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REPORT

with recommendations to the Commission on amending the proposed
mechanism to resolve legal and administrative obstacles in a cross-border
context
(2022/2194(INL))

Committee on Regional Development

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(Initiative – Rule 47 of the Rules of Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context
(2022/2194(INL))**

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
- 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 Commission communication to Parliament and the Council to Boosting growth and cohesion in EU border regions (COM(2017)0534),
- having regard to Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC)¹,
- having regard to final report prepared for Directorate-General for Regional and Urban Policy of the European Commission of the March 2017 entitled ‘Easing legal and administrative obstacles in EU border regions’²,
- having regard to the Commission proposal to Parliament and the Council (COM(2018)0373),
- having regard to the reasoned opinion by the Swedish Parliament of the 20 June 2018, submitted within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to its resolution of 11 September 2018 on boosting growth and cohesion in EU border regions³,
- having regard to the opinion of the European Economic and Social Committee of 19 September 2018⁴,
- having regard to its 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

¹ 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).

²https://ec.europa.eu/futurium/en/system/files/ged/easing_legal_and_administrative_obstacles_in_eu_border_regions_0.pdf

³ OJ C 433, 23.12.2019, p. 24.

⁴ OJ C 440, 6.12.2018, p. 124.

- legal and administrative obstacles in a cross-border context⁵,
- having regard to the opinion of the Committee of the Regions of 7 March 2019⁶,
 - having regard to Opinion of the Council Legal Service of 2 March 2020 (6009/20)⁷,
 - having regard to its resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences⁸,
 - having regard to its resolution of 19 June 2020 on measures needed to protect cross-border and seasonal workers in the EU in the context of COVID-19⁹,
 - having regard to report of the European Commission of July 2020 on Cross-border cooperation in the EU¹⁰,
 - having regard to the opinion of the Committee of the Regions of 26 March 2021 on Cross-border public services in Europe¹¹,
 - having regard to the report of the Committee of the Regions of July 2021 on the Public Consultation on the Future of cross-border Cooperation¹²,
 - having regard to Question for oral answer O-000061/2021 of 10 September 2021 to the Council on the Council's lack of will to move the European cross-border mechanism forward¹³,
 - having regard to its resolution of 14 September 2021 towards a stronger partnership with the EU outermost regions¹⁴,
 - having regard to a publication 'b-solutions: Solving Border Obstacles. A compendium 2020-2021' published on 9 December 2021¹⁵,
 - having regard to report of Conference on the Future of Europe of May 2022 on the final

⁵ P8_TA(2019)011.

⁶ OJ C 86, 7.3.2019, p. 165.

⁷ <https://data.consilium.europa.eu/doc/document/ST-6009-2020-INIT/en/pdf>

⁸ P9_TA(2020)0054

⁹ P9_TA(2020)0176.

¹⁰ https://ec.europa.eu/regional_policy/sources/policy/cooperation/european-territorial/survey-2020/cross-border-survey-2020-report_en.pdf

¹¹ 2021/C 106/04.

¹² https://cor.europa.eu/en/engage/Documents/Cohesion%20Alliance/Reports/Public%20Consultations%20on%20the%20Future%20of%20Cross-Border%20Cooperation/Report_on_the_Consultations-Future_of_CBC.pdf

¹³ https://www.europarl.europa.eu/doceo/document/O-9-2021-000061_EN.html

¹⁴ P9_TA(2021)0368.

¹⁵ <https://op.europa.eu/en/publication-detail/-/publication/bf87d622-5bc8-11ec-91ac-01aa75ed71a1/language-en>

outcome¹⁶,

- having regard to having regard to the study conducted for its Committee on Regional Development entitled ‘The impacts of the COVID-19 pandemic on EU cohesion and EU cohesion policy’, published in January 2022,
- having regard to its resolution of 8 March 2022 on cohesion policy as an instrument to reduce healthcare disparities and enhance cross-border health cooperation¹⁷,
- having regard to report of the European Commission of 11 April 2022 on Cohesion in Europe towards 2050- Eighth report on economic, social and territorial cohesion¹⁸,
- having regard to its resolution of 15 September 2022 on economic, social and territorial cohesion in the EU: the 8th Cohesion report¹⁹,
- having regard to its resolution of 15 September 2022 on EU border regions: living labs of European integration²⁰,
- having regard to the study conducted for its Committee on Regional Development by the European Parliamentary Research Service entitled ‘Mechanism to resolve legal and administrative obstacles in a cross-border context - European added value assessment’ (the ‘EPRS EAVA Study’)²¹,
- having regard to Rules 47 and 54 of its Rules of Procedure,
- having regard to the report of the Committee on Regional Development (A9-0252/2023),

A. Whereas the persistency of cross-border obstacles of administrative and legal nature severely affects EU border regions’ livelihood and their sustainable economic and social potential and limits the exercise of rights granted by the Treaties to border regions’ citizens and communities;

B. Whereas the persistence of these obstacles and their effects undermine the trust of citizens living in border regions in European integration and in the effectiveness of public authorities;

C. Whereas workers in border regions still face tax and administrative issues that require better coordination between Member States’ administrations; whereas it needs to be stressed that this trend was further exacerbated by the increase of cross-border remote

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<https://www.europarl.europa.eu/resources/library/media/20220509RES29121/20220509RES29121.pdf>

¹⁷ P9_TA(2022)0058.

¹⁸ European Commission, Cohesion in Europe towards 2050 - Eighth report on economic, social and territorial cohesion, 9 February 2022.

¹⁹ P9_TA(2022)0326.

²⁰ P9_TA(2022)0327.

²¹ EPRS, Mechanism to resolve legal and administrative obstacles in a cross-border context: European added value assessment, PE 740.233, 2023.

working as a consequence to the COVID-19 pandemic;

- D. Whereas internal border regions cover 40 % of the EU's territory, account for 30 % of its population or 150 million people and are home to almost 2 million border workers; whereas it was estimated that the setting up of a legislative tool at Union level to address cross-border obstacles, combined with existing tools, could bring about economic benefits of 123 billion euros, while removing all obstacles would bring up benefits up to 460 billion euros; whereas the removal of cross-border obstacles would as well bring about a positive impact on social rights, equal opportunities, environmental protection and an improved access to high-quality public services for citizens living in in border regions²² ;
- E. Whereas the removal of cross-border obstacles would as well facilitates accessibility between neighbouring countries, e.g. by realising the still missing links between certain border regions. A better interconnection of border regions would make European integration more tangible and offer citizens the possibility of effective and environmentally friendly cross-border mobility;
- F. Whereas some Member States have already concluded and can resort to bilateral or plurilateral treaties and agreements to set up structures and procedures for the removal of cross-border obstacles;
- G. Whereas a Union legislative act laying down general provisions and procedural arrangements for Member States to address cross-border obstacles would benefit Member States and EU regions by providing them with a wider array of policy options, and the possibility to design tailor-made solutions depending on the specific obstacle;
- H. Whereas it would also benefit communities and civil society actors involved in the initiation or both initiation and implementation of joint projects across the Union, who would have a dedicated course of action open to them to signal and address cross-border obstacles;
- I. Whereas the Commission issued a proposal for a regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context ('ECBM proposal') in 2018; whereas, since then, new challenges of unprecedented nature emerged, such as Brexit, the COVID-19 pandemic, the need to urgently address the climate emergency, and the Russian war of aggression against Ukraine; whereas these crises have had an impact at a cross-border level, which should be taken into account in a new amended version of that proposal;
- J. Whereas, in its publication "B-solutions: solving border obstacles: a compendium of 43 cases"²³, the Commission estimated that such a legislative act on the removal of cross-border obstacles would have represented an appropriate tool to overcome legal and administrative obstacles in at least 38 % of the cases analysed;
- K. Whereas Parliament adopted its first reading position on the ECBM proposal in 2019; whereas the Council's Working Party on Structural Measures stopped work on the

²² European Parliamentary Research Service (2023). "Mechanism to resolve legal and administrative obstacles in a cross-border context". European added value assessment, p.48.

