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Opinion of the European Committee of the Regions — European Cross-border Mechanism 2.0

(C/2023/1326)

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POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR)

Border barriers limit the development of border regions and the well-being of their inhabitants

1. underlines that previous studies carried out by the European Commission show the considerable loss in potential growth in the EU's border regions that is the direct result of legal and administrative obstacles. These create considerable administrative burdens, hindering the cross-border activities of citizens, communities and businesses. This is all the more important since a significant proportion of the EU population lives in border regions, 30 % according to some estimates ⁽¹⁾;
2. stresses that the same obstacles prevent local and regional authorities and cross-border entities from working together on joint projects such as cross-border public services ⁽²⁾. Experience has shown that more complex cross-border projects, in particular those relating to infrastructure, require much more funding and take much longer than similar projects carried out within a single Member State;
3. stresses that these border barriers are in conflict with the idea of European unity. After 70 years of integration, such barriers should not exist, and indeed, new obstacles should not be created, as it regrettably still is the case. Article 174 TFEU on economic, social and territorial cohesion stipulates that particular attention should be paid to cross-border regions. The European Union and its Member States should take steps to remove or at least reduce these barriers, in order to implement the European single market, create jobs and growth and improve citizens' quality of life. Cross-border regions are at the heart of European integration and territorial cohesion priorities;
4. notes that many problems encountered by citizens and businesses in border regions on a daily basis — which are unimaginable in other parts of Europe and often not understood by the capitals of the Member States — mean that they suffer discrimination vis-à-vis other EU citizens. People in border regions must be able to have equal access to jobs, goods, services and relationships on the other side of the border, and thus live '360°' lives, as in other regions;
5. points out that the COVID-19 pandemic has further highlighted this problem. In cross-border regions, where residents cross borders on a daily basis for work, shopping, access to services or to meet relatives, the abrupt closure was particularly burdensome and problematic. Some border regions had to cope with an almost total collapse of their health systems, but they could not benefit from cross-border assistance as, in the absence of cross-border or European coordination, national legislation did not allow patients, medical staff or emergency services to cross borders;

⁽¹⁾ Communication from the Commission to the Council and the European Parliament *Boosting growth and cohesion in EU border regions* (COM(2017) 534 final).

⁽²⁾ Opinion of the European Committee of the Regions — Cross-border public services in Europe (OJ C 106, 26.3.2021, p. 12).

6. draws attention to the numerous border barrier analyses that have been carried out by the European Commission and the Association of European Border Regions under the *b-solutions* programme since the 2015 cross-border review. These have repeatedly highlighted obstacles at borders and the existence of solutions through *ad hoc* provisions and regulatory or legislative changes, depending on the case. They have shown the need for forums allowing local and regional authorities to remove cross-border barriers with the support of the Member States. Such cross-border governance tools exist or need to be put in place in an operational manner [Nordic Council; committees on cross-border cooperation at the FR/DE (Aachen Treaty), FR/IT (Quirinal Treaty), FR/ES (Barcelona Treaty)] borders;

7. stresses that it is unacceptable that, in today's European Union, not all border regions have cross-border governance tools to effectively report legal and administrative obstacles to the governments of their Member States or to the EU institutions, leaving these regions in a deadlock that limits their sustainable economic, social and territorial development, which is the basis of prosperity and well-being of the population. Each border region should have these cross-border governance tools at its disposal;

8. highlights that the setting up of a legislative tool at Union level to address cross-border obstacles combined with existing tools, would contribute to the completion of the single market and bring significant economic benefit. It would have a positive impact on social rights, equal opportunities, environmental protection and an improved access to high-quality public services for citizens living in border regions;

9. states that the European Commission must coordinate these cross-border governance tools in order to pool best practices and identify, where appropriate, opportunities to legislate at European level. As European citizens, people in border regions expect the EU to help solving problems that cannot be tackled by the regional level alone. Lacking support and neglect fuel negative feelings towards the European Union. A European legislative tool is therefore needed and would foster a positive image of the EU;

10. considers that, in order to meet the various social, demographic, economic, environmental and climatic challenges, the Union must step up its efforts to facilitate more effective cooperation between the authorities of border regions in order to remove the remaining cross-border legal and administrative obstacles;

Revising the draft ECBM Regulation would remove barriers at borders

11. therefore reiterates its support for the ECBM Regulation proposed by the Commission in 2018, aimed at removing legal and administrative obstacles in a cross-border context, which would allow for derogations and possibly legislative changes in order to provide quicker solutions that would benefit public authorities, communities, citizens and businesses in border regions;

12. recalls that, in its opinion on the ECBM adopted in 2018, the CoR stressed, that this is a very effective tool which would produce far-reaching positive effects on cross-border cooperation and life in border regions; notes that the real situation in these regions is often not well known; recognises the potential of such a mechanism and regrets that the Member States decided to suspend discussions on the Regulation;

