



*European Economic and Social Committee*

**ECO/465**  
**Regulation on cross-border mechanism 2021-2027**

## **OPINION**

European Economic and Social Committee

**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) 373 final – 2018/0198 (COD)]

Rapporteur: **Etele BARÁTH**

Consultation	European Parliament, 11/06/2018 Council of the European Union, 19/06/2018
Legal basis	Articles 175 and 304 TFEU
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	07/09/2018
Adopted at plenary	19/09/2018
Plenary session No	537
Outcome of vote (for/against/abstentions)	195/1/3

## 1. **Conclusions and recommendations**

- 1.1 The EESC welcomes the proposal for a regulation presented by the European Commission on a mechanism to resolve legal and administrative obstacles in a cross-border context (hereafter “the mechanism”). In the EESC’s view, the proposal reflects a new approach and is likely to strengthen the opportunities for cooperation based on subsidiarity between different Member States, and to contribute to more balanced and sustainable socio-economic development of border regions and to the growth of EU GDP.
- 1.2 The EESC considers the argument set out in the proposal to be correct, since, although there are currently several institutional instruments supporting these regions (in particular INTERREG and the EGTC), they do not have the necessary powers to take such legal measures.
- 1.3 The EESC believes that the implementation of the draft regulation may contribute to the removal of historic obstacles, to the dissemination of day-to-day European practice and to strengthening the sense of European citizenship.
- 1.4 The EESC encourages the European Commission to clarify all the questions likely to generate legal uncertainty so that a process perceived as complex and offering extensive and excessive guarantees will not have a deterrent effect on potential users of the legislation. It is essential to establish clearly how to encourage two neighbouring Member States to cooperate where their project designs differ or where their approaches are generally different.
- 1.5 The EESC underlines the importance of continuously monitoring the correct application of the regulation, as it does not regulate solutions, but the process itself, and could offer a framework for countless opportunities for cooperation.
- 1.6 The advantage of the draft regulation is that it harmonises rather than standardises, and the definition of its territorial scope therefore constitutes a key element of its applicability (see point 2.7.4).
- 1.7 The proposal for a regulation works on the principle that, in order to solve a given problem, one solution would be to apply the legislation in force on the other side of the border. However, in many cases this approach is not possible. There may be no legislation on either side of the border to help resolve a given problem; the solution may then be along the lines of a model provided by a third country. A mechanism should be proposed to deal with such a situation.
- 1.8 The EESC welcomes the coordination introduced by the European Commission, and is counting on the Cross-border Coordination Points to disseminate existing good practice (cross-border programmes, etc.) and to regionalise the initiatives (e.g. consistency with integrated macro-regional urban development strategies). To this end, the Committee advocates harnessing civil society organisations' expertise and capacity for coordination (see point 2.14.2).
- 1.9 The draft regulation can contribute to further strengthening innovative and responsible European public administration, but the EESC considers it necessary to impose information requirements on participants in order to highlight the opportunities for cross-border cooperation, and it proposes

that participation in the process be encouraged and made more attractive by offering e-government facilities.

- 1.10 The EESC calls for attention to be paid to the significant imbalance which could exist between the potential initiators, which should be compensated for by providing support to facilitate the participation of the partners who are initially the most disadvantaged.
- 1.11 It is important to avoid any possibility for backward steps in cross-border initiatives and legal practices. Particular attention should be paid to ensuring that none of the parties are penalised or suffer any detrimental effects as a result of such cooperation.

## 2. **General comments**

- 2.1 The EESC welcomes the initiatives aiming to eliminate barriers to the single market and contributing to the achievement of its four fundamental freedoms<sup>1</sup>. The EESC considers that the proposal on the creation of a cross-border mechanism, which reflects the effective work of the Luxembourg presidency, is a further step in this direction.
- 2.2 The European Union has 40 internal land border regions, covering 40% of its territory and nearly 30% of its population. 1.3 million people cross a border each day to work<sup>2</sup>.
- 2.3 These border crossings can create difficulties in terms of employment, improving healthcare, the use of services offered by State institutions and the provision of emergency services. The non-recognition of tax and pension systems and other rights and standards, as well as the absence of joint emergency services, could cause serious problems. Most of the remaining barriers arise from divergent national legislation on the two sides of a border, incompatible administrative procedures or simply the lack of joint territorial planning<sup>3</sup>.
- 2.4 However, as a general rule, border regions fare less well economically than the other regions of the same Member State. Access to public services such as hospitals and universities is generally less easy in border regions. Individuals, businesses and public authorities in border regions experience particular difficulties when it comes to navigating between two different legal and administrative systems. Researchers from the Polytechnic University of Milan have demonstrated that the elimination of the current administrative barriers would boost EU GDP by around 8%<sup>4</sup>.
- 2.5 With regard to the social dimension of this challenge, the EESC feels that it is especially important for mechanisms to be put in place that, through the removal of administrative barriers, will allow citizens to freely choose their employment and will support the development of infrastructure and services of general interest.