²³ European Commission, Directorate-General for Regional and Urban Policy (2020). "B-solutions : solving border obstacles : a compendium of 43 cases : annex", *Publications Office*. <https://data.europa.eu/doi/10.2776/36819>.

ECBM proposal in 2021, without a formal position of the Council being taken;

- L. Whereas, nonetheless, Council has raised some understandable legal concerns that should be addressed in the context of a new proposal;
- M. Whereas Parliament has made all necessary efforts to start inter-institutional negotiations with the Council in an open and constructive way; whereas Parliament has repeatedly called on the Commission to present a new amended legislative proposal in numerous resolutions and in formal and informal exchanges at the highest political level; whereas the adoption of such a legislative act is as well part of the proposals contained in the Final Report of the Conference on the future of Europe²⁴;
- N. Whereas Parliament's calls have not been followed up so far by any meaningful action from either the Commission or the Council; whereas Article 225 of the Treaty on the Functioning of the European Union empowers Parliament to request to the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties;
1. Considers that, in light of recent trends on intra-EU labour mobility, and in order to face various demographic, social, economic and environmental challenges, to reduce disparities, and prevent brain drain, the Union needs to step up its efforts to address persisting cross-border legal and administrative obstacles in the broader context of cohesion through a far more efficient cooperation of border region authorities as well as a new effective instrument;
 2. Notes that despite territorial cross-border activities developed over decades, supported and facilitated by the Union with legal and financial instruments, citizens from border regions more often face a discrimination by not having access to the closest public service, which happens to be on the other side of the border, or their businesses enjoy fewer opportunities;
 3. Supports the ongoing efforts of the *b-solutions*, an initiative promoted by the European Commission's Directorate-General for Regional and Urban Policy (DG REGIO) and managed by the Association of European Border Regions (AEBR) as one of the actions proposed in the Commission's communication "Boosting growth and cohesion in EU border regions";
 4. Considers the b-solutions initiative a success, but recognizes it also as just one of the technical tools, such as the European Grouping of Territorial Cooperation (EGTC), Border Focal Point Network, or macro-regional strategies, that complements the Union's cross-border cooperation but does not, evidently, provide a comprehensive and effective response to the obstacles affecting border regions;
 5. Stresses that a Union-wide coordination framework is needed to ensure cohesion of the Union and to provide all border regions with a long-awaited solution that allows them to remove obstacles that require a higher degree of effort and cooperation between the Member States concerned while complying with the principle of subsidiarity;
 6. Maintains that the amendment to the ECBM proposal should concentrate on creating a simple and straightforward coordination framework allowing authorities at various levels to

²⁴ Final report of the Conference on the Future of Europe. Proposal 12, measure 15, p. 56.

remove legal and administrative obstacles, while preventing the duplication of bodies and authorities, and the creation of unnecessary administrative burden, so as to contribute to the development of border areas while taking into account their specific characteristics; the scope of the revised ECBM proposal should focus on joint projects;

7. Believes that, in order to be a genuine cohesion instrument, such a coordination framework should fully respect the constitutional and legislative prerogatives of the Member States, taking into account the institutional differences as regards the areas of intervention of the national administrative bodies concerned, and the allocation of competences between the Union and the Member States;

8. Suggests to call the new coordination framework: “Border Regions’ Instrument for Development and Growth in the EU” (BRIDGEU);

9. Stresses that regional and local authorities, are key players in the promotion of territorial cohesion and should be able to participate in a meaningful and inclusive way in the formulation of measures aimed at removing cross-border obstacles, and that relevant local civil society actors and community groups should be kept informed of the process;

10. Stresses that any legislative proposal on this matter must clearly define the Member States’ authorities and bodies at all levels concerned and involved throughout the process, in order to ensure the necessary legal certainty for regional and local actors;

11. Believes that the establishment of Cross-border Coordination Points is crucial to provide public authorities, civil society, citizens, and private bodies with an interlocutor capable of addressing legal or administrative obstacles hampering the implementation of a joint project;

12. Maintains that through Cross-border Coordination Points, Member States should assess on a voluntary and a case-by-case basis whether and how to address the request for assistance in removing the obstacles and administrative burden;

13. Is of the opinion that a way to boost multilevel governance, innovation, and stronger cooperation between border regions is to enable Cross-border Coordination Points to establish Cross-border Committees when addressing a complex obstacle that requires higher cooperation among the relevant authorities of border regions on all levels;

14. Underlines that Member States, when voluntarily deciding to trigger the instrument, should dispose of various policy measures to address the obstacle, such as a review of its administrative or legal framework through unilateral actions taken at the relevant level, soft-law instruments, the deferral of the management of the obstacle to the competent bodies established by existing bilateral or plurilateral treaties, or finally through the setting up of a Cross-border Committee tasked with the drafting of an ad-hoc solution to address one or more of the obstacles identified;

15. Emphasises that the adoption of a decision on the implementation of any ad-hoc solution drafted by the Cross-border Committee should remain at the discretion of the competent authorities at the relevant level of the Member State concerned, and should in any case be carried out by Member States in full compliance with their legislative and constitutional framework;

16. Notes that some Member States, for example, Estonia, Cyprus, Latvia, Luxembourg and Malta, which are single NUTS level 2 regions, are being excluded from Commission’s proposal original geographical scope of NUTS 3 level, whereas in Germany NUTS 1 regions correspond to the federal States, NUTS 2 to governmental regions and NUTS 3 regions are generally districts; argues that in the case of cross-border obstacles, NUTS 3 level is not always the optimal level to solve legal and administrative obstacles in various cross-border

situations; stresses, therefore, that the future coordination framework must allow for a certain flexibility in its implementation in order to be as relevant and effective as possible by targeting the most suitable territory in each case;

17. Highlights that nothing prevents Member States to voluntarily follow the same procedural arrangements provided for by the proposed Regulation set out in Annex I to this resolution when agreeing to resolve legal and administrative obstacles to border regions of the Union with candidate countries, while respecting Union law;
18. Requests that the Commission submit, on the basis of third paragraph of Article 175 of the Treaty on the Functioning of the European Union, a proposal for a regulation on a Border Regions' Instrument for Development and Growth in the EU, following the recommendations set out in the Annex hereto;
19. Recalls the commitment of the Commission President to Parliament's right of initiative and of her pledge to follow up Parliament's own-initiative legislative reports with a legislative act, in line with principles of Union law, contained in the Political Guidelines for the next European Commission 2019-2024; expects, therefore, the Commission to follow up this resolution with a legislative proposal;
20. Is of the view that sufficient funding for the proposals set out herein is required and considers that the financial implications of the requested proposals should be covered by the relevant Union budgetary allocation. Calls in this regard on the Commission to assess whether the implementation of the new Regulation could be facilitated through the mobilisation of Technical Assistance and Information Exchange instrument of the European Commission (TAIEX) or of the Technical Support Instrument, with a view to promote capacity-building of Member States' authorities at all levels;
21. Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council and to the European Committee of the Regions.

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**ANNEX I TO THE MOTION FOR A RESOLUTION:
RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED**

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a Border Regions' Instrument for Development and Growth in the EU

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 European Parliament's request to the European Commission,

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,

Having regard to the opinion of the Committee of Regions,

Acting in accordance with the ordinary legislative procedure,¹

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 adopted outside the Funds which are the subject of the first paragraph of that Article, in order to achieve the objective of economic, social and territorial cohesion set out in 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) The institutions, bodies, offices and agencies of the Union, Member States, and regional and local authorities should work together to ensure the effective implementation and monitoring of actions of territorial cooperation, with a view to achieving a more cohesive and integrated Union territory.

¹ OJ [...]

