

Working Group on Innovative Solutions to Cross Border obstacles Luxembourg Presidency of the EU follow-up

6th meeting of the working group

6th February 2018 – Brussels (Belgium)

REPORT

1. Introduction

Thiemo ESER (LU), **Jean-Luc FRES** and **Christina BEZES-FELDMEYER (FR)** are chairing the group with the support of the Mission Opérationnelle Transfrontalière (MOT). They introduce the meeting with a roundtable presentation of the participants. To be noted, **Christina BEZES-FELDMEYER** takes on **Mélanie CHAROTTE**'s duties at the CGET (FR).

The agenda of the meeting is validated.

Thiemo ESER (LU) informs that the mandate of the Working Group has been renewed by the Meeting of the Directors General. He proposes to hear what the next steps are after the European Commission's communication, to discuss the development of an ECBC (European Cross-Border Convention) regulation and current activities supporting cross-border cooperation in Member States.

2. Follow-up of the Commission's communication; Contribution of the Working Group to Commission's initiatives

Nathalie VERSCHELDE (DG REGIO) describes the Commission's 10 point action plan (cf. presentation). As planned in the Communication, a Border Focal Point is already established and operational. She presents the people in charge of the different activities (cf. presentation).

To spread the word about the Communication, one event in Brussels and three regional events have been organized in Merida (ES), Copenhagen (DK) and Bratislava (SK).

The Call for Pilot projects is open from February 1st until April 30th. The members of the Working Group are encouraged to apply. Budget is small (20 000€ per project maximum), so administrative formalities are light.

An online platform has been built, opened, promoted. There is a resource library and space for discussion on cross-border issues. Engagement, also from participants to the Working Group, is needed.

Regarding the ECBC, DG REGIO is willing to propose a regulation in the Cohesion Package post 2020, so that it is discussed in the context of cohesion policy (and not as a separate issue). Otherwise, a regulation will not be proposed until the next Commission will be in place in 2019.

About introducing a cross-border dimension in Territorial Impact Assessments, the Commission asked the ITEM institute in Maastricht to help with their methodology, as they are carrying out TIA on behalf of BE, NL, DE. The idea is to mobilize stakeholders to discuss and build a strong methodology; a focus group could be established on that topic.

Reactions

Thiemo ESER (LU): The ECBC tool was very positively welcomed at the DG meeting in Tallinn. The focus was largely on the underused potential of border regions due to obstacles. The DGs agreed that border regions can be front-runners in European harmonization, mutual recognition of diplomas, etc. Some MS considered the usefulness of the ECBC for maritime borders. With the ECBC, we propose a procedure and a tool. The ECBC is not only the endpoint, but also consists of a procedure to start overcoming the obstacle. The Working Group received a renewed mandate to support the Commission in its former works on the tool.

Katharina ERDMENGER (DE): There was an agreement on the ECBC in the conclusions at the DG meeting, it means we did some good communication work there. It is now important to establish a relation between the participants of the Working Group and the national members of the DG meeting. We need to get in touch with these people regularly, exchange with them, for communication purposes.

Jean PEYRONY (MOT) asks to the participants what kind of relations they have in their country with the participants to the DG meeting and how the ECBC tool is seen in their country.

Jean-Luc FRES (FR): For CGET Hugo Bévort is attending the DG meeting on territorial cohesion.

A letter on the establishment of an inter-ministerial committee on cross border issues, signed by the Territorial Cohesion, Europe and Foreign affairs, Interior and Over-Seas Ministries is going to be sent to the Prime Minister.

It aims at creating a coordination process between different ministries, regional and local partners concerned by cross-border issues. It will be a place to focus on cross-border problems that are to be solved at national level.

The CGET opened a call for projects within the framework of the national technical assistance program for ESIF (Europ'Act, funded by ERDF); the call will finance projects which aim is to solve obstacles within the framework of programs, and which focus on the link between cross-border strategies and tools, existing or to be created.

Since the 20th anniversary conference of the MOT, the Territorial Cohesion Minister showed much interest about the stakes of cross-border cooperation.

Filip CHYBALSKI (PL): There is no definitive position of the Government on the tool yet, we need to wait for the regulation proposal of the European Commission to discuss it. Cohesion policy is very important for Poland, so it would help if the ECBC regulation is proposed together with the Cohesion policy package. But the inclusion bears some risks and delays in agreeing the Cohesion policy package which should be avoided.

Auke VAN DER GOOT (NL): There is no Government position at the moment. Actions recommended in the Communication have been taken in the Netherlands during the last few years, such as building an inter-ministerial coordination. A report on obstacles in relation to a cross-labour market was sent to Parliament. There is also a cross-border governance structure at the political level with Belgium and Germany to tackle issues on the ground. Plus, we are doing coordination at BENELUX level, which is often overlooked. If there is an agreement between the BENELUX ministers, there is no need for a treaty afterwards as this agreement

is binding. He welcomes the work of this group, allowing exchanges between Benelux, Nordic Council, MOT.

