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Delegations will find attached a copy of the above-mentioned opinion.

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OPINION

European Economic and Social Committee

Facilitating cross-border solutions

**Amended 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(2023) 790 final – 2018/0198 (COD))

ECO/637

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Advisor	Dimitrios SKIADAS, for the rapporteur
Referral	European Parliament, 25/1/2024 Council of the European Union, 1/2/2024
Legal basis	Articles 175(3) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	10/4/2024
Adopted at plenary session	24/4/2024
Plenary session No	587
Outcome of vote (for/against/abstentions)	180/0/2

1. **Conclusions and recommendations**

- 1.1 The EESC **supports** the amended proposal for a Regulation presented by the European Commission on a procedure to resolve legal and administrative obstacles in a cross-border context as an effort to further strengthen the integration process in the context of the European Union's internal market.
- 1.2 The EESC **welcomes** the European Commission's persistent effort to resubmit an amended proposal for a Regulation to resolve legal and administrative obstacles in a cross-border context by requiring the establishment of cross-border coordination points by the Member States, while allowing them to choose whether or not to implement the accompanying resolution tool or any other tool they might consider.
- 1.3 The EESC **considers** that the previous relevant effort provided a good learning experience in identifying and correcting the shortcomings of the initial proposal, and **draws on** this experience in its opinion on the amended proposal for a Regulation.
- 1.4 The EESC **believes** that the proposed procedure is in principle complementary to the existing support schemes for cross-border activities operating in the Union, and that it creates the conditions for developing a comprehensive framework to address cross-border legal and administrative obstacles, which will make the lives of millions of people living in cross-border regions easier and better.
- 1.5 The EESC **welcomes** the intention to simplify procedures under the proposed procedure by making the setting up of cross-border coordination points as one-stop-shops a requirement in all Member States. Such 'shops' will collect all requests for assistance from all stakeholders for the resolution of cross-border obstacles. They will then assess the relevant files, identifying possible solutions and informing initiators.
- 1.6 The EESC **considers** the provision of the Cross-Border Facilitation Tool an important process. However, its optional use should not reduce the added value it brings to the procedure to resolve cross-border obstacles.
- 1.7 The EESC **believes** that the creation of a public pan-European register of cross-border files would help in the overall recording of the relevant legal and administrative obstacles, and in the subsequent exchange of views and experiences between the competent authorities to ensure that there are prospects for the resolution of these obstacles. It will be especially helpful if the European Commission is considering drawing up an annual report on the obstacles and proposed solutions, based on the data in the register.
- 1.8 The EESC, as the institutional voice of civil society and social partners, **endorses** the reasoning set out in the amended proposal for a Regulation for a bottom-up approach to tackling cross-border obstacles, as this enhances citizens' understanding of the importance of integrating the EU's internal market.

- 1.9 The EESC therefore **notes** the need for the authorities of regions where cross-border activities take place to be involved and express the local political will, in order to mobilise national authorities to trigger the proposed procedure and make use of its potential.
- 1.10 The EESC also **points out** that in order to highlight the added value of the proposed procedure, it is necessary to create clear incentives for Member States to use it by providing detailed information on the impact of cross-border obstacles and the development benefits to be gained by the regions involved, and the European Union as a whole, from addressing these obstacles.
- 1.11 Lastly, the EESC **believes** that the importance of setting up and operating the proposed procedure will emerge as a serious political choice at European Union level even more if financial support is foreseen for the national structures (cross-border coordination points) which will be set up using European resources, through European cohesion policy.

2. Background

- 2.1 In 2015, at the initiative of the Luxembourg Presidency, a discussion took place on the usefulness of a new instrument to simplify cross-border projects or time-limited activities through the application of the rules of one Member State in a neighbouring Member State, on a voluntary basis and subject to the approval of the relevant competent authorities¹.
- 2.2 On the basis of a recent study which estimated that removing existing cross-border obstacles would bring benefits of EUR 457 billion per year, representing 3.8% of total EU GVA, while their presence reduces job creation by 2% of total EU employment², the European Commission submitted a legislative proposal to create a mechanism to resolve legal and administrative obstacles in a cross-border context³.
- 2.3 The European Parliament supported the European Commission's proposal in principle, suggesting (in February 2019) a series of changes to the text during the first reading procedure. The aim of the changes was to clarify the voluntary nature of the proposed mechanism, the procedural implications in the event that it is not used and the procedure for handling the reports submitted for the identification and resolution of legal and administrative obstacles.
- 2.4 The Council did not take an official position on the proposal, since the Member States expressed a number of concerns about its content at working group level. As a result, work on the file was suspended and promotion of the legislative initiative paused.
- 2.5 In September 2023, the European Parliament adopted a legislative resolution on its own initiative, with recommendations for the European Commission, regarding an amendment to its original proposal, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU).

