



b-solutions: **Solving Border Obstacles.** A Compendium 2022-2023



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Preface European Commission

More than mere lines on maps, borders remain barriers in our minds and lives. Working, studying, seeking medical treatment – these are all activities that are routine to many of us. In cross-border regions, however, they turn out to be complex undertakings. People living in these areas – almost a third of European population – are faced daily with many persistent and complex challenges impacting on the quality of their lives and work careers. As a result, they often tend to migrate rather than look for the future in the place where they have been born.

This publication makes is about resolving these obstacles through solutions that transcend mental, legal and administrative barriers in cross-border regions. This compendium contains detailed descriptions of 41 new *b-solutions* selected in 2022 and 2023. These cases share the experiences of regions and actors involved in cross-border cooperation who seek to raise awareness of the legal and administrative obstacles that prevent them from interacting and cooperating across borders, thereby hindering the development of their regions.

The compendium allows for a better understanding of how the obstacles that currently stand in the way of achieving a borderless European Union can be solved. Most of the cases demonstrate the need to address differences in legal frameworks on both sides of the border. That is why the European Commission has recently adopted the amended proposal for a ‘Regulation on Facilitating Cross-Border Solutions’ introducing the so-called Cross-Border Facilitation Tool.

Overall, this compendium encourages us all to reflect on how we can develop innovative solutions to legal and administrative obstacles in cross-border regions. Our vision is to create a seamless cross-border future, by turning borders into genuine bridges opening up new opportunities for people living in their vicinity. To achieve this, it is crucial to develop tailored solutions that accommodate the diversity of each territory.

My thanks go to the entire team of the Association of European Border Regions (AEBR) for their remarkable work. I also want to express my gratitude to all those who daily contribute to the development of cross-border regions, who tirelessly dismantle invisible walls, bridge gaps and build functional living areas. The *b-solutions* initiative clearly testifies to the benefits of the work and commitment at all levels of governance, from public authorities in border regions and cross-border structures to national and European authorities. Cross-border obstacles can be overcome and the life of all those living and working in those regions can be improved when all competent authorities unite to work together.

Importantly, with this publication we can see the progress made in recent years and the confirmation that solutions do exist. It is now essential to make these obstacles the exception rather than the rule and ensure that solutions are not only acknowledged but also effectively put into practice.

Slawomir Tokarski

Director for European Territorial Cooperation, Macro-regions,
Interreg and Programmes Implementation

Preface Association of European Border Regions (AEBR)

Borders unite more than divide, as long as we work together to break down mental and legal barriers.

I am a strong proponent of cross-border cooperation. This inclination stems from both my personal and professional background, and it also aligns with my European identity.

Throughout Europe, border regions have encountered and overcome numerous challenges. Growing up in the Austrian town of Freistadt, I lived less than 20 km from the Czech border. However, the advantages of living in a border area were not palpable due to the physical and ideological separation between the two countries.

With the fall of the Iron Curtain and the development of the European Union, major steps have been made to enhance integration, prosperity, and peace across the continent. Nevertheless, the road to harmonisation and unity is full of pitfalls, with persisting obstacles hindering cooperation across borders.

As the Chairwoman of EUREGIO Mühlviertel regional management and Vice President of the Association of European Border Regions (AEBR), I have participated in and witnessed the efforts of local and regional authorities as well as cross-border structures committed to removing disparities and strengthening ties among border regions.

Addressing border challenges requires openness, dialogue and a sense of friendship — an attitude I firmly believe exists among relevant stakeholders at all levels of governance. Relying on a solid network and members from all over Europe, AEBR has been attentive to the difficulties encountered and is dedicated to fostering the sharing of good practices among European border regions and beyond.

That's why we are delighted to introduce a new *b-solutions* compendium. This resource brings evidence of legal and administrative obstacles faced by people living in border areas, as well as solutions to advance harmonisation and unity, ensuring no European region is left behind.

Now, the question remains: Will you join me as a cross-border advocate?

Gabrielle Lackner-Strauss

Vice President of the Association of European Border Regions (AEBR)

Introduction

Border regions play a vital role in the European integration process. It is in border regions, where many people carry out daily activities on both sides of the border, that new ideas and solutions can be tested and adjusted for a stronger Cohesion Policy.

It is precisely in these areas that the legal and administrative divergences between countries are most obvious, transforming into obstacles which affect people's lives in a variety of ways. These obstacles limit access to public services, such as healthcare, and hamper the management of common resources, such as shared natural and recreational habitats. They also complicate daily commuting – e.g., from home to work – from one country to the neighbouring country – a challenge in many border regions.

Projects funded by Interreg¹ have helped to improve the situations of people living in border regions over the last decades. However, complementary instruments are needed to address the specific legal and administrative obstacles hindering cross-border cooperation.

***b-solutions*: from a pilot project to a recognised tool to address border obstacles**

The *b-solutions* initiative was launched by the European Commission and the Association of European Border Regions (AEBR) in 2018, following the Communication of the European Commission (2017) “Boosting growth and cohesion in EU border regions”.

b-solutions was designed with the main objective of identifying and promoting sustainable methods of resolving legal or administrative border obstacles along EU internal land borders. The obstacles are analysed by experts who are in charge of drafting detailed reports, outlining possible solutions.

From 2018 to 2021, four calls for proposals led to a collection of 90 cases of border obstacles.

They were showcased in:

- two compendia of reports, including 43 cases collected in the period 2018-19 and forty-seven cases collected in 2020-21;
- three thematic booklets, addressing the recurrent obstacles in three areas: the European Green Deal, Cross-border Public Services and Cross-Border Labour Markets;
- an illustrated booklet presenting seven stories of border obstacles from the perspective of local citizens.

Since 2022, *b-solutions* has enabled the identification of additional legal and administrative obstacles to cross-border cooperation, opening the scope to maritime borders as well as EU borders with countries that have applied to become members of the EU or expressed an interest in joining the EU.

¹ European Commission, Interreg, https://ec.europa.eu/regional_policy/policy/cooperation_en

b-solutions provides technical support to local actors in border regions experiencing legal and administrative obstacles that limit their capacity to cooperate. These obstacles are caused by structural issues such as a lack of coherence of applicable legislation on each side of the border, different administrative procedures or a lack of legal options for cross-border interactions.

The various cases cover four thematic areas, established as priorities for the development of border regions by the 2021 European Commission report “EU border regions: Living labs of European integration”:

- Resilience through deeper institutional cooperation
- More and better cross-border public services
- Vibrant cross-border labour markets
- Border regions for the European Green Deal.

The support of the cross-border community and European institutions for the *b-solutions* initiative demonstrates the interest in having a robust toolbox with instruments to tackle border obstacles and enhance cross-border cooperation throughout the continent. In this sense, *b-solutions* has helped gather the necessary information to assert the need for a tool like the amended proposal for a ‘Regulation on Facilitating Cross-Border Solutions’, adopted by the European Commission on 12 December 2023. Following the European Parliament’s proposal for such mechanism in September 2023, the objective of the regulation would be to create an EU legal tool that Member States could use to resolve obstacles that are impacting the daily lives of the 150 million European citizens living in Europe’s border regions.

Border obstacles in all aspects of life

In diverse thematic areas, legal and administrative obstacles are in conflict with the idea of European unity and the potential growth of each of the EU’s border regions.

Differences in employment and social security administrative procedures make it difficult for cross-border workers or students to access jobs, internships, and apprenticeship opportunities on the one hand, and for companies to hire skilled labour from the neighbouring region on the other hand. Expanding cross-border education, trade, business, and labour opportunities is part and parcel of the process of creating vibrant cross-border labour markets that are able to boost the economies of the regions concerned and reinforce the European single market. This goes hand in hand with the need to ensure that people living in border regions can access and enjoy the same high-quality public services as those living in non-border regions, thus guaranteeing their safety and well-being. Establishing more cross-border transport connections or providing access to the closest hospital, even if located just across the border, are fundamental steps to meet the needs of the population and allow border regions to thrive. More than ever, the consequences of climate change and environmental degradation are visible, and natural disasters do not stop at the border. Border regions have a role to play to mitigate these effects and contribute to the implementation of the European Green Deal formulated by the European Commission to achieve climate-neutrality by 2050. Examples of cases show the potential and needs of border regions to better pool common resources in the field of energy, for example, with cross-border energy communities.

Only deeper institutional cooperation and the development of sustainable cross-border governance practices can ensure a favourable environment for local and regional actors to thrive in addressing these challenging realities.

Actions taken in this sense require a deep understanding of the roots of the problems. With *b-solutions*, the cases undergo a unique analysis to understand the origins of the legal and administrative barriers and propose solutions to resolve them.

Potential solutions for replicability

On the one hand, the solutions identified are tailored to the specific needs and characteristics of each case and territory. The beneficiaries receive advice on how to solve the obstacles and who to involve. Such support serves to catch the attention of the relevant authorities, which are often located at the national level and hold the legal competences required to implement the proposed solution.

On the other hand, a crucial aspect of the *b-solutions* initiative is to build knowledge on border obstacles through a bottom-up approach. It is not only relevant to EU, national, and regional policymakers but also to all cross-border actors across the EU. *b-solutions* publications are evidence of the reality on the ground and promote the replicability of tested solutions to solve cross-border difficulties in other EU border regions.

Showcasing the evidence and facilitating replicability is what the compendia aim to do. The present compendium includes 41 case studies, collected through two calls for proposals opened in 2022 and 2023. Based on the experts' reports, the cases offer an overview of the obstacles encountered by actors living in border regions, while highlighting the solutions from which they can build on to enhance cross-border cooperation throughout Europe. The full expert reports are available to the reader who wishes to learn more about the legal and administrative implications and solutions. Direct links to the full reports are provided at the end of each case.

b-solutions also strives to implement up to 30 case studies under its objective 2. Objective 2 of *b-solutions* provides extra expert support to take any action required by the case representatives to accelerate the implementation of solutions identified in the reports. A new illustrated booklet presenting nine new stories of border obstacles is now available, and provides an insight into the lives and challenges of people in border regions.

The European Commission and the Association of European Border Regions (AEBR) wish to thank the *b-solutions* participants for their engagement, the experts who advised the cases for their work, and all the relevant actors who contributed to promoting *b-solutions* in their networks: Central European Service for Cross-border Initiatives (CESCI), Mission Opérationnelle Transfrontalière (MOT), Interact, Interreg programmes, and many more.



Institutional Cooperation

GO! Borderless Square

ADVISED ENTITY

EGTC GO – IT-SI

EXPERT

Mitja Ozbič



GO! 2025
NOVA GORICA - GORIZIA



THE CONTEXT

The European Capital of Culture (ECoC) is awarded each year to two cities in Europe. Two different countries are entitled to nominate one city each. For 2025, Slovenia chose as its city the entire cross-border area comprising Nova Gorica (Slovenia) and its Italian neighbour Gorizia. This led to the first ever cross-border European Capital of Culture. Represented by the European Grouping of Territorial Cooperation – EGTC GO, the cities have chosen a ‘borderless square’ – called *Piazza Transalpina* in Italy and *Trg Evrope* (Europe Square) in Slovenia, – located directly on the border line between the two countries as the location for the ECoC 2025. It is the main symbol of collaboration between the municipalities and to a greater extent, a symbol of everyday life in a border region.

Since the square is located in both countries, there are different administrative procedures and legal requirements to organise the events, involving a variety of national, regional and local administrations and other actors. In order to support the event organisers, there are several practical, legal and administrative obstacles that must be overcome by the 2025 deadline.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

There are three main obstacles faced:

- **The legal obstacle stems from the differing legislative frameworks of the Member States.** Each country has its own legal framework for practical matters related to safety and technical rules, such as fire safety and the closing of the square and/or the surrounding streets for traffic.
 - In this case, whereas decisions regarding the procedures for ECoC 2025 are handled by local authorities, the competence to change the relevant legal basis lies at the national level. In the absence of an international agreement, one country cannot extend their administrative procedures and permits to the other, nor can local authorities modify the national rules.
 - In Italy, the event promoter must submit the relevant documentation and requests to the SUAP, a one-stop shop portal within the domain of the Municipality of Gorizia¹. In Slovenia, there are several different public bodies that grant such authorisations and permits.
- **Language barriers:** The SUAP website and documentation are only available in Italian at the moment. While translation of the website into English has been planned, it will not be made available in Slovenian.
- **The digital identification of the promoter/organiser of the event presents an obstacle** since each country has its own digital portal to organise the events.
 - Slovenia has recently joined the eIDAS system, regulated by EU rules². The system requires Member States to enable the use of e-identification tools of other Member States. In Slovenia, the E-uprava system is used³, as the public portal of the Republic of Slovenia for citizens and an electronic entry point for services provided by state or public administration bodies. However, an obstacle still exists in terms of which website or portal to use, which hinders effective coordination for the upcoming events.

1 The acronym stands for ‘Sportello Unico delle Attività Produttive’. Visit the portal: <https://suap.regione.fvg.it/portale/cms/en/hp/index.html>.

2 Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114.

3 Visit the portal: <https://e-uprava.gov.si/en/o-e-upravi/o-eupravi.html>.

ROADMAP TO A POSSIBLE SOLUTION

The following **strategic/practical solutions** were proposed:

- A manual in both languages with the links to all the offices and websites of the public bodies involved in the organisation of the event.
- A software solution to connect the Slovenian (E-uprava) and Italian (SUAP) websites through the EGTC GO website, to simplify the process for the event organisers.
- Administrative packages to simplify procedures for events, for which the EGTC GO could make use of Directive 2014/24/EU⁴ on public procurement, which allows the joint award of public contracts by authorities from different Member States. A necessary agreement was already signed by the municipalities⁵. The EGTC GO therefore can choose the applicable law from each country.

The most viable proposal is a two-fold legal solution:

- Create a special legal space for the square, which would improve coordination and remove the administrative obstacles. This would involve defining a single administrative procedure, with the EGTC GO as the main promoter and coordinator representing the administrations involved for all events.
 - Similar to a duty-free zone, where the rules are determined solely for that specific area, a unique administrative procedure could be applied regardless of which side of the square the events take place on. However, in the absence of an EU legal mechanism to create such a space, this may take some time and will require significant support and long-term commitment from the relevant decision-makers, including the European Union.
- Create a special legal framework to insert the following in one of the existing bilateral agreements⁶:
 - the country of the event organisers will be the applicable national law for the procedures;
 - the business address of the suppliers and vendors will determine the applicable national law;
 - both countries will manage the events, with the EGTC GO as the coordinating authority.

WHAT'S NEXT

Several of the solutions outlined above were helpful for the organisation of events but ineffective in eliminating the problem. The published manual, for example, provides detailed instructions of the procedures for each country, but also clearly demonstrates the enormous amount of duplicated administrative work being done to organise an event on the square.

In order to promote dialogue and awareness among the entities of the two countries, a workshop was organised on 27 September 2023 entitled “GO! Borderless: addressing problems and finding solutions”, to discuss the possibility of creating a special legal zone on the border between Italy and Slovenia for the needs of the ECoC 2025.

At this time, the EGTC GO is continuing to work on the bilateral technical roundtables with the national governments, and aims to convene a technical meeting between the Ministries of Foreign Affairs and the Ministries of the Interior of the Republics of Slovenia and Italy to consider the possibility of inserting the rules on event organising and procurement in one of the bilateral agreements.

TO LEARN MORE



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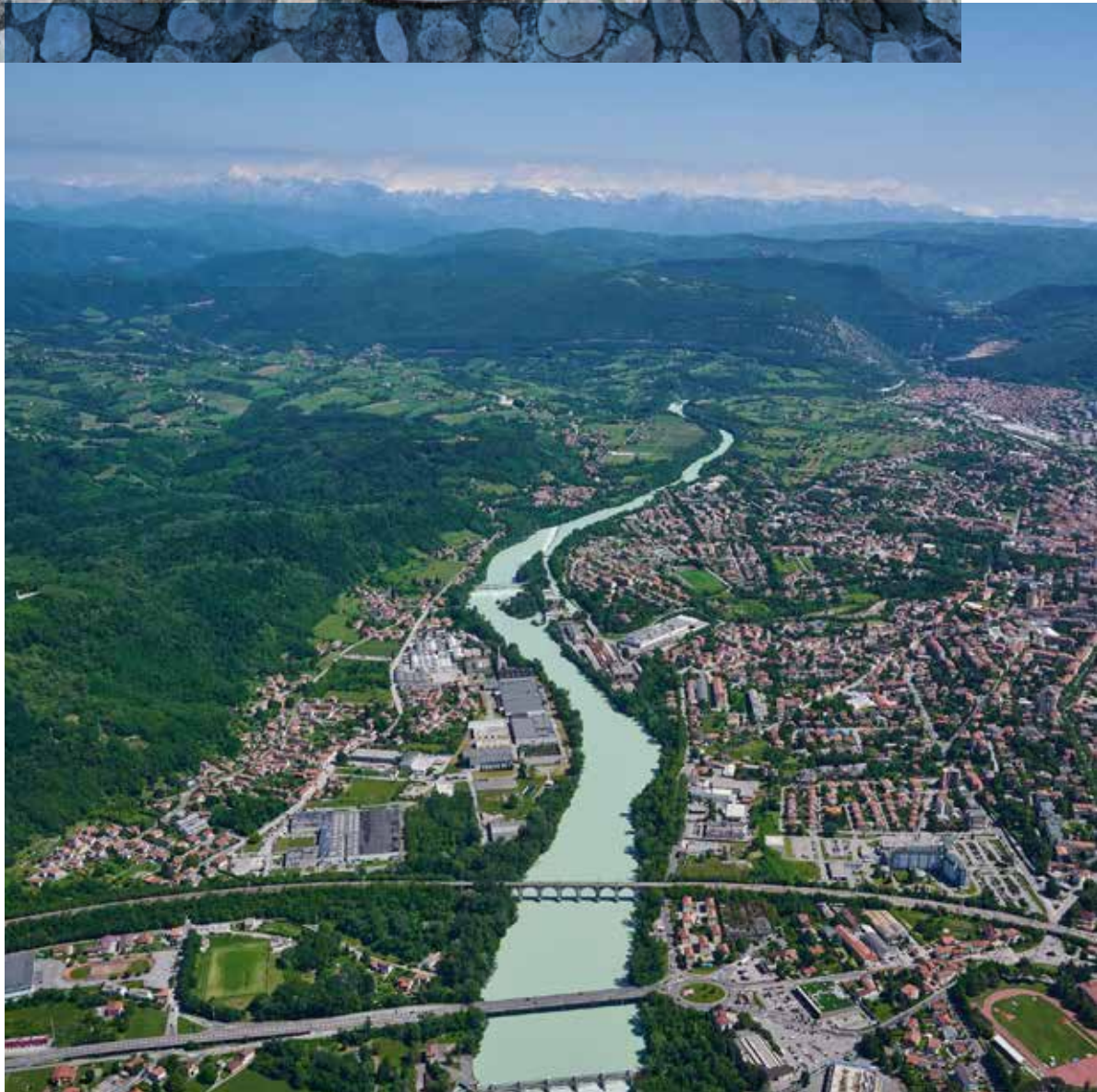
⁴ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65–242.

⁵ Signed on 12 June 2018, the Agreement establishes the national provisions applicable to the procurement procedures managed by the EGTC GO.

⁶ There are a number of existing bilateral agreements, including: The Agreement on the management of the common border: Convention between the Government of the Italian Republic and the Government of the Republic of Slovenia for the Maintenance of the State Border, signed in Rome on 7 March 2007 (in Italy: Law no. 210 from 19 November 2010 ratifying and executing the same and in Slovenia BITVDM); and the Rules set out in Articles 5, 6, 7 and 8 of the Special Protocol on Economic Cooperation annexed to the Treaty of Osimo, also applied to the Piazza Transalpina/ Trig Evrope Square.



© EGTC GO, 2019



EGTC GO, 2018

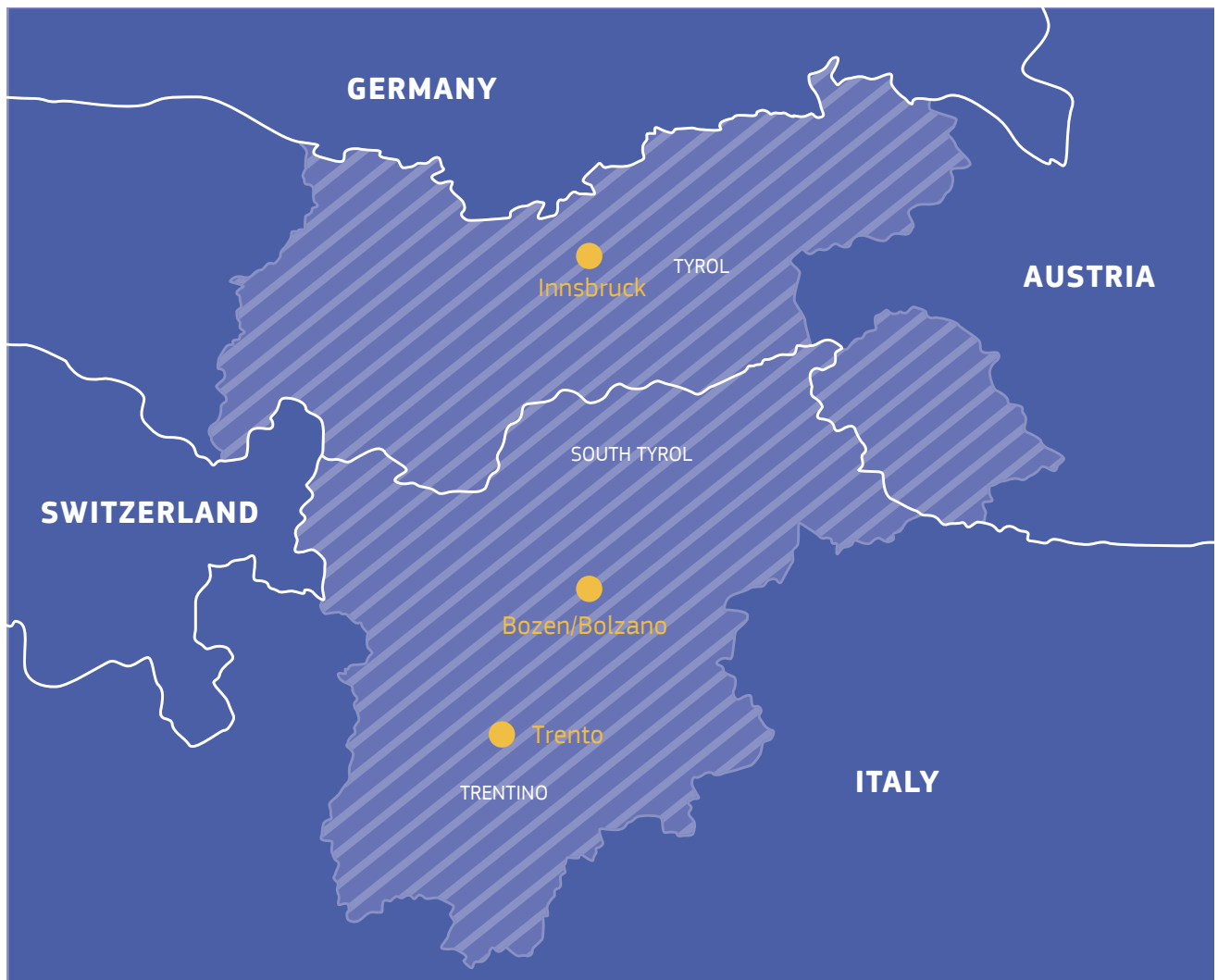
Facilitating youth mobility across borders

ADVISED ENTITY

EGTC European Region Tyrol - South Tyrol – Trentino – IT-AT

EXPERT

Ivan Curzolo



THE CONTEXT

The Tyrol-South Tyrol-Trentino region between Italy and Austria has developed strong ties through cross-border cooperation. In the case of children and youth, the local governments promote opportunities for exchanges in schools and training institutions, with activities such as sport, youth orchestra and summer camp. For minors under 14 years old on the Austrian side, a simple signed declaration from a parent or guardian is sufficient to be able to cross the border unaccompanied by a parent or guardian. However, on the Italian side, the signed authorisation requires additional validation from the police. Cross-border cooperation in areas such as education, culture, sport and leisure for youth under 14 years old is therefore being hindered in the region.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

There are no specific EU rules governing this issue, so it is up to each Member State to decide which type of authorisation is required from parent(s) or guardian(s). The heart of the issue is the need to balance the obligations of Member States to protect minors with the obligations to ensure that minors have access to activities abroad that foster their well-being and development.

While there are different legal and administrative systems governing this topic in Italy and Austria, **the obstacle is caused by the specific administrative requirements in the Italian legal framework.** In this case, **the administrative restrictions, which have been designed to apply on a national scale, do not take into account the particularities of everyday life in a border region:**

- In Italy, according to Art. 14 of Law No. 1185 of 21 November 1967 on passports rules¹, minors under 14 must travel with a parent or guardian, or a signed declaration from them granting the minor permission to travel unaccompanied. This so-called “accompanying declaration” must then be approved by the authority in charge of issuing passports.
- An administrative agreement between the various ministries responsible for this matter, called the Inter-ministerial Circular², which aims to ensure consistency in the issuance of passports in Italy, outlines the procedure to grant permissions under Law No. 1185. The obstacle in this case is partly caused by the need to renew the “accompanying declaration” and obtain police authorisation whenever the minor crosses the border unaccompanied since the declaration is usually limited to one trip (round trip) outside of the country, indicating the destination and with a maximum validity of six months.

ROADMAP TO A POSSIBLE SOLUTION

There are two main solutions to ensure that the legal framework is adapted to the particular nature and everyday reality of cross-border regions:

- **Amendment of Art. 14 of Law No. 1185 of 21 November 1967 in Italy** by the Italian Parliament. Such a revision would maintain the authorisation request but without the need for additional approval by the authorities. A simple declaration by the parents or guardians would suffice.
- **Revision and simplification of the Inter-ministerial Circular by the competent ministries**, to provide greater flexibility. This solution could be implemented more easily than the above-mentioned legal amendment.
 - Since the Circular is an administrative agreement of the executive, it is possible to modify the provisions without having to change the legislation; instead adapting the administrative rules to better reflect the unique situation of minors residing in a cross-border region.

1 Law 21 November 1967, No. 1185, Passport rules, Official Gazette of the Italian Republic No. 314 of 18.12.1967.

2 Inter-ministerial Circular 559/D/PE/3.2./21672/2014, of 20 May 2014 between the Ministry of Interior, the Ministry of Foreign Affairs and the Ministry of Justice.

- While the authorisation procedure seems complex, the revised Circular may offer possibilities to broaden its scope in terms of the validity period. A new model for authorisation could have a longer period of validity and could be used multiple times.
- In the case of formally organised school, cultural or sport activities, such as a child participating in a football league or dance classes, it is understood that the parent or guardian would have already granted permission for their child's participation, therefore replacing the need for an additional specific parental authorisation. However, authorisation by the parent or guardian would still be required in the case of informal or one-time activities that are not regulated through contractual means by an educational, cultural or sport centre. The validity of such authorisation could even be limited to the school period or duration of the specific activity in the case of formally organised activities.

Other relevant cases have been analysed by the expert, which could serve as good practices to replicate. In the United Kingdom, for example, a letter from the parent or guardian is usually sufficient proof that they have permission to take the child or children abroad. In the case of Slovenia and Croatia, a bilateral agreement has been signed between both governments, exempting youth under 15 years of age from having to show proof of a special travel permit when they cross the border into the neighbouring country.

WHAT'S NEXT

The EGTC European Region Tyrol - South Tyrol - Trentino is seeking a solution based on the suggestions in the report to inform the relevant authorities. The EGTC is collaborating at present with other EGTCs affected, with the objective of resolving this limitation to cross-border mobility.

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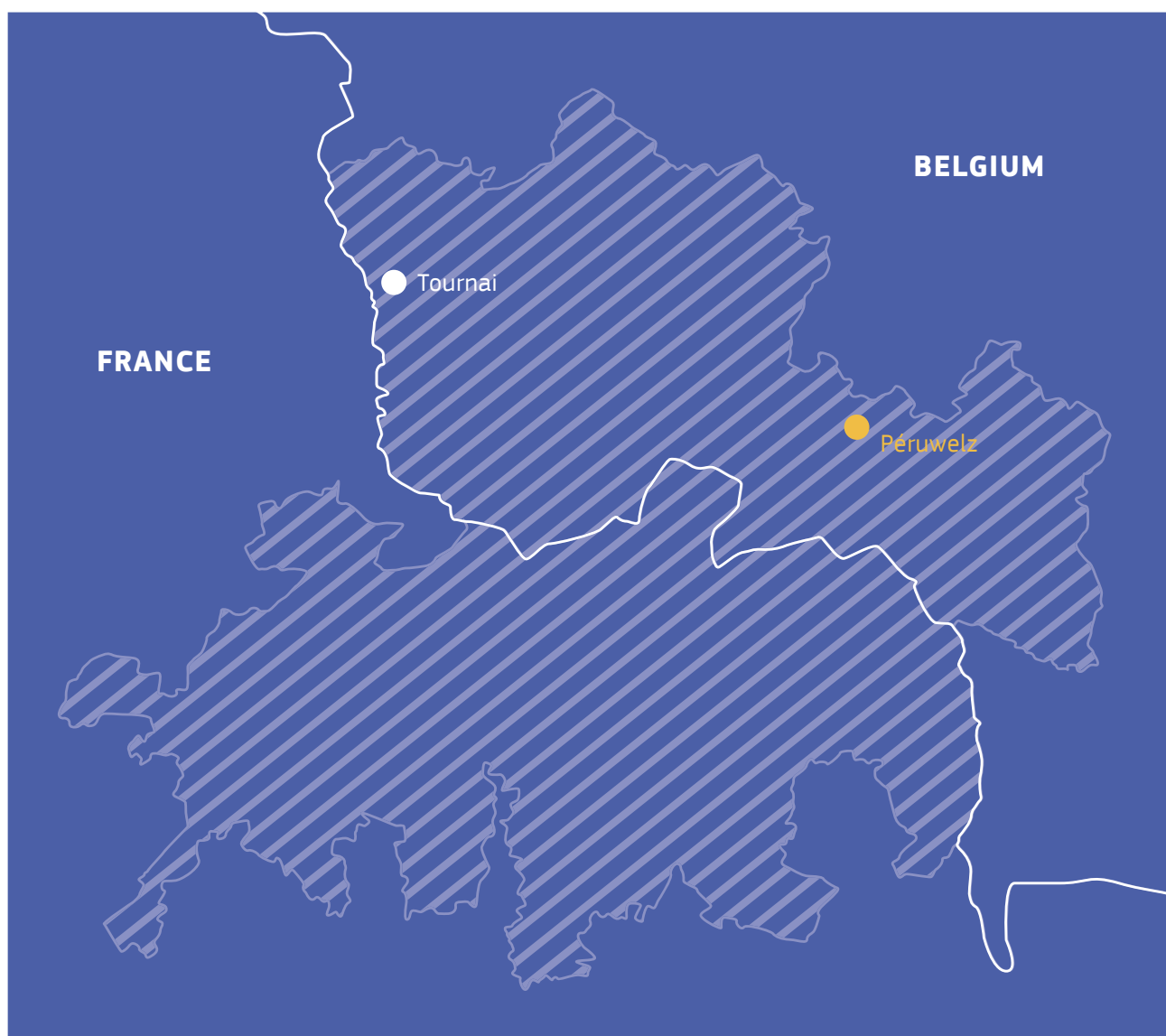
Water governance in European Natural Park of Scarpe Escaut

ADVISED ENTITY

European Nature Park of Scarpe Escaut Plains – BE-FR

EXPERT

Pauline Pupier



THE CONTEXT

The European Nature Park of Scarpe Escaut Plains (ENPPSS)¹ is a recently formed European Grouping of Territorial Cooperation (EGTC) along the border of France and Belgium, tasked with protecting the water resources and ecosystems within the cross-border area. The two countries share the River Escaut (in French) / River Scheldt (in Dutch). The ENPPSS aims to achieve better coordination among the stakeholders involved and establish an effective legal framework to enable cross-border water governance. However, legal and administrative obstacles stand in the way, primarily due to different competences and legislations in this matter between France and Belgium as well as the absence of coordination.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The main obstacle is the **asymmetry of the competent authorities for management of non-navigable watercourses** in the two neighbouring countries, which leads to a **lack of coordination**. A **lack of harmonisation among the Belgian and French legal frameworks** also complicates the joint management of the waterways in the park.

- The international legal framework reveals the institutional weakness of international law regarding watercourse management:
 - The 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)² provides, in addition to dispute resolution, a framework for bilateral river basin management agreements, and has been adopted by both France and Belgium. However, the subsequent 1997 New York Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Watercourses Convention)³, which opens the possibility for bilateral or multilateral “watercourse agreements”, has been adopted by France but not by Belgium, and therefore cannot be applied.
 - France and Belgium signed the Agreement on the Protection of the (River) Scheldt in 1994⁴, establishing the International Scheldt Commission to manage the river basin. However, its institutional structure is considered fragile and in need of stronger political support.
- The EU Water Framework Directive⁵ lays the foundations to develop a river basin management plan between EU Member States by harmonising objectives and mechanisms in this respect, but lacks the specific mention of cross-border contexts.
- There are major differences between the counterpart authorities in each country, with several layers of responsibilities split between national, regional and municipal entities on each side⁶. In France, the departments and municipalities are competent for managing non-navigable water courses, whereas in Belgium, the responsibility lies with the regions, but is further divided between several levels of government determined by the classification of individual sections of the river.

1 The original name in French is “Parc Naturel Européen Plaines Scarpe-Escaut (PNEPSE)”.

2 Adopted by the United Nations Economic Commission for Europe (UNECE) in Helsinki on 17 March 1992, entered into force 6 October 1996, United Nations Treaty Series No. 33207.

3 Adopted by the United Nations General Assembly in New York on 21 May 1997, entered into force 17 August 2014, United Nations Treaty Series No. 52106.

4 Signed 26 April 1994 in Charleville-Mézière by France, the Netherlands and the three Belgian regions.

5 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

6 For a complete list of competent authorities, please see the full report.

ROADMAP TO A POSSIBLE SOLUTION

- It would be helpful to have a **specific legal tool** to allow for the **application of a single legal framework** in the cross-border river area, for a specific period of time and for a specific project. In the absence of such a tool, alternative solutions suggested are:
- **Introduce legal agreements to strengthen cooperation** through international, EU or national law:
 - At the international level, Belgium could ratify the 1997 UN Watercourses Convention. Alternatively, the 1992 Water Convention already provides a framework for bilateral agreements in the management of cross-border river basins. The two countries could sign one or more agreements to jointly manage the ENPPSS waterways, even extending river management to the entire border within a framework agreement.
 - At the EU level, the Water Framework Directive could add a provision adapted to the cross-border context.
 - At the national level, legislation should be amended in a way that it includes cross-border cooperation in the negotiation process of the river basin management plan. In Belgium, the Walloon Water Code⁷ could provide that watercourse managers of neighbouring countries are also included in consultations in the so-called ‘River Committees’. In France, a modification of the Environmental Code and the Water Law N. 92-3 of 3 January 1992 is suggested as an effective solution to modify the procedures.
- **Build on the existing legal and regulatory framework and draft management plans:**
 - The mechanisms of the existing International Scheldt Commission, as an already functioning governance body and a competent authority, should be improved upon and strengthened.
 - The water development and management plans (*Schémas d’Aménagement et de Gestion des Eaux* – SAGE) in France could be revised to include the Belgian stakeholders in the French Local Water Commissions, which could serve as a good practice to be replicated.
 - An international sub-basin management plan could be developed within the scope of the ENPPSS. Art. 13 of the EU Water Framework Directive provides the basis for such plans.
 - On a more local scale, cross-border management plans could be prepared for the sub-basins and rivers of the ENPPSS, potentially first as a pilot project to be scaled up.
- **Establish the ENPPSS as a facilitator** of cross-border water governance and as a neutral actor, to build mutual trust among the stakeholders involved:
 - The EGTC could coordinate meetings or a project to bring all the stakeholders together.
 - With the new INTERREG programming period, the France-Walloon-Vlaanderen programme⁸ could provide an opportunity to encourage mutual learning, exchanges and visits.

WHAT’S NEXT

Regarding the EGTC’s mission to serve as a coordination platform between cross-border stakeholders, two main actions can be highlighted. First, it will continue to organise meetings with the European nature park’s elected representatives to deepen mutual understanding and friendship at the political level. On the other hand, technical workshops will be organised on specific issues, in order to favour transboundary dialogue between French and Belgian managers as well as potentially develop new projects and initiatives.

In late January 2024, the EGTC organised an event (titled “New Year celebration”), which was an opportunity to bring together stakeholders on the issue. This convivial event was a way to celebrate transboundary cooperation with all the stakeholders involved.

⁷ Water Code (coordinated version). Book II of the Environment Code. Walloon Government.

⁸ The Interreg programme aims to boost economic and social exchanges across four border regions in France and Belgium. For more information, visit the website: <https://www.interreg-fwvl.eu/fr/>.



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Cross-border acknowledgement of dealer plates

ADVISED ENTITY
EUREGIO – DE-NL

EXPERTS
Anton Bouwmeister and Marlene Plaß, De Kempenaer Advocaten



THE CONTEXT

In the EUREGIO border area, car dealers, workshops and manufacturers from both Germany and the Netherlands use dealer plates, which are used to test drive or deliver their vehicles across the border. However, the lack of recognition of German dealer plates by the Dutch authorities poses a challenge. Despite EU Commission recommendations to recognise foreign dealer plates and a bilateral agreement in place for this purpose between Germany and the Netherlands, the Dutch legal framework does not include rules on the recognition of foreign dealer plates. This causes difficulties for German car dealers, as these special plates are often confiscated by the Dutch police when vehicles displaying them are brought across the border.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle primarily stems from the lack of implementation of a bilateral agreement by the Dutch authorities and the lack of institutional cooperation between authorities when it comes to recognising dealer plates at the German-Dutch border.

