

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

3rd meeting of the working group
14 December 2016 – Brussels (Belgium)

REPORT

0. Welcome

Slaven KLOBUČAR (CoR) welcomes the participants in the name of the Committee of the Regions. He officially replaces Alfonso ALCOLEA. He is in charge of EGTC Platform and cross-border cooperation.

1. Introduction

Thiemo ESER (LU) and **Mélanie CHAROTTE (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. The agenda and the minutes of the previous meeting are validated.

Thiemo ESER (LU) recalls the aim of the working group: map cross border obstacles and find solutions to them. He proposes that, in the first part of the meeting, member states explain the state of the art at the national level.

2. Mapping the cross-border toolbox, obstacles and solutions: presentation of national approaches

2.1 Germany

Katharina ERDMENGER (DE) explains that her ministry deals with spatial planning in Germany. MKRO, the federal conference on spatial planning has taken a positive position vis à vis the Luxembourg's Presidency's proposal. But there is no official German position so far, as other ministries are concerned. For example: the recognition of a diploma in another state is not linked with spatial planning.

From spatial planners' point of view, Germany is a big country having borders with 9 member states and one non-member state. Initiatives have been taken at federal level, to develop a cross-border perspective. German planning is based on polycentricity: a system of small, medium and larger urban centers. If you look at a map, some centers are across the border, as it is the case for Strasbourg, Basel. Some cities on the German-Polish border are divided by the border, which follows the river. For example a citizen of Frankfurt (Oder) goes shopping to the Polish side more than to Berlin.

You have to see where are centers and communications on your space and on the other side of the border. In Germany, there is a legal obligation to gather data on border regions, according to the federal spatial planning law.

One of the MORO project consists in gathering data on border regions in connection with the other side of the border. For instance, some people commute daily across the borders, but data are missing; the definition of a daily commuter differs between countries.

A spatial development concept is being processed on the German/Polish border: from the Baltic sea to the Saxony, along the Oder river. It is a vision of the region we should develop jointly. If you look at the map, there is one big city – Berlin, and 3 cities on the Polish side: Szczecin, Poznań and Wrocław, it is a polycentric area.

We work with EGTCs, 2 with a legal seat in Germany: Rhine-Alpine Corridor EGTC and EUCOR EGTC (universities of the Upper Rhine). Except the first one which has a different scope and perspective (how to cooperate along a transport corridor), these EGTCs are regional associations, permanent structures for cooperation, allowing to solve CB problems and lobby together.

Interreg A programmes can find some solutions but they cannot solve legal problems.

An EU legal framework is a good idea; if you take for example the bus line between Frankfurt (Oder) and Slubice, one challenge was to integrate this bus line into the regional transport systems (buy a ticket in PL to go to Berlin): it took 10 years. The Polish centralized system created some difficulties.

It is important to have transport lines crossing the borders. But how do you make spatial planning for projects such as Fehmarn belt between Germany and Denmark? A European directive would create a framework for working together across borders with a model of contract or agreement. The local level may propose a contract, and the national levels agree on it. Such a mutual recognition between States would be a good tool to complete the EU Single market and integration.

Reactions

Thiemo ESER (LU): reminds that there are the EGTC as tool for institutional solutions and other tools such as financing (Interreg) but tools for legal and administrative obstacles see not to be present. We have to explore the instruments, which have been set up. What are the components, the messages in the instruments and in which context have this instruments been set up? The Common market, integration along the borders: this issue is a part of overall agenda of the European Commission.

Jean PEYRONY (MOT) notes that other German projects concerning borders were not mentioned, such as MORO project 10 years ago, on metropolitan governance between Länder. A second phase of this project has involved border regions, and allowed to make a benchmark between cross border regions such as Greater Region and Upper Rhine. Now the federal vision approved by MKRO includes a map with metropolitan areas crossing the borders. Even in a federal country, you have the possibility to push cross-border at a strategic level.

Katharina ERDMENGER (DE) specifies that they started in the German context with the issue of limits between the Länder, and then extended the research to limits between countries. Model of cross-border is everywhere. There is a map showing the planning strategies in the countries around Germany erasing the borders of Germany.