- (3) 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.
- (4) In its communication of 20 September 2017 entitled 'Boosting growth and cohesion in EU border regions' ('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.
- (5) The Commission also highlighted that numerous legal barriers still exist in border regions, especially those related to health services, labour regulation, environmental protection, 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 on its own to address the resolution of those barriers which constitute real obstacles to effective cooperation.
- (6) The Commission's report of 21 July 2021 entitled "Border regions: living labs of European integration" provides that the outbreak of the COVID-19 pandemic in the first trimester of 2020 exacerbated even further this trend, by means of the border closures imposed by Member States to contain the spread of the virus. In its report of January 2021 entitled 'The effects of COVID-19 induced border closures on cross-border regions' the Commission noted that the health controls imposed at the border strongly limited mobility of cross-border workers, economic activities relying on cross-border customers and clients, and overcomplicated the access to social security for cross-border workers who had to resort to remote working. The impossibility to reach healthcare facilities and schools on the other side of the border had a serious impact on the health and security of a considerable number of citizens.

- (7) Since 1990, programmes under the European Territorial Cooperation goal, better known as 'Interreg'² have supported cross-border cooperation programmes along Union border regions. It has financed thousands of projects and initiatives that have helped improve European integration and has made a genuine difference to border regions, contributing to their transformation. The main achievements of Interreg programmes include: increased trust among border regions, higher connectivity, improved environmental standards, better health and increased wealth of citizens.
- (8) Interreg has also supported cooperation on certain maritime borders. However, legal obstacles are not as much of an issue for maritime border regions due to 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 for rapid emergency interventions.
- (9) Macro-regional strategies play an important role in addressing common challenges faced by macro-regions. They are platforms for strategic networking, and work across borders, sectors and governance levels to help coordinate joint policies and actions in the macro-region concerned. As macro-regions are closely connected areas with common needs, the removal of obstacles could strengthen cooperation, making the regions stronger, more resilient and more attractive places to live in.
- (10) In its report of March 2017 entitled “Easing legal and administrative obstacles in EU border regions” the Commission studied a total of 239 obstacles. Two thirds of these obstacles affect the entire land border and almost 60% of them produce high negative impact on cross-border integration, which translates in concrete impacts on labour market opportunities and social rights of citizens.
- (11) In its 2020 public consultation on overcoming cross-border obstacles, a follow-up to the 2015 cross-border review by DG REGIO, the Commission noted that while 45% of respondents perceive a border as an opportunity, more than a third sees the border mainly as an obstacle.
- (12) In its assessment of data between 2014-2019, the relevant European Added Value Assessment (EAVA) study by the European Parliamentary Research Service found that

² 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).

removing obstacles would bring significant benefits for NUTS3 border regions and to the entire Union economy. More precisely, a total Gross Value Added (GVA) benefit of a complete removal of legal and administrative barriers would yield around €457 billion, representing 3, 8 % of total 2019 EU GVA. Removing 20% of obstacles for all border regions, would result in a total GVA benefit of €123 billion, representing around 1% of total 2019 EU GVA, as well as total employment benefit of 1 million jobs representing around 0,5% of total employment at Union level³.

- (13) Other potential benefits include positive impacts on social rights and removing inequalities in access to public service for citizens living in border regions, which would in turn contribute to retaining talent and to further unlocking the economic and social potential of these regions.
- (14) In its Border Regions Communication, the Commission referred among other measures to an initiative started 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 to allow for temporary derogations from existing legislation or to adopt ad-hoc solutions. This would apply to an individual project or action limited in time, located within a border region and initiated by local or regional authorities.
- (15) Even though a number of effective treaties, agreements and instruments 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 of the Union. Furthermore, the financing instruments (mainly Interreg) and the legal instruments (mainly EGTCs) provided so far at Union level have not been sufficient to resolve cross-border obstacles throughout the Union. In order to complement the existing systems, and to remove procedural obstacles hampering the development of border areas, it is therefore necessary to set up a voluntary coordination framework laying down general provisions and clear procedural arrangements Member States may use in order to address obstacles hampering the implementation of a joint project in a cross-border context. Any decision on whether and how to address potential obstacles should fall within the remit of the Member States concerned.

³ EPRS, Mechanism to resolve legal and administrative obstacles in a cross-border context: European added value assessment, PE 740.233, May 2023.

- (16) Legal obstacles predominantly affect persons interacting on land borders, such as cross-border workers, who 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 2 and 3 regions.
- (17) 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 should be required to establish or designate a Cross-border Coordination Point either at Member State level as a separate body, or within an existing authority or body or by entrusting the task to an appropriate authority or body. The tasks of the Cross-border Coordination Points are set out in this Regulation, in accordance with national competences.
- (18) When two bordering Member States agree to jointly address an obstacle identified through an initiative document, a Cross-border Committee composing of representatives from the national, regional and local authorities designated by the Cross-border Coordination Points of the Member States concerned should be convened. Each Cross-border Committee should be a temporary body, whose tasks are set out in this Regulation, and should be limited to the formulation of an ad-hoc solution for the removal of a cross-border obstacle.
- (19) This Regulation sets out the procedure concerning an initiative document, including defining who can be an initiator, the procedure for preparing and submitting an initiative document, the content of that initiative document, a preliminary analysis of the initiative document and its follow-up. Local or regional authorities, civil society organisations, citizen initiatives or other bodies, whether having legal personality or not, can be initiators, provided that they are responsible for initiating or both initiating and implementing a joint project. This Regulation should set out a complete list of entities that can act as initiators.

- (20) The Cross-border Coordination Point that receives an initiative document is referred to as the Cross-border Coordination Point of first contact. The procedure also sets out the reaction of a bordering Member State for a request to set up a Cross-border Committee.
- (21) Following the receipt of an initiative document, the Cross-border Coordination Point of first contact should liaise with all relevant national, regional and local authorities in its Member State and with the Cross-border Coordination Point in the bordering Member State(s) concerned. The Cross-border Coordination Point of first contact should provide the initiator with a preliminary assessment regarding whether the initiative document complies with the requirements set out in this Regulation, and whether the obstacle exists. This preliminary assessment should be made publicly available upon request. The Cross-border Coordination Point of first contact should then be able to decide whether a procedure leading to the conclusion of an ad-hoc solution is to be launched, whether a solution is to be found at national level, or that it considers the removal of one or more obstacles hampering the implementation of a joint project falls within the remit of existing international arrangements. It should be possible for the Member State to decide not to address the obstacles. Any decision remains within the discretion of the Member States concerned and should be duly justified and communicated in due time to all the stakeholders involved, and made publicly available upon request.
- (22) This Regulation sets out the procedure to follow when two or more Cross-border Coordination Points agree to entrust the drafting of an ad-hoc solution to a Cross-border Committee, including the content of the draft ad-hoc solution and the transmission of the draft ad-hoc solution to the Member States concerned.
- (23) The Regulation also establishes the procedure to follow for the conclusion of the ad-hoc solution following an examination of and agreement on the ad-hoc solution by the competent authorities of the Member States concerned.
- (24) The Regulation sets out rules on the implementation, monitoring and evaluation of application of the ad-hoc solution.
- (25) 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) and with the principle of proportionality, as set out in Article 5(4) TEU whereby the content and form of Union action should not exceed what is necessary to achieve the objectives of the Treaties. Therefore, the adoption of this Regulation should not

undermine the application of any existing or future bilateral or plurilateral treaties or agreements concluded by Member States under international law.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Subject matter

1. This Regulation sets up a coordination framework that lays down general provisions and procedural arrangements for Member States to address an obstacle that hampers the planning, development, staffing, financing or functioning of a joint project in a cross-border context in cooperation with their relevant local and regional authorities.
2. Member States shall assess on a voluntary and case-by-case basis whether to trigger the procedural arrangements laid down in Chapter II to address an obstacle as referred to in paragraph 1 of this Article.
3. This Regulation lays down:
 - (a) the organisation and tasks of Cross-border Coordination Points in the Member States,
 - (b) the composition and tasks of Cross-border Committees,
 - (c) the coordinating role of the Commission.
4. This Regulation shall be without prejudice to the implementation of existing or of any future bilateral or plurilateral treaties concluded by Member States under international law or to the prerogatives and tasks of bodies established by those treaties.

