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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Structural Measures and Outermost Regions
N° Cion doc.:	16805/23 (COM(2023) 790 final)
Subject:	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: Article by article examination - PPT presentation

Delegations will find attached the slides that were used by the Commission for the article by article examination of the amended proposal for a Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context at the WP on Structural Measures and Outermost Regions on 16 May 2024.



Facilitating Cross-Border Solutions

Amended proposal for a Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context

SMOR – 16.05.2024

Chapter I – General provisions

- **Article 1 – Subject matter**

A procedural framework to facilitate the resolution of cross-border obstacles in EU cross-border regions

Includes tasks of CBCPs and coordinating tasks of the Commission

Chapter I – General provisions

- **Article 2 – Scope**

Geographical scope adjusted compared to the initial proposal:

- internal maritime borders included – no impact on bilateral or multilateral conventions or agreements between Member States, under the International Law of the Sea.
- external borders excluded – no impact on cooperation structures which involve third countries

No impact on:

- other Union legal acts, incl. their interpretation or implementation
- coordination mechanisms for social security and taxation

Chapter I – General provisions

• Article 3 – Definitions

Definitions of cross-border interaction, cross-border obstacle, and cross-border public service limit the material scope: only cross-border obstacles that potentially negatively affect cross-border interaction and thus the development of a cross-border region

Broad definition of initiators counterbalanced by strict requirements related to the content of the files. They can be public law or private law entity or a natural person.

Definition of a cross-border public service (instead of SGEI in ECBM):

- cross-border dimension
- shall foster economic, social and territorial cohesion

Chapter II – Cross-border coordination points

- **Article 4 – Setting-up of cross-border coordination points**

Different options for Member States:

- One or more per Member State
- A separate or a part of an existing authority/public law body
- Joint CBCPs with neighbouring Member State

Member States need to ensure visibility and accessibility of the CBCP.

Information to be made available on Interreg programmes websites.

Chapter II – Cross-border coordination points

- **Article 5 – Main tasks of the cross-border coordination points**

One CBCP as a single contact point for the initiators regardless the organisation of CBCPs put in place

CBCPs are requested to use the NUTS classification for each file for reporting purposes to assist the Commission in its coordinating tasks

Only one CBCP per Member State responsible for public registers of cross-border files and to liaise with the Commission

Public registers are not limited to successfully resolved cases. They need to contain all cross-border files, including those that have not yet been or will not be resolved.

Chapter III – Cross-border files

- **Article 6 – Preparation and submission of cross-border files**

The initiator prepares a cross-border file and submits it (only once) to the CBCP of the Member State where it is located / has its registered office

CBCPs of two or more neighbouring Member States should coordinate in the case where similar files on the same cross-border obstacle are initiated

Chapter III – Cross-border files

- **Article 7 – Content of cross-border files**

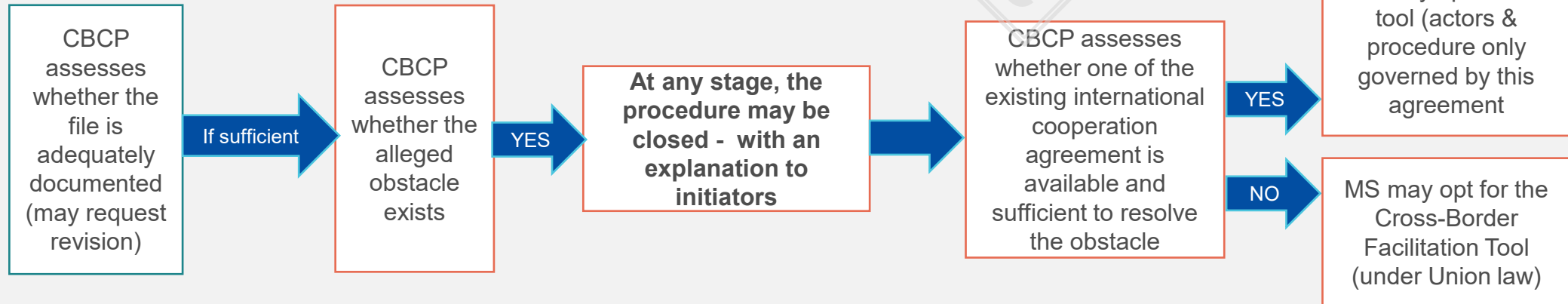
A file includes (mandatory and optional) elements (e.g., description of the problem, geographic area concerned, justification) which will help the CBCPs assess whether there is a cross-border obstacle or whether the file can be closed