2.2 Hungary

Kitti DUBNICZKI (CESCI) presents the project on legal accessibility (cf ppt presentation). The European territorial cohesion depends of the active participation of local stakeholders. The Hungarian EGTC network includes more than 20 EGTCs. CESCI supports their work, organizing EGTC workshops, CB strategies, cooperating with Hungarian authorities, and considering good practices in Europe.

The project “Legal Accessibility” has been carried out with the AEBR and funded by the Hungarian Ministry of Justice. The aim of the project was to find solutions under this topic. The CESCI collected many obstacles, which appear on internal and external borders of the EU. The first step was to identify the obstacles through workshops, in which many active stakeholders were involved. They covered 12 sectors and identified 39 obstacles.

The second step consisted in the exploration of the obstacles’ background. A European outlook has been made with 52 good practices; sectoral interviews were conducted in European areas with experience and good practices; a legislation review was made on 250 legal provisions. Many obstacles come from a lack of information and are not legal. There are huge differences between border regions in Europe; Hungary has for example 4 different types of borders regions (EU+Schengen internal border; EU+ non-Schengen internal border; external border with candidate country; external with non-candidate country)

The third step has consisted of a set of legal text proposals, policy recommendations, at national and supranational level, concerning 4 themes: mobility and public transport; labour market; health care services; trade of local products.

Then the project recommends a tri-level obstacle-handling mechanism: government-level (launching of interministerial group); neighbouring level (joint committees) and macro-regional level (cf. Nordic Council).

Concerning the access to a general information system, it could be important to enhance and promote the portal “Your Europe¹”. But there is a need of another portal dedicated to obstacles.

EU Level recommendations of the project:

- to launch an EU student card,
- to create an EU level documentation platform of illnesses,
- to issue EU level permissions for ambulance cars,
- to create EU rules on cross-border short supply chains,
- to draft a provision supporting cross-border horse riding tourism,
- to develop an EU level solution for the abolishment of duties for duty-free products imported from third countries,
- to further develop the Interact KEEP database to obtain real-time data.

The final report is available in English.

¹ <http://europa.eu/youreurope/>

Reactions

Thiemo ESER (LU) says that this project is interesting to show the process from obstacles to the possible solutions and to categorise the types of obstacles.

Nathalie VERSCHELDE (EC) adds that they came to similar results within the DG REGIO study. She asks what the following steps are.

Kitti DUBNICZKI (CESCI) says that the CESCI has suggested a governance to deal with obstacles, but that they cannot set up an inter-ministerial group because they are only an NGO.

Thiemo ESER (LU) adds that it is not only the case of Hungary. It concerns other countries.

Dirk PETERS (EC) specifies that local products are not present in the CB Review; however legal problems are important in the field of local products and CB trade.

Thiemo ESER (LU) adds that there are differences between EU member states and non member states.

Kitti DUBNICZKI (CESCI) specifies that there are no problems at internal borders (HU-SK border). Hungarian food safety can control the local Slovakian products.

3.3 France

Mélanie CHAROTTE (CGET) explains that CGET analysed the 90 replies to the EC consultation, coming from French borders and ranked the kind of obstacles encountered by citizens on the ground. The first one is accessibility. France has only 3 natural borders: Manche, Alps and Pyrenees but problems of accessibility are mentioned with Luxemburg and Belgium too. At the FR-LU border the problem is rather congestion than a lack of infrastructures; at the FR-BE border there are missing links. Many obstacles seem to be linked with lack of information. There are legal and administrative obstacles mainly on the FR-CH border and on the borders of French Guyana with Brazil and Suriname. Cultural obstacles are only ranked 3. There is a lack of language skills on the FR-DE border, a lack of trust on the FR-ES and FR CH borders. The initial objective was to test the matrix presented last summer on the obstacles at French borders collected through the EC consultation. Since the replies were not sufficiently documented, the matrix was tested on four case studies. It helped to complete the grid with four items (Available documentation on the obstacle, Public concerned, Impact on the ground, Organizations already working on the policy field concerned) and to attest that even if existing solutions could be applied to the obstacles, the new legal tool could help speed up the process of overcoming it. The main finding is that perception and reality could be different. For example at the FR-BE border, recognition of diplomas seems not a big problem for the experts, but some people are discouraged to apply in the neighbouring country.

