



**European Committee  
of the Regions**

**COTER-VII/005**

**142nd plenary session, 3-4 February 2021**

## **OPINION**

### **Cross-Border Public Services in Europe**

#### THE EUROPEAN COMMITTEE OF THE REGIONS

- underlines the need for an EU legal framework to allow for an efficient establishment and management of cross-border public services which would address the needs of our citizens living in border regions;
- strongly supports, in this sense, the European cross-border mechanism (ECBM) proposal which is currently blocked in the Council of the European Union;
- calls on Member States, and regions with legislative powers to establish stable, permanent, cross-administration national cross-border contact points, which would exchange experiences and discuss challenges the LRAs are facing on a particular border, coordinate the implementation of EU legislation and work on the systematic removal of border obstacles;
- underlines the benefits and not fully used potential of the European Groupings of Territorial Cooperation (EGTCs) which could serve as ideal managing bodies for CPS, especially in those cases where there is a need for a common budget and employing common staff and where public authorities are the main providers;
- recommends that Member States jointly allocate part of their additional resources within the REACT-EU initiative to cross-border cooperation programmes in which they participate, thus enabling the efficient restart and strengthening of cross-border cooperation after the COVID-19 crisis, including support for the development of CPS or sanitary corridors. The synergies that can be achieved by pooling emergency services should also be analysed here;
- notes that, while the EU, through its programmes, has been supporting the creation of some CPS, the long-term financing is not sustainable. Members States and LRAs should look into additional ways of financing, such as national or regional sources and public-private partnerships;
- sees the need to define a basic minimum level of cross-border cooperation to be maintained even in times of crisis in order to secure the provision of CPS, especially those related to crisis management.

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Reference document

N/A

## **Opinion of the European Committee of the Regions – Cross Border Public Services in Europe**

### **I. GENERAL COMMENTS**

Close to one-third of EU citizens live and work in Europe's border regions. These borders have a direct and indirect impact on their lives. People living in border regions often encounter peculiar challenges, whether it is finding a job, accessing healthcare and other public services, as well as everyday commuting and overcoming administrative problems. Cross-border cooperation (CBC) has proved to be the most effective tool for overcoming the barrier effect and the dividing role of borders and for strengthening the territorial cohesion of border regions.

Access to public services in border regions, especially those seriously depopulated, is often more limited in comparison to central and capital regions, and is still worse when they face demographic challenges, and constitutes a strong determinant of the quality of life. Providing cross-border public services (CPS) could not only be beneficial for citizens, but could be both more profitable, as these services would become more widely available and cost-efficient.

Successful delivery of cross-border public services could also lead to increased understanding between neighbours and the building of much-needed trust. Such services would have a direct impact on how the European Union is perceived, contributing to strengthening the European identity.

Having more widely available CPS could contribute to reducing negative border effects and increasing the quality of life of citizens living in border regions. By adequately addressing the existing need for public services at our internal and external borders, the EU would demonstrate its clear added value to millions of its citizens that would benefit from such services.

The high-quality ESPON targeted analysis<sup>1</sup> provides the first overview of the topic of CPS. It sets the scene and puts forward some recommendations. In this complex situation that we are facing, which calls for coordinated responses to address challenges, it should now be the CoR's political initiative through this opinion to endorse the issue of CPS and make political recommendations from LRAs' point of view and identify the next steps to be taken by EU institutions and other stakeholders to make the delivery of CPS more effective and widespread in the future.

### **II. POLICY RECOMMENDATIONS**

#### **THE EUROPEAN COMMITTEE OF THE REGIONS**

1. considers that for the successful, effective and more widespread delivery of CPS, three tools/conditions are essential: a legal framework, structures and financing. Given the European nature of such services, the EU should play an active, leading, role in providing these tools/conditions. The collaboration of national, regional and local authorities according to the partnership principle is necessary in order to remove and/or reduce the costs inherent in the cross-border setting;

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<sup>1</sup> ESPON Targeted Analysis on Cross-border Public Services (CPS) from 14 January 2019.