Nathalie VERSCHELDE (DG REGIO): We need to identify the different people working on Cross-Border Cooperation in the Member States. For the 10 pilot actions, we need people from e-government, health...which are not our natural customers. If we have only contacts in charge of Interreg, we will have only feedback on funding. We could use the Working Group to a repertoire with key names per Member States of people who can coordinate back home. It is particularly important to link with the Structural Working Party, and Perm Reps.

Eva SRNOVA (CZ): Indeed, cross-border cooperation is a very horizontal issue. In the Czech Republic, it is also shared between several ministries: Foreign affairs, Regional Development, etc. We should take the experience from the Urban Agenda with a focus on Regulation, Funding and Knowledge.

Maria Carmen HERNANDEZ MARTIN (ES): In Spain, there is no ministry for Territorial Cohesion so we need to relate between local, regional, and national administrations. Regional correspondents could be interesting contacts, not only the national correspondents.

Filip CHYBALSKI (PL): People in the Polish ministries are informed about the Communication. If the regulation became part of the Cohesion policy package, it would be under the responsibility of the Department of Cohesion Policy. Some lobbying work is needed for the regulation, it should be on the table at the DG Cohesion meeting. The term “convention” should be avoided.

Stéphane VERWILGHEN (BENELUX): Communication work is fundamental. Tools to facilitate CBC exist at the BENELUX level, but are not used much on the ground because they are not known. The development of the ECBC is also on the agenda of the BENELUX for 2018.

Katharina ERDMENGER (DE): Is it possible to apply in 2 projects, in 2 partnerships within the framework of the call?

Nathalie VERSCHELDE (DG REGIO): Reaching out is happening, we want to make sure we do not miss out people in the administration.

We welcome pilot projects linked to the ECBC, exploring what it could bring, its replicability.

One project should investigate 1 or 2 borders maximum. You can apply in more than 1 partnership, we just want to finance projects that are rather spread out geographically and thematically.

Rossella RUSCA (IT): A strategic coordination group is established for participants to Interreg programs (local and central level representatives); a meeting on the future of cooperation is planned. It is a good place to push discussion and engage actors. She will pass the message to the coordinator of the group. She emphasizes the importance of maritime borders. It is important to have a systematic and structured discussion in the Structural Measures Working Party, where the topic of cross-border cooperation should be central, and not left to the usual suspects. These delegates represent their entire country and should coordinate the process with others in their country.

3. Development of the ECBC tool

Dirk Peters (DG REGIO) announces that DG REGIO is working on a draft regulation. He presented orally a preliminary draft of an ECBC regulation. For now it is a DG REGIO paper, these elements cannot be shared yet, as they are not public. They must be agreed upon in DG REGIO and discussed in the inter-service consultation before becoming an official regulation proposal.

The presentation is followed by a **roundtable discussion** on the arguments to be used to highlight that the ECBC tool would allow citizens to enjoy fully the benefits of living in a border region, the need for transparency when the ECBC would enable a derogation from national laws, and the way two Member States can cooperate within the framework of an ECBC procedure.

4. Other initiatives in support to CBC

4.1. BENELUX experience with similar instruments

Stéphane VERWILGHEN (BENELUX) gives an input on BENELUX CBC tools that are in the same vein as the ECBC. The BENELUX is an intergovernmental structure, whose aim is to reinforce cooperation at all levels. Its main fields of activities are economic integration, sustainable development, justice and home affairs.

A “Mother treaty” establishing the BENELUX union and over 100 complementary treaties have been concluded. There are some **Framework treaties**, which give a framework for cooperation and allow committees of ministers to adopt legally binding decisions (without having to conclude new treaties). Local and regional authorities have to adopt the decisions, even adapting their legal system if needed.

There are also other instruments with more flexible use. First, **the BENELUX committees of ministers can take legally binding decisions that only concern a part of the BENELUX countries**. This possibility was used in the late 1980s to deal with effects of groundwater extraction, relying on the BENELUX Treaty on Protection of Nature and Landscapes concluded in 1982: it applied in the border region between BE and NL; then BE and LU in 1992; then used for conservation of fish species in the Maas river. France is also de facto cooperating on the terms of this agreement on its part of the Maas river. The Treaty allows the creation of limited pockets where a specific regulation applies.

The possibility was also used when Belgium and Luxembourg committed to use the Dutch methodology on noise regulation in the context of an activity zone. It happened on an ad hoc basis, and was not streamlined on all borders of BENELUX.

