

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

2nd meeting of the working group
28 September 2016 – Brussels (Belgium)

REPORT

0. Welcome

Slaven KLOBOUČAR (CoR) welcomes the participants in the name of the Committee of the Regions.

1. Introduction

Thiemo ESER (LU) introduces the meeting with a roundtable presentation of the participants. The agenda of the working group is presented and approved, as well as the report of the previous meeting in Vienna. He reminds the context of the working group: cross-border cooperation is changing as borders have evolved from contact points to integrated cooperation areas. However, increasing integration creates more complexity and new challenges. What kind of CB problems have to be addressed, what are the solutions, and are the existing tools adequate? The idea is to openly debate these issues. Two concrete examples will help to understand the needs.

2. Case study: the EGTC Hospital of Cerdanya

Xavier FAURE (EGTC HC) presents the EGTC Hospital of Cerdanya and the challenges faced by this cross-border structure (see presentation attached). The hospital was built thanks to INTERREG funding, but they experienced a lot of obstacles and still do. They would have appreciated a toolkit at the time, to more easily implement solutions.

Rossella RUSCA (IT) explains the necessity of focusing more on the EGTC tool and of continuing to improve it. In the example of the EGTC HC case, the question is what problems could have been solved by improving the statutes of the EGTC? We should also analyse and consider the problems that are coming from a lack of European solutions (for instance problems arising from insufficient liberalisation of regulated professions within the internal market) and those that could be solved locally or through bilateral agreements. What could be the role of the EU in the context of such a specific new instrument as proposed by Luxembourg? One should be very clear and find the specific added value of this tool compared with the added value of extending the EGTC regulation.

Frederick-Christoph RICHTERS (LU) explains that sometimes solutions adapted to the local context need to be found quickly. However, this does not rule out the possibility of devising a mechanism to bring the problem up to the EU level and involve the EU institutions. For instance, the Commission could check whether the problem exists on other borders and whether an EU-wide solution (EU legislation or mutual recognition of national norms) could be found.

Thiemo ESER (LU) reminds that the tool is basically about mutual recognition in a local context, i.e. for a limited time in a limited area along the border. To find a solution at the EU level, for example through mutual recognition, often proves to be a long and heavy process. The initiative comes from the bottom and not from the top. MS have to take note of a reported obstacle and give an answer in a reasonable delay. As regards the example of the hospital, obstacles cannot be solved via the EGTC

Regulation as these are related to regulations of specific sectors. The EGTC does not have a sector tag.

Jonathan BOUDRY (MOT) recalls the case of the TER PACA (regional train connecting PACA, Monaco and Liguria). In that case, a real cross-border service (without load changes) requires having rolling stock homologated in both countries, which did not exist at the time. The homologation of a new rolling stock in both countries would be possible, but long (normal procedure 4 years in each country) and costly for a small amount of rolling stock. When considering Italian and French standards, Italian ones are stricter: a solution would be that France recognises Italian law (with some arrangements to take French standards into consideration) and the competency of Italy to homologate rolling stock able to circulate in France (but only in a predetermined portion of railways, for cross-border service only).

Rossella RUSCA (IT) asks whether the competences or statutes of an EGTC could be extended. What could be improved in this way? When the EGTC Regulation was developed, not all problems were known and the Regulation leaves open the possibility to review the range of competences at a later point.

Thiemo ESER (LU) stresses that the EGTC is not foreseen or not wanted as a solution in all cases. We have to raise the question whether an EGTC should be a precondition for using the new tool or not?

Frederick-Christoph RICHTERS (LU) remarks that the use of the new tool does not exclude exploring and using other solutions.

Rossella RUSCA (IT) points out that a “bricolage” is not enough and that the added value of the EU dimension needs to be shown.

Thiemo ESER (LU) states that in a fully functioning internal market there is no need for the tool.

Jonathan BOUDRY (MOT) reiterates the point that a mechanism could be developed to involve the Commission in an analysis whether the obstacle could be solved at the EU level.

Jean PEYRONY (MOT) recalls that time is an important factor and that the tool might help in particular with timing.

Tomaž MIKLAVČIČ (SI) explains that there are similar problems, for example regarding new-borns, in the hospital of Nova Gorica on the SI-IT border. Time is an important factor, especially because bilateral agreements take too much time. Solving these issues would thus be useful for numerous border areas within the EU.

3. Case study: the action of the Nordic Council

Kasper PAULIG (Nordic Council) gives a presentation about the work conducted by the Freedom of Movement Council to overcome obstacles to free movement (see attached file). They manage to solve about 5-10 barriers per year through agreements or changes in the national legislations. There is extensive cooperation with regional information services and committees, national stakeholders and the various formations of the Nordic Council of Ministers.

