



More and better cross-border public services

Obstacles and solutions
to cross-border
cooperation in the EU



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Preface

I very much welcome this thematic publication on public services including healthcare.

Access to high quality healthcare is a priority for EU citizens. The COVID-19 pandemic has put health systems under unprecedented pressure and cooperation across European regions has demonstrated very clearly how European solidarity and cooperation can save lives. Cross-border healthcare offers citizens the option to be treated in another EU country in situations where the most appropriate treatment or the nearest hospital is across the border. Since 2011 the EU Directive on patients' rights in cross-border healthcare complements the EU Regulations on Social Security Coordination Regulations to ensure that patients' rights to safe and high quality healthcare across national borders in the EU and their right to be reimbursed for such healthcare abroad. National Contact Points exist in each EU country to provide patients with advice and information on healthcare in the EU. The Directive also aims to encourage cooperation between border regions where citizens face a particularly unique situation to their geographical location and demographics.

Unfortunately, the full potential from benefits of cross-border healthcare is not yet realised. The Commission's assessment of the Cross-Border Healthcare Directive, a decade after its adoption in 2011, shows how citizens continue to face burdensome reimbursement procedures, legal and administrative obstacles to access, sometimes life-saving, healthcare across the borders.

This thematic publication brings together 17 cases only in the field of health and shows the importance of the *b-solutions* project to help lift those obstacles and making cross-border health a reality for EU citizens. I invite stakeholders, regional and national authorities and policy makers to widely share the publication findings and debate the common lessons learnt from the knowledge gathered and how to tailor the advice in the context of diverse health systems. Let's continue to work together to support cooperation in healthcare and other public services for the benefit of EU citizens.

Caroline Hager

Team Leader

Cross-Border Healthcare

European Commission Directorate-General for Health and Food Safety

What is the state of public services in border regions?

THE IMPORTANCE OF PUBLIC SERVICES IN THE EUROPEAN UNION

Public services in the European Union cover a considerable number of essential areas, such as water, public transport, postal services, communications, education and healthcare. Having evolved around a number of common principles, such as equality of access, economic efficiency and social solidarity, they help reduce poverty, support growth and prosperity and employ between 15% and 18%¹ of the total labour force in the EU.

In recent years, the debate about the value and sustainability of public services has intensified. There is a shared understanding that both demographic and growth scenarios are putting pressure on the capacity of governments to guarantee universal services over the next two decades. However, at the same time, as the pandemic has illustrated, public services remain essential and the public sector has a unique role to play during times of crisis. Taking advantage of the possibilities of multi-level governance, public services help build more resilient regions.

This also reflects part of the reality in border regions, where demographic trends such as population decline and regional migration might be particularly visible². Some public services in border areas were devised with a cross-border perspective precisely to tackle particular needs that border regions might have, such as service accessibility issues in remote area, sharing scarce resources, developing innovative synergies, or managing common resources.

European institutions and representatives of border regions aim to establish more services that are envisioned with a cross-border perspective, thanks to the support of tools provided by the European Union, such as the Interreg funding scheme³. A study completed by ESPON in 2019⁴ identified 579 different examples of functioning public services that are already active across European borders.

However, that is only part of the story. Despite the existence of good practices and remarkable results, the study also highlights the existence of obstacles that make the establishment of cross-border public services (CPS) particularly complex⁵.

1 Eurostat, *The European Economy since the start of the new millennium*. Retrieved from: https://ec.europa.eu/eurostat/cache/digpub/european_economy/bloc-4d.html?lang=en.

2 Federal Ministry of the Interior, Building and Community, Federal Institute for Research on Building, Urban Affairs and Spatial Development, *Atlas for the Territorial Agenda 2030*, 2020. Retrieved from: https://territorialagenda.eu/wp-content/uploads/Atlas-TA2030_EN.pdf.

3 Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments, PE/49/2021/INIT, *Official Journal L 231*, 30.6.2021, pp. 94–158.

4 European Union, ESPON, *CPS – Cross-border Public Services 2018, Main Report*. Retrieved from: <https://www.espon.eu/sites/default/files/attachments/ESPON%20CPS%2001%20Main%20Report.pdf>.

5 See note n. 4, p. 15.

THE COMPLEX NATURE OF PUBLIC SERVICES IN BORDER REGIONS

For the 150 million European citizens living in border regions, regular access to public services is often difficult or less than adequate. Because of this deficit, the quality of their provision in cross-border territories in the European Union has gained attention in recent years. As an example, the European Commission's report, *Comprehensive analysis of the existing cross-border rail transport connections and missing links on the internal EU borders points*, highlights this issue regarding the many inoperative small-scale cross-border railway connections⁶. In 2021, the European Commission's Health & Food Safety Directorate-General and the Association of European Border Regions initiated the *Cross-border patient mobility in selected EU regions* project to obtain a better understanding of patient flows between EU border regions⁷. In 2020, the European Commission undertook a public consultation⁸ to research obstacles in border regions, and respondents pointed out transportation or digital administrative services as areas particularly affected⁹.

The lack of services frequently leads to the use of facilities and services in the neighbouring country as an alternative solution. However, this is not possible in many circumstances, and establishing services to respond to the needs of citizens in border regions requires additional efforts.

Earlier this year, following the recommendations of ESPON's study¹⁰, the European Committee of the Regions adopted an opinion to pursue a necessary increase in the successful and widespread delivery of cross-border public services in Europe, indicating specific action to be taken by European institutions, Member States and local and regional authorities¹¹. Similarly, boosting more efficient cross-border public services (CPS) is also a priority for the European Commission. In its recent report *EU Border Regions: Living labs of European integration*¹², the Commission has outlined specific measures to support a more systematic and successful approach to their implementation¹³, including:

- The creation of a dedicated database under the European Parliament pilot project CB-CRII¹⁴ to showcase good practices and solutions to recurring issues in this field;
- An evaluation of Directive of the European Parliament and of the Council 2011/24/EU on the application of patients' rights in cross-border healthcare¹⁵ to verify whether its implementation has facilitated access to cross-border public medical services;
- Renewed support for the EU4Health programme¹⁶;
- The creation of the European Health Data Space to support evidence-based regulatory activities, better research and innovation in the healthcare sector¹⁷.

Additionally, in the last four years, with the implementation of the *b-solutions*¹⁸ initiative, the European Commission's DG Regional and Urban Policy and the Association of European

6 European Commission, *Comprehensive analysis of the existing cross-border rail transport connections and missing links on the internal EU borders – Final Report*, 2018. Retrieved from: https://ec.europa.eu/regional_policy/sources/docgener/studies/pdf/cb_rail_connections_en.pdf.

7 Association of European Border Regions (AEBR), *Focusing on patients in border regions*, <https://www.aebr.eu/focusing-on-patients-in-border-regions/>.