¹ [Input paper for the informal ministerial meeting on territorial cohesion under the Luxembourg Presidency.](#)

² [EPRS, Mechanism to resolve legal and administrative obstacles in a cross-border context - European added value assessment, PE 740.233 – May 2023, p. 19.](#)

³ [COM\(2018\) 373 final.](#)

2.6 In December 2023, the Commission presented its amended proposal for a Regulation aimed at facilitating cross-border solutions⁴. The amended proposal takes into account the concerns, observations and the recommendations of the European Parliament and the Council, while maintaining the emphasis on the removal of obstacles that make life difficult for cross-border communities.

2.7 Summary of the European Commission's new proposal

2.7.1 In summary, the Commission's new proposal provides for the setting up of mandatory cross-border coordination points (CBCPs) in all Member States. The CBCPs will be responsible for assessing applications from stakeholders in border regions in relation to potential cross-border obstacles and will act as a liaison between these stakeholders and the national authorities. It also provides for the creation of a network of CBCPs in liaison with the Commission, so as to establish a forum for the exchange of best practices and knowledge.

2.7.2 Under the proposed Regulation, after each application is assessed, stakeholders will receive a reply explaining how it will be addressed. Where a cross-border obstacle genuinely exists and there is no bilateral or international cooperation agreement that would provide a solution, Member States can apply the Cross-Border Facilitation Tool (optional).

2.7.3 This tool, set up under the Regulation, is a standardised procedure to facilitate the resolution of cross-border (legal and administrative) obstacles to the establishment and operation of any item of infrastructure necessary for public or private activities or to the operation of any public service that is provided in a cross-border region and that strengthens the economic, social and territorial cohesion of that region.

2.7.4 The procedure applies to cross-border obstacles in land or maritime border regions of neighbouring Member States, but not to border regions between Member States and third countries. It only covers obstacles stemming from national law, including where Member States transpose EU directives correctly but in a diverging way. In addition, although all requests should receive a response, deciding whether or not to resolve an obstacle remains the responsibility of the competent national authorities.

3. General comments

3.1 The main difference compared to the original proposal is that there is no longer a reference to a mechanism with specific standardised documents (Commitment, Statement). However, it does refer to a procedure to facilitate the resolution of cross-border obstacles; thus, the relevant arrangements have been adapted accordingly. The obligation for Member States to establish and operate CBCPs is proposed, but action to resolve cross-border problems via the use of the Cross-Border Facilitation Tool remains at the discretion of the Member States. Reporting of cross-border obstacles is done in a much more simplified way (via cross-border files).

⁴ [COM\(2023\) 790 final](#).

- 3.2 The issue of obstacles to cross-border activities in the EU lies at the heart of European integration, since the establishment of the internal market affects the intra-EU mobility of people, goods, capital and services, and the use of infrastructure. In EU areas with internal land borders (40 borders covering 40% of the EU's territory and representing almost 1/3 of its population⁵), some 3.5 million people cross internal borders between EU Member States on a daily basis for work, studies and social interaction, while around 1.7 million people live in one EU country and work in another, making cross-border movement essential for them. It is estimated that around 1.25 billion journeys, including tourist travel, are made between EU countries every year⁶.
- 3.2.1 This volume of border crossings poses significant challenges in tackling any difficulties that may arise in terms of the activities that generate this cross-border movement (e.g. entrepreneurship, employment, healthcare, provision of government services). Most of these difficulties stem from divergent national legislation and incompatible administrative procedures and practices on both sides of the border, especially when there is no common spatial planning of the main activities (economic, business, health, education, state, etc.) between Member States⁷.
- 3.2.2 Member States' border regions tend to record poorer economic performance over time compared to other regions in the same countries. Their residents have significantly more difficult access to public services, to (public and private) providers of health and or education services, and to business opportunities. Even the pursuit of cross-border cooperation to address these problems, whether by private individuals or by public bodies, is significantly hampered by divergent administrative and legal systems on either both sides of the border⁸.
- 3.2.3 In light of the above, the EESC had supported the initial proposal of the European Commission (2018), as a means to create mechanisms both on a societal level – as the removal of administrative obstacles would allow citizens to choose their work freely and would support the development of infrastructure and services of general interest – and from an economic point of view, as it would help to further reduce the administrative burden, for the benefit of employers and workers⁹.
- 3.2.4 The EESC had deemed that the mechanisms in place at the time to support border regions (Interreg programme, European Grouping of Territorial Cooperation) were insufficient to take legal and administrative measures to tackle cross-border obstacles.