Second instrument: the BENELUX Treaty on Cross-Border and Inter-Territorial Cooperation of 1986, revised in 2014 and not yet entered into force, will **allow the transfer of regulatory and administrative competences to a cross-border entity (composed of local actors) and does not require the prior approval of national authorities**. It combines all advantages of EGTCs and of the old BENELUX treaty.

Other political instruments on convergence and harmonization exist.

In application of the treaties, there is often a pull-over of one legal system to the other side of the border. It results quite often in harmonization: in practice, harmonization boils down to

pulling legislation over the border. When changes are done in national regulations, they are published in BENELUX publication of decisions, and in national official publications. It took about 2 years to come to the agreement on noise regulation. When adopted, it took only 10 weeks to apply it.

If we want to apply the decisions of BENELUX to another country, it would require a treaty. Only the BENELUX Treaty on Cross-Border and Inter-Territorial Cooperation has been opened to the accession of neighboring countries: UK, France, etc. It only requires them to ratify the treaty internally.

4.2. Estonian national approach to solving cross-border obstacles

Hannes NAGEL (EE) presents Estonian-Latvian cooperation (cf. presentation). There is an Estonian-Latvian Intergovernmental Commission that meets in a joint session once a year, and a task force for an Estonian-Latvian cross-border strategy exists since 2001.

The Intergovernmental Commission analyses common challenges, including the simplification of procedures, the development of tourism corridors and the provisions of ambulances in border areas, taxation issues, transport connections, etc.

Obstacles to cross-border cooperation have been identified in Valga-Valka, the twin cities at the border. Some of these obstacles have vanished with the accession to the EU and the Schengen area. The Intergovernmental Commission was reformed in 2015 and the Working Group on obstacles was disbanded, since it was only monitoring remaining obstacles that could not be solved. Moreover, steps were taken to harmonise national delegations and make sure that they are at the same level.

There is also a joint Cross-Border Challenge Identification Form. The Intergovernmental Commission is currently carrying out a survey on obstacles. Results and decisions of national delegations will be published. He stresses that it is important to institutionalise CBC.

4.3. Cross-border observation on German borders

Katharina ERDMENGER (DE) presents the very active landscape on cross-border observation in Germany. There is a federal law on spatial planning, emphasizing the necessary cohesion between German territories, and specifying that regional planning laws need to take into account what is happening on the other side of the border.

Therefore, the BBSR (German federal institute for spatial planning) has an obligation to collect data within all German regions, especially border regions. The MORO project consisted of 8 pilot projects in 8 pilot regions where cooperation structures existed. To make cross-border data analysis, you need to agree among national statistical offices on the methodology. Otherwise, the definitions might be different, which explains why the numbers of daily cross-border commuters between France and Germany vary depending on whether you ask to the French or the German statistical office.

The project only concerned the Western borders of Germany, as well as the Frankfurt-an-der-Oder/ Słubice area. The idea is to go on and cover all German border regions.

When the English version of the report is published, it will be circulated in the Working Group.

4.4. Synergies with the Cross-border strategic committees on observation (FR)

Jean-Luc FRES (FR) underlines that we need a better understanding of what happens in border regions. He states that a French initiative in 2013-2014 launched a cooperation with 2 different circles: the Cross border Strategic Committee (CST) which gathers administrations in charge of planning (eg CGET): the Cross border technical group (GTT), which gathers statistical institutes of France-neighboring countries or regions. Some of them are now partners of the study launched by DG REGIO on observation. CGET intends to propose a meeting of the CST (28/6 in Paris).

Katharina ERDMENGER (DE): We need to build a common methodology, to cooperate on extracting knowledge.

Thiemo ESER (LU): It should be possible to exchange with the European Commission Border Focal Point on this. The Working Group could be a platform for exchange on the topic.

5. Follow up of the meeting and other issues

Thiemo ESER (LU) summarizes what the next steps are.

About an ECBC regulation : we need to go out of our Territorial Cooperation and Cohesion circles, spread the word about the ECBC and reach out to national and local contacts, cross-border structures like the Greater Region etc. Communicate!

Individually, we can give feedback to Dirk Peters for his team to further develop the draft regulation.

About the timing, the inter-service consultation will be decisive as it may happen that other services think it is too late and refuse the regulation to go under the Cohesion package. The decision should be though before the summer. A next meeting of the Group should be scheduled for end April beginning of May depending on the progress of the Commission.

Katharina ERDMENGER (DE) suggests to hold another meeting of the Working Group in May to exchange ideas after the DG meeting (planned for the 20/4).

Other events around the European Commission's Communication will be held, follow the agenda on the Online Platform and engage.

Jean PEYRONY (MOT) reminds that all the material (presentations, report) will be put on MOT's website, fully accessible in French and English.

<http://www.espaces-transfrontaliers.org/en/activites-ue/obstacles-intergovernmental-group/>