- At the international level, both Germany and the Netherlands are parties to the Vienna Convention on Road Traffic¹, in which Art. 35(1)(a) establishes the free movement of vehicles registered in another signatory country if the driver possesses the relevant registration certificate. It is worth noting that the Convention neither mandates nor allows a signatory country to restrict the free circulation of non-compliant vehicles.
- At the EU level, in 2007 the European Commission issued a communication on procedures for the registration of motor vehicles originating in another Member State², which contains a chapter on the cross-border context. It states that a professional registration plate, or dealer plate, is a legally accepted form of registration when driving a vehicle across borders³.
- At the national level, German dealer plates are not recognised by authorities in the Netherlands:
 - In Germany, Art. 20-22 of the Vehicle Registration Ordinance (*Fahrzeug-Zulassungsverordnung* -FZV)⁴ establishes the requirements for the circulation of foreign vehicles.
 - In the Netherlands, the rules on Dutch dealer plates and registration are found in Art. 38 et seq. Dutch Road Traffic Act - *Wegenverkeerswet*, and Art. 3, 41 et seq. License Plate Regulations – *Kentekenreglement*⁵. However, there is no Dutch legislation on the recognition of dealer plates from other EU Member States.
 - In 2009, the Federal Ministry of Transport, Building and Urban Development in Germany entered into a bilateral agreement⁶ with the Ministry of Transport and Water Affairs in the Netherlands to regulate the cross-border use of dealer plates. According to the agreement, the two countries mutually recognise the use of each other's dealer plates in their territory. However, while Germany has published and codified this agreement, no such publication is found in the Netherlands.

1 Vienna Convention on Road Traffic, , signed at Vienna, on 8 November 1968, entered into force 21 May 1977, United Nations Treaty Series No. 15705.

2 Communication from the Commission - Interpretative communication on procedures for the registration of motor vehicles originating in another Member State, 2007/C 68/04, OJ C 68, 24.3.2007, p. 15–24.

3 The chapter on registration is found in Communication 2007/C 68/04, p. 8, par. 4, and the statement on acceptable forms of registration is found in the same document, p. 9.

4 German Regulation on the admission of vehicles to road traffic of 3 February 2011 (Federal Law Gazette 1 p. 139), as last amended by Article 21 of the Act of 2 March 2023 (Federal Law Gazette 2023 1 No. 56), German Federal Ministry of Justice, Berlin: 3 February 2011, §§ 20-22.

5 Act of 21 April 1994, replacing the Road Traffic Act 1994, BWBR0006622, and Decree of 6 October 1994, implementing the Road Traffic Act 1994, Registration Regulations, BWBR0006951, the Netherlands.

6 Transport Gazette of the German Federal Ministry of Transport, Building and Urban Affairs, Bonn, 31 July 2009, Volume 63, No. 14, Ordinance No. 119, p. 409.

ROADMAP TO A POSSIBLE SOLUTION

- **The solution calls for the Dutch Ministry of Transport and Water Affairs to codify, publish and fulfil the bilateral agreement:**
 - The agreement was confirmed in a series of letters from 2009 between the Dutch and German Ministries, with the Dutch Ministry acknowledging the rules as mutually applying to German dealer plates in the Netherlands⁷. These letters demonstrate the intention to publish and implement the agreement.
 - The Directorate-General of Mobility is the department responsible for this task within the Dutch Ministry.

WHAT'S NEXT

The EUREGIO has sent a letter to the Dutch Ministry of Infrastructure and Water Management outlining the problem and asking the Ministry to follow the recommendations of the experts in the report. This means recognising cross-border dealer plates by codifying, publishing and implementing the 2009 bilateral agreement on dealer plates. The EUREGIO stressed the importance of a solution for border residents facing this problem.

The Dutch Ministry of Infrastructure and Water Management has acknowledged that the situation outlined in the letter is correct and that the agreement with Germany has not been codified or published in Dutch legislation. The Dutch Ministry of Infrastructure and Water Management has already consulted with the German Ministry of Justice and Security on the execution of this agreement. The parties have agreed that the German Ministry of Justice and Security and the national police will be contacted by the Ministry of Infrastructure and Water Management to discuss the execution of this agreement. The Dutch Ministry of Infrastructure and Water Management will keep the EUREGIO informed and more clarity is expected in 2024.



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⁷ For details on the letters dated 11 February 2009, 2 April 2009 and 9 June 2009, please see the full report.

Cross-border supervised driving: Germany and the Netherlands

ADVISED ENTITY
EUREGIO – DE-NL

EXPERTS
Anton Bouwmeister and Marlene Plaß, De Kempnaer Advocaten



THE CONTEXT

Residents in the Netherlands and Germany learn how to drive based on different national requirements. In the border region, driving to the neighbouring country is a common part of everyday life, such as attending school across the border, recreational activities or for entertainment. To familiarise drivers with neighbouring country's traffic laws and driving rules, driving instructors could potentially offer lessons on both sides of the border. However, this is not currently permitted by law in either country. Removing barriers to cross-border driving lessons and improving cooperation between driving schools would help people become more familiar with driving in the neighbouring country, therefore improving mobility and reducing road risks.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

1 The national requirements for the recognition of their profession in the other Member State prevent driving instructors from Germany and the Netherlands from being able to give lessons on both sides of the border.

- Prior recognition: Under Directive 2005/36/EC¹, a driving instructor is a regulated profession within the EU and must meet certain requirements. The qualifications recognition process is carried out on an individual case-by-case basis, in which the driving instructor must contact the competent authority in the other country in order to verify their qualifications. If significant differences exist between the training requirements in each country, the instructor may have to fulfil additional requirements in accordance with Art. 14 Directive 2005/36/EC.
- Recognition between Germany and the Netherlands: In the Netherlands, the competent authority is the IBKI - Examination and certification for the mobility sector (*Examinering en certificering voor de mobiliteitsbranche*), while in Germany, the BMDV - Federal Ministry for Digital and Transport (*Bundesministerium für Digitales und Verkehr*) is the competent authority. If an instructor from Germany wishes to exercise their profession in the Netherlands, they must carry out practical training and submit a 'certificate of conduct' according to Art. 11 General Act on recognition of EU professional qualifications (*Algemene wet erkenning EU-beroepskwalificaties*)². For an instructor from the Netherlands, according to §§ 3, 5 of the Driving Instructors Act (*FahrlG - Gesetz über das Fahrlehrerwesen*)³, the person must take a 'recognition course' (*Anerkennungslehrgang*) along with a theoretical and practical exam.
- Additional national requirements after recognition: There are different rules in Germany and the Netherlands for driving instructors and the vehicles they use, such as the markings on the driving school car and licence plates; all of which lead to additional costs and administrative constraints. Also, the insurance for driving instructors is often limited to only one country.

2 People under the age of 18 cannot drive across the border, even with an accompanying adult, as the rules are not mutually recognised in Germany and the Netherlands.

Therefore, even if a 17-year-old has a valid licence in one country, they cannot drive across the border, which is a limiting factor for residents of the border region. While Germany allows cross-border driving in the neighbouring country of Austria, according to the website⁴ of the ADAC (General German Automobile Association), this recognition does not exist for the Netherlands.

1 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, p. 22–142.

2 Act of 6 December 2007 containing general provisions regarding the recognition of EC professional qualifications (General Act on Recognition of EC Professional Qualifications).

3 Driving Instructors Act of 30 June 2017 (Federal Law Gazette I p. 2162; 3784), last amended by Art. 122 of the Act of 10 August 2021 (Federal Law Gazette I p. 3436).

4 Please refer to the website of the ADAC: <https://www.adac.de/>.

ROADMAP TO A POSSIBLE SOLUTION

- 1 The solution to obstacle 1) lies in improving cross-border cooperation between driving schools.** This way, by allowing driving students to take lessons across the border at a collaborating driving school, better road safety and more secure driving would be possible. This would enable tackling the obstacle without having to change the legislation, which is considered a time-consuming option by the expert.
- 2 The solution to obstacle 2) on age restrictions can be found within the new driving licence (draft) directive published on 1 March 2023⁵,** which provides a common legal framework for the recognition and issuing of driving licences in the EU. In particular, Art. 14 of the directive addresses the concept of accompanied driving for drivers between 17 and 18 years old, which recommends establishing an EU-wide rule for accompanied driving in other Member States. It is worth noting that while this legislation is not yet in place, there is a possibility it may be implemented as of 2025.

WHAT'S NEXT

The advised entity will continue to promote coordination between the different driving schools on each side of the border, and will keep track of any updates regarding the aforementioned draft driving licence directive.



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⁵ Proposal for a Directive of the European Parliament and of the Council on Driving Licences, amending Directive (EU) 2022/2561 of the European Parliament and of the Council, Regulation (EU) 2018/1724 of the European Parliament and of the Council and repealing Directive 2006/126/EC of the European Parliament and of the Council and Commission Regulation (EU) No 383/2012, Brussels, 1.3.2023, COM(2023) 127 final.

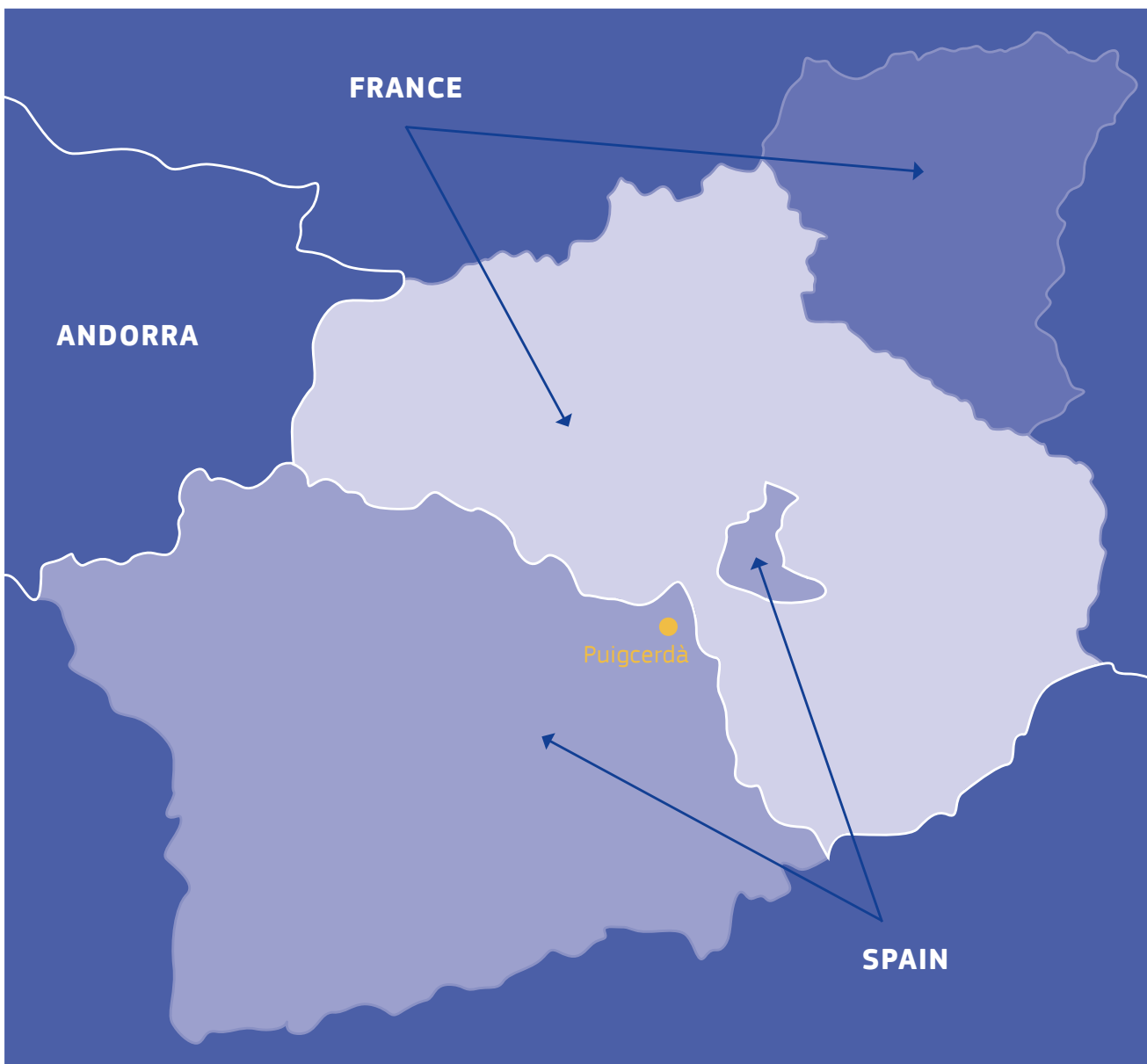
Hiring of cross-border workers with two jobs

ADVISED ENTITY

EGTC Cerdanya Hospital – ES-FR

EXPERT

María Garayo Maiztegui



THE CONTEXT

The European Grouping of Territorial Cooperation - EGTC Cerdanya Hospital in Puigcerdà (Spain) is Europe's first cross-border healthcare centre, jointly managed by the public health services in both France and Spain. French staff at the cross-border hospital are employed by the 'Centre Hospitalier de Perpignan' and are assigned to the Cerdanya Hospital to respond to staffing needs and the growing number of French patients. To ensure that the hospital is properly staffed, it often hires healthcare professionals already working in France on an employed or self-employed basis. However, hiring French employees under a Spanish contract involves a complex and lengthy administrative procedure due to differences in social security contributions between France and Spain. Simplifying the procedure would make it easier to hire cross-border health workers employed in both countries.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

For the Cerdanya Hospital based in Spain, difficulties arise when recruiting French professionals who are also employed in France, as determining which social security law applies must be done on a case-by-case basis.

- The European social security regulations (Regulations (EC) No 883/2004 and (EC) No 987/2009¹) establish the criteria for determining the applicable legislation for affiliation with the relevant social security system. These regulations allow a single legislation to be applied in situations where a professional has multiple jobs in several Member States. However, this makes it difficult to apply a single recruitment model for the hospital.
 - Healthcare professionals residing in France and working for the Cerdanya Hospital are affiliated with social security regimes either in France or Spain, depending on where they carry out a substantial part of their activities and whether they are considered employees, self-employed or civil servants in each country. The hiring process of French workers is thus often complex when dealing with the different employment categories.
- The application of French legislation to the hospital in multi-activity situations: The hospital, as an employer without an establishment in France, faces obstacles when it employs workers affiliated to the French social security scheme due to the EU coordination regulations. Therefore, the hospital is subject to tax obligations under French law, which, as a Spanish legal entity, it is not familiar with.
- European regulations on the choice of law for employment contracts are an additional variable to multi-activity: Due to the principle of free choice of applicable law for private employment contracts according to Regulation (EC) No 593/2007 (Rome I)², the hospital can hire French professionals subject to Spanish law, even if they work exclusively in France. However, the contract cannot exclude the rules of French law on mandatory social protection.
- There are limited resources to deal with the complexity of cross-border hospital management in an incomplete cooperation framework: In the absence of a bilateral legal instrument, the identified legal and administrative obstacles complicate the hospital's management from a practical point of view.
 - The hospital is also faced with a shortage of healthcare personnel and capacities as a result of these obstacles.

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1–123; Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1–42.

2 Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008, p. 6–16.

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INSTITUTIONAL COOPERATION



ROADMAP TO A POSSIBLE SOLUTION

- **Legal and administrative solutions:**
 - To further define the scope and modalities of service provision by French professionals in the hospital's management model. This would make it easier to identify the scope of the hospital's obligations and further advance the legal implementation of the model.
 - A bilateral agreement could be signed on the basis of the provisions of the Treaty of Friendship and Cooperation between France and Spain³, allowing for a derogation from the EU social security coordination regulations according to Art. 16(1) Regulation (EC) No 883/2004. The criteria for determining the legislation applicable to health professionals practising simultaneously in both public health systems could be better defined, also simplifying the administrative procedure between the competent authorities.
- **Operational solutions:**
 - To develop a model employment contract for French health professionals working exclusively in France: The model contract should align with French legal requirements concerning employer obligations and mandatory social protection for French employees.
 - To promote dialogue between the competent authorities of the social security systems: In particular, the General Treasury of Social Security (*Tesorería General de Seguridad Social* –TGSS) in Spain and the Organisations for the Collection of Social Security and Family Benefit Contributions (*Unions de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales* –URSSAF) in France are the relevant authorities for the recruitment of professionals. In addition to fostering greater collaboration, solutions can be found to simplify procedures.
 - Appoint a representative in France to manage the social and tax obligations of employees whose affiliation is governed by French law. This operational measure is common among private entities operating in several Member States and has the advantage of providing expertise in French social and tax law to prevent legal non-compliance or administrative sanctions. It would also reduce the workload for the hospital's human resources team.
 - To develop an information tool to manage human resources at the hospital, addressing the social security, labour and fiscal systems of health professionals. The tool could be in the form of a guide or manual to assist the human resources team as well as cross-border healthcare professionals, for example, as part of a welcome pack for new hires. It could also help with the systematisation and integration of the recruitment procedures.

WHAT'S NEXT

To implement the solutions, two lines of work are envisioned that can be carried out in parallel: one involves preparing the above-mentioned guide or manual, while the other focuses on aligning the procedures of social security entities with the Cerdanya Hospital's operational rules.

After having received the final report of the *b-solutions* case, the advised entity is currently receiving assistance from an expert at the Cerdanya Hospital to help implement several of the solutions proposed. With this support, the aim is to resolve the obstacles autonomously through the new knowledge and tools, with the option of formalising internal materials and making them available to staff, who will contribute to creating action protocols.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/140_Report_EGTC-Cerdanya-hospital_Garayo.pdf

3 Treaty of Friendship and Cooperation between the Kingdom of Spain and the French Republic of 19 January 2023.



Cross-border Public Services

Legalise border crossings for French-Spanish rescue services

ADVISED ENTITY

Departmental Fire and Rescue Service of Pyrénées-Atlantiques (SDIS64) – FR

EXPERT

Maria Garayo Maiztegui



THE CONTEXT

Along the border in the autonomous communities of Aragon, Navarre and the province of Gipuzkoa (Spain) and the department of Pyrénées-Atlantiques (France), an initiative known as ALERT was launched by the relevant authorities in charge of fire prevention, firefighting and rescue services in order to prevent and combat natural disasters and risks to people, property and the environment. The initiative was financed by the Interreg POCTEFA programme¹ in the area of civil protection and emergencies but has not been fully implemented due to several obstacles.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The current legal situation does not offer the ALERT project a legal framework that is adapted to the development of cooperation agreements. The root causes are regulatory and organisational in nature:

- There are **different legal and organisational models of civil protection in each country**, depending on the territory and specific technical criteria.
 - On the Spanish side, different territorial entities at regional and provincial level are competent for prevention, coordination and intervention in civil protection. On the French side, there is no counterpart to the territorial authorities, but the responsibilities for civil protection are exercised by an atypical public law body (SDIS 64).
- An **insufficient regulatory framework on rescue assistance** along the French-Spanish border area, which must be further developed in order to properly manage everyday risks.
 - The Perpignan Convention on civil protection and security between France and Spain² and an Administrative Agreement specifying it with regard to emergency assistance and aid in border areas³ exclude everyday risk management from their scope of application. Even though this does not prevent the fire and rescue services from cooperating across borders in the event of a fire in practice, the lack of a sufficient regulatory framework leads to uncertainty among the competent authorities as to which procedures for communication or joint management apply.
- A **regulatory framework for cross-border cooperation that lacks the appropriate instruments** for the level of coordination and management required by the local entities.
 - The Perpignan Convention allows for the conclusion of cooperation agreements within the framework of the Bayonne Treaty⁴. However, this Treaty limits the scope of bodies authorised to implement such agreements to local authorities. Other public law bodies, which are not local authorities – such as the French SDIS 64 – are excluded. Thus, **the ALERT project does not have a legal framework that permits the development of necessary cooperation agreements.**

ROADMAP TO A POSSIBLE SOLUTION

The three key proposals are centred around legal, administrative and general coordination:

- **Legal:** It is necessary to modify or complete the legal texts that are currently limiting cooperation.
 - An amendment to the Treaty of Bayonne⁵ would be required to enable other public legal bodies, which are not local authorities, to sign cross-border cooperation agreements.
 - Within the scope of the ALERT project, the competent authorities should conclude local cooperation agreements in order to complete the insufficient legal framework of the Administrative Agreement on emergency assistance along the Spain-France border.

1 POCTEFA is a European programme to promote cooperation in the Spain-France-Andorra border area. For more information: <https://interreg.eu/programme/interreg-spain-france-andorra/>.

2 Treaty between the French Republic and the Kingdom of Spain on civil protection and security, signed at Perpignan on 11 October 2001, UNTS No. 39485.

3 Administrative agreement between Spain and France on assistance and emergency aid of border areas, signed at Málaga on 20 February 2017.

4 Treaty on transfrontier cooperation between territorial communities, signed at Bayonne on 10 March 1995, United Nations Treaty Series No. 33640.

5 The Karlsruhe Agreement on cross-border cooperation between territorial authorities and local public bodies in France, Germany, Luxembourg and Switzerland of 23 January 1996 serves as a template for this proposal.

- **Administrative:** Administrative solutions are required to create a solid framework to foster institutional and technical cooperation between the relevant entities.
 - The creation of a cross-border forum or platform is recommended, initially focused on the planning, coordination and intervention of emergency prevention, firefighting and rescue services. Participants would include government entities at all levels working in this area, in order to formulate joint proposals and initiatives and share best practices.
 - Such a forum, initially without legal personality, could legally evolve towards establishing a European Grouping of Territorial Cooperation (EGTC), depending on the level of commitment, objectives and cooperation.
- **General:** A Memorandum of Understanding (MoU) could be put in place to support a roadmap outlining the objectives and actions of cooperation between the different prevention, firefighting and rescue services.
 - The MoU should define the actions to be implemented in each entity, indicating the operational practices and protocols. This type of agreement is not legally binding, but rather facilitates a spirit of cooperation and ensures smooth operational coordination until the current legal framework is developed.
 - Examples of actions in the roadmap include risk mapping, identifying available human and technical resources, and developing a procedural manual.

WHAT'S NEXT

In anticipation of the new Spanish political landscape following the elections in June 2024, the advised entity is currently working on drawing up a framework agreement and an operational protocol between the Pyrénées - Atlantiques department and the Autonomous Community of Aragon. The aim is to organise a meeting between the Spanish government (DGPC) and the French government (DGSCGC) to present the approach aimed at filling the gaps in the legal texts in order to establish cooperation between French and Spanish emergency services. This will enable the advised entity to draw up operational protocols based on a regulatory framework, initially with Aragon, and followed by the other Autonomous Communities in Spain.



© SDIS64, Pictures of French and Spanish firefighters working together during a project, 2022



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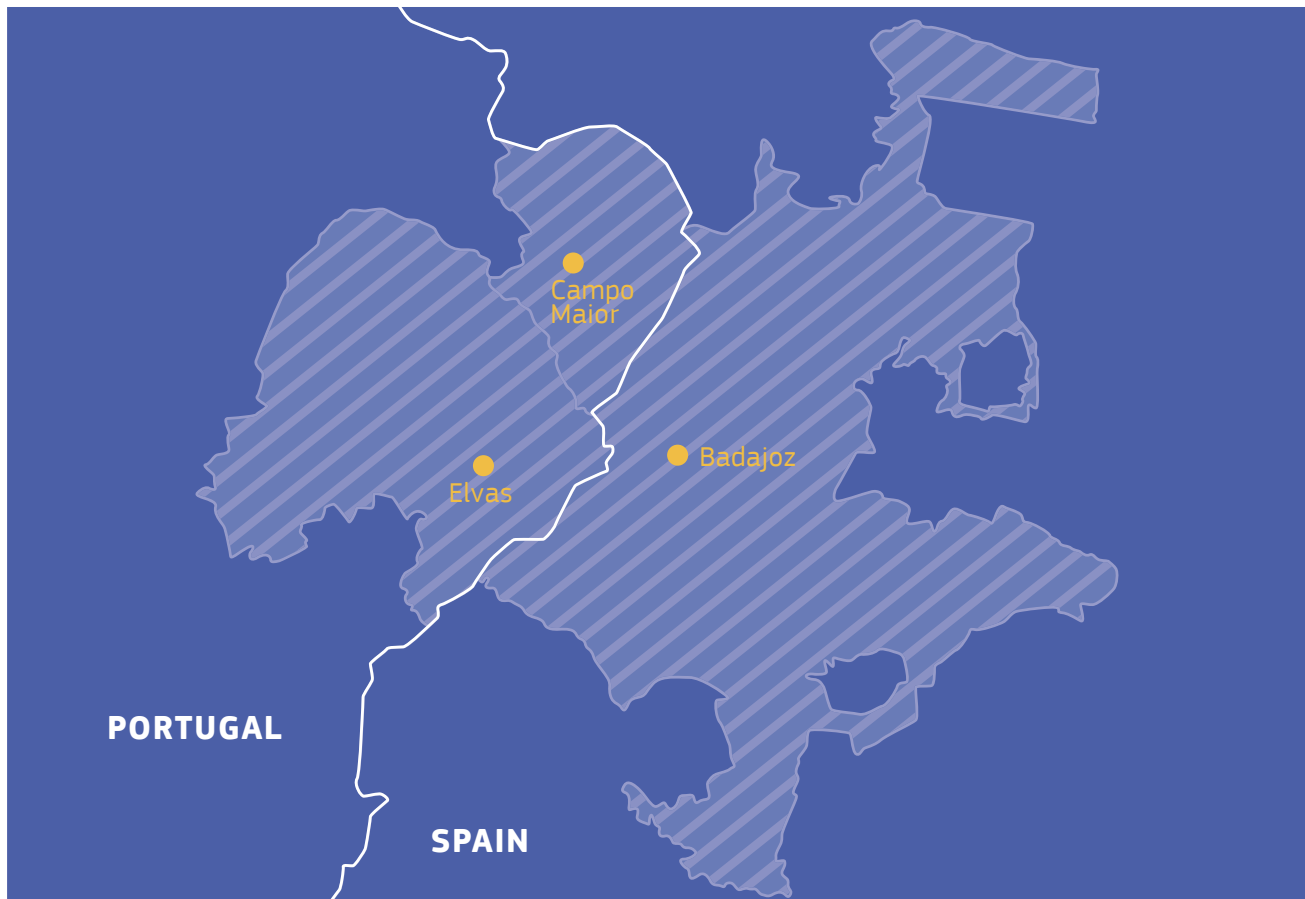
Health service

ADVISED ENTITY

EUROBEC – ES-PT

EXPERT

Amparo Montán Montesinos



THE CONTEXT

Cross-border coordination on health services is a priority for the EUROBEC Eurocity, comprising the municipalities of Badajoz in Spain, and Elvas and Campo Maior in Portugal. On the Spanish side, Badajoz offers large hospital facilities, while on the Portuguese side, the existing facilities do not cover certain health or emergency services. Rather than having to travel long distances to access such services in other Portuguese cities, many patients in Elvas and Campo Maior prefer the close proximity of facilities just across the border in Badajoz.

While Portuguese patients are never refused treatment on the Spanish side, there are gaps in the current legal framework and administrative requirements that must first be addressed for more efficient cross-border healthcare.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

- **Portugal and Spain have committed to working closely together to facilitate cross-border access to healthcare services**, as expressed in two international agreements: the Framework Agreement on Cross-Border Healthcare between Spain and Portugal of 2009¹ and a new Treaty of Friendship and Cooperation between Spain and Portugal of 2021². However, **the current legal framework in the two countries makes it difficult to follow through on this commitment**.
- At the EU level, Directive 2011/24/EU³ guarantees patient mobility and facilitates access to healthcare services outside of their Member State, while recognising the particularities of border areas. While the Directive has been transposed into national legislation in both Spain and Portugal, a harmonised cross-border health system still does not exist in terms of:
 - Patients' mobility: A Portuguese citizen must deal with administrative formalities in order to receive planned treatment in Spain, including obtaining prior authorisation and paying for treatment in advance.
 - Coordination of facilities: There is no official coordination or legal system to enable cooperation among health centres and professionals. Gaps in the regulatory framework prevent mutual access to patients' data, which is necessary to improve coordination between the health units in the two neighbouring countries.
 - Health professionals' mobility: To recognise qualifications, authorities in both countries require professionals from the other side of the border to join their regional medical registries, which is a time-consuming process.

ROADMAP TO A POSSIBLE SOLUTION

- While the existing legal framework serves as the foundation for a solution, **additional protocols between Portugal and Spain are needed to close legal gaps**.
 - An example of a good practice in cross-border healthcare cooperation was a former protocol on support for pregnant women, in force between 2003 and 2016, covering patients' mobility, invoicing and pricing, and setting clear procedures⁴.
- **The conclusion of such cooperation agreements is in the spirit of the commitment to cooperate**, as provided for in the Framework Agreements and the Treaty of Friendship, and is also explicitly provided for in Article 10 of Directive 2011/24/EU:

1 Framework Agreement on Cross-Border Healthcare between Spain and Portugal, signed 22 January 2009, entered into force 24 April 2010.

2 Treaty of Friendship and Cooperation between Spain and Portugal, signed 28 October 2021, entered into force 11 May 2023.

3 Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare; it complements Regulation (EC) No 883/2004 and its implementing Regulation (EC) No 987/2009.

4 Technical Protocol for Health Care for Pregnant Women from the municipality of Elvas (Portugal), by the Health Services of Badajoz (Spain) of the Health Department of Extremadura (May 2006). Details on this protocol can be found in the document: <https://www.sanidad.gob.es/lfr/pnc/pdf/ExperienciaASTExtremadura.pdf>.



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- Patients' mobility: Eliminating the requirement for prior authorisation for planned health treatments and the payment/reimbursement system in national legislation, as allowed by Directive 2011/24/EU, would be the first step. In addition to practical matters such as applicability of health cards from both countries in the EUROBEC region, a protocol should establish which authority will pay for health services and the invoicing procedure to be used.
- Coordination of facilities: Mutual access to patients' health data and direct contact among health professionals would enable better coordination, through the establishment of a cross-border protocol for data exchange.
- Health professionals' mobility: Another protocol should regulate the mutual recognition of qualifications for health professionals listed in the regional registries in each country.
- **The Interreg Cross-border POCTEP Programme⁵ also offers possibilities for EUROBEC that can be useful to achieve the conclusion of protocols**, specifically with regard to the following objectives:
 - Interreg Specific Objective-ISO1 action b, which aims to resolve legal and administrative obstacles in fields such as health. EUROBEC could submit a project proposal with the objective of signing a protocol to solve cross-border obstacles within the scope of this Objective.
 - Specific Objective 4.5, which focuses on ensuring equal access to health services and includes a wide range of potential actions, could serve as the basis for a protocol for cooperation on topics such as new cross-border service models, professional certification, etc.

WHAT'S NEXT

Whichever path EUROBEC chooses to embark on, synergies should be sought with other cross-border bodies and initiatives facing the same obstacles to further strengthen cooperation on this issue.

TO LEARN MORE



⁵ The Interreg POCTEP Programme 2021-2027 aims to boost cross-border cooperation between Spain and Portugal. For more information, visit the POCTEP website: <https://interreg.eu/programme/interreg-spain-portugal-poctep/>.

https://www.aebr.eu/wp-content/uploads/2023/12/95_Report-Eurobec-Amparo-Montan.pdf

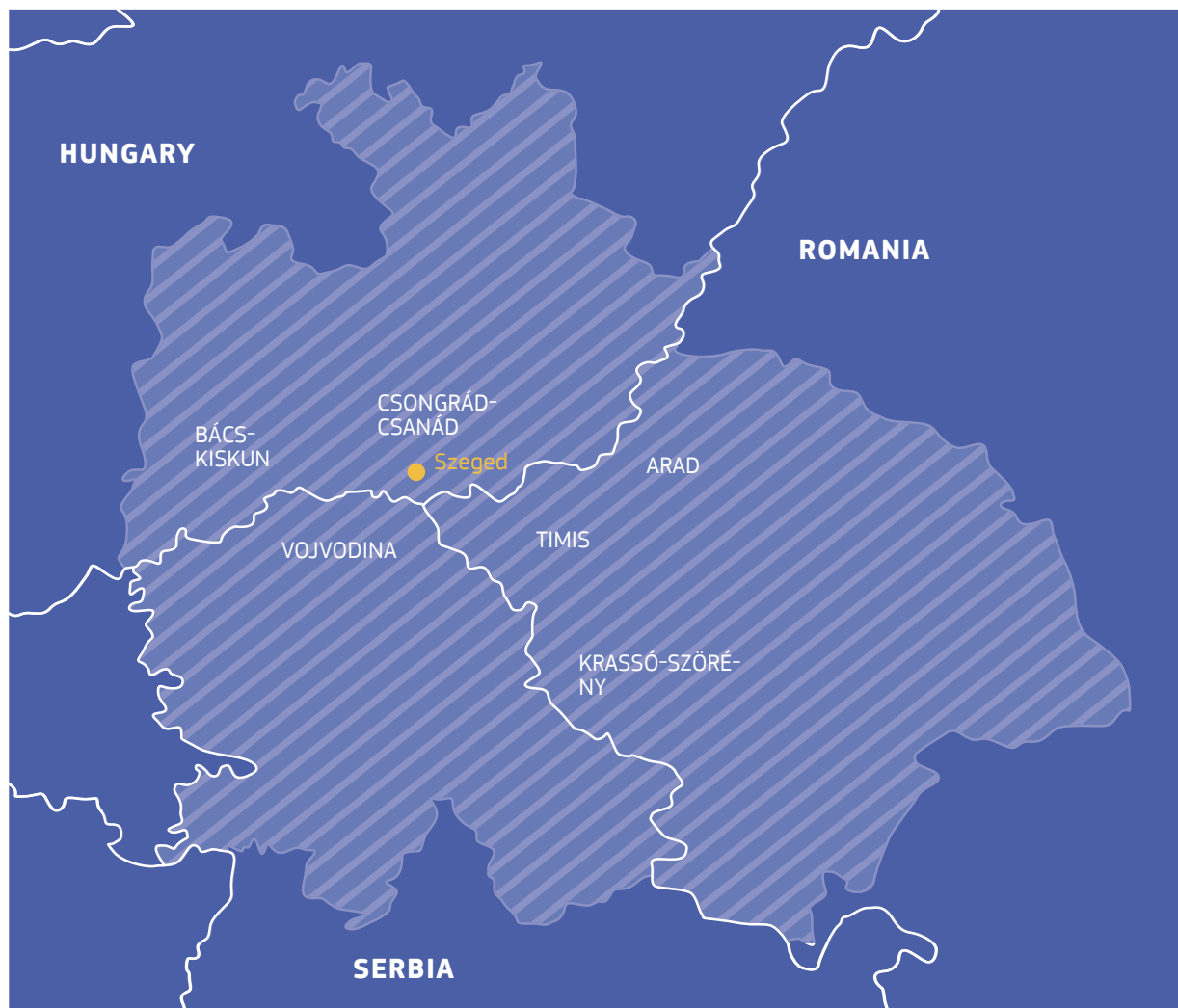
Ambulance service across the Schengen border

ADVISED ENTITY

Danube-Kris-Mures-Tisa Euroregion – HU-RO-RS

EXPERTS

Norbert Jankai, Central European Service for Cross-Border Initiatives (CESCI) with the external support of Melinda Benczi, Enikő Hüse-Nyerges, Gyula Ocskay (CESCI), Ervin Erős (CESCI Balkans) and Siegfried Weinert (NOTRUF, Niederösterreich)



THE CONTEXT

Emergency cross-border rescue and transport in the Danube-Kris-Mures-Tisa (DKMT) Euroregion is hindered because, while Romania is an EU Member State, Serbia is not, and neither is part of the Schengen area. This results in the need for border controls when entering Hungary, a Schengen member country, which is highly problematic for transfers of critically injured patients. There are currently no cross-border emergency rescue agreements established between these three countries. Additionally, there are differences in the legal and administrative aspects of ambulance services, as well as language barriers. Therefore, establishing an international agreement among Hungary, Romania and Serbia could help overcome these obstacles and improve cross-border integration of emergency services in this Euroregion.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

- **Cross-border medical emergency care services between Hungary, Romania and Serbia are hindered by the rules governing the external Schengen borders.**
 - At EU level, the Schengen Borders Code¹ determines the rules for people's movement across borders. As both Romania and Serbia are outside the Schengen zone, efficient cross-border transport of patients is limited.
 - While bilateral agreements for external Schengen borders exist for disasters, they are limited to ad-hoc interventions and lack provisions for a permanent emergency service.
- **Border checks, authorisations and, in the case of Serbia, customs controls cause delays in emergency interventions.** Border checks cannot be avoided even when transporting patients in critical condition.

In addition, obstacles also arise from differences in national systems for cross-border emergency services. These differences include national rules on licences, language and communication variances, operational and financial issues, and varying conditions of the equipment and vehicles used, among other concerns.

ROADMAP TO A POSSIBLE SOLUTION

- **Concluding a trilateral agreement** between Hungary, Serbia and Romania could help overcome the obstacles to cooperation:
 - The Schengen Borders Code allows for derogations, especially regarding saving lives (as established in Art. 20(1)(g) and Annex VII). Such a derogation could be initiated through a trilateral agreement.
 - Following a workshop held with the participation of the ambulance and emergency services from all three countries, a trilateral framework agreement would establish permanent cross-border emergency care services in the DKMT Euroregion². The agreement should address key issues such as protocols and legislation. The next steps for financing and capacity planning should be discussed within the relevant working groups.
 - The details for the application of the trilateral agreement (e.g., ways of communication, modes of cooperation between healthcare centres) should be regulated in regional-level contracts.
- **Examples of good practices were identified to model the new agreement on:**
 - The Austrian-Czech cross-border emergency care agreement of 2016, which has established a coordinated emergency response system that unifies the rules and protocols³, overcomes language barriers and chooses which national standard to apply in any given situation.