8 European Commission, *Public consultation on overcoming cross-border obstacles 2020 – summary report*, pp. 20-21. Retrieved from: https://ec.europa.eu/regional_policy/sources/newsroom/consultation/consultation_border_2020.pdf.

9 See note n. 8, pp. 15, 18-19.

10 See note n. 4.

11 Opinion of the European Committee of the Regions, *Cross-border public services (CPS) in Europe*. Retrieved from: <https://cor.europa.eu/EN/our-work/Pages/OpinionTimeline.aspx?opld=CDR-2615-2020>.

12 Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU Border Regions: Living labs of European integration*, COM(2021) 393 final. Retrieved from: https://ec.europa.eu/regional_policy/en/information/publications/reports/2021/eu-border-regions-living-labs-of-european-integration.

13 See note 12, p. 9.

14 European Commission, Futurium – Border Focal Point Network, *Cross-Border Crisis Response Integrated Initiative (CBCRII)*, <https://futurium.ec.europa.eu/en/border-focal-point-network/news/cross-border-crisis-response-integrated-initiative-cbcrii?language=de>.

15 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, *Official Journal L* 88, 4.4.2011, pp. 45–65.

16 European Commission, *EU4Health 2021-2027 – a vision for a healthier European Union*, https://ec.europa.eu/health/funding/eu4health_en.

17 European Commission, *European Health Data Space*, https://ec.europa.eu/health/ehealth/dataspace_en.

18 Association of European Border Regions (AEBR), *b-solutions*, <https://www.b-solutionsproject.com/>.

Border Regions (AEBR) have collected a detailed and unique set of cases that address legal and administrative obstacles to CPS. Using a bottom-up approach, officers from Euroregions and European Groupings of Territorial Cooperation (EGTC), Interreg project partners and local and regional authorities from border regions of EU and EFTA countries have participated and shared the difficulties faced when establishing cross-border cooperation actions.

In turn, participants in *b-solutions* have received advice from legal experts to find ways to overcome the obstacles highlighted in their cases, allowing for the subsequent collection of potential long-lasting solutions to the common obstacles identified in the field of cross-border public services.

In the light of the above, the objective of this publication is to provide actors in border regions with a tool that supports them in setting up and carrying out initiatives to boost the provisions of public services with a cross-border perspective. It does so by:

- informing colleagues and other stakeholders of the findings of *b-solutions* and sharing knowledge on possible ways to overcome the identified bottlenecks;
- allowing for the replication of viable solutions;
- updating the specific body of knowledge on obstacles to cross-border cooperation in the field of CPS.

This publication harnesses the substantial knowledge derived from 51 cases in 23 countries. It addresses border stakeholders, regional and national authorities and policy makers, and complements other recommendations and legislative or financial tools that have been previously developed by the European institutions for a successful, effective and more widespread delivery of CPS.



Distribution of the obstacles to Cross-border Public Services (CPS) identified in the framework of b-solutions.

SUMMARY OF FINDINGS RELATIVE TO CROSS-BORDER PUBLIC SERVICES

OBSTACLES	
LEGAL	OTHER
<ul style="list-style-type: none"> Regional and local levels do not have legislative competence to set up or operate services Laws do not provide for automatic recognition of foreign diplomas of service professionals The presence of different national rules that regulate services Technical standards/requirements for the functioning of services are regulated differently Laws regulating the provision of services do not take into account the cross-border dimension Conflicting transposition of EU Law in cross-border regions 	<ul style="list-style-type: none"> Lengthy diploma recognition procedures Absence of joint administrative mechanisms that facilitate the operation of services Lack of knowledge of border stakeholders about facilitative legal frameworks regulating certain services Different approaches to data collection as a preliminary step towards implementing public services Presence of many actors with varying levels of administrative competence in certain fields

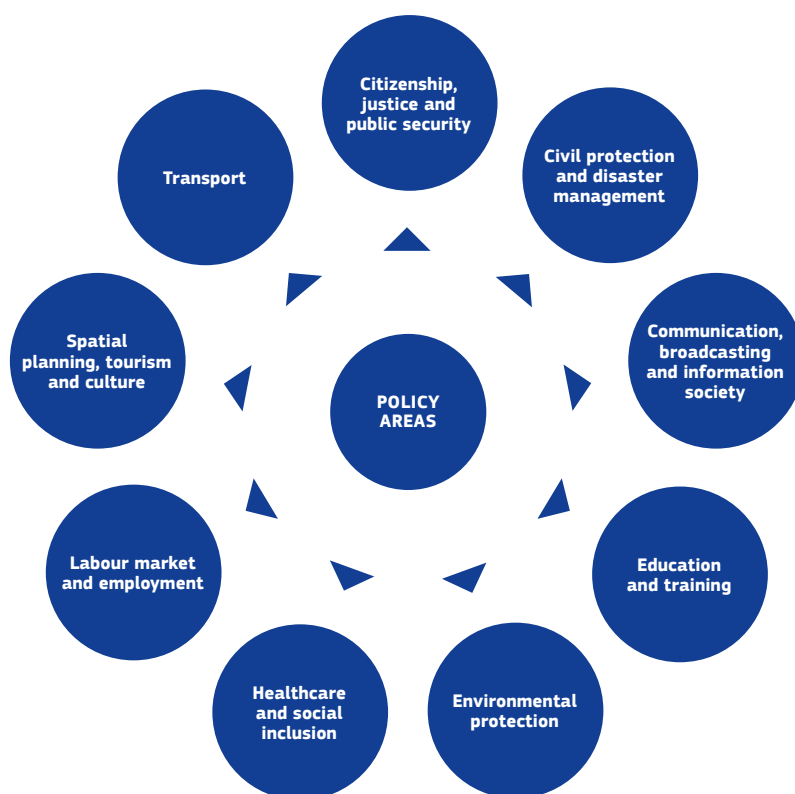
SOLUTIONS			
LEGAL	EUROPEAN CROSS-BORDER MECHANISM (ECBM)	ENHANCED ADMINISTRATIVE CAPACITY AND COORDINATION	CROSS-CUTTING SOLUTIONS
<ul style="list-style-type: none"> Changing the law Revision or update of current provisions Creation of ad hoc legal frameworks Cross-cutting solutions 	<ul style="list-style-type: none"> Voluntary participation in a common mechanism to overcome legal obstacles Taking advantage of the Cross-border Cooperation Points (CCP) 	<ul style="list-style-type: none"> Creation of new coordination structures Development of ad hoc conventions 	<ul style="list-style-type: none"> Specific strategies to increase coordination among the actors involved Training to increase the learning curve in new cooperation schemes Complementary EU support (e.g., Interreg) Establishment of cross-border structures

Which obstacles has *b-solutions* identified?

