Report on the Expert Working Group on innovative solutions to cross-border obstacles

led by Luxembourg and France with the technical support of the MOT

DG meeting on Territorial Coheison,
3 October 2016 in Bratislava
The expert working group is an intergovernmental platform – in a structured dialogue with the EU institutions – dealing with obstacles to cross-border cooperation and solutions to overcome these, with a particular focus on the added value, feasibility and design of the legal tool presented under the Luxembourg Presidency. If the approach proves to be appropriate the result should be an input and starting point for a legislative process at the EU level at the end of 2017.
Members

- Czech Republic
- Estonia
- France
- Germany
- Greece
- Hungary
- Latvia
- Luxembourg
- Netherlands
- Poland
- Slovakia

- Slovenia
- Switzerland
- Association of European Border Regions (AEBR)
- Central-European Service for Cross-Border Initiatives (CESCI)
- Mission Operationnelle Transfrontalière (MOT)
First meeting 05/07/2016 in Vienna

- Follow up of the LU presidency: Introduction
- Luxembourg’s proposal for the design of the legal tool (LU)
- State of the art in the field of legal framework for cross-border cooperation (MOT)
- Obstacles and solutions at the French borders: launch of a French inter-ministerial working group based on the analysis of the French contributions to the EC consultation (CGET France)
- Roundtable discussion experiences and expectations
- Towards a working group: missions and objectives; working method and schedule
Work packages

- Establishing and mapping a toolbox of cross-border solutions
- Concrete examples of cross-border obstacles and their solutions to show the value added of the proposed tool
- Framing, detailing and clarifying of the legal aspects of the proposed tool
Working method implemented at the meeting of 28 September 2016 at the CoR

- In-depth consultation with stakeholders of cross-border cooperation projects (the hospital of Puigcerda)
- Description of existing procedures on overcoming cross-border obstacles (Nordic Council - Procedure of the Freedom of Movement Council)
- Feedback on the cases studies and the solutions proposed by the Cross-Border Review of the European Commission

- Consultation with the EU institutions:
  - European Commission
  - European Parliament (not yet)
  - Committee of the Regions (not yet)
First observations and insights (1)

General observations regarding the nature of cross-border obstacles

- Trust and understanding
- Physical accessibility
- Legal and administrative differences

Once established:

- Increasing integration of the areas regarding mobility of workers/goods, (private, public) services or services of general interest across the

→ Awareness about legal and administrative obstacles is linked to the depth of the cooperation and exchanges at the border. As a consequence of increasing integration: increasing awareness about legal and administrative obstacles and burden

- Language as a on-going obstacle
3 ways to deal with obstacles identified

1. “Somehow” national / regional or local authorities or political bodies recognise (e.g. via stakeholders/lobby) an obstacle and react to find a principle or ad-hoc solution

2. Via public supported cross-border project (e.g. hospital), which brings with it a number of issues that need to be solved “in one way or the other”

3. Obstacle can be registered (e.g. Nordic Council) via defined procedures / channels where affected individuals or bodies can demand the registration of a cross-border obstacle and further on a formal treatment of the obstacle.

→ In the cases of 1 and 2 the principle approach seems to be a sort of “muddling through” without a result guaranteed, lacking of both continuity and legal certainty
First observations and insights (3)

Towards a toolbox for solving cross-border obstacles

1. Solutions to overcome obstacles which can be solved by financial incentive or support only: Interreg √

2. Solutions for cross-border institutions to implement activities across borders:
   - Private sector: EEIG √
   - Public sector: EGTC √ (However, potential and limits of EGTC might not be fully explored)
   - Other forms of conventions

3. Solutions to overcome legislative, administrative obstacle as well as a mismatch of norms and rules:
   - General: change/adaptation of the general rule (European, national, regional or local legislation (prevalent approach of the Nordic Council)
   - Individual: solution for a specific area, specific time and specific project (the approach of the cross border tool discussed under LU Presidency

→ In the case 3: the way from the obstacle to the solution is normally not clear, time-consuming and depends on sector-specific institutional factors, ad-hoc circumstances, political constellations, personal constellations
First observations and insights (4)

Principle main steps to find cross-border solutions

1. Identify an obstacle for any activity as a cross-border specific obstacle;

2. Register the obstacle as an issue which should be treated

3. Decision to officially treat the obstacle in order to find a solution;

4. Find / decided on (a) a solution to solve the obstacle or (b) to notify that no solution can be found.

→ Access point for any tool to cross-border solution: - to define a procedure which can be voluntarily applied in well defined conditions.
Towards a tool supporting the search for solutions to cross-border obstacles – some working hypothesis

1. Definition of a procedure (voluntary applicable) leading through the process of find a solution (open end – if a solution is found or not ) initiated bottom up by a specific project or an initiative by stakeholders;

2. If the procedure is taken up (who decides?), ensure the commitment of concerned competent authorities (national, regional, local level) to treat the search for an solution with a positive attitude;

3. Define frame conditions for any solutions found under the tool in terms of a limited application in scope (e.g. related to only a specific project, time and space) without creating new borders;

4. The solution itself has to remain in the hands of the competent authorities to (as standard case) mutually recognise the practice of the other side of the border or (as a special case) find and agree on a common third approach (tailor-made).
By mid December 2016 next meeting envisaged (14 December 2016 (tbc) the day before the EGTCUM) in Brussels:

- Further preparation of a mapping of the cross-border toolbox (obstacles and matching solutions)
- Refinement of the proposal of tool proposed under Luxembourg Presidency in the context of other tools such as Interreg, EGTC etc.
- Further consultation with EU institutions in order to calibrate the approach in complementarity with other initiatives such as the Cross-border review of the European Commission

Proposal to give a short progress report at the NTCCP meeting 2 March 2017 in Malta (tbc)

Thank you for your attention ... and I am happy to answer any question