1 Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1–52.

2 See the original *b-solutions* report for the complete text of the proposed agreement.

3 For details on this emergency system, visit the website: <https://notrufnoe.com/>.

- Solutions at EU regional level: The Christoph Europa cross-border aerial rescue system and the EMRIC (Euroregion Meuse-Rhine Incident Control and Crisis Management)⁴ should be analysed as good examples of successful cross-border emergency care systems implemented by Euroregions.

WHAT'S NEXT

After the General Assembly of the Danube-Kris-Mures-Tisa Regional Cooperation in May 2023, members of the DKMT Euroregion discussed the draft text of the trilateral agreement. The emergency services operating in the Danube-Kris-Mures-Tisa Euroregion finalised the draft agreement during personal and online meetings, aligning it with the technical language, terminology, and legal systems of Hungary, Romania and Serbia. The next step involves the acting president of the Danube-Kris-Mures-Tisa Regional Cooperation, who will send the draft agreement to the relevant ministries of the three countries to initiate trinational negotiations.



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TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/108_EDITED_Report_CESCI_DKMT-1.pdf

⁴ For details on these initiatives, visit the Christoph Europa website at <https://luftrettung.adac.de/> and the EMRIC website at <https://www.emric.info/en>.

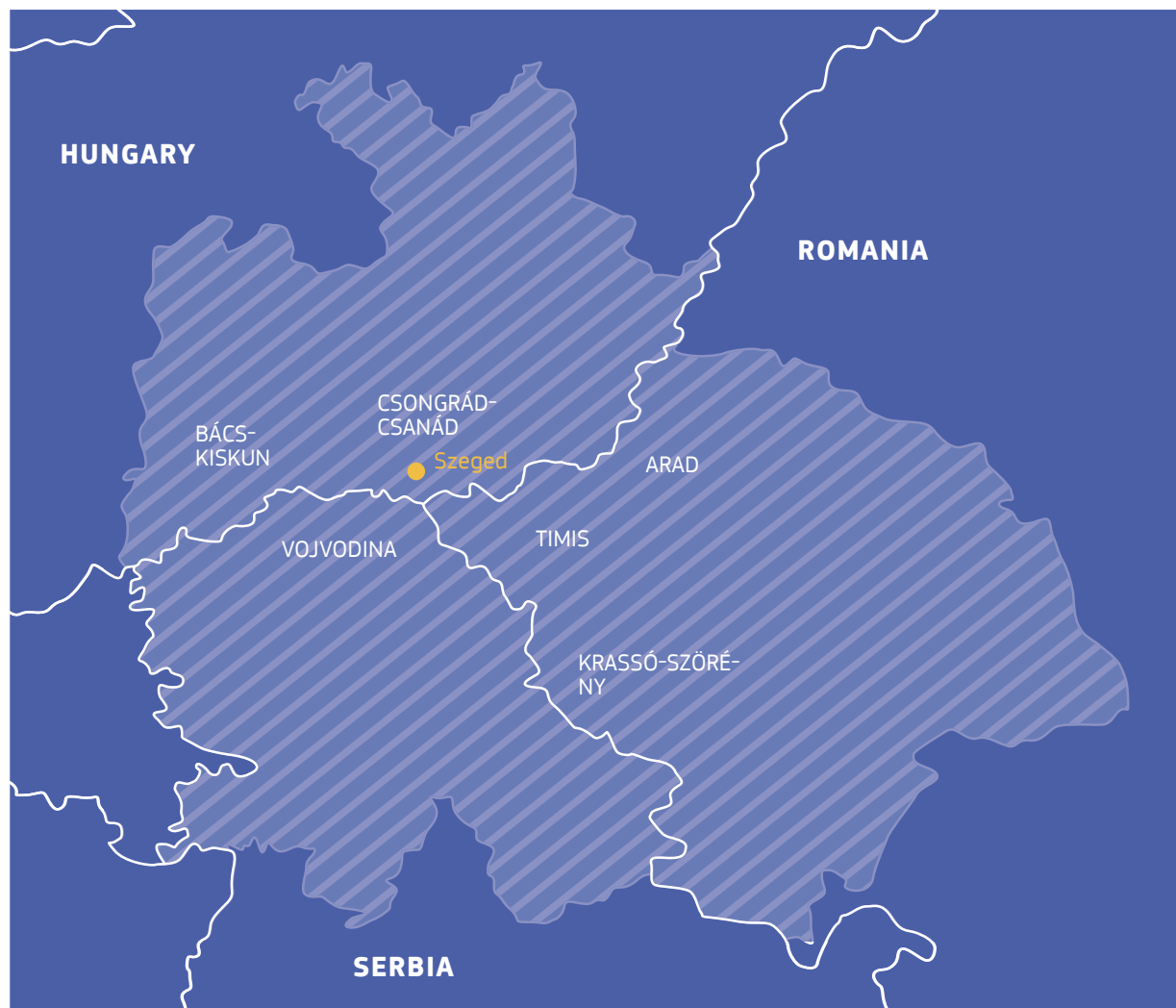
Cross-border health insurance in the DKMT Euroregion

ADVISED ENTITY

Danube-Kris-Mures-Tisa Euroregion – HU-RO-RS

EXPERTS

Petra Wilson and Anett Molnar, Health Connect Partners



THE CONTEXT

In the Danube-Kris-Mures-Tisa (DKMT) Euroregion, the different health insurance systems in Hungary, Romania, and Serbia are a barrier to cross-border healthcare services. Patients often cannot access timely and adequate care in nearby hospitals across the border due to insurance limitations, even if those hospitals are closer in distance. Sharing a border with a non-EU country is also an obstacle due to the differing national healthcare rules. Local solutions are therefore required to optimise capacities and enhance cooperation between authorities and healthcare providers.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The complex EU Regulations and the different national health systems present an obstacle to cross-border healthcare.

- **While EU Directive 2011/24/EC¹ and Regulations 883/2004 and 987/2009² grant EU citizens the right to cross-border healthcare and reimbursement within limits, fully exercising these rights is a challenge in the DKMT region.**
- As both Hungary and Romania are EU members, EU laws for cross-border healthcare apply. However, since Serbia is an EU candidate and not yet a member, international agreements are applicable instead. While bilateral agreements between Serbia and its neighbouring EU countries address certain aspects of healthcare, these agreements are limited compared to the EU legislation applicable in the Member States.
 - Agreements exist between Serbia and Hungary³ and Serbia and Romania⁴ for coverage of unplanned care and the right to healthcare for cross-border workers and their families.
 - Despite these agreements, national implementing laws create further administrative hindrances, for example additional forms and certificates are required for Serbians receiving healthcare in Hungary and Romania and vice-versa, and digital application is not possible.
- Common limitations were also identified: In general, reimbursements for medical care received across the border only cover part of the costs due to the differing national fees. Border residents also have difficulties accessing care in a timely manner, as local healthcare providers face staffing shortages and financial constraints. Requirements for prior authorisation also vary by country.

ROADMAP TO A POSSIBLE SOLUTION

The overall objective is to develop a pilot cross-border health insurance card in the DKMT Euroregion by implementing a tool-kit of solutions:

- **Adopt an agreement (or multiple agreements) between Hungary, Romania and Serbia** for customised healthcare procedures, fees and reimbursement processes within the region, which could be based on the examples in other border regions:
 - Create agreements for cross-border healthcare cooperation to provide residents of the DKMT Euroregion with equal access to healthcare services across the border, based on the example of the Zone Organisée d'Accès aux Soins Transfrontaliers (ZOAST⁵).

1 Directive (EU) No 2011/24 of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45-65.

2 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123, and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1-42.

3 Act No CCXXXIV of 2013 on the Promulgation of the Agreement on Social Security between Hungary and the Republic of Serbia.

4 Agreement between the Republic of Serbia and Romania on social security, Belgrade, 28 October 2016.

5 ZOASTs are agreements for cross-border healthcare cooperation across Europe, which allow for the pooling of resources and techniques to provide accessible care within a defined legal zone, without administrative or financial hurdles. For examples, see the website: <https://www.ofbs.org/cooperation-franco-belge/zoast/>.



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- A framework agreement based on the example of the MOSAR agreement of 12 June 2019 between local authorities in France and Germany, which allows patients residing in border regions to access specific healthcare services without additional administrative procedures.
- **Implement a user-friendly regional health insurance card**, complementary to the existing European Health Insurance Card (EHIC), to expand access and reduce the administrative burden. Examples of good practices with digital insurance cards in other EU border regions include:
 - National health cards for cross-border care in the Grande Region on the Belgian-French border⁶, in which French social security card readers have been installed in Belgian institutions for French patients.
 - Cross-border health card in the Meuse-Rhine Euroregion on the German-Dutch border⁷, jointly implemented by two national insurers and similar to the EHIC card. Patients can access certain healthcare services from previously identified healthcare providers without requesting prior authorisation, as well as reimbursements.
- **Draw inspiration from the ‘Guide de Mobilité’, an online information tool⁸** implemented in the Upper Rhine French-German-Swiss border, to inform patients of their rights and assist them. It provides patients with a simple downloadable tailor-made healthcare guide.
- **Customise reimbursements to meet specific local needs:**
 - The first step would be to establish a specific DKMT insurance care package to cover services aligned with each Member State’s healthcare system.
 - Full reimbursement of the basket of care services would be ideal for cross-border patients, without having to pay upfront under the pilot DKMT health insurance card. Member States could establish uniform or similar fees especially for the cross-border region.
 - Each country’s capacity and resources for providing treatment should be taken into account so as to avoid overburdening the national healthcare systems.
- **Integrate digital health solutions into cross-border care:** By incorporating European electronic health record solutions, such as eHDSI⁹, the DKMT Euroregion could base its pilot card on processes used by insurers and healthcare providers. This way, the region could ensure compatibility with national and European IT systems.

WHAT’S NEXT

During the implementation of the *b-solutions* project, the contracted experts provided useful information, both online and in person, with regard to how the cross-border health insurance activity could be launched in the DKMT Euroregion. Inspired by the completed study, the DKMT Euroregional Development Agency submitted a project proposal to the ROHU Interreg programme, to lay the foundations for cross-border health insurance cooperation.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/111_Report_DKMT_HCP.pdf

⁶ For more information, see: https://health.ec.europa.eu/system/files/2022-02/crossborder_patient-mobility_frep_en.pdf.

⁷ To learn more, see: <https://op.europa.eu/en/publication-detail/-/publication/044cf274-b97f-11ed-8912-01aa75ed71a1>.

⁸ For more information, see: <https://www.trisan.org/english>.

⁹ eHDSI is an EU-developed cross-border infrastructure for maintaining healthcare continuity when European citizens travel within the EU. It enables secure, efficient, and interoperable health data exchange between EU countries; more information can be found here: https://health.ec.europa.eu/health-digital-health-and-care/electronic-cross-border-health-services_en. The European Commission’s proposal for a corresponding European Health Data Space (EHDS) Regulation is still pending due to ongoing negotiations in the European Parliament and the Council. See here for more details: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0197>.

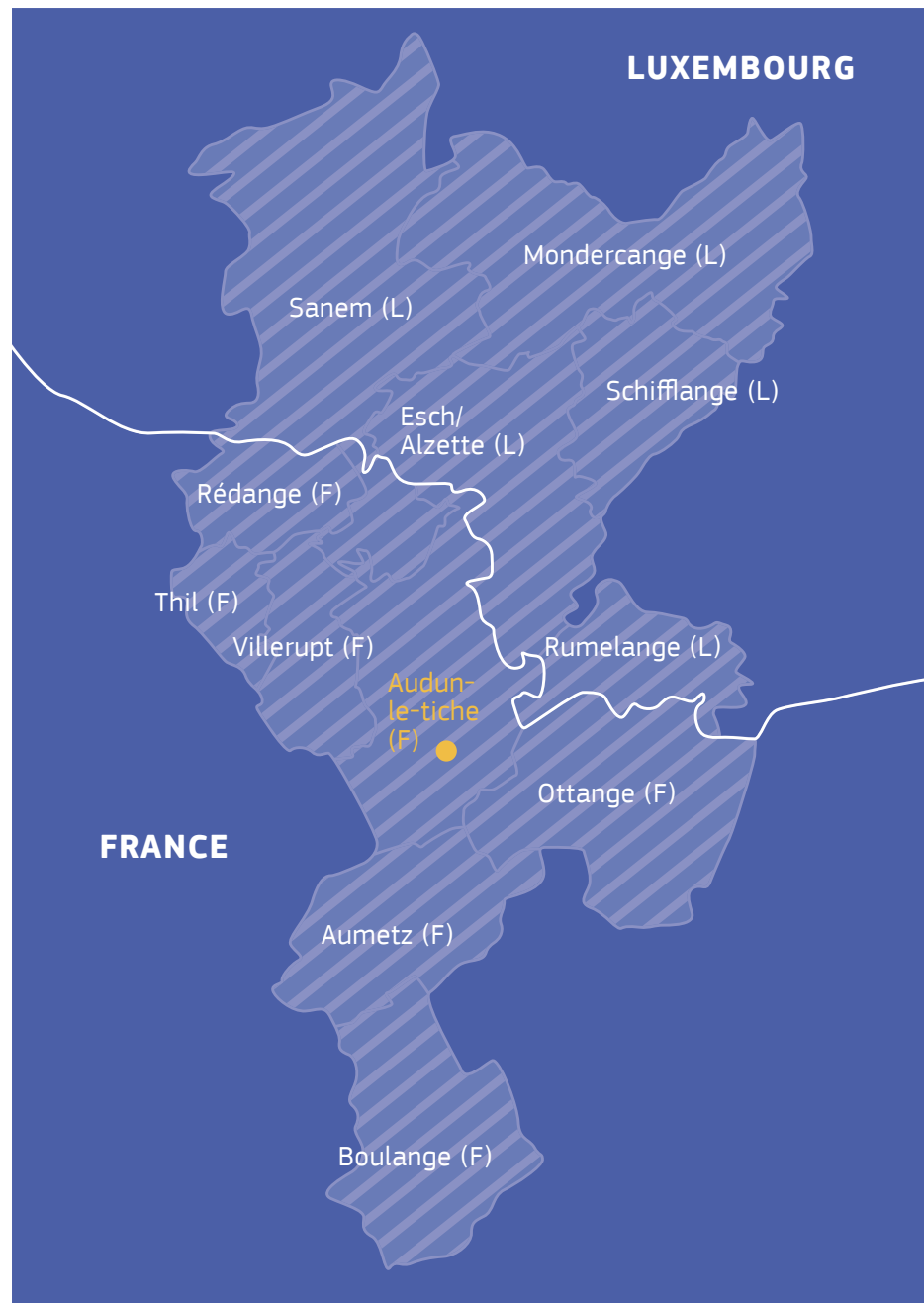
Healthcare follow-up and hospitalisation at home

ADVISED ENTITY

EGTC Alzette Belval – FR-LU

EXPERTS

Petra Wilson, Isabelle Andoulsi and Anett Molnar, Health Connect Partners





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Landscape of Alzette Belval
© EGTC Alzette Belval



THE CONTEXT

‘Hospital at Home’¹, including palliative care, is a well-established healthcare concept in France which allows patients in France to continue treatment at home following hospitalisation, in which a team of hospital nurses or an independent nursing service assists the patient with all the necessary equipment and in close consultation with the attending physician. For French patients in the Alzette Belval region, the nearest hospital is in the neighbouring country of Luxembourg. However, several legal obstacles are preventing these patients from receiving continued care at home in France after being hospitalised across the border.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

There are three main legal obstacles, primarily stemming from EU and national legislation:

- **It is unclear if EU legislation on cross-border healthcare includes ‘Hospital at Home’:** Among other EU Regulations², Directive 2011/24/EU on Cross-Border Healthcare³ guarantees as a general rule the full reimbursement of costs for healthcare services that EU citizens and residents receive in other EU Member States. However, there are certain exemptions to the full reimbursement under this Directive, in particular long-term care services are excluded under Art. 3 and Recital 14 of the Directive. It is unclear whether home hospital care must be considered long-term care and is therefore also excluded or whether ‘Hospital at Home’ could potentially be classified as a medical service, which is indeed covered. **This uncertainty in the legal interpretation of the exclusion leads to practical difficulties for patients.**
- **Neither EU nor national legislation contemplates the mobility of healthcare professionals** crossing the border to provide home care, since the concept of cross-border healthcare only includes a scenario in which the patients themselves travel to another country to receive care. Therefore, ‘Hospital at Home’ care services cannot be prescribed by a physician in Luxembourg for a patient living in France.
- **‘Hospital at Home’ is not in the Luxembourg care pathway and reimbursement nomenclature:** Directive 2011/24/EU establishes that healthcare may be accessed or reimbursed in another EU Member State if it falls within the definition of health services covered in the patient’s home country.
 - ‘Hospital at Home’ is a common concept in France but is not covered by public health insurance in Luxembourg, which makes it difficult for a French patient to apply for reimbursement from a Luxembourg health insurance provider.
 - There is no common terminology used between France and Luxembourg for this type of care, nor is it defined in the healthcare nomenclature or reimbursement codes in Luxembourg.

ROADMAP TO A POSSIBLE SOLUTION

There are six potential solutions, which should ideally be carried out in a coordinated manner:

- **Test the interpretation of Art. 3 and Recital 14 of Directive 2011/24/EU:** A test case could be brought to court locally to challenge the interpretation of ‘Hospital at Home’ falling under the exclusion of long-term care under the Directive, basing the argument on adhering to Article 168(2) of the TFEU, which encourages cooperation between the Member States to improve cross-border health services. Also, Art. 2 of Directive 2011/24/EU⁴ could be

1 ‘Hospital at Home’ is regulated by Articles L-6122-1, L-6123-1, R-6122-25 and R-6123-139 of the Code of Public Health.

2 Patients can also seek treatment following Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123, and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1-42.

3 Directive (EU) No 2011/24 of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45-65.

4 Art. 2 of Directive 2011/24/EU states: ‘This Directive shall apply to the provision of healthcare to patients, regardless of how it is organised, delivered and financed.’

referenced to argue that where services similar to ‘Hospital at Home’ in France are covered in Luxembourg, such care could be included and reimbursed.

- **Allow for the prescription of cross-border care services under Directive 2011/24/EU**, rather than limiting the scope to prescriptions for medicines and devices. This would require a bilateral agreement between France and Luxembourg to include services within the scope of prescriptions, so that they would also be executable in the respective other Member State.
- **Create a standardised nomenclature or common reimbursement codes** between France and Luxembourg to classify home care services in a uniform way and to improve understanding and communication among health professionals on both sides of the border.
- **Develop information tools** so that patients and healthcare professionals can better understand the rules of cross-border care and reimbursement procedures. In this regard, the TRISAN project⁵ is a good practice that can serve as a model for the Alzette Belval region.
- **Integrate digital health solutions into cross-border care:** In the context of home care, there are opportunities for remote patient monitoring, telemedicine and support to complement in-person health services, with several successful programmes already implemented in France.⁶
- **Adopt specific agreements to address cross-border care needs in the Alzette Belval region:**
 - Create a Zone Organisée d’Accès aux Soins Transfrontaliers (ZOAST⁷) to provide residents of the Alzette Belval region with equal access to healthcare services on either side of the border.
 - Implement a healthcare-specific framework agreement between France and Luxembourg, based on the example of the MOSAR agreement of 12 June 2019 between authorities of the French region of Moselle and the German Land Saarland, which allows patients residing in this border region to access specific healthcare services without any additional administrative procedures.

WHAT’S NEXT

The European Grouping of Territorial Cooperation - EGTC Alzette Belval presented the proposed solutions to its political members. The political members decided to transfer these solutions to the Franco-Luxembourgish Intergovernmental Commission, since it is the most appropriate authority to decide on the implementation of these solutions. In order to provide concrete solutions for citizens, the EGTC would like to see the existing conventions and agreements become operational in order to make full use of their potential, and even amend them to ensure fairer access to healthcare. The EGTC Alzette Belval seeks to implement the recommended solutions suggested and is in contact with relevant competent authorities.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/113_Report_Alzette-Belval_HCP_home-hospitalisation.pdf

⁵ TRISAN is a trinational competence centre for cross-border cooperation in the health sector in the Upper Rhine region. For more details, visit the website: <https://www.trisan.org/english>.

⁶ Please refer to the full report for specific examples.

⁷ Seven ZOASTs have already been established along the French-Belgian and the French-Luxembourg borders. To see examples, visit the website: <https://www.ofbs.org/cooperation-franco-belge/zoast/>.

Establishment of a cross-border healthcare center

ADVISED ENTITY

EGTC Alzette Belval – FR-LU

EXPERTS

Petra Wilson, Isabelle Andoulsi and Anett Molnar, Health Connect Partners



THE CONTEXT

The healthcare sector in the Alzette Belval area of the French-Luxembourg border region is experiencing demographic changes, with a growing shortage of physicians and limited infrastructure. In addition, residents of Luxembourg working in France are typically insured in France, which means their insurance coverage is based on French tariffs. These tariffs often fall short of covering the costs of healthcare in Luxembourg, leading to significant out-of-pocket expenses for patients. The European Grouping of Territorial Cooperation – EGTC Alzette Belval (GECT, in French) aims to create a cross-border healthcare centre to make use of available capacities. To attract more doctors and provide economically viable medical services, addressing differences in healthcare reimbursement systems between France and Luxembourg is crucial.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

EU law establishes rules according to which country's social security law costs for health care are to be paid for. **The tariffs for healthcare vary between France and Luxembourg, creating a challenge for cross-border residents who must pay out of pocket for expenses that reimbursements do not cover.**

- At the EU level, Art. 168 TFEU stipulates that each Member State is free to choose how its healthcare system is financed and organised, including its fees. There are two ways in which a patient can receive reimbursement for cross-border healthcare services: As covered in Art. 20 of Regulation (EC) No 883/2004¹, if a patient is insured in France and travels to Luxembourg to receive planned care for which prior authorisation is required, the costs are reimbursed by the French insurer based on the Luxembourg tariff.
- Alternatively, Directive 2011/24/EU on Cross-Border Healthcare² guarantees the reimbursement of costs for planned healthcare services that patients receive in other EU Member States without the need for prior authorisation, but it does not guarantee full reimbursement, because the reimbursement rate is based on costs in the country of insurance. For example, when a patient insured in France seeks outpatient care from a preferred physician in Luxembourg, the patient will receive reimbursement at the same rate as if they had received care in France. If the rates are higher in Luxembourg, the patient will have to pay out of pocket.
- **There are differences in coverage for frontier workers and teleworkers.** While frontier workers who commute across the border are entitled to healthcare both in the country of employment and in the country of residence, teleworkers only have coverage in their country of residence if they work from home more than 50 % of the time.³
- **There is a lack of a specific regulatory framework** for mobility of healthcare professionals: With respect to the right to practise medicine, the Directive 2005/36/EC⁴ applies to healthcare professionals who wish to provide services in another Member State. However, it only addresses the context of professionals establishing themselves to provide care in another Member State. The mobility of healthcare professionals in a cross-border context is not covered.

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123.

2 Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45-65.

3 These rules apply due to the Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework, of which both Belgium and Luxembourg are signatories; see here: <https://socialsecurity.belgium.be/en/internationally-active/cross-border-telework-eu-eea-and-switzerland>.

4 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, p. 22-142.



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https://commons.wikimedia.org/wiki/File:Esch_LG.jpg

ROADMAP TO A POSSIBLE SOLUTION

- **Transparency of healthcare costs for patients:** As an interim measure, a transparency mechanism, as outlined in Art. 7(6) of Directive 2011/24/EC, would ensure that patients are clearly informed of healthcare costs in each country before receiving care. The information tool of the TRISAN project⁵ is an example of a good practice that could be replicated in the Alzette Belval region.
- **Bilateral agreements between the public insurers and state departments** on the application of the EU legal framework and prior authorisation, to adopt special tariffs for patients in the border region. A special insurance card would also allow patients to access care without the need for prior authorisation. For this purpose, the example of the cross-border health card in the Meuse-Rhine on the German-Dutch border⁶, jointly implemented by two national insurers and similar to the EHIC card, could also be replicated.
- **Implement local agreements to establish a new healthcare centre**, to enable access to patients in the cross-border region under the same financial terms as their country of residence.
 - To attract staff for the new centre, special local employment and taxation rules would help ensure incentives for providing health services. Due to the complexity of the initiative, implementing these rules would also require coordination between the different departments and political levels in Luxembourg and France.
 - Such agreements and a funding mechanism could be developed by drawing on the experiences of initiatives from other EU border regions, such as CommonCare, the Ems-Dollard region and the MOSAR convention⁷.
- **Regional agreements on cross-border care**, building on the experiences of the Zones of Organised Access to Cross-border Healthcare - ZOAST (*Zone Organisée d'Accès aux Soins Transfrontaliers*, in French⁸) to simplify financial and administrative arrangements for care on either side of the border, as well as address the shortage of medical staff.
- **The integration of digital health and remote care solutions** could serve as a useful tool to allow healthcare professionals to provide care in both France and Luxembourg, allowing for the option of telemedicine and simplifying administrative formalities.⁹

⁵ TRISAN is a trinational competence centre for cross-border cooperation in the health sector in the Upper Rhine region. For more details, visit the website: <https://www.trisan.org/english>.

⁶ To learn more, see the report: <https://op.europa.eu/en/publication-detail/-/publication/044cf274-b97f-11ed-8912-01aa75ed71a1>.

⁷ Please see the original report for a more detailed description of the initiatives.

⁸ A ZOAST is a potential solution to the obstacles faced by residents in border regions when seeking healthcare services close to their home and across the border. Seven ZOASTs have already been established along the French-Belgian and the French-Luxembourg borders. To see examples, visit the website: <https://www.ofbs.org/cooperation-franco-belge/zoast/>.

⁹ The proposed European Health Data Space Regulation takes a digital approach to cross-border healthcare. See here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0197>.

WHAT'S NEXT

The European Grouping of Territorial Cooperation - EGTC Alzette Belval presented the proposed solutions to its political members. The political members decided to transfer these solutions to the Franco-Luxembourgish Intergovernmental Commission, since it is the most appropriate authority to decide on the implementation of these solutions. In order to provide concrete solutions for citizens, the EGTC would like to see the existing conventions and agreements become operational in order to make full use of their potential, and even amend them to ensure fairer access to healthcare. The EGTC Alzette Belval seeks to implement the recommended solutions suggested and is in contact with relevant competent authorities.



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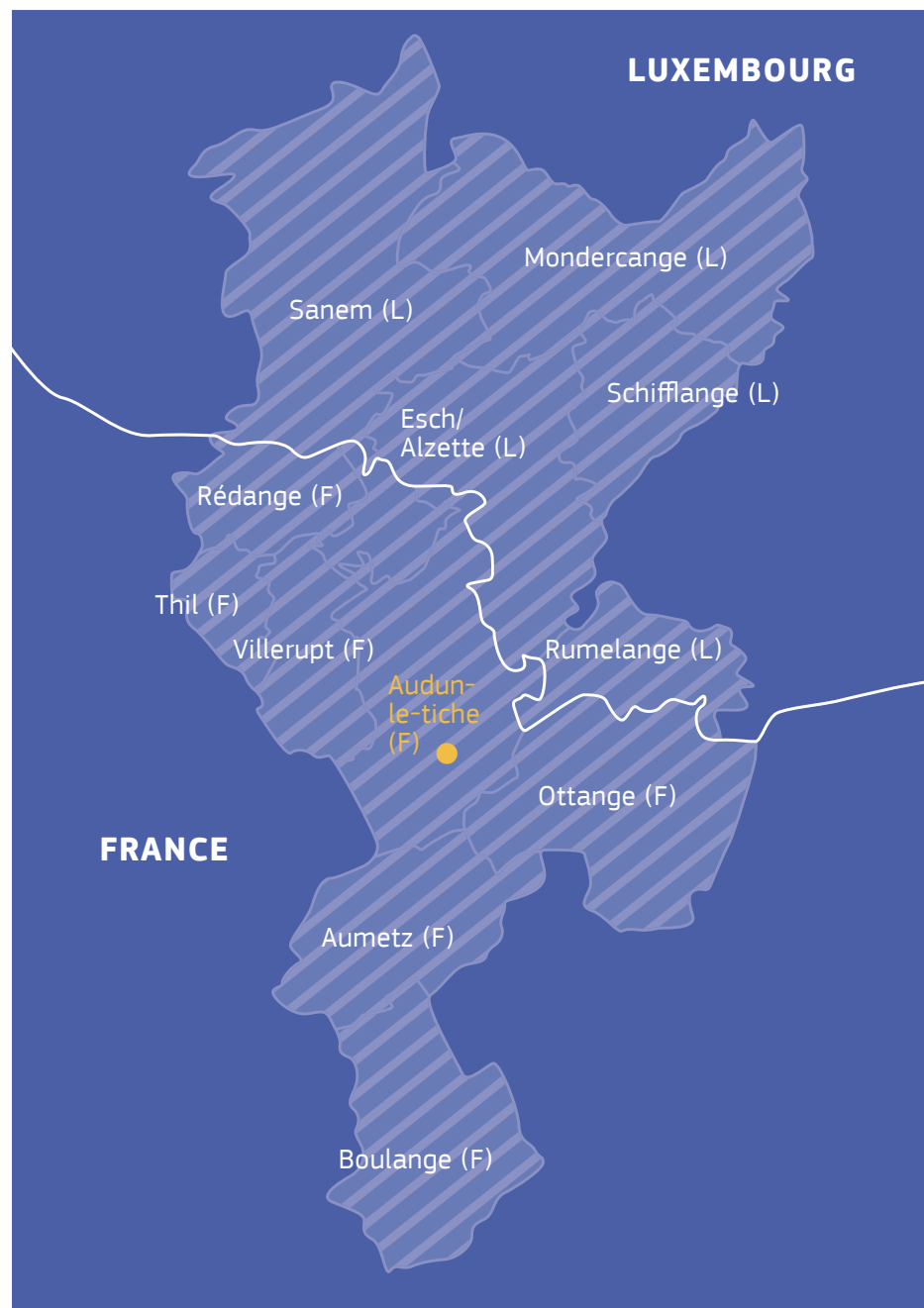
French-Luxembourg emergency management community

ADVISED ENTITY

EGTC Alzette Belval – FR-LU

EXPERTS

Petia Tzvetanova, Mission Opérationnelle Transfrontalière (MOT)



THE CONTEXT

In the Alzette Belval European Grouping of Territorial Cooperation (*Groupement européen de coopération territoriale* - GECT, in French) border region, the nearest French hospital is 30 km from the border, while the closest hospital in Luxembourg is only five km away. In 2016, France and Luxembourg signed a bilateral framework agreement for cross-border health cooperation, permitting rescue services to operate in one another's territory. However, practical obstacles remain in rescue services cooperation, as the French emergency number directs calls only to the more distant French hospital, preventing access to the nearest emergency relief in case of an accident on the French side.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle is mainly caused by the lack of coordination between the emergency services in France and Luxembourg, which is currently preventing access to the nearest mobile rescue service in the cross-border region.

- On the French side, the Urgent Medical Aid Service (*Service d'Aide Médicale Urgente* – SAMU) is a hospital/emergency service that responds to emergencies outside of the hospital. The SAMU features a centre that receives and manages emergency calls, and either sends a Mobile Emergency and Resuscitation Service (*Service Mobile d'Urgence et Réanimation* – SMUR) or firefighters from the Departmental Fire and Rescue Service (*Service Départemental d'Incendie et de Secours* – SDIS) to assist patients in emergencies.
- In Luxembourg, the fire and medical rescue services have been unified under a single emergency number. This consolidation of services combines communal fire and rescue services, civil protection, SAMU and the fire department into the administrative public establishment known as the Grand-Ducal Fire and Rescue Corps (*Corps grand-ducal d'incendie et de secours* – CGDIS), as per the Luxembourg Law of 27 March 2018.¹
- The France-Luxembourg Framework Agreement of 2016² allows emergency services to intervene across the border. However, although geolocation is used for the emergency numbers (“112” in Luxembourg; “15” or “112” in France) so that the nearest rescue service is automatically alerted, this only applies to the respective national territory. In the case of an accident on the French side, emergency services are dispatched from French hospitals (30 km away) even though the hospital in Luxembourg is closer (five km from the border), significantly increasing the response time.

A legal obstacle was also identified: The Implementing Agreement concerning the France-Luxembourg Framework Agreement of 2016³ does not authorise the French SAMU or the Luxembourg CGDIS to enter into cross-border cooperation agreements in the health sector. This makes it difficult for the two entities to find a common solution regarding the restricted geolocation of emergency numbers.

ROADMAP TO A POSSIBLE SOLUTION

- **Link the software for processing emergency calls received by the SAMU services in the French departments that border Luxembourg with that of the CGDIS in Luxembourg.** To do this, one or more cross-border cooperation agreements should be concluded between

1 Luxembourg law of 27 March 2018 on the organisation of civil security and the creation of a grand-ducal fire and rescue service, Official Gazette of the Grand Duchy of Luxembourg, N° A221, 1 January 2023.
2 Framework Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the French Republic on cross-border health cooperation, signed at Luxembourg, 21 November 2016, Official Gazette of the Grand Duchy of Luxembourg, Mémorial A, N° 604 of 16 September 2019. The Agreement entered into force with regard to both Contracting Parties on 1 October 2019.
3 Implementing Agreement between the Grand Duchy of Luxembourg and the French Republic concerning the implementation of the Framework Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the French Republic on cross-border health cooperation, signed at Luxembourg, 21 November 2016, Official Gazette of the Grand Duchy of Luxembourg, Mémorial A, N° 638 of 27 September 2019. The Agreement entered into force with regard to both Contracting Parties on 21 October 2019.

the SAMU in France and the CGDIS in Luxembourg, such as a framework agreement and additional technical agreements to harmonise the software.

- **Amend the Implementing Agreement concerning the France-Luxembourg Framework Agreement of 2016** to allow the relevant organisations in France and Luxembourg to conclude cross-border agreements for the purpose of emergency management in the Alzette Belval border region.
- **As an alternative to amending the Implementing Agreement, an ad-hoc authorisation could be granted** by the Franco-Luxembourgish Intergovernmental Commission for the Strengthening of Cross-border Cooperation (CIG)⁴ to the SAMU centres from both countries to conclude agreements with one another.

WHAT'S NEXT

The EGTC Alzette Belval presented the proposed solutions to its political members. The political members decided to transfer these solutions to the Franco-Luxembourgish Intergovernmental Commission, since it is the most competent and appropriate authority to act and decide on the implementation of these solutions. The EGTC aspires to be a territory for experimentation. In order to provide concrete solutions for citizens, the EGTC would like to see the existing conventions and agreements become operational in order to make full use of their potential, and even amend them to ensure fairer access to healthcare. The EGTC Alzette Belval seeks to implement the recommended solutions suggested and is in contact with relevant competent authorities.

Traffic on the territory of Alzette Belval
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TO LEARN MORE



⁴ In January 2010, the Grand Duchy of Luxembourg and the French Republic signed an agreement that gave rise to the CIG, focusing on territorial, economic and social cohesion in the Esch-Alzette-Belval border area. See the website: <https://administration.esch.lu/commission-intergouvernementale-franco-luxembourgeoise/>.

https://www.aebr.eu/wp-content/uploads/2023/12/115_Report_MOT_GECT-Alzette-Belval.pdf

Cross-border social security affiliations

ADVISED ENTITY

EGTC Alzette Belval – FR-LU

EXPERTS

Jean-François Devemy



THE CONTEXT

The European Grouping of Territorial Cooperation - EGTC (*Groupement européen de coopération territoriale* - GECT, in French) Alzette Belval region is experiencing challenges in coordinating social security systems, due to increased worker mobility. Families living on the French side of the border may face insurance complications for their children if one parent works in Luxembourg and pays social security contributions in Luxembourg and the other parent works in France and pays social security contributions there. Additionally, pensioners living in France who have also worked in Luxembourg and therefore receive part of their pensions from both countries receive French reimbursement rates for health services, which tend to be lower, despite having contributed to the Luxembourg social security system during part or all of their careers.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

Within the framework of EU Regulation (EC) No 883/2004¹, planned and unplanned healthcare can be reimbursed or directly paid for at the rate in the country where the patient receives care, if previously authorised. Under Directive 2011/24/EU on Cross-Border Healthcare², planned care will be reimbursed, even if not previously authorised, but only at the maximum rate established in the country of insurance.

While the EU legal framework itself does not pose an obstacle, **the manner in which it is interpreted and implemented in both France and Luxembourg causes legal and administrative obstacles** that are hindering healthcare mobility in the cross-border region:

- The French National Social Security Fund (*Caisse Nationale de Sécurité Sociale* - CNSS) does not allow for registration in the Luxembourg National Health Fund (*Caisse Nationale de Santé* - CNS) via the Electronic Exchange of Social Security Information (EESSI)³ for two groups of people: Families residing in France in which one of the parents works in Luxembourg and the other in France, and French pensioners who have worked in both France and Luxembourg.
 - Children residing with their family in France with one parent who works and pays into the CNS in Luxembourg, while the other parent works in France and pays into the French social security affiliation and reimbursement administration (*Caisse Primaire d'Assurance Maladie* - CPAM), will only receive reimbursement based on the costs for the healthcare services in France if they receive treatment in Luxembourg because of a French administrative circular of 2010⁴ which interprets Regulation (EC) No 883/2004 in that way. This constitutes an obstacle as the cost of a consultation with a general practitioner in Luxembourg is more than twice the cost in France.
 - According to the interpretation of the EU regulations by the French authorities, pensioners residing in France who have worked in both France and Luxembourg cannot claim affiliation in the CNS in Luxembourg. Therefore, if treatment is sought in Luxembourg, they will be reimbursed at the lower French rate and thus end up paying more.