Article 2

Scope

This Regulation applies to joint projects in a cross-border context, as defined in Article 3, point (2).

Article 3

Definitions

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

- (1) 'cross-border region' means the territory covered by bordering land or maritime border regions in two or more Member States at NUTS level 2 and 3 regions;
- (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;
- (3) 'obstacle' means any legal or administrative 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;
- (4) 'initiator' means the actor who identifies one or more obstacles and triggers the coordination framework by submitting an initiative document;
- (5) 'initiative document' means the document prepared by one or more initiators to trigger the instrument;
- (6) 'area of application' means the territorial area in one or more Member States where an ad hoc solution shall apply, limited to what is strictly necessary for the implementation of the joint project;
- (7) 'competent authority' means the authority designated by each Member State to carry out specific tasks related to the implementation of this Regulation.

Article 4

Cross-border Coordination Points

1. Each Member State, in full compliance with its legislative and constitutional framework, shall establish or designate a Cross-border Coordination Point in one of the following ways:
 - (a) designate, at Member State level, a Cross-border Coordination Point, as a separate body;
 - (b) establish a Cross-border Coordination Point within an existing authority or body or;
 - (c) entrust an appropriate authority or body with the additional tasks as national Cross-border Coordination Point.

2. The Member States shall inform the Commission of the identity of the Cross-border Coordination Point within three months of the date of entry into force of this Regulation.
3. The Member States shall ensure that the authority or body which is established as, or takes on the additional tasks of, a Cross-Border Coordination Point receives the necessary capacity building and support to carry out the tasks described in Article 5.

Article 5

Tasks of the Cross-border Coordination Points

1. Each Cross-border Coordination Point shall carry out the tasks and procedures established in Chapter II, and in particular:
 - (a) carry out a preliminary analysis of all initiative documents received, liaise with the initiator and ensure transparency and access to documentation;
 - (b) coordinate the preparation, conclusion, and implementation for all ad-hoc solutions concerning the territory of its Member State;
 - (c) liaise with the Cross-border Coordination Points in the bordering Member State or States;
 - (d) liaise with the Commission, and support the update of its database, as referred to in Article 7(1), point (e);
 - (e) identify and liaise with the national, regional and local authorities, which will be tasked with drafting an ad-hoc solution in the context of a Cross-border Committee, in cases where the Member States concerned jointly decide to trigger the procedures laid down in Article 11(1), point (d), and in Article 12;
 - (f) ensure, if requested, the provision of information concerning any decisions taken under this Regulation to citizens and to the relevant stakeholders.
2. Each Member State may decide to entrust the Cross-border Coordination Point with

the following additional tasks:

- (a) monitor the implementation of all ad-hoc solutions concerning the territory of its Member State;
- (b) inform the competent authority of its Member State of its obligation to comply with the deadlines established by in a given ad-hoc solution, and of any missed deadlines laid down in the related ad-hoc solution;
- (c) keep the initiator informed regarding the follow-up to the initiative document when triggering the procedures referred to in Article 11(1), point (a).

Article 6

Tasks and composition of Cross-border Committees

1. Member States shall decide by mutual agreement, after consulting their competent regional and local authorities, and on the basis of a case-by-case assessment pursuant to Article 11(1), point (d), and to Article 12, to set up a Cross-border committee tasked with the formulation of an ad-hoc solution to address one or more obstacles identified through an initiative document.
2. The draft ad-hoc solution shall lay down legal or administrative arrangements to address solely the obstacle set out in an initiative document. The conclusion and implementation of the ad-hoc solution shall be entrusted to the competent authorities of the Member States concerned, in full compliance with their legislative and constitutional framework.
3. Cross-border Committees shall be composed of representatives of the national, regional or local authorities designated by the Cross-border Coordination Points of the Member States concerned. The Cross-border Coordination Points shall ensure the participation of regional and local authorities to the Cross-border Committee where the removal of the obstacle falls within their competences.

Article 7

Coordination tasks of the Commission

1. The Commission shall perform the following coordination tasks:

- (a) liaise with the Cross-border Coordination Points;
- (b) provide, if requested, practical information and interpretation of the subject area and the thematic focus of this Regulation;
- (c) provide, if requested, technical assistance to Cross-border Committee in the process of drafting of an ad-hoc solution;
- (d) promote the exchange of best practices;
- (e) create, publish and keep an up-dated public database of all Cross-border Coordination Points and their contact details, and of all ad-hoc solutions.

CHAPTER II

Member States' options for addressing cross-border obstacles

Article 8

Preparation and submission of the initiative document

1. The initiator shall identify any obstacle with regard to the planning, development, staffing, financing or functioning of a joint project.
2. The initiator shall be one of the following entities, either alone or jointly:
 - (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 in a given cross-border region;
 - (c) a body with or without legal personality promoting 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 of the European Parliament and of the Council⁴, 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

⁴ 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).

European Service for Cross-border Initiatives.

3. The initiator shall prepare an initiative document drafted in accordance with Article 9, taking into account, where authorised under the applicable law, requests of persons or entities concerned by the common project.
4. The initiator shall submit the initiative document to the Cross-border Coordination Point of its Member State and send a copy to the Cross-border Coordination Point of the bordering Member State or States concerned. In cases referred to in Article 8(2), points (c) and (d), the initiator shall be free to decide to which Cross-border Coordination Point of the Member States concerned it shall send the initiative document.

Article 9

Content of the initiative document

1. The initiative document referred to in Article 8 shall include at least the following elements:
 - (a) a description of the joint project and its context, including the project plan, project schedule and project risks noting the impact of the obstacles;
 - (b) description of the presumed obstacles hampering the implementation of the joint project;
 - (c) where possible and where relevant, a preliminary assessment on how the cross-border obstacles could be overcome via an ad-hoc solution;
 - (d) a list of the legislative and administrative provisions that should be taken into account for the envisaged ad-hoc solution;
 - (e) an expected date for the conclusion of the ad-hoc solution in order for a project to remain viable;
 - (f) the envisaged duration of the ad-hoc solution;
 - (g) a justification for the area of application of the ad-hoc solution.
2. The area of application of the ad-hoc solution shall be limited to what is strictly necessary for the effective implementation of the joint project.

Article 10

Preliminary analysis of the initiative document by the Cross-Border Coordination Point of first contact

1. The Cross-border Coordination Point receiving an initiative document ('Cross-border Coordination Point of first contact') shall carry out a preliminary analysis. It shall liaise with all relevant national, regional and local authorities, and with the Cross-border Coordination Point in the bordering Member State concerned.
2. Within one month of receipt of an initiative document, the Cross-border Coordination Point of the bordering Member State concerned shall send its preliminary reaction to the Cross-border Coordination Point of first contact.

3. Following the receipt of the initiative document, the Cross-border Coordination Point of first contact shall take one or more of the following actions, to be transmitted to the initiator in writing:
- (a) in cases where the initiative document was prepared in accordance with Article 9, inform the initiator within one month that it is admissible, and therefore that an obstacle exists;
 - (b) request within one month, if necessary, the submission of a revised initiative document or of additional specific information, setting out the reasons for which the initiative document is not considered sufficient; upon receipt of a revised initiative document, the Cross-border Coordination Point of first contact shall take one of the following measures:
 - (i) proceed with one of the actions set out in Article 11(1);
 - (ii) where it considers that the revised initiative document is still not prepared in accordance with Article 9 or that the additional specific information is still not sufficient, it shall, within one month after receipt of the revised initiative document, inform the initiator in writing about its decision to terminate the procedure; this decision shall set out its reasons;
 - (c) inform the initiator within three months about its assessment that there is no obstacle, while setting out in writing the reasons for its decision, the means of review available at national level to challenge its decision, and, where relevant, recommendations on how to proceed;
 - (d) where the implementation of a cross-border project is hampered by legal or administrative acts at regional or local level, inform the initiator thereof and take one of the following measures:
 - (i) proceed with one of the actions set out in Article 11(1), after consulting the competent regional or local authorities and in full compliance with the constitutional framework of the Member State concerned; or
 - (ii) defer the initiative document to the competent regional or local authorities;
4. The decisions taken pursuant to paragraph 3 of this Article shall be entered in the records to be made publicly available upon request.