Mr PAULIG (Nordic Council) ended his presentation with two concrete examples of obstacles for cross-border workers that the Freedom of Movement Council dealt with: the entitlement to sick leave and the entitlement to political leave.

In the first example, the question to be solved was which country is responsible for paying sick leave: the country of residence or the country of employment? In practice, the country of employment has to pay for sick leave. The solution was found through the following process: The case was identified at the local level and was prioritised by DK and SE; the Nordic Council of Social affairs revised the Nordic convention on social security; and lastly the Member States had to conclude bilateral agreements in accordance with this convention to find bilateral solutions. These solutions are valid for all cases involving these countries and not only for a specific cross-border region.

In the second example, the question to be solved was which country is responsible for paying for political leave: the country of residence where the political office is held or the country of employment? It was not possible to solve the obstacle at the national level. In practice, the regional solution provides for the country of employment to pay for the political leave of the concerned worker. As in the previous case, bilateral agreements are required.

Thiemo ESER (LU) shares the observation that the solutions are usually not specific to any border region and asks whether the solution is nonetheless valid for the entire country. **Kasper PAULIG (Nordic Council)** answers that while regional committees deal with regional obstacles, the solutions that are found generally concern the entire country.

Margarita GOLOVKO (EE) asks how long the process takes and whether there is an obligation to deal with the obstacles identified at the regional level.

Kasper PAULIG (Nordic Council) answers that the obstacles identified in 2014 were solved in the following year and that there is no formal obligation.

Rossella RUSCA (IT) says that the bottom-up approach is very interesting. The Nordic Council has formalized procedures, not tools or conventions. It may be interesting to develop such procedures between Member States in other areas.

Jean PEYRONY (MOT) asks what happens if there is a link to EU legislation.

Kasper PAULIG (Nordic Council) answers that the Nordic countries will negotiate a change in the relevant EU legislation.

Peter HANSEN (AEBR) mentions that one obstacle was followed up at the EU level with a Regulation.

4. Consultation with EU institutions

Thiemo ESER (LU) sums up the discussions of the morning and introduces the afternoon discussion.

Nathalie VERSCHELDE (EC) welcomes the existence of this group working specifically on the cross-border issue. Last year, the Commission launched the Cross-Border Review in the context of 25 years of INTERREG. The review has 3 separate pillars:

- The study on border obstacles. There are 240 obstacles on the table, with decent documentation, expressed and outlined, and with potential solutions. There is not a single border where they didn't find any obstacle. 5 policy areas were selected for the case studies (based on the number of obstacles and their impact): labour market, vocational training, recognition of diplomas, and access to employment; social security benefits and coverage, and access to healthcare; transport, in the sense of organising urban mobility across borders; business-related issues such as taxation, certification, and standards; as well as joint planning

and services of general interest (mostly in relation to infrastructure). The 15 case studies reflect 3 obstacles for each of the 5 policy areas. By the end of November a decent draft could be shared.

- Stakeholder consultations, involving the Nordic Council, AEBR, etc. Does the study reflect the reality on the ground? Three workshops held so far confirm that it does.
- Public consultation online, which took place during 3 months last year, in all EU languages, with over 600 replies. The number one category of obstacles deals with legal and administrative obstacle. The second issue is language. The third obstacle is accessibility: lack of crossing points, lack of public transport, complicated pricing systems, etc.

There is a convergence of evidence provided by the three pillars of the CB Review. Administrative and legal obstacles cannot be ignored.

Obstacles are often systemic (several categories of obstacles are mixed). The more integrated the border area is, the more obstacles become visible.

It is pretty clear that all different levels have to work together to solve problems (multi-level governance).

In terms of solutions, there is definitely no one-size-fits-all solution. Solutions have to be specific to the border area. For solving obstacles, there are good practices at different levels: Benelux countries; Eurodistricts and Euroregions. The EGTC cannot solve everything and is difficult to establish.

DG REGIO and Commissioner Cretu propose a Communication from the EC to the institutions that would present a state-of-play and recommendations for the different levels (from the EU to local actors): this is for (most probably June) 2017. In the next few weeks, Mr. Juncker shall make his decision. If there is no Communication, the results of the CB Review would at least feed into the process of revising Cohesion policy and in particular ETC.

Thiemo ESER (LU) notices that this agenda is certainly an opportunity to move forward in complementarity with the Commission's calendar.

Nathalie VERSCHELDE (EC) admits that with the CB Review, DG REGIO has discovered the complexity of the topic and the variety of solutions. It is important to notice the difference between soft and hard issues because the tools that are required are not the same. The toolbox needed is a complex one, with several tools, including: Interreg, but also bilateral agreements between countries, etc. It requires a matrix, with different sectors and levels.

For **Thiemo ESER (LU)**, the tool is about creating procedures, which is also an important element in the Nordic Council's approach. However, this does not mean top-down harmonization. CB services, such as the hospital, allow the testing of new solutions.

Rossella RUSCA (IT) explains the importance to look at policy areas where there is less Europe, but where EU action may be required (after all 30 % of EU population lives near a border). Real integration requires a reflection on what kind of Europe we need. In 1990, Interreg was launched as a tool to deal with administrative issues linked to the completion of the Single market. In reality, Interreg has become more and more a financing tool to finance what came out spontaneously. Keeping in mind the lack of completion of the single market and a certain failure of Interreg policies, what could Interreg do in the future in combination with overcoming these obstacles?

Nathalie VERSCHELDE (EC) replies that many policy areas are beyond EU competences. But even if the EU framework exists, the reality on the ground shows that problems related to the transposition of EU directives persist. A cross-border impact assessment of transpositions is necessary. The cost of non-Europe and the question of what kind of Europe we want will be addressed in the conclusions.

Interreg is far from its initial intentions and objectives. INTERREG VI, if it exists, should take that into account and have a holistic approach. More targeted governance and a clear strategy are needed to overcome obstacles as some obstacles cannot be solved through 'spending'.

Mélanie CHAROTTE (FR) explains that France wants to see if INTERREG could help solving CB obstacles. They are examining the answers to the EC consultation at French borders, using a matrix that could be implemented elsewhere.

Nathalie VERSCHELDE (EC) says that it is important to see how INTERREG can contribute at each border, which raises the issue of differentiating them.

Jean PEYRONY (MOT) notices that one should avoid a linear vision of CB cooperation, with a step-by-step progress; on some borders where cooperation is old, integration-measured by the knowledge of the language of the neighbouring country-is regressing.

Renata SHIRAISHI (HU) reminds the importance of accessibility, which requires the financing of infrastructure through INTERREG programmes in Central Europe.

Nathalie VERSCHELDE (EC) suggests capitalising on the specific characteristics of border regions.

Margarita GOLOVKO (EE) raises the case of the Central Baltic Programme, where much progress has been made in terms of trust. She says that the next period of INTERREG should be more specific.

Nathalie VERSCHELDE (EC) remarks that the strongest point of the LU proposal is the suggestion of applying a single set of rules on both sides of the border (to a certain project, area, period of time...), based on mutual recognition. This tool doesn't exist at the moment and would contribute to simplification.

Rossella RUSCA (IT): As the original purpose of EGTCs was to manage ETC programmes, an evolution of the EGTC Regulation might be enough, allowing choosing one set of rules to apply. It may be better to just have one tool.

Nathalie VERSCHELDE (EC) replies that you don't need a new legal entity in every case.

Auke VAN DER GOOT (NL) replies that bottom-up initiatives without a legal structure can work.

Jean PEYRONY (MOT) mentions that in the case of the EGTC HC, the hospital will never work only with its own staff: it is based also on CB networks of medical staff. The EGTC is part of the solution, but not the universal one. The CB case is just a particular case of the need for cooperation across administrative borders – we have to think out of the box.

Rossella RUSCA (FR) expresses the need for an assessment of the EGTC tool and how it could be reformed.

For **Thiemo ESER**, in this regard, we have to hear the CoR. It might be useful to map EGTCs and their tasks to identify the limits.

Viviana RUSSO (IT) points out that the EGTC GO (IT/SI) will manage an ITI; it has healthcare in its tasks.

Jonathan BOUDRY (MOT) raises the point that the recent reform of the EGTC Regulation has to be assessed.

5. Conclusions – Follow-up

Thiemo ESER (LU): Unfortunately the Parliament could not be present at this meeting, but they will be invited to the next one. The exchanges were however very interesting. They helped understanding that solutions are on different levels, by using different tools. Progress has to be done on the mapping, expressing the different kinds of problems and solutions. It is now necessary to also further work on shaping this tool: limitation for a certain time and area; addressing problems and finding solutions. The steering group shall elaborate the tool based on the paper presented at the LU Presidency Meeting. There are windows of opportunity first in relation to a possible Communication of the Commission on CB issues mid of next year and with the Cohesion report at the end of next year. We also need to connect our thinking to the debate on Cohesion Policy post-2020. The next meeting of the working group should take place before Christmas, perhaps on 14/12 before the TCUM meeting; at that moment, we will know if the EC intends to prepare a Communication. For this meeting, inputs may be: further preparation of a mapping of the cross border toolbox (obstacles and solutions); refinement of the proposal of the tool; further consultation of EU institutions: CoR, EP.

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

LIST OF PARTICIPANTS

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