13. acknowledges that, on the basis of the relevant remarks made by some Member States, a new approach to the Regulation should be adopted to overcome the deadlock. The CoR believes that the reservations expressed by the Member States can be resolved by means of an in-depth discussion and an amended proposal. In a spirit of openness and dialogue, the Member States, the European Commission, the Parliament and the CoR should organise working meetings to find a viable solution to the deadlock, leading to an amended proposal acceptable to all parties. The CoR, as a neutral actor, is the ideal body to organise such meetings;

14. welcomes the report with recommendations to the Commission for the amendment of the draft ECBM Regulation ⁽³⁾ adopted by the European Parliament on 14 September 2023;

⁽³⁾ European Parliament resolution of 14 September 2023 with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context [2022/2194(INL)].

15. calls on the European Commission to address the Member States' concerns by rewriting the Regulation in order to simplify it and clearly explain the voluntary nature of the solutions to be implemented, while retaining its main aspects, such as cross-border coordination points in each Member State, or in regions with legislative powers, and the obligation for Member States to have an effective barrier resolution mechanism in place if they choose not to apply the one proposed by the Regulation;

16. stresses that regional and local authorities should be involved in a meaningful and inclusive way in the formulation and implementation of measures aimed at removing cross-border obstacles, and that business groups, local civil society actors and community groups should be consulted and kept duly informed of the process;

17. calls on the European Commission, in order to avoid misunderstandings in the application of this Regulation, to clarify and simplify the procedures described therein, while leaving sufficient flexibility to each Member State;

18. points out that the Regulation has no budgetary implications; the additional administrative burden should be limited and much lower than those resulting from barriers in border regions. Cross-border barriers limit EU integration and the success of projects funded at European and national level, such as cross-border infrastructure or public services. The Regulation is being proposed in order to strengthen the cohesion of the European Union in the areas where it is most needed and visible. It proposes that this be achieved by means other than financial means, as this will have a strong positive impact on the reduction of real costs and overall cross-border cooperation;

19. points out that it is essential to set up cross-border coordination points in all Member States, or in regions with legislative powers where these exist, even in Member States that will ultimately choose to apply their own tool rather than that proposed by the Regulation. These coordination points, which should be integrated into an appropriate ministry in each Member State or region with legislative powers, into existing organisations such as the Nordic Council, or established as independent bodies, should be visible and allow the relevant authorities to receive notifications from their border regions, their citizens and businesses, to process these notifications and to propose solutions;

20. stresses that cross-border coordination points, when working to remove obstacles at borders, should act as a network at each border, consulting their counterparts in neighbouring Member States where necessary, and at European level, in order to share their experience and collaborate on common solutions, while at the same time benefiting from the support of the European Commission in their work, notably through the European cross-border coordination point set up within DG REGIO. The resolution of a cross-border barrier, initially identified in a border region, can have a wider impact, even at European level;

21. proposes that cross-border coordination points also play a watchdog role in order to avoid the creation of new legal and administrative barriers that could result from new national legislation, as well as from the uncoordinated transposition of EU directives into national law, and raise awareness among legislators of their cross-border impact;

22. strongly suggests that Member States should be able to choose to apply the ECBM or a national tool on a project-by-project basis, instead of opting for a particular tool per border as in the original proposal;

23. calls for cross-border coordination points to remain in close cooperation with ESPON in order to collect statistical and geospatial data on cross-border flows, and to work towards the harmonisation and standardisation of statistics across countries in order to improve decision-making and introduce solutions to remove cross-border barriers;

24. stresses that the amended Regulation should specify what alternative mechanisms could be used and also the minimal requirements for the national mechanism or a multi-national mechanism (Benelux, Nordic Council, Visegrad Group, bilateral or multilateral treaties etc.) to allow exemption from the ECBM;

25. follows up on the previous CoR opinion in asking the Commission to specify the potential contextual scope of the ECBM — the situations (joint projects, services of general interest or others) in which it could be implemented. The CoR suggests that the European Commission clearly define what types of barriers could be considered eligible for this mechanism to be applied. Such clarifications would undoubtedly resolve certain concerns;

26. calls for the Regulation to specify its geographical scope. Its purpose is to remove border barriers for the benefit of border regions. The solution must be adopted on a case-by-case basis, within the functional perimeter resulting from each barrier. The initiator of the request may be based in an area larger than the border region, depending on the division of powers affected by the barrier in each Member State;
27. stresses that the mechanism is most useful for land borders within the European Union, but calls for the Regulation to provide for the possibility of applying it to maritime borders;
28. recommends that the exchange of experience between border regions should be promoted and that an evaluation of the experience gained should be carried out after five years, with a view to a possible revision of the regulation.

Brussels, 10 October 2023.

The President
of the European Committee of the Regions
Vasco ALVES CORDEIRO