UNDERSTANDING THE OBSTACLES: THE DIFFERENT CONTEXTS

The presence of a multitude of actors with competence in different sectors, the specific characteristic of territories across Europe and the different administrative and legal cultures of the Member States are just some of the factors that contribute to the difficulties that local and regional administrations and cross-border structures face when trying to implement certain services.

Over the last several years, ESPON has continued to examine cross-border cooperation in public services in Europe, with the objective of improving the understanding of the evolution of public services, as well as to increase awareness about their added value. Its extensive study from 2018 addressed questions, such as identifying where cross-border public services exist along EU borders and in which specific policy fields. Within its framework, researchers developed a list of eleven points that aim to define what CPS are¹⁹ in clear terms, along with a set of policy areas in which they are more frequently implemented²⁰.



¹⁹ European Union, ESPON, *CPS – Cross-border Public Services 2018, Scientific Report*, p. 4. Retrieved from: <https://www.espon.eu/sites/default/files/attachments/ESPON%20CPS%2003%20Scientific%20Report.pdf>.

²⁰ See note 19, pp. 5-7.

Administrative bodies and cross-border structures that participated in *b-solutions* experienced difficulties in establishing CPS in the following areas:

POLICY AREA	COMMON OBSTACLES
Transport	<ul style="list-style-type: none"> • lack of legislative competence of local actors to set up cross-border transport services²¹ • diverging regulations impede rail interoperability²² • diverging provisions on transport operations prevent the employment of personnel from the neighbouring country²³ • uncertainties on how to establish cross-border infrastructures²⁴ • non-recognition of diplomas of engineers responsible for infrastructure projects²⁵
Healthcare (including emergency services) and social inclusion	<ul style="list-style-type: none"> • different criteria on reimbursement of healthcare costs²⁶ • limitations in the provision and accessibility of cross-border medical services²⁷ • incompatible national provisions on data collection, accessibility and confidentiality prevent cooperation between healthcare institutions²⁸ • non-recognition of healthcare professionals' diplomas²⁹ • diverging technical standards of emergency transportation³⁰ • lack of horizontal cooperation between responsible administrative bodies in the field of youth care³¹ • diverging standards on taxation, financing, staff qualifications and safety hinder the construction of a cross-border nursery school³²
Civil protection and disaster management³³	<ul style="list-style-type: none"> • lack of coordination and information sharing between cross-border teams fighting wildfires³⁴ • lack of ad hoc legal frameworks regulating joint emergency actions³⁵
Tourism and culture	<ul style="list-style-type: none"> • different approaches for data collection in the field of tourism limit the operation of a transboundary tourist observatory³⁶ • uncertainties on how to establish a single cross-border entrance at an archaeological park³⁷
Communication, broadcasting and information society	<ul style="list-style-type: none"> • national e-procurement platforms with diverging standards³⁸ • national and territory-based copyright licenses block the online retransmission of audio-visual contents in the neighbouring country³⁹

21 Association of European Border Regions (AEBR), European Commission, *b-solutions: Solving border Obstacles – A compendium of 43 cases*, Annex, 2020, pp. 22; 74; 80; 92, (henceforth: 2020 Annex *b-solutions* compendium).

22 2020 Annex *b-solutions* compendium, p. 86; Association of European Border Regions (AEBR), European Commission, *b-solutions: Solving border Obstacles – A compendium 2020-2021*, p. 47. (henceforth: 2021 *b-solutions* compendium).

23 2021 *b-solutions* compendium, p. 53.

24 2021 *b-solutions* compendium, p. 145; 2020 Annex *b-solutions* compendium p. 83.

25 2020 Annex *b-solutions* compendium, p. 89.

26 2021 *b-solutions* compendium, p. 35; 50; 62; 68; 2020 Annex *b-solutions* compendium, p. 99; 111.

27 2021 *b-solutions* compendium, p. 65.

28 2021 *b-solutions* compendium, p. 38; 56.

29 2021 *b-solutions* compendium, p. 120; 126; 2020 Annex *b-solutions* compendium, p. 102.

30 2020 Annex *b-solutions* compendium, p. 96; 108.

31 2020 Annex *b-solutions* compendium, p. 133; 151.

32 2020 Annex *b-solutions* compendium, p. 145.

33 Part of the obstacles identified in this category of public services are analysed also in the following publication: Association of European Border Regions (AEBR), European Commission, *Border Regions for the European Green Deal, Obstacles and solutions to cross-border cooperation in the EU*, 2021. The publication is available on the *b-solutions* initiative website: <https://www.b-solutionsproject.com/>.

34 2020 Annex *b-solutions* compendium, p. 121; 2021 *b-solutions* compendium, p. 133; 139.

35 2021 *b-solutions* compendium, p. 151.

36 2021 *b-solutions* compendium, p. 41.

37 2021 *b-solutions* compendium, p. 59.

38 2020 Annex *b-solutions* compendium, p. 156.

39 2020 Annex *b-solutions* compendium, p. 152.

Municipal management	<ul style="list-style-type: none"> • lack of legal framework regulating the establishment of an inter-municipal and trans-border water supply network⁴⁰ • uncertainties on how to coordinate the cross-border municipal management of machines for the maintenance of public spaces⁴¹
Citizenship, justice and public security	<ul style="list-style-type: none"> • lack of inter-municipal coordination to register seasonal workers⁴²
Public education and training services⁴³	<ul style="list-style-type: none"> • diverging legal frameworks on dual education systems, vocational training and internships⁴⁴ • legal and administrative bottlenecks prevent access to primary schools in the neighbouring country⁴⁵ • non-harmonised legal provisions on university courses prevent access to higher education⁴⁶ • complex and diverging rules on taxation, staff qualifications and safety prevent the construction of a cross-border nursery school⁴⁷ • diverging protocols regarding vulnerable students⁴⁸
Access to insurance services⁴⁹	<ul style="list-style-type: none"> • complex or diverging provisions on compulsory social and health insurance coverage hinder the cross-border mobility of workers⁵⁰ • uncertainty on the procedure for debt recovery in the field of social security⁵¹
Access to energy services⁵²	<ul style="list-style-type: none"> • lack of legal provisions supporting the exchange of clean energy.⁵³

40 2020 Annex *b-solutions* compendium, p. 105.

41 2020 Annex *b-solutions* compendium, p. 130.

42 2021 *b-solutions* compendium, p. 123.

43 Part of the obstacles identified in this category of public services are analysed also in the following publication: Association of European Border Regions (AEBR), European Commission, *Vibrant Cross-border Labour Markets, Obstacles and solutions to cross-border cooperation in the EU*, 2021. The publication is available on the *b-solutions* initiative website: <https://www.b-solutionsproject.com/>.

44 2020 Annex *b-solutions* compendium, p 9; 61; 2021 *b-solutions* compendium, p 81; 99; 102.

45 2020 Annex *b-solutions* compendium, p. 49; 2021 *b-solutions* compendium, p. 72.