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1 [OJ 125, 21.4.2017, p. 1.](#)

2 [http://ec.europa.eu/regional\\_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions](http://ec.europa.eu/regional_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions)

3 [http://ec.europa.eu/regional\\_policy/en/policy/cooperation/european-territorial/cross-border/review/](http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/cross-border/review/)

4 [Camagni et al., Quantification of the effects of legal and administrative border obstacles in land border regions, European Commission, Brussels, 2017.](#)

- 2.6 From an economic point of view too, the approach taken by the proposal, which aims to further reduce administrative burdens in the interest of both employers and workers, is welcome.
- 2.7 Due to their peripheral location, border areas are often less favoured, both economically and socially<sup>5</sup>. Such an initiative could make a valuable contribution to strengthening territorial cohesion, which aims to ensure the harmonious development of regions, and to enable their citizens to make the most of regional strengths. In accordance with the Lisbon Treaty<sup>6</sup>, the EESC is of the view that this kind of diversity can be turned into an advantage that contributes to the sustainable development of the EU as a whole.
- 2.7.1 The EESC regrets the fact that the Commission has not launched a participatory process which would have led to the adoption of an overarching and integrated strategy for a sustainable Europe in 2030 and beyond<sup>7</sup>. It is therefore particularly important to place the new mechanism in its context: the EESC considers that, apart from legal harmonisation, the new cross-border coordination points must also ensure the integration of the initiatives into the various territorial processes.
- 2.7.2 These include, for example, the territorial strategies at different levels (e.g. macro-regional strategies and integrated urban development strategies) as well as the integration of experience derived from the European Territorial Cooperation programmes, and in particular the experience and results of cross-border programmes.
- 2.7.3 The strength of the text as it stands, compared with ideas formulated previously, is that it does not exclude the possibility of maritime cooperation (which makes the instrument applicable to dynamic maritime cooperation ventures such as those established in the Greater Copenhagen region and between Helsinki and Tallinn, or the burgeoning Italian-Croatian relations).
- 2.7.4 Although, according to the interpretation of the legislative proposal, the territorial level of application is NUTS 3, the proposal provides for the application of the mechanism to the smallest possible justifiable territory, which should be welcomed. It is, however, important that the regulation should take account of cases where the territorial scope of application has to extend beyond the proposed administrative limits (for example the radio frequency of ambulances must, where necessary, operate over a wider area).
- 2.8 As reflected in the new EU budget proposal, protection of the environment has today become an undeniable priority: the Commission is proposing to increase funding for the environment and climate action<sup>8</sup>. Clearly there are grounds for welcoming any attempt at a coherent approach to the European ecosystem with the potential to protect nature.

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5 [http://ec.europa.eu/regional\\_policy/sources/docoffic/official/reports/cohesion7/7cr.pdf](http://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cohesion7/7cr.pdf).

6 [OJ C 306, 17.12.2007](#).

7 [OJ C 345, 13.10.2017, p. 91](#).

8 [http://europa.eu/rapid/press-release\\_IP-18-4002\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4002_en.htm)

- 2.9 Just as the European Commission, in its Communication on Boosting growth and cohesion in EU border regions<sup>9</sup> (which, through 10 proposals, highlights ways in which the EU and its Member States can reduce the complexity, length and costs of cross-border interaction and promote the pooling of services along internal borders), the EESC is of the view that cooperation should go beyond legal harmonisation (support for multilingualism, etc.).
- 2.10 Nevertheless there is concern that the establishment of the mechanism on a voluntary basis will result in further fragmentation of legal practice and the administrative set-up in Europe, and that significant differences will emerge between the practices of the more and less developed Member States. The latter encounter not only different legal barriers but also harder challenges, for example from the economic point of view.
- 2.11 The EESC is aware of the time-consuming nature of legal harmonisation, but nevertheless encourages the Member States to put in place a structure that is as homogeneous as possible. Overall, it appears that the proposal for a regulation aims to shorten the procedural deadlines in order to protect local actors. However, in view of the complexity of the mechanism and of the lengthy bureaucratic procedures, a strong will to cooperate will be needed if the planned deadlines are to be met.
- 2.12 The configuration of the new multilevel institutional system also raises certain questions. It is important to define the framework for the operation of these institutions so that the obstacles that arise do not impact on the authorities (insufficient capacity etc.).
- 2.13 In this respect, the Committee welcomes the coordinating role of the European Commission, made possible by the establishment in September 2017 of the Border Focal Points<sup>10</sup>.
- 2.13.1 The Committee is nonetheless concerned about the lack of European funding, which could be a problem, especially for the less developed Member States. The Committee therefore considers it important to provide for the possibility of a link between the various funds and the mechanism.
- 2.14 The EESC particularly welcomes the bottom-up character of the initiative, given that it is local actors - i.e. those who actually have experience of facing these barriers - who are at the origin of the harmonisation procedure.
- 2.14.1 Since it is they who rally the local players concerned, civil society organisations are particularly well placed to pinpoint local problems and formulate proposals. As a consequence, the EESC believes that their participation takes on particular importance and it advocates harnessing their expertise and capacity for coordination (by, for example, making use of the inter-regional indicators of chambers of commerce or cooperation which already exists between trade unions or organisations of various interests). The Committee deems it to be equally important to take account of the work of regional and national economic and social councils.

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<sup>9</sup> [http://ec.europa.eu/regional\\_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions](http://ec.europa.eu/regional_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions)

<sup>10</sup> [http://europa.eu/rapid/press-release\\_IP-17-3270\\_en.htm](http://europa.eu/rapid/press-release_IP-17-3270_en.htm)

2.14.2 It is, moreover, important that Member States give broad support to civil society to ensure that economically disadvantaged actors will also be informed about the opportunities and can benefit from them.

2.14.3 In this connection, the EESC proposes that support should be given to the organisations set up by border regions (such as the Association of European Border Regions, the Mission opérationnelle transfrontalière or the Central European Service for Cross-border Initiatives), in order to promote the interests of border areas, the establishment of contacts and the exchange of experience between the various actors, as well as opportunities for cooperation.

Brussels, 19 September 2018

Luca JAHIER

The president of the European Economic and Social Committee

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