Article 11

Follow-up to the preliminary analysis of the initiative document

1. Following the receipt of an initiative document complying with the requirements set out by Article 9, and the notification of its positive preliminary analysis pursuant to Article 10(3), points (a) and (b), the Cross-border Coordination Point of first contact shall, within three months of that receipt, take one of the following actions:
 - (a) inform the initiator that it considers that the removal of one or more obstacles hampering the implementation of the joint project falls within the remit of existing international arrangements referred to in Article 1(2), and that it recommends the initiator to submit its initiative document to the competent bodies thereof;
 - (b) inform the initiator that it considers that the removal of one or more obstacles hampering the implementation of the joint project could be more effectively achieved through non-binding measures such as:
 - (i) awareness raising and capacity building through knowledge sharing;
 - (ii) capacity building of local stakeholders;
 - (iii) requesting guidance from the Commission to ensure the correct application of relevant Union legislation;
 - (c) inform the initiator that the implementation of the project is hampered by an obstacle that is administrative in nature, namely that can be resolved without a legislative procedure, such as provisions, rules or practices clearly distinct from a provision adopted under a legislative procedure and take one of the following measures:
 - (i) decide to address the obstacle and liaise with the competent national, regional or local authority within three months to that end;
 - (ii) decide not to address the obstacle while setting out in writing the grounds of its decision, and the means of review available at national level to challenge its decision;

- (d) express its commitment to the initiator to remove the obstacle by triggering the procedures to formulate an ad-hoc solution with the relevant authorities of the bordering Member State concerned by setting up a Cross-border Committee; the Cross-border Coordination Point of first contact shall inform in writing the Cross-border Coordination Point of the bordering Member States, listing the national, regional and local authorities of the Member State of first contact which would take part in the preparation of the ad-hoc solution;
 - (e) inform the initiator that the implementation of the project is hampered by an obstacle that is of legal nature and therefore can only be resolved through a legislative procedure, and either:
 - i) commit to address the obstacle by taking all necessary measures in full compliance with its legislative framework, and liaise to that end with the competent national, regional or local authority; or
 - ii) decide not to address the obstacle, indicating in writing the grounds thereof and the remedies available at national level to challenge its decision;
2. In duly justified cases, the Cross-border Coordination Point of first contact may extend the deadline referred to in paragraph 1, point (c), one time, by a maximum of three months, and shall inform the initiator and the bordering Member State concerned accordingly, setting out the reasons for the extension in writing.
3. Member States shall inform the Commission of any decision taken under this Article by the Cross-border Coordination Point of first contact, and shall enter such decisions in the records to be made publicly available upon request.

Article 12

Reaction of the bordering Member State concerned to the request to set up a Cross-border Committee

1. Upon notification of the Cross-Border Coordination point of first contact of its request to draft an ad-hoc solution in the context of a Cross-border Committee pursuant to Article 11(1), point (d), the Cross-border Coordination Point of the bordering Member State concerned shall decide whether to initiate the procedures referred to in Article 13 within one month of that notification, and communicate its decision in writing to the Cross-border Coordination Point of first contact. If the Cross-border Coordination Point of the bordering Member State concerned decides to follow the procedures referred to in Article 13, it shall list the national, regional and local authorities which shall take part in the preparation of the ad-

hoc solution.

2. Where the Cross-border Coordination Point of the bordering Member State concerned communicates its decision not to initiate the procedures referred to in Article 13, it shall set out the reasons for its decision in writing. The Cross-border Coordination Point of the Member State of first contact shall inform the initiator that one or more of the Member States concerned have decided not to resolve the obstacles identified by the initiator.

Article 13

Content of the draft ad-hoc solution

1. The draft ad-hoc solution referred to in Article 6(2) shall include at least the following elements:
 - (a) the description of the joint project and of its context, of one or more corresponding obstacles hampering its implementation, as well as of the rationale for resolving one or more of these obstacles;
 - (b) the list of the specific legal provision or provisions constituting one or more obstacles to the joint project;
 - (c) the proposed ad-hoc solution, including all necessary actions to be taken by the competent authorities of the Member States concerned;
 - (d) the area of application of the ad-hoc solution;
 - (e) the duration of application of the ad-hoc solution and a justification for that duration;
 - (f) the authority or authorities from the Member States or Member States competent to take all necessary measures for the implementation and monitoring of the ad-hoc solution;
 - (g) the date of entry into force of the ad-hoc solution as agreed by the competent authorities.

Article 14

Transmission of the ad-hoc solution

1. Once the draft ad-hoc solution referred to in Article 6(2) has been agreed by the Cross-Border Committee, the Cross-border Coordination Points of the Member States concerned shall transmit this draft to the competent authorities of the Member States concerned within one month.
2. A copy shall be sent for information to the initiator by the Cross-border Coordination Point of first contact, and to the relevant local and regional authorities where they have not been participants in the Cross-border Committee.

Article 15

Conclusion and implementation of the ad-hoc solution

1. The competent authorities of the Member States concerned shall examine the draft ad-hoc solution received pursuant to Article 14 and, within a maximum of three months following the receipt of the draft, take one of the following:
 - (a) agree upon the draft ad-hoc solution, prepare and adopt all necessary measures for its implementation, accompanied by a timetable;
 - (b) decide not to agree upon the draft ad-hoc solution and prepare a detailed justification stating the reasons of this decision.
2. Competent authorities shall transmit a copy of their decision to the relevant Cross-border Coordination Points of the Member States concerned, as well as to the initiator.
3. Once the implementation of the ad-hoc solution is completed, and all necessary requirements under paragraph 1 are carried out, the Cross-border Coordination Points shall inform in writing the initiator, the relevant authorities in the Member States concerned and the Commission.

CHAPTER III

Final provisions

Article 16

Evaluation

Within two years of the entry into force of this Regulation, the Commission shall submit to the European Parliament, the Council and the Committee of the Regions a report that assesses the application of this Regulation based on indicators of its effectiveness, efficiency, relevance, European added value and scope for simplification. In that report, the Commission shall, inter alia, assess the extension of the scope of this Regulation to cross-border regions on maritime borders or in cross-border regions between one or more Member States and one or more third countries.

Article 17

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.

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

ANNEX II TO THE MOTION FOR A RESOLUTION: ADDED VALUE OF THE PROPOSAL

The following tables and case studies have been produced by the European Parliamentary Research Service entitled ‘Mechanism to resolve legal and administrative obstacles in a cross-border context - European added value assessment’⁵ to complement this report.

1. TABLES

Table 6: Overview of identified policy options

Policy option	Examples	Assessment of the policy option
Policy option 1 Status quo	Bilateral/multilateral agreements between Member States	Gaps in implementation, for example due to a crisis situation (e.g. during COVID-19 pandemic)
	EGTC: Possibilities to set up a (legal) entity to handle obstacles	Absence of legislative competences in case of EGTC
	B-solutions: sharing of expertise and admin and legal assistance	B-solutions: sharing of best practices but targeted approach needed for tailored solutions to address the specific obstacles in different regional contexts; limited to best practices sharing.
	Border Focal Point: facilitating access of border regions to (re)sources and networking	
	Using the existing provisions on cross-border cooperation in sectorial legislation (e.g. on cross-border health)	Existing provisions in sectorial legislation provide legal certainty but sector-limited, not always properly implemented at national level
Policy option 2 Soft-law measures	Raising awareness and capacity building through workshops and knowledge sharing	Improved cooperation/exchanges between competent authorities, hence building trust as a pre-condition to cooperation
	Capacity building of local stakeholders ⁶ , training of staff in administrations dealing with cross-border issues; workshops and exchange of best practices, multilingual documents and guidelines.	Better evidence but absence of an instrument to overcome legal obstacles
	Guidelines by the Commission to enhance the application of existing legislation	Solving/addressing legal or administrative barriers

⁵ EPRS, Mechanism to resolve legal and administrative obstacles in a cross-border context: European added value assessment, PE 740.233, 2023.