⁵ Communication from the Commission to the Council and the European Parliament, Boosting growth and cohesion in EU border regions. [COM\(2017\) 534 final, page 2.](#)

⁶ [The Schengen area explained.](#)

⁷ [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/)

⁸ Communication from the Commission to the Council and the European Parliament, Boosting growth and cohesion in EU border regions, [COM\(2017\) 534 final, p. 4.](#)

⁹ EESC Opinion on the *Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context*, [OJ C 440 of 6.12.2018.](#)

3.2.5 Since then, the European Commission has launched a pilot initiative known as b-solutions and implemented by the Association of European Border Regions (AEBR). This innovative initiative essentially provides legal support to public authorities in cross-border regions to identify the root causes of legal or administrative obstacles affecting their cross-border interactions and to explore potential solutions. The b-solutions initiative highlighted the numerous legal and administrative obstacles, the lack of immediate solutions in relation to cross-border activities, the need for changes in their legal frameworks and the need to support cross-border cooperation¹⁰. This need is sufficiently covered by the European Commission in its proposal¹¹.

3.2.6 The European Commission's amended proposal aims to strike a balance between the demands of the Parliament and the Council, which will significantly influence the potential impact of the legislative initiative, if approved.

4. Specific comments

4.1 A significant aspect of the Commission's proposal is to maintain the bottom-up nature of the initiative to activate the proposed procedure (through the submission of the cross-border file by each stakeholder). In this way, those who are actually affected by the obstacles can initiate the process of harmonisation and finding solutions.

4.1.1 However, the peculiarity of the Commission's proposal is that, in an attempt to comply with the Council's objections to its initial proposal¹², it uses the legislative tool of the Regulation (applying directly and entirely to those to whom it is addressed, as per Article 288 TFEU) as regards the obligation on Member States to set up the relevant institutional infrastructure (cross-border coordination points), while the use of that infrastructure by the Member States is purely voluntary where the operation of the Cross-Border Facilitation Tool is concerned.

4.1.2 This peculiarity of the Commission's amended proposal should not leave room for failing to address the risk the EESC had pointed out regarding the initial proposal, i.e. that operating the proposed system on a voluntary basis could ultimately lead to further fragmentation of legal practice and the administrative set-up in Europe¹³.

4.2 It should be noted that, although many maritime border regions have more limited cross-border interactions and a more restricted use of cross-border public services due to their remoteness, they nevertheless fall within the regulatory scope of the Commission's new proposal. Moreover, the application of an additional legislative regime such as that proposed to maritime borders

¹⁰ European Commission and Association of European Border Regions, '*b-solutions: Solving Border Obstacles – A Compendium of 43 Cases*', Publications Office of the European Union, 2020.

¹¹ European Commission, amended 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\(2023\) 790 final](#).

¹² <https://data.consilium.europa.eu/doc/document/ST-6009-2020-INIT/en/pdf>.

¹³ EESC Opinion on the *Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context*, [OJ C 440 of 6.12.2018](#).

poses serious risks of entanglement with arrangements for cross-border activities established bilaterally or multilaterally under the International Law of the Sea.

- 4.3 The lack, once again, of any provision for EU funding to Member States to establish and operate the proposed institutional infrastructures, especially considering that the proposal is grounded in EU cohesion policy, recalls the fact that the EESC has already proven that this issue is a potential source of problems, especially for the less developed Member States. It is deemed necessary to provide funding from EU Structural Funds for the organisation and operation of the proposed structures and, in particular, cross-border coordination points¹⁴.
- 4.4 The Commission's amended proposal essentially provides for the creation of a one-stop shop covering all relevant issues, giving Member States the discretion to decide on the form and type of cross-border coordination points (even from existing administrative structures), making the creation of these points obligatory while at the same time leaving the resolution of obstacles to the discretion of the Member States. An instrument/tool is therefore proposed that could help create meaningful solutions to these obstacles.
- 4.5 Thus, in order not to undermine the added value of the proposed procedure, it should not be considered merely as a means of highlighting the problems identified, recognising their characteristics by gathering data from all Member States via the Commission's coordinating role. It should be highlighted and stressed that Member States are given the possibility of addressing the substance of cross-border obstacles through the use of the resolution tool (even if on a voluntary basis).
- 4.6 To enhance understanding of how the new procedure works, it would have been preferable for the Commission to provide more examples of cross-border problems and ways of solving them in order to make the procedure comprehensible and help stakeholders and Member States to grasp how necessary it is.
- 4.7 At the same time, in order for the procedure not to be considered a simple, standard process, it would be useful to provide the possibility of supplementing the cross-border file submitted with further information, if the first assessment does not identify a cross-border obstacle (right to object).

Brussels, 24 April 2024.

The President of the European Economic and Social Committee
Oliver RÖPKE

¹⁴ EESC Opinion on the Proposal for a *Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context*, [OJ C 440 of 6.12.2018](#).