46 2020 Annex *b-solutions* compendium, p.142.

47 2020 Annex *b-solutions* compendium, p. 145.

48 2021 *b-solutions* compendium, p. 84.

49 See note n. 41.

50 2020 Annex *b-solutions* compendium, p 32, 67.

51 2021 *b-solutions* compendium, p. 25.

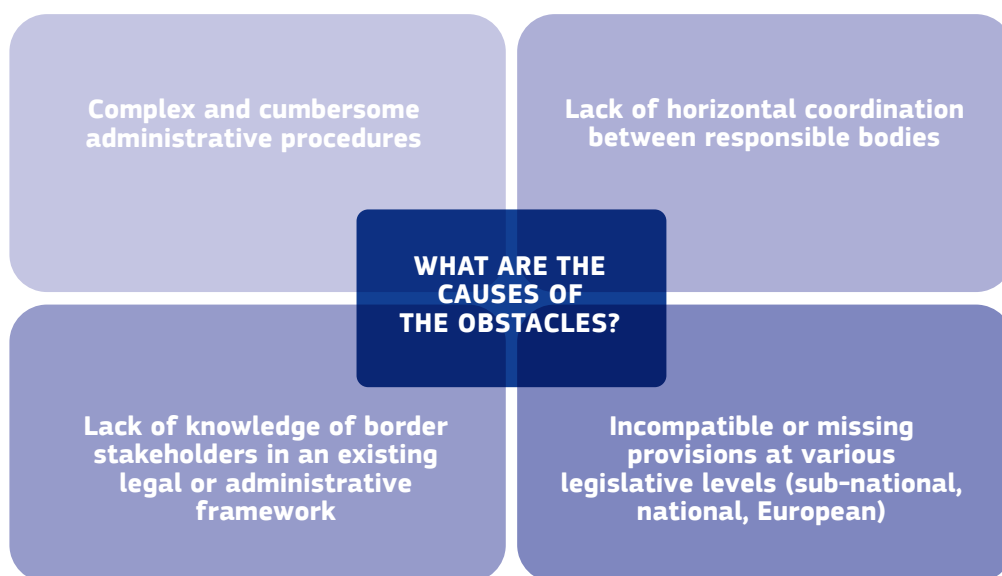
52 See note n. 33.

53 2021 *b-solutions* compendium, p. 148.

WHICH SPECIFIC OBSTACLES NEED TO BE TACKLED?

Obstacles arise because of different causes. The accompanying graph illustrates the most common ones, often linked to a lack of knowledge and information, coordination, complex administrative procedures, etc.

Despite the very different causes and factors, there are a number of recurrent obstacles, which *b-solutions* has systematised. The following list presents the most common hurdles, together with a number of examples illustrating their impact in practice.



LEGAL OBSTACLES TO BETTER CROSS-BORDER PUBLIC SERVICES

The majority of the obstacles that prevent the establishment of public services across the European borders are of a **legal nature**.

Most often, they arise within the **national provisions** of one or both Member States involved in a specific project, but legislative inconsistencies were also observed within the **European framework**.

Services are provided in each region on the basis of the specific needs of the local population, and as such, they might differ in form and substance. However, regardless of the diverse territorial, cultural and economic characteristics of border regions, the legal obstacles that undermine the development of more integrated services across borders seem to occur in a specific range of situations. They are observed, particularly, when:

- **Actors at the regional and local level do not have legislative competence to establish or operate services.**

Example: French local and regional administrations do not have the competence to set up a project for a new maritime public shuttle between the Italian and the French coastal municipalities. Because of its cross-border nature, the initiative aiming to decrease road traffic has been stalled⁵⁴.

⁵⁴ 2020 Annex *b-solutions* compendium, p. 80.

- **Laws do not provide for the automatic recognition of foreign diplomas of service professionals.**

Example: the construction of a bridge across the borders that divide the Czech Republic, Germany and Poland has been delayed because the Czech authority responsible for authorising the construction has denied permission to build because the Polish professionals were not registered in the Czech Chamber of Chartered Engineers, as required by the national law, the Czech Authorisation Act⁵⁵.

- **The presence of different national rules that regulate services.**

Example: hospitals located in the territory of the European Collectivity of Alsace (France, Germany and Switzerland) would like to share data on patients to increase coordination on health services in the area. However, confidentiality and the right to use healthcare infrastructure data are regulated at the national level, and setting up a common framework is complex⁵⁶.

- **Technical standards/requirements allowing for service operations are regulated differently.**

Example: notwithstanding the existence of an ad hoc bilateral treaty that regulates the joint transport of patients at risk through specific vehicles (SMURs) across the Franco-Belgian border, problems arise because the same vehicles are categorised differently in the legislative framework of the two countries. This prevents the full realisation not only of the existing agreement but of the service itself⁵⁷.

- **Conflicting transposition of EU Law.**

Example: the Directive of the European Parliament and of the Council 2014/24/EU⁵⁸ on public procurement contains requirements that aim to boost the creation of a national digital platform for public procurement in the different Member States. The law has been transposed differently in Italy and Slovenia, resulting in non-interoperable e-procurement platforms, leading to unfair economic competition between commercial actors in the sector⁵⁹.

- **Laws regulating the provision of services do not take into account the cross-border dimension.**

– **At the national level**

Example: the Czech national legislation regulating health insurance does not provide for possible coverage of Czech citizens who seek medical services abroad. For citizens living in border regions, this means that they need to travel longer distances to access hospitals located in their own country, rather than making use of the closest facility, which might be located in the neighbouring country⁶⁰.

– **At the European level**

Example: local actors in different border regions have highlighted problems in establishing cross-border bus lines. Currently, Art. 15 of the Regulation of the European Parliament and of the Council (EC) 1073/2009⁶¹ prohibits cross-border coach lines from picking up passengers in an urban centre or metropolitan area of the host Member State and dropping them off in the same Member State. Therefore, local citizens can only travel across the border(s) by using international bus lines that are not designed to fulfil the needs of integrated, cross-border urban areas⁶².

55 2020 Annex *b-solutions* compendium, p. 89.

56 2021 *b-solutions* compendium, p. 38.

57 2020 Annex *b-solutions* compendium, p. 108.

58 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, *Official Journal L 94*, 28.3.2014, p. 65–242.

59 2020 Annex *b-solutions* compendium, p. 156.