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123.

2 Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45-65.

3 An IT system that helps social security institutions across the EU exchange information rapidly and securely, as required by the EU rules on social security coordination: <https://ec.europa.eu/social/main.jsp?catId=1544&langId=en>.

4 Circular No. DSS/DACI/2010/363 of 4 October 2010 on the entry into application of the new Regulations (EC) No 883/2004 and 987/2009 on the coordination of social security systems: sickness and maternity provisions, Circular R.883 No 4.



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- There are also practical obstacles:
 - Given the fact that many general medical practitioners will be retiring in the upcoming years, a shortage of primary care doctors will become an obstacle.
 - In terms of specialised healthcare, the general hospital located on the Luxembourg side of the border in Esch-sur-Alzette (CHEM Emile Mayrisch) is much closer for French residents, as the nearest French hospitals are located further away.

ROADMAP TO A POSSIBLE SOLUTION

There are four main solutions, which should ideally be implemented in parallel:

- 1 Bilateral agreement(s) based on the full use of existing legal opportunities:** Such an agreement between the competent authorities of France and Luxembourg would allow for exceptions to be made in this border area, for example, for pensioners, as permitted under Art. 16 of Regulation (EC) No 883/2004.
- 2 Improve reimbursements in France based on the principles of equity and equality:** Given that Member States are able to propose more beneficial reimbursements, as stated in Art. 7(4) of Directive 2011/24/EU, the 2010 Circular in France should be modified for this purpose.
- 3 Maximise existing legal opportunities with the support of the EGTC:** On the one hand, families with each parent affiliated in a different national health system whose children are refused registration in the Luxembourg CNS could file legal complaints, based on the principle of equal treatment. On the other hand, pensioners who have worked in both countries could request to be registered in the Luxembourg health system, based on Art. 16(2) of Regulation (EC) No 883/2004.



- 4 Establish a cross-border healthcare facility for a patient-centred healthcare organisation** in the region, to be located directly on the border.
- The first step would be to assess the needs for first level healthcare and specialised consultations in the border region.
 - This could be based on the concept of the cross-border Hospital de Cerdanya in Puigcerda, Spain⁵, which was created on the basis of an EGTC. This new facility could be managed by the existing EGTC (which would require modifying its statutes) or by a new and specialised EGTC for this purpose.

WHAT'S NEXT

The European Grouping of Territorial Cooperation - EGTC Alzette Belval presented the proposed solutions to its political members. The political members decided to transfer these solutions to the Franco-Luxembourgish Intergovernmental Commission, since it is the most appropriate authority to decide on the implementation of these solutions. In order to provide concrete solutions for citizens, the EGTC would like to see the existing conventions and agreements become operational in order to make full use of their potential, and even amend them to ensure fairer access to healthcare. The EGTC Alzette Belval seeks to implement the recommended solutions suggested and is in contact with relevant competent authorities.

TO LEARN MORE



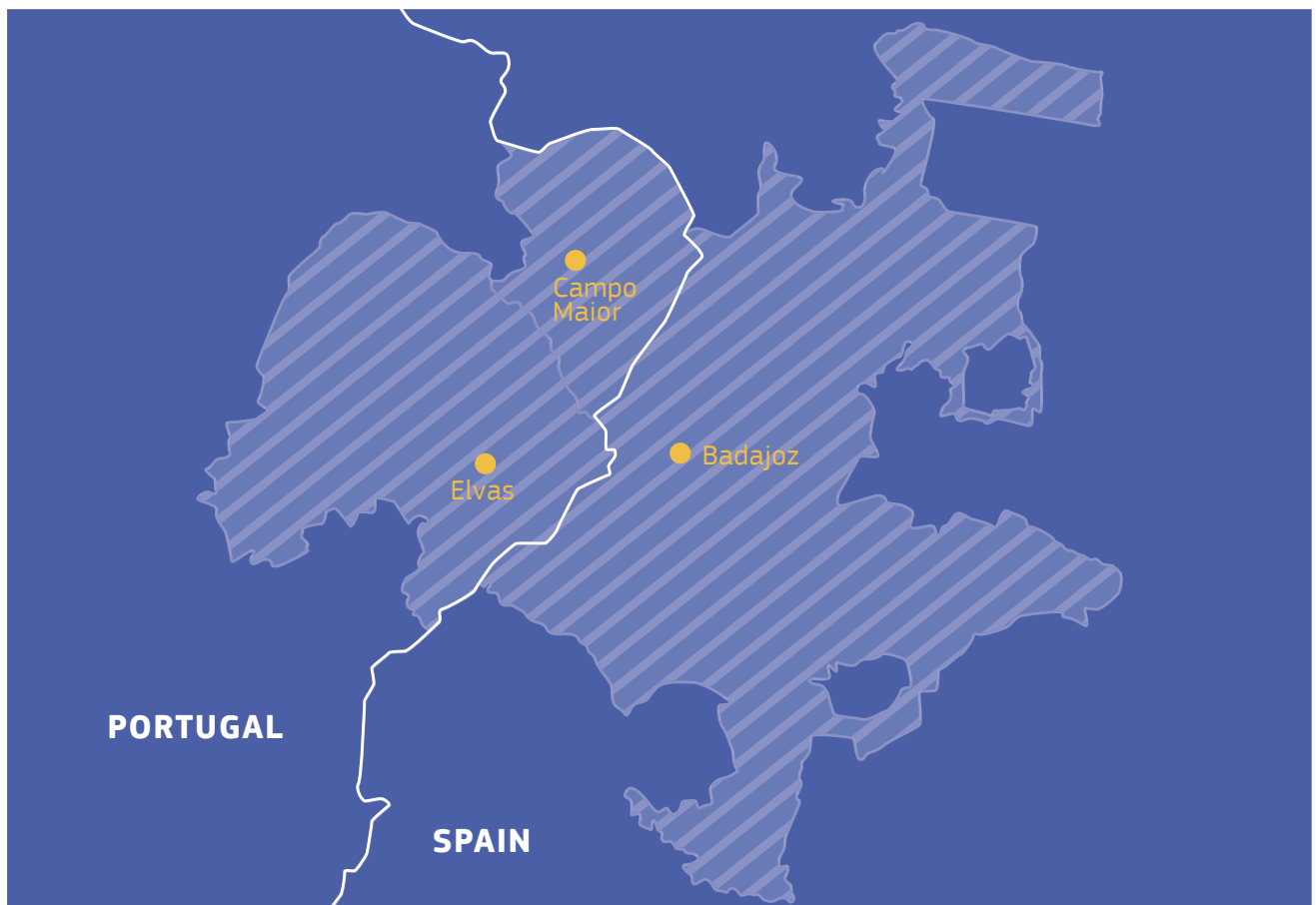
⁵ For more information, visit the websites: <https://interreg.eu/interreg-highlights/people/medicine-knows-no-borders/> and <https://www.hcerdanya.eu/en/>.

https://www.aebr.eu/wp-content/uploads/2023/12/116_Report_-Devemy_GECTAlzette.pdf

Transport and cross-border mobility at EUROBEC

ADVISED ENTITY
EUROBEC – ES-PT

EXPERT
María Garayo Maiztegui



THE CONTEXT

In the Eurocity of Badajoz, Elvas, Campomaior (EUROBEC), the municipalities of Elvas (Portugal), Campo Maior (Portugal) and Badajoz (Spain) aim to develop a project to promote cross-border transport to boost economic and territorial mobility in the region, as well as anticipate the growing demand for greater cross-border public transport. However, the Eurocity lacks the administrative authority to manage public transport across borders, for example, when it comes to the procurement and circulation of buses. A complex regulatory framework with obstacles at EU level further complicates the establishment of an urban mobility network between the three border cities. In consequence, the implementation of this transport project cannot move forward until the obstacles are overcome.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

On the one hand, **the obstacles stem from the lack of coordination between the existing transport networks on both sides of the border**, and on the other hand, by **the little historical experience of the competent local mobility and transport authorities in relation to this cross-border issue**.

- Project maturity level: The EUROBEC Eurocity Road Transport Project, as this initiative is known, has yet to carry out the technical, legal and economic studies to estimate present and future mobility needs, formulate a proposal, and establish procedures. Many aspects are still to be defined, such as extending the existing on-demand transport service in Badajoz to also provide service across the border.
- The competent authorities for cross-border public transport services are different in each country:
 - Under the Cooperation Protocol between the municipalities of Badajoz-Elvas-Campo Maior¹, the EUROBEC Eurocity is a cooperation body in the form of a working group without legal personality. Therefore, while it can carry out studies and initiatives on cross-border mobility, it does not have the authority to plan or manage cross-border transport services.
 - On the Spanish side, the City Council of Badajoz is the competent authority for public transport. In Portugal, the *Comunidade Intermunicipal do Alto Alentejo* (CIMAA), a territorial public entity which covers Elvas and Campo Maior, is the counterpart authority. Both of these entities can legally conclude cross-border cooperation agreements under Art. 3 of the Treaty of Valencia², for which greater coordination between them will be necessary.
- Lack of previous cross-border experience among the competent authorities: The project's development is hindered by administrative obstacles stemming from the lack of experience of the three municipalities in managing local public services, particularly in terms of transport.
- Cabotage in cross-border transport:
 - According to Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services³, cabotage operations, meaning the provision of passenger transport services by a foreign carrier at specified intervals along specified routes, are permitted between Member States in the case of regular international services. However, under these rules, cabotage services operating in an urban centre and its surrounding areas are excluded, unless bilateral or multilateral agreements are concluded by the Member States.
 - Given that the municipalities of Elvas and Campo Maior in Portugal are located only 20 km from the urban centre of Badajoz in Spain and are thus considered part of the 'surrounding areas', cabotage services would not be possible in the EUROBEC Eurocity under EU law. A Spanish transport company would thus be prohibited from carrying passengers to the neighbouring Portuguese municipalities on a regular basis, and vice versa.

1 Cooperation Protocol 'Eurociudad Badajoz-Elvas-Campo Maior', signed on 3 May 2018, Official Journal of Portugal No. 106/2018, Series II, 20 March 2018, p. 15854-15859, and Official Journal of Spain, No. 91, 16 April 2019, p. 40019-40025.

2 Treaty between the Kingdom of Spain and the Portuguese Republic on cross-border cooperation between territorial entities and authorities, signed in Valencia on 3 October 2002, Official Journal of Portugal, No. 51, 1 March 2003, p. 1454 - 1467, and Official Journal of Spain No. 219, 12 September 2003, p. 33937 -33943.

3 Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast), OJ L 300, 14.11.2009, p. 88-105.

- In order to enable the development of intercity bus services in a cross-border context, a proposal was made by the European Commission in 2017⁴ to amend Regulation (EC) No 1073/2009. However, the proposal has not yet been approved.

ROADMAP TO A POSSIBLE SOLUTION

- **In terms of administrative solutions: Establish closer cooperation between the City Council of Badajoz and CIMAA as the competent authorities to manage the proposed transport project.** This cooperation could be implemented in three phases:
 - Phase 1) Create a stable cooperation framework, such as a sectoral working group, to be promoted by the Eurocity for the purpose of exchanging knowledge and creating synergies.
 - Phase 2) Carry out advanced technical cooperation activities, such as a study to quantify mobility needs in the region, legal and financial viability studies, and other technical actions.
 - Phase 3) Implementation of the project, which would require the signing of a cross-border cooperation agreement between the City Council of Badajoz and CIMAA, but does not require the creation of a new legal entity. This phase would also include decision-making, definition of activities and commitments, among others. EUROBEC Eurocity could act as project facilitator.
- **In terms of legal solutions: Approval of the proposed amendment to Regulation (EC) No 1073/2009**, which is currently still under debate, would remove the legal obstacle regarding cabotage in international regular transport services. Regular service would then be allowed for a distance of less than 100 km, which is the case for these three municipalities.
- In addition, **existing initiatives on cross-border transport should be studied to observe and implement good practices**, such as the experience of the extension of intercity transport between the municipalities of Hendaye (France), Urrugne-Hendaye (France), Irún (Spain) and Behobia (Spain).

WHAT'S NEXT

With regard to transport, it is likely this obstacle will still need to be addressed in 2024 or 2025. An agreement could possibly be established between the City Council of Badajoz and the Intermunicipal Community of Alentejo to resolve the problem of developing a sustainable transport system between the urban centres of EUROBEC.

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⁴ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services, Brussels, 8.11.2017, COM(2017) 647 final.

Cross-border public transport

ADVISED ENTITY

Euregio via salina e.V. – DE-AT

EXPERT

Carsten Schürmann



THE CONTEXT

In the Euregio via salina cross-border region on the Austrian-German border, the high volume of tourists and car traffic of the local population results in heavy traffic, which could be partially alleviated through improved public transport. However, local authorities in this border region have encountered obstacles in developing cross-border public transport services. Different contracts with national transport companies are hindering the establishment of a unified ticketing system, in addition to varying bus stop rules and challenges in timetable integration. Overcoming these barriers would improve public mobility and reduce congestion and pollution in the border region.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacles are primarily of an administrative nature, followed by technical and financial obstacles, and can be attributed to four root causes:

- **Administration:** A complex institutional and policy context with two major actors in Austria and many actors in Germany causes challenges related to financial matters, staffing and personnel resources. This complex arrangement also prevents effective coordination of cross-border public transport activities, both due to the multitude of actors involved and the different competences of the German and Austrian partners.
- **Planning:** The lack of integrated and coordinated planning of cross-border transport services results in inadequate integration with domestic services, differing quality standards and insufficient consideration of geographical specifics in public transport planning. The absence of cross-border coordination thus hinders the development of new solutions and joint procurement of hardware and software. Fragmented demand as a result of the geographic situation further complicates joint planning.
- **Tickets and tariffs:** The lack of unified cross-border tickets and tariff systems, along with diverse hardware and software solutions, deters the appeal of cross-border public transport for both end-users and transport operators. In addition, tourist and guest tickets are not accepted on the other side of the border.
- **Information, data and digital services:** Issues with timetable data quality and the absence of shared digital services, such as mobility apps or centralised portals, make public transport unappealing. The lack of baseline data (e. g. demographic data, transport needs, passenger data) also hinders successful cross-border public transport service planning.

ROADMAP TO A POSSIBLE SOLUTION

Four main lines of action are recommended and respond to the four obstacles above:

- **Administration:** Strengthen administrative and organisational structures, identify relevant stakeholders and clarify responsibilities, address staffing and personnel needs, and aim for sustained financing.
- **Planning:** Improve cross-border coordination of transport planning and services, including developing joint standards in the provision of transport. In addition, plan the joint location and development of transport hubs, bus/train stops and stations by considering spatial structures, transport demand and the geographical context.
- **Tickets and tariffs:** Develop harmonised cross-border tariff and fare systems, and simplify ticket systems for end-users. Identify and coordinate the development and procurement of hardware and software solutions for ticket purchase and control.
- **Information, data and digital services:** Address the problems related to availability of timetable information, collecting and sharing baseline data, and the introduction of joint digital services.

In order to carry out these solutions, **several concrete actions must be implemented, based on establishing a comprehensive vision for the future public transport system.** It will be necessary to reimagine public transport from the perspective of the stakeholders involved and public transport users in order to develop a general strategy to guide the following actions:



- The establishment of a public transport association on the German side¹ for smoother coordination with their Austrian counterparts.
 - A Mobility Coordination Centre responsible for transport planning, serving as an information point and point of contact, and developing a joint tariff structure. The tasks of this centre could be carried out by the Euregio via salina, or an EGTC could be set up for this purpose.
 - A Guest Card Clearing House to serve as the interim central office for the mutual recognition of guest cards and other tickets through a simplified procedure until the joint tariff system is introduced.
 - Development of a joint tariff structure that is supra-regional and uniform, making tariffs less complicated for public transport passengers in the border region.
 - Better coordination for hardware, equipment, vehicle technology, purchasing and procurement.
 - Collection of baseline data for better data exchange and information sharing to improve transport planning.
 - Digital services, including the development of common cross-border information portals and a joint cross-border mobility app as well as a joint timetable information system.
- **The solutions should build on the existing cross-border public transport services and initiatives** in the Euregio via salina² and beyond. These previous experiences can serve as a source of inspiration, good practices and to facilitate contacts in the sector.

WHAT'S NEXT

The analysis and report will serve as the basis for developing specific projects to address the obstacles. The projects could potentially be funded through the Interreg programme Bayern-Austria, given that mobility is a key aspect of the strategy of the Euregio via salina. The analysis and report will guide the work of the Euregio in the coming years, as certain obstacles cannot be resolved quickly.

As a direct result, there have been some follow-up meetings between stakeholders from tourism, mobility and the counties in the Euregio, discussing the findings of the advice case and taking first steps, such as a position paper illustrating the need for action. The paper will be signed by decision makers in the region and is therefore the political statement resulting from the advice case.



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TO LEARN MORE



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1 The establishment of a public transport association on the German side is currently under study by the Länder Government of Bavaria, as part of a wider initiative in the region, and will be published in 2024.
2 Please refer to the original report for a full list of existing services and initiatives.

Cross-border ambulant therapeutic services

ADVISED ENTITY

Euregio via salina e.V. – DE-AT

EXPERT

Urs Kramer



THE CONTEXT

In the Allgäu-Tirol border region between Austria and Germany, some patients in rural and isolated areas cannot easily seek therapeutic services in their respective countries due to the mountainous terrain, where roads are sometimes inaccessible, and therefore seek treatment in the neighbouring country. Therapeutic service providers, such as caretakers or physiotherapists, also face difficulties when assisting patients in the neighbouring country because of the different national billing systems via the health insurance funds. As a result, health providers risk not receiving reimbursement for the services provided and patients are often not able to claim the equivalent reimbursement for care provided at home.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The differences in the approaches to cross-border healthcare in the national legislations and the lack of clarity on reimbursements under the EU legal framework are the main obstacles to cooperation on ambulant therapeutic services.

- At the EU level, while Directive 2011/24/EU¹ and Regulations (EC) No 883/2004² and 987/2009² grant citizens the right to cross-border healthcare and reimbursement of expenses up to a certain limit, **the legal framework does not clearly address reimbursement for both patients and medical providers when ambulant therapeutic services are provided at a patients' home on the other side of the border.**
- **As a result of legal uncertainties in the national laws, there are no guarantees regarding reimbursement from the national health funds**, which prevents many inhabitants of the Allgäu-Tirol cross-border region from seeking such services.
 - In Germany, statutory health insurance is regulated by the Fifth Social Code (*Fünftes Sozialgesetzbuch – SGB V*)³, in which several paragraphs refer to cross-border situations. In particular, paragraph 13(4-6) and paragraph 13(2)(1) SGB V allow patients to access healthcare providers in other EU Member States, with expenses reimbursed from the health insurance fund, if the service was previously authorised. However, Austrian therapists consulting patients who are insured and live in Germany act as private health service providers, as they are not licensed by the German statutory health insurance funds. As a result, German patients generally have to pay for treatment privately and have no possibility of reimbursement. Paragraph 140e SGB V enables German health insurance funds to engage with foreign service providers, granting insured individuals the right to receive treatment abroad as a benefit in kind, directly reimbursed by the health insurance fund. However, there are no guarantees in the absence of a contractual agreement between the health providers and the insurance funds.
 - In Austria, healthcare is primarily regulated by the General Social Insurance Act (*Allgemeine Sozialversicherungsgesetz – ASVG*).⁴ In addition, the Social Insurance Supplement Act (*Sozialversicherungs-Ergänzungsgesetz – SV-EG*)⁵ addresses medical treatment in another Member State. Austrian patients can seek treatment either with therapeutic service providers under contract with the statutory health funds (so-called contractual doctors), in which case they will be fully reimbursed for the costs if the treatment is based on a prescription, or with service providers who are not under such

1 Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45-65.

2 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123, and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1-42.

3 Fifth Book of the Social Code (SGB V), enacted on 20.12.1988 (Federal Law Gazette I, p. 2477, 2482), entered into force on 1 January 1989, last amended by Art. 2a G of 19 July 2023 (Federal Law Gazette I, 197).

4 General Social Insurance Act (ASVG), enacted on 9 September 1955 (Federal Law Gazette No 189/1955 in the version of Federal Law Gazette No 18/1956), entered into force on 1 January 1956, last amended by Federal Law Gazette I No 110/2023.

5 Social Insurance Supplement Act concerning supplementary regulations in the field of social security in relation to the European Union, other contracting states and international organisations (Social Insurance Supplement Act – SV-EG), enacted on 4 March 1994 (Federal Law Gazette No. 154/1994), entered into force on 31.12.1996, last amended by Federal Law Gazette I No. 100/2018.

a contractual obligation (so-called elective doctors). Therapeutic service providers in Germany are considered elective doctors. Even though paragraph 131 ASVG and paragraph 7 SV-EG establish that reimbursement can also be claimed for treatment provided in another Member State, the costs for elective doctors will only be reimbursed partially, if at all.

- Therapeutic service providers bill their services to the national health insurance fund in both countries. However, **direct billing to German or Austrian insurance funds is not possible for cross-border services provided**, making the process complicated for both patients and providers.
 - A patient can only receive reimbursement for ambulant therapeutic or medical care at home by a service provider from across the border if the service provider and respective national healthcare funds have concluded a contractual agreement. In the absence of such agreements, patients often have to pay out of pocket for medical services in the neighbouring country and are not always reimbursed.
 - There are currently no cases in German or Austrian social law that refer to medical providers travelling across the border to insured individuals' homes to provide their services, nor are there harmonised rules on payments for these services between the two countries.

ROADMAP TO A POSSIBLE SOLUTION

- **The existing legal framework and instruments allow for improvements in Germany and Austria.** German and Austrian health insurance funds are able to conclude contractual agreements with foreign healthcare providers, which would guarantee medical coverage by allowing direct billing with the insurance fund. In Austria, such contracts are under private law according to paragraph 338 ASVG, while in Germany, according to paragraph 53 Tenth Social Code (SGB X)⁶, contracts fall within the scope of public law.
 - According to German law: A contractual agreement (as allowed in paragraph 140e SGB V) between therapists in cross-border regions and the insurance funds from another Member State would allow border residents to receive direct reimbursement without the need for upfront payment, as the therapist would be paid directly by the insurance fund.
 - According to Austrian law: Under Part 6 of the ASVG, Austrian insurance funds can arrange contracts directly with health service providers, similar to the above-mentioned agreements in Germany. Additionally, under paragraph 131(6) ASVG, billing agreements could possibly be made with elective doctors from Germany, for example, to address the shortage of doctors in the region, especially if an Austrian elective doctor is not available.
- Since there is no legal obligation for the insurance funds to agree to such contractual agreements, **Germany and Austria could conclude a bilateral agreement**, influencing their discretion and ensuring that the contractual agreements have the same legal status in both countries. A good practice on which to model the contractual agreements can be found in the rehabilitation hospital SANARIS in Passau, in which Austrian citizens are reimbursed by the Austrian national health insurance funds⁷. In this particular case, reimbursement by an Austrian health insurance fund works the same as with German insurance funds.

6 Tenth Book of the Social Code - Social Administrative Procedures and Social Data Protection - (SGB X). Code of Civil Procedure as promulgated on 5 December 2005 (Bundesgesetzblatt (BGBl., Federal Law Gazette) I page 3202; 2006 I page 431; 2007 I page 1781), last amended by Article 1 of the Act dated 10 October 2013 (Federal Law Gazette I page 3786) and Book 10 last amended by Article 1 of the Act of 5 October 2021 (Federal Law Gazette I, p. 4607).

7 For more information, visit the website: <https://www.sanaris.de/kostenuebernahme/oesterreich/>.

WHAT'S NEXT

The Interreg programme Bavaria-Austria intends to organise a roundtable in early 2024 on “health and social issues,” based on the results of the *b-solutions* advice case. The roundtable aims to convene stakeholders, decision-makers and experts to address border obstacles and potentially develop projects to resolve them. In addition, there are plans to apply to *b-solutions 2.0* for assistance in the implementation of one or more solutions in one case community. The aim is to develop a cooperation agreement between German health insurances and an Austrian service provider so that the Austrian service provider can take care of German patients.



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https://www.aebr.eu/wp-content/uploads/2023/12/124_Report_Euregio-via-Salina_Urs-Kramer.pdf

Cross-border commercial passenger transport

ADVISED ENTITY

Chamber of commerce, industry, crafts and agriculture of Bolzano/Bozen – IT

EXPERT

Otto Mahlkecht



CHAMBER OF COMMERCE, INDUSTRY,
CRAFTS, TOURISM AND
AGRICULTURE OF BOLZANO



CAMERA
DI COMMERCIO
INDUSTRIA
ARTIGIANATO
E AGRICOLTURA
DI TRENTO
Pronti all'Impresa



THE CONTEXT

Taxis and hired cars travelling between Italy, Germany and Austria are not authorised for cross-border passenger transport according to German and Austrian law. Passenger vehicles with up to nine seats may be considered illegal, resulting in police checks, fines and the confiscation of vehicles. This poses a significant challenge for cross-border commercial passenger transport, and consequently, for the tourism sector in the Alpine regions of Tyrol, South Tyrol and Trentino.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle is rooted in the fact that **there is no EU or national legislation that governs cross-border passenger transport by means of taxi and hired cars.**

- At the EU level, Regulation (EC) No 1073/2009¹ governs the international carriage of passengers, in which cross-border passenger transport is protected by the freedom to provide services in the field of transport, so that the EU market for passenger transport is open to carriers from all Member States, regardless of nationality or place of establishment. Drivers must have an EU licence and a journey form. However, this EU Regulation only refers to buses and coaches, and not to taxis and hired cars. Directive 2006/123/EC on services in the internal market also excludes transport services². The reason for this is that the transport of persons and goods was historically not covered by the freedom to provide services in Art. 56 Treaty on the Functioning of the European Union (TFEU), but Art. 58(1) TFEU applies, which states that the freedom to provide transport services is governed by provisions of the Title on transport (Art. 90-100 TFEU)³. This in turn means that it is up to each Member State to regulate the conditions of taxis and hired cars.
- On a national scale, a so-called ‘Community licence’ is required to exercise the profession of passenger transport in Germany, Austria and South Tyrol. In Germany, § 48 of the Driving Licence Ordinance (*Fahrerlaubnisverordnung*) requires a driving licence for passenger transport⁴. In Austria, this driving licence is regulated by § 2 Occasional Transport Act (*Gelegenheitsverkehrs-Gesetz*)⁵. In the South Tyrol region, it is regulated by Art. 6, Implementing Decree No. 32 on taxi licence and authorisation to provide the service “hired car with driver”⁶. Nevertheless, these national and regional provisions only allow community licences for national passenger transport, while international passenger transport in a cross-border context is not considered.

ROADMAP TO A POSSIBLE SOLUTION

- **Regulation at the EU level:** While no rules have been adopted yet specifically for taxis and hired cars in a cross-border context, the EU has legislative competences in this area. According to Art. 91 TFEU, rules may be adopted to admit non-resident passenger carriers to operate transport services within a Member State, subject to mutual recognition of the respective licences for passenger transport among the Member States.

1 Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast), OJ L 300, 14.11.2009, p. 88–105.

2 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376, 27.12.2006, p.36-68.

3 This principle has been confirmed by the ECJ, see Judgment of the Court (Grand Chamber) of 20 December 2017, *Asociación Profesional Elite Taxi v Uber Systems Spain SL*, Case C-434/15.

4 Driving Licence Ordinance of 18 August 1998 (Federal Law Gazette I p. 2214) as amended on 13 December 2010 (Federal Law Gazette I p. 1980).

5 Occasional Transport Act 1996 of 7 March 1996 (Federal Law Gazette No 112/1996) as amended on 17 March 2022 (Federal Law Gazette I No 18/2022).

6 (Implementing Decree No. 32 on taxi services and services “hired car with driver” of 12 December 2019 as amended on 13 August 2020 (Official Gazette of the Autonomous Region of Trentino-South Tyrol of 20 August 2020, No. 34).

- **Regulation through bilateral agreements:**

- Germany and Austria have previously concluded bilateral agreements on this topic, which would make such an agreement feasible between Germany, Austria and Italy for the cross-border transport of passengers to and from Italy. In Austria, § 12 of the Occasional Transport Act allows for such agreements, although at the federal level rather than the regional level.
- Alternatively, a bilateral agreement could be concluded between the respective regions of Trentino - South Tyrol, Bavaria and Tyrol. In Germany, it is uncertain as to whether Art. 32 (3) of the German Basic Law (*Grundgesetz – GG*) grants the federal states (*Länder*) the exclusive competence to conclude such agreements if they have legislative competence, or whether this is merely a concurrent competence and thus falls to the federal government. Meanwhile, in Austria, according to Art. 16 (1) of the Federal Constitutional Act (*Bundes-Verfassungsgesetz, B-VG*), the provinces must seek authorisation from the federal government to conclude an international agreement. The Italian constitution in Art. 117 allows for regional agreements with other Member States.

In accordance with Article 8 (1)(18) of the Statute of Autonomy⁷, the region of South Tyrol has primary legislative competence in the area of “transport in the province’s sphere of interest”. In addition, Art. 6 of Law no. 131 of 5 June 2003 on treaty-making power⁸ allows the regions and autonomous provinces of Trento and Bolzano to conclude agreements with territorial entities from another Member State.

WHAT’S NEXT

The Chamber of Commerce of Bolzano/Bozen has been in contact with the Italian Ministry of Foreign Affairs and has drawn attention to the obstacle, and aims to use the expert’s report to promote an agreement with Austria or Germany as a solution. The Chamber of Commerce of Bolzano/Bozen will prepare a cross-border agreement to remove the border obstacle once it has been signed by the relevant authorities.

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TO LEARN MORE



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7 Decree of the President of the Republic of 31 August 1972, No. 670 (Second Autonomy Statute), Official Law Journal of Italy of 20 November 1972, No. 301.

8 Law of 5 June 2003, No. 131, Official Journal of Italy No. 132 of 10.06.2003.

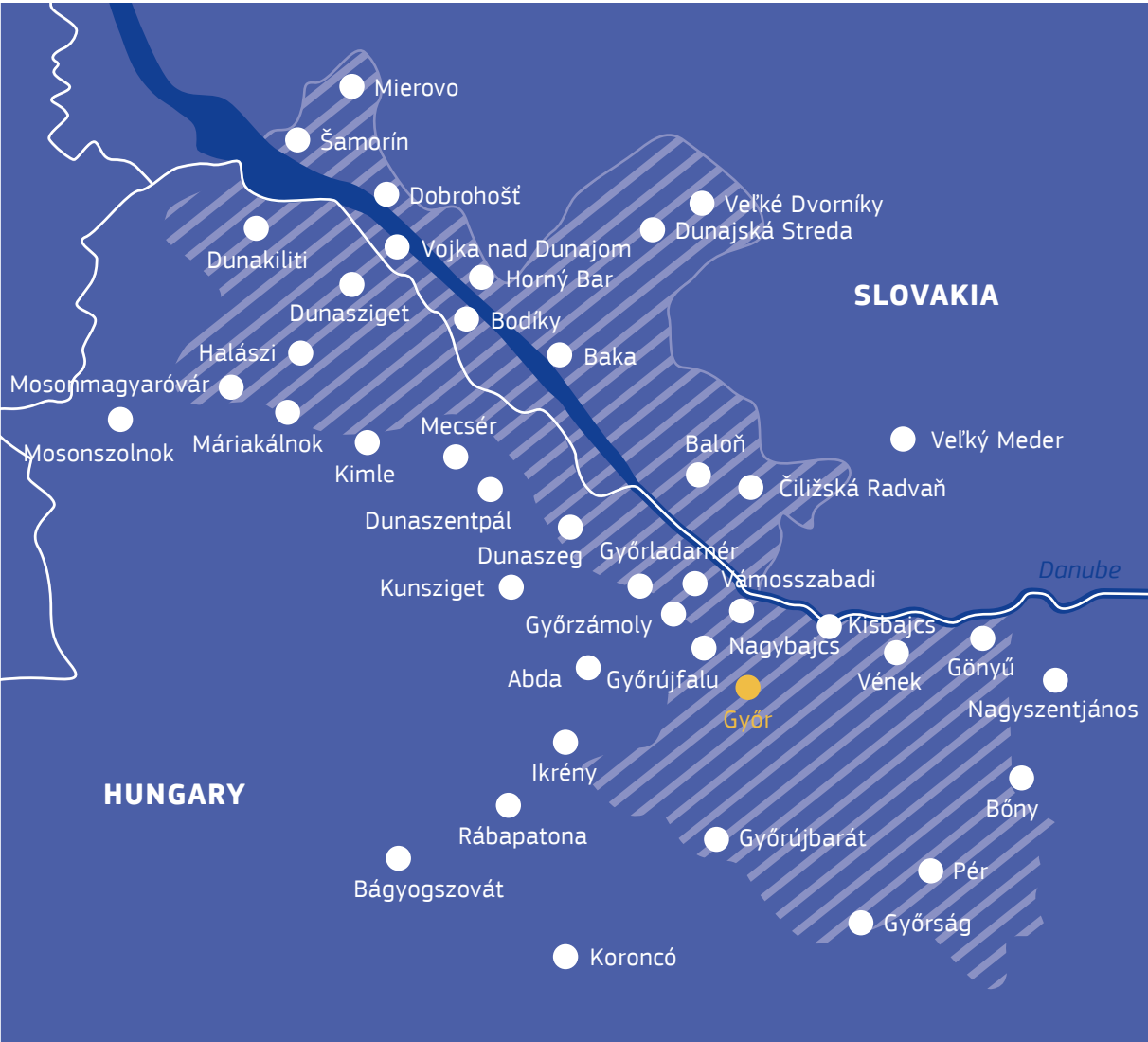
Comparison of water tourism regulations on the Slovakian-Hungarian border

ADVISED ENTITY

Arrabona EGTC Ltd. – SK-HU

EXPERT

Norbert Jankai, Central European Service for Cross-border Initiatives (CESCI)





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THE CONTEXT

In the Hungarian-Slovakian cross-border area of Szigetköz-Csallóköz, the Danube river and its natural waterways feature numerous water tourism activities, with many opportunities to continue expanding. However, despite a thriving cross-border community, adventure and water tourism is currently limited due to differing regulations between the two countries, as well as questions of safety and a mutual lack of knowledge of each country's regulations. A number of solutions are presented in order to adapt the national regulations for greater harmonisation in this sector.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle primarily stems from **differences in the legal framework in the two countries** and the **lack of knowledge of the neighbouring country's rules** on water tourism activities.

- While the general safety and environmental requirements for recreational watercraft are established at the EU level, the regulatory framework and detailed requirements vary significantly between countries. These **national differences pose challenges to the enforcement of rules and cause confusion for tour operators and tourists.**
- **Unclear legal definitions and the absence of harmonised technical requirements** affect both the quality and safety of such activities. In general, the Hungarian rules seem much more detailed and stricter than the Slovakian regulations.
 - Practical safety issues have been raised, such as different age requirements for using a life jacket and for driving watercraft, and different waterway training standards for guides.
 - The national definitions differ on the types of water tours, craft and equipment.
 - There is a general **lack of awareness of the rules** among the tour operators and the authorities.

- For tour operators and local authorities, being aware of the legislation and rules of both countries is very demanding. As a consequence, tour operators hesitate to provide cross-border tourism services because they are uncertain about the rules in the other country and wish to avoid potential penalties.
- Other than joint patrolling exercises, there is no cooperation between the authorities of the two Member States in this sector, which stems from the lack of knowledge or awareness of the other country's regulations.

ROADMAP TO A POSSIBLE SOLUTION

- **In the long term, the solutions call for the harmonisation of the legislation and addressing practical matters:**
 - The development of uniform definitions for all aspects of water tourism is a necessary step.
 - Technical and safety parameters of the tourism operators must be standardised on both sides of the border, which requires mutual information sharing and improved coordination.
 - The creation of a joint national park in the Szigetköz-Csallóköz area, with the help of an EU legal tool, would improve regional development and nature conservation, building on a previous project.¹
 - **A European legal tool enabling local actors to apply tailor-made solutions** would also be helpful to harmonise the rules.
- **Several strategic actions are recommended:**
 - Set up information points with up-to-date information from local authorities.
 - Establish regular contact between authorities from each side of the border, including the organisation of working meetings to improve administrative cooperation.
 - Harmonise the national training systems to create a unified system.
 - Create a 'one-stop shop' to develop common procedures for water tourism management.
 - Facilitate a permanent permit and rating system for water tourism businesses, providing support to SMEs to boost local development.

WHAT'S NEXT

It is recommended that the civil and public experts contacted for the case meet in person, in order to discuss the issue and map out the next steps. A workshop on water tourism training has been planned, with the aim of engaging government authorities and the local business sector from both countries. In addition to these participants, representatives of the institutions and those responsible for the development of the regulatory framework will also participate. As an initial step, this would require identifying such individuals and encouraging them to participate as partners and discussion partners. Examination of the regulations of other countries will continue in order to propose unified Central European regulations.

TO LEARN MORE



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¹ The project 'Feasibility study for the creation of a joint Slovak-Hungarian National Park in the Szigetköz-Csallóköz area' was first launched in 2004.