## EU Legal framework

### Added value of an EU Legal framework

2. underlines the need for an EU legal framework to allow for an efficient establishment and management of cross-border public services which would address the needs of our citizens living in border regions. This would represent clear EU added value as current frameworks often impose overwhelming administrative burdens and costs, which cause many local and regional authorities to abandon their plans;
3. strongly supports, in this sense, the European cross-border mechanism (ECBM) which proposal is currently blocked in the Council of the European Union; calls therefore on the Portuguese Presidency to accelerate its adoption quickly;
4. is of the opinion that, according to the principle of subsidiarity, cross-border cooperation and providing cross-border public services, is European in nature and can be most effectively tackled at the EU level, through close cooperation with national, regional and local authorities (the partnership principle);

### Cross-border-friendly implementation of EU law

5. calls on the European Commission, as the institution in charge of monitoring the implementation of EU legislation, and more importantly the Member States and regions with legislative powers, to coordinate the transposition of directives with the neighbouring states and regions, so that new legal barriers and administrative disparities do not arise as a consequence of a lack of coordination; at the same time, calls on the Member States and regions with legislative powers to examine their national or regional legal frameworks with regard to their impact on border areas;
6. points out that impact assessments can provide an excellent insight into the effects of EU legislation and calls on the EC, the Member States and regions with legislative powers to establish methodologies that would allow for effective cross-border impact assessments;

### Cross-border contact points in European Commission DGs

7. calls on the European Commission to take a cross-cutting view of the situation of the border regions when drawing up its policies and designate Cross-border Contact Points in all DGs that could potentially deal with cross-border issues, especially in the fields of environment, emergency services, risk management, transport, healthcare, education, spatial planning digitalisation, communication, culture, tourism, economic development and employment<sup>2</sup>. New and revised EU legislation should consider the provision of CPS in these relevant sectors, with the aim of supporting their implementation;

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<sup>2</sup> Policy fields identified by the ESPON Analysis where most CPS are established

## National cross-border contact points

8. calls on Member States, and regions with legislative powers to establish stable, permanent, cross-administration national cross-border contact points, which would exchange experiences and discuss challenges the LRAs are facing on a particular border, coordinate the implementation of EU legislation and work on the systematic removal of border obstacles (also in relation to establishing and providing CPS). These contact points could be the same bodies proposed in the ECBM Regulation, if these are set up in the region in question, but would hold wider responsibilities. The aforementioned contact points should appoint a person in charge with fluency in the official languages of the border regions. The work of these contact points should lead to the removal of obstacles identified by local and regional actors. They could evaluate the situations in border regions and propose joint approaches and actions that would lead to better services for citizens, by optimising the use of available resources on both sides of the border and setting up coordination mechanisms with the cross-border programmes and other EU programmes. The EU Border Focal Point should provide coordination and methodological support, as well as facilitating the exchange of good practices between border regions in Europe;
9. calls on the Member States to show more flexibility for LRAs wishing to implement cross-border public services, as flexibility, ad hoc solutions and quick responses from the relevant state actors can offer short-term solutions that require a long-term sustainable solution to implement and maintain CPS. The use of intergovernmental agreements such as the recent Treaty of Aachen could also stimulate the provision of CPS;

## **Border Focal Point (DG REGIO)**

10. underlines its support for DG REGIO's Border Focal Point and calls for increased human resource support for this action with a view to its potential new role of coordinating the national contact points and contact points at different DGs;

## **European Cross-Border Mechanism (ECBM)**

11. believes that the EU should support a coordinated approach at the borders when it comes to implementation of EU legislation. In cases where that was not successful and when national laws do not allow for cooperation, the EU should provide for a European solution/framework to be chosen by CPS providers;
12. therefore strongly stresses the need for the adoption of the new tool proposed by the European Commission, the European Cross-Border Mechanism (ECBM)<sup>3</sup> as a bottom-up legal instrument which would likely prove to be the adequate solution for overcoming legal and administrative obstacles and creating suitable legal framework for the specific implementation of cross-border public services;

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<sup>3</sup> Regulation COM/2018/373 final - 2018/0198 (COD).