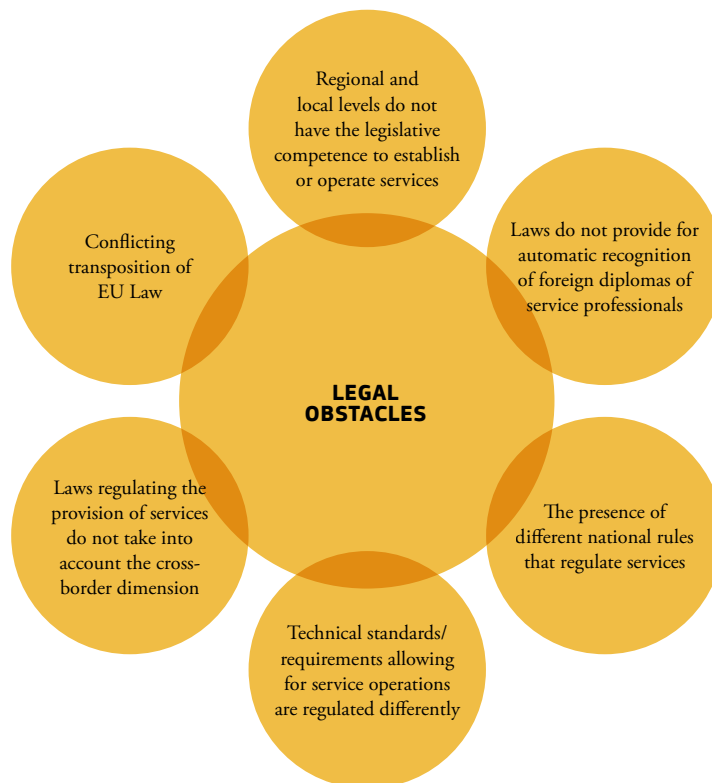
60 2020 Annex *b-solutions* compendium, p. 111.

61 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, *Official Journal 300*, 14.11.2009, p. 88–105.

62 2020 Annex *b-solutions* compendium, pp. 22, 74, 92.

The examples above demonstrate that obstacles tend to arise when Member States choose to interpret laws and regulations differently, according to each national context. This occurs, for instance, with the different levels of regulatory competence within a country, the recognition of certificates and diplomas, the formulation of technical standards and the regulation of specific matters, such as procurement, financing and security matters.

Furthermore, the specific complexity of border and cross-border areas is not often taken into account, both by national institutions and at the European level. As a result, regulations are often not suitable for these territories. This contributes to inconsistencies and further complications that hinder the work of administrative bodies and cross-border structures operating along the internal boundaries.



ADDITIONAL OBSTACLES HINDERING CROSS-BORDER PUBLIC SERVICES

The successful establishment of cross-border public services not only depends on the legal framework in place, but also requires a good level of **administrative coordination** between stakeholders from both sides of a border. When this is insufficient, the actions to improve the quality of life for border residents are at stake. The most common reasons for the lack of administrative coordination are:

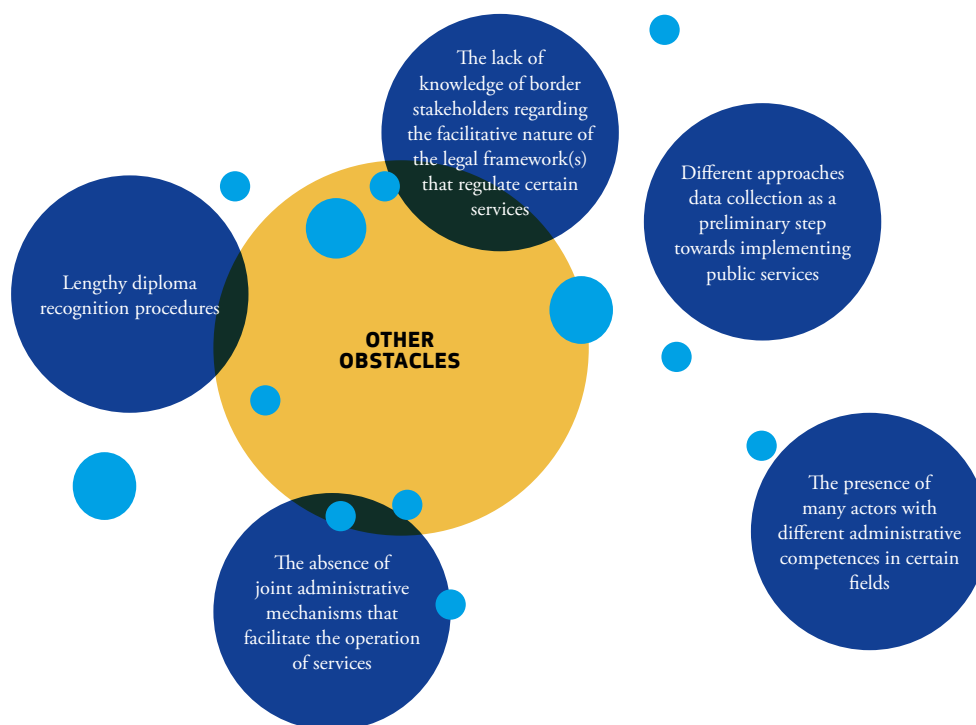
- **Lengthy diploma recognition procedures, despite harmonised basic requirements.**
Example: at the French-Spanish border, French doctors working at the hospital of Cerdanya (Spain) must undergo lengthy and complex procedures in order to recognise their diplomas – and therefore to be able to work in that field⁶³.
- **The absence of joint administrative mechanisms that facilitate the operation of services.**
Example: the operations of the local border hospital in the cross-border twin city of Valga-Valka are at stake because there are no specific mechanisms or protocols regulating the coordination between the Estonian and Latvian National Health Funds that cover patients who access the facility. The absence of a mutually recognised format for medical receipts leads to additional problems⁶⁴.

⁶³ 2020 Annex *b-solutions* compendium, p. 102.

⁶⁴ 2020 Annex *b-solutions* compendium, p. 99.

- The presence of **many actors** with varying administrative competences in certain fields.
Example: the Municipalities of Elvas (Spanish-Portuguese border)⁶⁵ and Winterswijk (Dutch-German border)⁶⁶ have encountered several problems in the attempt to coordinate with the neighbouring country to enforce measures supporting youth and child protection. This occurs because there are many different authorities on both sides of the border working in that area and operating at different levels.
- **Different approaches to data collection** as a preliminary step towards implementing public services.
Example: at the Spanish-Portuguese border, different approaches by local institutions to collect and produce statistical information in the field of tourism lead to discrepancies in the data availability and comparability. This limits the operations of a local transboundary tourist observatory⁶⁷.
- The **lack of knowledge** of border stakeholders on the facilitative nature of the legal framework(s) that regulate certain services.
Example: the member municipalities of the EGTC Arrabona, at the Hungarian-Slovakian border, expressed doubts about the possibility of jointly operating machines for the management of the municipal green spaces. National provisions on traffic and the existing variations in technical standards of the machines might have created problems. This turned out to be untrue, and the legal bases to support the operation of such machines were found in the *acquis communautaire* (i.e., Council Directive 1999/37/EC⁶⁸ on the registration documents for vehicles)⁶⁹.