⁶ A Compendium of 43 cases, b-solutions: Solving Border Obstacles, European Commission, March 2020.

	Development and better use of digital instruments for improving cross-border public administration ⁷	More efficiency in administrative procedures
	ESPON: data collection and exchange	Better informed decision making due to more data and evidence
	Enhanced coordination between national/regional authorities: possibility of administrative ad-hoc conventions	Limited to administrative obstacles Problem of different level of competences of regional administrations
Policy option 3 Soft-law measures + Adoption of ECBM 2.0	A common universal tool enabling overcoming obstacles across sectors Establishment of cross-border contact points Enhancing the role of EGTCs to launch and lead the procedure Use of funding instruments for MS authorities Derogation from existing law or ad-hoc solution	Need to streamline the 2018 proposal and address concerns voiced by some Member States The choice of a solution, such as activation of the ECBM 2.0 would remain in hands of Member States Derogation and ad-hoc solutions could provide flexibility and efficiency in overcoming obstacles

⁷ Proposal on Interoperable Europe Act, COM(2022) 720 final, European Commission. 18 November 2022.

Table 13: Overview of policy options and their impacts: Summary Table

	Policy option 1: Status quo	Policy option 2: Soft-law measures	Policy option 3: Soft law measures + Adoption of ECBM 2.0
Quantitative assessment*	Lost potential benefits amounting to €457 billion per year and 4 million of potential jobs	Potential benefits of addressing administrative obstacles leading to €41 billion	Potential benefits of addressing both administrative and legal obstacles would reach €123 billion per year and more than 1 million of jobs.
Qualitative assessment	Existing legal instruments are sector-specific only while obstacles in other areas remain largely unaddressed Limited potential to address existing and new obstacles Existing government agreements, e.g. Nordic Council also show shortcomings (case study 1)	Potential decrease in administrative obstacles but legal obstacles continue hampering cross-border cooperation Addressing less than half of existing obstacles	Would help to unleash the potential of Single Market, more opportunities for businesses in border regions Streamlining of procedures in cross-border cooperation and capacity building
Impact for citizens and businesses	Negative economic and social impact, for example in form of discrimination in access to healthcare in border regions (case study 3)	Potential to lower negative impact via more efficient cooperation of public administration bodies and higher awareness of existing provisions or possible solutions at administrative level	Highest possible impact due to the potential to address both administrative and legal obstacles Removal of obstacles would help facilitate access of citizens and businesses to public services in border region Potential to better channel cohesion instruments to border regions Increased attractiveness of border regions: more incentives for businesses and bring and retain talent

2. Case studies

Case study 1: Nordic Council of Ministers

The Nordic Council of Ministers is one of the most prominent examples of cross-border cooperation at intergovernmental level. The cooperation is based on the Helsinki Treaty, concluded between Sweden, Finland, Denmark, Norway and Iceland. Legislative cooperation can be agreed for example in the fields of education, labour law, social benefits and environmental protection. Based on the Helsinki Treaty, the countries agreed to inform each other, when they intend to change legal provisions that are part of the Nordic cooperation. Obstacles to mobility and growth will be identified and removed, for example through cooperation on the implementation of Union legislation into national law to facilitate free movement of people and businesses. The Nordic Council Action Plan for 2021-2024⁸ identifies objectives, among others, promoting access to digital services across borders in the Nordic-Baltic region or to ensure the immediate recognition of Nordic vocational and educational qualifications in the other Nordic countries.

Nordic Council of Ministers

A case study on labour market mobility

Situation/context: Legislative cooperation covers, among others, labour law and social benefits.

Obstacles: legal and administrative obstacles such as qualification verification as well as obstacles related to taxation, banking or pension payments.

Impacts: restriction of freedom of movement of workers.

Possible solutions: improved access to reliable and comparable statistics, digitalised joint social security systems and e-services.

The Finnish government endorsed in November 2022 a report⁹ on Nordic cross-border barriers stating that it is Finland's responsibility to remove border barriers resulting from Finnish legislation or its interpretation, what could lead to a change of legislation in some cases. The government will prevent new barriers by taking into account cross-border aspects when drafting or transposing Union legislation into national law. Despite the legal cooperation framework, several obstacles remain such as validation of professional qualifications for certain professions. This results in hampering the

right to free mobility of workers. It is estimated that around 25 thousands of workers are impacted due to a complex validation procedure in the Øresund region on the Danish/Swedish border.¹⁰ As part of a research project 'Re-start Nordic competence mobility', a first phase focused on labour market mobility.¹¹ Although labour mobility represents a cornerstone of Nordic-cooperation, it has faced serious challenges due to restrictions related to COVID-19 pandemic as well as influx of refugees.

Case study 2: European Grouping of Territorial Cooperation

The recognition of qualification and diploma is according to studies and experiences of

⁸ Nordic Council of Ministers action plan 2021-2024. The Nordic Council of Ministers will conduct a mid-term evaluation of efforts relating to their vision in 2022.

⁹ Government report of 10 November 2022 on Nordic cross-border barriers, Finnish Government.

¹⁰ Øresunddirekt: Border issues between Sweden and Denmark, Information service website. Consulted in February 2023.

¹¹ Lundgren A., Bogason A., Re-start competence mobility in the Nordic Region, Nordregio working paper 2022:4.

projects chosen by b-solutions a complex topic in a cross-border situation despite the existence of Directive 2005/36/EC on the recognition of professional qualifications. The cross-border project has faced two different sets of obstacles since its creation: establishing

European Grouping of Territorial Cooperation (EGTC)

Situation/context: cross-border hospital integrating Spanish and French systems

Obstacles: lengthy recognition procedure of diploma recognition for the French doctors

Impacts: proper functioning of the hospital is at risk

Proposed solutions: ECBM could play an important role in diploma recognition.

Observation: ECBM/tool would play an important role in recognition of qualification.

Source: EGTC - Hospital de Cerdanya

the hospital and hiring personnel.

To overcome the first set of obstacles, an EGTC has been established in Spain. The Cerdanya Hospital EGTC operates as a cross-border hospital, by integrating the health systems of France and Spain and by hiring personnel from both sides of the border to offer healthcare to citizens of France and Spain. When it comes to the second set of obstacles, hiring personnel, the hospital faces significant challenges in establishing cross-border teams of doctors. The Spanish Ministry of Education and Vocational Training is the competent authority for the recognition of foreign diploma. As it could take more than six months to get a response from the Ministry, the Cerdanya Hospital EGTC

was looking for solutions to speed up the recognition process when employing French citizens.

Several solutions have been proposed by specialised experts as part of the b-solution project¹²: it was suggested to introduce a “non-response period”¹³, or to delegate the recognition exceptionally to the Girona Medical Association, or to second an official from the ministry to the hospital. The potential usefulness of a European Cross-Border Mechanism has been emphasised by applying the French legislation to recognise diplomas acquired or certified in France. In that case, regional capacities would need to play a stronger role of ‘initiators’ of solutions under the ECBM. The Cerdanya Hospital EGTC opted to choose the delegation of the recognition¹⁴.

Case study 3: Cross-border health and emergency services

In the Karlovy Vary Region of Bohemia in the Czech Republic and Saxony and Bavaria in Germany patients are transferred to nearest hospital either in Czechia or in Germany in the case of accidents implying emergency health care. Despite a well working cross-border cooperation between the hospitals on both borders, the Czech legislation on healthcare reimbursement and emergency services seems to constitute an obstacle

Emergency health care

Situation/context: Good cross-border cooperation between hospitals at the Czech/German border but problems with cross-border reimbursement of patients

Obstacles: both legal and administrative, stemming from an insufficient transposition of Directive on patients’ rights in cross-border healthcare.

Impacts: insufficient access to medical treatments in border areas where patients are discouraged from seeking medical care in nearby Germany.