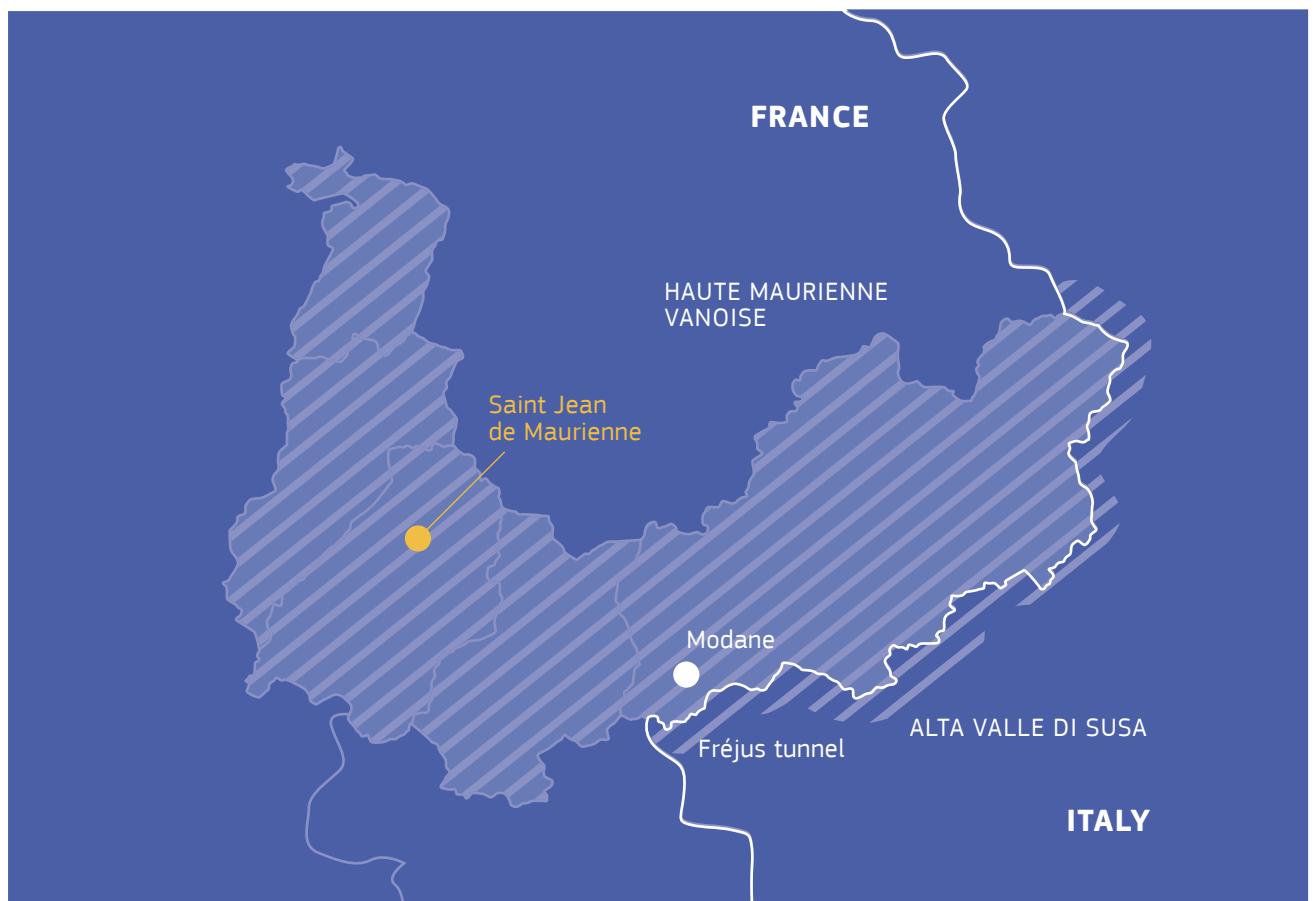
Local tariff fee for cross-border mobility

ADVISED ENTITY

Syndicat du Pays de Maurienne – FR

EXPERT

Michele Vellano





THE CONTEXT

In the border area between Haute Maurienne Vanoise in France and Alta Valle di Susa in Italy, commuters rely on the Fréjus tunnel on a daily basis to cross the border, since the alternative route is cut off during winter and can be hazardous due to the mountainous terrain. However, as of 1 January 2023, the trip across the tunnel costs 64 euro per round trip by car. The high fee is thus preventing effective mobility in the area. In order to enable cross-border exchanges and make commuting easier, lower fees for local residents and a system of ticketing adapted to the needs of the border region would help overcome the obstacle.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

No regulatory or administrative obstacles were identified in the EU and national legal systems that would hinder the potential adoption of preferential cross-border resident ticketing. **The obstacle is rooted in the pricing system established by the two companies managing the tunnel.**

- EU law does not prohibit a scheme whereby residents of the border region receive a discounted ticket for using the tunnel (so-called positive discrimination). On the contrary, numerous EU principles and legislation support this approach. For example, Directive (EU) 2022/362¹, which introduces the so-called Eurovignette and outlines the criteria and methods for determining motorway tolls, urges a fair pricing system for tolls, especially for residents of remote and isolated areas. In addition, Art. 174 of the Treaty on the Functioning of the European Union (TFEU) aims to reduce disparities for residents of mountainous areas and border regions.
- At the national level, a Convention between Italy and France regarding the Fréjus tunnel entered into force on 18 December 1972², establishing the rules for toll fees. Established through a European Economic Interest Grouping (EEIG), the tunnel is jointly managed by a French company (*Société Française du Tunnel Routier du Fréjus* - SFTRF) and an Italian company (*Società Italiana per il Traforo Autostradale del Fréjus* - SITAF), each in charge of

1 Directive (EU) 2022/362 of the European Parliament and of the Council of 24 February 2022 amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures. OJ L 69, 4.3.2022, p. 1-39.

2 Convention concerning the Fréjus road tunnel (with protocol concerning fiscal and customs questions), signed at Paris on 23 February 1972, entered into force 18 December 1972, United Nations Treaty Series No. 13374.

the respective national sections. Furthermore, the two countries have committed to greater cooperation under the Quirinal Treaty of 2023³, which includes a reference to improving everyday life for cross-border residents (Art. 10).

- The companies managing the tunnel in both France and Italy are able to establish toll prices, as long as they observe a maximum price limit. In particular, they have a discretionary margin when it comes to determining preferential tariffs.

ROADMAP TO A POSSIBLE SOLUTION

- **Build on the successful experience of the Mont Blanc tunnel as a solution:**
 - Enter into an agreement similar to that of the Mont Blanc tunnel⁴, in which residents were provided with a special tariff for tolls through the use of a resident transit pass. For the Fréjus tunnel, the agreement would be between the two companies operating the tunnel (SFTRF and SITAF) and the individual communes included in the two territorial entities, the Communauté de communes Haute Maurienne Vanoise in France and the Unione Montana Alta Val Susa in Italy.
 - Based on the agreement above, either the EEIG (on behalf of the two companies operating the Fréjus tunnel) or the companies themselves could provide an individual transit pass to residents of the two territorial districts who specifically request it. Italian residents would submit proof of residence through self-certification, while French residents would have their status as permanent residents of the districts certified by the respective municipalities.
 - Grant residents of the specific communities a transit fare equivalent to the amount of a subscription for crossing the tunnel 20 or 30 times.
 - In order to determine which residents could benefit from the reduced fare, the Italian Law No. 948 of 1984⁵ implementing the so-called Madrid Convention⁶ may serve as a reference, according to which special arrangements can be made for border communities located within a distance of 25 km from the border.
- **An alternative solution was also suggested:** The two companies operating the Fréjus tunnel (SFTRF and SITAF) could conclude an agreement with the individual communes of the Communauté de communes Haute Maurienne Vanoise and the Unione Montana Alta Val Susa to extend the validity of the individual transit pass from 30 days to 36 months for border residents.

WHAT'S NEXT

The Syndicat du Pays de Maurienne intends to use the results of the report's expertise to initiate negotiations with the two French (SFTRF) and Italian (SITAF) companies of the Fréjus road tunnel. Possible future actions include the organisation of a meeting with the EEIG Groupement d'Exploitation du Fréjus, bringing together the two companies, the two border municipalities of Modane and Bardonecchia and the two Intercommunalités concerned, the Community of communes Haute Maurienne Vanoise and Unione Montana Alta Valle di Susa. The Syndicat du Pays de Maurienne sees an upcoming opportunity to initiate discussions on differentiated pricing: the opening of the second section of the tunnel planned for 2024 and the establishment of the Cross-border Committee of the Quirinal Treaty signed between France and Italy in 2021, where this subject could also be proposed as a practical case to be discussed on a cross-border scale.

TO LEARN MORE



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3 Treaty between the French Republic and the Italian Republic for a Strengthened Bilateral Cooperation, signed 26 November 2021, entry into force 1 February 2023, see Law No. 90 of 12 July 2022, Official Journal of the Italian Republic No. 164 of 15 July 2022.

4 The agreement came into force on 20 January 2020 between the Mont Blanc Tunnel European Economic Interest Grouping (GEIETMB), the Unité des Communes valdôtaines Valdigne-Mont-Blanc (UCVVMB) and the Communauté de communes de la Vallée de Chamonix-Mont-Blanc (CCVCMB).

5 Law No. 948 of 19 November 1984, Official Journal of the Republic of Italy, No. 18 of 22.01.1985.

6 European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, Madrid, 21.10.1980, European Treaty Series No. 160.

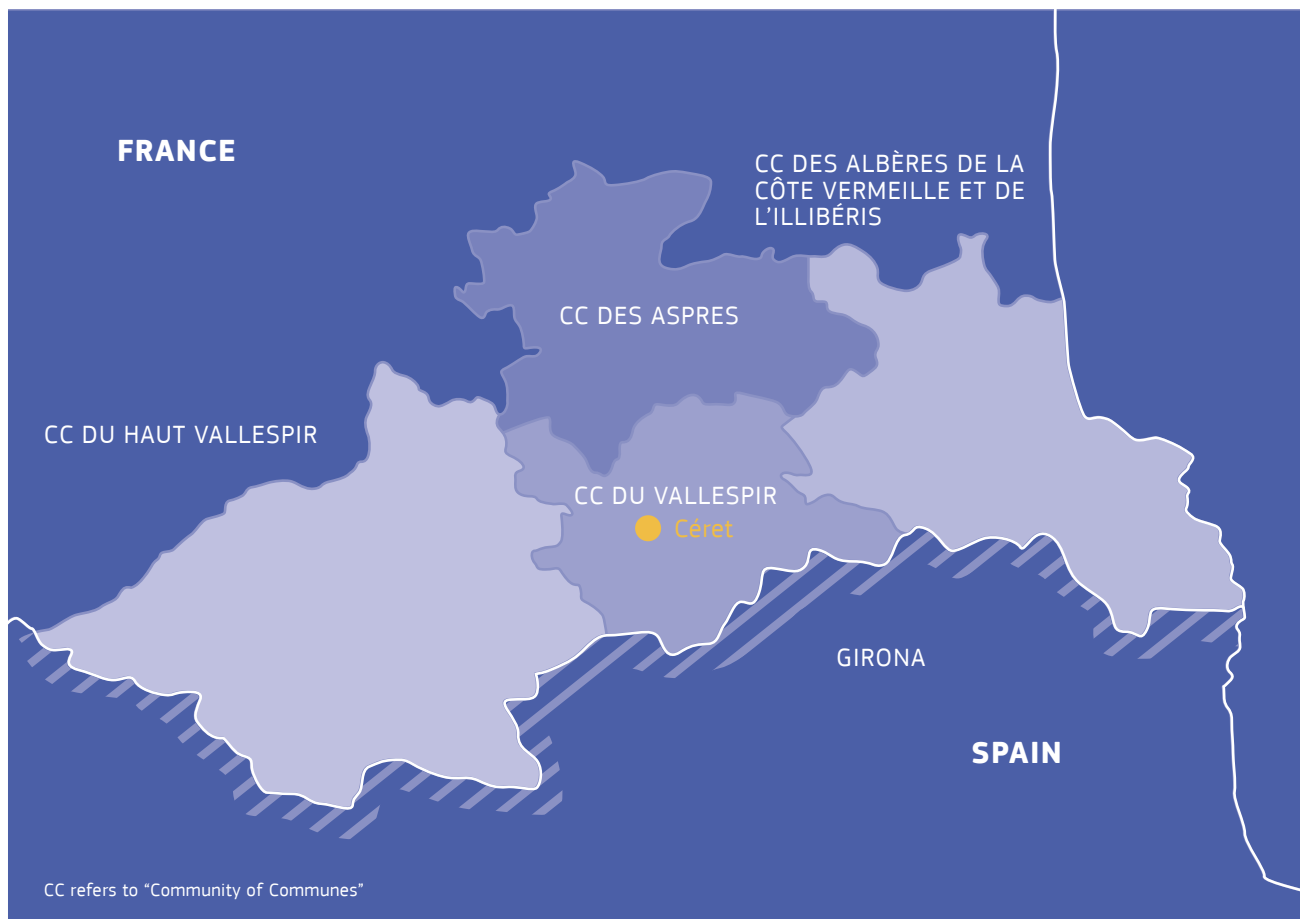
Cross-border roads reopening

ADVISED ENTITY

Pays Pyrénées Méditerranée – FR

EXPERT

Maiténa Poelemans





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THE CONTEXT

On the border between France and Spain, the cross-border area of the French department *Pyrénées-Orientales*, to which the *Pays Pyrénées-Méditerranée*¹ belongs, and the Spanish province of Girona has a strong shared cultural, historic and linguistic identity, as well as solid tourism and commercial ties and families living on both sides of the border. Since the terrorist attacks in Paris of 2015, however, the French government has re-established internal border controls, including with Spain. The controls are still in force on two local roads in the region, with stone blocks preventing traffic between France and Spain, which affects the everyday lives of local residents in terms of mobility, socio-economic ties and safety.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle stems from administrative decisions by the French government to temporarily re-establish internal border controls within its territory.

- EU law sets strict conditions for the re-establishment of internal border controls:
 - Regulation (EU) 2016/399 establishes the Schengen Borders Code (SBC), which, on the one hand, promotes the principle of free movement inside the EU's internal borders, and on the other hand, establishes a framework for restrictions on the basis of Articles 25 to 29.² In particular, Art. 25 of the SBC allows Member States to re-establish internal border controls in the event of a foreseeable serious threat to public order or internal security.
 - The Court of Justice of the European Union (CJEU) ruling of 26 April, 2022³ examined the conformity of various decrees in Austria on reintroducing internal border controls on the basis of Art. 25 SBC. The Court ruled that a Member State must demonstrate the existence of a new serious threat in order to justify extending the border controls. The French government renewed its border controls several times since 2015, deeming the reasons as 'serious threats,' in part to comply with the CJEU ruling.
- In France, on 8 January 2021, the prefect of the department Pyrénées-Orientales issued an order⁴ to restrict traffic on access roads to authorised secondary crossing points. This aimed to enable more effective control and deployment of internal security forces. The decree implements the decisions by the French government since 2015 to re-establish internal border controls to combat illegal immigration and terrorism, on the basis of Art. 25 SBC. To date, two access roads remain closed.

¹ The Pays Pyrénées-Méditerranée is an organised rural territory made up of 58 municipalities in France.

² Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23 March 2016, pp. 1-52.

³ Judgement of the Court (Grand Chamber) of 26 April 2022, *NW v Landespolizeidirektion Steiermark, C-368/20 and Bezirkshauptmannschaft Leibnitz, C-369/20*, EU:C:2022:298.

⁴ Prefectural Decree PREF/CAB/BSI/2021-008-001 of 8 January 2021 (not published).

- A number of citizen actions have taken place, such as peaceful demonstrations, the creation of an association (*Albères sans frontière*), and a request on 4 August 2022 to repeal the prefectural decree. No response was received, so an appeal for excess of power was filed with the Montpellier Administrative Court on 21 November 2022.

ROADMAP TO A POSSIBLE SOLUTION

- **Examine the compliance of measures taken with EU law:**
 - Regarding the appeal for excess of power filed with the Montpellier Administrative Court, it would be opportune for the administrative judge to submit a preliminary question to the CJEU on the basis of Art. 267 Treaty on the Functioning of the European Union (TFEU) and Art. 19(3)(b) Treaty on European Union (TEU). This would enable the Court to reinterpret Regulation (EU) 2016/399 regarding the serious threat, proportionality and necessity of border control extensions. In turn, this interpretation would allow the referring national court to rule on the legality of the prefectural order banning traffic on the two closed roads in question.
 - Present a complaint to the European Ombudsman: Roads were also closed in the department Pyrénées-Atlantiques, for which a complaint was presented by the regional Ombudsman to the European Ombudsman. The case was resolved and the roads were reopened, which could serve as inspiration for *Pays Pyrénées Méditerranée*.
- **Take cross-border issues into account in the current revision of the Schengen rules:** The European Commission presented a proposal⁵ on 14 December 2021 to revise the SBC, in which the Council recommended adding recital 24a, indicating that Member States will have to take into account the impact of reintroducing border controls in cross-border regions.
- **Alternative measures at the EU's internal borders are also needed:**
 - Establish joint patrols and cross-border police cooperation. In 2021, the European Commission proposed the adoption of an “EU Police Cooperation Code”, establishing common standards for cooperation between police officers of neighbouring countries⁶ for this purpose. The 27th French-Spanish summit in Barcelona of 19 January 2023 provided hope for further cooperation. In this sense, the former prefect of the Pyrénées-Orientales announced the creation of a joint French-Spanish police brigade, which would help re-establish a borderless area in that region. This measure is in the spirit of the new Treaty of Friendship between the two countries signed on the same day⁷.
 - Use technical means to monitor borders. As an alternative to re-establishing internal border controls, surveillance could be carried out using electronic surveillance materials, equipment and systems, such as drones.

WHAT'S NEXT

France announced an extension of the derogation measures until 30 April 2024. Therefore, the advised entity plans to file a complaint with the French national court, and if needed with the Council of State of France, the supreme administrative jurisdiction in France. The next step would be to present a complaint to the European Ombudsman.

5 European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, 14 December 2021, COM(2021) 891 final.

6 European Commission, Proposal for a Council Recommendation on operational police cooperation, 8 December 2021, COM (2021) 780 final.

7 Treaty of Friendship and Cooperation between the Kingdom of Spain and the French Republic of 19 January 2023.

TO LEARN MORE



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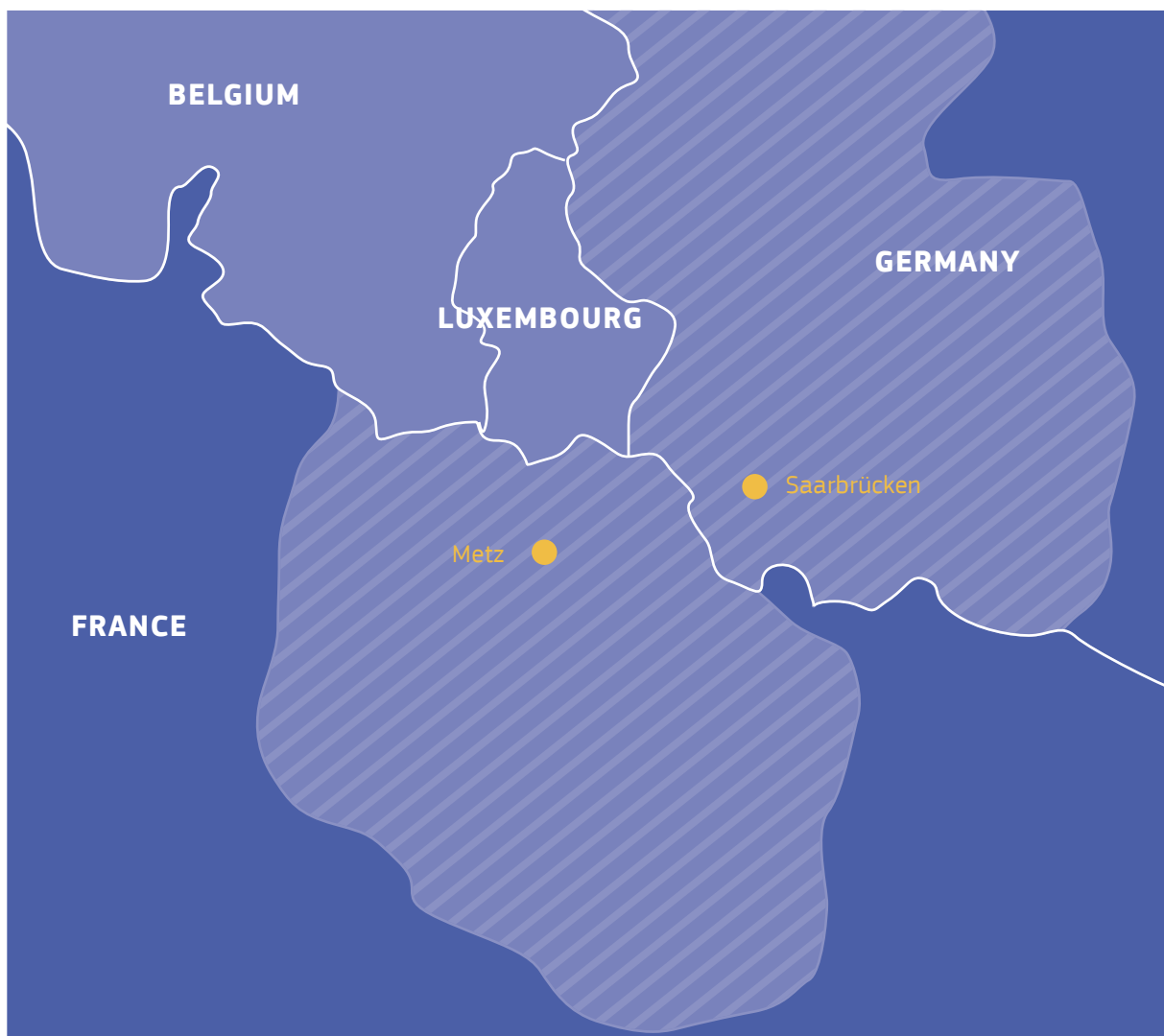
French-German joint degree

ADVISED ENTITY

Franco-German Institute for Technology, Economics and Science (ISFATES-DFHI) – FR-DE

EXPERT

Michael Frey



THE CONTEXT

The Franco-German Institute for Technology, Economics and Science (ISFATES-DFHI) was established through collaboration between the University of Applied Sciences of the Saarland (HTW Saar) in Germany and the University of Lorraine (UL) in France, and features more than 400 students and over 3,300 former students. The institute faces a legal barrier because its joint degree format does not appear to comply with the specific French legislation. Resolving this issue is essential to maintain the institute's commitment to collaboration.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle stems from the **lack of legal recognition in France of the joint degree format**, which does not take into account the characteristics that appear on the parchment of the other institution(s):

- French legislation contains several requirements for a joint diploma, which can only be printed on parchment supplied by the French national printing house and must follow a French template format. In addition, the diploma must be signed by the Rector and Chancellor of the universities, and must include the titles of the national diplomas. If the multilingual parchment is not accepted by the education partners involved, the French educational institutions are left with two choices: either issue a national diploma using the French National Printing Office template, indicating international partners and the cooperation agreement, or, if a joint diploma template agreement cannot be reached, a double diploma can be issued.
 - In particular, Articles D. 613-1 to D. 613-30 of the French Education Code (*Code de l'éducation*)¹ establish the general rules for awarding diplomas from universities, in which joint international degrees are covered in Art. D. 613-20.
 - Circular of 7 May 2023²; an executive act issued by the French Minister of Higher Education and Research, contains procedures for preparing and awarding national degrees obtained through international partnerships. It replaces Circular No 2019-134 of 25 September 2019 and Circular No 2015-0012 of 24 March 2015, but the rules on the exclusive use of French parchment for diplomas, included in the annex of the 2015 circular, are still valid.
 - The Circulars and templates are binding for the University of Lorraine and HTW Saar. However, the template developed by ISFATES-DFHI does not comply with the requirements in the annex of the Circular of 2015.

ISFATES-DFHI pursues the joint operation of the Franco-German institute, and therefore aims to explore options to issue a joint degree that satisfies the legislation of both countries.

ROADMAP TO A POSSIBLE SOLUTION

- A legal amendment could be introduced by the competent French authorities, in which the binding character of the Circular is eliminated for cross-border situations. Such an amendment would be implemented through an **opening or experimentation clause in the relevant French law**, either within the French Code of Education or in the corresponding Circulars. This would allow the higher education institutions participating in international partnerships to deviate from the formal requirements set out in the Circular.
 - France has a provision at the constitutional level that explicitly provides for experimentation clauses (Art. 72(4) of the French Constitution).
 - In the case of cooperation between France and Germany, Art. 13(2) of the Treaty of Aachen³ also provides a legal basis for the introduction of an experimentation clause.

1 Education Code, Ordinance No 2000-549 of 15 June 2000, ratified by law No 2003-339 of 14 April 2003, Art. 1, Official Journal of the Republic of France of 15 April 2003.

2 Circular of 7 May 2023: <https://www.enseignementsup-recherche.gouv.fr/fr/bo/2023/Hebdo22/ESRS2312764C>.

3 Treaty between the Federal Republic of Germany and the French Republic on Franco-German Cooperation and Integration, signed 22 January 2019 at Aachen, entry into force 22 January 2020.

Examples of such clauses can also be found in treaties between France and other neighbouring countries, such as the Quirinal Treaty with Italy of 26 November 2021 (Art. 10(2))⁴ and the Treaty of Barcelona with Spain of 19 January 2023 (Art. 30(5))⁵.

- An opening or experimentation clause could be introduced either at the legislative level in the Code of Education, in which case the French Parliament would be the competent authority, or at the executive level in the 2019 Circular, for which the French Ministry of Higher Education and Research is competent. The latter solution is preferable, as a change at the executive level would be easier to implement.
- At EU level, it would be helpful to have a specific legal tool to allow for the harmonisation of the applicable laws for this cross-border project. This could ultimately create a new legal framework in which the joint degree programme with Germany would be compatible with the laws of both countries.

WHAT'S NEXT

On the subject of the joint degree, the ISFATES-DFHI institute is communicating with the relevant departments of the Université de Lorraine (UL), which it forms part of, particularly at the level of training for the awarding of degrees, as well as at the level of European and international strategy. Commitment in this area is a decision for the UL President, who will be present at the next ISFATES-DFHI bi-national conference. ISFATES-DFHI will also engage with other European institutions to raise awareness of this issue affecting joint degrees in France.

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TO LEARN MORE



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⁴ Treaty between the French Republic and the Italian Republic for a Strengthened Bilateral Cooperation, signed 26 November 2021 at Rome, entry into force 1 February 2023.

⁵ Treaty of Friendship and Cooperation between the French Republic and the Kingdom of Spain, signed 19 January 2023 at Barcelona, not yet in force.

Health care for cross-border commuters

ADVISED ENTITY

Regional Government of Extremadura – ES

EXPERT

Amparo Montán

JUNTA DE EXTREMADURA



THE CONTEXT

According to the EU social security coordination rules, cross-border workers who reside in Spain but work in Portugal can seek healthcare in Spain by completing a special form that entitles them to receive health benefits¹. They are insured for 12 months and can renew their insurance upon expiry. However, the lengthy administrative process for renewal poses a risk, leaving workers without coverage for 15-30 days from the time they submit their application to the time their insurance is reinstated, thus limiting access to cross-border healthcare. While this obstacle was identified in the border region between Alentejo in Portugal and Extremadura in Spain, the proposed solutions would benefit the entire Spanish-Portuguese border area.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

- **An administrative obstacle is causing a lapse in health care coverage for cross-border workers:**
 - In terms of EU legislation, according to Art. 48 TFEU, the coordination of all national social security systems is necessary to guarantee the free movement of citizens within the EU. Moreover, Regulation (EC) No 883/2004² guarantees benefits in kind to insured individuals from one Member State who reside or work in another.
 - Across the EU, the S1 form certifies entitlement to healthcare for individuals insured in the Member State where they work, even if they live in another Member State. It is used to promote coordination between the national social security administrations and can be requested from the competent insurance authority in the country of employment, which then coordinates with the competent authority in the country of residence. In this specific case, the problem arises when Spanish residents who work in Portugal and who have opted to be covered by the Spanish health care system request renewal of the S1 form, which expires after 12 months. This process requires coordination between the two authorities but leaves individuals and their families without coverage for a period of time between 15-30 days, since renewal of the form cannot be requested until it expires. While it is possible to receive health care during this time by paying out-of-pocket and requesting reimbursement afterwards, the up-front payment could be a barrier and there is a risk of not being fully reimbursed.
- **Greater digitalised coordination is needed:** The Electronic Exchange of Social Security Information (EESSI)³ was established based on Regulation (EC) No 883/2004, to help national social security institutions across the EU exchange information and streamline documentation, including the S1 form. In September 2023, the European Commission issued a new Communication⁴ on digitalisation in the coordination social security system, to further promote data sharing among Member States. However, it is not fully implemented in all the institutions of EU countries.
- **The low level of awareness and lack of information on health care rights is also a barrier,** which should be improved among cross-border workers, citizens and businesses. The consequences of this are that individuals working on the other side of the border often do not report a new employment contract, or they fail to register with the authorities or request an S1 form.

1 Workers can request the S1 form from the insurance organisation in the country where they work.

2 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1–123.

3 Available at: <https://ec.europa.eu/social/main.jsp?catId=1544&clangId=en>.

4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on digitalisation in social security coordination: facilitating free movement in the Single Market, Brussels, 6.9.2023, COM(2023) 501 final.





CROSS-BORDER PUBLIC SERVICES



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ROADMAP TO A POSSIBLE SOLUTION

- **Improve communication and coordination between health authorities of Spain and Portugal:** Since the lapse in time between expiration and renewal of the S1 form is caused by communication delays between the Portuguese and Spanish authorities, an interim solution was proposed by the Badajoz Provincial Directorate of Social Security (INSS). The solution entails sending the documentation to their Portuguese counterpart before the S1 form expires to allow for enough time to renew the form. In the event that there is still a time lapse between expiry and renewal, the effects would be retroactive, thus ensuring any reimbursements for out-of-pocket expenses.
- **Raise awareness and share good practices:** Taking advantage of conferences, seminars and other awareness-raising events, greater dissemination of the issue can be shared among experts, citizens and business on both sides of the border. For example, the Spanish Ministry for Labour and Social Affairs is working on a project to draft the ‘Cross-Border Worker Statute’, in which good practices can be exchanged. Improved awareness would be essential to overcome the practice of failing to report new employment, register in the country of employment and apply for the S1 form. In addition, in 2022 the two countries jointly developed a Practical Guide for Cross-border Workers⁵, targeted to cross-border workers and their employers, outlining the steps to register in the respective social security system, which could be further developed.
- **In the long term, additional improvements are necessary, in particular when implementing the future cross-border health identity card,** as foreseen in the Joint Cross-Border Development Strategy between Spain and Portugal signed in 2020⁶. In addition to indicating the expiration date of the S1 form directly on the card, the validity period of the S1 form could be linked to the duration of the employment contract, and the card itself could be linked to a mobile application for smoother digitalised coordination between health authorities.

This initiative aligns with several bilateral agreements in place between Spain and Portugal that promote cross-border coordination on social security matters⁷.

WHAT'S NEXT

Dissemination activities will be organised by the advised entity, along with other relevant actors, to raise awareness among experts and citizens on rights and obligations related to cross-border mobility. Work is also planned with the social security authorities to help inform workers of their rights and the requirements they must fulfil. Specifically, within the scope of the regional government's competences and in collaboration with the Badajoz Provincial Directorate of Social Security (INSS), a workshop has been planned, aimed at citizens to analyse the administrative difficulties that hinder health care for commuters. Likewise, informative material on these issues will be produced, both physical and audiovisual, to be disseminated through social media.

All of this work to identify problems and solutions can be perfectly applied along the Spanish-Portuguese border. In this sense, the results will be shared with the cross-border working communities, so that they can disseminate it in their respective areas.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/137_Report_Junta-de-Extremadura_Montan.pdf

- 5 See the guide in Spanish here: https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/trabajo14/Documents/2022/041122-Guia_Trabajo_Transfronterizo_Portugal_Espana.pdf and the Portuguese version here: <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBQAAAB%2bLCAAAAAA%3d%3dBQAAAB%2bLCAAAAAA%3d>.
- 6 The strategy is available here in English: https://www.miteco.gob.es/content/dam/miteco/es/reto-demografico/temas/cooperacion-transfronteriza/documentoecdt_es_finalseptiembre2020-es-en-r-c_tcm30-524267.pdf.
- 7 Agreements include the Treaty on Friendship and Cooperation between Spain and Portugal of 2021, the Framework Agreement between Spain and Portugal on cross-border cooperation in healthcare of 2009 and the Memorandum of Understanding on cross-border healthcare of 2018; see the full report for a detailed reference.



Employment and Education

Develop a successful business with my neighbour country

ADVISED ENTITY

Chamber of Commerce & Industry of Xanthi – EL

EXPERTS

Themistoklis Chatzikonstantinou and Eugeniy Ivanov



THE CONTEXT

Along the Bulgaria-Greece border, launching and operating a Bulgarian company on the Greek side involves a substantial set of rules and regulations. Together with the lack of understanding of the Greek business environment and the complexity of administrative and legal requirements, this presents a challenge for Bulgarian companies looking to operate across the border, especially for Small and Medium-sized Enterprises (SMEs). Therefore, the Chamber of Commerce & Industry of Xanthi in Greece is working in close cooperation with the Smolyan Regional Industrial Association in Bulgaria to propose solutions to encourage more business exchanges in both countries and improve SME collaboration.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

Bulgarian SMEs seeking to establish businesses and operations in the neighbouring country are often faced with administrative and tax-related obstacles, partly because of insufficient knowledge of the business environment in Greece. SMEs generate added value and employment in the region, but although there are significant flows of investment between the two countries, access for SMEs is limited. There are no specific legal provisions at EU level that would prevent cross-border business activities between the two countries, especially concerning SMEs. The obstacle is consequently a result of unharmonised business and tax rules between Bulgaria and Greece.

Four main obstacles were identified:

- **Tax systems:** The discrepancies in tax systems in both countries and the complex Greek tax regime are regarded as obstacles for attracting foreign direct investment (FDI), especially from Bulgaria. The high tax rates and the constant changes in legislation in Greece make it difficult for Bulgarian investors and entrepreneurs to plan accordingly, creating an atmosphere of uncertainty.
- **Administrative / Regulatory:** There are significant differences in the rules at both the national and municipal level with regard to establishing a company, reporting, public procurement, procedures and permissions. There is also a lack of sufficient collaboration between the institutions in charge of investments and employment schemes in both countries.
- **Social security systems** vary significantly in each country for employees and self-employed persons. The system in Greece is also complex and does not favour cross-border business.
- **Awareness:** A lack of sufficient understanding by Bulgarian entrepreneurs of the Greek business environment and its administrative and employment rules. A lack of familiarity with the business culture was also cited as an obstacle, as well as the absence of available information.

ROADMAP TO A POSSIBLE SOLUTION

While there are numerous proposals and recommendations, these can be summed up through the following key solutions:

- **Establish a new Greece-Bulgaria European Grouping of Territorial Cooperation (EGTC)** to promote the creation, acceleration and development of businesses wishing to operate on both sides of the border.
- While the tax systems in Greece and Bulgaria are not harmonised, a new EU tax initiative, **Business in Europe: Framework for Income Taxation (BEFIT)**¹, may help to provide a solution.

¹ The EU initiative “Business in Europe: Framework for Income Taxation” (BEFIT) may provide an option to address the differences in the national corporate tax systems, with details to come in 2023. Visit the website at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13463-Transfer-Pricing-Directive-Head-Office-Tax-system-for-SMEs-Business-in-Europe-Framework-for-Income-Taxation_en.

- **Improve institutional cooperation and coordination** between the public entities in Greece and Bulgaria responsible for investments and business support in order to:
 - Make it easier to set up businesses in both countries, with incentive policies.
 - Establish joint business initiatives to encourage the co-creation of businesses, incubators or accelerators, create industrial zones, etc. between Greek and Bulgarian companies.
 - Adopt flexible rules and mutual agreements, improve coordination and harmonise regulatory matters in the border region.
 - Identify possible derogations from national legal provisions to enable cross-border business creation.
- Lastly, it is important to **facilitate more awareness and understanding** of the business rules, since these obstacles can be avoided if the companies are better prepared. This could include:
 - The development of large-scale awareness and information campaigns in the region, led by local business organisations to promote business opportunities and address doubts about both the Greek and Bulgarian legislation.
 - Organising cross-border business fairs, meetings and events to facilitate contacts and the exchange of information and ideas between potential business partners.
 - Establishment of an online platform to serve as a roadmap for cross-border business.

WHAT'S NEXT

In cooperation with the Regional Association of Industries in Smolyan, the results of this study were shared with the regions in meetings to create stronger links between entrepreneurs in Greece and Bulgaria. Understanding one another's culture can facilitate smooth cooperation and business relations with entrepreneurs from both regions. Cooperation with the partner association in INTERREG projects managed to highlight the issues identified through *b-solutions*. Various actions have also been planned, such as cooperation with government agencies in both countries to create favourable policies and incentives for entrepreneurs.

Looking ahead, practical solutions can be implemented in the short-term, such as creating a one-stop shop or local services for entrepreneurial support. A workshop with local and regional authorities will be planned to consider the best solution and strategy in order to bring attention to the issue at the national level.