In sum, the complexity of border and cross-border territories requires additional specific efforts to ensure successful cooperation between responsible bodies and institutions. When joint methodologies, protocols and ad hoc coordination structures are missing, the attempt to establish or boost certain services leads to inevitable delays. Knowledge of the frameworks in place is also relevant when proposing actions for better CPS, which certainly inspire many of the solutions presented in the following section.



65 2020 Annex *b-solutions* compendium, p. 148.

66 2020 Annex *b-solutions* compendium, p. 133.

67 2021 *b-solutions* compendium, p. 41.

68 Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles, *Official Journal L 138*, 1.6.1999, p. 57–65.

69 2020 Annex *b-solutions* compendium, p. 130.

Understanding solutions: avenues for enhanced cross-border cooperation

In order to move towards the goal of better public services, it is necessary to seek feasible and replicable solutions to the obstacles described above. The experts involved in the *b-solutions* initiative have suggested a number of solutions to overcome the obstacles presented, indicating the different levels of governance as well as the different actors expected to take part in the implementation of such changes. The proposed solutions were devised considering the nature and the causes of the obstacles.

CHANGING THE LAW FOR BETTER CPS

When the obstacles preventing the establishment of CPS arise due to legal inconsistencies and incompatibilities, or from the absence of ad hoc provisions, direct actions must be taken in one or more of the legislative frameworks involved.

LEGAL SOLUTIONS
<ul style="list-style-type: none">• Changing the law• Revision or update of current provisions• Creation of ad hoc legal frameworks

The solutions entail **the revision or update of current provisions, or alternatively, the creation of new ad hoc legal frameworks**. These can be implemented at the different legislative and institutional levels.

At the European level

The findings of *b-solutions* show that the European framework regulating public services already offers provisions that sufficiently support coordination and cooperation across the borders. However, a number of inconsistencies remain and have been highlighted by the participants of the initiative.

Solving these obstacles would require the revision of the provisions in place, for which the involvement of the EU institutions with legislative power is necessary, namely the European Parliament and the Council.

The following solution was proposed under *b-solutions*: Directive of the European Parliament and of the Council 2014/24/EU⁷⁰ introduced the creation of a digital public procurement platform to be implemented in the Member States. No indications on the technical aspects of the platforms are included in the Directive, nor are there guidelines on digital public

⁷⁰ 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, *Official Journal L 94*, 28.3.2014, p. 65–242.

tenders. Because of this, Member States have developed platforms that are non-interoperable and that consequently limit the operation of cross-border structures, such as the EGTCs⁷¹: To overcome this obstacle, it is suggested to amend the current Directive – in particular, articles 22, 39.4 and 39.5 – and introduce clearer common technical criteria for the digital platforms.

SOME INSPIRING PRACTICES TO MOVE FORWARD

EU-financed projects are already testing ways to improve the digitalisation of services in cross-border territories. The mGov4EU project⁷² under Horizon2020, for instance, aims to facilitate mobile digital cross-border government services by combining the secure data exchange facilities of the Single Digital Gateway Regulation (SDGR)⁷³ with mobile identities, in accordance with the eIDAS Regulation⁷⁴.

In November 2020, the European Commission launched a proposal for a regulation⁷⁵ on serious cross-border threats to health, in light of the lessons learned from the COVID-19 pandemic. The proposal has the objective of boosting the EU's health security – by revising Decision of the European Parliament and of the Council No. 1082/2013/EU (the 'Cross-Border Health Threats Decision')⁷⁶ – and testing strategies to respond quickly and jointly to medical emergencies. The proposal was presented in a package that also includes recommendations to strengthen the European Centre for Disease Prevention and Control (ECDC) and the European Medicines Agency (EMA).

At the national and sub-national level

Most often, the actions proposed take place at the national level, as obstacles tend to arise from missing or inconsistent provisions observed in the Member States' legislative frameworks.

Here, the involvement of national parliaments and competent ministries is often required for smoother coordination with local and regional stakeholders, who are more knowledgeable of the specific obstacles that prevent or limit cooperation with the neighbouring country.

Solutions proposed under *b-solutions*:

- The introduction of **changes in the laws** of one or both of the Member States involved, by:
 - Amending national laws **unilaterally**.
Example: German and Dutch transpositions of Directive of the European Parliament and of the Council 2011/24/EU⁷⁷ do not contain clear information on the reimbursement of costs for medical care received in the neighbouring country. Amending the current national provisions of both States to align them with those already included in the EU framework would be beneficial and would enable the implementation of more transparent mechanisms for insurers and patients⁷⁸.

71 2020 Annex *b-solutions* compendium, p. 156.

72 mGov4EU, <https://www.mgov4.eu/>.

73 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012, PE/41/2018/REV/2, *Official Journal L* 295, 21.11.2018, p. 1–38.

74 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, *Official Journal L* 257, 28.8.2014, p. 73–114.

75 Proposal for a regulation of the European Parliament and of the Council on serious cross-border threats to health and repealing Decision No 1082/2013/EU. Retrieved from: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690565/EPRS_BRI\(2021\)690565_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690565/EPRS_BRI(2021)690565_EN.pdf).

76 Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC *Official Journal L* 293, 5.11.2013, p. 1–15.

77 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, *Official Journal L* 88, 4.4.2011, p. 45–65.

78 2021 *b-solutions* compendium, p. 35.

– **Signing or updating ad hoc bilateral or multilateral agreements.**

Example: The Benelux Union's Decision M (2009)⁸ – revised by Decision M (2014)¹ – on cross-border emergency ambulance traffic already established criteria for the border crossing of Belgian and Dutch ambulances in the event of emergencies. The agreement, however, does not indicate which hospitals in the Netherlands can qualify for emergency services in the neighbouring country. A tailor-made amendment to the Decision can provide for the recognition of the hospitals and guarantee a more coordinated implementation of joint emergency services in the area⁷⁹.

An alternative legal solution: the European cross-border mechanism

**EUROPEAN CROSS-BORDER MECHANISM
(ECBM)**

- Voluntary participation in a common mechanism to overcome legal obstacles
- Taking advantage of the Cross-border Cooperation Points (CCP)

The European Cross-Border Mechanism (ECBM)⁸⁰ is a tool proposed by the European Commission in 2018 with the objective of facilitating the resolution of legal and administrative obstacles to cross-border cooperation.

The core element of the proposed Regulation is the voluntary application of the mechanism: Member States would be given the choice of whether to apply the ECBM for a joint project – which can be an item of infrastructure or services of general economic interest – in a specific border area, or opt for already existing approaches to overcoming legal obstacles. Once they have opted for the mechanism, an evaluation process would be set in motion to identify the legal obstacle. The ECBM would then provide for different measures to overcome the obstacles, which may involve allowing for derogations from the normally applicable national rules for the specific cross-border project.

