proceed as under point (b) of this paragraph or **relaunch a second procedure** under **Article 9** setting out why some or all of the amendments could not be accepted by the competent committing authority.

Amendment

(d) in the case of point (d) of **Article 16(1)**, consider the amendments and either proceed as under point (b) of this paragraph or **proceed as** under **point (c) of this paragraph** setting out why some or all of the amendments could not be accepted by the competent committing authority.

Amendment 54

Proposal for a regulation

Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

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 points (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:

Amendment

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 points (a) or (b) of paragraph 1, the competent Cross-border Coordination Point of the committing Member State shall:

Amendment 55

Proposal for a regulation

Article 25

Text proposed by the Commission

Article 25

Reporting

By dd mm yyyy [i.e. the 1st of the month following the entry into force of this Regulation + **five** years; to be filled in by the Publication Office], the Commission shall present a report to the European Parliament, the Council and the Committee

Amendment

Article 25

Reporting

1. By dd mm yyyy [i.e. the 1st of the month following the entry into force of this Regulation + **three** years; to be filled in by the Publication Office], 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.

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.

EXPLANATORY STATEMENT

Introduction

In the European Union, cross-border regions make up approximately 40% of the Union's territory, while harbouring almost a third of its 512 million citizens. At the same time, border regions in Europe generally perform less well economically, have higher unemployment rates and have relatively underdeveloped infrastructure compared to regions that are more centrally located in the Member States. It has been estimated that if 20% of existing border obstacles would be removed, border regions would gain 2% in GDP, amounting to approximately 91 billion EUR per year in GDP. In their past, many border regions in Europe have been stages of war and conflict between countries.

For those reasons, The Lisbon Treaty in article 174 not only lists economic and social cohesion as its explicit objectives, but also territorial cohesion (with particular attention to cross-border regions). From that perspective, the proposal for a European Cross-Border Mechanism (ECBM) should be seen as complementary to Interreg and European Groupings for Territorial Cooperation, EGTCs. The proposed ECBM aims to resolve cross-border obstacles of a legal or administrative nature, by applying for a common cross-border region, in a given Member State, the legal provisions from the neighbouring Member State for a specific joint project.

The European cross-border mechanism

Your rapporteur supports and welcomes the intention of the European Commission's "*proposal on a mechanism to resolve legal and administrative obstacles in a cross-border context*" (European Cross-Border Mechanism, ECBM). The ECBM could become a tool in a general toolbox to promote effective cross-border cooperation and, as a result, improve the wealth and wellbeing of the inhabitants and their quality of life in the EU's border regions.

Clarification is needed on a few issues, especially with regards to voluntariness and the scope of the ECBM, as well as the subsidiarity and proportionality of the proposal.

The proposal should aim to add a voluntary tool to the toolbox that Member States have at their disposal to boost cross-border cooperation. Member States should, always have the final say on whether or not to use the mechanism.

In conjunction with this emphasis, it is necessary that Member States are able to choose whether to use the ECBM or an existing mechanism for each individual joint project, on a case-by-case basis. If Member States would have to make such a choice for a total border at once, those that do not currently have existing mechanisms to resolve legal obstacles in a cross-border context, would virtually be obliged to use the ECBM. This undermines the voluntary nature of the proposal.

With the proposed changes, any issues related to proportionality, and subsidiarity are appropriately dealt with. The ECBM becomes a voluntary tool and can be used in an 'à-la-carte fashion', where Member States choose every time they have identified a legal obstacle in a cross-border context, whether to use an existing mechanism, set up a new mechanism, or use the ECBM. Member States may also decline to trigger any mechanism to resolve a legal or administrative obstacle, for justified reasons. Triggering the ECBM and allowing one Member State to apply their legal provisions in another Member State asks for serious scrutiny by all parties involved so the deadlines proposed by the Commission might have been too tight, so certain deadlines have been amended.

Finally, the thematic scope of the proposal is kept intact as much as possible. After having strengthened the voluntary basis of the proposal in combination with changing the way Member States choose between the mechanism and existing mechanisms, the scope can remain broad so as to ensure the practical application of the ECBM, for all potential future projects that could be hampered by legal or administrative obstacles in a cross-border region.

Your rapporteur believes that an effective application of the European Cross-border Mechanism can only be feasible if all Member States and all the competent authorities within the Member States embrace the opportunity to resolve legal and administrative obstacles by working together in the spirit of good cooperation and good neighbourship. The voluntary character of the ECBM will contribute to fully unleash the potential of the European border regions.

26.10.2018

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

for the Committee on Regional Development

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))

Rapporteur for opinion: Adina-Ioana Vălean

AMENDMENTS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Regional Development, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(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 the Mechanism should be extended to those regions, while respecting Union law.

Amendment 2

Proposal for a regulation

Recital 9 a (new)

(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 Articles 16 and 17.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Mechanism to resolve legal and administrative obstacles in a cross-border context
References	COM(2018)0373 – C8-0228/2018 – 2018/0198(COD)
Committee responsible Date announced in plenary	REGI 11.6.2018
Opinion by Date announced in plenary	ENVI 5.7.2018
Rapporteur Date appointed	Adina-Ioana Vălean 21.6.2018
Date adopted	25.10.2018
Result of final vote	+: 27 –: 2 0: 9
Members present for the final vote	Marco Affronte, Paul Brannen, Nessa Childers, Birgit Collin-Langen, Miriam Dalli, Mark Demesmaecker, Bas Eickhout, José Inácio Faria, Francesc Gambús, Elisabetta Gardini, Jens Gieseke, Julie Girling, Françoise Grossetête, Andrzej Grzyb, Jytte Guteland, György Hölvényi, Benedek Jávor, Karin Kadenbach, Kateřina Konečná, Urszula Krupa, Giovanni La Via, Susanne Melior, Miroslav Mikolášik, Massimo Paolucci, Bolesław G. Piecha, John Procter, Julia Reid, Nils Torvalds, Adina-Ioana Vălean, Damiano Zoffoli
Substitutes present for the final vote	Linnéa Engström, Eleonora Evi, Norbert Lins, Sirpa Pietikäinen, Christel Schaldemose, Keith Taylor
Substitutes under Rule 200(2) present for the final vote	Jaromír Kohlíček, Tonino Picula

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

27	+
EFDD	Eleonora Evi
GUE/NGL	Jaromír Kohlíček, Kateřina Konečná
PPE	Birgit Collin-Langen, José Inácio Faria, Francesc Gambús, Elisabetta Gardini, Jens Gieseke, Julie Girling, Françoise Grossetête, Andrzej Grzyb, György Hölvényi, Giovanni La Via, Norbert Lins, Miroslav Mikolášik, Sirpa Pietikäinen Adina Ioana Vălean
S&D	Paul Brannen, Nessa Childers, Miriam Dalli, Jytte Guteland, Karin Kadenbach, Susanne Melior, Massimo Paolucci, Tonino Picula, Christel Schaldemose, Damiano Zoffoli

2	-
ALDE	Nils Torvalds
EFDD	Julia Reid

9	0
ECR	Mark Demesmaeker, Urszula Krupa, Bolesław G. Piecha, John Procter
VERTS/ALE	Marco Affronte, Bas Eickhout, Linnéa Engström, Benedek Jávor, Keith Taylor

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Mechanism to resolve legal and administrative obstacles in a cross-border context		
References	COM(2018)0373 – C8-0228/2018 – 2018/0198(COD)		
Date submitted to Parliament	30.5.2018		
Committee responsible Date announced in plenary	REGI 11.6.2018		
Committees asked for opinions Date announced in plenary	ENVI 5.7.2018	JURI 11.6.2018	
Not delivering opinions Date of decision	JURI 9.7.2018		
Rapporteurs Date appointed	Matthijs van Miltenburg 20.6.2018		
Discussed in committee	20.6.2018	27.9.2018	15.10.2018
Date adopted	22.11.2018		
Result of final vote	+: –: 0:	14 1 15	
Members present for the final vote	Pascal Arimont, Franc Bogovič, Victor Boștinaru, Rosa D’Amato, John Flack, Iratxe García Pérez, Krzysztof Hetman, Marc Joulaud, Sławomir Kłosowski, Constanze Krehl, Iskra Mihaylova, Andrey Novakov, Mirosław Piotrowski, Stanislav Polčák, Terry Reintke, Fernando Ruas, Monika Smolková, Maria Spyrali, Ruža Tomašić, Matthijs van Miltenburg, Lambert van Nistelrooij, Kerstin Westphal, Joachim Zeller		
Substitutes present for the final vote	Martina Anderson, Petras Auštrevičius, John Howarth, Ivana Maletić, Dimitrios Papadimoulis, Bronis Ropè, Milan Zver		
Date tabled	29.11.2018		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

14	+
ALDE	Petras Auštrevičius, Iskra Mihaylova, Matthijs van Miltenburg
EFDD	Rosa D'Amato
GUE/NGL	Martina Anderson, Dimitrios Papadimoulis
S&D	Victor Boștinaru, Iratxe García Pérez, John Howarth, Constanze Krehl, Monika Smolková, Kerstin Westphal
VERTS/ALE	Terry Reintke, Bronis Ropè

1	-
PPE	Joachim Zeller

15	0
ECR	John Flack, Sławomir Kłosowski, Mirosław Piotrowski, Ruža Tomašić
PPE	Pascal Arimont, Franc Bogovič, Krzysztof Hetman, Marc Joulaud, Ivana Maletić, Lambert van Nistelrooij, Andrey Novakov, Stanislav Polčák, Fernando Ruas, Maria Spyraiki, Milan Zver

Key to symbols:

+ : in favour

- : against

0 : abstention