Initiators are not obliged to identify the administrative and legal provision at the origin of the alleged obstacle

The geographical area is limited to the minimum necessary for the resolution of a file. No need to refer to the NUTS classification.

Chapter III – Cross-border files

• Article 8 – Preliminary assessment steps



Within 2 months after the submission of the file, CBCP may ask the initiator to provide clarification

- If the revised file is still considered insufficient, CBCP may end the procedure

Even if the preliminary assessment concludes that there is a cross-border obstacle, the **resolution mechanism for cross-border obstacles is voluntary** and the procedure can be closed at any stage

Priority is given to existing international cooperation agreements (bilateral or multilateral, multi sectoral or sector specific) in force for the choice of the tool

- The Cross-Border Facilitation Tool is an additional and optional tool

Chapter III – Cross-border files

• Article 9 – Information to the initiator

Within standard deadlines provided for in national legislation, CBCPs inform initiators in writing about:

- any preliminary assessment steps taken, incl. the reasons of a decision whether to resolve a given cross-border obstacle
- ways and procedures of legal redress provided for in the national legislation – incl. where it is concluded that the obstacle does not fall within the scope of this Regulation. Redress limited to the respect of procedural rights.

Deadlines set out in the regulation only set for cases, where no corresponding deadlines exist in the national legislation

Deadlines apply from the date of submission of the cross-border file by the initiator

Chapter IV – The Cross-Border Facilitation Tool

• Article 10 – Procedure

CBCP or the competent authority transmits to the initiator information about the obstacle, incl. the nature of the provision at the origin of the obstacle and the next steps, leading to its removal or not.

Coordination is ensured with the neighbouring Member State (if there is no joint CBCP) once the obstacle is identified in the national system

- incl. where a file has been submitted to the CBCP of two or more neighbouring MS, and where the origin of the obstacle is an administrative provision in one Member State and a legal provision in the other.

The CBCP contacts the competent authority to first verify the interest and feasibility of resolving the obstacle, be it of administrative or legislative nature.

- CBCPs cannot decide by themselves the revision of an administrative procedure provision or practice or the launch of a legislative procedure
- In case of a legislative provision, the authority contacted may only suggest adapting the legislative framework in line with the constitutional rules of the Member State

The initiator may be informed that more time is needed for legal analysis, consultations inside the Member State, or coordination with the neighbouring Member State

Chapter IV – The Cross-Border Facilitation Tool

- **Article 11 – Final steps to solve the cross-border obstacle**

Initiators are duly informed about the outcome of the file

- incl. a final decision with justifications, and ways and procedures of legal redress

In case an amendment of a legal provision is envisaged, CBCP also inform initiators about the most important steps or the final decision dismissing the procedure

Coordination is ensured between neighbouring Member States in case they all want to launch a procedure to resolve the same obstacle

- in accordance with their respective legislative frameworks
- eg. through the setting up of a joint committee

Chapter V – Final provisions

- **Article 12 – Coordination tasks of the Commission**

In contact/exchange with all CBCPs

Capacity building – support to CBCPs, exchange of experience and good practices

- may involve technical assistance based-tools like *b-solutions*

Transparency – list of all CBCPs and public register at EU level of cross-border files

Chapter V – Final provisions

- **Article 13 – Monitoring and reporting**

- Each Member State informs the Commission of the establishment of its CBCP(s)
 - To be notified within six months after the entry into force of the proposed Regulation
- Evaluation – Commission's report to the EP, Council, CoR and EESC on the implementation of this Regulation
 - To be submitted within 5 years after the entry into force

Thank you!



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