Even though the proposal is currently experiencing a setback in the legislative process, the cases collected under the *b-solutions* initiative help assess the role that the ECBM could play in effectively solving obstacles of a legal nature that hamper cross-border cooperation in a variety of areas, including the delivery of public services.

The evaluations made in the framework of the initiative show in which cases the ECBM would be potentially applicable. These are obstacles of a legal or administrative nature which arise because of differing national legislation or administrative practices in the neighbouring Member State. Examples of this type include the cases addressing the presence of diverging national laws regulating the technical requirements of emergency vehicles in France and Belgium⁸¹, or the recognition of qualifications of the professionals involved in the construction of an infrastructure project at the trilateral border between Germany, Poland and Czech Republic⁸².

Regarding the ECBM Regulation, experts considered the so-called Cross-border Cooperation Points (CCP)(Article 5) to be particularly useful. For instance, they could facilitate the exchange of information between the national authorities involved in cross-border debt recovery procedures in the field of social security⁸³.

⁷⁹ 2020 Annex *b-solutions* compendium, p. 96.

⁸⁰ Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context – COM(2018) 373 final, 29.05.2018.

⁸¹ 2020 Annex *b-solutions* compendium, p. 108.

⁸² 2020 Annex *b-solutions* compendium, p. 89.

⁸³ 2021 *b-solutions* compendium, p. 25.

However, for the proposed ECBM to be helpful, three main actions are deemed necessary:

- Awareness about its scope and methodology must be raised among stakeholders.
- The regulation must be interpreted as being inclusive: The mechanism can be applicable in all areas of law, upon agreement of the involved Member States. Also, rather than for a specific border region, the mechanism can apply to the entire border, if Member States find this feasible.
- It should be used as a complementary tool along with other existing measures, taking into consideration that its application would provide tailor-made solutions.

A MORE EFFICIENT ADMINISTRATION AND COORDINATION FOR CPS

ENHANCED ADMINISTRATIVE CAPACITY AND COORDINATION

- Creation of new coordination structures
- Development of ad hoc conventions

Solutions to overcome obstacles in the field of CPS can also be devised in the administrative sphere in order to encourage better coordination between the competent administrative actors on both sides of a border.

Solutions of this type are suggested not only for obstacles rooted in administrative practices, but also for hurdles of a legal nature that might require urgent interventions to foster cross-border coordination in certain fields. Actions suggested by the experts who advised the *b-solutions* cases involve:

- The creation of **new coordination structures**.

Example: The constitution of a cross-border reimbursement centre under the current “Healthacross initiative”⁸⁴ at the Czech-Austrian border could help patients who previously received medical care on the other side of the border. The legal basis for the creation of such centre is the Regulation of the European Parliament and of the Council (EC) 883/2004⁸⁵, which allows the Member States and their competent authorities to agree on the reimbursement procedures⁸⁶.

- The development of ad hoc **conventions**.

Example: The draft of a convention to guarantee a more “institutionalised” practice of diploma recognition between competent bodies in France and Belgium is recommended as a feasible solution to guarantee smoother mobility of health professionals between the two countries, as requested by the Franco-Belgian Health Observatory. The convention could be drafted on the basis of the *2005 Framework Health Agreement* between France and Belgium⁸⁷.

CROSS-CUTTING SOLUTIONS TO BOOST CPS

The proposed solutions are meant to overcome obstacles that, in most cases, are manifold and arise due to a combination of several factors and dimensions. Additionally, the complexity of cross-border contexts might lead to difficulties in accessing relevant information on the legal and administrative frameworks in place, creating confusion and putting cooperation at stake.

⁸⁴ Lower Austria State Health Agency, *Healthacross*, <https://www.healthacross.at/en>.

⁸⁵ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, *Official Journal L* 166, 30.4.2004, p. 1–123.

⁸⁶ 2021 *b-solutions* compendium, p. 50.

⁸⁷ 2021 *b-solutions* compendium, p. 126.

CROSS-CUTTING SOLUTIONS

- Specific strategies to increase coordination among the actors involved
- Training to increase the learning curve in new cooperation schemes
- Complementary EU support (i.e., Interreg)
- Establishment of cross-border structures

Because of this, the main solutions proposed, regardless of their nature, are often complemented with additional actions, such as the formulation of more **practical, operational and strategic approaches**. These can include **raising awareness** and **capacity building** actions aimed at enhancing coordination and making better use of legal and financial tools provided by the European Commission.

Solutions proposed under *b-solutions*:

- The **formalisation of cooperation actions through targeted memoranda**.
Example: The operation of a cross-border tramway at the Belgian-Dutch border requires better cooperation between the personnel working on the tram and the local police in case of a public security risk. A specific handbook to guide the tram personnel during potentially dangerous situations should be developed and formalised through the signing of a Memorandum of Understanding by the municipalities involved and the company operating the tram⁸⁸.
- The **implementation of training activities for local stakeholders**.
Example: Providing support to the personnel involved in cross-border actions is especially important when accessing knowledge or information on certain aspects or cooperation procedures is particularly complex. For instance, training activities for personnel engaged in the field of child and youth protection at the Spanish-Portuguese border would ensure a smoother functioning of social services in the Municipality of Elvas, where the coordination between actors from the two sides of the border is problematic because of the many administrative levels involved⁸⁹.
- The **support of Interreg projects to encourage and complement solutions**.
Example: In the field of youth welfare at the Dutch-German border, the use of Interreg funding is recommended to develop activities to improve communication between the cross-border authorities in charge of youth wellbeing⁹⁰.
- The **establishment of cross-border bodies and entities**, including in the form of EGTC⁹¹ is also helpful, especially in those territories where the obstacles arose in the attempt to create cross-border functional areas for the provision of certain services or cross-border facilities.
Example: This is the case of the European Archaeological Park at the border between France and Germany, whose operation could be institutionalised through the establishment of an EGTC, involving relevant stakeholders on both sides⁹².

Similar solutions could entail the development of **protocols**, the establishment of **task forces or technical working groups**, and other ways to formalise cooperation actions.

⁸⁸ 2021 *b-solutions* compendium, p. 53.

⁸⁹ 2020 Annex *b-solutions* compendium, p. 148.

⁹⁰ 2020 Annex *b-solutions* compendium, p. 133.

⁹¹ For more information, see European Committee of the Regions, *Guidebook on registering EGTCs*, 2021. Retrieved from: https://portal.cor.europa.eu/egtc/ressources/Documents/4508_EGTC%20Guidebook_web.pdf.

⁹² 2021 *b-solutions* compendium, p. 59.

Conclusions and key findings

The provision of public services across national borders in the European Union has gained attention in recent years, especially with regard to the lack of adequate services. As a consequence, citizens in border regions have insufficient access to public transport, health care and other important benefits. The establishment of specific cross-border public services is considered to be a potential solution to this gap, but this possibility is burdened by a myriad of legal, administrative and management obstacles preventing their full-fledged execution.