13. reiterates that the analysis of existing border obstacles carried out by the European Commission within the cross-border review and the consequent *b-solutions* projects clearly demonstrate the need for such a legal instrument on the ground. In more than one-third of the 43 analysed *b-solutions*<sup>4</sup> cases, the ECBM would be a suitable tool that would help resolve the obstacles. Notably in those cases where the proposed solution would require amendment to the currently applicable legal or administrative framework on one side of the border;
14. in this context calls on local and regional stakeholders to strengthen their capacities so they are able to play a stronger and more effective role as "initiators" of solutions under the proposed ECBM. For the mechanism to be implemented correctly, LRAs must be able to understand obstacles sufficiently and thus be capable of clearly defining workable legal or administrative solutions;
15. notes that the proposed ECBM Regulation has the potential to be of key importance not only for CPS but for the future of CBC in general as it might help remove existing obstacles and unleash the full economic potential of EU border regions<sup>5</sup>;
16. urges the European Council to restart the discussions on the ECBM Regulation and urgently adopt its position on the proposal so that the regulation can be quickly adopted;
17. urges the Member States to put the discussion on the "mechanism to resolve legal and administrative obstacles in a cross-border context" on the agenda of summits between border states, and of any other high-level forum for cross-border cooperation. Analysis of the instrument proposed by the European Commission in decision-making forums should convince Member States of its usefulness in resolving many of the persistent legal and administrative obstacles at EU borders, and thus in establishing cross-border public services;
18. proposes to the EC, interested Member States, regions with legislative powers and cross-border structures at local and regional level to test applying the principles and procedures of the proposed ECBM on concrete projects to gain a better understanding of how this instrument could apply to specific conditions and could be helpful in overcoming existing legal and administrative obstacles. Many cross-border areas have in the past acted as laboratories of cross-border cooperation and produced positive results in solving cross-border issues;

### **Cross-border Structures**

19. notes that the ESPON analysis has shown that most CPS required the establishment of a new cross-border structure or body, mostly without a new legal personality. Very often, already existing structures were used or adapted. When new cross-border structures were created, it was done using existing inter-state agreements, domestic law or the EGTC regulation;

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<sup>4</sup> <https://www.b-solutionsproject.com>

<sup>5</sup> European Commission communication *Boosting growth and cohesion in EU border regions* states that if only 20% of the existing obstacles were removed, border regions would still gain 2% in GDP. (...) with potential for over 1 million jobs" (COM (2017) 534, pp: 4).

20. stresses the advantages of permanent cross-border structures with their own staff and budget and the sole purpose of promoting CBC such as euroregions, working communities and similar structures for the effective development of CPS;
21. underlines the benefits and not fully used potential of the European Groupings of Territorial Cooperation (EGTCs)<sup>6</sup> which could serve as ideal managing bodies for CPS, especially in those cases where there is a need for a common budget and employing common staff and where public authorities are the main providers. The efforts of awareness raising carried out by the CoR's EGTC platform should be strengthened and should focus specifically on using the EGTC for the delivery of CPS;
22. underlines the fact that the EGTCs, though proven to be very useful in cross-border cooperation, have certain legal limitations which prevent them from fully exploiting the potentials of reinforced cooperation across borders. This is especially evident in cross-border public services and infrastructure projects. This European instrument could be much more widely used if the above-mentioned legal framework were improved;

### **Financial tools**

23. calls for the development of cross-border public services to be mentioned as an eligible activity in Cohesion Policy, specifically within the Interreg programme (without this entailing any reduction in other items under the programme), as well as in other financial instruments covered by the forthcoming Multiannual Financial Framework and the Next Generation EU recovery instrument in response to the COVID-19 pandemic. To make funding programmes more attractive, the administrative burden of applying for and settling accounts for such funding must also be reduced;
24. demands all managing authorities in border regions to finance cross-border operations/actions/projects within their mainstream regional programmes (ERDF and ESF) in order to complement and deepen the action of the INTERREG programmes;
25. underlines the importance of the Interreg programme for cross-border regions over the past 30 years. Interreg has backed the cooperation that has enabled the administrations and authorities of the different cross-border regions to draw closer together and enter into dialogue, pushed the limits of cross-border cooperation and has supported projects that have had direct results in the creation of cross-border public services;
26. mentions the very good experiences of the European Commission's b-solutions projects, which aimed at resolving border obstacles, including some of those that addressed cross-border public services. These projects showed that even with limited funding, very good results can be achieved;
27. reiterates its strong disappointment with the proposed budget for the Interreg programme in the proposals for the next financial perspective, which is insufficient for the needs of European

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<sup>6</sup> Regulation (EC) No 1082/2006.

territorial cooperation in general and cross-border cooperation in particular, the latter being one of the key elements of Cohesion Policy and the European integration. Many opportunities will be missed due to the smaller budget of the Interreg programme, as even the budget in the previous financing period was largely insufficient;

28. recommends that Member States jointly allocate part of their additional resources within the REACT-EU initiative to cross-border cooperation programmes in which they participate, thus enabling the efficient restart and strengthening of cross-border cooperation after the COVID-19 crisis, including support for the development of CPS or sanitary corridors. The synergies that can be achieved by pooling emergency services should also be analysed here;
29. strongly supports the pilot programme "Cross-border regions facing COVID-19 outbreak: an opportunity to revive common responses to crises and co-development" voted during the plenary session of the European Parliament in November aiming at improving the life of citizens in border regions by supporting more integrated and functional cross-border areas. This pilot project shall help border regions to better face future crises and to promote a new model of elaborating public policies, including public services, in border regions based on co-development and through improved multilevel governance. The pilot project combines therefore a short-term and a mid-term approach to provide practitioners and decision-makers with concrete tools and methodology that can be directly translated into reality, tangible for citizens, and applicable to all European borders;
30. notes that, while the EU, through its programmes, has been supporting the creation of some CPS, the long-term financing is not sustainable. Member States and LRAs should look into additional means of sufficient long-term financing, such as national or regional sources and public-private partnerships, which should also be facilitated to take place and operate across borders, at least within the EEA;

#### **e-services**

31. points out that, in border regions, the process of digitalisation that we are currently in the midst of is three-pronged, concerning the production fabric, the administrations and public bodies that offer services to citizens, and the citizens themselves. In this context, e-services might open a very interesting field of development for the cross-border provision of public services. For example, by using automated translation interface, one of the first obstacles for CBC in general, and the provision of public services across borders in particular, the language barrier, could be overcome. In addition, the creation of electronic cards enabling citizens in border regions to access cross-border public services would be a significant step towards improving the quality of life of the people in those regions. An increased use of e-procedures will lead to a necessary harmonisation of administrative provisions, solving another good set of obstacles. Also, the development of Artificial Intelligence-based systems, could promote further European-wide provision of services;

## **Role of the private sector**

32. calls on decision-makers to pay special attention to local small and medium-sized providers. Private operators are key players in the provision of certain services and/or in certain countries. Joint ventures across borders by SMPs, for example through a European Company<sup>7</sup>, could be better prepared to provide CPS;

## **Cross-border connectivity**

33. calls for support for cross-border connectivity. In some border regions, citizens face practical difficulties in accessing the other side of the border, owing either to natural barriers (mountains or rivers) which do not have connecting infrastructure such as a road or a bridge between the two sides, or to a lack of suitable regular public transport services. Facilitating connectivity would increase exchanges, leading to greater integration of citizens in border regions;
34. calls on EU institutions and Member States to restart the discussions on launching a services passport (e-card), which would allow SMEs to provide services across borders without facing additional administrative burdens from foreign regulators;

## **Better promotion and monitoring of CPS**

35. underlines the fact that an overwhelming majority of all identified CPS (64%)<sup>8</sup> are located along borders between old EU Member States, and very few of them between the new Member States;
36. invites the EC, as well as the Member States, together with LRAs and the CoR, to carry out an information campaign in the Member States to demonstrate the benefits and potentials of CPS. These stakeholders should also invest more in the monitoring and promotion of existing CPS as many of them remain unknown to the wider public (e.g. by creating catalogues of CPS);
37. is ready to play a greater role in monitoring and promoting CPS in Europe, given its very good experience with monitoring and promoting the EGTCs through the CoR's EGTC Platform. As some of the EGTCs are delivering CPS already, the EGTC Platform should also be given the task of monitoring the development of CPS and promote them together with EGTC as a suitable tool for their implementation;
38. calls on border regions, and specifically Euroregions, working communities, EGTCs and other cross-border structures to consult their citizens on the services they find to be lacking or those that could be improved in their region and to address these needs and potentially design new or improved cross-border services of common interest;

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<sup>7</sup> Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE).

<sup>8</sup> ESPON Targeted Analysis on Cross-border Public Services (CPS) from 14 January 2019.

## **CPS on EU external land and sea borders**

39. refers to the experience with the EGTC Regulation which has shown that fruitful and better structured cooperation with non-Member States can be established, as is particularly the case with Switzerland and Ukraine;
40. underlines that 17% of all identified CPS are established between EU and non-EU countries, which shows a need and potential for such cooperation beyond both the external land and sea borders of the EU. The legislative framework, structures and financing should allow for establishing such services with non-EU countries, which would be in the interest of the citizens of these border regions;

## **COVID-19 experience: closing borders versus cooperation**

41. reiterates opportunities Member States have missed during the recent pandemic of COVID-19 when they instinctively and unilaterally closed borders, without thinking of combining efforts at the EU internal borders and providing healthcare and emergency services to citizens living in the bordering regions. By working together, and sharing expertise and resources, the crisis could have been better addressed. This should, however, be seen as a lesson which once again proves the need for cross-border public services and coordinated European approaches to common problems. It should be stressed that cross-border cooperation in the field of health and emergency services, even outside of times of crisis, is very important for providing the public with good care and should be particularly encouraged;
42. points out that closing the borders without coordinating and consulting neighbouring states and also LRAs in border regions not only had a devastating effect on the existing cross-border cooperation, but most importantly had a very negative impact on the lives of people living in border regions, as there were no agreed protocols to ensure the exceptional movement of people and goods, with the ensuing damage to the provision of cross-border public services amongst other things;
43. sees the need to define a basic minimum level of cross-border cooperation to be maintained even in times of crisis in order to secure the provision of CPS, especially those related to crisis management;
44. welcomes the partnership between the CoR, the European Commission and the leading associations working on cross-border issues (MOT, AEBR and CESCO) that was established during the COVID-19 crisis. This experience has led to the constitution of a European Cross-Border Citizens' Alliance;
45. underlines that, despite the closed borders, many border regions and cities have found ways of cooperating and sharing resources during these difficult times. This proved once again that cross-border cooperation is natural for people living in those regions, and the reasonable way forward for their communities;

## **Recommendations for the future**

46. states its preparedness to draw lessons from the experiences of border regions and put forward comprehensive recommendations on cross-border co-operation as part of the CoR's contribution towards the Conference on the Future of Europe;
47. plans in this respect to deliver specific recommendations to the Conference on two issues:
  - The first one being a long-term vision of the future of cross-border cooperation in the European Union, that will focus on concrete proposals that the CoR, and the border regions, would call to be implemented by 2050. Cross-border public services will be part of that vision.
  - The second issue would be a request for legislation that would guarantee minimal standards for cross-border cooperation in the event of EU-wide and/or local crises in order to maintain a sufficient level of public services, allow citizens living in border regions to operate, guarantee the uninterrupted functioning of the Single Market and maintain the momentum of European integration.

Brussels, 4 February 2021

The President  
of the European Committee of the Regions

Apostolos Tzitzikostas

The Secretary-General  
of the European Committee of the Regions

Petr Blížkovský

### III. PROCEDURE

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| <b>Title</b>   | Cross-Border Public Services in Europe   |
| <b>Reference(s)</b>  | n/a  |
| <b>Legal basis</b>   | Article 307 TFEU   |
| <b>Procedural basis</b>                                      | Rule 41(b)(ii) of the CoR Rules of Procedure   |
| <b>Date of Council/EP referral/Date of Commission letter</b> | n/a  |
| <b>Date of Bureau/President's decision</b>                   | 6 April 2020   |
| <b>Commission responsible</b>                                | Commission for territorial cohesion policy and EU budget (COTER)   |
| <b>Rapporteur</b>  | Pavel Branda (ECR/CZ)  |
| <b>Analysis</b>  | 5 May 2020   |
| <b>Discussed in commission</b>                               | 26 November 2020   |
| <b>Date adopted by commission</b>                            | 26 November 2020   |
| <b>Result of the vote in commission</b>                      | Majority   |
| <b>Date adopted in plenary</b>                               | 4 February 2021  |
| <b>Previous Committee opinions</b>                           | <p><i>Strengthening Cross-border Cooperation: the need for a better regulatory framework?</i><br/> Rapporteur-general: Nikola Dobroslavić (HR/EPP), COTER-VI-007. CoR 2015-04286-00-00 AC</p> <p><i>Missing transport links in border regions</i><br/> Rapporteur: Michiel Scheffer (NL/ALDE), COTER-VI-016. CoR 2016-04294-00-00 AC</p> <p><i>People-to-people and small-scale projects in cross-border cooperation programmes</i><br/> Rapporteur Pavel Branda (CZ/ECR), COTER-VI-023. CoR 2017-01527-00-00 AC</p> <p><i>The Implementation of macro-regional strategies,</i><br/> Rapporteur Raffaele Cattaneo (IT/EPP), COTER-VI-029. CoR 2017-02554-00-00 AC</p> <p><i>Cross Border Mechanism</i><br/> Rapporteur Bouke Arends (NL/PES), COTER-VI/048 CoR 2018-03596-00-00 AC</p> |
| <b>Date of subsidiarity monitoring consultation</b>          | n/a  |