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Cross Border Internships

ADVISED ENTITY

Region Sønderjylland-Schleswig, Regionskontor & Infocenter – DK

EXPERT

Bassah Khalaf





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Tim Riediger, 2014
Region Sønderjylland-Schleswig,
Tim Riediger, 2009



THE CONTEXT

Internships and traineeships are crucial instruments to boost the labour market, especially for the unemployed or those receiving social assistance. In the Padborg / Sønderjylland-Schleswig region between Denmark and Germany, cross-border internships would benefit both countries, but are difficult to implement. The main issue is that unemployed people in both countries risk losing their unemployment benefits in their home countries if they pursue an internship in the neighbouring country. Because the employment systems and legal obstacles in both countries are different, the proposed solutions involve changes in either national legislation or EU legislation.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The difficulties faced are of a legal nature and involve social security schemes, social benefits and the coverage available for internships. However, the obstacles differ for each country:

- Denmark. Recipients of Danish social benefits are generally not allowed to work or study in another country if they wish to retain these benefits. However, there is one exception, as Danish employment laws only permit internships abroad for a certain group of Danish social benefit recipients: ‘*sygedagpengemodtagere*’, or ‘sickness benefit recipients,’ as stated in Executive Order No. 2636 of 28 December 2021¹, § 63, and cf. § 3 of the Sickness Benefit Act².
- Germany. Issues in Germany are two-fold:
 - Recipients of regular unemployment benefits may work up to 15 hours a week, including abroad. However, working more hours requires approval from the employment agency (*Arbeitsagentur*). Because an internship often requires more than 15 hours per week, this reduces the possibilities of finding one under such circumstances.
 - Measures supported by the German government through a voucher system only apply to placements abroad that require more than 15 hours per week of work. Under this system, the labour authority remunerates the employer or the intermediary to employ an intern. The unemployed person receives a voucher, which they then provide to a private employment agent. In the case of successful employment, the agent can redeem the voucher. However, a notable challenge arises as internships conducted abroad fall outside the scope of this system, as outlined in § 45(1) number 3 SGB III (*Sozialgesetzbuch Drittes Buch Arbeitsförderung*)³, which restricts such internships to Germany only.

Several legal schemes at EU level preserve employment rights but present obstacles for cross-border internships:

- Freedom of movement for workers is a key EU principle⁴, and employment discrimination based on nationality for workers of EU member states is prohibited. In addition, cross-border workers are entitled to the same social and tax benefits as national workers, but must pay social security contributions and other insurance benefits in the country where they are employed.

1 Danish Agency for Labour Market and Recruitment's Executive Order no. 2636 of 28 December 2021 on an active employment effort, chapters 10 and 21, in the version published in Federal Law Gazette A on 30 December 2011, last amended by Article 1 of the Executive Order no. 303 of 20 March 2023 (The Ministry of Employment, Danish Agency for Labour Market and Recruitment, j.nr. 21/15139).

2 Sickness Benefit Act, LBK no. 1179 of 21/09/2023 Ministry of Employment. <https://www.retsinformation.dk/eli/Ita/2023/1179>.

3 Social Code - Book III – Job promotion, activation and job integration – in the version published on 13 Mai 2011, last amended by Article 5 of the Act of 20 December 2022 (Federal Law Gazette I p. 2759).

4 As protected under Article 45 of the Treaty on the Functioning of the European Union and further emphasised by secondary European law (Regulation (EU) No 492/2011) and the case law of the European Court of Justice.

- Regulation (EC) No 883/2004⁵ and implementing Regulation (EC) No 987/2009⁶: Both regulations establish general obligations for social security and insurance, but lack provisions for remote working. Citizens have the right to move freely within the EU for study, leisure or professional reasons, with the guarantee that their social security benefits are not affected. While the EU legislation allows for it, Germany and Denmark have restrictions on how the law is applied.
- According to recital 21 of Directive 2004/38/EC⁷, the host Member State must decide whether to grant social assistance during the first three months of residence or for a longer period in the case of jobseekers, interns or to EU citizens, other than those who are workers or self-employed.

ROADMAP TO A POSSIBLE SOLUTION

The following four solutions have been proposed:

- 1 EU Charter:** The European Commission and the European Council could propose an initiative for a European Charter on internships, ensuring minimum quality standards.
- 2 Regulation (EC) No 883/2004:** Internships could be added to this regulation for unemployed persons receiving social benefits.
- 3 Modification of the national legislation in both countries** for internships carried out abroad.
- 4 An ad hoc bilateral agreement** based on Article 16 of Regulation (EC) No 883/2004 would help fill current legislative gaps and improve coordination between the two countries in social policies. An existing internship programme in Denmark, PIU⁸, and the EU form for authorisation to export one's unemployment benefits to another Member State, known as PD U2⁹, could serve as inspiration as these facilitate and encourage professional training abroad.

WHAT'S NEXT

In the framework of a consultation of the Danish and German Ministries of Labour, attention could be drawn to the entire problem. The question of accident insurance and its financing, as well as the unclear assessment of state aid in connection with an internship abroad by unemployed individuals, were the main causes of the obstacles. However, the commitment of all parties to resolving the problem could be established. Further work will involve a concrete examination of the questions raised.

TO LEARN MORE



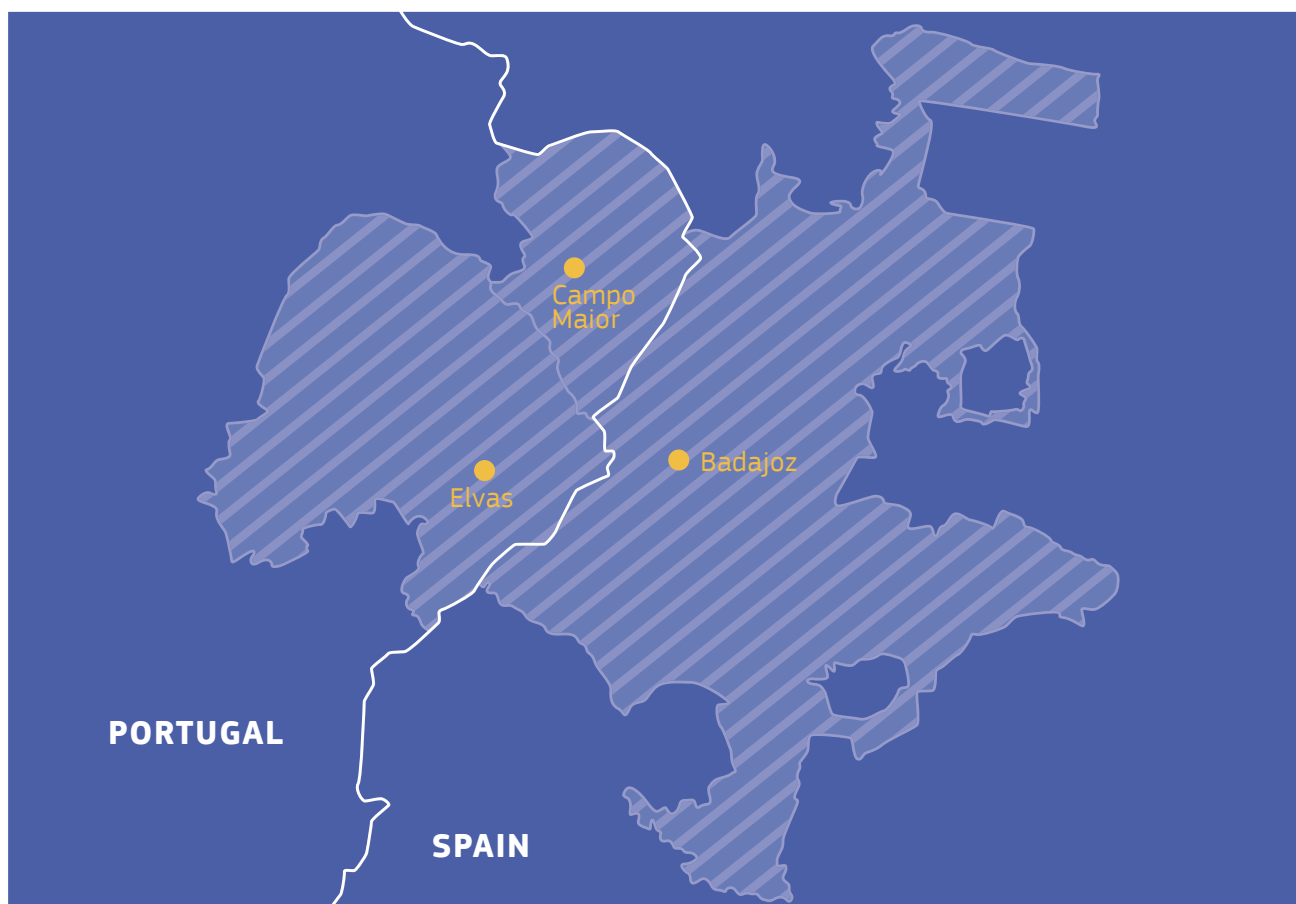
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- 5 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123.
- 6 Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30 October 2009, p. 1-42.
- 7 Directive (EU) 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30.4.2004, p. 77-123.
- 8 The Danish 'Praktik i udlandet' (PIU) scheme, which means 'practical training abroad for apprentices', allows apprentices to work and undertake student training in a company outside Denmark as part of their Danish vocational education training (VET) programme. For more details, visit the PIU website: <https://en.piu.dk/about-the-opu-programme/>.
- 9 Across the EU, PD U2 citizens from EU/EEA countries who receive unemployment insurance benefits from their home country while residing in another can receive assistance as unemployed self-supporting persons under Section 6, (12) of the Act on Active Employment Efforts (LAB). Available at: <https://www.hk.dk/akasse/ledighed/dagpenge-i-udlandet>.

Student mobility

ADVISED ENTITY
EUROBEC – ES-PT

EXPERT
José Paulo Ribeiro Peixoto de Queirós



THE CONTEXT

The EUROBEC Eurocity, comprising the municipalities of Badajoz in Spain and Elvas and Campo Maior in Portugal, was created to facilitate access to services, infrastructure and community life for people on both sides of the border, particularly with regard to mobility. It also aims to foster a sense of belonging and integration, especially for youth in the region. Recently, there has been an increase in minors crossing the border, unaccompanied by their parents or guardians, seeking to participate in educational, cultural and sports activities.

While the free movement of people between Member States is part of the very fabric of the EU, there are also norms and restrictions in place to safeguard children and minors when it comes to their movement across countries. Such rules lead to economic costs and administrative formalities in obtaining authorisation, which is restrictive for both the minors and their parents/guardians when travelling to the other side of the border. This has become a barrier to the personal, cultural, educational, social and sport development of youth in the Eurocity.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The legal and regulatory provisions governing border crossings by unaccompanied minors, as well as the administrative procedures and costs to implement them, are more restrictive for residents on the Portuguese side of the border. There are no EU rules regulating this issue, so each Member State must decide which type of authorisation to require.

- In Portugal, under the Regulation of Registration and Notary Fees, approved by Decree-Law 322-A/2001¹, minors must have written authorisation from their parents or guardians, which is legally certified each time they cross the border. The competent authority for the certification of signatures is a notary, Chamber of Commerce and Industry, registrar, registration officer, lawyer or solicitor.
 - Under this Regulation, the authorisation costs approximately EUR 15, and can be used an unlimited number of times between six months to one year. Although this amount should be applied in a uniform manner, there have been reports of costs up to EUR 30.
- In Spain, according to Instruction 10/2019², minors also need a signed declaration of authorisation from their parents or guardians each time they cross the border. To certify the authorisation, the minor must go to the police station accompanied by at least one of their legal representatives. Contrary to Portugal, however, there are no fees required for this process in Spain.

ROADMAP TO A POSSIBLE SOLUTION

There are two main proposals for solutions to ensure that the requirements and costs are applied uniformly for families on both sides of the border³. Both solutions would require planning and coordination between schools, local authorities, sports and cultural clubs in this Eurocity.

- **Amend Portuguese Decree-Law 322-A/2001** to eliminate the costs required to legally recognise signatures for authorisation. Alternatively, the law could at least provide an exception for minors residing in the EUROBEC Eurocity municipalities.

1 Regulation of Registration and Notary Fees, approved by Decree-Law 322-A/2001 of 14 December 2001.

2 Instruction 10/2019, of July 9, of the Secretary of State for Security, which regulates the procedure for granting permission to travel outside the national territory for minors (with effect from September 1, 2019).

3 The present case focuses on the financial burden for Portuguese minors and their families, but shares similar obstacles as another case presented to B-solutions by José Manuel Sobrino Heredia: B Solutions Final Report Advice Case: Simplifying cross-border mobility of minors to carry out cultural or educational exchanges. Advised Entity: Galicia-Norte de Portugal EGTC. Available at: https://ec.europa.eu/futurium/en/system/files/ged/sobrino_galicia-norte_de_portugal_egtc.pdf.

- **Allow the Portuguese law on authorisations, Decree-Law 322-A/2001**, to be applied for signatures for an unlimited number of times within a period of validity. In the case of organised cross-border school or sport trips by groups of minors, a single authorisation could be granted for periods within the current one-year limit in order to reduce the costs arising from the certification of multiple authorisations.
 - In addition, the Citizen's Card⁴ in Portugal could be used to authorise signatures, since this card is widely utilised for other purposes and operated through a digital platform, thus eliminating any costs inherent to requesting permission in-person. This solution could possibly be tested as a pilot initiative in the EUROBEC Eurocity.

WHAT'S NEXT

At the time of submitting the report on the obstacle, the governments of Portugal and Spain were working together on the possibility of creating a single document to harmonise the movement of minors in the Eurocities and Euroregions. In this context, the Portuguese Foreigners and Borders Service has drafted a model of joint declaration for authorising the movement of minors, with the possibility of making this declaration available online to download and submit to the authorities.

The next step will be to develop a governance structure that involves notary authorities at the national level, and to liaise with the Ministry of Foreign Business in Portugal.



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TO LEARN MORE



⁴ The Citizen's Card is an identity card issued by the Portuguese government to its citizens, to be identified before any public or private entity, in person or digitally. For more information, visit the website: <https://eportugal.gov.pt/en/servicos/pedir-o-cartao-de-cidadao>.

https://www.aebr.eu/wp-content/uploads/2023/12/94_EDITED_Report_Eurobec_JPQ-1.pdf

Youth Beyond Borders

ADVISED ENTITY

EGTC Euregio Senza Confini r.l. / EVTZ Euregio Ohne Grenzen mbH – IT-AT

EXPERTS

Bernd Schuh, Austrian Institute for Regional Studies and Spatial Planning (ÖIR) and Mitja Ozbič



THE CONTEXT

In the Friuli-Venezia Giulia region (Italy), the Veneto region (Italy) and the state of Carinthia (Austria), which form the EGTC Euregio Senza Confini r.l. / EVTZ Euregio Ohne Grenzen mbH, the Interreg project SCET NET¹ promoted institutional cooperation to coordinate the regulatory training framework for students over the age of 16 in the border regions. The goal was to mutually recognise professional skills and establish common training practices among the two countries. The project has faced several obstacles, due to the fact that training and professional preparation currently varies from country to country. Each National Qualifications Framework (NQF)² determines how traineeships and apprenticeships are organised and recognised. The challenge therefore is to harmonise qualifications to better facilitate cross-border educational and professional exchanges.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

At EU level, Directive 2005/36/EC³ lays the foundations for recognising regulated professions at EU level but does not address non-regulated professions. In addition, only certain regulated professions are considered comparable among Member States, according to the Directive. Thus, qualifications and training paths for apprenticeships and traineeships for non-regulated and non-comparable professions are determined by each Member State.

The problem lies in the different national laws, in which this legal obstacle is preventing the cross-border exchange of students and apprentices as well as the coordination of professional qualifications within the education and labour sectors. In Austria, the main legal framework for apprenticeships is found in the national Vocational Training Act⁴. In Italy, Legislative Decree 81/2015 regulates apprenticeships⁵. While these laws are relevant to apprenticeships, the obstacles stem from the general national legal frameworks in each country.

- In the education sector, there are differences in each country regarding age requirements for completing education, as well as differences in the respective NQF. For example, in Austria, apprenticeships require a minimum of nine years of school and can only be carried out in certain professions, while in Italy compulsory school education is ten years, but there are no limitations on professions. However, apprentices in Italy can generally be no older than 29 years old, whereas in Austria no such age limit exists. There are also regulated professions in Austria that are not included in the Italian professional qualifications system, among other differences.

ROADMAP TO A POSSIBLE SOLUTION

The solutions include both legal and administrative proposals:

- At EU level, **Directive 2005/36/EC should be revised** regarding the recognition of professional qualifications.
- At national level, it would be helpful if the two countries could find a way to **harmonise compulsory school periods and duration**, perhaps starting with exceptions for the unique situation of border regions. In addition, the following actions are proposed:
 - A framework agreement between the institutions involved (vocational training centres, regional school offices, Chambers of Commerce) and implementing agreements for each traineeship area. Such agreement should find common ground among the different NQF and define the type of training, establishing the basic rules.

1 SCET NET stands for 'Senza Confini Education and Training Network'. The project was implemented between 2018 and 2022 as part of Interreg V-A Italy-Austria 2014-2020.

2 A National Qualifications Framework (NQF) is a formal system describing qualifications in order to understand learning outcomes. All EU Member States currently have or are committed to implementing such a framework.

3 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

4 Vocational Training Act 1969, BGBl. Nr. 142/1969 as last amended by BGBl. I Nr. 185/2022.

5 Legislative Decree 81 of 15 June 2015, Regulations of Employment Contracts and Revision of the Norms Concerning Labor, in Accordance with Article 1, Paragraph 7, of Law No. 183 of 10 December 2014.

- An exception could be made in the national/subnational laws in the two countries for students and apprentices in the border regions.
- **Introduce a new or revised joint administrative procedure at the national or subnational level**, which could include initiatives such as:
 - A platform for coordinating curricular exchanges in the sectors where traineeships are compulsory.
 - A ‘one-stop shop’ or match-making platform to bring companies together with youth interested in internships and apprenticeships, available in all three relevant languages.
 - Seek out enterprises with branches in each region of the EGTC interested in providing apprenticeships on a rotational basis in all three territories.
- **Establish a strategic Memorandum of Understanding (MoU)** to entrust the existing EGTC Euregio to better coordinate the tasks on a case-by-case basis, to act as a facilitator or on behalf of the administrations in the border region for all matters of traineeships and apprenticeships.
 - This could include actions such as information sharing, providing model contracts in each relevant language and country context, facilitating access to the legal framework, and providing a match-making platform as described in the previous point.

WHAT'S NEXT

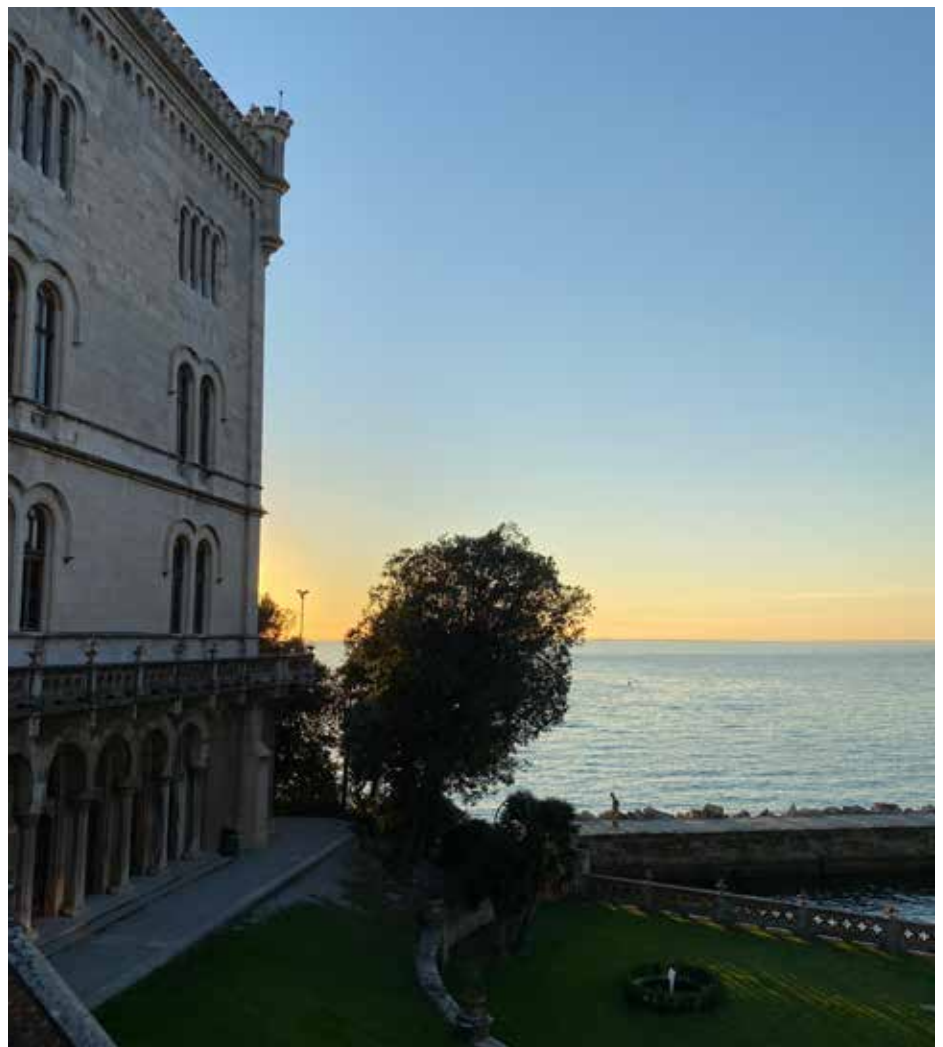
In 2022, the EGTC Euregio Senza Confini signed a Memorandum of Understanding together with the Chambers of Commerce of the Friuli Venezia Giulia and Carinthia regions to be able to continue cooperation in the creation of cross-border training paths. Suggestions and solutions envisioned by the experts will also be included within the scope of this MoU. In addition, for future projects, it could be possible to start with the detected obstacles and the proposed solutions to create stable joint pathways between the regions.

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https://www.aebr.eu/wp-content/uploads/2023/12/96_Report_Senza-confini_Ozbic-and-Schuhappendix.pdf



Problem to work in both Sweden and Denmark at the same time

ADVISED ENTITY

Øresunddirekt Sweden / County Administrative Board Skåne – SE

EXPERT(S)

Emelie Svensson

øresunddirekt



THE CONTEXT

In the Øresund Region, a large number of cross-border workers live in Sweden but work in Denmark. However, the social security systems in these neighbouring countries present an obstacle with regard to part-time jobs and remote work, since Danish businesses with employees who also work in Sweden must pay higher contributions to the Swedish government. This ultimately discourages Danish employers from hiring workers in this situation, which in turn restricts mobility and professional opportunities for cross-border workers. With concerns about unemployment in Sweden and a labour shortage in Denmark, resolving this obstacle would bring many benefits to the region.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

Different social security systems in Sweden and Denmark currently prevent job seekers from being able to work on both sides of the border.

- At the EU level: Regulation (EC) No 883/2004 coordinates national social security systems, in which an individual can only receive coverage in one country. The main rule of this Regulation, found in Article 13, specifies that employees are subject to the social security legislation of the country where they reside when employed in two or more Member States. Regulation (EC) No 987/2009 establishes the procedure for implementing Regulation (EC) No 883/2004, in which Article 14(8) establishes that 25% of hours worked in a country are considered a “substantial part” of one’s work.
- At the national level: Social contributions paid by employers are significantly higher in Sweden than in Denmark. As a result of the above EU rules on the coordination of the social security systems, Danish businesses that have employees who reside in Sweden and also hold a job in Sweden which amounts to at least 25% of their total working time, or who are only employed by a Danish employer but work from home in Sweden at least 25% of their total working time, must pay more in social security contributions to the Swedish government if the employee is socially insured in Sweden. As a result, these businesses tend to avoid employing people in this situation.
- However, there are three main exceptions to this rule that apply to the Øresund Region:
 - The Øresund Agreement¹ is a special agreement on social contributions between the two countries, which applies to workers who live in Sweden but work from home for a Danish employer. Employees are thus allowed to work from home up to 50%, rather than the 25% allowed under Regulation (EC) No 987/2009. However, this exception only applies to workers with one employer.
 - Social security contribution agreements: Danish businesses that do not have a permanent establishment in Sweden, and decide to employ workers in Sweden, may reach an agreement with a Swedish employee, in which the employee agrees to pay their own social security contributions².
 - The COVID-19 pandemic and telework: the Guidance Note on COVID-19 allowed employees to remain insured through social security in their regular place of work while working from home. This was followed by a Guidance Note on Telework³, which was valid from 1 July 2022 until 30 June 2023, which allowed cross-border workers to work from home up to 100% under an agreement with their employer. However, this exception was only applicable to employees with a single employer.
- **A significant obstacle arises when a worker has several employers**, since the exceptions under the Øresund Agreement and the Guidance Note on Telework would therefore not be applicable. The main rule of 25% working hours under Regulation (EC) No 987/2009 would apply instead.

1 Annex 4 to the Swedish Act (1996:1512 of 25 November 1996) on double taxation agreements between the Nordic countries.

2 Swedish Act: Tax Procedures Act (2011:1244 of 1 December 2011), Chapter 5, Art. 5.

3 See links to the Guidance Note on COVID-19 and the Guidance Note on Telework. A new Guidance Note on Telework is in effect as of 1 July 2023, which no longer includes the 100% rule.

ROADMAP TO A POSSIBLE SOLUTION

- **Living in Sweden with one employer in Denmark:** The exceptions under the Guidance Note on Telework valid until 30 June 2023 could be made permanent. This could be done by including the exception in a new bilateral agreement between Sweden and Denmark, as an update to the Øresund Agreement.
- **Living in Sweden with several employers in Denmark/Sweden:** An exception to the current Øresund Agreement could be made, or a guidance note added to Regulation (EC) No 883/2004 for this particular case⁴. This would allow the employer to pay their own national level of social contributions, but to the Member State of residence of the employee. Therefore, employees living in Sweden would still receive social security coverage when they work 25% or more of the time in the country.
- **Prohibit controversial employment contract clauses:** To facilitate the free movement of cross-border workers, Danish contract clauses forcing employees to pay for their own social contributions in Sweden should be avoided. This could be achieved through a mutual bilateral agreement, for example, by updating the Øresund Agreement to exclude such clauses or through implementing a Guidance Note or Directive at the EU level.

WHAT'S NEXT

At Øresunddirekts' yearly cross-border obstacle conference in November 2023, this topic was on the agenda. The legal expert presented the report, obstacle and the suggested solution. Øresunddirekt will continue to highlight the report when they are in contact with decision makers.

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⁴ There have since been changes to the legal framework after this report was written which could not be taken into account, in the form of a new Guidance Note.

https://www.aebr.eu/wp-content/uploads/2023/12/102_EDITED_Report_Skane_Emelie-Svensson-1.pdf

Third country citizens excluded from the labour market in the region

ADVISED ENTITY

Øresunddirekt Sweden / County Administrative Board Skåne – SE

EXPERT(S)

Emelie Svensson

øresunddirekt



THE CONTEXT

EU citizens have the right to choose where to live and work in different Member States. However, third-country nationals do not enjoy this right to free movement, as seen in the Øresund Region between Sweden and Denmark, which is home to a large number of non-EU citizens. There is strong demand for labour in Denmark, but it is difficult for third-country nationals living in Sweden to obtain a Danish work permit, even if they are long-term residents. Removing this barrier would help fill the labour gap and increase the free movement of cross-border workers.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

This legal obstacle stems from Denmark's decision to opt out of an EU Directive, thus preventing third-country nationals with a long-term residence permit in Sweden from being able to live and work in Denmark.

- EU Directive 2003/109/EC¹ establishes that long-term residence status shall be granted to third-country nationals living legally within a Member State for at least five years. According to the main rule of the Directive, Article 14, a long-term resident can live and work in another Member State under certain conditions (such as stable resources, among others)².
- Non-EU citizens with a work and residence permit in Sweden cannot work in Denmark. At the same time, third-country nationals with a residence permit in Denmark risk losing their title if they take up work in Sweden.
- Denmark has a set of national requirements for non-EU citizens to work in the country:
 - The Danish Aliens Act³ sets out three main pathways to a working permit:
 - (1) a minimum salary payment scheme (also called the Pay Limit Scheme⁴);
 - (2) employees must meet a list of requirements in Denmark (called the 'Positive Lists'), such as possessing a higher education degree and/or being a skilled worker; and
 - (3) the person must have been offered a job in Denmark by a company certified by the Danish Agency for International Recruitment and Integration - SIRI (the 'Fast-track scheme').
 - The ESS scheme was introduced by an amendment to the Aliens Act and the Withholding Tax Act⁴: As an exception to the main rule, non-EU citizens participating in PhD studies or employed at the research facility "European Spallation Source" (ESS) in Sweden can apply for a Danish residence permit⁵.

ROADMAP TO A POSSIBLE SOLUTION

The obstacle would be resolved if Denmark allowed for work permits of non-EU citizens in the border region of Øresund. There are four options to reach this solution:

- **Apply stronger EU measures:** From a legal perspective, the easiest solution would be if Denmark opted in for the Directive 2003/109/EC. Alternatively, in theory, a new EU Regulation could enforce the freedom of movement of workers within the EU, without allowing Member States to opt out. However, this option could be seen as controversial in terms of sensitive political implications, which makes it a less viable solution.
- **A bilateral agreement for the Øresund Region:** either by extending the existing Øresund Agreement⁶ to include the topic of immigration, or developing a completely new bilateral agreement to address this issue. Mutual recognition of the work and residence permits granted in Sweden or Denmark would thus be assured.

1 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 016, 23.1.2004, p.44.

2 The conditions are outlined in Articles 14 and 15 of the Directive.

3 LBK no. 1022 of 02/10/2019.

4 Amendment to the Aliens Act: ACT no. 333 of 28/03/2023, and Withholding Tax Act: LBK no. 824 of 28/04/2021.

5 New to Denmark and Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC), OJ L 206, 8.8.2009, p. 1–8. For details, visit the New to Denmark website: <https://www.nyidanmark.dk/>.

6 Annex 4 to the Swedish Act (1996:1512 of 25 November 1996) on double taxation agreements between the Nordic countries.

- **Take inspiration from Swedish case law:** The Swedish Supreme Migration Court ruled that a residence and work permit could be granted for a limited time to a non-EU citizen living in Denmark but commuting to work in Sweden. This decision could be taken as a reference for adapting national laws in Sweden and Denmark, or as a reference for the Danish court to grant work permits to commuters in the Øresund Region.
- **Changes in Danish law:** A particular rule for the Øresund Region could be allowed, much like the special exception for employees or PhD students at EES, to enable cross-border work permits for Danish and Swedish foreign residents. Alternatively, Denmark could extend its “Positive List” to include a Swedish work and residence permit as a legitimate reason to grant work permission in Denmark.

WHAT'S NEXT

Øresunddirekt, the advised entity which serves as a cross-border information centre, discussed this issue at the yearly cross-border obstacle conference in November 2023. The legal expert presented the report, obstacle and the suggested solution. In the meantime, Øresunddirekt information centre has submitted the report to the Technical Support Instrument (TSI) of the European Commission, an EU programme to design and implement reforms. While progress on the solution's implementation is expected in 2026, Øresunddirekt will continue to highlight the report when they are in contact with decision-makers.



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Mapping cross-border skills involving employers: Mechatronics

ADVISED ENTITY

Friuli-Venezia Giulia Autonomous Region – IT

EXPERT

Daniel Spizzo





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THE CONTEXT

Skilled workers in the field of mechatronics, a technology combining electronics and mechanical engineering, are currently in high demand in the border area between the Friuli-Venezia Giulia Autonomous Region in Italy and the province of Carinthia in Austria. However, there are many open job positions that cannot be filled, primarily due to the different legal systems on education and training in each country, as well as the lack of a standardised procedure to map relevant skills. To boost the labour market in this field, it is necessary to establish a common mapping methodology to identify and compare the educational backgrounds and skills of workers on both sides of the border.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The main obstacle is rooted in the different regulatory frameworks in each country¹, in particular regarding the Vocational Education and Training (VET) systems and professional certifications.

- At EU level, a portal² for the European Qualifications Framework (EQF) allows for comparing the National Qualifications Frameworks (NQF). However, there is a lack of information on qualifications and professions in mechatronics in Italy and Austria at EQF levels 3, 4 and 5³.
- At national level, in Austria, the *Beruflexikon* platform (Job Lexicon platform)⁴ of the Austrian Public Employment Service (AMS) indicates the national regulatory framework of qualifications, professions and certifiable skills in mechatronics. This field is officially recognised at the federal level in the different educational stages, from apprenticeships to technical schools and universities.
- In Italy, the *Altante del Lavoro* (Labour Atlas) of the National Institute for the Analysis of Public Policies (INAPP) indicates the skills requirements for this profession in Italy. Compared to Austria, vocational training or high school courses with a public educational path leading to a certification or degree in this field in Italy are scarce.

1 For a more detailed overview of the national regulatory frameworks on this subject, please see the full report.

2 See the Europass qualifications portal: <https://europa.eu/europass/en/compare-qualifications>.

3 Levels of qualifications range from basic (level 1) to advanced (level 8). Levels higher than EQF level 5 were not analysed in the report.

4 Visit the platform (in German): <https://www.beruflexikon.at/>.

- Italy and Austria each define mechatronics occupations differently, with only a few overlapping descriptions and requirements for the same profession⁵.
 - The EQF levels for mechatronics profiles in each respective country do not coincide. In Austria, this profile is found from EQF levels 4 to 7, but in Italy there is only one comparable profile found at EQF level 5.
 - The matter is even more complex at the local level. When it comes to vocational training, regional and local training schools and institutions in both Italy and Austria have a certain amount of autonomy when establishing the skills and certifications required to meet the needs of local business and industries. In turn, standardising this profession among the two countries, and even among the border areas of Friuli-Venezia Giulia and Carinthia, proves to be a difficult task.
- Secondary obstacles were also identified and are addressed in the solutions, such as the lack of joint administrative mechanisms, the need for more cooperation among competent authorities and the lack of knowledge of already existing frameworks.

ROADMAP TO A POSSIBLE SOLUTION

By obtaining standardised data and enhancing institutional coordination, mechatronics vocational training and education can be improved, eventually leading to job placement and orientation policies for cross-border workers in this area. The following four proposals aim to achieve this, presented in the form of ‘work packages’ with an estimated maximum duration of two years:

- 1 Implement awareness-raising actions to address the lack of knowledge on the Europass NQF-EQF comparison platform⁶:** A series of technical-operational workshops should be held, inviting experts from the EQF network to provide updates on how the NQFs between Italy and Austria are compared. Regional actors will also be invited to participate, especially the Italian and Austrian EURES⁷ advisers, since they possess key information on labour mobility in the border region.
- 2 Create a joint coordination structure for the creation of a cross-border skills observatory:** To address the current lack of cooperation between the competent institutions, a coordination structure for mechatronics skills should be established. This observatory should be guided by an expert working group to engage the entire cross-border mechatronics industry and stakeholders involved.
- 3 Create a cross-border working group and introduce new joint administrative procedures:** To align training for skills recognition at EQF levels 3 and 4, joint administrative mechanisms are needed. Such a working group would help design protocols or bilateral conventions to establish mechanisms for cross-border skills recognition, such as innovative apprenticeship courses in professional schools and/or VET training centres through Erasmus+⁸, NRRPs⁹ and/or Interreg funds. Inspiration can be drawn from several good practices and models already in place¹⁰.
- 4 Introduce new joint administrative procedures and on the job training for skills recognition at EQF level 5:** The expected output would be a high-level cross-border training course in mechatronics, recognised at EQF level 5, and jointly coordinated by Austrian and Italian companies, training centres and Public Employment Services. Language skills in German, Italian or English would also be required for this training, depending on each location and workplace, in an attempt to overcome the language barrier and foster cross-border employment.

⁵ Please refer to the original report for the list of overlapping descriptions.

⁶ For more details, visit: <https://europa.eu/europass/en/compare-qualifications>.

⁷ EURES is a European cooperation network of employment services, see https://eures.ec.europa.eu/index_en. EURES advisers are trained specialists who provide the services of information, guidance and placement to both jobseekers and employers interested in the European job market.

⁸ European Commission, Erasmus +, <https://erasmus-plus.ec.europa.eu/>.

⁹ The NRRPs, or National Recovery and Resilience Plans, are plans outlining reforms and investments by the EU Member States to benefit from support under the Recovery and Resilience Facility (RRF), a temporary instrument of the NextGenerationEU fund which supports the economic recovery from the coronavirus pandemic, https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages_en.

¹⁰ To see these examples, please refer to the original report.

WHAT'S NEXT

Following the need to create a major cross-border skills alignment, already under way within the Italy-Slovenia border through the Cross-border Partnership European Social Fund (CBP ESF+) support (namely, EURADRIA), an action plan focused on a set of labour market bilateral cooperation actions will be defined. The advised entity Friuli-Venezia Giulia Autonomous Region, with the support of the Interregional Trade Union Council of Friuli-Venezia Giulia and Carinthia (IRTUC FVG/Carinthia), will propose a coordinated action to the Italian and Austrian EURES National Coordination Offices.

Within this context, the national cooperation meetings plan seems to represent the first step for opening a specific dialogue involving the stakeholders to jointly define a possible set of training paths and tools (both apprenticeships and traineeships) to be harnessed as pilot actions within the specific sector. These may include upskilling and reskilling potential frontiers workers within the area, maximising their placement opportunities and their capacity to fully benefit from the labour market within the cross-border area itself.

The main objective is to also foresee extensions, including the Slovenian and Croatian National Coordination Offices, which result in a wider overview and skills alignment within the macro-region, enhancing and supporting the bordering territories to better define their needs, as well as gaps and possible shared solutions.