With an analysis of the findings collected in 51 reports by legal experts in the framework of the *b-solutions* initiative, this publication aims to increase the available knowledge and offer stakeholders in border regions additional tools to implement efficient CPS. Here, the specific characteristics of each territory and different administrative and legal cultures of the Member States converge and are hindering the seamless provision of public services. The following conclusions were drawn regarding obstacles to CPS:

- **Obstacles to CPS arise in various policy fields**, including citizenship, justice and public security, civil protection and disaster management, communication, broadcasting and information society, education and training, environment protection, health care and social inclusion, labour market and employment, spatial planning, tourism and culture, transport.
- **Most of these are of a legal nature** and are found in national provisions or, less often, at the European level, for example, as a result of the different levels of competences, the lack of recognition of certificates and diplomas, the varying approaches to technical standards and the formulation of specific regulation in areas such as procurement, financing or security
- **Obstacles are also caused by the failure to take into consideration** and observe the specificities of cross-border territories, which creates loopholes where inconsistencies are easily generated.
- Other causes of the obstacles are: 1) the complex and cumbersome administrative procedures to coordinate public services across national borders; 2) a lack of horizontal coordination between responsible bodies; 3) lack of knowledge of border stakeholders regarding an existing legal or administrative framework; 4) incompatible or missing provisions at various legislative levels (sub-national, national, European).

Because of such difficulties in setting up operative services in cross-border territories, border regions require additional efforts to ensure successful cooperation between the responsible bodies and institutions. When joint methodologies, protocols and ad hoc coordination structures are missing, the attempts at establishing or boosting certain services leads to inevitable delays, which often worsens the necessary atmosphere of administrative coordination between stakeholders on both sides of a border.

The cases analysed under the *b-solutions* initiative reveal that a number of solutions can be devised to effectively set up and manage public transport, health care and other actions at the service of citizens in cross-border areas. These include:

- The revision or update of current provisions or, alternatively, the creation of **new** ad hoc **legal frameworks** which allow for the implementation of the required CPS;
- The creation of **new coordination structures** or the institutionalisation of cooperation through the development of ad hoc **conventions**, with the objective of encouraging better coordination between the actors responsible for the provision of specific public services on both sides of a border;
- The use of **legal tools, funding and support** available that are specifically for the design and management of joint services across national borders, for example, the development of guidelines or protocols, the establishment of task forces or technical working groups, and the formalisation of the cooperation actions through targeted memoranda.
In this sense, knowledge and transparency are necessary to encourage better cooperation to achieve efficient CPS.

In order for European countries to be truly resilient and offer their citizens good access to healthcare throughout their territories, and be prepared to engage in more environmentally friendly policies with efficient and reliable public transport connections across their national borders, cross-border cooperation is essential. Only through integration with the neighbouring Member States can every region in the European Union ensure quality of life as a priority for their citizens, with the necessary support of public services.

As demonstrated through this analysis, the local and regional authorities responsible for transport, healthcare, education, accessibility to the labour market and other public services in border regions require support to be able to overcome the existing obstacles that prevent them from providing adequate services. In this sense, the implementation of cross-border public services will help Europe achieve its goal of being truly closer to its citizens in all of its regions.

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Annex:

self-assessment tool

DIY: A roadmap towards finding solutions to obstacles to cross-border cooperation

I. Understanding the obstacle

To understand the obstacle, it is useful to carry out an analysis of:

- the general context of the obstacle;
- the area(s) of law that the obstacle touches on;
- the specific obstacle: What is it? In what way does it hamper cross-border cooperation in this specific border region?
- the nature of the obstacle:
 - is it a legal obstacle, and thus originates in conflicting/missing laws? (A)
 - is it an administrative obstacle, meaning that it originates in a practice of the law? (A)
 - is it due to a lack of knowledge? (B)
 - is it due to a lack of cooperation? (B)
- other possible obstacles that come along with it.

II. Assessing the obstacle

Once it is clearer what the obstacle is about, it is helpful to have a deeper look at:
[if the obstacle is of a legal or administrative nature (A)]:

- the explicit indication of the precise legal provisions of all Member States involved
- the origin of the obstacle:
[if of a legal nature]
- does it originate in EU law?
- does it result from national legislation?
- does it occur because of sub-national law?
[if of an administrative nature]
- does it originate in a rule?
- does it result from a practice?
- the origin of the cause of the obstacle:
- is it because of a lack of regulation?
- is it because of the incompatibility of the laws on both sides of the border?
- the explicit indication of the competent authorities
[if the obstacle is due to a lack of knowledge or of cooperation (B)]:

- the explicit indication of the precise legal provisions of all Member States involved that are relevant to the obstacle

III. Understanding what the possible solutions are

Based on the information gathered above, it is possible to assess which solutions would be the most helpful, given the specific context.

There are many possible solutions:

- of a legal nature:
 - At the European level
 - Revising European regulations
 - Adopting or revising the transposition of European directives
 - Adding an exception
 - At the national level or subnational level
 - Revising national/subnational law in one member state
 - Revising national/subnational law in all member states involved
 - Adding exceptions to national/subnational law in one member state
 - Adding exceptions to national/subnational law in all member states involved
 - Stipulating Bilateral Agreements (new or revised) (amongst MS or another level or administration)
 - Stipulating supranational solutions (e.g., Benelux)
- of an administrative nature:
 - at the national level or subnational level
 - introducing new or revised joint administrative procedures
 - creating committees or other coordination structures (including EGTCs, info points, etc.)
 - integrating them into already existing institution
 - of another nature:
 - Awareness-raising actions
 - Training
 - New/revised coordination mechanisms
- MoU, strategic approach, establishing a new institution (e.g., EGTC) to better coordinate cooperation, case-by-case approach etc.

Other relevant aspects to look for

- Helpful general/further information on the case
- References to similar obstacles/solutions in other border regions: Do comparable solutions already exist in other cross-border areas/ other areas of law? Can those approaches be applied to this case? Are there best practices to learn from?

This publication is a tool that the Association of the European Border Regions (AEBR) and the European Commission provide to border stakeholders, regional and national authorities to support them in setting up and carrying out cross-border initiatives to promote more and better cross-border public services.

It uses evidence extracted from the analysis of 51 cases of border obstacles identified in the framework of the *b-solutions* initiative and outlines possible strategies to overcome them, paving the way to the realisation of public services across European borders. As such, it complements other recommendations and legislative or financial tools already developed by the European institutions.

Two additional in-depth thematic analyses offer specific insights on the hurdles and relative solutions to Employment and Education and the European Green Deal.

For more details on the cases under analysis, two compendiums provide precise information on the legal frameworks of 90 cases collected through *b-solutions*.

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