Solution proposed: ECBM could play an important role in overcoming legal obstacles.

Source: b-solutions: A compendium 2020-2021.

¹² A Compendium of 43 cases, Annex Commission, March 2020.

¹³ It means that if no response is given automatically accepted.

¹⁴ Ibid.

due to an insufficient transposition of Directive 2011/24/EU on patients' rights in cross-border healthcare¹⁵ into Czech legislation, in particular regarding the reimbursement of patients insured in Czechia looking for treatment in Germany without prior authorisation. The obstacle is that Czech hospitals and ambulatory care providers are financed through a complicated reimbursement mechanism and not on a case-by-case basis payment. Possible solutions suggested by experts include amending the existing framework agreement between CZ and DE to address obstacles in emergency health care services. In the case of planned health care treatment, a reform would be necessary. Since 2022, new streamlined procedures were set to enter in force. Experts agree that the use of ECBM would help overcome legal obstacles both for emergency and planned medical services. As concrete steps taken, the Czech Constitutional Courts is evaluating the legislation of by-laws on reimbursement and the Act 48/1997 to streamline procedures for claim of reimbursement by creating revision committees will be amended.

Case study 4: Multilingualism in school/education in Austria, Hungary and Slovakia

The automatic recognition of diplomas is a cornerstone of the European Education Area¹⁶ (EEA) and linked to issues of learning mobility. Promoting multilingual competence, providing a better understanding of other cultures, citizenship and democracy competences development, is at the heart of the EEA. In border regions, the lack of multilingual competence became an obstacle in interaction between citizens and public administrations. Cooperation between early childhood institutions in border regions and learning language of the neighbouring country could decrease the mentioned language

Access to early education in border region

Situation/context: Pupils from Austria, Hungary and Slovakia can't attend kindergarten and schools in a neighbouring country.

Obstacles: legal obstacles (such as insurance and financing) and administrative obstacles (such as recognition of school pathway)

Impact: restriction of multilingual education, discrimination in access to early and primary education

Solutions proposed: awareness raising and further funding

Source: b-solutions: A Compendium of 43 cases; Annex.

barriers in border regions.¹⁷ In the border regions between Austria, Hungary and Slovakia, children cannot attend kindergarten or primary schools in the neighbouring country because of legal obstacles related to insurance, financing of school places and mutual recognition of education curricula. The actors involved in the three countries informed policy-makers at all levels in the countries. One solution to overcome legal obstacles (mutual recognition of qualifications of teachers) was to raise awareness of these obstacles through informing the relevant authorities and to contact the Austrian Federal Ministry for Education. No legal options have been identified at the moment. Other possible solutions include funding of bilingual teaching or additional language courses. Inspiration can be drawn from similar cases in other border regions. The authorities concerned can apply for further funding for bilingual

¹⁵ Directive 2011/24/EU of 9 March 2011 on the application of patients' rights in cross-border healthcare.

¹⁶ Report on the implementation of the Council Recommendation on promoting automatic recognition of higher education and upper education and training qualifications and outcomes of learning periods abroad, COM(2023) 91, 23 February 2023.

¹⁷ Council recommendation 2019/C 189/03 of 22 May 2019 on a comprehensive approach to the teaching and learning of languages.

teaching and to facilitate teachers' and pupils' mobility, through, for example, the Interreg or Erasmus+ programmes.¹⁸

Observations from the case studies

The selected case studies show a variety of obstacles citizens and businesses in border regions face but they are far from being exhaustive. The existence of obstacles and their impact on citizens in border regions showcase the discrimination¹⁹ they face when it comes to access to public services compared to citizens living in other regions. Moreover, businesses enjoy fewer opportunities.

Selected projects are supported by the Commission in removing obstacles. The b-solutions 2020 Compendium includes an overview of 43 cases of cross border obstacles, lessons learned and policy recommendations.

The analysis of cases shows that in 38% of cases the ECBM would be an appropriate additional tool to help overcome legal and administrative obstacles, providing support to local and regional authorities. This applies especially for cases where obstacles come from diverging national legislations or administrative practice across the border. In cases of existing close institutional cooperation or existing bilateral agreements, other solutions seem more feasible. Experts note that in cases where no change of legal framework is required or the legislation can be easily amended, actors prefer to choose other means such as intensified exchange and cooperation.²⁰

The latest call for proposals *b-solutions 2.0*, open until November 2023, will identify 120 projects in the following areas: institutional cooperation, public service, labour market, education and European Green Deal.²¹ The selected cases will be matched with legal experts who will provide assistance in identifying obstacles, proposing solutions and outlining the legal framework.

One can observe that there is no one single solution to the big diversity of obstacles, in all sectors and different border region constellations. Sharing good practices of successful solutions serves as inspiration for stakeholders in other border regions but research shows that any good practice needs to be adapted to local, regional and national contexts and border-specific factors. In case of cross-border public services subject to national rules, actors face different counterparts on the other side of the border, which makes harmonisation difficult. If delegation of powers from national to regional authorities is not feasible, national authorities could support regional authorities in bridging the gap. The ECBM proposal by the Commission was meant to overcome such difficulties. Finally, sharing of knowledge and exchange of good practices should be further enhanced. ESPON²² has developed a database with 579 cross-border public services, including 29 good practices examples. Access to open data could facilitate exchange of information and support territorial development in border

¹⁸ A Compendium of 43 cases, Annex b-solutions: Solving Border Obstacles, European Commission, March 2020.

¹⁹ For example, the Directive 2011/24/EU notes the following: The principle of non-discrimination with regard to nationality shall be applied to patients from other Member States.

²⁰ A Compendium of 43 cases, Annex b-solutions: Solving Border Obstacles, European Commission, March 2020.

²¹ Ibid.

²² ESPON, EU-funded programme providing expertise and tools, e.g. maps, data monitoring, analysis, territorial impact assessments.

regions across Europe.²³

3. EU added value

The added value of EU action has been identified in enhancing a combination of solutions, which is required to effectively overcome such obstacles and offering tailored-made solutions. The existing legislative framework for cross-border measures or instruments do not cover all cross-border situations. Hence gaps exist and a Union wide problem solving mechanism in a cross-border context seems to be the missing link to tackle obstacles in specific cross-border contexts. Inspiration can be drawn from existing best practices of cross-border projects.

Looking at data between 2014-2019, this study finds that removing obstacles would bring significant benefits for NUTS3 border regions and the entire EU economy. As already mentioned above, the benefit of a complete removal of legal and administrative barriers would represent approximately €457 billion of additional GVA, corresponding to 3.8% of total 2019 EU GVA. In a time frame of 10 years, a more feasible and realistic scenario, similar to what was envisaged in the 2017 Commission study, would be to consider a 20% removal of obstacles for all border regions. In such a scenario, our study found a total GVA benefit of 123 billion representing around 1% of total 2019 EU GVA. This confirms the large potential that removing remaining legal and administrative barriers would bring in economic terms.

It is important to look at border regions from a broader context of cohesion policy and therefore strive to address imbalances between countries and regions, including border regions and support job creation, business opportunities and improve everyday life of citizens. A long-term vision is needed for border regions, in particular in the post-pandemic context where these regions were impacted in a disproportionate manner.

²³ Cross-border Public Services , Targeted analysis, ESPON, January 2019.

EXPLANATORY STATEMENT

The primary purpose of this legislative own-initiative report is to relaunch the work of the European Commission, Council and Parliament on the creation of a legislative tool allowing Member States and their border regions to overcome obstacles that hamper their economic and social development, and to allow their citizens to fully exercise the rights granted to them by the Treaties.

Parliament has on numerous occasions, expressed its commitment to fulfil the needs of border regions. For this very same reason, Parliament has from the beginning welcomed the initiative of the 2015 Luxembourgish Presidency of the Council and the 2018 Commission proposal on establishing the European Cross-border Mechanism ('2018 ECBM proposal'). Despite the complexity of the 2018 ECBM proposal, Parliament has conveyed its willingness to start as soon as possible inter-institutional negotiations with Council, in the best interest of the border regions and their citizens. The persistence of cross-border obstacles severely affects some tangible aspects of citizens' lives where a Union intervention could bring about a remarkable added value, such as the possibility for pupils to cross the border to reach the nearest school, or an easy access to a healthcare facility.