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https://www.aebr.eu/wp-content/uploads/2023/12/105_Report_FVG_Spizzo_Mechatronics.pdf

Mapping cross-border workers and labour market between Friuli-Venezia Giulia and Carinthia

ADVISED ENTITY

Friuli-Venezia Giulia Autonomous Region – IT

EXPERT

Daniel Spizzo



THE CONTEXT

In the Friuli-Venezia Giulia Autonomous Region (FVG) in Italy and the province of Carinthia in Austria, many residents live on one side of the border and work on the other side. Having reliable and up-to-date information on the cross-border labour force is therefore essential for more targeted policymaking and to address workers' needs. However, the current commuter tracking systems are uncoordinated and inefficient, making it difficult for authorities in both countries to manage issues such as taxation, healthcare and social security. A new and improved system is therefore necessary to obtain the relevant data.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The main obstacle is caused by a specific Italian law, in addition to differences between the Italian and Austrian national legislations and regional administrative practices.

- Italy lacks the sufficient provisions to ensure registration of cross-border workers' information, which prevents optimal data sharing at the European, national and subnational levels.
 - Legislative Decree no. 181/2000¹, as amended by Art. 1, paragraph 1184 of Law 296/2007², requires employers to report any changes in employment contracts in the Italian UNILAV system³. However, it is not possible to register foreign addresses of commuters entering Italy from across the border through the UNILAV platform, since it only allows for Italian addresses. There is also a lack of coordination with the Italian entities responsible for the EU S1 form. The S1 form is the official EU document certifying the right to healthcare for a worker who does not reside in the country in which they are insured.
 - UNILAV is not connected with the regional social security coordination system in Friuli-Venezia Giulia, which also holds the information of the EU S1 forms, thus preventing information sharing.
- In Austria, the AMIS⁴ platform of the Austrian Federal Ministry of Labour and Economy and the ELDA system of the Austrian social security authorities enjoy a high level of interoperability, with both systems collecting and sharing the relevant data on employees and their place of residence. However, while it is possible to identify Italian commuters who cross the border to work in Austria, there are inconsistencies between the data collected in the Austrian and Italian systems on workers in possession of an EU S1 form.
- The differing administrative practices in each country are also an obstacle. Workers on each side of the border must deal with several bureaucratic requirements, with paperwork passing through different offices and data platforms. While commuters from Austria deliver their EU S1 forms to the competent body in Italy and the rest of the process is automated, commuters from Italy must follow various steps to deliver the forms in person to several different offices in Austria.
- Secondary obstacles were also identified that are addressed in the solutions, such as the lack of joint administrative mechanisms, the need for more cooperation among the competent authorities and the lack of knowledge of already existing frameworks.

1 Legislative Decree 1 April 2000, n. 181 Provisions to facilitate the meeting between job supply and demand, in implementation of article 45, paragraph 1, letter a), of law 17 May 1999, n. 144. Published in the Official Gazette General Series n.154 of 04-07-2000; Entry into force of the decree: 19/07/2000.

2 Law 27 December 2006, n. 296 Provisions for the preparation of the annual and long-term state budget (2007 Finance Law), published in the ordinary supplement no. 244/L to the Official Gazette – general series – n. 299 of 27 December 2006; Entry into force of the measure: 01/01/2007.

3 The UNILAV system is an online form that employers who wish to recruit foreign workers residing legally in Italy must send to the local job centre prior to the recruitment.

4 AMIS stands for 'labour market information system'.



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ROADMAP TO A POSSIBLE SOLUTION

The following four proposals are presented in the form of ‘**work packages**’:

- 1 Raise awareness on best practices:** In the short-term, a series of technical-operational workshops should be organised directly on the border, initially focused on examining good practices in this area to use as a model for a new and improved system.
 - An example of a good practice is the case of the cross-border commuter tracking system on the Italian-Austrian border between the province of Bolzano and the region of Tyrol⁵.
 - After the workshops, a feasibility study could be conducted to determine next steps.

5 For more information, visit the website (in Italian and German): <https://www.provincia.bz.it/lavoro-economia/lavoro/default.asp>.

- 2 **Create a cross-border coordination structure** to monitor the labour market and manage cross-border issues. To this end, a project could be presented to the Interreg Italy-Austria programme to secure funds for this mechanism. The management of the EU S1 forms would be the first order of business for this new structure, as it is currently the most pressing issue.
- 3 **Introduce new joint administrative procedures** to design local action plans, protocols or a Memorandum of Understanding (MoU) to enable the exchange of data across the border. In this regard, information from the EU S1 forms would be shared between the regional offices and managed jointly online. Such joint administrative procedures are foreseen in a number of EU Regulations⁶.
- 4 **Add an exception to national law or administrative decrees** within the Italian UNILAV registration system, creating a separate section or simply inserting an additional tick box in the personal data sheet for cross-border commuters. In this sense, a legislative or administrative correction could be made to the Italian ministerial decrees and/or communications that regulate the labour registration system.

It could be feasible to maximise the role of the European Grouping of Territorial Cooperation (EGTC) Euregio Senza Confini r. l. – Euregio Ohne Grenzen mbH in the management and coordination of some of these potential initiatives. It is also worth noting that while these solutions aim to resolve the issue at the local level, there is still a need to improve data sharing in general on a national level and among EU Member States.

WHAT'S NEXT

Based on these results, the aim of the Friuli-Venezia Giulia Autonomous Region is to foster greater alignment within the labour market and cross-border practices and issues, to be able to connect both the labour market and the EURES systems' competent authorities with the already existent active structures and stakeholders, such as Interregional Trade Union Council IRTUC FVG/Carinthia. Such an approach, with the involvement of both public employment services and social partners, will guarantee a step forward in supporting policy solutions, which are already linked to the major EU priorities and aims, as well as a renovated awareness-raising process among the relevant institutions. The specific exchange of practices and methods will support such major cross-border labour market alignment, contributing to better identifying the characteristics of those cross-border workers between Italy and Austria.

The aim is therefore to create a system supporting the full comparison and systematisation of relevant cross-border labour market data along all the FVG borders; already sharing this specific border, a second direct border with Slovenia and a third so-called "indirect" border with Croatia. Moreover, Austria and Slovenia already share a direct border between them, therefore mapping systems along and within all these borders would be highly relevant to enhance job mobility and overcome current obstacles.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/106_Report_FVG_Spizzo_mapping-CB-workers.pdf

⁶ Please refer to the full report for a description of the different regulations in the solutions section.

Posting workers to Galicia: easing communication procedures

ADVISED ENTITY

Galicia-Norte de Portugal EGTC – ES-PT

EXPERT

María Teresa González Ventín





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THE CONTEXT

The border region along Galicia in Spain and the north of Portugal has a long history of collaboration, thanks in part to a highly integrated business network between the two countries. In order to comply with EU Directives, a Galician law requires foreign companies that post their workers in the region on a temporary basis to inform the Galician authorities by using a special digital certificate. This complicated administrative procedure has led to additional costs and bureaucratic hurdles for Portuguese companies that wish to send their employees across the border.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

This bureaucratic obstacle is caused by the complex and time-consuming procedure for obtaining the digital certificate to be presented on the Galician government website.

- At the national level, Spain has transposed EU Directive 96/71/EC¹ on the posting of workers through Law 45/1999, in which Art. 5² establishes that foreign employers who post workers to Spain must notify the regional labour authority³ by electronic means. The notification procedure is determined by each Autonomous Community.
- At the regional level, the procedure and model for reporting the posting of workers to Galicia are included in the Order of 17 February 2020⁴, which is based on the current Spanish and Galician legislation on relationships with public administrations⁵.

1 Directive 96/71/EC of the European Parliament and of the Council, of 16 December 1996, concerning the posting of workers in the framework of the provision of services, OJ L 173, 9.7.2018, p. 16–24.

2 Law 45/2009 of 29 November 1999 on the posting of workers in the framework of the transnational provision of services, Official State Gazette No. 286, 30.11.1999, p. 41231–41239.

3 The regional labour authority in Galicia is the Service for Labour Relations and Professional Health and Safety of the Department for the Promotion of Employment and Equality of the Xunta de Galicia.

4 Order of 17 February 2020 regulating the procedure and approving the model of communication for the posting of workers in the framework of a transnational service provision to the Autonomous Community of Galicia, Official Gazette of Galicia No. 44, 5.3.2020, p. 14829-14837.

5 Please refer to the full report for a description of the relevant Spanish and Galician legislation. The eIDAS system (Electronic Identification, Authentication and Trust Services) was created by Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73-114. Available at: <https://www.eid.as/>.

- If a Portuguese company wishes to post workers to Galicia, they can only communicate this electronically through the Xunta de Galicia regional government's online platform. For this, they must use an electronic signature mechanism for services offered by the regional government known as the 'CHAVE365' platform.
- The administrative burden of obtaining the required e-signature is an obstacle, since foreign employers must do so electronically or in person; both requiring a Spanish telephone number, a Foreigner Identity Number (NIE) and a Tax Identification Number.
- Because of the complex procedure to obtain this e-signature, some Portuguese companies have had to hire a specialised agency in Spain as an intermediary, leading to additional costs.

ROADMAP TO A POSSIBLE SOLUTION

In the absence of an EU-wide unified identification system, administrative cooperation will be key. The following two solutions have been proposed:

- **Enable use of the European Electronic Identity Recognition System (eIDAS)⁶:** Since Spain has adopted the eIDAS system, this would enable a number of Portuguese electronic identity documents to be used for the required communication of posting of workers, which can be validated through the Spanish '@firma' platform⁷. However, to make it easier to identify which documents should be used, this information should be highlighted on the page and also clearly advertised on the Portuguese Labour Authority Portal.
- **The communication procedure could be carried out between the competent labour authorities of the two countries.** The labour authority in the country where the company is located should therefore communicate the posting of workers to their counterpart authority in the country of destination. To this end, the Internal Market Information System (IMI)⁸ could be used as a secure online multilingual tool that enables the exchange of information and facilitates administrative cooperation between countries.

WHAT'S NEXT

The regional government of Galicia is currently working on improving the electronic communications tool to make it accessible to Portuguese companies. Improvements are also being made to the Galician electronic ID and signature system, CHAVE365, to allow for the use of non-Spanish phone numbers when applying for the e-signature. In addition, the Galician competent authorities have reported that the electronic portal of the Xunta de Galicia currently offers a third option to identify a company representative. This new access takes the user to the identification gateway provided by the Government of Spain, which supports identification with a European digital identity. This was one of the solutions proposed by the expert, who suggested using the European Electronic Identity Recognition System (eIDAS) to simplify the procedures for the use of Portuguese electronic identity documents. Lastly, an event will be organised to present the outcomes to key stakeholders and the relevant business organisations and professionals in the Galicia-North of Portugal region.

TO LEARN MORE



⁷ The @firma platform of the General State Administration of Spain accepts a number of electronic identity documents from foreign service providers.

⁸ The IMI is a web application developed by the European Commission together with the Member States to promote cross-border administrative cooperation. Visit the website: https://ec.europa.eu/internal_market/imi-net/index_en.htm.

https://www.aebr.eu/wp-content/uploads/2023/12/107_EDITED_Report_EGTC-GNP_Ventin.pdf

Limitations in attending a school in a neighbouring country

ADVISED ENTITY

EGTC Euregio Meuse-Rhine – BE-DE-NL

EXPERTS

Martin Unfried, Susanne Sivonen with the external support of Daan Hovens and Amy Azhar, Institute for Transnational and Euregional cross border cooperation and Mobility (ITEM)



THE CONTEXT

The Euregio Meuse-Rhine, a cross-border region spanning five regions across the Netherlands, Germany and Belgium, offers numerous opportunities for educational cooperation. There are a variety of reasons why parents choose to send their children to school across the border in this multicultural region, such as language, access to more affordable schooling, or simply due to proximity. However, national rules often hinder primary school education across borders, leading to difficulties for parents. Adapting the legal framework to enable the free choice of schools in the Euregio Meuse-Rhine would boost bilingualism, cultural understanding, and ultimately contribute to economic development and harmonious coexistence in the region.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

School attendance is compulsory in Germany, Belgium and the Netherlands for children over the age of five or six. While the right to cross-border education is guaranteed at the EU level¹, **obstacles to cross-border mobility may arise from the national legal frameworks.** In particular, parents who wish to send their child to a school in a neighbouring country must obtain an exemption from compulsory school attendance in their country of residence. There are different rules for exemptions in each country:

- **Belgium:** While the minimum standards for education in Belgium are regulated at the federal level, the communities (municipalities) set the rules for school education within their jurisdiction. According to the legal rules of the three communities, parents are only required to inform the school authorities that their child is attending school abroad, without the need to apply for an exemption. However, by contrast, Art. 191 of the Belgian Constitution of 1994 establishes that the government is not required to guarantee the same right to education or access to free education for non-Belgian students, which could pose a problem for cross-border students.
- **The Netherlands:** The Compulsory Education Act of 1969² requires that parents request exemption of compulsory school attendance in the Netherlands before the start of the school year from the local compulsory education officer. The exemption is generally granted if the application includes proof of enrolment of the child at a foreign school. However, if a student attends school across the border, they risk losing their right to certain social security benefits, such as child and health insurance benefits.
- **Germany (North Rhine-Westphalia):** According to the German Basic Law³, education is the primary responsibility of the German federal states (*Länder*). The Compulsory Schooling Act of North Rhine-Westphalia⁴ requires schooling to be carried out in a German school, with exemptions allowed only for particularly important reasons. According to a ministerial circular decree, living in a border region alone is not a valid reason for attending a neighbouring country's school, because the students' integration into German society through language and culture is considered particularly important by the German legislator.⁵
- Other obstacles include differences in admission criteria and school systems, varying age requirements for compulsory education, long waiting lists and unclear rules.

1 Cf. Art. 45 TFEU; Art. 10 Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, OJ L 141, 27.5.2011, p. 1–12; Art. 2 Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers, OJ L 199, 6.8.1977, p. 32–33.

2 Compulsory Education Act 1969, Official Gazette No. 481, 2022, as amended on 9 February 2022, Official Gazette No. 303, 1968.

3 Basic Law for the Federal Republic of Germany in the revised version published in the Federal Law Gazette Part III, classification number 100-1, as last amended by the Act of 28 June 2022 (Federal Law Gazette I p. 968).

4 School law for the Land of North-Rhine Westphalia of 15 February 2005 (Law Gazette North-Rhine Westphalia, p. 102), as last amended by the Act of 23 February 2022 (Law Gazette North-Rhine Westphalia 2022, p. 250).

5 Exemptions to attend foreign or international schools, Circular Decree of the Ministry of Schools and Advanced Education, 13 September 2016, Official Collection of School Regulations 12-51 No. 4.

ROADMAP TO A POSSIBLE SOLUTION

- While there are no clear legal incompatibilities among the three countries, the North Rhine-Westphalia region of Germany includes rules and policies on integration that could be an obstacle for students who wish to attend school across the border. Therefore, **legislation on cross-border education in the Land of North Rhine-Westphalia in Germany should be revised, adapting the legal framework to enable the free choice of schools to enhance transparency regarding rules and administrative processes.** This would involve assessing the student's integration from the perspective of EU regional integration in the border region, rather than integration in German society. However, such changes would require strong political commitment.
- **To promote greater cross-border integration in schools, the first step would be to take existing initiatives such as the 'Euregio (profile) school'⁶ as an example to build on.** This would help attract students from the cross-border area through a special EU regional curriculum, for example by including the three languages spoken in the Euregio (French, German and Dutch).

WHAT'S NEXT

While this report was limited to the analysis of primary schools, further studies could be carried out for secondary schools in the region to determine how the rules are affected at the different levels. It would be particularly helpful to determine the effect of the offer of the bilingual German-Dutch secondary school in Kranenburg (Germany) close to the Dutch city of Nijmegen (Euregio Realschule Kranenburg). The next step would be to obtain more data and comparable statistics to gain a better understanding of the situation and discuss it with the relevant authorities.

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https://www.aebr.eu/wp-content/uploads/2023/12/112_Report_Euregio-Meuse-Rhine_ITEM.pdf

⁶ For information on this initiative, visit the Euregio profile school website: <https://euregio-mr.info/en/themen/unterricht-und-bildung/euregioprofilschulen.php>.

Anti-cumulation of parental allowances in cross-border cases

ADVISED ENTITY

Grenzinfopunkt Aachen-Eurode – DE-NL-BE

EXPERT(S)

Pim Mertens and Sander Kramer, Institute for Transnational and Euregional cross border cooperation and Mobility (ITEM)





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THE CONTEXT

In the Euregio Meuse-Rhine border area, the Netherlands, Germany and Belgium have different paid parental leave schemes for new parents, causing difficulties in obtaining parental benefits in a cross-border context due to the EU's rules on overlapping social security benefits. Data exchange between the competent authorities is often ineffective, and finding the competent authority is difficult as they are organised at different government levels in the three Member States.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle is rooted in the fact that **each country in this cross-border region has its own respective paid parental leave scheme, and categorisation according to the two EU classifications is not harmonised among Germany, Belgium and the Netherlands.** Social security law, including legislation on paid parental leave for after birth childcare, is the competence of the Member States. However, at the EU level, Regulation (EC) No 883/2004¹ establishes rules for the coordination of the different national paid parental leave systems. Regulation (EC) No 883/2004 distinguishes between 'maternity and equivalent paternity benefits' and 'family benefits', for which different coordination rules apply²:

- 1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123.
- 2 For an example of the differences this creates in practice, see here: https://eur-lex.europa.eu/resource.html?uri=cellar:3aa0bc5e-c1e6-11e6-a6db-01aa75ed71a1.0001.02/DOC_4&format=PDF.

- On the one hand, ‘family benefits’ are treated as an entitlement for the entire family, which means that a family member may have a derived right to claim such benefits even if they reside and work in another Member State and have no personal connection to the social security system of the Member State awarding the benefit. For ‘family benefits’, the anti-accumulation principle of Art. 68(2) Regulation (EC) No 883/2004 applies, according to which two Member States are not simultaneously obliged to pay social security benefits for the same purpose within the same period.³

In a cross-border context, where families often have overlapping entitlements, under the anti-accumulation principle the primary competent Member State will pay its family benefits in full and entitlement to benefits under the legislation of the secondary competent Member State will be suspended up to this amount. If, however, the amount of family benefit provided for by the legislation of the secondary competent Member State is higher than that provided in accordance with the legislation of the primary competent Member State, the secondary competent Member State will pay a supplement corresponding to the difference between the two benefits.

- On the other hand, ‘maternity and equivalent paternity benefits’ are treated as individual rights of the mother or the father to compensate for their loss of income during the time they care for the child. For the coordination of these kinds of rights in the case of overlapping entitlements, the conflict rules of Art. 17-35 Regulation (EC) No 883/2004 apply⁴, which means that they are paid to the parent without a deduction, even if the other parent also receives child-raising benefits from another Member State.

There are differences in determining which national benefits are ‘family benefits’ and which are ‘maternity and equivalent paternity benefits’:

- In the Netherlands, the new parental allowance scheme (*Betaald Ouderschapsverlof*) entered into force in 2022 to compensate new parents during parental leave. It is considered an individual benefit per parent and per child and is calculated according to income. The Dutch authorities apply the conflict rules of Regulation (EC) No 883/2004 for ‘maternity and equivalent paternity benefits’.
- In Belgium, this scheme is also established per parent and per child, as a lump-sum compensation (*Onderbrekingsuitkering*), but the Belgian authorities apply the anti-accumulation principle of Art. 68(2) Regulation (EC) No 883/2004 which applies to ‘family benefits’.
- In Germany, there are various types of parental benefits (*Elterngeld*) that constitute a right for both parents together. German authorities thus consider these benefits as ‘family benefits’ and apply the anti-accumulation principle of Art. 68(2) Regulation (EC) No 883/2004.
- The European Commission has admitted that a grey area exists for benefits paid immediately after childbirth and which continue to be paid for some years to the person caring for the child. It is unclear whether these benefits can continue to be regarded as ‘maternity and equivalent paternity benefits’ or ‘family benefits’. While a revision to the Regulation (EC) No 883/2004 was proposed in an attempt to close the gaps and clarify rules, it has not yet been adopted.⁵

3 See more information on the social security coordination rules for family benefits here: <https://ec.europa.eu/social/main.jsp?catId=1142&langId=en&intPageId=3390#F1>.

4 See more information on the social security coordination rules for maternity and equivalent paternity benefits here: <https://ec.europa.eu/social/main.jsp?catId=1142&langId=en&intPageId=3394>.

5 See the Initiative to partially revise Regulation (EC) No 883/2004 here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016SC0460>.

- Other obstacles exist on a practical level:
 - The competent authorities responsible for family benefits in each country vary in terms of administrative level and implementing powers. While this is organised at the central government level in the Netherlands and Belgium, in Germany the local parental allowance offices (*Elterngeldstellen*) are authorities of the federal states (*Länder*). Finding the right counterpart authority in the neighbouring country is therefore a challenge.
 - The exchange of information between the three countries through the Electronic Exchange of Social Security Information (EESSI) system⁶ is limited or non-existent in terms of parental or family benefits, due to differences in implementation status and privacy regulations.

ROADMAP TO A POSSIBLE SOLUTION

- **Clarify how parental leave schemes are determined:** Although the clarifications presented in the proposal to amend the Regulation will resolve certain issues, problems still remain. Therefore, as permitted under Art. 76 of Regulation (EC) No 883/2004, the competent authorities of the Netherlands, Germany and Belgium should cooperate in order to understand the different paid parental leave schemes and attempt to harmonise the definitions.
- **Improve mutual information exchange between the competent authorities for better cooperation,** which would first require identifying the counterpart authorities in each neighbouring country. An improved Single Point of Contact (SPoC) or national coordination point is therefore recommended. It is also recommended to improve the use and potentially the design of the EESSI system in each country.

WHAT'S NEXT

The next step will be to organise a roundtable with the competent authorities and relevant ministries to discuss the issue to reach agreements and establish procedures. The experts consulted for this obstacle, ITEM, also emphasised that this case needs further assessment in their view.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/117_Report_GIP-Aachen_ITEM_Parental-Allowance.pdf

⁶ EESSI is the European IT-system for social security institutions to exchange information on social security in the framework of EU rules on social security coordination. See more information here: <https://ec.europa.eu/social/main.jsp?catId=1544&clangId=en>.

Harmonised cross-border taxation in Greater Copenhagen

ADVISED ENTITY

Greater Copenhagen – DK

EXPERT

Emelie Svensson

GREATER COPENHAGEN



THE CONTEXT

The Øresund Agreement, in effect since 2003, addresses taxation matters for commuters who live and work in both Denmark and Sweden. Despite attempts at labour market integration in the region, residents are being dissuaded from working across the border and businesses are hesitant to hire cross-border workers, mainly due to the significantly different tax systems and complicated rules in both countries. There is no harmonisation of rules for pension systems, taxation and reporting obligations, resulting in increased administrative costs for businesses and a higher risk of double taxation for cross-border workers.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The Øresund Agreement¹, a special tax agreement between Denmark and Sweden, does not address the current tax issues faced by commuters in the cross-border region:

- According to Art. 1 of the Øresund Agreement, the ‘three-month rule’ applies to cross-border workers who work from home part of the time, which means that they only pay income tax in the country of the employer, as long as they work from the country of the employer at least 50% of the time within a three-month period. While in theory, this system allows employees to determine which country’s tax rules apply during this period, in reality, counting percentages and days worked in each country is often a complicated task.
- As of 1 January 2021, Danish companies not permanently established in Sweden must deduct preliminary tax from their employees’ compensation for work performed in Sweden due to a new Swedish national law. This means that Danish companies with employees living or occasionally working in Sweden must register with the Swedish Tax Agency and deduct 30% tax from any work carried out in Sweden.² On the other hand, if an employee living in Sweden but employed in Denmark has worked from home less than 50% of the time, and therefore can only be taxed in Denmark, they can personally apply for an exemption from the Swedish Tax Agency.
- The Øresund Agreement allows cross-border workers to choose between contributing to a Danish or Swedish pension scheme. To do so, an employee must have earned at least 75% of their total income in the country of their employer. However, there is a risk of double taxation if the employee is also taxed in their country of residence for a period of time.
- Under the Øresund Agreement, only cross-border workers in the private sector are covered, putting public sector employees at a disadvantage. If a public sector employer has employees that work from home in Sweden even some of the time, then the employer must register in Sweden and apply the 30% tax rate. For the employee, individual working days must be calculated in order to be taxed in the country where they were physically located during that specific time, without taking into account the three-month rule as described above.

ROADMAP TO A POSSIBLE SOLUTION

The following four solutions directly respond to the obstacles identified:

- The three-month reporting system: **Use a full-year period that follows the annual tax year rather than the three-month rule**, to more accurately determine whether an employee has worked in the country of the employer 50% of the time.
- **Preliminary taxation should be deducted in the country of the employer:** Following the TREKK Treaty between the Nordic countries³ and adapting the reporting system would ease the administrative burden for Danish employers with Swedish employees. The Danish employer would deduct income tax in their own country, and the following tax year, any days worked in Sweden would be counted. If necessary, taxes would then be settled and

1 Annex 4 to the Swedish Act (1996:1512 of 25 November 1996) on double taxation agreements between the Nordic countries.

2 Chapter 10 § 6 of the Swedish Tax Procedural Act (2011:1244), 1.12.2011.

3 Nordic Agreement on the Collection and Transfer of Tax (TREKK Treaty), Official Gazette of Sweden, Act 1997:1157, Annex 2 Act, 4.12.1997.

transferred between the two countries' tax authorities, thus removing the bureaucratic obstacle for employers. This solution would require an amendment either to the Swedish law of 2021 or the Øresund Agreement.

- **Recognition of pension schemes:** In order to adapt to the current situation in which many employees either work from home or live and work in two different countries, bilateral recognition of pension schemes is necessary. In this regard, the 75% calculation for time worked in the country of the employer would no longer be required for an employee to receive their pension.
- **Coverage of public sector cross-border workers in the Øresund Agreement:** The agreement should be amended to clarify that it covers workers in both the private and public sector.

WHAT'S NEXT

The Danish and Swedish governments will negotiate the revised bilateral taxation agreement with a focus on more flexible rules for commuters and employers. At present, the Danish and Swedish governments have reached an agreement on the four specific challenges outlined. However, since elements of the new agreement may have fiscal implications for Denmark, there is still a need to reconcile the economic perspective between the two nations before the agreement can be finalised.

Greater Copenhagen continues the dialogue with national decision-makers and is communicating the problem to relevant stakeholders with reference to the analysis. In Denmark, these stakeholders are the Minister of Taxation, the Minister of Nordic Cooperation, and the Tax Committee of the Danish Parliament. In Sweden, the relevant stakeholders are the Minister of Finance, the Minister of Nordic Cooperation, and the Tax Committee of the Swedish Parliament.

In addition, a narrative should be designed with regard to the amended Øresund Agreement, which aims to convey that a revision of the Agreement is not just about tackling the four specific challenges highlighted by Greater Copenhagen, but also serves as a symbolic gesture, marking a revitalisation of Danish-Swedish labour market collaboration in the wake of a period marked by a decline in cross-border work commuting.



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https://www.aebr.eu/wp-content/uploads/2023/12/119_Report_Svensson_Greater-CPH.pdf

Internships abroad cause health insurance problems

ADVISED ENTITY

Municipality of Maastricht – NL

EXPERTS

Susanne Sivonen, Sander Kramer and Pim Mertens, Institute for Transnational and Euregional cross border cooperation and Mobility (ITEM)



Gemeente Maastricht

GRENSINFO
Maastricht



THE CONTEXT

Internships are an important part of developing greater mobility within the EU, helping a student or trainee gain access to the labour market. However, due to differences in the internship rules and social security requirements between the Netherlands, Belgium and Germany, interns may risk losing their health insurance coverage or have to obtain new insurance in the neighbouring country. This may discourage them from seeking cross-border internships, potentially harming their career prospects and affecting the regional labour market. To overcome this obstacle, the competent authorities will need to clarify which social security legislation is applicable for the interns' health insurance coverage.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

- The legal framework for the coordination of social security systems is laid down at the EU level:
 - Regulation (EC) No 883/2004 and implementing Regulation (EC) No 987/2009¹ both ensure the right to social security coverage for citizens when moving within the EU, for example to study or do an internship. Under Art. 11 of Regulation (EC) No 883/2004, in principle the social security law of the Member State of employment is applicable. However, for economically inactive citizens, which generally also includes students, the legislation of the Member State of residence is applicable. Establishing in which Member State the intern will receive public health insurance thus depends on whether or not the internship is classified as employment.
 - While the EU Regulations only establish binding coordination rules but do not harmonise social security law, the Member States themselves determine the conditions for receiving social security benefits.
- **There are legal schemes at the national level that present obstacles for cross-border internships, since internships are classified differently in each of the three countries:**
 - In the Netherlands, under the Long-Term Care Act (*Wet langdurige zorg – Wlz*) and Health Insurance Act (*Zorgverzekeringswet – Zvw*)², Dutch residents can retain their health insurance as an intern abroad, as long as they are not employed in another country. This means that Dutch interns would lose their insurance back home in case their internship is considered employment in Belgium or Germany.
 - In Belgium, there are two types of internships – *werkstudent* and *jobstudent* – and both are considered employment. While the *werkstudent* is equivalent to a normal employee, the *jobstudent* only works limited hours and therefore only pays limited social security contributions. *Jobstudent* interns fall under the 'Small Statutes' (*Kleine statuten*)³, which does not allow them to register for Belgian health insurance, as outlined in the scheme provided by the Federal Agency for Occupational Risks (*Federaal Agentschap voor Beroepsrisico's – FEDRIS*) on cross-border internships. Therefore, Dutch interns with only limited working hours lose their insurance back home because their internship is considered employment in Belgium, but at the same time they cannot obtain equivalent health insurance in Belgium because they fall under the 'Small statutes'. In this case, the intern may have to take out private health insurance.
 - In Germany, internships are considered employment depending on whether they are compulsory or voluntary. Dutch students with a compulsory internship in Germany may retain their health insurance in the Netherlands, since it is a required part of a degree programme and is not usually remunerated. However, when it comes to voluntary internships, interns may only retain their Dutch health insurance if it is a non-paid internship or if the remuneration does not exceed the threshold for so-called mini jobs (520€ per month).

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123, and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1-42.

2 Long-Term Care Act (*Wet langdurige zorg*), Official Journal of the Netherlands, BWBR0035917, and Health Insurance Act (*Zorgverzekeringswet*), Official Journal of the Netherlands, BWBR0018450.

3 Royal Decree implementing section 1 of chapter 2 of the law of 21 December 2018 containing various provisions relating to social affairs concerning the 'small statutes', Official Journal of Belgium, 02.09.2019.



Gemeente Maastricht
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- Following the outcomes of numerous cases brought forward in the European Court of Justice (ECJ)⁴, the Netherlands could offer public health insurance coverage to Dutch interns carrying out internships in Belgium or Germany but who do not qualify for health coverage in those countries. However, the Netherlands is not obligated to provide coverage in this case.

ROADMAP TO A POSSIBLE SOLUTION

- **Social security agreement:** Art. 16 of Regulation (EC) No 883/2004 allows for the possibility to deviate from the applicable conflict rules for students carrying out cross-border internships. In this regard, interns could remain insured in their home Member State, similar to posted workers under Art. 12 of the Regulation. An agreement pursuant to Art. 16 could be applied to the entire German-Belgian-Dutch border. The Framework Agreement on cross-border telework and social security of July 2023⁵ could serve as an example of a best practice in this regard.
- **Revision of Regulation (EC) No 883/2004:** Since the obstacle has been identified in other EU border regions, a general revision is recommended as a long-term solution. However, under the current proposal for the revision of the Regulation, as proposed by the Commission in 2016⁶, there are no amendments to improve internships. In this case, a special statute or category for students should be added, and the coordinating rules should avoid changes for (temporary) internships.
- **Use of the European Health Insurance Card (EHIC):** According to Art. 19 of Regulation (EC) No 883/2004, the card provides reimbursement for certain health services while in a different Member State. However, it should be noted that reimbursements under the EHIC are not always recognised for essential care services in a different Member State. Rather than a concrete solution to the obstacle, it can be considered complementary to the legal solutions.
- **Tailored private health insurance package(s) for students who are not covered by public health insurance.** These packages could be adapted to meet the healthcare needs of interns and would require negotiations between insurance companies and educational institutions. However, this solution would only apply to certain interns who can pay for private insurance.
- **Look to other regions for inspiration and good practices in promoting cross-border labour integration.** For example, in the border region of Grand-Est, France has established bilateral cooperation agreements with Germany and Luxembourg for cross-border vocational training. Informative factsheets have also been developed in that region, in order to provide potential students and interns with key information on the host country⁷. These practices could be replicated in border regions in the Netherlands, Belgium and Germany.

WHAT'S NEXT

The Municipality of Maastricht aims to engage with experts and other stakeholders in this field, and potentially with another EU region facing the same obstacles to discuss and propose solutions.

TO LEARN MORE



- 4 Please refer to the original report for an overview of the case law mentioned.
- 5 Framework Agreement on the application of Article 16(1) of Regulation (EC) No 883/2004 in cases of habitual cross-border telework. Find more information here: <https://socialsecurity.belgium.be/en/internationally-active/cross-border-telework-eu-eea-and-switzerland>.
- 6 European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004, Strasbourg, 13.12.2016, COM(2016) 815 final.
- 7 See more at the website of Frontaliers Grand Est: <https://frontaliers-grandest.eu/accueil/etudiants/stages/>.

https://www.aebr.eu/wp-content/uploads/2023/12/121_Report_Maastricht_ITEM_CB-internships.pdf

Employee in another EU country primarily in home office

ADVISED ENTITY

EUREGIO Salzburg – Berchtesgadener Land – Traunstein – DE-AT

EXPERTS

Florian Buenger and Federica Borso, Dike Schindhelm law firm





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THE CONTEXT

Under a previous German-Austrian bilateral agreement on cross-border employment (*Grenzgängerregelung*), the social security legislations of the country of residence apply when an employee works more than 45 days per year from home. An employer may therefore be reluctant to allow workers from the neighbouring country to work from home if they must deal with social security, tax and employment rules they are not familiar with. This limitation affects cross-border workers and often prevents them from working remotely. Despite the growing importance of remote work, a lack of clear rules makes determining the applicable tax and social security systems difficult for both cross-border employers and workers.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

While EU Regulations cover social security, tax and labour law for cross-border employment, they mainly apply to workers physically crossing the border to work on-site at their place of employment. **Since remote work is not considered in these Regulations, a legal grey area exists, and it is not always clear which national legislation applies.**

1 Social security contributions:

- At EU level, Regulation (EC) No 883/2004¹ lays down the rules applicable to social security in cross-border situations, in which Art. 13 states that employees are subject to the legislation of the country where they work at least 25% of the time when working for the same employer in two or more Member States.
- At national level, Germany and Austria implemented a framework agreement effective from 1 January 2023, regarding Art. 16(1) of Regulation (EC) No 883/2004, raising the definition of a “substantial” workload carried out in one country to 40%. This means that in cross-border cases between Germany and Austria, employers can apply their own country’s social security system to all their employees even if they work from home in the other country, as long as this does not exceed 40% of total working days.
- In addition, a multilateral European Framework Agreement entered into force on 1 July 2023, signed by 17 EU Member States including Germany and Austria, essentially raising the threshold for telework to 50% of total working days.² A new Guidance Note on Telework is also now applicable as of 1 July 2023.³
- Therefore, if, for example, a German employee works from home the entire time for an Austrian employer, German social security rules apply. This leads to obstacles for the Austrian employer, who has to deal with a social security system that is unfamiliar to them.

2 Taxation:

- Austria and Germany have concluded several bilateral agreements to avoid double taxation in cross-border employment situations. Under Art. 15(6) of the Austrian-German Double Taxation Agreement⁴ and a subsequent Consultation Agreement⁵, an employee will be taxed in their country of residence rather than where their employer is established, if the employee lives within 30 km from the border and crosses the border on a daily basis. This special rule also applies if the employee does not cross the border for work at a maximum of 45 days per year.
 - The two countries reached a new agreement as of 21 August 2023⁶, eliminating the 45-day rule and establishing that any employment in a cross-border context will be taxed in the employee’s country of residence. However, there is still a risk of double taxation for both employers and workers in the case of telework, due to different interpretations of whether the ‘home office’ of the employee must be considered a permanent establishment of the employer.

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1–123.

2 Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework.

3 Administrative Commission for the Coordination of Social Security Systems, Guidance Note on telework applicable from 1 July 2023, Note of 21 June 2023 (AC 137/23); for more information see here: <https://ec.europa.eu/social/main.jsp?catId=868&clangId=en>

4 Agreement between the Federal Republic of Germany and the Republic of Austria for the avoidance of double taxation with respect to taxes on income and capital of 24 August 2000.

5 Consultation Agreement of 4/9 April 2019 on questions of doubt regarding the interpretation of the cross-border commuter regulation pursuant to Art. 15(6) of the German-Austrian double taxation agreement of 24 August 2000, Official Journal of the Republic of Austria 2019 I p. 456.

6 Protocol amending the Agreement of 24 August 2000 between the Federal Republic of Germany and the Republic of Austria for the avoidance of double taxation in the field of taxes on income and capital as amended by the Protocol of 29 December 2010, 21 August 2023; the new rules enter into force on 1 January 2024, provided that the agreement has been ratified by both countries.

3 Applicable law to employment contracts:

At EU level, the law applicable to contractual obligations falls under Regulation (EC) No 593/2008⁷, the so-called Rome I Regulation, which allows for the freedom to choose the law applicable to the contract (Art. 8(1)). However, in absence of a clear choice of law, there is uncertainty in terms of which national legal system would apply.

ROADMAP TO A POSSIBLE SOLUTION

It is recommended that the solutions follow a two-tier approach:

- **Apply short-term solutions for individual cases in the current framework:**
 - Applicable social security and tax law: Employers who prefer to apply their respective national legal framework could adopt measures to avoid dealing with foreign tax and/or social security systems, for example by requiring the employee to pay taxes and social security contributions themselves through gross wage agreements or by limiting the time spent working from home in the employment contract. Alternatively, employers could establish a business unit in the neighbouring country to find a solution, especially if they employ several workers in that country.
 - Applicable labour law: Employers can either choose to apply the law where their employee works from home and resides in, or choose the law of the country where the company has its registered offices. However, this choice of law must not deprive the employee of certain minimum standards.
- **Amend the current EU legal framework** by creating new and comprehensive provisions for cross-border telework/home office to be applied in a uniform way across the EU. Such a framework could build on the work carried out by the working group of the Administrative Commission for the Coordination of Social Security Systems.

WHAT'S NEXT

Due to the new legal agreement for home office activities of cross-border commuters, no further steps are currently being taken. With the rules in place as of January 2024, there will be no further restrictions on working from home. The process with *b-solutions* has helped the advised entity to understand the complexity of the legal provisions and they can now handle inquiries more efficiently.

TO LEARN MORE



https://www.aebr.eu/wp-content/uploads/2023/12/128_EDITED_Report-Euregio-Salzburg_-Dike-Schindhelm-1.pdf

⁷ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008, p. 6-16.

Continued remuneration of the sick cross-border worker

ADVISED ENTITY

Grenzinfopunkt Aachen-Eurode – DE-BE-NL

EXPERTS

Sander Kramer, Susanne Sivonen, Pim Mertens with the external support of Marie-Sophie Hoogervorst, Institute for Transnational and Euregional cross border cooperation and Mobility (ITEM)



THE CONTEXT

In Belgium, the Netherlands and Germany, cross-border workers face uncertainty when they become ill. The monitoring of their status as a sick employee varies from country to country, which in turn determines the duration and quantity of sickness benefits. In addition, the application of employment laws and social security laws is not always clear when determining the incapacity for work, sickness payments and re-integration measures. Addressing this challenge would significantly benefit cross-border workers and their employers, providing much-needed clarity and improving the system.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle stems from the overlapping of employment law and social security law regarding sickness benefits, since a sick employee may be entitled to such benefits from either the employer or the health insurance fund.

- At EU level, Regulations (EC) No 883/2004 and (EC) No 987/2009¹ establish the rules on the coordination of social security systems of Member States. Uncertainties arise for employers as to which laws apply and how to monitor the status of sick employees in a cross-border context.
- Art. 3(1)(a) of Regulation (EC) No 883/2004 addresses sickness benefits, in which such benefits provided in cash by the employer, which aim to compensate the employee for lost wages while sick, are typically also governed by the coordination rules of EU social security law². It follows that even though the obligation to continue to pay a sick employee's wages falls within each national employment law, in a cross-border situation, the continued payment of wages also falls under the scope of EU social security law.
 - Benefits in cash can be exported, so cross-border workers residing outside the country of employment are entitled to cash benefits by the competent institution of that country.
 - For employers, this makes a big difference since the national legal frameworks differ regarding sick benefits: In the Netherlands, the employer is responsible paying the salary of a sick employee during the first two years, according to the Dutch Civil Code and the Sickness Benefits Act (*Ziektewet*)³, and the employer is also obligated to help reintegrate the employee back into the job during this time. If the illness continues beyond this period, the employee may be eligible for WIA (invalidity) benefits⁴. In Germany, however, the employer must pay sickness benefits for six weeks⁵, and in Belgium the established limit is 30 days⁶. In both countries, the national health insurance fund continues payment of sickness benefits to the employee once the employer benefits are finished.
- Articles 27 and 87 of Regulation (EC) No 987/2009 establish specific rules to determine the incapacity for work. Art. 27 states that the sick worker's country of residence is responsible for the monitoring and medical checks of the worker, while Art. 87 states that the competent institution (which is typically the country of employment) has the right to check the medical report of the doctor of the country of residence by requesting to have the sick worker examined by a doctor of their choice⁷.

1 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1-123; and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284, 30.10.2009, p. 1-42.

2 This was confirmed by the ECJ, see Judgment of the Court of 3 June 1992, Alberto Paletta and others v Brennet AG, C-45/90, ECLI:EU:C:1992:236.

3 Act of 5 June 1913, regulating workers' health insurance, Official Law Journal of the Netherlands 1913, No. 204; current version: Sickness Benefits Act <https://wetten.overheid.nl/BWBR0001888/>.

4 For more information, see: <https://www.uvw.nl/en/individuals/invalidity-benefit>.

5 Articles 44-51 of the Fifth Book of the Social Code (SGB V), enacted on 20.12.1988 (Federal Law Gazette I, p. 2477, 2482), entered into force on 1 January 1989, last amended by Art. 2a G of 19 July 2023 (Federal Law Gazette I, 197).

6 Law on compulsory insurance for medical care and benefits coordinated on July 14, 1994, Official Journal of the Kingdom of Belgium No. 1994-07-14/38.

7 See also the Judgment of the Court (Third Chamber) of 12 March 1987, Giuseppe Rindone v Allgemeine Ortskrankenkasse Bad Urach-Münsingen, C-22/86, ECLI:EU:C:1987:130.

- Compliance with these rules can lead to difficulties when employers are responsible for paying sickness benefits, and they employ workers who are socially insured in a different country than the employer's place of establishment. Employers are not often aware that the application of the social security system of another country might require them to pay for such benefits for a longer time, nor are they aware of the rules on monitoring a sick employee's ability to work. For example, if the Dutch legislation corresponds, then the Belgian employer must follow the Dutch social security rules. This often results in a complex administrative process for employers, especially if they are not familiar with the other country's legislation and rules.

ROADMAP TO A POSSIBLE SOLUTION

- **A cross-border coordination point could serve as a point of contact for employers**, to identify and assess obstacles and also provide coordination and support for solutions. In this sense, a Border Focal Point, as already established by the European Commission at the EU level, could also be set up at the border between Germany, the Netherlands and Belgium to serve the needs of the three countries. The gap in information could be filled this way.
- **An agreement under Art. 16 between the Dutch, Belgian and German social security institutions** would address most of the obstacles for sick cross-border workers and their employers, and would apply to the entire Dutch-Belgian-German border. With this agreement, the competent authorities could agree to apply the social insurance scheme of only one of these countries to cross-border workers. This would make it easier for sick employees and foreign employers to exercise the right to free movement, and adhere to the rules in Regulation (EC) No 883/2004 and foreign labour law.

WHAT'S NEXT

The experts consulted for this obstacle, ITEM, emphasised that this case needs further assessment in their view. The advised entity is organising a round table for the case and aims to propose follow-up actions.

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Going beyond obstacles in yachting internship and training

ADVISED ENTITY

Province of Lucca – IT

EXPERT

Michele Vellano



THE CONTEXT

Yachting is an increasingly popular activity and a driving force for the local economies of the French and Italian regions in the Mediterranean, especially in the Tyrrhenian Sea between these two countries. The project ‘Excellence Job on Board’ (E-JOB) resulted in a training programme between France and Italy to strengthen on-board yachting professional profiles, such as chefs, stewards and engineers. However, Italian and French students are subject to different rules for the recognition of their diplomas and internships. A solution to this limitation would strengthen cooperation between the two countries in the yachting sector and harmonise the common rules and training.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

- **The first obstacle is rooted in restrictive regulatory provisions and administrative barriers.** In order to carry out internships aboard private yachts in Italy and France, students must obtain the STCW certificate (‘Standards of Training, Certification, and Watchkeeping’), which is issued by certifying bodies following a training course and is primarily focused on safety on board¹.
- **The second obstacle stems from the lack of recognition of extra-curricular training activities in both the French and Italian legal systems.** These activities are highly specialised and have the potential to be strengthened through training at technical and professional schools, such as in the fields of tourism or catering. Yet without guidelines to standardise the recognition process for extra-curricular training in the yachting sector carried out abroad, such training cannot be applied.
 - At the EU level, a Recommendation² was issued which proposed measures on a quality framework for traineeships. However, since it is not compulsory, each Member State is free to regulate the recognition of extra-curricular training activities at their own discretion, which in this case presents an obstacle in terms of the differing regulations in France and Italy.
 - Based on an agreement signed on 24 February 2009 between the Ministries of Education in France and Italy, secondary school students receive a dual diploma from both countries when participating in the EsaBac dual diploma pathway, which promotes learning the language and culture of the neighbouring country. The Technological EsaBac (EsaBac Techno) diploma³ is available from technical institutes; however, in Italy it currently only applies to technical institutes, excluding vocational institutes in which certain yachting professions would not be covered.

ROADMAP TO A POSSIBLE SOLUTION

- For the first obstacle, while a legal solution has not been feasible, **a practical solution nevertheless aims to eliminate the need for students to obtain the STCW certificate.** Following discussions with representatives of the various schools involved in Italy, the Artiglio State Technical Nautical Institute in Viareggio (Lucca) was willing to make the internship onboard available to students of certain yachting professions of the technical institutes. The French schools involved also indicated interest in this practical solution.
- **The solution to the second obstacle involves implementing a special EsaBac Techno Yachting school pathway,** in which a dual title would be awarded by one or more institutes in Lucca/Viareggio (Italy) that have expressed interest in participating, and simultaneously by one or more counterpart institutes in Nice/Antibes (France). The purpose would be to boost the specific skills of personnel on board, especially related to tourism activities, in which the trainee could be employed on both French and Italian yachting routes.

¹ The certificate is issued in all countries (including Italy and France) that have adhered to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 7 July 1978, entry into force 28 April 1984.

² Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships (2014/C 88/01), OJ C 88,27.3.2014, p.1-4.

³ The issuing of the EsaBac Techno double diploma took place following the conclusion of a special protocol agreement between the Italian and French governments on 6 May 2016.

- The Quirinal Treaty between France and Italy⁴ provides the opportunity for bilateral collaboration on the issue, since Art. 8 establishes the legal basis for enhanced cooperation in the field of education. It encourages youth mobility in education and vocational training, and promotes establishing Italian-French centres of professional excellence and mutually recognised educational pathways.
- The EsaBac Techno Yachting pathway could potentially lay the foundations for the creation of an ‘Italian-French centre of professional excellence’ dedicated to yachting, which is in line with Art. 8 of the Quirinal Treaty. To this end, it is recommended that contact be established with the Strategic Operational Management Committee of the Quirinal Treaty for further technical support and to raise awareness of the project within the framework of the Treaty.
- A good practice within extra-curricular training was identified in the project ‘E-JOB’ for new professionals in Italian and French yachting, financed by the Interreg programme Italy-France Maritime⁵, which could be continued in the future.

WHAT’S NEXT

The Province of Lucca has submitted another application, ‘I-YEP’, under the Interreg programme Italy-France Maritime building on the former E-JOB project. The project has been financed and will begin in January 2024. A specific phase within the I-YEP implementation has been planned in order to follow up on the recommendations provided by the *b-solutions* report, to include:

- a) The definition of a cross-border Memorandum of Understanding to initiate an approval process for the cross-border recognition of competences in the yachting sector;
- b) The creation of an I-YEP Network, extended to the local stakeholders responsible for training and employment. This network will also involve those responsible for validating skills acquired in the cross-border area related to the yachting sector. Two roundtables will be set up for this purpose; one in Nice, France and one in Viareggio, Italy.



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4 Treaty between the French Republic and the Italian Republic for a Strengthened Bilateral Cooperation, signed 26 November 2021, entry into force 1 February 2023, see Law No. 90 of 12 July 2022, Official Journal of the Italian Republic No. 164 of 15 July 2022.

5 Find more information about the E-JOB project, see here: <https://www.isyl.it/en/e-job-excellence-job-on-board/> and to know more about the Interreg programme, see here: <https://interreg.eu/programme/interreg-italy-france/>.



Green

Operation and distribution formats – Renewable energy plants

ADVISED ENTITY

Euregio via salina e.V. – DE-AT

EXPERT

Bernd Schuh and Roland Gaugitsch, Austrian Institute for Regional Studies (ÖIR)

EUREGIO VIASALINA
ALLGÄU · AUSSERFERN · VORARLBERG



THE CONTEXT

Energy communities are an increasingly important part of the transition towards decentralised energy systems and renewable energy. Energy communities are a form of voluntary civic cooperation in the field of energy at distribution system level, in which citizens and local actors (such as small and medium-sized enterprises - SMEs and municipalities) create a legal entity with the primary purpose of jointly investing in renewable energy assets.

While the EU regulatory framework, which provides the basis for these communities, also allows for linking distribution systems across national borders, each Member State must decide whether to include cross-border energy communities within their national legislation. In the case of Austria and Germany, neither country has chosen to do so, which has become a barrier to cooperation in the Euregio via salina border area of Austria and Bavaria.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The gaps in the EU legislation and the lack of harmonisation in the national legislations are the main obstacles to cross-border cooperation.

- Cross-border energy communities are permitted under EU legislation according to Art. 22 of Directive (EU) 2018/2001 on the promotion of renewable energy¹ and Art. 16 of Directive (EU) 2019/944 on the common rules for the internal electricity market². However, the establishment of cross-border energy communities is optional for Member States under this framework.
- While not explicitly prohibiting it, neither Germany nor Austria has included a cross-border perspective within their community energy policies, resulting in significant differences in rules and requirements. This is especially a problem, since both Austria and Germany require participants in an energy community to be residents of the respective countries, further hindering cross-border cooperation and energy sharing.
 - The Austrian Renewable Energy Expansion Act package 2021³ ties participation in energy communities to registration in a specific concession area or to connection to a distribution network that only operates in Austria. Possible German members therefore could not consume the energy produced within the community or profit from reduced energy prices.
 - In Germany, the Renewable Energy Act 2023⁴ links membership to registration in the German registry, which is only possible for residents of Germany. This spatial criterion excludes Austrian citizens from membership in a cross-border energy community, even if they live close to the border.

ROADMAP TO A POSSIBLE SOLUTION

- **In the long term, the solutions require establishing clearer rules for cross-border energy communities.** The harmonisation of national legislation is also key in order to align the requirements for participation, so that energy communities can be truly borderless.
 - A revision of the EU legal framework is recommended to require Member States to include basic provisions for cross-border energy communities in their national legislation.
 - A change in national legislation in both Austria and Germany should introduce clear rules for the establishment of cross-border energy communities. Beyond that, certain amendments are also necessary to overcome the uncertainty of the current legal framework:

1 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82-209.

2 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, OJ L 158, 14.6.2019, p. 125-199.

3 Renewable Energy Expansion Act 2021, Federal Law Gazette No. 150/2021, as amended by Federal Law Gazette No. 233/2022.

4 Renewable Energy Act 2023, Federal Law Gazette I p. 1066/2014, as amended by Federal Law Gazette I No. 133/2023.

- a. In Austria, outlining specific legal provisions and administrative procedures for information exchange and billing procedures between distribution system operators would enable cross-border energy sharing.
- b. In Germany, a specific spatial criterion for participation in energy communities could be introduced that only applies to cross-border participants, and, just as with Austria, the relevant legal and administrative provisions for information exchange and billing procedures must be updated.
- **In the medium-term, a pilot project to establish an energy community is suggested**, with the potential for replication in other border areas. Regional EU funding programmes can be explored for this purpose, such as the INTERREG Bavaria-Austria programme, which includes support for ‘cross-border energy regions’, or the Connecting Europe Facility⁵.
- **Several solutions are also recommended in the short to medium term to allow for cross-border financing and participation in joint projects:**
 - An energy cooperative could be established under cooperative law to allow for the participation of residents from different countries, taking the citizen-led energy projects in Germany as an example. These could also be done through a European Cooperative Society⁶.
 - A ‘virtual power plant’ could be established by a supplier operating in both countries, which provides financial benefits for small-scale energy production, while at the same time reducing administrative and operational barriers. However, since this does not allow for the direct consumption of the energy produced, an additional legal structure would be necessary to finance the project and ensure the distribution of financial benefits.

WHAT'S NEXT

Information about the case has been shared with the communities in the Eurogio via salina, who will use the findings for potential cross-border energy projects. In addition, the report will be used in the evaluation of the Euregio strategy and will help the Euregio to get a clearer picture of border obstacles in the region, and can therefore be implemented in the future work of the organisation.



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https://www.aebr.eu/wp-content/uploads/2023/12/125_Report_Euregio-Via-Salina-energy_OiR.pdf

5 For more information on funding, see the INTERREG programme: <https://interreg.eu/programme/interreg-austria-germany/> and the Connecting Europe Facility: https://cinea.ec.europa.eu/programmes/connecting-europe-facility/energy-infrastructure-connecting-europe-facility-0/cross-border-renewable-energy-projects-cef-energy-new_en.

6 The ENERGIE 2030 initiative is an example of this type of cooperative: <https://www.energie2030.com/e2030/de/arbeit.html>.

District heating without borders

ADVISED ENTITY

EGTC Euregio Senza Confini r.l. / EVTZ Euregio Ohne Grenzen mbH – IT-AT

EXPERT

Daniel Spizzo



THE CONTEXT

In the Friuli-Venezia Giulia region (Italy) and the province of Carinthia (Austria), there is a long history of cooperation between the municipalities of Pontebba in Italy and Hermagor in Austria. One of their shared goals is to create a cross-border district heating network to connect the biomass power plant located just below the Austrian border with certain hotel facilities in Italy. District heating systems provide the benefits of having lower thermal energy production costs, thus enabling the transfer of benefits to users and communities, with positive economic and social impacts. However, there is a lack of cooperation among economic players in the border region, stemming from regulatory uncertainties regarding taxation rules and the commercial exchange of thermal energy.

THE OBSTACLE AND THE LEGAL OR ADMINISTRATIVE PROVISIONS

The obstacle stems from **regulatory issues in terms of taxation rules and commercial exchange** of thermal energy. **Regulatory gaps** at European, national and local levels and **diverging taxation rules** applied to district heating make it difficult to create a single integrated market. The networks are not physically interconnected with one another and there is an absence of a basic cost and price information database, which makes it difficult for consumers to compare prices. All of this **results in a lack of cooperation** among economic operators on the Italian-Austrian border.

- **There are regulatory gaps at EU level:**
 - In terms of nomenclature, the definition of ‘district heating’, or the distribution of thermal energy in the form of steam, hot water or chilled liquids from a central source of production, is based on Art. 2 of the Energy Performance of Buildings Directive (EPBD).¹ However, hydrothermal energy is not officially included in the lists of ‘energy products’ or ‘energy goods’ according to the European Harmonised System (HS) codes².
 - Taxation rules on district heating are not defined at the EU level, since the Energy Taxation Directive³ excludes heat from taxation outputs. The Directive has not been updated in decades and does not reflect the EU’s current climate policy, the Green Deal.
 - As a result, there is no clear legal definition or framework on the cross-border transfer of heat.
- **There are obstacles at national and regional levels:**
 - In Italy, there is no framework law that specifies the legal nature of district heating, while in Austria there is no regulatory authority for this industry. There is also a lack of clarity regarding taxation and different VAT rates for heating in both countries, as well as differences in pricing and tax monitoring. A lack of transparency regarding prices was also observed in Austria.
 - At the regional level, there is a lack of administrative coordination between local actors and entities operating on both sides of the border. In addition, while both Italy and Austria have adopted national energy plans, at the regional level in the cross-border area in question, only Carinthia (Austria) has a current regional plan in place.
 - Delving deeper, **three interconnected issues were also identified** as contributing to the main obstacle: a lack of awareness regarding existing facilitative frameworks, the existence of varying administrative approaches, and the absence of joint administrative mechanisms.

1 Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings, OJ L 153, 18.6.2010, p. 13–35.

2 The Harmonised Commodity Description and Coding System, commonly referred to as the Harmonised System (HS), is an international system to classify goods. It is used by customs authorities of countries to check which tariffs and rules apply to goods. See more information here: <https://trade.ec.europa.eu/access-to-markets/en/content/harmonised-system-0#:~:text=It%20allows%20economic%20operators%2C%20custom,the%20collection%20of%20statistical%20data>.

3 Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, OJ L 283, 31.10.2003, p. 51–70.

ROADMAP TO A POSSIBLE SOLUTION

In order to lay the foundations for sustainable energy options in the region, **collaborative solutions are needed**, which are presented in the form of three work packages:

- 1 Awareness raising on cross-border district heating:** In the Renewable Energy Directive (RED II)⁴, recital 49 indicates that a comprehensive mapping and analysis of renewable heating is necessary. To this end, a series of legal-administrative and technical-operational workshops could be organised directly on the border, in the municipalities of Hermagor and/or Pontebba. Stakeholders at the local, regional, national and EU level should be invited to participate, and to address doubts through a consultation procedure. Experiences in other cross-border regions on this topic and pilot projects could also be shared to exchange information and good practices.
- 2 Creation of a cross-border coordination structure or office:** Specifically, a joint coordination structure could be established between Pontebba and Hermagor to address cross-border policy measures, including the energy market, and to simplify administrative procedures.
- 3 Cross-border energy communities:** Such communities are mentioned in recital 79 of the RED II, as well as in the Austrian and Italian national laws transposing the Directive. To this end, the municipalities of Pontebba and Hermagor could take advantage of the INTERREG Italy-Austria programme for Community-Led Local Development (CLLD)⁵ to work on a project proposal for district heating and potentially obtain funding. For this purpose, focus groups could be held with local stakeholders interested in becoming members of a cross-border renewable energy community.

WHAT'S NEXT

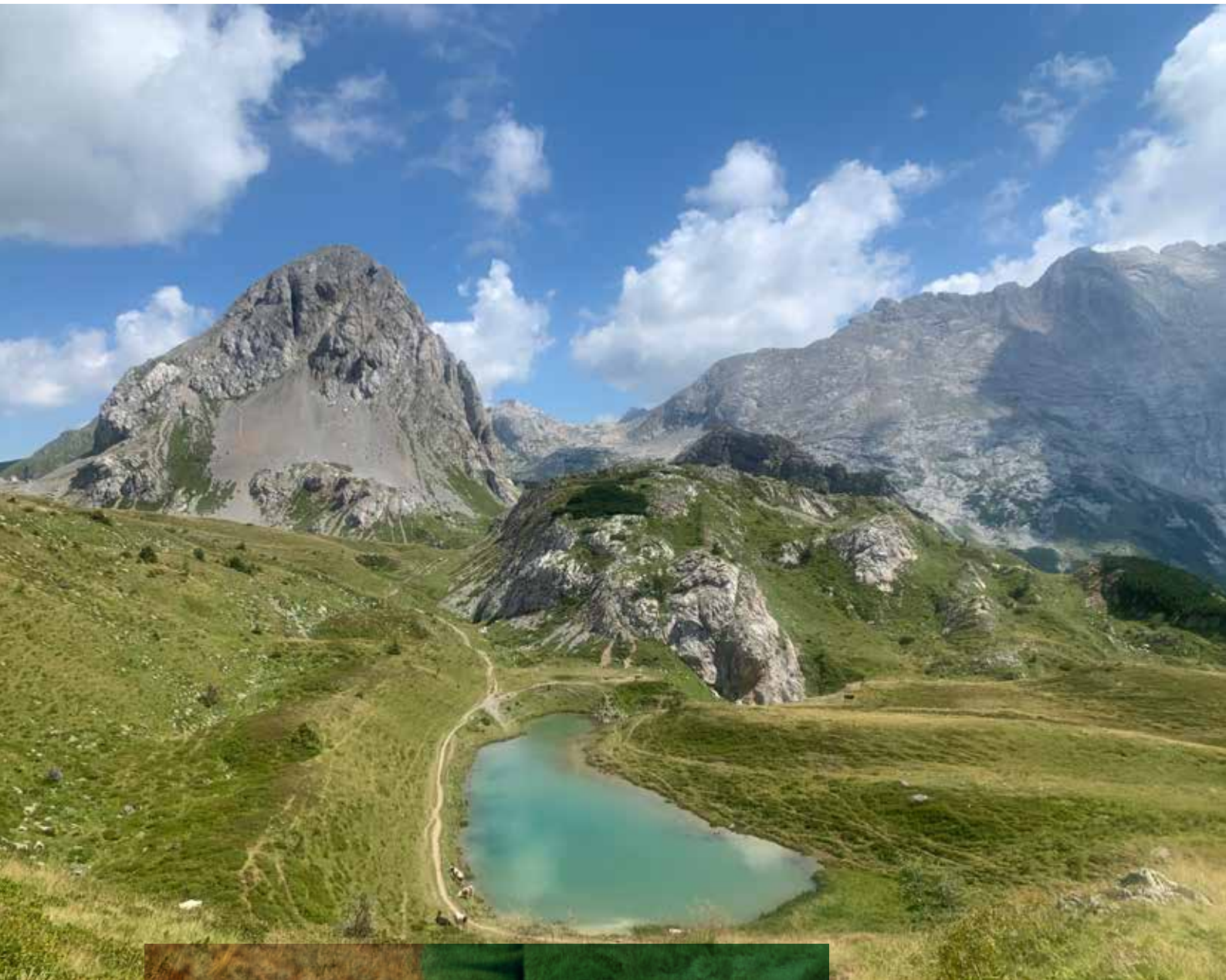
The Italian GAL⁶ Openleader, supported by the EGTC Euregio Senza Confini r.l. / EVTZ Euregio Ohne Grenzen mbH, will discuss the results of the report with their Austrian counterparts, LAG Hermagor and GAL Euroleader, in order to analyse the possibility of launching an INTERREG CLLD project for the creation of a cross-border district heating community.

⁴ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82–209.

⁵ See more information here, available in Italian and German: <https://www.interreg.net/en/2021-2027/clld.asp>.

⁶ Local Action Groups (GAL in Italy and LAG in Austria, in this case) are a legal form of public-private partnerships at the local level that operate through the drafting of a Local Action Plan, which aims to promote the development of a specific rural territory.





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Conclusions

The *b-solutions* initiative has been running for six years with the main objective of finding solutions to problems encountered on a daily basis by citizens, businesses and local authorities in border regions seeking to cross the border.

Building on the ninety cases collected between 2018 and 2021, this compendium is filled with forty-one new cases selected in 2022 and 2023. This evidence-based document enables us to:

- Further prove the existence and persistence of cross-border legal and administrative obstacles in border regions;
- Acknowledge the enduring impact of these obstacles on the socio-economic development of border regions, and the daily lives of approximately one-third of the EU population;
- Identify the various political, technical and legal means of addressing and resolving legal and administrative obstacles;
- Emphasise the need for sustained political support and commitment at all levels, alongside concrete actions;
- Illustrate that improved cross-border cooperation requires the collaboration of all levels of government - local, regional, national, and European;
- Highlight that most of the identified obstacles stem from national laws, due to divergent national legal frameworks that do not take into account the specificities of the cross-border context;
- Explore solutions such as establishing or using cross-border structures like European Groupings of Territorial Cooperation (EGTC), or the adoption of bilateral agreements to overcome these legal obstacles;
- Demonstrate that border regions would benefit greatly from an EU legal tool, such as the amended proposal for a Regulation on 'Facilitating Cross-Border Solutions' to overcome obstacles to cross-border cooperation.

One important takeaway from this publication is that border obstacles still persist after 70 years of European integration. In this context, *b-solutions* and other tools aiming at solving border obstacles need to be fine-tuned and used by relevant stakeholders and policymakers at all levels of governance.

HOW HAS *B-SOLUTIONS* BEEN USED SO FAR?

Different types of stakeholders in numerous border regions have benefited from *b-solutions*.

Looking at the geographic distribution of the forty-one selected cases, seventeen countries along sixteen borders are covered. Different types of border regions are represented, with examples showcasing border regions located in urban, rural, or mountainous areas in the four corners of Europe.

Many stakeholders suffer the side effects of border obstacles: local and regional actors, small and medium-sized enterprises (SMEs), and undoubtedly citizens living in border regions. A total of twenty-eight selected applicants from cross-border structures and public

bodies participated in the *b-solutions* cases included in this compendium. They aimed to address these hurdles and design strategies adapted to their territories and the needs of the populations. Cross-border structures such as EGTCs, registered cross-border associations and Euroregions represent thirteen of the selected applicants. The remaining fifteen are public bodies or public-equivalent bodies, including: two chambers of commerce, two specialised administrative entities, five local and regional governments, one network of public universities, one citizen information bureau, two associations representing municipalities, and two political cooperation bodies.

In the majority of these 41 cases, applicants have used *b-solutions* to support the resolution of isolated obstacles. However, some applicants submitted several cases in the same field, as shown by the EGTC Alzette Belval, which submitted four cases related to cross-border health along the France-Luxembourg border. Other applicants took advantage of *b-solutions* to improve their overall capacity on cross-border cooperation, similar to Euregio via Salina along the Austrian-German border or Eurobec along the Portuguese-Spanish border, which respectively submitted three cases on different thematic areas.

It is worth noticing that eleven are former applicants which had submitted cases that were analysed and compiled in previous compendiums. Seventeen are new applicants, which have been identified with the support of cross-border networks: Central European Service for Cross-border Initiatives (CESCI), Mission Opérationnelle Transfrontalière (MOT), Interreg programmes, and many more.

FROM THE ROOTS OF THE PROBLEMS TO THE SEEDS OF SOLUTIONS

Confirmed root causes

These forty-one cases provide an overview of various border obstacles based on many and different root causes, similar to those identified in the last two compendiums of 90 cases. Among the most frequent sources of barriers, there are:

- Conflicting or overlapping national legal frameworks or requirements;
- Differing, complex, time-consuming, costly administrative practices or procedures;
- A specific national or European legal act which does not take into account the cross-border dimension.

The differences in legal frameworks or administrative procedures appear evident as border obstacles involve two systems from two separate countries with their own legal, institutional, and political cultures. What becomes problematic is when these two systems are not compatible or fail to incorporate the reality of cross-border interactions.

Other root causes arise when stakeholders face a deficit of cooperation, governance, or knowledge. These include:

- Lack of coordination among stakeholders across the border;
- Lack of implementation of existing agreements or laws;
- Lack of reliable and up-to-date information.

The lack of knowledge and communication are recurrent problems for stakeholders who wish to have access to detailed and accurate cross-border information. Without information sharing and governance, it is a complex process for stakeholders to document the obstacle or to know which relevant authority they should turn to for help. It leads to a misconception of the nature of an obstacle, which is sometimes the result of different layers of difficulties intertwined: legal, administrative, lack of governance and knowledge.

Multifaceted solutions

This compendium confirms the lessons learnt in the solutions identified in previous *b-solutions* compendiums, namely:

- Solutions need to be tailored to the specificities of the territories for a better response and approval of the community;
- Solutions must be supported by political leaders willing to take steps to remove or at least reduce these barriers;
- Solutions require long-term processes and, in most cases, the involvement of authorities at the national level from both countries;
- Solutions should be complementary, particularly for complex and ambitious cases to efficiently tackle the obstacle.

The timeframe also plays a role, as experts often advise focusing on short-term and medium-term solutions to mitigate the direct effect of the obstacles, while acting in the long-run for viable progress.

The short-term to medium-term solutions focus on increasing information sharing and raising awareness on best practices to tackle the lack of cooperation, governance, or knowledge. A frequently recommended solution, highlighted in several cases, is the establishment of cross-border coordination points in charge of formulating proposals and sharing best practices. For instance, in the case “Legalise border crossings for French-Spanish rescue services”, such a structure, which could take the form of an EGTC, would highlight coordination and intervention of emergency prevention, firefighting and rescue services across the French-Spanish border.

Other practical solutions for allowing local and regional actors to remove cross-border barriers have been explored. In the case “Develop a successful business with my neighbour country”, the experts suggest organising cross-border business events and developing large-scale awareness and information campaigns along the Greek-Bulgarian border in order to improve the understanding of the business rules on the two sides of the border.

Using Interreg funding as a complementary tool to *b-solutions* can be a real asset for the stakeholders, as demonstrated by the case “Going beyond obstacles in yachting internship and training”, where the solutions identified in the report were integrated into an Interreg project. The project starts in 2024 to define a memorandum of understanding for the cross-border recognition of competences in the yachting sector along the Italian-French border. More solutions have been developed, such as the launch of pilot actions to test cross-border strategies and the formulation of roadmaps or management plans.

Depending on the cases, solutions may also imply ad hoc provisions and regulatory or legislative changes. Sometimes, the solution might require the establishment of a new law, administrative document, memorandum of understanding, roadmap, or international agreement. This is the case along the border between Hungary, Romania, and Serbia, where an agreement between the three countries is required to authorise the crossing of ambulance services in the DKMT Euroregion.

Modifying or revising existing laws, procedures and agreements are solutions which can enable better acknowledging the cross-border dimension of specific obstacles. For instance, in the case “Operation and distribution formats — Renewable energy plants”, the expert suggests the revision of the EU legal framework to require Member States to include basic provisions for cross-border energy communities in their national legislation, as well as a modification in national legislation in both Austria and Germany to introduce clear rules for the establishment of cross-border energy communities.

Finally, the use of new tools could facilitate and speed up the resolution of many obstacles. The creation of an EU legal tool to resolve border obstacles would be particularly useful in that sense. It is suggested in the case “GO! Borderless Square” along the Italian-Slovenian border, where the creation of a special legal space or permanent mechanism for the square located on the border could facilitate the organisation of events under the coordination of EGTC GO. Another example where the need for an EU tool is encouraged is the case “Water governance in European Natural Park of Scarpe Escaut”. Having the possibility of applying a common legal framework for a specific project in the cross-border river area would improve water governance in the territory to carry out joint projects.

A fertile ground for a legal instrument at the EU level

Legal harmonisation takes time and must be made a priority. Combined with existing policies, a legal tool at EU level could be the ultimate instrument leading to concrete solutions and progress for all border regions.

The results of the *b-solutions*' key findings show that financial resources like Interreg and administrative tools like EGTCs are fundamental to enable cooperation across borders, but they alone are not enough to solve legal and administrative obstacles.

Border obstacles have as many root causes as potential solutions to overcome them. Solutions often imply intervention at the national level, and *b-solutions*' bottom-up approach demonstrates how lengthy and burdensome it might be in certain cases to address the relevant authorities regarding real situations in border regions.

A legal instrument at EU level could contribute to effectively reporting legal and administrative obstacles to the competent authorities or to the EU institutions to provide quicker solutions.

The possibility to integrate such a mechanism would pave the way to strengthen not only border regions but also EU integration.

This supranational tool would thus offer an equal opportunity to all actors in border regions to be heard and make progress on collectively addressing the barriers they face. As pointed out by the European Committee of the Regions¹, the involvement of regional and local authorities as well as the consultation of business groups, local civil society actors and community groups would ensure the implementation of an effective and efficient tool that is inclusive and supportive of the needs of border regions.

With an EU-wide instrument, legal and administrative obstacles, perceived threats and defensive positions could turn into innovative solutions, real opportunities and a collective reaction towards a Europe of the regions where no border region is left behind.

A recent development in this direction is the amended proposal for a ‘Regulation on Facilitating Cross-Border Solutions’² adopted by the European Commission on 12 December 2023. The proposal addresses two significant needs of local authorities highlighted within *b-solutions*:

- It would ensure communication between relevant authorities involved through the establishment of so-called Cross-Border Coordination Points (CBCPs).
- It would create a new legal tool, the “Cross-Border Facilitation Tool”.

¹ CoR, Opinion European Cross-Border Mechanism 2.0, 157 Plenary Session, 9-11 October 2023.

² Amended proposal for a Regulation (EU) of the European Parliament and of the Council of 12 December 2023 on a mechanism to resolve legal and administrative obstacles in a cross-border context. Available at: https://ec.europa.eu/regional_policy/sources/policy/cooperation/european-territorial/proposal-facilitating-cross-border-solutions_en.pdf

POLICY RECOMMENDATIONS TO ELIMINATE OBSTACLES TO CROSS-BORDER COOPERATION

Based on the lessons learnt from the implementation of *b-solutions* 2.0 and the previous recommendations underlined in the two compendiums 2018-2019 and 2020-2021, some indicative perspectives are summarised for policymakers involved in cross-border cooperation at all levels:

- 1 Technical and financial support.** Use existing tools such as Interreg funding, particularly within the Interreg-specific Objective « Better cooperation governance », cross-border structures such as EGTCs, the *b-solutions* initiative, and bilateral agreements, in a complementary way to tackle border obstacles;
- 2 Embedding.** Promote cross-border cooperation in mainstream programmes and priorities to raise awareness about best practices in cooperation among neighbouring regions;
- 3 Information sharing and capacity building.** Adopt a better cross-border cooperation approach to train and build capacity through networking and benchmarking;
- 4 Multi-level engagement and political commitment.** Further enhance bottom-up policy-making in cross-border regions, from citizens to political engagement at different levels of governance;
- 5 Future tools for border regions.** Support the adoption and implementation of a legal instrument at EU level to strengthen the cohesion of the European Union in the areas where it is most needed and visible.

For more detailed recommendations, readers can consult the first compendium pages 54-56³ and the second compendium page 157⁴.

³ ISBN 978-92-76-13300-1. Available at: https://www.b-solutionsproject.com/_files/ugd/8f68c1_4ce87ef8407445839b3b19c392c5a2a2.pdf

⁴ ISBN 978-92-76-43378-1. Available at: https://www.b-solutionsproject.com/_files/ugd/8f68c1_d4b7ca6eb8c4448598e62e0b66f8c08e.pdf

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United Nations Treaty Series No. 33207, adopted by the United Nations Economic Commission for Europe (UNECE) in Helsinki on 17 March 1992, entered into force on 6 October 1996.

United Nations Treaty Series No. 52106, adopted by the United Nations General Assembly in New York on 21 May 1997, entered into force on 17 August 2014.

In European border regions, citizens experience obstacles when collaborating with their neighbours. The *b-solutions* initiative intends to ease cross-border interactions by offering sustainable solutions to legal and administrative obstacles throughout Europe.

This new volume is a compendium of 41 cases of obstacle selected in 2022 and 2023 in the framework of *b-solutions*. The cases' summaries here presented provide details on involved entities, legal provisions and potential solutions to solve these obstacles. As such, they offer insights and inspiration for improving cross-border cooperation.

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