In order to contribute to the European group, **CGET** will set up a cross-ministerial working group on cross-border obstacles and innovative solutions.

In conclusion, there is a need to establish a multilevel governance to solve obstacles involving experts, ministries, local authorities, stakeholders in order to improve communication and exchange of practices. CGET intends to deepen the analysis of ETC programs and their appropriateness to border needs.

For Jean PEYRONY (MOT) such an analytical approach (with a matrix: sector, level, nature of the obstacles) is necessary to solve the obstacles. Missing links combine obstacles of different natures: economic, political a.s.o. Every local authority would like to improve its accessibility, but who will fund it? Each obstacle is a composite case combining different dimensions (political will, economic aspects, perception of the citizen...). The Luxembourg tool's added value is to create the obligation to the national levels to say yes or no in a reasonable delay and to give reasons. Spatial planning is basically a process of explicitation.

For Nathalie VERSCHELDE (EC) the Commission intends to fill the gap between the local level and the experts. DG REGIO can alert the other services. According to the consultation, the recognition of diplomas is a problem; in fact there are directives and the website "Your Europe", but the users don't know them. EC staff doesn't know how the portal is used and that there are problems. Through the CB Review, we can transmit the problems from the ground to the EC.

According to Dirk PETERS (EC), there is a problem of implementation. The EC has adopted a package on better implementation. EC regulations apply easily. Directives are more complicated because they have to be transposed by the Member States but they do it differently across each border. What is the impact on border regions? Member states should inform the EC on the implementation process.

Katharina ERDMENGER (DE) specifies that local administrations are not always aware of the EU regulations. Some obstacles are particularly visible on cross-border regions but can't be solved with the tool. The problem is how to apply EU regulation. It has to be solved at another level than the border level.

Nathalie VERSCHELDE (EC): the EC would like to show the cost of non-coordination. For example in border regions the "bassin d'emploi" (employment pool) should be considered in a 360° perspective. You limit your socio economical potential if you do not look on the other side of the border; the same is true for social health care. Cross-border does not mean the same in the different DGs. On the borders, the problems are more accurate. We have to stop the "bricolage", the new tool may be the way.

Thiemo ESER (LU) gives the example of tele-working (e.g. a German worker working in a Luxemburg firm has to pay income taxes in Germany for those does he is working not at his workplace in Luxembourg); such approach makes teleworking from home difficult which apparently would help reducing the congestion. So taxation is part of the solution for the problem of accessibility in the Greater Region, but it raises the issue of complications in the taxation.

Eva SRNOVA (CZ) specifies that some problems might be solved with REFIT- even if the web site doesn't address the CB case at the moment. The suggestion should be addressed to the EC.

Dirk PETERS (EC): REFIT aims at recasting existing legislations. New legislation has to go through the impact assessment, which has to cover also territorial impact. It remains to convince services to consider also CB impacts. Recently, DG REGIO has been forgotten in the inter service consultation about a directive concerning workers.

Nathalie VERSCHELDE (EC): the EC communication should mention the need to include CB issues in impact assessments and REFIT.

Peter HANSEN (DK): in the field of cross border employment, there are problems of lack of education and information. The aim is to make it possible for a worker to work on the other side of the border, but not to make it more attractive than to work in his own country. A cross-border commuter is not entitled to claim to pay less taxes.

Thiemo ESER (LU) concludes that solving cross border obstacles requires a multi-level approach.

3. Further consultation with EU institutions

3.1 The Cross-border review of the DG REGIO

Nathalie VERSCHELDE (EC): reports that DG REGIO has launched a study with independent experts, exploiting the results of the consultation, in order to classify obstacles by borders, by themes. 15 Case studies have been processed by the consultants with solutions and actors to involve. After 18 months of work, the recommendations will be soon available. 4 workshops have been organized with stakeholders. The last workshop will take place on 15 December 2016 to discuss the recommendations. The DG REGIO has now a robust approach to find and solve obstacles.