The request to adopt a legislative own-initiative report pursuant to Article 225 TFEU was the policy option of last resort that followed several attempts in which Parliament has called on Council to adopt its first-reading position, and on the Commission to present a new legislative proposal. The reticence of Council to work on the 2018 ECBM proposal witnessed nonetheless the highly controversial nature of some of the constitutive features thereof. Therefore, from a political point of view, Parliament well recognises the need to substantively amend the 2018 ECBM proposal.

From a purely legal standpoint, a regulation must remain the preferred instrument for this coordination framework. If the main goal of the Union's intervention were to create a common toolbox for overcoming legislative and administrative obstacles, the issuance of a directive would only contribute to the proliferation of further obstacles by means of the diverging implementations at national level. Moreover, the general application of regulations does not prejudice their voluntary nature, and hence their use. This is particularly true for cohesion instruments or funds, which are generally available but their fruition is conditional on Member States' willingness to do so. As regards the legal basis, the recourse to the third paragraph of Article 175 TFEU remains justified and fit for the establishment of a cohesion instrument not requiring the mobilisation of the EU structural funds.

Parliament's draft report

The mechanism proposed by the Commission needs to be streamlined, with a view to establishing a simple coordination framework. Indeed, the initial distinction between self-enforcing commitments and statements raised concerns related to presumed breaches of constitutional sovereignty among Member States. Furthermore, the scope of the 2018 ECBM proposal also extended to the conclusion of Commitments or Statements with third countries. Although it is not unusual for cohesion instruments to allow for cooperation with non-EU bordering countries (for instance, some Interreg programmes), the new proposal should not fuel the perception whereby the EU instructs Member States on how to interact with third

countries. Finally, the procedure envisaged by the Commission for the conclusion of commitments and statements required multiple exchanges of drafts between coordination points, their final signature, monitoring and implementation - this all bore the risk of delaying for too long the removal of the cross-border obstacle.

The new Regulation must leave no room for misinterpretation, leading Member States to perceive non-existent interferences with their legislative or constitutional sovereignty, or the creation of hierarchies of sources whereby Union law would overarch existing bilateral or plurilateral arrangements that are in force among themselves. At the same time, the draft report aims at tackling the limitations contained in the 2018 ECBM proposal by setting up a coordination framework pursuing a threefold objective: assigning a leading role to national Cross-border Coordination Points in coordinating appropriate responses to existing cross-border obstacles; promoting the direct involvement of regional and local authorities in the formulation of ad-hoc solutions to cross-border obstacles; and preventing the increase of an unnecessary administrative burden.

Cross-border Coordination Points must remain the main touchstone for Member States to decide, on a case-by-case assessment, whether and how to use the Regulation, and for providing economic operators and regional and local authorities with a reference, which shall be capable and competent to address any obstacles hampering the implementation of a cross-border project. In order to avoid the proliferation of bodies and authorities, Parliament's draft report envisages the possibility for Member States to appoint existing national bodies or authorities as Cross-border Coordination Points, or entrust an appropriate body or authority with the additional task as a Cross-border Coordination Point. In this latter instance, Member States could even decide to entrust bodies established by bilateral or plurilateral treaties in force (e.g. the Secretariat of Benelux, or of the Nordic Council) as a national Cross-border Coordination Point, to the benefit of the synergies among the different policy options.

In order to achieve the abovementioned threefold objective, the draft report proposes replacing the original procedures for the conclusion of Commitments and Statements with provisions and tasks of Cross-border Committees. The removal of complex cross-border obstacles requires a high degree of cooperation among Member States. The underlying assumption of the draft report is that this task could be carried out more easily and rapidly by allowing national, regional and local authorities of the Member States concerned to formulate ad-hoc solutions in a joint effort. The direct involvement of regional and local authorities would additionally rule out the need to establish regional Cross-border Coordination Points, while the collective formulation of the solution to a cross-border obstacle would avert protracted exchanges of draft texts between national authorities. Cross-border Committees, as proposed under this report, would not represent permanent structures, but rather ad-hoc bodies whose tasks shall not exceed the ones established by the new Regulation.

In cases of cross-border obstacles whose removal does not require the formal involvement of the other Member States concerned, the establishment of a Cross-border Committee is neither mandatory, nor necessary. Hence, the draft report outlines an array of measures that Member States can take when receiving an initiative document, which range from voluntary commitments to make all necessary efforts to address the obstacle via a revision of national legislative or administrative acts, the deferral of the solution to the obstacle to existing bilateral or plurilateral treaties or arrangements, or the resort to soft-law actions not requiring any intervention on the legislative framework of the Member State concerned.

Concluding remarks

It is unusual for Parliament to adopt a legislative own-initiative report pursuant to Article 225 TFEU to request the amendment of a pending legislative proposal. However, as previously highlighted, the interinstitutional impasse that followed the Council decision to halt work on the 2018 ECBM proposal required a strong assumption of responsibility by the only institution representing the Union citizens. This report aims accordingly at using the current political momentum, whereby an overwhelming majority in Parliament and a considerable number of European regions have been repeatedly calling for the reopening of negotiations on this crucially important matter.

Nonetheless, it would be strongly advisable for Parliament to welcome a new legislative proposal issued by the Commission amending the 2018 proposal for a Regulation, regardless of whether it will reflect the very same recommendations contained in this report. As long as the future Union legislative act will be binding, allow a meaningful involvement of regional and local authorities, and envisage simple procedures and realistic deadlines for addressing cross-border obstacles, the Union would provide its citizens a remarkable added value and contribute to achieving higher economic and social cohesion.

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	19.7.2023
Result of final vote	+: 35 -: 1 0: 0
Members present for the final vote	François Alfonsi, Adrian-Dragoş Benea, Isabel Benjumea Benjumea, Franc Bogovič, Vlad-Marius Botoş, Corina Creţu, Rosa D'Amato, Christian Doleschal, Matthias Ecke, Mircea-Gheorghe Hava, Krzysztof Hetman, Peter Jahr, Cristina Maestre Martín De Almagro, Nora Mebarek, Martina Michels, Alin Mituţa, Dan-Ştefan Motreanu, Denis Nesci, Niklas Nienass, Andrey Novakov, Younous Omarjee, Alessandro Panza, Caroline Roose, Marcos Ros Sempere, André Rougé, Susana Solís Pérez, Irène Tolleret
Substitutes present for the final vote	Karolin Braunsberger-Reinhold, Carlos Coelho, Rosanna Conte, Herbert Dorfmann, Sandro Gozi, Ana Miranda, Yana Toom, Stefania Zambelli
Substitutes under Rule 209(7) present for the final vote	Carlo Fidanza

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

35	+
ECR	Carlo Fidanza, Denis Nesci
ID	Rosanna Conte, Alessandro Panza, Stefania Zambelli
PPE	Isabel Benjumea Benjumea, Franc Bogovič, Karolin Braunsberger-Reinhold, Carlos Coelho, Christian Doleschal, Herbert Dorfmann, Mircea-Gheorghe Hava, Krzysztof Hetman, Peter Jahr, Dan-Ștefan Motreanu, Andrey Novakov
Renew	Vlad-Marius Botoș, Sandro Gozi, Alin Mituța, Susana Solís Pérez, Irène Tolleret, Yana Toom
S&D	Adrian-Dragoș Benea, Corina Crețu, Matthias Ecke, Cristina Maestre Martín De Almagro, Nora Mebarek, Marcos Ros Sempere
The Left	Martina Michels, Younous Omarjee
Verts/ALE	François Alfonsi, Rosa D'Amato, Ana Miranda, Niklas Nienass, Caroline Roose

1	-
ID	André Rougé

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention