**Background Paper for CoR stakeholder consultation ‘Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context’, 12 September 2018, rapporteur: Bouke Arends (NL/PES)**

**Introduction**

In a review, lasting more than two years (2015-2017), the European Commission gathered evidence that border regions generally perform less well economically than other regions within a Member State. Also the access to public services is lower in border regions. Different legal and administrative systems at both sides of the borders are making live for citizens, business, public authorities and NGO’s costly and complex.

In its Communication ‘Boosting growth and cohesion in EU border regions’ (2017), the Commission presents ways in which the EU and its Member States can reduce complexity along internal borders. The Commission proposes in the Communication a 10 points action plan, one point specifically addresses legal and administrative border obstacles.

As follow-up to the Communication the Commission presented on 29 May 2018 a proposal for a Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context. The mechanism includes a procedure to apply, for a common cross-border region, in a given Member State, the legal provisions from the neighbouring Member State if applying its own laws would present a legal obstacle to implementing a joint project. The Commission describes a joint project as an item of infrastructure or any service of general economic interest. It’s important to say that the mechanism to resolve legal obstacles in border regions can be applied voluntarily. Existing mechanisms, like the Benelux Treaty and the Nordic Council, can be applied within the new Regulation.

**Committee of Regions**

The Committee of the Regions has appointed Mr. Bouke Arends, Vice-Mayor of Emmen, as rapporteur of its opinion on the Commission proposal. Emmen is a border town in the north-east of the Netherlands at the border with Germany. Mr. Arends, therefore, experiences on a daily basis the complexity of different legal and administrative systems at both sides of the border.

In its opinion on the Commission Communication on EU border regions of 2017 (rapporteur: János Ádám Karácsony (HUN/EPP)) the CoR welcomes the Commission proposal for the legal mechanism. Now the Commission has presented its proposal, Mr. Arends would like know whether the proposed mechanism can function properly in practice and meets the wishes of border regions and municipalities.

**Calendar CoR opinion**

On 12 September 2018 the CoR organises a stakeholder consultation at its premises. The draft opinion will be discussed and approved in the COTER commission on 24-25 October 2018. The final approval in plenary is foreseen in the plenary session on 5-6 December 2018.

**Questions for debate**

Mr. Arends would like to focus in the Stakeholders Meeting on 12 September 2018 on the following issues:

1. During the Luxemburgish EU Presidency (2015) some Member States launched the initiative for a European legal instrument to facilitate cross-border cooperation. Does this mean that the principle of subsidiarity, as the Commission describes in its proposal, is therefore respected?
2. The Commission proposes to limit the application of the mechanism to NUTS3 regions. Is this the right limitation, or should the mechanism cover a greater surface? In case NUTS3 is too limited, what should be the size of a border region in order to be allowed to apply the cross-border mechanism?
3. The mechanism can be applied by a Member State voluntarily. This means that a Member State can refuse the demand of a regional or local authority, enterprise or other organisation to apply the mechanism. There is no procedure foreseen for complaints? Is this an omission? Or are national procedures sufficient for complaints?
4. The draft Regulation includes a rather extensive procedure for applying the mechanism. Is this a workable procedure or do we need more flexibility? Do you have concrete ideas for amending the procedure?
5. According to the Commission proposal the mechanism can only be applied to projects as an item of infrastructure or any service of general economic interest. Is the scope of the Commission proposal sufficient? Or do we need a broader definition of a project under this Regulation?

Do you know what a service of general economic interest is? Do we need more explanation on this aspect?

1. The mechanism can be applied for certain projects. Usually a project is rather limited in time. What kind of timeframe do we need in order to resolve legal obstacles at the border? Should the mechanism also be applied in more permanent arrangements?
2. Does the proposed mechanism give sufficient legal protection of persons resident in a cross-border region, who consider themselves wronged by acts or omissions arising from the authorities' application, under a Commitment or Statement, of another Member State' legal provision (article 21(1) of the draft Regulation)?
3. Do you have concrete examples of projects which could have been implemented with the proposed mechanism, but failed by the lack of such a mechanism today?

Mr. Arends welcomes written contributions on the Commission proposal as input for this draft opinion. Please send your position paper or any other document to Mr. Arends experts: jody.vandiemen@vng.nl or bas.vandenbarg@vng.nl.