The consultation results show more the perception but it converges with the experts study.

The results show typical obstacles by domain: Labour market and education; Transport and Mobility (public transport); Industry and Trade; emergency; etc. The inventory of the Cross Border Review is now online². All the obstacles are available on each border.

Some key observations: there is a big diversity in the obstacles from border to border; the more integrated the border is, the more visible are the obstacles; the information on obstacles is very patchy. Sometimes people know but no solid information is available.

Next year, the DG REGIO will contract an academic about impact assessment in terms of employment and GDP.

The cause of obstacles lies in differences between national legislations, the effect is local: the territory matters. There is difference between a centralized state and a federal state.

The TRUST is at the heart of the matter. If no trust is existing, no will to solve the obstacles can be expected (cf. EU barometer on CBC).

Hinting at solutions:

- Only effective multi-level governance can help
- Toolbox: flexibility, agreements; information provision even between authorities in the same country; multilingual education (language difference slow down the cooperation); promoting good practices (at national level, Benelux, Nordic Council,...); e-Solutions (scope and solutions

² http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/cross-border/review/#3

at the administrative level); preventing measures (TIA, ex-ante coordination); role of Interreg: can they help? EC think they should; innovative ideas (like Luxembourg tool).

The next step is a Communication of the EC on easing solving obstacles - adoption foreseen in June 2017; a launch event to make all this work visible; follow-up actions: pilot solutions (tbc), TIA (Better Regulation), database/platform ("Your Europe" is not answering this type of questions, we need another platform...)

The DG REGIO hopes the Member states will also support this and we will be able to find what is needed in legislation.

Reactions

Christophe ZUFFREY (CH) notices that the EC doesn't propose a new tool now.

Nathalie VERSCHELDE (EC) specifies that the new tool is included in "innovative ideas" but no decision is taken yet.

Mélanie CHAROTTE (FR): the CGET would like to establish a similar kind of platform with the help of the MOT. There is a need of capitalization of good practices but with transferability of the solutions and accompanying the stakeholders.

Jean PEYRONY (MOT): the MOT will build this platform on the French borders but the aim is to have a European wide platform through interoperative platforms, which requires a common matrix.

Dirk PETERS (EC): this issue goes beyond the financial weight of Interreg- 2,5% of the Cohesion policy budget. The MS have to decide if cooperation is important for the EC. DG REGIO is ready to help.

Nathalie VERSCHELDE (EC): By easing obstacles, the EC does make a contribution to the wider goal of growth and jobs. If the obstacles are overcome, companies will set up on the borders. It is a win-win situation. The point is not only "how many jobs have you created on the borders with Interreg funding".

3.2 Study on EGTCs by the European Parliament

Diana HAASE (EP): EGTC, Promoting and improving territorial cooperation

The origin of the Study on the EGTCs (see ppt presentation) comes from the REGI Committee. The study looks at the tool itself. The MEPs wanted to know how EGTCs are presented, the role they could play, including in the neighbourhood policy and outermost regions. The approach of REGI is not only to consider the legal regulation of EGTC, but a look at overall bodies of regulations: How we can push it? How can we make aware the other parts of the existence of the EGTC? How many times EGTCs have been mentioned in the committees of the European Parliament?

The study started in 2014 is online³. CB Obstacles were not included in the research questions. Cases studies are collected in the annex (original motivation of the EGTC, tasks, problems, links with cohesion policy). Originally, EGTC was supposed to have a limited role of

³ [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563384/IPOL_STU\(2015\)563384_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563384/IPOL_STU(2015)563384_EN.pdf)

implementing Interreg programs as managing authorities, and projects. The communication was “bringing communities together” by managing transport infrastructure or common management of environment.

Limitations-Challenges: big role played by the national context; EGTC has not solved all border problems; EGTC is not a universal remedy to overcome national differences in the EU (cf. Nordic Countries).

They are also political problems, not only legal. If there is political will, some problems can be solved very fast. There is no EGTC with members from neighbouring (non EU) countries. One of the problems is the dissymmetry across the border. In Outermost regions, EGTC projects have been abandoned because of the lack of administrative capacities.

Different examples: EGTC manage SGI infrastructures such as healthcare (e.g. hospital on the Spanish-French border) but this is not frequent; cross-border territories such as the EGTC Parco Marino Internazionale delle Bocche di Bonifacio, which is mentioned in the OP Italy-France Marittimo. Improved possibilities to participate in EU programmes as a single beneficiary and to apply for UNESCO World Heritage status as a single body were important drivers for the foundation of the EGTC Parc Européen Alpi Marittime – Mercantour.

Perspectives and need for reform? Is there a need of new instrument? Before launching a reform, the need is to understand what is happening: indicators, delegated acts... There is no legislative debate on EGTC for the moment. The EC shall present a report on the EGTC legislation to the EP before August 2018.

Dirk PETERS (EC): 3 or 4 EGTC involve third countries. There is a project in St Martin (FR)/St Maarten (NL), with a possibility to manage it through an EGTC but not enough political will in Paris. The question is where political will is and where it is not?

Thiemo ESER (LU) asks what the limits of the EGTCs are? EGTCs offer an institutional set-up but they do not solve the problems of the project itself which are related with the implementation of a project – e.g. the activities related to running a cross-border hospital.

Diana HAASE (EP): the EGTC can provide a template but nothing more. One needs a pragmatic approach; the EGTC is not an aim in itself. Sometimes it is not the right tool. In some areas, there is a lack of political will, a lack of communication, of awareness. ETC had a very low profile in the 6th Cohesion report. The way is to convince beyond the cross-border stakeholders club.

Katharina ERDMENGER (DE): during the new regulation negotiation, the question was how to fund the EGTCs. It is important to see how things are developing. One advantage of the EGTC is to provide a stable structure.

Dirk PETERS (EC): in Nordic countries, some twin cities on the borders would like to use an EGTC but there is no will in the capitals (for example: Finland). The new regulation report for the EP will not propose amendments. To organize joint procurement through an EGTC, the right solution is not to amend the EGTC regulation. There is a need to inform on the regulation on EGTC in other DGs. The code of conduct of Cohesion policy says that the EGTCs “may be” in the monitoring committees, the wording is too weak. Around Hungary, EGTC can manage small funds, it is a positive evolution. Some MS now trust EGTC to manage parts of CB programs.

Jean PEYRONY (MOT) suggests having a pedagogy of the tool box. EGTC is a tool, one among others. EGTC is good tool to govern territories, projects, programs, and networks. In such contexts, it's a place to identify obstacles (for example: CB Hospital). But is not the tool to solve all obstacles.

Dirk PETERS (EC): MS clearly did not want EGTC to become a new layer of administration. EGTC cannot solve problems itself. With the new tool, EGTC should have the right to ask MS to solve the problems in a limited territory (in link with the EC). EC would be happy if MS go in this direction further. The question is what is the role of the EGTC in this new tool?

3.3 EGTC – evaluation and potential reform by the Committee of the Regions

Slaven KLOBUCAR (CoR): In the annual monitoring report on EGTCs, the CoR accounts implementation of EGTC and national provisions. The account is 64 EGTS +2 before the end of the year 2016. The EGTC Gibraltar is under process and EGTC Shrines of Europe about religious touristic places is created. In the programme Interreg HU-SK, 2 EGTCs manage small people to people projects to build trust. The work program for EGTCs has been adopted by the CoR. The first event of the year is co-organized with the MOT and the region of Liberec (CZ) on “Cross Border management of natural disasters”. The Monitoring Report will be available in April with a part on Schengen crisis consequences on EGTCs. Pavel Branda (member of the CoR) gave his opinion on the Cross Border review. Several categories for the EGTCs awards have been created.

The aim is to simplify the EGTC register. They plan to write a short white book to register EGTCs in the MS in order to facilitate the process of registration (contacts) and facilitate third countries to participate in EGTCs.

Agenda 2017: There is a meeting with regional offices about EGTCs (general information). Conference with MOT in February. Meeting of national authorities in Hungary. Annual meeting of EGTCs in October 2017. EGTC workshop in the EWRC 2017 the day after. About the reform of the EGTC, it is too early for the CoR. They have at first to assess the implementation of the 2013 reform.

The EGTC platform of the CoR confirms its motivation to take part in the process of the new tool.

3.4 Cross-border investments and obstacles, a European Investment Bank perspective

René-Laurent BALLAGUY (EIB): (*see ppt presentation*). The presence of the EIB shows our interest in this process. What is and what does the EIB Group? The EIB is very important worldwide: 450 projects each year. 3 000 staff. 2 networks of offices in Europe. The Bank offers loans; combining EIB finance with EU Budget; support for projects preparation. A comprehensive offer of advisory services: support for project investments, enhance use of EU funds and improve access to finance.

CB investments from an EIB perspective: the EIB has financed 100 CB projects, most of them TEN-T projects or energy networks. The EIB did the evaluation of 11 CB TEN-T projects. A limited number of global loans. A framework for macro-regional strategies. The EIB does Foreign Direct Investment and advisory work with CB investment (Jaspers, Jessica).

The European Investment Advisory Hub is a key component of IPE.

The Investment Plan for Europe mobilizes EUR 315bn of additional financing, supports investment in the real economy through a EIAH and the European Investment Project Portal (more technical and advisory) and creates an investment friendly environment. The EIA Hub is similar to Jaspers.

The Advisory Hub is a single entry point for comprehensive offer of advisory services; an instrument to assess and address unmet needs for advisory support; a cooperation platform to foster exchanges of know-how, coordinate support and ensure appropriate delivery (NPIs, Managing Authorities). Contact the hub and the bank dispatches this into relevant services. The first outcomes are a total of 321 requests from all European MS, in the private and in the public sector.

Examples: ecology programme in the Danube region: identify possible sources of problems; renewable energy projects; broadband projects; transport PPP-project in an EU member state.

Main orientations for the Hub (2016-2020): Main sectoral and thematic priorities (possibly cross-border projects; Investment platforms and capacity building activities (and cross-border platforms are envisaged); Main strategic orientations: strengthening, expansion and deepening of partnerships with a view to promote a cooperative approach; consolidating EIAH relevance, additionality and efficiency for a greater impact on the real economy.

Why and how advisory support can make a difference?

Cross-border projects are often complex projects which require specific expertise: beside technical aspects, legal and financing issues; such expertise is exactly what EIB AS and the EIAH is offering in complement to the skills of projects holders; Cross-border projects usually generate important externalities which make them less attractive and inappropriate for EIB business model. EIB is not well fitted for small-size projects not immediately bankable, grants remain often the most adapted financing solution; Environment, transport and energy projects are probably the most relevant cross-border projects from an infrastructure perspective (e.g. flood protection); Importance of political support or mandate (that the Hub may acquire with EFSI 2.0); One of the main entry points to access to support for setting up/ design of dedicated CB investment platforms.

Investment platforms: key features.

It's a broad scope: flexible geographic scope (state, region, group of regions, macro-region); co-financing agreement; possibility of an EGTC. An EGTC may become a platform manager or set up an investment platform. The idea is to share the risk between different investors. There is a possibility to combine EFSI, ESIF and EIB loans. Possibility of cooperation with national promotional banks and institutions under specific rules (explicitly envisaging a "regional cross-border platform"). There are services to provide the necessary assistance you need: EIB-AS and EIF-MM Services (support to local authorities to set up platform at CB level).

Fi COMPASS ESF including cross-border. There is not much difficulty to apply for a loan.

Reactions

Jean PEYRONY (MOT): Are there possible links with a solving obstacles process?

René-Laurent BALLAGUY (EIB): the EIB has this advising skill. If you are a local authority, the service is free. If you want to try to set up a cross-border platform, it is the moment to do it. 50 people working for the hub. We try to develop local offices. EGTC could be a platform manager. You can enlarge the partnership after having set up a platform.

Katharina ERDMENGER (DE) asks how could it work for 2 partners from 2 different countries, for example Strasbourg and Kehl?

René-Laurent BALLAGUY (EIB): the EIB needs at least one public body. It's better to have more than one partner for a cross-border project and to combine different funds.

Jean PEYRONY (MOT): the example of the tramway Strasbourg-Kehl has been presented in Bratislava at the ESPON conference and in the EWRC workshop. In this case, at the end the investment is made in 3 parts (in France and in Germany, and the bridge above the Rhine). When a city wants to make a tramway, there is generally a transport company which will be the sole operator of the project. It's totally different in a cross-border context. There you have actors on both sides of the border, which have to be coordinated; this can be the role of an EGTC.

René-Laurent BALLAGUY (EIB): it is the early phase of such tool. The minimum requirement is the political willingness. With this platform you can finance under the same umbrella a portfolio of projects on both sides of the border.

Dirk PETERS (EC) asks what the minimum amounts for the project and the loan part are.

René-Laurent BALLAGUY (EIB) answers that there is no minimum amount. Now the EIB is departing of financing only big projects. The EIB used to say the minimum investment is 50 million and now it's 20 million. The EIB can loan more than 50% of the project. For the hub, there is not limit. Politically, the EIB has to prove the added value of the project for the European Investment Plan but in fact we can finance everything. There is no obligation to apply for an EIB loan.

Thiemo ESER (LU) welcomes this interesting input to our debate. It shows in a way that cross-border obstacles can also be obstacles for investments, as described by the EIB.

René-Laurent BALLAGUY (EIB) specifies the EIB financial tool is like the EGTC, it is just a tool. You can explore it.

4. Refinement of the proposal of tool, towards a report of the Working group

Thiemo ESER (LU): *(see the powerpoint)*

Open questions:

- What is the appropriate timeframe for establishing an ECBC?
- What is the appropriate scale? Is it sufficient to stipulate that the potential beneficiaries from both countries need to have the relevant competences?
- What is the appropriate time limit for the application of the ECBC? Should it become invalid once the project is implemented? Should there be an exit option?
- What about an ECBC on a border with a third country? What about outermost regions?
- What about legal consequences in relation to the specific provisions of an ECBC?

Round table discussion

Slaven KLOBUCAR (CoR) thanks for the presentation and asks if this platform would serve as a kind of European laboratory. The CoR could take on board this kind of platform.

Katharina ERDMENGER (DE) thanks for the presentation and specifies that it is a really good basis to the discussion. It could be important to change the word “beneficiaries” because it creates confusion – it is not about money. It may be good to present the European platform and national contact points as an offer of assistance. Some people may not like it and say it is a bureaucratic monster. It is good to have national platforms to provide good practices: possibilities to exchange if you set up an ECBC but not obligation. For example, the directive on maritime application includes an obligation to consult your neighbours as soon as possible, and it works.

Mélanie CHAROTTE (FR) confirms that the multilevel platform is very important. We have to exchange between local and other level authorities to specify the nature of the obstacles. The question is: will MS have to decide on the opportunity of the ECBC? This might be the difference with the EGTCs, where they don't have to.

Dirk PETERS (EC): for the ECBC we have to find a balance between opportunities and obligations for the MS. If no obligation, no solutions would be found. There has to be some obligation to start a process. A convention is signed by the competent authorities of the 2 MS which aim is to solve the problem. Example of the tramway: the convention can ask for derogation, but the MS answer can be: we will change the legislation at the parliament. The new instrument cannot create new borders. There should be no limit in time because the tram in Kehl has to work under French law all the time of its existence. Another question: for swimming lessons on the other side of the border, what is the territory covered by the tool? The big difference with the EGTC is that a part of the solution may be a change of EU legislation. In the CB Review only a small part of the problems affect EU law. The EU may be a part in such a convention.

Katharina ERDMENGER (DE): I have a problem and I would like to solve it: I make a convention to find a solution with the administration. The obligation for the MS is to find a solution.

Peter HANSEN (DK): political willingness is very important. Denmark will never accept a law of foreign country on its country. For some big problems the ECBC could be a solution, but not for daily local CB problems.

Thiemo ESER (LU) Concerning the territorial limitation, it should be linked with a certain functionality: where for example you have most of the commuters. The ECBC would apply for the region where the majority of commuters are. ECBC is thinking small. Furthermore it has to be noted that countries so far already accept law from other countries already in the common market when they follow rules of mutual recognition.

Jean PEYRONY (MOT) asks what the difference is between the German trains in Denmark through the Fehmarn Belt and the Tram Strasbourg Kehl.

Peter HANSEN (DK): Denmark is very nationalistic and may accept EU law, but not a foreign law on its territory.

Jean PEYRONY (MOT): the field of mutual recognition can be limited by national security. States will find excuses of sovereignty. It's a good idea to present the tool as an offer to find solutions at either local, national or EU level.

Eva SRNOVA (CZ) thanks for the presentation. It is a good perspective for local authorities. But there are a lot of obstacles to create a legislation in support of the ECBC tool. The national level reject such approach because it will create more work. For example: a cross-border swimming pool (question of security, responsibility...). These issues are extremely difficult.

Mélanie CHAROTTE (FR) agrees that it may appear like additional work. But local authorities facing obstacles use also now "bricolage". The kind of exchange initiated by the ECBC process could be a start to let the MS be confronted to the problems on the ground. The MS would have to bring a solution to the stakeholders on the ground. If the MS doesn't accept to apply the foreign law on its territory, he has to find an alternative solution.

Dirk PETERS (EC): while drafting the EGTC regulation, 2 countries were saying it was against the national constitution. For the ECBC tool, some of MS will also raise the constitution argument. However, e.g. there has been an EU directive on experiments on medical products, much more dangerous than EGTCs. This directive had an experimentation period. An option could be to develop the tool in the field of enhanced cooperation. At least 9 states may want to experiment this tool. Other could join after. It is not the question of harmonization. First is political willingness and then "think big".

Thiemo ESER (LU): this tool should be not a disadvantage for the country; it could be free to implement at all a ECBC regulation and, if yes, they can still accept or not any ECBC on a case-by-case base.

Jean PEYRONY (MOT): the proposal may combine an EU wide process: allowing to share good practices with peer review; and enhanced cooperation in areas where there is trust (Benelux, Nordic Council,...).

Margarita GOLOVKO (EE) says she is positive with the proposal. In Estonia, we still have problems which disturb life in border regions. The procedure is very similar to the channels we use to solve problems at regional, at national and international level. We need to know what the changes to implement are. Maybe you need bilateral agreements or to change the legislation. You have to take a case to see how it works now.

Katharina ERDMENGER (DE): the proposal means territorial dimension in the mutual recognition. For example: recognition of diplomas. It is a question of constitution: We have to take the point from what is already working. Why address the European level if the bilateral frameworks already work.

Thiemo ESER (LU): if there is no necessity to at least have the obligation to recognise that there is an obstacle, we don't have to go further. It is not in our interest to have something on this first step.

Dirk PETERS (EC): We have to oblige MS to find the good method to find the good solution per border. The regulation may propose different possible methods: a tool box. There would be an obligation to the MS, within a time frame, to communicate to the Commission and the neighbouring MS what is the method to solve the problem. The wrong approach is to address all the MS to find a solution on a single border.

Thiemo ESER (LU): Before disseminating the note we will make some changings in the paper after the discussion to avoid misunderstandings: change “beneficiaries”; national contacts points in charge of national way to follow-up; question of “enhanced cooperation”: apply only to a limited number of MS and then open to other MS if they want; proposal to invite to take part (ex: cf. Maritime cooperation). We will add the changings in the draft paper.

5. Follow up of the meeting and other issues

Thiemo ESER (LU):

We have to be ready to have a result of the working group. Our mandate for this working group came from the General Directors for Territorial cohesion.

February 16th: next meeting with presentation of a draft report and outline of the instrument.

There is the proposal to the Maltese presidency to make a report at the March 2nd: NTCCP.

March: elaboration of the final report.

Luxembourg will also propose to the Maltese Presidency to make a report April 3rd: to the meeting of General Directors for Territorial cohesion

A communication to EC will be approved by September.

Before there will be a consultation process within the EC; the report paper will be an input to the communication.

We are an expert group. We may have different positions, that can be reflected in the report.

Jean PEYRONY (MOT) reminds that all the material (ppt presentations, report) will be put on MOT’s website (FR & EN).